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# Organizing for Immigrant Labor Rights: Latino Immigrants in San Jose and Houston

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# Organizing for Immigrant Labor Rights: Latino Immigrants in San Jose and Houston

## Abstract

[Excerpt] Federal labor standards, ranging from wage and overtime guarantees to workplace safety, generally are meant to protect all workers in the United States, regardless of immigrant status. States can enact statutes that improve upon these standards, but must at least enforce these basic protections. Such provisions take on an added importance in the context of declining unionization rates. Foreign-born workers are less likely than native-born to be represented by a union, and, overall, Latinos have the lowest levels of unionization. Given increasing levels of Latino migration, how do low-wage Latino workers, especially those who are undocumented immigrants, ensure and advocate for their labor rights both individually and collectively? When do local governments get involved in advocating for migrant rights, and what forms do these coalitions take?

In this chapter, I explore the impact that differing state labor policy contexts have on strategies for protecting the rights of low-wage workers, particularly Latino immigrants. I focus on two cities with distinct state labor policies: Houston, Texas, and San Jose, California. Texas labor policy generally only replicates federal minimum standards, it is a Right to Work state with one of the lowest rates of union representation, and it is the only state in the nation that does not require employers to provide workers' compensation insurance. By contrast, California has a strong history with robust labor standards.

I draw on interviews conducted in San Jose and Houston with key immigrant labor unions, community organizations, and labor standards enforcement agencies. Interviews with Latino immigrant workers in each city also inform the analysis. I find that the policy context in each state, and local institutions in each city, shape the opportunities local governments and civil society organizations have to intervene on behalf of workers, in surprising ways. Despite the more favorable state opportunity structures in California, organization around basic Latino immigrant labor rights is greater in Houston. Here I explore the dynamics of this paradox, and the process by which community coalition members have garnered political presence and political weight in each city.

## Keywords

immigration, worker rights, Latinos, undocumented workers, Houston, San Jose, labor unions, organizing

## Disciplines

Labor and Employment Law | Migration Studies | Unions

## Comments

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**Organizing for Immigrant Labor Rights: Latino  
Immigrants in San Jose and Houston**

Shannon Gleeson

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Federal labor standards, ranging from wage and overtime guarantees to workplace safety, generally are meant to protect all workers in the United States, regardless of immigrant status. States can enact statutes that improve upon these standards, but must at least enforce these basic protections. Such provisions take on an added importance in the context of declining unionization rates. Foreign-born workers are less likely than native-born to be represented by a union, and, overall, Latinos have the lowest levels of unionization.<sup>1</sup> Given increasing levels of Latino migration, how do low-wage Latino workers, especially those who are undocumented immigrants, ensure and advocate for their labor rights both individually and collectively? When do local governments get involved in advocating for migrant rights, and what forms do these coalitions take?

In this chapter, I explore the impact that differing state labor policy contexts have on strategies for protecting the rights of low-wage workers, particularly Latino immigrants. I focus on two cities with distinct state labor policies: Houston, Texas, and San Jose, California. Texas labor policy generally only replicates federal minimum standards, it is a Right to Work state with one of the lowest rates of union representation, and it is the only state in the nation that does not require employers to provide workers' compensation insurance. By contrast, California has a strong history with robust labor standards.

I draw on interviews conducted in San Jose and Houston with key immigrant labor unions, community organizations, and labor standards enforcement agencies. Interviews with Latino immigrant workers in each city also inform the analysis. I find that the policy context in each state, and local institutions in each city, shape the opportunities local governments and civil society organizations have to intervene on behalf of workers, in surprising ways. Despite the more favorable state opportunity structures in California, organization around basic Latino immigrant labor rights is greater in Houston.

Here I explore the dynamics of this paradox, and the process by which community coalition members have garnered political presence and political weight in each city.

#### LABOR RIGHTS ORGANIZING

Labor rights are a common site for civic action and collective mobilization. A good deal of research has highlighted the progress that labor unions have made in organizing immigrants. Some of the most prominent union victories include the Service Employees International Union "Justice for Janitors" campaign, which for two decades rallied for the rights of immigrant workers. Immigrants, who used to be thought of as not organizable have in fact become the focus of the labor movement. This is especially the case since the AFL-CIO passed a resolution to "stand in solidarity with immigrant workers," and even went on record to call for amnesty for all undocumented workers and their families (AFL-CIO 2007; Bacon 2000). The national Change to Win coalition, which split from the AFL-CIO with a mission to increase union organizing efforts, also represents a large sector of the immigrant low-wage workforce.

Inspirations such as the Justice for Janitors campaign suggest that organizing immigrant workers may indeed be the key to revitalizing American unionism, but it is not at all clear that unions' efforts will be sufficient to address the needs and concerns of low-wage immigrant workers. In fact, the continued saliency for basic labor standards is strongest in nonunionized work settings, which is where the vast majority of Americans, and especially immigrants, work. However, though traditional labor unions are the quintessential organization for addressing worker rights, they are not the only form of collective mobilization (Fine 2006; Jayaraman and Ness 2005). Given the low levels of unionization, particularly for Latino immigrants, it is important to understand the circumstances under which these workers are able to make claims on their labor rights, particularly outside of the union context.

One might expect that in places where policies more vigorously protect individual labor rights, this would also create an opening for civic engagement on the issue, beyond simply union activity. In the case of gay and lesbian rights, Ellen Andersen (2005) develops the concept of a "legal opportunity structure," which she argues differs from political opportunity structures because they are based on the available legal stock, which in turn shapes the types and strength of potential social movements. Similarly, I argue that in the case of advocating for immigrant labor rights, a legal-administrative opportunity structure also exists that determines to what extent workers (especially those in a nonunionized context) are encouraged to make claims on their rights either individually, or at a more collective level. As I explain, local governments can be key catalysts for this civic engagement.

#### METHODOLOGY

This research employs a comparative case study method. I examine two cities with very different legal-administrative structures for addressing labor rights: Houston is characterized by a weak state structure and active local government community coalition, whereas San Jose relies primarily on a strong state legal apparatus and an evolved labor union history. The significance of the comparison between this thick versus thin policy context is that it determines not only the range of accepted labor conditions and the importance attached to worker rights, but also the strategies that workers and their advocates use to address these concerns.

Table 4.1 details state variation in major labor and employment policy context. Whereas Texas wage and hour standards generally replicate federal minimums, California standards are much stronger.<sup>2</sup> Texas is a Right to Work state where labor union membership is just one-third of that in California (5.3 percent versus 16.5 percent). California also provides more strenuous discrimination protections than do federal anti-discrimination statutes, which are enforced by the Equal Employment Opportunity Commission.<sup>3</sup> Worker health and safety standards in California are governed by a state

agency, the California Occupational Safety and Health Administration, whereas Texas relies on the federal agency. Furthermore, Texas is the only state in the nation where employers are not required to carry workers' compensation insurance.<sup>4</sup>

In addition to differing standards, California and Texas also vary substantially in terms of claims filed on these protections. In 2005, California and Texas had, respectively, 16,118,662 and 10,255,292 employed individuals. The same year, 9,402 and 10,192 total charges were filed with the Equal Employment Opportunity Commission or partner Fair Employment Practices Agency (FEPA), respectively for each state.<sup>5</sup> The U.S. Department of Labor processed violation claims for 14,249 and 17,541 employees, respectively for each state, that year.<sup>6,7</sup> This data suggests that levels of both discrimination and wage and, hour claims are higher in Texas, even adjusting for the size of the employed population.<sup>8</sup>

*Comparative Case Study Approach: Why San Jose and Houston?*

Despite overarching federal policies and distinct state policy contexts, I find that local innovation and institutions also matter. Several excellent studies have chronicled the shift within the labor movement toward being more inclusive of immigrants. For example, one of the high-profile success stories has been Los Angeles (for example, Milkman 2000, 2006). Through her review of four sectors in Los Angeles (janitorial, residential construction, truck transportation and apparel), Milkman argued that, in fact, "immigrant workers may be easier to organize than their native counterparts" (2006, 133). However, Milkman explained, Los Angeles is also a demographically and historically exceptional story of working class immigrant organizing, "Nowhere in the United States is there more palpable evidence of the potential for today's working class immigrants to reenact the drama of union upsurge that brought

earlier generations of newcomers to the United States into the economic mainstream of the 1930s and 1940s" (2006, 187).

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INSERT TABLE 4.1 HERE

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Consequently, this chapter focuses on cities that are emblematic of the regulatory dynamics in each state, but not radically divergent in terms of local innovations and resources. I thus excluded the capital cities in each state (that is, Sacramento and Austin), global cities such as Los Angeles and New York, and also border cities such as El Paso and San Diego, which have a distinctive demographic character. I selected Houston and San Jose due to their similar demographic and economic profile (see table 4.2). Houston is the fourth largest city in the United States (the largest in Texas), and San Jose is the tenth largest city in the country (the third largest in California next to Los Angeles and San Diego).

Houston and San Jose also have distinct economic and labor histories. According to one historian, Houston was a town built on speculative growth and the spirit of unfettered capitalism (Feagin 1988). Houston's economic growth was originally fueled by cotton, timber, and the railroads, though it quickly became captivated by the booming oil industry. The oil industry is still dominant, but Houston is also a major port of entry, known for its biomedical research, aeronautics (with NASA located nearby), and financial services. Houston's sprawling housing and economic development has spurred considerable demand for construction and service workers (for example, hotels, restaurants, janitorial services), all of which rely heavily on immigrant labor.

The labor movement in Houston centers around the Harris County AFLCIO (HC AFL-CIO), which has recently spearheaded many immigrant rights initiatives, but not without heated debate. In the midst of huge demographic shifts that have pushed the Latino population over the former white majority, the

established white union leadership (characterized by several key building trades unions) has contested many of the efforts to bring immigrant rights into the forefront of the HC AFL-CIO's work. The HC AFL-CIO has also worked closely with local coalitions such as the Justice and Equality in the Workplace Project, which rests largely on the political support of Mayor Bill White (in his second term in 2006) and the mayor's Office of Immigrant and Refugee Affairs. The Houston city council is comprised of fourteen members (five at-large). Though elections are technically nonpartisan, conservative sentiments run strong on the council,<sup>9</sup> reflecting the large Republican electorate in the area.<sup>10</sup>

San Jose was known until the 1960s as the Valley of Heart's Delight, though is now considered the capital of Silicon Valley. Today, companies such as Cisco Systems, Adobe, eBay, HP, Apple, IBM, and countless other start-ups, J dot the landscape. Unlike Houston, San Jose has had a historically small African American population; however, more than a third of the San Jose population is foreign-born. Before the 2000 tech bust, San Jose and surrounding cities were also home to a dense concentration of electronic manufacturing plants, which employed mostly immigrants. Since the recession that followed, many, of these immigrants and other low-skilled workers have moved into the service sector.

The now well-known Justice for Janitors campaign garnered one of its first victories in San Jose more than a decade ago, and one of its more recent in late 2006 in Houston. Whereas organizations such as the Silicon Valley Leadership Group (formerly the Silicon Valley Manufacturing Group)

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and Joint Venture Silicon Valley have worked on issues relevant largely to the working elite and business owners, the South Bay Labor Council (SBLC) has positioned itself squarely against the political agenda of such groups and the local Chamber of Commerce. The SBLC created Working Partnerships USA in 1995 as its research and advocacy arm, to work with community organizations on issues such as child care,

affordable housing, and union neutrality. The SBLC is also intimately involved in local politics. The former SBLC political director and vice mayor in 2005, Cindy Chavez, lost a bid for the mayor's seat in a heated race in 2006. The San Jose city council is comprised of ten members. Although San Jose is known as a Democratic city, long-embedded business interests present challenges to labor organizing. The newly elected mayor, Chuck Reed, received significant support from the business community, and the largely conservative and demographically significant Vietnamese community.

### *Interview Sampling Strategy*

This analysis relies on sixty interviews with key governmental and organizational informants in San Jose and Houston.<sup>11</sup> I focus on those agencies and groups with direct jurisdiction over, or otherwise involved with, protecting labor rights. My goal was to interview all relevant government and community actors who are involved in shaping the focus and direction of labor standards enforcement in each city. The first group of interview informants included federal, state, and local labor standards enforcement agencies with the job of enforcing state and local statutes and processing claims. I interviewed a representative of all the agencies, with one exception, as outlined in table 4.3.

Because government actors are by no means the only relevant influence on shaping the creation and implementation of policy, I also interviewed all relevant nongovernment organizational actors. To identify this group of organizations, I relied on directories of nonprofit organizations<sup>12</sup> in each city as well as on resources and referrals provided by government agencies.<sup>13</sup> I interviewed low-income legal service providers, unions, and community and advocacy groups that focused on labor or employment issues. I targeted agency leaders, such as directors, lead counsel, and union business agents. Table 4.4 details the type of organizations interviewed in each city.<sup>14</sup>

I aimed to interview the sister organization in each place, wherever relevant. However, as I discuss, because the state apparatus and union strength in San Jose was so dominant, very few community advocacy organizations saw labor and employment as one of their major concerns. Conversely, in Houston, where unions were weak and the state apparatus was very weak and the local government played a larger role in conjunction with community actors, more community organizations saw labor and employment as a central part of their organizing mission. Yet, in Houston, unlike in San Jose, no viable nonprofit legal resources were available for low-wage aggrieved workers.

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## FINDINGS

The research findings affirm previous conclusions that the political context and legal-administrative opportunity structure shape the need for, and feasibility of, collective action around labor and employment issues. Yet, I find that outside of the union context, this depends largely on the strategies that local governments and civil society organizations adopt in response to workplace conditions. In table 4.5, I outline the main mechanisms for protecting labor rights in each city. A puzzle emerges. In contrast to our initial assumptions that an open legal and administrative structure would encourage individual rights claims-making and foster collective organizing, I find that in spite of the more robust state guarantees in San Jose, there is less activism around basic labor rights than there is in

Houston, where the political environment for immigrants is hostile and labor protections remain weak and decentralized.

I propose three main avenues through which this occurs:

- First, an open legal-administrative opportunity structure, like that in San Jose, encourages individual rights claims-making through formal state channels. Advocates recognize the limitations of using bureaucratic government structures to address workplace inequality, but generally see them as the best line of first defense for individual workers, and consequently refrain from collective action on the issue, in order to direct their resources to other issues.

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INSERT TABLE 4.5 HERE

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- Second, in places such as Houston, where state protections are weaker and the political context is more hostile toward immigrants, the range of abuses is indeed wider. However, the hostile political context and stark conditions also agitate workers and advocates. Meanwhile, the absence of strong state policies encourages civic coalition building with local government actors to fill this vacuum.
- Third, although unions have made great strides and become an established and recognized component of the local power structure in San Jose, they have in turn broadened their political focus, relying on the formal state structure to serve the more basic needs of nonunion immigrant workers. Where unions have not progressed this far, as in Houston, unions have maintained a more basic focus on workplace rights. As a result, the central labor council in Houston has remained a key partner to enforcing labor standards, in

conjunction with the city government and Mexican consulate. The result is to increase the political weight of labor rights advocates.

These three mechanisms reflect a situation where, in San Jose, workplace concerns have been addressed through strong labor standards, which has in turn created a perception that there is no need for actors outside the state legal apparatus--such as local governments, unions, and other community-based organizations--to intervene. Meanwhile, their attention has shifted to broader concerns such as health care, housing, and transportation. Conversely, the weak labor protections in Texas have spurred the local government in Houston to address the needs of Latino immigrant workers, particularly those who are undocumented. The hostile political environment has provoked immigrant worker advocates outside of unions to take action at a collective level. Thus, what is good for individual rights and liberties does not necessarily seem to encourage creative coalitions and civic engagement.

#### *An Open Legal/ Administrative Opportunity Structure*

In California, strong state labor standards and the presence of accessible legal resources seem to promote formal rights claims. Access to this thick structure of labor rights enforcement is also mediated by access to legal counsel and other advocates that can help workers navigate the system. I found more legal services willing to serve low-income, and in particular undocumented, immigrant workers in San Jose. This was comprised mainly of two major university law clinics, and a network of pro bono or low-cost attorneys willing to take on more complicated cases. The Mexican consulate in San Jose also provides limited legal counsel to its co-nationals.

Labor lawyers seem to be in shorter supply in Houston, and anxieties run high regarding serving undocumented workers (particularly for organizations funded by public and foundation support). As one

lawyer in Houston explained, "labor law is simply not a profitable area to practice in terms of attorney's fees, especially if you are representing the worker." As a result, there are very few resources for low-wage workers who wish to pursue even basic employment or labor claims, be they an immigrant or not. One of the only legal aid societies in Houston has in fact stopped pursuing employment and labor claims due to a major defeat in a discrimination case several years ago. Following that, and on the strong advice of a board member (who also happened to be a partner at the defendant's law firm), the agency set an internal policy to no longer pursue employment cases of any kind. Despite suggestions to the contrary, calls to several other low-income legal service providers in Houston confirmed that no assistance was provided for employment and labor cases. The Harris County Dispute Resolution Center, which also handles many employment and labor cases, has also ceased their outreach to day laborers (common victims of wage theft) on the strong suggestion of the board of their fiscal agent, the Houston Bar Association. Thus, given this dearth of low-cost legal services, there are very few legal and administrative channels available for Latino workers in Houston, especially those who are low-wage or undocumented.

The relatively conservative court circuit in Texas is also a major deterrent for pursuing legal claims. The director for the Equal Employment Opportunity Commission (EEOC) in San Francisco, which has jurisdiction over San Jose, compares her experience in the Bay Area to that in Houston, where she served as director for more than twenty years, "The climate is much more liberal in California, compared to Texas, and there is much less resistance here. The ninth district is completely different; the fifth district is the worst! You also have more options for lawyers here [in the San Francisco district] than you do in Houston." Other attorneys in San Jose echoed this sentiment. Another legal clinic director explained, "I never go through the (federal) Department of Labor; state law is much better." As a result, formal channels to make claims on labor rights are seen as legitimate and accessible in San Jose.

Community-based advocacy organizations regularly refer aggrieved workers to either the local law clinic or directly to the relevant state agency. Compared to federal agencies, which are also an option, state agencies are the preferred route because of their more robust protections, increased accessibility, and a lingering concern over potential information sharing between federal agencies and immigration authorities.

There is also a stark difference between California and Texas state labor standards enforcement agencies. In addition to having more robust provisions, a strong state structure is also important for buffering political swings at the federal level. Texas labor provisions generally replicate federal minimums, and most Texas state agencies are physically concentrated in Austin. For example, to file a wage claim with the Texas Workforce Commission (TWC), you must mail in a claim to the sole office in Austin. As a result, compared to workers in San Jose who are well served by the State of California, workers in Houston must rely mostly on federal agencies, and the help of local governments and mostly non-legal advocates who help them navigate these resources.

#### *Nontraditional Collaborations: Local and Foreign Governments*

The lack of a strong state presence for labor standards enforcement in Houston has created an opening for local initiatives, and paved the way for community organizations to garner political weight on the issue of labor rights. This shift has occurred largely through the creation of the Justice and Equality in the Workplace Partnership (JEWP). In 2001, JEWP was created primarily through the efforts of the Equal Employment Opportunity Commission and the Mexican consulate in Houston and, later, the U.S. Department of Labor (DOL) Wage and Hour Division. Member agencies signed an accord, to be renewed annually, which reiterated agency support for the project. The goal of this coalition was to )

address the large and growing issues of minimum wage enforcement, nonpayment of wages or overtime, and wage disparities between groups. According to the EEOC deputy director in Houston, the goal of JEWP was to "create many forms of outreach, including videos, town meetings, and public events, in order to show people how to file a complaint, and to raise awareness about their rights." The primary target audience was the Latino immigrant community, who these agencies felt were the most vulnerable and most underserved. Following these three initial signatory agencies, the Mexican American Legal Defense and Education Fund became involved, as did the city of Houston Mayor's Office of Immigrant and Refugee Affairs (MOIRA). MOIRA's involvement was key because it provided the coalition local political legitimacy, and also because, along with resources provided by the Mexican consulate, MOIRA staffed the JEWP hotline. Soon thereafter, the Occupational Safety and Health Administration also sent a liaison, as did several religious organizations, the Harris County AFL-CIO, and the consulates of Colombia, El Salvador, and Guatemala.<sup>15</sup> Several key immigrant-serving organizations have worked with JEWP informally and provide referrals to the hotline, as well as promote outreach efforts. The mayor's support was fundamental to involving the Houston Police Department (HPD) in the coalition. Since its involvement, HPD has begun to enforce an internal memoranda that allows officers to pursue theft of service claims for individuals who are hired and not paid (a common dilemma for day laborers). The policy had long been in effect, but had laid dormant due to resistance from many officers, despite pressure from community organizations. Early in its creation, JEWP launched a ¡No Se Deje! (Protect Yourself!) campaign that made use of public events, ethnic media, and billboard advertising to encourage workers to stand up for their rights and make use of the JEWP hotline. Staffs at member agencies were trained to refer callers to the appropriate agency, and claims were cross-filed with all signatories. Public appearances by the Mexican consul general and top enforcement agency officials were used to grant legitimacy to the labor rights enforcement process.

Before JEWP was established, MOIRA constantly received calls by workers: needing assistance with labor claims. With no structure in place to help them, these individuals would simply be referred to Latino community-based advocacy~ agencies, who were minimally equipped to assist them. After JEWP, enforcement agencies, and the DOL Wage and Hour division in particular, saw a substantial increase in claims. Though discrimination and harassment issues-the primary purview of JEWP's founding partner, the EEOC-are no doubt a major concern in Latino immigrant communities, they come second in urgency to wage and hour violations. According to the director of MOIRA, "we were doing DOL a service, because this is their job, but they apparently don't have the resources to do it."<sup>16</sup>

MOIRA and the Mexican consulate were able to provide language capacity, and perhaps more importantly, a clearer sensibility and understanding about the immigrant community and the challenges that they face. As one union leader said, "Going to a federal agency is not really an undocumented worker's favorite thing to do!" Although MOIRA still represents a form of government, their explicit focus on the concerns of immigrants and refugees made them a more inviting venue for aggrieved immigrant workers. Furthermore, though distrust toward Mexican *federales* is a commonly held sentiment, here in the United States, they are considered a lesser evil. The Mexican consulate's liaison to JEWP explained: "Each agency attracts their own audience. For example, if the DOL holds a community meeting, no one will attend. [The community] sees the INS as government, and synonymous with all other government agencies. But if the Mexican consulate brokers the deal and hosts the event, there will be a better turnout." The consulate's mobile consulate program also proved to be a vital vehicle for getting the campaign out to more marginalized areas around Houston, which typically does not receive outreach on labor issues.<sup>17</sup>

The roles of MOIRA and the Mexican consulate in JEWP were key to the success of the project, but also rather innovative. Both agencies were stepping into legal territory over which neither had prior

jurisdiction. Indeed, very rarely do local governments enact their own standards or intervene in the enforcement of state and federal standards. <sup>18</sup> MOIRA itself was a contested political maneuver on the part of Houston Mayor Bill White, and in 2003 his conservative opponent vowed to eliminate the office if elected. Yet, by backing the coalition, MOIRA has created a vital link between the federal agencies that mostly enforce labor rights in Houston, and community organizations that serve the workers most typically aggrieved. This has not only provided practical avenues for enforcement, but also lent political weight to immigrant-serving organizations such as the Harris County AFL-CIO and other partners who were largely marginalized in the anti-immigrant and anti-labor political environment.

The involvement of the Mexican consulate was also key to the success of JEWP. In fact, the consulate built on existing internal efforts through their Area of Protection, which is a national Mexican mandate that provides legal assistance to nationals living abroad. The director of the Mexican consulate's Area of Protection in Houston cited a 2004 memorandum from the Mexican Secretary of Foreign Relations Institute of Mexicans in the Exterior, which codified this relationship with American labor agencies. It stated, in translation:

The U.S. Department of Labor, local governments and community organizations, with the collaboration of Mexican consulates in Houston, Dallas, and Colorado, launched the Justice and Equality in the Workplace Partnership.

These initiatives are aimed at informing migrant workers about their rights and responsibilities, as well as offering mechanisms for those who do not speak English to report labor violations of laws administered by the Occupational Safety and Health Administration, the Wage and Hour Division, and the Office of Federal Contract Complicate of the U.S. Department of Labor. During 2004, considerations for launching similar initiatives in other regions of the United States are taking place (accessed at <http://www.conapo.gob.mx/micros/infavance/2004/17.pdf>).

This formal agreement instilled a specific focus on protecting the labor rights of monolingual Spanish-speaking immigrants, many of whom are undocumented--the group of workers who are arguably the most exploited and underserved by traditional labor enforcement agencies. Though several other Latin American consulates also have signed onto to JEWP, it is the Mexican consulate that has had the biggest presence and influence. When asked about the role that the other three consulates play, I was told by other lead signatories that they simply do not have the same resources to support the initiative at a very involved level.

The creation of the Justice and Equality in the Workplace Partnership in Houston is significant because, although the EEOC (a federal agency) took a lead role at first, it was the mayor's office and the Mexican consulate that have invested the most resources and have been perhaps the most influential actors. Rather than necessarily squeeze out other community-based organizations, JEWP relies on community-based immigrant and labor rights organizations, as well as the ethnic media, to get the word out. In fact, these two agencies--the city of Houston and the Mexican consulate--are perfectly positioned to create avenues for local community groups to organize around labor rights. They are both closely connected to the pulse of the city and its Latino immigrant community, and the Mexican consulate is able to more efficiently direct resources to their constituency. These two agencies provide the resources that individual immigrant organizations were unable to gather and coordinate while granting these organizations with political legitimacy and voice in the area of immigrant labor rights.

There is no parallel coalition to JEWP in San Jose. Though the Mexican consulate has this same capacity in all of the cities it serves, its role is decidedly different in San Jose. There it has an outreach program, but the services are generally limited to legal referrals and collaborations with unions to give informational workshops. According to the Mexican consul in San Jose, "it is always important to have legal counsel, rather than going to administrative agencies alone." Thus, where in Houston the consulate

has dedicated resources to staffing the JEWP hotline and promoting media outreach to the community, the consulate in San Jose focuses more on partnerships with individual labor unions, and providing legal counsel to aggrieved workers. Federal agencies also have a less significant presence in California, because they are superseded by state statute, leaving alternative venues rather undeveloped. The San Francisco district office of the EEOC, which governs San Jose, has explicitly chosen not to adopt a more formal structure outreach structure. Unlike JEWP, collaborating agencies do not sign yearly accords, nor is there regular coordination of outreach activities. Coincidentally, the former EEOC director in Houston now directs the San Francisco district office. However, she admitted to not even knowing the current director of the DOL Wage and Hour Division. She explained the reason behind her decision not to replicate JEWP in the San Francisco district office, "we are not necessarily the best game in town." She went on to explain that unlike Texas, California provisions are much more stringent than the federal statute, and thus her agency is not always the preferred avenue to file a claim. Her main collaborative outreach focus is the California Department of Fair Employment and Housing.<sup>19</sup>

EEOC outreach to community organizations in the Latino immigrant community in San Jose has been targeted almost entirely to Latino agricultural workers. These efforts are mostly focused on raising public awareness around the issues agricultural workers face, and pursuing class-action litigation.<sup>20</sup> When asked about the overwhelming focus on agricultural Latino workers, despite the fast-growing service sector, the San Francisco EEOC district outreach manager simply explained that outreach in this sector is "a little trickier," and that labor unions are the main gatekeepers in these service industries. Although she has plans to begin collaborations with unions, she sees this as a delicate move, given that unions can also sometimes be "part of the problem." Additionally, agriculture has received much of the focus because this is where most of the class action cases have occurred. According to her, these

successful cases are critical to profile in outreach campaigns and gain trust amongst workers, but such high-profile gains simply have not been made in sectors outside of agriculture.

Unlike those in Houston, local governments in San Jose, and Santa Clara County more broadly, play a very small role in the enforcement of labor rights. For example, although the San Jose Police Department has a strong policy of not carrying out immigration duties, it does not have a formal policy to pursue nonpayment of wages. Similarly, the Santa Clara County-sponsored Dispute Resolution Center does not typically handle workplace disputes. This is seen as a role fulfilled by state agencies, with little need for local intervention. The director of the Immigration Resources and Integration Services Program of the Santa Clara County Office of Human Relations confirmed that there are no city or county resources that he is aware of that serve workers who have labor claims, other than the local university-run workers' rights clinic (the focus of which is teaching law students, and not necessarily service to clients, and the resources of which are limited to handling straightforward wage and workers compensation cases). The county-funded dispute resolution center in San Jose, unlike the one in Houston, also does not typically see any labor or employment cases. Overall, the state of California, rather than the federal or local government, is seen as the main actor in the labor rights enforcement process. Aside from negotiations over union contracts for city and county workers, local governments in San Jose have remained absent from a role in negotiating local labor relations.

Community organizations I spoke with have also largely evaded the area of labor rights issues. For example, the Santa Clara Committee on Safety in Health (SCCOSH) had a fleeting existence during the heyday of the electronic assembly industry. SCCOSH began during the late 1970s much as JEWPD did, by setting up a hotline for workers to call in about chemical hazards, and offering medical and legal referrals. It joined in political efforts when in 1987 the conservative Governor Deukmejian eliminated the state OSHA agency; it was later resurrected under pressure two years later. SCCOSH focused

primarily on issues facing immigrant workers in the electronic assembly, and positioned itself against the interests of the Semiconductor Industry Association and its member companies, which "placed the integrity of a chip above the safety of their workers," according to one of SCCOSH's former leaders. SCCOSH's main successes were achieved by framing the issue as an environmental and public health hazard facing residents (and not necessarily just workers) as a way to work with local governments. Over time, SCCOSH, which was founded by a group of lawyers, became focused on pursuing class action suits, rather than educating and organizing workers. According to a former employee, this focus on navigating the regulatory legal structure clashed with the goals of grassroots organizers. Coupled with the decline of the electronics industry, SCCOSH eventually disbanded in 2004. Safety and health issues, which are governed by Cal/ OSHA, are now advocated at a state level by the statewide COSH group, WorkSafe!, which focuses on advocating for legislative changes at the state level. The dissolution of SCCOSH reflects a context in San Jose where strong state standards supersede the less relevant federal structure, leaving little room for local governments or other community groups to become involved. The contrast between labor rights organizing in California and Texas hence reveals that different levels of government intervention can lead to either crowding out or coalition-building with community-based organizations. In both states, government agencies are important. However, in San Jose, where the state of California plays a stronger role than the federal government, the city and county have not played a direct role in addressing labor rights. Furthermore, unions hold a strong and legitimate position as the voice of workers, and hence other community-based organizations relegate labor issues to them. Conversely; in Texas, the lack of a strong state structure has led to reliance on federal standards and agencies. To bridge this gap in Houston, particularly for vulnerable Latino immigrant workers, local governments have stepped in to facilitate access to these agencies, as well as other local alternatives (such as small claims court, dispute resolution, and the city police). Federal agencies in Houston have actively sought

partnerships with local governments, which in turn have relied on local community based organizations to facilitate outreach.

The involvement of local governments is significant because it provides immigrant organizations a proximate target to engage. Although the state of California has relied on local groups to help constituents file claims, the effort is limited mostly to legal clinics that act as service providers, rather than as community-based advocacy organizations per se. The provision of services is critical for immigrants, who need assistance in navigating the formal bureaucratic structure, but the process is inherently and necessarily individualized and, I argue, ultimately inadequate to address structural issues that create the conditions for abuse.

#### *The Role of Labor Unions: Setting the Agenda for Labor*

Historically, the major proponent of improving labor standards at both the state and federal levels has been labor unions. All of the minimum labor standards now in place—such as the minimum wage, the forty-hour work week, equal employment protections, and so on—were achieved in large part due to the collective mobilization and political work of organized labor. In most cities, the collective voice of unions has typically been the AFL-CIO central labor council (CLC).<sup>21</sup> A central labor council is the local (typically countywide) AFL-CIO body that represents all member union locals in the area. Despite the 2005 Change to Win (CTW) campaign that split the formerly consolidated union base in the AFL-CIO,<sup>22</sup> the central labor council in both San Jose (the South Bay Labor Council) and Houston (the Harris County AFL-CIO) remain among the strongest voices for working people. In both cases, several CTW unions have signed solidarity charters with the AFL-CIO. Thus these central labor councils continue to play an important role in setting the political agenda for union workers, and work to advocate for

particular policies and candidates. Most have in fact embraced immigrant rights as a central tenet of their political agenda.<sup>24</sup>

As argued, the legal-administrative opportunity structure and strong state involvement in labor rights in California, while perhaps good for individual workers, also squeezes out local governments and community organizations from organizing around these issues. Aggrieved workers rely on formal bureaucratic processes, largely through state agencies, to file claims. As a result, there is a common perception that these basic needs are taken care of through these channels, and consequently unions feel empowered to focus on broader political work. Although unions in San Jose engage Latino immigrant workers in their activities, they tend to do so strategically through their current membership, in targeted organizing drives, and in a broader political framework.

Conversely, in Houston, the Harris County AFL-CIO has adopted a model more focused on enforcing basic workplace protections through JEW and engaged in direct actions with other community partners (through initiatives such as the Justice Bus). The result of these divergent strategies is that though weaker protections in Houston jeopardize individual work experiences, they have spurred additional activism and coalition building, to which the Harris County AFL-CIO has been a key partner. Meanwhile, the South Bay Labor Council in San Jose has strategically relied on the robust standards proffered by state agencies in California to address basic labor rights needs, focusing their mobilization efforts on broader political efforts.

The South Bay Labor Council relies largely on local elected officials for political support. As an SBLC political director explained, "the union cannot do it alone, and needs the support of the city".<sup>25</sup> In a Democratic stronghold such as San Jose, this seems to be a very feasible goal. The SBLC political director identified six of the eleven San Jose city council members (including the vice mayor) as clear and constant allies, and only two adversaries (the current mayor and the current opponent contending

against the vice mayor in the runoff for the mayor's seat). I also spoke with a thirty-year veteran of the labor movement, who attributed the success of the labor movement in Silicon Valley to the support of prominent elected officials in recent years, such as Susan Hammer, mayor of San Jose from 1990 to 1998. Though garnering such support is fought on an issue-by-issue basis, the labor movement veteran feels that labor is no longer a partisan issue in Silicon Valley-most all officials in the cities they work are Democrat, though not all are necessarily pro-union. Overall, organized labor is seen as a legitimate member at the political table, and a political and financial force to be reckoned with. In fact, a key criticism on the part of the newly elected San Jose mayor concerned the significant campaign donations his opponent received from the South Bay Labor Council.

Conversely, Texas labor advocates must fight a constant uphill battle to gain legitimacy and political weight. Although Houston is the fourth largest city in the nation and demographically diverse, the conservative political environment and weak state protections for labor make formal channels of labor rights enforcement less tenable. The director of one prominent community-based immigrant organizations could identify only three allies on the fourteen-member Houston city council. Although she described the Houston mayor as "a very pragmatic and moderate guy" who they can work with, many of the unions I spoke with reiterated the obstacle that the anti-labor political environment in Houston poses. As one of the Harris County AFL-CIO leaders stressed, "This is still Texas. Here, if you get hurt, somehow it is your fault. . . . there is no recourse for workers." He also cited the lack of a state OSHA agency, and the consolidated structure of the Texas Workforce Commission, as barriers for enforcing wage claims locally. He went on to explain that though he usually receives full support from Democratic officials, he doesn't even seek out Republican support because "I know how they vote, and I know who our friends are." The current president of the Houston Construction and Building Trades

Department reiterated this sentiment, and bluntly described the political culture in Houston as one in which "local politicians can't even spell worker rights."

Coupled with the vastly different labor standards in California and Texas, these two distinct political contexts profoundly shape the way in which unions in each city engage workers and other community based organizations on the topic of labor rights. In Houston, the relationship between unions and community organizations is more focused on basic workplace conditions and labor practices. This focus is propelled by the growing low-wage immigrant population in the nonunionized sector. In fact, the Harris County AFL-CIO played a key role in the creation of the Justice and Equality in the Workplace Project. The Building Trades Council presented a white paper to the Equal Employment Opportunity Commission entitled "Houston's Dirty Little Secret," which detailed violations of the prevailing wage and documented that the majority of claimants were Latino. The EEOC subsequently spearheaded an initial task force and several labor representatives were invited to testify. This eventually lead to the creation of JEWP (Karson 2006).

In response to many high-profile workplace abuses, the Harris County AFL-CIO launched the Justice Bus, a self-professed Michael Moore-style campaign designed to either praise exemplary employers or, more often, shame abusive ones. The Justice Bus has targeted large employers such as Quiteflex, which was later the target of an employment discrimination case involving the disparate treatment of Hispanic workers. In this campaign, as with others, the bus is filled with community organizers, religious leaders, and local officials who confront the employer and pressure them to conform to fair labor practices.

Similarly, unlike the now-defunct Santa Clara Committee on Occupational Safety in Health group in San Jose, the Houston COSH group continues to be active, with the continued support of the Harris County AFL-CIO. Houston COSH's goal is to provide advocacy and education on safety and health issues

particularly for vulnerable workers.<sup>26</sup> Houston COSH has also launched an initiative with the local NAACP to work primarily with African American women who are undergoing the welfare-to-work transition, as well as a program targeted at high school immigrant workers concentrated mostly in amusement parks, retail, and "greasy spoons." Houston COSH also works in partnership with the Mayor's Office on Immigration and Refugee Affairs (MOIRA) and several faith-based organizations.

The Harris County AFL-CIO has taken a decidedly broader approach to engaging community organizations and nonunionized workers than the South Bay Labor Council. Barbara Byrd and Nari Rhee (2006) described the SBLC approach as a three-tooled strategy of policy research and advocacy, community coalition building, and an aggressive political program. The overall focus of the SBLC, apart from coordinating support for union campaigns, has been the leadership development of potential elected officials and advocating for "issues of concern for working people." Unlike the Harris County AFL-CIO, which has been very involved in outreach campaigns for nonunion workers, such as JEWPA and COSH, the SBLC has cast a more clearly political focus for its work. The SBLC has allied its efforts with its research and political arm, Working Partnerships USA (WPUSA). With WPUSA, the SBLC has focused on four main initiatives in recent months. Measure A, placed on the June 2006 ballot, would have instituted a half a cent tax to support local hospitals and the transportation agency; it ultimately failed. The Santa Clara County Children's Health Initiative is a county-based program that provides additional services to supplement state insurance programs that underserve workers who make too much to qualify, as well as undocumented workers. The Coyote Valley redevelopment plan is an urban reserve program that the SBLC wants to ensure employees' "smart growth with equity" while providing high-wage jobs and affordable housing. Last was an intense campaign in support of the vice mayor (and former political director of the SBLC) during the 2006 mayoral election, which she ultimately lost.

In reference to this agenda, an organizer for the SBLC emphatically explained that the SBLC "does not just advocate on behalf of union members, but rather of all workers."<sup>27</sup> Indeed, it has launched several initiatives such as these that are aimed at improving living conditions for all low-wage workers in Silicon Valley, unionized or not. Yet, I argue that an unintended consequence of this agenda is that it also crowds out community focus and resources to serve the immediate needs of nonunion workers who face labor rights violations. When I asked various community leaders what options were available in San Jose for workers who do not have union representation, the SBLC repeatedly emerged as a place where groups thought inquiring workers could go to seek help filing claims. In turn, when I asked SBLC leadership what resources or direct services they were able to offer workers who are not their members, they simply said that they would refer them to the California labor commissioner. As a result of the absent role of unions in San Jose on labor rights issues, as well as lack of involvement on the part of local governments, there is little community mobilization in the arena of basic labor protections.

There is no doubt that the political presence and weight of labor unions in San Jose is markedly stronger, compared to Houston. For example, although the UNITE-HERE! Local 19 can boast representation at twelve hotels in Silicon Valley (nine in San Jose alone), UNITE-HERE! represents only two hotels in the entire state of Texas, only one of which is in Houston.<sup>28</sup> Similarly, the representation of the Laborer's International Union (LUIA) Local 154 in Houston is so low, and staff resources spread so thin, that business meetings are held more than 250 miles away in Arlington. According to their business manager, there are usually no Houston members in attendance. This is a striking difference compared to the Laborer's Local 270 in San Jose which recently had more than fifty members in attendance at a monthly business meeting, and at least ten members represented at a weekend door-to-door drive in support of the favored mayoral candidate.<sup>29</sup>

Thus despite higher union density and strong labor standards, interviews with individual workers confirm that a gap that still exists between strong state provisions and the working reality of low-wage immigrant workers who are not represented by these unions. What are the implications of the broad political focus of labor unions such as the South Bay Labor Council? It seems that though the SBLC has the interests of all workers at heart, a strong state structure has enabled them to broaden the focus of their activities beyond the more mundane issues of labor abuse facing nonunion workers. Indeed, in the recent election season, several SBLC unions were actively pounding the pavement in support of their preferred mayoral candidate, and union halls hosted many candidates. Recent ballot measures have also relied on key support from the SBLC, which has in turn been very active in voter registration efforts.

This has given organized labor a front seat at the political table, and lent considerable political weight to labor unions in San Jose, but the shift has complicated the SBLC's ability and motivation to address the core needs of low-wage and immigrant nonunion workers, as well as their ability to empower other immigrant organizations to take up the cause of labor rights for their constituents. As the preeminent organization for labor issues, the SBLC has the power to set the political agenda regarding labor rights. Yet, it remains unclear whether broad initiatives such as transportation, redevelopment, and voting in political elections will have as direct appeal to workers whose immediate needs still focus on basic labor rights such as nonpayment of wages and unsafe work environments, and in particular for those who are noncitizens and unable to vote.

Furthermore, though the union movement in San Jose has gained increased political presence, there does not seem to be consensus in the immigrant community regarding their legitimacy. This tension was made manifest during the recent immigration marches, at which the leaders of established advocacy organizations (including the SBLC, prominent religious groups, and other immigrant advocates) clashed with the leaders of other more informal community-based groups. One group, which is allied

with the SBLC, in particular objected to tactics it considered too informal and unsophisticated. This informal community group regularly holds forums at a popular shopping center, which was a previous target of an unsuccessful and bitter union campaign. March leaders and union supporters argued that the use of this plaza ran contrary to union efforts, but the leader of the informal community group argued that the focus should be practical convenience for the community. This leader referred to one major union in particular as corrupt and in opposition to the rights of the immigrants his group represented. Although tensions between community-based immigrant organizations and labor unions may be inevitable, such clashes illustrate a perceived disconnect between the labor movement and some in the immigrant community.

## CONCLUSION

I have outlined how the thick state policy structure in San Jose has encouraged claims-making on formal legal grounds through bureaucratic proceedings and labor unionism. Community organizations in San Jose, though numerous, have generally relegated employment and labor rights issues to state agencies and labor unions. The local government, content to rely on the strong state apparatus, has played an almost nonexistent role in San Jose. Conversely, the relatively thin state policy structure in Houston has created an opening where the local government-in conjunction with community organizations and various Latin American consulates-has played a larger role in an arena where they typically do not have jurisdiction. The local government in Houston also relies closely on community leaders as liaisons to the immigrant community, who are aware of the antagonistic political context in which they operate, and employ a broad base of strategies to garner rights for immigrant workers.

In San Jose, a more open political context and robust legal-administrative opportunity structures has facilitated the ability of individuals to make claims on their legal rights, while legitimating the power and success of labor unions. This model of labor protections has privileged union members, legal services providers, and more policy-savvy advocate groups. Conversely, a more conservative political environment in Texas has inhibited the development of strong state provisions, and deterred unionization. Paradoxically, this has created an opening for local governments to bridge this gap, and simultaneously engage community organizations. Coalitions such as the Justice and Equality in the Workplace Partnership have garnered the resources of the federal government, as well as the local legitimacy and networks of local governments, to engage immigrant organizations on the issue of labor rights.

This contrast reveals that partnering with local government agencies can be helpful to enforcing labor rights protections on an individual level, but also for folding immigrant organizations into civic and political life. Labor rights represent an important avenue for this, given its core relevance to low-wage immigrant communities. Such local partnerships are beneficial to all low-wage workers, but particularly undocumented immigrants. Access to state and federal agencies are an intimidating prospect for undocumented immigrants, and to the extent to which local governments can reach out to these communities, the potentially better they are able to enforce the protection of their rights. Local governments have a long history of working with immigrant communities, through education, social services, and even law enforcement. State and federal governments have less history and rapport. When they collaborate with country-of-origin agencies such as the Mexican consulate, local governments are allowed a further measure of trust and access.

Yet if individual labor rights in San Jose are robust, why should we care about the absence of collective labor rights activism? I would argue that this is important, first, because the presence of

robust standards and accessible administrative structures does not necessarily equate with the absence of basic violations, as interviews with workers in San Jose have revealed. These abuses remain commonplace, and often go unreported. Second, and perhaps more important, when immigrants stop organizing around basic labor rights, they remove a key point of access for future migrants who will be the next likely targets of such abuse. Labor rights are one of the primary ways to engage low-wage immigrant workers according to their self-interest, in the Alinsky tradition. Once involved, this can set the stage for civic involvement and coalition-building in other areas of their lives, including those currently championed by the South Bay Labor Council in San Jose. Losing that initial link to basic labor rights may jeopardize the long-term viability of the continued involvement of immigrants in these efforts. Furthermore, as Nelson Lichtenstein emphasized, the decline of the union movement has occurred because greater access to "rights conscious employment law" has become more attractive, and in many ways less cumbersome, than a union contract. Substituting this "rights-based model" to one based on the "collective advancement of mutual interests," overlooks the rights-based model's limited enforcement capabilities, dependence on a professional and government expertise, and an inability to attack structural crises at their core (1997, 71).

## NOTES

1. The level of Latino unionization is 11.5 percent, compared to their white, black, and Asian counterparts (13.4, 16.5, and 12.2 percent respectively). Unionization rates in food and agriculture industries are 3 percent, compared to the overall 8.5 percent rate for the private sector.
2. The Federal Labor Standards Act (amended 1996) as of 2005 states that "covered nonexempt workers are entitled to a minimum wage of not less than \$5.15 an hour." Effective January 1, 2002, under the California Industrial Welfare Commission (IWC) orders, the minimum wage was \$6.75 an hour, to be increased to \$7.50 in January 2007 and to \$8 by January 2008. California overtime provisions are stricter than the federal standard, requiring any time after eight hours in a day to be paid at a premium, compared to the forty hour per week federal minimum.
3. In addition to protection from employment discrimination based on race, color, religion, sex, or national origin, as well as several other statutes which prohibit discrimination on attributes such as age and disability, the state of California also provides protection from discrimination on the basis of sexual orientation.
4. The workers' compensation system provides a full range of benefits for the injured worker, including medical benefits and lost wages. This is a state-administered no-fault system in which the implicit agreement is that in exchange for these benefits, an employee cannot sue his or her employer if they are injured. If workers' compensation is not provided, employers are required to notify their employees and if a worker is injured, they have the option to sue their employer. However, a civil tort case such as this can be a lengthy and costly process that is likely prohibitive for most low-wage workers.
5. Based on charge data provided through a public records request to the Equal Employment Opportunity Commission.

6. Based on the WHISARD violation database, provided through a Freedom of Information Act request to the Department of Labor Wage and Hour Division.

7. Unlike the EEOC, which dual files all the charges at the federal and FEPA agencies, the U.S. Department of Labor does not keep track of claims filed to the state. Separate data requests to the state agencies in California and Texas reveal an additional 20,092 employees filing cases at the California Labor Commissioner, and 2,309 claims filed to the Texas Workforce Commission. However, because of differences in minimum standards and data collection strategies across states, I do not combine state and federal wage and hour violation data.

8. Several surveys suggest that underreporting of labor violations is an issue (McGrath 2005).

9. For example, Mark Ellis, a city councilmember and recent candidate for the Texas senate who opposes MOIRA, launched an initiative that would have reversed the policy of the Houston Police Department that prevents it from carrying out immigration enforcement functions. Though this initiative was eventually rejected, and has since been reversed, it was vehemently opposed by the AFL-CIO, several immigrant-rights organizations, and other community-based organizations.

10. George Bush received 55 percent of votes in Harris County in 2004, and the incumbent Republican candidate for governor, Rick Perry, received the majority 36 percent.

11. Although not the focus on this chapter, this analysis also draws on forty-three interviews I conducted with Latino immigrant restaurant workers in each city.

12. To establish a list of all nonprofits whose mission includes labor and employment issues, I used the premium search function provided by GuideStar, one of the leading organizations that compiles IRS database listings for charitable organizations (accessed at <http://www.guidestar.org>).

13. These included formal client-directed directories such as ImmigrantInfo.org-an online database or providers compiled by the Santa Clara County Immigrant Relations and Integration Services, the Houston Mayor's Office on Immigrant and Refugee Affairs (accessed at <http://www.houstontx.gov/moira/index.html>), as well as community partners mentioned by the central labor council, and federal and state labor standards enforcement agencies in each city.

14. Confidentiality restrictions do not permit me to disclose the exact names of the nongovernmental organizations and contacts who participated in this study. Interviews were semi-structured and lasted about an hour on average. Most interviews were tape recorded and fully transcribed, then analyzed with the assistance of Atlas.ti.

15. According to MOIRA, efforts were made to sit down with the Texas Workforce Commission, but they received only a lukewarm response. Though the agency eventually sent a liaison, his presence was minimal, largely because all TWC functions are based in Austin, which is more than two hours from Houston. Efforts to involve the National Labor Relations Board also failed.

16. Involvement in JEWEP is completely up to the discretion of agency directors, with no formal mandate from above. Although similar coalitions have been replicated in cities such as Dallas, Denver, and Los Angeles, all have involved significant support from local governments, the Mexican consulate, and community organizations.

17. The mobile consulate is a nationwide program that sends consular services out to surrounding communities that are too far away or otherwise isolated from central consulate offices.

18. A notable exception is wages. Several cities have passed living wage ordinances which exceed the state or federal minimums (see [www.livingwagecampaign.org/index.php?id=1958](http://www.livingwagecampaign.org/index.php?id=1958)).

19. In fact, as of 2006 the EEOC office in Oakland has plans to share office space with their state counterpart soon.

20. One of the most notable cases recently is that of Olivia Tamayo, who endured years of sexual harassment while employed at Harris Farms, before successfully suing the corporation in 2005, with the help of the EEOC and California Legal Rural Assistance.

21. For an excellent overview of the central labor councils in each city, see the Building Power Research Project, an initiative at Wayne State University undertaken to "document how local labor movements are developing systematic strategies for achieving regional power." Case studies have been completed for Los Angeles, San Jose, Denver, Houston, Cleveland, Seattle, and Buffalo. Reports for Atlanta, New York, North Carolina, and South Florida are forthcoming. My sincere thanks to Nari Rhee and Tom Karson, who authored the reports for San Jose and Houston, respectively, and who offered their time and conversation with me for this project.

22. The seven CTW affiliated unions include the International Brotherhood of Teamsters, the Laborers' International Union of North America, Service Employees International Union, the United Brotherhood of Carpenters and Joiners, the United Farm Workers of America, the United Food and Commercial Workers, and UNITE-HERE! (which represents hotel and restaurant workers).

23. According to the AFL-CIO website, "Change to Win local unions that are given Solidarity Charters will make per capita tax payments based on their membership to local and state AFL-CIO organizations at the rates applicable to other affiliated local unions. They will have the same rights and obligations as other affiliated local unions, including participation in governance and affairs of the state or local body, eligibility of their members to run for and hold office in the state or local body and the status and

treatment of their members within the state and local body" (accessed at <http://www.aflcio.org/aboutus/ns08262005.cfm>).

24. See chapter 11, this volume, which discusses the role of immigrants' rights in the Change to Win split, and the evolution of the AFL-CIO's position on immigrant rights.

25. 126. The group defines vulnerable workers as those who have limited proficiency in English (in Houston, particularly Hispanic and Vietnamese workers), day laborers, individuals working in risky occupations (such as residential construction, slaughterhouses, and poultry factories), health care workers, and new or returning workers.

27. Interview with SBLC organizer, March 20, 2006.

28. Based on information provided by UNITE-HERE! Local 19.

29. Despite the relative success of union organizing in key low-wage and immigrant industries, there still remains a tremendous incidence of labor rights violations. According to a 2005 U.S. Department of Labor report, the industry with the highest number of wage and hour claims is restaurants, which is also an industry that is underserved by unions. Hotel and motels follow close behind, and construction remains one of the most dangerous jobs in terms of health safety violations interview with SBLC political director, April 20, 2006.

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TABLE 4.1 State Variation in Labor Policy (2005)

State	State OSHA Plan?	Minimum Wage	Right to Work State?	Union Representation	State	State OSHA Plan?	Minimum Wage	Right to Work State?	Union Representation
Alabama	N	5.15	Y	11.7	Montana	N	5.15	N	12.2
Alaska	Y	7.15	N	24.1	North Carolina	Y	5.15	Y	3.9
Arizona	Y	5.15	Y	7.7	North Dakota	N	5.15	Y	9.2
Arkansas	N	5.15	Y	6.0	Nebraska	N	5.15	Y	9.5
California	Y	6.75	N	17.8	Nevada	Y	5.15	Y	15.1
Colorado	N	5.15	N	9.4	New Hampshire	N	5.15	N	11.5
Connecticut	~	7.10	N	17.0	New Jersey	~	5.15	N	21.7
Delaware	N	6.15	N	12.9	New Mexico	Y	5.15	N	10.7
Florida	N	5.15	Y	7.2	New York	~	6.00	N	27.5
Georgia	N	5.15	Y	6.0	Ohio	N	5.15	N	17.2
Hawaii	Y	6.25	N	26.7	Oklahoma	N	5.15	Y	6.4
Idaho	N	5.15	Y	6.3	Oregon	Y	7.25	N	15.7
Illinois	N	6.50	N	17.6	Pennsylvania	N	5.15	N	15.0
Indiana	Y	5.15	N	13.2	Rhode Island	N	6.75	N	16.8
Iowa	Y	5.15	Y	13.5	South Carolina	Y	5.15	Y	3.3
Kansas	N	5.15	Y	9.5	South Dakota	N	5.15	Y	8.2
Kentucky	Y	5.15	N	10.8	Tennessee	Y	5.15	Y	6.6
Louisiana	N	5.15	Y	7.4	Texas	N	5.15	Y	6.2
Maine	N	6.35	N	13.6	Utah	Y	5.15	Y	6.1
Maryland	Y	5.15	N	15.0	Vermont	Y	7.00	N	13.0
Massachusetts	N	6.75	N	14.9	Virginia	Y	5.15	Y	6.2
Michigan	Y	5.15	N	21.4	Washington	Y	7.35	N	20.4
Minnesota	Y	5.15	N	16.4	Washington, D.C.	N	6.60	N	12.8
Mississippi	N	5.15	Y	9.7	Wisconsin	N	5.15	N	17.2
Missouri	N	5.15	N	12.6	West Virginia	N	5.15	N	15.5
					Wyoming	Y	5.15	Y	9.5

Source: Author's compilation.

Note: The federal Occupational Safety and Health Administration (OSHA) sets standards for working conditions. These include things like shade and water availability for farm workers, appropriate scaffolding or trench construction, or limits on exposure to toxic chemicals. Some states have created their own state OSHA programs, which receive 50 percent of their enforcement funds, and 90 percent of their funds for consultation services, from the federal government. States are encouraged to form their own state programs, though less than half have not. State OSHA standards must be "at least as effective as" federal standards, but can include additional regulations as well. California OSHA standards contain many additional provisions above the federal baseline. (Connecticut, New Jersey, and New York plans cover public sector employees only.)

Employees in Right to Work states do not have to formally join (pay dues to) a union even after it is recognized by the company through an election or other negotiations. That worker however still remains protected if a union is elected to represent workers. This difference changes the dynamics of union organizing in that it makes recognition potentially more difficult, in addition to reducing the resources a union has through membership.

TABLE 4.2 *Profile of Case Studies: San Jose and Houston (2005)*

	San Jose, California	Houston, Texas
Total population	916,220	2,074,828
One race (percent)		
White	47.0	52.3
Black or African American	2.9	24.7
Asian	30.5	5.0
Hispanic-Latino of any race (percent)	32.2	41.9
Foreign-born (percent)	38.6	27.8
Europe	5.4	3.8
Asia	57.8	15.7
Africa	1.5	3.8
Oceania	0.3	0.1
Latin America	34.0	75.8
Northern America	1.1	.8
Industry (percent)		
Agricultural, forestry, fishing and hunting, mining	0.2	2.1
Construction	7.6	12.0
Mining	20.8	8.6
Wholesale trade	3.0	4.1
Retail trade	10.1	9.9
Transportation, warehousing, utilities	3.2	5.6
Information	3.4	1.5
Finance, insurance, real estate, rental and leasing	5.8	6.8
Professional, scientific, management, administrative, waste management services	15.1	13.9
Educational services, health care, social assistance	15.9	17.9
Arts, entertainment, recreation, accommodations, food services	8.2	9.2
Other services, except public administration	4.3	6.1
Public administration	2.4	2.3
Median household income	\$73,804	\$39,682
Families living in poverty (percent)	7.7	17.0

Source: Author's calculations from American Community Survey 2006, accessed at [http://factfinder.census.gov/home/saff/main.html?\\_lang=en](http://factfinder.census.gov/home/saff/main.html?_lang=en).

**TABLE 4.3** *Overview of Interviews with Labor Standards Enforcement Agencies*

Labor Issue	Houston, Texas	San Jose, California
Union organizing	National Labor Relations Board, Region 16	National Labor Relations Board, Region 20
Wage and hour	Department of Labor-Wage and Hour Division, Houston Office, Houston Office Texas Workforce Commission, Labor Law Section, Austin Office	Department of Labor, Wage and Hour Division, San Jose Office Department of Industrial Relations, Labor Standards Enforcement, San Jose Office
Health and safety	Occupational Safety and Health Administration (OSHA), Houston South Area Office	Department of Industrial Relations Cal/OSHA, Oakland Office
Discrimination	Equal Employment Opportunity Commission, Houston Office Texas Workforce Commission, Civil Rights Division, Austin Office	Equal Employment Opportunity Commission, San Francisco Office Department of Fair Employment and Housing (DFEH) <sup>a</sup>
Workers' compensation	Texas Division of Insurance, Workers' Compensation Commission, Austin Office	Department of Industrial Relations, Workers' Compensation, Oakland Office
Active Alternative options (local)	Harris County Dispute Resolution Office Houston Police Department, Burglary and Theft Division (process "theft of service reports") Mayor's Office on Immigrant and Refugee Affairs	Santa Clara County Dispute Resolution Office Santa Clara County Office of Human Relations, Immigrant Relations and Integration Services

Source: Author's compilation.

<sup>a</sup> Unable to secure formal interview.

**TABLE 4.4** *Overview of Interviews with Community Informants*

Houston (20)	San Jose (22)
<ul style="list-style-type: none"> <li>• 5 - Immigrant rights groups</li> <li>• Interfaith group</li> <li>• Day labor center</li> <li>• Housing advocacy group</li> <li>• Faith-based advocacy group</li> <li>• Asian worker rights group</li> <li>• Leadership group</li>   <li>• AFL-CIO Central Labor Council</li> <li>• Manufacturing union</li> <li>• Retail industry union</li> <li>• 2 - Services industry unions</li> <li>• 2 - Construction industry unions</li>   <li>• 1 - Low-income legal services group</li> <li>• Consulado de México en Houston</li> </ul>	<ul style="list-style-type: none"> <li>• 4 - Immigrant rights groups</li> <li>• Worker safety advocacy group</li> <li>• Social justice advocacy group</li> <li>• Environmental justice group</li> <li>• Day Labor center</li> <li>• Faith-based advocacy group</li> <li>• Leadership group</li>   <li>• AFL-CIO Central Labor Council</li> <li>• Retail industry union</li> <li>• 2 - Services industry unions</li> <li>• 3 - Construction industry unions</li>   <li>• 4 - Low-income legal services groups</li> <li>• Consulado de México en San José</li> </ul>

*Source:* Author's compilation.

**TABLE 4.5** *Mechanisms for Protecting Labor Rights in Houston and San Jose*

Mechanism	Houston, Texas	San Jose, California
Strength of labor protections	Thin	Thick
History and power of labor unionism	Weak	Strong
Range of common labor abuses	Wider	More limited
Best avenues for contesting labor abuses	File formal claim with federal agency; active federal-local coalition of agencies, including alternative options such as the local police department, or dispute resolution center	File formal claim with state agency
Available community resources for workers filing formal claims	No active employment law clinics; hotline through mayor's office and Mexican consulate; direct action	At least two local university employment law clinics; more readily available legal counsel; accessible outreach for undocumented workers
Relationship between key actors	Coalition; focus on collective claims-making	Separated; focus on individual claims-making
Role of immigration in local politics	Several prominent immigrant rights organizations; strong "anti-immigrant" sentiment from local Republican elected officials and constituents	Several prominent immigrant rights organizations; though immigration per se is for the most part a political nonissue
General focus of labor movement	Basic labor protections, especially for immigrant workers, direct actions against abusive employers	Broader political demands for the "needs of working people" such as universal health care and transportation

*Source:* Author's compilation.