

DEMOCRATIZING WORKERS' COMPENSATION

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July 2021

Authors
Sarah Lenfest
Ben Palmquist

About Partners for Dignity & Rights

We envision a just world where everyone is treated with dignity, everyone’s human needs are met, and everyone can thrive and reach their full potential. We can build this world together by addressing the harms of the past, ensuring people have a meaningful role in the decisions that shape their lives, and sharing resources equitably based on people’s needs.

To realize this vision, Partners for Dignity & Rights supports struggles led by people most impacted by inequality, inequity and injustice. Together we pursue meaningful changes that directly improve people’s lives now, and we lay the groundwork for transformational change by building a movement for human rights.

EXECUTIVE SUMMARY

Why We Need to Democratize Workers' Comp

Corporate profiteers have corrupted our workers' compensation systems. Injured and ill workers are getting screwed, and an essential piece of our social contract is under attack. We need to democratize governance of workplaces and workers' comp systems to give all of us the power we need as workers to protect our rights.

What is workers' compensation?

Whenever a worker is hurt on the job or sickened by toxic exposure in the workplace, workers' compensation is supposed to guarantee five things they and their family might need:

- **Medical care** to treat injuries and illnesses
- **Guaranteed income** to support workers and their families for however long they need to heal, and forever if they wind up with a disability that keeps them from working
- **Occupational rehabilitation and work adaptation** if needed to help workers adapt to lasting disabilities
- **Eliminating workplace hazards** to prevent more workers from getting hurt or sickened.
- **Burial benefits** for families of workers who are killed by their jobs.

In the United States, all states and several territories have their own workers' compensation systems, and the federal government operates four workers' comp programs for workers in certain high-risk industries. In all cases, employers pay monthly premiums to private insurance companies or into a public fund. When a worker is injured or sickened and files a claim, the insurer or fund is supposed to pay for the workers' medical care and income payments.

Why workers' comp isn't working

Corrupt practice: Profit-driven insurance companies and employers are lining their pockets by avoiding paying for workers' medical care and disability payments.

Corporate lobbying: The insurance industry and employers have been lobbying state legislators for years to rewrite laws in their favor. They've stacked the deck against workers, making it extremely hard for workers with long-term disabilities to get the medical care and income payments they need.

Disempowering immigrant and low-wage workers: Immigrants and low-wage workers are especially vulnerable to being hurt or sickened on the job and being denied workers' compensation. This is because employers wield enormous power over them: by threatening to cut workers' hours or pay, fire them, or report them to immigration enforcement, employers are able to intimidate immigrant and low-wage workers out of reporting safety hazards and filing workers' comp claims.

Excluding people with long-term disabilities and chronic illnesses: Workers' comp does an OK job of paying for immediate medical needs right after workers get hurt, but it really fails workers with long-term disabilities or chronic illnesses like cancer who need medical care, rehabilitation or income payments for many years. Profit-driven insurance companies and employers have a financial incentive to cut off benefits, and state legislatures and workers' comp administrations are letting them get away with it.

Why this matters

We may not think about it much, but the attack on workers' compensation hurts us all. Any one of us could get hurt or sick and might need medical care or disability payments.

The corruption of workers' compensation by corporate power is also one of the leading edges of a broader political and economic agenda to privatize our social insurance system and squeeze maximum profits out of workers even when it forces us into injury, illness, poverty or death.

As we fight for workers' rights, Medicare for All and income guarantees, it's essential that we include injured and ill workers and all people with disabilities in our vision, our policies and our movements.

Principles for democratizing workers' compensation

To protect workers' human rights, workers' compensation systems must be guided by:

- **Universality** — Guarantee all injured and ill workers the health care and income they need.
- **Equity** — Center the needs and agency immigrants, low-wage workers and workers in high-risk jobs who are most at risk of occupational injuries and illnesses and most likely to be denied workers' compensation.
- **Accountability** — Hold employers, insurance companies, intermediaries, and government agencies answerable for their actions and inactions, and implement changes to prevent future injuries and illnesses.
- **Transparency** — Provide with timely, accessible information to enable them to identify problems and solutions and to meaningfully engage in workplace regulation and decision-making.
- **Worker power and democratic control** — Protect the rights of workers' right to individually and collectively shape the decisions that affect their lives in workplaces and in workers' comp systems.

Policy Solutions

Because problems in workers' compensation are caused by profit-driven industries holding too much economic and political power, our solutions have to shift power to workers and the public.

Immediate Actions

- **Protect workers' fundamental rights in the workplace:** Fill gaps in labor law to protect workers' rights on the job and in workers' compensation systems.
 - **Full inclusion of all of workers in existing labor law:** End the unjust exclusion of domestic, agricultural, undocumented, temp and contract workers from labor law, and protect and strengthen workers' right to organize.
 - **Public advocates:** Establish independent public agencies like Nevada's Office of the Consumer Health Advocate to help injured workers get the medical care and income payments they need and to advocate for workers' rights.
 - **Co-enforcement:** Empower labor and community organizations to monitor and enforce workplace safety and due process in workers' compensation.

Transformational Demands

- **Democratically controlled public goods:** Abolish state and federal workers' compensation programs and merge them into broader systems to guarantee income and health care and give workers a direct role in governing these essential systems.
 - **Guaranteed jobs and guaranteed income**
 - **Medicare for All**
 - **Participatory needs assessments**
 - **Participatory budgeting**
- **Co-Governance:** Work toward shifting the economy away from abusive profiteering toward an economy that is designed to promote democratic decision-making and meet human needs.
 - **Co-determination:** Legally mandate workers' representation on corporate boards and institute industry-wide collective bargaining.
 - **Standards boards:** Create tripartite boards that bring workers, employers and regulators together to establish health and safety standards for entire industries.
 - **Democratic ownership:** Support worker cooperatives, social ownership funds and other forms of worker ownership to enable millions of workers to work in democratically controlled companies that do not put profits ahead of the needs of workers, communities and our planet.

WHY DEMOCRATIZING WORKERS' COMP MATTERS

Workers' compensation does not get much attention in American politics, but it matters greatly. Not only is workers' comp essential to the survival and wellbeing of injured and ill workers and their families; it is also a critical front through which corporate lobbyists have eroded workers' rights and social insurance protections in every state in the country. Movements and advocates cannot leave injured workers or workers' comp aside. They must halt and reverse the attack on injured workers as part of their larger efforts to secure workers' human rights and a humane, democratic economy.

Safe, dignified work, health care and a livable income are essential to everyone's wellbeing and are cornerstones of a just, democratic society. Our public policies and our economy must therefore respect and value everyone's work, meet people's basic needs and guarantee everyone meaningful control over their lives. But that is not how public policy and the American economy work today.

Far too many employers exploit and mistreat workers, including by putting them in danger of getting injured and contracting illnesses on the job and intimidating them out of reporting safety violations, injuries and illnesses. When workers get hurt or sickened at work, they are supposed to be given medical care and disability income through state and federal workers' compensation, but far too many workers are intimidated out of applying by employers or have their claims rejected by insurance companies, denying people the essential medical care and income they need.

This is fundamentally a problem of power. Crucial decisions about workers' medical care and disability income are made by opaque private and public bureaucracies that enable employers and workers' comp insurance companies to exercise enormous market and informational power over workers. Industry groups and private, profit-driven workers' comp insurance companies have a far larger say in changes to state workers' comp laws than do workers, and have successfully lobbied all 50 state legislatures to rewrite the laws governing workers' compensation in their favor. To address this fundamental asymmetry of power at both the personal and policy levels, we must strategically and permanently democratize how workers' comp, workplaces and the entire economy are governed by decreasing corporate power over people's lives and making these systems reflexive to the experiences, needs, voices, and decision-making power of workers, communities and the larger public.

Organized workers play a key role in defending injured and ill workers' rights but lack adequate institutional power to effectively enforce workers' rights. Major structural reforms are needed to democratize workers' compensation and give real, meaningful power to workers to collectively defend their own rights to safety, health care, and income. Workers must be able to hold both private and public actors accountable; shape the goals, designs, and operation of workers' compensation and other health care and social insurance systems; and shape how businesses and workplaces are governed.

Using workers' compensation as a case study, this report explores six mechanisms that hold potential to protect human rights and build a more just economy by shifting power to workers in governing workplaces, labor and social insurance systems. They range from mechanisms that could be immediately introduced to increase accountability in existing workers' compensation systems to longer-term strategies for moving toward democratically controlled public goods and co-governance of the economy.

PRINCIPLES FOR ECONOMIC DEMOCRACY

The models highlighted in this report are drawn from workers' and communities' struggles for human rights, and are built around principles of participatory economic democracy, providing innovative ways of foregrounding workers' voices in the government and industry decisions that affect their lives. These principles include:

- **Universality** — Workers' compensation must be oriented first and foremost toward guaranteeing all injured and ill workers the health care and income they need. Efficiency, cost savings, and other goals are not justifiable reasons to deny workers their human rights.
- **Equity** — Workers' compensation must center the needs and agency of groups of workers who are most at risk of occupational injuries and illnesses and most likely to be denied workers' comp, which includes low-wage workers, immigrant workers, and workers in high-risk jobs and industries.
- **Accountability** — Workers need enforceable mechanisms that hold employers, insurance companies, intermediaries, and government agencies answerable for their actions and inactions, and that trigger changes in workplaces to prevent future injuries and illnesses by fixing health and safety hazards.
- **Transparency** — Workers' organizations and the public must be provided with timely, accessible information to enable them to identify problems and solutions and to meaningfully engage in workplace regulation and decision-making.
- **Worker power and democratic control** - Workers must have the ability to meaningfully influence decisions that affect their lives, including having institutionalized power to co-determine the rules that govern workplace health and safety, workers' medical care and disability benefits, companies, industries, and social insurance systems.

Formal recognition of workers' economic rights and formal institution of workers' organizations in data collection, standard setting, and enforcement are fundamental to protecting workers' health and economic security, to giving workers power and self-determination in their lives as both individuals and collectives, and to building civic capacity and more democratic, effective, and accountable modes of political and economic decision-making that uphold public values and meet our collective human needs.

There is no fixed blueprint or single approach toward building worker power and a more just economy. These principles are thus intended to help guide strategies, policies and institutions through what must inevitably be an iterative, evolutionary path toward justice. The mechanisms discussed in this report are thus not intended as a rigid road map, but as a preliminary attempt to articulate concrete goals, demands, policies, and structures that hold promise to give workers the collective power to defend and uphold their own human rights and dignity.

WORKERS' COMPENSATION TODAY

Since 1911, when Wisconsin created the country's first workers' compensation system, workers' comp has been built around what is often called 'the grand bargain': the government requires employers to purchase insurance to fund medical care and replacement for lost wages for workers who are hurt or sickened on the job. In return for supposedly receiving guaranteed, timely medical care and wage replacement for the time they need off work to recover, workers are prohibited from suing their employer for damages and are required to get medical care and disability payments through workers' comp instead of other programs. All fifty states operate workers' compensation systems built on this model, and the federal government runs workers' compensation programs for workers in several industries too.

This 'no-fault' deal has insulated employers from liability for workplace accidents, but has done little to protect workers from exposure to safety hazards or toxic chemicals and pathogens. And because employers and insurance companies have financial incentives to keep their insurance rates and payouts low, they employ a host of victim-blaming tactics that suppress reporting and discredit workers' claims. Many workers experience intimidation and threats of retaliation from employers before they even report an injury or illness—a tactic that especially hurts low-wage and immigrant workers. For those who do file claims, unacceptable delays and wrongful denials often force injured and ill workers to delay necessary medical treatment or go into debt paying out of pocket.

Employers and insurance companies have also hired a small army of lobbyists and weaponized racist, sexist, anti-poor, and anti-worker strains of politics to convince all 50 state legislatures to treat workers as if they are undeserving of medical care and income and therefore stack the deck against them. States now have laws presuming workers' claims are invalid unless they prove otherwise, raising workers' burden of proof to ridiculous heights, granting company doctors the power to reject workers' claims, allowing employers and insurance companies to conduct invasive surveillance, drug-testing, and medical reviews to discredit injured and ill workers, and cutting off benefits to workers with long-term or permanent disabilities with no respect to their medical condition. Low-wage and immigrant workers face especially high risks of misinformation and intimidation from employers, and workers suffering from chronic musculoskeletal injuries or illnesses caused by toxic exposure have an especially hard time proving the validity of their claims.

As the U.S. Department of Labor reported in 2016, this race to the bottom puts workers at "great risk of falling into poverty as a result of workplace injuries." The grand bargain of workers' compensation has been broken.

Introducing institutions such as public advocates, participatory monitoring and enforcement, and guaranteed jobs would create immediate opportunities to protect workers' rights within existing workers' compensation systems. But more expansive visions and longer-term policy goals should guide these reforms, positioning them as stepping stones toward larger transformation in which health care and income are guaranteed as democratically controlled public goods for all and workers have an influential role in governance, co-determination and ownership throughout the economy.

Full Inclusion in Labor Law | Public Advocates | Co-enforcement

Workers' urgent struggles require immediate interventions to hold insurance companies, employers, intermediaries, legislatures and administrative agencies accountable when they make decisions that wrongfully deny workers income and medical care, and help workers appeal these decisions. Public advocates, participatory monitoring, and jobs with dignity are legal mechanisms that can be introduced to increase accountability within existing, largely privatized workers' compensation, health care, and social insurance systems.

Full Inclusion in Existing Labor Law

strengthens workers' power by making anti-discrimination protections and enforcement more robust, eliminating exclusions from important labor standards, and ensuring all workers have the right to organize without fear of retaliation.

Full inclusion for all workers

Closing dangerous gaps in workplace law and extending labor protections to cover all classes of workers would help prevent injuries and illness, and would place the force of the law behind workers who stand up against unsafe or negligent workplace practices.

Domestic and agricultural workers, undocumented workers, misclassified "independent contractors," temp workers, and workers with incarceration records are legally or practically excluded from many labor protections and anti-discrimination laws. These exclusions should be eliminated.

Strengthening protections for organizing

Protections against employer interference, intimidation and retaliation are essential to establishing more symmetrical power relations between employers and workers. They are also crucial foundations for further expanding collective bargaining rights, as discussed in the Co-determination and Tripartism sections below.

Key Steps

- Protect workers against sudden and unfair job loss by implementing a ‘just cause’ employment standard, requiring employers to give good reason, advance notice, and opportunity to address problems before firing an employee. Prevent economic dislocation by modernizing the WARN Act to guarantee at least one week of severance pay for each year of service.
- Ensure that all basic employment protections, including workers’ comp, apply to all workers regardless of classification by confirming that laws like the Fair Labor Standards Act and the National Labor Relations Act incorporate inclusive definitions of employee. Currently, all workers classified as independent contractors are not covered by workers’ comp and undocumented workers, farmworkers, and domestic workers are only covered in some states.
- Pass a federal Domestic Workers Bill of Rights to raise standards for domestic workers who have long been excluded from a range of labor protections.
- Close accountability loopholes by creating limitations on employers’ use of temp workers, especially for hazardous work or work central to a business’s operations, and making host companies jointly liable for workplace violations by subcontractors or other labor intermediaries.
- Dismantle barriers to employment by passing the Fair Chance Act and the Fair Chance Licensing Act to ensure arrest and conviction records are not used to lock workers out of the job market.
- Strengthen non-discrimination laws by passing the BE HEARD in the Workplace Act, which would cover discrimination against independent contractors, clarify that discrimination based on sexual orientation or gender identity is unlawful, and increase resources for anti-discrimination enforcement and education.
- Enact the Raise the Wage Act, which would create a \$15 federal minimum wage for workers in all 50 states, including tipped workers, younger workers and workers with disabilities who are currently exempted from minimum wage standards.
- Promote a pro-worker competition policy by having the Federal Trade Commission ban unfair contracts that limit workers’ economic mobility, block mergers that increase concentration in labor markets, and prevent practices that increase pressure on firms to keep wages low.

Further Resources

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Public Advocates

act as independent investigators on private healthcare companies, a resource for individuals dealing with health insurance issues and an advocate on behalf of injured and ill workers as a class.

Hands-on help

Public advocates provide immediate aid to patients who face wrongful delays and denials from private insurance companies. They step in where assistance from lawyers or unions is unavailable, helping workers gather information and navigate confusing claims and appeals processes.

Advocating in government

The most effective public advocates are given the power to initiate investigations, collect information, report to legislatures and executives on pervasive health care problems, advocate on behalf of patients in public hearings and processes and make legislative recommendations.

Supporting organizing

Strong public advocates work with unions and other workers' organizations to co-create spaces for worker participation in governance, such as public hearings, community advisory boards, and co-developed public education, outreach and engagement strategies.

Nevada Office of the Consumer Health Advocate

Nevada's Office of the Consumer Health Advocate (OCHA) was created by the state legislature in 1999 to protect workers as the State privatized its public workers' comp insurance system and delegated powers to private insurance companies. Privatizing workers' compensation is a bad move that puts workers at increased risk of denied claims, intimidation and inadequate medical care and benefits, but fortunately OCHA has proven to make a significant difference in the lives of Nevada workers. OCHA helps workers appeal denied workers' comp claims and also works with legislators, state agencies and labor and community organizations to advocate for policy solutions to protect workers' and patients. Over the years, the legislature has expanded the Office's role. In addition to injured and ill workers, OCHA now assists people with private insurance, Medicare, Medicaid and public employees' health plans, people who are uninsured, and people facing problems with hospitals. From 2016 through 2019, OCHA fielded 49,862 inquiries from residents, and provided direct case assistance to help 10,519 resolve insurance and billing problems and get coverage and care for their medical needs. Learn more at <http://dhhs.nv.gov/Programs/CHA/>.

Recommendations for workers' comp

Filing a claim for workers' compensation is a notoriously discouraging, labyrinthine process. At least 40% of workers who are injured or made ill on the job are deterred from ever filing, due in part to unreasonable deadlines and employer intimidation. For those who do, insurance companies often delay or deny coverage by questioning workers' integrity, disputing work-relatedness and citing exclusionary restrictions on cumulative conditions such as chronic stress injuries.

Public advocates for workers' comp, instituted on a state-by-state basis, could provide an invaluable resource for injured and ill workers in need of assistance with claims and appeals, information about their rights and help with translation or other accessibility issues. In addition to directly helping workers trying to navigate workers' comp, public advocates could serve as worker liaisons and advisors to state legislatures, workers' comp boards and other public officials responsible for administering workers' compensation, helping to provide them with information and to create institutional structures that place injured workers' needs and voices at the center of policymaking, enforcement and regulation.

Further Resources

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Nicholas Bagley, 'Agency Hygiene,' *Texas Law Review*, 89, no. 1 (2010): 1-14.; D. B. Schwarcz, 'Preventing Capture Through Consumer Empowerment Programs: Some Evidence from Insurance Regulation,' University of Minnesota Law School, *Legal Studies Research Paper Series* Research Paper No. 12-06 (2012).

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Co-enforcement

formalizes and funds the role of worker and community groups in supporting workers to monitor and defend their own rights in the workplace, while increasing community-government collaboration in the enforcement process.

Worker-led monitoring

Workers play an indispensable role in the enforcement process. While third-party monitors are unable to oversee all or even most workplaces, and the worst offenders find ways to fly under their radar, workers are always present when abuse occurs. But the path to justice is an obstacle course that can be particularly threatening to the workers most vulnerable to abuse. Retaliation protections are unreliable and often fail low-wage workers who report abuses on their own. When severe abuse has come to light, workers have been organized, often supported by community organizations that they trust.

Workers' organizations play a critical role in activating workers in their frontline role as monitors of their own rights through outreach and know-your-rights education, as well as supporting workers in successfully navigating the process of seeking redress for abuses, whether through government complaint mechanisms or with employers directly. Government co-enforcement programs support this role for workers' organizations through funding and, in some cases, increased access to vulnerable workers and their workplaces.

Community-government partnerships

Many public enforcement agencies are stuck on a hamster wheel of first-come-first-served complaint resolution, lacking the authority to prioritize severe and systemic abuse or conduct investigations in the absence of a complaint. Under these constraints, they are unable to use limited resources strategically, such as to aggressively protect vulnerable workers from retaliation when they courageously make complaints or to conduct pro-active company- and industry-wide investigations, enabling fearful workers to blow the whistle on abuse anonymously.

Legislatures must equip and enable public agencies to end and prevent systemic abuse, including through deeply collaborative co-enforcement partnerships. Workers and their organizations are experts in how employers violate their rights and how to protect them. Their participation in the design and implementation of enforcement strategies is essential to developing effective strategies, such as by identifying workplaces and industries where there is widespread abuse. And giving workers an influential voice in decisions over how their rights are enforced counteracts the disproportionate political power companies have over public agencies, a factor that undermines the effectiveness of protective regulations.

Participatory audits in motion: Public Health Councils

In November 2020, the Los Angeles County Board of Supervisors passed a motion creating Public Health Councils to enforce public health orders protecting essential workers from COVID-19 in their workplaces. The order applies to four industries throughout the county — restaurants, food manufacturing, garment manufacturing and warehouses. It authorizes workers in these industries to form Public Health Councils to monitor health violations that expose them to COVID-19 and report these violations to the Department of Public Health.

The order includes key measures that enable workers to participate. It authorizes and provides grants to unions and nonprofit workers' organizations to enable them to conduct outreach and education for workers and to train and support them as public health monitors. It prohibits employers from retaliating against workers for participating in Public Health Councils, and backs up this prohibition with fines and by allowing workers to sue employers for damages. It also provides funding to the Department of Public Health to ensure the Department can designate adequate staff to train and certify trainers for workers, investigate reported violations and coordinate the whole program.

The proposal was co-developed between the Department of Public Health and fifteen workers' organizations, and is being implemented in 2021. Learn more at <http://file.lacounty.gov/SDSInter/bos/supdocs/148389.pdf>.

OSHA Susan Harwood training grants

In 1978, OSHA established a grant program to provide \$10 - 11 million per year in funding to worker centers, unions, and other organizations to support workplace health and safety training and outreach. This program set an important precedent for formalized, resourced government-community partnerships in the promotion of safe workplace environments. Learn more at: <https://www.osha.gov/harwoodgrants>

Recommendations for workers' comp

Many of the problems workers face in workers' compensation result from the actions and inactions of employers who fail to fix health and safety hazards, intimidate workers out of reporting hazards and injuries or filing claims, or retaliating against those who do. Such shop-floor violations are hard for regulatory agencies to identify, track, and discipline, but workers are in a perfect position to identify, report, and solve problems, so long as they have the power and means to do so without fear of retribution. Institutionalizing a formal role for workers' organizations in monitoring and enforcing workers' rights to a safe and healthy workplace and access to workers' compensation in case of injury or illness can help ensure protections are effectively, thoroughly and reliably enforced.

Co-enforcement can meet the specific needs of injured and ill workers by addressing such question as:

- Are workers given immediate access to treatment for acute on-the-job injuries?
- Work culture around reporting injuries and filing claims: Are workers discouraged from reporting through systems of reward, punishment or other means?
- Employer handling of return-to-work: Are workers pressured to restart work before they have had time to properly heal? Do workers returning from time off for a work-related injury or illness face retaliatory bullying or discrimination? Are their needs accommodated through work reassignments and/or modifications to the work environment?
- Do injuries and toxic exposure trigger changes in health and safety protocols to prevent future dangers?

Further Resources

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Ian Ayres and John Braithwaite, "Tripartism: Regulatory Capture and Empowerment," *Law and Social Inquiry*, 435-496.

Jodie Thorpe and John Gaventa, "Democratising Economic Power: The Potential for Meaningful Participation in Economic Governance and Decision-Making," *Institute of Development Studies, IDS Working Paper* (March 2020).

DEMOCRATICALLY CONTROLLED PUBLIC GOODS

Guaranteed Jobs and UBI | Participatory Budgeting | Participatory Needs Assessments

Livable income, health care, education and other essential goods are necessary for each of us to survive and thrive, and are a necessary foundation for a democratic economy and just society. In a country as wealthy as the United States, it is both senseless and savage to ration and apportion these necessities according to where an employer is hiring or how much they're willing to pay, yet that's just what today's economic policies do. Our economy is currently structured so that people's basic needs like housing, food and health care rely on their job, and because we don't guarantee jobs—much less good jobs—our policies produce poverty, homelessness, food and health insecurity and many other forms of unnecessary precarity and deprivation. People of color, women and LGBT people and people with disabilities are disproportionately affected, yet are hardly alone. Most Americans wind up in poverty at least once during their lives, and are locked into endless insecurity, competition and worry that only the wealthiest few escape.

In order to meet our shared needs and protect the dignity and rights of all people, our government must fulfill basic needs as universal public goods. These systems must be equitably financed through taxes, made universally accessible without cost barriers, be equitably targeted to meet communities' particular needs, and be democratically governed by opening up and decentralizing decision-making to ensure that the people whose lives depend on these systems have real power to shape the decisions that affect their lives.

The federal jobs guarantee and universal basic income proposals discussed below should be but one piece of a broader effort to re-imagine how we meet our shared needs and take care of each other in the moments where we all need support. Workers' compensation medical care should be integrated into a universal, publicly financed health care system like Medicare for All that delivers medical treatment, medicine and rehabilitation no matter the cause of a patient's injury or illness. Medicare for All would guarantee all medically necessary care to everyone in the U.S. whether they need care because of work or not. Employers would still be required to pay money toward work-related injuries and illnesses, but workers would receive seamless care without any barriers.

Workers' compensation indemnity benefits should be merged with unemployment, disability insurance, social security, earned income tax credit and other existing payment programs into a comprehensive system of income supports to provide everyone with financial security from cradle to grave. Such an integrated system of social insurance should also incorporate new forms of financial security including baby bonds, child allowances, medical and caregiving leave and a universal basic income. These income guarantees should not replace direct public provision of public goods, but should complement them. Education, housing, family care, healthy food, clean water and energy are also human rights, so our government has an obligation to operate public programs that guarantee these rights to all.

To ensure that they are effective and uphold democratic values, public goods must be governed transparently, accountably and with meaningful public participation. Participatory needs assessments and participatory budgeting are two mechanisms that should be introduced into the administration of workers' compensations and other public goods to enable those whose lives they touch to shape their goals, design, and operation. They should likewise be paired with participatory monitoring and enforcement, discussed above, to hold programs accountable to their mandates and help prevent capture by special interests.

Guaranteed Jobs and Universal Basic Income

provide the option of a safe, livable-wage job to adults and teens and deliver no-strings-attached monthly minimum income to everyone independently. Together, these broad programs would provide income security, including for those who do unpaid labor; increase the freedom to leave unfulfilling, unsafe or unhealthy work and thereby also force private-sector employers to improve working conditions, meet critical unmet social needs, and grant more time for non-work activities.

Federal Jobs Guarantee

A federal jobs guarantee program would finance public-sector job opportunities with living wages and benefits, accessible to all individuals looking for work. The jobs created under such a program would fulfill urgent national needs such as rebuilding our crumbling infrastructure, addressing our climate and green energy crisis, and meeting the caregiving needs of our aging population.

Employment flexibility

A range of guaranteed, livable-wage employment opportunities would give injured and ill workers the freedom to change jobs if they are no longer able to return to the same work or no longer feel safe doing so.

Leverage against private employers

While anti-retaliation protections must be strengthened to ensure employers are held accountable for unfairly punishing workers, a jobs guarantee would provide an additional measure of employment security empowering vulnerable workers. By giving workers the option of quitting and taking a good public job, it would give them far more power to speak out about dangerous or abusive work conditions, file a workers' comp claim, or engage in workplace organizing.

Universal Basic Income

State provision of an unconditional, basic income to all residents, regardless of citizenship status and employment status, would furnish a universal income floor ensuring everyone access to the means of subsistence.

Preventative health and safety

By enabling some people to work fewer hours and alleviating the stresses of making ends meet, a UBI would support workers' physical and psychological health and safety. This is particularly important for preventing overuse injuries, which are pervasive problems and for which workers are often denied long-term workers' compensation benefits.

Support for life transitions

Workplace injuries and illnesses are unplanned, traumatic events that can turn people's livelihoods and life and career plans upside down. A UBI would provide people undergoing any health or life changes with the means to meet their basic needs and the time to consider what they want for their future.

Support for unwaged work

A UBI would subsidize the largely unpaid, socially necessary labor of housework and child-rearing performed largely by women. This would free those who perform this work from the necessity of working a double-shift or relying on a partner's wage, giving families and individuals much more flexibility and marking a major advance in gender equity. It would also free people up to spend more time working on unpaid community-serving activities outside of the home including art, democratic participation, community service, or whatever people might choose to do.

Universal, Publicly Financed Health Care

is a system in which the government guarantees health care as a public good to everyone in society by financing all health care directly rather than requiring families and individuals to pay money out of pocket or try to secure personal insurance coverage in order to get the care they need. Under Medicare for All or a well-designed state-based system, workers' comp medical care would be fully integrated into the larger health care system so that workers receive comprehensive care from providers they choose without any questions about work-relatedness, coverage or ability to pay.

Medicare for All

The Medicare for All Act in the U.S. House and Senate would establish a nationwide universal, publicly financed health care system that would guarantee health care to all U.S. residents from cradle to grave. It would cover all medically necessary care including hospitals and doctors, dental, vision and auditory care, reproductive care, mental health care, long-term services and supports and rehabilitation, and would eliminate insurance premiums as well as copays, deductibles and other out-of-pocket costs. Instead of levying these exclusionary costs on patients, Medicare for All would finance health care through a mix of progressive taxes (presumably through a mix of income, wealth and payroll taxes) to ensure that no one is priced out of care or ever has to pay more than they can afford.

In addition to eliminating cost barriers, Medicare for All would eliminate bureaucratic barriers to care including questions about whether a workers' medical needs are work-related. Instead, all workers receive care from a provider of their choosing no matter the cause of their injury or illness. After a work-related medical incident occurs, the federal government would bill the employer or worker's comp insurer for the cost of care, but the worker would not face any costs, exclusions or hassles.

State-Based Universal Health Care

Although universal health care should ideally be implemented nationally, in the U.S. policies often get their start at the state level. Legislators in at least 20 states have introduced universal health care legislation. Though the legislature has yet to finance the plan, in 2011, the Vermont Workers' Center pushed Vermont to become the first state to pass a bill to create a state-level universal health care system. Since then, labor and community organizations in New York and California have nearly won majority support in their legislatures for their bills. Meanwhile in Congress, Congressman Ro Khanna and colleagues have introduced the State-Based Universal Health Care Act to make it easier for states to secure the federal waivers they would need to implement universal health care. All these bills open the possibility for legislatures to integrate workers' comp medical care with the rest of the health care system to guarantee all workers and residents the care they need.

Public Delivery of Care

In addition to financing health care, the government could play a much larger role in directly delivering health care as a public good, including by opening public hospitals and clinics, expanding eligibility for care through the Veterans Administration, developing and manufacturing drugs, and operating public health programs. Public clinics, for example, could make occupational and rehabilitative health services freely available to injured and ill workers and others with injuries, disabilities and chronic diseases.

Participatory Needs Assessments

enable community members to participate directly in identifying the medical, social, economic, and other needs in their communities by helping to facilitate and participating in focus groups, interviews, data collection and other research activities.

Centering human needs and rights

Makes meeting human needs the driving goal of public policy and economic systems.

Community control

Different groups of people have varying needs and preferences, and those closest to the ground in workplaces and communities always have unique insights.

Collaborative involvement

Direct community participation in research design as well as data collection help ensure accurate and inclusive representation.

Building democratic power

Needs assessment processes provide worker and community groups with opportunities to learn and build skills, organize and educate members, and influence policy decisions.

Alameda County Community Health Needs Assessments

Since 2000, the Alameda County Public Health Department in Oakland, Calif., has partnered with neighborhood groups to conduct participatory assessments on local needs, capacities, and priorities. The Department built its program around principles of community leadership, community capacity building, nurturing community assets, and building the community-agency relationship through mutual trust and shared power. The partnership's collaborative work has encouraged an expansive and creative vision of public health, encompassing both traditional health concerns and preventive community health projects like improving housing conditions and building a new neighborhood playground.

Learn more at <https://acphd.org/chip/chna/>.

Participatory Human Rights Budgeting

enables workers and community members to participate directly in identifying their communities' medical, social, economic and other needs and deciding how public resources should be allocated.

Respecting everyday people as experts and decision-makers

People on the ground always have unique insights into what's happening in their communities and workplaces, and not all groups or individuals have the same needs for medical care, occupational rehabilitation or long-term disability payments.

Deliberative democracy in action

The process involves inclusive deliberation and consensus-building at all steps to build shared understandings and identify mutually beneficial projects, along with a firm commitment to raising revenue equitably.

Emphasis on inclusivity

Many participatory budgeting programs have successfully involved people who do not or cannot participate in other democratic processes, including non-citizens, young people and people denied voting rights because of a criminal conviction.

How it works: a step-by-step overview

1. Open community meetings are held to collect and brainstorm ideas for budget proposals.
2. Public staff facilitate participants through assessing the needs of their community.
3. Participants elect delegates who develop budget proposals to meet identified needs, and work with local officials to determine feasibility, costs, community impact and timelines. In some cases, delegates even conduct fieldwork.
4. Delegates finalize a ballot with a pared down list of proposals.
5. All community members are invited to vote on which proposals they would like to see implemented.

Community budgeting from Brazil to the US

- First developed in 1989 in Porto Alegre, Brazil, when the rapidly growing city began giving residents democratic control over a portion of the city's budget. Over the following decade, the process led to significant increases in health and education budgets, and more equitable spending in poor areas.
- Pioneered in the United States in Chicago's 49th Ward in 2009, and first operated citywide in Vallejo, Calif., in 2013.
- Today, the Public Budgeting Project counts 741 PB processes across the US and Canada, with 835,856 voters involved in choosing budget priorities for their communities and schools.

Recommendations for workers' comp

Workers have unique insights into what they need to stay safe and healthy in their jobs and, in consultation with their doctors, what kind of medical care, rehabilitation, time off work and adapted work assignments they might need when injuries or illnesses do occur. In order to uphold democratic values and workers' human rights and to make sure that those with the deepest knowledge about workers' needs have a central role in policymaking and public budgeting, workers and their organizations should be given a direct, institutionalized role in determining how much money is needed in workers' compensation and how that money is allocated.

In participatory human rights budgeting, legislators and public administrators would still play key decision-making roles, and interest groups without personal life-or-death stakes in workers' comp (including occupational health and public health advocates, employers, lawyers and insurance companies) would still have voice and influence, but budgeting decisions would be held legally accountable to meeting workers' needs and workers would be granted sufficient power to influence where funds are allocated. Worker participation could be immediately built into state and federal workers' compensation agencies' budgeting processes, and would help establish a baseline of democratic worker participation that could be expanded upon through future reforms.

As initial steps, workers' compensation agencies could work with unions, workers' centers, occupational health and safety groups, lawyers, doctors and academic experts to:

- pilot participatory methods for assessing workers' needs;
- identify portions of state workers' comp budgets in which workers' organizations could be given a formal role in assessment, decision-making and monitoring and evaluation; and
- establish legislative and regulatory requirements designed to re-balance power within workers' compensation systems by explicitly affirming workers' human rights, requiring budgets and programs to respond to workers' needs, and requiring workers and their organizations to be given a central, institutionalized role in budgeting processes.

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CO-GOVERNANCE

Codetermination | Standards Boards | Democratic Ownership

Accountability and universal public goods are essential pillars of a just, democratic society. So too is economic democracy that gives us—as workers, communities and residents—meaningful control over our labor, over industries, over society’s shared resources and over decisions that affect our lives. The economy was invented by and is governed by people, not by imaginary natural laws. Human beings have the power to make decisions about the economy that include or exclude and support or exploit. To build a just, democratic economy, we must shift power away from private profit-driven executives, investors and businesses with unaccountable, authoritarian decision-making power toward models of shared economic governance that empower workers, communities and the public to shape an economy that meets our needs, enables us to thrive, upholds our core values and protects our planet.

Codetermination

implements a multi-layered system of worker representation through industry level union bargaining combined with shop-floor works councils and seats on company boards

Legally-mandated worker representation

The product of a very strong labor movement, worker representation is legally mandated through works council elections in some European countries. Works councils represent union and non-union workers in the workplace, though unions play an important role. In France, for example, workers must consider union nominees in a first-round election. If these nominees don’t get half the votes, a second-round election enables non-union nominees to be considered. Voting in the first round also determines which unions represent the workers in collective bargaining in the workplace and industry-wide.

Rights to information and to be consulted

Works councils have rights to information and to be consulted on a range of issues that impact workers. In some countries, they also have a duty to monitor employers’ compliance with the law and bargaining agreements, including investigating worker injuries and unsafe working conditions. In Germany, they have the power to intervene if individual workers are facing adverse employment action. Half of the countries in the European Union also provide for employees to be represented on the boards of large private companies. The proportion of seats reserved for employee representatives ranges from one in 12 in France to 50 percent in Germany and Slovenia.

Industry-wide bargaining

Bargaining at the industry level is encouraged with laws or government action that automatically extend agreements reached at this level to all employers in an industry or by laws that obligate employers to join an employers’ association that bargains at this level. Generally, industry-wide bargaining involves one or several unions bargaining together with an employers’ association and unsafe workplace conditions, as well as initiate more rigorous health and safety practices.

Health and safety in European codetermination

One of the ways that codetermination impacts everyday work conditions is to increase health and safety protections. In Germany, which has the world's strongest codetermination system, a 2019 study found that works councils are correlated with the provision of higher worker health protections than required by legal minimums.

Codetermination in the US

The Accountable Capitalism Act, introduced by Senator Elizabeth Warren, would require very large companies – those with over \$1 billion in revenue – to reserve 40 percent of the seats on their board of directors for representatives elected by their employees. It would also require that any political spending from these corporations have the approval of at least three-quarters of shareholders and directors – requiring the approval of employee representatives. These measures would begin to rebalance corporate accountability to shareholders with responsibility owed to workers within the company and in the political arena.

Recommendations for workers' comp

As the European model shows, codetermination includes mechanisms for worker representation in setting standards and monitoring within the workplace, a company, and industry-wide, which have proven to improve health and safety standards. These include concerns specific to injured and ill workers such as access to on-site medical treatment and worker-led investigation of workplace injuries. Works councils also reduce information asymmetries between employers and employees, an important factor in establishing transparency and documenting workplace health and safety hazards — whether for negotiating safer regulations or proving work-relatedness for certain occupational illnesses and chronic injuries. And since they are connected to higher-level codetermination institutions, the information that works councils gather on the ground regarding worker needs and experiences can feed into collective bargaining processes around company and government policy. Finally, because works councils act as an instituted collective voice, with strong anti-retaliation protections, they overcome the risks that lone whistleblowers often face in the United States.

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Standards Boards

institutionalize a role for workers' organizations as a third party to companies and government regulators in establishing industry-wide standards.

Industrywide standard-setting

Publicly mandated standards boards are a means for setting industry standards. Standards boards are either authorized to set the standards or merely make recommendations. Three states currently have laws that allow for the creation of standards boards by executive action: California, New York, and New Jersey. In 2018, the City of Seattle passed the domestic worker bill of rights, which created a city-based Domestic Workers Standards Board. In other states, legislation would need to be passed to enable the creation of standards boards. Cities may be able to establish standards boards, like in Seattle, so long as state law does not preempt it; unfortunately, this is the case in about half of the states.

Tripartite governance

Standards boards generally include equal numbers and votes of employer and employee representatives, as well as representation of the general public. To date, within the U.S., these representatives have been politically appointed. In recent years, labor advocates have called for the proliferation of standards boards, but with a more representative approach to board member selection, such as allocating seats in proportion to workers' organizations' representativeness of the workforce.

Wage boards

In California, the Industrial Welfare Commission (IWC), is, by statute, supposed to create a wage board whenever workers in an industry are not making enough to afford the cost of living. Any recommendation supported by two-thirds of a wage board in California must be included in the regulation that regulators propose, unless there's no evidence to support it. There are currently wage orders governing 17 industries in the state.

In 2015, New York used its power to create a wage board to set the minimum hourly wage for fast food workers at \$15. And through a separate wage board process, the state also raised the minimum wage for tipped workers in the hospitality industry by 50 percent.

Recommendations for workers' comp

Institutionalizing a permanent, formal role for worker representatives in monitoring and enforcing regulations of health and safety and employers', insurers' and doctors' roles in workers' compensation would help ensure protections are effectively, thoroughly and reliably enforced. Designated workers' representatives would be positioned to:

- initiate proactive investigations that regularly escape regulatory enforcement rather than relying on worker complaints—too often stymied by retaliatory threats;
- identify industries and workplaces where there is widespread abuse by employers, such as misclassifying employees as independent contractors or bullying immigrant workers into accepting unsafe conditions or staying silent when injured on the job, or by insurance companies, medical examiners or other parties who unjustly deny workers' claims; and
- trigger regulatory enforcement, negotiations or litigation to address systematic problems facing injured and ill workers.

Further Resources

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Democratic Ownership

offers an alternative model for sharing company profits and management, promising more equitable wealth and power distribution within firms, communities and broader political and economic forums.

Worker-centered priorities

More equitable sharing of profits and collective decision-making reconfigure companies' motives and priorities. Co-operatively owned companies have a direct interest in placing worker safety, adequate time off, and other quality of work and life considerations ahead of maximizing profits. At the same time, recent studies indicate that worker coops in the US are more productive than traditional businesses.

Equitable wealth distribution

Cooperatives do not have the same wage disparities as traditional companies, so worker-owners are paid more than in a traditional job. In turn, fair profit distribution and higher wages help to counteract the de-democratizing impacts of our society's massive inequality gaps.

Democratizing work in pursuit of a larger vision

Co-ownership models transform company power relations and profit incentives at the root, enabling workers to steer their businesses not only toward providing good jobs and livable incomes, but also toward upholding larger community and societal goals like advancing racial and gender justice and protecting our environment.

Worker cooperatives

In worker cooperatives, workers both own and manage the business. They share both profits and control over the company, usually with a one-member, one-vote approach. In contrast to most traditional corporations, cooperatives tend to be closely integrated into the communities where they operate, generating local wealth and community benefits by keeping profits and jobs in the neighborhood, providing goods and services people need, avoiding extractive and exploitative practices and strengthening communities' social fabric.

Social ownership funds

In recent years, a number of economic rights organizations and progressive political candidates have revived and revised the idea of democratic ownership funds. These proposals involve society-wide wealth funds as well as firm-, community- and sector-based funds.

Inclusive ownership funds and Employee Stock Ownership Plans (ESOP)

Company-level ownership funds democratize corporate ownership and governance by channeling a percentage of a firm's equity into a worker-managed trust. Workers receive a stake in ownership with proportionate rights to dividends and voting power. As these funds grow, income and decision-making powers shift increasingly toward the workforce.

Social wealth funds

National, state or community social wealth funds give residents shared ownership of collectively controlled assets, delivering proceeds that can fund public goods or be delivered as a universal basic income as with Alaska's Permanent Fund. In 'share-levy' models, the fund owns shares of all major firms in the country—which gives citizen-owners voting rights through government representatives, proxy organizations or online voting.

Cooperative and Solidarity Economy Initiatives in the US

In 2004, the United States Federation of Worker Co-ops formed to connect workers interested in cooperative development. The Federation is led and constituted by a majority of people of color and immigrants, building on a rich history of solidarity economy models and practices in Black communities. There are currently around 350 worker cooperatives in the U.S.

Since 2015, the Worker Cooperative Business Development Initiative (WCBDI) in New York City has worked with more than a dozen community partner organizations to deliver funds and support for new and existing worker cooperatives. In its first year, the WCBDI distributed \$1.2 million to support the creation of 21 new worker cooperatives. It has since grown its yearly commitment to \$3.6 million and increased its services exponentially. The program has successfully fostered resilient, worker-owned small businesses and significantly raised the incomes of many involved workers—offering a promising model for other cities and communities to follow.

Key Steps

1. Develop resources and institutional infrastructure for financing worker cooperatives by:
 - passing the U.S. Employee Ownership Bank Act, which would create a public funding pool to finance new cooperatives
 - creating public banks that would finance low-interest small business and student loans, as well as small-scale community infrastructure projects
2. Pass the WORK Act to create new state employee ownership centers—modeled on the successful Vermont Employee Ownership Center—that provide technical assistance and marketing support to promote coops.
3. Enhance tax incentives for worker ownership by eliminating capital gains tax on businesses selling to worker-owners and creating a preference for cooperatives in federal agency procurement.

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dignityandrights.org/democratizing-workers-comp