

## REWORKING LABOR

## *The Workers Defense Project, a Union in Spirit*

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By Steven Greenhouse

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LIKE most construction workers who come to see Patricia Zavala, the two dozen men who crowded into her office in Austin, Tex., one afternoon in March had a complaint.

The workers, most of them Honduran immigrants, had jobs applying stucco to the exterior of a 17-story luxury student residence. It was difficult, dangerous work, but that was to be expected. What upset them was that for the previous two weeks their crew leader had not paid them; each was owed about \$1,000.

Ms. Zavala, the workplace justice coordinator at the Workers Defense Project, listened to their stories and then spent a month failing to persuade the contractors to pay the back wages. So Ms. Zavala, 27, a graduate of the University of California, Santa Barbara, and the daughter of a Peruvian immigrant, turned to what she calls the nuclear option: the workers filed a lien on the building site. That legal maneuver snarls any effort to make transactions on the property and sometimes causes banks and investors to freeze financing.

The lien, along with a threatened protest march, quickly got the attention of the dormitory's developer, American Campus Communities, and the general contractor, Harvey-Cleary Builders. Within hours, Harvey-Cleary arranged a meeting between the stucco contractor and the unpaid workers, and, presto, Harvey-Cleary and the contractor, Pillar Construction, agreed to pay the \$24,767 owed to the workers.

"Liens are the very best tool workers have," said Cristina Tzintzún, executive director of the Workers Defense Project. Instead of dealing with subcontractors, she said, "you're negotiating with the project owner and general contractor. They can no longer shift responsibility and say: 'I paid the guy downriver. It's out of my hands.'"

The Workers Defense Project, founded in 2002, has emerged as one of the nation's most creative organizations for immigrant workers. Its focus is the Texas construction industry, which employs more than 600,000 workers, about half of whom, several studies suggest, are unauthorized immigrants.

Immigrant workers, especially those who are undocumented, are especially vulnerable to abuse by contractors. Each year, the Workers Defense Project, which has 2,000 dues-paying members, receives about 500 complaints from workers who say they were cheated out of overtime or denied a water break in Texas' scorching summer heat or stuck with huge hospital bills for an on-the-job injury.

The Workers Defense Project is one of 225 worker centers nationwide aiding many of the country's 22 million immigrant workers. The centers have sprouted up largely because labor unions have not organized in many fields where immigrants have gravitated, like restaurants, landscaping and driving taxis. And there is another reason: many immigrants feel that unions are hostile to them. Some union members say that immigrants, who are often willing to work for lower wages, are stealing their jobs.

"The Workers Defense Project is not like a union — it welcomes everyone," said Luis Rodriguez, a Mexican immigrant who sought the group's help after he lost a finger in a construction accident. "It is always willing to take in more people and help more people."

Luis Rodriguez sought help from the project after he lost part of his finger on a construction job. Erich Schlegel for The New York Times

At a recent Workers Defense Project meeting — they are held every Tuesday night — the atmosphere was part pep rally, part educational session, part social hour. After a dinner of tacos, rice and beans, about 60 workers plotted strategy for a demonstration against the developer of a 1,000-room Marriott hotel. A skit mocking the developer drew raucous laughter. The energy and sense of solidarity were reminiscent of what America's labor unions had many decades ago, before they started to stumble and stagnate.

Worker centers, which are among the most vigorous champions of overhauling immigration laws, coalesce around issues or industries. For example, there is Domestic Workers United, which persuaded New York and Hawaii to enact a bill of rights for housekeepers and nannies, and the Coalition of Immokalee Workers, which has gotten most Florida tomato growers to adopt a workers' code of conduct and to increase pay by at least 20 percent. Young Workers United played an important role in persuading the San Francisco City Council to enact a paid-sick-days law and a minimum wage of \$10.55 an hour. With labor unions losing members and influence, these centers are increasingly seen as an important alternative form of workplace advocacy, although no one expects them to be nearly as effective as unions in winning raises, pensions or paid vacations.

“Worker centers are filling a void by reaching out to a work force that is particularly hard to reach out to,” said Victor Narro, a specialist on immigrant workers at the University of California, Los Angeles.

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Jefferson Cowie, a labor historian at Cornell, said: “Worker centers are part of the broad scramble of how to improve things for workers outside the traditional union/collective bargaining context. They've become little laboratories of experimentation.”

As worker centers go, the Workers Defense Project in Austin has racked up an unusual number of successes. It has won more than \$1 million in back pay over the last decade on behalf of workers alleging violations of minimum wage and overtime laws. A report it wrote on safety problems spurred the Occupational Safety and Health Administration to investigate 900 construction sites in Texas — leading to nearly \$2 million in fines.

And, despite a liberal image, the group made common cause with law-abiding contractors to persuade the state's Republican-dominated legislature to approve a law that made wage theft — an employer's deliberate failure to pay wages due — a criminal offense. The Workers Defense Project has just 18 employees, and its executive director, Ms. Tzintzún, 31, earns just \$43,000 a year. But it managed to bring mighty Apple to the negotiating table. The group extracted a promise that construction workers on Apple's new Austin office complex would receive at least \$12 an hour, not the more commonly paid \$10 — as well as workers' compensation coverage.

The workers' compensation pledge was an important victory. The construction industry in Texas has a higher fatality rate than that in most other states, but Texas is the only one that does not require building contractors to provide workers' compensation to cover an injured worker's hospital bills and disability benefits.

“We like organizing here in Texas,” Ms. Tzintzún said. “Things can only go up because working conditions are so awful.”

AS soon as word got out in March 2012 that Apple was planning to build a \$300 million operations center in Austin, the Workers Defense Project sprang into action. Gregorio Casar, the group's business liaison — his title might more fittingly be thorn-in-the-side — learned that Apple hoped to receive tax incentives in exchange for promising to create 3,600 full-time jobs with salaries averaging at least \$63,000.

Manuel Ramirez, standing, led a meeting at the project office in Austin. Erich Schlegel for  
The New York Times

But Mr. Casar, a University of Virginia graduate who is the son of Mexican immigrants, assumed that Apple's construction contractors would pay much less than that. The typical wage for nonunion construction laborers in Texas is just \$10 an hour — about \$20,000 a year.

Relying on relationships that the Workers Defense Project had built over the years, Mr. Casar, 24, persuaded the Austin City Council to require Apple to hold talks with the group as a condition for \$8.6 million in city tax incentives. (The group had previously persuaded the council to enact Texas' first ordinance requiring rest and water breaks for construction workers.)

In these discussions, Mr. Casar demanded that Apple's construction contractors pay at least \$12 an hour, provide safety training and workers' compensation, and allow the group's representatives to go to the site to inspect working conditions.

"Like many companies, Apple resisted at first because they wanted total flexibility," Mr. Casar said.

So the group turned up the heat. On March 22, just before the council's hearing on Apple's tax incentives, 100 protesters demonstrated outside City Hall. Inside the council chambers, Jose Nieto, a demolition worker affiliated with the Workers Defense Project, testified about how he had once nearly bled to death when a large mirror he was removing from a hotel wall broke and sliced into his arm. His hospital bill, which included multiple operations, was more than \$80,000. He had no workers' compensation to pay for the operations or support his family.

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Mr. Nieto implored the council not to grant Apple the tax incentives unless it accepted the Workers Defense Project's demands. "It is in your power to prevent things like this from happening to other people," he told the council.

Several weeks of negotiations ensued. Apple — then under criticism for conditions at the Foxconn plants in China that build its products — agreed to almost all of the group's demands.

"Apple is a strong supporter of workers' rights around the world," Steve Dowling, an Apple spokesman, said recently. "We've had a productive dialogue with the Workers Defense Project since we first heard from them last year. We shared many of the group's goals."

Ms. Tzintzún has an explanation for these victories. "We make it very hard for people to oppose us publicly," she said. "We know what we're asking for is the bare minimum, and we remind everybody of that."

Cristina Tzintzún, the executive director of the Workers Defense Project, says of its Texas efforts, "Things can only go up because working conditions are so awful." Erich Schlegel for The New York Times

In taking on one of the world's most successful companies, the Workers Defense Project showed how far it has come. Six years ago, it had just two employees: Ms. Tzintzún, then a senior at the University of Texas, and Emily Timm, now the group's policy director, who had just graduated from Brown University and was working part time at a homeless shelter where many low-paid immigrant construction workers passed through.

The group limped along with insecure financing until 2009. That year, three immigrant workers plunged 11 floors when their scaffold collapsed in Austin; all three died. A week later, the Workers Defense Project released a 68-page report on worker safety.

The report had been a year in the making. Prepared with the help of University of Texas researchers, it found that two-thirds of 312 construction workers surveyed had not received basic health and safety training and that three-fourths had no health insurance. Most shocking, it calculated that one construction worker died in Texas every two-and-a-half days from work-related injuries.

To draw attention to the report — and to provide a television-friendly shot — Ms. Tzintzún and Ms. Timm held a news conference in front of 142 pairs of empty work boots. That was the number of construction workers who died in Texas in 2007. The report received media attention across Texas and turned the group overnight into an influential voice in a state where labor unions are weak.

The group's higher profile has also meant more criticism. Stan Marek, chairman of a construction company based in Houston, called the group "a junkyard dog." "They keep coming at you," he said.

Scott Haeglin, project manager for Harvey-Cleary, voiced some annoyance with the group for filing the nettlesome lien and holding a protest march despite the settlement. "We take pride in treating our workers well and resolving these matters," he said.

Phil Thoden, president of the Austin chapter of the Associated General Contractors of America, said: "They have a tendency to paint the entire industry in a negative light. It's frustrating that when there's an incident on a job site, they help give it tremendous media coverage and it leaves the public with the impression that contractors are doing nothing to protect their workers."

Industry lobbyists have blocked many of the group's initiatives in the State Capitol. A proposal to stop the common practice of classifying workers as independent contractors — allowing construction contractors to avoid providing benefits or paying overtime — died in committee. So did a proposal to require workers' compensation in construction.

Some business-backed groups have begun a new attack on worker centers in recent weeks, calling them union-front groups set up to circumvent legal requirements that unions face, like strict financial disclosure.

Project supporters protested at a dorm site for University of Texas students. Erich Schlegel for The New York Times

Not all businesses object to the centers. The Workers Defense Project has made allies of many who dislike being undercut by what they call "low-road contractors" — for instance, those that do not provide workers' compensation.

"It makes no sense — in Texas I'm required to have insurance on the cargo I haul up a construction elevator, but not on the workers in that elevator," said Andy Anderson, owner of Linden Steel, which provides steel and labor to building projects.

Impressed by the Workers Defense Project's success in helping immigrant workers and highlighting job safety, the Ford Foundation and others have showered it with grants. As a result, the project's budget has swelled to \$1 million — four times what it was just four years ago. The money has helped finance building site inspectors and safety and computer classes.

Many worker centers rely heavily on grants. "We're flavor of the month right now," Ms. Tzintzún said. "I worry what happens to our funding when we're not."

Henry Allen, the recently retired executive director of the Discount Foundation, one of the group's first benefactors, voiced confidence in its future. "They're a real model," he said. "If there's a future for organizing for worker justice, I think it's the Workers Defense Project."

LUIS RODRIGUEZ, 42, a short and stocky man with a thick mustache and a deep, bass voice, came to the Workers Defense Project early last year. A heavy industrial drill had torn off his right index finger as he dislodged it from a wall. Doctors could not reattach the finger, and after 20 years of construction work, Mr. Rodriguez was suddenly too disabled to work.

That contractor provided workers' comp, but the checks did not arrive — and when he went to the state workers' comp office, he ran into one obstacle after another. "A lady working there whispered to me, 'You should go to the Workers Defense Project,' " he said.

The project helped him get his checks, and it provided him with a cause: worker empowerment. "I was really lost when I went to them," he said. "I was one of those people who didn't know anything. But now I know my rights. Now I won't let some jerk step on me."

Educating immigrant workers and turning them into activists and leaders is central to the project's mission. Immigrants make up half of its board, and Mr. Rodriguez is on its Construction Workers Committee. "No union can substitute for what the Workers Defense Project does," he said. "A union is a more closed group."

Feliz Enrique Jimenez and other workers cheered at a recent meeting. Erich Schlegel for  
The New York Times

Unions often help workers win better wages and safer workplaces, but unionizing is especially hard in right-to-work states like Texas. The large number of unauthorized immigrants makes it even harder, because many of them fear that outright union support could lead to deportation. (The Workers Defense Project does not ask whether workers who come to it are in the United States legally.)

In the project's early days, unions often viewed it as an antagonist, a supporter of immigrants who stole jobs from Americans. But unions now often work and march alongside the Workers Defense Project. The change dates from its influential 2009 report about the dangers of construction work in Texas.

"If you had asked me a few years ago, would we be working with a group of nonunion workers to help them better their lives, we'd ask, why would we help people that are taking our jobs?" said Michael Cunningham, executive director of the Texas Building and Construction Trades Council. "Well, the fact is they already have our jobs.

"By working together," he continued, "we're trying to drive out low-road contractors that are driving down wages."

As organized labor strains to reverse its membership decline, unions have established an uneasy alliance with many worker centers, hoping that they might someday help bring immigrant workers into established unions.

"There's a need to experiment with new ways to reach workers who haven't been reached by unions," said Anna Fink, a liaison between the A.F.L.-C.I.O. and foundations that help finance worker centers. "The labor movement doesn't have the deep trust that worker centers have built with immigrant worker communities."

Worker centers have done much to discourage wage theft and have marginally increased the pay of some workers. But they do not begin to have the power that unions once had to vault workers into a middle-class life.

Mr. Rodriguez may feel empowered, but he is also poor. After losing his finger, he could not work for seven months. His family of five lost its apartment and moved into a trailer. His son who is now 20 quit high school to help support the family, and to his great shame, Mr. Rodriguez had to cancel his daughter's quinceañera celebration.

When he returned to work, he found a job framing walls and staircases that paid \$11 an hour, \$440 a week. That, he said, was not enough, considering that his rent is \$850 a month, not to mention costs for electricity, telephone, gasoline, car and food. Some months he makes ends meet only because of that 20-year-old son, who earns money as a disc jockey. A few weeks ago, Mr. Rodriguez found a job paying \$14 an hour. He hopes it lasts.

"Eleven dollars an hour isn't really enough," he said. "It's difficult to survive on that."

But he is grateful to have survived. Many construction workers do not, a truth brought home in 2011, when the Workers Defense Project organized a haunting procession to the State Capitol with 138 mock coffins, commemorating all the Texas construction workers who died in job-related incidents in 2009.

Now, each year, the group commemorates a Day of the Fallen. The workers at the defense project come together around tragedy and hurt, but with a larger purpose, "Now," Mr. Rodriguez said, "I tell other workers how to stand up for their rights."