



**HEARTLAND
WORKERS
CENTER**

US Work Policy: A Legacy of Inequality

Abbie Kretz, Lead Organizer



Who Are We?

HWC's Mission: The Heartland Workers Center develops and organizes leaders, promotes workers' rights, and fosters a culture of civic engagement in order to build power and create change with immigrant and underrepresented communities.

Iron Rule: "Don't do for others what they can do for themselves."



Overview

- Racial Disparities in COVID-19
- How We Got Here: Historical and Legal Inequality
- Where Can We Go?



Defining the Terms of “Equality”

Disparate Treatment: Employment policies and actions are illegal if they (1) categorize on the basis of race or some other protected status OR (2) are motivated by race or other protected status

Disparate Impact: Facially neutral policies are illegal when they disproportionately impact or disadvantage a racial group or other protected status.



Why do these definitions matter?

They reflect the individualism and “color-blindness” of our legal framework for racial equity.



Why do these definitions Matter?

Whether we think of something as disparate treatment and disparate impact depends on what we define as “neutral” or “non-race-related”



Racial Disparities in COVID

- Safety of Essential Workers
- Disparity in Telework
- Availability of Financial Supports



Safety of Essential Workers

- Workers in essential and front-line jobs in healthcare, retail, and food processing are disproportionately immigrants and people of color.
- Latinx/Hispanic residents of Douglas county are only 16% of the population, but by mid-September represented 33% of cases (in early spring it was over 50%)



How We Failed Essential Workers

- Shortages of PPE—hair nets used as masks in plants
- Masking—early DHMs focused on workers masking, but not customers
- Lack of enforceable COVID-19 workplace safety guidelines
- No onsite OSHA or Nebraska Dept. of Labor inspections



Disparities in Telework

- Non-whites are less likely to be able to social distance by using telework than white workers
- Workers who cannot telework are *also* more likely to lose their jobs in this recession

Occupational segregation is the primary cause of this disparity.



Availability of Financial Supports

- Undocumented immigrants are not eligible for federal CARES Act relief, unemployment expansions, or paid leave expansions
- Work-authorized DACA/TPS/Asylum Seekers are not eligible for unemployment under Nebraska state law.



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Historic and Legal Inequality

So how did we get
here?



Exemptions from Employment Protections

Several New Deal work laws in the 1930s excluded domestic & agricultural workers from their protections, including (*still exclude today):

- Fair Labor Standards Act*
- National Labor Relations Act*
- Social Security Act

Modern Problem: “Gig Economy” & “Independent Contracting”



Wage and Hour Laws

- Minimum Wage Laws
- Tipped Minimum Wages
- Wage Theft



National Labor Relations Act

Historically:

- Racially segregated unions and bargaining
- Racial discrimination in seniority and bargained benefits
- Hiring Hall Rules excluded Asian, Latinx, and Black workers (e.g. “Father must have been a member”)

Today:

- Right-to-Work laws (Nebraska)



Defunding and De-Staffing Workers' Rights Agencies.

- OSHA (NE is Federal OSHA state)
- NLRB (Union law is federal)
- EEOC/NEOC

Not updating immigration policies



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Policy Solutions

So what can we do?



Policy Solutions

Domestic and Agricultural Workers Rights
- expand current laws to include domestic
and ag workers

Domestic Workers Bill of Rights -
New York expanded all their state
laws to include domestic workers



Policy Solutions

Race-conscious policy—recognizing that to undo generations of racial injustice we cannot be colorblind

Examples:

- CROWN Act: Natural Hair Discrimination Ban
- Ending NE Affirmative Action Ban
- Racial Segregation audits



Modern Deregulation

Addressing funding and staffing losses
backlogs in Civil Rights Agencies

- OSHA
- USDA
- NLRB
- EEOC/NEOC
- DOL-Wage and Hour/ NDOL



Where Do We Go From Here?

Wage, Hour, and Working Conditions

- Agricultural/meatpacking work reforms
- Minimum wage reform
- Increased investigative resources and sanctions at NDOL and NEOC



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Questions?

Abbie Kretz, Lead Organizer
abbie@heartlandworkerscenter.org

Micky Devitt, Legal and Policy Coordinator
micky@heartlandworkers.center
402-403-9864