

# DIGNITY ON THE LINE

An Evaluation of the Nebraska  
Meatpacking Workers Bill of Rights

November 2006

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# DIGNITY ON THE LINE

## An Evaluation of the Nebraska Meatpacking Workers Bill of Rights

### I. INTRODUCTION

Nebraska, the leading beef state in the nation, has created a unique state-level policy to help protect meatpacking workers and monitor work conditions in the industry. The Nebraska Meatpacking Industry Workers Bill of Rights (MW Bill of Rights) resulted from widespread alarm over the working conditions in a large local beef slaughterhouse, documented by the *Lincoln Journal Star* in 1999. While the poor health and safety conditions faced by meatpacking workers—a largely immigrant workforce—had long been known to advocates and government officials, and had been featured in national media (such as the *Wall Street Journal* and *60 Minutes*), these vivid local stories and photographs touched a public nerve. The reports included not only the high rate of injuries in the industry caused by the speed and danger of the “line,” but also the indignities of working in this particular plant (such as refusing to allow workers to go to the bathroom during their shift, causing them to wear adult diapers while cutting meat intended for public consumption).

The reaction from elected officials, from both political parties, was immediate and dramatic. Both U.S. Senators and the local congressman called for immediate action, even shutdown of Nebraska’s leading industry, if these conditions were allowed to continue. Governor Mike Johanns, a newly elected Republican (now the U.S. Secretary of Agriculture), also responded, ordering his Lieutenant Governor to investigate these reports and make policy recommendations. The subsequent report by the Lieutenant Governor largely confirmed widespread indignities and exploitation in the industry but made few specific policy recommendations. However, the report did emphasize that workers knew little about their rights and that communication was difficult between the largely Latino immigrant workforce and their employers.

Governor Johanns thereupon wrote and issued the MW Bill of Rights, a listing of eleven basic workers’ rights that was to be voluntarily distributed by employers to meatpacking workers in a language they understood. The MW Bill of Rights itemizes a wide range of existing legal rights, such as to workers compensation, to be free from discrimination, to a safe and healthy workplace, and to the right to organize. The intent of this voluntary initiative was to foster greater awareness of rights by meatpacking workers, to promote greater communication between workers and employers, and consequently to lead to a safer and healthier meatpacking work environment. The Nebraska Legislature then enacted the MW Bill of Rights into state law (the Nebraska Non-English-Speaking Workers Protection Act), and created a “meatpacking industry worker rights coordinator” position within the Nebraska Department of Labor to inspect meatpacking plants and to report upon the industry’s compliance with the rights listed in the MW Bill of Rights. All meatpacking industry employers in Nebraska now state they follow the MW Bill of Rights and post the MW Bill of Rights for their employees.

Meatpacking is now under examination more than at any time since 1906, when the novel *The Jungle* was released, shocking the nation with its depiction of an unsafe and grueling industry. The subsequent passage of the Meat Inspection Act and greater union led to several decades of improvement, but unfortunately wages and conditions have deteriorated once again. The average annual wage is only two-thirds that of all manufacturing jobs. The industry continues to be highly dangerous, with fast-moving lines, sharp knives, and slippery floors. It continues to have an injury rate more than double that of all U.S. manufacturing plants. The Government Accountability Office cautions that injuries still appear to be underreported, due to fear of retaliation

and job loss. Meanwhile, federal oversight of health and safety in meatpacking plants continues to erode -- with no regulation of the exhausting speed of work, which also affects food safety.

One hundred years after *The Jungle*, the meatpacking industry is still cold, dangerous, low-paid, and dependent upon immigrant labor. As the Nebraska Meatpacking Industry Workers Bill of Rights is now over five years old, it is time to ask whether it is, in fact, a living, breathing policy that helps protect meatpacking workers. It is time to ask whether this unique, state-level policy reform is actually helpful to workers in Nebraska, whether it could be improved upon, and whether it could be helpful in other states as well. In that last regard, the MW Bill of Rights has been accepted by industry leaders as a useful communications tool: Tyson, the largest packer in the country, recently announced its own “Worker Bill of Rights,” modeled on Nebraska’s, to be distributed to all employees in plants across the country. Meanwhile, federal oversight of health and safety in meatpacking plants has continued to erode in recent years – with no regulation of the exhausting speed of work, which also affects food safety.

After interviewing a wide spectrum of individuals connected with the industry, Nebraska Appleseed has found that the MW Bill of Rights serves an indispensable policy role. The MW Bill of Rights has provided a framework for collaboration between a wide variety of industry groups, and, in general, has been a useful communications tool among these groups on meatpacking worker health and safety. Further, the coordinator position has become a positive resource for workers and industry management, although insufficiently funded and staffed at less than one full-time position. These improvements are worth building upon, and Nebraska Appleseed recommends instituting additional practices that promote the MW Bill of Rights as a worker rights communications tool.

At the same time, we found that workers’ knowledge about the protections the MW Bill of Rights was intended to promote has changed only marginally in the years the MW Bill of Rights has been in place. In particular, we focused on four rights: improved access to workers’ compensation, a safer and healthier workplace, access to complete information, and the freedom to organize. Unfortunately, we found that the MW Bill of Rights has done little on the ground to guarantee these rights for Nebraska’s meatpacking workforce.

While further policy action is required for substantial change in health and safety for meatpacking workers, we found that the MW Bill of Rights has been a necessary first step toward this goal in Nebraska. Nebraska Appleseed believes that all states with significant meatpacking workforces would benefit from adopting a state-level meatpacking workers bill of rights. In addition, these states would benefit from funding state agency inspection and monitoring staff focused on the protections of the bill of rights.

Nebraska Appleseed recognizes that improved communications alone is not enough to give meatpacking workers the opportunity to have workplaces similar to other manufacturing in terms of injury rates and turnover. However, the MW Bill of Rights is a first step to empowering not only the worker but the industry and individual communities as well, by giving everyone goals to build toward collaboratively. The MW Bill of Rights provides an opportunity to promote not only workers’ rights but also basic guidelines for how the meatpacking industry workplace should be managed. In turn, this will raise the public’s awareness of how the practices within the workplace affect the greater community. In this way, the MW Bill of Rights is a living, breathing policy reform with great potential for positive impact at the state level.

Our evaluation concentrated on four principle categories of rights included in the MIWBR. Findings include:

#### Access to Complete Information

- Many workers in Nebraska are unaware of the Meatpacking Industry Workers’ Bill of Rights and do not know how to inquire further with appropriate parties about their rights.

- Most meatpacking companies comply fully with the three specific requirements of the Nebraska Non-English Speaking Workers Protection Act (as opposed to each right listed in the MW Bill of Rights).
- The position of the Meatpacking Worker Rights Coordinator has been effective within the limits of the office's resources.
- Both companies and worker advocates could more proactively use the MW Bill of Rights to educate workers. Most companies post only a single copy of the MIWBR in a human resources area, and few unions or nonprofits continue to promote the MIWBR.
- Company management we interviewed saw no conflict between the MW Bill of Rights and their bottom line, describing the evolution of a business model previously based on high employee turnover to a new model that values worker retention.

#### Safety and Health in Meatpacking Plants

- While the meatpacking industry has made some good faith efforts to improve safety, including hiring additional bilingual supervisors and liaisons, neither available statistics nor our own qualitative data indicate a fundamental change in the risks associated with meatpacking work during the last six years.
- Fear of losing their job still inhibits many workers from inquiring about, let alone asserting, their basic rights.
- Erosion of state and federal safety oversight has had a negative impact on safety and health in meatpacking plants.
- Line speed or speed of work, which is not addressed by the MW Bill of Rights, was consistently and spontaneously cited by most interviewees as a primary cause of high injury rates.

#### *Access to Workers' Compensation*

- Workers' compensation remains greatly underutilized by injured meatpacking workers, and the MW Bill of Rights has not improved workers' access.
- Many workers do not know the workers' comp system exists. Company trainings do not adequately educate workers about the system, nor do company supervisors or health personnel adequately explain the system in the event of an injury.

#### *Freedom to Organize*

- Publicity and proactive use of the MW Bill of Rights by advocates around the time of its introduction empowered workers to consider the benefits of addressing the issues at their workplaces through organizing, but the policy hasn't had much impact more recently after publicity declined.
- The MIWBR was a factor in plant organizing in the year immediately following the bill of rights' introduction.
- The MIWBR is a much more useful tool for communication in organized versus non-organized plants.

## **II. SCOPE AND METHODOLOGY OF THE REPORT**

This report considers the effects of the MW Bill of Rights and the Nebraska Non-English-Speaking Workers Protection Act on workers in the meatpacking industry. Nebraska Appleseed draws its conclusions based on interviews with more than fifty individuals, including senior executives from Nebraska's largest meatpacking companies and many who work on the production line at these same companies' plants. In addition to industry management and employees, interviewees included worker advocates, legislators, policy analysts, governmental representatives, workers compensation attorneys, journalists, and academics.

We interviewed this diverse group of stakeholders in order to explore the full range of potential effects—direct and indirect—the bill may have had on the state’s meatpacking industry and workers.

The dozens of current and former meatpacking workers we spoke with were unaffiliated with a labor union or any other industry-related organization. Meatpacking workers were interviewed in communities that ranged from Omaha to Norfolk, Madison, Schuyler, Grand Island, and Lexington.

Tyson Fresh Meats, ConAgra, Inc., Hormel, and Swift accepted requests for interviews. Companies that were contacted and declined include Nebraska Beef and Greater Omaha Pack, although the latter expressed interest in the report’s conclusions. Excel was contacted and did not respond. Nebraska Appleseed appreciates the hospitality of the industry and the many individuals who agreed to be interviewed.

In some cases, interviews were conducted at companies’ executive offices or other locations with multiple interviewees at a time, without occasion for direct conversation with any one individual. In one instance, for example, a conversation included a plant manager, plant engineer, supervisors, production line workers, and human resource representatives around the same table. We did, however, interview additional employees outside the workplace setting.

Efforts to improve conditions across the country continue, and this report is a response to inquiries from other states about the consequences of and lessons learned from Nebraska’s experience.

### **III. WHAT IS THE NEBRASKA MEATPACKING WORKERS BILL OF RIGHTS?**

The **Nebraska Meatpacking Industry Workers Bill of Rights** (MW Bill of Rights) was an innovative declaration of policy undertaken by Governor Mike Johanns in June 2000. The MW Bill of Rights is the only state-level worker protection policy of its kind. It outlines fundamental rights for workers and established guidelines employers must follow.

The rights included in the MW Bill of Rights are as follows:

1. The right to organize
2. The right to a safe workplace
3. The right to adequate facilities and the opportunity to utilize them
4. The right to adequate equipment
5. The right to complete information
6. The right to understand information entitled
7. The right to existing state and federal Benefits and Rights
8. Right to be free from discrimination
9. Right to continuing training including supervisor training
10. Right to compensation for work performed
11. The right to seek state help

In 2001 the Nebraska legislature voted to enact the MIWBR into law as part of the **Non-English-Speaking Workers Protection Act**, a statute designed to help non-English speaking workers understand the terms and conditions of their employment as well

as the risks involved with their work. This statute applies to all employers who actively recruit non-English speaking employees if more than ten percent of its employees speak the same non-English language. Under the statute employers must:

- provide a bilingual employee to answer questions,
- provide a statement in the worker's native language of wages, weekly hours, responsibilities and hazards, as well as any transportation or housing to be provided, and
- provide free transportation back to the recruitment site if the employee resigns within four weeks of his/her initial employment.

The statute also made permanent the Meatpacking Industry Worker Rights Coordinator within the Nebraska Department of Labor. The coordinator's role is as follows: "to inspect and review the practices and procedures of meatpacking operations in the state of Nebraska as they relate to the provisions of the Governor's Meatpacking Industry Workers Bill of Rights."

#### **IV. EFFECTS OF THE BILL OF RIGHTS ON WORKERS IN NEBRASKA'S MEATPACKING INDUSTRY**

##### ***Workers' Access to Complete and Adequate Information***

##### **Workers' Awareness of Their Rights**

In communities across Nebraska that have meat-processing plants, neither workers' awareness of their rights nor the freedom to assert them has changed significantly since the introduction of the MW Bill of Rights six years ago. Only one worker we interviewed had heard of the Meatpacking Workers Bill of Rights, and he learned about the policy through his own reading on the internet, rather than through education offered by the companies he had worked for or by other entities.

Posting the MW Bill of Rights in meatpacking plants was an important initial step in Nebraska's initiative to educate workers about the rights the bill asserts. Company representatives we interviewed generally confirmed that the MW Bill of Rights remains posted in Nebraska plants, however, this step alone has had little effect on workers' general awareness of these rights. In one visit to a meatpacking plant with over 500 employees, for example, a single copy of the MW Bill of Rights was posted on a wall inside the receiving room for new hires. One Tyson plant posted its own "Team Member Bill of Rights"<sup>1</sup> more prominently in a hallway where most workers pass it daily, but the Tyson version does not include all of the information in the Nebraska MW Bill of Rights.

Workers were skeptical of the efficacy of merely posting the bill in plants, commenting that in order to be a meaningful educational tool, the MW Bill of Rights needed to be more proactively disseminated and discussed. As one worker remarked, "If it's [posted] there in our cafeteria or somewhere, it's probably like the wallpaper on this wall." Another worker emphasized that talking about rights instead of merely listing them on a poster is more effective. A common refrain among interviewees was that busy work schedules and other factors meant that simply posting the bill does not constitute effective education about rights and how to act on them. Advocates and government officials confirmed that the MW Bill of Rights was at one point posted in most major meat processing plants across the state and probably remains on the wall in many plants, but they, too, stressed that simply posting it has had a negligible effect on workers' awareness of their rights.

While discussion of each right in the MW Bill of Rights during orientation goes beyond what most companies appear to be doing, focused education of this sort will be needed for the MW Bill of Rights to be effective. Some workers remembered being

told during orientation that they had rights but were nonetheless unaware of specific rights listed in the document. We have had no indications that the MW Bill of Rights content has been included in meatpacking companies' ongoing training in order to continue educating people about their rights after the orientation period. There are also no examples of companies distributing individual copies of the MW Bill of Rights to workers.

Several workers we interviewed highlighted an additional reason why more proactive steps are necessary to educate workers about their rights. They explained that fear of losing their job inhibits many from inquiring about, let alone asserting, their basic rights.

### *Results of the Nebraska Non-English Speaking Workers' Protection Act*

In 2003, a part of the MW Bill of Rights was elevated to statute by the Nebraska Legislature. The Nebraska Non-English Speaking Workers Protection Act includes three requirements to promote understanding of job responsibilities and health and safety risks for the industry's non-English speaking employees:

(1) For any language group that composes more than ten percent of its workforce, a company must employ bilingual speakers capable of referring newly-recruited workers to community services.

(2) Workers who are actively recruited and part of a language group that constitutes more than ten percent of the company's total workforce must sign a written statement in their own language educating them about the job and its hazards, as well as any transportation or housing that may be provided.

(3) The Nebraska Department of Labor will have a permanent coordinator for the bill of rights who will be responsible for educating workers about their rights.

Company management and workers affirm that bilingual liaisons available to refer workers to community resources are effective and make plant operation more efficient. However, the accessibility of these individuals during a worker's shift is inconsistent. Workers often cited lack of access to a liaison. Break times are the likeliest time for questions, and these short periods are often inadequate given the number of questions workers have and the large number of workers per liaison.

It should also be noted that the provision calls for a bilingual worker liaison only for those languages that comprise more than ten percent of the total workforce. While there are sizable immigrant meatpacking worker populations in Nebraska that speak languages other than Spanish, they rarely comprise more than ten percent of a company's workforce. Thus the ten percent rule generally excludes the many workers from East Asia, Sudan, Somalia, and Bosnia as well as small populations from other countries. These workers are not assisted in their efforts to voice a complaint or access information about community services.

The second provision, which seeks to educate workers about the nature of their job and its hazards by requiring applicants to sign a written statement in their language, reaches only a small number of workers. Again, these statements are required only for those workers who are part of a language group that constitutes more than ten percent of the company workforce. Furthermore, companies must supply these written statements only to those non-English speaking employees who they "actively recruit," a practice which is less and less common, as described below. Thus, this policy does not consistently provide non-English speaking workers with sufficient information about their job requirements and the associated health and safety risks.

Our interviews indicated that most major meatpacking companies no longer actively recruit employees. While a common practice in past years, today's recruitment in the industry generally happens indirectly through paid, independent agencies, or



informally through word-of-mouth. As immigrant communities become more established, many new workers learn about job opportunities through a family or friend instead of through direct recruitment. Even directly recruited individuals would only be required to receive this statement for their initial work position in the state. Statements are not required for subsequent positions. One government official noted that many workers change jobs several times after arriving in the state and that they are not required to read and sign a statement listing basic job information after their first job, which may be held only for a short time before switching to a different company or town. Thus, workers do not receive a written statement at their next job even though their understanding of the English language and the job's hazards in many cases has not improved.

### MW Bill of Rights Coordinator

The MW Bill of Rights coordinator position was created “to inspect and review the practices and procedures of meatpacking operations in the State of Nebraska as they relate to the provisions of the Governor’s Meatpacking Industry Workers Bill of Rights.”<sup>2</sup> According to the coordinator and other interviewees, the position facilitates communication among company executives and a variety of other groups, such as unions, government, workers, and nonprofits. It also provides an important resource for workers, where they can voice questions or concerns. The coordinator has also been effective in educating workers about their rights within the limited scope of the position and its available resources. Unfortunately, the coordinator post is currently less than a full-time position, despite an ambitious mission to inspect plants and provide information to workers across the entire state. The MW Bill of Rights coordinator position has had a positive effect but needs to be expanded and better publicized to make this aspect of the policy effective in improving overall safety within the industry.

None of the workers we interviewed had heard of the MW Bill of Rights coordinator. According to other interviewees who have significant contact with workers, the first and current coordinator, Jose Santos, is trusted as a resource by those workers who know of him, and he is in regular contact with company executives and representatives. Santos has demonstrated that through communication with workers and plant management, the position can serve as a vehicle for inquiry and advocacy of safety in the industry.

Advocates indicated that workers have voiced the opinion that over the past six years they have come to trust Santos with questions and concerns. Advocates and government officials who were aware of the coordinator remarked that the position is important because the coordinator can develop a reputation as a resource and contact person to the government. Workers call the coordinator directly with questions and complaints, and the coordinator follows up on calls regarding worker issues. In one year, Santos inspected more than 80 packing facilities from kill floors to childcare centers, attended 50 community outreach meetings, and coordinated trainings to promote awareness of safe practices. The coordinator has also distributed thousands of MW Bill of Rights pamphlets and presented many times in other states.

The coordinator position has also created new channels of communication within the meatpacking industry. The current coordinator described how a voluntary group has been formed to improve communication around safety and to share best practices. Dubbed “Red Meat and Safety Partners/OSHA,” the partnership includes

“numerous meatpacking companies, [...] the Nebraska Department of Labor-Workforce Development, and the National Safety and Health Council – Nebraska Chapter. Meeting bimonthly, stakeholders in this partnership discuss and share safety issues and concerns about training and employees, and review the best practices at other packing plants. Additionally, collaborative efforts between the Occupational Safety and Health Administration (OSHA) and Workforce Development-Department of Labor, have resulted in safety consultation and training being provided to packinghouses on request.”<sup>3</sup>

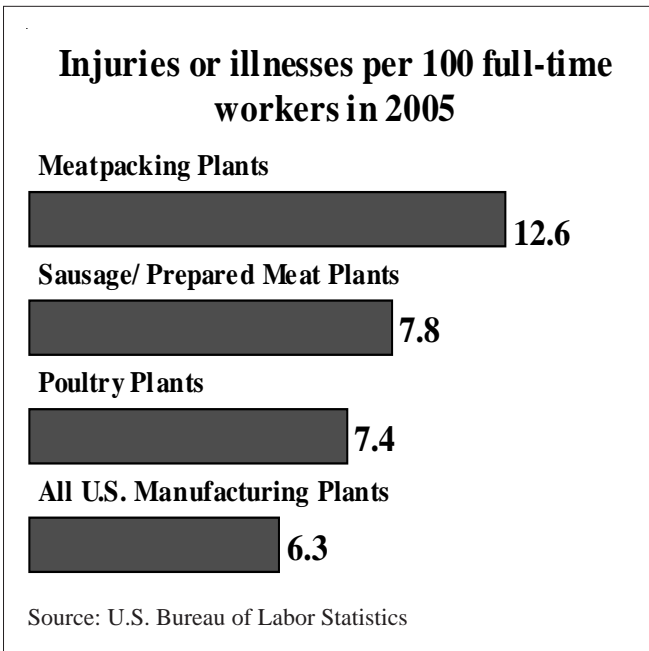
The partnership is an opportunity for new communication about safety among many parties connected to the industry. Efforts by the MW Bill of Rights coordinator were the impetus for the group's creation. Establishing these communication links are an important initial step toward more substantial industry action for improved worker safety.

Our research indicates that the current scope of the coordinator position is very modest. When viewed from the perspective of Nebraska's 23,000 meatpacking workers, comparatively few have benefited from the coordinator's services. The ability of one person to serve a massive worker population at Nebraska's numerous meatpacking plants has been very limited.

### *Safety and Health in Meatpacking Plants*

According to the Government Accountability Office, the meatpacking industry is one of the most dangerous industries in the United States. Its workforce is comprised mainly of immigrants, the majority of whom are young Hispanic males. Working in some of the most hazardous conditions of any industry, workers contend with sharp tools, dangerous machinery, loud noises, and a processing line that moves at an incredible pace. The work is extremely physical, repetitive, and involves working in either very hot or very cold temperatures. These factors contribute to the meatpacking industry having one of the highest injury and illness rates in the United States, more than double that of all U.S. manufacturing plants, according to the Bureau of Labor Statistics. Workers suffer from repetitive motion injuries such as carpal tunnel and tendonitis, as well as injuries from the sharp knives they use to perform their jobs. Common injuries include, cuts, lacerations, and in rare cases amputations.

Unfortunately, it is not possible to compare OSHA's injury and illness rate data over the period since the MW Bill of Rights' inception. In January of 2002, OSHA changed the way it requires meatpacking companies to categorize and define certain injuries. Additionally, it changed the way meatpacking companies are required to keep records. These changes amount to measuring the industry's injuries and illnesses with a new yardstick and have rendered Bureau of Labor Statistics data incomparable across years spanning the 2002 divide. The effect, for example, is that before OSHA's changes a company may have been required to report a particular kind of repetitive motion injury that it is no longer required to report. Thus, statements about changes in safety based on OSHA data that compare pre-2002 with recent years must be viewed with skepticism.



Anecdotal evidence from interviews conducted for this report indicated a potential decrease in acute injuries in recent years while interviewees felt that repetitive motion injuries were on the rise. Workers emphasized the prevalence of repetitive motion injuries and commented that because these injuries are less visible, their employers often failed to acknowledge or record them. Upon reporting an injury, many described being encouraged to go home to rest and then later being questioned about whether the injury truly happened at work.

Notably, when asked an open-ended question about what would be necessary to improve safety in meatpacking, a majority of interviewees, from workers to workers compensation attorneys and other worker advocates, consistently and spontaneously pointed to line speed—or the speed of work as a factor of actual line speed and the number of workers assigned to carrying the

load of a given work station—as a primary cause of injuries. Since the MW Bill of Rights does not address line or work speed, it has not affected this factor of workplace risk.

Language barriers are an obvious additional obstacle to safety in an industry where the majority of workers are immigrants, with varying degrees of English proficiency. Bilingual supervisors, human resource representatives, and other staff are increasingly prevalent in meatpacking plants and continue to be a priority for companies. Nonetheless, it still appears to be a common occurrence for workers to have no immediate superior who speaks their language, thus contributing to workplace hazards.

Management-level employees have noted significant improvement in communication between production line employees in the past five years. They explain that a variety of changes, such as continued safety trainings, more on-the floor trainers to monitor protocol and correct dangerous practices, an emphasis on the education of frontline supervisors, and audits for company ergonomics standards and safety, all ensure that, as one human resource manager put it, “when you walk in the door you go home the very same way.” Most meaningfully, another supervisor told us that in recent years there has been a shift in management attitude such that supervisors are “really listening, managers recognizing that you [the employee] are a part of me.” One company’s representatives commented that the MW Bill of Rights’ implementation helped solidify these changes, in part because workers may move from plant to plant so that it is beneficial for education about rights to be consistent. At the same time, however, workers from a number of different plants remarked that supervisors’ attitudes toward workers who raised safety concerns or other complaints were typically negative. “You don’t like it? There’s the door,” was a common refrain among worker interviewees describing the response of supervisors or management to their concerns.

Finally, the provision of resources and facilities for workers’ education and literacy has facilitated clearer communication and improved safety at the workplace. The introduction of the MW Bill of Rights, though not the direct catalyst, demonstrated the state’s commitment to improved communication and education, and certainly was another factor in bolstering resources available for workers’ education. Some companies have established on-site education centers for workers and the community. The centers offer many different programs – from day care and early-childhood education to adult-level classes, including English as a Second Language instruction and classes for literacy in workers’ native languages. Advocates and community leaders point to these centers, built in the last five years, as evidence of companies’ investment in their workers’ health and development.

### *Access to Workers’ Compensation*

While the MW Bill of Rights asserts workers’ rights to existing state and federal benefits, one of the most significant benefits for injured workers – workers’ compensation – remains underutilized. Meatpacking workers’ awareness of, and access to, workers’ compensation benefits has not improved since the MW Bill of Rights was implemented in 2000.

Most workers interviewed were completely unaware of the workers’ compensation system. They did not know how to apply for workers’ compensation benefits in the event of serious injury. Additionally, workers receive few to no resources to help them if they try. Interviews with workers, advocates, and workers’ compensation attorneys indicate that health personnel and supervisors do not provide adequate assistance to employees who, after informing their employer of an injury, must navigate a cumbersome legal and bureaucratic process to receive workers’ compensation benefits. There are no indications that the MW Bill of Rights has had any effect in giving injured workers on-the-job access to this important state benefit.

Workers interviewed for this report said that companies’ bilingual worker liaisons do not refer seriously injured workers to workers’ compensation. Some companies include information about workers’ compensation in their orientation trainings. However, more must be done; workers interviewed could not recall hearing about workers’ compensation in their initial company orientation or subsequent trainings.

## *Freedom to Organize*

According to interviewees, in the two years following the introduction of the MW Bill of Rights, the policy was a factor in empowering workers to organize, due to publicity surrounding its release and unions' and nonprofits' use of the tool to educate workers. However, the policy's impact on organizing has dissipated almost wholly today as publicity from the governor's office and the media—as well as use of the tool by advocates—has diminished.

Following the implementation of the MW Bill of Rights, a prominent Omaha organizer remarked: “I strongly believe the bill of rights can be good for workers, but only *if they organize to enforce it*. Otherwise, it's a piece of paper.”<sup>4</sup> Six years later, the MW Bill of Rights has had marginal success in being an active tool for workers. Following the initial publicity, the MW Bill of Rights benefited union and community organizers as an educational resource used outside the plant to inform workers about their rights. Union and community organizers noted that, as the MW Bill of Rights provided evidence of the governor's support for workers' right to organize, their message that workers were free to make that choice gained credibility. Both union officials and the MW Bill of Rights coordinator noted that the publicity generated by the governor's MW Bill of Rights amounted to real pressure on employers to curb antagonism in plants toward union organizing.

Since the initial positive impact of the bill on organizing efforts, many now report workers' fear of reprisal by companies and that workers generally have little sense of why a union would be beneficial. Among those workers interviewed who had previously worked in union plants, however, we heard strong endorsement of the benefits of a union. In any case, in an industry where the annual turnover rate can reach one hundred percent, the freedom to organize and the ability to speak freely about unionization is still limited.

From the perspective of union representatives we interviewed, the MW Bill of Rights has also been a tool for workers within unionized plants to address problems with working conditions, and it has lessened intimidation and threats by superiors based on undocumented status. According to interviewees, it appears that the MW Bill of Rights is a much more effective tool for communication in organized versus non-organized plants. Most parties interviewed described that in non-union plants the MW Bill of Rights has made little difference in workers' general willingness to assert their rights.

Companies' openness to unionization varied widely. While all acknowledged the existence of workers' right to organize, some company representatives had examples of unions' positive impact on safety and worker-manager communication, while others openly described it as an obstacle to effective communication. Management from one company, for example, explained that they were working to “diversify” their plants so that a greater number of them would be non-union, explaining that the presence of a union only created a communication triangle that complicated effective worker-supervisor communication. In an interview with the senior vice-president of one company, the experienced industry executive summarized companies' position plainly: since the 1980s, he said, companies have been working for a larger “mix” of both union and non-union plants. The result, in the executive's opinion, is an increasing number of non-union plants within which workers nevertheless feel their needs recognized and rights respected.

Other companies described union representation as an important additional means of communication and an extra tool through which the company was more likely to hear about problems in order to be able to address them. As one manager put it, like the relationships in a family, “sometimes you're more comfortable going to mom rather than dad.”

## **V. TO WHAT EXTENT IS THE MW BILL OF RIGHTS A LIVING, BREATHING TOOL FOR CHANGE?**

### ***Worker Perspective***

From the perspective of Nebraska’s meatpacking workers, the MW Bill of Rights has largely failed to provide a tool to create a more meaningful relationship with employers and improve working conditions. As discussed above, few workers are aware that the MW Bill of Rights exists. While it is posted somewhere in most plants across Nebraska, most workers have never been provided with a personal copy, whether in their workplace or by community organizers, union officials, or other worker advocates. Thus, while the content within the MW Bill of Rights could improve communication and understanding about working conditions in the industry, it has not been promoted in a way that reaches workers or that communicates to them the practical means to act on their rights—aside from the positive but limited impact of the MW Bill of Rights coordinator.

The MW Bill of Rights gives workers no new legal tools to assert their rights. It does not provide a means for claiming rights. Its principle utility is as a resource to inform workers that these rights exist and can be claimed. As one immigrant advocate remarked, “the impotence of the MW Bill of Rights stems from the idea that rights just exist: we must believe that we have those rights.”

Interviewees connected in a variety of ways to the meatpacking industry noted that during and immediately after the passage of the MW Bill of Rights it did have a direct effect on workers’ capacity to act on their own behalf. Interviewees noted that the MW Bill of Rights allowed community organizations to say that the governor supported their choice to organize into a union. The state’s support empowered workers during this time, and reduced fear of deportation for undocumented workers if they chose to support unionization. As this publicity has subsided the MW Bill of Rights’ memory has also faded. The policy’s principle effect lay in the dialogue it generated rather than its content.

### ***Company Perspective***

In general, company representatives interviewed said the law has not challenged their prevailing business policies. At the time of the MW Bill of Rights’ introduction, a spokesperson for EXCEL, a subsidiary of Cargill, remarked that “We’re not hearing anything that concerns us. If anything, the list reinforces that EXCEL is right on track.”<sup>5</sup> In an interview with executives and plant managers from one major packer during this study, the group reaffirmed EXCEL’s position. They remarked that while the MW Bill of Rights promoted changes to improve communication, such as hiring more bilingual employees and resource people, many of these policies were already being implemented before the law passed.

Many meatpacking companies eventually embraced the MW Bill of Rights as a document that did not conflict with their priorities. In our interviews, upper-level management consistently remarked that especially in the past five years, their business model has changed from one that welcomes the economies associated with a high-turnover, low-skilled workforce, to one focused on employee retention. One plant manager explained that, as recently as the 1990s, “when you walked in the door and you have pain [from a preexisting condition], then you were told there are five others willing to take your place.” The manager went on to say that this attitude is no longer welcomed: “It’s to our benefit to educate them [new employees], to train them and retain them.” Many company representatives remarked that with this evolution in policy, public image has also improved.

Companies’ response to organizing efforts appears unchanged by the MW Bill of Rights. As described above, some company representatives spoke of the benefits of a union presence for purposes of encouraging effective communication with workers. Other representatives openly described their company’s interest in having a greater number of non-union plants.

One Nebraska senator explained that meatpacking companies' response to the MW Bill of Rights has been "to do everything possible to prevent conflict." As noted, in the year following the MW Bill of Rights, nearly all major processing plants posted the MW Bill of Rights without protest, and all complied with the MW Bill of Rights coordinator's prerogative to tour and observe their plants in operation.

All company representatives we interviewed felt that the MW Bill of Rights reinforced the management attitudes their companies were already taking, rather than spurring any true shift in direction. All company representatives interviewed expressed that the MW Bill of Rights was a positive development because it reinforced the rights that are key to a safe workplace and a message that they were already seeking to communicate for the sake of the company's bottom line.

### ***Policy and Community Perspective***

The MW Bill of Rights has had limited but positive effect in developing a meaningful relationship between all parties involved in the safety of meatpacking workers, and it has been an important first step in creating a state policy framework for addressing worker health and safety in the industry. The MW Bill of Rights has fostered communication that did not exist previously among workers, employers, community leaders, and government. An effort has been made by all parties to recognize that workers' rights exist in the meatpacking industry. In these respects, the industry has improved for the better since the MW Bill of Rights, and these changes have prompted other states to look into the benefits of similar policies.

Perhaps its strongest effect has been in exposing the public to the working environment of Nebraska's meatpacking industry. One community organizer involved in both the MW Bill of Rights passage and in educating Omaha meatpacking communities about their rights explained that at its best, the MW Bill of Rights "gave a bottom for the discussion of policies that we must live up to in order to provide what workers deserve."

The current MW Bill of Rights coordinator remarked, "The most important accomplishment is in improving communication." As much as the actual law, the process of creating the MW Bill of Rights helped bring the reality of workers' health and safety in the meatpacking industry to the surface of public consciousness. Articles published in the *Lincoln Journal Star* were a catalyst for eliciting the governor's involvement in creating the MW Bill of Rights. The ensuing publicity resulted in the *Omaha World Herald's* attention, as well as newspapers in many smaller towns.

While Nebraska's MW Bill of Rights remains the only state-level law that highlights rights for meatpacking workers, and provides resources for monitoring, it has been a catalyst for discussion in several states. During 2002-2003, for example, groups in Iowa consulted the MW Bill of Rights coordinator and other officials about passing a similar worker protection law in that state.

Instead of fueling policymakers' attention to reducing core issues of safety and health within plants, however, the MW Bill of Rights' introduction may in some cases have relaxed this interest. In some lawmakers' eyes, the MW Bill of Rights may represent a solution that allows their attention to be directed elsewhere.

## **VI. SUMMARY OF KEY FINDINGS**

After surveying a wide range of interviewees from different perspectives – including workers, government, company management, unions, attorneys, representatives of the media, worker advocates, and policymakers – this report finds the following:

### **1. Access to Complete Information**

- Most workers are unaware of the MW Bill of Rights and do not know how to inquire further with appropriate parties about their rights.
- Most meatpacking companies comply fully with the three specific requirements of the Nebraska Non-English Speaking Workers Protection Act (as opposed to each right listed in the MW Bill of Rights).
- The position of the MW Bill of Rights Coordinator has been effective within the limits imposed by the office's resources.
- Both companies and worker advocates could more proactively use the MW Bill of Rights to educate workers. Most companies post only a single copy in a human resources area, and few unions or nonprofits continue to promote the MW Bill of Rights.
- Company management we interviewed saw no conflict between the MW Bill of Rights and their bottom line, describing the evolution of a business model previously based on high employee turnover to a new model that values worker retention.

### **2. Safety and Health in Meatpacking Plants**

- While the meatpacking industry has made some good-faith efforts to improve safety, neither available statistics nor our own qualitative data indicate a fundamental change in the risks associated with meatpacking work during the last six years.
- Fear of losing their job still inhibits many workers from inquiring about, let alone asserting, their basic rights.
- Erosion of state and federal safety oversight has had a negative impact on safety and health in meatpacking plants.
- Line speed or speed of work, which is not addressed by the MW Bill of Rights, was consistently and spontaneously cited by most interviewees as a primary cause of high injury rates.

### **3. Access to Workers' Compensation**

- Workers' compensation remains greatly underutilized by injured meatpacking workers, and the MW Bill of Rights has not improved workers' access.
- Many workers do not know the workers' comp system exists. Company trainings do not adequately educate workers about the system, nor do company supervisors or health personnel adequately explain the system in the event of an injury.

### **4. Freedom to Organize**

- Publicity and proactive use of the MW Bill of Rights by advocates around the time of its introduction empowered workers to consider the benefits of addressing the issues at their workplaces through organizing, but the policy hasn't had much impact more recently after publicity declined.
- The MIWBR was a factor in plant organizing in the year immediately following the bill of rights' introduction.
- The MIWBR is a much more useful tool for communication in organized versus non-organized plants.

## **VII. RECOMMENDATIONS**

The impact of the MW Bill of Rights on workers' safety and working conditions can be improved by instituting practices that promote the bill's use as a communication tool and by a number of other means:

- Companies should directly distribute individual copies of the MW Bill of Rights to workers, through worker paychecks, for example. Several companies were open to the idea of distributing individual copies of the MW Bill of Rights.
- The MW Bill of Rights should be incorporated into orientations and ongoing trainings by companies and others. Workers emphasized the importance of talking about rights rather than merely posting them.
- Funding should be provided to extend the existing MW Bill of Rights coordinator position to full time, and to add two inspector positions under the coordinator: one to focus on meatpacking plants beyond the Omaha area, another just to process workers' questions and complaints about their rights, workplace concerns, and accessing state and federal benefits.
- Non-profits, unions, and other community-based organizations should integrate the MW Bill of Rights into their programs and use it to teach workers how to assert their rights on a practical level.
- State funding and public subsidies for the meatpacking industry should go only to those employers who are complying with the basic rights and community standards enumerated in the MW Bill of Rights.
- Other states with significant meatpacking operations should consider adopting and improving upon the Nebraska MW Bill of Rights and other state-level reform promoting respect for workers' rights.
- Rigorous and scientific study should be conducted by the National Institute of Occupational Safety and Health (NIOSH) to determine what steps would be most effective in promoting worker safety and health, including communication tools like the MW Bill of rights, in industrial meat and poultry processing jobs.
- The erosion of federal and state safety oversight should be reversed. Staff and funding for enforcement should be significantly increased, and such oversight should include the regulation and slowing of line speed/speed of work by the USDA, OSHA, and state regulators.
- Nebraska's governor and state leaders should publicly reaffirm the MW Bill of Rights and the state's commitment to meatpacking workers.

## VIII. CONCLUSION

The Meatpacking Industry Workers Bill of Rights is the only state-level worker protection law of its kind. It has great potential to affect the working conditions and the health and safety of meatpacking workers. The findings of this report are, however, that the MW Bill of Rights is failing to be completely utilized. Many workers lack access to complete information, are still at risk for health and safety risks, don't have adequate access to worker's compensation, and have not recognized their freedom to organize.

Despite these shortcomings, the bill of rights has improved communication between industry leaders and disparate groups about worker safety issues, and the coordinator position has been a positive resource for workers and industry management, if insufficient at the level of less than a full-time staff person. In addition, the governor's strong statement made a real difference to workers when the bill first came out.

At times, the MW Bill of Rights has also been used effectively for informing workers about their rights and increasing public awareness of the issues it attempted to address. Particularly in the initial period after its release, publicity around the bill raised public and policymakers' awareness. During that time some groups—such as unions—built on the momentum of that publicity and proactively used the MW Bill of Rights as a tool to educate workers about the rights guaranteed to them by the government.



In order for the bill of rights to have a greater impact, it must be actively promoted as a communication tool. The governor of Nebraska should publicly reaffirm the state's commitment to meatpacking workers, and the MW Bill of Rights should be integrated into nonprofits' advocacy agendas to further help workers understand how to assert their rights. Increased advocacy by all parties will make the MW Bill of Rights a vital tool in improving the health and safety of one of Nebraska's most important industries.



#### **Endnotes:**

<sup>1</sup> Adopted in 2003, Tyson's Team Member Bill of Rights was modeled from the Nebraska Meatpacking Industry Workers Bill of Rights, with two notable differences in content. It includes no contact information for the Nebraska Meatpacking Workers Bill of Rights Coordinator and instead emphasizes workers' "right to tell Tyson first" if they have a complaint. Also, while the right to organize is the first right listed in Nebraska's MW Bill of Rights, it is moved to 7<sup>th</sup> place in Tyson's version and listed in more complicated language as the right "to choose whether they want to join together for collective bargaining purposes."

<sup>2</sup> Nebraska Non-English Speaking Workers Protection Act. Chap. 48, Sec. 2213. Reissue of the Revised Statutes of Nebraska, 2003.

<sup>3</sup> "Meatpacking Industry Workers Bill of Rights State of Nebraska 2003 Annual Report," Jose A. Santos. December 1, 2003. Nebraska Workforce Development, Department of Labor Office of Safety and Labor Standards.

<sup>4</sup> "Governor gets credit for helping empower," *Lincoln Journal Star*, Don Walton, 8/12/01. Retrieved from LJS 7/12/05. Emphasis added.

<sup>5</sup> "Johanns proposal protects workers," 3/16/2000, Don Walton, *Lincoln Journal Star*. Retrieved by *Lincoln Journal Star* on 7/12/05.

### **SUGGESTED READING**

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## CORE VALUES | COMMON GROUND | EQUAL JUSTICE

These are Nebraska Appleseed's guiding principles, and have been since our non-profit, non-partisan law project started "sowing the seeds of justice" in 1996. Working with leaders from law, business, academia, and civic organizations, Nebraska Appleseed fills a major gap in our justice system - a means to address problems at their roots - such as, limited access to legal representation, unfair legislation and public policy, and denial of basic rights and opportunities - rather than the symptoms.

Nebraska Appleseed focuses on advancing policies and practices that promote self-sufficiency for Nebraska's working poor families, promote the integration and participation of immigrant populations in communities across Nebraska, provide safe and adequate child welfare services to children who need protection, increase low-income people's access to the legal system and support democracy by removing barriers to low-income people's participation in (2006)electoral and public policy decision-making processes.

