Organizing the Underground Immigrant Labor Force: A Conversation with Jennifer Gordon

by Sharryn Kasmir

In little more than a decade, the Latino immigrant population of Long Island has jumped from under 10,000 to over 100,000. Fleeing civil wars and economic crises at home, Central American refugees were initially drawn to the area by a steady supply of jobs in the Island's farms, gardens, homes, factories, and restaurants. Many entered a world of low-paid, unstable, unregulated, and often unsafe work. Often their legal status was precarious, a result of chronic lengthy delays in the government's processing of asylum claims and, since 1996, a new immigration law which restricts sponsorship and appeals. Desperate for work, many have accepted jobs with employers who repeatedly violated labor laws yet who had little fear that government inspections would result in substantial fines.

It was in this labor climate in 1992 that Jennifer Gordon, a recent Harvard Law School graduate, founded Long Island's only nonprofit labor advocacy center aimed at organizing poor immigrant workers. Called The Workplace Project, the Hempstead-based organization has grown to a membership of over 400 and has, to date, recovered over $330,000 for immigrants who were either underpaid or not paid at all for the work they performed. It has won recognition in the *New York Times, Newsday*, and elsewhere for its creative and multifaceted approach to organizing, which includes: a course on labor law and worker rights, a legal clinic and advocacy program, and an economic project to develop worker-owned cooperative enterprises. Most recently, it led a successful 18-month campaign to win passage in the New York State legislature last year of the strongest wage enforcement law in the country.

Last May, as Gordon prepared to leave her post as Executive Director of The Workplace Project to write and to teach at Yale Law School, she was interviewed by Sharryn Kasmir.

Q: What inspired you to start The Workplace Project?

JG: Before I came to Long Island, I worked in Boston as an advocate and organizer for *Centro Presente*, a Central American community center in Boston. Part of my job was to deal with the after-effects of the passage of employer sanctions in 1986, which for the first time made it illegal for an employer to hire an undocumented worker in the United States. I visited over a hundred factories – chicken-plucking plants, coffin manufacturers – where immigrants worked, to talk with the owners and workers about how they could protect themselves from immigration raids. That gave me a concentrated introduction to the exploitative work world that so many immigrants live in. From the immigrants who I knew and worked with, I got a clear sense of the lack of labor organizing going on in the underground economy.

Then I went to law school. I decided to found an organization that would begin to deal with some of these issues in a very grassroots, local way. I began raising the money to found the Workplace Project after my second year of law school.

Q: You came to Long Island and began the Workplace Project in 1992. Why Long Island?

JG: Well, I had already worked for seven years with Central Americans, and I knew that I was going to come to New York. The question was, if I was changing geographical areas, how could I use the experience and knowledge

that I already had? What I knew was Central Americans, and I also had strong feelings about what had happened in Central America to make people immigrate to the United States. It was important to me to keep working with Central Americans in that sense. Once I knew that, Long Island was the obvious place. Long Island has more people from El Salvador than the five boroughs of New York City combined. That was all that I knew in advance. In retrospect, it was a great choice because nobody was doing this kind of work here. There is a huge underground service economy, and there are really interesting opportunities for organizing because you're not talking about garment factories that can pick up and go south or to another country. The jobs here are in people's home as domestic workers or landscapers, or they are service jobs cleaning offices or working in restaurants. So you really do have an opportunity to think about ways that you can raise people's wages without worrying that the jobs en mass are going to go.
These service jobs are fixed here in a way that industrial jobs are not.

Q: What was The Workplace Project like in its inception?

JG: For the first year and a half, two years really, we worked out of the Central American Refugee Center (CARECEN) in Hempstead. That was a tremendous help because their support, and the fact that they had the trust of the immigrants who came to them for immigrant services, gave a natural base to the organization. I sort of functioned as the head of a workers' rights project within CARECEN. For the first year, it was me doing wage cases and other employment related cases, figuring out how to do them as each new one came in. Also, I started teaching our worker's course, covering issues of workers' rights, minimum wage, over-time, and unemployment insurance, to educate the immigrant workers who came to CARECEN.

Q: Who were the people that you saw that first year, and what kinds of problems were they coming to you with?

JG: Really no different than what we see now, just fewer of them. People who were being paid less than minimum wage, or not being paid over-time, or not being paid at all. People with on-the-job injuries and unsafe working conditions. People who had problems with their unions, such as the contract wasn't available in Spanish and there was nobody who could speak Spanish to explain their rights to them. Things like that.

Q: In the second year, you struck out on your own as an independent organization.

JG: At the end of the second year. Before that, our first organizer Omar Henriquez came to The Workplace Project. He started after about fourteen months. It was really with his work in building a committee of workers, which grew out of the workers' course, that we started to move towards independence.

The more we started to think about organizing, the clearer it was that we couldn't just deal with Central Americans. People from different countries were all mixed up at workplaces. Because we wanted to be able to organize all these workers, and because CARECEN is limited by their mission statement to helping Central Americans only, and because we wanted an all-immigrant Board of Directors, it became important to us to become an independent organization. Really, in order to allow us to organize the way we had meant to.

Q: In particular you wanted to be able to organize beyond the Central American population?

JG: Yes, across the workplace.

Q: After you hired Omar Henriquez and you began the organizing project, how did The Workplace Project develop?

JG: Well, then we started to work with day laborers. Omar worked on what became a three-year campaign on three or four different street corners —day laborers' street corners—around Nassau County. It started as an effort to keep some workers in Inwood from being forcibly removed from the corner. It grew from there into a wage-organizing effort in Inwood, and the realization that if the workers in Inwood were asking for higher wages, the employers would just go to Franklin Square and get people for lower wages there. If we were in Inwood, we also had to be in Franklin Square. And then from there, if we were in Franklin Square, we had to be in Westbury, and we had to be in

Freeport. So Omar spent three years working on a campaign to set a higher minimum daily wage for those workers, and we continued that campaign through 1996.


Jennifer Gordon

Q: What was the outcome of the campaign?

JG: We were able to raise minimum wages over those three years by over thirty percent, from forty-five to sixty dollars per day. There is tremendous pressure and tremendous competition, and for that reason I consider it a great triumph that we were able to have workers stand there on the street corners and not accept a job when someone offered them fifty-five dollars an hour —five dollars less than our established minimum. Even though we're no longer actively doing that campaign, some of the workers' committees that were set up through the organizing process are still active, and the wage is up to seventy-five dollars on some street corners now.

Q: That's a great achievement. What were some of the hurdles you faced early on in the campaign?

JG: It's less early on than all along and why we eventually stopped. Day labor organizing has some built-in disadvantages. If your ideal is to form a committee of workers at each corner to set and require the other workers to adhere to a minimum wage, who is going to be chosen for the committee? The workers who speak most English, have most respect, are the most on the ball. But who's going to be chosen for day labor jobs? The worker who speaks most English, gets the most respect, and is the most on the ball. So your committee gets picked up by 7:30 in the morning for work because they are most attractive to employers. Then you don't have anyone around, and as the morning goes on, there is nobody to enforce the wage requirements. Likewise, those are the workers most likely to use the corner as a spring board for a full-season job and to go from day labor into full-time work. Therefore, as the season moves on you lose your committee.

We were in a position where every year -- never mind every year, practically every *month* -- we would have to start anew, with new workers and a new committee. In addition, when new legislation cutting benefits to immigrants and increasing the punishment for illegal entry into the U.S. was passed by Congress in 1996, people became much more afraid of being deported quickly. It became harder for people to turn down work, even when the wages were low. They had to pay back the people who helped them get here before they got deported. People were desperate to do that, on top of feeding their families. All this took place in a context in which only between one-fifth and one-quarter of the workers will get work on a good day.

The pressure of that, combined with the 1996 immigration law**,** eventually made us realize that if we were going to enforce our minimum wage, it would be us and not the workers enforcing it, and we would have to enforce it physically, by physically restraining workers who were going to take a job because they were so desperate. We

were not willing to do that. We had no interest in being the enforcers in an organizing campaign that workers didn't want. That's why we made the decision to stop. I hope there will be another moment when the workers on at least some of the different corners will want organizing support. If this happens, it means things have eased up a little bit.

Q: So, you redirected your work as the legal and labor environment changed, to make certain that you were not imposing a campaign that workers could not support. Was this decision reflective of the larger mission of the organization?

JG: Yes, because in a sense the central goal of organization is really reflected in its structure as a worker-led membership organization. What that means is that the organization is made up of and run by immigrant workers. You can only become a member of the organization by taking our nine-week Spanish-language night class on labor law, labor and immigration history, and organizing techniques. We've graduated over 400 workers from that class in the past five years. After graduation, workers participate actively in the organization by joining workers' committees, for example, our women's organizing committeee, our leadership training committee, or our "committee to fight for fair immigration status." These committees meet frequently. In that way, they plan and carry out our organizing and education campaigns. The whole membership meets monthly, and the entire Board of Directors is elected from among the membership. All of this means that the organization is in the hands of the community and provides oppportunities for a lot of immigrants to gain organizing skills and experience.

Q: What is the women's organizing committee?

JG: After the day labor organizing campaign, one of the next things to develop was the women's organizing project. We realized we had much more participation from male immigrants than from female immigrants. Some of that is due to the immigration patterns of Central Americans, where young men come first and then bring their families, which is the opposite of Caribbean immigration patterns, where the women tend to come first. Our membership reflected the imbalance between men and women, as well as the fact that culturally it was sometimes hard for women to participate because of their relationships with their husbands or partners, childcare responsibilities, fewer women knew how to drive. In addition to all of those things, they were intimidated and didn't see role models in the organization for women's leadership. So, we started the women's organizing project, which Esly Umanzor now runs. The women's organizing project formed the women's committee, which builds solidarity among women and develops women's leadership in the organization. It has also developed the agency campaign that we're just wrapping up now.

Q: Tell me about the agency campaign.

JG: The domestic-placement-agency campaign emerged from a long struggle to figure out how to improve wages and working conditions for domestic workers. Again, just talking about improving wages and conditions for domestic workers is complicated because there's no model for doing it. You know, it's one worker, one employer. There's no union that wants such a spread out workforce. It's very hard just to figure out how somebody would bargain in that context. On top of that, many of the workers are undocumented, it's all happening in private homes, there are much more complicated and pseudo family-like relationships that build up. The stakes are very high because if the woman loses her job, she also loses her home. In many ways, it's much more like a marriage, or a divorce or an abusive spouse relationship, than it is like a workplace, but at the same time it *is* a workplace. We have been struggling to get a handle on that, to try to raise wages and working conditions.

Part of what Janice Fine [a Ph.D. student at M.I.T., who was as a consultant to The Workplace Project] helped us to see was that if you've got an agency that's doing the placement of domestic workers and therefore setting some of the wages and work requirements, you have an intermediary. Our women's committee looked at what we knew from the women who had come into our organization who had experience with domestic-placement agencies. It quickly became clear that across the board, the agencies were charging twice the legal fee, and many of the agencies were advertising positions at less than minimum wage. A client, meaning a women who had a home and wanted a domestic worker, would see an ad for a full-time worker at 160 dollars. That's below minimum wage. In addition, there was no point at which the workers were informed of the terms and conditions of their employment. They didn't know how much they would be paid, how many hours they would work, if they would have any time off, what their

responsibilities would be. There was never anything in writing or any way to check, so that the women could not say "Well, this is more than I was supposed to be asked to do."

Our women's committee got together and essentially laid out a platform of what they wanted the agencies to agree to do. First, that they would only charge the legal fee. Second, that they wouldn't place women in jobs that paid less than the minimum wage. Third, that they would require both the worker and the employer to sign a contract that set out the working conditions and the wages. Everyone would sign, and the domestic worker would have a copy of the agreement. It would be the first time that there would actually be a handle on what domestic workers are supposed to be doing.

In July of 1997, we launched that campaign. Working with the support of labor and community and religious allies that we have around the Island, after about nine months, we were able to get five of the six agencies on the Island that we had targeted to sign the statement of principles, by pressuring them. We did this by phone-calls, letter writing, basically by pressuring the agencies through surrogate clients. We would take people in a church or people in a community group that supported us and have them write letters or make phone calls or send faxes saying "I won't hire from your agency until you adhere to this statement of principles." The church or organization would likewise say, "We will tell our four thousand, three hundred, or fifty members that they should not hire from you until..." Long Island CAN, the Long Island Progressive Coalition, and all sorts of groups around Long Island helped us to put that pressure on the agencies.

Q: Where does the campaign go from here?

JG: Well, something that we started a month or two ago is testing. We got local churches to pay the placement fee for domestic workers, because it costs money to apply for a job. Churches donated the money so that the workers could go in and test to see if the principles were being respected. We are seeing mixed results, but we don't want enforcement of the principles to become a full-time responsibility. So, we're doing two things. One is handing over the problems to both the Department of Labor and the Attorney General for prosecution. No longer will it just be us and the community pressuring the agencies. They're going to have to deal with the law, and we'll make sure that those authorities follow through on the complaints we submit. That's one thing.

Another thing is based on the idea that, well, if you can't beat them, join them and beat them. We're in the early stages of starting a domestic workers cooperative. Although it wouldn't be an agency, the cooperative would be a way to show that it's possible to do this work, get employment, and do it at a wage that's fair and under conditions that are fair.

Q: What other projects has The Workplace Project taken on?

JG: We recently won an eighteen-month organizing campaign for the Unpaid Wages Prohibition Act, which radically changed New York State's law on enforcement against employers who pay sub-minimum wages. Our campaign was unusual because it was conceived of and carried out by non-voting immigrant workers. Our initial support came from Assemblywoman Catherine Nolan, the chairperson of the New York State Assembly Committee on Labor. Ultimately, we succeeded in winning the sponsorship of the majority of Long Island's nine conservative Republican senators for the legislation, and from there, of the Republican-controlled state Senate as a whole. Non-voting immigrants lobbied legislators entirely in Spanish (with an interpreter), and they used the arguments that they themselves had developed in strategy and analysis sessions that we conducted at The Workplace Project. The Act was signed into law by Governor Pataki on Spetember 17, 1997, after it had won unanimous votes of approval in the Senate and Assembly. The Act increases the penalty for repeat non- or under-payment of wages from twenty-five percent of wages owed to two-hundred percent. It also makes non-payment a felony rather than a misdemeanor. New York State now has the strongest wage enforcement law in the country.

We also have the education program, which includes the worker's rights course, street corner outreach, church outreach, et cetera. We have our legal program, which grew out of our original legal clinic and was taken over by Rhina Ramos, who added a self-representation training component, where she trains people to go to

unemployment benefits court by themselves. And, then the last program is the cooperatives program which we started in the fall of '96 and now is developing the domestic workers cooperative.

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Q: From what I understand the first cooperative project that you got involved in was the landscaping project?

JG: Yes, CLIP, the Cooperative Landscaping Innovation Project. The Board and membership were very interested in this, and also we were seeing a big change from '92 to '96. In '92 almost all of the landscaping businesses were not owned by Latinos. We started to see that shift over those four years. There was increasing ownership by Latinos who had been workers, but what we were seeing was that they were treating their employees just as they'd been treated. So, we were seeing our own crowd screwing the next guy, and the next guy wasn't that far behind.

The cooperative model seemed important to us for a couple of reasons. It was a chance to intervene at a key point in an economic cycle, when new owners were taking over, and to show that there was a different model for doing business, that you did not have to screw your workers. In addition, it was important for us to show that what people said about the landscaping industry being a place where contractors could only make a living if it was an underground, all-cash industry wasn't true. We wanted to show that workers could be fairly paid, all on the books, fully licensed, fully insured, and still run a decent business — if there wasn't one boss and a bunch of exploited workers.

Q: That was the argument you heard coming from contractors, that it all had to be run off the books?

JG: Yes. As we would have non-payment cases come in from workers in landscaping companies, the employer would say, "There's no other way to do this business." Even sometimes when we would go talk to people at churches, they would say, "Well, isn't it true that they can't be competitive unless they do business under the table?"

Q: So you decided to try the new economic model just at the moment when there were new people starting businesses in the landscaping sector?

JG: Yes. Nadia Marin, who leads our economic development projects, got an Echoing Green fellowship to start the program, and then she and four workers began the planning process. CLIP began in March of 1997 with four workers. Other workers supported the idea. There are now three workers employed in the cooperative. We have two plans for the future. One is to become bigger, but this would require investment capital, and banks have been reluctant to fund CLIP workers because of their immigration status. They are legal residents, but they are not citizens, and banks have shied away. The second idea is to establish a domestic workers' cooperative. This idea is to develop a house cleaning and child care cooperative.

Q: What do you think will happen in the Long Island economy in the next five to ten years?

JG: I wish I knew. If you're talking about low-end jobs, things will remain the same unless someone begins to unionize. Long Island has a stable component of high income residents. They have continued to do well even when there have been recessions in the past. They will likely continue to employ low-income workers. Nassau County is a very wealthy county. There are always people looking for services.

The problem is that at minimum wage, a worker earns $10,700 a year. A two-bedroom apartment in Nassau costs $1,000 a month. That's $12,000 per year. That means that the worker starts out $1,300 behind. That's without taking the bus, buying any food for their children, buying a stitch of clothing. So, we can't even talk about minimum wage. We need to talk about a livable wage, enough to have a safe place to sleep for you and your kids and to feed your family a healthy diet.

Q: What would it take for this to happen?

JG: Unions on Long Island have to look at what is being done creatively to organize in other parts of the country, at what campaigns other unions have carried out with immigrant workers. Long Island Unions have to get out of their traditional mentality and start looking into organizing undocumented workers, service workers, workers in small shops. They have to not worry about financing a risky organizing drive in a small shop, which is not going to net them many members or a lot of dues. That's the only way that they are going to reach the low end of the labor force.

Q: What are your thoughts and feelings as you leave The Workplace Project?

JG: It's very hard! But I do feel that it is the right time to leave — both for The Workplace Project and for me. The Project has grown into a strong, independent organization with a dedicated staff and Board of Directors. It is ready to take on new directions without me, although I hope to be able to stay involved by moving onto the Advisory Committee.

I'm going to do things that I'm very excited about. I'm going to be writing a report for the Ford Foundation on our campaign for the Unpaid Wages Prohibition Act as a model for other organizations. I'll be teaching a seminar at Yale Law School on "Workers, the Law, and the Changing Economy." I've also applied for a fellowship that will allow me to write more generally about the intersection of law and organizing in the U.S. and other countries. It will be wonderful to have the chance to spend time thinking, teaching, and writing about the work we've been able to do so far, but I suspect that it won't be long before I'm back in the field.

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