

Labor Practices and Worker Treatment in the Construction Industry: A Call for Ethical  
Reformation

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## **Abstract**

Labor malpractices, such as wage theft, worker misclassification, and the exploitation of vulnerable populations, represent a critical ethical issue in the United States construction industry. This paper examines the scope, impact, and systemic challenges of these unethical practices. It argues that legal compliance, such as the Davis-Bacon Act, is an insufficient standard. Through an analysis of contrasting state regulations, and a discussion on the role of unions, this paper proposes that upholding higher ethical principles prioritizing worker dignity, fairness, and corporate integrity is essential for the industry's long-term sustainability and honor, even when the principal's conflicts with short-term financial interests.

## **I. INTRODUCTION**

The construction industry is part of the backbone of the United States' economic vitality, critical for infrastructure, development, and housing. However, beneath this facade lies a hidden crisis of labor exploitation that degrades its fundamental ethos. While legal standards exist, malpractices create an unfair advantage, allowing unethical contractors to underbid competitors by exploiting the workforce. Key issues include wage theft (i.e., the denial of rightfully earned wages, such as unpaid overtime or refused final paychecks), worker misclassification (i.e., falsely labeling employees as “independent contractors” to evade taxes and labor laws), and reliance on vulnerable labor populations, such as non-English speaking workers, which degrade the industry's ethos. This is not just a legal problem but a profound ethical one, as it erodes workers' dignity, cheats responsible businesses, and undermines the industry's social license to operate. This paper argues that while compliance with laws like the Davis-Bacon Act is necessary, it constitutes an insufficient standard for construction professionals. This paper explores the significant challenges and elaborates on the concept of ethos within the construction industry context. It further analyzes the legal landscape, including key federal acts, the crucial role of unions, a comparative state analysis of regulations between California and Texas, and proposes solutions centered on a renewed ethical ethos to ensure dignified and fair worker treatment.

## **II. ETHICAL CHALLENGES IN LABOR PRACTICES**

Labor malpractice has become a common problem in the construction industry. Wage theft is the most direct violation of the employer against the worker. In construction, it manifests as non-payment for overtime, failure to pay the agreed wage, requiring extra work time off the

clock, or simply not paying for the work. The scale is immense; since 2011, nearly \$300 million in stolen wages have been recovered and returned to exploited workers in New York alone, with hundreds of millions unlikely to be unrecovered (NYS Building Trades Council, n.d.). For example, hundreds of millions of dollars more line the pockets of irresponsible contractors, instead of supporting the livelihoods of New York’s working men and women (NYS Building Trades Council, 2023). This practice affects marginalized workers who fear retaliation, and they lack legal recourse for the employer's refusal to pay.

Worker misclassification is a common method for employers to avoid certain workers’ laws by labeling workers as “independent contractors.” In a labor-dependent industry, accurately classifying workers as exempt or non-exempt from overtime regulations is crucial to ensure proper compensation (Labor Law Center, 2025). This distinction determines whether the employee is legally entitled to overtime pay (non-exempt) or is excluded from it due to their specific job duties and salary level (exempt). Misclassifying a non-exempt employee as an exempt independent contractor is a direct way to avoid paying overtime. Beyond affecting the workers, this practice cheats state and federal governments out of substantial tax revenues, undermining public services.

The reliance on vulnerable labor populations facilitated their exploitation in the construction industry, particularly non-English speaking workers, and day laborers. For workers in the same position, it is estimated that U.S.-born construction workers earn an average of \$3.12 more per hour than non-English speaking workers, who often face barriers in understanding their rights and negotiating pay (DEITABASE, 2024). For example, a non-English speaking laborer may be given a verbal contract they cannot fully comprehend, only to be paid for fewer hours than they worked, with little legal recourse due to language barriers and fear of job loss

(DEITABASE, 2024). This wage disparity, coupled with a precarious legal status for some, makes these workers easy targets for unscrupulous employers.

Finally, the construction industry's characteristic complex and multi-layered subcontracting creates significant legal and ethical challenges. This structure often masks accountability for labor practices. A general contractor may claim ignorance of wage theft or misclassification occurring at several levels down the subcontracting chain. For the subcontractors themselves, tight profit margins and intense pressure to be the lowest bidder can create a perverse incentive to cut corners on labor costs to survive financially. This system allows the parties at the top to benefit from cheap labor while maintaining plausible deniability for the illegal practices used to achieve it, embedding exploitation into the very structure of many projects.

### **III. THE LEGAL FRAMEWORK AND ITS LIMITATIONS**

The Fair Labor Standards Act (FLSA) establishes federal minimum wage, overtime pay, and record-keeping standards. It is the primary federal tool for combating wage theft, though its penalties are often seen as insufficient to deter large-scale violations. The primary federal law addressing labor standards in construction is the Davis-Bacon Act of 1931. Davis-Bacon and Related Act specifies that contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area (U. S. Department of Labor, n.d.). The ethical intent behind Davis-Bacon was to protect local wage standards and prevent contractors from underbidding cheap labor, thereby promoting community stability and fair competition.

However, the law's limitations reveal the gap between legal compliance and ethical practice. First, Davis-Bacon applies only to federally funded projects, leaving a vast portion of private and state-funded work unprotected. Second, enforcement is often underfunded and inconsistent, allowing violations to go undetected. Third, and most critically, complying with Davis-Bacon does not preclude a contractor from engaging in other unethical practices, such as exploiting marginalized workers on non-federal projects or creating hostile work environments. A contractor can be legally compliant on paper while operating with a deeply unethical ethos, highlighting that the law provides a floor, not a ceiling, for moral conduct.

#### **IV. CONTRASTING REGULATORY ETHOS**

The divergent approaches of California and Texas to worker protection offer a clear lens through which to view how state-level policy shapes the ethical landscape, particularly in combating wage theft. California's legislative ethos is one of the proactive preventions. The state's Wage Theft Protection Act of 2011 mandates that employers provide each non-exempt employee with a detailed, written notice at the time of hiring. This notice must include essential information, such as the rate of pay, the basis for pay, the regular payday, the employer's official name and address, and any allowances claimed for meals or lodging (State of California Department of Industrial Relations, 2016). This law places the initial burden of transparency just on the employer, arming workers with the fundamental knowledge necessary to verify they are being paid correctly from their first day on the job. It represents a regulatory philosophy that seeks to prevent wage theft before it occurs by ensuring informed consent and creating a paper trail.

In contrast, Texas operates primarily on a reactive model governed by its Texas Payday Law. This law establishes the procedures for workers to file a wage claim after their employer has failed to pay them. The Texas Workforce Commission (TWC) investigates these claims, but the process is initiated only when a worker, who may be unaware of their exact pay rate or rights, recognizes a violation and is brave enough to file a formal complaint (Texas Workforce Commission, n.d.). The regulations detail payment timing and the claim process but do not mandate proactive disclosure of wage information to new hires in the same manner as California law. For marginalized workers, the fear of retaliation can be a powerful deterrent to taking this step. This framework creates an environment where unethical contractors can operate with a sense of impunity, knowing that the enforcement mechanism relies on the vulnerability and initiative of the exploited worker.

The comparison between California's mandatory, upfront transparency and Texas's complaint-driven, after-the-fact process demonstrates a fundamental difference in regulatory ethos. While legal compliance in Texas may be a lower bar, the ethical responsibility of construction professionals in such an environment is greater. They must voluntarily choose to uphold fair labor standards, such as providing clear, written pay agreements without the same level of external, legally mandated pressure, embodying the principle that ethical conduct must exceed the bare minimum required by law.

## **V. UNIONS AND THE ROLE OF INDUSTRY ASSOCIATIONS**

Unions and worker advocacy groups play a pivotal role in bridging the gap between legal minimums and ethical best practices. By collectively bargaining for better wages, benefits, and safety standards, unions institutionalize ethical labor practices. They also provide workers with a

powerful advocate to combat wage theft and misclassification, often serving as the only line of defense for vulnerable workers. An example of this is a 2023 wage theft lawsuit in Washington state, where a group of construction workers, assisted by legal aid from the Washington Association for Justice and other advocates, announced a \$700,000 settlement against their employer (Washington Lawyers' Committee, 2023). The workers alleged they were systematically denied overtime pay and were not paid for all hours worked, a clear case of wage theft that targeted a workforce fearful of reprisal. This case underscores that even when laws are broken, enforcement is not automatic; it often requires courageous workers to come forward, supported by dedicated legal resources, to hold unethical employers accountable.

Industry associations similarly hold ethical potential, though their effectiveness varies. They can create forums for sharing best practices, allowing ethical contractors to strategize on maintaining profitability while adhering to high labor standards. For instance, the Associated General Contractors of America (AGC) provides resources on labor compliance, and the AGC's guidance on the "Overtime Rule" helps members understand their obligations under the FLSA, clarifying which employees are exempt and non-exempt to prevent unintentional violations (Associated General Contractors of America, n.d.). Furthermore, they can engage in collective advocacy for stronger enforcement funding and legislation. A positive example is the "Culture of Care" initiative, championed by the AGC, which provides contractors with a framework and resources to improve worker well-being, safety, and inclusion, thereby fostering a more dignified and supportive work environment (Associated General Contractors of America, 2023). However, the industry's wide adoption of such ethical standards remains inconsistent, and many associations face the challenge of balancing the diverse interests of their members, some of whom may resist stricter self-policing. Furthermore, they can engage in collective advocacy for

stronger enforcement funding and legislation, raising the bar for the entire industry rather than leaving individual firms to navigate ethical dilemmas alone.

## **VI. ETHICAL ETHOS**

Ethos refers to the characteristic sorority and moral nature of a community or culture. The construction industry practices often represent a failure of ethos. Construction projects are awarded to responsible contractors who submit the lowest bid. This dynamic is intensified in the private sector, where the absence of prevailing wages laws like Davis-Bacon create pressure to cut labor costs to win contracts. In contrast, the public sector has a foundational framework aimed at ensuring fair wages, but its reach is limited. The pursuit of low bids and high profit margins across the entire industry, especially in the private market, often comes at the expense of fair play and dignity. An ethical ethos would reframe the workforce, making it the most valuable asset, one that deserves investment and respect. This shift in priorities and perspectives is a prerequisite for a meaningful shift in the industry.

Addressing this issue beyond government enforcement, ethical transformation must begin at the top. Principals and executives of construction firms should commit to ethical labor practices with non-negotiable core values. They should create clear ethical codes that explicitly prohibit wage theft and misclassification, applying them to all subsidiaries and contractors. Strong industry associations are essential since no single company can solve this problem alone. The creation of forums to share best practices would lead ethical contractors to share strategies to maintain profitability while adhering to high labor standards. Forums can also serve to advocate for increased funding for enforcement agencies and legislation that would strengthen the penalties for violators.

## VII. RECOMMENDATIONS FOR A BETTER FUTURE

Addressing the deep-seated issues in the construction industry requires a multi-pronged approach involving all stakeholders. Policymakers should strengthen laws, fund enforcement, and protect workers. To strengthen laws, they should enact legislation like California's, creating joint liability for general contractors and increasing criminal penalties for wage theft. Increasing funding for the Wage and Hour Division at the federal and state levels to enable proactive, targeted investigations in high-risk industries. Furthermore, funding and supporting multilingual education and awareness campaigns for workers about their rights is essential to empower them to identify and report violations. Whistleblower protections should also be strengthened to ensure that all workers, regardless of language, can report violations without fear of retaliation.

There are several key recommendations for improved ethical practices within the construction industry. Project owners and developers should incorporate labor standards into bidding and demand transparency. A company's history of labor compliance should become a key criterion in the contractor selection process, not just the bottom-line bid. Contractors should be required to provide proof of compliance with all labor laws. They should embrace ethical supply chain management, invest in training, and partner with unions, taking responsibility for labor practices down to the lowest-tier subcontractor. They should also provide regular training for managers and supervisors on labor law compliance and ethical management practices. Contractors should recognize the value that union partnerships bring in terms of skilled labor, safety, and stable labor relations. Finally, Industry Associations should champion the "Ethical Contractor" brand and give model policies and contract language that promote fair labor standards.

## VIII. CONCLUSION

The challenges that labor malpractices, such as wage theft, misclassification of workers, and the reliance on vulnerable labor populations, are symptoms of a broken ethos within the U.S. construction industry, not merely isolated failures. As examined through the legal lens of the Davis-Bacon Act, the state models of California and Texas, and the protective role of unions, it is clear the industry's reliance on low bid at all costs model is unsustainable.

The industry stands at a crossroads. It can continue a path that sacrifices human dignity for short-term profit, or it can undertake a conscious, deliberate effort to rebuild its ethos around the core principle that the dignity, safety, and fair compensation of every worker are non-negotiable. This transformation requires the committed leadership of ethical firms, the heightened responsibility of project owners, collective action through industry associations, and a supportive legal and regulatory framework.

From my perspective the choice is clear integrating ethical labor practices is not just a moral choice but a strategic one, essential for the protection of workers, guarantee fair competition, and securing the construction industry's long-term sustainability, honor, and vitality. The future of the industry, and the well-being of the millions who build it, depends on the choices made today.

## References

- Associated General Contractors of America. (2023). Culture of Care. Retrieved November 15, 2025, from <https://www.agc.org/mental-health-suicide-prevention/contractor-resources/culture-care-0>
- Associated General Contractors of America. (n.d.). Overtime Rule. Retrieved November 15, 2025, from <https://www.agc.org/industry-priorities/labor-hr/overtime-rule>
- DEITABASE. (2024). The Perils of Undocumented Construction Workers in the United States. Retrieved November 15, 2025, from <https://limos.engin.umich.edu/deitabase/2024/05/28/undocumented-construction-workers-us/>
- Labor Law Center. (2025). Labor Law Compliance in the Construction Industry: Common Violations & Best Practices for Employers. Retrieved November 15, 2025, from [https://www.laborlawcenter.com/education-center/labor-law-compliance-in-the-construction-industry-common-violations-best-practices-for-employers/?srsltid=AfmBOoqO4vwnDStQfkSCQXmJAZixbpJGgoIFHw\\_VFNraZnWmIAGoEzb6](https://www.laborlawcenter.com/education-center/labor-law-compliance-in-the-construction-industry-common-violations-best-practices-for-employers/?srsltid=AfmBOoqO4vwnDStQfkSCQXmJAZixbpJGgoIFHw_VFNraZnWmIAGoEzb6)
- NYS Building Trades Council. (n.d.). End Construction Worker Exploitation in NY. Retrieved November 15, 2025, from <https://nybuildingtrades.com/wage-theft.aspx?zone=wage-theft&pID=10071>
- State of California Department of Industry Relations. (2016). Wage Theft Protection Act of 2011 - Notice to Employees. Retrieved from November 15, 2025, from <https://www.dir.ca.gov/dlse/faqs-noticetoemployee.html>
- Texas Workforce Commission. (n.d.). Texas Payday Law - Wage Claim. Retrieved November 15, 2020, from <https://www.twc.texas.gov/programs/wage-and-hour/texas-payday-law>
- U.S. Department of Labor. (n.d.). Davis-Bacon and Related Acts. Retrieved November 15, 2025, from <https://www.dol.gov/agencies/whd/government-contracts/construction>
- Washington Lawyers' Committee. (2025). Construction Workers Announce \$700,000 Settlement of Wage Theft Lawsuit. Retrieved November 15, 2020, from <https://www.washlaw.org/construction-workers-announce-700000-settlement-of-wage-theft-lawsuit/>