

IMPORTED MOTHERS AND SUBSIDIZED LOVE: AN  
ANALYSIS OF U.S. LABOR POLICY AND RIGHTS  
FOR DOMESTIC WORKERS

by

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## THESIS ABSTRACT

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Over the last several decades, economic and cultural shifts in the United States have created an increasing demand for domestic labor, and data shows that these jobs have largely been filled by women of color, many of whom are immigrants who may or may not have documented legal status. Despite the growing importance of this industry, domestic workers have historically and intentionally been excluded from most federal and state labor rights and regulation, which has resulted in substandard working conditions, exploitation, and abuse for workers in this industry. This research traces the gendered and racialized legislative exclusion, and analyzes recent state efforts to enact policies extending labor rights to domestic workers. It concludes with recommendations for the role of advocacy in pushing for legislative change, and for bridging the gap between policy and enforcement.

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This thesis project is dedicated to all of the women working in the homes of others each day. Those who have been forced to leave their home countries, those who have to sacrifice time with their own children to care for the families of another, those who bear the harsh realities of substandard working conditions, those suffering in silence, and those living in the shadows of a broken immigration system just trying to survive and care for their loved ones.

I also dedicate my work to my own mother, my husband, and my family. I wouldn't be here without your love and support. Most importantly, this is for my beautiful, smart, and sweet daughter Isabelle. You are my motivation, my heart, and the reason behind all that I do.

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# **CHAPTER I**

## **INTRODUCTION: A DAY IN THE LIFE OF A DOMESTIC WORKER**

*Each morning “Carla” wakes up at 5:00 AM to get herself ready for the long day ahead. She works as a nanny for the Johnson family in New York City who have a six year-old son Eric and a three year-old little girl Rachel. Carla has three children of her own, ages 5, 7, and 11. She prepares breakfast for them by 6:00 AM, and by 6:25 she is rushing out of the door to catch the 6:30 bus. After her short bus ride, she catches a train to Westchester, where she eventually takes a taxi to arrive at the home of her employers by 7:30 AM. Shortly after her arrival, her employers leave for work at 7:45, as Carla begins getting Eric ready for school. She makes sure that he is sufficiently clean with his hair combed, and packs him a lunch to take with him to school. She also must get Rachel dressed so that they can walk the boy to his bus stop, and then finishes getting her prepared for nursery school once they return to the employers’ home. By 9:05 Carla is dropping Rachel off at her nursery school before returning to the Johnsons’ home to begin cleaning the kitchen and taking care of the family’s dishes. She then juggles the tasks of tidying up the children’s rooms, washing the family’s laundry, and beginning the preparation for the family’s dinner.*

*At 11:45 Carla must go to pick up little Rachel from nursery school and make her some lunch before laying her down for a nap at 1:00 in the afternoon. An hour later she must awaken Rachel so that she can help her get ready for her tap dancing and take her to class by 2:30 PM. In the meantime, Carla must meet Eric when he arrives at his bus stop, and then make him a snack when they return to his home. A short time later she*

*must help the boy get dressed and packed for his karate class, and drop him off by 4:15 PM. On her way back to the Johnsons' home she picks up the little girl from her tap class, before she finishes the meal she has been preparing for the family's dinner. Eric is dropped off by a friend at 6:00 PM, and Carla feeds him and his sister dinner after making sure that he starts his homework.*

*By 7:00 PM it is bath time for the kids, as their parents return home from work. Finally done with her work in the Johnson home for the day, the employers drive her to the train station where she rides back across the city and waits for the bus to arrive at 7:44 PM. At 8:15, after an hour-long commute home in total, Carla walks back into her house and is able to take a bath. She is finally able to have her dinner at 8:45, and by 9:15 pm she lays in bed with her children, just listening to them until they fall asleep. Carla's day is still not finished, as she must then clean her home at 10:00 PM, before finally going to sleep after her long day at 11:00 PM.*

This snapshot of the life of a typical domestic worker represents the reality for countless women across the county. Though "Carla" is a pseudonym given to maintain anonymity (along with the names of the family she cares for), her portrait typical day on the job for a domestic worker comes directly from the testimony of a real woman working as a nanny. Carla works long hours, without rest, every day in the home of her employer, ensuring from the background that their daily family life runs smoothly. Carla is afforded very little time with her own children, as the majority of her day is spent caring for another family and maintaining their household. She does not get the opportunity to walk her own children to school, prepare their snacks and lunches, take them to karate or dance class, or go through their homework with them. Instead, most of

her time and attention is spent on the children of her employer, and seamlessly making sure that every one of their needs is met. There is no such assistance for Carla in her own home, as she is forced to work late into the night just to cook for her own family and tidy up the house. Carla's labor ensures that her employers can work full time without the added stress of making sure their children are fed, clothed, and taken to their various activities on time, on top of cleaning the entire house, laundry, and meal preparation. Carla is afforded no such luxury. In fact, she has to sacrifice her ability to perform these tasks for her own family just so that she can earn enough money so that her family can survive. Carla's children may have to take up this work themselves, or she may rely on another family member or friend in her absence. Even though Carla's work is what makes the work of her employers possible, she receives little recognition and meager earnings below the minimum wage. Despite all of these challenges, sacrifices, and long hours on the job, Carla still gets up every morning at 5 AM and works hard for her family by caring for another.

### PROJECT BACKGROUND

This research begins with this individual account of the day in the life of a domestic worker to illuminate the idea that stands at the heart of this project; that despite the invisibility and devaluation of the labor of domestic workers, each one of the workers in this industry is a human being. Every day women employed in the domestic care industry offer not only their physical labor, but their love and affection as well, given the intimacy of the care that they provide. Domestic workers most often have families of their own, families that they must sacrifice time with in order to ensure that they have enough food to eat and a place to rest their head at night. They also face a number of

other challenges and discrimination, simply for the fact that the majority of workers in this industry are immigrant women of color. The U.S. and globalized economy create the demand for their labor, and these women fill positions and perform work that are less than desirable to most native workers. Domestic workers are marginalized and exploited, and their labor devalued, even though the work that they perform is essential to keeping the U.S. economy running smoothly every day.

Domestic workers have historically been excluded from federal and state labor laws and protections, and the industry continues to go largely unregulated across the United States. As I show in this thesis, these exclusions were intentional, and based upon racist and sexist social ideology and practices. Dating all the way back to the era of slavery, impoverished women of color working in the domestic care industry have also been organizing in the fight for gaining not only basic labor rights that all other workers enjoy, but also a sense of dignity and humanity that gets stripped from them in their isolation behind the closed doors of their employers' homes. While these efforts have culminated in legislative changes at the state and federal level, there is still a significant amount of progress yet to be made in ensuring that domestic workers are afforded the same protections and rights as workers in other industries in the U.S. economy.

While politicians and public policy-makers must employ pragmatism in order to ensure that they are representing the needs of the public in the best way possible, all too often this leaves policy debates severely lacking a sense of humanity. This project seeks to trace the history of the domestic service industry, federal and state labor laws, advocacy movements and organizing strategies, and recent efforts to enact legislative changes. Most importantly, my research aims bridge the gap between policy and the lived

experience of domestic workers by weaving in personal accounts and developing a narrative of the human side of this industry that has been ignored since its inception. When discussing labor policy, it is easy to think in terms of occupations and workers, and to forget the fact that each one of these individuals are human beings with families of their own. Sometimes we forget that policies can have meaningful effects on people's lives and daily experiences, and the lack of legal recognition and protection can have just as profound of an effect on those that are simply seeking basic rights and the chance to go to work free of exploitation and abuse. This thesis answers the question of why domestic workers are excluded from labor protections, how this exclusion affects their lives, and how policy-makers and advocacy groups can enact change.

In my analysis, domestic workers include individuals who work in their employer's home as nannies, caregivers/personal aides, and housecleaners. These jobs are the different occupations that fall under the umbrella of the domestic service industry. Amongst those who are employed as nannies, there are those who live in their own homes and work in the home of their employer, and those who both live and work in the home of their employer. Nannies can generally be described as workers who attend to the needs of children, and their work can include a variety of responsibilities including dressing, feeding, bathing, supervising activities, transporting children to school or other activities, and a number of other associated tasks (Shierholz, 2013). Housecleaners and in-home maids are workers whose primary duties include cleaning and housekeeping duties in the homes of their employers.

The subcategory of caregivers refers to workers who provide assistance to clients who are elderly and/or disabled, and includes two distinct types of roles: personal care

aides and home health aides. Personal care aides assist their clients with a wide range of tasks including, but not limited to: preparing meals, bathing and dressing clients, housekeeping, laundry, etc. Home health aides generally focus more on assisting with medical needs such as changing bandages, and monitoring the health of their clients, however; their work can also include general assistance like that provided by personal care aides (Shierholz, 2013). Each of these subcategories for domestic workers feature both workers who are employed through an agency and those who are contracted or have direct agreements with their employers and thus have no agency-based representation. This distinction is important because workers who are employed by an agency typically are subject to more oversight and are protected by regulations set through the agencies, many of which have more formal contracts and are accountable to the Department of Labor. Therefore, the present analysis will focus on workers who are not employed through agencies, as these workers are more vulnerable to adverse or exploitative working conditions since they have direct, and typically informal, agreements with their employers rather than formal contracts that would provide them with a basic level of protection, including a process for addressing grievances and/or labor violations. As a point of clarification, domestic work is considered an industry in the U.S. economy, and this industry broadly includes the occupations described above. In reference to this industry, I will use the both the labels domestic service industry and domestic care industry interchangeably, as both are accepted and commonly used industry titles to describe this sector of the economy.



## DESCRIPTION OF METHODS AND LIMITATIONS

In developing this thesis, I have drawn from social science literature, governmental datasets, various studies conducted on domestic workers at the local, state, and federal level, and observations from my time volunteering with an immigrant labor advocacy organization in Houston Texas. The data provided by the studies referenced in this thesis is at the heart of this analysis, and is composed of primarily quantitative government-collected data as well as findings from qualitative surveys and interviews. Therefore, it is important to preface this analysis with the consideration that the characteristics of the domestic services industry and its workers create several limitations in terms of the information we are able to obtain about the industry, and the workers themselves, for analysis purposes.

One of these characteristics that pose a challenge is the fact that the work is very dispersed since the workers do not congregate or work out of a central location, they instead go on-site to their employer's home, which can lead to the work being very secluded, particularly for live-in domestic workers. Many in the industry operate like private contractors and are not employed by an agency, so employers often pay them "under the table" and the employers and workers then do not typically report these exchanges on their taxes or any other form of documentation (NDWA, 2012). These issues present significant challenges for agencies like the Bureau of Labor Statistics to collect data on the domestic services industry and its workers, and therefore it is widely recognized and acknowledged that the existing data on this industry is incomplete and that the quantitative data drastically underrepresents the population of domestic workers. This is an obvious limitation to conducting studies this industry, and this fact is

imperative to keep in mind when analyzing data on domestic workers, because one of the most salient implications is that the number of domestic workers nationally is much larger than what the data represents, and this undercount in turn creates biases in the quantitative data due to the omission of potentially important variables.

The Bureau of Labor Statistics (BLS) is the primary agency that collects national employment data for the U.S. economy and the various industries that operate within. The BLS uses different survey tools in order to collect employment data, as well as demographics and particular characteristics of interest about workers in the U.S. One of the surveys that the BLS administers is the Current Population Survey (CPS), which is conducted monthly by the Bureau Census for the BLS and provides comprehensive descriptive data on the labor force as a whole such as employment and unemployment rates, average hours of work, wages and earnings, as well as other demographic information such as the race/ethnicity and age of workers (Bureau of Labor Statistics, 2016). The CPS surveys a sample of 60,000 households through in-person and telephone interviews each month. A complimentary survey tool that is also used by the BLS is the American Community Survey (ACS), which is a much larger and conducted annually. The ACS collects basic demographic data such as age, gender, and race/ethnicity; but it also collects more in-depth data on other characteristics of the participants. Some examples of the several type of characteristics of interest are: educational attainment, marital status, disability status, citizenship information, language spoken in the home, economic and employment characteristics, and various housing characteristics such as the number of individuals living in the home and the monthly cost (Bureau of Labor Statistics, 2016). These surveys are pivotal to the government and researchers for

understanding and analyzing the labor force in the U.S. and what the lives of average workers in the U.S. are like.

Given what we know about the domestic service industry and the methods that these surveys use to collect data, it is clear how the data on domestic workers would be limited. The BLS depends on surveys where participants have to be interviewed over the phone or in person, and therefore anyone who does not respond for whatever reason are excluded from the data. Adding to this issue of self-selection is that many of the workers that are immigrants are less likely to be selected to participate in the survey or willing to participate in a government survey, particularly undocumented immigrants, due to fear or distrust about giving information about themselves to the government. Additionally, if the worker has limited fluency in English, that may also make them less likely to be selected or to participate in a government survey. These challenges represent limitations in the data, and therefore any research on domestic workers has to be designed to work around these challenges to begin filling the gap in the data.

Given the difficulty in obtaining representative data on the domestic service industry and the amount of resources that conducting a large survey requires, there are only a handful of studies that focus specifically on domestic workers. Prior to 2012, there were no surveys that were able to collect data on domestic workers at the national level, with only a couple of studies that were focused on a particular city or region. One of these region-specific studies was conducted by Domestic Workers United (DWU), an organization comprised of domestic workers in New York City of Caribbean, Latino, and African descent that advocates for domestic workers' rights, and their results were published in 2006. DWU analyzed survey results collected between 2003 and 2004 from

547 domestic workers who were interviewed directly by DWU workers. These workers represented all different types of domestic work and ethnic backgrounds, and the DWU contacted participants by going to locations where domestic workers are often found like playgrounds and parks, as well as through snowball sampling methods (Domestic Workers United, 2006). Similarly, in 2013 the National Domestic Workers Alliance (NDWA) published a survey that they had administered in California between 2011 and 2012. This study was more expansive in the sense that the data was collected from domestic workers in the Los Angeles, San Francisco, San Jose, and San Diego metropolitan areas and consisted of 631 domestic workers (Burnham, Gutelius, & Theodore, 2013). Both of these regional studies obtained quantitative data, but also qualitative data about the experiences of domestic workers, which especially valuable considered the glaring limitations of domestic worker data compared to other industries.

Complimenting both of these studies is another administered by the NDWA called *Home Economics: The Invisible and Unregulated World of Domestic Work*. This study has been groundbreaking and cited by countless academic and journalistic articles since it was published in 2012 because it is the first and only study to collect data on domestic workers at the national level and to report both quantitative and qualitative data and analyses for the domestic services industry. Between 2011 and 2012, the NDWA in partnership with the Center for Urban Economic Development and the University of Illinois at Chicago DataCenter, surveyed 2,086 domestic workers in the following 14 metropolitan areas: Atlanta, Boston, Chicago, Denver, Houston, Los Angeles, Miami, New York, San Antonio, San Diego, San Francisco, San Jose, Seattle, and Washington, D.C. (NDWA, 2012). These cities were chosen to ensure that each region of the country

was included in the analysis, and all together the NDWA estimates that 243,370 domestic workers live in these 14 cities. In addition to the surveys, the researchers also conducted in-depth interviews with focus groups and collected testimony from 52 members of various domestic worker advocacy organizations (NDWA, 2012). The researchers based their sample size for each city off of its available demographic data from the ACS, and they then weighted each sample so that it would be representative of the demographic characteristics of each particular city's workforce. The participants were very ethnically and racially diverse, and interviews were conducted in several languages including Spanish, Polish, Portuguese, Cantonese, Haitian Creole, Mandarin, etc. (NDWA, 2012). This study has been an important step in the right direction towards filling the existing gap in the data for the domestic service industry and the lives of its workers.

Finally, in 2013 the Economic Policy Institute published a policy brief called *Low Wages and Scant Benefits Leave Many In-Home Workers Unable to Make Ends Meet*. This report added another important contribution to the growing body of literature on the domestic service industry, and was an analysis of national microdata collected by the CPS in 2012 (Shierholz, 2013). While this research did not include surveys or qualitative data, it provided an important analysis of wages and other quantitative variables based on more recent data than any of the other existing studies.

In Chapter 5 I will be presenting descriptive microdata, qualitative data, and testimony from the four studies described above. Though original data collection would be preferred and very valuable, the limitations discussed so far make undertaking such a task extremely difficult, and this would be outside of the scope of the intent of my research. By connecting the data and stories from each of these studies, one can start to

get a clearer picture of what life is like for domestic workers across the country, and why legal protections for domestic workers are so necessary. This data analysis will cover the demographics of domestic workers, as well as information about wages, employment-based benefits, abuses and hazards faced on the job, and other ways that the lack of legal protection and regulation in the industry affects their lives.

## OVERVIEW

I begin this thesis with a review of the social science literature related to the domestic service industry in Chapter 2, tracing societal, cultural, and policy changes to establish the context for the current circumstances of the domestic service industry. Chapter 3 outlines the historical analysis of organizing and advocacy efforts for domestic workers, how these efforts have evolved over time, and the lessons from the different models employed. Next, Chapter 4 will break down federal labor laws pertaining to domestic workers, compare domestic workers' rights laws in New York, California, and Oregon, and identify issues with the enforcement of these policies. Chapter 5 is a presentation of data from the few, but groundbreaking studies that have recently been conducted on domestic workers, and an analysis of their findings in order to demonstrate the ongoing need for policy changes. Finally, I conclude with Chapter 6 by providing my final recommendations in consideration of the data, legislative analysis, and history of the domestic service industry.

*“We are subjected to emotional and physical exploitation from which we cannot easily free ourselves because of the need to work and support our families in our home countries. For some of us, being immigrants—this makes our situation worse, because the employers take advantage of this situation, increasing our work hours, many times reaching 24 hours. We are verbally assaulted and we have to stay quiet. Often we end up leaving these jobs when we can’t take it anymore. What is sad and difficult is that sometimes we are not paid a single penny for the work we’ve done. In my case, I have had good, considerate employers but in these years I have also experienced difficulties which I never thought I would have to endure—discrimination because of the color of my skin and for being an immigrant”*

“TANIA” Housecleaner in Manhattan, from Dominican Republic, 2005  
(DWU, 2006, p. 12)

## **CHAPTER II**

# **DOMESTIC WORK: HISTORICAL AND THEORETICAL PERSPECTIVES**

*“I am a negro woman, and I was born and reared in the South...For more than thirty years...I have been a servant in one capacity or another in white families...I frequently work from fourteen to sixteen hours a day. I am compelled by my contract, which is oral only, to sleep in the house. I am allowed to go home to my own children...only once in two weeks...and even then I’m not permitted to stay all night...I don’t know what it is to go to church; I don’t know what it is to go to a lecture or entertainment ...I live a treadmill life...You might as well say that I’m on duty all the time—from sunrise to sunrise, every day in the week. I am the slave, body and soul, of this family. And what do I get for this work—this lifetime bondage? The pitiful sum of ten dollars a month!”*  
*BLACK DOMESTIC WORKER - Independent, 1912 (DWU, 2006, p. 12)*

### DEFINING DOMESTIC WORK

The body of literature on the subject of domestic labor typically begins by orienting the work in a particular conceptual framework that is concerned with defining domestic work, what it means for the employers and employees, and the ways in which the industry reflects and is influenced by society. When attempting to define domestic work, most think of it in the most basic terms of the tasks that are performed by the workers in the industry. However, Anderson (2000) points out that this simplistic, task-based definition is problematic because domestic workers are responsible for and perform several tasks simultaneously. Domestic work is more than simply the sum of a series of tasks, as it involves not only the physical work, but also emotional and mental work as well (Anderson, 2000). An important concept to the framework of domestic work is the term “social reproduction,” which is a term that has been extensively discussed in feminist literature as well as that of other academic disciplines such as anthropology and sociology. This term helps to explain that domestic work at its most basic level is the “production of human beings themselves” in the sense that this work not only covers the



basic needs for survival, but it also socializes individuals and teaches them norms through the way that the domestic care work is undertaken (Anderson 2000, Parreñas 2005).

It is critical to understand that social reproduction is not something that is confined to the family unit or something just take place in the home. Rather, this concept seeks to deepen the conversation about the economic role of women in capitalist societies, and to explain the ways in which various institutions, such as the state, the marketplace, and the household, each interact and “balance power so that the work involved in the daily and generational production and maintenance of people is completed” (Benzanson & Luxton, 2006). Benzanson and Luxton (2006) argue that social reproduction is dynamic in the sense that the work involved can be carried out by a variety of actors and institutions, and that beliefs about what is considered socially acceptable for this care work will vary depending on cultural and historical trends. Further, these norms will reflect existing gender, racial, and class-based power dynamics of the time. An important aspect of the social reproduction concept is that domestic work is labor that makes all other work possible (Yarris, 2015). The roots of this argument lie in Marxist and socialist theories which posit that the way that labor forces are organized is just as important as the modes of production and the products themselves, and that the production of life itself is a necessary social process that is related to, yet distinct from the production of the means of life (Benzanson & Luxton, 2006). This is again reinforcing the idea that social reproduction through domestic work is what makes all other labor in the capitalist economy possible, as it allows individuals to sell their labor and time away from the home to participate in the broader economy and keep the economy functioning. Benzanson and Luxton (2006) explain that some of the first

literature on domestic work was written by socialist feminist scholars in the 1970s who argued that this work is required to maintain households and to ensure “the daily and generational reproduction of labor power,” and that this work is fundamental and essential to the capitalist mode of production (Benzanson & Luxton, 2006).

Benzanson and Luxton argue that social relations are what separates paid domestic labor from the unpaid domestic work one performs in their own home, even though they are both mechanisms of social reproduction and involve the exact same tasks (Benzanson & Luxton, 2006). This way of framing analyses of domestic work is important because by incorporating the lens of social relations and how they distinguish the differences between relationships in the workplace from those in the home, it is more difficult to ignore the effects that socioeconomic class and race have on the experience of domestic workers on the job. Class and racialized divisions are a critical aspect of understanding the conceptual framework for domestic work. The following section will examine the ways in which racism influenced the history of the domestic care service industry, something that is crucial for understanding the problems that still persist today.

### THE RACIALIZED HISTORY OF DOMESTIC WORK

Between the 1870s and 1940s, the primary industry for female workers in the US economy was the domestic service industry. By 1939, and up until the 1950s, the domestic service industry employed more workers than the coal mines, automobile, and railroad industries combined (Shah, Notes From the Field: The Role of the Lawyer in Grassroots Policy Advocacy, 2015). When working-class women began to participate more in wage labor beginning in the 1950s and 1960s, particularly in factories, the demand for domestic service exceeded supply. The history of the domestic service

industry clearly demonstrates that domestic workers in the U.S. have historically been minority women and various waves of immigrants. During the colonial period, this labor was conducted by domestic servants who were either “indentured servants” or slaves (Shah, 2015). Prior to the end of slavery, domestic servants in free states were 75% white, as an influx of European immigrants who arrived during the 1840s filled the majority of these positions. However, by the early 1900s, nearly all of the second generation of these immigrant groups had left the domestic service industry and were working in other occupations (Shah, Notes From the Field: The Role of the Lawyer in Grassroots Policy Advocacy, 2015). Additionally, after the Industrial Revolution, the proportion of native-born white women in the U.S. that worked in domestic service had declined significantly by over 65% (Shah, 2015).

Following the Civil War and abolition of slavery, domestic work continued to be the primary occupation for black women, and it was characterized in society as “black women’s work” (DWU, 2006). This characterization influenced the decisions of white women and European immigrants to move away from the industry as jobs in other industries increasingly became available to them, such as those in the factory, retail, and other service sectors. These industries were simultaneously denying black women access due to racial discrimination, contributing to the concentration of black women in the domestic service industry, of which they were the majority of workers by the 1940s (DWU, 2006). Shah (2015) points out that since immigration decreased during both World Wars, and the black population increasingly expanded to northern cities, black women “formed a servant and laundress class, as no white group had ever done before” (Shah, 2015). These circumstances continued through some of the darkest and most

contentious times in U.S. society, such as the Jim Crow and Civil Rights eras, and it wasn't until after the Civil Rights Movement began to open up more employment opportunities for people of color in the 1970s that the proportion of black women in domestic occupations began to decline (DWU, 2006). As a result of this shift, along with a new wave of immigration from Latin America in the 70s and 80s, the domestic labor force became predominately comprised of immigrant workers from Asia, Latin America, and the Caribbean, with those originating in Latin American countries representing the largest share of this workforce.

Shah (2015) argues that, "Domestic service is one of the few professions that remain firmly caste in racial and gendered hierarchy, owing its origin to slavery and indentured servitude. The intersection of race, gender, and class resulted in the devaluation of domestic labor that continues to reverberate today" (Shah, 2015, p. 399). The racialized and gendered devaluation of the domestic service industry was one of the primary reasons why workers in these industries were intentionally excluded from labor protections developed over the decades, protections that have been afforded to workers in nearly all other industries.

#### LABOR POLICY & THE HISTORICAL EXCLUSION OF DOMESTIC WORKERS

The historical exclusion of domestic workers from legal protections is based in racist and discriminatory practices, and has long facilitated the exploitation and undervaluation of the labor of women of color. Following the Great Depression, The New Deal provided legislative changes for workers and their rights, and is argued to have been the "most important extender of social citizenship" by guaranteeing important rights for working families such as Social Security, minimum wage, and unemployment

compensation (Nadasen, 2012). However, it also served to reinforce the “racialized and gendered hierarchy” within the labor force by granting rights to certain categories of the working class, while purposely excluding others (Nadasen, 2012). Shah (2015) argues that the legacy of slavery cast a very large shadow on the domestic service industry, and that the racial composition of the industry had a significant influence on the decision of Congress to exclude domestic labor from New Deal labor legislation (Shah, 2015).

The politics of this era shaped the legislative process through the dynamic between Southern congressmen, who desired to maintain control over the black labor force, and policymakers in the Northern states, who were primarily concerned with expanding the economy by prioritizing the needs of white male workers in the industrial sector (Nadasen, 2012). Congressmen from northern states needed the votes of southern representatives to pass the controversial New Deal labor legislation, which led to agricultural and domestic workers, who were historically people of color, being excluded from the laws that instituted new labor rights. As a result, “the white male industrial employee became the prototypical worker and that model informed assumptions about what constituted legitimate work” (Nadasen, 2012). Domestic care work was largely associated with the naturalized and expected, unpaid “women’s work,” and given its location in the nontraditional work site of the home, it was easier for white male lawmakers to delegitimize the domestic service and refuse to recognize it as “real work” (Nadasen, 2012). This de-legitimization of domestic work and the rights of individuals employed in this industry directly affected the way that federal labor legislation was written and interpreted, and continues to disadvantage domestic workers today.

The National Labor Relations Act (NLRA) of 1935 was an important part of the New Deal legislation. The NLRA outlines workers' rights to form unions and collectively bargain, but explicitly excludes workers in the agricultural and domestic care industries (29 U.S.C. §§ 151-169). During the 1930s, the majority of black workers were employed in domestic and agricultural capacities, and politicians in the South were concerned with maintaining the hierarchy that facilitated the subordination of black workers and the exploitation of their cheap labor (NDWA, 2012). Southern politicians were against granting black workers the right to organize and collectively bargain, while the passage of the NLRA depended on securing their votes, and in turn the endorsement of the discriminatory southern labor system. This political pressure resulted in a compromise based on blatant racism, and domestic workers were intentionally excluded from the NLRA. This exclusion, founded in a deep history of racism, still exists and in effect continues to marginalize domestic workers as an "unprotected class, undeserving of the rights afforded to other workers" (NDWA, 2012).

Another key piece of the New Deal legislation is the Fair Labor Standards Act (FLSA) of 1938, which protects the majority of workers in the United States by providing standards that employers are required to adhere to, for example; paying the federal minimum wage and providing overtime pay. Additionally, the FLSA contains requirements for how employers must keep records of their employees' pay, hours worked, and benefits that were subtracted from wages. However, like the NLRA, the FLSA excluded domestic workers from its protections and regulations based on the same reasoning that domestic work was not 'legitimate work,' and was not much different than the expected duties of the average housewife (Nadasen, 2012). It was not until 1974 that

the FLSA regulations for minimum wage and overtime protections were expanded to include domestic workers, but this inclusion was limited to a smaller subset of workers within the industry that did not include workers who provide “companionship services” for those unable to care for themselves, or in other words caregivers for elderly and disabled. Additionally, domestic workers who live in the homes of their employers are exempted from the overtime provisions of the FLSA, though they are covered under the minimum wage provision (Shah, 2015). Domestic workers have also been excluded from other federal labor laws like the Occupational Safety and Health Act (OSHA), the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and Title VII of the Civil Rights act of 1964 (NDWA). As these exclusions continue, there is an increasing need for domestic workers to come together and advocate for their rights to labor and wage protections.

### THE “SECOND SHIFT” AND GLOBAL CARE CHAINS

As world economies have shifted over the course of history, cultural and societal norms in the U.S. have also shifted as a result, and have impacted family structures in significant ways. Ehrenreich and Hochschild (2002) found that since the 1970s, the earning power of males throughout “First World” and developed countries has declined, in turn leading to a dramatic rise in women’s employment. In the U.S., mothers of children under the age of six represented only 15 percent of the paid labor force in 1950; however, by 2002 that proportion had risen to 65 percent (Ehrenreich & Hochschild, 2002). Despite this shift in the role of women within the economy, and the gender equality movements of the 1970s, women’s workforce participation did not result in a greater balance between men and women within the family in terms of domestic and

caregiving duties (Lutz, 2011). Studies have shown that as women have increasingly participated in the labor force, men's roles within the family structure have not changed to accommodate the shift in the role of women, leading to what has been termed as a "care deficit" within families. Anderson (2000) points out that despite the stigma associated with domestic work, it is in fact highly-skilled labor that requires significant time management and physical and other skills. She argues that this care deficit cannot be fixed simply by having men "pitch in," because they are typically untrained in all of the work that it takes to maintain a household. Even when men do contribute to the housework, they participate in a manner similar to that of children: helping on a task-by-task basis while women manage and facilitate the entire process to make sure that all of the domestic needs are being met (Anderson, 2000).

Arat-Koc (2006) writes that in many societies that have adopted neoliberal economic policies, middle-class women have only been able to exercise their citizenship rights and access the public sphere in an equal manner to men on the condition that they participate in the labor market in the same way that men do (Arat-Koc, 2006). This is due to several different factors such as the declining welfare state in these countries due to the neoliberal practices of privatization, de-regulation, and cutting government spending. Without participating in waged labor, women lack necessary the necessary social capital to engage in the public sphere and potentially influence public policy. Anderson (2000) makes a similar argument by stating, "In order to participate like men, women must have workers who will provide the same flexibility as wives, in particular, working long hours and combining caring and domestic chores" (Anderson, 2000, p. 190). In other words, women become dependent on the invisible labor of her domestic employee, and this



dependency is the very thing that makes women appear to be more independent, “manlike” workers (Shah, 2015). Additionally, the United States government does not provide for child care or ensure paid medical and family leave as other wealthy First World countries do, which represents a structural failure to respond to the needs of women that result from their entry into the paid work-force (Ehrenreich & Hochschild, 2002). This structural failure is exacerbated by growing income inequality in the U.S., which puts more strain on families and adds increasing pressure on parents to both engage in waged labor. Thus the care deficit created by women’s increased participation in the labor force, without adequate familial and structural support to maintain the domestic care responsibilities for their homes, children, and the elderly, creates a demand for cheap domestic labor. Without government support for child care costs, many families find it too expensive to send their kids to traditional child care centers and are forced to look to alternative arrangements. This in turn makes immigrant workers the ideal population to fill domestic service occupations because they are more flexible than citizen workers, in other words, more easily exploited. Their flexibility stems from precarious legal statuses and deportability as well as their inability to assert the limited labor rights they are afforded (Arat-Koc, 2006).

These changing gender dynamics have coincided with what has been termed the “feminization of migration” (Parreñas, 2005). Several supply-side economic factors have led to the increase in female migration to the United States including; a marked increase in relative and absolute poverty, income inequality in sending countries, unemployment, and marginalization of impoverished populations resulting from neoliberal structural adjustment policies and free trade agreements (Lutz, 2011). From the demand side, the

changing gender dynamics and care deficits within American families have led to a demand for cheap, domestic caregiving services, which creates opportunities for migrant women seeking employment. Several authors have theorized on this complicated dynamic that Ehrenreich and Hochschild (2002) have termed the ‘Second Shift’ in global gender dynamics, arguing: “The First World takes on a role like that of the old-fashioned male in the family—pampered, entitled, unable to cook, clean, or find his socks. Poor countries take on a role like that of the traditional woman within the family—patient, nurturing, and self-denying” (Ehrenreich & Hochschild, 2002, pp. 11-12). Migrant women are only able to achieve success and the ability to provide for their children by taking on the ‘traditional mothering’ roles that have been cast off by First World women and continually rejected by men. Ehrenreich and Hochschild state that the contemporary lifestyles of women in the First World are made possible by the extraction of care from poorer countries through female migrant labor. Further, women of the First World are able to maintain the affluent appearance of ‘doing it all’ by subsidizing their domestic responsibilities with cheap domestic labor as they participate in the paid labor force outside the home (Ehrenreich & Hochschild, 2002). What is striking about this recent trend in the globalization of care labor is that the dramatic increase in the number of female migrants and the distances that they travel to meet the demand for caregiving services (Ehrenreich & Hochschild, 2002).

Immigrant women working in the domestic services are often mothers themselves, and some have been forced to leave their children behind in their country of origin in order to migrate to the U.S. in search of employment opportunities. While these transnational mothers seek to maintain their caregiving roles within their own families,

distance and long periods of separation inevitably ruptures the family structure and lives of migrants (Yarris, 2015). Their physical absence replicates the care deficit that their labor is responding to and subsidizing in the First World, creating a demand for help with domestic care within their own family back in their home country. Describing this phenomenon Lutz (2011) states, “The withdrawal of ‘care capital’ has meant a ‘care drain’ from the countries of origin” (Lutz, 2011, pp. 186-87). In response to the care deficit created by a mother’s migration, children of transnational mothers are often cared for by female family members like aunts and daughters, but most preferably the maternal grandmother (Hondagneu-Sotelo and Avila 1997) (Yarris, 2015). These arrangements have been termed ‘Global Care Chains,’ which are defined more specifically as “Women from the global south migrate to the global north in order to alleviate the care burdens of privileged women in the global north; at the same time, they leave the care of their children to women with less privilege in the global south” (Parreñas, 2005, p. 23). Lutz (2011) argues that even though remittances are now recognized by international financial institutions as the primary means of development for some Third World countries, migrant mothers and their children ‘remain at the tail end’ of the global care chains as they pay the largest social and emotional cost of the ‘depletion of care resources’ (Lutz, 2011). Parreñas summarizes the issues inherent in global care chains this way:

The international division of caring work, meaning the three-tier transfer of care among women in poor and rich nations, is caused by gender inequities that keep the care of the family the responsibility of women, neoliberal prescriptions that designate care as a private responsibility, and finally economic inequities between the global north and south” (Parreñas, 2005, p. 23).

While not all immigrant domestic workers are transnational mothers, these relationships are important for understanding the extent of the effects that

globalization and the demand for domestic labor that creates these global care chains have on countless families.

### THE FEMINIZATION OF IMMIGRATION

In order to better understand the connection between immigration and domestic labor, it is essential to explore what has driven migration to the U.S. and the reasons why women in particular are forced to make the difficult and life-changing decision to leave their home for another country in search of employment opportunities. This can be illustrated by examining the case of the United States and Mexico. These two countries have historically been connected through migration and economic interests, and this relationship was intensified and complicated by the establishment of the North American Free Trade Agreement (NAFTA) in 1994. For many Mexicans, NAFTA has led to a marked increase in poverty, unemployment, problems with inflation, cuts to social welfare services, and the entry of previously unemployed members of the household, primarily women and teenagers, into the workforce (Wilson, 2009). Additionally, Mexico's agricultural sector was undercut by the free trade agreement as local crops were unable to compete with highly subsidized goods from the U.S. and Canada, leading to the loss of employment for approximately two million Mexican farmers (Wilson, 2009). This is an example of how contemporary neoliberal economic policies, like NAFTA, have led to the increasing marginalization of poor countries in the 'Global South,' as the gap between these countries and their developed, industrialized counterparts in the 'Global North' has grown continually wider. Job opportunities and capital have been concentrated in the Global North, which has greatly disrupted the lives of those in the Global South and their ability to make a living and survive (Millman, 2013) (Yarris, 2015). These

problems leave many with no option but to migrate to find employment opportunities, and serve as the primary ‘push factors’ for workers from the Global South.

Since the end of the twentieth century, there has been a marked feminization of migration as a result of the increasing demand for cheap care services in upper and middle-class households of industrialized, Western societies. This trend is part of a larger shift in gender dynamics around the world where women are increasingly participating in wage labor due to the declining ability of men to be the sole ‘breadwinners’ for their families in rich and poor countries alike (Lutz 2011, Hondagneu-Sotelo and Avila 1997, Ehrenreich and Hochschild 2002). Since the 1950s, there has been a linear increase in women’s participation in the labor market in Mexico due to the economic crises, declining fertility rates, a rising proportion of female-headed households resulting from male migration, higher age at first marriage and birth of child, and increasing education levels of women (Wilson, 2009). The higher proportion of female-headed households has contributed to the increase in women’s migration because women are forced to take on the ‘breadwinner’ role for their families. Additionally, the growth of the services-led economy in the United States has increased the demand for female migrant labor, particularly in domestic care work (Wilson, 2009).

The immigration policies of the United States are another major contributing factor to the increase in female migration. Over the decades, the policies have served to directly encourage migration to the United States in order to meet the demand for cheap, low-skilled labor, as with the Bracero Program of the early 1960s. Yet the U.S.’s policies have also been enacted to explicitly limit immigration from Latin America, and the government began to militarize the US-Mexico Border beginning in 1978 in order to

limit undocumented immigration (Wilson, 2009). This anti-immigration shift was accelerated since 9/11 in the wake of the War on Terror, and immigration issues began to be framed in the context of national security with the Department of Homeland Security becoming deeply involved with immigration law enforcement. These developments have resulted in a change to the previously fluid nature of migration flows between the U.S. and Mexico to a more permanent settlement due to the increased difficulty in crossing the border illegally. Women's migration has increased as a result of this more permanent nature of settlement in the United States, leading to more female-headed households in Mexico and the increased demand for family-reunification (Wilson, 2009). It naturally follows that the increase in female-headed households has led to more female participation in the labor force and migration due to the need for the women to help provide for their families in the absence of the men of the household. With so few opportunities for employment in Mexico, many women decide that migration is their best option to better provide for their families and their basic needs due to the higher earning potential in the United States (Wilson, 2009). In turn, this increase in women's migration ruptures families of female-headed households further since the women are not able to fill both the caregiving role and the newly acquired breadwinning role in their home country due to the limited opportunities, and have to prioritize one role over the other through migration for work. This trend has not only been seen in Mexico, but several other countries in Central and Latin America that have experienced these push and pull factors for migration and the effects that the migration trends have had on their societies.

## GENDER & THE MEANING OF MOTHERHOOD

The literature on domestic work, immigrant labor, and motherhood focus on the gender dynamics, socioeconomic and cultural factors that construct the meaning of the family and motherhood. Much has been written about how gender roles have shifted over time, reflecting and reinforcing cultural and economic shifts in U.S. society (Lutz, 2011). This anthropological literature is critical of the prevailing assumption in cultures around the world that nuclear family structures are normative, and that children do best if they are primarily cared for, in a physical and emotional sense, by their biological mothers. Lutz (2011) argues that there have been important cross-cultural anthropological studies that challenge the normative idea that the nuclear family structure is the most desirable or that there is a 'universally valid' concept of the family, motherhood, and childrearing that transcend cultural values and practices (Lutz, 2011). Hondagneu-Sotelo and Avila (1997) add that the concept of motherhood and its associated norms and expectations are not biological in nature, but are instead socially and historically constructed.

When analyzing 'normative' family structures and the values attached to them, it is important to explore where these norms arise from. Lutz points out that this dominant perspective on the normative role of mothers and the family structure arises out of and corresponds to the middle and upper-class lifestyles, and because of this it tends to stigmatize other family arrangements that deviate from these norms, like single-parent and migrant families, as inadequate and dysfunctional (Lutz, 2011). Culture, society, the media, and institutions serve to perpetuate this bourgeoisie concept of the idealized nuclear family structure, which in turn pressures people to conform and leads to the feeling of guilt for mothers and families that are perceived to fall short of this standard.

This individualistic concept of the family is also problematic because it “prescribes a legal, moral and biological concept of relatedness, which ignores precisely those aspects which are more important in people’s everyday lives, namely commitment, involvement, loyalty, care, and self-obligation” (Lutz 2011, p. 187; Leinaweaver 2010).

In contribution to the argument that the concept of family and motherhood is socially constructed, Hondagneu-Sotelo and Avila argue that this concept is not only gendered but also highly racialized. While some feminists have argued that paid domestic labor serves as the “leveler” between men and women because it allows women to be able to participate in the labor force, Anderson (2000) points out that it instead enables middle-class women and men to “avoid the conflicts of interest inherent in the gendered division of labor and challenges, both personal and political, that this poses to the nuclear family” (Anderson, 2000, p. 190). Yet in contrast, women of color in the working-class of the United States, who make up the majority of the workers in the domestic service industry, have largely never been able to attain the economic security required to enable them to exclusively fill the mothering role during the early years of their children’s lives, and have instead had to rely on sharing this role with female family members and friends (Hondagneu-Sotelo & Avila, 1997). For Latina women in particular, strong cultural and Catholic traditions and ideals tend to cast solo mothering in the home as ideal, while portraying women’s employment as ‘oppositional’ to the role of a mother (Hondagneu-Sotelo & Avila, 1997). Yet this idealized concept of motherhood has been broken by women from both ends of the socioeconomic spectrum as the wealthy have always employed the help of others to subsidize childcare, and the poor and urban families typically rely on extended kin networks to aid in childcare in order to facilitate



employment. This concept is relevant to this research because it addresses one of the many layers to the effects of global care chains, as well as the shift in the concept of motherhood for both employers and domestic workers.

### CONCLUSION

The literature on the domestic service industry is important for providing context and a historical perspective on the issues that domestic workers face in the workplace. This body of literature and research illustrates and breaks down the ways in which race, gender, and class have interacted with each other and in turn shaped how domestic labor, and the workers, have been defined and valued. Additionally, it builds a conceptual framework that orients the discussion of domestic labor in terms of social reproduction, a concept that emphasizes the ways in which domestic labor makes all other labor possible. A legislative analysis of labor protections for domestic workers would be incomplete without first understanding the ways in which racial, class, and gender inequalities and hierarchies influenced the way that societies and legislators perceived domestic work. From its roots in slavery to the modern exploitation of immigrant workers, the domestic service industry has long reflected the ways in which capitalism and globalization have resulted in the devaluation and exploitation of people of color and their labor. It continues to reflect the racial tensions in U.S. society and the ways in which the economy depends upon the subsidization of domestic care labor. Through this critical analysis, it can be understood why domestic workers were intentionally excluded from labor protections, and continue to be. The literature clearly demonstrates that the ability of middle to upper-class workers to participate in the labor force, and women in particular, depends upon the labor of a marginalized underclass. This dependency, along with the historical and

racialized devaluation of domestic labor, explain why the domestic service industry has been excluded from key labor legislation.

*“I was never allowed to go out or go anywhere by myself for 15 years. When you’re living and working in people’s homes, it’s hard because you have to do everything. And it’s just you alone, you have no one else with you. They will not even pick up a fork. If I went out with them and met someone, she wouldn’t let me tell my name and she would try and cut it off. She said, “Don’t tell anyone about yourself.” I didn’t have any friends. The only movie I saw the whole time was the Lion King. I didn’t know where anything was, how to get around. I was always in the house.”*

“LILY” Nanny and Housekeeper in Long Island, from Jamaica (DWU, 2006, p. 27)

## **CHAPTER III**

# **THE ROLE OF ADVOCACY: DOMESTIC WORKERS AND THE LONG FIGHT FOR CHANGE**

*“We are not asking to be treated different. Since slavery we have been treated different. We are asking to be treated the same, that’s what the Bill of Rights will do. The Bill of Rights will right centuries of wrongs”*

*ERLINE Nanny in Manhattan, from United Kingdom (DWU, 2006, p. 36)*

### INTRODUCTION

Given the discriminatory history of the domestic service industry and the lack of legal protections in place for domestic workers, a strong advocacy effort has been essential in pushing for recognition for domestic workers and the value of the labor that they provide. Advocacy efforts evolved over time based on various shifts in U.S. society, and they continue to be vital to the industry’s fight to gain basic rights that workers in all other industries are afforded. This chapter will trace the history of the domestic labor advocacy effort and the different ways in which it has influenced policy, ending with a discussion of strategies and movements currently being employed by various groups to push for legislative change.

### ADVOCACY THROUGH THE YEARS

#### ***Informal Organizing Post-Slavery***

Domestic workers have been fighting to improve their working conditions and organizing to gain basic rights since the turn of the 20<sup>th</sup> century. Boris and Nadasen (2008) cite that at this time domestic workers, particularly immigrants in New York City, maintained ethnic networks and a sense of class consciousness as they labored in the isolation of their employers’ homes. Through their strong familial and community connections, African-Americans found ways to take part in organized and day to day

forms of resistance in an effort to improve their lives and workplace environments. While the domestic labor force, comprised of African Americans and a diverse group of immigrants, continued to be marginalized and exploited based on the racialized devaluation of their labor, they also found ways to organize (Boris & Nadasen, 2008). One of the first documented organized effort mounted by domestic workers occurred in 1881 in Atlanta. The domestic workers in The South were compelled by their memories of slavery to form a trade organization called the Washing Society, which was comprised of women who washed the laundry of various employers (Boris & Nadasen, 2008). The Washing Society launched a strike that ended up involving over 3,000 washerwomen and affecting the entire city of Atlanta, as nearly every white household at the time depended on washerwomen to take care of their family's laundry. The Washing Society was successful in winning higher wages, and it was achieved by their tireless effort of going door to door to spread their protest and gain the support of other domestic workers (Boris & Nadasen, 2008). However, this victory was ultimately unsustainable due to the instability of the industry, "with workers moving from job to job to find better conditions and employers dismissing servants not to their liking – with only the lack of another person to do their dirty work acting as a deterrent" (Boris & Nadasen, 2008, p. 416).

Even though advocacy and resistance within the domestic service industry was mostly informal into the early twentieth century, the efforts of the workers had transformative effects on the industry. African-Americans that migrated to urban areas in the Northern states refused to live in the homes of their employers, and this rejection began to shift the context of domestic work (Boris & Nadasen, 2008). However, domestic workers at this time were still earning only five or six dollars per week, and these

chronically low wages perpetuated the perception of domestic work as being closely associated with servitude. Despite various short-lived efforts to create labor unions within the industry prior to the New Deal era, “the ideology of the home as a man’s castle and hostile political and social circumstances, sustaining organization among low-waged workers proceed difficult in this occupation as it did with garments and other industries with concentrations of ‘unskilled’ women” (Nadasen, 2012, p. 76). The limited labor protections for all industries at this time, along with the dispersed nature of the domestic labor industry, made it incredibly difficult to maintain an organized labor force.

### ***The New Deal Era***

The Great Depression greatly affected families across all income groups, and middle-class families who had previously been able to afford employing a domestic worker found themselves unable to afford paid help. Some families attempted to find domestic help “at a bargain” and were only offering to pay workers fifteen to twenty cents an hour, or a full-time weekly rate of just four dollars (Boris & Nadasen, 2008). However, given the economic insecurity of the period, unemployed women waited on street corners hoping to work as day-laborers in what was termed the “Bronx Slave Market.” (Boris & Nadasen, 2008) Due to the increasingly suppressed wages, black community activists worked with white “labor feminists” for over a decade in an attempt to ban this exploitative day labor market (Boris & Nadasen, 2008). The economic crisis compelled domestic workers and organizers to continue trying to reform the industry to improve their working conditions and quality of life.

During this period, there were both governmental and nongovernmental (NGO) efforts to help improve conditions within the domestic care industry. NGOs such as the National Urban League partnered with the government at all levels in order to provide

some form of relief for unemployed domestic workers. The League teamed up with other women's advocacy groups and federal agencies to create training programs and model contracts for domestic workers, along with a "visiting housekeeper" project that connected domestic workers with poor families and individuals who were struggling due to illness (Boris & Nadasen, 2008). This program represents a governmental and nongovernmental response to societal and political pressure to alter and improve working conditions within the domestic industry. Outside of these efforts, domestic workers were also becoming unionized due to efforts by communists, socialists, and New Dealers to encourage class-based organizing (Nadasen, 2012). However, these traditional union organizing efforts were met with the persisting challenge of the variability and dispersed nature of the domestic service industry. Domestic workers were difficult to classify as part-time versus unemployed due to the fluctuation in their hours, and a majority of the women could not afford to pay union dues (Boris & Nadasen, 2008). These inherent characteristics of the industry made it essentially impossible to sustain domestic worker unions, and advocates were forced to re-think their strategies for addressing the problems of the industry.

Another advocacy effort during this time period featured a cross-class coalition between mostly white reform groups, second-generation European immigrants, home economists, and black educators. This coalition created the first National Committee on Household Employment in 1928, which lasted until 1945, and this organization reached out to housewife employers in an attempt to get them to voluntarily adopt a code of ethics created by the NCHE (Boris & Nadasen, 2008). However, the success of this strategy was limited because housewives at the time, even those involved in the club organizing,

tended to be more concerned with racist ideas about the ‘disease and dirt’ that the black domestic workers might bring into their homes rather than the wages and treatment of the workers themselves (Boris & Nadasen, 2008). There were various groups and associations similar to the NCHE, and they tried to organize based on the Young Women’s Christian Association (YWCA) model, where they could bring women from all different work sites to come together for educational training and recreational programs, and then encourage them to advocate for their rights in the workplace. “This model offered a more appropriate form for advancement than traditional trade unions in so far as it gathered together scattered laborers and created bonds of solidarity through the non-workplace “activities” (Boris & Nadasen, 2008, p. 419). This shift in organizing strategy came as a result of failed attempts to create domestic workers’ unions and employ collective bargaining tactics, and advocates began to realize that they would have to develop more unconventional organizing strategies in light of the unique nature of the domestic care industry.

Due to the inability to maintain domestic workers unions, NGOs and advocates decided that they should embrace the “legislative labor standards strategy” of the New Deal, however the legislative route required a strong and united political movement in order to mobilize support at the larger community level. In order to achieve this, domestic worker organizers believed that the best option was to try and link their cause with the rising movement behind organized labor, even if this movement largely failed to recognize their efforts as social reform (Boris & Nadasen, 2008). Advocates believed that legislative labor protections would solve all of the problems inherent in the domestic



service industry. However, the New Deal policymakers never recognized the value of domestic work;

Cultural understandings conflated household labor with family work, service with love, and the home appeared as a private place apart from the world of work and the hand of the government. The power of the white South, with its entrenched racism and its dependence on low wages, was a menacing obstacle to coverage of domestic workers under labor legislation and New Dealers were not about to sacrifice their program for a group of workers who they had their own doubts could be effectively regulated in the home (Boris & Nadasen, 2008, p. 420).

As a result of this cultural and racialized devaluation of domestic labor, when the Social Security Act of 1935, National Labor Relations Act of 1936, and the Fair Labor Standards Act of 1938 were originally signed into law they intentionally excluded domestic workers, along with agricultural labor, as both of these industries were primarily comprised of women and men of color (Boris & Nadasen, 2008). These ideologically-based obstacles were embedded into society during this time period, and it would take a society-wide shift and new social movement to make progress in the fight for domestic labor to be recognized and protected under the law.

### ***The Second Shift and a New Social Movement***

The movement to gain legal recognition for domestic workers and their rights continued through the 1950s with mostly black domestic workers in the South, and grew into a strong coalition of civil rights activists, domestic worker organizers, and professional women by the 1970s (Nadasen, 2012). The NCHE was still active in its advocacy efforts, and by this time had evolved into being primarily an advocacy group for domestic workers. When a black feminist named Edith Barksdale-Sloan became the head of the NCHE and solidified the group's focus on domestic workers, the NCHE gathered various local domestic worker organizations to form the Household Technicians of America (HTA) in 1971 (Nadasen, 2012). The HTA became the leading voice for

domestic worker advocacy in the 1970s and enacted a national campaign where organizers traveled to different cities to educate the public about the inequalities of the domestic service industry in hopes of mobilizing mass support for the domestic worker advocacy movement. During its peak, the HTA had built a membership and staff of 25,000, and worked with the NCHE in the fight for legislative reform (Nadasen, 2012). This grassroots organizing effort expanded and improved upon the more limited strategies of the past by pushing for basic rights such as a minimum wage and overtime pay, and helped to create more national recognition for the grievances of domestic workers.

This movement pushed Congress to expand the wage and hour provisions of the FLSA to include domestic workers, and the debate surrounding this issue reached its peak in the early 1970s. Many lawmakers at the time argued that making such changes would be the equivalent of “bringing federal bureaucracy into the kitchen of the American housewife” (Nadasen, 2012). Male policymakers also framed their opposition to extending rights to domestic workers as “protecting the domain of white middle-class women” and being concerned that the minimum wage requirement would make it too expensive for women to hire help in the home (Nadasen, 2012, p. 81). Nadasen (2012) argues that,

By relegating the rights of domestic workers to ‘women’s sphere.’ Male politicians employed a rhetorical strategy that absolved them of any responsibility for the legal rights of domestic workers. They used the cloak of gender to dismiss the class and race politics that were central to the exclusion of domestic workers from labor legislation (Nadasen, 2012, p. 81).

Essentially, the lawmakers at the time were attempting to maintain the division between the workplace, in the traditional sense, and the home as a way to ignore the underlying

racism and discrimination that led to the poor wages and working conditions for domestic workers.

Maintaining this division was also important for these male politicians to ensure that the gendered division of labor within American households would not be ‘disrupted’ by recognizing domestic work as a legitimate profession, and in turn raising the status of unpaid domestic labor performed by women in general (Nadasen, 2012). However, domestic worker advocates at the time claimed that if the FLSA was not extended to cover domestic workers, they would leave the occupation, and this would in turn mean that more of the domestic responsibilities would fall upon the men (and even the Congressmen themselves) given that women had begun to participate more in the labor force and seek opportunities outside of the home (Nadasen, 2012). This was a clever strategy, and was ultimately effective as the minimum wage provisions of the FLSA were expanded to cover domestic workers in 1974, and in 1976 they gained the right to unemployment benefits (Nadasen, 2012). This victory represented an important first step in establishing basic rights for domestic workers and paved the way for their efforts to gain recognition and equal rights.

### ***Economic Shifts and Demographic Changes in the Industry***

By the time the FLSA minimum wage provisions were expanded, the African American women who had been at the heart of the decades-long effort to extend the FLSA to domestic workers were rapidly leaving the domestic care industry for other occupations as more employment opportunities became available to the black population. Since domestic occupations had long symbolized white oppression of black women, domestic work became the “occupation of last choice” (Nadasen, 2012). This shift is

clearly reflected in the fact that in 1970 the most common occupation for black women was domestic work, where this was no longer the case by 1990 (Nadasen, 2012). While black women increasingly began to leave the industry, the gap that their departure created was increasingly being filled by immigrant women, primarily from Latin America and Asia. These immigrant workers faced the same problems and discrimination on the job that black women had been facing for decades, and yet their status as immigrants served to exacerbate the vulnerability inherent to the industry. Domestic labor organizers found that the undocumented status of some of the workers made them even more reluctant to complain about their working conditions, and this posed a significant challenge for advocating for improvements and legal regulation of the industry (Nadasen, 2012). These demographic shifts and the new challenges they created in turn connected the issues of domestic worker rights and immigration policy and reform, a link that is now impossible to disentangle.

Tracing the history of domestic worker advocacy illustrates how societal and cultural shifts in the U.S. led to the need to adjust advocacy and organizing strategies for domestic workers' rights. Following the 1970s and these demographic shifts, domestic workers and their struggles for rights and recognition continued to be largely neglected by the prominent national labor organizations. However, immigrant workers ended up playing a crucial role in organizing, as many had positive experiences with labor unions and "left-wing political action" in their home countries (Shah, 2015). Beginning in the early 1990s, these workers began to come together through the establishment of worker centers in immigrant communities, an alternative to traditional union-based organizing. By this time other organizations that advocated for immigrant rights were operating with

this model of grassroots, membership-based organizing for immigrant workers in various industries. These worker centers provided immigrant workers and others in the domestic service industry occupational training and placement, as well as education on health, citizenship and basic rights, language, and advocacy (Boris & Nadasen, Domestic Workers Organize!, 2008). The critical distinction between these worker-run organizations and their predecessors is that they employ grassroots organizing efforts based in communities, rather than around the workplace like union-based organizations (Boris & Nadasen, 2008). This approach allowed these organizations more flexibility to meet the unique needs of domestic workers, rather than having to be organized around a particular employer or occupation.

Worker centers developed out of the struggles of immigrant women from different regions of the world for basic dignity and quality of life, and they are successful in continuing the legacy of previous advocacy organizations by fighting for legal and social recognition and inclusion (Boris & Nadasen, 2008). The education and training that these organizations facilitate for domestic workers are critical in teaching them their basic rights in the workplace, and builds their confidence around this knowledge to advocate for themselves to employers and policymakers. Worker centers organize “one person at a time” by empowering each individual, and operating under a structure where every worker associated with the organization is a leader, rather than labor unions where they typically follow representatives (Nadasen, 2012). By focusing on educating workers on their rights, they empower even workers who are undocumented by asserting that regardless of their legal status, they are still entitled to basic human rights (Boris & Nadasen, 2008). This message also enables these organizations to reach workers of all

different ethnicities and countries of origin, because regardless of their differences, they each share in the common struggle for dignity against a society and economy that has marginalized these workers into an invisible underclass.

The evolution of domestic worker advocacy has demonstrated that a strong grassroots effort, even in the face of seemingly insurmountable challenges to organizing a diverse and fragmented labor force, can lead to meaningful change and influence public policy. The history of the domestic service industry also illustrates the importance of holding policymakers and elected officials accountable to organized and low-wage labor, and that the best way to accomplish this is by creating a broad coalition of advocates and allies. Most importantly, these efforts prove that just because the industry is vast and scattered, and workers operate in the privacy of their employers' homes, that does not mean they are alone. Each one of them is a human being deserving of basic rights and a sense of dignity, and each worker belongs to a larger community of people who share their experiences. This empowerment of workers is what has enabled these women to successfully fight for legal recognition and protection, and will hopefully continue to bring their issues into social discourse and eventually lead to society properly valuing the essential work that they perform every day.

### CONCLUSION

In order to have an effective advocacy effort, it is crucial understand the history and methods of earlier movements to illuminate the ways in which society and policy have shaped their outcomes. Despite the denial of their legal right to formally unionize, domestic workers found ways to form alternative associations and coalitions that are rooted in their shared history of racial, gender, cultural, and economic exploitation by the

U.S. economy. Their ability to adapt to various political and societal challenges was crucial to the survival and strength of the movement, and their development of new organizing strategies has resulted in the empowerment of this marginalized labor force across racial and ethnic lines. The contemporary community-based, democratically run worker centers have been instrumental in the adoption of labor protections for domestic workers in a number of states, and these organizations have the potential to help bridge the gap between policy and enforcement. This role will be crucial moving forward as more states assumedly pass laws granting labor protections of domestic workers, and it remains unclear how these laws will actually be enforced and employers held accountable to them given the precarious and vulnerable nature of domestic workers.

*“I used to sleep on the floor in the corner of the living room. I was only given one blanket, one comforter, and one pillow. In the summertime, it would get so hot, but I was denied to use the AC because the electricity bill would go up. It wasn’t comfortable at all. In the wintertime, it would get so cold. And I would try to sleep with warm clothes because I had one comforter. The conditions were terrifying and humiliating. There was no respect and privacy at all. I would be sleeping at night, and he would come into the living room to use the computer. Since it was directly across from where I was sleeping, he could see me sleep when he turned on the light. In the summertime, I would have to sleep with clothes on because I did not want him to see me even though I was very uncomfortable.”*

“ESMERELDA” Nanny, Elderly Caregiver and Housekeeper in Long Island,  
from Zambia (DWU, 2006, p. 28)



## CHAPTER IV DOMESTIC WORKERS RIGHTS LEGISLATION

*“I found work in a house, caring for a disabled youth. I ended up doing everything—the housecleaning, the ironing, the food. I had to carry him and help him in the bathroom. I had to bathe him and even brush his teeth. And for all of this, I was paid \$2.00 per hour. I slept in the basement, where the sewage often overflowed. I had to find cardboard in order to walk around and get out of the basement to go and perform my daily housework. I also had to pick up wood in addition to the cardboard in order to pass through and also to open the backdoor so I could step outside to the sun and for the stench to leave. Two and a half years later, my employer—on my day off—called to tell me she needed me early. I arrived and I told her I am here like you asked me. And it was to tell me that I no longer had work. Well, you can imagine how one would feel—after a shock like that—without telling me why. She offered no explanation. I asked her for permission to stay in the house that night so I could go out and find another place to live—I could not even sleep thinking about where I would go next. No one knows what I went through that night.”*

*“MARIA” Housekeeper and Caregiver in Queens, from Colombia (DWU, 2006, p. 27)*

### INTRODUCTION

In the United States, federal and state laws regulate the labor by outlining specifications for provisions like wages, hours, rest breaks, minimum wage levels, policies against harassment and abuse, and several other issues related to occupational standards and safety. These regulations not only outline rules for employment practices, but they also provide recourse for employees who have had their rights violated by their employers by outlining the complaint process, as well as potential legal remedies for the employees and consequences for the employers found guilty of labor law violations. Workers in most industries are protected under state and federal labor laws, and are therefore able to contest unfair and discriminatory labor practices through a statutorily defined grievance process. However, domestic workers are excluded from many rights afforded to employees in other industries and, in most states, are not protected by labor rights laws. As described in Chapter 3, the advocacy movement was forced to evolve

from pushing for wider change at the federal level, to a more focused approach of enacting legislative change at the state level. This chapter will break down the ways in which federal labor laws currently apply (or exclude) domestic workers, followed by a comparison of state-level policy changes affording rights to domestic workers in New York, California, and Oregon. Finally, it concludes with a discussion about the enforcement of these policies and potential issues with doing so effectively.

## FEDERAL LABOR LEGISLATION AND DOMESTIC WORKERS

### *Current Status of Federal Laws*

As a result of the advocacy movement, domestic workers have gained limited legal protections and rights over the last several decades. Although all domestic workers were excluded entirely from the FLSA until 1974, most of the provisions of the law now apply to domestic workers, with a few significant exceptions. One exception is that domestic workers who live within the home of their employers are not entitled to overtime pay, even though they are included in the minimum wage requirements outlined by the FLSA (NDWA). Another important exemption is what is known as the “companionship exemption” which was included in the amendment in 1974 that extended the rights of the FLSA to domestic workers. This exemption excludes domestic workers who provide “companionship services” for individuals who are unable to care for themselves due to their age or disabilities (Shierholz, 2013). However, this exemption is very broad in its interpretation and unclear when it is applied to domestic care services, and for this reason the U.S. Department of Labor is considering altering these regulations to clarify and narrow the scope of the companionship exemption (Shierholz, 2013). These

changes have helped to ensure that domestic workers are entitled to some of the most basic rights enjoyed by the vast majority of workers in other industries.

Along with the progress that has been made to protect workers in the domestic care service industry, there have been important legal developments related to the FLSA and NLRA that have affirmed the rights of undocumented workers. The U.S. Supreme court determined in its 1984 decision for *Sure-Tan, Inc. v. National Labor Relations Board* that undocumented workers are entitled to protection under the NLRA, meaning that they have the right to collectively bargain and form unions (Lee & Shimabukaro, 2013). This case involved a leather pressing company that contacted the Immigration and Naturalization Service (INS) to investigate the legal status a group of undocumented workers at their company who had voted as part of a union election that the employer was opposed to. The Court ruled that since the NLRA clearly states that the term ‘employee’ was explicitly defined as including “any employee subject only to certain specified exceptions,” and undocumented workers were not among the categories of workers that were deemed to be exceptions, then the rights of the NLRA extend to these workers regardless of their legal status (Lee & Shimabukaro, 2013). Based on similar reasoning and textual interpretation, the U.S. Court of Appeals for the Eleventh Circuit found in 1988 in *Patel v. Quality Inn South* that the rights afforded in the FLSA also apply to undocumented workers because they were not explicitly excluded from the definition of an employee under this particular law (Lee & Shimabukaro, 2013). While these decisions did not directly involve domestic workers, they have affirmed that undocumented workers are entitled to the same basic protections as other workers. This is an important

step because undocumented workers are the most vulnerable group within the historically exploitative domestic care services industry.

Currently domestic workers are covered under the Federal Unemployment Tax Act, which provides assistance to workers that become unemployed granted that they meet some specific criteria. Employers of domestic workers must pay an unemployment tax, not to be deducted from the employee's wages, if they have paid at least \$1,000 in wages in cash "during any calendar quarter in the calendar year or the preceding calendar year" (26 U.S.C. § 3306) (NDWA). Similarly, domestic workers are generally covered by the Social Security Act granted that they are not under the age of 18 or an undocumented worker, which entitles them to benefits when they reach retirement age or become disabled (NDWA). These are additional examples of important protections for domestic workers that extend the safety net granted to other workers in times of need.

While domestic workers and their advocates have made significant strides in the effort to extend federal labor rights to apply to this category of workers, they are still excluded from important federal laws that prohibit discrimination and harassment. The primary reason that domestic workers are excluded from these laws is that they only apply to employers that employ a certain number of workers, and given that domestic workers are typically individually contracted, the protections do not apply to them. This exclusion is not solely the result of racism and discrimination, but was also meant to protect small businesses from the added costs that would be incurred by being held to some of these provisions. For example, Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against workers based off of the religion, national origin, race, or gender. However; it only applies to employers that have fifteen or more

employees and would therefore not be interpreted to protect domestic workers (NDWA). The Americans with Disabilities Act, the Age discrimination Employment Act, and the Family and Medical Leave Act, each only apply to employers that have a minimum of 15 workers on their payroll (NDWA). Additionally, the Occupational Safety and Health Act (OSHA), a vital piece of legislation that establishes minimum standards in the workplace for health and safety, explicitly excludes workers who perform “domestic household tasks such as house cleaning, cooking, and caring for children” (29 C.F.R. §1975.6) (NDWA). These examples illustrate the ways in which domestic workers remain unprotected from serious issues like abuse and discrimination on the job, occupational injuries, and various forms of harassment. While domestic workers have obtained some of the important, basic federal labor rights, these exclusions represent significant gaps between the rights afforded to domestic workers and their counterparts in other industries.

#### STATE LAW AND DOMESTIC WORKER ADVOCACY

As has been illustrated, significant gaps remain in federal laws protecting domestic workers. Generally, this is where state governments factor in; to meet the needs of citizens in circumstances where federal laws fall short of providing adequate protections. Much of the change that occurs to important areas of law, including labor rights, often begins at the state level through state policies and court proceedings. It is for this reason that domestic workers have been organizing over the last few decades to push for the passage of state legislation that explicitly protects domestic workers. This effort is necessary because, like federal labor laws, many of the state labor laws exclude domestic workers by default because they only apply to employers that have a minimum number of

employees. Domestic workers and their associated advocacy organizations have organized in different individual states to push for focused legislative changes to state labor laws. The following are examples from three states where domestic worker advocacy efforts have been successful in achieving legislative changes that afforded new rights to domestic workers.

### ***New York***

In 2009 New York became the first state to pass domestic workers' rights legislation with the passage of the Domestic Workers Bill of Rights, the first law of its kind that explicitly granted labor rights to domestic workers. New York state is home to the second largest number of domestic workers in the country, behind California, as the industry has been on the rise over the last several decades (NDWA, 2012). According to estimates based on the most recent and available data from the 2012 census, there are over 230,000 domestic workers in New York. Of these workers, approximately 32,591 (13.9%) perform housekeeping duties, 36,637 (15.7) are employed as nannies, and 163,925 (70.3%) are direct care aides, or those who care for the elderly and the disabled (NDWA, 2012). A survey of domestic workers in 2004 was conducted by Domestic Workers United (DWU), a nonprofit organization of Latina, Caribbean, and African domestic workers in New York who work together to advocate for labor rights. This survey found that the number of domestic workers in New York City increased by 24% from 1990 to 2000, while the overall workforce in New York increased by only 10% during that same period (Domestic Workers United, 2006). Additionally, this study found that there were over 91,000 domestic workers employed in New York City in 2012, which represented 25% of the total labor force for the city (NDWA, 2012). This data not

only reflects the rising demand for household labor in New York, but also the rapid growth of the industry and in turn the domestic worker population in the state.

Given the fast expansion of the industry, and fitting with national trends, the domestic workforce in New York is largely made up of immigrant workers. The participants of the DWU study were comprised of workers from 42 different countries, 76% of whom were not U.S. citizens, and 95% were women of color. In contrast to the diversity of the domestic service workforce, 77% of the participants' employers were white (Domestic Workers United, 2006). The racial disparity between workers and employers, along with the fact that most of the workers were immigrants, underscores the need for legal protection for this exceptionally vulnerable population against harassment, discrimination, and abuse by employers.

Many of the domestic workers in New York, like others across the country, have faced pervasive issues from wage theft and being grossly underpaid, to threats and abuse at the hands of their employers. Discrimination and exploitation of these workers went largely unnoticed and unpunished, leading to the start of a grassroots movement to advocate for basic legal protections for domestic workers (Domestic Workers United, 2006). In November of 2003, the DWU hosted a town hall-type of convention for domestic workers in New York to come together to share their experiences and grievances, and to collaborate on their vision for the future of the domestic labor industry. This ultimately led to the development of a legislative proposal to address their needs and ensure their right to the labor protections afforded to workers in nearly every other industry, or what would eventually become the Domestic Worker Bill of Rights (Domestic Workers United, 2006). This successful advocacy effort and the legislation it

resulted in would go serve as a model for organizers in other states, and helped pave the way for the passage of similar state laws in subsequent years.

### ***California***

Governor Jerry Brown of California signed the Domestic Worker Bill of Rights into law on September 26, 2013, and the law went into effect beginning January 1, 2014. This legislation is particularly important for the state given that California has the highest number of workers employed in the domestic care service industry in the U.S., more than 334,000 (NDWA, 2012). At this time, the total number of people employed in California was just under 18.5 million, meaning that domestic workers made up less than 2% of the total state labor force in 2012 (NDWA, 2012). It is important to note that this number was estimated based off of the most recent and available data, which was the 2012 census, and therefore this figure may likely be an underestimate. The UCLA Institute for Research on Labor and Employment performed an analysis in 2010 of data from the American Community Survey 2006-2008, and found that 66% of domestic workers in California were employed in some type of housekeeping capacity, while 12% were employed as nannies and 21% were employed as home help aides (Appelbaum, 2010). This analysis also found that 73% of domestic workers in the state at the time were foreign-born, 67% were Latina, and 93% were female. Additionally, 54% of women in the domestic service workforce were the primary income earner for their families, a statistic that highlights the impact that low wages have on domestic workers and their families (Appelbaum, 2010). As was the case with New York, the demographic makeup of the domestic care industry in California highlights the vulnerability of this population of workers, and in turn the need for protective legislation to ensure their rights.



The ultimate passage of the Domestic Worker Bill of Rights in California was the result of a multi-year effort by advocates who faced many roadblocks along the way. Beginning in the 1990s, domestic worker advocates began organizing and coordinating efforts with various immigrant rights organizations in the San Francisco and Los Angeles areas (Shah, 2014). The majority of these organizations employ a grassroots approach to advocacy and are membership-based, meaning that they operate similarly to a union and are comprised of predominantly Latina and Filipina domestic worker members. “These organizations focused on worker leadership and economic self-sufficiency by creating job training programs, establishing worker collectives or referral agencies and providing a social and cultural space for personal and political empowerment” (Shah, 2015). Starting in 2005, several of these groups joined together to form coalitions with the purpose of pushing for legislative changes that would end the exclusion of domestic workers from state labor regulations and rights, and worked tirelessly over the next ten years to achieve this goal (Shah, 2015). This determined and enduring grassroots effort was integral to the issues and voices of domestic workers reaching the state government, and to ultimately forcing the state legislature to address the problems of this unregulated industry.

The domestic workers rights legislation was originally proposed and passed by the state legislature in 2006, but was vetoed first by Governor Schwarzenegger, and again by his successor Jerry Brown in 2012 (Bufkin, 2012). In both veto decisions, the Governors cited concerns about the economic impact on employing families, particularly disabled and elderly people. Additionally, they expressed concern over potential lawsuits that these employers would have to face if it was found that they violated the new regulations (Shah, 2014). Other questions raised in the veto memos included whether the

increased costs would make care services unaffordable for families struggling to provide care for family members, and whether the costs associated with providing overtime pay would in turn lead to a decrease in the demand for domestic care jobs or push the industry “back underground” (Bufkin, 2012). These concerns cited by the Governors reflected those expressed by large corporations, primarily home-health agencies that employ home care workers for the elderly and disabled (Shah, 2015). The effect of the economic concerns expressed by the Governors and companies related to the domestic care industry was ultimately seen in the legislative process and how important provisions were removed before the law was eventually passed.

When the Domestic Worker Bill of Rights was initially introduced to the California State Legislature in 2006, it featured all of the same provisions featured in New York’s law, ranging from the right to paid vacation to regulations about notice of termination (Shah, 2015). During the legislative process, the CA bill was able to make it through the Senate Labor Committee and the State Assembly with the original provisions intact; however, once the bill reached the Senate Appropriations Committee, it was stripped of all of its provisions except for those dealing with overtime issues (Shah, 2015). In the State Assembly’s final analysis of the bill, it was noted that opponents, particularly the California Association for Health Services at Home (CAHSAH) and other home-health companies, argued that these new regulations would create a significant financial burden due to the increased labor costs. These companies argued that their ability to provide care for their clients at an affordable rate would be negatively impacted, making home care unaffordable for elderly and disabled clients in need (Shah, 2015). This strong lobbying effort by home health companies was ultimately successful

in removing the majority of the substantive provisions of the law, however; the domestic worker advocate coalition was not deterred and continued to fight.

The coalition of domestic worker advocates and organizers focused their efforts on winning the right to overtime, as they felt that this particular provision was one of the most vital to improving the working conditions for domestic workers. To achieve this, the coalition launched a field campaign to help mobilize support for convincing Governor Brown to approve the bill. This campaign included the coalition securing key meetings with the Governor's staff where they were able to make their case for the importance of overtime wages for domestic workers (Shah, 2015). Eventually, the hard work of the grassroots campaign paid off, and Governor Brown signed the Domestic Worker Bill of Rights into law on September 26, 2013 (Shah, 2014). The law officially went into effect on January 2014, and will "sunset" or expire on January 1, 2017 unless the law is extended by the legislature, or if the "sunset" provision is removed (Shah, 2014). Though the majority of the important provisions ensuring rights such as rest breaks and protection from discrimination were removed from the law, the adoption of the law was a victory for the advocates and coalitions that had worked for several years to extend labor rights to domestic workers in the face of strong corporate opposition.

### ***Oregon***

Oregon's Domestic Workers' Protection Act, or SB 552, was enacted in 2015 and is the most recent state legislation for domestic worker protection in the nation. The passage of this law is an interesting case, as Oregon's domestic worker population is relatively low compared to other states, especially when compared to New York and California. The low population of these type of workers is also likely one of the reasons that there is limited available demographic data about domestic workers in Oregon. The

data that is available from a government conducted population survey from 2012 shows that there were 27,091 domestic workers in Oregon at that time, which represented only 1.3% of the national total (NDWA, 2012). Though it is not clear what the actual number is, as it was estimated by domestic worker advocacy groups in the state that there are only around 10,000 domestic workers, and this number was used by the state legislature during its deliberations over the domestic workers rights bill (NDWA, 2012). In contrast, California and New York are the two states with the largest domestic worker populations, both of which are over 9 times as large as Oregon's (NDWA, 2012). Nonetheless, the law was eventually able to pass after facing similar political challenges as its counterpart in California, and this success was largely credited to a strong grassroots effort to win protections for domestic workers.

The bill was originally introduced to the Oregon State Legislature in 2013, and was narrower in scope than New York in terms of the provisions it included. Some have argued that the law was written primarily to ensure the rights of nannies (Bapat, 2013). The bill narrowly made it through the state House before it was eventually voted down in the Senate amid questions of whether these type of workers should be entitled to labor protections and overtime pay. State Representative Sara Gesler sponsored the bill and stated after it was voted down said that, "Some legislators raised concerns about whether they'd have to still pay their nanny if she comes to Disneyland to care for the children and she is given Mickey Mouse ears" (Bapat, 2013). The concerns raised by Oregon's state legislators were similar to those of the opponents to the California bill, and centered around the potential effects of an increased cost that would be incurred by employers. Additionally, the first effort to pass the legislation was primarily made by Rep. Gesler

and her allies in the House, and did not include enough grassroots support and mobilization of the domestic workers and their advocates in the state. This element that was missing in Oregon had been essential to the successful passing of similar legislation in New York and California, as both states had seen strong and organized campaigns by domestic workers and advocacy organizations.

Another factor that harmed the first effort in Oregon was timing, something that can have a real impact on the political feasibility of a particular policy. In 2013 there were several other important pieces of legislation related to immigrants and their families being deliberated in the state legislature, as well as other progressive issues like sick leave and automatic voter registration as well as tuition equity for undocumented students and driver's licenses for undocumented immigrants in the state (Bapat, 2013). This could explain the lack of political support amongst state representatives, as well as immigrant advocacy groups, given that there were other important policies that they were mobilizing behind that were also important for immigrants and their constituents in the state. However, as other states like California, Hawaii, and Massachusetts passed domestic worker legislation, there was still hope for success in Oregon.

Two years later, in June 2015, the bill was finally passed and signed by Governor Kate Brown. Learning from their previous mistakes, the bill's sponsors were able to achieve support from advocacy groups who provided testimony in favor of the bill to the state legislature during deliberations (Bapat, 2013). As a result of the increased support, the bill was passed with more expansive provisions than the previous attempt and more closely resembled the New York law. The new law officially went into effect on January 1, 2016, and the Oregon Bureau of Labor Industries (BOLI) is tasked with adopting rules

to implement the new regulations and provisions (Rede, 2015). Additionally, the BOLI will use its technical assistance program to help educate employers and the general public about the new regulations and how they apply. Charlie Burr, a spokesman from BOLI stated that, “The bill closes a loophole in civil rights and wage-and-hour protection so any person who is a victim of discrimination or sexual violence or is not getting their wages will have remedies” (Rede, 2015). Given that this law is significantly more expansive than its counterpart in California, while also having a significantly smaller domestic worker population, it will be interesting to compare the results in both states and the long-term effects on the lives of domestic workers.

#### CROSS-STATE COMPARISON OF PROVISIONS

**Table 1** below describes each of the three state’s laws related to domestic worker labor rights, and is organized by the provision to illustrate the comparison between the laws and their respective features. Under both New York and Oregon’s laws, all employees that work in the domestic care services industry are included under its protections. This includes those who care for children or the elderly in the employer’s home, as well as those who perform cooking, cleaning, maintenance, and gardening duties. However, the law does not apply to workers who are employed on an occasional basis such as babysitters or landscapers. California’s law is more restrictive in the sense that the protections only apply to domestic workers that fall into the category of a personal attendant. The law states, “A domestic worker is considered a personal attendant when 80% or more of their work is solely devoted to the care of an individual such as children, the elderly, and the disabled” (CA § SB 241). In effect, this means that domestic

workers that are primarily housekeepers or who act as both caregivers and housekeepers are excluded from the protections provided by the law.

New York and Oregon's laws are nearly identical on their provisions for overtime wages, with both stating that domestic workers are entitled to 1.5 times their regular pay rate once they have worked over 40 hours during a single workweek, or 44 hours if the employee lives in the employer's home. (Need to clarify the exception for traveling and medical emergencies in Oregon's law). Under California's law, domestic workers that fall into the category of personal attendant are entitled to overtime wages at 1.5 times their regular pay rate after they have worked over 9 hours in a single day, and after 45 hours worked in a single workweek. It is important to note that the only right guaranteed to domestic workers under California's law is overtime wages. Nearly all of the other provisions that were proposed in the original draft of the legislation were removed by the state legislature in the various committee hearings during the adoption process.

New York is the only state that provides explicit protections and guidelines that guarantee the payments for domestic workers. The law states that employees must be paid on a weekly basis and that they cannot make any deductions for income taxes, Social Security, Medicare, health benefits, or any sort of automatic saving plan without the prior explicit consent of the employee. Additionally, employers are required to keep detailed payroll records for all payments that include number of hours worked, the amount paid in wages, and deductions made, and the method of payment to the employee. Neither California nor Oregon's laws make any explicit reference to payment guarantees and regulations like those laid out by New York's law. New York is also the only state that

explicitly extends unemployment and worker's compensation rights to domestic workers, consistent to the standards set by the Fair Labor Standards Act.

Both New York and Oregon include provisions that guarantee domestic workers rest breaks and paid leave, a protection that is vital for domestic workers given the nature of their work. Both Oregon and New York's laws state that domestic workers are entitled to at least 1 rest day (24 consecutive hours) per week. If a domestic worker agrees to work on their day off, they must be paid at the overtime wage rate. New York stipulates that a worker is entitled to at least 3 days of paid leave after one consecutive year of work for the same employer. Oregon's provision for paid leave is very similar, however it requires that the employee have worked an average of at least 30 hours per week during the prior year for their employer to be entitled to paid leave.

Additionally, Oregon's law states that domestic workers who live in the home of their employer must be provided at least 8 consecutive hours of uninterrupted rest within each 24 hour period. Employers must provide adequate space and living conditions for the employees living in their home, and the domestic workers must be allowed to cook their own food within the home. New York has no explicit protections for living conditions or uninterrupted sleep for live-in employees. The original version of the domestic worker legislation in California included comprehensive guarantees for rest breaks and living conditions for live-in domestic workers, however these provisions were removed during the legislative process.

New York's Domestic Workers Bill of Rights includes guidelines for termination and severance, though these provisions are absent from California and Oregon's laws. New York requires that employers give at least 14 days' written notice to employees



**Table 1.** Domestic Worker Legislation Comparison

	<b>CALIFORNIA</b>	<b>OREGON</b>	<b>NEW YORK</b>
<b>Bill Number Year</b>	SB 241 2014-2017 (Bill “sunsets” in 2017 in order to review and update the law)	SB 552 2015	S02311E / A01470B 2009 (First in U.S.)
<b>Name of Legislation</b>	Domestic Worker Bill of Rights	Domestic Workers’ Protection Act	Domestic Worker Bill of Rights
<b>Workers included</b>	Only domestic workers that are “personal attendants.” A domestic worker is considered a personal attendant when 80% or more of their work is solely devoted to the care of an individual (children, the elderly, and the disabled)	All domestic workers	All domestic workers

<p><b>Overtime Wages</b></p>	<p>After 9+ hours in 1 day, 45+ hours in 1 workweek</p> <p>Pay = 1.5 x regular pay rate</p> <p>Excluded from this provision:</p> <ul style="list-style-type: none"> <li>• Personal attendants who provide domestic services through the In Home Support Service (IHSS) program</li> <li>• Personal attendants who provide domestic services through Department of</li> <li>• Developmental Services pursuant to the Lanterman Developmental Disability Services Act (DDS)</li> <li>• Casual babysitters</li> <li>• Close family members such as parent, grandparent, spouse, sibling, child</li> </ul>	<p>After 40+ hours in 1 workweek, or 44+ hours if domestic worker lives in home of the employer</p> <p>Pay = 1.5 x regular pay rate excluding traveling and medical emergencies</p>	<p>After 40+ hours in 1 workweek, or 44+ hours if domestic worker lives in home of the employer</p> <p>Pay = 1.5 x regular pay rate</p>
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<p><b>Payment Guarantees</b></p>	<p>No</p>	<p>No</p>	<ul style="list-style-type: none"> <li>• Employees must be paid each week</li> <li>• Employers cannot deduct money for income tax, Social Security, Medicare, health insurance, or automatic savings plans without the permission of the employee</li> <li>• Employer must keep a record of all payments, and the method of payment (cash, check, or direct deposit)</li> <li>• Employer must keep detailed payroll records including: <ul style="list-style-type: none"> <li>○ Hours worked</li> <li>○ Wages</li> <li>○ Deductions</li> </ul> </li> </ul>
<p><b>Rest Breaks</b></p>	<p>Not guaranteed for personal attendants, provision was proposed but removed during legislative process.</p> <p>All other domestic workers that are not personal attendants have the following rights:</p> <ul style="list-style-type: none"> <li>• 10 minutes rest period for shifts from 3 ½ to 6 hours in length</li> </ul>	<ul style="list-style-type: none"> <li>• At least 1 rest day per week (24 consecutive hours). If worker agrees to work on rest day, employer must pay overtime wage rate</li> <li>• If worker worked an avg of 30+ hours per week during previous year,</li> </ul>	<ul style="list-style-type: none"> <li>• At least 1 rest day per week (24 consecutive hours). If worker agrees to work on rest day, employer must pay overtime wage rate</li> <li>• Worker who average over 20 hours a week</li> <li>• Need to fix this section, make own row for paid leave, NY allows paid holidays</li> </ul>

	<ul style="list-style-type: none"> <li>• 20 minutes total rest periods for shifts of more than 6 hours and up to 10 hours</li> <li>• 30 minutes total rest periods for shifts of more than 10 hours and up to 14 hours</li> <li>• Authorized rest periods are counted as hours worked and must be paid</li> <li>• Employer must pay one additional hour of pay at the employee's regular rate of pay for each work day that there is a rest break violation.</li> <li>• 30 minute unpaid meal break for work period of more than 5 hours; a second meal period of 30 minutes if work period is more than 10 hours in a day</li> <li>• An employee may agree in writing to take an on-duty meal period only when the nature of the work prevents the employee from being relieved of all duty. The employee can revoke the agreement anytime. The on-duty meal period must be paid</li> </ul>	<p>worker must be provided 3+ days of paid personal leave</p> <ul style="list-style-type: none"> <li>• If worker lives in home of employer: <ul style="list-style-type: none"> <li>○ They must have at least 8 consecutive hours of rest within each 24 hour period.</li> <li>○ Space and adequate conditions for uninterrupted sleep must be provided by employer</li> <li>○ Worker must be allowed to cook own food</li> </ul> </li> </ul>	
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	<ul style="list-style-type: none"> <li>• An employee who works only 6 hours per day or less can waive the meal period</li> <li>• If an employee's total work time is no more than 12 hours per day, a second meal break may be waived by as long as the first meal period was not waived</li> <li>• Employer must pay one additional hour of pay at the employee's regular rate of pay for each work day that there is a meal break violation</li> </ul>		
<b>Passport Restrictions</b>	No	Yes. Employer is restricted from keeping the worker's passport, whether voluntary or otherwise	No
<b>Hostile Work Environment Restrictions</b>	No	Yes. Clearly defined, specific restrictions that protect against sexual harassment and coercion, physical and verbal abuse, and hostile work environments	Yes. This law places domestic workers under the protection of the existing New York State Human Rights Law

<b>Unemployment and Worker's Compensation Rights</b>	No	No	Yes. Domestic workers are now included in existing provisions for both Unemployment Insurance and Worker's Compensation
<b>Guidelines for Termination and Severance</b>	No	No	<ul style="list-style-type: none"> <li>• Workers are entitled to two week notice before termination</li> <li>• Employers are obligated to provide back pay upon failure of proper notice</li> </ul>
<b>Harassment Protections</b>	No. California's Fair Employment and Housing Act only prohibits employers with five or more employees from discrimination on the basis of race, sex, religion, national origin, pregnancy, age, disability, marital status, sexual orientation, gender identity, or on the basis of an English only policy	Yes. Protections against any type of harassment based on race, gender, religion, disability, sexual orientation, or national origin	Yes. This law places domestic workers under the protection of the existing New York State Human Rights Law. This includes protections against any type of harassment based on race, gender, religion, disability, sexual orientation, or national origin

<b>Protection from Retaliation</b>	No	Yes. Protections from retaliation or discrimination by the employer due to a worker inquiring about these protections, or for filing a complaint with the labor board for violations of this legislation	No explicit provision, but this may fall under protections against discrimination
<b>Consequences for Noncompliance</b>	No. Proposed, but removed during legislative process	Yes. Outlines the consequences for the violation of these labor rights by employers	Yes. Outlines the consequences for the violation of these labor rights by employers
<b>Legal Remedies Outlined</b>	No. Proposed, but removed during legislative process.  However, the existing California Wage Theft Prevention Act provides protection for all private sector employees against wage-related labor code violations, and domestic workers can file complaints and seek remedies under the WTPA.	Yes. Outlines procedure for filing a complaint, and the potential legal remedies	Yes. Outlines the consequences for the violation of these labor rights by employers

prior to termination. If employers fail to give adequate notice, the law requires them to provide benefits and back pay to the employee “for the period in which the employee was entitled to notice at the average regular rate of compensation received by the employee during the last three years of his or her employment, or the employee’s final rate of compensation, whichever is higher” (N.Y. § S02311E).

New York and Oregon’s laws include provisions that protect domestic workers from various types of abuse and discrimination in the workplace. Oregon explicitly restricts employers from keeping their employee’s passports in order to further protect workers from coercion and threats by employers. Oregon’s law clearly defines specific restrictions on any sort of harassment and coercion, physical and verbal abuse, and hostile work environments. Additionally, the law explicitly restricts any sort of harassment on the basis of gender, race, religion, disability, sexual orientation, or national origin, as is consistent with the federal Fair Labor Standards Act. New York’s law provides the same restrictions against all forms of harassment and discrimination by including domestic workers in its existing New York State Human Rights Law. The California Fair Employment and Housing Act, which prohibits all types of discrimination and harassment, is a state law that only applies to employers who have 5 or more employees. This restriction in the Fair and Employment Housing Act means that most domestic workers would not be protected as they often work for employers who have less than 5 employees, particularly if they are not employed by a domestic service agency. These anti-harassment protections are also noticeably absent from California’s Domestic Worker Bill of Rights, and it is likely that lawmakers excluded this provisions because existing state law prohibiting harassment doesn’t cover these type of workers. However,



this is another glaring omission from California's domestic worker legislation, as the original intent of the law was to provide legal protections to domestic workers precisely because they were previously excluded from existing state labor regulations.

### ENFORCEMENT OF DOMESTIC WORKER LABOR RIGHTS

Each of the states with legislation granting labor rights to domestic workers have similar models for enforcing the rights outlined in the respective policies. This model places the primary burden on individual domestic workers to initiate the enforcement process by either filing an administrative claim with a department of labor, or by initiating a civil lawsuit against a particular employer in order to receive a remedy for labor violations (Boris, Jokela, & Uden, 2015). Generally civil litigation has resulted in more favorable outcomes for employees and has yielded higher financial remedies than administrative rulings made by labor departments. New York and California have Wage Theft Prevention Acts (WTPA), which serve to clarify and facilitate better enforcement of labor laws by outlining clear processes for filing administrative complaints with labor departments as well as ways to initiate and access the litigation process for enforcing laws and seeking remedies. However, it is important to note that budgetary decisions and trends in employment in particular states affect the way that labor laws are enforced, with an overall shift towards privatized processes for seeking remedies through civil litigation and mandatory arbitration clauses within contracts, rather than through the collective bargaining process or administrative rulings through labor departments (Boris, Jokela, & Uden, 2015). The following section will provide details on how each of the states handle the enforcement of labor laws, and will provide details about the procedures for filing grievances and the potential consequences for employers who violate these laws.

### ***New York***

There are two primary methods for processing labor violation claims in the state of New York: filing claims with the Department of Labor using their administrative and mediation services, or by filing a civil lawsuit against an employer. New York law requires domestic workers to initiate the enforcement and remedy process for labor violations by employers on an individual basis (Boris, Jokela, & Uden, 2015). Any violations of the provisions included in the Domestic Worker Bill of Rights (DWBOR) can result in penalties or civil fines assessed either through the Department of Labor or through civil court judgements. Under New York's Wage Theft Prevention Law (WTPA) enacted in 2014, written contracts and detailed employment documentation are required for all workers, including domestic workers. Even though this law was not a direct result of the DWBOR, it can be used in conjunction with the DWBOR to enforce labor rights for domestic workers. The statutes of limitations for civil litigation involving labor rights violations is four years under current New York law (Boris, Jokela, & Uden, 2015).

### ***California***

California has similar processes for seeking remedies for labor violations as New York, with the primary methods being civil litigation, and administrative processes through the Department of Labor, a sub-agency of the California Labor Commission, and the Department of Industrial Relations (DIL). The DIL is the primary state agency that is responsible for enforcing wage claims and for providing information to district offices of the Department of Labor. Like New York, domestic workers in California are required to initiate the civil litigation process or file a complaint with the Department of Labor on an individual basis. However, because the CA Domestic Worker Bill of Rights has a sunset date of 2017, the enforcement options are limited to this restricted timeframe (Boris,

Jokela, & Uden, 2015). Given this restriction, the California Labor Commission is also able to enforce claims that specifically deal with wages through California's WTPA, which went into effect in 2012 without any exceptions made for domestic workers. California's WTPA is identical to New York's, and requires employers to provide workers with documents that state payment information such as wage rates, when payments will occur, overtime rate calculations, etc. The law criminalizes "willful violations" of labor laws that include not paying an employee their due wages, and outlines the penalties that employers can face if they are found in violation of labor laws related wages and payments (Boris, Jokela, & Uden, 2015).

The WTPA applies to all private sector workers, the only exceptions being those who are employed directly by the state or the government at any level, political subdivisions, and other specific circumstances where a certain category of workers are exempt from overtime wages as outlined by a state statute. The fact that the WTPA is supposed to apply to all private sector workers could possibly be an explanation for why California's Domestic Worker Bill of Rights does not include specific information about how domestic workers can go about filing claims against employers for labor code violations, and what penalties employers could potentially face if they are found to be in violation of state labor laws. Therefore, it can be presumed that domestic workers can file claims under this law, however; this remains unclear due to a lack of language explicitly addressing this issue.

### ***Oregon***

Like New York and California, the primary methods for the enforcement of labor laws in Oregon are employee-initiated claims filed through civil litigation against an employer or filed through the Commissioner of the Bureau of Labor and Industries.

However, one distinctive difference is that Oregon does not currently have wage theft protection legislation (Boris, Jokela, & Uden, 2015). While this does not directly impact the ability of employees to seek remedies for labor violations committed by employers, it is one less layer of protection for wage-specific violations provided by state law

### CONCLUSION

The systematic and intentional exclusion of domestic workers from most federal and state labor laws and regulations reflect a long history of racism and discrimination. Domestic workers have been organizing for decades and fighting hard to have their labor recognized, and to be afforded the same rights that workers in nearly every other industry in the United States enjoy. These grassroots campaigns have resulted in the passage of legislation in five states that extend various labor protections and rights to domestic workers, as well as a means to seek a remedy when they are mistreated or discriminated against on the job. These laws are relatively recent, and the enforcement of them is something that is still riddled with challenges. The current structure that depends on workers initiating complaints on their own behalf is problematic given that this system is somewhat antagonistic for an industry where trust is vital and relationships with employers are more intimate than in other industries. It remains to be seen how effective these laws will ultimately be in the face of the many challenges associated with actually enforcing these laws and holding employers accountable to the new regulations. However, at the very least they explicitly afford basic labor rights for a highly vulnerable population and establish a basis for which workers can file complaints and seek legal remedies. Additionally, the passage of these laws and the advocacy surrounding them

have brought some light to an industry that largely operates in the shadows, and has created more public awareness about serious issues faced by domestic workers.

*“My job began as early as 5:45am, bathing and feeding the brother and preparing him for adult daycare. Then it was time for me to clean the whole house. During the summers, I kept the garden. I lived with the family and worked Monday to Sunday, seven days a week. My contract said I was supposed to be paid \$400/week for 40 hours of work. Instead, I was paid \$200, and worked more than a hundred hours a week, with no days off. Sometimes my employer allowed me some time off to see friends in the city, but that was only a few times each year. One day, after 3 months of working every day, I asked for time off to visit friends. At first she said she would give me some time off, but then she kept making excuses for why I had to keep working. She said there was too much work to do, and kept reducing the number of days she said I could take. Then one day the family had visitors. I cooked and set the table. I was so tired from working such long hours I put the salad fork on the wrong side. The next day, my boss was so mad. She said I embarrassed them in front of their friends and that I didn’t do my job right. She gave me a book and told me to study about table-setting.”*

WILMA Housekeeper and Nanny in Manhattan, from the Philippines  
(DWU, 2006, p. 15)

## **CHAPTER V**

# **LIMITED REGULATIONS AND RIGHTS: IMPACTS ON THE LIVES OF DOMESTIC WORKERS**

*“One day, her son locked me in the basement. As I tried to call out for help, I fell and I injured myself. The nanny found me and called an ambulance. At the hospital, my employer said to me, “I should have left you for dead, no one knows you are here anyway.” At that moment, I realized, “I have to get out of this place.” When we returned home, I was not permitted to leave and I was told I must work even though I was still recovering from my injuries. The same day I returned from the hospital, I was also cleaning. I also realized then that my employer was right: if something more terrible happened to me, who would know? Who would help?”*  
*“JUDY” Housekeeper in Long Island, from Malaysia (NDWA, 2012, p. 19)*

### INTRODUCTION

The historical struggle of domestic workers against discrimination and to have their labor recognized as “real work” dates all the way back to the times of slavery in the U.S. The domestic service industry has historically been comprised of women of color, and the legacy of racism along with the informality of the industry has contributed to domestic workers and their labor being largely regarded as “invisible.” Given that the majority of domestic workers are female immigrants and women of color, the dynamic between employer and employee within the domestic care industry reflects and reinforces racial and gender power dynamics exhibited in U.S. society (Appelbaum, 2010). The unique nature of domestic work, along with these historical racial dynamics, cause the workers employed in the industry to endure abuses and expectations that are not found in other occupations. This despite the efforts of advocates and state laws described above

Domestic work is performed behind closed doors, absent regulation by federal and state governments, and by a subset of workers in the U.S. that are the most vulnerable to discrimination and exploitation. This chapter will explore the different ways the lives of these workers are affected by the domestic service industry, and the various

challenges and abuses they face in the workplace on a daily basis. Using government data, survey results, and firsthand accounts recorded in interviews with domestic workers, this chapter will break down the different issues endemic to the domestic service industry and analyze the injustices that are unique to workers in domestic service occupations.

## DATA: DOMESTIC WORKERS AND THEIR GRIEVANCES

### ***1. Demographics of Domestic Workers***

As discussed, descriptive and demographic data that is representative for the domestic worker population is very limited, so it is difficult to accurately measure the total number of domestic workers currently working in the United States. The best available estimate calculated in 2012 using data from the American Community Survey (ACS) indicated that there were roughly 2 million domestic workers, which represented 1.6% of the national workforce (Shierholz, 2013). However it should be noted about ACS data on domestic workers that,

These ACS figures do not take into account workers who are hired through placement agencies or those who work for private cleaning companies. Nor do they count some types of workers who could be considered domestic workers, such as cooks or chauffeurs. Furthermore, categorical overlap and fluidity complicates how domestic workers are counted. For example, a caregiver to an elderly person might perform many of the same functions as a home health aide, and vice versa (NDWA, 2012, p. 10).

The domestic care services industry is rapidly growing, increasing by nearly 10% between 2004 and 2010 according to ACS data (NDWA, 2012). Based on projections created by the Bureau of Labor Statistics (BLS), it is predicted that in-home occupations will grow faster than other occupations in the economy, with an estimated 53.2% increase between 2010 and 2020 versus just 14.3% for all other occupations. Additionally, U.S. Census Data shows that there was a 24% increase in the size of the domestic care



industry between 1990-2000 in New York City alone, while during that same period there was only a 10% growth in the overall workforce of the city (Domestic Workers United, 2006). This substantial increase in the domestic care services industry is nation-wide is largely due to the fact that personal care and home health aides are the two fastest-growing occupations in the U.S. economy, according to data collected by the BLS (Shierholz, 2013). It is predicted that within the domestic care services industry, the subset with the largest growth will be direct care services, which is the work of health and personal aides typically employed by agencies. Employment within this subset is projected to double within the next decade alone (Shierholz, 2013). These projections clearly show that the demand for domestic care labor is expected to continue to increase, as is the total number of domestic workers across the U.S. There are two important factors that can be linked to the rising demand for domestic labor: an aging population in the U.S. and rising income inequality. The U.S. currently has an aging population, reflected by the projected increase in demand for personal caregivers for the elderly in coming decades. Additionally, over the last several decades income inequality in the U.S. has continue to rise, and it logically follows that as the wealthiest small subsets of the population have seen their incomes rise, their demand for domestic services has also increased as they are more able to afford assistance in the home.

Domestic labor of all types is almost exclusively performed by women, primarily immigrant women and women of color. ACS data indicates that 93.1% of domestic workers are women, compared to other occupations where women represent less than half of the labor force at 47.9% (Shierholz, 2013). Looking at the data from another perspective, one out of every nine female immigrant workers who have a high school

degree or less works in the domestic care industry (Shierholz, 2013). National data provides some evidence that domestic work is racialized, as over 27% of workers in the industry are Hispanic compared to 15% of workers in all other occupations (Shierholz, 2013). Within the domestic care industry, workers who serve as maids and/or housekeepers are the most likely to be Hispanic; they represent 54.3 of this subset of workers (Shierholz, 2013). In California, data collected between 2006 and 2008 by the ACS showed that 20% of domestic workers in the state at the time were white non-Hispanic, while 73% were foreign-born (Appelbaum, 2010). Another study conducted in New York City in 2006 by Domestic Workers United (DWU) found that 95% of domestic workers who participated in the survey were women of color, and 76% were non-U.S. citizens. Interestingly, this same study found that 77% of the employers of domestic workers were white (Domestic Workers United, 2006). Though the DWU study and its counterpart in California were limited in terms of sample size compared to the ACS, these studies show that immigrant women of color make up the majority of this labor force while their employers are majority white.

Within the U.S. economy, citizenship is an important factor for workers, because with citizenship comes rights and the ability to seek a remedy when rights are violated. Domestic workers are more likely to be foreign-born than workers in other industries, as they represent 33.1% of workers within that industry versus 15.7% in all other occupations nationally (Shierholz, 2013). Additionally, the foreign-born workers within the domestic care industry are less likely to be naturalized citizens than immigrant workers in other occupations, with only 38.9% of immigrant domestic workers naturalized compared to 45.2% in other industries (Shierholz, 2013). In the DWU study

of New York City, it was found that 76% of domestic workers in the city were non-naturalized immigrants, some of which have worker visas or green cards (Domestic Workers United, 2006). Using data from the ACS, it is impossible to determine the proportion of immigrant workers in the domestic care industry that are undocumented because this information is most often not reported or collected in government surveys. However, the NDWA study found that 47% of immigrants in their sample from 14 metropolitan areas were undocumented (NDWA, 2012). In her book *Maid in the U.S.A.*, over twenty years ago, author Mary Romero argued, “In the same way that race played a major role in positioning women in the domestic service labor market a generation ago, citizenship status has become a crucial factor in characterizing workers’ experiences today” (Romero, 1992, p. 4). This argument holds to the present and is important when considering the demographics of the domestic service industry in terms of citizenship status, because the intimate nature of domestic work already creates an increased vulnerability for workers. If a worker is undocumented, their legal status multiplies this vulnerability because they are even less likely than others within the industry to report mistreatment. Due to this reality, it is imperative to recognize that not only is the domestic services industry gendered and racialized, there also exists other levels of marginalization based on citizenship and legal status.

Given that such a large proportion of domestic workers are foreign-born, it is important to explore the reasons why these women chose to seek employment in the U.S. in order to better understand their perspective and motivations behind their work. The survey results of the DWU study found that there were a few common reasons why the workers had chosen to come to the U.S. when they asked survey respondents that

question. It was found that 33% of the domestic workers surveyed came because they were unable to support their family in their country of origin, 28% migrated because there were no employment options in their home country, and 35% of the workers cited that they migrated because they had family or friends who were already working in the U.S., as illustrated in **Table 2** (Domestic Workers United, 2006). A study conducted in the California Bay Area found that 72% of immigrant domestic workers sent money back to their families in their countries of origin, which is another important reason why these workers chose to migrate to the U.S. (Appelbaum, 2010) (Burnham, Gutelius, & Theodore, 2013). The DWU study also collected information about the occupations of the workers surveyed before they migrated to the U.S. and found that though 34% came from service and sales-based occupations, others reported that they had been business owners, financial and business professionals, lawyers, and medical professionals (Domestic Workers United, 2006). This shows workers from a wide variety of sectors in their countries of origin were affected by lack of employment, wage stagnation, and in many countries these were consequences of neoliberal policies. This in turn led to the migration of workers from diverse backgrounds and occupations who eventually ended up in the domestic care industry.

Education is another important factor that helps paint a more complete picture of who domestic workers are compared to workers in other industries, and also illustrates the disparities between these groups of workers. While most domestic workers have a high school education, they are less likely to have a high school diploma than workers in

**Table 2.** Reasons Domestic Workers came to the U.S

<b>Reasons</b>	<b>% of all workers</b>	<b>% that live-out</b>	<b>% that live-in</b>
<b>Unable to support family in home country</b>	33%	28%	51%
<b>No job options in home country</b>	28%	26%	36%
<b>Had relatives/friends already working in US</b>	35%	38%	25%
<b>To work for an employer (sponsored)</b>	5%	3%	9%
<b>War, political unrest or natural disaster in home country</b>	4%	3%	8%

compared to 8.3% of workers in all other occupations (Shierholz, 2013). As expected, domestic workers are also less likely to have a college degree with only 11.6% having one versus 33.7% of workers in other industries (Shierholz, 2013). This disparity in education between domestic workers and those employed in other industries is especially important when considering that 59% of domestic workers are the primary income earners for their families (Burnham, Gutelius, & Theodore, 2013). The California survey found that on average, domestic workers that are the primary income earners are supporting a family of two adults and two children with their wages (Burnham, Gutelius, & Theodore, 2013). Less education limits employment options as well as earning potential in the U.S. economy, on top of the limitations of being an immigrant worker, and therefore it can be seen how this would place an exceptional amount of pressure on domestic workers that are primary income earners for their families and make it extremely difficult to escape the cycle of poverty.

Demographic data of domestic workers is vital to understanding this quickly growing industry and the complex nature of the problems inherent within it. By analyzing the

economic, racial and ethnic makeup of domestic workers, along with the way that racism has been woven into labor policy, we can better contextualize the policy discussions related to this industry that already features marginalization by the very nature of the work.

## **2. *Wages***

In order to better understand the data collected on wages for domestic workers, it should be noted that for most work in other industries considered low-wage, wages are calculated hourly. However, in the domestic service industry, the most common practice is for the workers to be paid a flat weekly rate for schedules that are typically irregular and unlimited (Domestic Workers United, 2006). In its study of the domestic service industry in New York City, Domestic Workers United observed,

This practice is a unique feature of the domestic work industry; it is both a manifestation and a cause of exploitation of the workforce. It points to the legacy of servitude from which this sector emerges and a lack of respect for the work itself (Domestic Workers United, 2006, p. 17).

Based on these facts, the data on the domestic service industry provides strong evidence that some of the most pervasive problems within the industry are related to wages.

## **3. *National Data***

While acknowledging the limited nature of national data on domestic workers, the surveys administered by the BLS still provide valuable insight into the wages that those in the domestic service industry receive on average given the reliability and consistency of their survey and analytical methods. The author of the Economic Policy Institute (EPI) report Heidi Shierholz performed an in depth and complicated analysis of descriptive microdata collected through the Current Population Survey (CPS), with the goal of isolating the effect that being a domestic worker versus being a worker in other industries

has on a worker's earnings. This consideration is important due to the fact that domestic workers are more likely to come from demographic groups that already earn lower wages on average such as women, non-naturalized U.S. citizens, immigrants, racial and ethnic minorities, those with lower educational attainment, and workers without English fluency. Each of these characteristics could potentially be confounding variables for the statistical analysis of the wage data, and therefore the author of the EPI study controlled for these variables in her regression analyses (Shierholz, 2013). She explains,

In order to ascertain the true “penalty” of holding an in-home job—the difference between the wages an in-home worker receives and what she would get if she worked in another occupation—it is important to account for the fact that in-home workers have a different demographic profile than workers in other jobs. We thus turn to a regression analysis that controls for the differences in demographics between in-home workers and other workers (in particular, it controls for gender, nativity, citizenship, race and ethnicity, educational attainment, age, marital status, urbanicity, and region of the country). In other words, the results of this analysis demonstrate not the raw difference in hourly wages between in-home workers and other workers, but the difference between the hourly wages earned by an in-home worker and those earned by a similar worker in another occupation. This is the “wage penalty” of in-home work (Shierholz, 2013, p. 11).

Shierholz's findings provide evidence for the claims of domestic worker advocacy groups that the labor of these workers is being exploited within the U.S. economy in the face of little to no regulation. Her regression analysis found that the median hourly wage for domestic workers is \$10.21 compared to \$17.55 for workers in other types of occupations, which is a difference of more than 40% (Shierholz, 2013). When controlling for demographic differences, she found that domestic workers earn approximately 25% less than workers who are similarly situated and working in other occupations. This means that when the only difference between workers is that they work in their employer's home versus at another location, they receive a wage penalty of a 25% loss (Shierholz, 2013). In 2012, domestic workers who worked full-time received weekly

wages of that were more than 50% below the median weekly wages of full-time workers in other occupations. In terms of annual earnings, the median rate for domestic workers was 62.7% less than workers in other occupations at just \$12,252 per year. Within the domestic care industry, nannies received the lowest annual wages at a median rate of just \$9,000 a year (Shierholz, 2013). To put these numbers into context, it was previously stated that the average domestic worker that is the primary income earner for their family is supporting two adults and two children with their wages. According to the Department of Health and Human Services, the Federal Poverty Line for a family of 4 is equivalent to annual earnings of \$24,300, which is close to 50% higher than the median annual income for domestic workers (U.S. DHHS, 2016). The NDWA similarly found that wages within the domestic service industry are uniformly low. This study found that the median hourly wages for the participants of their survey was just \$6.15, and that over 67% of domestic workers are paid less than minimum wage (NDWA, 2012). These statistics clearly show that domestic workers are being inadequately compensated and that the problem is industry-wide, supporting the argument that the characteristics of domestic work facilitate this exploitation.

As previously discussed, domestic workers often belong to demographic groups that are more likely to face wage discrimination than other workers. This contributes to lower wages across the board for domestic workers, but this disparity can also be seen within the industry amongst domestic workers due to differences like race, country of origin, and educational background between the workers. The NDWA national study explains, “The impact of race and ethnicity on wage differentials within the domestic work industry is especially pronounced when rates of pay for specific occupations are



examined “ (NDWA, 2012, p. 20). They found that amongst their participants, the median hourly wage for domestic workers that identified as white was \$2.13 higher than workers who identified as Latina and Asian, and \$1.14 higher than workers who identified as black or African American. The researchers noted that a median wage of \$12.13 for white domestic workers is low compared to white workers in other industry, which supports the claim that low wages are endemic to the domestic service industry regardless of the race or ethnicity of the worker (NDWA, 2012). The EPI study similarly found that Latina domestic workers had the largest wage penalty, earning 17.9% less than similarly situated Latina workers in other industries (Shierholz, 2013). When examining wage differentials between race/ethnicity and occupation type within the industry, the NDWA national study found that Latina domestic workers consistently earn less than white domestic workers for each job type within the industry. The job category with the largest wage differential was nannies, where it was found that Latinas earn a median hourly wage of \$8.57 compared to white nannies who earn a median hourly wage of \$12.55 (NDWA, 2012). The data from these studies illustrate that even within the domestic service industry, racism manifests in the form of a hierarchy amongst workers and the wages that they receive.

While race explains some of the wage discrepancy in the domestic services industry, the research reflects that citizenship is another important factor that has an effect on the wages that domestic workers earn. Compared to similarly-situated undocumented workers in other industries, those who work in the domestic service industry receive wages that are 16.5% lower, representing the wage penalty for being undocumented and a domestic worker (Shierholz, 2013). **Table 3** within the domestic

services industry the median hourly wage for workers that are U.S. citizens is \$12, while the median wage is \$10 for domestic workers that are either undocumented or documented non-citizens, representing a wage penalty of 17% (NDWA, 2012). There is a pronounced disparity amongst nannies based on citizenship status, where undocumented nannies earn just \$9.86 compared to \$12.51 for nannies with citizenship, a wage penalty of 21%. The NDWA researchers found,

Latina nannies, however, have a particularly low median wage, and undocumented immigrants comprise a large share of Latinas in this occupation. Race/ethnicity and immigration status appear to intersect in this segment of the industry, creating significant disadvantages for undocumented Latinas; their median hourly wage is just \$8.31 (NDWA, 2012, p. 21).

Similarly, the EPI study found that there is a -28% wage penalty for immigrant domestic workers that work full-time and are undocumented, compared to undocumented workers in other occupations (Shierholz, 2013). These findings show that lack of citizenship is correlated with lower wages, and within an industry that already features lower wages for its workers, undocumented workers face a higher risk of being exploited and facing the consequences of inequality.

**Table 3.** Median Hourly Wages for Occupations by Immigration Status

	Nannies	Caregivers	Housecleaners	All Occupations
<b>Nativity/Citizenship</b>				
US citizen	\$12.51	\$10.19	\$11.91	\$12.00
US-born	\$12.56	\$10.30	\$12.00	\$12.00
Foreign-born	\$12.25	***	\$11.58	\$11.67
Documented Immigrants (non-citizens)	\$10.00	\$9.59	\$10.00	\$10.00
Undocumented Immigrants	\$9.86	\$8.33	\$10.00	\$10.00
<b>All Workers</b>	<b>\$11.00</b>	<b>\$10.00</b>	<b>\$10.00</b>	<b>\$10.00</b>

Another characteristic of the domestic services industry that contributes to the wage disparity between domestic workers and those in other occupations is the fact that domestic workers are more likely to be part-time than workers in other industries. While 19.7% of workers in other industries work part-time hours, almost half of the workers in the domestic services industry only work part-time hours at 47.5% (Shierholz, 2013). Additionally, these part-time domestic workers also have shorter workweeks at an average of just 32.4 hours. Within the domestic services industry, maids have the shortest average workweek of just 26.7 hours (Shierholz, 2013). Less hours per week compounded with particularly low hourly wages further disadvantages domestic workers and increases their risk of living in poverty.

Overall, the national data clearly shows that no matter what demographic group a domestic worker belongs to, how much education they have, the number of hours they work, or their citizenship status; domestic workers conclusively and consistently earn less than workers with similar characteristics and demographic profiles in all other industries in the U.S. economy. Regional data from the more localized surveys described above is consistent with national findings. In Los Angeles, it was found that over 96% of domestic workers of all types were not paid for overtime hours they were required to work. Additionally, 25% of these workers received hourly wages that were below the minimum wage set by the State of California (Appelbaum, 2010). The NDWA California study argues, “minimum wage violations are the clearest indication of the systemic problem of low pay in the industry” (Burnham, Gutelius, & Theodore, 2013, p. 11). Similarly the DWU study found that in New York City 26% of domestic workers earn wages that are below minimum wage and put them below the federal poverty line. Over half of the

domestic workers in their sample reported that they work overtime at more than 50-60 hours per week, yet 67% do not receive pay for their overtime hours (Domestic Workers United, 2006). Of the domestic workers in the DWU sample that work overtime, 43% work 50 hours a week or more, and 35% work 60 hours per week or more, which equates to an average work day of 10 to 12 hours (Domestic Workers United, 2006). The data consistently shows that domestic workers earn lower wages, many below the minimum wage, are forced to work overtime hours without compensation, and work longer hours each day. These facts are a clear indication that the labor of domestic workers is being exploited within the U.S. economy, which is facilitated by lack of regulation or legal protections for the industry that would afford basic labor rights like minimum wage and overtime pay that workers in all other industries are entitled to.

#### ***4. Employment-Based Benefits***

Employment-based benefits, or “fringe benefits” include things such as health care and pension plans provided by employers, and are vital for both the long-term and short-term economic security of workers in the U.S. economy. Lack of access to these benefits creates a large economic risk for workers, particularly low-wage workers who are less able to accumulate savings, because an injury or medical situation in the family would be financially devastating if a worker does not have access to health care in their time of need. Similarly, if an individual works for an employer “off the books,” like the majority of domestic workers do, then they do not get the opportunity to pay into Social Security. Additionally, if the worker has no pension or retirement savings, then they will face serious economic insecurity and potentially have to work further into their retirement years in order to survive. The NDWA national study found that less than 2% of the

domestic workers they surveyed reported that they receive retirement or pension benefits from their employer, and under 9% of employers actually pay into Social Security (NDWA, 2012). Similarly, the EPI analysis of CPS data found that only 7% of domestic workers have coverage under an employer-provided pension plan, compared to nearly half of similar workers in other industries at a 43.8% coverage rate (Shierholz, 2013). The report noted that even after controlling for demographic differences between domestic workers and those in other occupations to eliminate potentially confounding variables, there were large discrepancies between the two groups, and that employer-provided pension coverage was 27.5% lower for domestic workers than similarly situated workers in other industries (Shierholz, 2013). The lack of access to employment-based pensions and retirement plans places even more pressure upon domestic workers, who already receive low wages, due to the lack of a safety net or savings for the future when they reach retirement age or are no longer able to continue working. Low wages and being excluded from the opportunity to create a savings for retirement undermines domestic workers' ability to create long-term economic stability for their families and themselves.

Another important benefit for workers that can help create better financial stability is access to health care and employer-provided health insurance plans. Though many in the domestic service industry work full-time hours for their employers, they are excluded from employer-provided health insurance plans that a large portion of the labor force in the U.S. economy have access to. The EPI analysis of BLS data found that only 12.2% of domestic care workers have health insurance provided by their employers compared to 50.6% of workers in other industries. It is important to note that the majority of the

domestic workers that do have coverage are personal health aides employed by healthcare agencies, and their working circumstances tend to be different than other domestic workers who work informally without contracts and are paid under the table by employers. When controlling for demographic differences between domestic workers and workers in other industries, the researchers found that the prevalence of employer-provided health care coverage was 28.4 percentage points lower for domestic workers compared to other occupations (Shierholz, 2013). The NDWA national study found that 65% of domestic workers have no health insurance of any type, employer provided or otherwise. As a result, of the participants that reported an occupational injury in the last three years, one in five were not able to receive the medical care that their injuries required (NDWA, 2012). This data reflects the fact that lack of health insurance coverage is a pervasive problem in the domestic services industry, and that it is a problem that affects domestic workers more than workers in nearly all other occupations.

While access to health insurance coverage is a widely discussed issue in the U.S. today, most people don't think about some of the associated basic rights that the majority of workers enjoy; like the ability to even take time off to see a doctor when they or a loved one are sick or injured. Paid medical and family leave have become important policy issues in the political discourse in recent years, and an important national dialogue has begun about the importance of these benefits for workers in all industries. Given the lack of other basic benefits that domestic workers receive; it is unsurprising that paid leave would be another important benefit that domestic workers would be excluded from. The findings of the NDWA national study support this notion citing that 82% of domestic workers in their study are not granted paid leave by their employers (NDWA, 2012).

Additionally, the participants reported that only 4% of employers paid into workers' compensation insurance, meaning that if a worker has to take an extended amount of time off due to an occupational injury, they are unable to get assistance for lost income or for medical expenses through workers' compensation like workers in other industries (NDWA, 2012). This is especially problematic when considering the fact that domestic workers receive chronically low wages, so missing even a single day due to illness or injury could pose a financial consequence for the workers and their families that would be significant.

This conflict was illustrated in the NDWA findings where 76% of domestic workers reported that they were not even granted unpaid leave for injury or illness, and reported that they feared that asking their employers for any time off would put them at risk of being fired (NDWA, 2012). In fact, of the participants that had been fired by their employer, 22% reported that it was for taking time off, 20% were fired for missing work to take care of a family member or themselves, and 25% reported they were fired just because they requested to take time off. Due to these pressures, 66% of workers stated that they report to work even when they are injured, in pain, sick, and barely able to perform their duties (NDWA, 2012). The following quote from a nanny and housekeeper "Carolyn" (pseudonym granted for anonymity) from Barbados who was surveyed in the DWU study in New York shows the impact that these issues can have on the lives of workers in this industry:

"I had breast surgery in February of 2005. "Lynette" (employer) asked me what she was going to do when I had the surgery because she can't deal with the children herself and what was I going to do. I told "Lynette" I would ask my cousin to come and work for me while I was out having the surgery and recovering. She said she would only allow my cousin to work 4 days for me and I would have to come back to work or I would not be paid. "Lynette" called me two days after my surgery and

demanded that I come over to the house because she needed to talk to me. So I went over to the house and she demanded that I come back to work right away. I went back to work 4 days after my surgery with stitches in my right breast and a bandage over my chest. I never took any sick days during the 3 years that I worked for the “Connors” but I had appointments every six months to see the endocrinologist because I had cancer four years ago. The “Connors” would always make it hard for me to keep these appointments even though I told them from the beginning that I had to keep these appointments because it could be dangerous to my health” (Domestic Workers United, 2006, p. 22).

This horrible personal account and survey data illustrate the difficult position that domestic workers are forced into when they are in need of medical care, and how the lack of these benefits can greatly affect theirs and their family’s health, along with their economic security and quality of life.

##### **5. *Hazardous Work Environments and Injuries***

Occupations in the domestic service industry are typically very physically demanding, and in light of the lack of access to healthcare coverage and sick leave, the tough conditions can take a serious toll on the health of domestic workers. Since domestic workers and their employers are excluded from federal and state workplace safety laws and regulations, workers in this industry are exceptionally vulnerable to unsafe work environments and lack of any form of recourse. The authors of the NDWA national study argue,

As a result, chronic exposure to chemicals, contagious illnesses, and other health risks is an uncompensated ‘cost of doing business’ in the domestic work industry. Exclusion from the Occupational Health and Safety Act, and the absence of regulatory protections more generally, reflects a lack of regard for domestic workers’ health and safety (NDWA, 2012, p. 32).

For this reason, the long-term impact that working in environments that are unnecessarily hazardous can have on domestic workers has largely gone ignored and unaddressed.

There are several characteristics of the domestic service industry that create unsafe work environments and expose workers to hazardous working conditions such as long working



hours, lack of sleep, chronic exposure to harsh chemicals, lack of leave for illnesses and injuries, lack of rest breaks, and the physical demands that come with caring for clients and their homes. For example; “often injuries result from lifting heavy objects such as furniture or even children as well as from kneeling for long periods while cleaning floors” (Appelbaum, 2010, p. 4). Each of these characteristics and activities that are features of the domestic service industry create serious risks to the health of the workers, and the available data supports the argument that hazardous working conditions are an issue of serious concern for domestic workers.

One of the most notable problems that domestic workers face in terms of health-related hazards is the exposure to toxic chemicals found in cleaning supplies, and the physical strains of cleaning houses and physically caring for children and elderly and/or disabled clients. The NDWA study featured the following example of a domestic worker facing these hazards on the job:

Miriam works as a housecleaner in Los Angeles. Her employer supplies her with a range of cleaning products, including common brands of detergents, abrasives, and disinfectants, as well as an array of specialty products to clean wood floors, shine silver, and remove grease from kitchen appliances. Miriam’s employer prohibits her from opening the windows while she cleans, insisting that the house will get dusty if air is allowed to circulate. Miriam suffers from various skin and respiratory ailments, and she attributes her worsening allergies to her constant exposure to cleaning products. The perception of home as a “safe space” conceals the fact that domestic workers face a variety of workplace hazards. Miriam, like other housecleaners, is at risk through long-term exposure to the toxic chemicals that are found in everyday household cleaning products, a risk that largely goes unacknowledged (NDWA, 2012, p. 28).

The national NDWA study found that half of the domestic workers they surveyed reported working with toxic cleaning supplies, and for those who work as housekeepers the proportion was higher at 67% (NDWA, 2012). Due to lack of industry regulation and accessible information on the risk of long-term exposure to hazardous chemicals,

domestic workers are rarely provided any sort of protective wear when working with cleaning supplies, and survey participants reported that their requests for protective wear were met with resistance and ridicule by their employers (NDWA, 2012). However, the data shows that the exposure to these chemicals has negative health effects on the workers, as 29% of housekeepers surveyed reported that they suffer from skin irritation and 24% reported trouble breathing due to extensive, direct exposure to harsh chemicals. Even if the workers are aware of the risks and attempt to take precautions or alert their employers, they face the risk of being punished for speaking up. The regional California NDWA study found that 24% of the workers they surveyed reported that they had been fired by an employer for complaining or alerting them to unsafe working conditions and environments (Burnham, Gutelius, & Theodore, 2013). The fear of retaliation by employers prevents many domestic workers from advocating for their health in the face of workplace hazards, which has serious long-term implications for their health and their lives. Countless domestic workers are forced to suffer in silence because they have to decide between speaking up for their right to a safe work environment and risking their livelihoods and that of their family if an employer decides to retaliate.

The nature of much of the work that domestic workers perform each day on the job is very physically demanding since they are working long hours with their hands, often have to lift heavy objects, work for long periods of time on their knees, and bend over to clean and perform various other tasks. **Table 4** from the DWU New York study breaks down these different tasks and compares between domestic and non-domestic workers (Domestic Workers United, 2006). It naturally follows that many domestic workers who work in the industry for extended periods of time report that they suffer

from chronic pain and other ergonomic issues related to occupational strains and injuries. The NDWA study conducted in California found that 57% of housekeepers reported that they had to climb up to clean places that were hard to reach, 46% had to spend time performing various types of work on their knees, and 34% were required to do heavy lifting or other physically strenuous activities while on the job (Burnham, Gutelius, & Theodore, 2013). In addition, 23% of in-home workers reported that they suffer from chronic pain stemming from wrist, shoulder, elbow, or hip injuries, and 16% reported experiencing other types of pain and soreness stemming from their job (Burnham, Gutelius, & Theodore, 2013). It should be noted that other types of domestic workers face similar physical challenges in their work, particularly nannies and personal care aides as their duties include activities that can cause physical strain like bathing and dressing the individual, or individuals, they are caring for. One notable finding was that over 23% of caregivers reported that they had suffered a back injury within the last 12 months prior to participating in the survey. It was also found that caregivers have high rates of exposure to illnesses and diseases that are contagious, with 24% reporting that they had contracted a contagious illness on the job in the last 12 months prior to the survey (Burnham, Gutelius, & Theodore, 2013). All of these risks and strains are compounded by the fact that the majority of domestic workers, over 86%, report that they have never received workplace safety or injury-prevention training (Burnham, Gutelius, & Theodore, 2013).

The data clearly shows that the very nature of the domestic services industry exposes workers to unsafe working conditions and various types of hazards that put their

**Table 4.** Percentage of Workers that Performed Unsafe Tasks

Type of Task	% of Domestic Workers	% of Workers in Other Industries	% of All Workers
Heavy lifting or other strenuous activities	30%	13%	17%
Work with toxic cleaning supplies	26%	13%	16%
Climbing to clean hard-to-reach places	23%	9%	12%
Slipped and injured yourself while working	8%	3%	4%
Provided care for children or elderly clients who had a contagious illness	10%	9%	9%

health at risk, with long-term and sometimes permanent effects. When considering these risks with the fact that domestic workers do not have access to health care or any sort of leave in the face of illness or occupational injuries, it is clear that the lack of industry regulation has serious implications on the wellbeing of domestic workers. The exclusion of domestic workers from labor laws surrounding workplace safety standards and seeking treatment for occupational injuries unfairly places domestic workers at a substantial risk of negative health outcomes and contributes to the exploitation of this labor force.

#### **6. Hostile Work Environments and Abuses**

*“They’ve made me sleep in a basement with no heat in the dead of winter. They’ve denied me food during the time I was living-in and also forbid me to bring food for myself from outside. I’ve also been yelled at to the point where I was becoming sick with depression and nervousness. I left my last job so exhausted and destroyed I could only think of hurling myself in front of passing cars because I was made to feel so bad I wanted to die. I felt worse than a worm after the way they told me how poor I was and that’s why I was worth nothing.” - “TANIA” Housecleaner in Manhattan, from Dominican Republic (NDWA, 2012, p. 28).*

The defining characteristic of domestic work is that it takes place in the home of the employer, and it is this very characteristic that makes workers especially vulnerable to potential mistreatment, exploitation, isolation, and abuse.

When the home is also a workplace, the public and private, the professional and personal, and the familial and non-familial become entwined in subtle but

powerful ways. These blurred demarcations become less and less distinguishable over time, establishing a context within which boundaries of an even more intimate nature can be transgressed (NDWA, 2012, p. 33).

In other words, because domestic work is performed in the home behind closed doors, it is more intimate in nature, and this can lead to employers not recognizing the rights and respect that domestic workers deserve simply because they are inside of their homes rather than working in an office or other alternative setting. The intimate nature of domestic work can create a sense of ambiguity for the workers, employers, and the employers' families in terms of boundaries and expectations. While in some cases this could lead to a strong emotional connection between the employer's family and the domestic worker, this can also lead to domestic workers being forced to suffer mistreatment and abuse in silence, sometimes to the point of having to live and work in virtual slavery-like conditions. The national NDWA was able to hear firsthand the types of problems domestic workers face in light of these vulnerabilities through in-depth interviews with their participants.

Their accounts of verbal, psychological, and physical abuse are an indication of the lengths some employers will go to objectify, demean, command, and control workers in their homes. In some situations, abuse is laced with racial slurs or threats regarding immigration status. In other instances, verbal abuse escalates into physical violence. And in far too many cases, it takes the form of sexual harassment and even sexual assault (NDWA, 2012, p. 33).

The groundbreaking qualitative findings of these interviews conducted by the NDWA have provided insight into how being a domestic worker affects the lives of these women, which is something that cannot be captured by simply analyzing BLS data. Additionally, these findings have helped the voices of this incredibly vulnerable, and integral, segment of the labor force begin to be heard.

The intimate and isolating nature of domestic work creates an environment that facilitates the exploitation and abuse of the worst kinds of women employed in the industry. According to a localized 2007 survey conducted in the San Francisco/Bay Area in California, 1 out of 5 domestic workers reported that their employer has directly insulted or threatened them while on the job. Additionally, 1 out of 10 domestic workers stated that they had been either sexually harassed or physically abused at the hands of their employers (Appelbaum, 2010). What is even more striking is the fact that these numbers are almost certain to be underestimates, particularly given that over a third of the survey participants (35%) refused to answer questions about experiencing abuse, violence, or harassment of any type on the job (Appelbaum, 2010). This hesitancy of the participants to answer questions about abuse in particular speaks volumes to the very real feelings of fear and vulnerability that many domestic workers experience on the job.

Reports of abuse and mistreatment were also found in the New York study conducted by the DWU, where it was found that 33% of domestic workers surveyed had experienced verbal abuse, physical abuse, and an overall level of discomfort caused by their employers. This number was even higher for domestic workers who live in the homes of their employers, with 48% reporting that they had experienced at least one type of abuse or mistreatment at the hands of their employer in the last year (Domestic Workers United, 2006). The data shows that 1 in 4 workers reported that the behavior of their employers had caused them to feel uncomfortable. Additionally, 21% of workers reported that they had been verbally abused by their employers through yelling, name calling, insults, racial slurs, and even threats. Once again, the proportion of live-in domestic workers that experienced this type of verbal abuse was even higher at 37%

(Domestic Workers United, 2006). Although only a small number of participants in this survey reported that they had faced physical or sexual abuse by their employers, the survey collectors noted that there was a significant level of discomfort for the workers when asked about this type of abuse, leading the researchers to conclude that the reported numbers were not an accurate reflection of the rate of physical and sexual abuse that the workers are actually experiencing (Domestic Workers United, 2006). This issue with underreporting is a clear example of the vulnerability that domestic workers experience and the sense of fear and anxiety that they are forced to live with as a result.

While it is acknowledged that not all individuals or families that employ domestic workers are inherently bad, abusive, or exploitative, those that do exhibit this sort of harmful behavior do so for a variety of reasons. **Table 5** breaks down the different types of factors that the domestic worker participants in the DWU survey felt contributed to the abusive actions of their employers. Of these different factors, one third of the workers reported that their immigration status contributed to their abuse by their employers, 18% cited language as the basis, and 32% reported that race or ethnicity was the primary factor behind the abuse (Domestic Workers United, 2006). These findings clearly highlight the negative effects that domestic workers are forced to endure due to their exclusion from labor laws prohibiting discrimination of all types that workers in all other industries are protected by.

Within the domestic service industry, workers who live in the homes of their employers are the most vulnerable to abuse on the job because they are working and living in what commonly becomes an isolating environment. Survey results and data

**Table 5.** Abusive Treatment by Employers

Type of Abuse Experienced	% of Domestic Workers	% of Live-In Domestic Workers
<b>Experienced at least one of type of abuse</b>	33%	48%
<b>Made to feel uncomfortable</b>	24%	36%
<b>Verbal abuse (yelling, threats, racial slurs, insults, name-calling)</b>	21%	37%
<b>Physical Abuse (pushed, beaten, raped or other types of sexual assault)</b>	1%	2%

reflects this theory of enhanced vulnerability, as it is consistently found that live-in workers report abuses at higher rates than their counterparts within the industry. The national NDWA study found that over 36% of live-in workers reported that they had been verbally harassed, threatened, subjected to racial slurs, or sexually harassed. Live-in workers are even more likely than other domestic workers to suffer these abuses in silence because they experience higher levels of isolation, with 31% reporting that they are not allowed access to any private means of communication such as use of the telephone, internet, or mail correspondence (NDWA, 2012). This lack of basic access to communication is particularly troubling because it not only isolates them from the support of their friends and loved ones, but they are also prevented from being able to report any sort of abuse that they may be experiencing to a trusted confidant or even anyone that could potentially help them. This is what the NDWA researchers call “enforced isolation,” and happens because many employers fear that if domestic workers are allowed to communicate amongst themselves, then they may hear about better job opportunities or others who are earning higher wages, and in turn the workers could then quit or demand raises, something employers want to avoid. “However, this employer



practice can lead to a more insidious result: in addition to its isolating effects, it renders live-in workers increasingly dependent on the employer. This dependency, in turn, further emboldens employers, often with devastating effects” (NDWA, 2012, p. 33). These salient findings are abhorrent, and this type of environment that fosters and facilitates isolation of workers, absolute dependency on employers and their “good will,” and abuse that goes unreported and unpunished is despicable and has no place in the United States economy. There is no other industry in the U.S. where this sort of environment or behavior would be acceptable, with no existing way in which abuses can be reported and punished.

Lack of regulation of the domestic service industry is the reason why the majority of the abuses and mistreatment of domestic workers go unreported and unpunished, and why workers feel like the risks are too great for them to attempt to file a complaint or get help. Since domestic workers are faced with limited employment options and a higher level of dependence on their employers than workers in other industries, the ability of workers to report abusive behavior and exploitation at the hands of their employers is extremely limited. The NDWA national survey found that of the survey participants that reported that they had faced, or were currently facing, problems with their employers or working conditions, an overwhelming majority of 91% did not complain to the employer or any sort of external agency due to fear of losing their job. Additionally, 78% did not complain because they feared that it would damage the relationship with their employer, 60% cited that they worried they would need the employer to serve as a reference for future jobs, 59% feared that their employers would cut their hours, and 42% of workers cited that they were afraid that their employers would get violent with them if they were

to complain. Of the workers that were undocumented, 85% reported that they did not complain about abuse or hostile work environments because they feared that their immigration status would be used against them if the employer chose to retaliate (NDWA, 2012). These results show that the lack of regulation of the domestic service industry and a lack of protection under labor laws for domestic workers has negative effects on both sides. On one hand, employers are not held to any sort of standards or scrutiny by the government which serves to embolden those who seek to abuse and exploit their employees, and on the other hand domestic workers are afraid to complain about these abuses for a myriad of reasons and for the fact that there is no system of support in place for them to safely report abuse or mistreatment without the fear of retaliation. These sort of situations are why labor laws governing hostile work environments and prohibiting abuse and discrimination in the workplace exist, and without these basic levels of protections domestic workers are left at the mercy of their employers while living and suffering in fear, silence, and isolation.

#### **7. *Without Contracts and Overworked***

*“Mr. “Connor” told me my job started at 6:30am until he came home around 7:30 in the evening. But from the first week that never happened because he would come in later than 7:30 and I would have to wait until he got there until I was able to go to bed. I was told that as a live-in nanny they were supposed to provide my food but I had to use my own money to buy food from the store—bread and crackers to last the week. I worked all day and into the night. Most nights I would get three to four hours of sleep. I was never given holidays because Mr. and Mrs. “Connor” said I was not an American so the holidays were not for me. The “Connors” would bring their children to my small, one-room apartment on weekends for hours. I had to feed the children from what little I had. Most Sundays they would ask me to come back to work on Sunday evening so they could have the evening. I was never paid for any of these Sundays, because they said my workdays started from Monday morning at 6:30.” -“CAROLYN” Nanny and Housekeeper in Long Island, from Barbados (NDWA, 2012, p. 23).*

When the workplace is located within a private household, the intimacy and informality of this environment affects the relationship between the employer and the worker, in turn distorting the boundaries of a professionalism, expectations, and terms of employment. For this reason, the agreements or contracts made between employers and employees about the work arrangement, which often includes wages, duties, and schedules, is essential for defining the parameters of the work to be performed and ensuring that the expectations of both parties are understood and agreeable. On the importance of formal agreements, the NDWA researchers explained,

Contracts underscore that, in the most fundamental sense, domestic work is an employment relationship. Contracts benefit both employers and employees, since they provide guidelines for each party. Moreover, in the absence of effective laws governing employment relations in the home, a contract becomes the principal means through which workers can safeguard their rights at work (NDWA, 2012, p. 24)

The importance of these contracts is amplified by the absence of legal protections and regulations governing the domestic service industry, as they are the only alternative means of establishing and protecting their basic rights in the workplace. One of the many purposes of a contract is to hold both parties accountable to the agreed-upon terms of an arrangement or exchange; so without legal protections or a contract, workers are left with nowhere to turn when they face mistreatment in the workplace.

In the summer of 2014, I volunteered with a nonprofit organization called Fe y Justicia Worker Center in Houston Texas, an affiliate of the NDWA. This organization is membership-based, meaning that it operates similarly to a labor union where immigrant workers come together and are integral to the decision-making process about events, programs, and campaigns. The worker center has a group especially for domestic workers called “La Colmena” or “The Beehive” where the women can come together to receive

training and support for the work that they do, and also to organize to push for domestic workers' rights. Upon the conclusion of my time at the worker center, I interviewed the employee who serves as the Domestic Worker Organizer about the most common issues that the women in La Colmena report experiencing in the workplace. The number one problem that she pointed out, which contributes to the majority of the other difficulties that the women face, is that there are typically no formal contracts or any agreed upon terms of employment. This statement is reflected in the survey data collected by the NDWA and DWU. The national NDWA study found that only 8% of domestic workers have written contracts between themselves and their employers that establish the basic employment terms and parameters. Instead, they found that it is much more common to have a verbal agreement between the two parties, with 67% of workers indicating that they had some sort of informal conversation with their employer about work expectations, and this typically occurred on their first day of work (NDWA, 2012). Given the unique and unregulated nature of the domestic service industry, it can be easily understood how these sort of informal agreements are problematic, insufficient, and easily exploited.

Survey data demonstrates that when contracts and informal agreements do exist in the domestic services industry, they are most often very limited in scope. Typically, these agreements cover the most basic terms of employment, with 97% including provision on wages, 96% outlining job responsibilities and expectations, 91% determining the time of payment, and 77% setting the number of hours the employee is expected to work (NDWA, 2012). However, there are other important provisions that are noticeably absent from these contracts and agreements. Survey data shows that 80% of employment

agreements do not include provisions for paid sick leave, 77% do not establish vacation time or holidays, only 15% include guarantees for overtime payment, 88% do not require notice of termination, and only 78% require workers to receive payment when they are called off of scheduled hours. Other important provisions that are typically excluded from these agreements are those that cover the worker's schedule, rest breaks, pay raises, and benefits (NDWA, 2012). While it is preferable to have some sort of agreement rather than none at all, it is difficult to assert one's rights to overtime wages, rest breaks, and other key provisions if they were not covered in the contract or arrangement with the employer.

One of the aspects of contracts that makes them effective is that when one exists and a party violates the contract, the other party then has methods that they can undertake to seek recourse for the contract violation and damages caused by the violation. These recourses are primarily legal, with a party having the ability to sue another party in court over the breach of contract. However, given that domestic workers are not protected by most labor laws, then there is not much of a risk to employers when it comes to violating the contract because the actions that the workers could take to seek recourse are unclear and likely extremely limited. This is compounded by several factors: most domestic workers earn low wages and would likely have a difficult time affording legal assistance or representation, many domestic workers likely do not have not knowledge of how the legal system works or the process to file a complaint, and many workers in the industry are undocumented and would naturally be extremely hesitant to call attention to themselves or their employment situation due to fear of deportation. Of the domestic workers who actually have contracts or some sort of agreement with their employers, 20% reported that their employers violated the provisions involving the agreed-upon

work schedule and number of expected hours. The survey data reported that out of the domestic workers with existing contracts or work arrangements with their employers, 30% stated that their employer had violated at least one term of their agreement (NDWA, 2012). The data also explains some of the reasons behind the hesitation and fear related to reporting these violations, as 18% of domestic workers who had been fired by their employer reported that it was because they protested violations of their contract or agreement with their employer (Burnham, Gutelius, & Theodore, 2013). If domestic workers have no means to enforce the contracts or agreements made with their employers, then they essentially only function to outline their expected responsibilities rather than representing a basic agreement between the two parties that protects both of their interests.

The data indicates that even in arrangements where a contract or verbal agreement exists between the employer and the domestic worker, employers often treat these agreements as nonbinding and informal, and this in turn leads to the scope of work responsibilities and expectations widening for the domestic workers over time without any sort of re-negotiation or consent. Researchers found through the surveys and interviews that when these agreements do exist, they tend to erode over time, with employers expecting the domestic workers to perform an increasing amount of duties and work longer hours without a respective increase in compensation. Survey results showed that 24% of the participants were assigned work outside of their agreed-upon job description in the previous week. Of these workers, 87% reported that they did not feel that they could refuse the additional work, 91% were not guaranteed overtime pay for the additional work, and 67% of the workers were not compensated for the extra work

(Burnham, Gutelius, & Theodore, 2013). Since this question was referring to just the previous week before participating in the survey, it is likely that the actual rate of workers being assigned additional work is much higher, and it is clear this is a pervasive problem within the industry.

The surveys and interviews conducted by researchers illustrated that the additional work that domestic workers are required to do by their employers was not originally included in their job description or employment agreement. The DWU New York study found that many workers who are hired to be nannies are typically asked to perform additional tasks over time such as cleaning, picking up dry cleaning, laundry, grocery shopping, etc. This survey reported that 23% of women were compelled by their employers to do work that was not a part of their job description, and 8% were even required to work for someone else like a friend, family member, or acquaintance of the employer without additional pay (Domestic Workers United, 2006). The following is an example cited in the DWU study:

One worker, “Wilma,” a Filipina housekeeper and nanny in Manhattan, describes taking care of a family with three children and a dog: “I looked after my lady boss’ brother who has brain damage. My job also included house-cleaning, taking care of the dog, cooking and maintaining a vegetable garden. Also, when they had visitors, I had to make sure they were taken care of. I also had to wash and iron clothes.” (DWU, 2006, p. 21)

Existing data shows that the intimate and informal nature of domestic work makes it easier for employers to expand their expectations of workers’ responsibilities. The DWU found 77% of the workers that they surveyed in New York provided child care as part of their responsibilities, and of these workers 46% also perform housekeeping duties for their employers. **Table 6** illustrates the number of tasks DWU survey respondents were responsible for. Only 29%, or less than one-third, of workers reported that they

performed just one responsibility while 37% reported that they perform 2-3, and over 28% reported that they performed 4-8 different responsibilities for their employers. These rates were even higher for live-in workers, with over half reporting that they 4-8 different responsibilities were required of them (Domestic Workers United, 2006). This excessive amount of work without proper compensation naturally takes a toll on the workers.

Unsurprisingly, the DWU found that 25% of workers felt that they were responsible for too many tasks, and 46% reported that they experienced stress at work due to working outside of their job description, performing too many tasks, and being forced to work for individuals other than their employers without compensation (Domestic Workers United, 2006). These findings are proof of the acute exploitation that domestic workers face due to the unique and informal nature of the industry that operates virtually without oversight.

**Table 6.** Number of Job Responsibilities Performed

	<b>% of all workers</b>	<b>% of live-out domestic workers</b>	<b>% of live-in domestic workers</b>
<b>1 responsibility</b>	29%	34%	11%
<b>2-3 responsibilities</b>	37%	42%	25%
<b>4-8 responsibilities</b>	28%	20%	<b>56%</b>
<b>No Answer</b>	6%	3%	8%

While data is invaluable to analyzing the working conditions and issues that domestic workers face due to the lack of legal protections and employment contracts, qualitative data collected through interviews and direct interaction with domestic workers helps to better find the lived experience of workers in this industry. The following is a quote from a woman from Zambia who worked as a nanny, elderly caregiver, and housekeeper in



New York and was interviewed under the pseudonym “Esmeralda” by the DWU about her experiences as a domestic worker:

“I had to make his bed, do the whole family’s laundry. I was in charge of cooking all the meals for everyone —the child, the old man and my boss—do grocery shopping, dusting furniture, mopping the floors, scrubbing the bathroom, and doing whatever else they told me to do—EVERYDAY. I even had to pack for my boss whenever he went on a trip. I had to pick up after everyone—whatever that they threw all over the place—underwear, pants, papers, cups, everything. I had to organize their closets, books after they had messed it up...they just expected it” (DWU, 2006, p. 20)

Esmeralda’s account bears resemblance to many of the other stories featured in the NDWA and DWU surveys, as well as those that I heard in the interview with the Domestic Worker Organizer from the worker center in Texas. In the interview, the Organizer recounted the story of a woman who had come into the worker center seeking assistance. She had been hired as a nanny in the Houston area, and her employer fired her because she had not cleaned the family’s pool. When she tried to explain that this was outside of her job description as a nanny, the employer simply replied that since the child swam in the pool and she was responsible for the child, that she was also responsible for the maintenance of the pool. This is a ludicrous assertion, as pool maintenance is a job in itself, and it can be expected that this nanny would not have received additional pay for this work that was outside of the scope of her job description as a caregiver for the child. Other examples included a worker who was not allowed to use the same dishes that the employer and their family used, and instead had their own particular set that was kept separate from the family. Similarly, another woman reported that her employers forced her to use her own cheap, low-quality toilet paper as opposed to the type that the family used because it was “too expensive.” These stories that the organizer shared bear resemblance to the type of discrimination faced during the era of segregation and the Jim

Crow South., and it is horrifying that this type of abhorrent, racist discrimination still happens in the U.S. today.

Across the various industries in the U.S., employment agreements and contracts typically outline the worker's schedule and number of expected hours per week. The benefit of these provisions is that they not only cover the employer's expectations of the worker, but they also help to ensure that workers are not required to work additional hours unless they receive overtime pay, a right that is protected under federal and state labor laws. However, since domestic workers are excluded from these laws, typically do not have these sort of agreements with their employers, and have limited means to enforce them if they do, workers in this industry commonly suffer from being overworked by their employer. Survey data reveals that the majority of domestic workers have to work long days without rest breaks, and often have irregular and demanding schedules dictated by their employers. The NDWA national study found that 35% of domestic workers were forced to work for long hours without any sort of break (NDWA, 2012). Similarly, a 2007 survey of domestic workers in San Francisco found that 83% of workers did not receive a 10 minute break following 4 hours of work, and 78% did not receive a 30 minute break for a meal after 5 hours of work when they were working shifts of more than 6 hours, which is required under state labor laws for nearly all other industries (Mujeres Unidas y Activas, Day Labor Program's Women's Collective, DataCenter, 2007). This data clearly demonstrates the existing gap in labor laws that exclude domestic workers have real effects on the day to day lives of these workers. Within the industry, the NDWA found that domestic workers who serve as nannies and caregivers are the most likely to have their work hours over-extended, due to the

numerous duties they are responsible for and the variability of the demands on their time. Researchers found that 40% of nannies and caregivers reported that they had been required to work more than 40 hours in the previous week (NDWA, 2012). Being forced to work over 40 hours per week without any sort of rest breaks or additional compensation equates to extremely long and exhausting days for domestic workers, and this exploitation of their time and bodies is bound to have serious effects on the quality of their daily lives and those of their families.

Survey data has consistently found that in basically every aspect that domestic workers are mistreated and exploited, those who live in the homes of their employees are the most vulnerable and in turn report these abuses at higher rates. In regards to overwork, 58% of live-in workers reported in the NDWA survey that in addition to their regular work schedules, their employers expect them to be available for work at any time beyond their usual hours. This requirement often affects their ability to use what little time they have to rest, with 25% of live-in workers reporting that within the week prior to being surveyed their work schedule kept them from being able to have at least 5 hours of sleep without being interrupted (NDWA, 2012). Lack of sleep can have a significant effect on a person's health and sense of wellbeing, and these violations are clear examples of the exploitation that is endemic to the domestic service industry. The NDWA researchers noted that the accounts of live-in workers demonstrate a life of work that is seemingly never-ending. Many live-in workers reported that if their employer happens to see them sitting down to rest, they are immediately assigned additional tasks, indicating the employers' apparent dislike of seeing the employee in their home take any sort of time to rest (NDWA, 2012). This exploitation of the most vulnerable workers

within an already exploited industry demonstrates a clear need for regulation, and for labor laws to be extended to this industry that is increasingly growing in importance.

The following account was recorded by the NDWA in the interviews for their national survey:

Carmen, a grandmother from Nicaragua, was initially hired as a live-in housecleaner for a Miami couple. After a short time on the job, her responsibilities were expanded to include laundry, gardening, childcare, and looking after the family's 10 dogs. She was promised lodging and food, though she was only allowed to eat when there was food to spare. For the myriad tasks she performed each day, Carmen was paid \$30 some weeks, \$50 others, but most of the time she was paid nothing at all. When she broke her arm while on the job, she initially tried to work through the pain. As it became clear that she needed medical attention and would not be able to continue working as she had been, her employers fired her, leaving Carmen injured and without a job or a place to live. Not all domestic workers are treated as poorly as Carmen was, but far too many experience similar abuse. Carmen's workday was governed by a set of informal instructions from her employers that, over time, came to encompass a greater range of household tasks. The expansion of Carmen's duties was non-negotiable. Her employers dictated the terms of employment, and without explicit limits, they were able to act capriciously, changing those terms to suit their whims. Carmen's steadily eroding terms of employment would have been easier for her to address had a formal contract been negotiated at the outset (NDWA, 2012, p. 24).

Carmen's story encompasses the various issues discussed in this section that plague the domestic service industry. These stories and examples are echoed across the industry, and demonstrate the problems inherent in an industry with no regulation and minimal use of employment contracts that could help prevent the type of mistreatment Carmen and Esmeralda endured. Reflecting the lack of regulation and accountability, domestic workers consistently report in surveys and interviews that their employers do not maintain accurate records of hours worked, work schedules, and hours of overtime worked, and this only serves to make it easier for employers to disregard employment agreements and exploit their employees and their time (NDWA, 2012). While it is admittedly difficult to enforce employment agreements for domestic workers under

current law, the notion still serves as an important step towards better transparency and accountability for the employers of some of the most vulnerable employees in the labor force.

#### **8. *Poverty and Making Ends Meet***

It is difficult to find a quantitative method to measure the quality of life of an individual, and how a work environment impacts theirs and their family's lives. In order to find a way to analyze the lived experiences of individuals, researchers typically use proxies for quality of life such as poverty rates, the ability to pay for bills, and other measures that get at one's ability to make ends meet. The surveys administered in the domestic service industry used these measures in order to get an idea of how working in domestic occupations affect the quality of lives of workers, and to supplement the first-hand accounts collected through interviews. Overall, the available ACS data clearly shows that domestic workers are much more likely to be living in poverty than workers in other industries, with rates at 23.4% compared to 6.5% for other occupations. At 51.4%, more than half of the domestic worker population lives below 200% the poverty line, and these rates are 30.6% higher than for workers in all other occupations, even when controlling for confounding variables and demographic differences (Shierholz, 2013). These numbers very clearly illustrate the gap that exists between domestic workers and their counterparts in other industries, and this gap is caused by the simple fact that these workers are employed in domestic services.

The low wages received within the domestic service industry have a widespread, negative effect on the lives of domestic workers and their families and society. They work tirelessly for long hours each day, and yet continue to face financial hardships just

trying to support their families. The U.S. Department of Labor employs the Lower Living Standard Income Level (LLSIL), which measures the economic security of an individual or family and is updated annually to adjust for fluctuations and regional differences in costs of living. The threshold for wage adequacy, or economic security, is set at 70% of the LLSIL for workers who are employed full time for the entire year. The NDWA analyzed this measure of the different metropolitan areas that they administered their survey, and this threshold ranged between \$8.46 per hour in Houston to a high of \$11.92 per hour in New York City. The NDWA found that 48% of domestic workers that they surveyed in these cities were paid wages below the respective LLSIL threshold for their city of employment (NDWA, 2012). Essentially, these findings show that nearly half of domestic workers are paid wages below what is needed to be considered economically secure and support themselves and their families.

Making ends meet for a family includes many different aspects, from being able to cover basic expenses and pay the bills to having food in the home. The findings of the NDWA national survey and interviews are invaluable, as they are able to report on these different aspects that are difficult to capture through the typical statistical methods employed by the BLS. For domestic workers, housing represents the highest cost with 60% reporting that more than half of their income goes to covering housing expenses. Additionally, 40% of workers reported that they have to pay all or a portion of their essential bills late in the previous month, and 23% stated that they are unable to save money for the future (NDWA, 2012). With housing costs taking up such a large portion of their wages, domestic workers struggle to be able to meet the other basic and essential needs. One particularly striking finding of the NDWA study is that 20% of domestic

workers reported that there were times when they have no food to eat in their homes and no other way to obtain it within the previous month (NDWA, 2012). These numbers represent clear evidence of the effect that chronically low wages have on workers in this industry. The DWU recorded the story of “Ruby” from the Philippines who worked as a housekeeper in Manhattan, and whose account exemplifies these struggles,

“Sometimes they didn’t pay me. If I asked them about the money they started teasing me. They told me to go buy food from fifty dollars for the whole family, and I had to buy my clothes, lotion, soap. They never gave me a vacation or holidays off. Sometimes I was not feeling well, but still had to work. The doctor told them that I had to stop working for four days, but when I went home they told me I had to cook, clean the house, take the children to the park, take the children to the YMCA from 33rd Street to 47th Street by walking with two children. At the same time, I was collecting the cans of soda and took them to the store to get some money to buy food” (DWU, 2006, p. 17)

Personal accounts like Ruby’s and the survey findings presented here illustrate the imbalance and difficulty of domestic workers caring for the homes and children of their employers, while simultaneously being unable to provide and care for their own homes and families due to the exploitation of their labor.

### CONCLUSION

The labor of domestic workers is what makes all other work in our economy possible. It allows mothers and fathers to participate in the work force without sacrificing the care and attention that their children, elderly or disabled relatives, and homes require. Nannies and caregivers spend day after day with their clients; bathing and feeding and building relationships with them. They provide the assistance and care that their employers are unable to provide in conjunction with their work schedules and other demands on their time. Housekeepers maintain their employers’ homes, performing the time-consuming domestic duties that working parents have difficulty finding the time for

between their various commitments and responsibilities. Domestic workers help to keep the U.S. economy running smoothly by freeing up their employers' time so that they can put in the necessary hours at work to provide for their families and keep the various industries running smoothly.

Despite the obvious importance of the work that individuals in this industry perform, their labor goes largely unrecognized, un-respected, and exploited by their better-off employers. While data is limited on this industry due to challenges posed by its characteristics discussed in this chapter, surveys and interviews have illustrated the injustice that domestic workers inherently face in their daily lives. Workers are forced to work for chronically low wages in substandard and hazardous work environments for long hours, and with minimal rest breaks or time off to take care of themselves and their families. The lack of adequate wages, along with the lack of regulation of the industry or protection under labor laws, leave domestic workers living in poverty and forced to endure abuse and exploitation without options to seek recourse or justice of any sort. The quantitative data, along with the qualitative analysis of interviews and surveys, provide clear and compelling evidence that the lack of legal protection and regulation is correlated with the challenges and mistreatment that domestic workers are subjected to. This industry facilitates the exploitation of female workers of color, who are often also immigrants; demographic groups that are already amongst the most historically exploited in the U.S. These findings demonstrate how problematic this gap in federal and state labor laws is, and the reasons why domestic workers need and deserve adequate protections like those that workers in all other industries currently have.



*“I am from India. My boss “Daniel” promised me that I would be working for him. When I came to the U.S., he made me work with another family but I was not allowed to ask to be paid by them. As the time passed, I found out that this family was paying Daniel \$1200 a month for my work. Daniel sent \$200 to my parents. But I never saw the money in my hand. I used to do office work, housekeeping and babysitting from 7 o’clock to 12 o’clock. They yelled and screamed at me. One morning, I was not feeling well. I had to dress the baby who was 6 years old. While putting on her socks, she got hurt and she kicked me. I told her babies should not kick. Her mom heard this and she came running and she kicked me and she pulled my hair. She abused me verbally. She told me to take the child to school and “then I will show you. How dare you tell my child that.” The next day, she told me to clean the table and I shook my head. She removed her sandals and hit me and slapped my face. She told me to get out of the house at that very moment. I asked madam, “How can I go? I don’t have my passport. Please give me my passport and my money. I will go.” She told me that she didn’t have my passport, and to do whatever I want to do. She also refused to give me my money. My neighbor helped me to escape from that house. I went to the police and reported the complaint against them. Then the cop came with me and I packed my stuff to get out from there. When I was leaving, my madam stopped me and told the cop that she wanted to check my luggage. Then the cop told her I packed in front of him. Then, madam told the cop that I took her gold chain and gold earning. I told the cop she was talking about the chain she gave me as a gift but I don’t want it. Luckily I was wearing the chain and the cops told me not to give it. The cop asked her whether she had my passport. And she said no.”*

“VIVIAN” Housekeeper and Nanny in Manhattan, from India (DWU, 2006, p. 21)

## CHAPTER VI

### CONCLUSION AND RECOMMENDATIONS

*“We have been forced here because U.S. foreign policy has created poverty in our home countries. Once we are here in the U.S., searching for a way to survive, we are pushed into exploited jobs where our work is not recognized, respected or protected.”*

*JOYCELYN - Nanny in Westchester, from Barbados (DWU, 2006, p. 9)*

Domestic labor is the work that makes all other work possible. Millions of families across the United States depend on the hard work of domestic workers every day to care for some of the most important aspects of their lives: their homes, their parents, their disabled relatives, and their children. Their work is literally the labor of love, subsidizing care at an intimate level that families are unable to provide themselves. Demands of the modern economy have forced working families to work longer hours, in turn sacrificing the time needed to provide care and attention to their home lives. Similarly, globalized economic forces have compelled women from around the world to leave their countries of origin in search of employment in the U.S. to create a better lives for themselves and their families. However, a long history of racism and marginalization of domestic workers and the devaluation of their labor has resulted in the oppression and mistreatment of women employed in this industry. This same history left them intentionally excluded from most legal protections and rights afforded to workers in other industries, further compounding their suffering in isolation.

Given this context, it is clear that the exclusion of domestic workers from labor protections and rights was intentional and based on racialized and gendered perspectives on what constitutes “legitimate work” and historical pattern of white employers exploiting and benefiting from the labor of poor women of color. This research has

demonstrated that these stigmas and historical trends of mistreatment has manifested in serious and widespread misconduct in the workplace that would not be tolerated in any other industry or occupation. Domestic workers across the country receive chronically low wages, are excluded from any sort of employment-based benefits, and are forced to endure various types of abuse and discrimination. The lack of legal recognition of their rights or regulation in the domestic service industry has created these circumstances and left domestic workers with little to no recourse when they are mistreated by their employers. Domestic worker advocates have fought tirelessly for decades to improve the lives of workers in this industry, and have proven that a strong grassroots effort can result in tangible policy changes. While these legislative changes represent a significant victory for domestic workers and their advocates, there are still several unanswered questions surrounding future efforts in other states and the actual enforcement of these policies. Based on these considerations and my findings from analyzing domestic worker's rights policies, I have developed some recommendations for various areas that domestic worker organizers should focus on moving forward.

### RECOMMENDATIONS

The data on the domestic service industry conclusively shows that workers receive chronically low wages and are forced to work in substandard conditions, and both problems are pervasive to a degree that would not be acceptable in any other industry in the U.S. economy. These conditions are the result of the intentional lack of regulation and exclusion of domestic workers from the majority of the essential labor laws at both the state and federal level of government. Additionally, the unique characteristics of the domestic care industry that exacerbate the vulnerability of a worker population that is

already more likely to be marginalized than others, and that complicate the traditional relationship between employers and employees, contribute to the exploitation of domestic workers. The mistreatment found in this industry is the result of structural inequalities that are faced by the demographic groups that comprise the industry; poor women of color who are most often immigrants. These realizations mean that the solution to these problems is not going to be a simple one, but will have to be multifaceted, widespread, and result in meaningful changes at the structural and societal level. The following is my list of recommendations that I have developed to mitigate the structural problems manifested in the domestic service industry and to help bridge the gap between policy and effective enforcement.

***Policy – Federal Level***

First and foremost, the federal government should expand existing federal labor laws such as the FLSA, Social Security Act, and Civil Rights Act to include domestic workers and afford them the associated rights and protections. Additionally, given the historical trend of different demographic groups leaving this industry once better economic opportunities arise, the government should seek to improve employment opportunities for domestic workers so that they have the ability to find higher quality jobs that do not force them into marginalization and substandard working conditions. However, given the current political climate, particularly surrounding issues of immigration and immigrant rights, as well as the gridlock within Congress, it is unlikely that any meaningful changes to federal law would occur in the foreseeable future.

In order to address some of the underlying issues that lead to the exploitation of domestic workers and also affect all low-wage workers, the federal government should make the following policy changes:

- Increase the federal minimum wage to a rate that better enables workers to survive and provide for their families
- Continue to prioritize expanding access to healthcare for all citizens and workers, and decreasing the cost of healthcare and insurance coverage for everyone in the U.S.
- Consider additional strategies for strengthening the enforcement of labor laws, particular minimum wage, anti-harassment, and workplace safety provisions
- Expand and guarantee access to paid family and medical leave for all workers
- Comprehensive immigration reform that provides a path to citizenship for undocumented immigrants currently in the U.S., as well as to simplify the process of applying for worker and family reunification visas. This overhaul should address some of the most pervasive problems within our currently broken immigration system and afford human rights to immigrants regardless of their legal status.
- In consideration of immigration reform, the U.S. government should also expand its perspective on who is considered a refugee and in turn who is granted protected status, as a large number of immigrants from Central America are fleeing violence and horrendous conditions in their home countries, particularly in light of the recent wave of unaccompanied minors and drug-related violence in these regions.
- Enact a set of policies that would help to improve the affordability of child care for working families. The decline of the welfare state has coincided with the increased demand for domestic labor, leaving working families with limited options. This is arguably a contributing factor to the chronically low wages found in the domestic services industries, as decades of stagnant wages and increases in the cost of living have deeply affected middle and lower-class families.

- Income inequality is a chronic problem that affects every family in this nation, and has led to the deterioration of the middle class. This is an urgent issue that needs to be addressed by Congress, as well as the Supreme Court, particularly in terms of “big money” in politics and Citizens United. Many of the social welfare and economic reforms that I have recommended could be funded through a more progressive tax rate that would begin to address the pervasive issue of income inequality.

### ***Policy – State Level***

Due to the lack of opportunity for policy change at the federal level, state legislative changes is where there is the greatest likelihood of successfully pushing for expansion of existing labor laws given the recent passage of domestic worker rights laws in a handful of states. Any law similar to the Domestic Worker Bill of Rights at the state level should be crafted based on the more expansive existing laws such as the DWBOR in New York and Oregon. As was discussed in the Legislative Analysis chapter, the existing law in California is not inclusive enough to create the necessary changes to the working conditions of domestic workers, and in turn is not an example that should be used to create similar laws in other states. A law that specifically addresses domestic workers rather than a blanket extension of labor rights for workers in all industries is preferable in consideration of the valid arguments about increased costs and burdens on small businesses. As was demonstrated in the legislative analysis, the exclusion from many of the federal and state labor laws is due to the fact that these laws do not apply to businesses that employ a small number of workers. Therefore, in terms of the laws that would specifically address the domestic service industry, they should, at a minimum, include provisions that address the following aspects:

- The right to minimum wage in states where they are currently excluded

- Equal rights to overtime restrictions and wages that other workers are currently afforded
- Explicit protection from discrimination, abuse, and harassment of any kind consistent with existing state labor laws
- The right to organize, advocacy, and to create associations for collective bargaining purposes
- Inclusion under existing worker's compensation and unemployment state programs
- The right to rest breaks, meal breaks, sick/rest days, and adequate hours for uninterrupted sleep for live-in workers
- Inclusion under existing workplace safety protections and regulations
- Clearly defined procedures for filing complaints and seeking recourse when an employer violates the labor rights of a domestic worker
- Clearly defined consequences for employers who are found to be in violation of labor laws

Additional provisions that should be included in domestic workers' rights legislation at the state level should be the right to benefits that workers in similar occupations are afforded, as well as paid vacation and holidays. Workers should also be entitled to notice of termination consistent with existing regulations. Employers should be required to keep accurate records of their employee's hours to prevent overtime violations, as per existing labor laws.

There should be a clear and coordinated effort to educate employers and workers about these new laws, how they apply, how they are enforced, and how they are expected to impact employers and workers. While hosting this information on the webpage for the respective state's Department of Labor is useful, this alone is not adequate to ensure that these laws are understood and brought to the attention of workers and employers alike.

This means that state governments and agencies need to make a proactive effort to

educate the public about these rules and regulations, particularly the methods for filing complaints and the consequences for violating these laws.

### ***Advocacy and Bridging the Gap***

The historical analysis of domestic labor policy and the advocacy efforts of domestic worker organizers has demonstrated that this is a unique industry that is not conducive to the organizing strategies that are generally effective in other industries and occupations. The dispersed nature of the domestic labor force makes traditional labor union models of organizing ineffective and difficult to sustain, therefore alternative models are necessary. In light of this, the community-based worker centers are the preferred model of organizing and assisting domestic workers. These worker centers, like the Fe y Justicia Worker Center in Houston that I volunteered with, have the potential to provide vital services and education to domestic workers, and immigrant workers in general.

In states where domestic workers' rights legislation has been enacted, worker centers are integral to bridging the gap between policy and enforcement. These worker centers, like Fe y Justicia, can serve as a mediator between employers and domestic workers when issues in the workplace arise in order to avoid litigation. Current labor laws are only enforce when a worker files a complaint with the Department of Labor, meaning that the burden is placed on workers to assert their rights and hold employers accountable. This burden of self-initiation makes it extremely unlikely that immigrant workers, particularly those who are undocumented (yet still entitled to based labor rights under the FLSA). This is where worker centers can play a critical role in serving as an intermediary party that immigrant workers can trust, and they typically employ or consult with attorneys, so they can help these especially vulnerable workers with navigating the grievance-filing procedures outlined by labor laws.



Advocacy organizations should provide education for domestic workers about what their rights in the workplace are, and provide workplace safety training. The literature on domestic worker advocacy presents a strong case for these programs, as they empower workers to assert their rights, something that is essential for vulnerable workers that typically lack confidence due to a number of reasons (lack of legal status, discrimination, etc.). These community-based organizations are effective at bringing together an industry of dispersed workers and empowering domestic workers to tell their story and to engage in public participation.

### ***Continuing the Campaign in Other States***

In consideration of states that could potentially be the next in line to pass domestic worker protection legislation, it is important to consider the demographic makeup of these respective states. State campaigns should be prioritized based on the number of domestic workers in the state, the proportion of the labor force that they represent, and the demographic profile of this population. Based on these considerations, Texas would be the most logical state to target next for the expanding of labor rights for domestic workers. Based on existing data, Texas has the next largest population of domestic workers following New York and California. Additionally, Texas' population has a large proportion of immigrants and is one of the most popular destination states for immigrant workers searching for employment opportunities in the U.S.

Given the demonstrated importance of a strong grassroots advocacy movement to the successful passage of domestic worker protective legislation, campaigns will be most effective in states where there is already a strong network of immigrant labor organizers and advocacy groups.

When thinking about successful advocacy efforts, it is important to consider the way that policy arguments are framed in order to gain as much support from lawmakers as possible. Given that income inequality is part of the cause for the the increased demand for cheap domestic labor, as well as the concentration of vulnerable workers who seek employment in this industry, advocates could likely find success in tying this issue to the larger problem of income inequality. The effects of income inequality on the entire labor force and recent political discussions over this issue have led to a greater public consciousness about this topic, and this consciousness creates an opportunity for advocates to frame immigrant workers' rights in this context and create more public awareness. Another potentially strong political argument that could be made is that the U.S. has an aging population, which will (and has already begun to) lead to an increased demand for domestic care work. The Social Security program is already strained and cannot adequately mitigate these growing costs, therefore the issue of labor rights for domestic workers could be tied to this increasing demand and the growing importance of this industry. If domestic workers' pay is documented and processed in the same manner as other industries, this will lead to more tax revenue and money being added to Social Security as well. A fiscal argument could also be made in favor of granting domestic workers labor rights by pointing out that by not doing so, it is increasing the costs of social welfare programs that many eligible workers are likely forced to turn to in order to supplement their lack of adequate income and benefits.

Politics can have a significant impact on the success of legislation, therefore campaigns should take into account the political makeup of the respective state legislature, as this could potentially pose obstacles for the passage of these laws. One

strategy for effectively navigating the politics of the state legislature is to identify at least one, but preferably more, key state representatives to sponsor and advocate this legislation. Additionally, it is valuable to provide testimony from domestic workers themselves as to how the lack of legal protections affect their daily lives and experiences in the workplace. The human perspective has the power to potentially sway politicians that may be hesitant, for whatever reason, to support these policies.

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