OF HOME AND WHOM: EMBEDDEDNESS OF LAW IN THE REGULATION OF DIFFERENCE

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ABSTRACT

Laws geared toward regulating the employment relationship cling to traditional definitions of workplaces, neglecting the domain of the home and those who work there. Domestic workers, a population of largely immigrant women of color, have performed labor inside of New York City's homes for centuries and yet have consistently been denied coverage under labor law protections at both the state and federal level. This article traces out the exclusions of domestic workers historically and then turn to a particular piece of legislation – the 2010 New York Domestic Worker Bill of Rights – which was the first law of its kind to regulate the household as a site of labor, therefore disrupting that long-standing pattern. However, the law falls short in granting basic worker protections to this particular group. Drawing from 52 in-depth interviews and analysis of legislative documents, The author argues that the problematics of the law can be understood by recognizing its embeddedness*, or rather the broader political, legal, historical, and social ecology within which the law is embedded, which inhibited in a number of important ways the law's ability to work. This article shows how this plays out through the law obscuring the specificity of where this labor is performed – the* home *– as well as the demographic makeup of the immigrant women of color – the* whom *– performing it. Using the case study of domestic workers' recent inclusion into labor law coverage, this article urges a closer scrutiny of and attention to the changing nature of inequality, race, and gender present in employment relationships within the private household as well as found more generally throughout the low-wage sector.*

Rethinking Class and Social Difference
Political Power and Social Theory, Volume 37, 185–214

ISSN: 0198-8719/doi:10.1108/S0198-871920200000037009

Keywords: Domestic work; labor law; New York city; intersectionality; immigrant workers; household labor; informal labor

> Privilege is provisional. Privilege can be denied, withheld, offered grudgingly and summarily withdrawn. Entitlement is impervious to the kinds of verbs that modify privilege. Our people have had to work, scrape for privilege gobble it down when those who would snatch it away weren't looking. Keep a close watch. -Margo Jefferson, *Negroland: A Memoir* (2015, p. 37).
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> Dealing with gender and race is a class project; it is material, and it is about social justice. –Sharon Kurtz, Workplace Justice: Organizing Multi-Identity Movements (2002, p. 207).

The global industry of paid domestic work can be broadly characterized as informal, unregulated, and unprotected by labor codes and protections. Domestic work blurs the lines between public and private, home and work, and service and servitude (Hondagneu-Sotelo, 2001; Qayum & Ray, 2003; Rollins, 1985; Romero, 1992). The labor relations that constitute domestic work are shaped by social hierarchies of race, ethnicity, class, gender, and nation for the more than 67 million domestic workers employed in homes globally (ILO, 2015). The overwhelming majority of those workers are women (though as previous scholarship shows, the gender differential depends upon the particular context) and many are migrants (either internal, regional, or international) (Bartolomei, 2010; Hobden, 2010; Qayum & Ray, 2010; Sarti, 2010).[1]

Domestic workers, a population of largely immigrant women of color, have performed labor inside of New York City's homes for centuries and yet have consistently been denied coverage under labor law protections at both the state and federal level. Due to their site of labor being the home, which lacks public governance and remains isolated, individualized, and private, domestic workers' employment relationships are often seen as eluding regulation. Labor laws geared toward regulating the employment relationship cling to traditional definitions of workplaces, often neglecting the space of the home and those who work there.

Yet that pattern of exclusion was recently and importantly disrupted when New York State passed the first piece of legislation specifically granting employment benefits and protections to domestic workers in the United States, the Domestic Worker Bill of Rights (DWBR) of 2010. The bill extended several basic worker protections – including overtime pay, vacation days, and a day of rest per week – to domestic workers more than 70 years after their deliberate exclusion from New Deal labor legislation (better known as the Wagner Act, or the National Labor Relations Act of, 1935 [29 U.S.C. § 151–169]). Under Section 2(3) of the NLRA, domestic workers, day laborers, and agricultural workers (among other categories) are strategically excluded from the guarantee

[1]For instance, in the Arab states, more than 50% of domestic workers are men (ILO, 2015), while Pariser (2015) found that 97% of domestic workers in the early decades of colonialism in Dar es Salaam were African men.

of the right to collectively organize (29 U.S.C. § 152(3); Feldacker, 1999, p. 59).[2] After years of organizing in New York, however, domestic workers and myriad community, religious, and union allies organized and lobbied for the bill until it passed, inspiring organizing struggles across the United States. In the years following, several other states have passed their own domestic worker legislation, including California, Connecticut, Hawaii, Illinois, Nevada, Massachusetts, and Oregon, while Seattle, Washington, became the first city to pass a DWBR in mid-2018.[3] And more broadly, domestic worker organizations are waging a struggle for national legislation, as Kamala Harris and Pramila Jayapal recently introduced legislation that would grant stronger workplace protections beyond the state level (Fernandez Campbell, 2019a).[4] Globally, we also see this starting to shift recently with the formation of the International Domestic Worker Federation in 2013, the largest global union led entirely by women workers, representing over 500,000 members.

Surprisingly, however, the first historic piece of legislation in the United States specifically designed to recognize domestic workers as *workers* and therefore deserving of workplace protections and benefits does little to improve the conditions of that very population. Here, I draw from extensive semistructured interviews with domestic workers in New York City to investigate and resolve this seemingly simple question: Why did a piece of legislation intended to help

[2]The full text of the National Labor Relations Act (29 U.S.C. § 151–169) regarding this point is the following: "The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act [this subchapter] explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, *or in the domestic service of any family or person at his home*, or any individual employed by his parent or spouse, or any individual having the status of an independent contractor, or any individual employed as a supervisor, or any individual employed by an employer subject to the Railway Labor Act [45 U.S.C. § 151 et seq.], as amended from time to time, or by any other person who is not an employer as herein defined," (29 U.S.C. § 152(3), emphasis mine).

[3]Seattle's bill sets an impressive progressive standard in that it avoids complications around worker classification struggles (domestic workers being categorized as either *independent contractors* or as *employees*, which hold important implications for access to or restriction from particular sets of benefits) and it also establishes a standards board that will bring workers to the table (Miller, 2018; Smith, 2018).

[4]Yet it is important to note that just as the DWBR does not operate within a vacuum, it is also not the only law that governs the working conditions of domestic workers in New York. They also have state-specific coverage under the Wage Theft Protection Act, and those who work for 40 hours a week (or more) for the same employer are also guaranteed the right to worker's compensation and disability insurance. Domestic workers with more than 1 year of employment with the same employer also earn two paid sick days per year in the state of New York through the Earned Safe and Sick Time Act. And importantly, all of these protections are – in theory – meant to apply to domestic workers regardless of their documentation status.

domestic workers end up falling short? And what does the law's problematics in practice show us about the broader terrain of marginalization that domestic workers and other low-wage workers face? Furthermore, how can labor law address social difference, and recognize the broader legal context shaping the working lives of structurally vulnerable populations of informal workers?

Drawing on the case of the DWBR, I argue that the law in practice reveals the embedded nature of legal logics within a broader social and economic ecology within which they operate, which inhibited in a number of ways the law's ability to work. I argue that the first attempt to regulate the highly diverse and segmented industry of domestic work in New York – the DWBR – was passed within a contested terrain of exclusion that already marginalized these workers along race, class, and gendered lines. I use the term *embeddedness* of law to recognize the broader socioeconomic and legal ecology that the law was passed within, and to therefore foreground its difficulties and problematics when lived out in action. Examining the DWBR and its effects, then, through the lenses of the women whose working conditions it was designed to improve, reveals the myriad ways that the embedded nature of law creates a site of contested terrain for workers in an effect to access their rights. In this case study, we see how class, race, gender, and citizenship are articulated across jurisdictions and laws to construct or reinforce vulnerable positions in the workforce and the labor market.

Fundamental to my argument about the embeddedness of law and the terrain of marginality are two central points about exclusions domestic workers face – their immigrant status and their structurally vulnerable position of working inside the employer's private household.[5] This analysis further points to the importance of considering class as articulated with and thus shaping racialized and gendered relations in the home. In this way, focusing on domestic work as especially indicative of these tensions offers insights into dynamics that affect labor and employment relations more broadly. Domestic work, then, encapsulates these contradictions so intensely that it uniquely makes visible these dynamics that also structure broader labor relations, encouraging us to see these particular kinds of patterns in other work sites with various formations of labor relations. Looking at the law in practice for this particular group of workers allows us to draw further conclusions about vulnerability and struggles that workers in low-wage jobs face more broadly.

In making these claims, I primarily draw upon 52 in-depth interviews with domestic workers in an effort to understand the complex nuances of the law in practice and find that the law's benefits are available to workers differentially; differences arise between documented workers and those without documents in terms of who can access the law, revealing a deeper story about the embeddedness of law with a broader, complex legal ecology that already marginalized these workers. Additionally, I supplement domestic workers' personal experiences of

[5]As a community organizer in NYC told me "92% of domestic workers are women, 80% are women of color, and 50% + are foreign-born…the National Domestic Worker Alliance estimates that over 70% could be undocumented," (Personal interview, June 8, 2013).

the law by drawing from the Bill of Rights legislative struggle, as the final iteration of the law lost a number of key original provisions.

The law in New York thus presupposes workers to share a common social position by relegating ethnoracial, citizenship, and other divisions between domestic workers unspoken and by failing to recognize the specificity of their site of labor. This special issue of *Political Power and Social Theory* moves forward a revised conception of class that inherently recognizes social differences in myriad ways, and thus, this outcome holds significant consequences for not only understanding and recognizing employment relations inside of the home but also for seeing these patterns and moving toward change and collective action for low-wage workers.

In the following sections, I discuss the literature around the industry of domestic work, examples of workers organizing against industry-specific obstacles, and the shifting racialized population of domestic workers in New York City from largely African American women to an increasingly immigrant population. I then discuss the brief exclusions of past labor law, the tenets of the DWBR itself, and then delve into the problematics of the law in addressing the *whom* – the immigrant women doing this labor – as well as the *home*, their workplace. Exploring the consequences by showing what the law has (or has not) done in practice for this particular group of historically marginalized workers sheds light on why this legislation fell short, moving forward our understanding of such limited legal scope and corresponding exclusionary practices. However, domestic workers are not the only workers who face labor violations and abuses on the job; they are only one group among many that are vulnerable to workplace violations. All workers – to differing extents – face these issues, though the degree depends on gender, race, immigration status, education level, tenure with the same employer, and type of workplace (Bernhardt, Milkman, Theodore, Douglas, AuerJames, González et al., 2009). In this way, the case study speaks to issues affecting other groups of workers and highlights the broader terrain of marginality shaping low-wage and informal working conditions, revealing challenges facing these sectors as well.

RESEARCH ON THE COMPLEXITIES OF PAID DOMESTIC WORK

Over the last several decades, scholars of domestic work have analyzed internal dynamics of labor exploitation faced by workers paid to clean, cook, and care inside another's home (Hondagneu-Sotelo, 2001; Hondagneu-Sotelo & Riegos, 1997; Rollins, 1985; Romero, 2011). These accounts draw attention to the key obstacles inherent to this specific – or, more problematically, "exceptional" – type of labor, however, including the isolation and individualization intrinsic to the home as a site of labor, the gendered and racialized nature of the work, and the ideologies of family and care that appropriate and mask a highly unequal class relationship (Glenn, 1992; Jiang & Korcynski, 2016, pp. 1–26; Nadasen, 2015; Ray & Qayum, 2009; Romero, 2011).

A growing body of scholarship has examined the ethnic, racial, and nation-based hierarchies embedded in domestic workers' working relationships to their often native-born, white employers (Chang, 2001; Glenn, 1992; Hondagneu-Sotelo, 2001; Rollins, 1985; Romero, 1992). Another key area has focused on debunking constructed racial justifications that historically served to slot women into particular positions of low-wage, low-prestige service work across the United States (Duffy, 2007; Glenn, 1991). A key thread in this literature has challenged the rhetoric through which domestic workers' labor is devalued as casual and the resultant uncomfortable, odd positionality of being thought of and understood as "like one of the family" when employed as a domestic worker inside of the home (Bapat, 2014; Burnham & Theodore, 2012; Childress, [1956] 1986; Tuominen, 2003).

This problematic trope is not only found in employment relationships between domestic employers and those they hire, however, as many smaller businesses and nonunionized workforces purport to espouse nonhierarchical, "family-like" social relations in the workplace.

Domestic workers are certainly not the only type of worker who must manage the intimate personal family relations in their workspace, nor are they the only workers to experience this relationship with the home. The home as a site of work functions as such for a number of other occupations, including those are doing more casual work in and around it, such as contractors, landscapers, service and repair people, electricians, and plumbers. Yet working in isolation rather than in a socialized setting such as an office, restaurant, store, or factory presents various challenges around safety concerns. Ride hail drivers also experience this one-on-one service interaction in the space of their cars, a setting also involving vulnerability and potential safety concerns. However, the heightened intensity of the individualized power dynamic within the isolated space of the home given the private and confined nature of its space and its historic connection to practices of servitude and slavery historically situate domestic work in a unique way.

Yet the contradictory ways in which domestic workers are thought of, regarded, and situated have profound consequences for how they and their labor are or are not recognized as legitimate (Chun, 2009). Part of this is due to the historic trend of devaluing their cooking, cleaning, and caring labor as gendered and racialized labor. Glenn (1992) and others analyze the racialized hierarchy of service work and domestic work in the United States, arguing that by positing gender as the basis of assignment for reproductive labor tasks that work has often been assumed to be universally experienced by women rather than recognized as ethnoracialized as well (Chang, 2001; Colen, 1995; Hondagneu-Sotelo, 2001; Rollins, 1985; Romero, 1992; Ruiz, 1987). And while class – bound up with privilege – has always been implicit in discussions of domestic work in a reductionist manner, its articulation with race and gender has been less frequently acknowledged, especially in light of movements to organize for legal protections as "real" workers.

This category of labor traces its origins to the labor practices of slavery and colonialism lived out through racial, sexual, and economic relations of domination (Rollins, 1985; Dill, 1988; Glenn, 1992; Semple, 2013). As Burnham and

Theodore (2012, p. 3) note in their comprehensive overview of the industry, domestic work has *always* been a feature of life in the United States, dating back to enslaved, indentured, and only nominally "free" women workers during colonial times (Bunster & Chaney, 1985; Dill, 1988; Glenn, 1992; Nadasen, 2015). Over time, domestic work has importantly and distinctly evolved into a wage-earning position of employment, though it still remains devalued, stigmatized, and marginalized as an occupation in itself (Domestic Workers United (DWU) and Data Center, 2006). My research thus attempts to reveal some of that which has long been obscured through the heavy presence of historical "master narratives" around imperialism and colonialism as played out through the service encounters during and after slavery. I build upon that shift (Ballantyne & Burton, 2005; Fox-Genovese, 1988; Genovese, 1976) to recognize and analyze the operation of power in sites that are typically thought of as private and separate, such as the home, revealing the continued difficulties of formalizing labor rights for those who work there.

The Long-Organized "Unorganizable"

Historically unregulated or underregulated by federal and state labor laws, domestic work as an industry has never really fit the typical categorical distinctions of American employment regulation. Scholarship on employment law and the workplace (Albiston, 2006; Krieger, Best, & Edelman, 2015; Schultz, 1992; Zheng, Ai, & Liu, 2017) that seeks to understand, and challenge, gendered and racialized discrimination at work also relies upon a narrow and traditional definition of the workplace itself. However, in this understanding, law in action appears to only shape rights that can be realized, in particular, traditional sites of labor.

Informal workers are universally ignored or misrecognized by labor law, however, and thus domestic workers are not the only occupation to experience persistent negligence and exclusion through labor law. Historically, workers have long organized to overcome various labor struggles across the dividing lines of race, class, gender, sexuality, and language (Brodkin-Sacks, 1988; Glenn, 1992; Honey, 1993; Jung, 2010; Kurtz, 2002; and Windham, 2017, among others) which demonstrate the interwoven connections between civil rights, labor rights, racial and gender justice, and an intersectional analysis that brings forward that very imbricated nature of class, race, gender, and worker identity.

Despite facing institutional and structural challenges, significant labor mobilization by domestic workers has taken place over the last century; these efforts have recently been made to broaden, extend, or create new labor protections and benefits that most other occupations enjoy, both in the United States and in other countries. These demands take various contextual shapes and utilize particular resonant frames across worker struggles. Tied to early decisions to categorize their work as outside of labor regulations, household workers were long glossed over as "unorganizable," (Ford, 2004; Jiang & Korcynski, 2016, pp. 1–26; Middaugh, 2012) though workers actively mobilized around labor and social

reforms in the early twentieth century New York City. There, African American domestic workers formed the Domestic Workers' Alliance in the 1930s with support from the National Negro Congress, and African American household workers created further labor organizations in Atlanta, Detroit, and Washington, D.C. in the decades following (Nadasen, 2015).

These victories have not come easily, however, due to the difficulties of organizing and overcoming industry-specific obstacles (Coble, 2006; May, 2011; Nadasen, 2009). And while other recent scholarship has focused on organizing efforts for domestic worker law and resultant successes (Boris & Fish 2014; Boris & Nadasen, 2008; Goldberg, 2014), and other research has looked at questions of how ethnoracial status shape domestic workers' responses to disrespect and devaluation of their work (Mose Brown, 2011; Wu, 2016), little of this work has examined how these laws succeed or fail in addressing the specificity of the industry itself in lived practice, such as the diverse intersectional and immigrant backgrounds of the workers, the location of work in the home, and the personal relationships found there. I extend the body of literature on intersectionality and work by bringing that frame to consider how the DWBR obscures the effects of other forms of marginalization around race, gender, and nation upon this specific population, overlooking the specificity of *where* this labor is performed – the home – as well as the demographic makeup of *who* performs it – a multiracial, multiethnic, majority immigrant population of women of color.

A CONSTANT PRESENCE, A SHIFTING POPULATION: NEW YORK CITY'S DOMESTIC WORKERS

New York City's practice of domestic work has historically been shaped by generations of women of color and immigrant women, though the particular group of women performing that work has changed over time. After controlling for changes in census categories and definitions, domestic service was the leading occupation for women workers in the United States between 1870 and 1940 (Van Raaphorst, 1988, p. 4). For those 70 years, however, white US-born and foreign-born domestic workers fared much better even in the face of occupational sexism than their fellow black US-born and foreign-born domestic workers. In the early decades of the twentieth century, black workers migrated to New York from the Southern United States as well as from Caribbean countries, Mexico, Cuba, and Central America (Gray, 1993, p. 6). Van Raaphorst (1988) found that by 1930, 75% of all black workers who migrated to New York from the South remained concentrated in New York City, with 80% of those workers living in Harlem around the time that the Harlem Renaissance began. In the 1920s and 1930s, black women faced little competition with black male counterparts in New York's industry of domestic work, as they found jobs as chauffeurs, valets, butlers, and cooks, while women were hired into homes that employed one servant who performed various labor duties (Gray, 1993, p. 20).

However, this soon shifted with the rise of "slave markets," or street corners where US-born black and immigrant Caribbean and African domestic workers were forced to seek work. As Gray (1993) explains:

> Unlike native and foreign-born white domestics, black women, in response to their situation, had to resort to standing on street corners in white neighborhoods and waiting for employers to come by and hire them directly off the street. These "slave markets" as they came to be called, were the most overt manifestation of the mistreatment of black females (15).

In this way, black domestic workers were subject to continued stigmatized labor patterns and difficult, degrading means of seeking employment with limited job scope. World War II then brought about new opportunities for white women to leave domestic service and therefore created somewhat more bargaining power in the hands of black domestic workers. Numbers declined from one-third of all US women working in domestic service in 1930 to only one-fifth by 1940, and widespread agitation from community groups, social critics, worker associations, and even the *New York Times* brought down the street corner bargaining zones, though in the following decades they resurfaced sporadically.

Immigration flows to New York City in the early 20th century also shifted the population of domestic workers, as early waves consisted largely of Europeans while over the past 30 years, they have consisted mainly of migrants from countries throughout Latin America, the Caribbean, and Asia (NYCP, 2017; Waldinger, 1999). The Hart–Celler Immigration Act of 1965 ended the Asia-Pacific Triangle immigration exclusions, abolished the quotas based on national origins, and also lowered European quotas (Coble, 2006), thus changing the landscape of the industry. The current makeup of New York's immigrant population reflects that diversity, as it is far more heterogeneous than in other US metropolitan areas with a foreign-born population of nearly 40% (NYC Planning, 2017). Additionally, immigrant workers make up nearly half of the city's labor force at 47% of all employed residents, and they are highly geographically dispersed population that is found working in all major industries of New York City (Lobo & Salvo, 2013).

However, US immigration law is constructed so as to create and maintain docility among immigrant workers, legally binding those who accompany their employers to the country. Some domestic workers travel to the United States on employer-sponsored visas with diplomats, and yet these workers cannot leave their position of employment even in cases of serious abuse without also relinquishing legal visa status (May, 2011, p. 179). Other visa requirements restrict and impede immigrant domestic workers' ability to secure work legally and position them in potentially long-term situations of waiting (Covert, 2013). This is especially true of Filipina migrant domestic workers in New York City, as a 2010 survey found that 73% had migrated on a tourist visa and then upon arriving to the United States were made to pay hefty sums to change their immigration status applications and work permit application fees (Caballes et al., 2010).

Recent changes in immigration law have only further positioned immigrant workers in precarity. Shifts beginning in the mid-1990s to restrict opportunities

for gaining legal status up through recent xenophobic, anti-immigrant sentiments have stoked fear of deportations and severely limited economic options for this population, effectively constructing underclass of long-standing semi-permanent undocumented workers (279). These workers find themselves very much a part of the city, and yet for all of their cultural, economic, and social participation, these workers remain on the political and legal outskirts. In this way, Flores and Schachter's (2018) concept of social illegality is useful when considering documentation status for domestic workers. As they explain, "[w]hen individuals have legal documents but society considers them "illegal", we label them *socially illegal*," (863). While exact data around immigration status of individual domestic workers is sensitive and often nearly impossible to access, through a racialized lens around ethnic stereotypes, domestic workers are generally understood as such.

Currently, an estimated 2.5 million people in New York State – almost one in every five households – employs a domestic worker (Pinto, Wernick, Jacobson, & Sunshine, 2017). The number of domestic workers is estimated to range between 200,000 and 600,000 in New York City, though precise numbers are difficult to collect for the reasons mentioned above as well as due to their isolated, privatized workplaces (Burnham & Theodore, 2012). Of that population, an estimated 99% of domestic workers are immigrants, 95% are women, 54% are "nonwhite," and 35% are noncitizens (American Community Survey, 2010/2014). Recent national survey results demonstrate that undocumented domestic workers struggle significantly more with injuries at work, lack of sustainable pay, and no sick leave (Burnham & Theodore, 2012). Undocumented workers earn significantly less than their documented and US-born counterparts (Hall, Greenman, & Farkas, 2010), and thus most domestic workers enter the US labor market at a disadvantage, encountering the racialized and citizenship differentials embedded within it (Burnham & Theodore, 2012). Additionally, this same survey of over 2,000 domestic workers in major metropolitan areas found that 85% of undocumented immigrants who encountered problems with their working conditions in the last year did not complain because they feared their immigration status would be used against them.

METHODS

This chapter primarily draws upon 52 in-depth interviews in New York City conducted over eight months between 2013 and 2014, analysis of New York State Senate and Assembly legislative session transcripts and video documentation on the DWBR, and policy and research reports from the New York Department of Labor, Domestic Workers United (DWU), Damayan Migrant Workers Association, Adhikaar, and the National Domestic Workers Alliance (NDWA). It was part of a larger comparative project that included more than 18 months of ethnographic research split between New York and my comparison site, and I have conducted a number of follow-up visits and conversations with domestic workers in New York City in the time since.

I recruited participants through a modified snowball sampling approach after establishing contact with various domestic worker organizations throughout the city as well as worker justice and immigrant advocacy groups. My interviewees ranged in age from 26 to 62 years of age and demonstrated wide geographic diversity, having immigrated to the United States from the Philippines, Nepal, Tibet, Mexico, Guatemala, Colombia, Peru, Uruguay, Barbados, Saint Vincent and the Grenadines, Trinidad and Tobago, and Jamaica.[6,7] New York's domestic worker movement is vibrant, diverse, and highly organized, consisting of more than 12 established domestic worker organizations based in the Brazilian, Afro-Caribbean, Filipina, Haitian, Indian, Nepali, and other immigrant enclave communities.[8] Interviews in Queens and Brooklyn were usually at the home of the respondent or in her neighborhood, while those conducted in Manhattan were always connected to her worksite. When amendable, I often shadowed my respondents at work and so our interviews took place in a number of locales, including coffee shops, public parks, toddler sing-a-longs, the New York Public Library's story hours, workers' homes, their places of employment (if employers were not present), and on public transportation. I offered my respondents a Metro card worth 10 dollars for giving of their valuable time, and I always met them at a location of their own choosing. In order to provide broader social context, I also interviewed legal staff from immigrant advocacy groups, domestic workers' organizations, and urban justice groups.[9]

I also attended domestic worker organizations' meetings, trainings, and protests and volunteered at domestic worker benefits and events, maintaining a consistent

[6]I purposely excluded college students and European au pairs from my sample. These women only constitute a small and short-term portion of the population of New York's domestic workers, which, when paired with their drastically elevated class, immigrant, and ethnoracial status, positions them as distinctly privileged from those for whom caring, cooking, and cleaning has become a lifelong career.

[7]I conducted interviews in the following neighborhoods: Manhattan – Tribeca, the East Village, Midtown, Columbus Circle, Central Park, Morningside Heights, the Upper East and West Sides, and Harlem; Brooklyn – Fort Greene, Park Slope, Bedford–Stuyvesant, Prospect Heights, and Clinton Hill; Queens – Woodside, Elmhurst, and Jackson Heights; and the Bronx.

[8]By the time I began research in mid-2013, New York City's central domestic worker organizations were already stretched thin and burdened by "researcher fatigue," after heightened media coverage of the Bill of Rights as well as a flurry of interviews with individual organizers. I thus strategically tried to be useful; I wrote research reports for the National Domestic Worker Alliance (NDWA) and the International Domestic Worker Federation and held a visiting scholar position at Cornell University's Worker Institute. In order to gain a better sense of the organizational responses to the law, I also participated in the city's Eldercare Dialogues, Hand in Hand meetings, the Employer Codes of Conduct campaign meetings, fundraiser benefits, and diplomatic immunity protests that united the majority of domestic worker organizations, activist groups, and immigration advocacy organizations.

[9]I did not directly ask my respondents about their immigration status, but instead asked where they were born and when they began working in New York.

presence though well aware of my status and positionality as an outsider. Finally, I conducted a field revisit lasting for two months in order to reestablish communication with interviewees as well as to confirm my developing analysis.

After each interview, meeting, and event, I took field notes and then wrote longer analytical memos each month, allowing me to recognize patterns occurring in the observations and data. All of my recorded interviews were then transcribed (and personally translated from Spanish, in three cases) for coding and further qualitative analysis, drawing upon grounded theory (Glaser & Strauss, 1967). Key concepts that emerged included the law's fraught relationship to workers' immigration status, involving the mention of being undocumented and related fear of deportation, as well as the law's fraught relationship to the home as a site of work. My focus thus draws upon those two lines of observations that arose within my data, recognizing the broader embeddedness of the DWBR within a terrain of marginality that already existed, including its intersection with laws around immigration, minimum wage, and sexual harassment.

RACIALIZED HISTORIES OF DOMESTIC WORKERS' LEGAL EXCLUSION

Exclusionary legal practices and legislation date back historically around both the "whom" and "home" related to domestic workers. Looking at the details of legislative decisions, more in-depth, legal scholars (Campbell, 2014; Perea, 2011) have shown how New Deal labor legislation drafted in the early 1930s featured a statutory exclusion of agricultural workers and domestic workers, which was racially motivated in order to restrict the labor rights of black workers. This strategic and intentional move was well-understood as a race-neutral proxy for excluding black workers from basic labor protections and state compliance. In fact, New York Democratic Senator Robert Wagner's definition of *employee* in the 1935 Wagner Act was initially quite expansive. He stated the law should extend the right to organize and collectively bargain to:

> Any person employed by an employer under any contract of hire, oral or written, express or implied, including all contracts entered into by helpers and assistants of employees, whether paid by employer or employee, if employed with the knowledge, actual or constructive, of the employer, (Perea, 2011, p. 119).

Yet during Legislative hearings on the bill, other senator raised concerns about how the language would affect farmers and housewives. As then drafted, the bill would apply to a farmer or a housewife who employed two persons on the farm or in the home, so argued the opposition (Perea, 2011, p. 119). The bill was thus referred back to the Senate Committee on Education and Labor, which promptly narrowed the definition of employee:

> The term "employee" shall include any employee…but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, (Perea, 2011, p. 120).

The bill was also amended to apply only to employers with 10 or more employees. Thus, while no explicit mention of race occurred during these particular discussions of this section of New Deal legislation, through these debates, Congress carefully legislated *around* the two largest occupational sectors comprising black workers, agricultural (those situated in the field), and domestic (those situated in the home) employees. Wagner's attempt to appeal to his constituency of working class New Yorkers and the resistance that met that effort, then, effectually continued a pattern of historical exclusion for both domestic and agricultural workers that continues 80 years later for domestic workers.

Similar to the Wagner Act, the Social Security Act (1935) and the Fair Labor Standards Act (1938) also initially excluded domestic workers, though both have (albeit gradually) sought to address this racialized exclusion. The process of extending coverage at the national level to domestic workers was a slow and reluctant one (1951 and 1974, respectively), though currently, the National Labor Relations Act still maintains its exclusionary language (Perea, 2011). The Occupational Safety and Health Act of 1970 also stubbornly clings to its 1975 decision to omit domestic workers from its protections "as a matter of policy" (29 C.F.R. § 1975.6; Castro, 2008, pp. 3–9).[10] Domestic workers in New York State won minimum wage inclusion in 1972, however, when Bronx State Assemblyman Seymour Posner used survey data from the Department of Labor to demonstrate that the state's domestic workers earned an annual salary of $1,108, or roughly 50 cents per hour, which was significantly less than New York's $1.85 minimum wage at the time (Bapat, 2014, p. 58; Martin & Segrave, 1985, p. 128). Additionally, the New York State Employment Relations Act still excludes domestic workers from coverage, which could be amended by simply altering the definition of "employee" in Section 701(3) (a) to include domestic service (NYSS, 2010).

EMBEDDEDNESS OF LAW AND THE REGULATION OF DIFFERENCE

The 2010 DWBR was the first of its kind to dignify the profession as a working relationship worthy of legal compliance. Signed into law on August 31, 2010, by then-Governor David Patterson, the first African American governor of the state, it went into effect on November 29 later that year. It extends a number of material benefits, including that it (1) extends minimum wage coverage to babysitters (except for those who work on a casual basis) and *companions*, as well as domestic

[10]The text of the Occupational Safety and Health Act (1970) states "Policy as to domestic household employment activities in private residences: *As a matter of policy*, individuals who, in their own residences, privately employ persons for the purpose of performing for the benefit of such individuals what are commonly regarded as ordinary domestic household tasks, such as house cleaning, cooking, and caring for children, shall not be subject to the requirements of the Act with respect to such employment," (29 C.F.R. § 1975.6; emphasis mine).

workers; (2) guarantees overtime pay at a rate of 1.5 times the base pay more than 40 hours/week for live-out nannies and over 44 hours/week for live-in nannies; and (3) guarantees one day off per week and three vacation days annually (after one year of work for the same employer).[11] Early studies suggested many workers are not enjoying these benefits, however, as a 2011 survey conducted with over 1,000 employers in Brooklyn's Prospect Park neighborhood revealed that only 15% of nannies who work more than 40 hours a week receive overtime pay, and widespread abuse within the industry is still readily acknowledged (Park Slope Parents Nanny Survey, 2011).[12] Importantly, more recent follow-up surveys in 2017 show a small but important increase in salary for the 60% of nannies who work for more than 40 hours a week, a $2.63 increase on average from 2015 (Park Slope Parents Nanny Survey, 2017), and the most recent data from 2019 shows an increase of an additional $1.82 on average from that 2017 number.

However, the right to collectively bargain, a standardized contract, a two-week termination clause, and the creation of a livable, elevated minimum wage were the most significant provisions missing in the final iteration (NYSS, 2010). The right to bargain would have allowed for legal, processual treatment of the specificity of the household as a site of work, and thus potentially opened up further strategic and material tools which would have enabled domestic workers to actively shape the terms of the law through discourse around the terms of the work itself. Though not a panacea, bargaining can create a space in which negotiations, discussions, and attention are given to particular workplace issues. However, since the United States does not have employers' associations as are more common in certain parts of Latin America and across Europe, the feasibility of collective bargaining for domestic workers remains improbable at best.[13] Claire Hobden (2010) makes this point explicitly in her article on lessons learned from the DWBR campaign, nothing that collective bargaining could be more feasible in the future if neighborhood parents' associations and other domestic employer groups in New York were better organized (6; 33). The study that examined the possibilities of collective bargaining also makes this point, noting

[11] *Companions* are defined as workers who provide assistance, care, and protection for an elderly person. Their job duties may include household work, as long as those hours do not exceed 20% of the total weekly hours worked (29 CFR 552.6).

[12] The title of this study is somewhat misleading, as only 44% of respondents live in the Park Slope neighborhood. The majority are from other areas that are not necessarily as wealthy.

[13] Mary Goldsmith (2013) and WIEGO have done important work studying how collective bargaining functions for domestic workers in the Uruguayan model. Uruguay was the first country to ratify the ILO Convention 189 on Decent Work for Domestic Workers. There is no general labor law or labor code in Uruguay, but labor legislation consists of various laws that refer to specific workers. There is also an organized employers' association of housewives that was founded in 1995, the *Liga de Amas de Casa, Consumidores y Usuarios de la República Oriental del Uruguay*, which plays a central role in the process of collective bargaining with the domestic workers' union, SUTD (*Sindicato Unico de Trabajadoras Domesticas*) (Goldsmith 8–9).

that DWU brought in support from multiple allies including trade unions that demonstrated how since domestic workers have no designated employer body with which to bargain; this generally supported the push to design and implement a broader legislative framework shift instead (Hobden, 2010, p. 24; New York State Department of Labor, 2010a).

Democratic Senator Diane Savino explicated this point about dropped provisions during the legislative session in 2010 in response to Republican Senator Frank Padavan's question regarding changes made to the Bill of Rights from its first introduction to the Senate. She stated:

> There have been several changes…One of the things that we included in the original bill which was the subject of a lot of debate here in this chamber was the 14-day notice of termination. That has been removed from the bill, as we could not get that reconciled with the Assembly or the Governor (NYSS, 2010).

In this way, many of the strongest proworker provisions were stricken from the final iteration of the law, rendering it less threatening and more palatable to both the New York Senate and the Assembly. With the key provision of collective bargaining being stripped away, workers lack the ability to collectively negotiate further benefits and working conditions that would concretize the specific difficulties of working in a private space. And due to that specificity of the industry itself, difficulties remain in that most workers and employers bristle at the thought of discussing contract terms, since the employment relationship involves negotiation over the economic components and their social meanings, and many employers do not see themselves as such due to their location in their own home (Zelizer, 2005, p. 179). Additionally, a lack of general knowledge about the law on both the part of the domestic worker and the domestic employer is another obstacle to clear and transparent conversations about known legal rights (Pinto et al., 2017) In practice, then, the law obscures the specificity of the worker and her complex site of work.

The Law, for Whom

Though the overwhelming majority of women performing domestic labor in New York City are immigrant women, the law fails to recognize and account for the specificity of those who do the work inside of the home. And for workers who emigrate from other countries, the layout and organization of the city itself can be overwhelming, let alone the various languages and cultural practices. "Yes, I came with my daughter, literally on my hip. But you know, I've walked away from jobs. Not everyone could do that. We leave provinces, we leave towns, and we come to a system that we don't know how to navigate. And we are afraid," Helena commented, discussing her experience transitioning from Trinidad to New York in the late 1990s. She continued:

> They [employers] aren't hiring, people are out of jobs, and they're good workers, women who have been working for 18 years. They have to go into the field and pound the pavement again. Women who might be undocumented and who might be good workers looking for a job, that's

> why immigration status comes in…an immigration bill is crucial now, because the bill excluded a crucial group of women who make other work possible![14]

Helena linked the difficulties facing undocumented workers who are seeking work to the law's deliberate exclusion of those workers, noting that employers are now reticent to hire workers without papers. During the Senate's legislative session discussing the Bill of Rights in 2010, this topic was immediately raised by Senator Padavan, who asked the first question about coverage of undocumented workers and their access to particular benefits:

> Would an illegal immigrant be covered by the provisions of your bill as it relates to potential collective bargaining and other aspects?

To which Senator Savino responded:

> It is against the law currently for an employer to hire someone who is not here legally in this country or does not have the right to work legally in this country. That is *the employer's responsibility to verify the immigration status of their employees*. But the requirement that an illegal alien or an undocumented worker or however you want to refer to them – they're not supposed to be in someone's employ, but *the burden of that lies on the employer* (NYSS, 2010, emphasis mine).

In this way, the law swiftly gave employers even more power to check workers' status as well as to keep them in that vulnerable state. This decision follows the hostile antiimmigrant worker logic of the 1986 Immigration Reform and Control Act, which designates employer sanctions for those who hire undocumented workers as a deterrent, and it echoes the 2002 *Hoffman Plastic Compounds, Inc. v. National Labor Relations Board* Supreme Court Case which denied full back pay for undocumented workers who had been unjustly fired for union organizing (Gleeson, 2012). Challenges remain for undocumented immigrant workers across all industries, and yet those tied to one individual employer in the home experience this kind of employer dependency in a particular manner. Workers spoke about being previously undocumented and noted how that status impacted other immigrant domestic workers' ability to advocate for their rights through the law, as well. Vanessa, a 45-year-old from Jamaica, explained:

> I have rights, too. I *was* undocumented, but *now* I have rights, I can stand up for myself and I can stand strong. Not only for myself, but I learned to stand up for other women, as well.[15]

There is a clear sense of a before and after for Vanessa; those rights simply could not be realized through her prior status of being undocumented. So workers who are documented can now "stand strong" and mobilize to access the newly granted rights of the law. Vanessa continued:

> For instance, I look across the board, I don't just look at my community. I know for a fact that you still have women, especially in the Filipino community…they're at the mercies and the

[14]Personal interview, October 6, 2013.
[15]Personal interview, November 12, 2013.

> hands of some of their employers. So, they're at the bottom of the ladder, and they're struggling because one, they don't speak English, and two, they are undocumented. It's like what I went through when I just came here.

In this way, while all immigrant workers face precariousness to some extent, it is heightened for domestic workers because of their position inside of the private realm of the home, which is characterized by isolation, intimacy, and dependency "at the hands" of their employers. Ethnoracial and language barriers also structure some of that dependency, as particular groups of immigrant workers remain more vulnerable than others. This dependency continues today, paired with the notion that domestic labor is "disposable" due to its immigrant origins, gendered nature, and racial complexion (Pinto el al., 2017, p. 17).

However, few other documentation or visa options exist for immigrant domestic workers. They cannot access temporary visas due to their category of work, and the limited number of employment-based permanent visas that do exist for "low-skill" workers are few and far between, which creates a backlog of applications and years of delays, and the situation is only speedily worsening (Covert, 2013). Thus, the law remains elusive for domestic workers without papers, as they are situated in a structurally vulnerable and dependent position. Regulating the employment relationship through the DWBR shows the embeddedness of law, as workers are situated in a broader terrain of marginalization and exclusions around citizenship and documentation status that extend beyond the terms of their work.

Maria, an immigrant from Guatemala who had gotten her papers several years earlier, spoke about the potential that the law offers for workers to speak up and hold their employers accountable:

> I think the law is beneficial because then it has given you a reason to stand up. You no longer have to remain in the shadows. You can come forward, and you can tell your employer, listen, x, y and z. The law states so-and-so. Because this happened to me.[16]

We spoke in hushed tones, while her employer's two children took a nap in their high-rise apartment in Tribeca on a cold winter afternoon. Settling down comfortably on the thick carpet bordering large windows overlooking the city, I glanced down at the ground below dotted with strollers and expensive shopping bags. Maria continued, "When he was born," as she gestured toward the infant's bedroom:

> I told them, I need a raise. And they were like, but we can't afford a raise of pay and we don't… I said, listen – I work for you. Now you have to pay me more money because this is another child. It was a problem.
>
> Well, you know what, I said? Here is what the law states, and I pulled out my copy, and I said, I never bothered you with time-and-a-half. But the law says you have to pay time-and-a-half after 40 hours. I said, it is mandatory that I get my days off. I make it flexible if I feel like, but it is *mandatory by law*.

[16]Personal interview, December 12, 2013.

Maria employed the law in this effective way by "coming forward" to her employers. They ended up taking her demands quite seriously and giving Maria 6000 dollars in back pay due to having overlooked her right to overtime for so long.

This was not the case more generally, however, as many workers felt unable to access their newly won rights and frustrated by the lack of changes since the law was passed. Gabriela, a 42-year-old Peruvian migrant from Chimbote who cleans two homes in Manhattan and holds a third job in Brooklyn, quickly jumped at my question about her impressions of the Bill of Rights:

> It hasn't made any changes because the employer…They're not paying. They don't pay, they're not paying 40 hours a week, and after 40 hours, overtime, they don't pay, they don't care. We're being exploited just the same…it didn't make any change.[17]

Gabriela's frustration was evident, seen through both the rushed delivery of her words and her body language as we sat tucked in a café near Astor Place with blustery winter winds blowing outside. She seemed to disappear in her puffy long white jacket with a fur collar and hat, but her words remained strong and fiery as she then expressed her wish to return to Peru once she saved up enough money.

Gwen, nearly 70 years and originally from Barbados, lit up with a smile when talking about the children she cared for during her last job, which lasted 15 years. Her tone softened, however, when discussing challenges facing undocumented workers. "Well, many times women are afraid because they don't have papers, and that is a form of intimidation," she noted. Gwen continued:

> What happens now is that every summer time and winter time, you're going to see a new set of nannies. You may work for this family for two or three years, they have a second child and they want to move to the suburbs. You go to the suburbs with them or you find something else. They hop around, you hop around. When you don't want to do this anymore because you're worth too much money and they can get somebody from Mexico who they can pay 200 dollars, they hop around. And this one comes in, this poor girl from Mexico, she doesn't know. She thinks she's getting a million dollars.[18]

As Gwen describes above, domestic workers performing care work are subject to deskilling within the industry as well as demographic shifts of families in a manner distinct from other workers' employment, as children grow up and the elderly eventually need more serious, supervised medical care or eventually pass away. Newer undocumented immigrants who are unfamiliar with the law and as Maria mentioned "remain in the shadows" find work for cheaper wages.

Structural problems within the industry persist, however, even for those immigrants with papers. Rardasha, a 42-year-old Tibetan immigrant, was a teacher in her home country and yet her credentials are not honored in the United States, and thus, money is tight. So, she explained to me one rainy October afternoon as she gestured to the chalkboard displaying her methodically organized grammar lesson, she teaches English to Nepali-speaking workers to keep

[17]Personal interview, December 4, 2013.
[18]Personal interview, October 18, 2013.

her skills fresh while she cleans houses in Queens. Clearly, documentation papers are not a panacea though they certainly allow for more employment security and less fear, as well as the potential to challenge employers to live up to the law.

In this way, then, while the Bill of Rights technically extends its protections to all workers regardless of documentation status, that so many domestic workers are immigrants matters structurally in three important ways. First, being undocumented affects how workers navigate subjection to exploitation and poor working conditions, as documented workers enjoy much more freedom to shift employers and leave an abusive situation. Second, it affects workers' ability to advance in the profession, as they quickly reach limits to their ability to earn certifications and medical trainings and thus improve their professional status as domestic workers (Goldberg, 2014, p. 271). Nadasen's work highlights the historical tradition of professionalism within the industry as a key means of elevating the work in the U.S. (2015). Finally, it matters in relation to the state's rational self-interest in heeding workers' labor rights claims. In this way, documentation status thus not only affects workers' ability to advocate for their newly won rights but also inevitably sets limits on the state's interest in responding to and enforcing these claims.

In this way, the law is articulated with other laws concerning immigration, minimum wages, working hours, and sexual harassment among others that can form competing "statutory silos" (Gleeson, 2016). And while myriad other countries have passed national domestic worker legislation and ratified C189, the United States is also not alone in the struggle to shape access to rights for low-wage worker populations with attention to documentation status and the informal sector. Currently, the debates in Ireland, the United Kingdom, Australia, New Zealand, Norway, and Denmark focus around granting domestic workers rights that are similar to other workers, rather than formal legislation designed specifically for this occupation, such as found in Peru.[19] A comparative glance at the European Union demonstrates how laws, such as Directive 2009/52/EC, offers recourse for wage claims made by undocumented workers in order to receive full pay for their work, and yet these sets of protections are packaged within a broader legal framework or package whose practical scope is very limited.

The Law, at Home

How labor is structured inside of the home does not correspond to how labor law is written to govern a firm, factory, or field, and thus here I foreground the

[19]Currently, principal changes to Peruvian household worker legislation that have been approved by the Family and Women's Commission of the Peruvian Congress include the addition of obligatory written contacts, a wage that is above the country's minimum wage, an increase in the twice yearly bonuses granted to household workers, and an increase in compensation for length of time in service, among others. The latter two tenets would grant parity to household workers with the broader Peruvian practice for other workers. However, as of the time of this writing, the Peruvian Congress has been suspended and so progress on these amendments and others has halted.

importance of the home itself as a *site*. In a similar manner to how Giddens (1984) understands the notion of *locale*, which he theorizes as signifying a physical space that provides a context through which people interact with each other and the social world, I use *site* in order to show the specificity of the concept of home and all it entails as a site of labor law and regulation in practice. Implicated in all of this is a deep recognition of home is a site of power. However, the law universalizes the employer's home as though it is a more traditional workplace and ignores the particular trappings of the home as a workplace in several key ways – around termination, severance, homelessness, safety, and vacation vulnerability.

Workers frequently discussed living out the well-worn trope of being regarded as "like one of the family" when employed as a domestic worker inside of the home (Bapat, 2014; Burnham & Theodore, 2012; Childress, [1956] 1986; Tuominen, 2003). Helene, 48 years and from St. Lucia, described to me how she currently lives this awkward sensation at mealtimes with her employers. While we spoke during a cold morning in November in a Jackson Heights café, she explained:

> With the family that I work for now, most of the time we sit down and have dinner together. But then it's like, even though they tell you "Okay, you're part of the family," it's like, "Okay, I know I don't fit in, but I'm actually sitting here – so I'll eat it!" There's some…uneasiness.[20]

Responsible for maintaining the home's productive rhythm humming along, workers thus are privy to intimate family moments, dramas, conversations, and celebrations and yet are always aware of their outsider, "uneasy" status. Yet this practice of reproducing notions of daily family life inside of the home by performing the cooking, cleaning, and caring labor can suddenly come to an abrupt stop whenever the employer decides. Many workers I spoke with discussed how the threat of termination on an employer's whim left them feeling anxious and powerless. Sharon, a 56-year-old from Barbados, noted how this especially upsets her:

> There should be some kind of compensation when you're fired. Obviously, *they can't keep you in their house*, but I would like to see us treated like every other worker, because this is a job. That we would be protected, with severance, for that hard work.[21]

She clearly sees the conflict of interest that could potentially arise when fired, and yet the home as a site of work heightens the consequences of such a decision since this effectively renders live-in workers homeless. Though workers generally prefer to live out when it is financially possible, many including Sharon still live, eat, and sleep in their place of work and are thus structurally vulnerable. Thus, sudden termination represents the imminent threat of homelessness for workers, and the law does not include any kind of prior notice, severance arrangement, or alternative remedy.

[20]Personal interview, November 19, 2013.
[21]Personal interview, December 15, 2013.

Charlotte, a 62-year-old from Trinidad and Tobago, described to me her sense of how the law held little power compared to employers' own decisions around ending the employment relationship. She had worked for three different employers as a nanny during her 28 years of experience, in addition to raising her own children. Charlotte had previously lived in with her employer but had gotten her own place in the Bronx a few years earlier. As we rode the subway together up toward her apartment on her commute home, she confessed her sense of the lack of changes resulting from the law:

> I don't think the bill of rights is changing anything, or will change anything. Do you know why? I think no bill of rights can force somebody to keep you[...]the government can't tell them not to fire you[...]the government cannot force them to give you your job back. The bill of rights really hasn't changed the home.[22]

For Charlotte, the home eludes effective legislation as employer preference reigns supreme. The law remains completely silent around any kind of language regarding employers' processes for deciding to fire (or hire) certain workers.

Jasmine, a 39-year-old domestic worker from the Philippines, discussed her sense of the futility of the law due to the power imbalance with employers inside of their homes.

I don't think they [employers] are using it. Because we cannot get a job if they won't agree with the employer. Yeah, you give them what they ask for. Because for the people who are rich, they're the ones, you know? They're not following the Bill of Rights, the ones who are the wealthiest. That they don't want to get us onto the books, because they say they're gonna pay a lot of money for the taxes. So for most people it's only under…

As she trailed off, Jasmine slid her hand off the table where we were sitting and pointed to the floor. Relegated to remain under the table and off the books, the household remains a site hidden from public scrutiny or governance where workers "give employers what they ask for" or else must seek new work.

Working inside of the privatized, enclosed home and beyond the kind of socialized, populated workplace of a service or factory setting also presents concerns around safety and abuse that the law neglects. The law did very little to help Lucia, a 37-year-old Colombian immigrant who was forced to work in a degrading manner upon arriving to a new client's apartment and ended up leaving the job immediately. We sat outside on a warm June day in Central Park while she waved her arm over to the cascades of skyscrapers nearby. "He lived in one of those," she explained. Lucia went on:

I went to his apartment to do the housekeeping the first day and he said: "Ok, you do the cleaning and then I'll pay you." But when I started to work he told me, "Oh, but you have to clean the floor with your hands, so get down on your hands and knees." And I said no…no, the time for slavery is over. And he's Colombian and no, forget it, never again. I thought it was degrading, too, because he was a Colombian just like me. It's, it's illogical – we are not in a country like that.[23]

[22]Personal interview, November 5, 2013.
[23]Personal interview, June 11, 2013.

Though instances of verbal, sexual, and physical harassment are widespread and can happen in in any type of workplace or setting, the home presents a particular set of gendered risks around safety and bodily harm for women especially when positioned alone with their employer and her/his family members. Lack of coverage or protections for domestic workers and the difficulties in bringing forward those claims against employers are complicated by the power dynamic present and the broader terrain of marginalization and legal exclusions. Sexual assaults and abuse have long been acknowledged as a particular danger of domestic work, and due to being positioned inside of the home and hidden from public scrutiny, domestic workers often fall victim to severe exploitation, and though abuse is widespread, only the most egregious cases tend to draw public attention (Gonzalez & Leberstein, 2010; Zarembka, 2003).

While the majority of workers in New York City do not live in, their employer's family's daily patterns and routines still structure workers' time, and the long months of yearly summer vacations without steady employment are quite fraught. While workers occasionally reported being "invited" to accompany the family on vacation and continue working, this is an impossible option for workers with their own small children at home. However, employers readily count on workers skip two to three months of income and yet still remain available to work upon their return to the city. Charlotte described a common tactic employers use:

> Another thing that a lot of women [employers] do here is that they go away between July and August but they won't pay you, because you're not working. But they're the ones who decided to go away! They're expecting you to sit and wait until they come back, and if you don't, you're in big trouble. Some also don't pay what you're owed, and hold the pay to make sure you're back when they return.[24]

Furthermore, the law only specifies for three days of paid vacation after an entire year of employment with the same family, and the lack of a contract and collective bargaining offer workers few options save for quitting the job, seeking out new work, or somehow scraping by during the summer. In this way, though regulated, domestic work in New York City has no standard employment contract stating terms around the specific vulnerabilities of working in the home including termination, safety, homelessness, severance, and vacation. Difficulties remain in that most domestic workers and employers bristle at the thought of discussing contract terms, since many employers fail to see themselves as such, and the employment relationship involves negotiation over the economic components and their attached social meanings (New York State Department of Labor, 2010; Zelizer, 2005, p. 179). Thus, domestic work continues to skirt the line of intimate and formal and of private and professional, mirroring much of the broader industry.

[24]Personal interview, November 5, 2013.

DISCUSSION AND CONCLUSION

New York City and the struggles of its domestic workers thus hold importance for shaping future policy that attempts to recognize the home as a site of labor and formalize the relationships of those who live, and work, there. Due to the site of labor being the home, domestic workers' employment relationships and domestic workers themselves are often excluded from labor regulation and worker protections. Paid domestic work has long been made invisible and excluded from collective labor reforms enjoyed by other occupations, yet numerous countries and several states have made recent strides in implementing domestic worker legislation and labor standards. Statewide labor protections for domestic workers is a fairly recent phenomenon in the United States, however, and New York sets an important precedent as the first example of said law.

In thinking about the distinct arena of the home, laws and policies must recognize the broader terrain of exclusion and marginality that workers confront within a broader socioeconomic and legal ecology. Race, ethnicity, and gender dynamics structuring low-wage work both shape and reflect broader patterns of inequality, and this analysis encourages us to move forward an important line of research that probes these complex issues of social difference and class (Pinto et al., 2017). These labor struggles illuminate a broader set of issues faced by workers today and encourage us to continue deconstructing and analyzing the complex relationships among class, gender, race, and ethnicity (Devault, 1999).

Issues of enforcement loom large, though notable efforts to publicize the workplace as a site of labor continue through organizing employers continue, including Hand in Hand, a national network of employers of nannies, housecleaners, and home attendants. Building stronger, more organized networks of employers could move toward a model of collective bargaining with a distinct employers' association, and the issues around enforcement shown here also speak to a growing literature on coenforcement (Fine, 2017) involving workers themselves, community members, unions, worker justice associations such as Jews for Racial and Economic Justice, and other nonprofits (Pinto et al., 2017).

Employers wield a great deal of power in these situations, which is amplified due to the private realm of the home and the general lack of awareness and information about domestic employment resources. A recent study (Pinto et al., 2017) found that two-thirds of employers set the terms and conditions around hours worked per week, vacation time, and pay. However, the same study also found that only slightly under one-third of employers are aware of the DWBR and what it specifies, yet more than half of those employing home care workers and housecleaners expressed interest in joining a domestic employer organization, such as Hand in Hand (11–12). This squares with interviews I conducted for a separate project in California; in talking with domestic employers, several discussed how they wished for the ease of a standardized contract and written rules to use as a baseline when negotiating terms around paid vacations and nanny shares. Employer education, awareness, and organizing will continue to play a strong role in shaping more decent terms and working conditions for the domestic workers of New York City, as well as setting broader enforcement

standards for the industry. This will be especially important as more legislative action takes place to move toward national legislation in the United States that would grant stronger workplace protections beyond the state level (Fernandez Campbell, 2019b).

We also see the importance of this case study when considering future job growth predictions and the continued concentration of women of color in low-wage jobs. Low-wage work is highly gendered and racialized; women are over-represented in low-wage jobs, making up two-thirds of workers in positions earning less than $11.50 per hour (Berlan, 2018). Predictions from the Bureau of Labor Statistics and the National Women's Law Project show that occupational gender and racial segregation will only continue, as three of the five jobs expected to grow the most over the next 10 years – personal care aides, home health aides, and combined food preparation and serving workers – are characterized as female-dominated, low-wage, and overrepresented by workers of color (Berlan, 2018). And by 2026, the Bureau of Labor Statistics estimates that the US economy will create more than a million new positions for home care workers, which is a 41% increase from the number working in that position as recently as 2016. In this way, we see the importance of recognizing the connections between regulation and labor law protections for low-wage service workers and broader connections beyond this particular group of workers within the overall labor market.

The impact of the law and its embeddedness within a terrain of marginalization matters for domestic workers, but it also holds implications for the growing population of low-wage workers more broadly as well. In this sense, drawing parallels between the challenge of regulating work done in the home and in other sites enables us to gain purchase on common challenges facing a variety of workers across many industries. The historic law of New York City falling short to help the population it precisely set out to target demonstrates the need to bring an interconnected framework that considers ethnicity, race, gender, nation, and place into struggles to implement and enforce domestic worker legislation. Domestic workers are just one population among many whose labor is structured by intersectional hierarchies of inequality that reinforce structural vulnerabilities. Continuing to examine the relationship between labor law coverage with immigration law coverage and how those legal processes affect particular worker populations thus merits further study. And in light of statewide movements to pass similar bills across the United States and global efforts to ratify domestic worker legislation more broadly, recognizing the limitations, possibilities, and overall embeddedness of law requires creative ways of bringing labor rights into the home for those who work there.

ACKNOWLEDGEMENTS

I would like to thank the domestic workers who generously shared their time, stories and experiences with me. Kim Voss, Cristina Mora, Armando Lara-Millán, Jonathan Simon, Gowri Vijayakumar, Tara Gonsalves, Carter Koppelman, Graham Hill, Elise

Herrala, Ben Shestakofsky, Paula Uniacke, and Sunmin Kim offered key insightful suggestions, as did members of the Gender and Sexuality Workshop in the Berkeley Sociology Department. I am grateful to Mike McCarthy, Barry Eidlin, and anonymous reviewers for their dedicated feedback, and to Mikael Ruukel for excellent research assistance and legal prowess. A special thanks to Raka Ray for her inspiration throughout this research.

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APPENDIX: THE NEW YORK DOMESTIC WORKER BILL OF RIGHTS, 2010

Current provisions of the law include the following (Gonzalez & Leberstein, 2010):

MINIMUM WAGE COVERAGE

- Domestic workers, including all babysitters who work on anything but a casual basis
- Live-out and live-in companions, employed privately by an individual employer and/or by an agency

The law understands *casual* as *irregular*, or that which does not follow a routine pattern. So, for instance, if a nanny works only for 8 hours each Monday and Wednesday, but that schedule is fixed, regular, and repetitive, she is covered by the law and not considered a casual worker. A teenage babysitter who watches children intermittently on the weekends, however, is not covered. Family members are also exempt (29 CFR 552.5). Also of note is an understanding of who, exactly, is categorized as a "companion." According to the law, companions are defined as workers who provide assistance, care, and protection for an elderly person. Their job duties may include household work as long as those hours do not exceed 20% of the total weekly hours worked, however (Code of Federal Regulations (CFR), 1975, 29 CFR 552.6).

OVERTIME RATE COVERAGE

- Live-out domestic workers = 1½ × regular rate of pay after 40 hours/week
- Live-in domestic workers = 1½ × regular rate of pay after 44 hours/week
- Live-out companions employed by a private individual in a household = 1½ × regular rate of pay after 40 hours
- Live-out companions employed by agency = 1½ × minimum wage after 40 hours
- Live-out companions employed by a private individual in a household = 1½ × regular rate of pay after 44 hours
- Live-out companions employed solely by agency = 1½ × minimum wage after 44 hours

ADDITIONAL RIGHTS

- One day of rest (24 hours) per week, or overtime pay if workers agree to work that day
- Three paid days of rest each year after one year of work for the same employer
- Protection under New York State Human Rights Law
- Creation of a special cause of action for domestic workers who suffer sexual or racial harassment