



# HOME IS WHERE THE WORK IS:

Inside New York's Domestic Work Industry

**DOMESTIC WORKERS UNITED & DATACENTER**

**JULY 14, 2006**

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## ABOUT THE ORGANIZATIONS

**Domestic Workers United [DWU] is an organization of Caribbean, Latina and African domestic workers who work in close collaboration with other domestic worker organizations in New York to build the power of the entire domestic workforce, raise the level of respect for domestic work, establish fair labor standards and help build a movement to end exploitation and oppression. Founded in 2000, DWU helped to pass groundbreaking New York City legislation in support of rights and dignity for domestic workers, won over \$300,000.00 in unpaid wages for exploited domestic workers, and held two statewide conventions for domestic workers resulting in a proposal for a New York Domestic Workers Bill of Rights.**

**The DataCenter supports social justice groups to bridge the gap between having a desire to create change and having the power to effectively be a part of the decision-making process, by providing critical research support to guide campaign strategies and community-based policy change. Through partnerships with grassroots social justice organizations, the DataCenter plays an integral role in strategically placing research in organizing work, engaging members in research, recognizing and drawing out community expertise and transferring skills.**

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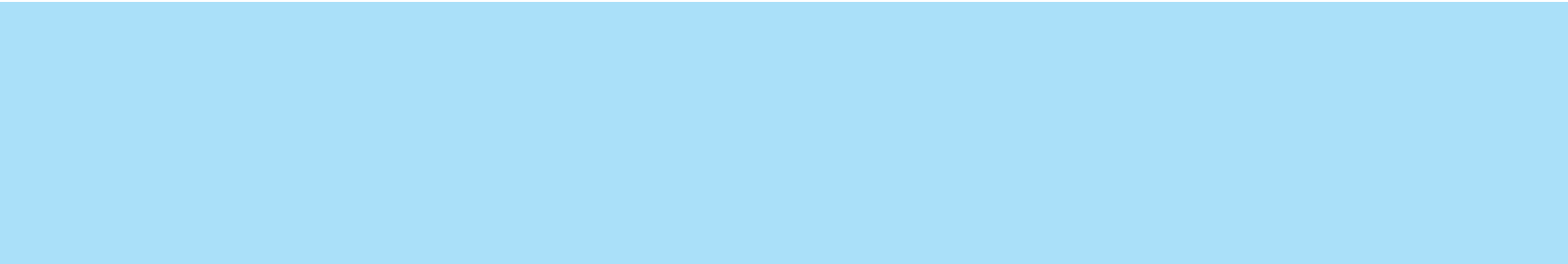
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# We have a dream that one day, all work will be valued equally.

## DOMESTIC WORKERS UNITED

### ABOUT THE STUDY

The data presented in this report are based on results of a survey of 547 domestic workers conducted by members of Domestic Workers United between 2003-2004, 14 worker testimonies and 7 employer interviews. Domestic workers, who are in the best position to identify research needs and relevant data about their industry, played a significant role in the design and analysis throughout this industry investigation.

Jews For Racial and Economic Justice and the Brennan Center for Justice at New York University conducted employer interviews in 2005. Domestic workers were surveyed at meetings, social gatherings, in playgrounds and parks, on the subway and commuter trains, and various other locations where domestic workers could be found. We sought a diverse sample of workers, including nannies, housecleaners and elder care providers, workers who live in their employer's homes as well as live-out workers, and an ethnically diverse population. Employer interviews were collected through employer and worker networks and through outreach in parks and playgrounds.



**NEW YORK CITY IS A LEADING FORCE IN THE GLOBAL economy, but it couldn't be without the 200,000 domestic workers<sup>1</sup> who sustain the city's families and homes.<sup>2</sup> Domestic workers enable New Yorkers to work and have leisure time knowing that their children, elderly, and homes are taken care of. Domestic workers also enable their employers to meet the demanding hours required for the smooth functioning and productivity of the professional sectors. Domestic work forms the invisible backbone of New York City's economy.**

This groundbreaking report shines a spotlight on the hidden workforce of domestic workers who keep the city's economic engine running every day. It delivers legal, historical, anecdotal, and unprecedented survey-based information. The data are the result of the first ever industry-wide analysis of domestic workers by domestic workers, based on 547 worker surveys, 14 worker testimonies and interviews with 7 employers. An overview of exclusionary labor laws illustrates the explicit legislative discrimination against domestic workers, while an economic history of domestic work in the U.S. and analysis of present day global pressures that impact the industry illustrate structural dynamics that foster worker abuse.

<sup>1</sup>Domestic worker is defined here as anyone employed to work in a private home by the head(s) of household, including nannies, housekeepers, elderly companions, cleaners, babysitters, baby nurses and cooks.

<sup>2</sup>Estimate based on 2000 U.S. Census data of New York City households with children (under 18 years) or elderly (65 years or older) and income of \$100,000 or greater as likely employers. Due to the dispersed and informal structure of the industry and its immigrant workforce, it is impossible to precisely measure industry size. An estimate cited by the *Chicago Tribune* ("Maid Services Clean Up as Demand Escalates," Carol Kleiman, 1986) states that 43% of women working outside the home hire domestic workers, which would bring the number of domestic workers in New York City closer to 600,000 using 2000 Census data of employed women.

Survey results show that immigrant women of color make up nearly the entire domestic workforce. The wages domestic workers earn cannot cover New York's famed high cost of living. Domestic workers lack basic labor and health protections and often face exploitative work conditions. Many endure verbal or physical abuse. Domestic work may be a labor of love, but it isn't one that loves its laborers. For too long, worker exploitation has remained invisible in an industry that is rarely documented and goes largely unmonitored—until now.

Survey results clearly point to the need for industry standards that will ensure fair labor practices, recognition, and humane treatment. The report proposes a set of long overdue policy recommendations to create an industry that is fair, equitable, and dignified.

## A LIFETIME OF BONDAGE

Survey results show domestic workers stay in the industry, often with the same employer, for significant periods of their lives. They are a stable workforce; yet endure working conditions that violate their rights as workers and as human beings.

- Forty-one percent (41%) of the workers earn low wages. An additional 26% make wages below the poverty line or below minimum wage. Half of workers work overtime—often more than 50-60 hours a week. Sixty-seven percent (67%) of workers don't receive overtime pay for overtime hours worked. Domestic workers are primary providers of their families in the U.S. and in their home countries, but face severe financial hardships.
- Thirty-three percent (33%) of workers experience verbal or physical abuse or have been made to feel uncomfortable by their employers. One-third of workers who face abuse identify race and immigration status as factors for their employers' actions.
- Nine out of ten domestic workers do not receive health insurance from their employers. One-third of workers could not afford medical care needed for themselves or their families. Less than half of workers receive basic workplace benefits such as regular raises and paid sick days.
- Forty-six percent (46%) of domestic workers experience stress at work. Employers cause stress by requiring domestic workers to perform multiple jobs, to do work not in their job descriptions, and to work for someone other than their employer.

## VALUING DOMESTIC WORK

The struggle of domestic work is to be recognized as "real work." Its historical roots in slavery, its association with women's unpaid household labor, its largely immigrant and women of color workforce and exclusion from legal protections reinforce the notion that domestic work is less valuable than work outside of the home.

Historically, African slaves, indentured servants or hired maids performed housework. After the abolition of slavery, the paid domestic workforce became predominantly Black women until the Civil Rights movement opened doors to other occupations. Since the 1970s, a growing workforce of immigrant women of color seeking to escape poverty created by U.S.-driven neoliberal policies abroad occupies the industry. Survey results found 99% of domestic workers in New York are foreign-born.

Race and gender-based legal exclusions by the U.S. and New York state governments have shaped the domestic work industry in New York. Domestic workers have been written out of major federal and state laws that protect workers. Ninety-five percent of domestic workers in New York are people of color, and 93% are women.

	% of Workers
<b>Years Working as a Domestic Worker</b>	
1 year or less	6%
2-5 years	30%
6-10 years	27%
More than 10 years	32%
<b>Worker Hourly Wages<sup>3</sup></b>	
Below minimum wage (less than \$5.15/hr) <sup>4</sup>	8%
Below poverty line (\$5.16-\$8.97)	18%
Low wage (\$8.98-\$13.46)	41%
Livable wage (\$13.47 and above)	13%
No response	20%
<b>Overtime Hours Worked</b>	
Live-out Workers work overtime	48%
Live-in Workers work overtime	63%
Sometimes or never receive overtime pay	67%
<b>Amount of Overtime Hours Worked</b>	
Worked 50 hours/week or more	43%
Worked 60 hours/week or more	35%
<b>Primary Providers for their Families</b>	
Primary Income Earner	59%
Joint Income Earner	18%
<b>Financial Hardships Experienced by Workers</b>	
Unable to pay rent or mortgage	37%
Sometimes/often not enough food to eat	21%
Unable to pay electricity and gas	25%
Unable to pay phone	40%
<b>Abusive Treatment by Employer</b>	
Experienced at least one of the below abuses	33%
Employer made me feel uncomfortable	24%
Verbal Abuse (yelled at, threatened, called insulting names)	21%
Physical Abuse (pushed, beaten, raped or sexually assaulted)	1%
<b>Factors Workers Report contributed to Employer Abusive Actions</b>	
Immigration status	33%
Race or ethnicity	32%
Language	18%
<b>Lack of Access to Healthcare and Health Benefits</b>	
Employer does not provide health benefits	90%
Could not afford medical care when needed	36%

<sup>3</sup>Wage breakdowns are modeled after Restaurant Opportunities Center of New York's report *Behind the Kitchen Door: Pervasive Inequality in New York City's Thriving Restaurant Industry* 2005, p. 11. The breakdowns are based on 2004 Department of Health and Human Services federal poverty line earnings for a family of four of \$18,850 per year; low wages are one and a half times the poverty line.

<sup>4</sup>Minimum wage, although increased to \$6.75 per hour in New York City, is shown here as \$5.15 since surveys were conducted before the wage increase.

## HISTORY OF EXCLUSION

### National Labor Relations Act (NLRA)

1 29 U.S.C. § 152(3)

The NLRA guarantees U.S. employees the right to organize, but specifically excludes domestic workers from its definition of “employee.”<sup>1</sup>

### Fair Labor Standards Act (FLSA)

2 29 U.S.C. § 213(a)(15)  
3 29 U.S.C. § 213(b)(21)

The FLSA sets a federal minimum wage rate, maximum hours, and overtime for employees in certain occupations. Until 1974, domestic workers were completely excluded, and today the Act still excludes from coverage “casual” employees such as babysitters and “companions” for the sick or elderly.<sup>2</sup> Furthermore, live-in domestic workers, unlike most other employees in the U.S., cannot get overtime under FLSA.<sup>3</sup>

### Occupational Safety and Health Act (OSHA)

4 29 C.F.R. § 1975.6

OSHA regulations explicitly exclude domestic workers from the Act’s protections “[a]s a matter of policy.”<sup>4</sup>

### Civil Rights Laws

5 42 U.S.C.A. § 2000e

Title VII bars employment discrimination on the basis of “race, color, religion, sex, or national origin,” but applies only to employers with 15 or more employees.<sup>5</sup> Thus, virtually every domestic worker in the U.S. is de facto excluded from Title VII’s protections.

### New York Labor Law

6 12 NYCRR § 142-2.2

Under New York state law, while domestic workers who do not live in their employer’s home are entitled to overtime at a rate of one and a half times their regular rate after 40 hours of work in a week, live-in domestic workers are only entitled to overtime at a rate of one and a half times the minimum wage and then only after 44 hours of work in a week.<sup>6</sup>

## WOMEN’S WORTH— DOMESTIC WORKERS’ STRUGGLE FOR DIGNITY

Interviews with employers show they are unclear about their legal and ethical responsibilities and are in need of industry standards. In 2003, New York City Council passed the Nanny Bill, which requires employment agencies to provide domestic employers with a “code of conduct” that explains labor laws and to inform workers of their rights.<sup>5</sup>

It is a good beginning. But in an informal industry based in private homes, domestic workers require a comprehensive solution that guarantees their rights to fair working conditions and recognizes their work. The Domestic Workers’ Bill of Rights is a New York State legislative proposal that addresses the longstanding, unfair exclusion of domestic workers from labor protections, and the unique conditions and demands of the industry in which they work, by amending the New York State Labor Law to ensure workers:

- Receive a livable wage and are paid for overtime;
- Are given time off for family care and medical care. In addition, they are given at least one day of rest off each week and receive paid personal days, sick days, vacation and holidays;
- Are given advance notice of termination and paid severance in accordance with number of years worked;
- Are protected from trafficking.

In addition, the Bill proposes to eliminate language excluding domestic workers from the definition of “employee.” It also eliminates exclusion from coverage of other New York State Labor Law and Human Rights law provisions to end the cycle of slavery and gender and race-based exclusionary laws at last.

It is only fair that those that care for our homes and loved ones are given the same respect and dignity as other workers for the work they perform.

### History of Domestic Work in the U.S.

#### 1450-1860:

African slave trade provides labor that builds colonial economy.

#### 1870-1970:

Slavery abolished. Domestic work becomes “black women’s work.”

#### 1970-2006:

Immigrant women of color provide domestic labor that supports U.S. economy.

# A DAY IN THE LIFE OF “CARLA,” A LIVE-OUT NANNY

“Carla” describes a typical day in her life as a live-out nanny. Her chronicle demonstrates the long work hours caring for her employer’s family and the brief amount of time available for her own family common to domestic workers in New York.

5:00 AM	Wake up, take a bath and get dressed	12:05 PM	Return home to make lunch for the little girl
6:00 AM	Make breakfast for my three children, ages 5, 7, and 11	1:00 PM	Put the little girl down for a nap
6:25 AM	Leave the house to catch the bus to the train	2:00 PM	Wake the little girl and get her ready for tap dance class
6:30 AM	Catch the bus —ride for 10 minutes	2:30 PM	Take her to tap dance class
6:40 AM	Arrive at the Marble Hill Metro North station in the Bronx	3:40 PM	Pick up the boy from the bus stop, return home and prepare a snack
7:08 AM	Board the Train to Westchester	4:15 PM	Get the boy ready for karate class, pack his gym bag, take him to class
7:25 AM	Arrive in Hasting-on-Hudson and catch a cab to the house	4:45 PM	Pick up the little girl from tap dance class
7:30 AM	Arrive at the house, prepare breakfast for the kids: a six year-old boy and three year-old girl	5:00 PM	Finish preparing dinner
7:45 AM	The parents, my employers, leave	6:00 PM	Friend drops the boy off at home, we start his homework
7:46 AM	Get the boy ready for school: comb his hair, make sure he washes, pack his lunch	6:30 PM	Feed the kids dinner
8:08 AM	Get the girl dressed and walk the boy to the bus stop together	7:00 PM	Prepare baths for the kids, parents arrive at home
8:13 AM	Bus arrives, put the boy on the bus, walk home with the girl	7:10 PM	Parents drive me to train station
8:20 AM	Prepare the girl for nursery school: comb her hair, get her dressed, pack a snack	7:23 PM	Board the train at Hasting-on-Hudson
9:05 AM	Walk to the nursery school and drop her off	7:44 PM	Reach the Marble Hill train station and wait for the bus
9:25 AM	Return home and clean the kitchen, load the dishwasher	8:15 PM	Enter my door at home, drop my bags & take a bath
10:45 AM	Clean the children’s rooms, load the washing machine, begin preparing dinner	8:45 PM	Have tea and dinner
11:45 AM	Return to the nursery to pick up the little girl	9:15 PM	Lay down in bed with my kids, listen to them until they go to sleep
		10:00 PM	Clean the house
		11:00 PM	Go to sleep

**When I was growing up in New York City in the 1960s, I remembered the Upper East Side as purely white-bread, upper crust, bourgeois. My mom had no real reason to drag us over there from our West Harlem/Washington Heights neighborhood, unless we happened to be spending the day at the Central Park Zoo and searching for a place to grab a bite, or if she scraped up enough money to take us to the Guggenheim Museum. I do remember the white people and the snooty looks. It was clear, even to a seven-year-old, that brown people didn't belong here.**

Today, one can hardly walk up Park or Madison Avenues without seeing black and brown women behind strollers or with bigger white kids in tow. They are hypervisible reminders of a largely invisible working-class of 200,000 women throughout the city who do the essential work of childcare, cleaning, cooking, washing, shopping, and whatever else their employers might demand of them. We don't know, or rarely acknowledge, that these women are grossly underpaid, exploited and often abused—in some cases forced to live and work under conditions tantamount to slavery. The majority are immigrants, often caught in a web of modern-day human trafficking created, in no small part, by U.S. political and economic policies.



As I write these words, there are untold numbers of middle and upper class, mostly white women, complaining about their “help” or trading tales about their nanny problems or possibly exchanging references. But the true conditions of domestic workers and their own collective efforts to improve those conditions are rarely part of the popular discourse. Why? In part because Hollywood has taught us everything we need to know about domestic workers. Alice of “The Brady Bunch,” Nell Carter of “Gimme a Break,” Mr. French of “Family Affair,” or good ol’ Tony from “Who’s the Boss?”

show us that domestic workers are happy people treated like part of the family. They are the real force behind the household, giving advice to children and adults alike, and like the slaves of “Gone with the Wind,” they want to stay with their family forever. And if you’re young and pretty, you just might snag the boss, like Fran Drescher, Jennifer Lopez, or Elizabeth Pena (remember “I Married Dora”?), and live happily ever after. Sadly, these myths are well ingrained and hard to overturn, and they function to convince us that domestic workers really are family, not labor, and thus they ought to be grateful for the opportunity to live-in or work for such a loving household.

While there have been many critical scholarly studies documenting the exploitation and abuse of domestic workers in the U.S.,<sup>1</sup> there is no substantial survey of the current

conditions of domestic workers in a major city like New York. And as far as I know, this is the first study initiated by domestic workers themselves, through the auspices of Domestic Workers United (DWU). Assembled by DWU members and the DataCenter, the report tells the truth about the work of the city's nannies, caretakers, and housekeepers. If its findings are widely circulated and seriously engaged, the report may finally lay to rest many of the myths surrounding the fate of domestic workers.

We learn, for example, that the vast majority of domestic workers in New York City earn substandard wages, often working 50 hours a week or more. Live-in workers suffer greater exploitation since they are always on call and can work up to 100 hours a week! Although they are legally entitled to overtime pay, few receive it. Approximately 90% of the workers do not receive health insurance benefits, nor do their employers arrange to pay social security. And for so little money, we discover that untold numbers of workers are forced to sleep in damp basements with no heat in winter or ventilation or air conditioning in summer. Worse, the report records shocking stories of outright slavery. Included in these pages are documented cases of employers bringing immigrant workers from other countries with promises of decent wages and working conditions, but once they arrive in the U.S. they are neither paid nor allowed to leave. One particularly harrowing story involves a young Indian woman who was hired to work for one family in the U.S., but once she arrived her employer literally subcontracted or 'leased' her to another family, who then paid her employer \$1,200 a month directly. The employer sent \$200 of it to the worker's family, but the worker herself never saw a dime.

Domestic workers are often victims of verbal and even physical abuse. But unfortunately,

they have very few protections outside of the criminal justice system (and, in truth, very few domestics have the luxury of turning to the law

for support since so many are undocumented workers fearful of deportation). Indeed, federal and state governments are accomplices in the exploitation of domestic workers because domestic workers are largely excluded from laws intended to protect workers' rights—notably, the National Labor Relations Act, the Fair Labor Standards Act, and the Occupational Safety and Health Act.

What this startling document tells us is that the battles these women endure extend far beyond the rights of labor. They are immersed in a struggle for human rights and dignity; for immigrants' rights and social justice; for the dismantling of racism and globalization. As depressing as the report's findings may be, what I find heartening is the fact that groups like DWU are fighting back, working feverishly to overturn these inhumane working conditions and to provide all domestics with a living wage. One of the functions of the myth that domestic workers are merely "part of the family" is to discourage collective organization. Of course, there have been efforts to organize domestic workers in the past, beginning as early as the late 19th century, but what DWU has done is unprecedented. Through solidarity, mass mobilization, and hard work, they forced the city council to pass a "code of conduct" for domestic employment placement agencies, and currently they are working on a statewide Bill of Rights for domestic workers. In the tradition of social justice unions such as Justice for Janitors, DWU members understand that in order to truly transform the conditions of household work, they have to transform the city ... the nation, and quite possibly the world. Pipe dream? Not if you do the math: domestic workers are 200,000 strong in New York City, and those who benefit from their services number in the millions. All of us need to read this report and decide where we stand. And if you really believe in freedom, the choice is obvious.

**—Robin D. G. Kelley, William B. Ransford  
Professor of Cultural and Historical Studies, Columbia University**

<sup>1</sup>Judith Rollins, *Between Women: Domesticity and their Employers* (Philadelphia: Temple University Press, 1987); Mary Romero, *Maid in the U.S.A* (London: Routledge, 2002, 2<sup>nd</sup> ed.); Jacqueline Jones, *Labor of Love, Labor of Sorrow: Black Women, Work, and the Family, From Slavery to the Present* (New York: Vintage, 1986); David Katzman, *Seven Days a Week: Women and Domestic Service in Industrializing America* (Urbana: University of Illinois Press, 1978); Phyllis Palmer, *Domesticity and Dirt: Housewives and Domestic Servants in the United States, 1920-1945* (Philadelphia: Temple University Press, 1989); Elizabeth Clark-Lewis, *Living in, Living Out: African-American Domesticity in Washington, D. C.* (Washington, D. C.: Smithsonian Institution Press, 1994); Tera Hunter, *To 'Joy My Freedom: Southern Black Women's Lives and Labors after the Civil War* (Cambridge: Harvard University Press, 1997)

## What do we do about the cleaning lady that comes in? She enjoys herself. She gets together with the family and has a coke or a glass of milk.

SENATOR DOMINICK

arguing against extending labor protections to domestic workers in 1974 Congressional debates<sup>1</sup>



**DOMESTIC WORKERS IN THE U.S. ARE MAINLY WOMEN of color, and in many communities are predominantly immigrants. They are also mostly excluded from the protections afforded by U.S. labor laws.**

Women, people of color, and immigrants have played vital roles in the struggle for U.S. workers' rights, risking—and sometimes losing—their lives in strikes and marches for fundamental dignities like the right to organize, the eight-hour workday, minimum wage and maximum hour laws, and basic safety standards in the workplace.<sup>2</sup> Yet for years, mainstream labor unions excluded women, people of color, and “foreigners,”<sup>3</sup> and when the U.S. government responded to labor unrest by passing workers' rights legislation, these same constituencies were often de facto excluded from the very protections they helped to win. These exclusions generally do not operate directly—today's labor laws don't exclude women or people of color by name. Rather, they exclude certain *categories* of workers, such as agricultural or domestic workers, who are, in practice, women, people of color, and/or immigrants. These exclusions suggest that U.S. laws do not recognize domestic work as “real” work, and very often do not recognize women and people of color as real workers. The racism and sexism inherent in such a system are striking.

<sup>1</sup>U.S. Congress Committee on Labor and Public Welfare, 94th Congress, Legislative History of the Fair Labor Standards Amendments of 1974, at 955 (1976).

<sup>2</sup>See generally, Howard Zinn, *The Twentieth Century: A People's History*, Chs. 2 and 4 (1998).

<sup>3</sup>*Id.* at 40–41.

Domestic workers are denied labor protections in both direct and indirect ways. For example, because the law does not guarantee domestic workers the right to organize, they are excluded from certain benefits that other employees obtain through collective bargaining, such as vacation, sick days, and notice prior to being fired. The full history of the exclusion of domestic workers from U.S. labor law would take volumes to explore. Below, we look at the most direct exclusions in the major labor laws: the Fair Labor Standards Act (FLSA), National Labor Relations Act (NLRA), Occupational Safety and Health Act (OSHA), civil rights laws, and New York state labor law.

#### **NATIONAL LABOR RELATIONS ACT (NLRA):**

The NLRA guarantees U.S. employees the right to organize, but specifically excludes domestic workers from its definition of “employee”—with the result that U.S. law does not recognize domestic workers’ right to organize for better working conditions.<sup>4</sup> Passed in 1935 as one of the centerpieces of the New Deal, the NLRA is the foremost guarantee of U.S. workers’ right to organize. It defines employees extremely broadly, excluding only agricultural laborers and domestic workers, along with a few other narrow categories of workers. As discussed above, jobs in agriculture and domestic work have traditionally been filled by people of color, often immigrants, and domestic workers historically have been—and are still—nearly all women.

**FAIR LABOR STANDARDS ACT (FLSA):** The FLSA sets a federal minimum wage rate, maximum hours, and overtime for employees in certain occupations. Until 1974, domestic workers were completely excluded, and today the Act still excludes from coverage “casual” employees such as babysitters and “companions” for the sick or elderly.<sup>5</sup> Furthermore, live-in domestic workers, unlike most other employees in the U.S., cannot get overtime under FLSA.<sup>6</sup> Even when minimal coverage for domestic workers was added in the 1970s, it was a matter of immense debate. Legislators who opposed the extension would not acknowledge that domestic work was real

work, instead preferring to make references to the boy who mowed the lawn and domestics who enjoyed themselves while working. The 1974 amendments failed to protect domestic workers completely, and no federal legislation since then has remedied this shortcoming in the law.

#### **OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA) OF 1970:**

OSHA was enacted by Congress to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions.”<sup>7</sup> Yet, in what would seem to be a direct contravention of this mandate, agency regulations explicitly exclude domestic workers from the Act’s protections “[a]s a matter of policy.”<sup>8</sup>

#### **CIVIL RIGHTS LAWS:**

Title VII bars employment discrimination on the basis of “race, color, religion, sex, or national origin,” but applies only to employers with 15 or more employees.<sup>9</sup> Thus, virtually every domestic worker in the U.S. is de facto excluded from Title VII’s protections. Similarly, the Americans with Disabilities Act (ADA) protects individuals with disabilities from employment discrimination, but applies only to employers with 15 or more employees.<sup>10</sup> And the Age Discrimination in Employment Act (ADEA) protects individuals 40 years of age or older from age-based employment discrimination, but applies only to employers with 20 or more employees.<sup>11</sup>

#### **NEW YORK LABOR LAW:**

New York state law sets a state minimum wage for employees, including domestic workers. However, the law, like FLSA, distinguishes between live-in and live-out domestic workers. While domestic workers who do not live in their employer’s home are entitled to overtime at a rate of one and a half times their regular rate after 40 hours of work in a week, live-in domestic workers are only entitled to overtime at a rate of one and a half times the minimum wage and then only after 44 hours of work in a week.<sup>12</sup>

—RACHEL S. COEN & HENA MANSORI  
Immigrant Rights Clinic  
New York University School of Law

## LOCAL LAW 33 – A BEGINNING

**NEW YORK CITY NANNY BILL:** Passed in 2003 in response to advocacy by domestic worker organizations, New York City Local Law 33 requires employment agencies that place domestic workers to provide employers with a “code of conduct” which explains existing labor laws. Employers must sign the code of conduct and agencies must retain the document for three years. The law also requires agencies to inform workers of their rights to and provide a description detailing their work responsibilities in prospective jobs.<sup>13</sup>

<sup>4</sup>29 U.S.C. § 152(3)

<sup>5</sup>29 U.S.C. § 213(a)(15)

<sup>6</sup>29 U.S.C. § 213(b)(21)

<sup>7</sup>29 U.S.C. § 651(b)

<sup>8</sup>29 C.F.R. § 1975.6

<sup>9</sup>42 U.S.C.A. § 2000e

<sup>10</sup>42 U.S.C. § 12111(5)

<sup>11</sup>29 U.S.C. § 630(b)

<sup>12</sup>12 NYCRR § 142-2.2

<sup>13</sup>NYC Admin. Code

§ 20-770 et seq.

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 CAMPBELL<sup>1</sup>**  
**Nanny in Westchester, from Barbados**

**IN NEW YORK CITY TODAY, THE DOMESTIC WORK industry is on the rise, fueled by changes in the local and global economies. Middle and upper class women have become a significant part of the professional workforce, yet they remain largely responsible for maintaining their households. Many turn to domestic workers to avoid the “double day” of career and household work. Increasing income disparity creates a condition in which employers have greater disposable wealth and can afford to hire domestic workers, while workers have fewer viable employment options. In fact, the domestic work industry is largest in cities like New York where income disparity is high.<sup>2</sup> These factors have built a demand for domestic work. U.S. Census data show a 24% increase in size of the New York domestic workforce from 1990 to 2000. In this same period, there was only a 10% growth in the workforce overall.<sup>3</sup>**

Meanwhile, nations of the global South that struggled to gain independence after colonization have had the formidable task of reorienting economies that had been geared for production to serve colonizer interests. Many have become unable to service debts to international lending institutions and G-8 nations (particularly the U.S.), and they have been required to adopt stringent economic policies that promote free trade, deregulation, privatization, and cuts in social services spending.<sup>4</sup> While transnational corporations have benefited from the increased access to foreign markets, resources and labor, economies of the global South have been devastated by job loss, product dumping that undercuts locally produced goods, the end of communal land rights and the loss of traditional trading patterns. With their livelihoods destroyed, people around the world have been pushed to migrate in search of work.

<sup>1</sup>Throughout this report, domestic workers and employers whose testimony is public are quoted with their full names, while others are quoted using a pseudonym, indicated by quotations, for their protection.

<sup>2</sup>Ruth Milkman, Ellen Reese, Benita Roth, “The Macrosociology of Paid Domestic Labor,” *Work and Occupations*, Vol. 25, No. 4, November 1998, p. 483-510. 1990 Census analysis shows New York City as having the second largest domestic workforce in the country (Los Angeles was highest).

<sup>3</sup>Despite U.S. Census limitations in accurately counting industry size, it is perhaps the only source that captures industry data relatively consistently over time, and is included for that reason.



Domestic workers of the 21<sup>st</sup> century are a migrant workforce. The domestic workers who responded to our survey come from 42 countries. One-third (33%) came to the United States because they could not support their families in their home countries. Workers who live in their employers' home (51%) were especially likely to have left their home countries due to economic hardship. Workers also came because they had friends or relatives already working in the U.S. (35%) and because they had no job options in their home country (28%). Nine percent of live-in workers received sponsorship, or visas, from their employers.

### TWO WORKFORCES - TWO WORLDS

Not only are domestic workers immigrants, they are overwhelmingly women of color. Ninety-five percent of the domestic workers who responded to the survey are people of color and 93% are women. Three-fourth of workers (76%) are not U.S. citizens.

In contrast to the largely immigrant workforce, employers of domestic workers are white (77%) and from the U.S. (78%).

**TABLE 3.1**

**Reasons domestic workers came to the U.S.**

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

SOURCE: DWU SURVEY

**TABLE 3.2**

**Worker Demographics**

	% of Workers
Asian	20%
Black	65%
Latina	7%
Mixed race/Ethnicity	3%
White	1%
Female	93%
Male	1%
Foreign-Born	99%
Not U.S. Citizens	76%

SOURCE: DWU SURVEY

**TABLE 3.3**

**Employer Demographics**

	% of Employers
White	77%
One or both employers are from the U.S.	78%

SOURCE: DWU SURVEY

### DOMESTIC WORKERS ORGANIZING IN NEW YORK

DAMAYAN Migrant Workers Association is an independent, grassroots, membership-based organization led by women domestic workers. Damayan fights for the rights and welfare of Filipino migrant workers in New York and New Jersey and addresses the root causes of forced migration in the Philippines. We educate, organize and mobilize towards justice and dignity for Filipino domestic workers, and the genuine liberation of the Filipino people. (212) 564-6057 ■ [contact@damayanmigrants.org](mailto:contact@damayanmigrants.org)

Domestic workers in New York come to the industry from a wide range of occupations in their home countries. While one-third (34%) of workers surveyed were employed in service, office and administrative support, and sales occupations in their home countries, workers also reported being business owners, business and financial professionals, medical professionals and lawyers before emigrating to the U.S.

**TABLE 3.4 Top Five Occupations of Workers in their Country of Origin**

	% of Workers
Service	14%
Office & Administrative Support	12%
Sales	8%
Homemaker	8%
Construction, Mining, Manufacturing	7%

SOURCE: DWU SURVEY

The impact of neoliberal policies cuts across social sectors, leading to the migration of workers from a broad range of professions and classes.

Domestic workers surveyed in our study reported that their employers are most likely to be business and finance professionals (22%). Other common fields include law, media, arts and entertainment, healthcare professions, or small business ownership. Educators, salespeople, office support staff, government and social services workers also hire domestic workers. However, very few employers represent the lower income rungs of the occupational ladder.

**TABLE 3.5 Top Fields of Work for Employers in New York**

	% of Employers	% of Spouses
Business and Finance (corporate executive, business owner, broker, accountant, tax services, insurance agent)	22%	18%
Law (lawyer, judge, paralegal, court worker)	8%	9%
Healthcare (doctor, dentist, therapist, nurse)	6%	6%
Technology (computer programmer, economist, engineer, architect)	4%	3%
Small Business Owner	8%	6%
Media, Arts & Entertainment (reporter, actor, designer, artist, writer, athlete)	7%	6%

SOURCE: DWU SURVEY

Domestic workers play an important role in the New York City economy. Their work sustains their employers' participation in professions that uphold New York City's leadership role in the global economy: business and finance, law, media, arts and entertainment. Domestic workers also contribute to the New York economy by enabling their employers to increase family income. This, in turn, enables their employers to spend more on consumer goods, thus expanding the economy. Finally, in caring for their employers' children and their own, domestic workers nurture the future workforce.

### LEGACY OF SLAVERY

The domestic work industry today reflects our legacy of slavery: immigrant women of color perform the household work that sustains and builds the economic strength of the U.S.

During the early colonial period, domestic work and other household subsistence labor was integrated with the market economy; settlers produced many goods for their own consumption. As the colonial market economy grew under industrialization, settlers acquired wealth. They then bought slaves, used indentured servants or hired maids to handle household work. White men were able to enter the market economy, but working women of all races had little option besides household work. By 1870, half of all women workers in the U.S. were domestic servants.<sup>5</sup>

Key to wealth accumulation in the colonies was the lucrative cotton plantation economy that relied on African slave labor to harvest cotton for world markets. In addition to working the fields, slaves were required to perform the household work that sustained plantation life: spinning thread and weaving fabric, cooking and serving meals, washing dishes and clothes, cleaning homes, and nurturing their masters' children. Slaves endured long work hours, and they frequently experienced physical and sexual abuse at the hands of their masters.<sup>6</sup>

<sup>5</sup>Katzman, David M., *Seven Days A Week: Women and Domestic Service in Industrializing America*, University of Illinois Press, 1981, p. 53. (Cited hereinafter as *Seven Days*)

<sup>6</sup>Leo Huberman, *We, the People: the Drama of America*, Monthly Review Press, 1970, p. 159; Phyllis Palmer, "Domestic Work," *The Reader's Companion to American History*, Houghton Mifflin Company [http://college.hmco.com/history/readerscomp/rcah/html/ah\\_025400\\_domesticwork.htm](http://college.hmco.com/history/readerscomp/rcah/html/ah_025400_domesticwork.htm).

**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<sup>7</sup>**  
*Independent*, 1912

**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

**HISTORY OF DOMESTIC WORK IN THE U.S.**

**1450-1860**

African slave trade provides labor that builds colonial economy

**1870-1970**

Slavery abolished. Domestic work becomes "black women's work"

**1970-2006**

Immigrant women of color provide domestic labor that supports U.S. economy



<sup>7</sup>Seven Days, p. 24-25.

After the abolition of institutionalized slavery, black women continued to perform household work as paid domestics. Native-born white women and—later—immigrant white women moved out of domestic work as jobs in factory, retail and service sectors became available to them. This became a means of distancing themselves from what was becoming characterized as “black women’s work.”<sup>8</sup> Black women were denied access to most other occupations due to race discrimination, so they concentrated in the domestic work industry. They became the majority of the domestic workforce by the 1940s. It wasn’t until the Civil Rights Movement opened occupational doors in the public sector to some people of color in the 1970s that the presence of African American women in domestic work declined.<sup>9</sup>

## STRUGGLE FOR DIGNITY

Black domestic workers succeeded in achieving a few major improvements in what remains a largely unregulated and exploitative industry. Unlike white women who typically worked until marriage, black women frequently did domestic work their entire adult lives. If they worked as live-ins, domestic workers had little access to their own families. African American domestic workers instituted day-work as the prevailing arrangement for domestic work, replacing the long-standing custom of servants living in their employer’s home. By World War II, day-work became common practice. Day-work gave workers more control over their working conditions, shortening workdays and making it easier to leave bad work situations. It also enabled workers to have time with their own families.

In the 1970s, domestic workers involved in the National Committee on Household Employment in New York City fought for and won the inclusion of domestic workers in the Fair Labor Standards Act, entitling domestic workers to a minimum wage.<sup>10</sup>

## WORKING TOWARD EQUITY

As during the time of slavery, domestic workers are doing the household work that sustains and builds the economic strength of the U.S. Consistent with historic patterns, the domestic work industry has grown when economic disparity has increased along with the availability of workers without other viable employment options.<sup>11</sup> The informal structure of the domestic work industry continues to facilitate the exploitation of domestic workers, including low wages, long hours and abusive workplaces. As in previous eras, gender, race and immigration continue to play a role in domestic work, changing only from what was once “either an immigrant woman’s job or a minority woman’s job to one that is now filled by women who, as Latina and Caribbean immigrants, embody subordinate status both racially and as immigrants.”<sup>12</sup>

Neoliberalism is the dominant economic policy in the world, promoted by the U.S. At the same time, U.S. immigration policy has so far failed to offer a path to legalization for immigrants, and continues to diminish the rights of migrants and immigrants within U.S. borders while threats of deportation and detention keep workers living in fear. This reality compounds the multi-layered vulnerability of domestic workers who at the end of the day must take care of their families both in the U.S. and abroad.

Domestic workers will continue to migrate in search of jobs. Their families will continue to rely on their labor for survival. Their labor will remain necessary to enable the work of professionals in the “global city.” The following sections outline the abuses workers face daily on their jobs and the impact on their homes and families. Also presented are clear recommendations that can create an equitable industry for all workers. Formal recognition and basic standards are important steps toward moving the workforce out of the shadows of slavery. The dignity of the work and the value of the workforce have remained invisible for too long.

### DOMESTIC WORKER ORGANIZING IN NEW YORK

Andolan – Organizing South Asian Workers was founded in 1998 by low-wage South Asian women workers to support each other and organize against exploitative work conditions. Andolan, which means “movement” in several South Asian languages, is strongly committed to a vision where all workers are treated with respect and dignity, and are able to realize their rights. Andolan educates workers about their rights, promotes a living wage and standard employment contracts, raises public awareness about poor industry conditions, and holds employers accountable for abuses including labor rights violations, verbal and physical abuse, and sexual harassment.

(718) 426-2774 ■ [andolan\\_organizing@yahoo.com](mailto:andolan_organizing@yahoo.com) ■ <http://andolan.net/index.html>

<sup>8</sup>Diner, Hasia R. *Erin’s Daughter in America: Irish Immigrant Women in the Nineteenth Century*, 1983, quoted in Peggy R. Smith, “Regulating Paid Household Work: Class, Gender, Race and Agendas of Reform,” *The American University Law Review*, April 1999.

<sup>9</sup>Hondagneu-Sotelo, Pierrette, *Doméstica: Immigrant Workers Cleaning and Caring in the Shadows of Affluence* University of California Press, 2001, p.16. (Cited hereinafter as *Doméstica*.)

<sup>10</sup>Ibid. p. 219-220

<sup>11</sup>*Seven Days* p. 46. Katzman notes that during industrialization of the U.S., the size of the domestic work industry was limited by the supply of workers; demand from the growing middle class was constantly increasing.

<sup>12</sup>*Doméstica*, p. 14.



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

**DOMESTIC WORKERS CREATE SPACE FOR NEW YORKERS to be able to work, have evenings out in the city and travel while having the security of knowing that their children and the elderly are being cared for, their homes cleaned and their errands completed. Through their work in the private sphere, domestic workers allow New York's professionals to participate in the public sphere.**

Yet, as Professor Peggy Smith notes, "Because of its close association with women's unpaid household labor, and its connection with the intimacies of family life, domestic service has often been devalued as a form of real work."<sup>1</sup> As a result, domestic workers endure workdays that are too long and wages that are too low, often not receiving overtime and other workplace benefits. Lacking industry standards that ensure fair labor practices, domestic workers have little recourse if their rights are violated and little leverage to improve their work conditions. The industry thus creates conditions that make domestic workers highly vulnerable. In her own domestic life, due to low wages and lack of benefits, a domestic worker's ability to provide even the most basic needs for her family is precarious.

In her workplace, she is vulnerable to exploitation and mistreatment because she has little control or negotiating power or legal protection to ensure fair and equitable work conditions. Our investigation of working conditions among domestic workers shows that low wages, long hours and wage violations prevail in New York City:

- Forty-one percent (41%) of the workers earn low wages with an additional quarter of workers making either below the poverty line or below minimum wage. Wages for live-in workers are even lower, with 20% of them earning below minimum wage.
- Nearly half of the workers work overtime, often more than 50 and 60 hours per week. Even when they are working a five-day week, the days extend to 10-12 hours.
- Two-thirds (67%) of workers are not receiving overtime pay for the work they do. Live-out workers who said they did receive overtime pay, often received their usual wage, not time and a half as mandated by law.
- Workers are not being paid on time and are fired without notice or severance pay.

<sup>1</sup>Smith, Peggy, "Organizing the Unorganizable: Private Paid Household Workers and Approaches to Employee Representation," *North Carolina Law Review*, December, 2000.

<sup>2</sup>*Doméstica*; Mary Romero, *Maid in the U.S.A.*, Routledge, 2002; Leon C. Wilson and Colwick M. Wilson, "A Historic Review and Empirical Profile of Caribbean Immigrant Domestic Workers in New York City," *Journal of Caribbean Studies*, 16:1&2, Fall 2001(cited hereinafter as "Empirical Profile of Domestic Workers"), among others.

<sup>3</sup>*Doméstica* p. 35.



## WAGES NOT LIVABLE

Previous studies on domestic workers have found that the wages earned by domestic workers generally fall short of a living wage, despite the fact that domestic workers work well over 40 hours per week.<sup>2</sup> However, wages vary significantly within the industry with live-out housecleaners typically earning the most, live-out housecleaner/nannies earning less, and live-in domestic workers earning less than minimum wage. A survey of Latina domestic workers in Los Angeles found that 79% of live-in domestic workers earn less than minimum wage.<sup>3</sup>

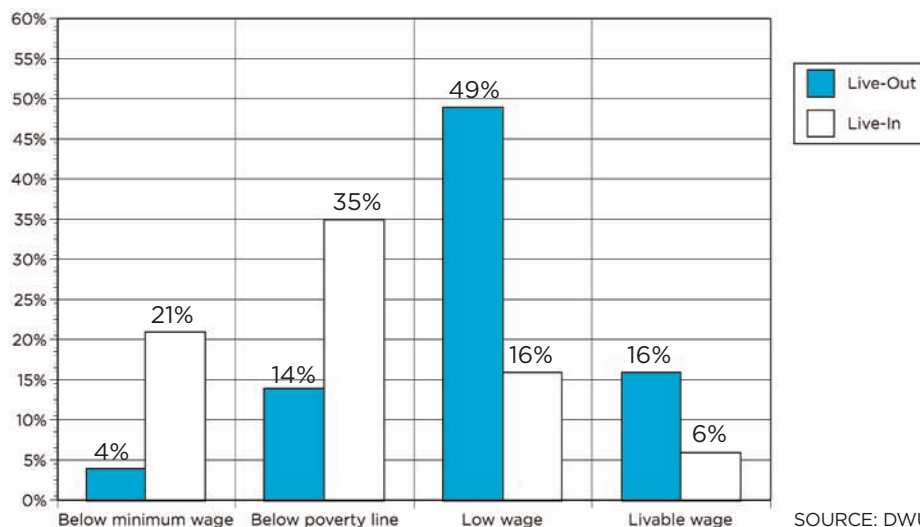
Survey results demonstrate a vast range of hourly wages, showing the lack of industry standard and enforcement. Hourly wages reported by domestic workers in New York range from a low of \$1.43 to a high of \$40.00. The median hourly wage for domestic workers is \$10.00; half the workers make below \$10.00 per hour. Eight percent of workers report earning below minimum wage, with 21% of live-in workers earning below minimum wage and an additional 35% earning below the poverty line. Eighteen percent of all workers earn below the poverty line and 41% earn low wages. Only 13% earn a wage that is livable for a family of four in New York City. [Table 4.1]

**TABLE 4.1 Worker Hourly Wages<sup>4</sup>**

	% of Workers
Below minimum wage (less than \$5.15/hr) <sup>5</sup>	8%
Below poverty line (\$5.16-\$8.97)	18%
Low wage (\$8.98-\$13.46)	41%
Livable wage (\$13.47 and above)	13%
No response	20%

SOURCE: DWU SURVEY

**GRAPH 4.1 HOURLY WAGES FOR LIVE-IN & LIVE-OUT DOMESTIC WORKERS**



SOURCE: DWU SURVEY

<sup>4</sup>Wage breakdowns are modeled after Restaurant Opportunities Center of New York's report *Behind the Kitchen Door: Pervasive Inequality in New York City's Thriving Restaurant Industry*, 2005 p. 11. The breakdowns are based on 2004 Department of Health and Human Services federal poverty line earnings for a family of four of \$18,850 per year; low wages are one and a half times the poverty line.

<sup>5</sup>Minimum wage, although increased to \$6.75 in NY in 2006, and will increase to \$7.15 on January 2007, is shown here as \$5.15 since surveys were conducted before the wage increase.

## NOT JUST EIGHT-HOUR WORK DAYS

**TABLE 4.2 OVERTIME HOURS WORKED**

	% of Workers
Live-out workers work overtime	48%
Live-in workers work overtime	63%
Worked five days the previous week and worked overtime	66%

SOURCE: DWU SURVEY

A study on Caribbean domestic workers found that, on average, domestic workers in New York City work for 10 hours a day, 5 days a week, for about 50 weeks a year.<sup>6</sup> Many work longer. Survey results found that nearly half of all live-out workers (48%) work more than 40 hours per week. In addition, two-thirds (63%) of live-in workers work more than 44 hours per week, the point at which they are eligible for overtime under New York labor law. Half of the workers (51%) worked five days in the previous week. Of those, 66% work overtime (over 40 hours for live-out workers and 44 hours for live-in workers) during those five days. So although they may receive days off, domestic workers labor much longer than eight hours a day. Of those working overtime, 43% work more than 50 hours and 35% work more than 60 hours a week, amounting to an average of 10 to 12 hours in a work day.

**TABLE 4.3 AMOUNT OF OVERTIME HOURS WORKED**

	% of Workers
50 hours/week or more	43%
60 hours/week or more	35%

SOURCE: DWU SURVEY

In most low-wage work, wages are calculated hourly. In domestic work, the standard practice is for employers to pay a flat rate per week for unpredictable and sometimes unlimited hours of work. Live-in workers may be expected to be on call 24 hours per day, 5 to 6 days per week. 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.

**TABLE 4.4 OVERTIME PAY AND BREAKS VIOLATIONS EXPERIENCED BY WORKERS**

	% of Workers
Sometimes or never receive overtime pay	67%
If receive overtime, paid usual wage (live-out only)	34%
Sometimes or never receive breaks	41%

SOURCE: DWU SURVEY

## OVERTIME PAY AND BREAK VIOLATIONS

Even more disturbing than the long working hours is the fact that domestic workers often receive no remuneration for the overtime hours they work. In New York, live-out domestic workers are legally entitled to receive overtime pay when they work over 40 hours per week for one employer and live-in workers are entitled to overtime pay after working 44 hours per week.<sup>7</sup> However, employers commonly violate the law. Two-thirds (67%) of the workers sometimes or never receive overtime pay. For live-out workers who do receive overtime, one-third of the workers (34%) are paid their usual wage (not time and a half as required by law). In addition, 41% of workers sometimes or never receive breaks.

**TABLE 4.5 LACK OF NOTICE GIVEN TO CHILDCARE WORKERS FOR OVERTIME**

	% of Workers
Given one day or less advance notice	30%
No notice given	14%

SOURCE: DWU SURVEY

Lack of notice from employers when required to work overtime is a common experience for domestic workers. Thirty percent of those taking care of children received a day of notice or less, and 14% were given no notice at all.

Workers also experience withholding of pay and unfair termination. Our survey found that 19% of workers were not paid on time. In the previous year, 12% were fired without notice and 11% were fired without severance.

**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 33<sup>rd</sup> Street to 47<sup>th</sup> 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.**  
**“RUBY” B1 Visa Holder, Housekeeper in Manhattan, from the Philippines**

<sup>6</sup>“Empirical Profile of Domestic Workers”  
<sup>7</sup>12 NYCRR § 142-2.2

As this section demonstrates, the domestic work industry is erratic. Wages vary immensely, but most workers earn remarkably low wages. Hours are long, well beyond the 40-hour week and 8-hour workday. Employers rarely pay overtime. The industry has no standards, no enforcement of minimum wage or overtime laws, and no collective bargaining rights. But as we see in the next section, exploitation doesn't stop with wages, hours and overtime.

**TABLE 4.6 WITHHOLDING**

	<b>% of Workers</b>
Not paid on time	19%
Not paid at all	5%
Fired without notice	12%
Fired without severance pay	11%

SOURCE: DWU SURVEY

#### **DOMESTIC WORKER ORGANIZING IN NEW YORK**

Unity Housecleaners is a cooperative of domestic workers that sets fixed rates for services. An initiative of The Workplace Project, which organizes low-wage Latino immigrants on Long Island, Unity Housecleaners seeks to fight for better working and living conditions for domestic workers.

(516) 565-5377 ■ [workplace@igc.org](mailto:workplace@igc.org)



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

**DOMESTIC WORK IS HARD AND DANGEROUS WORK. DOMESTIC** workers bear the responsibility for the well-being and safety of children and the elderly in their care. They are regularly exposed to the toxic chemicals contained in most household cleansers, placing them at risk for long-term damage to their health. Those who care for people with contagious diseases also risk their health.

Domestic workers also experience an unusually high level of on-the-job stress. The National Institute of Occupational Safety and Health (NIOSH) notes that unresolved stress can result in severe health consequences, and identifies job conditions that may lead to stress as including:

- Heavy workload
- Infrequent rest breaks
- Long work hours
- Hectic and routine tasks that do not utilize workers’ skills and provide little sense of control
- Lack of worker voice in decision-making
- Poor social environment at work
- Conflicting expectations
- Job insecurity
- Unpleasant or dangerous physical conditions<sup>1</sup>

Domestic workers routinely experience these stress-inducing conditions in their workplaces.

As solitary workers in their employers homes, domestic workers are uniquely at risk of exploitation and abuse. They are one-to-one (sometimes one-to-two) with their employers in a private setting—their employer’s home. Unlike most other workers, domestic workers generally have no other employees at their workplace to turn to for support or leverage should an employer abuse her or his power. The power that an employer holds over workers is exacerbated for domestic workers. Supported by social values that devalue household work and equate it with servitude, the structure of the industry enables employers to abuse workers with impunity.



<sup>1</sup>National Institute for Occupational Safety and Health, *Stress at Work*, [www.cdc.gov/niosh/stresswk.html](http://www.cdc.gov/niosh/stresswk.html)

Our investigation of industry working conditions shows that domestic workers endure frequent exploitation and abuse, and lack basic workplace benefits:

- Workers perform multiple job responsibilities, such as housecleaning and childcare. One quarter (25%) of workers felt that they performed too many tasks or were told to do work not in their job descriptions. Employers also compel workers to work for their friends and family.
- One-third (33%) of workers face abuse in their workplaces. Workers are made to feel uncomfortable or face verbal abuse, such as being called insulting names, being yelled at and threats. A smaller percentage of workers experience physical abuse, including beating, pushing or sexual assault.
- Workers who reported mistreatment identified race, language and immigration status as key factors for their employers' actions.
- Nine out of ten domestic workers surveyed do not receive health insurance from their employers. One third of workers could not afford medical care when needed for themselves or their families. Workers do not receive other workplace benefits including money for food or transportation and regular raises.
- Forty six percent of workers experience stress at work.



### MULTIPLE JOBS IN ONE

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.

**"ESMERELDA"**  
Nanny, Elderly Caregiver and Housekeeper  
in Long Island, from Zambia

**TABLE 5.1 NUMBER OF JOB RESPONSIBILITIES PERFORMED**

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

SOURCE: DWU SURVEY

Domestic work involves a broad range of housework, childcare and home health care. Housework responsibilities typically include washing, ironing, fixing beds, housecleaning and cooking. Providing medication is also common. Domestic workers are also asked to run errands for employers, purchase groceries or care for the lawn.<sup>2</sup> Seventy-seven percent of the domestic workers we surveyed provide childcare as part of their duties, typically caring for 1-2 children. Forty-six percent of them provide housekeeping in addition to childcare. Less than one-third (29%) of workers perform only one responsibility. Thirty-seven percent performed 2-3 different job responsibilities and over one quarter (28%) performed 4-8. Over half of live-in workers performed 4-8 different job responsibilities. One quarter (25%) of workers felt they were given too many tasks.

<sup>2</sup>"Empirical Profile of Domestic Workers"

These additional job responsibilities are not necessarily a part of the duties agreed upon with the employer. “Many of the women are hired as nannies and then asked if they wouldn’t mind straightening up a bit. They are asked if they wouldn’t clean, then shop, then do the laundry, then, etc.”<sup>3</sup> Our survey found that 23% were told to do work that was not in their job description and 8% were directed by their employer to work for someone else. 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.”

**TABLE 5.2 ADDITIONAL JOBS OR JOB RESPONSIBILITIES GIVEN TO WORKERS**

	% of Workers
Told to do work not in the job description	23%
Given too many tasks	25%
Directed by my employer to work for someone else	8%

SOURCE: DWU SURVEY

## ABUSE

**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

Many domestic workers contend with abusive behavior on the part of their employers. This makes for a work environment in which the worker feels devalued or unsafe.

One-third (33%) of all workers, and half of live-ins (48%) indicated that they had experienced at least one type of abusive behavior from their employer in the last twelve months. Twenty-four percent of workers reported that their employers made them feel uncomfortable. Twenty-one percent of workers, and one-third (37%) of live-in workers,

reported that their employer verbally abused them by yelling, threatening or calling them insulting names. A small percentage of workers reported physical abuse such as being pushed, beaten, raped or sexually assaulted by their employer. However survey collectors noted that the question was uncomfortable for workers, and that this implied that there may have been underreporting. “Emilia,” a housekeeper in Manhattan from the Philippines, confronted harsh working conditions daily:

“My employer...did not allow us to sit down or talk to other people. During lunchtime, we were not allowed to use their utensils. We were supposed to use disposable plates, spoons, forks and cups. After using them, we were supposed to put them in the dishwasher and

**TABLE 5.3 ABUSIVE TREATMENT BY EMPLOYER**

	% of all Workers	% of Live-in Workers
Experienced at least one of the below abuses	33%	48%
Made me feel uncomfortable	24%	36%
Verbal Abuse (yelled, threatened, called insulting names)	21%	37%
Physical Abuse (pushed, beaten, raped or sexually assaulted)	1%	2%

SOURCE: DWU SURVEY

<sup>3</sup>Dobie, Kathy, “Black Women, White Kids: A Tale of Two Worlds,” *Village Voice*, 12 January 1988, 20-27.

use them again. She yelled for no reason. She insisted on scrubbing the carpet on my knees. Every time she came into the room, I was supposed to stand. When she would pass by, I'd have to stand aside and not look at her. She always made me feel stupid.”

Of the workers who reported mistreatment, one-third (33%) felt that immigration status was a factor in their employer’s actions, one-third (32%) felt race was a factor, and 18% felt language played a role. Domestic workers are typically excluded from civil rights protections that bar discrimination on the basis of race, color, religion, sex, or national origin because these laws only apply to employers with 15 or more employees.

“Emilia” notes how immigration status and the industry itself take advantage of her situation: “I know I’m not stupid. I graduated from the University of Santo Tomas in the Philippines, with a bachelor’s degree. Most of my employers overworked me and did not give me the rights and respect that I deserve as a human being. They paid me very little compared to how much they benefited from my services. I was not paid overtime. I was not given social security and healthcare. Our employers directly benefit from us. But the U.S. government and the Philippine government gain even more. We, undocumented workers, prop up the U.S. economy but we receive no protection or benefits.”

### NO HEALTH INSURANCE

**I had breast surgery in February of 2005. “Lynette” 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.**

### “CAROLYN” Nanny and Housekeeper in Long Island, from Barbados

In addition to fair wages and reasonable work hours, workers have the right to expect health benefits. Lack of health benefits increases the level of job insecurity and vulnerability of the worker. A recent report by the Iowa Policy Project notes: “More than 80 percent of the uninsured are working Americans and their families, and more than half (56 percent) are members of families with at least one full-time worker.” There’s a strong connection between the rise of the contingent workforce and the drop in workplace benefits. Employers shift the cost of health benefits on to workers, and workers are unlikely to prioritize health insurance when they are barely able to pay for basic necessities like food and rent.

Nine out of ten domestic workers surveyed do not receive health insurance from their employers. Furthermore, 36% of workers or their family members could not afford medical care or surgery when they needed it in the previous twelve months.

**TABLE 5.5 LACK OF ACCESS TO HEALTHCARE AND HEALTH BENEFITS**

	% of Workers
Employer does not provide health benefits	90%
Could not afford medical care when needed it	36%

**TABLE 5.4 FACTORS WORKERS REPORT CONTRIBUTED TO EMPLOYER ABUSIVE ACTIONS**

	% of Workers
Immigration status	33%
Race or ethnicity	32%
Language	18%
Age	10%
Religion	9%
Gender	4%
Sexual orientation	2%

SOURCE: DWU SURVEY

SOURCE: DWU SURVEY

\*Fisher, Peter, et. al *Nonstandard Benefits, Substandard Benefits*, The Iowa Policy Project, July 2005 (revised February 2006), p. 15.

## MINIMAL HEALTH AND SAFETY

Domestic workers, as noted in Chapter 2, are excluded from the Occupational Health and Safety Act that protects workers from workplace hazards such as exposure to toxic chemicals and unsanitary conditions. An AFL-CIO report on workplace safety for immigrants points out that “not only are new immigrants less likely to complain about job hazards, but they also tend to return to work quickly despite potentially serious job-related injuries and illnesses.”<sup>5</sup> Immigrants were also more likely to return to work the next day out of fear of being fired. In the survey results, we found that live-in workers (who tend to be newer immigrants) were more likely to experience workplace hazards. Thirty percent of live-in workers do heavy lifting or other strenuous activities. One-quarter (26%) work with toxic supplies and 23% clean hard-to-reach places. Ten percent provide care for children or elderly people with contagious diseases.

**TABLE 5.6 PERFORMED TASKS THAT ARE UNSAFE**

	% of Workers	% of Live-out Workers	% of Live-in Workers
Heavy lifting or other strenuous activities	17%	13%	30%
Work with toxic cleaning supplies	16%	13%	26%
Climbing to clean hard to reach places	12%	9%	23%
Slipped and injured yourself while on the job	4%	3%	8%
Provided care for children or elderly people who had a contagious illness	9%	9%	10%

SOURCE: DWU SURVEY

## FEW BASIC BENEFITS

**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. & 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**

Survey results show that many domestic workers lack standard workplace benefits such as paid time-off or regular raises, although such workplace benefits do exist for some workers in some jobs.

Paid time off for vacation, holidays, sick days and personal days varies widely. While 67% of domestic workers reported receiving paid vacation days, less than half received paid sick days (47%) or national holidays (44%). Even fewer received paid religious holidays (39%) or personal days (26%).

**TABLE 5.7 DAYS-OFF RECEIVED IN THE PAST YEAR**

	% of Workers
Paid sick days	47%
Paid personal days	26%
Paid vacation days	67%
Paid national holidays	44%
Paid religious holidays	39%

SOURCE: DWU SURVEY

Two-thirds (63%) of domestic workers surveyed have been at their jobs for two years or more (see Table 6.3), but only 34% receive a raise every year. Most domestic workers have to pay out of pocket for job-related expenses. “Liza,” a nanny from Brazil who is working in Manhattan, described having to buy her own groceries: “I had to buy food for me, for her son, and for the dog because she would not

give any money for the groceries. With the little money that she randomly paid me, I was able to do that.” Survey results found that only 21% of workers receive money for food and 25% received money for transportation.

Employers entrust the most valuable parts of their lives to domestic workers—their children, their elders and their homes. To couple that with the lack of benefits, poor or abusive work conditions, and a workplace with too many job

**TABLE 5.8 WORKPLACE AMENITIES GIVEN TO WORKER:**

	<b>% of Workers</b>
A raise every year	34%
Money for lunch or food	21%
Money for transportation	25%
Taxi home if have to work late	43%

SOURCE: DWU SURVEY

responsibilities is a paradox in values. The survey results and particularly the haunting testimonies in this section create an unseemly picture of the life of the domestic worker. Along with fair wages and hours, domestic workers require a reasonable amount of job responsibilities, health and safety protections and access to benefits such as health insurance and days off. Such changes will help in alleviating the stress of the worker that, as we see in the next section, extends into her own home as she struggles to support her family.

### **DOMESTIC WORKER ORGANIZING IN NEW YORK**

Haitian Women for Haitian Refugees is dedicated to providing a variety of services for the Haitian community of New York City including English classes for its predominantly English-limited immigrant community, helps develop micro-enterprises, resettles refugees, advocates on behalf of domestic workers fighting for fair wage demands, and organizes advocacy campaigns in support of Haitian low-wage workers.

(718) 735-4660 ■ [Haitianwomen@aol.com](mailto:Haitianwomen@aol.com)



The story of domestic workers is a story about families. It is not just the story of their employers' families; it is also the story of their own families. While sustaining the families of their employers, most workers have difficulty meeting the needs of their own families.

**ONE ACADEMIC STUDY ON DOMESTIC WORK NOTES that the U.S. has a long history of incorporating people of color through coercive systems of labor that do not recognize family rights, including the right to care for one's own family members.<sup>11</sup> Such an analysis is consistent with the contemporary picture of those doing domestic work. This sections highlights the vulnerabilities workers face in their lives as domestic workers:**

- Domestic workers have been in this industry, often with the same employer, for years and are a stable workforce while their working conditions are not.
- As primary providers for their families in the U.S. and in their home countries, workers and their families are facing severe financial hardships.
- Live-in workers are particularly vulnerable, particularly those sponsored by their employers.

#### A STABLE WORKFORCE

Survey results show that a considerable percent of domestic workers stay in the profession for significant periods of their lives. One-third of workers (32%) have been in the industry for over ten years, with an additional quarter (27%) for six to ten years. Survey results also found that workers have been in the U.S. for an average of 11 years and 61% have not done any other jobs in the U.S. aside from domestic work.

	% of Workers
1 year or less	6%
2-5 years	30%
6-10 years	27%
More than 10 years	32%

SOURCE: DWU SURVEY

	% of Workers
1 employer	52%
2-3 employers	28%
3 or more employers	12%

SOURCE: DWU SURVEY

	% of Workers
1 year or less	29%
2-5 years	45%
6 or more years	18%

SOURCE: DWU SURVEY

In addition, survey results indicate that workers aren't jumping from employer to employer. Half of the workers (52%) worked for only one employer in the past year. Almost half of the workers (45%) have been with the same employer for two to five years and 18% of workers have been with the same employer for six or more years.

These statistics show a stable workforce, and an industry of workers for whom domestic work is a career. In addition, the numbers reveal a pattern in which immigrant women of color are stuck in a poorly paid and frequently abusive "occupation ghetto."<sup>12</sup> Domestic work conditions have a significant impact on the worker and her family.

<sup>11</sup>Doméstica, p 51

<sup>12</sup>Colwick Wilson and Leon Wilson, "Domestic Work in the United States: Past Perspectives and Future Directions." *African American Research Perspectives*, 1999, 6(1): 51-59. Hereinafter referred to as "Domestic Work in the United States of America.



### SUPPORTING MULTIPLE FAMILY MEMBERS

Survey results found that on average, workers were supporting two adults and two children. Fifty-nine percent of workers are the sole income earner for their families, and 18% are joint income earners.

Domestic workers also support family members in their home countries. Almost three quarters (72%) of the domestic workers surveyed send money (also known as remittances) to relatives abroad on a regular basis. Seventy-one percent of workers send barrels or packages. Many nations of the global South, such as the Philippines and Mexico, rely heavily on the remittances of migrant workers to keep their economies afloat. Some have made the “trade in human labor,” particularly women’s caregiving labor, a primary export. They have established government agencies that recruit and broker migration and employment abroad.

**TABLE 6.4 PRIMARY PROVIDERS FOR THEIR FAMILIES**

	% of Workers
Primary Income Earner	59%
Joint Income Earner	18%

SOURCE: DWU SURVEY

**TABLE 6.5 WORKERS SUPPORT FAMILY ABROAD**

	% of Workers
Send money home to family members on a regular basis	72%
Send other things, like barrels or boxes home on a regular basis	71%

SOURCE: DWU SURVEY

### DOMESTIC WORKER FAMILIES FACE HARDSHIPS

Yet domestic workers have difficulty making ends meet as they try to support their families here and abroad. The Community Service Society annual survey of New York City residents found that two-thirds of New York’s poor are in working families, but that their low wage jobs do not pay enough to meet basic housing and food needs.<sup>3</sup> This is apparent in the lives of domestic workers who face low wages and a lack of job benefits while living in a high-cost, high-rent city. The survey showed that workers are experiencing economic hardship and food insecurity. Whether live-in or live-out, workers are either unable to pay essential bills or are having to pay them late. Over one-third of

workers (37%) are unable to pay rent or mortgage or have to pay late. One-quarter of workers (25%) are unable to pay electricity and gas. Twenty-one percent of workers do not have enough food to eat. Six percent were evicted or had to move in with friends.

**TABLE 6.6 FINANCIAL HARDSHIPS EXPERIENCED BY WORKERS**

	% of Workers
Unable to pay rent or mortgage	37%
Evicted or had to move in with friends	6%
Sometimes or often not enough food to eat	21%
Unable to pay electricity and gas	25%
Unable to pay Phone	40%
Unable to pay cable	19%
Unable to pay credit cards	20%

SOURCE: DWU SURVEY

<sup>3</sup>Community Service Society *The Unheard Third 2004: Bringing the Voices of Low-Income New Yorkers to the Policy Debate* January 2005.

**LIVE-IN WORKERS PARTICULARLY VULNERABLE**

**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**

While all domestic workers are likely to experience exploitative working conditions, domestic workers who live in their employers' homes are particularly vulnerable.

**TABLE 6.7 LIVE-IN WORKERS' WEEK UNBEARABLY LONG**

	<b>% of Live-in Workers</b>
Do Not Receive Days off	22%
Work 50 or more hours per week	13%
Work 60 or more hours per week	45%

SOURCE: DWU SURVEY

They are more likely to experience illegally low wages, long hours, employer abuse and extreme isolation. Our survey found that 21% of live-in domestic workers earn below minimum wage. Forty percent were not paid for their work or were not paid on time. Forty-eight percent experience abuse by their employers. Live-in domestic workers' statements documented in this report attest to physically abusive and unhealthy work environments: workers were physically beaten, denied access to necessary medical care when injured, and forced to sleep in substandard or hazardous living quarters. Many live-in workers are recent immigrants; 40% of live-in workers who responded to our survey have resided in the U.S. for five years or less.

Structurally, live-in work makes it difficult to maintain boundaries between a worker's personal life and work life. With no physical separation between home and work, some workers are always on call: day, night and weekends. Indeed, one survey respondent reported that she worked 24/7. Labor law currently supports the overwork of live-in workers. Although live-in domestic workers in New York are afforded overtime under state labor law, they are not considered as working overtime until they have worked more than 44 hours or 6 days a week, and even then they are only entitled to compensation at a rate of one and a half times minimum wage. Over half of the live-in workers surveyed (58%) work 50 hours a week or more.

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**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**

Lack of privacy and substandard living quarters exacerbates poor living and working conditions for live-in domestic workers. Our survey found that 20% of live-in workers had no personal space in their employers' homes. Twelve percent shared a room with their employer's children, and 8% slept in a common area of the house. At the end of her first day of work, "Emilia," a housekeeper in Manhattan from the Philippines, was told to sleep in the basement. She walked in to find two couches in the malodorous and moldy room. She notes, "I felt dehumanized. She made me feel like garbage. I had a headache and I felt nauseated and so I told her I had to leave that evening. She didn't pay me for all the hard work that I did for that day."

**TABLE 6.8 LACK OF PRIVATE SPACE FOR LIVE-IN WORKERS**

	% of live-in workers
Shares a room with the children	12%
Sleeps in a common area	8%

SOURCE: DWU SURVEY

**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**

In addition to low wages, live-in domestic workers may also have room and board deducted from their pay. Eight percent of live-in workers surveyed report that room and board are deducted from their pay; an additional 16% report not knowing whether their employer deducted room and board. Workers who do have room and board deducted from their pay report widely varying amounts from \$100 per week to \$425 per week, an amount that exceeds legally allowable deductions.<sup>4</sup>

In analyzing interviews with live-in domestic workers, researcher Pierrette Hondagneu-Sotelo found that "once live-in workers experience it, most women are repelled by live-in jobs. The lack of privacy, the mandated separation from family and friends, the round-the-clock hours, the food issues, the low pay, and especially the constant loneliness prompt most...immigrants to seek other job arrangements."<sup>5</sup> These women often seek live-out domestic work. [Table 3.1]

**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**

However, live-in work is generally performed by workers who have no other options. Not only do they tend to be recent immigrants, they are also more likely to have come to the U.S. to escape war, political unrest or natural disaster in their home countries.

**TABLE 6.9 ROOM AND BOARD DEDUCTED FROM PAY**

	% of Workers
Employer deducts room and board	8%
Don't know if room and board deducted	16%

SOURCE: DWU SURVEY

<sup>4</sup>If a domestic employer provides meals and a place to stay, he or she can only deduct:

- For meals: \$2.05 per meal (\$2.30 per meal after January 1, 2006 and \$2.45 per meal after January 1, 2007)

- For lodging: \$3.55 per day (\$4.00 per day after January 1, 2006 and \$4.25 per day after January 1, 2007)

- if a domestic employer provides a worker with a house or apartment, with utilities: \$7.45 per day (\$8.40 per day after January 1, 2006 and \$8.90 per day after January 1, 2007)

(12 NYCRR § 142-3.5(a)(1) & (2))

<sup>5</sup>Doméstica, p. 36.

## WORKERS SPONSORED BY SPECIAL VISAS

**My name is “May,” I am from the Democratic Republic of the Congo. I am a widow and I have six children who have stayed in my country. It is since 1999 that I started to work as a babysitter for the Belgian diplomat in my country. In my country, the Belgians are the majority because it is they who colonized the Congo, which is my country. I accepted the job because I am a mother and had taken housekeeping classes, and I had to work to feed my children. This is why I accepted to come with them. Once in New York, the diplomat did not respect the work contract we signed. He had broken it in many ways, no health insurance, which was promised in the contract. Overtime was not paid, days off were not respected. The diplomat accused me of stealing and tearing their clothes. He also would wake me up sometimes during the night to do the ironing. He threatened to take my passport from me. This day, May 10th, 2002, we parted.**

### **“MAY” Nanny and Housekeeper in Manhattan, from the Democratic Republic of the Congo**

Live-in workers are twice as likely as live-out workers to have been sponsored by their employers to come to the U.S.<sup>5</sup> Sponsored domestic workers arrive in New York on a number of different employment-based special visas including B1, A3 and G5 visas. Home to Wall Street and the United Nations, New York is often seen as a “capital” of the current globalized world. In addition to supporting the permanent workforce of New York, domestic workers support the international business workforce and international government officials who make New York a temporary home. The U.S. government issues special visas for the domestic workers of temporary non-citizen workers and of United States citizens based in foreign countries.

Thousands of B1 visas are issued annually to domestic workers of temporary non-citizen workers in the private sector, mainly finance. A3 and G5 visa holders are domestics who work for employees of the World Bank, International Monetary Fund, or other international or foreign government entities that hold varying levels of diplomatic immunity to local laws. All three visas hinge upon the worker’s employment relationship. As soon as the worker leaves her employer, her visa is no longer valid. She becomes undocumented. Special visas compound the imbalance of power between a worker and her employer, because the worker’s legal presence in the U.S. is contingent on her employer. This relationship has frequently led to severe forms of abuse and violations of labor laws as workers choose to remain in a dangerous situation rather than risk deportation:

**Despite the often abusive treatment, migrant domestic workers with special visas are reticent to leave their employers or file legal complaints to enforce their rights. Many workers choose to endure human rights violations temporarily rather than face deportation. Others endure the abuses because their cultural and social isolation—lack of knowledge of U.S. law, few local contacts and friends, and inability to communicate in English—make the steps required to flee their employers, find alternative housing, and seek legal redress prohibitively daunting. Still others fear that if they leave their jobs and publicly complain of abuse, their powerful employers will retaliate against their families in their countries of origin.<sup>6</sup>**

The above section shows that despite working extremely long hours, domestic workers have difficulty supporting their own families on the low wages they earn, even after many years in the industry. Domestic workers and their families experience food and housing insecurity. In addition, workers who live in their employers’ homes are vulnerable to especially poor living conditions and a lack of separation between their work and personal lives that damages their well-being, causing workers to feel “dehumanized,” “humiliated” and “sick with depression and nervousness.” Workers may be separated from their families. Workers with special visas, whose legal status is dependent on retaining their jobs, can be trapped in exploitative and dangerous employment situations.

Domestic workers need comprehensive legal protections to ensure that they can adequately support their own families and that they can act to protect their rights as workers and as human beings. Creating a fair industry with standards will support domestic workers and their families to achieve economic security and well-being. And, as we see in the next section, legal protection for domestic workers will provide employers with a much-needed roadmap for treating their workers fairly.



<sup>6</sup>Survey results show 8.5% of live-in domestic workers were sponsored; 3.4% of live-out workers were sponsored.  
<sup>6</sup>Human Rights Watch *Hidden in the Home: Abuse of Domestic Workers With Special Visas In The United States*, June 2001  
vol. 13, no.2 (G.)

The first time I heard “Christie,” our son’s caregiver, refer to me as her boss, I was taken aback. The word seemed too formal. I had hopes for the kind of intimacy I’d known other parents and nannies to experience and wanted “Christie” to relate to me as someone other than her employer. I’ve now come to see that whether an employer hopes to replicate the mistress-servant dynamic or tries to negate the power relationship altogether, both attitudes can undermine the rights of a domestic worker. Without workplace standards, which kind of employer she ends up with is wholly arbitrary. “Christie” ended up with me; my resistance to seeing myself as an employer meant that it took too long for “Christie” to be treated like an employee; rather than signing a contract and agreeing to the terms of work on day one, we talked about benefits casually, after she’d already started work. I would not have tolerated such lack of professionalism in my own job.

**GAYLE KIRSCHENBAUM**  
Brooklyn Employer

**EMPLOYERS OF DOMESTIC WORKERS ARE IN MANY WAYS A unique group of employers. They employ other people to work in their homes, generally considered their “castle” or their private sphere. They entrust the most important and personal elements of their lives—their homes and loved ones—to the care of people often very different from themselves. They are part of an industry that is hardly recognized as an industry, where roles and responsibilities are largely passed on word of mouth and salaries and schedules are negotiated informally. Many do not even think of themselves as employers.**

Relationships between employers and domestic workers, because they exist within the private sphere and deal with caregiving, can become intimate, in some cases enabling exploitation. An employer may consider their worker as part of the family while still underpaying or overworking her. The employer who fired her worker for demanding a pay raise due to increased tasks, reported by the *Los Angeles Times*, is a case in point. When the worker sued for back wages, her former employer expressed a sense of betrayal, saying, “I don’t know where this came from ... She was not treated as an employee. It was like a family.”<sup>1</sup>

Lacking industry standards, employers will “ask around” to find out what the going rate is for a worker and negotiate work responsibilities informally. For example, an employer may casually ask the worker to stay a few extra hours if the employer needs to work late, or ask the worker to take on another job responsibility without compensation. Even well-intentioned employers are often unaware of their legal responsibilities, including payment of social security taxes and minimum wage requirements.<sup>2</sup>

This next section explores the structural dynamics between employers and workers, and illuminates some employers’ perspectives. It is based on seven interviews with employers as well as data from the worker surveys. It shows that:

- Employers need domestic workers to manage career and family life;
- Employers turn to neighbors and peers to determine wages and working conditions, and the majority do not give written contracts to their workers;
- Domestic workers find their jobs through word of mouth, through employers or other domestic workers;
- Employers are unclear about their legal and ethical responsibilities;
- Employers and workers navigate a wealth and race divide;

<sup>1</sup>Gorman, Anna, “State Helps Domestic Workers Who Are Fighting for Fair Pay; Labor violations are common in the largely unregulated industry. Change is beginning,” *Los Angeles Times*, September 11, 2005.

<sup>2</sup>*Doméstica*, p. 216.



## EMPLOYERS NEED DOMESTIC WORKERS TO MANAGE CAREER AND FAMILY LIFE

I used to work a hectic corporate job. After working sixty hours a week you don't want to ... I did do the cleaning for a long time. I used to, when I was in a house, do upstairs on Thursdays and downstairs on Saturday. I realized I was just working all the time. I finally had a meltdown. I said to my husband "You gotta help me." You know it's not just passing a broom, it's washing the floors, dusting, laundry, it's a lot of work. I like to have my house clean. So I made the decision then and there [i.e., when she had the "meltdown"] that for the rest of my life, as long as I could afford it, I would hire somebody. It's a luxury for me. It took off a lot of stress. I used to be sitting at work thinking "I can't go out to dine with my friend tonight, I have to clean." It's a big apartment.

"LESLIE" Manhattan Employer

Nannies, housekeepers and caregivers for the elderly provide the labor needed to maintain households and take care of families. Their work enables their employers to pursue careers and interests. One way of understanding this relationship is to think of the domestic worker as producing her employer's labor power. As Manhattan employer Leslie's statement indicates above, hiring a domestic worker also enables her to meet the demanding hours expected by her own employer. Thus, domestic workers provide flexibility not only to their immediate employer, but additionally support the smooth functioning and productivity of the professional sectors.

In New York, 68% of domestic workers care for families with children. Employers need domestic workers because their work lives do not provide enough time to take care of their families and home. As "Jeffrey," an employer in a two-income two-child family describes, "Our older daughter is about 6 ... My wife was fortunate in that she got ... I think it was 6 months maternity leave from her company which was pretty generous. There came a point when ... my wife was going back to work full-time and I was working part-time. My wife works for a publishing company. And we had to have somebody who could come and watch "Jennifer." She's our older daughter."

TABLE 7.1 EMPLOYER'S FAMILY TYPE

	% of Workers
Single parent with children	8%
Couple with children	60%
Single or couple, no children	9%
Elderly	4%

SOURCE: DWU SURVEY

The employers interviewed value the work domestic workers perform and its impact on their lives. "You know, 'Number 1 job, Second mother,' if I could afford to pay her \$1,000 a week I would," explained one employer. "Domestic work is a lynchpin of yuppie society," noted another.

## INFORMALLY EMPLOYERS

While most employers are professionals, they are also usually still employees in their own right. Many have never thought of themselves as employers. In several interviews with employers, they were unclear of the expectations and responsibilities of employing another person. As one employer, "Julia," notes, "I never called myself an employer when I had a babysitter. But since we hired the nannies I noticed it was strange to think of myself as an employer. It's awkward when you talk about employment issues: how much to pay, etc."

Some employers determine the wages and working conditions of their domestic workers through “asking around” among friends who also hire domestic workers. But as employers “Susan” and “Angela” point out below, “asking around” results in an arbitrary pay scale that fails to address workers’ need for a living wage and their professional qualifications, while providing little guidance to employers as to what they should pay.

**It’s impossible [to figure out how to set domestic workers’ pay rates], it’s absolutely impossible. I don’t mean that, I just mean it’s complicated. The way you determine what to pay your babysitter is by looking at what your neighbors pay their babysitters. Maybe you have neighbors who make a lot more than you do. And there are major cultural differences across the board, in terms of a) childrearing ideology, b) work expectations c) just all of it. But in terms of the issue of being in the position of somebody who was illegal and had no health benefits—of course it was harder for her, but it was a very hard situation to be in...I don’t know the answer.**

**“SUSAN” Brooklyn Employer**

**I asked other people and they gave me a range. There’s a big range. But it wasn’t like I was a fancy East Side mother with three homes and could afford somebody for whatever their compensation is.**

**“ANGELA” Manhattan Employer**

**TABLE 7.2 METHODS WORKERS USED TO FIND DOMESTIC EMPLOYMENT**

	<b>% of Workers</b>
Agency placed me	16%
Friend referred me	54%
Employer referred me	20%
I ran a newspaper ad	10%
I answered employer’s newspaper ad	3%

SOURCE: DWU SURVEY

Most workers find employment through social networks rather than an agency. While agencies tend to have set rates, workers and employers who are referred through social networks negotiate wages and hours without the benefit of pre-set standards. Survey results show half of the workers (54%) found jobs through friends, and 20% were referred by an employer.

**TABLE 7.3 ACCESS TO AND VIOLATION OF CONTRACTS**

	<b>% of Workers</b>
No Contract	66%
Written Contract	8%
Oral Contract	18%
Contract violated	24%

SOURCE: DWU SURVEY

In the absence of labor protections, negotiating contracts is the main safety net available to workers. However, only a small number of workers surveyed have contracts (written or oral). Of those with contracts, 24% said that their contracts have been violated.

Employers also articulated a need for a more formal arrangement between themselves and their domestic employees. “Leslie” commented: “As far as benefits—what is expected of both parties. I asked “Claudia,” ‘what are your expectations?’ There wasn’t a job description, and it worked out great, but it would have been helpful.”

## A WEALTH AND RACE DIVIDE

“I was single, working very hard, making enough money to afford someone to clean my house. I had no time and no willingness to do housework,” notes “Anne.” The situation she describes reflects a reality of the contemporary New York City economy in which employers, even those who do not perceive themselves as wealthy, nevertheless live in a much more secure economic and social class than the workers they hire.

A recent study published by the Pratt Center finds that the New York City economy is doing well. Having bounced back from the economic downturn after September 11, 2001, jobs and businesses continue to rise.<sup>3</sup> But the gap between the top-end and low-end income earners continues to rise as the number of middle-income earners declines: “There’s growth at the upper end of the income scale, with high-tech and managerial jobs.”<sup>4</sup> Immigrant workers fill low-end jobs in the service sector. The study also points out that the divide between the rich and the poor has increased dramatically in the last twenty years. In 2000, “the top fifth of earners in Manhattan [are making] 52 times more than the lowest fifth.” This is up from a differential of 21 times in 1980.

Race and immigration dynamics exacerbate the wealth differential between domestic workers and their employers. Employers of the workers surveyed are white and U.S. born while the overwhelming majority of workers are immigrant women of color. This color line reflects larger trends of racial and gender-based inequality in the workforce. Negotiation of a domestic worker’s job responsibilities, wages and working conditions takes place within a context of vast structural inequality.

As seen in this section, many employers feel that the industry is unfair to workers, while its informality also does a disservice to employers seeking to determine their costs and responsibilities. Some employers express frustration and discomfort with the arbitrary nature of negotiating work arrangements with employees. Other employers explicitly state that more formal workplace practices would be helpful. Employers view the work performed by domestic workers as key, even necessary, to their ability to juggle career and personal life, and place high value on the care-giving work domestic workers perform. At the same time, some employers are uncomfortable in an ambiguous role that is racially and class stratified. The concerns employers express with how the industry currently functions indicate that industry standards would benefit employers by providing guidance on how to responsibly employ domestic workers, and in so doing, begin to address structural racism and sexism in the domestic work industry.

**I don’t know what the solutions are because it is slavery. I think it’s slavery and it’s horrible and on one level I hated participating in it ... She had dental problems and I helped. She has been struggling with her rent and I am throwing her an extra \$100 per month. Her money problems are very different from mine. I have no idea [how to improve domestic work]. My brain isn’t big enough for that. It’s a horribly racist world. People take advantage and it’s a mess.**

**“ANGELA” Manhattan Employer**



<sup>3</sup>The City’s Future, Pratt Center for Community Development December 1, 2005 (cited hereinafter as Pratt Report).

<sup>4</sup>Pratt Report.

**With all my heart, I must demand those who make the laws—the Governor, Congress, and especially this tribunal panel—do your part so that domestic workers are heard. We are fighting for a just cause. We come to work with great will and care and are unjustly treated.**

**“MARIA” Nanny in Queens**

Testimony from Domestic Workers Human Rights Tribunal, Cooper Union Great Hall, New York City, October 8, 2005.

**THE DOMESTIC WORK INDUSTRY—WHERE WORKERS are in separate households, far from their own communities—makes domestic workers uniquely vulnerable to labor abuses and even physical abuses. As this study has shown, domestic workers suffer in isolation under exploitative conditions. As a solitary worker, negotiating with two employers for a few hours off to see the doctor is a profound challenge. Relying on their employers for food, phone, shelter, and—in the suburbs —transportation, live-in domestic workers are particularly at risk. This creates a dramatic power imbalance that is unique to the domestic work industry. Without a comprehensive set of labor protections, domestic workers will be mistreated. They will continue to lack the leverage to negotiate fair conditions with their employer.**

On November 3, 2003, Domestic Workers United held a convention of domestic workers to discuss the future of the domestic work industry, and the root causes of exploitation. Workers shared their experiences and in the process, a proposal for comprehensive legislation to protect the rights of domestic workers emerged: The Domestic Workers' Bill of Rights. The Domestic Workers' Bill of Rights is a New York State legislative proposal which addresses the longstanding, unfair exclusion of domestic workers from labor protections, and the unique conditions and demands of the industry in which they work, by amending the New York State Labor Law. The Bill of Rights would:

- Protect domestic workers from economic exploitation. It would allow domestic workers to earn a living wage of \$14.00/hour (\$16.00/hour if the employer does not provide health benefits), and it would require overtime pay for work exceeding 40 hours per week.
- Require employers to provide health benefits for domestic workers or to supplement the domestic worker's hourly wage by \$2.00/hour. It also provides for family care and medical leave and for at least five paid sick days per year.



**“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**

- Require at least five paid personal days each year, and also requires one full day of rest in each calendar week. It would also provide designated paid holidays and paid vacation leave.
- Require employers to provide a domestic worker with written notice of termination 21 days before her final day of employment. It also requires that employers provide severance pay to each domestic worker equal to one week of pay for each full year of the domestic worker’s service.
- Require that exclusionary language be taken out of New York State Labor Law and Human Rights Law provisions. It also eliminates language that excludes domestic workers from the definition of “employee.”
- Prohibit trafficking of domestic workers

**DOMESTIC WORKER ORGANIZING IN NEW YORK**

Women Workers Project of CAAAV Organizing Asian Communities organizes Asian immigrant women working in the growing service sectors of New York City, particularly domestic workers, for fair working conditions and respect. The Project develops leadership among Asian women, fights for justice on behalf of exploited workers and unites Asian communities to challenge unjust immigration policies, while promoting human rights and dignity for all. (718) 478-6849 [chdeleon@caaav.org](mailto:chdeleon@caaav.org)

**INTERNATIONAL HUMAN RIGHTS STANDARDS**

The following articles from the Universal Declaration of Human Rights support respect and recognition for domestic workers, and provide a guide for future policies and protections

- ARTICLE 1**  
All human beings are born free and equal in dignity and rights
- ARTICLE 2**  
Freedom from Discrimination
- ARTICLE 4**  
Freedom from Slavery or Servitude
- ARTICLE 5**  
Freedom from Torture and Degrading Treatment
- ARTICLE 6**  
Right to Recognition as a Person before the Law
- ARTICLE 12**  
Freedom from Interference with Privacy, Family, Home & Correspondence

- ARTICLE 13**  
Right to Free Movement in and out of the Country
- ARTICLE 20**  
Right of Freedom of Peaceful Assembly and Association
- ARTICLE 22**  
Right to Social Security
- ARTICLE 23**  
Right to Desirable Work with equal pay for equal work and to Join Trade Unions
- ARTICLE 24**  
Right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay

- ARTICLE 25**  
Right to Adequate Living Standard including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control
- ARTICLE 27**  
Right to Participate in the Cultural Life of a Community

APPENDIX  
THE DOMESTIC  
WORKERS  
BILL OF RIGHTS

(Introduced as  
A02084 in the  
NY State Assembly  
and S3547 in the  
NY State Senate)

NOTE TO  
THE READER:  
Struck text reflects  
current law that this  
bill proposes to strike.  
Underlined text  
reflects proposed  
additions to the  
existing law.

AN ACT to amend the labor law and the executive law, in relation to the labor standards and human rights of domestic workers.

**THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE  
AND ASSEMBLY, DO ENACT AS FOLLOWS:**

**SECTION 1. LEGISLATIVE FINDINGS AND INTENT.**

Many thousands of domestic workers are employed in New York State as housekeepers, nannies, and companions to the elderly. The labor of domestic workers is central to the ongoing prosperity that the state enjoys, and yet, despite the value of their work, domestic workers do not receive the same protection of many state laws as do workers in other industries. Domestic workers often labor under harsh conditions, work long hours for low wages without benefits or job security, are isolated in their workplaces, and are endangered by sexual harassment and assault, as well as verbal, emotional and psychological abuse. Moreover, many domestic workers in the State of New York are women of color who, because of race and sex discrimination, are particularly vulnerable to unfair labor practices, as well as trafficking into forced labor and involuntary servitude.

Because domestic workers care for the most important elements of their employers' lives—their families and homes—the legislature finds that it is in the interest of employees, employers, and the people of the State of New York to ensure that the rights of domestic workers are respected, protected, and enforced.

Given domestic workers' long-standing exclusion from multiple protections available to workers in other industries, and bearing in mind the unique conditions and demands of the industry, the legislature further finds that domestic workers are entitled to industry-specific protections and labor standards.

**SECTION 2. THE LABOR LAW IS AMENDED BY ADDING A NEW ARTICLE 19-B TO READ AS FOLLOWS:**

**ARTICLE 19-B**

**LABOR STANDARDS FOR DOMESTIC WORKERS**

**SECTION 690.** Definitions

**691-a.** Minimum wage

**691-b.** Overtime rate

**692.** Health benefits

**693.** Family and medical leave

**694-a.** Day of rest

**694-b.** Holidays

**694-c.** Vacation

**694-d.** Sick days

**694-e.** Personal days

**695.** Termination and severance

**696.** Notice, posting, and  
payment records

**697.** Trafficking

**698-a.** Penalties

**698-b.** Civil action

**699.** Severability

## **S. 690. DEFINITIONS.**

For purposes of this article, the following terms shall have the following meanings:

(1) "Domestic worker" means a person employed in a home or residence for the purpose of caring for a child, serving as a companion to a sick, convalescing or elderly person, house-keeping, or for any other domestic service purpose.

(2) "Trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or physical, legal, or psychological coercion.

(3) "Victim of trafficking" means a person subjected to an act or practice described in subdivision two of this section.

### **S. 691-a. MINIMUM WAGE.**

(a) Every employer shall pay each domestic worker no less than the minimum wage, described in subdivision b of this section, for each hour worked.

(b) The minimum wage shall be an hourly rate of \$14.00. Beginning on January 1, 2006, and each year thereafter, the minimum wage shall increase by an amount corresponding to the prior year's increase, if any, in the Consumer Price Index.

### **S. 691-b. OVERTIME RATE.**

Every employer shall pay each domestic worker at an overtime rate of one and one-half times her regular rate of pay for every hour worked over forty hours in a work week.

## **S. 692. HEALTH BENEFITS OR HEALTH BENEFIT SUPPLEMENT.**

(a) Every employer must provide each domestic

worker health benefits, as described in subdivision b of this section, or must supplement her hourly wage rate by an amount no less than the health benefits supplement rate described in subdivision c of this section.

(b) Health benefits mean a health care benefits package for the domestic worker and her family and dependents, including a drug benefit plan.

(c) The health benefits supplement rate shall be \$2.00 per hour. Beginning on January 1, 2006, and each year thereafter, the health benefits supplement rate shall increase by an amount corresponding to the prior year's increase, if any, in the Consumer Price Index for medical care.

## **S. 693. FAMILY AND MEDICAL LEAVE.**

(a) Every employer shall grant a request by each domestic worker with more than 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period, to take up to a total of 12 work weeks in any 12-month period for family care or medical leave. Leave provided pursuant to this section may be taken in one or more periods. Family care or medical leave requested pursuant to this subdivision shall not be deemed to have been granted unless the employer provides the domestic worker, upon granting the leave request, a guarantee of employment in the same or a comparable position upon the termination of the leave.

(b) Every employer shall provide to each domestic worker qualified for family care or medical leave under subdivision a of this section the first 6 weeks of such

leave as paid leave. Paid leave shall be calculated at each domestic worker's regular rate of pay for her regular hours worked in a week.

(c) For purposes of this section, "family care and medical leave" means any of the following:

(1) Leave for reason of the birth of a child of a domestic worker, the placement of a child with a domestic worker in connection with the adoption or foster care placement of the child by the domestic worker, or the serious health condition of a child of the domestic worker;

(2) Leave to care for a parent, spouse or domestic partner who has a serious health condition; or

(3) Leave because of a domestic worker's own serious health condition that makes her unable to perform the functions of her position.

(d) A domestic worker taking a leave permitted by subdivision a may elect to substitute, for leave allowed under subdivision a, any of the domestic worker's accrued vacation leave or accrued sick or personal days during this period.

(e) During any period that an eligible domestic worker takes leave pursuant to subdivision a, the employer shall maintain and pay for health benefits or continue to pay the health benefits supplement for the duration of the leave, at the level and under the conditions coverage would have been provided if the domestic worker had continued in employment continuously for the duration of the leave. Nothing in the preceding sentence shall preclude an employer from maintaining and paying for health benefits or the

health benefits supplement beyond 12 workweeks.

(f) If a domestic worker's need for a leave pursuant to this section is foreseeable, the domestic worker shall provide the employer with reasonable advance notice of the need for the leave.

## **S. 694-a. DAY OF REST**

(a) Every employer shall allow each domestic worker at least twenty-four consecutive hours of rest in each and every calendar week.

(b) No domestic worker shall be required to work on her day of rest.

(c) In the event that a domestic worker agrees to work on her day of rest, she will be compensated at the overtime rate for all hours worked on her day of rest or at twice her regular rate if such hours constitute hours worked beyond forty hours in a work week.

## **S. 694-b. HOLIDAYS.**

(a) Every employer shall provide each domestic worker the following days off and provide holiday pay for each day:

- (1) New Year's Day;
- (2) Martin Luther King Jr.'s Birthday;
- (3) President's Day;
- (4) Memorial Day;
- (5) Independence Day;
- (6) Thanksgiving;
- (7) Labor Day;
- (8) Christmas Day;
- (9) One additional holiday of the domestic worker's choosing.

(b) Holiday pay shall be calculated at each domestic worker's regular rate of pay for her regular hours worked on that day.

(c) No domestic worker shall be required to work on a holiday.

(d) In the event that a domestic worker agrees to work on a holiday, she will be compensated at the overtime rate for all hours worked on the holiday or at twice her regular rate if such hours constitute hours worked beyond forty hours in a work week.

#### **S. 694-c. VACATION**

(a) Every employer shall provide each domestic worker with at least the following vacation leave:

(1) Two weeks per year for each domestic worker with more than 6 months service and less than 3 years service.

(2) Three weeks per year for each domestic worker with more than 3 years service and less than 5 years service.

(3) Four weeks per year for each domestic worker with more than 5 years service and less than 10 years service.

(4) Five weeks per year for each domestic worker with more than 10 years service.

(b) Nothing in this section shall preclude an employer from providing greater vacation leave than required by subdivision a.

(c) Vacation pay shall be calculated at each domestic worker's regular rate of pay for her regular hours worked in a work week.

(d) Every employer shall pay each domestic worker her vacation pay on or before her last regular work day before her vacation leave begins.

(e) Each domestic worker shall choose the dates of her vacation leave. Vacation leave may be taken in one or more periods.

(f) Each domestic worker may choose to accrue unused vacation leave

from year to year or may choose to have her unused vacation leave paid out by her employer at the end of each calendar year.

(g) Each domestic worker shall provide her employer with reasonable advance notice of her vacation dates.

#### **S. 694-d. SICK DAYS**

(a) Every employer shall provide each domestic worker with at least 5 sick days each year.

(b) Pay for each sick day shall be calculated at the domestic worker's regular rate of pay for her regular hours of work for the day.

(c) Each domestic worker may choose to accrue unused sick days from year to year or may choose to have her unused sick days paid out by her employer at the end of each calendar year.

#### **S. 694-e. PERSONAL DAYS**

(a) Every employer shall provide each domestic worker with at least 5 paid personal days each year.

(b) Pay for each personal day shall be calculated at the domestic worker's regular rate of pay for her regular hours or work for the day.

(c) Each domestic worker may choose to accrue unused personal days from year to year or may choose to have her unused personal days paid out by her employer at the end of each calendar year.

#### **S. 695. TERMINATION AND SEVERANCE.**

(a) Every employer shall provide each domestic worker with written notice of termination 21 days before her final day of employment.

(b) Every employer shall provide severance pay to each domestic worker equal to one week of pay for each full year of the domestic worker's service for the employer on or before her final day of employment. If an employer does not provide notice of termination as required by subdivision a of this section, then the employer shall provide severance pay to each domestic worker equal to one and one-half weeks of pay for each full year of the domestic worker's service for the employer.

(c) Severance pay shall be calculated at each domestic worker's regular rate of pay for her regular hours worked in a week.

(d) Every employer shall pay each domestic worker for all accrued vacation leave, sick and personal days on or before her final day of employment.

#### **S. 696. NOTICE, POSTING AND PAYMENT RECORDS.**

(a) By December 1 of each year, the commissioner shall publish and make available to employers a bulletin announcing the adjusted minimum wage rate and health benefit supplement rate for the upcoming year, which shall take effect on January 1. In conjunction with this bulletin, the commissioner shall by December 1 of each year publish and make available to employers a notice informing domestic workers of the current minimum wage rate, health benefit supplement rate, domestic workers' rights under this article, and of employer obligations pursuant to the laws, including social security payments, unemployment insurance coverage, disability insurance coverage and workers compensation.

(b) By January 1 of each year, every employer shall provide each domestic worker a copy of the notice published each year by the commissioner.

(c) Every employer shall retain records of payments, supplements, and benefits paid or provided to each domestic worker for a period of six years and shall allow the commissioner or his authorized representative access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this article.

### **S. 697. TRAFFICKING**

No employer or any other person shall engage in or aid and abet in the trafficking of a domestic worker.

### **S. 698-a. PENALTIES**

(a) Any employer or his agent, or the officer or agent of any corporation, who discharges or in any other manner discriminates against any domestic worker because such domestic worker has made a complaint to his employer, to the commissioner or his authorized representative, or to a labor or advocacy organization that she has not been paid or received supplements or benefits in accordance with the provisions of this article, or because such domestic worker has caused to be instituted a proceeding under or related to this article, or because such domestic worker has testified or is about to testify in an investigation or proceeding under this article, shall be guilty of a class B misdemeanor.

(b) Any employer or his agent, or the officer or agent of any corporation, who pays or provides or agrees to pay or provide to any domestic worker less

than the wage, supplements, or benefits applicable under this article shall be guilty of a class B misdemeanor and each payment or provision to any domestic worker in any week of less than the wage, supplements, or benefits applicable under this article shall constitute a separate offense.

(c) Any employer or his agent, or the officer or agent of any corporation, who fails to keep the records required under this article or to furnish such records or any information required to be furnished under this article to the commissioner or his authorized representative upon request, or who hinders or delays the commissioner or his authorized representative in the performance of his duties in the enforcement of this article, or refuses to admit the commissioner or his authorized representative to any place of employment, or falsifies any such records or refuses to make such records accessible to the commissioner or his authorized representative, or refuses to furnish a sworn statement of such records or any other information required for the proper enforcement of this article to the commissioner or his authorized representative, shall be guilty of a class B misdemeanor and each day's failure to keep the records requested under this article or to furnish such records or information to the commissioner or his authorized representative shall constitute a separate offense.

(d) Any employer or his agent, the officer or agent of any corporation, or any other person who engages in or aids and abets the trafficking of a domestic worker shall be guilty of a class E felony.

(e) Where any person has previously been convicted of a violation of this section within the preceding five years, upon conviction for a second or subsequent violation such person may be fined up to ten thousand dollars in addition to any other penalties including fines otherwise provided by law; provided, however, that the total additional fine that may be imposed pursuant to this subdivision for separate offenses committed in any consecutive twelve month period may not exceed ten thousand dollars.

### **S. 698-b. CIVIL ACTION**

(a) If any domestic worker is paid or provided by her employer less than the wages, supplements, or benefits to which she is entitled under the provisions of this article, she may recover in a civil action the amount of any such underpayments of wages or supplements or the value of such benefits, punitive damages, costs and such reasonable attorney's fees as may be allowed by the court, and if such underpayment of wages or supplements or failure to provide benefits was willful, an additional amount as liquidated damages equal to twenty-five percent of the total of such underpayments or the value of benefits found to be due her and any agreement between her and her employer to work for less than such wage or without such supplements or benefits shall be no defense to such action.

(b) On behalf of any domestic worker paid or provided less than the wages, supplements, or benefits to which she is entitled under the provisions of this article, the commissioner may bring any legal action necessary to collect such claim, punitive damages, and the

employer shall be required to pay the costs, and if such underpayment of wages and supplements or failure to provide benefits was willful, an additional amount as liquidated damages equal to twenty-five percent of the total of such underpayments or the value of benefits found to be due her. Such claim, punitive damages, and liquidated damages shall be paid to the domestic worker.

(c) A domestic worker carries the burden of documenting wages, supplements, and benefits paid or provided if she proves that she has performed work for which she was improperly compensated and the amount and extent of such work as a matter of just and reasonable inference. The burden then shifts to the employer to come forward with evidence of the precise amount of work performed or with evidence to negate the reasonableness of the inference. If the employer fails to produce such evidence, the domestic worker shall be awarded damages, even though the result may be only approximate.

(d) If a domestic worker is a victim of trafficking by her employer and is paid or provided less than the wages, supplements, or benefits to which she is entitled under the provisions of this article, she or the commissioner may recover in a civil action, in addition to the amounts authorized in subdivisions a and b of this section, additional punitive damages and an additional amount as liquidated damages equal to two hundred percent of the total of such underpayment of wages, supplements or benefits found to be due to her.

(e) If a domestic worker is a victim of trafficking by any person other than her

employer, such person shall be considered a joint employer for purposes of liability under this article.

(f) Notwithstanding any other provision of law, an action to recover upon a liability imposed by this article must be commenced within six years.

#### **S. 699. SEVERABILITY**

If any part of provision of this article, or the application of this article to any person or circumstance, is held invalid, the remainder of this article, including the application of such part or provisions to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this article are severable.

#### **SECTION 3. SUBDIVISIONS 5 AND 6 OF SECTION 292 OF THE EXECUTIVE LAW ARE AMENDED TO READ AS FOLLOWS:**

5. The term “employer” does not include any employer with fewer than four persons in his employ. Notwithstanding the preceding sentence, the term “employer” includes any employer employing one or more domestic workers, as defined by article 19-B, section 690 of the labor law.

6. The term “employee” in this article does not include any individual employed by his or her parents, spouse or child, ~~or in the domestic service of any person.~~

#### **SECTION 4. SUBDIVISION 3 OF SECTION 160 OF THE LABOR LAW IS AMENDED TO READ AS FOLLOWS:**

3. For all other employees, except those engaged in farm work ~~or domestic service~~ and those affected by subdivision four of section two hundred and twenty, eight hours.

#### **SECTION 5. SUBDIVISION 1 OF SECTION 218 OF THE LABOR LAW IS AMENDED TO READ AS FOLLOWS:**

1. If the commissioner determines that an employer has violated a provision of article six (payment of wages), article nineteen (minimum wage act), article nineteen-A, ~~article nineteen-B~~, section two hundred twelve-a or section two hundred twelve-b of this chapter, or a rule or regulation promulgated thereunder, the commissioner shall issue to the employer an order directing compliance therewith, which shall describe particularly the nature of the alleged violation. In addition to directing payment of wages, benefits or wage supplements found to be due, such order, if issued to an employer who previously has been found in violation of those provisions, rules or regulations, or to an employer whose violation is willful or egregious, shall direct payment to the commissioner of an additional sum as a civil penalty in an amount equal to double the total amount found to be due. In no case shall the order direct payment of an amount less than the total wages, benefits or wage supplements found by the commissioner to be due, plus the appropriate civil penalty. Where the violation is for a reason other than the employer’s failure to pay wages, benefits or wage supplements found to be due, the order shall direct payment to the commissioner of a civil penalty in an amount not to exceed one thousand dollars for a first violation, two thousand dollars for a second violation or three thousand dollars for a third or subsequent violation. In assessing the amount of the penalty, the commissioner shall give due consideration to the size of the employer’s business, the good faith of the employer, the gravity of the violation, the history of previous violations and, in the case of wages, benefits or supplements violations, the failure to comply with recordkeeping or other non-wage requirements.

#### **SECTION 6. SUBDIVISION 1 OF SECTION 219 OF THE LABOR LAW IS AMENDED TO READ AS FOLLOWS:**

1. If the commissioner determines that an employer has failed to pay wages, benefits or wage supplements required pursuant to article six (payment of wages), article nineteen (minimum wage act), ~~or~~ ~~article nineteen-a,~~ or article nineteen-b of this chapter, or a rule or regulation promulgated thereunder, the commissioner shall issue to the employer an order directing compliance therewith, which shall describe particularly the nature of the alleged violation. Such order shall direct payment of wages or supplements found to be due, including interest at the rate of interest then in effect as prescribed by the superintendent of banks pursuant to section fourteen-a of the banking law per annum from the date of the underpayment to the date of the payment.

**SECTION 7. SUBDIVISION 5 OF SECTION 651 OF THE LABOR LAW IS AMENDED TO READ AS FOLLOWS:**

5. "Employee" includes any individual employed or permitted to work by an employer in any occupation, but shall not include any individual who is employed or permitted to work: (a) ~~on a casual basis while a minor in service as a part time baby sitter in the home of the employer; or someone who lives in the home of an employer for the purpose of serving as a companion to a sick, convalescing or elderly person, and whose principal duties do not include housekeeping;~~ (b) in labor on a farm; (c) in a bona fide executive, administrative, or professional capacity; (d) as an outside salesman; (e) as a driver engaged in operating a taxicab; (f) as a volunteer, learner or apprentice by a corporation, unincorporated association, community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual; (g) as a member of a religious order, or as a duly ordained, commissioned or licensed minister, priest or rabbi, or as a sexton, or as a christian science reader; (h) in or for such a religious or charitable institution, which work is incidental to or in return for charitable aid conferred upon such individual and not under any express contract of hire; (i) in or for such a religious, educational or charitable institution if such individual is a student; (j) in or for such a religious, educational or charitable institution if the earning capacity of such individual is impaired by age or by physical or mental deficiency or injury; (k) in or for a summer camp or conference of such a religious, educational or charitable institution for not more than three months annually; (l) as a staff counselor in a children's camp; (m) in or for a college or university fraternity, sorority, student association or faculty association, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and which is recognized by such college or university, if such individual is a student; or (n) by a federal, state or municipal government or political subdivision thereof. The exclusions from the term "employee" contained in this subdivision shall be as defined by regulations of the commissioner.

"Employee" also includes any individual employed or permitted to work in any non-teaching capacity by a school district or board of cooperative educational services except that the provisions of sections six hundred fifty-three through six hundred fifty-nine of this article shall not be applicable in any such case.

**SECTION 8. SUBDIVISION 3 OF SECTION 701 OF THE LABOR LAW IS AMENDED TO READ AS FOLLOWS:**

3. The term "employees" includes but is not restricted to any individual employed by a labor organization; any individual whose employment 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; and shall not be limited to the employees of a particular employer, unless the article explicitly states otherwise, but shall not include any [fig 1] individual employed by his parent or spouse ~~or in the domestic service of and directly employed, controlled and paid by any person in his home, any individual whose primary responsibility is the care of a minor child or children and/or someone who lives in the home of a person for the purpose of serving as a companion to a sick, convalescing or elderly person~~ or any individuals employed only for the duration of a labor dispute, or any individuals employed as farm laborers or, any individual who participates in and receives rehabilitative or therapeutic services in a charitable non-profit rehabilitation facility or sheltered workshop or any individual employed in a charitable non-profit rehabilitation facility or sheltered workshop who has received rehabilitative or therapeutic services and whose capacity to perform the work for which he is engaged is substantially impaired by physical or mental deficiency or injury.

**SECTION 9. SUBDIVISIONS 1 AND 3 OF SECTION 875 OF THE LABOR LAW IS AMENDED TO READ AS FOLLOWS:**

1. "Employer" means any individual, partnership, corporation or association engaged in a business who has employees including the state and its political subdivisions. ~~The term "employer" does not include the employment of domestic workers or casual laborers employed at the place of residence of his or her employer.~~

3. "Workplace" means any location away from the home, permanent or temporary, where any employee performs any work-related duty in the course of his employment.

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