

BRENNAN  

---

CENTER  

---

FOR JUSTICE  

---

REPORT:

UNREGULATED  
WORK IN  
THE GLOBAL CITY

Employment and Labor Law Violations in New York City

by Annette Bernhardt, Siobhán McGrath  
and James DeFilippis

## ABOUT THE BRENNAN CENTER FOR JUSTICE

The Brennan Center for Justice at New York University School of Law is a non-partisan public policy and law institute that focuses on fundamental issues of democracy and justice. Our work ranges from voting rights to redistricting reform, from access to the courts to presidential power in the fight against terrorism. A singular institution - part think tank, part public interest law firm, part advocacy group - the Brennan Center combines scholarship, legislative and legal advocacy, and communications to win meaningful, measurable change in the public sector.

## ABOUT THE BRENNAN CENTER'S ECONOMIC JUSTICE PROJECT

The Brennan Center's Economic Justice Project starts with the premise that good jobs are essential to the long-term viability of our communities and our economy. But the past three decades have taken our country in the opposite direction, with growing numbers of Americans spending their careers stuck in low-wage, dead-end jobs. In the search for solutions, policy-makers increasingly recognize that education and training must be matched with policies that promote living wage jobs for working families.

We work with community-labor coalitions and legislative leaders to expand the number of good jobs in our economy, and to ensure that everyone, especially immigrants, women and people of color, has access to them. Our staff of lawyers and social scientists design new policies, conduct economic and legal research, educate the public, and provide legal defense when needed.

© 2007. This paper is covered by the Creative Commons "Attribution-No Derivs-NonCommercial" license (see <http://creativecommons.org>).

It may be reproduced in its entirety as long as the Brennan Center for Justice at NYU School of Law is credited, a link to the Center's web page is provided, and no charge is imposed. The paper may not be reproduced in part or in altered form, or if a fee is charged, without the Center's permission. Please let the Center know if you reprint.

# TABLE OF CONTENTS

---

About the Authors	i
Acknowledgments	i
Foreword	ii
Executive Summary	iii
I. Introduction	2
II. Methods and Data	4
III. Defining Unregulated Work	6
IV. The Landscape of Unregulated Work	10
A. Types of Violations	10
B. Industries and Occupations	20
C. The Workers and Mobility	23
D. Labor Market Intermediaries	25
V. Economic Drivers and Policy Enablers	28
A. Economic Drivers	28
B. Policy Enablers	31
VI. Fulfilling the Promise of Workplace Protections: Principles for Public Policy	37
VII. Detailed Profiles of Unregulated Work in 13 Industries	43
A. Unregulated Work in the Grocery and Supermarket Industry in New York City	45
B. Unregulated Work in the Retail Industry in New York City	49
C. Unregulated Work in the Restaurant Industry in New York City	53
D. Unregulated Work in the Building Maintenance and Security Industry in New York City	57
E. Unregulated Work in the Domestic Work Industry in New York City	61
F. Unregulated Work in the Subsidized Child Care Industry in New York City	65
G. Unregulated Work in the Home Health Care Industry in New York City	69
H. Unregulated Work in the Construction Industry in New York City	73
I. Unregulated Work in the Manufacturing Industry in New York City	77
J. Unregulated Work in the Laundry and Dry Cleaning Industry in New York City	81
K. Unregulated Work in the Taxi Industry in New York City	85
L. Unregulated Work in the Auto Services Industry in New York City	89
M. Unregulated Work in the Personal Services Industry in New York City	93
Endnotes	98
Works Cited and Other Secondary Research Sources	102

---

## ABOUT THE AUTHORS

Annette Bernhardt, Ph.D., is Deputy Director of the Brennan Center's Justice Program and co-directs its Economic Justice Project. She coordinates the Center's policy analysis and research for national and local campaigns around living wage jobs, workers' rights, and accountable development. Her books include *Low-Wage America: How Employers are Reshaping Opportunity in the Workplace* as well as *Divergent Paths: Economic Mobility in the New American Labor Market*, which was awarded Princeton University's Lester Prize for the best new work in labor economics in 2002.

Siobhán McGrath worked as a Policy Research Associate with the Brennan Center's Economic Justice Project from 2004 through 2006. She is currently a Ph.D. candidate at the University of Manchester's Institute of Development and Policy Management, where her dissertation focuses on the political economy of forced labor in Brazil. Siobhán holds a Master's Degree in economics.

James DeFilippis, Ph.D., is an Assistant Professor in the Department of Black and Hispanic Studies at Baruch College, City University of New York. He is the author of the book *Unmaking Goliath: Community Control in the Face of Global Capital*, which was named the best book in urban politics in 2004 by the American Political Science Association. He is also co-editor of the forthcoming book, *The Community Development Reader*.

## ACKNOWLEDGMENTS

This report could not have been written without the many workers, employers, advocates, service providers, and public officials who took time out of their lives to share their knowledge and experiences with us. In addition, numerous organizations and individuals helped us identify respondents, explained the workings of their industry, and corrected us when we were in error. (We guarantee confidentiality to everyone involved in our research.)

In addition to the authors, the following conducted original field research for this project, and we would have been lost without their insight and analysis: Shalini Bhargava, Manmeet Bindra, Anmol Chaddha, Héctor Cordero-Guzmán, Livia Lam, Nina Martin, Chirag Mehta, Jamie Peck, Kate Rubin, Omar Semidey, and Nik Theodore.

We received invaluable comments on drafts of the report from Amy Carroll, Jennifer Gordon, Saru Jayaraman, Cathy Ruckelshaus, Amy Sugimori and Nik Theodore, as well as feedback on early presentations from Richard Freeman, Stephen Lerner, Katherine McFate, and Ruth Milkman. And a deep thanks goes to the staff of the Economic Justice Project at the Brennan Center: Paul Sonn, Raj Nayak, and especially Jennifer Sung and Diana Polson, both of whom truly brought this report home.

Finally, we are grateful for the generous support of the Rockefeller Foundation, the Russell Sage Foundation, and the J.M. Kaplan Fund. The views expressed in this report are solely

# FOREWORD

This groundbreaking study rests on a simple premise: the many laws on the books to protect the working poor mean little if they are not enforced. For far too many of our fellow Americans, the latticework of legal protection may be little more than an illusion. Regardless of what the minimum wage law says, they are not paid the minimum wage. Regardless of what the overtime laws require, they do not receive overtime. They work in unsafe conditions, are easily abused by employers, and have little recourse to their rights or law. This invisible economy is all around us. And as this report shows, it is not limited to a few sweatshops and fly-by-night firms. These practices appear to have spread to established and thriving industries.

*Unregulated Work in the Global City* is the product of a multi-year research project led by Dr. Annette Bernhardt, one of the nation's leading experts on low-wage employment. It details a world of work, as the authors write, "outside the experience and imagination of many Americans." It is a powerful piece of scholarship harnessed to moral passion. It focuses on New York City, but we are convinced that the conditions it describes exist throughout the American economy.

What can we do about it? The Brennan Center for Justice at NYU School of Law is a public policy and law institute devoted to democracy and justice. We use our tools of law, scholarship, education and advocacy, seeking to apply core American values to new challenges and new times. We are nonpartisan and independent.

In this we stand in a long tradition of think tank and advocacy organizations that used expertise on behalf of – and in concert with – working people and their advocates. In the early 20th Century, at a similar time of economic dislocation, organizations such as the New York Consumers League and leaders such as Frances Perkins reacted to outrages such as the Triangle Shirtwaist Company fire to propose laws to protect working people. Eventually they passed laws to guarantee overtime, impose a minimum wage, and enable workers to organize unions. They forged an economic compact that offered working people security in exchange for hard work.

The social contract of that era has long since broken down. It is time for us to write a new one, a social contract rooted in the simple idea that people who work the hardest and for the lowest pay deserve strong enforcement and legal protection – the same as everyone else. We now must begin the task of enacting and enforcing new, modern, effective laws to police employers and protect employees. If we take seriously our ideals of justice, of opportunity, indeed, of democracy, we can do no less.

***Michael Waldman***

*Executive Director, Brennan Center for Justice at NYU School of Law*

*April 2007*

# EXECUTIVE SUMMARY

In this report, we describe a world of work that lies outside the experience and imagination of many Americans. It is a world where jobs pay less than the minimum wage, and sometimes nothing at all; where employers do not pay overtime for 60-hour weeks, and deny meal breaks that are required by law; where vital health and safety regulations are routinely ignored, even after injuries occur; and where workers are subject to blatant discrimination, and retaliated against for speaking up or trying to organize.

Such conditions exist here in New York City, in occupations and industries that span the breadth of the city's economy. They are not isolated, short-lived cases of exploitation at the fringe of the city's economy. Instead, the systematic violation of our country's core employment and labor laws – what we call “unregulated work” – is threatening to become a way of doing business for unscrupulous employers. And yet from the standpoint of public policy, these jobs (and the workers who hold them) are too often off the radar screen.

## THE STUDY

Drawing on intensive research conducted between 2003 and 2006, this report documents for the first time the landscape of unregulated work in New York City, identifying the types of laws that employers are violating, the range of industries that are most deeply involved, the variety of business strategies that result in violations, and the workers who are most affected. Using standard social science protocols, we integrated qualitative, quantitative and archival research: (a) in-depth interviews with 326 individuals, including workers, employers, staff members of regulatory agencies, service providers, unions and community-based organizations; (b) analysis of labor market datasets, as well as data on enforcement efforts by government agencies obtained through the Freedom of Information Act; and (c) analysis of hundreds of documents from newspaper sources, industry publications, business associations, and academic journals.

## THE VIOLATIONS

Our fieldwork identified eight broad categories of workplace violations being committed by some employers in New York City:

- *Wage and hour violations:* We documented employers paying less than the minimum wage, failing to pay overtime, not paying at all, forcing employees to work off the clock, not giving breaks, stealing workers' tips, and violating prevailing wage laws on public construction projects.
- *Health and safety violations:* We documented employers failing to provide guards on machinery, allowing extreme temperatures and improper ventilation, requiring employees to work on unsafe scaffolding, exposing them to chemical and airborne toxins, and failing to provide goggles, masks, and other protective equipment.
- *Workers' compensation violations:* We documented employers failing to carry workers' compensation insurance required by law, and preventing injured workers from filing workers' compensation claims.

- *Retaliation and violations of the right to organize:* We documented employers firing or punishing workers who sought to improve working conditions, as well as making pre-emptive threats to report workers to immigration authorities.
- *Independent contractor misclassification:* We documented employers misclassifying their workers as independent contractors in order to evade their legal obligation under employment and labor laws.
- *Employer tax violations:* We documented employers either fully or partially failing to pay required payroll taxes on cash wages.
- *Discrimination:* In our research, discrimination on the basis of race, gender, country of origin and criminal history manifested itself in firing, hiring, promotion, and in the explicit sorting of workers into stereotyped occupations.
- *Trafficking and forced labor:* While not the focus of our research, we documented instances of workers being trafficked and being prevented from leaving their jobs through passport seizure, debt bondage, threats, physical force, or captivity.

## THE EMPLOYERS

Based on analysis of our fieldwork as well as secondary data sources, we identified 13 distinct industry clusters in New York City where unregulated work consistently appears in one or more industry segments (the full report provides detailed data and analysis for each industry):

Groceries and supermarkets	Residential construction
Retail	Food and apparel manufacturing
Restaurants	Laundry and dry cleaning
Building maintenance & security	Taxis and dollar vans
Publicly-subsidized child care	Auto repair, garages and car washes
Domestic work	Personal services such as nail and beauty salons
Home health care	

Scanning across the industries, we found that workplace violations are not limited to small firms, but also occur in medium-sized and even large firms. Nor are violations limited to firms competing on the basis of cost cutting; in a significant number of industries, violations are also found among high-end establishments specializing in quality goods and services. This is also not primarily a story of trade-sensitive industries forced to drive down wages because of global competition; most of the industries listed are domestic service industries that are bound in place and that compete in regional product markets. And while private-sector industries dominate the landscape of unregulated work, publicly-funded industries such as home health care and subsidized child care are not immune.

One consistent finding, however, is that violations of employment and labor laws are much less common in unionized workplaces, especially those that are in an industry (or industry segment) where union density is high. Another consistent finding is that employers who are violating

one workplace law are often violating other laws as well – in some industries, these “bundles” of practices have become so routine that they appear to constitute a distinct business strategy.

## THE WORKERS

Not surprisingly, the workers most impacted by workplace violations are those with the least power to dictate their terms of employment: undocumented and documented immigrants, and in smaller numbers, people with criminal convictions and those transitioning off welfare. Moreover, unregulated jobs exhibit a high degree of occupational segregation on the basis of race, ethnicity, and especially gender. Long tenures within a particular industry are common, and the jump to better-paid, regulated jobs is difficult. Barriers include lack of legal status, education and fluency in English; criminal records; discrimination; and the structural lack of good jobs in low-wage industries.

## THE BROKERS

Various labor market intermediaries help to connect workers to unregulated jobs, most notably “storefront” employment agencies that have multiplied across the city over the past decade, especially in low-income and immigrant neighborhoods. Significant numbers of these agencies violate regulations, often in pernicious ways – by charging workers high fees, sending them to jobs that do not exist, refusing to refund fees, and screening applicants on the basis of race. Most troubling, they often knowingly place workers in jobs that violate employment and labor laws, in effect becoming part of the problem.

## EXPLAINING UNREGULATED WORK

Fully unpacking the causes of unregulated work in New York City requires analysis of political and economic changes far beyond the immediate borders of the city. Our initial inventory of the forces at work includes:

*Three Decades of Economic Restructuring:* Globalization, deindustrialization, deunionization and a deteriorating social contract have reshaped how and where work is performed, and what it is paid. In our analysis, workplace violations are a logical extension of these restructuring trends, since the same fundamental strategy is at work: competition based first and foremost on cutting labor costs. For example, global competition has pushed local apparel and food manufacturers to sweatshop conditions commonly associated with the 19th century. In the supermarket industry, it has been a story of large retailers pushing competitors to a low-wage business model. The subcontracting of laundry, janitorial and security services at this point is virtually complete, opening the door to substandard working conditions. And in industries such as restaurants, deunionization has increased the likelihood that some employers will pay below the minimum wage. Finally, growing inequality has swelled the ranks of high-income families purchasing services such as domestic work that lie largely outside the reach of regulation. At the same time, it has generated an entire subeconomy of unregulated work that produces goods and services for low-wage workers and their families.



*Inadequate Enforcement:* When employers have incentives to cross the line into breaking the law, strong enforcement of those laws serves as a critical brake on violations. Unfortunately, available data indicate considerable weakness in the extent to which federal and state authorities enforce minimum wage, overtime, health and safety, right to organize, and workers' compensation laws. In New York, the incoming Spitzer Administration has signaled that it will move the state Department of Labor towards better enforcement. But during the time when our research was conducted, the record suggests inadequate enforcement by the state agency, both in terms of resources (lack of staffing) and administrative will (for example, multi-year delays in processing cases, and settling claims for far less than what workers were owed).

*Inadequate Legal Standards:* In the 21st century workplace, traditional definitions of employer and employee are increasingly being challenged by a host of non-standard employment relationships. The ambiguous legal status of independent contractors, temporary workers and day laborers, as well as the growing use of subcontracted workers, have opened the door to working conditions that fall below the standards established by law – even as the standards themselves are being weakened.

*Dysfunctional Immigration Policy:* The labor market power of immigrant workers is profoundly shaped by U.S. immigration law, which at this point is widely recognized as outdated and dysfunctional, on the one hand allowing workers into the country while on the other denying many of them legal status. On paper, undocumented workers are covered by most employment and labor laws. But in practice, they are effectively disenfranchised in the workplace, by lack of documentation, fear of discovery, and employers' willingness to exploit that vulnerability.

## PRINCIPLES FOR PUBLIC POLICY

Everyone has a stake in addressing the problem of unregulated work. When workers and their families struggle in poverty, the strength and resiliency of local communities suffer. When unscrupulous employers evade or violate core laws governing the workplace, responsible employers are forced to compete against subminimum wages or cut corners on worker safety, setting off a race to the bottom that erodes standards throughout the labor market. And when significant numbers of workers are underpaid, vital tax revenues are lost. In short, public policy has a fundamental role to play in protecting the rights and lives of workers. Three principles should drive the development of a strong reform agenda at the federal, state and local level:

### *1. Strengthen Government's Enforcement of Employment and Labor Laws*

Significant resources and power reside with the agencies responsible for enforcing wage and hour, health and safety, prevailing wage, anti-discrimination, taxation, and right-to-organize laws. Tapping the often unrealized potential of these agencies will require increased staffing, but even more importantly, aggressive enforcement in low-wage industries, coordination with stakeholders on the ground, and stronger penalties so that violations carry high costs.

## 2. *Update Legal Standards for the 21st Century Workplace*

Raising the minimum wage, updating health and safety standards, expanding overtime coverage, and restoring the right of workers to organize – all are key improvements that will improve compliance in the workplace and boost the competitive position of employers who play by the rules. Employment and labor laws must also be updated to address new strategies by employers to evade responsibility for their workers, such as subcontracting and independent contractor misclassification. And historical exclusions of occupations such as home care workers from legal protection must be ended once and for all.

## 3. *Establish Equal Status for Immigrants in the Workplace*

The best defense against workplace violations is workers who know their rights, have full status under the law to assert them, have access to legal services, and do not fear retaliation when bringing claims against their employers. Therefore, a guiding principle for national immigration reform must be that immigrant workers have equal protection and equal status in the workplace. In addition, agencies enforcing employment and labor laws must create a firewall between themselves and immigration agencies, so that workers do not fear deportation when bringing a wage claim. And all workers, regardless of immigration status, must be entitled to the full remedies available under law.

## GOING LOCAL

New York City is home to a broad array of local organizations that have deep relationships in impacted communities and that can help address the problem of workplace violations. In particular, immigrant worker centers and unions should be a key resource for government enforcement efforts, providing much-needed information about industry dynamics and employer evasion tactics. At the same time, city government has an array of tools that it should use to send the signal that unregulated work will not be tolerated in New York. The City can harness its extensive network of service providers to deliver outreach and education about rights in the workplace. It can commit funds to increase the legal services available to workers with wage claims. It can support the creation of more day labor centers; crack down on exploitative employment agencies; educate employers about their legal responsibilities; ensure safety at construction sites; and rigorously enforce the prevailing wage and living wage laws under its jurisdiction.

After a decades-long struggle to emerge from the fiscal crisis of the 1970s, New York City now sits at the cusp of sustained growth. Yet the working conditions described in this report force the question: will the city's resurgence be built on a set of workplace practices that violate not only the letter of the law, but also our most basic principles of dignity and justice? In the voices of the workers, legal advocates and other stakeholders that we interviewed over the past three years, we heard the hope and conviction that our city can, and must, do better.



# I. INTRODUCTION

In this report, we describe a world of work that lies outside the experience and imagination of many Americans. It is a world where jobs pay less than the minimum wage, and sometimes nothing at all; where employers do not pay overtime for 60-hour weeks, and deny meal breaks that are required by law; where vital health and safety regulations are routinely ignored, even after injuries occur; and where workers are subject to blatant discrimination, and retaliated against for speaking up or trying to organize.

In short, the fundamental legal protections in the workplace that were hard fought and hard won in the last century do not apply. As we will see, such conditions – what we call “unregulated work” – exist here in New York City, in occupations and industries that span the breadth of the city’s economy.

The traces are everywhere in our daily lives, as we consume services and goods that are produced in substandard and illegal conditions within the borders of the five boroughs. We shop at a gourmet grocer store, which may be paying as little as \$5 an hour to the worker washing and sorting produce. We pick up clothes from the local dry cleaner, which has likely sent its work to an industrial plant rife with violations of health and safety regulations. We go to a restaurant – it could be a small diner or rated with four stars – and chances are that the dishwashers and cooks are not receiving overtime for the 60 to 70 hours that they have worked. We pay weekly visits to the neighborhood nail salon, which might well be part of a chain currently under investigation for underpaying its workers. We bring in a small contractor to paint or remodel our homes, and in all probability at least one of the workers has been cheated out of wages during the past six months.

*The systematic violation of employment and labor laws is threatening to become a way of doing business for unscrupulous employers - documented here for low-wage industries, but increasingly putting pressure on firms higher up the wage ladder to follow suit.*

These are not isolated, short-lived cases of exploitation at the fringe of the city’s economy. Instead, the systematic violation of employment and labor laws is threatening to become a way of doing business for unscrupulous employers – documented here for low-wage industries, but increasingly putting pressure on firms higher up the wage ladder to follow suit. Fully addressing this emerging labor market is of utmost importance. It is a task that is intimately tied to solving the problem of the spread of substandard jobs in the 21st century, and to the challenge of coming to grips with the needs of low-wage and immigrant workers and their families.

Over the past several years, researchers and advocates have begun to document this often appalling world of workplace exploitation in cities and towns across the country – typically in the form of case studies of particular groups of workers, particular industries, or particular immigrant enclaves or niches.<sup>1</sup> These have been landmark studies, pulling back the curtain to reveal a set of business practices that many assumed had long been regulated out of existence.

What we still lack, however, is comprehensive research on the scope of workplace violations, the range of industries that are the biggest culprits, the variety of business strategies that result in violations, and the workers who are most affected. The result has been an information

vacuum that significantly hampers effective policy responses, whether at the federal, state or local level. From the standpoint of government regulation, immigration policy, and even our best-intentioned workforce development programs, these jobs (and the workers who hold them) are too often off the radar screen.

Drawing on more than three years of intensive research and hundreds of in-depth interviews, this report maps out, for the first time, the landscape of unregulated work in New York City. In what follows, we describe in detail the diverse types of workplace violations that we found in our research, and identify the occupations, industries, and workers most affected. We then discuss some of the key economic and policy shifts that have combined to generate jobs and work practices that are effectively beyond the reach of regulation. Finally, we present three principles to guide the development of a coherent, effective public policy response at the federal, state and local level.

## II. METHODS AND DATA

This report is the product of three and a half years of intensive research conducted in New York City between 2003 and 2006. From the outset, our research team confronted a number of key challenges that are inherent in documenting workplace violations. Workers in unregulated jobs are hard to find and often vulnerable; employers are reluctant to disclose violations of employment and labor laws; and questions about workplace practices are difficult to construct and answer. In addition, previous empirical research in this area is very sparse and offers only limited guidance in shaping research design and focus.

In response, our strategy has been to rely on several sources of data, in effect “triangulating” from multiple data points to identify, describe and analyze unregulated work.

*Qualitative fieldwork:* The core base of data for this project consists of in-depth interviews with 326 individuals, conducted by a total of 14 researchers. Our fieldwork took place in two waves. In the first wave, we scanned the range of low-wage industries in the city for initial evidence of unregulated jobs, interviewing individuals with expert knowledge of these industries.

In the second wave, we then systematically interviewed the full range of stakeholders within each industry, using a mix of referrals and our own independent research to identify key respondents. The final distribution of respondents interviewed is as follows: 116 workers; 84 employers; 10 staff members of governmental regulatory agencies; 19 staff members of labor unions; 22 staff members of policy advocacy organizations; and 75 staff members of other non-profit organizations, including legal services providers, social services providers, and community-based organizations. Many respondents gave us data for more than one industry; on average, there are 39 interviews per industry.

*Workers in unregulated jobs are hard to find and often vulnerable; employers are reluctant to disclose violations of employment and labor laws; and questions about workplace practices are difficult to construct and answer.*

Interviews were conducted in three ways: (a) one-on-one interviews, (b) worker focus groups, and (c) geographic canvasses, where we identified specific areas in the city, such as a commercial strip or manufacturing district, and conducted walk-in interviews with owners, managers and workers wherever possible. Semi-structured interview protocols were used throughout, standardized for each type of stakeholder, and interviews were recorded and written-up in full detail. Full confidentiality was guaranteed to all respondents.

*Secondary research:* Data were also collected from multiple secondary sources. We constructed a database of hundreds of documents from newspaper sources, industry publications, business associations, and academic journals. Examples include enforcement agency announcements of settled cases of workplace violations; industry data allowing us to profile economic trends; academic studies of key industries or populations of workers; and investigative journalism relevant to our issue area. We also created an exhaustive inventory of studies that have tried to estimate the prevalence of workplace violations, and used the Freedom of Information Act to obtain data on enforcement efforts by the U.S. Department of Labor.<sup>2</sup> Finally, we used data from the U.S. Census Bureau and the U.S. Department of Labor’s Bureau of Labor Statistics on the industry composition and working population of New York City.

The Brennan Center for Justice was the lead research organization for the project, in close collaboration with researchers from the Department of Black and Hispanic Studies at Baruch College, City University of New York. The New York City project is also part of a broader research effort to document and analyze unregulated work in America's urban labor markets. In coordination with the New York research team, qualitative research is currently being carried out in Chicago and Los Angeles, and a representative worker survey is being planned in all three cities later this year.

## WHAT QUALITATIVE RESEARCH CAN AND CANNOT TELL US

There are currently no comprehensive, representative data on the prevalence of workplace violations, whether at the city, state or national level.<sup>3</sup> This means that we are not able to estimate, for example, how often workers in the city are paid less than the minimum wage. Nor will our report be able to provide such data. This is inherently a qualitative research project: it can yield rich data on the characteristics and dynamics driving unregulated work, but cannot provide precise estimates of how common it is.

That said, we designed this research project to yield a rigorous overview of workplace violations across New York City's economy, drawing on standard fieldwork methods and conducting more than 300 interviews, a very large sample by qualitative standards. From the outset, we targeted our research at the industry level, systematically exploring which industry segments showed evidence of unregulated work (rather than studying only a few jobs or neighborhoods, for example). In our interviews, we explicitly asked about standard industry practices, rather than focusing on a specific workplace or employer. A key strategy was to obtain verification from multiple sources. For example, if workers in a given industry told us that employers often do not provide a mandated piece of safety equipment, we would then ask about this practice in interviews with employers, enforcement staff and legal services providers, and when available, use secondary data such as administrative enforcement reports for verification.

In sum, assessing the prevalence of a given workplace violation from qualitative fieldwork is a matter of researcher judgment, and must be understood as such. Nevertheless, we have made our best effort to differentiate isolated violations from more systemic violations. Based on information from multiple stakeholder interviews as well as secondary industry data, we have only classified jobs as "unregulated" when we have found multiple confirmations that workplace violations occur on a regular basis for at least some segment of the workforce.

### III. DEFINING UNREGULATED WORK

The American workplace is governed by a set of core employment and labor laws that set minimum standards for wages, health and safety on the job, fair treatment and the right to organize. These laws, which are summarized in Table 1, constitute the anchor for our research. Again, our goal is to document violations of these laws (“workplace violations” for short), the industries and occupations where they occur, and the workers that are most affected.

In practice, identifying workplace violations is complicated by the fact that some jobs and industries are either partially or entirely excluded from one or more of these legal protections. Some of these exclusions are historical or legal artifacts, leaving groups of workers unprotected that common sense would suggest should be covered. In addition, we are faced with the problem that some employers manipulate these exclusions in order to evade their legal obligations, for example, by misclassifying their workers as independent contractors so that workplace protections do not apply.

We therefore define unregulated work as jobs in which working conditions fail to meet one or more of the standards mandated by the employment and labor laws listed in Table 1.<sup>4</sup> In this definition, we include two types of jobs:

1. Jobs that *are* legally covered by all employment and labor laws, but where the employers violate one or more of those laws.
2. Jobs that *are not* legally covered by one or more employment and labor laws, but where the terms of employment are effectively dictated by an employer, contracting agency or industry regulation, and where conditions of work fail to meet one or more of the minimum standards of workplace regulation.

Several types of jobs fall into this second category. The first type is workers who are considered employees in the eyes of the law, but who are nevertheless excluded from coverage by several employment and labor laws. The second type is workers who are considered independent contractors, but whose conditions of work are largely set by industry regulation or the entities they contract with. In this report, we evaluate the working conditions of these types of jobs *as if* they were covered by all employment and labor laws.

We do not include two types of jobs in our study, however. First, we do not include jobs where the workers are truly self-employed. This means, for example, that we do not include street vendors who are engaged as self-employed business persons, or private-pay child care workers taking care of neighbor’s children in their own home. Second, we limit our research to jobs engaged in the production of *legal* goods and services, and therefore do not include those engaged in drug dealing, prostitution, and other illicit work. Clearly, workers in both of these categories often face significant economic hardships, civil rights violations and other abuses. Their exclusion from this study is simply a function of our focus on employment and labor laws.



**TABLE 1. AN OVERVIEW OF LAWS REGULATING PRIVATE-SECTOR WORKPLACES IN NEW YORK CITY**

The following table gives a general overview of core obligations that employers in New York City have to their employees under federal, state and city laws – with the caution that we are not able to give an exhaustive account of all provisions and limitations. In particular, each law has specific rules about which employers and which employees are covered. For example, businesses may need to employ a certain number of workers or reach a certain threshold in annual sales in order to be covered by specific laws. In addition, most of these laws use an “employment status test;” workers who are considered independent contractors under these tests are not covered. Below we use the term “covered workers” to mean those workers who meet all requirements for coverage. Many of these laws also have provisions exempting workers in specific occupations from the standards they establish; we mention only those exemptions that affect the jobs included in our study.

Key relevant statutes:

- FLSA – Fair Labor Standards Act (federal law regulating wages and hours of work);
- NYSLL – New York State Labor Law (state law regulating wages and hours of work, unemployment insurance, and other workplace issues);
- OSHA – Occupational Safety and Health Act (federal law regulating workplace health and safety);
- NLRA – National Labor Relations Act (federal law regulating union organizing and collective bargaining);
- Title VII – Title VII of the Civil Rights Act of 1964 (federal law prohibiting employment discrimination);
- NYCLWL – New York City Living Wage Law (local law regulating wages for certain occupations).

**WAGES AND HOURS OF WORK**

- **Minimum wage:** As of January 1, 2007, New York State law requires employers to pay a minimum wage of \$7.15 per hour to covered workers. (Federal law requires a minimum wage of \$5.15 per hour.)
- **Minimum wage for tipped employees:** Employers may pay tipped employees a lower minimum wage, as long as tips make up the difference between the lower and regular rates. New York State law establishes different minimum wage rates for tipped workers, depending on their industry, occupation, and average tip earnings (the lowest is \$4.60 per hour, for restaurant industry food service workers). Employers must not keep any portion of the tips or distribute any portion to non-tipped workers.
- **Prevailing wage:** Under federal laws, employers with contracts or subcontracts to perform construction or service work for federal government agencies are required to pay their covered workers wages and fringe benefits that are at least as high as the prevailing level for the occupation(s) in question. Similar state laws require prevailing wages for construction and building services work performed under contract with state and local agencies. Under the New York City Living Wage Law, prevailing wages are required for building services work and temporary/office work performed under contract with city agencies.
- **Living wage:** Under the New York City Living Wage Law, employers that have contracts with New York City to provide homecare services, day care services, head start services and services to persons with cerebral palsy are required to pay their covered employees a minimum wage of \$10.00 an hour, as well as \$1.50 per hour in health benefits or wages.
- **Overtime:** Workers covered by federal overtime law must be paid an overtime rate of 1.5 times their regular hourly rate for all hours worked over 40 in a week. Workers who are exempt from federal overtime law but covered by the state minimum wage law must be paid 1.5 times the state minimum wage after 40 hours (44 hours if they are residential employees).
- **Breaks:** Federal law does not require employers to give meal breaks or rest breaks. State law requires employers to give many workers uninterrupted meal breaks of 30 minutes (and potentially more depending on the length of the work day); however, employers are not required to pay for these breaks.
- **Spread of hours or split shift:** State law requires employers to pay an extra hour of wages at the minimum wage rate for covered workers who work over ten hours in a day, or who work a “split shift” (i.e. a shift consisting of two or more segments interrupted by non-work time that is not a meal period).
- **Deductions:** Federal and state laws limit the types and amount of deductions employers can take from covered workers’ paychecks (e.g. for shortages, breakage, or tools and uniforms). Under federal and state law, employers may count costs of food and lodging provided to covered workers toward the wage requirements, but only within certain limits.

- **Child labor:** Federal and state laws limit the hours of covered workers under 18 years old.
- **Retaliation:** Federal and state laws prohibit employers from retaliating against covered workers for asserting their legal rights under these laws.
- **Key exemptions relevant to this study:** Home care attendants are exempt from minimum wage and overtime protections of federal law, but are covered by the state's minimum wage and weaker overtime provisions (1.5 times the minimum wage, rather than the workers' regular wage). Live-in domestic workers are exempt from the overtime provisions of federal law, and under state law, are only entitled to an overtime rate of 1.5 times the minimum wage after 44 hours of work in a week. As explained above, workers who are deemed independent contractors are not covered by these laws.

## WORKPLACE HEALTH AND SAFETY

- **General duty:** Federal law (OSHA) requires employers to maintain a workplace free from recognized hazards likely to cause death or serious physical harm to their covered workers. Under state law, employers have a similar duty to maintain a safe workplace that provides reasonable and adequate protection to workers.
- **Industry standards:** Federal law establishes detailed workplace health and safety standards for specific industries. State law also provides safety standards for certain types of construction work, including requiring employers to provide scaffolding and other protective devices.
- **Personal protective equipment:** Federal law requires that personal protective equipment must be provided to covered workers where necessary.
- **Hazards:** Federal law establishes specific exposure limits for hazardous materials, and requires employers to provide container labels, safety data sheets, and hazard training to workers.
- **Access to records:** Federal law requires that all workers and their representatives must be provided access to workplace medical records and exposure records.
- **Industrial homework:** Federal and state laws limit industrial homework by requiring certification for employers and/or individual homeworkers before certain types of manufacturing can be performed in a home.
- **Child labor:** Under federal and state law, workers under 18 years old are protected from performing certain hazardous work.
- **Retaliation:** Federal and state laws prohibit employers from retaliating against covered workers for claiming their legal rights under these laws.
- **Key exemptions to the above:** Under federal law, U.S. Department of Labor regulations exclude domestic workers from federal health and safety protections. As explained above, workers who are deemed independent contractors are not covered by these laws.

## FAMILY AND MEDICAL LEAVE

- **Family and medical leave:** Under the Family and Medical Leave Act (FMLA), employers must allow covered employees up to 12 weeks of unpaid leave during any 12-month period for the birth and care of a newborn child, placement of a son or daughter for adoption or foster care, care for an immediate family member with a serious health condition, or medical leave because of a serious health condition, under the Family and Medical Leave Act.
- **Coverage:** While there are no specific exemptions, coverage of this law is relatively narrow. Employers must have at least 50 employees; employees must have worked for at least 12 months for the employer, and have worked at least 1,250 hours in the 12 months immediately preceding the leave period.

## INSURANCE AND EMPLOYER TAXES

- **Workers' compensation (New York state law):** Employers are required to provide workers' compensation coverage for their employees, either by purchasing insurance coverage or by obtaining authorization to be self-insured. Workers who suffer from an illness or injury related to their job are eligible to receive paid medical care, regardless of whether the employer carried insurance; workers who become totally or partially disabled as a result of this illness or injury are eligible for cash benefits. It is illegal for employers to retaliate against workers for filing a workers' compensation claim.

- **Disability insurance (New York state law):** Employers are required to provide for the payment of Disability Benefits for their employees, either by purchasing insurance coverage or by obtaining authorization to be self-insured. Workers who are disabled due to an injury or illness that is not job related are then eligible for cash benefits for up to 26 weeks. Employers of personal or domestic employees in a private home are not subject to purchase disability insurance unless at least one of their employees works 40 or more hours per week.
- **Unemployment insurance (New York state law):** Employers are required to pay state unemployment insurance taxes so that workers can access cash benefits when they become unemployed through no fault of their own. Employers are also required to pay a federal tax that finances various components of the unemployment insurance system.
- **Social Security, Medicare and unemployment taxes (federal law):** Employers are required to pay FICA taxes and federal unemployment taxes on employees' wages. FICA taxes fund (1) Social Security, which provides retirement income to covered workers, as well as other benefits such as long term disability insurance and survivors' benefits; and (2) Medicare, a federal health insurance system for people 65 and older or people with disabilities.

## ORGANIZING AND COLLECTIVE BARGAINING

- **Unionization:** Federal law (NLRA) requires that employers must respect their covered workers' rights to self-organization, and to form, join, or assist labor organizations.
- **Collective bargaining:** Federal law requires that employers must respect their covered workers' rights to bargain collectively about wages and working conditions through representatives of their own choosing.
- **Concerted activities:** Federal law requires that employers must respect their covered workers' rights to act together for purposes of collective bargaining or other mutual aid or protection.
- **Retaliation:** Federal law prohibits employers from retaliating against covered workers for exercising their legal rights under this law.
- **Key exemptions to the above:** Domestic workers are excluded from organizing and collective bargaining laws (with the exception of domestic workers employed by agencies, who have organizing rights under state law). As explained above, workers who are deemed independent contractors are not covered by these laws.

## ANTI-DISCRIMINATION

- Title VII and other federal laws, together with the New York State Human Rights Law, prohibit employers from discriminating against covered workers on the basis of race, color, creed or religion, sex, national origin, disability, military status, marital status or age. The New York City Human Rights Law goes further, both by forbidding specific discriminatory acts, and by adding several additional protected statuses: immigration status, sexual orientation, gender identity, arrest or conviction record, partnership status, and status as a victim of domestic violence, stalking and sex offenses.
- The Immigration Reform and Control Act (federal law) prohibits employers from discriminating against individuals with work authorization on the basis of their citizenship status.
- Federal, state, and city laws prohibit employers from retaliating against covered workers for claiming their legal rights under these laws.
- New York State Corrections Law prohibits employers from denying jobs to applicants on the basis of past criminal convictions, unless (1) there is a direct relationship between one or more of the previous criminal offenses and the specific job sought; or (2) the granting of employment would involve an unreasonable risk to property, or to the safety or welfare of specific individuals or the general public.

## FORCED LABOR

- The federal Trafficking Victims Protection Act prohibits "involuntary servitude, peonage, debt bondage, or slavery." All those involved in the process, including both traffickers and employers, can be held responsible under the law.

*Source: Authors' compilation of relevant statutes.*

## IV. THE LANDSCAPE OF UNREGULATED WORK

We begin with a description of the types of violations of employment and labor laws that we identified in our research. We then provide an overview of the industries and occupations where we documented violations; the workers most affected; the labor market intermediaries connecting workers with unregulated jobs; and the extent to which workers move among (and out of) unregulated jobs.

### A. TYPES OF VIOLATIONS

Our fieldwork has identified a broad and diverse range of workplace violations in New York City, which are listed in Table 2.<sup>5</sup> The extent to which these violations are common practice varies significantly by occupation and industry, and readers should consult the industry profiles in Section VII of our report for detailed analyses. At the same time, it is important to give an overview of the landscape of unregulated work in order to establish the problem beyond the confines of any particular industry or type of job.

#### WAGE AND HOUR VIOLATIONS

Wage and hour violations were clearly the most common type of workplace violations we identified in our research. In some industry segments and occupations, these violations have effectively become standard business practice. Moreover, violations often occurred on multiple fronts, as succinctly summarized by one of our respondents: “Workers are paid off the books, don’t get paid on time, get paid too little, and don’t get paid for overtime.”

In the most straightforward example, some employers pay less than the minimum wage – for example, a recent report documented hourly wages as low as \$3.00 an hour at discount stores in Brooklyn.<sup>6</sup> But we found that under-payment of wages occurs in a number of ways. In car washes and nail salons, where workers earn as little as \$4 an hour, employers sometimes claim that this is the legal “tipped worker wage,” even though the workers do not earn enough in tips to qualify for a reduced minimum wage. In the apparel industry, some garment workers earn a piece rate, and it is only by calculating how many pieces can be produced in an hour that the minimum wage violation becomes apparent. In restaurants, green grocers, retail corner laundries, and private households, workers are often quoted a flat weekly salary of about \$300 for what will turn out to be 60 or more hours of work per week – in the end translating into a wage of about \$5.00 an hour. In fact, this “300 dollars/60 hours” combination was a common weekly rate during the years that we conducted our research.

*“Workers are paid off the books, don’t get paid on time, get paid too little, and don’t get paid for overtime.”*

These cases all constitute a violation of the most basic standard in employment law, the minimum wage, which is currently set at \$7.15 in New York State.<sup>7</sup> Moreover, minimum wage violations often occur alongside overtime violations, because workers in sub-minimum wage jobs usually do not receive overtime pay when working more than 40 hours a week (they should receive one-and-a-half times their hourly rate for the extra hours).

**TABLE 2. TYPES OF WORKPLACE VIOLATIONS FOUND IN NEW YORK CITY**

<b>Wages and hours</b>	<ul style="list-style-type: none"> <li>• Failure to pay the minimum wage</li> <li>• Failure to pay prevailing wage rate when required (e.g., on public construction projects)</li> <li>• Failure to pay overtime at all, or to pay the amount mandated by law</li> <li>• Full or partial non-payment of wages</li> <li>• Tip stealing</li> <li>• Paying workers in tips only</li> <li>• Paying workers the reduced “tipped worker” minimum wage when they do not earn tips, or do not earn enough in tips to qualify for the reduced wage</li> <li>• Deductions from workers’ pay that either (a) are illegal, (b) exceed the amount legally permitted, or (c) reduce workers’ wages below the minimum wage</li> <li>• Refusal to grant required meal breaks</li> <li>• Requiring “off-the-clock” work (e.g., requiring worker to begin work before their recorded start time for the day)</li> </ul>
<b>Health and safety</b>	<ul style="list-style-type: none"> <li>• Failure to provide, and ensure the use of, protective equipment and safe guards (e.g., goggles, hardhats, rubber mats, and ventilation systems)</li> <li>• Failure to eliminate hazards in the workplace (e.g., extreme temperatures, fire safety hazards, faulty scaffolding)</li> <li>• Failure to provide workers information about, and training on, hazardous materials</li> <li>• Failure to train workers on safe workplace practices (e.g., proper techniques for lifting heavy items or using machinery)</li> </ul>
<b>Workers’ compensation</b>	<ul style="list-style-type: none"> <li>• Failure to carry workers’ compensation coverage</li> <li>• Instructing workers not to file workers’ compensation claims and/or telling workers that they are not eligible for workers’ compensation</li> <li>• Firing workers in response to on-the-job injuries</li> </ul>
<b>Discrimination</b>	<p>On the basis of race, ethnicity, national origin, immigration status, gender, criminal conviction and other covered characteristics:</p> <ul style="list-style-type: none"> <li>• Refusal to hire</li> <li>• Channeling workers to specific occupations when hiring</li> <li>• Differential pay rates</li> <li>• Differing access to promotions and raises</li> <li>• Maintaining a hostile work environment</li> </ul>
<b>Retaliation &amp; the right to organize</b>	<ul style="list-style-type: none"> <li>• Retaliating against workers making complaints about violations, advocating for better working conditions or attempting to organize a union, by: firing, threats of firing, threats to call immigration, pay cuts, assignment to less desirable tasks or shifts</li> <li>• “Blacklisting” workers who at their previous jobs are known to have made complaints or attempted to organize</li> </ul>
<b>Misclassification</b>	<ul style="list-style-type: none"> <li>• Misclassifying workers who are truly employees as independent contractors</li> <li>• Misclassifying workers as supervisors or managers (e.g. in order to claim that they are exempt from overtime provisions)</li> </ul>
<b>Employer taxes</b>	<ul style="list-style-type: none"> <li>• Failure to pay FICA, Unemployment Insurance, and other taxes on wages paid in cash</li> <li>• Reduction of taxes paid as a result of underpayment (See “wages and hours” row, above.)</li> </ul>
<b>Trafficking &amp; forced labor</b>	<ul style="list-style-type: none"> <li>• Preventing workers from leaving their jobs or otherwise restricting their basic freedoms (e.g., through seizing passports, debt bondage, threats, physical force, or captivity)</li> </ul>

*Source: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City.*

More generally, across diverse industries and occupations, overtime violations appear to be the most prevalent of all the violations we studied – leading a legal services provider in the city to conclude, “there’s no concept of overtime at all.” As described above, a typical scenario is that employers pay a flat weekly rate, and then demand long hours that amount to more than 40 by the end of the week – the extra hours are effectively unpaid. Other workers, such as attendants at corner laundromats, are paid their usual rate for all hours worked, but will not receive time-and-a-half when, for example, staying the full 15 hours that the business is open that day. Some of the employers we interviewed were quite direct about their unwillingness to pay overtime. A job developer who works frequently with low-wage employers often encountered this resistance: “Employers get upset about overtime. They don’t want to pay it ... they don’t want to know about FLSA [the Fair Labor Standards Act] – they don’t want it to set a precedent.”

Complicating the picture is the fact that some workers are legally exempt from overtime. For example, domestic workers who live in their employer’s home are excluded from federal overtime regulations; New York State regulations mandate only that their overtime pay rate be one-and-a-half times the minimum wage (not the workers’ full hourly wage) after 44 work hours in a week.

*“Employers get upset about overtime. They don’t want to pay it ... they don’t want to know about FLSA [the Fair Labor Standards Act] - they don’t want it to set a precedent.”*

Some employers simply do not pay at all. Construction day laborers often face this violation, both in New York City and across the country. Small fly-by-night contractors will refuse to pay workers, threatening to call immigration authorities if anyone complains, or just disappear at the end of a project without paying.<sup>8</sup> Nonpayment of wages has also been reported by other workers, though less frequently, including domestic workers, car wash workers, janitors, delivery workers, garment workers, nail salon workers, retail workers and workers in restaurant kitchens. Partial non-payment appears to be common in small businesses such as restaurants, where workers may be indefinitely owed several weeks’ worth of pay.

Workers may also be forced to work part of their time for free, when employers refuse to grant required meal breaks or force employees to work “off-the-clock” at the beginning or end of the day. In particular, a lack of legally-required meal breaks was often reported across the industries that we studied: one bagger in a grocery store reported, “When it was busy, we couldn’t stop to eat, we couldn’t go to the bathroom ... the cashiers could take breaks, but we couldn’t.”

Violations of prevailing wage laws also occur, typically on small public construction jobs where non-union contractors or subcontractors are used. Here, employers may avoid scrutiny by misclassifying workers into lower-paid job categories, or by underreporting the number of workers on a job and/or the number of hours they work – on paper, the reported workers are being paid prevailing wage, but on the site itself, actual wage rates end up being lower.<sup>9</sup> A union organizer who frequently visits these sites describes the process: “These workers are really ghosts ... that’s a term that is used. What we’ll see is that a job site will have 20 laborers, but the official payroll will only have six. The other 14 workers do not exist.”

Other employers illegally reduce workers' pay by taking a portion of their tips or by taking deductions that are not allowed under law. Tip stealing was reported in a number of industries, and the practice appears to be particularly common in restaurants and car washes. Illegal deductions come in several forms: either the deduction is not allowed under law (e.g. when restaurant employers deduct money from wages for broken dishes), or the deduction is more than allowed (as when employers reduce the pay of live-in domestic workers based on inflated charges for lodging). One regulatory official commenting on day laborers working in landscaping jobs commented, "An employer will deduct 150 dollars for a broken shovel. Some shovel!"

There are no comprehensive data that would allow us to estimate the amount of unpaid wages that result from these diverse violations. Obviously, amounts will vary based on the frequency and severity of violations. An isolated incident of unpaid wages might equal \$300 owed, whereas even for workers making only the minimum wage, consistent failure to pay overtime could amount to between \$1,500-\$3,500 of unpaid wages a year. By way of illustration, recent settled cases include \$80,868 owed to 56 workers by a car wash chain (averaging \$1,444 a worker), and \$80,074 owed to 18 workers by several Manhattan restaurants (averaging \$4,448 a worker).<sup>10</sup> In 2004, the most recent year available, the New York State Department of Labor collected about \$7.5 million in unpaid wages for about 14,500 workers statewide, an average of \$517 per worker; however, during the years of our study, the agency typically settled cases for a fraction of wages owed and rarely pursued associated penalties.<sup>11</sup>

## HEALTH AND SAFETY VIOLATIONS

Wage and hour violations may be the most immediate and clear-cut symptom of unregulated work, but any time spent in the field quickly reveals that unsafe and unhealthy workplaces are an equally serious problem. It is telling that in focus groups, workers will often first talk about physical duress and injuries from machines and chemicals, before turning to wage issues.

Identifying violations of health and safety laws by employers, however, turns out to be challenging. Under the federal Occupational Safety and Health Act (OSHA), employers are bound by a "general duty" to maintain a workplace free of recognized hazards. In addition, employers' duties are governed by a series of specific standards, many of them industry- or occupation-specific, issued by the Occupational Safety and Health Administration. The problem, however, is that there is often a significant gap between the broad set of workplace hazards recognized by health and safety experts, and the more narrow set of hazards which OSHA standards explicitly list as prohibited.

One example is nail salons, where some of the products used by workers contain chemicals that have been linked to liver damage, cancer, birth defects and miscarriages; moreover, a recent study of occupational illness among nail salon workers showed consistent reduction in symptoms in workplaces where safeguards such as masks and ventilation systems were used.<sup>12</sup> Yet most of these chemicals are not specifically named as hazards under OSHA regulations.

Ideally, the above “general duty” clause would prompt employers to implement safe practices even around chemicals not explicitly named in regulations, but in practice, we rarely saw evidence of such measures.

More generally, in our fieldwork we documented a wide range of unsafe and unhealthy workplace practices. Some of these practices are clearly illegal, while others are not explicitly barred by law but nevertheless violate the principle that employers have the responsibility to provide protective equipment and safeguards, and to ensure that these are used through appropriate training.

A straightforward and prevalent example is guards on machinery, which are usually required by law but in practice may be broken, rarely used under high pressure production, or simply not provided at all. In restaurant kitchens, food manufacturing plants and car washes, wet and soapy floors can lead to slips and falls, so rubber mats and proper footgear are essential but in many cases not provided or used. Workers in other industries report fire safety hazards, extreme temperatures and improper ventilation, many of which are clearly illegal. In construction, workers clearly face a number of risks of injury and falls, which can and should be mitigated by adequate scaffolding and the provision of safety harnesses and hardhats, as well as training in their use. For construction day laborers, however, these measures are often not taken and workers suffer the consequences; in the most tragic cases, they lose their lives.<sup>13</sup>

*“Sometimes my hands are all burned red from the chemicals. There are no gloves, no boots, no uniforms, just street clothes.”*

As already suggested, exposure to potentially harmful chemicals or airborne toxins is another area where employers have either general or specific obligations. Workers at grocery stores may be exposed to pesticides from fresh fruit and vegetables, workers in laundries and dry cleaners are often exposed to a variety of chemicals and bio-hazards, workers at gas stations are exposed to gasoline and exhaust fumes, and construction workers may be exposed to fiberglass and asbestos. These risks can and should be reduced through the installation of proper ventilation systems and the provision and use of masks, goggles and gloves – but in the unregulated workplaces that are the focus of this study, none of these measures is guaranteed. A car wash worker recounts the lack of vigilance by his employer: “I got chemicals in my eyes but my boss didn’t do anything. He asked me if I was drunk because my eyes were red. I explained but he told me to be more careful when I work. ... Sometimes my hands are all burned red from the chemicals. There are no gloves, no boots, no uniforms, just street clothes.”

Finally, hazards aside, it is important to recognize that many of the jobs we have studied are physically demanding, both because of the inherent nature of the work and because of the hours and work speed-up that are typical of these jobs. Retail, security and janitorial jobs require long hours standing or bent over cleaning machines, with rare breaks; jobs caring for children, the elderly and the disabled entail frequent lifting and bending; factory and laundry jobs are characterized by repetitive motion; construction jobs cause significant wear and tear on muscles and bones; and security guards and parking lot cashiers face very real risks of assault and robbery.



In the end, our assessment is that unhealthy and unsafe working conditions constitute one of the key markers of unregulated work. As an expert in workplace safety told us: “People have to make choices between a job and their health, and most of the time they choose their job unless they think there’s a serious risk of death. And even when there is serious risk, like day laborers [in] construction, they know the scaffolding isn’t designed correctly, they do it anyway because they’re already there ... and they need the money.”

## WORKERS’ COMPENSATION

Employers in New York State are obligated to purchase insurance (or pay out of pocket) so that their employees have access to workers’ compensation coverage. This coverage ensures that workers who suffer from an illness or injury related to their job can receive paid medical care, while those who become totally or partially disabled can receive cash benefits to compensate for lost income.

Clearly, given the elevated risk of job-related injuries and illnesses just described, access to workers’ compensation becomes all the more critical. However, our research indicates that employers in low-wage industries violate workers’ compensation law in a number of ways. In the most common scenario that we encountered, employers will instruct injured workers not to file workers’ compensation claims. Some may instead offer to pay for an emergency room visit out of pocket, while others will threaten workers or attempt to convince them that they are not eligible to receive workers’ compensation. (This is especially common in the case of undocumented workers, even though they are in fact eligible.) In several industries (car washes, domestic work, construction) workers report that they were fired by their employers after being injured on the job. In general, if workers do not file claims, their employers almost never offer compensation for the lost work days.

These reactions by employers to on-the-job injuries may stem from the fact that they have broken the law by not paying into the insurance system, and will be caught if an employee files a complaint.<sup>14</sup> But in addition, a regulatory official pointed out, “employers don’t want workers’ comp claims against them because it’ll screw up their insurance.” Either way, the very marked aversion by employers to workers’ compensation sends a strong signal to their employees. In most of our interviews, it was clear that workers did not report on-the-job injuries if they could help it, never mind occupational illnesses such as chronic lung inflammation or pain resulting from repetitive stress. By their estimation, the risk of employer retaliation is too high. As a community-based lawyer summarized: “In theory, workers’ compensation is a good rule. It is supposed to really protect the workers. In reality, workers’ comp doesn’t exist for these workers, because the workers never get it.”

## RETALIATION AND VIOLATIONS OF THE RIGHT TO ORGANIZE

The National Labor Relations Act (NLRA) guarantees most non-managerial employees the right to organize and form unions. Over the past several decades, however, researchers have

*“People have to make choices between a job and their health, and most of the time they choose their job unless they think there’s a serious risk of death. And even when there is serious risk, like day laborers [in] construction, they know the scaffolding isn’t designed correctly, they do it anyway because they’re already there ... and they need the money.”*

documented a long-term national trend toward greater violations of this right by employers in numerous industries, and several recent unionization drives in New York City are no exception.<sup>15</sup>

Perhaps as a reflection of this chilled organizing climate, outright attempts to form a union are not common in the workplaces that we studied. But workers in unregulated jobs do seek to improve wages and the way that they and their co-workers are treated, and such efforts are protected as “concerted activity” by the NLRA.<sup>16</sup> In practice, though, we found that these efforts are often met by illegal employer retaliation, such as firing workers who take leadership roles, limiting their hours, cutting their wages, or subjecting them to verbal abuse. Numerous examples were related to us from the auto services, construction, manufacturing, retail and other industries. The resulting climate of fear was often mentioned in our worker interviews, and is one of the core characteristics of unregulated work: the ability of employers to continue to violate employment and labor laws requires that workers feel that they are unable to seek recourse with regulatory agencies.

In some cases, the improvement that workers seek is simply for their employers to comply with existing laws covering the workplace. In one case described to us, a restaurant worker was not being paid overtime even though he was working over 60 hours a week (11 hours a day, at \$5.40 per hour). He went with his co-workers to the New York State Department of Labor to file a complaint. After the state agency contacted the employer to investigate, the employer retaliated against the worker who made the complaint by significantly cutting his wages. (In addition to a violation of the NLRA, the employer’s actions in this case likely constitute a violation of the anti-retaliation provisions of wage and hour laws as well.)

In the end, though, probably the most common employer tactic is intimidation *before* the fact, aimed at preventing any collective efforts by workers. Such intimidation, which may take the form of threatening to report workers to immigration authorities or threatening to fire workers who contact the Department of Labor, is sometimes illegal and other times not – but it is by all accounts prevalent in precisely those workplaces where employers are committing the most violations. In all of our focus groups, workers voiced the same concern: “You can’t organize. Who do you voice those concerns to? Everyone is at risk of losing their job.”

Even well-established community groups reaching out to their worker members face the same challenge, as one staff member describes: “It is difficult to talk to the workers and tell them trust me, because the reality is they don’t trust anyone. When we tell them that they have a right to overtime and minimum wage, they are not sure they should believe us. A lot of the employers are also telling the workers that if they start to complain about the work that they will call immigration on them. The workers are really frightened that their boss will call immigration and that they will be deported.” This use of immigration threats in particular was a pervasive theme throughout our interviews, and we return to the issue in Section V below.

Despite the very real threat of employer retaliation, however, we did in fact document a significant amount of sustained organizing by workers in unregulated jobs, particularly via immigrant worker centers; we return to these strategies in Section VI below.

## INDEPENDENT CONTRACTOR STATUS

Because they are not considered employees under the eyes of the law, independent contractors are excluded from minimum wage, prevailing wage, overtime, health and safety, and right to organize protections. This single fact has generated a host of employer strategies to evade legal obligations by misclassifying their workers as independent contractors, in the process creating a complex set of employment relationships that are challenging traditional definitions of employee and employer.<sup>17</sup>

True independent contractors are self-employed individuals who run their own business and provide services to clients. The tests for deciding whether someone is an independent contractor differ depending on which law is being applied, but generally include factors such as who owns the tools and equipment used on the job, who decides the hours, pace and content of the work and where it is performed, whether specialized skills are required, and whether workers are being closely supervised in their tasks.<sup>18</sup> The less control a worker has over his or her job, the less likely he or she is an independent contractor.

Given the lack of an absolute, bright line separating independent contractors from employees, it should come as no surprise that unscrupulous employers exploit this opportunity to evade their legal obligation under employment and labor law. In our research, we documented a range of workers who were misclassified as independent contractors by their employers, including construction workers, night-time janitors, workers making deliveries for drug stores and groceries, and bathroom attendants working at high-end restaurants.<sup>19</sup> In some cases, employers misclassify their own employees as independent contractors. In other cases, employers will hire a contractor or placement agency to supply workers for a given job, who in turn misclassifies the workers as independent contractors. But in many of these instances, workers have successfully challenged their independent contractor status, with courts affirming that they are indeed employees and that the employer is legally responsible for wage and hour violations.<sup>20</sup>

*Independent contractors are excluded from minimum wage, prevailing wage, overtime, health and safety, and right to organize protections. This single fact has generated a host of employer strategies to evade legal obligations by misclassifying their workers as independent contractors.*

The bathroom attendant example is a particularly striking one. In 2004, the New York State Attorney General's office identified well-known restaurants that were paying small fees to agencies to provide attendants for their bathrooms. Far from paying the workers an hourly wage, the agencies required the workers to turn over a portion of any tips they received, in some cases leaving them as little as \$2.00 an hour.<sup>21</sup> Investigators found that the restaurants were liable for these wage and hour violations, and most of the owners agreed in settlements to hire the attendants back in-house.

Up to this point we have given examples of clear misclassification of workers who should have been treated as employees. However, in our research we also identified several jobs where workers have had difficulty gaining access to workplace protections because courts have deemed them to be independent contractors under one or more laws.

Two important examples can be found in New York City: yellow cab drivers and publicly-subsidized child care providers working out of their homes. Both groups of workers are considered independent contractors under one or more laws, opening the door to working conditions that often fall below the standards set by those laws. Taxi drivers work extremely long hours but never get overtime pay; depending on customer volume and the price of gas, hourly earnings can dip below the minimum wage. For the publicly-subsidized child care providers, earnings below the minimum wage are a frequent occurrence, and overtime is never paid. Both groups of workers are left to take responsibility for their own safety and health on the job (a significant issue for the taxi drivers in particular), and the child care providers do not have access to workers' compensation when injured. Neither has the legal right to organize under the National Labor Relations Act for better working conditions.

For both groups of workers, the key insight is that wages, hours and other working conditions are strongly shaped by rules and regulations set down by government agencies and industry institutions. Taxi drivers are heavily regulated by the Tax and Limousine Commission, which dictates all aspects of taxi operation, sets fares and lease rates, issues licenses, imposes fines, and closely controls the supply of cabs in the city. For publicly-subsidized child care workers, wages and working conditions are strongly shaped by reimbursement rates and regulations set by the state and city agencies with which they contract. (For more detail, see the respective industry profiles in Section VII.) In our analysis, both groups of workers are effectively in a dependent economic relationship and thus constitute examples of unregulated work, even though some courts have held that they are independent contractors. As a leading employment lawyer put it, "You have to ask yourself, especially in the case of some of the low-wage workers, whether these people are actually running their own businesses or not."

## EMPLOYER TAXES

In many (though not all) of the workplaces studied in this project, employers pay at least some of their workers in cash. By itself this does not constitute a violation of employment law; what is illegal is the employer's failure to pay required payroll taxes such as FICA and Unemployment Insurance taxes. In practice, we found that employers who pay in cash often either do not pay payroll taxes, or only pay taxes on a portion of the wages paid (in the recognition that declaring very low payroll to the state might flag investigation). A job developer from a job-placement non-profit relates: "Restaurants would tell me they were hiring off the books. I was against it. ... It's all about profit. They don't pay taxes or worry about unemployment [insurance]."

Industries where these practices were common include retail, personal services, manufacturing, domestic work, retail laundry and dry cleaning, groceries, construction and auto services.<sup>22</sup>

Note also that the amount of payroll taxes an employer owes is based on the size of payroll. This means that employers paying less than the minimum or prevailing wage are also illegally reducing the amount of payroll taxes they are liable for. Similarly, employers who misclassify their workers as independent contractors are evading their legal responsibility to pay taxes on wages paid.

## DISCRIMINATION

A well-established body of federal, state and local law exists to protect workers from discrimination. Actually proving intentional discrimination, however, is a complex legal task, one that clearly lies outside the scope of our research.<sup>23</sup> Still, the reality is that immigrants, people of color, women, and persons with criminal records are disproportionately impacted by workplace violations, and our interviews raised recurring themes of disparate treatment on the job, sometimes implicit, sometimes explicit.

*“If you walk in and are Mexican they automatically assign you to work in the back of the house, regardless of skills.”*

One dynamic frequently reported by workers is stereotyping and sorting into specific occupations on the basis of race, ethnicity and gender. A recent study in New York City analyzed the responses from surveyed employers when three young male “testers” – one white, one Hispanic and one black – applied for the same jobs, presenting identical qualifications. Compared to white testers, black and Hispanic testers experienced a greater degree of what the authors term “downward channeling,” e.g., they were offered jobs as dishwashers when applying for server positions or they were offered jobs as stock clerks when applying for sales positions.<sup>24</sup>

As one restaurant employer we interviewed explained, “If you walk in and are Mexican they automatically assign you to work in the back of the house, regardless of skills.” Another observer reports complex preferences by employers that hire housekeepers from a local day labor corner: “Racism is big. Sometimes they say, get me one that speaks English, one that looks ‘pretty,’ then they pick the lightest, skinniest, and prettiest one.” A staff member from an employment agency that places domestic workers echoed the same type of stereotyping to us: “Employers prefer the Caribbean girls. Actually, I prefer [them] and that’s why I work with them. They’re church-going. They won’t harm anyone. They won’t steal. The Spanish girls steal a lot. The European nannies are dangerous. I know from experience. I had a couple. They’ll drink on the job. They usually smoke.”

This type of explicit ranking by employers of workers for certain occupations on the basis of ethnicity, race and gender was often described in our interviews, and has been documented in research on other labor markets and other types of jobs.<sup>25</sup> Workers also regularly talked about verbal abuse on the basis of race, ethnicity, national origin, gender, and other characteristics. One regulatory official reported that nail salons can have particularly hostile work environments: “There’s yelling, cursing, watching over them ... basically a lot of yelling and disrespect. I call it ‘garden variety’ verbal abuse.” We also heard numerous accounts from female workers of sexual harassment by employers (such as unwelcome sexual advances), whether they were employed in retail outlets, corner laundries, in apparel factories, or in private homes as domestic workers.

Workers who have criminal records are also covered by anti-discrimination legislation (for details see Table 1). Yet the New York City “tester” study discussed above documented pronounced illegal discrimination on the basis of criminal records. Holding constant skills and employment history, applicants with criminal records – especially African Americans – were significantly less likely to be hired than those without records.<sup>26</sup> A job developer with an agency placing ex-offenders reports: “Employers have the ability to not choose someone who has the record ... they can screen harder because they have more of a pool of candidates.” Once hired, the status of ex-offenders can translate into constant scrutiny and undue demands (which may or may not be illegal), as one worker recounts: “If you’re lucky enough to get employment, they accept you but they think you’re a dummy. You have to come in early now or now you have to empty a whole truck by yourself. You can’t say, ‘It’s too much for me.’ You’re here ‘even though’ you’re a felon, so you have to do it.”

## TRAFFICKING AND FORCED LABOR

Definitions of forced labor and trafficking vary, but the central characteristic is a level of control exerted over the worker which prevents her or him from leaving the situation. In the U.S., it is estimated that between ten and twenty thousand workers are trafficked into the country annually, and that the average amount of time spent in forced labor as a result of trafficking is between two and five years.<sup>27</sup> Although documenting forced labor and trafficking was not a focus of our research, we did encounter instances of these practices in our fieldwork. In line with other studies, we most frequently heard of this level of abuse in focus groups with domestic workers and restaurant workers. A service provider who assists victims of trafficking recounts, “One case involved a woman who was captive for 11 years and never left the house. Her phone calls were monitored and she was physically abused.” A community leader described the problem of trafficking of African domestic workers, explaining that typically women are brought into the country with their passports and tourist visas, which are soon seized. They are then trapped in the home where they perform domestic work, on call 24 hours a day, 365 days a year, and in many cases they experience sexual abuse. In his words, “This is simply a form of slavery. ... It is basically a renewal of the system of indentured servitude. A lot of this type of employment is in violation of international law. They are basically in prison.”

## B. INDUSTRIES AND OCCUPATIONS

Based on analysis of our fieldwork as well as secondary data sources, we have identified 13 distinct industry clusters in New York City where unregulated work consistently appears in one or more industry segments and for one or more occupations. Table 3 lists the industry clusters, the segments where we found recurring evidence of unregulated work, and the occupations most affected.

**TABLE 3. INDUSTRIES AND OCCUPATIONS WITH WORKPLACE VIOLATIONS IN NEW YORK CITY**

*Note: Some workers in the following industries are exempt from one or more employment or labor laws. In this table, we evaluate working conditions as if workers were covered by all employment and labor laws; see our definition of unregulated work in Section III.*

INDUSTRY	INDUSTRY SEGMENTS WITH VIOLATIONS	OCCUPATIONS MOST AFFECTED	INDUSTRY PROFILE
<b>Groceries and supermarkets</b>	Green grocery stores, bodegas, delis, gourmet grocers, health food stores, non-union supermarkets	Cashiers, stock clerks, deli counter workers, food preparers, delivery workers, janitors, baggers, produce washers/watchers, and flower-arrangers	Page 45
<b>Retail (other than food)</b>	Discount and convenience stores; ethnic retail; and to a lesser extent, non-union drug stores and retail chains	Cashiers, stock clerks, security guards, delivery workers, and workers in retailer-owned warehouses	Page 49
<b>Restaurants</b>	All industry segments, especially high-end “white table cloth” restaurants and independent family-style and ethnic restaurants	Dishwashers, delivery persons, food prep, line cooks, porters, bussers, runners, bathroom attendants, barbacks, cashiers, counter persons and coat checkers (and in some restaurants, waiters and waitresses and hosts)	Page 53
<b>Building maintenance &amp; security</b>	Non-union contractors providing services to small residential buildings and commercial clients; small residential and commercial buildings that hire workers directly	Security guards, janitors, supers, porters, handymen, and doormen	Page 57
<b>Domestic work</b>	Individual families and diplomats	Nannies, housekeepers, housecleaners, elder companions, with many jobs combining duties from each	Page 61
<b>Child care</b>	Publicly-subsidized home-based child care	“Legally-Exempt” and “Registered Family” child care workers	Page 65
<b>Home health care</b>	Violations are common in the “gray market” where workers are employed directly by clients; some violations are also present for workers employed by home health care agencies	Home care workers	Page 69
<b>Construction</b>	Small and medium private residential construction projects; small and medium public agency construction and renovation projects	Laborers, carpenters and other construction trades	Page 73
<b>Manufacturing</b>	Non-union food and apparel manufacturing	Sewing operators, machine operators, floor workers, pressers, hangers, packers, cutters, porters, and helpers/assistants	Page 77
<b>Laundry and dry cleaning</b>	Non-union industrial laundries, dry cleaning plants, retail dry cleaners, and coin-op laundries	Folders, sorters, pressers, drivers, customer service workers, cleaners/spotters, tailors, and markers/baggers	Page 81
<b>Taxis</b>	Yellow cabs, livery cabs, and dollar vans	Drivers	Page 85
<b>Auto services</b>	Violations are common in car washes, but are also reported in informal parking lots, garages and auto repair shops	Car wash workers and, to a lesser degree, parking attendants and auto body and repair workers	Page 89
<b>Personal services</b>	Violations are common in nail salons, but are also reported in hair braiding shops, low-price spas hiring unlicensed massage therapists, and some beauty salons	Nail technicians, hair braiders and massage therapists, as well as other jobs in beauty salons such as attendants, janitors, and shampooers	Page 93

*Source: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City.*

The story of workplace violations is, in the end, profoundly shaped by industry characteristics and economic trends. In Section VII of this report, we therefore provide in-depth industry profiles of unregulated work, and encourage the reader to turn to them for focused analysis of data on working conditions and dynamics driving workplace violations. Here we are only able to offer a brief set of general observations.

Scanning across the 13 industry profiles, the temptation might be to construct an archetype of employers most likely to violate workplace laws. But while there are several common trends, variation around those trends is considerable. For example, workplace violations are not limited to small firms; we found evidence of unregulated work in medium-sized and even large firms. Nor are violations always limited to low-wage firms competing only on the basis of price; in some industries, violations are also found among high-end establishments specializing in quality goods and services. As well, the industries shown in Table 3 run the full gamut of economic sectors. This is not primarily a story of trade-sensitive industries forced to drive

down wages because of global competition; most of the industries listed are domestic service industries that are bound in place and that compete in regional product markets. And while private-sector industries dominate the landscape of unregulated work, publicly-funded industries such as home health care and subsidized child care are not immune.

*This is not primarily a story of trade-sensitive industries forced to drive down wages because of global competition; most of the industries listed are domestic service industries that are bound in place and that compete in regional product markets.*

The upshot, in the words of one of our interviewees, is that “if the employer is good then the job is good.” That said, there is one clear predictor of whether or not employers violate employment and labor laws: the presence or absence of unions. Violations are much less likely in unionized workplaces, especially those that are in an industry (or industry segment) where union density is high and where unions have been able to establish a high floor for wages and working conditions. The corollary is that non-union workplaces, and even non-union industry segments in otherwise unionized industries, are especially vulnerable to workplace violations (we come back to this point in the next section).

Another lesson from scanning across the industry profiles is that workplace violations come in bundles. That is, employers who are violating one workplace law are often violating other laws as well. These bundles are often industry- or occupation-specific. For example, construction day laborers most often report non-payment of wages along with health and safety and prevailing wage violations; in the green grocer industry, it is minimum wage and overtime violations that dominate; and restaurant kitchen workers experience pervasive wage and hour violations but also frequently point to discrimination in access to the industry’s better-paid jobs.

The mechanisms by which employers violate or evade workplace regulations vary as well. Misclassification of workers as independent contractors, discussed above, is one such mechanism. Another increasingly common strategy is to use subcontractors in order to place legal distance between employer and employee, both for on-site and off-site work. Subcontracting chains are well known in the apparel industry, but in fact, a range of service industries have been



transformed by subcontracting over the past several decades, and in several, the trend is now virtually complete. While subcontracting does not necessarily lead to unregulated work (for example, janitorial contractors serving commercial buildings are largely unionized in New York City), the practice can and does open the door to degraded working conditions (as in the case of some industrial laundries), since the desire to cut wages or avoid legal obligation for wages is one of the driving motivations for contracting out. One manager of a retail store sees this ratcheting down in the security contractors who bid for his business: “There are many companies that will quote you \$12 an hour, and then pay the guards \$6.” It is also important to understand, however, that in many of the workplaces we studied, unregulated work occurred in-house. That is, unregulated and regulated jobs existed side by side, with some occupations subject to violations and others insulated from them (e.g., in car washes, coin-ops, restaurants, retail, nail salons).

Finally, even in the absence of hard data on prevalence, our fieldwork clearly suggests that some industries or industry segments appear to have reached the point where workplace violations have become so routine as to be standard business practice for a significant number of employers. For example, in non-union apparel plants, wage and hour violations have effectively become institutionalized, given the harsh economics of multiple layers of subcontracting. In restaurants, our assessment is that overtime pay has become purely optional in most parts of the industry, to be negotiated on a case by case basis; similarly for minimum wage violations in the car wash industry. In other cases, it is specific segments within an industry that exhibit chronic violations of employment and labor laws. In the food retail sector, for example, unregulated work appears to be common in green grocer and gourmet food stores, but not in large and especially unionized supermarkets. Finally, as discussed in the previous section, legal exclusions for a number of occupations mean that some workers are routinely not receiving full protections on the job (such as overtime pay in the case of home care attendants and live-in domestic workers).

*Some industries or industry segments appear to have reached the point where workplace violations have become so routine as to be standard business practice for a significant number of employers.*

## C. THE WORKERS AND MOBILITY

Because we do not have comprehensive data on workplace violations, it is not possible to construct an exact profile of the workers who are most impacted by these practices. That said, our fieldwork clearly indicates that immigrants – who now make up almost half of the city’s workforce even if we draw just on Census data (which is known to undercount immigrants) – constitute the largest group of workers found in unregulated jobs.<sup>28</sup> But there is considerable complexity here. While undocumented immigrants and recent arrivals are at greatest risk of being subject to workplace violations, we also found a significant presence of legal immigrants and second-generation immigrants. And we have seen people with criminal records and ex-welfare recipients in unregulated jobs – though in much smaller numbers – particularly on small public construction projects, in the security guard industry, and in home health care and subsidized child care. (In the next section we will return to a discussion of the institutions and regulations shaping the labor market prospects of these groups of workers.)

Our use of the term “unregulated work” should not imply that chaos reigns in this part of the labor market. In fact, we found a considerable amount of structure in how workers move between unregulated jobs: there is distinct industry- and occupation-based patterning to both horizontal and vertical worker mobility, and labor market segmentation based on gender, race, and ethnicity is pervasive.

First, workers in unregulated jobs exhibit some of the same mobility characteristics as the U.S. workforce as a whole. They acquire specific job skills over time, increasingly moving only within particular occupational niches and building sustained tenure within a specific industry,

if not with an individual employer. At the same time, there do appear to be some clear pathways between different industries. For example, Mexican men report that green grocer jobs are seen as bottom-rung, an entry point into the labor market that will lead to restaurant or even construction work. Women displaced from the garment sector have been shifting to industrial laundry plants. Parking lot attendants, janitors, and construction workers try to save enough money to get started as a taxi or livery cab driver.

*“People come here as engineers and all kinds of things but they can’t fit into the system ... The system’s loopholes will allow them to participate only in menial tasks, looking after people, looking after children, moving and shaking things. So you drive a taxi. You try to get your papers straight and drive a taxi.”*

But much of this is mobility across unregulated jobs. The jump to better-paid jobs where employment and labor laws are consistently followed appears to be more difficult; barriers include lack of legal status, fluency in English, low skill and education, access to job search networks, money for occupational training, as well as discrimination by employers for promotions. Both workers and employers also reference the structural lack of sufficient numbers of better jobs in particular industries. For example, unionized supermarket jobs represent a significant improvement over green grocer and gourmet grocer jobs, but there are not enough of the former to absorb all of the workers currently stuck in the latter. A taxi driver voices the frustration for immigrant workers in particular: “People come here as engineers and all kinds of things but they can’t fit into the system ... The system’s loopholes will allow them to participate only in menial tasks, looking after people, looking after children, moving and shaking things. So you drive a taxi. You try to get your papers straight and drive a taxi.”

Second, unregulated jobs exhibit a high degree of occupational segregation. Most striking is the virtually complete gender divide across the occupations listed in Table 3. Only a handful have any significant mix of male and female workers, and in particular, immigrant women in this part of the labor market face a very limited range of job options. A service provider we interviewed reports: “Immigrant women work. ... They are not sitting at home doing nothing, they will do anything. They know that once they are here they have no support system, no family to depend upon, and they are on their own. Either they will fall into an abusive exploitative situation or they will start working.” Or, as we saw all too often in our fieldwork, both occur at once.

Empirically, segregation on the basis of race and ethnicity is also pervasive, with complex hierarchies depending on the specific job in question (e.g., Eastern Europeans disproportionately

work as painters but not laborers, Mexicans disproportionately work as dishwashers but not waiters). Based on our interviews with workers and employers, some of this segregation results from discriminatory employer preferences (as described in the Discrimination Section above), and some results from the process of social network hiring, where employees recruit friends or family into their workplace. Such hiring is the most common way that workers find jobs and is often used by employers as an efficient recruiting method. But in combination, these two dynamics can result in “occupational closure,” where specific jobs are disproportionately filled by the same ethnic group, a process that has been well-documented by researchers.<sup>29</sup>

## D. LABOR MARKET INTERMEDIARIES

New York City is home to a wide range of labor market intermediaries that connect workers with employers. These include public and non-profit agencies focused on job training and placement, as well as private and for-profit companies such as temp agencies, head hunters, and the like.

The established intermediaries that we interviewed were aware of the problem of unregulated work, and consciously tried to avoid placing workers with unscrupulous employers. As one staff member told us: “I’m also very concerned about sweatshops. The job developers have so many employers they can’t know them all intimately. If we find out someone is just being used we’ll pull them out. ... I’d rather lose the employer, I don’t want to work with them anyway.”

However, we identified a number of intermediaries that did consciously operate in the world of unregulated work – such as individual job brokers who typically operate with only their phone and do not have a business location separate from their home. Their services are spread through word of mouth, for example among households looking to hire domestic workers and cleaners, or among small contractors looking to hire laborers. We also heard indications that brokers may be involved in trafficking and forced labor, but overall, we were able to gather little direct information on brokers, given how hidden their operations are.

More common are the “storefront” employment agencies that have multiplied across the city over the past decade, especially in low-income and immigrant neighborhoods. With a small staff and often nothing more than a phone and a desk, these agencies find jobs for workers, charging set fees that the workers themselves pay. The agencies have a visible presence on the street by distributing flyers, and have standing advertisements in ethnic newspapers. A local service provider described the agencies’ niche: “If you are an immigrant [and] you just arrived here, the first thing you’re going to do is go to an employment agency. Once you are started, you know the neighborhood, you know your people, you get referrals to a better job.”

Job placements can last from a few days to several months, and some turn into permanent jobs. The agencies find jobs through aggressive cold-calling of businesses; those that stay in business end up developing relationships with a set of employers, and several have become chain

operations. One restaurant employer stated, “They find us. They basically have the name of the restaurant and the address and they call up and ask to speak with a manager. ... I usually get a phone call two or three times a week from these different places.” The placements tend to be in a variety of low-wage jobs at retail stores, restaurants, factories, delis, laundries, or with construction contractors; most are in the New York metropolitan region, though a number of Chinatown agencies place workers at restaurants across the country.

While they are not employers, the agencies do bear specific legal responsibilities to their clients, the workers. The fees they charge are regulated; they are bound by city and state human rights laws that prohibit discrimination; and they are forbidden from knowingly placing workers in jobs that violate wage and hour laws. In addition, agencies that place domestic workers are required by New York City law to inform workers of their employment rights and to obtain statements by employers regarding the terms of employment. The majority of agencies are registered with the New York City Department of Consumer Affairs.

Based both on our interviews and on court cases, it is clear that there are significant numbers of employment agencies that are violating regulations, often in pernicious ways. For example, agencies usually charge workers either a flat job placement fee that ranges from \$50 to \$200, or a percentage of wages amounting to one week’s pay. At some agencies, there is also an “application” or “membership” fee, which can range from \$10 to \$50. When combined, these fees can total more than allowed under New York State law, which requires that placement fees not exceed 10% of the worker’s first month’s earnings (or a slightly higher percentage if room and board are provided).

*The most troubling feature of employment agencies is that they often knowingly refer workers to jobs that violate minimum wage or overtime regulations.*

Workers also complain about other unscrupulous practices by the agencies, such as sending workers to jobs that do not exist, or sending multiple workers to the same employer, knowing that there is only one job opening – and then refusing to refund the placement fee, although they are clearly required to do so.

Despite anti-discrimination regulations, agencies will often note a workers’ gender and ask questions regarding national origin, length of time in the United States, documentation status, age, marital status, number of children and other characteristics. In interviews, several agency owners stated that this type of screening is an essential service, because employers specifically request certain types of workers. In recent investigations by the New York State Attorney General, a number of employment agencies were found to explicitly screen workers on the basis of race, and refuse to refer applicants of color to certain jobs.<sup>30</sup> One domestic worker described her experience: “If you are an immigrant from Africa, they put you through hell. I tried different agencies, but I finally got a job through Craig’s List. Any agency that you call, they put you through hell. They tell you to do this blood work [to test for HIV].”

But for the purposes of our study, the most troubling feature of employment agencies is that they often knowingly refer workers to jobs that violate minimum wage or overtime regulations. This practice has been the focus of the New York State Attorney General’s Office, in its inves-

tigation of over 40 employment agencies over the past three years; to date, 30 agencies have agreed to settlements, while an additional 10 have closed shop as a result of being investigated. In some cases, the agencies tell workers up front what their wages and hours will be, even though these constitute clear violations of minimum wage and overtime laws – we have seen reams of intake forms recording sub-minimum wage job placements. In other cases, workers are told that they will be earning well above the minimum wage, but then arrive at the job only to be told they will be paid much less. When this happens, workers often go back to the agencies to complain, but the agencies refuse to accept responsibility or give a refund, telling workers that it is up to the employers how much they pay. In the worst cases, “fly-by-night” operations close down when faced with complaints from clients, occasionally re-opening in new locations or under new names.<sup>31</sup>

## V. ECONOMIC DRIVERS AND POLICY ENABLERS

Unpacking the causes of unregulated work in New York City is clearly an enormous challenge, entailing analysis of political and economic changes far beyond the immediate borders of the city. In what follows, we offer our current understanding of some of the key forces at work, drawing on the 13 detailed industry profiles in Section VII as well as secondary sources. However, a full explanation will require significant additional research at the local, national, and even international level.<sup>32</sup>

### A. ECONOMIC DRIVERS

#### THREE DECADES OF ECONOMIC RESTRUCTURING

The story of unregulated work has unfolded against a backdrop of three decades of economic restructuring in the American labor market. Since the mid-1970s, globalization, deindustrialization, deunionization and a deteriorating social contract have reshaped how and where work is performed, and what it is paid. Throughout the U.S. economy, researchers have identified a pronounced shift in firms' competitive strategies, with growing numbers of employers focused on cutting wage and benefit costs and achieving greater flexibility in how work is organized. The symptoms of this shift are well documented. For example, the U.S. wage distribution has grown significantly more unequal; workers increasingly find themselves stuck in contingent, non-standard and low-wage jobs; employers are reducing their provision of health and pension benefits, and investing less in the skills and long-term careers of their workers.<sup>33</sup>

*“A small company is under pressure to survive, to be the low cost competitor; a big company has very ambitious goals for sales and profit margins. They have to make their numbers that Wall Street has projected. In order to do that, they have to cut corners, and squeeze workers as much as possible. Health and safety is an endemic problem. It's the same with not paying overtime.”*

In our analysis, the workplace violations that we have documented in this research project are partly a logical extension of these restructuring trends. That is, the same fundamental strategy is at work: competition based first and foremost on cutting labor costs. The difference is that this strategy is taken to the point of crossing the line into violating minimum wage, overtime, and other core laws governing the workplace. A union researcher described the link in his industry: “A small company is under pressure to survive, to be the low cost competitor; a big company has very ambitious goals for sales and profit margins. They have to make their numbers that Wall Street has projected. In order to do that, they have to cut corners, and squeeze workers as much as possible. Health and safety is an endemic problem. It's the same with not paying overtime.”

#### INDUSTRY-SPECIFIC DRIVERS

The way that economic restructuring has contributed to unregulated work in New York City differs markedly by industry. For example, international competition is clearly one of the main drivers of deteriorating working conditions in the local garment industry. Cheaper production costs overseas have meant a wave of plant closings and relocations over the past two decades. For the firms that remain, the pressure to reduce labor and production costs has become ab-

solutely intense. That pressure is passed down by retailers through a chain of contractors; the subcontractors at the bottom of the chain are typically small, non-union, and have little negotiating power relative to the large retailers and manufacturers.<sup>34</sup> The result, especially in the outer boroughs, is the type of sweatshop conditions that were historically associated with the industry, including sub-minimum wages, piece-rate work, lack of overtime, and health and safety violations. A related story holds for the food manufacturing industry, with production increasingly moving to low-wage southern states, leaving razor thin margins for the firms that remain in the city.

Most of the industries in which we have identified unregulated work, however, produce for domestic and often local consumption and are largely sheltered from international competition (see Table 3). Nevertheless, here too there has been a pronounced shift towards labor cost reduction.<sup>35</sup> In some industries, it has been a story of deunionization and the concurrent growth of low-wage business models, as in the ascent of big box stores in the retail industry and the growth of gourmet food stores and green grocers. In other cases, the entire workings of an industry have been restructured, as with the subcontracting of laundry, janitorial and security services that at this point is virtually complete in a number of industries. For example, the subcontracting of laundry work by hotels and hospitals has created an entire industry of industrial laundry contractors, in which competition on the basis of labor costs is intense. Parts of the industry have been successfully unionized, but in non-union shops, minimum wage, overtime, and health and safety laws are increasingly being violated.

In two of the jobs that we studied – home health care and subsidized child care – growing fiscal strain on public funding streams becomes an important part of the story. For example, the Medicaid funding crisis and the vagaries of program administration means that home care workers have strong incentives to seek work in the unregulated “gray market,” where job standards can easily fall below legal minimums. In a similar vein, the bulk of publicly-subsidized child care in New York City is provided by workers who take care of two or fewer children in their own homes.<sup>36</sup> The workers are paid by the city as independent contractors, based on a schedule of set reimbursement rates; depending on the hours worked and the number of children being cared for, these rates can and often do result in sub-minimum hourly wages.

And sometimes, it is simply a matter of employers taking advantage of the opportunity to pay the lowest wage they can, especially in the absence of strong enforcement. This is the case, for example, in the car wash and parking garage industries and in the residential construction sector, but becomes most pronounced in the case of one-on-one employment relationships. One of the women we interviewed reflected on how employers behave when screening domestic workers on a day labor corner: “The employers try to find out how your English is and how long you’ve been there. My first day, I admitted that it was my first day and they paid me \$7 instead of \$8. Women do get steady jobs, that’s common, but employers also don’t want to keep using the same person for too long because eventually she’ll ask for something – like a raise – and then the employer would rather hire a different person.”

## INEQUALITY AS BOTH EFFECT AND CAUSE

Another set of forces driving the growth of unregulated work stems from the growing economic polarization of major U.S. cities during the last quarter century. In these “dual cities,” a growing class of high-income, professional workers creates demand for a range of services that are provided by a growing class of low-wage and immigrant workers.<sup>37</sup> A livery cab driver we interviewed saw the contrast daily in his work: “You have people, say, 96th Street and down, making five-figure salaries, and then you’ve got people 96th Street and up, and they’re poor ... they’re like barely making it.” Domestic work, along with personal services such as nail salons, day spas, and home delivery are other clear examples. The domestic work industry in particular is structurally wired to produce substandard working conditions. Workers are alone at their worksite and must individually negotiate the terms of their employment, with no industry standards to set a floor on wages, benefits, sick days, breaks, etc. As a result, compensation and working conditions vary wildly from one family to the next; some domestic workers are able to find good jobs with decent pay; for others, the jobs are frequently in violation of one or more workplace laws.

But the “dual city” plays a second role in the story of unregulated work. The large number of low-wage and immigrant workers putting in long hours for substandard wages creates a demand for super-cheap goods and services, which in turn are often provided through unregulated work. An entire sub-economy emerges – ethnic foods and retail, dollar vans and gypsy cabs, informal child care, home-based hair salons – but the providers have limited pricing power due to the systematically low earnings of much of their customer base. It is a self-reinforcing cycle. Unregulated work creates more unregulated work, with small entrepreneurs sometimes playing a key role as the employers committing workplace violations, something not lost on one of the workers we interviewed: “A lot of the owners came and worked like this when they came here, and now they’re on top and do it to others.”

## DEUNIONIZATION

While New York City has the highest union density of any city in the country, a number of its industries have experienced significant declines in union membership over the past quarter century.<sup>38</sup> There are two ways this can translate into unregulated work. First, in industries that had high density, loss of union membership typically results in an industry-wide lowering of wage standards and working conditions. Employers compete on the basis of labor costs instead of quality services and products, lowering the wage floor toward the minimum and increasing the likelihood that some employers will go below that floor. Second, unions have historically been and continue to be key agents in enforcing employment and labor laws, actively monitoring their workplaces for adherence to wage and hour, health and safety, right to organize, and other laws. As a result, a decline in union density means a decline in workplace enforcement.



For example, New York’s restaurant industry has witnessed a steep decline in union density since the 1970s, to the point that the industry is now largely non-union and characterized by prevalent workplace violations. The city’s yellow cab industry was also once highly unionized, but was effectively deregulated and deunionized through the reclassification of drivers as independent contractors in 1979 – resulting in working conditions that are often below standards set by employment and labor laws.

Other industries remain partially unionized. In the food retail industry, supermarkets still have high density, but are facing growing competition from non-union gourmet grocers and green grocers – the latter have succeeded by tapping distinct consumer niches, but also by cutting labor costs and committing workplace violations. Unions have also retained some density in the apparel industry, but global competition has put such intense pressure on working conditions that they need to focus much of their energy simply on retaining plants in the city, and ensuring that minimum wage and overtime are being paid and that health and safety regulations are being followed.

## B. POLICY ENABLERS

### INADEQUATE GOVERNMENT ENFORCEMENT

The economic trends we have just described create strong incentives for employers already pursuing a low-wage strategy to cross the line into violating employment and labor laws. But the extent to which those laws are being enforced is an equally important determinant of the choices that employers make. Unfortunately, the U.S. is currently characterized by weak public enforcement of workplace regulations, both in terms of resources and in terms of administrative will.<sup>39</sup>

*Wage and Hour Enforcement:* In a Brennan Center analysis of data obtained under the Freedom of Information Act, we found that enforcement of wage and hour laws by the U.S. Department of Labor Department weakened over the past three decades, at the same time that the number of workers and workplaces in the country expanded. Specifically, between 1975 and 2004, the number of workplace investigators declined by 14% and the number of compliance actions completed declined by 36% – while the number of covered workers grew by 55%, and the number of covered establishments grew by 112%.<sup>40</sup> In combination, these trends indicate a significant reduction in the federal government’s capacity to ensure that employers are complying with the most basic workplace laws.

*Enforcement of wage and hour laws by the U.S. Department of Labor Department weakened over the past three decades, at the same time that the number of workers and workplaces in the country expanded.*

In New York City, primary responsibility for enforcing wage and hour laws rests with the New York State Department of Labor (NYSDOL) – although additional enforcement is conducted by the New York State Attorney General’s Office, the regional office of the U.S. Department of Labor, and the New York City Comptroller (for prevailing wage laws).

The incoming Spitzer administration has signaled that it will move the NYSDOL towards better enforcement,<sup>41</sup> but during the time period in which our research was conducted (2003-2006), the record suggests that the NYSDOL was weak in its enforcement efforts. Staffing is clearly an issue – the Department had about 100 investigators for about half a million workplaces in the state during the years of our study – as is the inherent challenge of identifying employers that are actively trying to hide evidence of their workplace violations. One of the employers we interviewed summed up the enforcement challenge this way: “How is the government going to regulate a job that doesn’t exist?”

At the same time, there have also been issues of administrative will. Analysis of agency records obtained by *Newsday* under the Freedom of Information Act shows that enforcement by the NYSDOL declined between 1996 and 2004; for example, the agency was settling workers’ claims for less than what the workers were owed, as well as failing to seek full penalties available under the law.<sup>42</sup> Additional problems are documented in a recent report by a coalition of New York community groups and legal advocates, and include: failure to investigate a full workplace when an individual complaint is received; multi-year delays in pursuing and processing claims; lack of translation services so that immigrant workers can file complaints; and in general, waiting for complaints to be filed instead of aggressively investigating low-wage industries, as has been done in other states.<sup>43</sup>

*“How is the government going to regulate a job that doesn’t exist?”*

In our interviews, disenchantment with enforcement agencies was pronounced (with the exception of the New York Attorney General’s Office, as we discuss in the next section). The head of one community group reported that his staff hadn’t gone to the state Department of Labor for years because “they are irrelevant.” A regulatory official called the state Department of Labor “a big black hole,” and a security guard summarized conditions in his industry this way: “There’s no one backing you, no government agency you can go to, so you’re at the mercy of them [the employer].”

*Workplace Health and Safety Enforcement:* Our respondents were also pessimistic about health and safety enforcement: “OSHA only shows up when the building falls down,” offered a union safety expert. While fewer data are available on the efficacy of the Occupational Safety and Health Administration (the main agency responsible for enforcement), a similar story emerges. Adequate staffing is clearly an issue: last year, there were 128 health and safety inspectors in New York State, and by one estimate, it would take 98 years for OSHA to inspect each workplace in the state once.<sup>44</sup> But lack of political and administrative will is also evident. OSHA’s budget has been cut by \$14.5 million since 2001, and at the same time, the agency has shifted resources away from enforcement and deterrence toward “compliance assistance.”<sup>45</sup> Penalties for employers who violate health and safety regulations are generally regarded as weak, and criminal sanctions are rarely pursued, even in cases where violations caused workers’ deaths.<sup>46</sup>

*Enforcement of the Right to Organize:* Researchers have also documented a marked weakening in compliance with the National Labor Relations Act over the past several decades, which has hurt unionization and, by extension, one of the key labor market institutions that helps to enforce

employment and labor laws in the workplace.<sup>47</sup> Again, several dynamics are at work. Extensive delays throughout the union election process – e.g. in the government’s investigation of retaliation and illegal firings by employers – significantly reduce the chances of successful petitions for union representation.<sup>48</sup> Authorized remedies for impacted workers are widely regarded as insufficient and among the lowest of all employment and labor laws – and the National Labor Relations Board (the main enforcement agency) rarely pursues all of the remedies that are available.<sup>49</sup> Official data show increases in both illegal and legal coercive tactics by employers throughout the second half of the last decade, and as President Clinton’s Dunlop Commission documented in the 1990s, these have had a broad chilling effect on workers.<sup>50</sup>

*Enforcement of Workers’ Compensation:* Finally, a recent study by the Fiscal Policy Institute (FPI) suggests that enforcement of workers’ compensation in New York State leaves much to be desired. The report estimates that between half a million and one million eligible New Yorkers are not receiving workers’ compensation coverage from their employers – while noting that measurement is difficult precisely because enforcement is so weak and monitoring so fragmented.<sup>51</sup> In addition, penalties for failing to carry workers’ compensation insurance are not strong enough, and while it is technically illegal to discriminate against employees for filing claims, advocates report that the Workers’ Compensation Board rarely, if ever, enforces that provision.<sup>52</sup> According to the above FPI study, enforcement is largely complaint-driven, which means that the common employer practice we identified in our fieldwork – preventing workers from filing claims in the first place – is not being addressed.

## INADEQUATE LEGAL COVERAGE AND STANDARDS

Weak enforcement of workplace laws is an obvious explanation for unregulated work, but equally important is the actual substance of those laws. Currently, U.S. employment and labor laws are inadequate in their coverage and in the standards they set, contributing to the type of systematic workplace violations documented in this report.

*Inadequate Coverage:* Several groups of workers that are legally considered employees and that are at risk of substandard working conditions are nevertheless exempted from coverage by key protections. In terms of the occupations covered in this study, the most relevant examples are the exclusion of some home care workers from federal minimum wage and overtime protections, and some domestic workers from overtime protections; the exclusion of all domestic workers from the right to organize; and the exclusion of some domestic workers and potentially some taxi cab drivers from workers’ compensation.<sup>53</sup>

Whatever the original arguments for these exemptions, they clearly no longer apply. Commenting on the home care worker exclusion from full overtime coverage, an industry expert asked, “The nature of the work might be different, but they’re still workers. Why are home health care workers different from nurses? Why should they be treated any different?” Unfortunately, recent federal policy has not moved in the direction of addressing these coverage gaps. For example, in 2004, the U.S. Department of Labor implemented hotly-contested changes

to overtime regulations that may have exempted as many as six million workers from their right to overtime pay.<sup>54</sup> Legal experts have been tracking a similar expansion of categories of excluded workers under the NLRA.<sup>55</sup>

More generally, employment and labor law is struggling to catch up with the realities of the 21st century workplace. Traditional definitions of employer and employee are increasingly being challenged by a host of non-standard employment relationships – some of which truly reflect new ways of producing goods and services, while others are the result of explicit employer strategies to evade legal obligation for their workers. But both scenarios challenge a body of law that was put into place more than a half a century ago and that was built around straightforward, long-term employment relationships (one worker, one employer, one workplace).

In short, the ambiguous legal status or wholesale exclusion of subcontracted workers, independent contractors, temporary workers, and day laborers is one of the central factors opening the door to conditions of work that fall below the standards established by law. We currently do not have the data that would allow us to fully estimate the number of workers either directly or indirectly affected by this disintegration of the traditional employment relationship.<sup>56</sup> And we should be clear that a majority of front-line workers are in fact fully covered by all employment and labor laws, and nevertheless experience workplace violations.

*“We cannot get anything but the little fish. Often times the big fish, the ones really improving their profit margins by hiring these workers, are untouchable because they are not hiring directly.”*

Still, the trend line is clear: growing numbers of employers are creating legal distance between themselves and their employees by using strategies such as subcontracting that are largely legal under current law. One of the lawyers that we interviewed talked about how complex contracting chains were derailing his efforts to bring unpaid wage claims on behalf of his clients: “We cannot get anything but the little fish. Often times the big fish, the ones really improving their profit margins by hiring these workers, are untouchable because they are not hiring directly.”

*Inadequate Standards:* The impact of employment and labor laws in the workplace is also weakened by inadequate standards. For example, the steep decline of the minimum wage over the past three decades has created strong incentives for employers to subcontract or temp out their work to outside low-wage bidders, in order to gain the benefits of the falling wage floor while at the same time protecting the firm’s core wage structure.<sup>57</sup> But as we have seen repeatedly in this report, subcontracting and other forms of externalization often set into motion a race to the bottom that in the end can result in violations of employment and labor laws.

In a similar vein, health and safety experts point out that OSHA regulations for many occupations were written in the 1970s and have not since been updated for new hazards, machines and chemicals.<sup>58</sup> In particular, service sector workers are today exposed to a range of hazards that are either inadequately covered by OSHA regulations or not at all (e.g., workplace violence, new infectious disease, musculoskeletal disorders). Recent administrative actions have not helped. During its first term, the Bush Administration repealed newly-crafted ergonomics standards,

even though musculoskeletal disorders accounted for one-third of all workplace injuries in 2004.<sup>59</sup> And the Occupational Safety and Health Administration still has not made clear that employers must pay for the protective equipment that is mandated under law.<sup>60</sup>

Inadequate standards are also undermining the right to organize. In the analysis of legal experts, the root of the problem is that the NLRA does not adequately account for the power imbalance between employers and employees.<sup>61</sup> For example, although the NLRA technically prohibits employers from threatening employees about the repercussions of unionization, under current interpretations of the law, the definition of “threat” is quite narrow. As a result, employers are able to reframe threats, stating them as predictions about what might happen if employees were to unionize.<sup>62</sup> The law also permits employers to hold mandatory anti-union meetings, to control the agenda of these meetings, and to designate the attendees, without giving similar access to organizers – an imbalance that Human Rights Watch has concluded is deeply problematic.<sup>63</sup>

## DYSFUNCTIONAL IMMIGRATION POLICY

Throughout New York City’s economy, it is immigrant workers – both documented and undocumented – that bear the brunt of workplace violations, even though they are covered by most employment and labor laws. “The minimum wage is an abstract idea for immigrants. It’s for Americans working at McDonald’s, Burger King, Wal-Mart or Kmart,” assessed a long-time reporter for a local ethnic newspaper.

From the standpoint of our research project, the important insight is that the labor market power of immigrants is profoundly shaped by U.S. immigration laws, which at this point are widely recognized as outdated, incoherent, and dysfunctional, on the one hand effectively allowing workers into the country through loose enforcement policies while on the other denying many of them legal status. Even employers are fed up with the system: “We are doing things illegally that we don’t want to be,” reports a restaurant employer.

*“We are doing things illegally that we don’t want to be,” reports a restaurant employer.*

In particular, the Immigration Reform and Control Act (IRCA) of 1986 marked a turning point in the role of immigrants in the labor market, with the implementation of employer-based document verification, employer sanctions, and the heightened threat of raids and deportations by immigration authorities. IRCA created incentives for employers to use cash payment, subcontractors, employee status misclassification and other strategies in order to escape liability for hiring undocumented workers. It also formally criminalized lack of documents in the workplace, which increased the power of employers over their undocumented workers. Specifically, undocumented workers were illegal in the eyes of the law, but employers were rarely punished for hiring them. As a result, employers could threaten to report workers and their families to immigration authorities if anyone complained about working conditions, with a very real likelihood that deportation would result. Employers could also more safely fire undocumented workers who complained or tried to organize – while retaliatory firing is illegal, employers could argue that they were simply complying with IRCA’s ban on hiring undocumented workers.<sup>64</sup>

The upshot is that lack of documentation severely constrains the ability of workers to assert their core rights in the workplace. “Employers prefer to hire undocumented workers because the law is never enforced – employer sanctions give them all the power,” observed a seasoned organizer in the immigrant community.

With a very rough estimate of 400,000 undocumented workers in New York City, there are plenty of opportunities for unscrupulous employers to cross the line into violating employment and labor laws.<sup>65</sup> In our fieldwork, the effect was played out daily: lack of legal documents was a constant (though by no means only) factor stripping immigrant workers of the power to dictate terms of employment, never mind seek recourse when workplace laws were being violated. In interview after interview, we heard about the vulnerability of not having legal status, and in particular, the pervasiveness of employers’ threats exploiting that vulnerability. A legal services lawyer observed of the retail industry: “Since a lot of the workforce is undocumented, the bosses use a lot of intimidation techniques. They threaten to call immigration, not on the workers, but on the family members. Even when people are citizens they threaten to call immigration.”

Another common refrain was that the opportunities for intimidation are exacerbated by lack of information and misconceptions about immigrant worker rights. “They think their bosses know a lot about immigration law, and take for face value whatever the boss says. For example, the boss can tell them that they have no immigration rights if they are undocumented, and the workers believe them automatically,” observed a service provider working in immigrant communities.

*“It makes me feel like I am a slave just because I am undocumented. It makes me feel like a machine, and I am not a machine.”*

Moreover, we found that green cards and even U.S. citizenship did not necessarily guarantee immunity from workplace violations. Sectors such as construction, grocery stores, manufacturing and restaurants generate large numbers of entry-level and less-skilled jobs in urban economies and are the mainstay of employment for new arrivals. As a result, documented workers can end up having to take unregulated jobs – “even if they have documents they get half of the payments that they should receive,” reports a service provider – though they are less likely to get stuck in them over the long term.

But it is the voices of workers that are the strongest in speaking to the pernicious impact of a dysfunctional immigration system on their ability to assert basic rights in the workplace. In one of our focus groups, a Philippina domestic worker recounted her experience without documentation: “My options were limited, my priorities were very clear: support my children, give them a better future, and then to support myself. My only realistic option was to work, and work meant anything that the system will allow. If you don’t have work authorization you can’t find things – even if you have education and skill. So that’s how Philipinos become domestic workers here. It’s not a choice. It’s not the best option for us but you do it to survive and to support our families.”

Another worker said simply, “It makes me feel like I am a slave just because I am undocumented. It makes me feel like a machine, and I am not a machine.”

## VI. FULFILLING THE PROMISE OF WORKPLACE PROTECTIONS: PRINCIPLES FOR PUBLIC POLICY

Our research has described a world of work in which the core protections that many of us take for granted – the right to be paid at least the minimum wage, the right to be paid for overtime hours, the right to take meal breaks, the right to a safe workplace, the right to organize to improve working conditions – are not provided. And while we do not yet have hard data on prevalence, our industry case studies from Section VII suggest that these work practices are becoming more common and more entrenched in New York City’s low-wage labor market. The sheer breadth of the problem, spanning more than a dozen industries at the core of the city’s economy, as well as its profound impact on workers, entailing significant economic, emotional and physical hardship, are a call to action.

New York City is not alone. Across the country, community groups, legal advocates and regulatory officials are beginning to document the spread of workplace violations – in tomato farms in Florida, poultry processing plants in the Midwest, hotels in Los Angeles, nursing homes in Dallas, restaurants in Chicago, child day care in Kansas City, gas stations in Minneapolis, and construction in almost every town and city where there are day labor corners.<sup>66</sup>

What, then, can be done? Our starting point is that everyone has a stake in addressing the problem of unregulated work. When impacted workers and their families struggle in poverty and constant economic insecurity, the strength and resiliency of local communities suffer. When unscrupulous employers evade or violate core laws governing the workplace, responsible employers are forced to compete against subminimum wages or cost-cutting on worker safety, setting off a race to the bottom that threatens to bring down standards throughout the labor market. And when significant numbers of workers are underpaid, vital tax revenues are lost.

*Everyone has a stake in addressing the problem of unregulated work.*

In short, public policy has a fundamental role to play in protecting the rights and lives of workers. Drawing on our own fieldwork as well as research in other parts of the country, we have identified three principles that should drive the development of a strong public policy agenda at the federal, state and local levels.

### PRINCIPLE 1. STRENGTHEN GOVERNMENT’S ENFORCEMENT OF EMPLOYMENT AND LABOR LAWS

Government enforcement is one of the cornerstones of any viable response to unregulated work. While enforcement efforts at both the federal and state level have weakened in recent years, public policy must recognize the significant resources and power that reside with the various agencies responsible for enforcing wage and hour, health and safety, prevailing wage, anti-discrimination, taxation, and right to organize laws. Tapping the often unrealized potential of these agencies will require additional funding to increase staffing, but even more important, a new set of strategies to address the reality that workplace violations are becoming standard practice in parts of our low-wage industries.<sup>67</sup> Government enforcement agencies should:

- *Move toward proactive, “investigation-driven” enforcement in low-wage industries, rather than waiting for complaints to come in.* Simply relying on workers to come forward with cases of violations is not enough; the threat of employer retaliation is simply too real to depend on individual workers to carry the weight. This means that enforcement agencies need to take the initiative, identifying industries where workplace violations are systemic and conducting strategic, repeated, and unannounced workplace audits so that there is a tangible likelihood of inspection. The goal is to send industry-wide signals that the government will pursue violations, even if workers are dissuaded from filing complaints. We have good models to draw on at both the federal and state level, and from the work of the New York Attorney General during the past several years (See Resources below).
- *Establish relationships with community groups and other stakeholders, drawing on local expertise about industry violations and effective strategies for worker outreach.* Even with increases in staffing, government alone will never have enough resources or expertise to monitor each and every workplace in the country. One important way to increase the reach and effectiveness of enforcement is to partner with immigrant worker centers, unions, service providers and other community groups, as well as responsible employers that understand the need to ensure full compliance in their industry. Such partnerships can deliver vital information about common employer evasion strategies and where workplace violations are most concentrated, as well as access to established networks for outreach and public education.
- *Strengthen penalties for violating worker protection laws:* For many workplace laws, the penalties for violations are so modest that some employers might easily calculate, for example, that the gains from paying less than the minimum wage outweigh the costs of getting caught. In any enforcement system, strong penalties are an important component of achieving broad compliance, and workplace laws are no exception. Where violations of wage and hour laws, health and safety regulations, and other legal standards occur, penalties should both be strengthened, as well as fully pursued by enforcement agencies.

## PRINCIPLE 2: UPDATE LEGAL STANDARDS FOR THE 21<sup>ST</sup> CENTURY WORKPLACE

Strong enforcement is important, but so are legal standards that recognize the changing nature of work and production in the United States. In the previous section, we described how legal standards set down by employment and labor laws have weakened over the past several decades and have failed to cover key groups of workers at risk of substandard working conditions. The good news is that we know what needs to be fixed, based on several decades of research, legal analysis, and litigation in the courts. Specifically, changes are needed on two fronts:

- *Strengthen legal standards:* Weak standards in employment and labor law send the wrong signal, opening the door to low-road business strategies to cut labor costs: when the bar is set too low, the incentive is to ratchet down to it. Raising the minimum wage, updating



health and safety standards, expanding overtime coverage, and strengthening the right of workers to organize – all are key improvements that will raise compliance in the workplace and improve the competitive position of employers who play by the rules.

- *Strengthen the ability to hold employers responsible for their workers:* Employment and labor laws must be updated when unscrupulous employers devise new strategies for evading their legal obligations. Several such strategies are now wide-spread: for example, misclassifying workers as independent contractors and subcontracting work out to fly-by-night operators who break the law. But there are in fact viable legal fixes to ensure that workers who are truly employees are recognized as such under law, and that employers are held responsible for the workplace standards that they control – especially in cases where subcontracting is being used as an evasion strategy. In addition, some employers continue to exploit “coverage gaps” that are legacies of historical exclusions of certain workers from protection (for example, certain home care and domestic workers are not covered by federal overtime laws); these gaps must be closed once and for all.

*Weak standards in employment and labor law send the wrong signal, opening the door to low-road business strategies to cut labor costs: when the bar is set too low, the incentive is to ratchet down to it.*

### PRINCIPLE 3: ESTABLISH EQUAL STATUS FOR IMMIGRANTS IN THE WORKPLACE

The best inoculation against workplace violations is workers who know their rights, have full status under the law to assert them, have access to sufficient legal resources, and do not fear exposure or retaliation when bringing claims against their employers. Achieving this type of strong standing for workers has always been a challenge – but for undocumented immigrant workers, it can be a near impossibility. As one of our respondents bluntly put it, “What needs to change is immigration policy.” While on paper, undocumented workers are covered by most employment and labor laws, in practice, they are effectively disenfranchised in the workplace, by lack of documentation, fear of discovery, and many employers’ willingness to exploit that vulnerability. Any policy initiative to reduce workplace violations must confront this basic truth, and act on two fronts:<sup>68</sup>

- *Prioritize equal protection and equal status in national immigration reform:* Whichever model is ultimately adopted in the drive to reform our immigration policy, a guiding principle must be that immigrant workers have equal protection and equal status in the workplace.<sup>69</sup> This means ensuring the same full protection and remedies under employment and labor laws that U.S.-born workers have – regardless of immigration or admission status. It also means thinking hard about how to deliver equal status in the workplace, beyond simply writing in full coverage under workplace laws. This question lies at the heart of the debate over guest worker programs: whether workers bound by time-limited guest worker visas can have the same bargaining power as U.S.-born workers who are free to shop the labor market, even with the same rights under law. Our research was not designed to answer this question. But it does suggest how absolutely central the status question is, given the extreme imbalances of power that we observed in immigrant workplaces throughout the city

and the readiness of many low-wage employers to turn any point of vulnerability, no matter how tenuous, to their advantage.

- *Protect immigrant workers from retaliation:* Even short of comprehensive immigration reform, there is much that government enforcement agencies can do to lessen the fear of retaliation for documented and undocumented workers alike. Agencies enforcing minimum wage, prevailing wage, overtime, and other workplace laws can and should create a firewall between themselves and immigration agencies, so that workers do not fear deportation when bringing a wage claim. Agencies should also provide guarantees that immigration status will not be gathered when a worker files a case, or if gathered, will be kept confidential. Workers should be allowed to have community-based organizations or unions file wage claims on their behalf. Government agencies should make a central commitment to translating all materials and providing multi-lingual staff, as one more means of reducing barriers to workers already facing them on numerous fronts. Immigrant workers should have access to legal services lawyers and those lawyers, in turn, should be permitted to use the full range of legal tools to achieve fair results for their clients.<sup>70</sup> And most important, all workers, regardless of immigration status, must be entitled to the full remedies available under law when bringing claims of workplace violations.<sup>71</sup>

## GOING LOCAL

The complexity of the forces driving and shaping unregulated work can seem overwhelming, and the three areas of policy reform that we just outlined require movement by many actors outside the boundaries of our city.

The good news is local strategies are just as important. New York City is home to a broad array of organizations on the ground – immigrant worker centers, unions, legal services providers, social service providers, churches, and other community groups – that have deep relationships in impacted communities and that have the ability to raise and address the problem of workplace violations. Some may not yet see themselves as focusing on this issue, but with training and education would be able to help in outreach and linking clients with legal resources. Others are already squarely focused on rights in the workplace. Unions in particular have long used monitoring of employer compliance with workplace laws as one of their key strategies for protecting standards (accounting for the low prevalence of violations in unionized sectors in our research).<sup>72</sup> The fact that the city has high union density in a range of sectors – especially service industries – constitutes an important resource for enforcement, and an important source of knowledge for policy makers.

More recently, the city has seen a thriving movement of immigrant worker centers that have built up considerable expertise in uncovering and combating unregulated work. While quite varied, these centers share a common focus on organizing low-wage immigrant workers – typically in industries where unions do not have a strong presence – as well as policy advocacy and service provision.<sup>73</sup> Like unions, worker centers can and should be a key resource for govern-

ment enforcement efforts, providing much-needed information about industry dynamics and employer evasion tactics, as well as networks of workers who are often inaccessible to officials.

As important, local worker centers are building their own strategies and organizing base to address unregulated work, and more broadly, to win improvements in the workplace beyond what the law currently requires. These strategies are often honed to the particular industries and occupations represented by their members. For example, organizations such as the Latin American Workers Project have created community-run day labor centers as a strategy for bringing structure and worker voice to the residential construction industry. The umbrella group Domestic Workers United has developed state-level legislation to set standards for wages and working conditions, which the industry currently lacks. The Restaurant Opportunities Center of New York has worked with its members to win substantial settlements in back wages, targeting high-profile restauranteurs who drive standards for the industry. The Taxi Workers Alliance, an association of yellow cab drivers, has used advocacy and strong organizing to ensure that decisions made by the industry's regulatory body (the Taxi and Limousine Commission) benefit workers. And Make the Road by Walking, a community group in Brooklyn, has forged an alliance with the city's retail union to target and organize discount stores and supermarkets that violate workplace laws. With a mix of industry analysis, public advocacy and sustained organizing, these and other worker centers are steadily bringing the problem of workplace violations into the public arena. (See Resources below for a fuller listing of worker centers and legal advocates.)

Finally, city government has an important leadership role to play, by sending the signal that unregulated work is not tolerated in New York. The City can harness its extensive network of service providers to deliver ongoing public outreach and education about rights in the workplace. It can fund community groups and legal services providers to increase the resources available to workers with wage claims. It can continue to ensure that city agencies do not inquire about or disclose the immigration status of New Yorkers who come into contact with city government. It can support the creation of more day labor centers; it can crack down on exploitative employment agencies; it can work with advocates to educate low-wage employers about their legal responsibilities, as it has started to do in the restaurant industry; it can rigorously inspect safety on construction sites to identify irresponsible contractors; and of course, it should rigorously enforce the prevailing wage and living wage laws under its jurisdiction.<sup>74</sup>

New York City has always found ways to adapt during eras of fundamental shifts in the economy, and after a decades-long struggle to emerge from the fiscal crisis of the 1970s, we now sit at the cusp of sustained growth. Yet the working conditions described in this report force the question: will the city's resurgence be built on a set of workplace practices that violate not only the letter of the law, but also our most basic principles of equality, dignity and justice? In the voices of the workers, organizers, legal advocates and other stakeholders that we interviewed over the past three years, we heard the hope and conviction that our city can, and must, do better.

*The working conditions described in this report force the question: will the city's resurgence be built on a set of workplace practices that violate not only the letter of the law, but also our most basic principles of equality, dignity and justice?*

# RESOURCES

## RESOURCES FOR WORKERS

### Organizations in New York City Focusing on Immigrant Worker Rights:

African Services Committee: [www.africanservices.org](http://www.africanservices.org)  
Andolan Organizing South Asian Workers: [www.andolan.net](http://www.andolan.net)  
Asociación Tepeyac: [www.tepeyac.org](http://www.tepeyac.org)  
CAAAV Organizing Asian Communities: [www.caaav.org](http://www.caaav.org)  
Chinese Staff and Workers' Association: [www.cswa.org](http://www.cswa.org)  
Damayan Migrant Workers Association: [www.damayanmigrants.org](http://www.damayanmigrants.org)  
Domestic Workers United: [www.domesticworkersunited.org](http://www.domesticworkersunited.org)  
Fifth Avenue Committee: [www.fifthave.org](http://www.fifthave.org)  
Filipino Workers Center  
Haitian Women for Haitian Refugees  
Latin American Integration Center: [www.laicnyc.org](http://www.laicnyc.org)  
Latin American Workers Project: [www.ndlon.org/contactinfo/ptla.htm](http://www.ndlon.org/contactinfo/ptla.htm)  
Make the Road by Walking: [www.maketheroad.org](http://www.maketheroad.org)  
New York Committee for Occupational Safety and Health: [www.nycosh.org](http://www.nycosh.org)  
New York Taxi Workers Alliance: [socialjustice.ccnmtl.columbia.edu/index.php/Taxi\\_Workers\\_Alliance](http://socialjustice.ccnmtl.columbia.edu/index.php/Taxi_Workers_Alliance)  
Northern Manhattan Coalition for Immigrant Rights: [www.nmcir.org](http://www.nmcir.org)  
Project Hospitality: [www.projecthospitality.org](http://www.projecthospitality.org)  
Restaurant Opportunities Center of New York (ROC-NY): [www.rocny.org](http://www.rocny.org)  
Workers' AWAAZ  
YKASEC – Empowering the Korean American Community: [www.ykasec.org](http://www.ykasec.org)

### Legal Services Providers in New York City:

Asian American Legal Defense and Education Fund: [www.aaldef.org](http://www.aaldef.org)  
Immigrant Opportunities Initiative (contact New York Immigration Coalition): [www.thenyic.org](http://www.thenyic.org)  
Legal Aid Society of New York: [www.legal-aid.org](http://www.legal-aid.org)  
Legal Services of New York: [www.lsnyc.org](http://www.lsnyc.org)  
Lenox Hill Neighborhood House, Workers' Rights Project: [www.lenoxhill.org](http://www.lenoxhill.org)  
MFY Legal Services: [www.mfy.org](http://www.mfy.org)  
New York Legal Assistance Group: [www.nylag.org](http://www.nylag.org)  
NYU Immigrant Rights Clinic: [www.law.nyu.edu/clinics/year/immigrant](http://www.law.nyu.edu/clinics/year/immigrant)  
Puerto Rican Legal Defense and Education Fund: [www.prldf.org](http://www.prldf.org)  
Urban Justice Center: [www.urbanjustice.org](http://www.urbanjustice.org)  
LawHelp.org (central site for locating a legal services provider): [www.lawhelp.org/NY](http://www.lawhelp.org/NY)

### Enforcement Agencies:

New York State Department of Labor: [www.labor.state.ny.us](http://www.labor.state.ny.us)  
New York State Attorney General, Labor Bureau: [www.oag.state.ny.us/labor/index.html](http://www.oag.state.ny.us/labor/index.html)  
New York State Attorney General, Civil Rights Bureau: [www.oag.state.ny.us/civilrights/civil\\_rights.html](http://www.oag.state.ny.us/civilrights/civil_rights.html)  
New York City Office of the Comptroller: [www.comptroller.nyc.gov](http://www.comptroller.nyc.gov)  
U.S. Department of Labor, Wage and Hour Division, New York City District Office: [www.dol.gov/dol/audience/aud-workers.htm](http://www.dol.gov/dol/audience/aud-workers.htm)  
U.S. Department of Labor, Occupational Safety & Health Administration: [www.osha.gov/as/opa/worker/index.html](http://www.osha.gov/as/opa/worker/index.html)

## POLICY RESOURCES

*Protecting New York's Workers: How the State Department of Labor Can Improve Wage-and-Hour Enforcement:*  
[www.brennancenter.org/nysdolreform.html](http://www.brennancenter.org/nysdolreform.html)

*Holding the Wage Floor: Enforcement of Wage and Hour Standards for Low-Wage Workers in an Era of Government Inaction and Employer Unaccountability* (National Employment Law Project):  
[www.nelp.org/docUploads/Holding%20the%20Wage%20Floor%202Epdf](http://www.nelp.org/docUploads/Holding%20the%20Wage%20Floor%202Epdf)

*More Harm Than Good: Responding to States' Misguided Efforts to Regulate Immigration* (National Employment Law Project):  
[www.nelp.org/docUploads/More%20Harm%20than%20Good%20final%2020020807%2Epdf](http://www.nelp.org/docUploads/More%20Harm%20than%20Good%20final%2020020807%2Epdf)

*Enforcing the Minimum Wage for Working Families: A Conference on New Strategies for Communities and Government* (Convened by the National Employment Law Project and the Brennan Center for Justice):

[www.nelp.org/docUploads/wage%20conference%20summary%2Epdf](http://www.nelp.org/docUploads/wage%20conference%20summary%2Epdf)

*Trends in Wage and Hour Enforcement by the U.S. Department of Labor, 1975-2004* (Brennan Center for Justice):  
[www.brennancenter.org/nysdolreform.html](http://www.brennancenter.org/nysdolreform.html)

National Map of Worker Centers (by Janice Fine):  
[www.cornellpress.cornell.edu/catalog/fine-map\\_imdens.pdf](http://www.cornellpress.cornell.edu/catalog/fine-map_imdens.pdf)

## A. UNREGULATED WORK IN THE GROCERY AND SUPERMARKET INDUSTRY IN NEW YORK CITY

The food retail industry is one of the cornerstones of New York City's economy, employing more than 60,000 workers. Unionized supermarkets once dominated the industry, but are losing ground to a slew of non-union competitors – including gourmet grocers, health food stores, green grocers, big box stores, and drug stores that increasingly sell food items. The result has been a slow but steady deterioration in wages and benefits over time. Today, grocery stores and non-union supermarkets create some of the most unregulated jobs found in our study. Cashiers, stocking clerks, food preparers, baggers, produce cleaners and delivery drivers routinely put in 60 hours a week or more, at minimum or sub-minimum wages, with few if any benefits – even in the stores with the most expensive luxury foods.

### HOW THE INDUSTRY WORKS

The grocery and supermarket industry is divided into three main segments:

1. **Green grocers, bodegas & delis** sell fresh produce, dry and prepared foods, and household items. They are small stores and often family-run.
2. **Gourmet grocers** are the fastest-growing industry segment and are defined by luxury products (including health food and organic food) and a high-income consumer base. Stores are mid-sized and often owned by chains, although some have independent owners.
3. **Supermarkets** are larger, carry a wider range of products, and are often owned by chains. Historically, this segment has had higher union density and job quality, though both have been declining because of non-union competition.

Wages and working conditions vary by industry segment and by the degree of unionization. The most unregulated stores are green grocers, bodegas and delis – margins are razor thin, wages are low, and workplace violations are chronic. Gourmet grocery stores have high prices and

bigger profit margins, but labor costs are nevertheless kept quite low and workplace violations are common. Supermarkets, by contrast, have more formalized employment relationships, but there is a significant split between union and non-union stores in wages and benefits. To the extent that workplace violations occur, they are concentrated in non-union stores.

Overall, the industry has become highly competitive, and profit margins are close to 1% for most segments, exacerbated by rising rents. Unionized supermarkets have maintained higher density than in other cities, but are under such intense competitive pressure that annual earnings in the city's food retail industry declined by 9% during the 1990s, while earnings for the private sector as a whole grew by 35%.

### THE WORKERS & MOBILITY

Immigrants make up about two-thirds of the workforce, and increasingly hail from Latin America and especially Mexico. Many find jobs through friends and family already working in a store that is hiring. But some employers advertise in ethnic newspapers, and green grocers frequently hire workers through storefront employment agencies. Bodegas rely heavily on family members, who put in very long shifts.

In our interviews, non-union grocery jobs were widely considered the least desirable of employment options. While the jobs are easy to get, requiring little English or previous training, they are exploitative and dead-end (“There's only one type of job,” as a bodega owner put it). Turnover is high across all segments, although workers may stay in the industry for several years because there are few alternatives. Workers aspire to construction and restaurant jobs, where conditions are just as hard but pay is marginally better. The one concrete opportunity for mobility is to land a unionized supermarket job, with better wages and benefits and annual raises; but demand for the jobs exceeds supply.

## JOB QUALITY & WORKPLACE VIOLATIONS

As summarized in Table A, workplace violations are common in non-union stores. The “going rate” for many grocery jobs is \$250-\$300 per week, for 60 or more hours of work, easily dropping hourly wages below the minimum. This wage standard is so widely accepted that employers are convinced they cannot pay the minimum wage and still stay in business. Some occupations earn even less (food preparers), and baggers and delivery workers are often paid only in tips. Workers are generally paid in cash, with poor record keeping. Overtime is almost never paid (the same flat weekly rate applies, no matter what the hours), and breaks are erratic and sometimes not given at all. A recent suit against a Brooklyn supermarket is illustrative. Nine baggers charged that they were being paid only in tips, earning as little as \$100 a week for 50-66 hours of work (Confessore 2006).

Subcontracting also plays a role in driving down workplace standards in this industry. Medium-sized stores often contract out janitorial and delivery jobs, and workers in these jobs tend to experience the worst violations.

- *Delivery workers* (mainly African immigrant men) are often hired via informal subcontractors who routinely violate employment and labor laws. Workers are not given meal breaks and face arduous working condi-

tions, especially in the winter. They are paid about \$75 per week and depend on tips, which are unstable and vary widely. In the words of one deliveryman: “If you are working in an area like Park Avenue, then you don’t get tips. Sometimes you just see the doorman, but even if you see the people, they still don’t give you anything. It’s rich people, they don’t give it.”

- *Janitors* (mainly Latino immigrant men), are often hired via informal janitorial contractors to clean smaller, “working-class” supermarkets overnight, between 8 p.m. and 8 a.m. The pay is \$55 per night; employers do not keep track of hours, although the workers generally put in 60-70 hours per week at different sites. Contractors may pay only a portion of wages due to the workers, and sometimes do not pay at all.

Finally, workers report discrimination based on complex hierarchies of ethnicity, as well as retaliation for organizing or complaining about working conditions. Still, in response to an increasing number of wage and hour claims being filed against green grocers, the New York State Attorney General led an initiative to establish a “Greengrocer Code of Conduct” in 2002. In signing the code of conduct, employers agreed to pay the minimum wage and follow overtime regulations, in exchange for having prior violations dropped (see Section VI for more details).

TABLE A.  
CHARACTERISTICS OF UNREGULATED WORK IN THE GROCERY & SUPERMARKET INDUSTRY  
IN NEW YORK CITY

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations are found in: 1. Green grocery stores, bodegas and delis (violations are prevalent). 2. Gourmet grocers/health food stores (violations are frequent). 3. Non-union supermarkets (common violations in some occupations).
Ownership and size	Most green groceries, bodegas and delis are independent, immigrant-owned stores with a half dozen employees or less. Gourmet grocery stores are usually part of local chains, and can have 20 or more employees. Non-union supermarkets are typically part of medium and even large chains, with a few publicly traded.
Union density	No union density in green groceries and gourmet stores. Union density in supermarkets has historically been strong but is declining.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	Occupations most impacted include cashiers, stock clerks, deli counter workers, food preparers, delivery workers, janitors, baggers, produce washers/watchers, and flower-arrangers.
Typical wages	<b>Green grocery, bodega, and deli workers:</b> \$250-300 per week is typical. Produce washers and food preparers earn between \$4 and \$5 per hour. <b>Gourmet grocery workers:</b> Floor workers typically earn between \$6 and \$7 per hour, but can earn up to \$9. <b>Non-union supermarket workers:</b> Weekly wages average around \$350 a week; baggers earn from \$150-\$200 (paid in tips only). Subcontracted delivery workers earn weekly wages of \$75 plus variable tips up to \$100, and subcontracted janitors earn \$55 for a night shift of 12 hours.
Typical hours	Hours average 55-75 hours per week in green grocery stores; 40-60 hours per week in gourmet grocery stores; and 40-60 hours per week in non-union supermarkets.
Payment method	Workers are largely paid in cash at green grocery stores, with the exception of occasional cashiers and family members of the owners. Gourmet grocers and supermarkets generally pay on the books, though at least a few workers are always paid in cash.
Benefits	Health benefits and vacation and sick days are rare in non-union stores.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Workforce is almost exclusively immigrant, from Mexico, Central America, Korea, Africa, the Caribbean, and South Asia. Delivery workers are mostly African immigrants. With the exception of cashier jobs, most occupations are male dominated. Ages range from the teens through the 40s.
Immigration status	Green grocery and delivery workers are often undocumented. Some undocumented workers in gourmet grocery stores and supermarkets.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Storefront employment agencies are frequently used, especially for off-the-books jobs, charging the workers \$100-\$300 per placement, or \$10 for a day job.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
Workers are generally covered by all employment rights and regulations. In addition, the New York State 2007 minimum wage for tipped employees such as delivery drivers is \$5.40 or \$6.05 an hour (depending on the weekly tip average), but if a worker's combined wages and tips do not at least equal the regular state minimum of \$7.15 per hour, the employer must make up the difference. In 2002, the New York Attorney General established a "Greengrocer Code of Conduct," in which signatory grocers agreed to comply with employment and labor laws, and be monitored for compliance.	

## COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p><b>Minimum wage:</b> Violations are pervasive in green grocery stores, bodegas and delis. Workers commonly put in 60-72 hours per week, often resulting in hourly wages below the minimum. For example, a worker paid \$300 per week for 60 hours will earn \$5 per hour (without considering time-and-a-half-pay for overtime hours). The worst jobs can be paid as little as \$2.50 an hour. Similar violations are found in gourmet stores, but are somewhat less pervasive. Violations in non-union supermarkets are concentrated in the most vulnerable occupations (baggers, delivery workers).</p> <p><b>Overtime:</b> Green grocery stores rarely pay overtime. Gourmet grocery stores may selectively pay overtime (e.g. after six months, or for more skilled workers). Non-union supermarkets often violate overtime laws for baggers and delivery workers.</p>
Non-payment of wages	Non-payment is rare in most occupations, with the exception of subcontracted workers (janitors and delivery workers).
Meal breaks	Meal breaks are erratic, and green grocery workers in particular can work up to 14-hour days without a meal break. Delivery workers typically do not get meal breaks and have to eat on the job.
Employer taxes	When employers pay in cash, they very rarely pay required taxes.
OSHA	Chemical and pesticide exposure is a serious issue for workers handling sprayed produce, with few safeguards or training by employers. Stockers do not receive mandated training on lifting and moving.
Workers' Compensation	Smaller employers do not carry workers' compensation, and across segments, workers rarely receive it when injured on the job.
Discrimination	Workers report hiring, firing and promotion based on immigration status, ethnicity and relationship to owner, as well as harassment based on immigration status.
Retaliation & the right to organize	Workers report being threatened, intimidated and fired for bringing complaints or attempting to organize.

*Note: All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from late 2003-early 2005.*

*Sources: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Bodie (2003), Bodie (2004), Confessore (2006), Diamond (2004), Greenhouse (2002), Greenhouse (2004d), Greenhouse (2007b), Howell (2003), Janoff (2000), New York Jobs with Justice and Queens College Labor Resource Center (2005), New York State Department of Labor (2007b), New York State Department of Labor (2007c), Office of the New York State Attorney General (2005b), Romano (2006), US Department of Labor (2006f), US Department of Labor (2006g), US Department of Labor (2006h).*



## B. UNREGULATED WORK IN THE RETAIL INDUSTRY IN NEW YORK CITY

The retail industry in New York City is one of the most important sources of employment for workers without college degrees, with about 250,000 employees (not including food stores). But as in other cities, retail is also a chronically low-wage, no-benefits industry, plagued by high turnover and part-time jobs. And in some industry segments, wages are increasingly dropping below the legal minimum.

This was not always the case. Thirty years ago, the retail industry was dominated by department stores with relatively high unionization rates. But with the decline of department stores, unionization has declined as well, to the point that it currently affects only a small segment of the industry. Instead, “big box” stores are flattening out the industry’s wage structure across the country. New York City has experienced some of this trend, but has also uniquely retained a host of independent stores. As a result, ownership structures and store formats run the gamut from small family-owned stores, to local chains of 10-20 stores, to major national chains.

### INDUSTRY SEGMENTS WITH VIOLATIONS

We found the most evidence of workplace violations in the discount merchandise and “ethnic retail” segments. Discount stores – convenience stores, 99-cent stores, jewelry stores, beauty supply stores, clothing stores, electronics stores, flower stores – sell a range of cheap goods, relying on volume to generate sales and sometimes on the sale of counterfeit products. While many are independently owned, increasingly local chains own up to 30 stores across the city, including the all-pervasive 99-cent stores. The geography of discount retail is changing as well, having migrated to low-income neighborhoods in high concentrations (such as 125th and 145th Streets in Harlem, the Fulton Street Mall and Knickerbocker Avenue in Brooklyn, and Fordham Road in the Bronx).

Ethnic retail is an overlapping industry segment which is spread throughout the five boroughs. For example, South Asian retail in Jackson Heights and scores of small businesses in Chinatown operate in the informal cash economy, selling everything from appliances to traditional wedding dresses and religious items. These stores offer products demanded by immigrants but not sold elsewhere, and, like discount stores, offer convenience in terms of their location. The majority of workers are immigrants, and many of the entrepreneurs running these businesses with razor-thin margins are immigrants as well.

To a lesser degree, we also found workplace violations in drug stores and national chain stores. Here, violations take different forms because of the national corporate chain structure and standardized human resource practices (see below).

### THE WORKERS & MOBILITY

The city’s retail workforce is disproportionately Latino and African American. The latter are more likely to be hired in national chain stores, including drug stores. But in low-end retail outlets, it is predominantly immigrant men that are hired – for example, by the open street-level stores that hire African and Arab men on a daily basis for security. (According to one of our respondents, the job needs “hard” men to deal with unpredictable customers.) Immigrant women usually are hired as counter-persons in ethnic retail shops.

A core characteristic of the retail industry is that mobility opportunities are minimal; for workers such as cashiers, stock clerks, security guards, and delivery persons, there are simply too few jobs to move up into. We did find one industry niche, flower stores, where the largely Mexican workforce received skills training and the chance of moving up to store manager (though pay remained quite low).

## JOB QUALITY & WORKPLACE VIOLATIONS

As shown in Table B, in the non-union parts of the industry, the most common workplace violations are failure to pay the minimum wage and overtime. Workers are commonly paid \$300 per week or less, for 60 and even 80 hours of work per week – resulting in hourly wages ranging from less than \$4 per hour (*without* considering time-and-a half pay for overtime hours), up to the minimum wage. While it is standard for employees to work more than 40 hours in a week, employers almost never keep track of overtime. During the peak holiday retail season, workers' hours can increase to 7 days a week, 12 hours a day without any corresponding increases in pay, pushing earnings well below the legal minimum.

Other violations include discrimination: women and undocumented workers consistently report being paid less than men, citizens, and documented immigrants. In drug stores, delivery services are not infrequently outsourced to subcontractors, who in turn misclassify their delivery staff as independent contractors and pay them as little as \$3 an hour. This kind of legal distancing from the employment relationship is also evident in retailer-owned warehouses (often located in New Jersey), where hiring is typically done through temp agencies, making it easier to hide nonpayment of overtime.

Finally, supervisory jobs are not necessarily immune. In both discount stores but especially the more established

chains, workers with nominal supervisory duties are sometimes misclassified as “floor managers” or “department managers,” in order to avoid paying overtime for what are often 60 hour work weeks.

Working conditions in retail can be difficult and in some cases dangerous. Because many stores are increasingly understaffed to keep labor costs low, workers are often pressured to work faster, with few breaks. Immigrant women in storefront retail shops report exhaustion and swollen feet from standing for the full shift without a bathroom break. Others report standing outside the store in the cold for ten hours a day, as security guards or handing out fliers. Outright violations of health and safety standards also occur, including blocked exits, faulty electrical wiring, wet or damaged walking surfaces, and improper equipment for shelving products.

Finally, retaliation is a real threat. One immigrant community group described its women retail members: “They work for 10 hours, they get 35 dollars, no lunch breaks, no overtime. The question of it never arises. The moment they talk about it they get fired.” Workers and community groups such as Make the Road by Walking (see Section VI) who have tried to organize the industry report retaliation for taking collective action to improve working conditions. For example, in 2005, the New York State Attorney General won a settlement with three retailers, who had underpaid their workers and then illegally fired them by closing their stores after being investigated.

TABLE B.  
CHARACTERISTICS OF UNREGULATED WORK IN THE RETAIL INDUSTRY  
IN NEW YORK CITY

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations most common in (1) low-end discount stores (convenience stores, 99-cent stores, jewelry stores, beauty supply stores, clothing stores, electronics stores, flower stores in the flower district) and (2) ethnic retail serving immigrant neighborhoods. Some violations are also found in non-union drug store chains and national retail chains.
Ownership and size	Either private, independently-owned stores or, increasingly, small local discount chains. In immigrant neighborhoods, most small retail is family-owned. Stores can be very small (less than 5 employees) but also bigger (5-30 employees).
Union density	Virtually none in the low-end discount segment. Department stores still have some union density, though it is declining.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	Cashiers, stock clerks, security guards, delivery workers, and workers in retailer-owned warehouses.
Typical wages	<b>Cashiers, stock clerks, security guards:</b> Weekly wages range from about \$180 to about \$320, with hourly wages averaging around the minimum wage. <b>Delivery persons:</b> Can earn as low as \$25-\$35 per day for 8-11 hours worked. <b>Retailer warehouse workers:</b> Wages are higher, in \$7-\$9 range.
Typical hours	Hours average 8-12 hours per day, for 6-7 days per week, and fluctuate significantly by season.
Payment method	In national chain stores, largely on the books; in smaller and independent stores, largely off the books.
Benefits	Health benefits, vacation days and sick days are very rare (except in unionized stores).
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Significant numbers of immigrant (Latino; West and North African; Arab; South Asian) as well as African American workers.
Immigration status	In discount and ethnic retail stores, many workers are undocumented.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Placement through employment agencies is relatively common, with the agencies charging workers up to a week's salary per placement. Some retail placements happen through agencies serving ex-offenders and ex-welfare recipients (both temp agencies and non-profits). In the drug store segment, delivery persons can be brought in via subcontractors. In retailer-owned warehouses, temp agency use is common.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
Most workers are covered by employment and labor laws. In addition, the New York State 2007 minimum wage for tipped employees such as delivery drivers is \$5.40 or \$6.05 an hour (depending on the weekly tip average), but if a worker's combined wages and tips do not at least equal the regular state minimum of \$7.15 per hour, the employer must make up the difference.	
COMMON WORKPLACE VIOLATIONS	
Minimum wage and overtime	<b>Minimum Wage:</b> Depending on hours worked, wages can range from \$2.75-\$6.00 per hour; especially in discount stores, the minimum wage is usually the high end of the pay scale. Undocumented workers are generally paid lower wages (about \$4-\$5 per hour), and delivery drivers were making as little as \$3 per hour in 2000. <b>Overtime:</b> Overtime is almost never paid in the discount segment and other non-union segments. Workers in retailer-owned warehouses report unpaid overtime (wages are typically above the minimum).

Non-payment of wages	Appears to happen occasionally, but not prevalent.
Meal breaks	Required meal breaks are often not given.
Employer taxes	Employers routinely fail to pay taxes on payments in cash.
Misclassification	Three types of misclassification were reported: (1) In national retail chains, workers with nominal supervisory duties may be misclassified as “floor managers” or “department managers” in order to exempt them from minimum wage and overtime protection; (2) workers are sometimes classified part-time for the purposes of payroll and benefits calculations, but consistently work full-time hours; (3) drug stores use subcontractors for delivery persons, which are misclassified as independent contractors by the contractor company.
OSHA	Violations include: blocked exits, faulty electrical wiring, wet or damaged walking surfaces, and improper equipment for shelving products.
Workers’ Compensation	Rarely carried or made accessible to workers who are qualified to receive it.
Discrimination	In the low-end discount segment, workers report sexual harassment of female workers; different wages for different ethnic groups; different wages for citizens or green card holders, compared to undocumented workers; and discrimination against pregnant workers.
Retaliation & the right to organize	Workers have faced retaliation (firing, immigration threats) for organizing efforts at discount stores.

*Note:* All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2004 and 2005.

*Sources:* Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Adler (2003), Gerson (2005b), *Make the Road by Walking and Retail Wholesale and Department Store Union* (2005), *New York State Department of Labor* (2007b), *New York State Department of Labor* (2007c), *Office of the New York State Attorney General* (2005b), *Son* (2005), *Stuteville* (2005), *US Department of Labor* (2006b).

## C. UNREGULATED WORK IN THE RESTAURANT INDUSTRY IN NEW YORK CITY

After being hit hard by 9/11 and the recession of 2001, New York City's restaurant industry has rebounded and is currently one of the strongest growth sectors in the local economy. At the same time, the industry is inherently volatile, with high business failure rates, culinary trends and restaurant formats that change quickly, and marked seasonal swings in demand. The industry is also beginning to lose its independent roots, as management companies running several different restaurants are beginning to dominate, exploiting their economies of scale.

The result is fierce and unceasing competition, driving many restaurants to compete on the basis of cost cutting. Because rent and food costs are essentially fixed, it is wages and benefits that often end up being cut. And while fifty years ago unions were able to set a wage floor for the industry, currently there is very little union presence. The upshot is that the workers (currently about 160,000) face difficult working conditions, with frequent workplace violations.

### THE WORKERS & MOBILITY

According to the 2000 Census, about two-thirds of the industry's workforce was born in countries other than the U.S. But the mix of immigrants is constantly shifting. Twenty years ago, Chinese workers dominated kitchen jobs, but now are moving to other industries or opening their own restaurants. And while Mexican workers are currently the main workforce in the kitchen, there are already signs of displacement by Central and South Americans.

At the same time, there is continued segregation in the industry on the basis of race and immigration status, with workers of color concentrated in kitchen jobs or in the lower-rung jobs in the front of the restaurant (i.e. bussers). Waiter and bartender jobs are considered the best jobs in the industry, and Census data show that they are disproportionately filled by white workers, some of whom are also immigrants. Mobility from the back to the front of

the restaurant is infrequent: workers and employers alike reported that the two are effectively separate worlds. In addition, employers almost always hire waiters and bartenders from the outside, rather than promoting bussers or runners. In the kitchen, entry-level workers may try to move from dishwasher to salad or prep cook, but further upward mobility (e.g., to chef) is extremely rare.

While job turnover is high, there is a substantial amount of *industry* tenure – restaurant workers often stay in the industry for years and even decades. Still, workers talk about moving to construction work, which is more dangerous and less consistent, but better paid.

### JOB QUALITY & WORKPLACE VIOLATIONS

Intense competition and cost cutting mean that restaurant jobs are often difficult, hectic, and not infrequently dangerous. Restaurants are increasingly running lean – workers commonly do multiple jobs, and even with health and safety training (which is rare), there will inevitably be accidents. Workers also frequently talk about verbal abuse: “It's hot, workers are screamed at. Plates are thrown at them. There's also out-and-out racial language, everything from national origin to post-9/11 terrorist stuff.”

Many – but not all – restaurant jobs are low wage. The exceptions are head cooks, chefs, bartenders and waiters, who can make decent money (for example, \$800 a week for head cook in a good restaurant). Unlike some other industries, pay is uniformly low across the various segments – a dishwasher or line cook will make roughly the same whether employed in a diner or a four-star restaurant. That said, workers report that recent immigrants tend to be paid less.

As shown in Table C, violations of employment and labor laws are many and varied and reported for all types of restaurants and most positions. Recently, a survey of restaurant workers was conducted by the Restaurant

Opportunities Center of New York (ROC-NY), an advocacy group organizing workers in the industry (see Section VI for more detail). While not a random sample survey, it showed that 13% of workers earned less than the minimum wage and 59% experienced overtime violations. The high rate of overtime violations was often acknowledged in our interviews; according to one employer, “At plenty of places there is no such thing as overtime.” And workers are not infrequently owed wages from several weeks or even months ago (we heard as much as 40 weeks’ worth of pay owed). One group of workers described their restaurant:

“On payday, we finish work at 10:30 and they started making us wait one to two hours just to tell us there’s no money. If you work 12 hours and you’re tired, and then you have to wait until 1 or 2 in the morning, and for no money, it’s terrible. Then the next week we’d just get one week’s pay. Many workers were scared and just left.”

Other violations include violations of health and safety laws, resulting in high reported rates of on-the-job injuries. And employers actively discourage filing workers’ compensation claims, even when they carry the insurance. One worker reported: “If there’s an injury, you’re sent home and docked pay. You have to pay for the doctor out of pocket.” Finally, there is the threat of retaliation if workers complain: short of firing, managers can retaliate by giving wait staff bad tables, by stealing tips, and by assigning bad hours.

Clearly these practices do not describe all restaurants in New York City. But it is striking how common workplace violations are across the range of industry segments. Even in franchises and chain restaurants, where workers are largely on the books, several workers told us that “workers had to punch out as if they had worked eight hours. So after eight hours, they’d punch out and then work four more hours. It was almost like a threat that if you don’t punch the card you’re fired.”

TABLE C.  
CHARACTERISTICS OF UNREGULATED WORK IN THE RESTAURANT INDUSTRY  
IN NEW YORK CITY

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations reported in all industry segments, but appear to be concentrated in (1) expensive “white table cloth” restaurants and (2) independent family-style restaurants, including ethnic restaurants. Fast food and chain and franchise restaurants appear to have fewer violations.
Ownership and size	Small restaurants with independent ownership, as well as corporate chains or management groups with larger establishments.
Union density	Very low.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	<b>“Back of the house” restaurant jobs:</b> Dishwashers, delivery persons, food prep, line cooks, and porters. <b>“Front of the house” restaurant jobs:</b> Bussers, runners, bathroom attendants, barbacks, cashiers, counter persons and coat checkers (and in some restaurants, waiters, waitresses and hosts).
Typical wages	<b>Back of the house jobs:</b> Dishwasher: \$180 - \$300 per week. Delivery person: \$120 - \$200 per week. Line cook/food prep: \$250 - \$400 per week. <b>Front of the house jobs:</b> Busser/barback: \$150 - \$200 per week including tips. Runner: \$120 - \$180 per week (rush hours only, usually paid as percentage of tips). Coat check & bathroom attendants: \$20 - \$80 a night. Cashiers/counter persons: \$222 - \$320 per week. Waiters/waitresses: \$300 - \$480 per week including tips.
Typical hours	On average, kitchen staff tend to work 6 days a week, between 8 and 12 hours a day, with some dishwashers and cooks working double shifts. In the front of the restaurant, bussers and runners work the same hours as kitchen staff. Wait staff tend to work 3-5 days per week (hours can range from 20 – 45 per week).
Payment method	Dishwashers, runners, bussers, and delivery persons tend to be off the books, while servers, bartenders and managerial jobs are more likely to be on the books. High-end and chain restaurants have the majority of their sales on credit cards, which can force more jobs to be on the books.
Benefits	Health benefits are generally not offered to front-line staff; when offered, the employee co-pay is usually high, resulting in low take-up rates. In the kitchen, workers may get one week unpaid vacation, but no sick days.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	<b>Back of the house jobs:</b> Almost exclusively immigrants (typically first generation), especially Latino, South Asian, Asian and African. <b>Front of the house jobs:</b> Mix of U.S. born and foreign-born workers. Bussers, barbacks, and runners are largely immigrant. Waiters more likely to be young, white and U.S. born. Some African Americans in cook and waiter positions. Workers are disproportionately men; ages range from early teens to mid 50’s.
Immigration status	High representation of undocumented immigrants in back of the house jobs (as well as some lower-wage jobs in the front). But long tenures in the industry mean that there are also significant numbers of documented immigrants.

## INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS

(1) Employment agencies for immigrant workers and (2) much less frequently, non-profit public agencies for people transitioning off welfare or out of prison. At employment agencies, placement fees range from \$50 up to a weeks' earnings, paid by the worker, plus possibly an additional \$25 application fee. Some employment agencies specialize in restaurant placements for Mexican workers.

## INDUSTRY-SPECIFIC LAWS AND REGULATIONS

Most workers are covered by core employment and labor laws. Additional regulations include:

**Tip credit:** The New York State 2007 minimum cash wage for tipped restaurant food service employees is \$4.60 an hour, but if a worker's combined wages and tips do not at least equal the regular state minimum of \$7.15 per hour, the employer must make up the difference.

**Deductions:** An employer generally may not make deductions from paychecks (e.g., for uniforms or customer theft).

**Cost of meals:** If an employer provides meals, the employer may deduct a limited amount from a worker's paycheck, even if that means reducing wages below the minimum.

## COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p><b>Minimum wage:</b> The industry's pay structure of flat weekly wages for more than full-time work suggests that minimum wage violations are common. For example, typical earnings of \$300 per week for 60 hours translates into an hourly wage of \$5 (without considering time-and-a-half pay for overtime hours). Coat checkers and delivery persons can make as low as \$3 an hour.</p> <p><b>Overtime:</b> Non-payment of overtime appears common for almost all positions.</p> <p><b>Tips:</b> For tipped positions, common violations include being paid only in tips, or the employer taking a percentage of tips. Bussers often do not get tips owed them.</p>
Non-payment of wages	Occurs mainly for kitchen jobs, especially dishwashers. Can take the form of full non-payment, partial non-payment, or several months backlog of payment.
Illegal deductions	Workers report employers deducting arbitrary amounts from wages for broken plates, spoiled food, etc.
Meal breaks	Lack of meal breaks, or erratic meal breaks, is a pervasive problem. A single meal break for a 12-hour shift is common.
Employer taxes	Restaurants are heavily cash-based, and most workers do not receive pay stubs. Employer taxes are often not paid, or not paid for the actual number of workers on site.
OSHA	Health & safety violations occur mainly in kitchens: electrical dangers, inadequate fire safety, lack of cutting guards on machines, lack of slip mats, lack of required ventilation.
Workers' Compensation	Rarely offered. Employers may pay a one-time hospital bill out of pocket in order to avoid an official claim, and instruct workers to say that the injury did not occur at work.
Discrimination	Evidence of discrimination in hiring and promotion on the basis of race, ethnicity, national origin, and accent – particularly for front of the house jobs. Harassment based on national origin and gender.
Retaliation & the right to organize	Employers' retaliation in response to complaints about working conditions and attempts to organize include threats to call immigration, punishing the worker with bad shifts or bad hours, and outright retaliatory firing.

*Note:* All violations were assessed using legal standards in effect when interviews were conducted; however, wage rates are updated to 2006.

*Sources:* Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Ellick and Severson (2007), Greenhouse (2004f), Greenhouse (2005c), Jacobs (2004), Jayaraman (2003), Kimeldorf (1999), McGeehan (2005), New York Mayor's Office of Immigrant Affairs (2006), New York State Department of Labor (2007b), New York State Department of Labor (2007c), Office of the New York State Attorney General (2004b), Office of the New York State Attorney General (2005d), Restaurant Opportunities Center of New York and New York City Restaurant Industry Coalition (2005), Restaurant Opportunities Center of New York and the New York City Restaurant Industry Coalition (2006), Shu (2004), US Department of Labor (2005b), US Department of Labor (2006c), Von Bergen (2005).



## D. UNREGULATED WORK IN THE BUILDING MAINTENANCE AND SECURITY INDUSTRY IN NEW YORK CITY

The defining feature of the building services industry is the contracting out of janitorial and security jobs, which has put downward pressure on job quality. Because cleaning and security contracts go to the lowest bidder, subcontractors cut wages and benefits and, increasingly, may decide to violate labor laws in order to compete. In the words of one industry analyst, “It became about who can provide bodies at the least cost per hour.” Unions have successfully organized the more established cleaning contractors, to the point that janitors in large buildings in New York City can earn good wages with benefits. Yet an unregulated world of janitors and security guards flourishes in small stores and residential buildings, especially in the outer boroughs.

### SECURITY GUARDS

Until the 1980s, most security guards in the city were direct employees of the owners and managers of the buildings where they worked. But now, the majority of the roughly 60,000 security guards in the city are employed by security contractors. Working conditions depend largely on whether the building is large or small, and commercial or residential. According to industry experts, as recently as the mid-1990s it was not uncommon for security guards to be making \$14 per hour plus benefits. The shift to subcontracting has pushed starting wages down to near the minimum wage, and some contractors will dip even lower in order to secure a low-bid contract.

New York State law requires security guards to be licensed, a process that includes eight hours of classroom training, sixteen hours of on-the-job training, background checks and fingerprinting. However, mobility opportunities for guards are quite limited. “There’s no growth; that’s the frustrating thing. Maybe people get an increase when their probation ends after three months or six months but that’s it.” As a result, workers stay in the industry for only short stints: one report estimates the industry’s annual turnover at between 200 and 600%.

### JANITORS & BUILDING MAINTENANCE

Janitorial jobs are structured much like security guard jobs – subcontractors are the main employers in the industry. But there is much higher union density among janitors: SEIU Local 32BJ represents over 80,000 janitors, doormen and porters in New York City, working for contractors that serve large residential and commercial buildings. In 2007, contract wages for union workers with several years of tenure were about \$18-\$19 per hour, plus full health insurance and pension.

Still, thousands of janitors currently work in non-unionized jobs in supermarkets, shopping malls, and small residential buildings throughout the five boroughs – and it is here that workplace violations are most pronounced. Workers may be hired directly by building managers and owners, or by small, fly-by-night firms that have contracts with low-end retail and residential clients. Janitors will often clean several buildings for different clients during overnight shifts. Supers who work in small residential buildings in the outer boroughs, most of which are non-union, will work for a combination of free housing (a room in the basement or an apartment) plus a low weekly wage; they are essentially on call round the clock, especially when caring for more than one building.

### WORKPLACE VIOLATIONS

As shown in Table D, minimum wage violations are mainly committed by non-union janitorial contractors serving small residential buildings and low-end commercial clients. Workers are typically paid weekly, off-the-books, and hourly rates can work out to less than the minimum wage – as low as \$3.50 an hour. Supers are also at risk of being paid less than the minimum wage when, for example, a building owner provides a free room in the basement and pays nothing else (i.e. the market value of the room may not equal the minimum wage once hours worked per week are taken into account).

Among security contractors, minimum wage violations are less frequent but may occur among smaller contractors, whose primary business strategy is to cut wages when competing with their larger competitors. As a result, profit margins in the industry have declined significantly, to around 1-3%. Investigators have also found violations in the early weeks of security employment, when the cost of uniforms and equipment is deducted from workers' initial paychecks, bringing their wages below the minimum.

Overtime violations appear common for non-union janitors and security guards. For example, low-bid contracts are frequently based on a flat rate charged to the clients, which does not include time-and-a-half for overtime hours. In order to come in on budget, contractors may force their security guards to clock out after working forty hours (but stay on the job). Janitors report being paid under multiple names, so that no single "worker" is paid for more than forty hours in a week. And a common strategy is to treat each job site separately. One organizer often sees this scenario: "Since they send workers to various places, the contractor says that the worker doesn't accumulate enough hours at a certain place to claim overtime."

As another casualty of razor-thin contracts, both janitors and security guards report regularly working through

meal breaks. And one security guard reported, "Sometimes they make you do 'triples' [24 hours straight]. Nobody wants to but they can get away with it because they know you need the job. They tell you, you gotta stay, you can't go home."

Other violations include janitors being misclassified as "independent contractors" by subcontractors in order to avoid paying minimum wage and overtime, and retaliation for attempts to organize. And workers of color report discrimination in hiring. In the words of one industry analyst: "A lot of clients want GLWBs – good looking white boys."

There is also growing concern in the city about reports of janitors being locked inside supermarkets while cleaning stores overnight. This is a violation of OSHA regulations that stipulate that employees have access to an exit in the event of a fire. The workers at risk are almost all undocumented Latino immigrants who are employed by small contractors. The clients are usually small- and medium-sized supermarkets, located in working-class communities in the outer boroughs. The supermarkets do not have formal contracts with the employers; instead, they operate on an informal basis with recruiters or crew leaders who take responsibility for bringing enough workers to clean the supermarkets.

TABLE D.  
CHARACTERISTICS OF UNREGULATED WORK IN THE BUILDING SERVICES INDUSTRY  
IN NEW YORK CITY

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	<ol style="list-style-type: none"> <li>1. Non-union contractors providing janitors and security guards to small residential buildings and low-end commercial clients such as retailers and supermarkets.</li> <li>2. Small residential and low-end commercial buildings that hire workers directly (mostly supers, handymen and janitors).</li> <li>3. There are also some violations among non-union contractors serving larger commercial and residential clients.</li> </ol>
Union density	<p><b>Security guards:</b> Low union density (currently about 5,000 guards are unionized).</p> <p><b>Janitors:</b> Low union density in segments where violations are common (i.e. small residential building), but high union density in large commercial and residential buildings.</p>
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	Violations are common for non-union security guards and janitors, and allied jobs such as supers, porters, handymen, and doormen. Some violations are reported for concierges and elevator operators.
Typical wages	<p><b>Security guards:</b> Hourly wages for non-union guards generally average \$9-\$10 per hour, and can fall as low as minimum wage.</p> <p><b>Janitors:</b> Wages for non-union janitors generally range from the minimum wage up to \$9 per hour. Workers can also be paid weekly, averaging \$300-\$350 per week.</p>
Typical hours	Hours range from 40-70 hours per week, depending on number of days worked. Janitors in unregulated segments regularly work 70 hours per week, usually on night shifts.
Payment method	Workers are usually on the books in commercial and large residential buildings, and off the books in smaller residential buildings (especially for janitors).
Benefits	Health benefits are rare in non-union jobs, as are paid vacation and sick days.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	<p><b>Security guards:</b> Almost all male. Predominantly African Americans, Latino, Caribbean immigrants (from Trinidad, Haiti, and Jamaica), and South Asian immigrants.</p> <p><b>Janitors:</b> More evenly split between men and women. Predominantly Latino immigrants.</p>
Immigration status	<p><b>Security guards:</b> Most are documented, especially those licensed with the state.</p> <p><b>Janitors:</b> Significant presence of undocumented immigrants.</p>
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
For security guards, intermediaries include (1) temp agencies that charge the employer one week of pay, or a percentage of the hourly rate, and (2) job agencies and recruiters that specialize in the security industry. Janitors may find jobs through storefront employment agencies.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
<p>Building services workers are generally covered by workplace regulations. Industry-specific laws include:</p> <ol style="list-style-type: none"> <li>1. For residential janitors provided free housing, employers may count the cost of housing toward the minimum wage.</li> <li>2. New York State's 1992 Security Guard Act requires security guards to be licensed through the state and establishes training requirements (8 hours of classroom training and 16 hours of on-the-job training). Individuals with criminal convictions can potentially be denied security guard licenses.</li> </ol>	

## COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p><b>Minimum wage:</b> Violations are most common for janitors employed by small non-union contractors (where hourly wages can fall as low as \$3.50 an hour), and for supers hired directly by building owners or managers; violations are less frequent for security guards.</p> <p><b>Overtime:</b> Violations appear common for non-union janitors and security guards, who can work up to 70 hours per week without overtime pay. Residential supers are often asked to perform duties outside normal working hours, without additional pay.</p>
Meal breaks	In unregulated segments, security guards report working many hours without being able to take a meal break. Janitors have to clean a certain number of buildings in a shift, and time may not allow for sufficient meal breaks.
Employer taxes	Small residential managers or owners commonly pay off-the-books and do not pay required taxes. Non-union janitors are frequently paid off-the-books, with the contractor failing to pay taxes.
Misclassification	Cleaning subcontractors will assign janitors to multiple worksites in one shift, and then use this fact to claim that the workers are independent contractors when wage and hour claims are brought.
Non-payment of wages	Overnight janitors in supermarkets are often not paid the full wages due to them.
OSHA	Janitors in small- and medium-size chain supermarkets work overnight and are sometimes locked inside the building in violation of OSHA and the fire code. Janitors in unregulated segments are also exposed to hazardous cleaning materials and not provided with protective gloves and clothing.
Discrimination	For security guards, employers may seek to accommodate high-end clients (hotels, retail, residential) who express preference for white men.
Retaliation & the right to organize	Organizing is active in both the security and janitorial sector, and retaliation, including firing, is not uncommon.
Industry-specific regulations	Security guards in unregulated segments usually have received no training, or less than the amount required by state regulations. Many small employers hire security guards who are not licensed with the state.

*Note:* All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2004 to 2006.

*Sources:* Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Casey-Bolanos (1999), Cleeland (2000), Fiscal Policy Institute (2003b), Gotbaum (2005), Greenhouse (2004e), Greenhouse (2005a), Greenhouse (2005b), Herzlich (2001), Maher (2005), McMillian (2005), New York State Department of Labor (2007b), New York State Department of Labor (2007c), New York State Office of the State Comptroller (2003), Rankin and Levitan (2006), SEIU Local 32-BJ (2004), US Department of Labor (1997).

## E. UNREGULATED WORK IN THE DOMESTIC WORK INDUSTRY IN NEW YORK CITY

Domestic workers provide essential services in the city's economic and social life – by taking care of other families' children, cleaning their homes, doing their laundry, nursing their elderly grandparents, and cooking their meals. The domestic work industry, however, features some of the most unregulated workplaces documented in this report. This is partly a function of how the industry is organized; wages and working conditions are negotiated family by family, and regulation has historically been weak. As well, the workforce is largely women of color facing strong labor market discrimination and segmentation. The combined impact is that violations of employment and labor laws are routine, and even when laws are not formally being violated, the lives of domestic workers can be extremely difficult. In the words of a community group staff member: "This industry is completely under-enforced, and the work is undervalued."

### OVERVIEW OF THE JOBS & THE INDUSTRY

Domestic workers are employed by individual families and do their work in those families' homes (in contrast to child care workers in day care centers, for example). The form that this work takes can vary:

1. **"Live-in" workers** live in the family's home, and usually cover the gamut of jobs: childcare, cleaning, cooking, shopping, and elder-care when needed.
2. **Full-time "live-out" workers** do not live in the family's home. They may be hired only for child care, or for a combination of child care, cleaning and elder care, and often work for one family only.
3. **Housecleaners** are hired for cleaning on a daily or weekly basis, and piece together jobs to fill a work week. Client households sometimes work together to arrange "shares."
4. **Au Pairs** are generally brought into the country with visas and are hired exclusively for child care; they form a smaller industry segment that is largely separate from the others.

5. **Victims of trafficking:** Women are brought into the country either by professional traffickers or directly by their employer/captors, and live under conditions of servitude and imprisonment – "they suffer in silence", as one respondent put it.

The domestic work industry has grown significantly over the last three decades with the national shift of women into the labor force. Accurate numbers on the industry's size are not available because the occupation is badly classified in government data; however, it is clear that especially high-income and professional households in New York City are heavily reliant on domestic workers. The industry has also seen reorganization, with live-out arrangements supplanting live-in arrangements as the dominant form of work, and an expanded employer base that increasingly includes middle-class and even working-class households.

### THE WORKERS & MOBILITY

The industry has changed in terms of who is doing the work, shifting from African American women to Caribbean, Latin American, Asian, African and Eastern European immigrant women. Domestic work is often the first job in the United States for new immigrants, although some come from manufacturing plants that have closed down, and others combine domestic work with another job.

Women who have recently arrived in the U.S. will often use storefront employment agencies and temp agencies to find their first job. There are also several day labor corners scattered across the city where domestic workers gather for day or week work – the best known is in Williamsburg, where both Latina and Polish women gather daily. Workers also place ads in local newspapers or post flyers in the neighborhood; with time, personal referral networks become the dominant route for finding work. In general, no training or certification is required, though better-paid nannies and Au Pairs may have formal child care training and often bring references.

Turnover is generally low in the industry (though with training and legal status some workers are able to move on to center-based child care or agency-based home health care). One pernicious dynamic was mentioned several times in our interviews. An employer either promises she will sponsor her worker for an immigration visa, but then delays indefinitely, or else actually submits the application, which then takes five to ten years. Either way, the result is an imbalance of power that effectively traps the worker in the current job.

## WORKING CONDITIONS & VIOLATIONS

Domestic workers are only partially covered by core employment and labor laws (see Table E for an overview). In addition, the industry is structurally wired to produce bad working conditions: workers are alone at their work-site and have to individually negotiate the terms of their employment, with no industry standards to set a floor on wages, benefits, sick days, vacations and breaks. As a result, compensation and working conditions vary greatly from one family to the next. Some domestic workers are able to find good jobs with decent pay. For others, the jobs are difficult, emotionally draining, and not infrequently, in violation of one or more workplace laws. As one service provider put it, “the pay scale really depends on the clients that the workers get.”

Minimum wage and overtime violations are the most common, especially for live-in workers, who (aside from trafficking victims) undoubtedly have the most difficult jobs in the industry. As shown in Table E, workers are typically paid flat weekly or monthly amounts, for very long work days that can bring hourly wages below the minimum wage – never mind overtime pay, which many

workers never get. For example, two-thirds of domestic workers reported receiving overtime pay “sometimes or never” in a recent survey conducted by Domestic Workers United (an advocacy group organizing workers in the industry, see Section VI for more detail).

Workers are also often denied breaks – for instance, doing housekeeping or cooking when the children are sleeping. According to the above survey, 41% of domestic workers reported receiving breaks “sometimes or never.” This highlights one of the biggest problems for domestic workers, and that is job expansion, or “job creep.” Workers are hired for one job, but over time are increasingly asked to do two or three.

There is also strong evidence of a complex hierarchy of discrimination on the part of employers and employment agencies: white European women are preferred as nannies, English-speakers are preferred regardless of what the job requires, and stereotypes impacting hiring decisions abound. For example, employers have told us that Polish women steal less, Spanish women steal a lot, European women drink and smoke on the job, and African women are presumed to have AIDS. Further, the isolation of working in a private home leaves ample room for verbal abuse – and in some cases, physical abuse, sexual harassment, and sexual abuse.

Finally, the work is often physically exhausting. Workers report repetitive strain injuries in the back, neck, shoulder, and arms; pain from long hours on feet or on knees; and respiratory problems from prolonged exposure to cleaning chemicals. At least some of these symptoms are tied to the lack of health and safety training and regulation in these workplaces (which are not covered by OSHA).

TABLE E.  
CHARACTERISTICS OF UNREGULATED WORK IN THE DOMESTIC WORK INDUSTRY  
IN NEW YORK CITY

*Note:* Domestic workers are exempt from one or more employment or labor laws. In this table, we evaluate working conditions as if workers were covered by all employment and labor laws; see our definition of unregulated work in Section III.

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Employers include (1) high-income families who hire live-in housekeepers and nannies, (2) middle-class professionals who hire live-out domestic workers, either full-time or part-time, and (3) immigrant employers, including diplomats, who hire domestic workers from their home country/region.
Union density	No unionization (domestic workers do not have the right to organize).
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	Domestic workers, including nannies, housekeepers, housecleaners, and elder companions.
Typical wages	Pay varies considerably, since it is negotiated on an individual basis. <b>Live-out nannies &amp; housekeepers, full-time:</b> \$300-400 per week is typical, up to \$400-500 per week in wealthy neighborhoods, or \$700 per week in some suburbs. <b>Live-in nannies &amp; housekeepers:</b> \$100-300 per week. <b>Housecleaners:</b> Averaging \$6-\$8 per hour, up to \$10 per hour. <b>Victims of trafficking:</b> Aside from room and food, few or no wages.
Typical hours	Live-out workers typically work 10-15 hours per day, 5 or 6 days per week. Live-in workers often work more hours, since they are essentially always “on-call.” Victims of trafficking work round the clock.
Payment method	Large majority are paid off the books.
Benefits	Health benefits and vacation and sick days are rare. Some employers may pay for necessary medical care when the worker is sick, and nannies are sometimes given time off in lieu of an annual raise.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Almost all workers are women, and the majority are Latin American, Caribbean, Asian, African and Eastern European immigrants. A diminishing number are African Americans. Victims of trafficking are often from the same country of the employer/captor.
Immigration status	Significant numbers are undocumented, but not exclusively so.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
The following play some role in the industry: (1) storefront employment agencies that charge one week’s salary or a flat fee of \$80-\$150 per placement; (2) domestic work temp agencies; (3) professional traffickers; and (4) day labor corners.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
Domestic workers are either wholly or partially excluded from a number of employment and labor laws:	
<b>Wage and hour laws:</b>	
<ul style="list-style-type: none"> <li>• Federal overtime law exempts live-in domestic workers (although under New York State law, they are eligible for reduced overtime pay if they work more than 44 hours in a week).</li> <li>• Federal minimum wage and overtime law exempts part-time “babysitting services” employees.</li> <li>• For live-in workers, employers are allowed to deduct for food and lodging (up to \$9.80 per day in 2006).</li> </ul>	
<b>OSHA:</b> Health and safety regulations exclude domestic workers “as a matter of policy.”	
<b>Civil Rights Laws:</b> Domestic workers are almost always exempt from anti-discrimination laws (because their workplaces are too small).	
<b>NLRA:</b> The National Labor Relations Act does not cover domestic workers.	
<b>New York City’s Local Law 33:</b> Law requires domestic work employment agencies to inform workers of their employment rights, and to obtain statements from employers regarding the terms of employment.	

## COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p><b>Minimum wage:</b> Violations are common in some parts of the industry, especially for live-in domestic workers, given their “on-call” hours. Live-out workers may also drop below the minimum wage. Trafficking victims almost always earn less than the minimum wage.</p> <p><b>Overtime:</b> Violations are prevalent throughout the industry.</p>
Non-payment of wages	Occurs frequently for victims of trafficking, but rarely for other domestic workers.
Illegal deductions	Occurs rarely for live-out workers. Live-in workers report that employers use food and lodging deductions as an excuse to pay nothing at all, or lower than allowed by law.
Meal breaks	Meal breaks are irregular and often denied due to family schedules. Live-in workers report that hours expand the longer they stay with a family, and meal breaks become less frequent.
Employer taxes	Employers rarely pay required taxes for their domestic workers.
OSHA	Domestic workers are not covered by OSHA as a matter of policy.
Workers’ Compensation	Employers very rarely carry workers’ compensation. Employers may pay for health care to get employees back to work, but will not pay for missed wages.
Discrimination	Workers report significant race-based discrimination in both hiring and pay. Sexual harassment and sexual abuse sometimes occur.
Retaliation & the right to organize	Domestic workers are not covered by the NLRA and therefore do not have a legal right to organize. Workers’ complaints may lead to immigration threats, to threats of firing, or to actual firing. Victims of trafficking have passports taken and are threatened with deportation.
Trafficking	Though no hard data exist, trafficking in persons is a clear problem in this industry, with domestic workers brought to the U.S. to work unpaid, as virtual captives in the family’s home.

*Note:* All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2004 and 2005.

*Sources:* Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: *Domestic Workers United & Datacenter* (2006), *Eisenstadt* (2004), *Gerson* (2005a), *Gorman* (2005), *Lee* (2002a), *Lee* (2002b), *Lee* (2002c), *Lee* (2003), *Mason-Draffen* (2005), *Middlekauff* (2003), *New York State Department of Labor* (2007b), *New York State Department of Labor* (2007c), *Ponce de Leon* (2003), *Roberts* (2005), *Ruiz* (2004), *Ruiz* (2006), *Steinhauer* (2005), *Wilson and Wilson* (2000).



## F. UNREGULATED WORK IN THE SUBSIDIZED CHILD CARE INDUSTRY IN NEW YORK CITY

As a result of federal welfare reform in 1996, there has been dramatic growth in the number of children in publicly-subsidized child care in New York City. Parents receiving public assistance are now expected to work outside of the home and therefore need to find child care for significant numbers of hours. They are legally guaranteed child care, paid by city agencies. In addition, low-wage workers not receiving public assistance are eligible to apply for child care vouchers and apply for slots in contracted child care centers and family child care homes (but are not guaranteed them). The demand for subsidized programs is therefore great, but lack of adequate funding is a chronic problem. Workers who provide subsidized child care are underpaid – in some parts of the industry, they are systematically paid less than the minimum wage – and experience other substandard working conditions. Moreover, the growing use of independent contractors has meant a significant increase in what are effectively unregulated jobs.

### HOW THE INDUSTRY WORKS

Subsidized child care in New York City is funded by the Administration for Children's Services (and during the years of our study, also the Human Resources Administration). Some of this care is provided in *day care centers* which are largely unionized, and where most of the workers are classified as employees and covered by workplace laws. It is in *home-based care* where we found evidence of unregulated work. There are two different types of home-based care; in both cases, city agencies pay the child care providers directly, rather than indirectly via parents:

1. **Registered Family Child Care:** Child care is provided in workers' homes, with 3-6 children (one provider) or 7-12 children (one provider and one assistant). The workers are classified as independent contractors, not employees. Workers must pass a series of tests in order to be registered with the state government.

2. **Legally-Exempt Providers.** Child care is provided in workers' homes, for fewer than 3 children. The workers are classified as independent contractors, and make up by far the largest number of providers, with over 19,000 in the city. Reimbursement rates are the lowest in this segment: City agencies pay Legally-Exempt providers significantly less per child than they pay Registered Family providers or center-based care.

The recent growth in subsidized child care has been concentrated in the home-based segment, where labor costs are considerably lower, in large part because of the workers' independent contractor status. The total number of children in center-based care declined from 1999-2005, while those in Registered Family care increased by 7,000, and those in Legally-Exempt care grew by 13,500. As one industry expert observed, "Informal care is encouraged because it's faster and cheaper."

### JOB QUALITY & WORKPLACE VIOLATIONS

Home-based child care workers face the most difficult working conditions, and in particular, Legally-Exempt workers are likely to experience workplace violations.

Home-based child care is physically and emotionally demanding for the providers. Young children require almost constant attention, and often there is only one worker present – the complete isolation of the work is a constant problem. Workers have to do a lot of lifting and bending, which can be difficult for the older providers (who disproportionately make up this workforce). Child care providers also have little control over their work week, with clients who are themselves low-income and working constantly-changing schedules. And lack of access to health insurance and pensions is pervasive.

In the end, though, it is the chronically low wages that dominate. Home-based providers are classified as independent contractors, and so are not formally covered by

the majority of employment and labor laws. However, their conditions of work are strongly shaped by reimbursement rates and regulations set by the state government's Office of Children and Family Services (and administered locally by city agencies). For many, the result is pay levels and other work conditions that do not meet the standards set by core workplace laws. (See Section III for a fuller treatment of how we define unregulated work).

As shown in Table F, Legally-Exempt workers are often paid less than the minimum wage – depending on how many hours per week they work, how many children they are caring for, and the age of those children. An industry analyst acknowledged the structural problem: “These folks have an excruciatingly long workday, so if you figure out what they’re paid per hour, they would never meet the minimum wage standards.”

Long work weeks are common and overtime is not paid, because the worker is reimbursed the same amount regardless of whether the work week is 40 or 50 hours long. Providers are sometimes able to supplement their wages by asking parents to pay for additional hours, but this strategy is inherently limited, because most parents using subsidized child care are themselves low-wage workers. A community group working with providers frequently sees this dynamic: “If a provider charges too much, the parent

might find another provider. It’s an informal agreement. Some pay more, some don’t pay at all.” In the end, child care providers will often work extra hours without any extra pay, waiting for the parents to come home.

Another common problem is very long (multi-month) delays in payments to the workers, due to processing bureaucracy on the part of city agencies. Such delays would be illegal if the subsidized child care workers were covered by standard employment laws. But in the absence of legal recourse, workers often have a difficult time recouping their full wages. According to one of the service providers we interviewed: “Getting the parent to be an advocate gets you a much better chance at resolving problems, but the parent might not feel like it. ... HRA has a childcare payment helpline, but they almost never answer it.”

Given the very low pay and difficult working conditions, turnover is high in the industry, especially in home-based care: many workers last only three or four years. Industry experts estimate that only 20-30% of Legally-Exempt providers go on to become Registered Family providers. This may be a function of the cost of becoming a Registered Family provider (about \$200 to \$250) as well as the certification hurdle itself, which includes a long criminal background check.

TABLE F.  
CHARACTERISTICS OF UNREGULATED WORK IN THE SUBSIDIZED CHILD CARE INDUSTRY  
IN NEW YORK CITY

*Note:* Subsidized home-based child care workers are exempt from one or more employment or labor laws. In this table, we evaluate working conditions as if workers were covered by all employment and labor laws; see our definition of unregulated work in Section III.

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Home-based child care that is publicly subsidized, provided by workers under contract with city agencies (formally known as “Legally-Exempt” and “Registered Family” child care providers).
Union density	No union representation in home-based segment (independent contractors do not have the legal right to organize).
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	Home-based child care workers, consisting of (1) Legally-Exempt providers who care for at most two children in their home, and (2) Registered Family providers and their assistants who take care of three or more children in their home. Both work as independent contractors.
Typical wages	<b>Legally-Exempt providers:</b> Maximum weekly wage of \$210; at most \$105 per week per child, with a maximum of two children. <b>Registered Family providers:</b> Considerable variation in wages depending on numbers and ages of children being care for. In general, wages are more than what Legally-Exempt providers earn.
Typical hours	Hours per week vary, with a mix of both full-time and part-time workers. Long work days driven by unpredictable parent schedules are common.
Payment method	Workers are paid on the books directly by city agencies. But parents may pay out of pocket for work beyond regular hours.
Benefits	None.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Legally-Exempt workers are almost all women and largely African American; 65% are related to the child being cared for. While ages vary, workers are disproportionately older. Registered Family workers have similar demographics, but are usually not related to the children they care for.
Immigration status	Workers are largely native-born, because (a) Legally-Exempt providers are often kin to the mother who is receiving subsidized child care, and (b) both Legally-Exempt and Registered Family providers need to submit social security numbers (although immigration status is not checked beyond that point).
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Child Care Resource and Referral Agencies (CRRAs) connect parents with Registered Family providers. Legally-Exempt providers are not allowed to use the agencies; parents find these workers through family or social networks.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
All home-based child care providers contracting with the city are independent contractors. That means the workers are not covered by most employment and labor laws. However, as described in the industry narrative above, the providers’ conditions of work are significantly shaped by the city agencies that set reimbursement rates. In our substantive (not legal) analysis, these workers are effectively in an employment relationship with the city agencies, and we evaluate their working conditions accordingly.	

## COMMON WORKPLACE VIOLATIONS

Minimum wage & overtime	<p><b>Minimum wage:</b> Legally-Exempt providers are often working for less than the minimum wage. For example, a full-time worker taking care of two children would earn a maximum of \$210 per week for 40 hours of work, or \$5.25 an hour. A part-time worker taking care of two children for three days would earn a maximum of \$150, or \$6.25 an hour. Rates can be lower, depending on the age of the children.</p> <p><b>Overtime:</b> Lack of overtime pay is routine for both Legally-Exempt and Registered-Family providers, because neither is covered by overtime laws.</p>
Non-payment of wages	Common delay in payments (often as long as 6-8 months) due to administrative problems within city agencies (delay in payment is illegal under state and federal law).
Illegal costs	Workers often spend their own money for materials such as diapers, toys and snacks, but are not reimbursed even when such costs reduce wages below the required minimum and overtime rates (as would be required if they were covered by federal and state employment laws).
Meal breaks	Lack of meal breaks is common, especially when the provider is the only adult caring for the children.
OSHA	Registered Family providers receive the “Approved Medication Administration Personnel” (AMAP) health assessment training as part of their certification (and as required by OSHA). Legally-Exempt providers fill out a health & safety checklist when first contracted, but are not required to get the AMAP training unless they are providing care for children who take medications routinely.
Workers’ Compensation	When injured, home-based providers are not covered by workers’ compensation and must pay for hospital bills themselves and absorb the lost wages.
Retaliation & the right to organize	Independent contractors do not have a legal right to organize.

*Note: All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2005.*

*Sources: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Adams and Snyder (2003), Baran and Wasserman (2003), Burton et al. (2002), Child Care Inc. (2007), Colangelo and Wasserman (2003), Hakim (2006), Kaufman (2004), Mahoney (2005), National Center for Children and Poverty (1998), New York City Independent Budget Office (2005), New York State Department of Labor (2007b), New York State Department of Labor (2007c), Nyary (2004), Porter (1998), Robbins (2004), Stohr (2003), Wasserman (2003a), Wasserman (2003b), Wasserman (2003c).*

## G. UNREGULATED WORK IN THE HOME HEALTH CARE INDUSTRY IN NEW YORK CITY

Long-term care for the elderly and disabled has historically taken place in nursing homes but, in a major industry shift, is increasingly being provided in clients' homes. The number of home care workers in the city (more than 60,000) doubled over the last decade and a half, driven by a complex set of forces including shorter hospital stays that push recovery into the home, as well as an aging population that is exceeding the supply of nursing home beds. But it is the economics of the industry that has been the main driver: wages and working conditions in home-based care are lower than in nursing homes or hospitals. And while part of the home care workforce is unionized, segments of the industry remain vulnerable to workplace violations, especially in the unregulated "gray market."

### HOW THE INDUSTRY WORKS

Long-term care is generally provided by **home health attendants**, who help the client in and out of bed and assist in daily activities such as cooking, cleaning and shopping. Post-acute care is usually provided by **home health aides** who, in addition to the work performed by attendants, perform basic medical tasks such as taking temperature, removing bandages, and assisting with medical equipment.

The central fact shaping the wages of home care workers is that the majority of home health care is funded through public insurance (largely Medicaid, though also some Medicare). But the growing fiscal constraints on public health insurance programs have meant that wages for front-line workers are kept chronically low. In addition, home health care in New York is contracted out to agencies, sometimes in multiple tiers, which in the end can take as much as 50% of the public funding for overhead and administrative expenses.

Offsetting these trends, in New York City home health attendants are largely unionized and covered by the

city's living wage law, so that workers currently earn at least \$10 an hour and have access to health benefits (although it may be difficult for them to work enough hours in a month to meet the eligibility requirements). Attempts to unionize home health aides are more recent, however, and so wages are lower and access to health benefits uneven.

There is also a sizable unregulated "gray market" in home health and elder care, in which clients directly hire workers with their own personal funds. (As a result, estimating the size of this market is very difficult.) The "gray market" serves clients who are ineligible for public funding, or who have run out of it and don't have the funds to buy their own insurance. Because payment to the worker is direct, without overhead, hourly wages can be higher than that paid by agencies. However, the terms of employment are negotiated on a case by case basis, and so wages and working conditions vary wildly from one job to the next. In the words of an industry trade group representative, "The disadvantages are not being protected by regulations, lack of safety and no supervision."

### THE WORKERS & MOBILITY

The large majority of home care workers are women, and many are immigrants. Some worked in health care in their home countries (often at a higher level of skill), while others have worked as nannies, housekeepers, or in other low-wage jobs such as retail. In order to work for agencies, home health attendants must receive an initial 40 hours of classroom training while aides must receive 75 hours. Training is often provided by home care agencies for free, as well as by private schools that charge \$300 - \$500 per course; the latter are infrequently used because of poor track records. While difficult, some home health workers may become Certified Nursing Assistants with additional training, but the educational requirements needed to make the further jump to nursing is a steep barrier.

## WORKING CONDITIONS & VIOLATIONS

Home health care work is physically, mentally and emotionally demanding. Many workers are proud of the care that they give their clients, but at the same time are frustrated by lack of respect, low wages and unstable work schedules.

As described in Table G, home health attendants are treated as exempt from the minimum wage and overtime requirements of the federal Fair Labor Standards Act (FLSA). This exemption is currently being challenged in court and may ultimately be eliminated. But in the meantime, home health attendants are only eligible for the state's lower overtime rate of 1.5 times the minimum wage (rather than the worker's regular hourly wage). The result is that for years, many workers in this industry have been working more than 40 hours a week without receiving full overtime pay. One trade group representative estimated that if all attendants were covered by the higher FLSA overtime rate, it "would bankrupt the system." In our analysis, this payment of the state's substandard overtime rate is substantively a violation of core workplace standards and therefore an example of unregulated work, since attendants are recognized as being in an employment relationship (see Section III for a fuller treatment of how we define unregulated work).

Some clients need 24-hour care, in which case workers "sleep in," usually for three or four days in a row. In these cases, they receive a sleep-in rate, but eight hours can legally be unpaid for sleep time. In our analysis, this is another example of a substantive violation of workplace standards, since workers are essentially on call the entire night to provide care to the client.

In the "gray market," working conditions are determined by negotiations with the client and his or her family. While some agency workers are able to demand as high as \$12-\$15 an hour in side deals, other workers rely solely on the "gray market" for jobs and may be forced to bid their wages down to the minimum wage or lower and take on additional tasks. But there is vulnerability even for established agency workers. In the eyes of one industry analyst: "It is not good for the workers to make these deals because the families can use it as a form of leverage against the worker. ... For example, the family can take advantage of the worker by threatening to tell the agency that she is breaking the rules by having a side deal, if she does not comply with performing other types of work."

Home health work entails health and safety risks that can be exacerbated by insufficient training. Workers who do not learn the proper means of protecting themselves from diseases, particularly airborne and blood-borne diseases, are at a higher risk of contracting illnesses from clients. Similarly, those who do not learn proper lifting techniques are more vulnerable to back injury.

Finally, home care workers talk about the endemic problem of "job creep" – being asked to do work beyond the scope of their responsibilities. One former health attendant recalls, "You have to deal with the family, who maybe wants you to do their work, like the laundry and going shopping, and that's not what you're there for. If they don't clean up you have to clean up but you're only supposed to be cleaning the area around the patient. You get accused of things you didn't do."

TABLE G.  
CHARACTERISTICS OF UNREGULATED WORK IN THE HOME HEALTH CARE INDUSTRY  
IN NEW YORK CITY

*Note: Some home care workers are exempt from one or more employment or labor laws. In this table, we evaluate working conditions as if workers were covered by all employment and labor laws; see our definition of unregulated work in Section III.*

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations are common in the “gray market” segment of the industry where workers are employed directly by clients. Overtime violations are also effectively present for some workers employed by home care agencies.
Ownership and size	“Gray market” employers are individual clients or their families. Home care agencies are service providers under contract, either directly or indirectly, with the city or state.
Union density	Union density among home care attendants in New York City is high, but weak for home care aides (see narrative above for description of categories of workers).
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	“Gray market” workers and home health attendants are the most affected by violations. Home health aides may also experience violations, although to a lesser degree than attendants.
Typical wages	When working for agencies, aides average around \$7-\$8 per hour, while attendants average around \$10 per hour. There are also higher pay rates for weekends and “sleep-in” shifts. In the “gray market,” workers can earn as much as \$12-\$15 per hour, but wages vary widely from one job to the next.
Typical hours	Hours are highly irregular. Shifts can run very long, with multiple clients in a day stretching into night, but at the same time, workers may find it difficult to obtain enough hours in a given month.
Payment method	Agency work is on the books, but “gray market” work is usually off the books.
Benefits	Workers in the “gray market” usually do not have health benefits or paid time off. Most attendants employed by home care agencies are unionized and have access to health benefits and some paid sick days and vacation days. Unionized aides have health benefits, but non-union aides often do not. Aides usually do not have paid time off.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Women make up more than 90% of the workforce, which is also increasingly immigrant (Caribbean, Filipina, and Latino).
Immigration status	The vast majority of agency workers are documented, but the “gray market” likely has more undocumented workers.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Key intermediaries are home health care services agencies that train and place workers in jobs throughout the city. Some private schools also provide training, but charge workers a fee and are less frequently used. Some storefront employment agencies place home care workers in the “gray market.”	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
<p><b>Wage and Hour Laws:</b> Home health attendants are currently exempt from minimum wage and overtime protections of the Fair Labor Standards Act (FLSA) and are therefore only covered by the state’s overtime rate of 1.5 times the minimum wage. For 24-hour sleep-in shifts, eight hours may legally be unpaid (with a “sleep-in” rate added to wages). Home health attendants are covered by the New York City Living Wage Law, which as of July 2006 mandates \$10 an hour in wages and \$1.50 an hour in health benefits.</p> <p><b>Screening:</b> A physical exam and drug screen is required; fingerprinting and background checks were instituted in 2005.</p>	

## COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p><b>Minimum wage:</b> Workers in the “gray market” may negotiate weekly wages with clients that translate into sub-minimum wages, once full hours and night work are taken into account.</p> <p><b>Overtime:</b> Home health attendants do not receive full overtime pay when working more than 40 hours, and “gray market” workers almost never receive overtime. For “sleep-in” shifts, 8 of the 24 hours may go unpaid.</p>
Illegal deductions	Workers report instances of having to “pay off” training by working additional time. Kick-backs also exist for good assignments or additional hours.
Meal breaks	Workers report that the inherent nature of home care work interferes with the ability to take meal breaks; “gray market” workers in particular may be unable to assert this right.
Employer taxes	Taxes are generally not paid by “gray market” employers.
OSHA	Health and safety precautions may not be properly monitored because the work takes place off-site in clients’ homes. “Gray market” workers may not have received mandated health and safety training. This can lead to insufficient protection from diseases, particularly airborne and blood-borne diseases, and back injuries due to improper lifting techniques.
Workers’ Compensation	Workers may be reluctant to report injuries because of a fear of retaliation, or fear of loss of hours. “Gray market” employers generally do not carry workers’ compensation.
Retaliation & the right to organize	When workers move into the “gray market,” they may end up in same position as domestic workers, and be exempt from the right to organize.

*Note:* All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2003-2005.

*Sources:* Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: SEIU Local 1199 (2003), Boyer (2003), The Center for Workforce Studies (2005), Cobb (2002), Dawson and Surpin (2001), Green (2001), Greenhouse (2004c), New York Association for Homes and Services for the Aging (2001), New York State Department of Labor (2007c), Office of the New York State Attorney General (2004a), Office of the New York State Attorney General (2005a).



## H. UNREGULATED WORK IN THE CONSTRUCTION INDUSTRY IN NEW YORK CITY

The construction industry in New York City is in the middle of a veritable building boom, both commercial and residential. In the unionized segment of the industry, a long history of negotiation and regulation has resulted in standardized wages, working conditions, and formal hiring and training systems. But unions' share of construction has dropped to below 50 percent in New York. This decline, combined with the inherent short-term nature of small residential construction, has fueled a growing world of unregulated work driven by small contractors.

### INDUSTRY SEGMENTS

With roughly 100,000 workers, the construction industry in New York City is divided into several segments. *Private sector construction* is divided into (a) small and medium-sized residential projects, and (b) large private projects, both commercial and residential. *Public sector construction* is divided into (a) small and medium-sized public agency projects worth less than \$20 million, and (b) large public projects worth over \$20 million.

It is small residential projects (construction, renovation and landscaping) that drive much of the demand for low-wage, non-union workers. This is also where unregulated work is the most prevalent. The employers, usually small contractors or the property owners themselves, take more risks than larger companies and are less scrupulous about violating workplace laws. Small public agency projects (e.g. affordable housing construction) also can feature poor working conditions. Union construction firms often do not bid on these projects, since their bids would not be competitive with those of contractors who keep costs down with low wages and off-the-books employment. That combined with lax enforcement opens up the space for non-union contractors, who use a variety of strategies to side-step prevailing wage requirements on jobs where these requirements apply (see Table H).

By contrast, large construction projects (both public and private) are dominated by established union contractors, who typically source out various pieces of work to one or more layers of union subcontractors. Wages are significantly higher, and workplace violations are much less prevalent (though not entirely absent among the lowest-tier subcontractors).

### WORKERS & MOBILITY

In the unregulated part of the industry, workers are hired directly by contractors or subcontractors (rather than through a union hiring hall). Some find jobs through social and family networks, in which case they may work together for the same contractor over a period of time. Others find jobs through day labor corners and storefront employment agencies, and the use of both intermediaries is growing. Among the dozens of day labor corners throughout the city, most are unorganized, although there are growing attempts to engage in standards setting, especially at the formal day labor hiring center in Bensonhurst run by the Latin American Workers Project (for a more detailed discussion, see Section VI).

Workers tend to be recent immigrants, both documented and undocumented, and come to the industry with widely varying skills. Compared to other jobs, construction work is more seasonal, unpredictable, and dangerous. Still, workers told us that for recent immigrants, even low-end construction jobs are considered a step up from other options such as dishwashing.

Entry-level workers hope to move to better construction jobs, and some may get higher wages as they develop more skills and develop a steady relationship with one contractor. But there is little movement from unregulated jobs to the higher-paying unionized jobs. Exit to other industries may be a better option (and industry tenure among day laborers is in fact quite short). Among South Asian workers, for example, many current taxi drivers are for-

mer construction workers and have shifted because of the greater independence in the taxi industry. Some workers hope to learn enough about the construction industry and become contractors, although few actually do.

## WORKPLACE VIOLATIONS & JOB QUALITY

Construction jobs have always been some of the most difficult in the economy, but as shown in Table H, in the unregulated parts of the industry, workers face the additional hardship of systematic violations of employment and labor laws.

In a comprehensive survey of day laborers in New York City, about 50% of workers experienced non-payment of wages at least once, and usually more often than that (Theodore, Valenzuela and Melendez 2006). Some “fly-by-night” contractors simply don’t pay their workers, closing down shop and disappearing the minute a project is done. Others tell workers that they will get paid once payment for the current project is received. In that case, workers may begin working on a next job for the same contractor, before receiving payment for the first job. A lawyer who works with day laborers has seen this scenario often: “Some of the guys are going three months are not getting paid. There tends to be a promise that eventually they will get paid. So they continue to work for free. The thing is the promise is never kept.”

On small public agency projects, workers also face frequent violations of prevailing wage laws (which require

contractors on many public projects to pay wages equal to the prevailing level in the city, which usually works out to union scale). Contractors skirt the prevailing wage requirements in any number of ways, and as a result may pay as little as \$10-\$12 per hour for jobs that have prevailing wages of \$45 or more per hour with benefits. This practice often occurs when subcontractors are used, many of them small firms that hire workers within their own ethnic community (e.g., South Asian contractors in Queens).

Overtime violations are routine, because workers typically put in very long weeks with no time-and-a-half pay. Similarly, small contractors, subcontractors and home owners rarely, if ever, contribute to workers’ compensation. And meal breaks are infrequent and haphazard because of the intense time pressure to complete projects. One worker reported, “In our job, the boss says we have to finish a given task today. We have to finish it, it doesn’t matter how hard or fast we have to work. It saves them money from having to pay workers for more days.”

In the end, though, it is the unsafe working conditions that are the most harrowing. Unregulated workers lack protective equipment, rarely receive mandated safety training, and can be exposed to hazardous materials. “If you go to a site and see someone with a hardhat on, that’s the exception to the rule,” as one organizer put it. Several recent studies documented that at least half of Latino work fatalities were disproportionately coming from the construction industry, largely in the non-union sector.

TABLE H.  
CHARACTERISTICS OF UNREGULATED WORK IN THE CONSTRUCTION INDUSTRY  
IN NEW YORK CITY

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations are most common in: <ol style="list-style-type: none"> <li>1. Small private residential construction and landscaping projects, as well as medium-sized private projects such as condominiums.</li> <li>2. Small and medium-sized public agency projects and renovation (e.g. Housing or Transportation Authority, schools).</li> </ol>
Ownership and size	Typically small non-union contractors and especially subcontractors. But occasionally, larger contractors may also hire a few unregulated workers on a given project, or subcontract out to unregulated subcontractors.
Union density	Very little union density in the segments with violations. Unionized contractors generally only bid on larger public projects (\$20 million or higher), where density is very high.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	In unregulated segments, violations are prevalent in the following occupations: general labor, demolition, scaffolding, material moving and clean-up, and landscaping. To a lesser degree, violations are also found in the skilled trades such as roofing, dry walling, sheet metal, electrician, plumbing carpentry, and painting.
Typical wages	<b>Workers hired on day labor corners and through employment agencies:</b> Average is \$6-8 per hour, up to \$10 per hour. <b>Direct hire workers:</b> Wide range in average wages (\$6 per hour to \$25 per hour). But significant numbers of workers receive daily wages, as low as \$40-\$60 a day. <b>Workers on small public projects:</b> Prevailing wage laws can push wages of unregulated workers to about \$10/hour (which is still much lower than prevailing wage law mandates).
Typical hours	In the spring, summer and fall, workers work as much as 12 hours a day, six days a week, on a given project – but the supply of work can be very sporadic, particularly for day laborers. Much less work is available in the winter.
Payment method	Mainly off the books, though on public projects some workers may be either partially or fully on payroll.
Health benefits	Usually no health benefits.
Vacation & sick days	Usually no vacation or paid sick days.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Workforce is largely young and almost exclusively male. Day laborers are largely Latino, South Asian, and Chinese immigrants. Eastern European and Irish immigrants more often work as direct-hires for contractors, as do some Latinos and African-Americans.
Immigration status	Many undocumented immigrants, but not exclusively.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Key intermediaries are day labor corners as well as storefront employment agencies, and some registered temp agencies.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
Most workers are covered by standard employment and labor laws. Industry-specific laws include: <ol style="list-style-type: none"> <li>(1) Davis-Bacon prevailing wage law mandates union-level wages on construction projects receiving federal funding.</li> <li>(2) New York State prevailing wage law mandates union-level wages on construction projects receiving state funding.</li> </ol>	

## COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p><b>Minimum wage:</b> Hourly wages are generally above the minimum wage. But when payment is by the day or by the week, wages can drop below the minimum. For example, a helper earning \$60 a day, working 10 hours a day for six days a week, would earn \$6 an hour (without considering time-and-a-half pay for overtime hours).</p> <p><b>Overtime:</b> Long work weeks are the norm, but overtime is rarely paid.</p>
Prevailing wage	Prevailing wage violations are common on small and medium-sized public projects being built by non-union contractors and subcontractors.
Non-payment of wages	Non-payment of wages by small contractors is common; workers may be paid less than the agreed-upon rate, or not paid at all.
Illegal deductions	Contractors sometimes hold first week's pay as a "deposit" or "insurance." Some employers dock pay for broken equipment or poor quality of work.
Meal breaks	Day labor shifts can run as long as 8-10 hours without a meal break.
Employer taxes	Employers rarely pay required taxes on wages paid in cash.
Misclassification	When a worker makes violation claims, contractors may argue that the worker was an independent contractor and therefore not covered by workplace laws.
OSHA	Health and safety violations are routine on residential projects, and include failure to provide proper safety equipment (e.g. hardhats, protective goggles); exposing workers to hazardous materials such as asbestos without protection; and insecure scaffolding resulting in high incidence of falls.
Workers' Compensation	Small contractors either do not carry workers' compensation, or dissuade workers from filing claims. When injured, workers report not being allowed to return to the job, or not getting paid for the time injured.
Discrimination	South Asian workers report harassment post-9/11.
Retaliation & the right to organize	Workers report retaliation, immigration threats and firing for organizing activity, or sometimes for more modest actions such as requesting safety equipment.

*Note:* All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from late 2003 to early 2005.

*Sources:* Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Bernstein (2004), Chan (2006), Chen and Kilgannon (2004), Fiscal Policy Institute (2003a), Greenhouse (2006), Kamber (2001), Larraetta (2004), New York State Department of Labor (2007b), New York State Department of Labor (2007c), New York State Trial Lawyers Association (2005a), New York State Trial Lawyers Association (2005b), Robbins (2006), Schuerman (2003), Theodore, Valenzuela Jr. and Melendez (2006), Tung (2005), United States General Accounting Office (2002c), Valenzuela Jr. and Melendez (2003), Valenzuela Jr. and Melendez (2004).

## I. UNREGULATED WORK IN THE MANUFACTURING INDUSTRY IN NEW YORK CITY

Even after three decades of deindustrialization, apparel and food manufacturing remain important industries in New York City, employing about 40,000 workers. The story of survival is a complex one, in which local firms have tried to adapt to globalization, unions have fought to keep manufacturing in the city, and government agencies have launched programs to improve enforcement of employment laws. Smaller firms now specialize in niche markets, but still operate with very tight margins and face constant cost pressures. So while the infamous sweatshop conditions of the 19th century no longer prevail, the industry nevertheless creates a significant amount of unregulated work.

### TRENDS IN THE INDUSTRY

Since the 1980s, New York City has been losing its manufacturing jobs – driven overseas by global competition, or out of the city (or to the outer boroughs) by escalating rent prices. While apparel factories have been hardest hit, food manufacturers (especially large plants) have also closed down or moved out. The manufacturing that remains in the city tends to be small factories that have been able to find niche markets. For example, certain types of garments require quick production and frequent style changes, giving local shops an advantage. In food manufacturing, large commercial baking is moving out of the city but artisan baking is growing, and ethnic foods are a growing segment. Still, competition is intense and margins are razor thin.

In the apparel industry, further cost pressures result from the growing power of retailers, who now impose stringent conditions on their orders and the amount they will pay to manufacturers. The manufacturers are in turn using subcontractors (often in multiple layers) and imposing what are often unrealistic cost constraints; in some cases, subcontractors do not receive enough money for a given order to pay the workers in compliance with wage laws.

### THE WORKERS

Manufacturing in New York City has long depended on immigrant workers, with countries of origin shifting over time to reflect broader immigration trends. Today, it is largely Latino and Asian (particularly Chinese and Korean) immigrants who work in the industry. Gender segregation is quite marked – both in the manufacturing jobs that the workers hold, and in the industries that they move to in search of better jobs. For example, the decline in the apparel industry has pushed women into industries such as industrial laundries, nail salons, domestic work, home health care, and informal childcare. Men are more likely to work in food manufacturing, and to search for better jobs in restaurants or driving a taxi or livery cab.

### WORKPLACE VIOLATIONS & REGULATORY EFFORTS

According to industry experts, garment sweatshops in New York City had mostly disappeared by the 1960s but began to resurface in the 1970s, as local factories tried to compete with lower-cost firms overseas. In response, the 1980s saw a renewed push to eradicate child labor and homework, and as a result these practices are far less common today (although we heard some reports of homework in our fieldwork). In order to address wage and hour violations, the New York State Department of Labor created the Apparel Industry Task Force (AITF) in 1987 and added additional multi-lingual staff in 2001. Assessing the impact of the task force is difficult, however, given continued rapid changes in the industry.

Unions have also struggled to maintain a floor on working conditions as their industry has literally grown away from them, both geographically and structurally (e.g. unionized manufacturers will use non-union subcontractors). In both apparel and food manufacturing, unions are forced to expend much of their energy on ensuring that core employment and labor laws are enforced in their

workplaces, as well as trying to keep manufacturing firms in the city. They have had success in providing health benefits for their members (which non-union workers rarely have access to), but have struggled to significantly raise wages above what non-union shops are paying. The upshot is that while union factories are more likely to comply with workplace laws, violations are widespread in the larger non-union sector.

Overtime violations are the most prevalent – especially among workers who are paid piece rates rather than an hourly wage (see Table I). In 2001, the U.S. Department of Labor found that 48% of garment factories in New York City were not in compliance with overtime requirements, and 13% were not in compliance with minimum wage requirements. In food manufacturing, respondents reported minimum wage violations for entry-level jobs, especially in unregistered shops in Sunset Park. “If they make \$40-50 a day, it’s a lot of money,” reports one community organizer.

In the apparel industry, a specific problem is “ghost factories,” factories that open for a few weeks and then disappear without paying the workers (sometimes re-opening in a new location with a new name). Compounding the problem, workers fear retaliation and so only file wage complaints after their factory closes or after they have left the job; however, at this point it can be difficult to

obtain any wages owed. Professor Tarry Hum (2003), an expert on the garment industry, provides a specific example of employer intimidation: a group of workers she studied met in the office of a community organization to discuss their grievances, only to be confronted there by both their contractor employer and the manufacturer that they were trying to hold accountable.

Health and safety conditions are also a recurring issue. Repetitive stress injuries are common in both food and apparel manufacturing. In garment shops, conditions are often overcrowded, fire exits may be blocked, and the dust produced by having too much material in too small a space frequently causes respiratory problems. Improper ventilation has become a particular concern as factories relocate to the outer boroughs, opening in spaces not designed for industrial use.

There are indirect causes of health and safety problems as well. On-the-job-injuries began to rise in the apparel industry in the 1980s and 1990s, which industry experts attribute to the speed-up that was occurring in the shops. “You see people just die of exhaustion on the machines,” reports a staff member of a local community group. Speed-up is also an issue in food manufacturing, leading some workers to remove safety guards from their machines in order to work faster; similarly, safety mats may not be placed and proper footwear may not be provided or used.

TABLE I.  
CHARACTERISTICS OF UNREGULATED WORK IN THE MANUFACTURING INDUSTRY  
IN NEW YORK CITY

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations are common in non-union apparel and food manufacturing plants. In the apparel industry, violations are concentrated among non-union contractors and subcontractors (rather than the manufacturers supplying goods to retailers).
Ownership size and firm Structure	<b>Apparel:</b> Average firm size for factories has been declining with the use of multiple layers of subcontractors; it is now about 25-40 workers, although there is a wide range in size. <b>Food manufacturing:</b> Average firm size is approximately 40 workers, but there is a wide range in size, partly depending on the type of food being produced.
Union density	<b>Apparel:</b> Approximately 15-25% of apparel industry is unionized, but few union plants are in unregulated segment. <b>Food manufacturing:</b> Approximately 10-20% of commercial bakeries are unionized, but few union plants are in unregulated segments.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	<b>Apparel:</b> Sewing operators, floor workers, pressers, hangers, packers, and cutters in non-union shops. <b>Food manufacturing:</b> Helpers/assistants, porters, and machine operators in non-union shops.
Typical wages	<b>Apparel:</b> Non-union workers paid by the hour earn around the minimum wage; piece-rate earnings vary widely, but fall below the minimum for some workers. <b>Food manufacturing:</b> Non-union entry-level positions were paid \$7-\$8 per hour in 2004, with some reports of wages as low as \$5 per hour. Other positions such as drivers can be paid more.
Typical hours	<b>Apparel:</b> Typical schedules are 10-12 hours per day, 6-7 days a week, though there are strong swings in hours with seasonal cycles and big orders. In some cases, workers have trouble obtaining enough steady work to remain in the industry. <b>Food manufacturing:</b> Typical work weeks are 35-40 hours but also vary by season, with 60-70 hour weeks during holidays, and temporary layoffs in January and February.
Payment method	Payment is both hourly and piece rate, and both on the books and off the books, even within the same factory.
Benefits	Health benefits and paid time off are very rare (except in union shops).
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	<b>Apparel:</b> Most workers are immigrants, primarily Latino, Chinese and Korean. The average age of production workers is 40 years old and appears to be rising. Occupations are heavily gendered, with women working as sewing operators and men working in better-paid positions as cutters, pressers and hangers. <b>Food manufacturing:</b> Heavily male, and also immigrant.
Immigration status	Both documented and undocumented workers.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Various types of employment agencies (storefront agencies that charge a fee, temp agencies, and non-profit placement agencies) place workers in factories, but only a small percentage of workers find manufacturing jobs this way. There is also some day labor in apparel.	

## INDUSTRY-SPECIFIC LAWS AND REGULATIONS

The majority of workers are covered by core employment and labor laws. Additional regulations include:

**Apparel:** Article 12A of New York State labor law creates requirements for registration of factories. This registration is contingent on having workers' compensation and unemployment insurance coverage for all employees for the past five years. If goods are manufactured in violation of labor law, they can be tagged as "hot goods" and it is illegal to sell them.

**Food manufacturing:** Meat products are regulated by USDA/FDA.

## COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p><b>Apparel:</b> Minimum wage violations are a significant problem and concentrated in non-union factories; for example, in 2004 some workers paid by the piece were earning as little as \$4 per hour (without considering time-and-a-half pay for overtime hours). Overtime violations are widespread; some workers are paid straight-time for hours over 40, while others are paid a slightly higher rate but less than the required time-and-a-half.</p> <p><b>Food manufacturing:</b> Depending on segment, minimum wage violations can be frequent for entry-level positions in non-union plants.</p>
Non-payment of wages	Non-payment of wages occurs when apparel factories close down without paying the workers wages owed.
Illegal deductions	Workers report that apparel employers sometimes take 5% from checks as a "cashing fee."
Employer taxes	Some employers pay workers "on the books" for the first 40 hours in the week, while additional overtime hours go unrecorded in payroll records. When paying off the books, employer taxes are rarely paid.
Workers' Compensation	Some garment factories fail to carry workers' compensation.
OSHA	Health and safety problems are common in unregulated workplaces, both because of direct violations (e.g. failure to provide adequate ventilation or protective gear) but also as an indirect result of other workplace practices (e.g. speed-up that causes repetitive stress injuries or unsafe work practices).
Discrimination	Apparel workers report discrimination in pay and treatment, based on complex hierarchies of race, ethnicity, gender, and immigration status.
Retaliation & the right to organize	Because of fears of retaliation, workers often register complaints only after their factory closes or they have left the job.

*Note: All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2004-2005.*

*Sources: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Chin (2001), Crean (2003), Fitz (2002), Greenhouse (2004b), Hum (2003), Humowiecki, Lee and National Employment Law Project (2002), New York Industrial Retention Network (1999), New York State Department of Labor (2007b), New York State Department of Labor (2007c), Romney (2004), Ruiz (2005), Russ (2002), US Department of Labor (2002), US Department of Labor (2005a), US Department of Labor (2005d), US Department of Labor (2006a), US Department of Labor (2007), United States General Accounting Office (1994a), Varcasia (2002), Varcasia (2004), Zimny, Garren and ILGWU Legal Department (2002).*



## J. UNREGULATED WORK IN THE LAUNDRY AND DRY CLEANING INDUSTRY IN NEW YORK CITY

The laundry and dry cleaning industry has seen significant restructuring over the last two decades. The core production work – washing and dry cleaning of clothing, uniforms, bed linens and tablecloths – is increasingly being done in industrial plants owned by corporations. On the laundry front, a primary driver has been the contracting out of laundry services by institutions such as hospitals and hotels, with the goal of lowering labor costs. On the dry cleaning front, the economics of the industry and environmental regulation are squeezing out family-owned neighborhood shops doing their own dry cleaning on premises.

Unions have had some success in organizing large industrial plants, but in the non-union parts of the industry, it is not an overstatement that the trend is toward a new form of sweatshop. In addition to being paid very low wages with no overtime, workers sort, clean, iron, fold and pack laundry under conditions that are consistently dangerous and unhealthy. In the words of one organizer, “Laundry is the dirtiest, lowest paid industry.”

### HOW THE INDUSTRY WORKS

The **laundry** industry is divided into two pieces. Best known are the coin-op laundromats scattered throughout the city, which serve individual customers and provide washing machines as well as drop-off service. The coin-op business is becoming dominated by chain stores, driving out the smaller mom-and-pop shops. Meanwhile, institutional customers such as hospitals, hotels, restaurants, cafeterias, and other industries are increasingly subcontracting out their cleaning to “industrial laundries,” plants which can range from large operations employing several hundred workers, to “sweatshop laundries” with 10 or 20 workers. Corporations such as Aramark and Cintas occupy a growing share of the market, with specialization in different niches (hospitals, hotels, uniforms) that also carry different profit margins.

The **dry cleaning** industry is also divided into two pieces. Best known are the neighborhood dry cleaners,

which have traditionally done their own cleaning with their own equipment but are increasingly shipping their orders to large dry cleaning plants. These plants are in turn beginning to squeeze out the small locally-owned operations – for example, by setting up their own retail “feeder” shops (e.g. Symphony Cleaners). In addition, growing environmental regulations have made owning and operating a stand-alone dry cleaning store more expensive. But margins for all segments are extremely tight, and the industry experiences seasonal fluctuations every year and is highly sensitive to the business cycle (since dry cleaning is a relative luxury).

### THE JOBS & THE WORKERS

In the industrial laundry plants, the jobs look very much like an assembly line: linens are sorted, washed, ironed, packed, and then delivered back to the hospital or hotel client. All of the jobs are difficult and low-wage, with exception of the better-paid drivers. Dry cleaning plants are similarly structured, with the exception that the workers who press the clothes are almost always paid by the piece. In the retail stores (coin-ops and local dry cleaners), workers will do all of the cleaning and pressing jobs as well as customer service and tailoring. In both the plants and the retail stores, there is effectively no potential for upward mobility, even though some of the jobs (pressers and tailors) are skilled positions. In the end, said a dry cleaning association member, “These are the jobs that really nobody wants because of the working conditions. You know, if it’s 90 degrees outside it’s 115 degrees in the back of a dry cleaning shop.”

This is an immigrant industry (but not entirely so, with significant numbers of African American workers), with about 5,000-10,000 workers in the city. As industrial laundries in particular have grown, they have found a ready labor supply in immigrant women displaced from the rapidly-shrinking garment industry. Still, there is a strong division of labor by gender. Drivers, pressers, and cleaners/spotters are almost always men, while fold-

ers, sorters, and costumer service jobs are largely filled by women – with the latter jobs typically paid less.

## WORKING CONDITIONS & VIOLATIONS

Outside of the unionized plants, working conditions and wages in both laundries and dry cleaning are extremely poor (see Table J). Minimum wage and overtime violations are the norm – particularly overtime violations, since work days and weeks are very long and virtually nobody pays time and a half. A staff member of a government regulatory agency sees these practices as the prevailing business model: “There’s an industry-wide problem about failure to pay the minimum wage, and these workers are almost never paid time and a half. When we ask owners why they’re paying so little, they say, ‘That’s what everybody else pays.’”

The wage and hour violations are matched by working conditions that range from very poor to explicitly dangerous. Dry cleaning workers inhale the cleaning fluid Perchloroethylene, which is a carcinogen and has been shown to cause other health problems. Summertime heat exposure is also physically taxing, and pressers suffer

year-round from burns. Workers in industrial laundries deal with many of the same heat exposure issues. They also struggle with exposure to toxic chemicals as well as dangerous bio-hazards when handling linens from hospitals. “They have blood, needles, body parts, bits of fingers, everything in those bags,” reports a worker in one of our focus groups.

Other health and safety violations include failure to provide hepatitis vaccinations and proper protective equipment. For example, industrial laundries have cylindrical tunnel washers, with a safety switch that should stop the cylinder from moving when workers open the side door. But in many laundries the switch doesn’t work (or is over-ridden), inviting serious injuries. The worst incidents can result in fatalities. Fixing these kinds of safety issues is a constant battle for union organizers: “That’s an egregious kind of violation, but those kinds of problems exist. Companies are dealing with narrow margins. The company gets fined, and then sues the (equipment) manufacturer.” Not surprisingly, with such dangerous workplaces, employers do their best to evade workers’ compensation claims, actively discouraging employees from filing claims.

TABLE J.  
 CHARACTERISTICS OF UNREGULATED WORK IN THE LAUNDRY AND DRY CLEANING INDUSTRY  
 IN NEW YORK CITY

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	<p><b>Laundry:</b> Coin-ops that provide self-service laundry and drop-off service for individual customers, and non-union industrial plants that provide washing and folding for institutions.</p> <p><b>Dry cleaning:</b> Retail stores where customers drop off and pick up their clothes, and dry cleaning plants that do most of the actual cleaning in the industry.</p>
Ownership and size	<p><b>Laundry:</b> Plants are increasingly owned by corporations, and can range from 150-300 workers. Chain coin-ops have about 8-10 workers, but independent coin-ops are much smaller.</p> <p><b>Dry cleaning:</b> Typical plants have 20-30 employees and are still largely independent. Retail neighborhood stores have 2-5 workers, and are predominantly owned by immigrant families who do much of the work themselves.</p>
Union density	About 70-80% of industrial laundry plants in the New York City area are unionized. There is virtually no union density in the other industry segments.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	<p><b>Laundry:</b> Folders, sorters, pressers, drivers, and customer service workers (in coin-ops).</p> <p><b>Dry cleaning:</b> Cleaners/spotters, pressers, tailors, customer service, and markers/baggers.</p>
Typical wages	<p><b>Laundry:</b> Non-union plants generally pay the minimum wage or just above (except drivers who earn more). Coin-ops often pay below minimum wage, sometimes as low as \$3 per hour (without considering time-and-a half pay for overtime hours).</p> <p><b>Dry cleaning:</b> Wages at plants average around \$300 per week; wages at retail stores range from \$250-\$400, up to \$500. Both are highly seasonal.</p>
Typical hours	<p><b>Laundry:</b> The default work week is 40 hours, but individual shifts can go significantly longer than 8 hours depending on the order being filled. Weekly hours at coin-ops are longer, at least 12 hours a day, 6 days a week.</p> <p><b>Dry cleaning:</b> Usually 60 hours a week in both plants and retail stores, but high seasonal variability.</p>
Payment method	Almost all workers are paid off the books, except in chain coin-ops and large industrial laundries. Workers at dry cleaning plants are generally paid by the piece, as are pressers and tailors at retail cleaners.
Benefits	Health benefits and vacation and sick days virtually non-existent (except in unionized plants).
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Workers are largely immigrant (Mexican, South and Central American, Caribbean, as well as Asian), with some African American workers. The workforce is about 70-80% women; men and women are segmented into different jobs.
Immigration status	Significant portion of undocumented workers in almost all segments, except chain coin-ops, which are more likely to hire documented as well as U.S.-born workers.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Large temp agencies are frequently used by non-union industrial laundries.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
Most workers are covered by core employment and labor laws. Strong environmental regulations govern emissions and the types of cleaning machines and cleaning fluids that are used.	

## COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p><b>Minimum wage:</b> Violations are routine in all segments (except in unionized laundry plants). Coin-op laundries consistently pay below the minimum wage. In dry cleaning plants, weekly wages often work out to \$5 an hour, with reports as low as \$3 an hour (without considering time-and-a half pay for overtime hours).</p> <p><b>Overtime:</b> Failure to pay overtime is routine in all segments (except in unionized laundry plants).</p>
Non-payment of wages	Workers who are on payroll report being required to shave minutes from the beginning and end of shifts.
Meal breaks	Workers report being required to work through meal breaks in all non-union segments.
Employer taxes	Employer taxes on cash wages are either underpaid or not paid at all.
Misclassification	Delivery drivers may be misclassified as sales staff in order to avoid paying overtime.
OSHA	OSHA violations are a chronic problem in non-union industrial laundries (e.g. not providing proper protective equipment or hepatitis vaccinations). Heat in excess of regulations is a common violation in coin-ops, dry cleaning plants and retail dry cleaners. Laws that govern hazardous chemicals in dry cleaning machines, and bio-hazard materials in industrial laundries servicing hospitals, are also often violated.
Workers' Compensation	Some employers fail to carry workers' compensation, and workers report being discouraged from filing claims when injured.
Discrimination	Workers report discrimination against pregnant women, and verbal, physical and sexual abuse in coin-ops.
Retaliation & the right to organize	Workers report pre-emptive retaliation for union organizing in industrial laundries, including immigration threats (especially after 9/11).

*Note:* All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2004-2005.

*Sources:* Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Greenhouse (2003a), Greenhouse (2003b), Greenhouse (2004g), Kelley (2003), Lee (2003), New York State Department of Labor (2007b), New York State Department of Labor (2007c), O'Connor and Sweeney (2005).

## K. UNREGULATED WORK IN THE TAXI INDUSTRY IN NEW YORK CITY

Taxis are a cornerstone of transportation in New York City, moving more than 240 million people a year and accounting for up to 25% of all travel in the city. The industry and its drivers are tightly regulated by the Taxi and Limousine Commission, which dictates all aspects of taxi operation, sets fares, issues licenses, imposes fines, and so forth. But at the same time, there are significant unregulated aspects to the industry. The majority of drivers are classified as independent contractors, are not protected by core employment and labor laws, and often work under arduous and unsafe conditions.

### HOW THE INDUSTRY WORKS

The taxi industry is currently made up of four different segments:

- **Yellow Cabs** dominate midtown and downtown Manhattan, with about 13,000 cabs on the street and about 25,000 active drivers. Drivers either lease their cabs from a corporate garage or broker, rent from another driver for a second shift, or become an owner-driver. Yellow cabs are metered and allowed to pick up passengers on the street.
- **Livery Cabs** dominate uptown Manhattan and the outer boroughs. There are at least 30,000 livery cab drivers; the majority own their vehicles, but affiliate with car services that dispatch cabs in response to customer calls for a weekly fee. Drivers often lease their cars to other drivers for a second shift. Livery cabs are not allowed to pick up passengers on the street, but in practice they often do.
- **Dollar Vans** serve customers who do not live close to subway stops, largely in the outer boroughs. While the TLC website lists about 85 licensed commuter van vehicles, there are likely more operating without licenses. Most dollar van drivers are owners of their vehicles, and so pay all costs associated with operation.
- **Black cars** provide business-class service to Wall Street firms and other corporations. There are 11,000 to 12,000 black car drivers working for 42 major bases

in the city. Trips are largely business travel and often paid for through vouchers from companies.

### THE WORKERS & MOBILITY

The taxi industry is increasingly made up of immigrant workers, and the large majority of drivers are men. Entry into the industry requires a TLC license, and yellow cab drivers are also required to take an 80-hour class and pass an exam covering geography, customer service and English language skills. Drivers sometimes find jobs through newspaper or radio ads, but mostly through word of mouth and social networks. They come to the industry from a wide range of other jobs, including janitors, car mechanics, construction workers, and professionals unable to practice in the U.S. In spite of long shifts and hard working conditions, drivers value their autonomy, and while they may cycle in and out of the industry, long tenures are common. However, upward mobility within the industry is difficult; the only step up is to become an owner-driver, but the costs of making this transition are increasingly prohibitive.

### INDEPENDENT CONTRACTOR STATUS

The work lives of taxi drivers are profoundly shaped by the fact that the majority are classified as independent contractors and are therefore excluded from most employment and labor laws. (This has not prevented organizing, however; about 7,000 of the 25,000 active yellow cab drivers belong to the New York Taxi Workers Alliance; see Section VI).

Drivers carry most of the costs of their job. For example, they pay for gas; daily or weekly leases; vehicle maintenance and repair; car registration and inspection; fines and fees; affiliation with dispatcher bases; and for owner-drivers, the cost of the car. But at the same time, drivers are heavily regulated by the Taxi & Limousine Commission, which shapes almost all aspects of commerce in the industry. For example, it sets fares and lease rates; con-

trols the supply of yellow cabs; regulates which cabs can operate where; issues drivers' licenses; and requires car replacement every five years.

The upshot is that despite being classified as independent contractors, many drivers are effectively in an employment relationship – how they do their job and what they earn is severely constrained by industry regulation and by the terms of contract with garages, brokers and bases. A good illustration is that during the steep escalation of gas prices last year, yellow cab drivers were not able to adjust fares on their own, but had to petition the TLC for a fuel surcharge (which was denied). In what follows, we therefore evaluate the drivers' working conditions through the lens of core employment and labor laws (see Section III for a fuller treatment of how we define unregulated work).

## WORKING CONDITIONS & VIOLATIONS

In our assessment, many yellow cab, livery cab, and dollar van drivers experience what are effectively unregulated working violations. As shown in Table K, hourly wages for drivers can fall below the minimum wage because of the very high number of hours worked per week, coupled with low net earnings. This may happen on a regular basis or just a few weeks a year, depending on gas prices, the fare rate that drivers are allowed to charge, and fluctuations in economic conditions. One driver we interviewed in 2004 rented a livery cab from another driver for a second shift; on a bad week, he brought home \$200, which translates into significantly less than the minimum wage for six days of full-time work. A van driver told us,

“It’s a struggling business but what else are you going to do? People would rather struggle and drive vans than not work.”

Further, drivers do not receive overtime pay because of their independent contractor status. This lack of coverage has a significant impact, given the 70 and 80 hour weeks that drivers need to work to make any money after initial costs – weekly earnings would be as much as 25% higher if time-and-a-half were paid. More generally, drivers face verbal harassment, damage to their cabs, and non-payment of fares. They are not infrequently victims of robbery, physical threats and physical harm from passengers: “I have had more than four guns to my head,” one driver told us. Health and safety problems also result from long hours driving and traffic accidents. And drivers are more likely than other workers to be killed on the job. This is well-known in the industry: “I know it’s risky, but I do it because I have no choice,” another worker reported.

While some taxi drivers are covered through workers' compensation for injury on the job, health and safety regulations for the industry are weak, meaning that cabs are being driven without, for example, recommended protective equipment to forestall robberies. Exacerbating the generally unsafe environment is the fact that the large majority of drivers have no health insurance.

Finally, drivers report harassment and fines for minor infractions by TLC agents and police. These may result in drivers losing licenses so they cannot drive for as much as a month (meaning a substantial loss of income), as well as significant fines.

TABLE K.  
CHARACTERISTICS OF UNREGULATED WORK IN THE TAXI INDUSTRY  
IN NEW YORK CITY

*Note: Most taxi drivers are exempt from one or more employment or labor laws. In this table, we evaluate working conditions as if workers were covered by all employment and labor laws; see our definition of unregulated work in Section III.*

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations are common in yellow cab and livery cab segments (and likely in the dollar van segment, though there is less information here).
Ownership and size	Yellow cab garages range between 50-400 taxis. Livery cab bases average 100-200 cars, with some as large as 700 or 800 cars. Dollar vans are usually run out of small shops.
Union density	The yellow cab segment had high union density before 1979, at which point its drivers were reclassified as independent contractors, effectively eliminating formal union representation.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	<b>Yellow cab drivers</b> (mainly operate in Manhattan). <b>Livery cab drivers</b> (mainly operate in the outer boroughs and uptown Manhattan). <b>Dollar van drivers</b> (mainly operate in the outer boroughs).
Typical wages	For most drivers, net earnings are determined by (a) the revenues they take in from fares, minus (b) expenses they pay out of pocket (such as gas, leasing or base charges, car insurance, fees & fines). <b>Yellow cab drivers:</b> In 2004, drivers' costs averaged \$800 or more per week. After subtracting costs, take-home pay ranged from \$400-\$500 per week. But this varied considerably by shift; at the beginning of the week, drivers could take home as little as \$22 per day. <b>Livery cab drivers:</b> In 2004, costs for owner-drivers included \$7,000 insurance annually, plus about \$250 per week in base charges, gas, and other fees. After subtracting costs, annual income averaged around \$20,000, though tickets, fines, and the costs of buying a car reduce that amount further. Drivers who rented cabs from owners paid as much as \$1000 per week, and netted as little as \$200. <b>Dollar van drivers:</b> In 2004, fare revenues could be as much as \$1,000 per week, but expenses are high; net earnings seem comparable to livery cab drivers.
Typical hours	Full-time yellow cab and livery cab drivers usually work 6 days a week, for 12-16 hour per day (12 hour shifts are the minimum for most drivers).
Payment method	When the drivers are independent contractors, income is cash-based (i.e. fares). When drivers are considered "employees" they are largely paid on the books.
Benefits	The large majority of drivers do not have health benefits, paid vacation days or sick days. Drivers can apply for HealthStat Insurance through the Taxi & Limousine Commission.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Largely immigrant workforce, from Bangladesh, Pakistan, India, Dominican Republic, Haiti, and several other countries. Only 2 –3% of drivers are female; these are concentrated in livery cab segment.
Immigration status	Mix of documented and undocumented.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Training and driving schools are the main intermediaries.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
Almost all yellow cab, livery cab, and dollar van drivers are legally classified as independent contractors, meaning they are not covered by most employment and labor laws. However, conditions of work are significantly shaped by strong industry regulation, via the city's Taxi & Limousine Commission (see narrative above). In our substantive (not legal) analysis, these drivers are effectively in an employment relationship, and we evaluate their working conditions accordingly.	

## COMMON WORKPLACE VIOLATIONS

Minimum wage & overtime	<p><b>Minimum wage:</b> Drivers typically work 60 to 72 hours (and more) a week. Calculated on this basis, hourly wages for drivers can sometimes fall below the minimum wage, especially for drivers renting cars from owner-drivers.</p> <p><b>Overtime:</b> Lack of overtime pay is pervasive because most drivers are not covered by overtime laws.</p>
Illegal deductions	Drivers have considerable out-of-pocket expenses (many of which would need to be reimbursed if the drivers were covered by state employment laws).
Meal breaks	Drivers take some meal breaks from driving, but usually less frequently than would be required for workers covered by state law.
OSHA	Independent contractors are not covered by OSHA.
Workers' Compensation	Yellow cab and livery cab drivers have been deemed employees for the purpose of workers' compensation. However, workers report that when they file claims they routinely need to prove their eligibility (as employees) before the claim is assessed.
Discrimination	Female drivers report harassment and discrimination by dispatchers and garages.
Retaliation & the right to organize	Drivers classified as independent contractors do not have the legal right to organize.
Industry-specific violations	Yellow cab garages charge drivers a 3% sales tax on leases, which they are required to pay to New York State but often keep. Garages sometimes charge drivers for a weekly lease that is higher than the cap set by the Taxi & Limousine Commission. Garages are known to demand that the lease be paid in cash and refuse to give receipts, so drivers are left without proof to challenge these practices.

*Note:* All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2004 and 2005.

*Sources:* Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Bowles and Chao (2004), Brennan Center For Justice (2003), Camerer et al. (1997), Farber (2003), Holt and Paradise (2002), Luo (2004a), Luo (2004b), Mathew (2005), McGrath (2004), New York City Taxi and Limousine Commission (2007), New York State Department of Labor (2007b), New York State Department of Labor (2007c), New York Taxi Workers Alliance (2003), Schaller Consulting (2004a), Schaller Consulting (2004b), Waheed and Romero-Alston (2003).



## L. UNREGULATED WORK IN THE AUTO SERVICES INDUSTRY IN NEW YORK CITY

While New Yorkers disproportionately rely on public transportation, the city in fact does contain a sizable auto services industry. Some parts are well regulated (e.g. national repair chains), but the small-scale and sometimes informal nature of the industry means that workplace violations are a real threat (see Table L). While our fieldwork was not able to cover all parts of the industry, which numbers more than 20,000 workers, we were able to gather some information on the following segments:

### CAR WASHES

Most car washes are independently owned, although two or three may be owned by the same person or family. The largely immigrant workforce shampoos, vacuums, cleans, and dries cars, usually in 12 to 13 hour shifts, six days a week. There is very little room for negotiation on schedules, as recounted by one worker in our focus group: “After working four days (Monday to Thursday) for 15 hours a day, I was tired. On Friday, after working 12 hours, I said to the manager, ‘I’m tired.’ So no more work.” The worker was fired.

With the exception of a few large corporate car washes, minimum wage violations appear common in this segment. Workers report that they earn as little as \$4 an hour, and overtime is almost never paid. Customers often give tips at car washes, but usually not enough to qualify workers for the state’s reduced minimum wage for tipped workers outside of the restaurant industry. Nevertheless, employers often use the tips as an excuse for paying the lower minimum wage, a clear violation of state law. Further, employers sometimes engage in illegal practices such as having workers pool their tips but not distributing the entire amount. We also heard reports of non-payment of wages in car washes, although it is not clear how common this practice is.

Car wash jobs are physically demanding, but workers report being denied rest breaks or being given only 15-20 minutes for lunch. Employers also may fail to follow a

number of health and safety regulations. These include training workers about the chemicals and machines they are using, and providing protective gear to prevent injuries. Injured workers are instructed not to file workers’ compensation claims; in some cases they may receive a cash payment from their employers, but in other cases are fired and quickly replaced. Workers also report not being able to take any days off, for fear of losing the job altogether.

Turnover appears to be high in car washes, although workers who have some seniority may be able to move to preferred positions (such as shift supervisor), which are less physically demanding and may also pay \$1 to \$2 more per hour.

### AUTO REPAIR SHOPS

Auto body and repair shops have undergone significant changes as a result of car computerization, the growth of national chains, and increasing competition from auto dealerships. But neighborhoods throughout the city are still dotted with small auto repair businesses, as well as “street repairs” where workers set up shop on strips in the Bronx, Queens, Brooklyn and uptown Manhattan. While technical knowledge is required (certain mechanics can earn \$10 per hour), the skill level of most jobs is not so high as to prevent hiring off the street. Upward mobility in the industry depends on formal training and certification, which is largely out of reach for workers in informal shops. Wage and hour violations are likely for helpers in particular, and some repair shops may be misclassifying workers as independent contractors.

### PARKING LOTS & GARAGES

Parking lots and garages have been undergoing rapid industry consolidation, with large national companies taking over smaller independent firms. In the national chain garages, hiring and wage setting occurs at central offices, and workers get overtime pay as well as access to health

benefits. However, an informal segment of lots and garages remains in low-income neighborhoods, with what appear to be unregulated working conditions for car attendants and night watchmen. Parking lots are usually open 24 hours; attendants are usually required to work 12 hour shifts, and working alone at night can be dangerous because of the possibility of robberies.

## OTHER SEGMENTS

Although we did not study them directly, respondents indicated that other segments in the industry may also contain unregulated work: gas stations, tire shops, and auto parts dealers.

TABLE L.  
 CHARACTERISTICS OF UNREGULATED WORK IN THE AUTO SERVICES INDUSTRY  
 IN NEW YORK CITY

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations are common in car washes, but are also reported in informal parking lots, garages and auto repair shops.
Union density	Little or no union density.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	Violations are prevalent for car wash workers. Violations may also occur for parking attendants and auto body and repair workers.
Typical wages	Entry-level jobs in car washes are typically paid \$4-\$6 per hour. Parking attendant jobs at chain companies start at \$7-\$8 per hour, but informal lots can pay significantly less. Wages for auto body and repair workers vary widely, with skilled mechanics in unregulated shops earning about \$10 an hour.
Typical hours	Car wash workers typically work six days a week, 12 or 13 hours per day. Parking lots operate on 12 hour shifts. Auto body and repair work can be full-time, but may also be a second job (weekends or evenings).
Payment method	Outside of franchise or chain businesses, workers are largely off the books.
Benefits	Health benefits and sick days are extremely rare in car washes, and in informal parking lots and car repair.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Auto services workers are overwhelmingly men, with differentiation by segment: car wash workers are largely Mexican, Central American, and African immigrants; workers in parking lots and garages are both immigrant and African-American.
Immigration status	A substantial percentage of car wash workers are undocumented immigrants.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Some storefront employment agencies place workers at car washes (charging workers a fee per placement), but most workers find jobs through personal networks.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
Most workers are covered by core employment and labor laws. Some car wash and valet parking workers earn tips, and may be covered by different minimum wage regulations if those tips are customary, usual, and sufficiently large.	
COMMON WORKPLACE VIOLATIONS	
Minimum wage and overtime	<p><b>Minimum wage:</b> Violations are pervasive in car washes: workers routinely report \$4-\$5 an hour as the going hourly rate. Some employers pay the reduced “tipped worker” minimum wage, even though most workers do not earn enough in tips to qualify for the lower minimum.</p> <p><b>Overtime:</b> Overtime is rarely paid in car washes.</p> <p><b>Other segments:</b> Hourly wages in other segments (i.e. attendants in informal parking lots; car repair helpers) may be at risk of both minimum wage and overtime violations, when full hours worked are taken into account.</p>
Non-payment of wages	Workers report several recent incidents of non-payment of wages in car washes, as well as employers illegally taking part of their tips.
Meal breaks	Car wash workers are frequently denied required meal breaks.

Employer taxes	Employer taxes are usually not paid on cash wages.
Misclassification	Some auto body and repair shops may be misclassifying workers as independent contractors.
OSHA	Car wash employers often fail to provide required training and protection from chemicals and cleaning machines.
Workers' Compensation	Workers report being discouraged from filing workers' compensation claims in car washes.

*Note: All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2004 and 2005.*

*Sources: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Bearak (2003), Casimir (2004), Elliot (2004), Girsky (2001), New York State Department of Labor (2007b), New York State Department of Labor (2007c), US Department of Labor (2005c).*

## M. UNREGULATED WORK IN THE PERSONAL SERVICES INDUSTRY IN NEW YORK CITY

A dense array of beauty salons, hair braiding shops, nail salons, day spas, and massage parlors populate New York's neighborhoods, making up the core of the city's personal services industry. Far from only a luxury niche, the industry in fact runs the gamut from low-price to high-price services. In the lower-priced segments, the jobs are a mainstay for immigrant women and ethnic specialization dominates – nail salons draw on Korean, Chinese, Vietnamese and other Southeast Asian women, and increasingly Latina women; African women specialize in hair braiding; South Asian women specialize in eyebrow threading; and Chinese and Russian workers specialize in massage. While the work may be familiar, it is not often easy or well-paid. The small size of the businesses, combined with a myriad of different employment relationships, create an open door for evasion or outright violation of workplace protections.

### OVERVIEW OF THE JOBS

Assessing working conditions in this industry is a challenge. Some of the workers are either entirely or partially self-employed. Massage therapists, for example, may be self-employed as independent contractors, but also work at a massage parlor, spa or gym as an employee. Hair braiders, stylists and barbers are also in an ambiguous category, renting their chairs from salons or braiding shops (which may cost \$150 to \$200 per week). But while some workers keep all of the customers' payment, others only receive a commission from the shop owner. Depending on the details of these arrangements, the worker might either be an independent contractor or an employee. As a result, accurately estimating the number of workers in this industry is quite difficult, though official data suggest at least 20,000.

Complicating matters, there is wide variation in how pay rates are determined. Nail technicians are paid by the day or week, while massage therapists are paid per client-hour and hair braiding is paid by the piece. In spas, the commission that workers earn on selling

products to customers is factored into their pay. And many workers in the industry earn tips, though in small amounts.

Finally, working conditions also vary by establishment. For example, in luxury spas in hotels, earnings can be quite high and unregulated work is not the norm. But in the low-price segments, more common are small establishments run by an owner with one or two shops (though chains are increasingly showing up in the nail salon segment). Here, "job creep" is a recurring problem, with workers forced to perform duties that are not part of their job, and nail salon workers in particular report verbal abuse from their employers. One legal advocate described a spa worker case she was working on: "The owner wanted her to give a massage to a male customer even though the customer would try to grope or touch her in the private room, and the owner refused to excuse her from giving the massage."

### WORKPLACE VIOLATIONS

The upshot is that workplace violations take different forms in different parts of the industry, as shown in Table M. The nail salon segment has been growing rapidly in recent years, and is also where we most consistently found minimum wage and overtime violations. Workers are paid by the day or week and are expected to work long hours; a twelve-hour day is typical, and meal breaks are not always allowed. Wages can fall below the minimum wage, and time-and-a-half is not paid. In the assessment of a lawyer we interviewed, "Nail salons are often on the verge of Fair Labor Standards Act violations."

The problem is particularly acute in the low-income neighborhoods, noted one industry observer: "If you go around places like Washington Heights or Midwood or Bed-Stuy, they are still offering manicures for \$5. That takes about an hour, so the owners must be working them constantly on two customers at a time and it would still be difficult to pay them minimum wage."

The earnings of hair braiders are similarly driven down by the low rates on their services. A braider might earn \$40 for three hours of braiding a client's hair – very low by beauty salon standards where a simple haircut can run \$100, and not nearly enough to make up for the additional hours spent waiting for clients. In the end, wages can easily fall below the minimum; workers report that \$20 a day is common on 125th Street in Harlem, a strip packed with hair braiding shops.

Low-priced spas are able to deliver super-cheap massages (\$40 an hour, far below the industry norm) by cutting workers' commissions, hiring unlicensed workers, and not paying for time waiting for customers. An extreme case recounted to us involved a spa that was effectively keeping its workers captive. A handful of workers performed every task, from giving massages to cleaning the premises, and slept in the massage rooms overnight. Their pay was below the minimum wage, and tips were frequently taken by the employer. While the workers managed to leave this particular spa, most are still either

in the personal services or domestic work industry. (Lack of mobility and opportunity was a recurring refrain in all of our interviews.)

For nail technicians, exposure to nail polish, solvents, and other chemicals is a growing source of concern. The National Asian Pacific American Women's Forum reports that these chemicals are generally not subject to approval by the Food and Drug Administration and many have not been tested for safety. OSHA has not issued detailed regulations regarding their use in nail salons, even though a number of them have been linked to liver damage, cancer, birth defects and miscarriages. In a survey conducted by the community group YKASEC and the New York Committee for Occupational Safety and Health, nail technicians reported a number of symptoms – such as allergies, dizziness, skin rashes, eye irritation, headaches – at high rates. These symptoms were even more common for workers where appropriate safe guards such as masks and ventilation systems were not used.

TABLE M.  
 CHARACTERISTICS OF UNREGULATED WORK IN THE PERSONAL SERVICES INDUSTRY  
 IN NEW YORK CITY

THE INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations are common in nail salons, which tend to be independently-owned although the number of chains is growing. Violations also occur in hair braiding shops, low-priced spas hiring unlicensed massage therapists, and some beauty salons.
Union density	No union density in any of the segments.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	Violations are common among nail technicians and hair braiders; some violations are found among massage therapists working in low-price establishments. Other jobs in beauty salons and spas may also be affected, such as attendants, janitors, and shampooers.
Typical wages	<b>Nail technicians:</b> Average is around the minimum wage, but can go as high as \$10 per hour in spas. <b>Hair braiders:</b> Wages vary significantly depending on client flows. When actually working, the hourly rate can be \$10-\$12 an hour, but dead time in between means pay is low, ranging from \$100 - \$150 a week. <b>Massage therapists:</b> Wages vary widely; in the low-price segment, weekly earnings can range from \$275-\$500 a week.
Typical hours	Nail salon workers typically put in long hours (i.e. 60 hours per week). Workers paid by the client struggle to get full-time hours, and will work more during peak periods such as holidays.
Payment method	Mix of payroll and cash payment.
Benefits	Generally no health benefits or sick days.
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Workforce is largely immigrant and female, with significant ethnic specialization.
Immigration status	Significant number of undocumented workers in nail salons and hair braiding shops.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Intermediaries are sometimes used to find jobs, including storefront employment agencies that charge workers for each job placement.	
INDUSTRY-SPECIFIC LAWS AND REGULATIONS	
<ul style="list-style-type: none"> <li>• Assessment of whether workers are covered by employment and labor laws is difficult in some parts of this industry, opening the door to misclassification (see below).</li> <li>• Licenses are required for most occupations. If obtained in New York State, licenses require from 250 to 1,000 hours of training. Many workers obtain the licenses elsewhere, but about six months of training is still required in order to work in the city.</li> <li>• Some workers in the industry receive tips; if those tips are sufficiently large, they are covered by the New York State 2007 minimum wage for tipped employees of \$5.40 or \$6.05 an hour (depending on the weekly tip average) – but if a worker’s combined wages and tips do not at least equal the regular state minimum of \$7.15 per hour, the employer must make up the difference.</li> </ul>	

## COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p><b>Minimum wage:</b> In nail salons and independently-owned spas, long hours combined with flat weekly wages can translate into minimum wage violations. Workers classified as independent contractors (see below) in hair braiding shops and beauty salons can also earn below the minimum wage, given unstable hours.</p> <p><b>Overtime:</b> Non-payment of overtime is common in all segments.</p> <p><b>Tips:</b> Workers report having their tips taken by the employer, or employers failing to pay enough of a base wage to bring total earnings (tips plus base wage) above the required minimum.</p>
Non-payment of wages	Workers report non-payment of wages in independent spas and nail salons.
Meal breaks	Nail technicians are sometimes denied meal breaks in nails salons. Workers classified as independent contractors may not be granted meal breaks which would be required for employees.
Employer taxes	Employers rarely pay taxes on cash wages.
Misclassification	While there are true independent contractors in the industry, some massage therapists working in low-price spas and some hair braiders and stylists that rent chairs from salons are misclassified as independent contractors, with shop owners controlling their pay and conditions of work.
OSHA	Health and safety issues – especially exposure to chemicals and repetitive stress – are significant in the industry (although many of these hazards are not specifically cited in OSHA standards).
Discrimination	Massage therapists report failure by employers to protect them from sexual harassment and abuse by customers.
Retaliation & the right to organize	Nail salon workers report immigration-related threats for complaining about working conditions; there are virtually no attempts to organize unions in the industry.

*Note: All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from interviews conducted in 2004-2006.*

*Sources: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Asian American Legal Defense and Education Fund and YKASEC (2006), Nails Magazine (2006), National Asian Pacific American Women's Forum (2006), New York State Department of Labor (2007b), New York State Department of Labor (2007c), US Department of Labor (2006e), Willett (2005), YKASEC and New York Committee for Occupational Safety & Health (2004).*





# ENDNOTES

<sup>1</sup> For recent studies in New York City, see: *Make the Road by Walking and Retail Wholesale and Department Store Union* (2005), *Restaurant Opportunities Center of New York and New York City Restaurant Industry Coalition* (2005), *Restaurant Opportunities Center of New York and the New York City Restaurant Industry Coalition* (2006), *Domestic Workers United & Datacenter* (2006), *New York Taxi Workers Alliance* (2003), *Asian American Legal Defense and Education Fund and YKASEC* (2006), Theodore, Valenzuela Jr. and Melendez (2006), Cordero-Guzman, Smith and Grosfoguel (2001), Ness (2005), Gordon (2005a), *Fiscal Policy Institute* (2007a), *Fiscal Policy Institute* (2007b). McGrath (2005) provides a national inventory of studies, including Valenzuela Jr. et al. (2006), Flaming, Haydamack and Joassart (2005), Tucker-Welch (2004), Mehta et al. (2002), Weil and Pyles (2005) and Weil and Pyles (2007).

<sup>2</sup> See McGrath (2005) and Bernhardt and McGrath (2005).

<sup>3</sup> The most accurate data we have come from a series of random “employer compliance surveys” conducted by the U.S. Department of Labor in the late 1990s, testing for violations of minimum wage and overtime laws. Unfortunately, these surveys were limited to only a handful of industries and were largely abandoned after the Clinton administration. Still, they are the only representative data we have, and indicate that workplace violations are common in certain industries. For example, in 1999 only 35% of apparel plants in New York City were in compliance with wage and hour laws; in Chicago, only 42% of restaurants were in compliance; in Los Angeles, only 43% of grocery stores were in compliance; and nationally, only 43% of residential care establishments were in compliance; see *United States Department of Labor* (2001).

<sup>4</sup> This definition of unregulated work is similar to that used in research on global working conditions (Avrigan, Bivens and Gammage 2005) as well as definitions of the informal economy (Losby et al. 2002), though the latter literature typically focuses more attention on small entrepreneurs.

<sup>5</sup> We do not include violations of the Family and Medical Leave Act in this table because our fieldwork did not consistently include questioning about compliance with this law.

<sup>6</sup> *Make the Road by Walking and Retail Wholesale and Department Store Union* (2005); see also the retail industry profile in Section VII.

<sup>7</sup> During the course of this study, New York’s minimum wage increased several times (to \$6.00 an hour in 2005, up from \$5.15 an hour, and then to \$6.75 per hour in 2006). We evaluated information on specific pay rates gathered in our interviews using the minimum wage level of the year in which the interview was conducted.

<sup>8</sup> See Valenzuela Jr. et al. (2006), Valenzuela Jr. and Melendez (2003) and Valenzuela Jr. and Melendez (2004).

<sup>9</sup> See *Fiscal Policy Institute* (2007b), estimating the number of misclassified or off-the-books workers in New York City’s affordable housing construction sector.

<sup>10</sup> See *US Department of Labor* (2005b) and *US Department of Labor* (2005c).

<sup>11</sup> *New York State Department of Labor* (2004a), Rau (2004) and *Campaign to End Wage Theft* (2006).

<sup>12</sup> *National Asian Pacific American Women’s Forum* (2006); *YKASEC and New York Committee for Occupational Safety & Health* (2004).

<sup>13</sup> The Bureau of Labor Statistics, U.S. Department of Labor, has documented that workplace fatalities are disproportionately concentrated in the private construction industry (i.e. the residential, non-union part of the industry where we find high rates of workplace violations) and among Latino men; see Meyer and Pegula (2006), *US Department of Labor* (2006d) and also *AFL-CIO Safety and Health Office* (2006).

<sup>14</sup> See *Fiscal Policy Institute* (2007b), estimating the number of eligible workers in New York State not receiving workers’ compensation from their employers.

<sup>15</sup> For the national trend, see Bronfenbrenner (2000), Mehta and Theodore (2005), *Human Rights Watch* (2000), *United States General Accounting Office* (2002b), and Dunlop et al. (1994). For two recent examples in New York City, see *Greenhouse* (2003b) and *Romero* (2001).

<sup>16</sup> “Concerted activity” means “activities for the purpose of collective bargaining or other mutual aid or protection” by or on behalf of two or more persons. See 29 U.S.C. § 157 (2007).

<sup>17</sup> See Ruckelshaus and Goldstein (2002) and Carre et al. (2000).

<sup>18</sup> See *National Employment Law Project* (2000) and *Workplace Fairness* (2007).

- <sup>19</sup> For studies using governmental audits of payroll records to identify misclassification of independent contractors, see DeSilva et al. (2000) and Carre and Wilson (2004); see also United States General Accounting Office (2006).
- <sup>20</sup> See, for example, Office of the New York State Attorney General (2005b).
- <sup>21</sup> See Jacobs (2004) and Office of the New York State Attorney General (2004b).
- <sup>22</sup> For example, the Fiscal Policy Institute (2007b) recently estimated that for each misclassified or off-the-books worker in New York City's affordable housing sector, unpaid payroll taxes and social insurance premiums equal about \$5,500 per worker.
- <sup>23</sup> Similarly, we are not able to provide a sustained analysis of how institutional and historical discrimination has shaped the jobs we are studying, although some of these dynamics are discussed in the detailed industry profiles in Section VII of this report.
- <sup>24</sup> Pager and Western (2005b).
- <sup>25</sup> See, for example, Moss and Tilly (2001).
- <sup>26</sup> Pager and Western (2005a). See also Peck and Theodore (2005).
- <sup>27</sup> See United States Department of State (2004), Bales, Fletcher and Stover (2004), Clawson et al. (2003), and United States Department of Justice (2004).
- <sup>28</sup> In this report we define immigrants as persons born outside of the U.S.
- <sup>29</sup> See Waldinger and Lichter (2003) for an in-depth discussion of occupational closure and the related issue of occupational displacement; because our research is cross-sectional, we are not able to assess historical trajectories of groups of workers into or out of specific occupations.
- <sup>30</sup> Office of the New York State Attorney General (2005c).
- <sup>31</sup> See Thompson (2006), Gerson (2006), Tung (2004) and Jones (2003).
- <sup>32</sup> This section draws on Bernhardt et al. (2005) and McGrath and Martin (2005).
- <sup>33</sup> For a sampling of this literature, see Osterman (1999), Appelbaum, Bernhardt and Murnane (2003), Cappelli et al. (1997), Herzenberg, Alic and Wial (1998), Kochan, Katz and McKersie (1994), Mishel, Bernstein and Allegretto (2006), Mollenkopf and Castells (1991), Bernhardt et al. (2001), Lewin (2006), Hacker (2006), and Shulman (2003).
- <sup>34</sup> See Ross (2002) and Hum (2003).
- <sup>35</sup> See the collection of industry studies in Appelbaum, Bernhardt and Murnane (2003), and Sassen-Koob (1989).
- <sup>36</sup> See New York City Independent Budget Office (2005).
- <sup>37</sup> Mollenkopf and Castells (1991), Sassen (2001), and Portes, Castells and Benton (1989).
- <sup>38</sup> The percent of workers in the larger New York metropolitan area that were members of unions declined from 28.0% in 1986 to 23.3% in 2006, see Hirsch and Macpherson (2003).
- <sup>39</sup> Under a number of the laws described in this report, workers are able to sue their employers for workplace violations in civil court. But as a public policy model, relying on private enforcement alone is untenable because workers face the very real risk of retaliation, losing their jobs or being reported to immigration authorities. They may also be unable to afford legal representation or find lawyers willing to take their case. That said, private enforcement is an important complement to public enforcement; both systems are needed.
- <sup>40</sup> See Bernhardt and McGrath (2005). Looking over a longer time span between 1957 and 2000, the number of employees per wage-and-hour inspector increased almost three-fold from 46,121 to 139,872 – see Ross (2002). See also the review of enforcement trends in National Employment Law Project (2006a).
- <sup>41</sup> See New York State Department of Labor (2007a).
- <sup>42</sup> Rau (2004).
- <sup>43</sup> Campaign to End Wage Theft (2006).
- <sup>44</sup> AFL-CIO Safety and Health Office (2006).

- <sup>45</sup> See AFL-CIO Safety and Health Office (2006), Barstow (2003), and Torres (2007).
- <sup>46</sup> See Cullen (2002) and Barstow (2003). See also 29 U.S.C. § 666(e) (2007) (schedule of penalties for OSHA violations); 18 U.S.C. § 3551 (2007) (authorized sentences for federal statutory offenses); 18 U.S.C. § 3571 (2007) (authorized fines).
- <sup>47</sup> See Bronfenbrenner (2000), Mehta and Theodore (2005), and Human Rights Watch (2000). For evidence that unions help to enforce workplace laws, see Weil (1991) and Estlund (2005).
- <sup>48</sup> See Weiler (1983) and Prosten (1978).
- <sup>49</sup> See Human Rights Watch (2000) and Weiler (1983).
- <sup>50</sup> See Dunlop et al. (1994) and Weiler (1983). According to Weiler, there were 3,655 unfair labor practice charges in 1957, 10,931 in 1965, 20,311 in 1975, and 31,281 in 1980; employees entitled to reinstatement in 1980 numbered 10,033, a 1000% increase from the low point in 1957.
- <sup>51</sup> Fiscal Policy Institute (2007a).
- <sup>52</sup> New York Workers' Compensation Law § 120 (2007).
- <sup>53</sup> New York State Workers' Compensation Law §§ 2, 3 (2007).
- <sup>54</sup> See Eisenbrey (2004).
- <sup>55</sup> See Human Rights Watch (2000), Blackman (1994), and NLRB v. Health Care & Retirement Corp. of America, 114 S. Ct. 1778 (1994).
- <sup>56</sup> Researchers have arrived at partial estimates by focusing on particular groups of workers; see for example, Kalleberg et al. (1997) and Lane et al. (2001) (temp workers, part-time workers), Valenzuela Jr. et al. (2006) (day laborers), and DeSilva et al. (2000) (misclassified independent contractors).
- <sup>57</sup> See Appelbaum, Bernhardt and Murnane (2003) and Ruckelshaus and Goldstein (2002).
- <sup>58</sup> See Cullen (2002) and Occupational Hazard Editorial Staff (2002).
- <sup>59</sup> AFL-CIO Safety and Health Office (2006).
- <sup>60</sup> Greenhouse (2007a).
- <sup>61</sup> See Weiler (1983), Dunlop et al. (1994), and Human Rights Watch (2000).
- <sup>62</sup> NLRB v. Champion Lab., Inc., 99 F.3d 223, 228-29 (7th Cir. 1996).
- <sup>63</sup> Human Rights Watch (2000).
- <sup>64</sup> See Massey (2002), Gordon (2007), Smith and Ruckelshaus (2007), Wishnie (2004), and Nessel (2001).
- <sup>65</sup> Drawing on Census data and estimates by the Pew Hispanic Center, Beveridge (2006) estimates the undocumented population in New York City at about 652,000 in 2006. Next, Passel (2005b) estimates that nation-wide, about 63% of undocumented immigrants are workers; applying this estimate to New York City yields a very rough estimate of about 400,000 undocumented workers in the city.
- <sup>66</sup> For an inventory of studies that document workplace violations, see McGrath (2005).
- <sup>67</sup> For in-depth analyses of enforcement, see Weil (2005), Weil and Pyles (2005), Weil (2007), and Wial (1999).
- <sup>68</sup> See Smith and Ruckelshaus (2007) for an in-depth treatment of labor standards policies related to immigration reform.
- <sup>69</sup> On the centrality of equal status and equal protections, see Smith (2006), National Employment Law Project (2003), Gordon (2007), Read (2006), Beardall (2006), and National Immigration Law Center (2007).
- <sup>70</sup> Federal restrictions currently prohibit legal aid organizations that receive Legal Services Corporation (LSC) funding from using even their non-LSC funds to represent many categories of immigrants, to seek attorneys' fees, or to bring class actions.
- <sup>71</sup> In practice, one of the most important ways for enforcement agencies to combat employer retaliation is to use their existing power to force employers to reinstate workers who were illegally fired for filing complaints or attempting to organize – otherwise, workers are left with the message that complaining will result in being fired.

<sup>72</sup> See Weil (2004).

<sup>73</sup> For in-depth analyses of immigrant worker centers, see Fine (2006), Gordon (2005a), Ness (2005), and Jayaraman and Ness (2005).

<sup>74</sup> Our research also suggests a number of broader policy changes that would indirectly address the problem of workplace violations. First, raising the wages of publicly-subsidized home care and child care workers through increased government funding would help to reduce the size of informal (and substandard) markets for these services. Second, improving the training and job placement services available to persons transitioning off welfare or out of prison would help to increase access to jobs in the regulated labor market, and thereby reduce reliance on unregulated work.

# WORKS CITED AND OTHER SECONDARY RESEARCH SOURCES

- Adams, Gina, and Kathleen Snyder. 2003. *Essential But Often Ignored: Child Care Providers in the Subsidy System*. Assessing the New Federalism. Occasional Paper. Washington D.C.: The Urban Institute.
- Adler, Moshe. 2003. *Unionization and Poverty: The Case of the New York City Retail Workers*. New York, NY: Public Interest Economics.
- AFL-CIO Safety and Health Office. 2006. *Death on the Job: The Toll of Neglect: A National and State-by-State Profile of Worker Safety and Health in the United States*. Washington, D.C.: AFL-CIO. Available at [http://www.aflcio.org/issues/safety/memorial/doj\\_2006.cfm](http://www.aflcio.org/issues/safety/memorial/doj_2006.cfm).
- Appelbaum, Eileen, Annette Bernhardt, and Richard Murnane (Eds.). 2003. *Low-Wage America: How Employers Are Reshaping Opportunity in the Workplace*. New York, NY: Russell Sage Foundation.
- Asian American Legal Defense and Education Fund and YKASEC. 2006. "Forgotten Workers": A Study of Low-Wage Korean Immigrant Workers in the Metropolitan New York Area. New York, NY: AALDEF and YKASEC. Available at [http://www.aaldef.org/docs/KWP\\_2006WorkerSurvey\\_analysis.pdf](http://www.aaldef.org/docs/KWP_2006WorkerSurvey_analysis.pdf).
- Aukerman, Miriam J. 2003. "Barriers to Reentry: Legal Strategies to Reduce Recidivism and Promote the Success of Ex-Offenders." *Michigan Criminal Law Annual Journal* 1(1):4-11.
- Avrigan, Tony, L. Josh Bivens, and Sarah Gammage (Eds.). 2005. *Good Jobs, Bad Jobs, No Jobs: Labor Markets and Informal Work in Egypt, El Salvador, India, Russia, and South Africa*. Washington, DC: Economic Policy Institute.
- Bailey, Thomas R. 1985. "A Case Study of Immigrants in the Restaurant Industry." *Industrial Relations* 24:205-221.
- Bales, Kevin, Laurel Fletcher, and Eric Stover. 2004. *Hidden Slaves: Forced Labor in the United States*. Washington, D.C and Berkeley, CA: Free the Slaves and Human Rights Center, University of California.
- Baran, Madeline, and Joanne Wasserman. 2003. "Calls for Help Unanswered." *New York Daily News*. October 28, 2003, p. 7.
- Barstow, David. 2003. "When Workers Die: U.S. Rarely Seeks Charges for Deaths in Workplace." *The New York Times*. December 22, 2003. Accessed at <http://www.nytimes.com/2003/12/22/national/22OSHA.html?ex=1387429200&en=439ea219cc1cff70&ei=5007&partner=USERLAND>.
- Bearak, Corey. 2003. "Willetts Point Meets Criteria." *The Western Queens Gazette*. October 29, 2003. Accessed at [http://www.qgazette.com/news/2003/1029/Editorial\\_pages/002.html](http://www.qgazette.com/news/2003/1029/Editorial_pages/002.html).
- Beardall, Bill. 2006. Statement of Bill Beardall on Behalf of the Equal Justice Center and the National Immigration Law Center to the House Committee on Education and the Workforce, Subcommittee on Employer-Employee Relations. Field Hearing on "Immigration: Enforcing Employee Work Eligibility Laws and Implementing a Stronger Employment Verification System." Monday, July 31, 2006.
- Becker, Craig. 2004. "A Good Job for Everyone: Fair Labor Standards Act Must Protect Employees in Nation's Growing Service Economy." *Legal Times* 27(36): Points of View section.
- Bernhardt, Annette, James DeFilippis, Nina Martin, and Siobhan McGrath. 2005. "Unregulated Work and New Business Strategies in American Cities." *Labor and Employment Relations Association: Proceedings of the 57th Annual Meeting*. Pp.188-196.
- Bernhardt, Annette, and Siobhan McGrath. 2005. *Trends in Wage and Hour Enforcement by the U.S. Department of Labor, 1975-2004*. New York, NY: Brennan Center for Justice. Available at [http://brennancenter.org/dynamic/subpages/download\\_file\\_35553.pdf](http://brennancenter.org/dynamic/subpages/download_file_35553.pdf).
- Bernhardt, Annette, Martina Morris, Mark Handcock, and Marc Scott. 2001. *Divergent Paths: Economic Mobility in the New American Labor Market*. New York, NY: Russell Sage Foundation.
- Bernstein, Nina. 2004. "Invisible to Most, Immigrant Women Line Up for Day Labor." *The New York Times*. August 15, 2006. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F40616FD395A0C768DDDA10894DD404482&n=Top%2fReference%2fTimes%20Topics%2fSubjects%2f%2fImmigration%20and%20Refugees>.
- Beveridge, Andrew. 2006. "Undocumented Immigrants." *Gotham Gazette*. April 2006. Accessed at <http://www.gothamgazette.com/article/20060406/5/1809>.
- Blackman, Peter. 1994. "Challenge to Labor: Employers Hope to Capitalize on High Court Ruling." *New York Law Journal*. August 18, 1994, p. 5.
- Bodie, Matthew T. 2003. "The Potential for State Labor Law: The New York Greengrocer Code of Conduct." *Hofstra Labor & Employment Law Journal* 21(1):183-207.
- . 2004. "The Story Behind the New York City Greengrocer Code of Conduct: A Conversation with Patricia Smith." *Regional Labor Review* 6:19-31.

- Bonacich, Edna. 2000. "Intense Challenges, Tentative Possibilities: Organizing Immigrant Garment Workers in Los Angeles." Pp. 130-149 in *Organizing Immigrants: The Challenge for Unions in Contemporary California*, edited by Ruth Milkman. Ithaca, NY: Cornell University.
- Bowles, Pete, and Loretta Chao. 2004. "DA Says Five Charged with Grand Larceny and Coercion in the Systematic Rip-off of Drivers who Ferry Passengers to and from Chinatown." *Newsday*. July 22, 2004, p. A.3.
- Boyer, Monica. 2003. "Lawmakers Seek to Improve Health Care Staffing." *Times Union*. March 11, 2003, Section E, p. E1.
- Brennan Center for Justice. 2003. *Chart Book on Wages, Operating Costs, and Cost of Living for Taxi Cab Drivers in New York City*. New York, NY: Brennan Center for Justice.
- Bronfenbrenner, Kate. 2000. *Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages, and Union Organizing*. Ithaca, NY: New York State School of Industrial and Labor Relations, Cornell University.
- Burton, Alice, Marci Young, Dan Bellm, Claudia Wayne, Marcy Whitebrook, Richard N. Brandon, and Erin Maher. 2002. *Estimating the Size and Components of the US Child Care Workforce and Caregiving Population: Key Findings from the Childcare Workforce Estimate*. Executive Summary. Washington, D.C.: The Center for Childcare Workforce and Human Services Policy Center.
- Bushway, Shawn. 2003. *Reentry and Prison Work Programs*. Reentry Roundtable. Discussion Paper. Washington, D.C.: Urban Institute.
- Camerer, Colin, Linda Babcock, George Loewenstein, and Richard Thaler. 1997. "Labor Supply of New York City Cabdrivers: One Day at a Time." *The Quarterly Journal of Economics* 112(2):407-411.
- Campaign to End Wage Theft. 2006. *Protecting New York's Workers: How the State Department of Labor Can Improve Wage-and-Hour Enforcement*. New York, NY: Campaign to End Wage Theft. Available at [http://brennancenter.org/dynamic/subpages/download\\_file\\_47027.pdf](http://brennancenter.org/dynamic/subpages/download_file_47027.pdf).
- Cappelli, Peter, Lauri Bassi, Harry Katz, David Knoke, Paul Osterman, and Michael Useem. 1997. *Change at Work*. New York, NY: Oxford University Press.
- Capps, Randy, Michael Fix, Jeffrey S. Passel, Jason Ost, and Dan Perez-Lopez. 2003. *A Profile of the Low-Wage Immigrant Workforce*. Immigrant Families and Workers: Facts and Perspectives. Washington, D.C.: Urban Institute.
- Carre, Francoise, Marianne A. Ferber, Lonnie Golden, and Stephen A. Herzenberg (Eds.). 2000. *Nonstandard Work: The Nature and Challenges of Changing Employment Arrangements*. Champaign, IL: Industrial Relations Research Association
- Carre, Francoise, and Randall Wilson. 2004. *The Social and Economic Costs of Employee Misclassification in Construction*. Boston, MA: Construction Policy Research Center, Harvard Law School Labor and Worklife Program and Harvard School of Public Health.
- Casey-Bolanos, Meg. 1999. *Justice For Janitors: The SEIU's Campaign to Raise Standards for Contract Janitors*. New York, NY: National Employment Law Project and the Farmworker Justice Fund.
- Casimir, Leslie. 2004. "Lost in Translation: New Wave of Mexicans Speak only Indian Tongues." *New York Daily News*. December 19, 2004, p. 19.
- Chan, Sewell. 2006. "Fatal Construction Accidents in the City Rise Sharply Over 12 Months." *The New York Times*. November 22, 2006. Accessed at <http://www.nytimes.com/2006/11/22/nyregion/22construct.html?ex=1321851600&en=e0af351f05934dae&ei=5088&partner=rssnyt&emc=rss>.
- Chapman, Jeff, and Jared Bernstein. 2002. *Immigration and Poverty. Disappointing Income Growth in the 1990s Not Solely the Result of Growing Immigrant Population*. Washington, D.C.: Economic Policy Institute.
- Chen, David W., and Corey Kilgannon. 2004. "Chinese Builder's Death Reveals Anonymous Web of Risky Labor." *The New York Times*. June 9, 2004. Accessed at <http://www.nytimes.com/2004/06/09/nyregion/09trench.html?ex=1402113600&en=ec60a3ca6bce8f9b&ei=5007&partner=USERLAND>.
- Child Care Inc. 2007. *Child Care Choices*. Available at <http://www.childcareinc.org/parents/choices.php>.
- Chin, Margaret M. 2001. "When Co-Ethnic Assets Become Liabilities: Mexican, Ecuadorian, and Chinese Garment Workers in New York City." Pp. 280-299 in *Migration, Transnationalization, and Race in a Changing New York*, edited by Hector R. Cordero-Guzman, Robert C. Smith, and Ramon Grosfoguel. Philadelphia, PA: Temple University Press.
- Clark, Peggy, and Steven L. Dawson. 1995. *Jobs and the Urban Poor: Privately Initiated Sectoral Strategies*. Washington, D.C.: The Aspen Institute together with the Charles Stewart Mott Foundation.
- Clawson, Heather J., Kevonne M. Small, Ellen S. Go, and Bradley W. Myles. 2003. *Needs Assessment for Service Providers and Trafficking Victims*. Fairfax, VA: Caliber. Available at <http://www.ncjrs.gov/pdffiles1/nij/grants/202469.pdf>.

- Cleeland, Nancy. 2000. "Heartache on Aisle 3: Sweatshop for Janitors." *Los Angeles Times*. July 2, 2000, Section: Part A Metro Desk, p. 1.
- Cobb, Rachael V. 2002. *Unionizing the Homecare Workers of Los Angeles County*. New York, NY: National Employment Law Project and Farmworker Justice Fund.
- Colangelo, Lisa L., and Joanne Wasserman. 2003. "Yes, Child Care Crisis is Real: But Mike Says City Can't Afford More Programs." *New York Daily News*. October 28, 2003, p. 6.
- Compa, Lance. 2005. *Blood, Sweat and Fear: Workers' Rights in US Meat and Poultry Plants*. New York, NY: Human Rights Watch. Available at <http://www.hrw.org/reports/2005/usa0105/usa0105.pdf>.
- Confessore, Nicholas. 2006. "9 Former Workers Sue a Brooklyn Supermarket for Back Pay." *The New York Times*. May 25, 2006. Accessed at <http://select.nytimes.com/gst/abstract.html?res=FA0F1FFC3A5A0C768EDDAC0894DE404482&n=Top%2fReference%2fTimes%20Topics%2fSubjects%2fS%2fSupermarkets>.
- Cordero-Guzman, Hector R., Robert C. Smith, and Ramon Grosfoguel (Eds.). 2001. *Migration, Transnationalization, and Race in a Changing New York*. Philadelphia, PA: Temple University Press.
- Crean, Sarah. 2003. *NYC's Garment Industry: A New Look?* New York, NY: Fiscal Policy Institute.
- Cullen, Lisa. 2002. *A Job to Die for: Why So Many Americans are Killed, Injured or Made Ill at Work and What to Do about It*. Monroe, Maine: Common Courage Press.
- Dawson, Steven L., and Rick Surpin. 2001. *Direct-Care Health Workers the Unnecessary Crisis in Long-Term Care*. Bronx, NY: The Aspen Institute.
- DeFreitas, Gregory. 1988. "Hispanic Immigration and Labor Market Segmentation." *Industrial Relations* 27(2):195-214.
- DeSilva, Lalith, Adrian Millett, Dominic Rotondi, and William Sullivan. 2000. *Independent Contractors: Prevalence and Implications for Unemployment Insurance Programs*. Report prepared for the United States Department of Labor. Rockville, MD: Planmatics, Inc. Available at <http://wdr.doleta.gov/owsdrr/00-5/00-5.pdf>.
- Diamond, Michael L. 2004. "Non-Union Discounters Put Squeeze on New Jersey's Grocery Store Chains." *Knight-Ridder/Tribune Business News*. February 9, 2004. Accessed at <http://www.highbeam.com/doc/1G1-113075595.html>.
- Domestic Workers United & Datacenter. 2006. *Home Is Where The Work Is: Inside New York's Domestic Work Industry*. New York, NY: Domestic Workers United & Datacenter.
- Duncan, Lucia. 2001. *The Role of Immigrant Labor in a Changing Economy*. New York, NY: National Employment Law Project and Farmworker Justice Fund. Available at [www.nelp.org/swi](http://www.nelp.org/swi).
- Dunlop, John T., Paul A. Allaire, Douglas A. Fraser, Richard B. Freeman, William B. Gould, F. Ray Marshall, Thomas A. Kochan, Juanita M. Kreps, Kathryn C. Turner, W.J. Usery, Paula P. Voos, Paul C. Weiler, and June M. Robinson. 1994. *The Dunlop Commission on the Future of Worker-Management Relations: Final Report*. Washington, D.C.: The Commission on the Future of Worker-Management Relations. Available at <http://www.ilr.cornell.edu/library/downloads/keyWorkplaceDocuments/DunlopCommissionFutureWorkerManagementFinalReport.pdf>.
- Eisenbrey, Ross. 2004. *Longer Hours, Less Pay: Labor Department's New Rules Could Strip Overtime Protection from Millions of Workers*. Washington, D.C.: Economic Policy Institute. Available at <http://www.epinet.org/briefingpapers/152/bp152.pdf>.
- Eisenstadt, Jill. 2004. "The Maid's Tale." *The New York Times*. July 25, 2004. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F7091F63D590C768EDDAE0894DC404482>.
- Ellick, Adam B., and Kim Severson. 2007. "Top Chef's Kitchen Is Far Too Hot, Some Workers Say." *The New York Times*. January 17, 2007. Accessed at <http://www.nytimes.com/2007/01/17/dining/17prom.html?ex=1326690000&en=236d9205886aefbb&ei=5088&partner=rssnyt&emc=rss>.
- Elliot, Andrea. 2004. "A Bronx Curbside Whisper: 'Hey, Need a Tuneup?'" *The New York Times*. December 19, 2004. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F10C1FFD39540C7A8DDDAB0994DC404482&n=Top%2fReference%2fTimes%20Topics%2fPeople%2fE%2fElliott%2c%20Andrea>.
- Estlund, Cynthia. 2005. "Rebuilding the Law of the Workplace in an Era of Self-Regulation." *Columbia Law Review* 105(2):319-404.
- Farber, Henry S. 2003. *Is Tomorrow Another Day? The Labor of New York Cab Drivers*. NBER Working Paper #9706. Cambridge, MA: National Bureau of Economic Research.



- Festen, Marcia, and Sunny Fischer. 2002. *Navigating Reentry: The Experiences and Perceptions of Ex-offenders Seeking Employment*. Chicago, IL: Chicago Urban League.
- Fine, Janice. 2006. Workers Center: *Organizing Communities at the Edge of the Dream*. Ithaca, NY: Cornell University Press.
- Fiscal Policy Institute. 2003a. *NYC Construction Labor Market: Trends and Issues*. New York, NY: Fiscal Policy Institute.
- . 2003b. *Security Guard & Building Services Occupations in NYC: Trends and Issues*. Labor Market Profile. New York, NY: Fiscal Policy Institute.
- . 2007a. *New York State Workers' Compensation: How Big Is the Coverage Shortfall?* New York, NY: Fiscal Policy Institute. Available at [www.fiscalspolicy.org](http://www.fiscalspolicy.org).
- . 2007b. *The Underground Economy in the New York City Affordable Housing Construction Industry: Its Fiscal and Economic Costs*. New York, NY: Fiscal Policy Institute. Available at [www.fiscalspolicy.org](http://www.fiscalspolicy.org).
- Fiscal Policy Institute and New York Immigration Coalition. 2004. *Immigrant Workers and the Minimum Wage in New York City*. New York, NY: Fiscal Policy Institute and New York Immigration Coalition.
- Fisk, Catherine L., Daniel J. B. Mitchell, and Christopher L. Erickson. 2000. "Union Representation of Immigrant Janitors in Southern California: Economic and Legal Challenges." in *Organizing Immigrants: The Challenge for Unions in Contemporary California*, edited by Ruth Milkman. Ithaca, NY: Cornell University.
- Fitz, Andrea. 2002. "Fashion Design House Isn't Joint Employer of Chinatown Garment Workers." *New York Employment Law Letter* 9(6):4.
- Flaming, Daniel, Brent Haydamack, and Pascale Joassart. 2005. *Hopeful Workers, Marginal Jobs: LA's Off-The-Books Labor Force*. Los Angeles, CA: Economic Roundtable. Available at [http://www.economicrt.org/summaries/hopeful\\_workers\\_marginal\\_jobs\\_synopsis.html](http://www.economicrt.org/summaries/hopeful_workers_marginal_jobs_synopsis.html).
- Foner, Nancy (Ed.). 2001. *New Immigrants in New York*. New York, NY: Columbia University Press.
- Gerson, Daniela. 2005a. "Female Day Laborers Gather in Brooklyn." *The New York Sun*. February 18, 2005. Accessed at <http://www.nysun.com/article/9428>.
- . 2005b. "Grocer to Pay \$28,852 in Back Wages." *The New York Sun*. March 25, 2005, New York, p. 2.
- . 2006. "Employment Agencies Targeting Immigrants Often Offer 'False' Hope." *The New York Sun*. March 6, 2006. Accessed at <http://www.nysun.com/article/28611>.
- Girsky, Howard. 2001. "City Plans to Raze Willets Point Eyesore." *The Queens Courier*. January 18-24, 2001, p. 3.
- Golden, Lonnie, and Helene Jorgensen. 2002. *Time After Time: Mandatory Overtime in the US Economy*. Washington, DC: Economic Policy Institute.
- Gordon, Jennifer. 2005a. *Suburban Sweatshops: The Fight for Immigrant Rights*. Cambridge, MA: The Belknap Press of Harvard University Press.
- . 2005b. Testimony Before the House Committee on the Judiciary Subcommittee on Immigration, Border Security, and Claims. June 1, 2005. Washington, DC.
- . 2007. "Transnational Labor Citizenship." *Southern California Law Review*. Forthcoming.
- Gorman, Anna. 2005. "State Helps Domestic Workers Who Are Fighting for Fair Pay." *Los Angeles Times*. September 11, 2005, Section: California Metro; Part B; Metro Desk, p. B.1.
- Gotbaum, Betsy. 2005. *Undertrained, Underpaid, and Unprepared: Security Officers Report Deficient Safety Standards In Manhattan Office Buildings*. New York, NY: Office of the New York City Public Advocate.
- Green, Mark. 2001. *Invisible Sweatshop: The Plight of Home Care Workers in New York City*. New York, NY: Office of the Public Advocate for the City of New York.
- Greenhouse, Steven. 2002. "Korean Grocers Agree to Double Pay and Improve Workplace Conditions." *Newsday*. September 18, 2002. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F50B11F93E540C7B8DDDA00894DA404482&n=Top%2fReference%2ftimes%20Topic%2fPeople%2fS%2fSpitzer%2c%20Eliot%20I%2e>.

- 2003a. “Linen Service Reaches Deal With Union Over Firings.” *The New York Times*. January 11, 2003. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F30814F7345A0C728DDDA80894DB404482>.
  - 2003b. “Union Presses Restaurants to Fire a Linen Service.” *The New York Times*. January 8, 2003. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F20A12F7395A0C7B8CDDA80894DB404482>.
  - 2004a. “Agencies Sued Over Low-Paying Jobs.” *The New York Times*. June 16, 2004. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F00E15F835540C758DDDAF0894DC404482&n=Top%2fReference%2fTimes%20Topics%2fPeople%2fS%2fSpitzer%2c%20Eliot%20L%2e>.
  - 2004b. “Garment Shops Found to Break Wage Laws.” *The New York Times*. October 17, 1997. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F10E1EF6385B0C748DDDA90994DF494D81&n=Top%2fReference%2fTimes%20Topics%2fPeople%2fH%2fHerman%2c%20Alexis%20M%2e>.
  - 2004c. “Health Aides Who Get Sick Days?; Ownership is Good for Co-op Workers, but Union Complicates Mix.” *The New York Times*. February 14, 2004. Accessed at <http://query.nytimes.com/gst/fullpage.html?sec=health&res=9900EEDB1F3AF937A25751C0A9629C8B63&n=Top%2fReference%2fTimes%20Topics%2fSubjects%2fW%2fWages%20and%20Salaries>.
  - 2004d. “Janitors Say Supermarkets Are Still Locking Them In.” *The New York Times*. December 25, 2004. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F10717F935540C768EDDAB0994DC404482&n=Top%2fReference%2fTimes%20Topics%2fSubjects%2fI%2fImmigration%20and%20Refugees>.
  - 2004e. “Labor Department Wins \$1.9 Million in Back Pay for Janitors.” *The New York Times*. August 26, 2004. Accessed at <http://www.nytimes.com/2004/08/26/national/26target.html?ex=1251259200&en=e6ea9b9c16ff828c&ei=5090&partner=rssuserland>.
  - 2004f. “Restroom Attendants Gain Ally in Bid for Back Pay and Tips.” *The New York Times*. October 8, 2004. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F60F16FD3E5F0C7B8CDDA90994DC404482>.
  - 2004g. “Rewards of a 90-Hour Week: Poverty and Dirty Laundry.” *The New York Times*. May 31, 2004. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F60B10F7345A0C728FDDAC0894DC404482&n=Top%2fReference%2fTimes%20Topics%2fSubjects%2fI%2fImmigration%20and%20Refugees>.
  - 2005a. “Among Janitors, Labor Violations Go With the Job.” *The New York Times*. July 13, 2005. Accessed at [http://select.nytimes.com/gst/abstract.html?res=F00E17FF3B590C708DDDAE0894DD404482&fta=y&incamp=archive:article\\_related](http://select.nytimes.com/gst/abstract.html?res=F00E17FF3B590C708DDDAE0894DD404482&fta=y&incamp=archive:article_related).
  - 2005b. “Janitors Union Signs Up 1,100 Security Guards.” *The New York Times*. December 7, 2005. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F30916F738550C748CDDAB0994DD404482>.
  - 2005c. “Two Restaurants to Pay Workers \$164,000.” *The New York Times*. January 12, 2005. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F40B17FB3D5C0C718DDDA80894DD404482>.
  - 2006. “Broad Survey of Day Laborers Finds High Level of Injuries and Pay Violations.” *The New York Times*. January 22, 2006. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F20812FE385B0C718EDDA80894DE404482>.
  - 2007a. “Lack of Rules on Protective Gear Brings Suit Against Labor Department.” *The New York Times*. January 4, 2007. Accessed at <http://www.nytimes.com/2007/01/04/us/04labor.html?ex=1325566800&en=65c10ecc9aefe622&ei=5090&partner=rssuserland&emc=rss>.
  - 2007b. “Long Treated as Volunteers, Tips-Only Supermarket Baggers Take Up Fight for Hourly Wages.” *The New York Times*. February 11, 2007. Accessed at <http://select.nytimes.com/gst/abstract.html?res=FA0E15F7355B0C728DDDA80894DF404482>.
- Hacker, Jacob S. 2006. *The Great Risk Shift: The Assault on American Jobs, Families, Health Care, and Retirement - And How You Can Fight Back*. New York, NY: Oxford University Press.
- Hakim, Danny. 2006. “Albany Ready to Give Union Rights to 52,000 Day Care Workers.” *The New York Times*. June 28, 2006. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F60813F93C540C7B8EDDAF0894DE404482>.
- Harvey, Philip. 2002. “Understanding the Employment Experience of Low-Wage Workers: Implications for Ethnographic Research.” Pp. 95-110 in *Laboring Below the Line*, edited by Frank Munger. New York, NY: Russell Sage Foundation.
- Henly, Julia R. 2002. “Informal Support Networks and the Maintenance of Low-Wage Jobs.” Pp. 179 - 203 in *Laboring Below the Line: The New Ethnography of Poverty, Low-Wage Work, and Survival in the Global Economy*, edited by Frank Munger. New York, NY: Russell Sage Foundation.

- Herzenberg, Stephen, John Alic, and Howard Wial. 1998. *New Rules for a New Economy: Employment and Opportunity in Postindustrial America*. Ithaca, NY: Cornell University Press.
- Herzlich, Jamie. 2001. "Demand for Security Guards Rises." *NY Newsday*. September 19, 2001, p. W.30.
- Hirsch, Barry T., and David A. Macpherson. 2007. Union Membership and Coverage Database from the Current Population Survey. Data for the New York metropolitan area accessed February 26, 2007, at <http://www.trinity.edu/bhirsch/unionstats>.
- Holt, Daniel, and Jennifer Paradise. 2002. *Subcontracting in the New York City Taxicab Industry*. New York, NY: National Employment Law Project and the Farmworker Justice Fund. Available at [www.nelp.org/swi](http://www.nelp.org/swi).
- Howell, Ron. 2003. "Gristedes in \$3.25 Million Deal with Workers." *Newsday*. December 18, 2003, p. A.3.
- Hum, Tarry. 2003. "Mapping Global Production in New York City's Garment Industry: The Role of Sunset Park, Brooklyn's Immigrant Economy." *Economic Development Quarterly* 17(3):294-309.
- Human Rights Watch. 2000. *Unfair Advantage: Workers' Freedom of Association in the United States Under International Human Rights Standards*. New York, NY: Human Rights Watch.
- Humowiecki, Mark, Lung-Chi Lee, and National Employment Law Project (Eds.). 2002. *The Effects of Immigration and Globalization on the US Garment Industry*. New York, NY: The National Employment Law Project.
- Jacobs, Andrew. 2004. "Standing Sentry, Armed With Towel; Some Valets Earn Little; Others Have No Complaints." *The New York Times*. December 9, 2004. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F10D13FE3B550C7A8CDDAB0994DC404482>.
- Janoff, Barry. 2000. "Natural Resources." *Progressive Grocer* 79(3):101-107.
- Jayaraman, Sarumathi. 2003. "In the Wake of September 11: New York Restaurant Workers Explore New Strategies." *Labor Notes*. August 2003, Iss. 293, p. 6.
- Jayaraman, Sarumathi, and Immanuel Ness (Eds.). 2005. *The New Immigrant Workforce: Innovative Models for Labor Organizing*. Armonk, New York: M.E. Sharpe.
- Joassart-Marcelli, Pascale, and Daniel Flaming. 2002. *Workers Without Rights: The Informal Economy in Los Angeles*. Briefing Paper. Los Angeles, CA: Economic Roundtable.
- Jones, Bart. 2003. "Immigrants Ask, 'Why?': Employment Agency Defends Record." *Newsday*. May 26, 2003, p. A.7.
- Kalleberg, Arne L., Edith Rasell, Ken Hudson, David Webster, Barbara F. Reskin, Naomi Cassirer, and Eileen Appelbaum. 1997. *Nonstandard Work, Substandard Jobs: Flexible Work Arrangements in the U.S.* Washington, D.C.: Economic Policy Institute.
- Kamber, Michael. 2001. "On the Corner: New York's Undocumented Day Laborers Fight for Their Piece of the Big Apple." *The Village Voice*. July 25 - 31, 2001. Accessed at <http://www.villagevoice.com/news/0130,kamber,26668,1.html>.
- Kaufman, Leslie. 2004. "Women Who Leave Welfare Find Few Day Care Options." *The New York Times*. May 10, 2004. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F1091FFC39580C738DDDAC0894DC404482>.
- Kelley, Robin D.G. 2003. "Airing Dirty Linens: A Win for Workers Who Put the Finery in Fine Dining." *Village Voice*. January 15 - 21, 2003. Accessed at <http://www.villagevoice.com/news/0303,kelley,41195,5.html>.
- Kimeldorf, Howard. 1999. *Battling for American Labor: Wobblies, Craft Workers, and the Making of the Union Movement*. Berkeley, CA: University of California Press.
- Kochan, Thomas, Harry Katz, and Robert McKersie. 1994. *The Transformation of American Industrial Relations*. Ithaca, NY: Cornell University Press.
- Lane, Julia, Kelly S. Mikelson, Patrick T. Sharkey, and Douglas Wissoker. 2001. *Low-Income and Low-Skilled Workers' Involvement in Nonstandard Employment*. Washington, D.C.: Urban Institute.
- Larraetta, Amaya. 2004. "High Risk for Laborers: Dangerous Job Sites with Few Safeguards Prompt Community Groups to Reach Out to Workers in Effort to Ensure Rights are Protected." *Newsday*. July 16, 2004, p. A.8.
- Lee, Chisun. 2002a. "Breaking Their Silence: Profiles of a Hidden Workforce." *The Village Voice*. April 3-9, 2002. Accessed at <http://www.villagevoice.com/news/0214,lee,33582,1.html>.

- . 2002b. “Domestic Disturbance: The Help Set Out to Help Themselves.” *The Village Voice*. March 13-19, 2002. Accessed at [http://www.villagevoice.com/news/0211\\_lee,33048,1.html](http://www.villagevoice.com/news/0211_lee,33048,1.html).
- . 2002c. “The Heart of the Work: Professionals Navigating a Personal World.” *The Village Voice*. April 17 - 23, 2003. Accessed at [http://www.villagevoice.com/news/0216\\_lee,33968,1.html](http://www.villagevoice.com/news/0216_lee,33968,1.html).
- . 2003. “Nanny Bill Gains Political Ground: City Likely to Enact First Household Worker Protections.” *The Village Voice*. May 7 -13, 2003. Accessed at [http://www.villagevoice.com/news/0319\\_lee,43864,5.html](http://www.villagevoice.com/news/0319_lee,43864,5.html).
- Lee, Denny. 2003. “Neighborhood Report: New York Up Close: Labor Groups Set their Sights on a Surprising Foe - The Corner Laundry.” *The New York Times*. June 8, 2003. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F10A10FB3C5D0C7B8CDDAF0894DB404482&n=Top%2fReference%2fTimes%20Topics%2fSubjects%2fLaundries%20and%20Laundry%20Aids>.
- Levin, Rebekah, and Robert Ginsburg. 2000. *Sweatshops in Chicago: A Survey of Working Conditions in Low-Income and Immigrant Communities*. Chicago, IL: Center for Impact Research Sweatshop Working Group.
- Levine, David, and David Lewin. 2006. “The New ‘Managerial Misclassification’ Challenge to Old Wage and Hour Law; Or, What is Managerial Work?” Pp. 189-222 in *Contemporary Issues in Employment Relations*, edited by David Lewin. Champaign, IL: Labor and Employment Relations Association.
- Lewin, David (Ed.). 2006. *Contemporary Issues in Employment Relations*. Champaign, IL: LERA.
- Loh, Katherine, and Scott Richardson. 2004. “Foreign-born Workers: Trends in Fatal Occupational Injuries, 1996-2001.” *Monthly Labor Review* 127(6):42-53.
- Losby, Jan L., John F. Else, Marcia E. Kingslow, Elaine L. Edgcomb, Erika T. Malm, and Vivian Kao. 2002. *Informal Economy Literature Review*. Newark, DE: ISED Consulting and Research & The Aspen Institute. Available at <http://www.ised.us/doc/Informal%20Economy%20Lit%20Review.pdf>.
- Luo, Michael. 2004a. “Study of Taxi Drivers Finds More Immigrants at Wheel.” *The New York Times*. July 7, 2004. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F60814FC3F5F0C748CDDAE0894DC404482&n=Top%2fReference%2fTimes%20Topics%2fSubjects%2fImmigration%20and%20Refugees>.
- . 2004b. “To Cabbies, Piece of Tin Is a Golden Opportunity.” *The New York Times*. April 13, 2004. Accessed at <http://select.nytimes.com/gst/abstract.html?res=FB0C13FC345C0C708DDDAD0894DC404482&n=Top%2fReference%2fTimes%20Topics%2fSubjects%2fImmigration%20and%20Refugees>.
- Maher, Kris. 2005. “Union Campaign to Organize Security Guards Scores a Victory.” *Wall Street Journal*. December 6, 2005. Accessed at <http://users2.wsj.com/lmda/do/checkLogin?mg=wsj-users2&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2F0813382963251814616.html%3Fmod%3Drss+what%3Dnews+u>.
- Mahoney, Eileen. 2005. *Child Care Market Rates*. Local Commissioners Memorandum. Rensselaer, NY: NYS Office of Children and Family Services.
- Make the Road by Walking, and Retail Wholesale and Department Store Union. 2005. *Street of Shame: Retail Stores on Knickerbocker Avenue*. Brooklyn, NY: Department Store Union (RWDSU/UFCW) and Make the Road by Walking.
- Marcelli, Enrico A., Manuel Pastor Jr., and Pascale M. Joassart. 1999. “Estimating the Effects of Informal Economic Activity: Evidence from Los Angeles County.” *Journal of Economic Issues* 33(3):579 - 607.
- Mason-Draffen, Carrie. 2005. “AG: Agencies to End Discrimination.” *Newsday*. May 31, 2005.
- Massey, Douglas S., Jorge Durand, Nolan J. Malone. 2002. *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration*. New York, NY: Russell Sage Foundation.
- Mathew, Biju. 2005. *Taxi: Cabs and Capitalism in New York City*. New York, NY: New Press.
- McGeehan, Patrick. 2005. “What, No Tip? Service Charge Faces Struggle at Restaurants.” *The New York Times*. August 15, 2005. Accessed at <http://www.nytimes.com/2005/08/15/nyregion/15tips.html?ex=1281758400&en=02a36acd060efd10&ei=5090&partner=rssuserland&emc=rss>.
- McGrath, Ben. 2004. “The Night Life: Off Duty.” *The New Yorker*. July 4, 2005. Accessed at [http://www.newyorker.com/talk/content/articles/050704ta\\_talk\\_mcgrath](http://www.newyorker.com/talk/content/articles/050704ta_talk_mcgrath).

- McGrath, Siobhan. 2005. *A Survey of Literature Estimating the Prevalence of Employment and Labor Law Violations in the U.S.* New York, NY: Brennan Center for Justice. Available at [http://brennancenter.org/dynamic/subpages/download\\_file\\_8418.pdf](http://brennancenter.org/dynamic/subpages/download_file_8418.pdf).
- McGrath, Siobhan, and Nina Martin. 2005. "Unregulated Work: Is Enforcement the Next Battle in the Fight for Workers' Rights?" *Dollars & Sense* Sept/Oct.:16-35.
- McMillian, Tracie. 2005. "Watch Out: Security Guards Push For Wages and Safety." *City Limits*. February 28, 2005. Accessed at <http://www.citylimits.org/content/articles/viewarticle.cfm?articlenumber=1670>.
- Mehta, Chirag, and Nik Theodore. 2005. *Undermining the Right to Organize: Employer Behavior During Union Representation Campaigns*. Chicago, IL: Center for Urban Economic Development, University of Illinois at Chicago. Available at <http://www.americanrightsatwork.org/docUploads/UROCUEdcompressedfullreport.pdf>.
- Mehta, Chirag, Nik Theodore, Iliana Mora, and Jennifer Wade. 2002. *Chicago's Undocumented Immigrants: An Analysis of Wages, Working Conditions, and Economic Contributions*. Chicago, IL: Center for Urban Economic Development, University of Illinois at Chicago.
- Meyer, Samuel W., and Stephen M. Pegula. 2006. *Injuries, Illnesses, and Fatalities in Construction, 2004*. Washington, D.C.: U.S. Department of Labor: Bureau of Labor Statistics. Available at <http://www.bls.gov/opub/cwc/sh20060519ar01p1.htm>.
- Middlekauff, Tracey. 2003. "Nannies." *Gotham Gazette*. October 27, 2003. Accessed at <http://gothamgazette.com/article//20031027/200/582>.
- Milkman, Ruth (Ed.). 2006. *LA Story: Immigrant Workers and the Future of the U.S. Labor Movement*. New York, NY: Russell Sage Foundation.
- Mishel, Lawrence, Jared Bernstein, and Sylvia Allegretto. 2006. *The State of Working America, 2006/2007*. Washington, DC: Economic Policy Institute.
- Mollenkopf, John, and Manuel Castells (Eds.). 1991. *Dual City: Restructuring New York*. New York, NY: Russell Sage Foundation.
- Moss, Philip, and Chris Tilly. 2001. *Stories Employers Tell: Race, Skill, and Hiring in America*. New York, NY: Russell Sage Foundation Publications.
- Nails Magazine. 2006. *2005-2006 Big Book*. Torrance, CA: Nails Magazine.
- National Asian Pacific American Women's Forum. 2006. *The Nail Salon Industry: The Impact of Environmental Toxins on API Women's Reproductive Health*. Issue Brief. Washington, D.C.: National Asian Pacific American Women's Forum.
- National Center for Children and Poverty. 1998. *Child Care by Kith and Kin: Supporting Family, Friends, and Neighbors Caring For Children*. Children in Welfare Reform. Issue Brief. New York, NY: Bank Street College of Education. Available at [www.bankstreet.edu](http://www.bankstreet.edu).
- National Employment Law Project. 2000. *Employment Relationship Checklists*. New York, NY: National Employment Law Project. Available at <http://www.nelp.org/docUploads/pub8%2Epdf>.
- . 2003. *Used and Abused: The Treatment of Undocumented Victims of Labor Law Violations Since Hoffman Plastic Compounds v. NLRB*. New York, NY: National Employment Law Project and Mexican American Legal Defense and Education Fund.
- . 2006a. *Holding the Wage Floor: Enforcement of Wage and Hour Standards for Low-Wage Workers in an Era of Government Inaction and Employer Unaccountability*. New York, NY: National Employment Law Project.
- . 2006b. *Justice for Workers: State Agencies Can Combat Wage Theft*. New York, NY: National Employment Law Project.
- National Immigration Forum. 2002. *Immigration Policy Handbook 2002*. Washington, D.C.: National Immigration Forum.
- National Immigration Law Center. 2007. *Labor and Employment Priorities for Comprehensive Immigration Reform*. Los Angeles, CA: National Immigration Law Center.
- National Institute for Occupational Safety and Health. 2004. *Worker Health Chartbook, 2004*. Cincinnati, OH: Centers for Disease Control and Prevention, Department of Health and Human Services. Available at [http://www.cdc.gov/niosh/docs/chartbook/pdfs/Chartbook\\_2004\\_NIOSH.pdf](http://www.cdc.gov/niosh/docs/chartbook/pdfs/Chartbook_2004_NIOSH.pdf).
- Ness, Immanuel. 2005. *Immigrants, Unions, and the New U.S. Labor Market*. Philadelphia: Temple University Press.
- Nessel, Lori A. 2001. "Undocumented Immigrants in the Workplace: The Fallacy of Labor Protection and the Need for Reform." *Harvard Civil Rights-Civil Liberties Law Review* 36(2):345-405.

- New York Association for Homes and Services for the Aging. 2001. *Desperate Times: Labor Shortages in New York's Continuing Care System*. NYAHS Public Policy Series. New York, NY: New York Association for Homes and Services for the Aging.
- New York City Department of City Planning. 1999. *The Newest New Yorkers*. New York, NY: New York City Department of City Planning.
- New York City Independent Budget Office. 2005. *As City Plans Child Care Improvements, Funding Tightens*. IBO Fiscal Brief. New York, NY: New York City Independent Budget Office.
- New York City Taxi and Limousine Commission. 2007. *How to Become a Taxicab Medallion Owner*. New York, NY: New York City Taxi and Limousine Commission. Available at <http://www.ci.nyc.ny.us/html/tlc/html/beowner.html>.
- New York Industrial Retention Network. 1999. *Food from New York City: An Analysis of New York City's Food Manufacturing Industry*. New York, NY: New York Industrial Retention Network.
- New York Jobs with Justice, and Queens College Labor Resource Center. 2005. *Is Your Gourmet Grocery a Sweatshop? A Report on Working Conditions at Upscale Groceries in New York City*. New York, NY: New York Jobs with Justice and Queens College Labor Resource Center. Available at [http://brennancenter.org/dynamic/subpages/download\\_file\\_9916.pdf](http://brennancenter.org/dynamic/subpages/download_file_9916.pdf).
- New York Mayor's Office of Immigrant Affairs. 2006. *New York City Restaurant Manual*. New York, NY: City of New York.
- New York State Department of Labor. 2004a. *2004 Annual Report*. Albany, NY: New York State Department of Labor. Available at [http://www.labor.state.ny.us/agencyinfo/PDFs/DOLAnnual04\\_final.pdf](http://www.labor.state.ny.us/agencyinfo/PDFs/DOLAnnual04_final.pdf).
- . 2004b. *Special Task Force for the Apparel Industry Annual Report 2003*. Albany, NY: State of New York Department of Labor.
- . 2007a. *Labor Department Launches Minimum Wage Public Awareness Campaign: Adds Ten Bilingual Wage Enforcement Investigators*. Press Release. Albany, NY: New York State Department of Labor. Available at [http://www.labor.state.ny.us/pressreleases/2007/Feb01\\_2007.htm](http://www.labor.state.ny.us/pressreleases/2007/Feb01_2007.htm).
- . 2007b. Nonfarm Employment by Industry (NAICS), New York State and Metropolitan Areas, Current Employment Statistics Survey. Data for New York City accessed February 26, 2007, at <http://www.labor.state.ny.us/workforceindustrydata/apps.asp?reg=nys&app=emp>.
- . 2007c. Occupational Employment Statistics, New York State and Labor Market Regions. Data for New York City accessed February 26, 2007, at <http://www.labor.state.ny.us/workforceindustrydata/apps.asp?reg=nyc&app=wages#39-0000>.
- New York State Office of the State Comptroller. 2003. *Statewide Security Guard Services*. Albany, NY: Office of the State Comptroller Division of State Services.
- New York State Trial Lawyers Association. 2005a. *Lives in the Balance: Immigrants and Workers at Elevated Heights at Greatest Risk in Construction*. New York, NY: New York State Trial Lawyers Association.
- . 2005b. *Lives in the Balance, Part 2: Low Penalties, Too Few Inspections Undermine OSHA's Ability to Deter Unsafe Practices in New York's Construction Industry*. New York, NY: New York State Trial Lawyers Association.
- New York Taxi Workers Alliance. 2003. *An Analysis of Taxi Industry Fare and Lease Cap Proposals*. New York, NY: New York Taxi Workers Alliance.
- Nissen, Bruce. 2004. *Employment Practices and Working Conditions in the Building Services Industry in Miami-Dade County, Florida*. Miami, FL: Center for Labor Research and Studies, Florida International University.
- Nyary, Sasha. 2004. "Child Care for Welfare Recipients." *Gotham Gazette*. April 2004. Accessed at <http://www.gothamgazette.com/article/20040429/2/964>.
- Occupational Hazard Editorial Staff. 2002. "Safety Summit Confirms AFL-CIO, OSHA Fissure." *Occupational Hazards*. April 15, 2002. Accessed at [http://www.occupationalhazards.com/News/Article/35379/Safety\\_Summit\\_Confirms\\_AFLCIO\\_OSHA\\_Fissure.aspx](http://www.occupationalhazards.com/News/Article/35379/Safety_Summit_Confirms_AFLCIO_OSHA_Fissure.aspx).
- O'Connor, Anahad, and Matthew Sweeney. 2005. "2 Employees Seriously Burned as Laundry Hot-Water Tank Explodes." *The New York Times*. May 5, 2005. Accessed at <http://select.nytimes.com/gst/abstract.html?res=FB0D15FC3C540C768CDDAC0894DD404482&n=Top%2fReference%2fTimes%20Topics%2fPeople%2fS%2fSweeney%2c%20Matthew>.
- Office of the New York State Attorney General. 2004a. *Home Health Care Agency Sued for Overtime: Over 2,000 Personal Care and Home Health Attendants were Underpaid in the Last Six Years*. Press Release. New York, NY: Office of the New York State Attorney General. Available at [http://www.oag.state.ny.us/press/2004/mar/mar17a\\_04.html](http://www.oag.state.ny.us/press/2004/mar/mar17a_04.html).

- . 2004b. *Investigation Reveals Deplorable Plight of Restaurant Bathroom Attendants: No Wages or Benefits, Must Pay Fee to Stand in Bathrooms and Wait for Tips*. Press Release. New York, NY: Office of the New York State Attorney General. Available at [http://www.oag.state.ny.us/press/2004/oct/oct7a\\_04.html](http://www.oag.state.ny.us/press/2004/oct/oct7a_04.html).
  - . 2005a. *Attorney General Obtains Overtime Pay for Thousands of Home Health Care Attendants: Settlement will Yield Millions in Past Due Wages*. Press Release. New York, NY: Office of the New York State Attorney General. Available at [http://www.oag.state.ny.us/press/2005/jun/jun07a\\_05.html](http://www.oag.state.ny.us/press/2005/jun/jun07a_05.html).
  - . 2005b. *Brooklyn Stores to Pay Back Wages and Reinstate Workers*. Press Release. New York, NY: Office of the New York State Attorney General. Available at [http://www.oag.state.ny.us/press/2005/aug/aug16a\\_05.html](http://www.oag.state.ny.us/press/2005/aug/aug16a_05.html).
  - . 2005c. *Eight Employment Agencies to End Discriminatory Practices: Two Firms Sued for Using Racial Criteria in Making Job Referrals*. Press Release. New York, NY: Office of the New York State Attorney General. Available at [http://www.oag.state.ny.us/press/2005/may/may31a\\_05.html](http://www.oag.state.ny.us/press/2005/may/may31a_05.html).
  - . 2005d. *Worker Fired for Seeking Minimum Wage Receives Back Pay, Damages*. Press Release. Albany, NY: Office of the New York State Attorney General. Available at [http://www.oag.state.ny.us/press/2005/jul/jul06a\\_05.html](http://www.oag.state.ny.us/press/2005/jul/jul06a_05.html).
- Osterman, Paul. 1999. *Securing Prosperity: The American Labor Market, How It Has Changed and What to Do about It*. Princeton, NJ: Princeton University Press.
- Pager, Devah, and Bruce Western. 2005a. *Barriers to Employment Facing Young Black and White Men with Criminal Records*. Draft manuscript. Princeton, NJ: Department of Sociology, Princeton University. Available at [http://www.princeton.edu/~pager/auditnyc\\_offenders\\_draft.pdf](http://www.princeton.edu/~pager/auditnyc_offenders_draft.pdf).
- . 2005b. *Race at Work: Realities of Race and Criminal Record in the NYC Job Market*. Princeton, NJ: Department of Sociology, Princeton University. Available at [http://www.princeton.edu/~pager/race\\_at\\_work.pdf](http://www.princeton.edu/~pager/race_at_work.pdf).
- Passel, Jeffrey S. 2005a. *Estimates of the Size and Characteristics of the Undocumented Population*. Washington, D.C.: Pew Hispanic Center.
- . 2005b. *Unauthorized Migrants: Numbers and Characteristics: Background Briefing Prepared for Task Force on Immigration and America's Future*. Washington, D.C.: Pew Hispanic Center. Available at <http://pewhispanic.org/files/reports/46.pdf>.
- Peck, Jamie, and Nik Theodore. 2005. *Labor Market Lockdown*. Draft manuscript. Madison, WI: University of Wisconsin-Madison, Department of Geography.
- Pierre, Gaelle, and Stefano Scarpetta. 2004. *Employment Regulations Through the Eyes of Employers: Do They Matter and How Do Firms Respond to Them?* Bonn, Germany: Forschungsinstitut zur Zukunft der Arbeit / Institute for the Study of Labor.
- Ponce de Leon, Juana 2003. "Tidying up Domestic Workers' Rights." *Voices That Must Be Heard*. July 24, 2003. Accessed at <http://www.indypressny.org/article.php3?ArticleID=980>.
- Porter, Toni. 1998. *Neighborhood Child Care: Family, Friends and Neighbors Talk About Caring for Other People's Children*. New York, NY: Bank Street College of Education Center for Family Support.
- Portes, Alejandro, Manuel Castells, and Lauren A. Benton (Eds.). 1989. *The Informal Economy: Studies in Advanced and Less Developed Countries*. Baltimore, MD: The Johns Hopkins University Press.
- Portes, Alejandro, and Saskia Sassen-Koob. 1987. "Making it Underground: Comparative Material on the Informal Sector in Western Market Economies." *American Journal of Sociology* 93(1):30 - 60.
- Prosten, Richard. 1978. "The Longest Season: Union Organizing in the Last Decade, a/k/a How Come One Team Has to Play with Its Shoelaces Tied Together?" *Proceedings of the Thirty-first Annual Meeting of the Industrial Relations Research Association*. Pp. 240-249.
- Rankin, Nancy, and Mark Levitan. 2006. *Shortchanging Security: How Poor Training, Low Pay and Lack of Job Protection for Security Guards Undermine Public Safety in New York City*. New York, NY: Community Service Society of New York.
- Rau, Jordan. 2004. "NY Labor Law Enforcement; A Fight for Fair Pay; State Labor Agency's Reinforcement of Rules Requiring Proper Wage for Workers has Waned During Pataki's Tenure." *Newsday*. April 11, 2004, p. A.6.
- Read, Arthur N. 2006. "Protecting Worker Rights in the Context of Immigration Reform." *Journal of Law and Social Change* 9:65-92.
- Restaurant Opportunities Center of New York and the New York City Restaurant Industry Coalition. 2005. *Behind the Kitchen Door: Pervasive Inequality in New York City's Thriving Restaurant Industry*. New York, NY: Restaurant Opportunities Center of New York and New York City Restaurant Industry Coalition.

- . 2006. *Dining Out, Dining Healthy: The Link Between Public Health and Working Conditions in New York City's Restaurant Industry*. New York, NY: Restaurant Opportunities Center of New York and the New York City Restaurant Industry Coalition.
- Robbins, Tom. 2004. "New York's Real Poorest; Cops and Teachers Cry Poverty, But It's Minority Day Care Workers Who Feel the Pinch." *The Village Voice*. June 15, 2004. Accessed at <http://www.villagevoice.com/news/0424,robbins,54332,5.html>.
- . 2006. "Labor War in Chelsea." *The Village Voice*. May 9, 2006. Accessed at <http://www.villagevoice.com/news/0619,robbins,73148,5.html>.
- Roberts, Sam. 2005. "More Commuters Are Going Against the Flow, and Out of the City." *The New York Times*. November 7, 2005. Accessed at <http://www.nytimes.com/2005/11/07/nyregion/07commute.html?ex=1289019600&en=3d94534d2aac9ac7&ei=5090&partner=rssuserland&emc=rss>.
- Romano, Denise. 2006. "Unfriendly Grocer's Suit: Ex-Workers want \$1.8M in back pay." *New York Daily News*. December 22, 2006, p. 47.
- Romero, Simon. 2001. "Federal Agency Says Verizon Broke Law Regarding Union." *The New York Times*. September 11, 2001. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F70714F83F5C0C728DDDA00894D9404482&n=Top%2fReference%2fTimes%20Topics%2fOrganizations%2fN%2fNational%20Labor%20Relations%20Board>.
- Romney, Lee. 2004. "Chairs Sit Well with Laborers; Teenage Daughters Help Oakland Farm Workers Spark an Ergonomics Revolution. Now LA County is Studying the Changes." *Los Angeles Times*. May 26, 2004. Accessed at [http://www.theinnovationcenter.org/pdfs/ar26\\_Chairs\\_Sit\\_Well\\_With\\_Laborers.pdf](http://www.theinnovationcenter.org/pdfs/ar26_Chairs_Sit_Well_With_Laborers.pdf).
- Ross, Robert J. S. 2002. "The New Sweatshops in the United States: How New, How Real, How Many, and Why?" Pp. 100-122 in *Free Trade and Uneven Development*, edited by Gary Gereffi, David Spener, and Jennifer Bair. Philadelphia, PA: Temple University Press.
- Ruckelshaus, Catherine, and Bruce Goldstein. 2002. *From Orchards to the Internet: Confronting Contingent Work Abuse*. New York, NY: National Employment Law Project and Farmworker Justice Fund.
- Ruckelshaus, Catherine, Bruce Goldstein, and the Subcontracted Worker Initiative. 2002. "Confronting Contingent Worker Abuse in High-Tech and Low-Tech Jobs." *Regional Labor Review* 5:18-30.
- Ruiz, Albor. 2004. "Domestics Work for Their Rights." *New York Daily News*. October 24, 2004, p. 8.
- . 2005. "Immigrants Fight for Pay and Dignity." *New York Daily News*. July 10, 2005, p. 43.
- . 2006. "National Aid Needed for a Domestic Crisis." *New York Daily News*. June 8, 2006, p. 3.
- Russ, Hillary. 2002. "Making Change: Labor of Law." *City Limits Monthly*. January 2002. Accessed at [http://www.citylimits.org/content/articles/viewarticle.cfm?article\\_id=2120](http://www.citylimits.org/content/articles/viewarticle.cfm?article_id=2120).
- Sassen, Saskia. 2001. *The Global City: New York, London, Tokyo*. Princeton, NJ: Princeton University Press.
- Sassen-Koob, Saskia. 1989. "New York City's Informal Economy." Pp. 60 - 77 in *The Informal Economy: Studies in Advanced and Less Developed Countries*, edited by Alejandro Portes, Manuel Castellanos, and Lauren A. Benton. Baltimore, MD: The Johns Hopkins University Press.
- Schaller Consulting. 2004a. *The Changing Face of Taxi and Limousine Drivers: US, Large States and Metro Area, and New York City*. Brooklyn, NY: Schaller Consulting.
- . 2004b. *The New York City Taxicab Fact Book*. Brooklyn, NY: Schaller Consulting.
- Schneider, Friedrich. 2004. *The Size of the Shadow Economies of 145 Countries All Over the World: First Results Over the Period 1999 to 2003*. Bonn, Germany: Forschungsinstitut zur Zukunft der Arbeit / Institute for the Study of Labor.
- Schuerman, Matthew. 2003. "A Home for Work." *City Limits Weekly*. September/October 2003. Accessed at [http://www.citylimits.org/content/articles/viewarticle.cfm?article\\_id=2970](http://www.citylimits.org/content/articles/viewarticle.cfm?article_id=2970).
- SEIU Local 32-BJ. 2004. *Project Safe and Secure*. New York, NY: SEIU Local 32-BJ.
- SEIU Local 1199. 2003. *The Plight of New York's Home Health Aides*. New York, NY: 1199 SEIU.
- Shu, Catherine. 2004. "Deliverymen." *Gotham Gazette*. May 05, 2004. Accessed at <http://www.gothamgazette.com/article/immigrants/20040503/11/966>.
- Shulman, Beth. 2003. *The Betrayal of Work: How Low-Wage Jobs Fail 30 Million Americans and Their Families*. New York, NY: New Press.



- Sim, Shao-Chee. 2002. *Chinatown One Year After September 11th: An Economic Impact Study*. New York, NY: Asian American Federation of New York.
- Smith, Rebecca. 2006. Testimony Before U.S. House of Representatives, Committee on Education and the Workforce Hearing on “Guest Worker Programs: Impact on the American Workforce and U.S. Immigration Policy”. Washington, DC. Available at <http://republicans.edlabor.house.gov/archive/hearings/109th/fc/immigration071906/smith.htm>.
- Smith, Rebecca, and Cathy Ruckelshaus. 2007. “Solutions, Not Scapegoats: Abating Sweatshop Conditions for All Low-Wage Workers As a Centerpiece of Immigration Reform.” *NYU Journal of Legislation and Public Policy* 10(3):Forthcoming.
- Smith, Rebecca, Amy Sugimori, Luna Yasui, and Sarah Massey. 2002. *Low Pay, High Risk: State Models for Advancing Immigrant Workers’ Rights*. Olympia, Washington: National Employment Law Project.
- Son, Hugh. 2005. “Immigrants Get Pay Back: Stores Forced to Up Wages, Cut Hours.” *New York Daily News*. March 28, 2005, p. 1.
- State of California Department of Industrial Relations. 1997. *Targeted Industries Partnership Program Fifth Annual Report*. San Francisco, CA: State of California Department of Industrial Relations Division of Labor Standards Enforcement.
- Steinhauer, Jennifer. 2005. “Domestic Workers Face Blatant Discrimination, Investigation Reveals.” *The New York Times*. June 1, 2005. Accessed at <http://select.nytimes.com/gst/abstract.html?res=F20611F7345D0C728CDDAF0894DD404482>.
- Stohr, Kate. 2003. “Day Care in New York.” *Gotham Gazette*. January 22, 2003. Accessed at <http://www.gothamgazette.com/article/20021202/200/229>.
- Stoller, Paul. 2002. *Money Has No Smell: The Africanization of New York City*. Chicago, IL: University of Chicago Press.
- Stuteville, Sarah. 2005. “Nickel and Dimed on Knickerbocker Avenue.” *NYC Indymedia*. August 14, 2005. Accessed at <http://nyc.indymedia.org/en/2005/08/55344.shtml>.
- The Center for Workforce Studies. 2005. *The Healthcare Workforce in New York State, 2004 Trends in Supply and Demand for Health Workers*. Rensselaer, NY: The Center for Workforce Studies.
- The Working Group on New York City’s Low Wage Labor Market. 2000. *Building a Ladder to Jobs and Higher Wages*. New York City: The Working Group on New York City’s Low-Wage Labor Markets. Available at [www.buildingaladder.org](http://www.buildingaladder.org).
- Theodore, Nik, Abel Valenzuela Jr., and Edwin Melendez. 2006. “La Esquina (The Corner): Day Laborers on the Margins of New York’s Formal Economy.” *WorkingUSA* 9(December):407-423.
- Thomas, Jim. 2001. “What Is the Informal Economy, Anyway?” *SAIS Review* 21(1):1 - 11.
- Thompson, Gabriel. 2006. “Ripping Off Immigrants: Job Agencies Exploit Workers.” *City Limits Weekly*. March 27, 2006. Accessed at [http://www.citylimits.org/content/articles/viewarticle.cfm?article\\_id=1879](http://www.citylimits.org/content/articles/viewarticle.cfm?article_id=1879).
- Torres, Katherine. 2007. “OSHA’s Forecast for 2007.” *Occupational Hazards*. January 29, 2007. Accessed at [http://www.occupationalhazards.com/Issue/Article/44841/OSHA's\\_Forecast\\_for\\_2007.aspx](http://www.occupationalhazards.com/Issue/Article/44841/OSHA's_Forecast_for_2007.aspx).
- Tucker-Welch, Suzette. 2004. *The State of Working Immigrants in Colorado*. Denver: Colorado Fiscal Policy Institute.
- Tung, Larry. 2004. “Employment Agency Fraud.” *Gotham Gazette’s The Citizen*. June 22, 2004. Accessed at [http://gothamgazette.com/citizen/jul04/chinese\\_fraud.shtml](http://gothamgazette.com/citizen/jul04/chinese_fraud.shtml).
- . 2005. “City Council Passes Bill to Establish Commission on Day Labor Centers.” *Gotham Gazette*. October 10, 2005. Accessed at <http://www.gothamgazette.com/article/immigrants/20051010/11/1610>.
- United States Department of Justice. 2004. *Report to Congress from Attorney General John Ashcroft on US Government Efforts to Combat Trafficking in Persons in Fiscal Year 2003*. Washington, D.C.: US Department of Justice.
- United States Department of Labor. 1997. *Defunct Long Island City, New York, Security Guard Firm Ordered To Pay \$238,894 in Back Wages, Damages for Federal Minimum Wage and Overtime Violations*. News Release. New York, NY: US Department of Labor, Employment Standards Administration Wage and Hour Division.
- . 1999. *Monitoring Fair Labor Standards Act Compliance in the Long-Term Health Care Industry*. Washington, DC: United States Department of Labor, Employment Standards Administration, Wage and Hour Division.

- . 2001. *1999-2000 Report on Low-Wage Initiatives*. Washington, DC: United States Department of Labor Employment Standards Administration Wage and Hour Division.
  - . 2002. *US Department of Labor 2001 New York City Garment Compliance Survey*. New York, NY: US Department of Labor.
  - . 2005a. *Brooklyn Bakery to Pay Over \$120,000 in Back Wages to Settle US Labor Department Action* News Release. Boston, MA: US Department of Labor, Office of Public Affairs.
  - . 2005b. *US Department of Labor Obtains Over \$80,000 in Back Wages For 18 New York City Korean Restaurant Workers*. News Release. Boston, MA: US Department of Labor, Office of Public Affairs.
  - . 2005c. *US Department of Labor Obtains Over \$80,000 in Back Wages For 56 Car Wash Workers in Brooklyn and Queens, New York*. News Release. Boston, MA: US Department of Labor, Office of Public Affairs.
  - . 2005d. *US Labor Department Recovers Over \$62,000 in Back Wages for Employees of Brooklyn Meat Shipping Plant*. News Release. Boston, MA: US Department of Labor, Office of Public Affairs.
  - . 2005e. *US Labor Department Recovers Over \$62,000 in Back Wages for Employees of Brooklyn Meat Shipping Plant*. News Release. Boston, MA: US Department of Labor, Office of Public Affairs.
  - . 2006a. *Brooklyn Garment Shop Pays More Than \$38,000 in Back Wages Following US Labor Department Investigation*. News Release. Boston, MA: US Department of Labor, Office of Public Relations.
  - . 2006b. *Brooklyn, NY, Retail Fashion Company Agrees to Settle Labor Department Lawsuit for Unpaid Overtime*. News Release. New York, NY: US Department of Labor, Office of Public Affairs.
  - . 2006c. *"Little Italy" Restaurant Agrees to Pay Employees Over \$148,000 in Back Wages Following US Labor Department Investigation*. News Release. Boston, MA: US Department of Labor.
  - . 2006d. *National Census of Fatal Occupational Injuries in 2005*. News Release. Washington, D.C.: US Department of Labor: Bureau of Labor Statistics. Available at <http://www.bls.gov/news.release/pdf/cfoi.pdf>.
  - . 2006e. *New York City Spas and Nail Salons Agree to Pay More Than \$222,000 in Back Wages and Interest to Settle US Labor Department Lawsuit*. News Release. Boston, MA: US Department of Labor, Office of Public Relations.
  - . 2006f. *Queens Employers Agree to Pay Nearly \$229,000 in Back Wages and Interest to Settle US Labor Department Action*. News Release. Boston, MA: US Department of Labor, Office of Public Affairs.
  - . 2006g. *Queens Supermarket Agrees to Pay Employees Nearly \$148,000 Back Wages to Settle US Labor Department Suit*. News Release. Boston, MA: US Department of Labor, Office of Public Relations.
  - . 2006h. *Queens Supermarkets Agree to Pay More Than \$19,000 in Overtime to Settle US Labor Department Lawsuit*. News Release. Boston, MA: US Department of Labor, Office of Public Relations.
  - . 2007. *Brooklyn, N.Y., Bakery & Owner Agree to Pay Employees Over \$25,000 in Back Wages and Interest, Following U.S. Labor Department Lawsuit*. News Release. Boston, MA: US Department of Labor.
- United States Department of State. 2004. *Trafficking in Persons Report: June 2004*. Washington, D.C.: United States Department of State.
- United States General Accounting Office. 1994a. *Garment Industry: Efforts to Address the Prevalence and Conditions of Sweatshops*. Washington, DC: United States General Accounting Office.
- . 1994b. *Tax Administration: Data on the Tax Compliance of Sweatshops*. Washington, DC: United States General Accounting Office.
  - . 2000. *Contingent Workers: Incomes and Benefits Lag Behind Those of Rest of Workforce*. Washington, D.C.: United States General Accounting Office.
  - . 2002a. *Child Labor: Labor Can Strengthen Its Efforts to Protect Children Who Work*. Washington, D.C.: United States General Accounting Office. Available at <http://www.gao.gov/new.items/d02880.pdf>.
  - . 2002b. *Collective Bargaining Rights. Information on the Number of Workers With and Without Bargaining Rights*. Washington, D.C.: United States General Accounting Office.

- . 2002c. *Worker Protection: Labor's Efforts to Enforce Protections for Day Laborers Could Benefit from Better Data and Guidance*. Washington, DC: United States General Accounting Office.
- . 2006. *Employment Arrangements: Improved Outreach Could Help Ensure Proper Worker Classification*. Report to the Ranking Minority Member, Committee on Health, Education, Labor, and Pensions, U.S. Senate. Washington, D.C.: United States General Accounting Office.
- United States Government Accountability Office. 2005. *Immigration Enforcement: Preliminary Observations on Employment Verification and Worksite Enforcement Efforts*. Washington, D.C.: United States Government Accountability Office.
- Valenzuela Jr., Abel, and Edwin Melendez. 2003. *Day Labor in New York: Findings from the NYDL Survey*. New York, NY: Community Development Research Center and The Center for the Study of Urban Policy.
- . 2004. *Additional Findings From the NY Day Labor Survey*. New York, NY: Center for the Study of Urban Poverty.
- Valenzuela Jr., Abel, Nik Theodore, Edwin Melendez, and Ana Luz Gonzalez. 2006. *On the Corner: Day Labor in the United States*. Los Angeles, CA: Center for the Study of Urban Poverty. Available at [http://www.sscnet.ucla.edu/issr/csup/uploaded\\_files/Natl\\_DayLabor-On\\_the\\_Corner1.pdf](http://www.sscnet.ucla.edu/issr/csup/uploaded_files/Natl_DayLabor-On_the_Corner1.pdf).
- Varcasia, Connie J. 2002. *Special Task Force for the Apparel Industry*. Annual Report. New York, NY: New York State Department of Labor, Division of Labor Standards.
- . 2004. *Special Task Force for the Apparel Industry*. Annual Report. New York, NY: New York State Department of Labor, Division of Labor Standards.
- Von Bergen, Jane M. 2005. "On Today's Menu: Litigation Restaurants Face Complaints of Bias, Harassment and Wage Law Violations. Young and Immigrant Workers are Most Vulnerable." *Philadelphia Inquirer*. October 30, 2005. Accessed at [http://nl.newsbank.com/nl-search/we/Archives?p\\_action=list&p\\_topdoc=11](http://nl.newsbank.com/nl-search/we/Archives?p_action=list&p_topdoc=11).
- Waheed, Saba, and Laine Romero-Alston. 2003. *UNFARE: Taxi Drivers and the Cost of Moving the City*. New York, NY: New York Taxi Workers Alliance and Urban Justice Center.
- Waldinger, Roger. 1985. "Immigration and Industrial Change in the New York City Apparel Industry." Pp. 323-349 in *Hispanics in the U.S. Economy*, edited by George J. Borjas and Marta Tienda. Orlando, FL: Academic Press, Inc.
- Waldinger, Roger, and Michael I. Lichter. 2003. *How the Other Half Works: Immigration and the Social Organization of Labor*. Berkeley, CA: University of California Press.
- Wasserman, Joanne. 2003a. "A Crisis of Kids Left All Alone." *New York Daily News*. October 27, 2003, p. 6.
- . 2003b. "Kids Left to Wait in Van." *New York Daily News*. October 29, 2003, p. 7.
- . 2003c. "New City Day-Care Bungle; News Digs - and Double the Slots Turn Up " *New York Daily News*. Nov 2, 2003, p. 9.
- Weil, David. 1991. "Enforcing OSHA: The Role of Labor Unions." *Industrial Relations* 30(1):20-36.
- . 2004. "Individual Rights and Collective Agents: The Role of Old and New Workplace Institutions in the Regulation of the Labor Market." Pp. 13-44 in *New Workplace Institutions for the 21st Century*, edited by Richard Freeman, John Hersch, and Larry Mishel. Chicago, IL: University of Chicago Press.
- . 2005. "Public Enforcement / Private Monitoring: Evaluating A New Approach to Regulating the Minimum Wage." *Industrial and Labor Relations Review* 58(2):238-257.
- . 2007. *Crafting a Progressive Workplace Regulatory Policy: Why Enforcement Matters*. Boston, MA: Boston University School of Management: Harvard University - John F. Kennedy School of Government.
- Weil, David, and Carlos Mallo. 2004. *Government Regulation of Minimum Wage: Estimating the Effects of Intervention*. Boston, MA: Boston University School of Management.
- Weil, David, and Amanda Pyles. 2005. "Why Complain? Complaints, Compliance, and the Problem of Enforcement in the U.S. Workplace." *Comparative Labor Law and Policy Journal* 27(1):59-92.
- . 2007. "Exploring the Complaints and Compliance Gap Under U.S. Workplace Policies." *Proceedings of the 2007 Annual Meetings of the Labor and Employment Relations Association*. Forthcoming.

- Weiler, Paul. 1983. "Promises to Keep: Securing Workers' Rights to Self-Organization Under the NLRA." *Harvard Law Review* 96(8):1769-1827.
- Wial, Howard. 1999. *Minimum-Wage Enforcement and the Low-Wage Labor Market*. Harrisburg, PA: Keystone Research Center. Available at <http://mitsloan.mit.edu/iwer/tfwial.pdf>.
- Willett, Julie. 2005. "Hands Across the Table: A Short History of the Manicurist in the Twentieth Century." *Journal of Women's History* 17(5):59-80.
- Wilson, Colwick M., and Leon C. Wilson. 2000. "Domestic Work in the United States of America: Past Perspectives and Future Directions." *African-American Research Perspectives* 6(1):1-8.
- Wishnie, Michael. 2004. "Emerging Issues for Undocumented Workers." *University of Pennsylvania Journal for Labor and Employment Law* 6:497.
- Workplace Fairness. 2007. *Contractors: Your Rights*. Washington, D.C.: Workplace Fairness. Available at <http://www.workplacefairness.org/contractors>.
- YKASEC and New York Committee for Occupational Safety & Health. 2004. *Findings from Health Survey of Korean American Nail Salon Workers*. New York, NY: YKASEC and New York Committee for Occupational Safety & Health.
- Youdelman, Sondra, and Paul Getsos. 2005. *The Revolving Door: Research Findings on NYC's Employment Services and Placement System and Its Effectiveness In Moving People from Welfare to Work*. New York, NY: Community Voices Heard. Available at <http://www.cvhaction.org/english/reports/The%20Revolving%20Door%20-%20Full%20Report.pdf>.
- Zachary, G. Pascal. 1996. "Shortchanged: Many Firms Refuse to Pay for Overtime, Employees Complain -- Others Claim Workers are Exempt Under the Law or Raise Output Targets -- But the Rules are Confusing." *The Wall Street Journal*. June 24, 1996, p. A1.
- Zimny, Max, Brent Garren, and ILGWU Legal Department (Eds.). 2002. *Protecting the Contingent Work Force: Lessons From The Women's Garment Industry*. New York, NY: The National Employment Law Project and The Farmworker Justice Fund.

BRENNAN CENTER PUBLICATIONS

*Unchecked and Unbalanced: Presidential  
Power in a Time of Terror*

FREDERICK A.O. SCHWARZ, JR AND AZIZ Z. HUQ  
(NEW PRESS, 2007)

*Access to Justice: Opening the Courthouse Door*

DAVID UDELL AND REBEKAH DILLER (2007)

*Campaign Finance in Ohio*

SUZANNE NOVAK AND MANEESH SHARMA (2007)

*An Agenda for Election Reform*

WENDY WEISER AND JONAH GOLDMAN (2007)

*The Machinery of Democracy: Voting System Security,  
Accessibility, Usability, and Cost*

LAWRENCE NORDEN (2006)

*Citywide Minimum Wage Laws: A New Policy  
Tool for Local Governments*

PAUL SONN (2006)

*What Do We Know About Wal-Mart?  
An Overview of Facts and Studies for New Yorkers*

ANNETTE BERNHARDT, ANMOL CHADDHA AND  
SIOBHAN MCGRATH (2005)

*Trends in Wage and Hour Enforcement  
by the U.S. Department of Labor, 1975-2004*

ANNETTE BERNHARDT AND SIOBHAN MCGRATH (2005)

For more information, please visit  
[www.brennancenter.org](http://www.brennancenter.org) or call 212-998-6730

BRENNAN  

---

CENTER  

---

FOR JUSTICE

Brennan Center for Justice  
*at New York University School of Law*

161 Avenue of the Americas,  
12th floor  
New York, New York 10013  
212.998.6730 Fax 212.995.4550  
[www.brennancenter.org](http://www.brennancenter.org)