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Regulating the Care Boom: Labor Standards Enforcement and Paid In-Home Care Work

Isaac Jabola-Carolus
The Graduate Center, City University of New York

REGULATING THE CARE BOOM:

LABOR STANDARDS ENFORCEMENT AND PAID IN-HOME CARE WORK

by

ISAAC JABOLA-CAROLUS

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Ruth Milkman, Chair of Examining Committee

Lynn Chancer, Executive Officer

Supervisory committee:

Ruth Milkman, Advisor

Stephanie Luce, First Reader

James M. Jasper

Janice Fine

THE CITY UNIVERSITY OF NEW YORK

ABSTRACT

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Isaac Jabola-Carolus

Advisor: Ruth Milkman

In the United States, population aging has driven explosive growth in care-sector occupations, especially among low-wage home care aides who provide long-term assistance to older adults. These aides, predominantly women and disproportionately people of color, now represent one of the country's largest and fastest-growing occupational groups. In recent decades, economic inequality and meager social policies have also spurred demand for nannies, housecleaners, and other domestic workers—occupations heavily reliant on immigrant women, many undocumented. While scholarly and public discourse has addressed labor shortages and job quality in such occupations, a related problem is the widespread violation of labor standards, including minimum wage and overtime laws. This regulatory issue is common across low-wage industries but is particularly acute when work takes place in atomized private homes.

This dissertation examines how state and non-state actors have pursued labor standards enforcement in such a challenging context, focusing on the efforts of government agencies, labor unions, and worker centers in New York City. Based on qualitative interviews and original survey data, I argue that these efforts produce important impacts—such as informing workers of their rights and resolving violations—but that progress is fundamentally constrained by the structure of the home care and domestic work industries. Current strategies are no match for the scale of employer noncompliance in this sector, even in places like New York, where the regulatory landscape is exceptionally robust. Broader impacts require changes to underlying industry structures. In the case of home care, this structure is a model of service provision that often relies on cash-strapped private agencies contracted under Medicaid. In domestic work, the structure is one of informality, extreme decentralization, and one-to-one employment relationships.

These findings contribute to the sociology of care work and the interdisciplinary field of workplace regulation. They reveal the limitations of regulatory theories and practices that treat industry structures as fixed instead of malleable, which may obscure core drivers of noncompliance. And they reinforce perspectives that underscore the relationship between industry structure and employer behavior. Yet the common assumption that the incidence of violations depends primarily on enforcement strategies may be incorrect. Instead, this dissertation argues that violations—and their reduction—may hinge on policy areas outside the direct control of labor regulators, such as social policy and immigration law.

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Chapter 1
Introduction

In July 1971, over 500 delegates of the National Committee on Household Employment (NCHE) convened for the first time, in Washington, DC. The delegates, according to the *New York Times* (1971), were mostly Black and middle-aged women, and they "applauded enthusiastically as speakers at an opening session told them the time had come for domestics—cooks, 'nannies' and other houseworkers—to demand inclusion under national and state minimum wage and unemployment compensation laws." A new domestic workers' mobilization thus arrived on the national scene, building on an earlier generation of activism and uniting the causes of second-wave feminism, organized labor, and the Civil Rights Movement. Its first campaign was to win basic federal rights for domestic workers, whom Congress had excluded from the Fair Labor Standards Act of 1938 (Nadasen 2015; Smith 1999).

NCHE and its worker-led offshoot, the Household Technicians of America, made quick work of their campaign. Within three years, domestic workers had secured their place in the Fair Labor Standards Amendments of 1974, aided by Ford Foundation grants and political support from the women's movement, AFL-CIO,[1] thirty-nine organizational allies, and Shirley Chisholm—the first Black woman in Congress and the individual who "did the most" to wrangle votes (Tolchin 1973). The amendments, signed into law by President Richard Nixon on April 8, 1974, raised the minimum wage for all covered workers and extended new coverage to at least 1.2 million domestic workers (Apple, Jr. 1974; Associated Press 1974b).[2] On May 1, the law

[1] The AFL-CIO is the American Federation of Labor and Congress of Industrial Organizations, the main federation of labor unions in the United States.

[2] Nixon vetoed similar legislation the year before and cited explicit opposition to the inclusion of domestic workers (Nixon 1973). He faced different political conditions in 1974: "The belief on Capitol Hill was that the Watergate scandal had eroded the President's influence in Congress to the point where he could not sustain an unpopular

took effect, granting most domestic workers the right to overtime pay and a minimum wage of $1.90 per hour—approximately $11.90 in today's dollars (Associated Press 1974a).

The victory was a historic achievement for domestic workers, who were among the last workers to gain inclusion in the Fair Labor Standards Act and were considered by many, in the words of a Congressional staff member, "the most depressed and disadvantaged group of workers in the United States" (quoted in Shabecoff 1973).[3] The law was by far the most notable legislation for U.S. domestic workers up to that point. Only three states—Massachusetts, New York, and Wisconsin—had previously included this group in state-level minimum wage laws (Shabecoff 1973).

Movement leaders knew that implementing the law would require new strategies and that it would be "up to the workers . . . to demand that the law be enforced" (Sloan 1974). They received early signs of support from the federal Department of Labor (DOL), which began sending informational booklets to household employers within a month of the law's enactment (Associated Press 1974a). To reach workers themselves, NCHE spread the word through its local affiliates in 25 states. Its director, Edith Barksdale Sloan, toured the country as part of a sustained media campaign, targeting as many national, regional, and local outlets as she and her modest five-person staff could manage.

minimum wage veto" (Shabecoff 1974). Indeed, he ultimately signed the bill just three days before being subpoenaed to turn over tapes of forty-two White House conversations, including the so-called "smoking gun" tape (Kovach 1974). He resigned four months later.

[3] The original 1938 Fair Labor Standards Act covered only about 54 percent of the U.S. workforce, a number that rose to 75 percent after amendments in 1966, which added workers in agriculture, nursing homes, laundries, hotels, restaurants, schools, and hospitals (Derenoncourt and Montialoux 2021:181). Domestic workers, given their enduring exclusion, often echoed the Congressional staffer in describing themselves in superlative terms, even after their 1974 victory. For instance, in remarks at a White House meeting, domestic worker Geneva Reid declared, "The private household worker along with the migrant worker is the most disadvantaged, overlooked and underpaid worker in the US" (NCHE 1977a).

These initial efforts yielded some results. Within the first year, DOL had received 375 complaints of violations (Brozan 1975). The next year, DOL won its first suit against a noncompliant domestic employer in Raleigh, North Carolina (Nadasen 2015:177).

But there were also signs that progress might soon hit a wall. A federal DOL official admitted to the *New York Times* that enforcement was slow-going and would likely stay that way, noting, "We don't really break our backs on cases that involve only one individual" (Brozan 1975). By early 1976, NCHE had surveyed two of its local affiliates and found that many workers were still paid less than the minimum wage. The data was sufficient to alarm the staff: "We fear the illegal, substandard wages are far more prevalent than our limited study indicates" (NCHE n.d.).[4]

Starting to conclude that enforcement of the law was "practically non-existant [sic]" (NCHE 1976a), the organization took a more active stance. At its 1976 conference, national leaders requested that each affiliated chapter form a "minimum wage watch-dog committee," comprised of local members and civic leaders who would identify violations, advise affected workers, and report violations to DOL (NCHE 1977c). The next year, national leaders also urged affiliates to coordinate local "radio spot announcements, appearance on television talk shows, distribution of 'Employer's Guide' to women groups, [and] the involvement of churches and the community" (NCHE 1977b). NCHE's main strategy re-enlisted the support of the women's movement to reach sympathetic feminists and middle-class household employers. The resulting "Fair Labor Standards Campaign," chaired by ally Gloria Steinem, aimed to inform household

[4] I conclude that the document is from 1976 because NCHE released the study's results at its annual conference in May of that year. The specific findings are not documented in the NCHE papers contained in the National Urban League collection. It is possible they are archived in the NCHE records at the Mary McLeod Bethune Council House National Historic Site. Drawing upon those records, Nadasen (2015:163, 223) cites a press release about the study, but it is unclear whether the full study is archived.

employers of their legal obligations, promote voluntary standards such as paid sick leave, and get 10,000 household employers to place a sticker on the windows of their homes declaring "This is a Fair Labor Standards Household" (Nadasen 2015:140, 218; NCHE 1976a).

By the end of the 1970s, however, the enforcement campaign had largely fizzled, as NCHE lost its Ford Foundation funding, leadership turned over, and organizational priorities shifted to helping workers start their own businesses, enter other occupations, and cope with rising inflation and unemployment. As Nadasen (2015:141, 145) concludes in a history of the movement, "Enforcement remained an insurmountable problem. . . . The granting of formal rights to domestic workers absolved the state of its most blatant exclusions, reinforcing and strengthening the abstract construct of universal equality without creating a mechanism for enforcement. The end result was a turn away from state responsibility toward individual employer responsibility." This problem has since persisted for decades: study after study finds that domestic workers experience higher rates of wage and hour violations than almost any other occupation (Barnes et al. 2021; Barnes, Galvin, and Fine 2020; Bernhardt et al. 2009; Burnham and Theodore 2012; Galvin, Round, and Fine 2020; Weil and Pyles 2005).

The story of the domestic workers' movement in the United States does not end in the 1970s; another chapter opens in the twenty-first century, accompanied by new organizing among home care aides who provide assistance to older adults and people with disabilities. But in the campaign to enforce the 1974 Fair Labor Standards Act amendments, we see an arc common to modern social movements: among those which fight for laws and win, an extended struggle often follows. Abstract rights do not guarantee real-world change.

This pattern is especially familiar in the labor context because laws to protect or empower workers often encounter powerful resistance. One of the labor movement's earliest legislative

campaigns, which pushed for the eight-hour day, is a stark example. In 1867, in the heart of industrial conflict, Chicago activists found allies in state government and won the country's first eight-hour law. But businesses rushed to block implementation, and the law sat idly for almost twenty years. When workers unilaterally declared May 1, 1886 as the dawn of the eight-hour day, their hopes were dashed as their May Day general strike devolved into the Haymarket Affair and the repression that followed (Green 2006; Voss 1994). It would take decades more for the promise of "eight hours" to become a reality in U.S. workplaces.

The twentieth and twenty-first centuries have seen related cases. While domestic workers grappled with enforcement of the Fair Labor Standards Act, farm workers in California struck and marched for better conditions and the right to unionize (Ganz 2009). But their main policy victory, the California Agricultural Labor Relations Act of 1975, met a similar fate after an initial wave of union elections, as farm owners resisted, the state labor board ran out of funding, and the United Farm Workers collapsed (Gordon 2005b:35–44; Pawel 2019).[5]

Farm workers and domestic workers, although severely marginalized, have never been alone in their implementation woes. The Fair Labor Standards Act of 1938 and expansive amendments in 1966 produced measurable impacts on worker earnings and racial economic inequality (Derenoncourt and Montialoux 2021). But enforcement was already a problem for workers across industries in the 1970s,[6] and the subsequent erosion of state and federal labor

[5] Forty years later, the law was a quintessential dead letter, according to William Gould, former chair of the U.S. National Labor Relations Board (1994–1998) and of California's Agricultural Labor Relations Board (2014–2017). In resigning from the California board in 2017, "Gould called the law 'irrelevant to farmworkers,' noting that 99 percent were not unionized and only one election petition had come before the board during his three-year tenure" (Pawel 2019).

[6] At the launch of NCHE's enforcement campaign in 1976, an AFL-CIO spokesperson lamented, "There is no real enforcement of the Fair Labor Standards Act for household employees. In fact, there is only meager enforcement of the law for all workers" (NCHE 1976).

departments in the neoliberal era contributed to widespread wage theft by the 2000s (Bernhardt et al. 2009; Gleeson 2016; Weil and Pyles 2005). The National Labor Relations Act of 1935, which established collective bargaining rights and facilitated an initial union upsurge, also prompted swift employer opposition, leading to judicial and administrative curtailments and to the restrictive 1947 Taft-Hartley Act. Today, the law's outdated text and weak implementation pose major hurdles to unionization efforts regardless of sector (Becker 2017; Cobble 2017; Cowie 2016; McCartin 2017).

Research Aims

For some analysts and activists, such histories spark debate over the role of the law in social change and over the merits of reform or revolution; in the 1970s, domestic worker leaders felt these tensions themselves.[7] Such arguments have no easy resolution. What it is clear, however, is that many activists continue to engage the state and contest their employers, fighting for laws and for rights, sometimes in risky and costly campaigns that last for years. They recognize that laws and rights can be valuable tools even if they do not guarantee change or serve as ends in themselves. If we take these activists seriously, viewing them not as "strategic dopes or ideological dupes" (Polletta 2008:79), we find an invitation to explore the social world that unfolds after they win—after votes are tallied, bills are signed, and photo ops end.

[7] Writing in *Essence* magazine, Edith Barksdale Sloan (1974) recalled her reluctance to take the job of NCHE director when first recruited by the organization in 1968: "I was doubtful about the possibility of upgrading an occupation that I felt should be done away with. But realizing that I couldn't be both reformist and revolutionary, I chose to help reform. . . . There were probably millions of women whose life's work, for whatever reason would be household employment; which was so with many generations of my family." One of her successors, Carolyn Reed, brought different politics to the executive director position in the late 1970s. Unlike Sloan, Reed was a domestic worker herself and identified as a socialist. She took issue with NCHE's middle-class ethos during Sloan's tenure and saw unionization as the most promising strategy for transforming domestic work (Katz 1979).

This dissertation brings such investigation to bear on the contemporary resurgence of domestic worker activism and a parallel mobilization that emerged as the 1970s campaign waned: that of home care aides, who have since become one of the largest and fastest-growing groups of workers in the United States. This workforce now occupies a central role in the U.S. economy, given the country's aging population and soaring demand for elder care. But as with domestic workers who undergird the life of private households, the vital economic role of home care aides has not readily translated into livable wages, decent work conditions, or legal rights. In fact, the 1974 Fair Labor Standards Act amendments contained a fateful exemption that, in effect, excluded millions of home care aides from wage and hour protections until 2016.[8] And yet, like domestic workers in the 1970s, home care aides have beat the odds to win new rights through legislation and—unlike domestic workers—through labor unions. These gains have ushered home care aides into that familiar realm of struggle: ensuring that words on a page concretely improve workers' lives. For both groups of workers, that task is especially difficult because they work in private homes rather than congregate settings such as hospitals and nursing homes, restaurants and warehouses, or plants and construction sites.

This research project has twin motivations. The first is a theoretical interest in the messy outcomes of social movements and the afterlives of activist campaigns—subjects I have explored with collaborators in other contexts (Jabola-Carolus 2017; Jabola-Carolus et al. 2018; Jasper et al. 2022). The second is a substantive interest in the conditions of home care and domestic work as one of the major labor problems of present times. Bridging these interests and building on prior scholarship, I pose the questions that drive this dissertation: *How do state and non-state*

[8] For analysis of the Congressional debate and DOL rule-making that produced the exemption, see Glenn (2010); Yoon (2021); and Sonn, Ruckelshaus, and Leberstein (2011).

regulatory actors pursue labor standards enforcement in the context of home care and domestic work, and with what effects? What explains those effects? And what does this specific context tell us about labor standards enforcement in general?

The rest of this introduction is organized into four parts. First, I situate these research questions in existing scholarship, elaborate my analytical approach, and define key terms. Second, I provide historical and conceptual background on home care and domestic work. Third, I present my main arguments and summarize how my findings contribute to the literature on labor standards enforcement. Finally, I provide an overview of my methods and the structure of the dissertation.

Studying Policy Implementation and Labor Standards Enforcement

Scholars have long taken an interest in policy implementation, seeing it as a complex and consequential social process, even if it is rarely as exciting as the mobilization and politicking that precede it. Among the first were political theorists concerned with the relationship between making policies and executing them, or between "politics and administration" (Friedrich 1940; Goodnow 1900). A later cohort in the 1970s began to analyze why implementation succeeds or fails, often motivated by the "disappointing results of the Great Society's social programs" (Van Meter and Van Horn 1975:451). Interested foremost in government and bureaucracy, these researchers underscored the importance of such factors as clearly formulated policy, limited conflict between government agencies, and supportive street-level bureaucrats (Bardach 1977; Lipsky 1980; Pressman and Wildavsky 1973; Van Meter and Van Horn 1975).

Sociologists and scholar-activists have since brought civil society into the picture, examining the implementation of civil rights, immigrant rights, and workers' rights (Andrews

2001; Gleeson 2009, 2012, 2016; Gordon 2005b, 2005a, 2005c; Luce 2004). In a study of living wage laws, for instance, Luce (2004:7–8) observes, "A number of U.S. organizations have become quite skilled at getting legislation passed, and they do so with some frequency. But the battle over policy clearly doesn't end when a law is enacted." Luce argues that strong implementation depends on civil society groups sustaining pressure through protest tactics and participating in implementation task forces or advisory committees—especially because "many opponents of progressive legislation have learned that it is sometimes easier to let a law pass and subvert it at the stage of implementation than to oppose it outright." Reflecting both continuity with past scholarship and the new focus on the role of movement organizations, Gordon (2005a:4) writes, "The implementation phase is a richer one than we commonly recognize, with possibilities that depend greatly on the political environment, the type of law in question, and on the particular movement's history, experience with law as a part of its organizing strategy, and level of cohesion and engagement at the time of the law's passage. These possibilities coexist with the tensions that inevitably plague efforts to make new rights real."

One could use these past studies to test or complicate a theory of implementation. The factors highlighted by Gordon, Luce, and the scholars of the 1970s could be assembled into a hypothesis to be examined through the lens of paid in-home care work. However, this dissertation has a different aim, partly because that line of inquiry is well worn and partly because we know so little about implementation in this sector. At the most basic level, there is scarcely any scholarship on whether protections that apply to paid in-home care workers have been implemented at all, let alone whether they have been successful.[9] This dissertation fills that

[9] Rare exceptions are Harmony Goldberg's dissertation and related output (2014a, 2014b), which examine the initial rollout of the New York Domestic Workers' Bill of Rights. I discuss Goldberg's study further in Chapter 5. Recent scholarship on domestic work in Latin America has also begun to address rights implementation, reflecting the

gap. It does so by examining what rights enforcement looks like in the paid in-home care sector, analyzing the impacts of such efforts, and identifying their promises and limitations.

Although I adopt a different research angle than that of many implementation scholars, I nevertheless borrow some of their insights in structuring my approach. First, I attend to the roles of both government and civil society, acknowledging that many actors and institutions attempt to shape the realization of rights, sometimes in isolation and sometimes interactively. These include the traditional players of the 1970s research—local, state, and federal regulatory agencies—but also the labor unions, worker centers, and community-based organizations whose enforcement roles have garnered attention in more recent decades. (Worker centers, which I discuss in detail in Chapter 5, are community-based organizations that combine advocacy, organizing, and service delivery to support low-wage workers.)

More than simply accounting for these different players, I structure my research questions and analyses around them. In asking how regulatory actors pursue enforcement, I thus examine how unions interact with workers, how government agencies interact with employers, and how community-based organizations interact with both workers and government. This focus on actors—their perspectives, interactions, and relations—is what makes this study sociological. In this way, the project stands in contrast to policy studies and political science research on implementation, which typically orient themselves around a specific policy or policies.

Second, I heed a criticism of earlier implementation studies, namely that it is easy to err by taking on implementation in its entirety. Implementation can seem straightforward; to paraphrase Van Meter and Van Horn (1975:447–48), it is what public and private actors do to

expansion of legal protections in that region (Baiocchi 2019; Casanova 2019; Casanova, Rodriguez, and Roldán 2018).

achieve the goals established by policy decisions. Yet implementation is perhaps too vast to be a coherent object of study. "'Implementation,' put forth as a single analytical construct, promises too much," contends Lee (1978:226) in his review of the scholarship of the 1970s. "The world in which laws and public policies flourish, obsolesce, and die is far too variable to be subsumed by a single process, however protean." One solution is to disaggregate implementation into multiple processes. This is Luce's (2004:73–74) approach, treating the term as an umbrella that encompasses administration, monitoring, enforcement, and evaluation. By carefully defining and operationalizing each, she models a study with clear questions and sound answers that enrich our understanding of implementation as a general phenomenon. Drawing lessons from this example, while also organizing my inquiry around specific actors, I sidestep pitfalls that can hinder implementation studies.

Following Luce, I focus on specific facets of implementation, primarily the monitoring of whether employers comply with standards and the enforcement of standards by identifying, resolving, and preventing or deterring violations.[10] I also address the process of informing employers and employees about standards that apply to them, which Luce considers part of administration. I use the term *standards* because this study addresses not only enacted laws but also rules and regulations decided by administrators and contractual provisions established through collective bargaining.

As an interdisciplinary project, this dissertation confronts an array of other key terms that can overlap in confusing ways. In some fields, scholars use the term *regulation* to describe monitoring and enforcement of economic actors in relation to specific standards: e.g., industrial

[10] Prevention and deterrence are related but not the same. Regulatory actors can *prevent* violations through diverse tactics, such as educating employers about their obligations and requiring that they use written employment agreements. *Deterrence* is prevention achieved specifically by punishing, or threatening to punish, employers who violate labor standards.

polluters in relation to environmental protection, banks in relation to fair lending, and—the present subject—employers in relation to labor standards.[11] The term *labor standards enforcement* used in recent research (e.g., Fine 2017, 2018; Gleeson 2016) essentially captures the latter instance of regulation, while stretching the concept of enforcement to include monitoring and some aspects of administration as defined by Luce. This usage of *labor standards enforcement* best represents the scope of my research and aligns well with its meaning among practitioners. The concept also offers more precision than "implementation" or "regulation," while the reference to *standards* simultaneously affords the breadth necessary to study laws, rules, regulations, and contracts, as noted above.[12]

Domestic Work and Home Care

I use the terms *domestic workers* and *home care aides* to distinguish between two groups who conduct paid work in private households.

The first group, domestic workers, provides cleaning, housekeeping, childcare, and elder care services, mostly in informal employment arrangements. While the rare household employer registers as a taxpaying employer with the Internal Revenue Service and abides by employment regulations, most hire domestic workers "under the table" or "off the books"—often because many domestic workers today are immigrants who lack work authorization (Bernhardt et al.

[11] Such specificity distinguishes the term *regulation* from implementation, as the latter can refer to any type of policy decision, whether made by a government, an organization, or a community.

[12] "Regulation," moreover, can be confused with its other usages, namely regulations-as-rules and regulation-as-rule-making.

2009; Burnham and Theodore 2012).[13] The demographic composition of this workforce has, indeed, shifted over time, but the highly informalized nature of this work has not.

Domestic work in the United States has a long history with roots that stretch to the start of the settler colonial project, with indentured servitude and enslavement in both the North and South (Glenn 2010). By the mid-1800s, regional differences became more pronounced as Northern states gradually abolished slavery and as industrialization spurred economic change. In urban areas in the North, domestic service took shape as a waged occupation, as middle- and upper-class families turned to a labor market populated by U.S.-born white women, Irish immigrant women, and, by 1900, German and Scandinavian immigrants as well (Duffy 2011:20–35). In the Southwest, domestic servants were predominantly Mexican women; in California and Hawaii, they were Japanese and Chinese immigrants, both men and women (Glenn 1992:8–10). In the South, by contrast, the history of domestic work is fully entwined in slavery: enslaved Black women and children "participated in every aspect of reproductive labor, from food production and preservation to cleaning and child care" (Duffy 2011:22).

After the Civil War, the South's racial hierarchy confined Black women to similar work for decades, with the master/mistress-slave relationship assuming a new but recognizable form (Duffy 2011; Jones 2009; Glenn 2010). By the early decades of the twentieth century, domestic service began to decline steadily as a proportion of total female employment, as U.S.-born and immigrant white women left domestic service for better opportunities in factories, offices, and

[13] Reporting the findings of a major study conducted for the National Domestic Workers Alliance, Burnham and Theodore (2012:20) note that 36 percent of survey respondents were undocumented immigrants. The sample included over 2,000 nannies, housecleaners, and privately hired home care aides in fourteen metropolitan areas. As another indicator of informalization, only 8 percent of surveyed workers had written contracts with their primary employer (Burnham and Theodore 2012:25). Bernhardt and coauthors (2009:33), based on their own landmark survey of low-wage workers, find that 96 percent of domestic workers were paid in cash, and 63 percent had irregular, non-hourly pay arrangements. These figures align with the findings of a 2018 report: only about 5 percent of U.S. household employers filed payroll taxes for their domestic workers in 2015 (Bobrow 2020).

service industries.[14] Black women, however, did not have such options, even as they migrated out of the South. By 1950, U.S.-born Black women accounted for 10 percent of the female labor force overall but 60 percent of domestic workers (Duffy 2011:27). This racialized employment pattern formed the backdrop to the movement of Black domestic workers in the 1970s. But by that decade, Black women finally had greater chances to leave the occupation, as the expansion of civil rights opened doors to other industries that promised more freedom and respect (Duffy 2011; Milkman 2020; Nadasen 2015:151–54). One irony of the 1974 victory, then, was that it came too late for many U.S.-born Black domestic workers.

In contrast to domestic workers, home care aides are typically employed within the formal economy because their jobs often involve provision of Medicaid- and Medicare-funded services (Boris and Klein 2012; Osterman 2017:18). This category includes home health aides and personal care aides who assist older adults and people with disabilities with activities of daily living (such as eating, bathing, toileting, and moving around) and instrumental activities of daily living (such as preparing meals and light housekeeping).[15] These aides are generally employed by private or public agencies, though sometimes by private households directly. As an occupation, this group has a shorter history because of its ties to public programs. While some of these programs emerged in the first half of the twentieth century, it was the birth of Medicaid and

[14] In 1900, domestic service employed nearly 1.4 million workers, representing over 25 percent of the female labor force (Duffy 2011:23). Until 1940, the absolute number continued to grow, while the labor force proportion fell. Immigration restrictions in the 1920s also contributed to domestic workers' shrinking labor force proportion (Duffy 2011:25–26).

[15] Training requirements for home health aides are established at the federal level, while requirements for personal care aides vary by state (Campbell et al. 2021:47–52). Home health aides are permitted to assist with simple healthcare tasks such as changing bandages and applying topical medication, although this is also true of certain personal care aides. As Osterman (2017:18) explains, in practice, the distinction between the two categories is minimal, which is why it often makes sense to group them together for research purposes.

Medicare in 1965 that more clearly defined this group and initially fueled its expansion; I detail this history in Chapter 2.

The distinction between home care aides and domestic workers is neither perfect nor mutually exclusive. One subgroup that blurs the boundary are home care aides employed informally by private households. While these aides in the "gray market" sometimes earn more than aides employed on the books by private agencies or state programs, their employment conditions tend to more closely resemble those of domestic workers (Milkman 2023).

This nuance aside, when referring to the two occupational groups together, I apply the term "paid in-home care work," a subset of what scholars call *paid care work* (which can include occupations as varied as nursing and teaching) and the overarching category of *care work* (which includes, for instance, unpaid reproductive labor performed in families, mostly by women).[16] In this dissertation, where it is clear that I am discussing *paid* labor, I omit the word "paid" and refer to "in-home care work" to ease readability.

Sociologists have thoroughly analyzed the conditions of in-home care work, with special emphasis on contemporary domestic work—for example, the power imbalance between women employers and women workers, racial and status hierarchies between domestic worker subgroups, and the role of migrant domestic workers as labor commodities in the modern era of globalization (Hondagneu-Sotelo 2001; Mose Brown 2011; Parreñas 2001; Rollins 1985; Romero 1992; Wrigley 1995). Some scholars have brought similar perspectives to home care aides, given their marginalization (Boris and Klein 2012; Cranford 2020; Osterman 2017; Stacey 2011). These scholars have argued, for instance, that lawmakers and employers have treated

[16] For a theoretical and empirical overview, see Folbre (2012) and Duffy (2005). For a history that examines the relationship between paid and unpaid care, see Glenn (2010).

home care much like domestic work—as "something other than real work" (Duffy 2011:92) and as coerced labor in which workers are rendered as "quasi-property" (Glenn 2010; Smith 1999). However, most scholarship—as well as activism and policymaking—tends to separate home care and domestic work into silos. Thus we can discern between the extensive sociological literature on domestic work and the more recent research on home care; between organizations like the National Domestic Workers Alliance and labor unions that represent home care workers; and between legislation like the "Domestic Workers' Bill of Rights" and campaigns like "Fair Pay for Home Care."

Key Similarities and Differences

One of my contributions is to bring home care and domestic work into closer analytic proximity, opening a door to insights that can arise from comparison. Beyond the legal and social construction of both categories as "something other than real work," one key similarity is the historic demographic continuity across the two occupations as well as associated gender- and race-based exploitation. As U.S.-born Black women sought alternatives to domestic work, many turned to home care, some at the suggestion of domestic worker organizations. For instance, one of NCHE's main programmatic goals for 1977 and 1978 was "to increase the earning capacity of private household workers" through "New Careers and Upward Mobility." It saw home care as one of the best options, writing that: "The 94th [United States] Congress appropriated several million dollars for the training of homemaker health aides. . . . NCHE will seek funds to establish several pilot projects to provide training for household workers, both unemployed workers as well as experienced workers who desire job changes" (NCHE 1976b). Here lay a second irony of the 1974 Fair Labor Standards Act victory: domestic workers turning to home care for better pay

and more dignity left behind their newly won rights, as DOL regulations exempted home care aides from the 1974 amendments based on the reasoning that they were "elder companions" akin to babysitters. With this legal exclusion and social devaluation, the racialized and gendered exploitation entailed in domestic work spilled into home care (Boris and Klein 2012:129–34; Nadasen 2015:145, 151–54; Glenn 2010; Yoon 2021). It was little wonder that, when Black home care aides started unionizing in New York in 1979, their rallying cry was "Take Us Out of Slavery" (Boris and Klein 2012:123, 139).

Rising immigration after 1965 began to alter the demographic composition of home care and domestic work occupations, which by the 2000s comprised large numbers of immigrants from Latin America, the Caribbean, East Asia, and the former Soviet Union. Domestic work became an economic entry point for undocumented immigrant women in particular, resulting in more differentiation between home care and domestic work: the informalized nature of most domestic work employment arrangements was reinforced by the fact that many among the new ranks of nannies, cleaners, and privately paid home care aides were not legally permitted to work—and household employers were not legally allowed to hire them. Home care, by contrast, generally remained part of the formal sector.

Amid these changes, however, the most basic commonality between home care and domestic work has persisted: private homes as worksites. This shared structural feature means that workers are physically isolated from each other and are harder for regulatory actors to reach than are workers in congregate settings.

In addition to this atomization, the home-as-workplace also confers upon the work a unique intimacy, as workers pass from public to private sphere when entering someone else's home. This intimacy is heightened in nurturant care that involves face-to-face relationships,

namely between home care aides and care recipients, or nannies and children (Duffy 2011:6). Such intimacy can produce a sense of "fictive kinship," in which an employer or client comes to see the worker as "part of the family" and fails to acknowledge underlying power dynamics (Bakan and Stasiulis 1997; Cranford 2020; Mac Rae 1992; Romero 1992). The worker may share this sentiment, sometimes leveraging it to their benefit, other times willfully participating in their own economic exploitation by working extra hours without pay (Aronson and Neysmith 1996; Pérez-Caramés and Martínez-Buján 2016). These emotional valences can obstruct labor standards enforcement. Household employers may neglect to see themselves as employers with legal obligations. Workers may worry about getting their bosses or clients in trouble when issues arise.

Working in someone else's home poses extra challenges in the context of domestic work, where workers typically lack the institutional links that are common to home care. While some home care workers are hired directly by privately households, data reviewed in Chapter 2 suggests that most are employed through private agencies or public programs. Domestic workers, by contrast, may sometimes find employment through placement agencies (Hondagneu-Sotelo 2001) and digital platforms (Ticona and Mateescu 2018) but are overwhelmingly employed directly by households.

For domestic workers, the home-as-workplace usually means that there is no mechanism for complaining anonymously to a regulatory actor when rights violations occur. The worker is typically the household's sole employee, except in affluent households that employ large domestic staffs. As a result, if the DOL contacts the household to investigate a violation, the employer knows who complained. This impossibility of anonymity raises the likelihood of retaliation and discourages worker action (NYC Department of Consumer Affairs 2018b:31).

Among many immigrant workers, these barriers are compounded by undocumented status, which can make individuals even more reluctant to pursue complaints (Gleeson 2010).

Furthermore, from a government agency's perspective, private households offer minimal economies of scale. This is the problem invoked by the DOL official who commented on the slow-going efforts to enforce the 1974 amendments. A household might employ one nanny or one housecleaner, or perhaps one of each. Given finite resources, regulatory agencies face a tension between assigning an investigator's time to that household or, for instance, to a construction site with dozens of workers.

Finally, in the domestic work context, regulatory actors must directly interact with private households; this contrasts with home care, where unions and government agencies can engage with the private agencies or public programs that employ home care aides. Here, regulatory efforts run up against "the ideology of the home as a private sphere" (Nadasen 2015:145). Regulators need not physically visit homes to address matters of noncompliance; a government agency, for instance, can instead request information by mail or require a meeting at the agency's office. Yet, in the United States, the wariness of government incursion into private homes, even symbolically, can make government actors reluctant to engage with private households.[17] This hesitance is likely amplified by the fact that those who hire domestic workers are disproportionately white (Pinto et al. 2017:57–60; Waheed et al. 2016:53–55).[18]

[17] Salient exceptions include tax enforcement, immigration enforcement, and child welfare. The Internal Revenue Service only recently announced that it would end unannounced home visits, citing, in part, public opposition to the practice (Rappeport 2023). In the case of child protective services, government is consistently more intrusive, likely in part because the targets of investigation tend to be poor families and families of color (Fong 2020).

[18] These two studies systematically surveyed domestic employers in New York State and California. White households were overrepresented compared to the total population of each state, respectively. But income patterns were more mixed. Middle- and high-income households were overrepresented in New York State, while low-income households (specifically those employing childcare workers) were overrepresented in California. Demographic issues aside, while government actors may be reluctant to pierce the privacy of domestic employers, worker centers have sometimes been more willing to protest at private homes to resolve violations (Gordon 2005c).

This dissertation examines an array of obstacles to labor standards enforcement in the context of home care and domestic work that go beyond the factors outlined above. But even this initial overview illustrates why rights are so hard to realize in this sector. As noted at the start of this chapter, the result is that labor standards violations are rampant in domestic work. The most recent estimates from major cities find that between 40 and 50 percent of domestic workers are paid less than minimum wage (Barnes et al. 2021, 2020; Galvin et al. 2020). Live-in domestic workers face even higher violation rates (Burnham and Theodore 2012:18–19).[19] Systematic data on overtime pay violations is now somewhat dated but suggests that nearly 90 percent of domestic workers experience such violations (Bernhardt et al. 2009:30–31). In the home care industry, violation rates tend to be lower but nevertheless match or exceed the high violation rates in other low-wage industries such as retail and food services: between 20 and 30 percent of home care aides experience minimum wage violations (Barnes et al. 2020), and over 70 percent experience overtime pay violations (Bernhardt et al. 2009:30–31). Both home care and domestic work also face exceptionally high rates of other violations: over 80 percent of both groups experience meal break violations and off-the-clock violations, ranking them among the three worst occupations in those categories (Bernhardt et al. 2009:34–37).[20]

Rising Standards

Even as the problem of enforcement has remained unsolved, laws and protections that apply to in-home care workers have multiplied in the decades since the 1974 Fair Labor Standards Act amendments. One layer of protections emerged from the first wave of home care unionization,

[19] Live-in workers comprised 11 percent of total domestic workers in Burnham and Theodore's study.

[20] Off-the-clock violations occur when an employee works before and/or after their shift but is not paid for that time.

which occurred in the 1980s in New York, California, and Illinois (Boris and Klein 2012; Ness 1999). Initial union contracts established pay scales, benefits, and procedural rights such as protection from employer retaliation. Such contractual standards spread with a second wave of home care unionization in the 1990s and 2000s, in which the Service Employees International Union (SEIU) organized approximately 400,000 workers in California, Oregon, Washington, Illinois, Michigan, Massachusetts, and Ohio (Delp and Quan 2002; Mareschal 2007; Rhee and Zabin 2009).[21]

Seeking to raise standards in the home care sector overall, SEIU also joined with labor allies to reverse the exclusion of home care aides from the Fair Labor Standards Act. After years of legal action and advocacy, in 2013, home care aides finally gained federal wage and hour protections under a new DOL rule. Those changes took effect in 2016 and largely removed the so-called "companionship exemption." Up until that point, home care aides in twenty states had minimum wage rights through state-level laws; those in sixteen states had overtime rights (Seavey and Marquand 2011:77–78). The new federal rules established minimum standards in the remaining states and thus closed the largest occupational gap in the Fair Labor Standards Act (National Employment Law Project 2015; *New York Times* Editorial Board 2016).

At the state and local levels, both home care aides and domestic workers have also made gains alongside other low-wage workers, including paid sick leave rights and higher minimum wages stemming from the Fight for $15. A resurgence of sustained domestic worker mobilization since the 1990s has yielded another stream of legal victories, most notably state and local laws that chip away at exclusions still on the books and that establish new standards. For instance, the

[21] The American Federation of State, County and Municipal Employees (AFSCME) has also had some success unionizing home care aides in California (Rhee and Zabin 2009:973) and New York (Boris and Klein 2012). I discuss both AFSCME and SEIU further in Chapter 3.

DOL's 2013 home care rule did not fully rectify the limits of the 1974 amendments; live-in domestic workers who are hired directly by households still lack the federal right to overtime pay.[22] State laws, like the 2010 New York State Domestic Workers' Bill of Rights, have addressed that gap. The leading national organization for domestic workers, the National Domestic Workers Alliance, has since worked with local affiliates to win such laws in nine other states, two cities, and Washington, DC.[23] Some of these laws have also extended anti-discrimination protections to domestic workers, most of whom face de facto exclusion from federal protections like the Civil Rights Act, the Americans with Disabilities Act, and similar statutes that only apply to employers who have multiple employees (Burnham and Theodore 2012:9).[24]

Despite the continuing gaps in legal coverage, the progress of recent decades means that home care aides and domestic workers in the United States now have more rights, at least on paper, than ever before.[25] It is in this historical context that we can ask whether labor departments, worker organizations, and workers themselves can realize these rights and avoid the disappointments that often accompany enforcement efforts.

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[22] As Yoon (2021:10) explains, "In 2013, the Labor Department concluded that "[b]ecause the live-in domestic service employee exemption is statutorily created, the Department cannot eliminate the exemption. . . . Only Congress could eliminate the overtime exemption for such workers."

[23] As of August 2023, the states are California, Connecticut, Hawaii, Illinois, Massachusetts, Nevada, New Mexico, New York, Oregon, and Virginia. The cities are Philadelphia and Seattle (National Domestic Workers Alliance 2023).

[24] At the federal level, two other major laws exclude domestic workers: the Occupational Safety and Health Act of 1970 and, as I explain below, the National Labor Relations Act of 1935.

[25] In international perspective, they are not alone in this progress. Through global coordination, in 2011, domestic workers and advocates successfully pressed the International Labour Organization to adopt Convention 189, outlining basic rights for domestic workers. Ratification has been slow in most regions—except Latin America and the Caribbean, which account for 18 of the 35 countries that have signed on. Reflecting on the expansion of rights that have accompanied ratification, Latin American activists express a sentiment also heard in the United States: "The next challenge for the Latin American movement is to address the implementation and enforcement of these progressive policies" (Trevino and Paz 2022).

Arguments

In studying how government agencies, unions, and worker centers intervene in paid in-home care work, I find a dynamic social landscape in which individuals and organizations are endeavoring to enforce labor standards and sustaining their commitments in unprecedented ways. These efforts yield important results, such as raising workers' awareness of their rights and identifying employers who commit violations. My core contention, however, is that these impacts are fundamentally constrained by the current structural organization of home care and domestic work. Existing practices and strategies are no match for the immense task of enforcement in this sector. They are unable to produce large-scale improvements in employer compliance and, thus, in workers' ability to realize their rights. If regulatory actors hope to achieve systemic, sustainable change, they will need to find ways to restructure home care and domestic work. Without such structural reforms, these actors will likely face unrelenting and unmanageable labor standards violations, a pattern that undermines not only existing laws but also threatens the efficacy of raising standards in the future.

In the home care context, my argument focuses on home care aides who are employed formally by private agencies. As Chapter 2 details, this agency-based model is the dominant employment arrangement in the formal home care sector. From a regulatory perspective, this model has some advantages over domestic work: private agencies serve as social nodes that can lift home care aides out of isolation and that can be identified and approached by regulatory actors. But these employers tend to operate in highly competitive markets, in which financial pressures are often compounded by the strictures of Medicaid as a primary revenue source. As a result, private home care agencies face incessant pressure to cut corners and shortchange workers. Because formal home care provision relies so heavily on public dollars, the rising

standards discussed above become untenable burdens that can drive firms further toward noncompliance.

Labor unions and government agencies are the main regulatory actors involved in the formal home care sector. At the outset of this project, I expected to find that these actors produce different enforcement outcomes given their vastly different powers, modes of action, and relationships to workers. Ultimately, however, I find a striking commonality in their limited abilities to curtail labor standards violations among home care employers. They both run into the same barrier: an industry structured in a way that produces systemic noncompliance. Diligent unions, given closer contact with workers, may be better situated to respond to individual violations than are government agencies. But my findings suggest that neither unions nor government agencies have had much success preventing violations in the agency-based home care sector.

In the U.S. domestic work context, labor unions are absent, in part because domestic workers are explicitly excluded from the National Labor Relations Act; thus they lack collective bargaining rights (Burnham and Theodore 2012:9).[26] Instead of unions, it is government agencies and worker centers who have pursued labor standards enforcement in this context, both independently and jointly. But their efforts, too, are impeded by shared barriers. Although twenty-first century domestic worker groups have won notable policy gains and rebuilt an infrastructure for organizing, they and their allies have not altered the basic structure of domestic work that hampered their predecessors. Informality, extreme decentralization, and one-to-one

[26] In outlining definitions, the National Labor Relations Act states: "The term 'employee' . . . shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home." It is this definition of "employee" that excludes domestic workers from the organizing protections and collective bargaining rights available to other workers. At the state level, supplemental collective bargaining laws like New York's State Employment Relations Act also exclude domestic workers (Goldberg 2014b:278). In Chapter 6, I discuss historical and international examples of domestic worker unionism, as well as possibilities for future organizing.

employment relationships prevent government agencies from using best practices that have shown promise in other sectors, such as the "strategic enforcement" model, described below. Adding to these challenges is the fact that much domestic work is now performed by undocumented immigrants fearful of government interaction and vulnerable to employer retaliation. As a result, government agencies have thus far been unable to measurably improve compliance in private households. When worker centers take on enforcement activities or collaborate with government, they abate the trust problem, give government useful input, and help workers resolve their grievances. But worker centers struggle with resources and scale, and even their most robust collaborations with government are likely to have a limited impact unless the domestic work industry is restructured.

Contributions

My findings and central thesis bring this study into dialogue with specialized fields beyond the broad literature on implementation. These are interdisciplinary fields that span sociology, law, political science, and economics, anchored by a concern with labor standards enforcement. There are four main strands of this literature, each organized around a core analytical and prescriptive concept: responsive regulation, root-cause regulation, strategic enforcement, and co-enforcement.

The broadest of these is *responsive regulation*, a framework developed to analyze and guide regulatory practices not only around workplace rights but also environmental standards and other economic spheres (Ayres and Braithwaite 1992; Gunningham 2010, 2011; Kagan, Gunningham, and Thornton 2011). Its core notion, which I elaborate in Chapter 4, is simple: regulators are most effective when they understand their targets and tailor the severity of their

responses appropriately, using tactics that range from persuasive to punitive. This dissertation suggests that the responsive regulation model travels well to the context of agency-based home care and helps explain the limits of enforcement efforts in that industry. However, the model poorly addresses enforcement in the domestic work context; this is because responsive regulation assumes that regulatory actors can identify the employers they regulate. In the informal economy of domestic work, that condition is absent.

Root-cause regulation is a related framework that focuses more narrowly on labor standards. Michael Piore and Andrew Schrank (2018) introduce the term to characterize labor regulation in France, Spain, and Latin America, which they argue is better equipped for post-Fordist economies than is the dominant mode of labor standards enforcement in the United States. In the United States, enforcement emphasizes deterrence and the threat of economic sanctions, informed by a rational-choice model in which employers are expected to weigh the costs and benefits of compliance and act accordingly. This approach is often ineffective, as other scholars have documented (e.g., Stansbury 2021). Piore and Schrank note that enforcement in the United States is also highly specialized because labor standards are fragmented across numerous laws. Thus, safety and health inspectors enforce one law, while wage and hour inspectors deal with another, and so forth. By contrast, the Franco-Latin model focuses on identifying the "root causes" of violations and seeks to bring employers into compliance through more sensitive and versatile tactics that resemble the escalating logic of the responsive regulation model. In addition, in the Franco-Latin model, labor standards are contained in a single national labor code, and regulators operate out of a single regulatory agency. This centralization imbues the task of regulation with a more generalist perspective, whereby a single labor inspector can address issues of safety, wages, discrimination, and collective bargaining when visiting a workplace.

Inspectors have discretion to tailor remedies based on the organizational and macroeconomic context such that, for instance, they might take a lax approach to certain compliance issues during hard economic times.

I do not contest the argument that the Franco-Latin model is more effective than the U.S. model. Instead, I question whether the causal relationship implied by root-cause regulation is generalizable to home care and domestic work: Can the absence of the Franco-Latin model explain widespread noncompliance in the U.S. in-home care sector? And would the presence of that model resolve the problem? My research suggests not—that, although examining root causes is valuable both analytically and prescriptively, the current formulation of Piore and Schrank's framework may be insufficient as both an explanatory and normative theory.

More specifically: Piore and Schrank (2018:100) see a role for negative sanctions but stress that "deterrence alone will *never* be enough" (their emphasis). This assertion mostly aligns with my own conclusion. However, Piore and Schrank argue that proper enforcement practices *are* enough—that better wages and working conditions can be achieved by spreading "managerial techniques and values" that yield compliance. My findings challenge this perspective; even the best enforcement practices, I suggest, may not suffice to ensure a culture of compliance if an industry's structure inherently promotes noncompliance. In such cases, Piore and Schrank's "root causes" may not be radical enough; deeper problems may lie beneath employer violations and may require solutions that fall outside the purview of enforcement agencies. Such solutions might necessitate legislative action or policy change.

In an article with Janice Fine, Piore (2021:1096–97) acknowledges this possibility. The generalist approach of root-cause regulation encourages enforcement agencies to "look for the underlying causes of infractions, which are typically rooted in business strategies and managerial

practices, and to demand that these practices are altered accordingly." But this pathway is sometimes blocked: "When the underlying business climate does not provide the latitude for the enterprise to respond in a constructive way, the enforcement agency is expected to inform the legislature that is in principle in a position to take corrective action." In other words, the actors responsible for executing the law must sometimes return to the lawmakers for help. The question, then, is how often and under what conditions this happens. Root-cause regulation sees this circumstance as exceptional. I find it to be the case in home care and domestic work and suggest that these industries are likely not alone in containing structural or organizational features that stifle enforcement.

Whereas responsive regulation and root-cause regulation are frameworks developed primarily in a scholarly context, *strategic enforcement* and *co-enforcement* are models that have emerged from a dynamic interaction between the worlds of scholarship and regulatory practice. As such, they have dual purposes, serving as detailed guides for action and as yardsticks or "ideal types" for measuring empirical cases. They can also be fashioned into explanatory theories, as they imply causal models: when regulators embrace principles of strategic enforcement and co-enforcement, they produce better enforcement outcomes.

Strategic enforcement suggests that regulators can most effectively deploy their limited resources by orienting their actions toward large-scale impacts rather than reacting to worker complaints on a case-by-case basis. Co-enforcement suggests that this strategic approach requires robust partnership between government agencies and civil society organizations, namely unions and worker centers.

Several principles anchor the strategic enforcement model, originally proposed by David Weil (2008, 2010).[27] Specifically, labor regulators can best address widespread violations by prioritizing interventions that emphasize deterrence, sustainability, and system-wide impacts. This means proactively targeting industries and workplaces where violation rates are highest, especially those in which many workers experience violations but few report them. And it means prioritizing actions that can deter violations beyond a single workplace or firm, with effects that ripple throughout a specific geography, industry, or market and that endure over time.

One of the strengths of the strategic enforcement model is that it stresses the role of industry structures in shaping employer behavior. Weil (2010:16) argues that, more fundamental than recovering unpaid wages, "is changing the incentives of employers to underpay in the first place." Regulators should therefore "aim to alter the larger, system-wide incentives for compliance, thereby encouraging all employers to follow the law." In particular, Weil (2010, 2014) explains that government regulators must now contend with the "fissured workplace," a term that describes how, since the 1980s, large companies have reduced their labor costs and legal liabilities by employing fewer and fewer workers directly. Instead, they have shifted employment to contractors, franchisees, labor brokers, and third-party managers. This structure demands that regulators target not only individual franchisees or bottom-of-the-chain contractors but also larger lead firms, holding them accountable through joint-employer rules and responsible contracting requirements.

My analysis of home care and domestic work suggests that strategic enforcement's focus on altering "system-wide incentives" is crucial but that its conception of industry structure may need to be expanded. Here, I reiterate my critique of root-cause regulation: in some industries,

[27] Weil later championed this model while leading the Wage and Hour Division of the U.S. Department of Labor, from 2014 to 2016.

root causes or system-wide incentives may stem from structures and policy problems beyond the direct control of labor regulators. Enforcement strategies alone may be insufficient to change the industry structures that undergird noncompliance.

Finally, co-enforcement is a theory of whom government should engage with, and how, when pursuing strategic enforcement or conducting enforcement more broadly. The thesis, expressed most systematically by Janice Fine and her collaborators, is that government and civil society organizations should collaborate with each other, and they should do so in ways that leverage their respective strengths, such as government's authority to discipline violators and organizations' ability to gain workers' trust (Amengual and Fine 2017; Fine 2017, 2018; Fine and Gordon 2010). My findings support this notion, suggesting that enforcement efforts are more effective when such collaborations occur. I also explore how co-enforcement can be used not only as normative model but as an analytical tool for in-depth empirical case studies. In doing so, I offer a framework for conceptualizing changes in state–civil society collaboration over time, while detailing how elusive the co-enforcement ideal can be in practice. Ultimately, I show that co-enforcement—both analytically and normatively—is an incomplete tool on its own, as Fine and others (e.g., Fine and Round 2021) argue in their calls to pair co-enforcement with strategic enforcement.

Data and Methods

Studies of implementation often require intensive research designs.[28] The research questions driving this dissertation demanded quantitative and qualitative methods, including a survey of over 1,700 home care aides and domestic workers as well as ninety interviews, including 20 workers, 20 employers, 18 activists and organizers, 12 government regulators, 11 union staff members, and 9 experts. I supplement those data sources with analysis of public datasets and archival material, including the collections cited in this chapter. I describe the data further in each empirical chapter and in a methodological appendix (Appendix A).

Although I surveyed workers in four cities and interviewed individuals in multiple states, this dissertation focuses on New York City. The active presence of labor unions, worker centers, and government agencies in the same location make the city a context well suited for the project's goals. First, the city's large number of home care aides employed by private agencies, paired with its comparatively high union density, were necessary for my quantitative analysis of union impacts on labor standards enforcement. This multivariate analysis was not possible in any of the other survey sites (Los Angeles County, San Francisco, and Seattle). This was because the target subpopulations—unionized and non-unionized home care aides employed by agencies—were much smaller in those cities, and thus sample sizes were inadequate. Second, New York

[28] Van Meter and Van Horn (1975:450–51) note that, before the 1960s and 1970s, the lack of rigorous empirical research on implementation can be explained partly by practical obstacles to research:

> The difficulty of the task has discouraged detailed study of the process of policy implementation. The problems of implementation are overwhelmingly complex, and scholars have frequently been deterred by methodological considerations. Relative to the study of policy formulation, the analysis of the implementation process raises serious boundary problems. It is often difficult to define the relevant actors. Furthermore, many of the variables needed to complete an implementation study are difficult—if not impossible—to measure. Unlike legislative and judicial arenas where votes are often recorded, decisions in an administrative setting are frequently difficult to isolate. Finally, a comprehensive analysis of implementation requires that attention be given to multiple actions over an extended period of time, thus involving an enormous outlay of time and resources.

City is home to the only labor standards enforcement agency that has established a unit dedicated to in-home care work and that has conducted a strategic investigative sweep of the home care industry. These features allow for a unique case study, a well-defined opportunity to examine the possibilities and limitations of governmental enforcement in this sector. Finally, New York City worker centers and community-based organizations have been a constant engine of domestic worker mobilization and legislative gains over the past two decades, beginning with a 2003 law to protect those hired through employment agencies (Greenhouse 2003). New York State was the first to enact a Domestic Workers' Bill of Rights, the enforcement of which has centered on the New York City area and has involved both government agencies and worker centers. Further, the city government has since legislated additional protections that cover domestic workers. As a result of these policy achievements, enforcement has been a top priority of domestic worker organizations in New York City for over a decade. Thus, there is perhaps no better site in the United States for studying rights enforcement in the domestic work context.

Research based in a single city has limitations. One main consideration is the extent to which the structure of home care and domestic work in New York is unique, and therefore the extent to which my arguments are generalizable. In the home care context, the exact structure of home care employment varies in every state, because each has a different mix of private and public home care provision and because publicly funded home care has seemingly endless permutations given the complex interplay of federal, state, and local programs (Campbell et al. 2021). But amid this variation, there are common trends. Nationally, Medicaid is the largest funder of home care services (Osterman 2017), and nearly half of all states now use managed care to finance and administer their Medicaid home care programs (Advancing States 2022). Services through self-directed, or consumer-directed, programs have been growing in the

majority of states, while services through private agencies still account for most home care employment (Edwards-Orr et al. 2020; Howes 2014; Osterman 2017). New York State and City align with these trends, which leads experts to see New York's home care sector as defined by differences of degree, not differences of kind. According to Kezia Scales, Vice President of Research and Evaluation at PHI, a leading organization focused on the home care and direct care workforce, "New York State is not fundamentally different—grappling with many of the same complexities and challenges as other states, just on overdrive" (Interview, 2022).[29]

The same can be said of the domestic work industry. In New York State, domestic workers comprise a larger share of the total workforce (84 per 10,000 workers) than in any other state except California (92 per 10,000 workers).[30] This extremity can be attributed in large part to inequality: New York State has the highest level of income inequality in the country (Sommeiller and Price 2018), and domestic employment is correlated with income inequality (Milkman, Reese, and Roth 1998). But unlike home care, the structure of domestic work does not meaningfully vary across cities and states: workers remain employed directly by private households, typically in informal arrangements.

Although the study is limited to one location, its design nevertheless affords some comparative leverage. First, it allows me to compare regulatory actors, especially unions and government agencies, which yields the unexpected commonality I described above. Second, the occupational comparison between home care and domestic work shows how regulatory actors are thwarted by industry structures in both settings and that the problems remain especially

[29] PHI was previously called the Paraprofessional Healthcare Institute. The acronym has since become the organization's name.

[30] My analysis of Wolfe et al. (2020), Table 4. These proportions are likely underestimates given the concentration of undocumented workers in this industry, who tend to be underrepresented in government survey data.

intractable in domestic work. Third, analyzing the history of worker center enforcement efforts in New York over the past decade allows me to isolate continuity and change over time. Finally, I selectively employ my survey and interview data from other cities to draw contrasts where useful, such as the difference between home care in New York and the unique employment arrangements in California's self-directed home care system, the Medicaid-funded In-Home Supportive Services program.

This dissertation's focus on the United States and on two specific occupational groups raises further considerations for generalizability. I address this in my conclusion, where I place my findings in international context and discuss the broader implications of my argument.

A final prefatory note, however, relates to the timing of this study. Research began in 2018 and ended in 2023, a turbulent period that overlapped with the Trump administration and the COVID-19 pandemic. My methods attempted to transcend the historical specificity of this period while also welcoming insights that can accompany such unsettled times. My survey data on New York City home care aides was collected from August to October 2019, before the pandemic. Because the home care aides in question were employed formally through agencies or state programs, they were also less directly threatened by the Trump-era xenophobia than their undocumented counterparts in domestic work. At the same time, in my initial fieldwork, heightened anti-immigrant sentiments shone a light on the severity of immigrant workers' vulnerability, and thus, the depth of the challenge they face in claiming their rights. Most interviews were conducted in 2022, during the Biden administration and after the worst of the pandemic had passed. These interviews primarily sought to understand enforcement processes but also included questions about the pandemic's effects. My analysis focused on dynamics and patterns that existed independently of the pandemic, some of which were accentuated by the

crisis in the same way that the Trump era highlighted undocumented immigrants' precarity. One example is the economic hardship experienced by home care agencies, examined in Chapter 2. In relation to labor standards enforcement, the pandemic did introduce some temporary and time-specific changes—mainly by forcing regulatory actors to shift their priorities from enforcement to direct support of a frontline workforce afflicted by widespread unemployment and illness. By late 2021 and 2022, however, interviews indicated that regulatory actors had mostly returned to their pre-pandemic priorities and resumed their enforcement efforts. Ultimately, as many sociologists and commentators expressed at the time, the pandemic seemed to magnify and exacerbate longstanding social problems rather than create new ones.

Chapter Overview

I begin by examining enforcement in the home care context. Chapter 2 presents a brief history of the home care industry and workforce and describes the industry's current structure, both nationally and in New York City and State. I then analyze how this structure affects labor standards compliance, drawing upon interviews with owners and managers of New York City home care agencies. In doing so, I establish underlying forces with which regulatory actors must contend, namely the market dynamics and policy designs that pressure employers to violate labor standards. In some cases, flawed policy designs also create easy opportunities for employers to cut corners with impunity.

Chapter 3 focuses on labor unions that represent homes care aides. Past research has shown that, in other industries, unions increase workers' awareness of their rights and their likelihood of asserting them. Using my original survey data and multivariate analysis, I investigate whether this is the case in the home care context. I find evidence that, despite the

isolated nature of this work, union membership does improve workers' legal and procedural knowledge and their ability to assert their rights in response to violations. However, the results do not yield evidence of a relationship between union membership and the incidence of wage and hour violations; union membership does not appear to prevent violations from occurring in the first place. To explain these mixed findings, I use qualitative interviews with workers and union staff members. I argue that the structure of agency-based home care employment, paired with occupational licensure requirements, helps account for the apparent effect of union membership on worker knowledge and proclivity to seek redress. State and federal rules require home care aides to receive ongoing training multiple times a year, which typically happens at home care agency offices. These events create an opportunity for union representatives to interface with workers and for workers to gather outside the confines of private households. At the same time, I contend that unions may be unable to prevent wage and hour violations because of the pressures and opportunities outlined in Chapter 2. The enforcement tools that unions currently deploy do not seem to deter violations. While alternative tools might exist, I suggest that a more sustainable remedy would involve mitigating the underlying pressures that afflict employers and reforming weak laws to close off the easy shortcuts.

Chapter 4 turns to the role of government actors and their interventions in both the home care and domestic work contexts. I build a case study around New York City's Office of Labor Policy and Standards, which, since its founding in 2016, has prioritized in-home care work in its enforcement activities. To analyze its efforts around home care, I weave together employer interviews and data from interviews with local, state, and federal labor regulators. I find that the organizational structure of agency-based home care has allowed the city to conduct proactive investigations aimed at deterring violations industry-wide. These investigations have produced

some immediate improvements at targeted agencies, but evidence of more generalized deterrence is minimal. I explain these limited effects using the responsive regulation framework.

In contrast to agency-based home care, the domestic work context has largely baffled governmental enforcers. Both local and state labor standards offices have been unable to craft strategies to proactively identify violations or produce large-scale deterrence in this industry. The existence of New York City's Office of Labor Policy and Standards, along with its commitment to in-home care work, does provide new resources and creative spaces for developing effective strategies. But I conclude this chapter with skepticism about the potential of enforcement strategies alone to bring about large-scale compliance in the domestic work industry.

Chapter 5 turns more fully to the domestic work context and the role of worker centers and advocates, including their collaboration with government agencies. Drawing primarily on interview data, I trace how New York City worker centers and community-based organizations have experimented with labor standards enforcement since the enactment of the New York Domestic Workers' Bill of Rights in 2010. Departing from the structure of the prior chapters, I present these findings as a narrative, organized into three main periods between 2010 and 2023. These periods included initial scattered forays into enforcement, a second phase of building organizational infrastructure to engage in enforcement more purposefully, and a third phase of pursuing collaboration with state and local government agencies. Partnership at the state level has mostly foundered, but more progress has been made at the city level. Over several years, worker centers and the Office of Labor Policy and Standards have strengthened their coordination and moved in the direction of the co-enforcement ideal. These findings notwithstanding, the chapter concludes with a skepticism that echoes that of Chapter 4. Despite the advancements in state–civil society cooperation, even the most robust co-enforcement is

profoundly constrained by the informalized, one-to-one nature of domestic employment and the concentration of undocumented workers in this field.

Chapter 6 concludes the dissertation by considering what it would mean to restructure home care and domestic work and to strengthen labor standards enforcement in these contexts. I sketch possible alternatives to the status quo by exploring international models of relevance, revisiting proposals advanced by domestic workers in the 1970s, and discussing the visions advanced by home care and domestic worker movements in the twenty-first century.

Chapter 2
Roots of Rights Violations in the Formal Home Care Industry

When Adrian[1] immigrated to New York from Trinidad in the early 2000s, he wanted to pick up where he had left off in his home country, where he ran a public health organization that served his local community. Surveying New York's healthcare sector, he saw that his best chance lay in home care, an industry where a college-educated immigrant like him could start a company, tap into a booming market, and help a population in need. He incorporated a company in Brooklyn and began the years-long process of obtaining a home care license from the state Department of Health.

When the company finally began operating in 2010, he found himself in a cutthroat industry, jockeying against established agencies to win contracts to provide Medicaid-funded home care services. He slowly broke into the market, securing one contract at a time from local health departments and private insurance companies. Eventually, his agency grew to eight administrative staff and over 200 home care aides in the field—small compared to long-established industry players like the Visiting Nurse Service, but just about average compared to most of New York City's 700 licensed home care service agencies.[2]

But Adrian and his company were only ever on tenuous footing, and new business challenges appeared by the end of 2016. On December 31 of that year, New York's minimum wage jumped from $9 to $11 an hour, the first step of a three-year mandated increase to $15

[1] Throughout this dissertation, I use pseudonyms for all interview participants who are workers or employers.

[2] Author's analysis of the Licensed Home Care Services Agency Statistical Report data, 2017, form LSR6 (NYS Department of Health 2019).

spurred by the union-led Fight for $15. While some workers and activists saw the gradual raise to $15 as too slow and too modest, the change was drastic for employers like Adrian, who typically paid their home care aides the minimum wage or only slightly more.

The problem for Adrian was that, unlike businesses in industries like food service or retail, his didn't operate in a typical market. He couldn't raise prices and pass costs onto consumers. His revenues were effectively fixed by his contracts with insurance plans. The revenues of those plans, in turn, were capped by New York State's Medicaid budget.

But the state government, hewing to the austerity politics of Governor Andrew Cuomo, hesitated to provide new funding for the wage increases. As a result, the state put small agencies like Adrian's in a bind. With the minimum wage rising to $11, and soon to $13 and $15, how would they keep up? Adding to these labor costs, a federal rule change would soon require that home care aides be paid for travel between work sites and for overtime at a full rate of time and a half—a key victory for worker advocates during the Obama administration, and one that ended home care aides' longstanding exclusion under the Fair Labor Standards Act.

By the time I interviewed Adrian in 2022 (Agency Interview 13), there was no trace of the optimism that once led him into the home care field. Alongside other agencies, he eventually compelled the state government and the insurance plans to raise their payments to the agencies, but the increases offered barely enough support to keep business afloat. He reduced his office staff, explaining, "I'm like a one-man business now. I do everything myself." He cut costs wherever he could and made peace with shrinking operating margins. And he exhausted the only growth strategy available to agencies like his: accrue volume by finding more home care patients and more billable hours, because insurance plans pay him per hour of care provided.

Then came the COVID-19 pandemic, upending his tentative progress. And in October 2022, a new $2-per-hour minimum wage increase was set to take effect—another mandate hard won by advocates but implemented reluctantly by the state. The state budget added new funds to the Medicaid system to cover wage increases, but it disbursed the money to insurance plans without mechanisms ensuring that the money would be passed down to agencies and their employees. Adrian and other agency operators would have to renegotiate with insurance plans to get the funding.

When we spoke, just days before the October minimum wage increase, he was near a breaking point. When he first started his business, he knew it wouldn't be easy, but he felt eminently qualified. He had spent two decades in the healthcare field, obtained a master's in public health while waiting for his home care business license, and had successfully run businesses in the past. But the challenge of sustaining his home care agency now seemed insurmountable after years of falling profits: "If you keep cutting and cutting away at the meat," he lamented, "eventually all that's left is bones."

Larger home care agencies and investor groups now badgered him daily with phone calls, pressing him to sell them his company—and his client list—as part of their own march toward greater volume. He bristled at the prospect of a big corporation or private equity firm buying him out and turning his agency into a profit machine without any heart. "That's not healthcare. That's like selling tomatoes and onions. That's not me." Nonetheless, he expected he might relent. For now, however, he fretted over how to pay the imminent bump from $15 to $17 an hour:

> The Department of Labor has standards. That's fine. . . . I get it. But are you [the state] giving us enough money to do this? We're talking about three days from now. We haven't even gotten the money to pay them. We don't have that amount. . . . Where am I going to get that money? What do you do? You close. Yes, we keep to the rules, but with this new raise—I don't know. We might not pay.

Adrian's story offers a glimpse into the formal home care industry and the dynamics that can lead employers in this field to break the law. It also introduces the complexity of this industry in states like New York, raising several questions. For instance: Governments often contract out services to private firms, but how does this arrangement work in the context of home care? *Does* it work? Why is Medicaid, an anti-poverty program, so central to the home care industry? And how common is Adrian's experience?

This chapter answers such questions, establishing context for analysis of formalized home care in later chapters. First, using existing research and primary data, I trace the historical development of the home care industry and workforce and describe the industry's contemporary structure, including its organization and financing. Then, drawing from original interviews, I show how this structure affects labor standards compliance. I argue that violations stem in part from the market dynamics and policy designs that pressure employers to cut corners, as well as opportunities that allow employers to cheat without getting caught.

One especially salient policy design is "managed care," a model that New York State and twenty-two others have adopted to administer Medicaid-funded long-term care. Building on research by Elizabeth Nisbet, Jennifer Craft Morgan, and Diana Polson, I find that this model has deepened the marketization of home care provision and exacerbated the financial pains felt by firms in an already competitive industry, increasing pressure to violate labor standards. In this way, the faulty dynamics of Medicaid managed long-term care undercut the potential of rising employment standards to fully benefit workers. Because formal home care provision relies so heavily on public dollars, poorly funded mandates become untenable burdens that can drive firms toward noncompliance. At the same time, policymakers and regulators sometimes devise labor standards in flawed ways that present easy opportunities to break the law with impunity. As

subsequent chapters detail, regulatory actors must contend with these forces when intervening in the formal home care industry.

The Formal Home Care Industry in Historical Perspective

The Industry

In a historical analysis of paid care work, Mignon Duffy (2011:132) observes that "the notion of long-term care is relatively new, meaningful only because large numbers of people are now surviving for longer periods with more complex medical conditions." During the first half of the twentieth century, long-term care for older adults was a minor piece of the U.S. healthcare landscape, in part because life expectancy was shorter; people often died before they needed long-term care. Paid home-based care did exist and was often provided by local visiting nurse associations, but it focused on short-term acute illness and communicable diseases within poor urban communities. Hospital-based care, which became dominant in the 1920s, similarly privileged treatment of acute illness. As a result, older adults who lived until frail or faced chronic illness depended mainly on daughters and other unpaid family caregivers (Buhler-Wilkerson 2001:178, 188). By mid-century, however, medical advances spurred demographic shifts, transforming both the nature and the scale of care needs. In the United States, life expectancy rose steadily between 1900 and 2000: on average, a five-year-old child could expect to live to about age 60 in 1900, 73 in 1950, and 80 in 2000 (Bell and Miller 2005).[3]

[3] Life expectancy at birth—which partly reflects infant and child mortality—was 47 in 1900, 68 in 1950, and 77 in 2000. As of 2021, overall life expectancy at birth was 76.4 years (Centers for Disease Control and Prevention 2021, 2023).

Thus, during the postwar decades, more older adults came to need assistance with what are known in the field as "activities of daily living" (e.g., bathing, getting dressed, eating, toileting, moving about) and "instrumental activities of daily living" (e.g., cooking, cleaning, doing laundry, shopping, transportation). This trend first surfaced as a public health issue in the 1950s, as experts addressed the changing profile of healthcare recipients. Chronic conditions such as heart disease, diabetes, and cancer displaced older diseases like tuberculosis, typhoid, and whooping cough (Buhler-Wilkerson 2001:176–89). Further, new medical technology began to "save many more lives than was ever before possible," so more individuals, including younger people, require care for chronic issues after debilitating injuries, strokes, or other life-threatening conditions (Duffy 2011:81). In recent years, the societal magnitude of daily assistance needs has ballooned with the aging of the baby boomer generation, the oldest of whom turned 65 in 2011 and the youngest of whom will turn 65 in 2030.

As several scholars suggest, care policy today mirrors the general ethos of the U.S. welfare state, ultimately placing the burden of care work on individuals and families (Abel 2022; Buhler-Wilkerson 2001; Duffy 2011:77). Most long-term care for adults is still provided outside the labor market by unpaid family members—roughly 48 million of them as of 2019, 61 percent of whom are women and 61 percent of whom provide care while holding other paid jobs (AARP and National Alliance for Caregiving 2020).[4] However, the rise of long-term care has demanded not just more unpaid family caregiving. Over the past several decades, it also stimulated the

[4] Osterman (2017:161–62) offers a much lower estimate, approximately 21 million, based on a different data source: the University of Michigan Health and Retirement Study. That study only includes individuals over the age of 50 and asks them whether they provide unpaid care to a family member. Because of that sample constraint, Osterman adjusts the estimate in a way that may contribute to the some of the difference from the AARP study.

growth of new *paid* occupations, a workforce that vastly expanded after the 1965 enactment of Medicare and Medicaid.

While paid long-term care can occur in congregate settings, such as group homes, nursing homes, and assisted living facilities, the most dynamic growth over the past fifty years has unfolded in private households. Varied forms of home care had existed before the 1960s,[5] but it was the creation of Medicare and Medicaid in 1965 that transformed home care into a full-blown industry and occupation. The two programs birthed the modern home care sector: Medicare would come to fund certain home care services for adults over 65, and Medicaid, despite its origins as an anti-poverty program, would evolve into the country's largest funder of long-term care (Boris and Klein 2012:86). In this way, 1965 marked a watershed not only for U.S. healthcare and for the postindustrial economy overall (Winant 2021) but for home healthcare specifically.

Medicare and Medicaid, respectively, built upon two divergent models of home care and perpetuated the chasm between them (Boris and Klein 2012:86–87). The first model, encoded in the Medicare program, treated home care as part of the medical field; Medicare beneficiaries are eligible for limited personal care services when receiving other ''skilled'' medical services at home, after hospitalization. The second model, encoded in Medicaid, relegated home care to the domain of social assistance; home care recipients are means-tested and must fall below state-determined income and asset thresholds.

Federal policymakers, advocates, and analysts have long recognized the limitations of both models. *Medicare* home care services apply to only a sliver of circumstances: only after

[5] Early publicly funded home care projects emerged in the 1930s as part of the Works Progress Administration and other New Deal programs (Boris and Klein 2012:19–39). And hospitals experimented with home care programs in the 1940s and 1950s as a way to cut costs and free up hospital beds (Buhler-Wilkerson 2001:188–89).

qualifying hospital stays; only if ordered by the patient's doctor or approved prescriber; only if skilled nursing care is also necessary; only for short durations; and, of course, only for Medicare beneficiaries (Centers for Medicare and Medicaid Services 2023b).[6] *Medicaid* home care services only apply to low-income individuals, and even then, its services are often insufficient and sometimes involve waiting lists. Further, unlike Medicare, which is a federal social insurance program funded by payroll deductions, Medicaid is a social assistance program administered at the state level. It is co-funded by state and federal general tax revenues; as such, it competes annually with other budgetary items and is frequently subject to cuts in both Democrat-controlled and Republican-controlled states (Campbell et al. 2021:32–33). In light of these problems, upper-income individuals and families can opt to purchase private long-term care insurance or to privately obtain home care services from an agency or individual worker. But middle-income individuals are typically left in the lurch, as are low-income individuals with needs unmet by Medicaid. These gaps are why unpaid family caregivers continue to play such a central role in home care provision (Gornick, Howes, and Braslow 2012:148–49).

Because neither Medicare nor Medicaid was intended to provide universally accessible, fiscally sustainable, or fully adequate home care services, policymakers have proposed to create dedicated federal home care programs, in both the 1970s and the 1980s and most recently as part of the 2010 Affordable Care Act.[7] But none of these attempts succeeded (Boris and Klein 2012:95, 162, 219). In the absence of policy change, Medicaid and Medicare, plus a patchwork

[6] Home care coverage came to be included under Medicare not primarily because of its intrinsic value but because of its "perceived capacity . . . to empty hospital beds" and save costs (Buhler-Wilkerson 2001:199, 202). However, Buhler-Wilkerson finds that, both in 1965 and at later policy junctures, the evidence of home care's cost effectiveness remained inconclusive. This uncertainty has long posed a hurdle for Medicare home care expansion.

[7] The federal government enacted an innovative federal home care program as part of the Affordable Care Act, but it proved too complex to implement and was repealed (Appleby and Agnes Carey 2011).

of state and local programs, have continued to serve as the de facto home care programs in the United States.

Despite their limitations in ensuring home care access, the economic impacts of Medicare and Medicare have been vast. Some growth happened immediately: by 1967, Medicare had certified over 1,700 public and private entities to receive funds and provide home care services.[8] Initially, only certain licensed entities—primarily public and nonprofit—were permitted to provide care (Boris and Klein 2012:86–87). Local governments seized the opportunity, including New York City, which created a home attendant program in 1967 to access Medicaid funds for elder care (Boris and Klein 2012:88; 110–12).[9]

Growth of the home care sector and workforce accelerated greatly in the late 1970s and 1980s, when several factors converged. First, nursing home scandals and the high cost of institutional care prompted a policy shift toward home care (Boris and Klein 2012:95). Second, the U.S. population age 65 and over climbed steadily, both in absolute terms and as a share of the total population, creating new demand for home-based care (Caplan 2023). Third, changes in healthcare financing led to shorter hospital stays and quicker discharges, resulting in more patients requiring long-term care while still recovering (Winant 2021:227–29). Finally, in 1980, Congress permitted for-profit firms to contract with Medicare and, soon after, with state Medicaid programs (Boris and Klein 2012:151–52). Firms flooded into this new market. By

[8] This figure is based on the National Association for Home Care & Hospice's analysis of data accessed from the Health Standards and Quality Bureau of the Center for Information Systems at the Centers for Medicare and Medicaid Services (see National Association for Home Care & Hospice 2010:Appendix A).

[9] Local officials initially classified home care aides in this city-run program as independent contractors in order to minimize costs and avoid unionization (Boris and Klein 2012:88–89; 110–12; 140–41). Unions began to organize them nonetheless and demanded they be classified as city employees. In response, officials outsourced the program to nonprofit vendors in the early 1970s, before the city's fiscal crisis. The move served the dual goals of avoiding new costs and shoring up local anti-poverty community action agencies that had been decimated by federal funding cuts. These anti-poverty agencies thus became home care vendors and became the new targets of union organizing efforts (Boris and Klein 2012:109–12; Sparer 1996:110–11).

1997, there were over 10,000 Medicare-certified home care agencies.[10] When including agencies outside the Medicare program—those serving Medicaid recipients and out-of-pocket payers—there were approximately 33,000 total home care establishments, owned by 15,000 firms.[11]

After 2010, the country's demographic trends shifted into high gear, with the baby boomer generation beginning to reach 65. The number of adults ages 65 and over rose from 40 million in 2010 (13.1 percent of the total population) to 56 million in 2021 (16.8 percent of the total population).[12] Industry growth has followed the population trends. The number of home care establishments had risen from 33,000 in 1997 to 44,000 in 2007, a 33 percent increase. It then jumped to 65,000 in 2017, a 50 percent increase over 2007.[13] Over that twenty-year period, industry revenues rose by 228 percent, from $40.6 billion to $133.3 billion. This dramatic growth in home care has far outpaced that of related industries, such as nursing homes and residential care facilities (Campbell et al. 2021:111).

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[10] As above, the figure for 1997 is based on the National Association for Home Care & Hospice (2010:Appendix A). The number of agencies plummeted in 1998, the year after Congress restricted Medicare home care services, citing budgetary concerns (Pear 2000). But the industry rebounded in the mid-2000s after Congress reformed Medicare's payment model. The number has stabilized since then, with approximately 11,300 Medicare-certified home care agencies by 2021 (Centers for Medicare and Medicaid Services 2023a).

[11] "Establishments" and "firms" are statistical categories used across industries. They overlap imperfectly with the home care industry's main organizational unit—"agencies"—and with specific regulatory categories like "Medicare-certified home care agencies" and "licensed home care services agencies." Establishments are physical locations; in the case of home care, they are the offices where coordinators, managers, and other centralized staff are based and where home care aides go for onboarding and training. Home care establishments data for 1997 is based on author's analysis of 1997 Economic Census data (U.S. Census Bureau 2000). The analysis uses the same method used by PHI to calculate establishment totals in 2007 and 2017. Specifically, I combine the number of establishments in two industries: home healthcare services (NAICS code 6216) and services for the elderly and persons with disabilities (NAICS code 62412). For PHI data, see Campbell et al. (2021:34–38, 111).

[12] Estimated population sizes and percentages are from the American Community Survey 1-Year Estimates for 2010 and 2021 (U.S. Census Bureau 2021a, 2021b). For key findings from the 2020 decennial census, see Caplan (2023). Looking ahead, rapid growth will continue through 2030, up to a projected 73 million adults ages 65 and older (21 percent of the population) that year. The pace of change will slow after 2030, but the general trend is expected to last through at least 2060, when there will be a projected 95 million adults ages 65 and older (23 percent of the population) (Vespa, Armstrong, and Medina 2018).

[13] These figures are based on my analysis of the U.S. Economic Census (U.S. Census Bureau 2000, 2007, 2017). The census is conducted every five years. The 2022 data, collected in 2023, is not yet available.

Throughout this boom, the demand for home care services has continued to be driven not only by raw social need but by Medicare and Medicaid as intermediary payers that anchor a healthcare market. With a few exceptions detailed below, the two programs primarily act as healthcare consumers, in that they pay private entities to provide home care instead of providing it themselves. Winant (2021:23) refers to this phenomenon in the healthcare sector overall as "a paradoxical privatized socialization within capitalism, with the residual legacy of the postwar welfare state sustaining profits and employment in this massive industry."[14] If not for public funding, the social need for home care would have to be met almost entirely by unpaid caregivers, except among households who could afford to hire home care aides privately. Instead, the continued presence of public funding for home care has fed an increasingly privatized and profit-driven industry, even if such funds are inconstant and inadequate. As one indicator of this trend, for-profit ownership in the home care industry has steadily expanded, rising most recently from 67 percent in 2007 to 76 percent in 2017 (Campbell et al. 2021:37).

The Workforce

The unprecedented need for paid home care services has spurred exceptionally high demand for workers. Home care now represents one of the largest and fastest-growing occupational groups in the country. As of 2021, there were approximately 1.4 million individuals who reported their primary occupation as home care, a category that includes home health aides and personal care aides who work in private households (Banerjee et al. 2022).[15] That number is likely an underestimate, as it fails to precisely capture undocumented workers underrepresented in official

[14] For data on the growth of the healthcare sector compared to other sectors, see Martiniano et al. (2018:16).

[15] A 2019 analysis using the same methods produced a similar estimate, roughly 1.4 million (Wolfe et al. 2020).

statistics as well as individuals who are paid to care for family members through public programs, which I discuss below (Banerjee et al. 2022; Campbell et al. 2021; Osterman 2017:18).[16]

The number of home care *jobs* is an alternative marker of workforce size and trends: between 2011 and 2021, private establishments and public agencies reported that the numbers of home care aides they employed more than doubled, from 1.1 million to 2.6 million (PHI 2023).[17] These figures, however, are also imperfect; they derive from a survey of establishments, which report the number of workers they employ, by occupation. As a result, job estimates double count individuals who work for multiple home care agencies, while simultaneously omitting individuals employed directly by private households. Whatever the true figures may be, home care employment growth has been staggering.

At the same time, however, the supply of home care aides has lagged behind demand for home care services, even before the COVID-19 pandemic worsened working conditions (Bandini et al. 2021; Institute for the Future of Aging Services 2007; Pinto et al. 2022; Sterling et al. 2020; Stevenson 2018). In fact, this labor shortage first emerged in the 1980s, when demographic and market trends initially began to shift. In a 1987 *New York Times* article announcing "Health Aides in Short Supply," a New York health official forecasted that, "Until we can offer [home care] aides a sense of worth, a sense of recognition, a fair salary, fringe benefits and some sort of

[16] Osterman (2017:43, 158–61) tries to avoid underestimation by using multiple data sources; he arrives at approximately 2.2 million home care aides as of 2015, including 217,000 self-employed aides and 840,000 consumer-directed home care aides.

[17] PHI uses the term "home care workers" instead of home care aides. To derive these estimates, PHI analyzes the Occupational Employment and Wage Statistics program of Bureau of Labor Statistics, specifically the National Industry-Specific Occupational Employment and Wage Estimates for May 2011 to May 2021. Based on Standard Occupational Classification codes, PHI defines home care workers as personal care aides, home health aides, and nursing assistants who are employed in either of two industries: (1) Services for the Elderly and Persons with Disabilities and (2) Home Health Care Services.

career type mobility, we're going to have a problem getting sufficient aides and retaining them" (Rubenstein 1987). Little has changed, except for the scale of the problem.

In particular, low and stagnant wages remain a core obstacle to worker recruitment and retention (Campbell et al. 2021; Jabola-Carolus, Berger, and Solow 2020; PHI 2023; Shaw et al. 2022). Nationally, as of 2021, the median hourly wage in home care was $14.09 and the median annual earnings were $19,100. Despite increasing labor demand, median wages scarcely budged between 2011 and 2015 (PHI 2023). Since then, state and local minimum wage laws have spurred modest annual improvement, but this pattern is driven mostly by Democrat-controlled states. In New York State, for instance, real wages rose 22 percent, or $2.56 per hour, from 2011 to 2021, with most of that change occurring after 2016. By contrast, home care aides in Texas saw an increase of only 5 percent, or $0.56 per hour, from 2011 to 2021. Those in Florida saw a 3 percent *decline* in real wages during that period.[18] Nevertheless, new wage levels in states like New York still fall well below a living wage (Jabola-Carolus, Luce, and Milkman 2021) and appear to have yielded little impact thus far on the longstanding labor shortage (Home Care Association of New York State 2023:14–15).[19]

The economic devaluation of home care aides cannot be separated from the social composition of this workforce: nationally, most are women (85 percent), most are people of color (63 percent), and a large share are immigrants (31 percent). These proportions are even

[18] Florida voters recently approved a minimum wage increase that took effect in late 2021 and will raise the state's minimum wage to $15 per hour by September 2026, up from a starting point of $8.65 (Rosenberg 2020). Home care wages should rise with the scheduled increases, although perhaps not to the legally required levels; Florida lacks a state labor department and thus does little to enforce its minimum wage law (Tsoukalas et al. 2022). The structure of home care poses further implementation problems that I discuss later in this chapter.

[19] In addition to the geographic variation in home care wages, there is also variation across informal and formal home care sectors. Researchers have found some evidence that hourly wages are higher in gray-market home care, at least in New York and California (Jabola-Carolus, Berger, and Solow 2020; Milkman 2018, 2023; Shore et al. 2022). Nationally, findings are mixed. Some analysts have found earnings to be higher in the gray market (Osterman 2017), while others have found the opposite (Banerjee et al. 2022:Table 6; Kim 2020; Wolfe et al. 2020:Table 6).

greater in New York State, where 90 percent are women, 81 percent are people of color, and 67 percent are immigrants (PHI 2023). The tacit or explicit use of race and gender to justify low wages—whether on the part of policymakers or of households and firms who hire workers—has long obstructed better employment conditions. These biases likely contribute to what researchers call the "care penalty," or the comparatively low wages specific to low-status paid care work. Controlling for other factors, low-wage paid care workers like health aides and childcare providers earn less than similar workers in other occupations, such as retail sales (Budig, Hodges, and England 2019; England, Budig, and Folbre 2002; Folbre, Gautham, and Smith 2021). Researchers suggest that this wage penalty is entwined with gender. Building on England's research, Howes, Leana, and Smith (2012:73) write, "It may be that care is more culturally devalued than other kinds of women's work precisely because it is strongly associated with women and unpaid work in the home."[20]

Historical analysis further enriches our understanding of why home care aides have suffered perpetually low wages and poor conditions. In tracing the emergence of this workforce in relation to public policy, Boris and Klein (2012:8) argue,

> This labor is devalued, however, not just because of its ascribed racial or gendered meanings but because of the way the state chooses to structure it. This outcome . . . is historical rather than epiphenomenal; devaluation is not only structural and ideological, but a product of conflict and accommodation between experts, state authorities, workers, care receivers, and institutions since the New Deal.

In the most recent era of this long history, the overwhelming dependence of home care employment on the Medicaid program has largely relegated the occupation to the fringes of the

[20] The researchers cited here do not typically disaggregate in-home care workers from other care workers in their analyses of the care penalty. However, Dresser (2008) compares wages between in-home care workers and those who do similar jobs in facilities; the analysis is only suggestive because it does not control for other factors, but the lower wages of in-home workers may point to an additional "in-home" penalty specific to care provided in private homes.

healthcare industry. The fact that public policies and healthcare actors treat these workers as either outside the healthcare system, or as second-class citizens within it, remains an obstacle to better job conditions and better care quality (Osterman 2017).

Policy and Organizational Structure of Formal Home Care, Nationally and in New York

The organizational structure of formal home care provision varies by funding source and by state. Table 2.1, below, outlines the most common variations. First, if a private household decides to hire a home care worker "on the books," it can do so directly or through a home care agency that serves clients paying out of pocket. This is often referred to as the "private-pay" home care market.[21] Second, if an individual has purchased long-term care insurance and is approved to receive services, then home care is typically provided through a participating home care agency, much like other healthcare services. Third, an array of small-scale local, state, and federal programs may employ home care aides, either through private agencies or public entities. An example is San Francisco's Support at Home program, which offers services to individuals who are ineligible for Medicaid but cannot afford private-pay home care. Fourth, as noted above, the federal Medicare program may cover limited home care services after hospitalizations; such care is provided by Medicare-certified agencies.

Fifth and sixth are state Medicaid programs, which account for approximately half of national expenditures on formal home and community-based care. These programs vary widely but take two main forms, which often exist side by side within a state's Medicaid system.

In traditional *agency-based* Medicaid home care programs, workers are employed by private agencies that have been contracted to provide services. This model is dominant in most

[21] As noted in Chapter 1, many households that directly hire home care aides do so informally, or "off the books." Experts refer to such arrangements as part of the "gray market."

states, especially Arizona, Nevada, Texas, Florida, Georgia, and North Carolina (Union Interviews 10 and 11).[22] Agencies may be for-profit or nonprofit; estimates are not available for Medicaid programs specifically, but, as noted above, 76 percent of home care agencies nationwide were for-profit in 2017 (Campbell et al. 2021:37).[23]

Table 2.1. Main Organizational Structures of Formal Home Care Provision, Nationally

Funding Source	Who Employs the Worker	Estimated Percentage of National Home Care Expenditures, 2021[a]
1. Private households	Private Household or Private Agency	5.7% ($20B)
2. Privately purchased long-term care insurance	Private Agency	8.8% ($30B)
3. Miscellaneous state, local, and federal programs	Private Agency or Public Entity	10.0% ($35B)
4. Medicare	Private Agency	14.6% ($51B)
5. Medicaid – agency-based home care programs	Private Agency	49.5% ($172B)[b]
6. Medicaid – self-directed programs	Care Recipient *and* either (a) Private Agency or (b) Public Entity (directly or via private fiscal intermediary)	

Sources: Edwards-Orr et al. (2020); Interview, SEIU national policy staff, 2022

[a] Estimates are based on my analysis of 2021 National Health Expenditures (Centers for Medicare and Medicaid Services 2022). Spending percentages do not sum to 100% because they omit minor sources of funding not included in this table. I use an approach similar to that of Reaves and Musumeci (2015) as cited in Osterman (2017:17), who provide estimates for long-term supports and services overall (including institutional care). However, following Howes (2014), I use narrower criteria to exclude institutional care and to approximate home care spending. Despite this effort, my estimates include spending on community-based services, such as adult day care, because home care cannot be fully isolated in the available data. Still, home care accounts for the vast majority of spending on home and community-based services; nationally, adult day care is a $7 billion industry, which is far exceeded by services for the elderly and people with disabilities ($65 billion) and home healthcare ($136 billion) (IBISWorld 2023a, 2023c, 2023b).

[b] This figure represents total Medicaid spending on home and community-based services because available data does not disaggregate between self-directed and traditional agency-based programs.

[22] My analysis of data from Edwards-Orr et al. (2020), which I further describe below, supports this characterization.

[23] A prominent outlier is the New York City–based Cooperative Home Care Associates, a for-profit social enterprise and certified "B-Corporation" nationally recognized for its efforts to improve job quality, retention, and training (Inserra, Conway, and Rodat 2002; Berry and Schneider 2011). The firm is the largest worker cooperative in any U.S. industry, with over 2,000 home care aides serving as worker-owners (Berry and Bell 2018:383).

In *self-directed* programs (also called *consumer-directed* in some states), workers are employed in more complex arrangements, as illustrated by the last row of Table 2.1. These programs, which originally emerged from the disability rights movement, are designed to empower care recipients to direct the support they receive—by hiring, training, supervising, and, if necessary, firing workers themselves. Thus, the care recipient partially acts as an employer. Typically, the care recipient can even hire an eligible family member as their care provider. However, either a private agency or public entity is also involved in the employment arrangement, responsible for processing timesheets, issuing payments, withholding taxes, and managing benefits. In some cases, public entities contract out those tasks to private fiscal intermediaries (Union Interview 10). Legally, despite the active role of the care recipient in self-directed programs, it is the private agency, public entity, or fiscal intermediary that serves as the worker's "employer of record" (Boris and Klein 2012; Union Interviews 10 and 11).

As of 2019, every state offers some form of self-directed home care, typically through Medicaid (Edwards-Orr et al. 2020). Most of these programs are small: thirty-four states have fewer than 10,000 enrollees in self-directed home care. California, by contrast, has long been the national leader in self-directed home care and, as of 2019, accounts for 49 percent of the country's total self-directed enrollments (about 606,000 individuals). No other state comes close, although others have substantial self-directed programs, measured in terms of enrollees as a share of the state's adult population. These include Michigan (51,000 enrollees), Oregon (29,000), Washington (40,000), and Massachusetts (39,000). New York has approximately 84,000 enrollees in self-directed care—second to California in absolute terms, and about average

in relation to population size.[24] However, self-directed care in New York has expanded tremendously in recent years, up 172 percent between 2016 and 2019—a growth rate second only to Alabama's. New York's 84,000 self-directed enrollees represent roughly 30 percent of the state's 280,000 total Medicaid recipients who are deemed eligible for long-term care (State Interview 2).[25]

A consequential development in recent years is that states have increasingly turned to managed care models to administer both agency-based and self-directed Medicaid programs.[26] Before this pivot, states paid home care agencies and other long-term care providers through fee-for-service arrangements: Medicaid reimbursed providers for each hour of service provided (Campbell et al. 2021:30). Managed care, which had taken hold in private healthcare and other Medicaid programs since the 1980s (Sparer 1996:19–21, 152–81), promised states a cost-saving alternative. In this model:

- The state Medicaid agency contracts managed care plans, which can be run by major private insurance companies like Aetna or by historically state-specific organizations like the Visiting Nurse Service of New York. New York State has 37 plans as of 2023 (Home Care Association of New York State 2023).
- Medicaid home care recipients must enroll in a plan. These recipients become "members" of their selected plan.

[24] To calculate these proportions, I combine the data from Table 2 in Edwards-Orr et al. (2020) with state-level population data (U.S. Census Bureau 2022).

[25] Medicaid recipients are deemed eligible for long-term care if they need at least 120 days of continuous assistance. New York State's Medicaid agency has tried to contain the rapid growth of self-directed care by reducing the reimbursement rates that fund such services. Enrollments have thus slowed since 2019, although part of that change may be attributed to the COVID-19 pandemic (State Interview 2).

[26] This turn toward managed care is part of a broader trend among advanced welfare states. European countries have also seen increasing marketization of elder care and home care services (Nisbet 2018:828)

- The state Medicaid agency pays the plans fixed amounts based on projected usage of home care services (instead of reimbursing home care providers for every hour of service rendered). These payments are made on "per member per month" basis.
- Managed care plans must coordinate services for their members. They do so by subcontracting home care agencies, who manage service provision on the ground. Plans reimburse home care agencies per hour of service provided. New York State has over 1,400 such agencies (Home Care Association of New York State 2023).

In this arrangement, states no longer face unpredictable Medicaid costs: they allocate funds that they expect will suffice, then they shift the fiscal risks onto the managed care plans. As for-profit insurance entities, these plans make more money if members use fewer hours of home care than expected; they make less money if the opposite occurs. They thus have an incentive to enroll more members—and healthier members—to their insurance pool and to prevent members from needing more hours than projected by, in theory, keeping their health from declining further (Polson 2013:136–37, 145–48). Home care agencies, by contrast, make money by providing as many hours of service as they can; they thus have an incentive to secure more contracts with managed care plans, and to get people to join those plans.

More and more states—twenty-three as of 2022—have adopted managed care for their Medicaid long-term care programs, especially after the Great Recession (Advancing States 2022; Campbell et al. 2021:30). New York State embraced the approach in 2011, as part of a larger overhaul to Medicaid that aimed to control costs, improve health outcomes, and make administration more efficient (Nisbet 2018; Polson 2013). The shift was spurred by Governor Andrew Cuomo, who ordered a task force to redesign the state's uniquely expansive and, thus, costly Medicaid program; spending per enrollee in New York was $9,056 in 2009, compared to

the national average of $5,337 (O'Cleireacain 2012).[27] The task force's recommendations, including the proposed managed long-term care system, were approved by the legislature and enacted in the 2011–2012 budget. Mandatory enrollment in managed care plans began in 2012 in New York City and, by 2015, was fully implemented statewide. The state now uses managed care for both its agency-based and self-directed Medicaid home care programs (Bogart et al. 2016:7, 9–10).

In examining the politics of that transition, Polson (2013:129–39) details how it was the union 1199SEIU, rather than business actors, who joined Cuomo in publicly championing the reform. Viewing the shift to managed care as mostly inevitable, the union realized that the reform could help undercut several large, rapidly growing non-union agencies that seemed unorganizable. It also saw the chance to support Cuomo as a political gift that it could trade for a wage boost for its lowest-paid home care members, which worked: by backing managed care, 1199 won enactment of the "Wage Parity Law," which gradually raised wages from $7.25 to $10 an hour for thousands of home health aides employed outside of New York City's locally run home care program. The law's reference to "wage parity" denotes the fact that personal care aides in the city's home care program already earned $10 as a result of New York City's living wage law; the law created parity between home health aides and personal care aides (Polson 2013:140–44).[28]

[27] See Sparer (1996) for an explanation of New York's Medicaid spending. O'Cleireacain (2012:23) provides more recent context and summarizes the history thus: "For many years the state enlarged its Medicaid commitment by creating new state health care programs that went beyond existing eligibility and benefit limits. The state then leveraged the new entitlements into the federal Medicaid program to get the 50 percent federal matching funds. As a result the New York program provides more access and more benefits than any other state. The state also has a very powerful 'medical industrial complex' of medical providers, labor unions, and health care interest groups that promote institutionalization and keep provider costs high."

[28] Some analysis of the politics behind the managed care mandate finds that, contrary to conventional expectations, the insurance companies—who stood to benefit—did not play a crucial role in advocating the change (Polson 2013:135). However, my interview with a long-time industry insider suggests the opposite: the managed long-term care companies "were an important, potent partner to the state in making the managed long-term care mandate

In practice, managed long-term care has often proven detrimental to individuals who need services, and its fiscal promises have been elusive. Less than two years after New York's reform took effect, a *New York Times* exposé led regulators to audit the state's largest Medicaid managed long-term care plan, whose enrollment practices were found to involve "cherry-picking of able-bodied seniors" and "shunning the most impaired" (Bernstein 2014b). The plan was forced to suspend enrollment and to repay millions of dollars that it had billed Medicaid for service to ineligible members.[29] Such cases revealed that managed care may have displaced the perverse incentives entailed in the previous fee-for-service model, in which some providers billed for as many hours as they possibly could. But the new system has its own flaws, which have appeared not only in New York State but nationally. Beyond contending with insurers' dubious practices, and despite their aim to offload administration onto the private sector, states have had to regularly intervene to ensure that managed long-term care delivers savings—a contradictory "hands-on hands-off" approach (Nisbet 2018). In doing so, states have taken measures that harm current and prospective home care recipients, like tightening eligibility requirements and capping plan enrollment (Bernstein 2014b; Gonzalez, Polivka-West, and Polivka 2021; Polivka and Luo 2019).[30]

While the managed care paradigm maybe be prone to fraud and harmful to clients, it also affects the home care *workforce* in ways not often examined. Indeed, the design of the home care

happen. But since that time, I think that the [companies] are really just trying to manage their operations, their functionality, and all that. . . . If you want to talk about [who has] the 'juice,' I don't think that the 'juice' is there" (Expert Interview 3).

[29] The *Times* extensively covered the "pitfalls" of New York's managed care shift, including reductions in care and the "rush for profitable clients." See Bernstein (2013, 2014a, 2016).

[30] As result of these problems, advocates and policymakers have begun exploring reforms and alternatives to managed long-term care, such as value-based payment and home care programs beyond Medicaid (Campbell et al. 2021:30–33).

industry, more broadly, bears on workers' rights and employment conditions. The next section turns to this relationship.

Pressures and Opportunities to Violate Labor Standards

The home care industry's structure and financing affect labor standards compliance. Violations stem, in part, from the market dynamics and policy designs that pressure employers to cut corners, as well as opportunities that allow employers to cheat without getting caught. As I examine in subsequent chapters, other factors also influence violations, such as how regulatory actors approach enforcement. This section, however, focuses on the underlying pressures and opportunities to cheat workers, and how they manifest in general and in New York. I rely on secondary literature as well as original interviews with twenty home care agency owners and senior-level managers in New York City. I modeled these interviews after studies of front-line managers in low-wage service industries (Lambert et al. 2019; Lambert and Haley 2021). Appendix A, Table A.1 summarizes key characteristics of the respondents and their agencies.[31] Demographically, the respondents share commonalities with their employees: all but three of the twenty respondents were people of color or immigrants. However, male owners and managers seem to be more common than male home care aides; seven of the twenty respondents were men, including three owners and one nonprofit executive director.

[31] As I describe in Appendix A, I sampled home care agencies with an eye toward representativeness, but the extent to which the final sample achieves that goal is unclear. What we know from more systematic, large-N research is that labor standards violations in home care are widespread. My interviews offer a qualitative glimpse into conditions in the home care industry that might contribute to that phenomenon. It is possible that small and mid-size agencies are overrepresented in my sample, as it was easier to access respondents at such agencies—fewer layers of bureaucracy to wade through, and even fewer physical obstacles, like being turned away by security at a large office building. But, as noted earlier, small and mid-size firms continue to dominate the fragmented home care landscape in New York and nationally. The sample provides a window into the world of those agencies, and it allows us to understand some of the key forces with which regulatory actors must contend.

Labor standards violations are widespread in the formal home care industry, although estimates vary across surveys. The most authoritative study of workplace violations in low-wage work, the 2008 Unregulated Work Survey, found that minimum wage violation rates among New York City home care aides was relatively low, around 8 percent—but that overtime violation rates were pervasive, nearly 83 percent. Off-the-clock and meal break violations rates were also extreme, 86 percent and 84 percent, respectively (Bernhardt et al. 2009; Bernhardt, Polson, and DeFilippis 2010). Notably, that survey pre-dated the shift to managed care. A more recent analysis using pooled Current Population Survey data from 2014 to 2019 found a much higher rate of minimum wage violations in New York City's home healthcare services industry, approximately 30 percent (Barnes, Galvin, and Fine 2020). This rate exceeds that of retail services (23 percent) and is comparable to food services (28 percent).

Interviews with both agency owners and employees substantiate these statistics. During one interview, an owner explained the state of play in the industry and described how his counterparts routinely break the law. I mentioned that I had seen statistics on violations but that the abstract numbers were hard to grasp, sometimes hard to believe given their magnitude. Hearing his testimony helped ground the data. "For you to tell me that, 'Yes, it's a real thing,'" I began to say, before he interrupted. "Yes, it's a real thing," he affirmed. "Not only is it real, it's rampant. . . . I will be honest with you, there's about 1,100 home care agencies in the state of New York. . . . If you go and audit them today, at least 500 are going to be incorrectly paying wages" (Agency Interview 16).

Basic Market Pressures

Wherever home care provision relies on markets and private agencies, market competition exerts a baseline level of pressure on agencies to minimize costs. This is the case in almost all types of formal home care, including Medicare, private-pay home care, Medicaid managed care, and Medicaid self-directed programs that use competing fiscal intermediaries. California's Medicaid self-directed program is the main exception given the role of public entities in that model; outside of that program, however, private home care agencies are common in California (Union Interviews 10 and 11).[32] Many of these basic market pressures are not unique to home care. They are common across low-wage service industries, but they are nevertheless central to understanding the occurrence of labor standards violations in home care.

The nature of competition depends on the type of home care involved. In private-pay home care, home care agencies compete for clients based on prices and service quality. In Medicare and Medicaid managed care, agencies compete for contracts, so that they can serve more Medicare and Medicaid recipients. In New York State, agencies with Medicaid contracts also compete for clients, but indirectly. The agencies must advertise their services, but they cannot sign up clients themselves—instead, clients can only be assigned to agencies by the managed care insurance plans. So agencies tell prospective clients to ask the insurance plans to be assigned to those agencies. Then, the agencies call the insurance plans, tell them to expect a call from the prospective client, and then try to claim that client. The decision is ultimately up to the insurance plans, which, according to my interviews, prefer agencies that operate in all five boroughs and can send aides to new clients most quickly. In this arrangement, agencies have an

[32] This information, shared by interview respondents, is confirmed by my analysis of County Business Patterns data (U.S. Census Bureau 2018).

advantage if they have more resources than their rivals for marketing and hiring client recruiters; for following up with clients and liaising with insurance plans; and for streamlining and scaling up their operations (Agency Interviews 4; 8; 17).[33]

The intensity of market competition also varies, not only by type of home care but by factors like geography (urban vs. rural), state regulatory context (lax vs. strict licensing rules), and market segment (e.g., high-end private pay vs. mid-market private pay). In New York State, both the Medicaid managed care program and self-directed program have historically had lax licensing rules, reducing barriers to entry. As a result, private firms have flooded these markets, which are especially saturated in New York City given its population size and density (Polson 2013). The nature of Medicaid home care service provision does not lend itself to monopoly, so the glut of firms means a high level of competition.

Both nationally and in New York, small firms are prevalent across home care markets, and this pattern shapes how competition affects workers. As of 2017, roughly 77 percent of home care firms had fewer than 50 employees, a share that has changed little since 1997. Only 4 percent of firms have 250 employees or more, which is the same as in 1997.[34] This stasis likely reflects the persistently low barriers to market entry. A prospective home care operator typically needs little capital to start an agency. Apart from registering as a business and renting an office or coworking space, the main obstacle is obtaining state licensure, which varies in difficulty across states and which some states do not even require. For instance, only in the past few years has California required licensure for agencies in the private-pay market (NGO Interviews 10 and 16). The lax regulations in California can explain why, as of 2018, Los Angeles County had

[33] One of these managers noted that agencies with resources to do "shady things"—paying plans to send them clients—also have an advantage (Agency Interview 5).

[34] Author's analysis of U.S. Economic Census (U.S. Census Bureau 2000, 2007, 2017).

nearly triple the number of home care establishments as New York City.[35] Once these establishments begin operations, their main expense is labor, and competitive pressure exerts itself mostly on labor costs. By trimming compensation, agencies with private-pay clients can charge less, and agencies with Medicaid contracts can spending more on tasks like marketing. While employers can sometimes find ways to cut labor costs without breaking the law, those who comply with labor standards face higher labor costs than competitors who cut corners.[36]

A sea of small employers is hard to unionize. Wages can be taken out of competition in an industry when union density is high. But in the context of U.S. labor law, industries are difficult to unionize when comprised of numerous small firms and establishments. So it is no surprise that, nationally, home care unionization resembles the country's low unionization rate—approximately 9.9 percent, compared to 6.8 percent across the private sector overall (Hirsch, Macpherson, and Even 2023).[37] The home care rate is higher because the structure of Medicaid self-directed programs in some states has allowed unions to organize at a large scale, in a way that mirrors public sector unionism. In those contexts, unions have been able to form bargaining units comprised of all self-directed home care aides in a given state or county; despite setbacks since the 2014 *Harris v. Quinn* Supreme Court ruling, unionization has been more successful in that setting than in the world of private agencies, where unions must struggle to win separate

[35] Author's analysis of County Business Patterns data (U.S. Census Bureau 2018).

[36] This is true at least in the short run; over time, firms that compensate their workers better may save money through higher productivity and reduced turnover costs, including less spending on recruitment, onboarding, and training (Jabola-Carolus, Luce, and Milkman 2021).

[37] I combine home health aides (occupation code 3601) and personal care aides (code 3602) to estimate home care unionization. This occupation-based approach is more precise than using industry-level unionization rates, which would include office staff and other employees in home care and elder care services who are not home care aides themselves. But some imprecision remains in this occupation-based approach because some home health aides and personal care aides work in facilities, not private homes. For more detailed estimates, Current Population Survey microdata can potentially be used to isolate home care aides using both occupation and industries codes.

elections at each individual small agency. But those states are exceptional. So too is New York City, for a different reason: unions, specifically 1199SEIU, have managed to win elections at individual agencies over the past forty years. As a result, home health care union density in the New York City metro area is approximately 26.2 percent (Milkman and van der Naald 2022:18). This level of unionization has positive impacts, as I discuss in Chapter 3. But it still means that over half of the home care workforce is not unionized, rendering wages and other compensation a central axis of competition, even in the most unionized urban markets; there is thus downward pressure on labor costs at both union and non-union agencies.

Managed Care Pressures

The competitive dynamics described thus far also appear in other low-wage service industries. Where home care begins to diverge is in the Medicaid managed care programs, which introduce additional pressures and perverse incentives in relation to labor standards compliance.

Because Medicaid injects fixed sums of money into the system, the managed care framework effectively imposes a ceiling on revenues, and thus, on wages (Nisbet 2018:832; Polson 2013:142–43). The two tiers of subcontracting mean that the insurance companies take the first cut of funding for operating expenses and profits. Home care agencies take the next cut; individually, they negotiate payment rates with the insurance companies that subcontract to them.[38] The remaining Medicaid funds that funnel down to workers are highly constrained. As a result, upward pressure on wages due to the home care labor shortage is often stifled.[39]

[38] Some interviewed agency owners have separate contracts with as many as eighteen insurance companies, whose payment rates can vary widely (Agency Interview 16).

[39] Rodat (2010:17) observed this dynamic in New York even before the situation was exacerbated by managed care: "Medicaid reimbursements, along with subcontracting arrangements, compress wages that might otherwise rise as a

From the vantage of labor standards compliance, what matters about the ceiling on revenues is that agency profits fall whenever the wage floor rises, unless they can wrest a higher payment rate from the insurance companies; that typically does not happen unless the state increases Medicaid funding to cover new labor costs, and even then, insurance companies may try to pocket new Medicaid funds instead of passing them on to the agencies and workers (Donovan 2022; Silberstein 2022).[40] As illustrated at the start of this chapter, in New York, the resulting financial squeeze has beset agency owners like Adrian and has constituted a powerful incentive toward noncompliance.[41]

Nearly all my New York interview respondents run agencies that offer Medicaid home care services and thus operate in the context of managed care. They echo Adrian's frustrations and share their own stories of financial hardship. They also testify to the worries that agency operators have expressed in past research. Polson (2013), who conducted interviews in 2011, and Nisbet (2018), who conducted interviews in 2014 and 2015, both found that agency operators were alarmed by the shift to managed care, with some already on the cusp of crisis. My interviews in 2022 revealed a strikingly similar landscape, reinforcing these prior findings while going further by illuminating the ties between firm-level instability and labor standards enforcement. My analysis underscores the role of two specific burdens imposed by managed care.

result of increasing demand for services." The policy implication is that wage setting as a tool to reverse the labor shortage must therefore occur at the level of state government, not subcontracted agencies.

[40] See also Meyersohn (2023) for a thoroughly documented critique of New York's managed long-term care insurance companies in relation to the minimum wage increases.

[41] New York is not unique in this regard. A similar pattern has recently played out in Florida, where, in the wake of a 2020 voter-approved minimum wage increase, the state's home care industry association has warned of agency layoffs and closures and has clamored for more Medicaid funding (LeFever 2020).

1. Misalignment of labor costs and Medicaid funding

The first burden is the misalignment of labor costs and state funding described above, principally—but not only—minimum wage hikes in the absence of adequate or timely increases in Medicaid funds. It was common in interviews for managers to voice support for higher wages; some believed their employees deserved it, and others hoped that higher wages would help them with staff recruitment and retention. But with the October 2022 wage increase looming—from $15 to $17 in New York City—dread overshadowed these concerns. Gabriela, the director of a nonprofit agency in the Bronx, voiced a typical sentiment:

> You need to have the aides have wage increases. I'm all for that. . . . They're the front lines. [But] if wages go up and [insurance payment] rates don't go up, then we have a bigger problem. . . . If we're already operating on a very thin margin, the money has to come from somewhere, right? You can't keep taxing agencies.

She explained that, like Adrian, she had weathered this experience during past minimum wage increases. When I asked how her agency survived those, she said she borrowed money and used other stopgap measures: "You go from Peter to Paul and then go from Paul to Peter. . . . You figure out ways, whether it's through other reserves that you have or whatever, in order to get it done" (Agency Interview 6).

Eddie, who owns a small for-profit agency in the Bronx, had less success keeping up with wage increases that began in 2011. He reflected on the trajectory of his agency's bottom line:

> The margin was not that bad at the beginning, but then . . . we had the base [wage] rates raised by the industry. But the rates [paid by insurance plans] weren't coming as fast as the wage increase was. . . . So it really, for the agency, put us in a compromised position. It didn't work out very well for us. [Now] the margins are just so low. (Agency Interview 8)

Because of this decline, Eddie was forced to drop most of his Medicaid-funded services and to develop new lines of revenue; now his agency primarily serves short-term *Medicare*-funded skilled nursing cases and only a small number of Medicaid home care cases. Still, he considers

himself lucky given that many other agencies failed. As Medicaid home care margins thinned, the volume of services became more and more central to profitability, setting off a feeding frenzy in the industry that persists today, as Adrian attested to earlier. Eddie recalls how this trend unfolded, with larger agencies clawing Medicaid cases away from smaller ones:

> A lot of small agencies ended up closing and losing a lot of their clients, because [at first], you had large agencies that were going around consuming the small agencies. . . . It was so bad. They was buying agencies and [different] things—but they wasn't even buying the agency, they was actually literally just going around and taking the patients away from the agency, either by force or by offering the agency a few dollars for the actual patient. And it just was all over the place. . . . A lot of the agencies lost a lot of income, and a lot of small agencies went out of business. (Agency Interview 8)

Although he has mostly pivoted to shorter-term Medicare cases to escape this upheaval, Eddie hopes he can eventually return to Medicaid cases, because he enjoyed the comparative stability of longer-term Medicaid cases and took pride in providing high-quality care.

When speaking about mandated wage increases, other owners and managers stress that it is not the wages alone that add to their costs: when the minimum wage goes up, they face associated increases in payroll costs that are pegged to wages, such as federal insurance contributions and premiums for disability and workers' compensation insurance (Agency Interviews 16 and 17; Expert Interview 3).[42]

Beyond the minimum wage, other rising standards have compounded labor costs. Nisbet (2018) and Nisbet and Morgan (2019) found that agency operators were contending with new national policies, namely the employer mandate of the federal Affordable Care Act (2015) and the federal government's extension of the Fair Labor Standards Act to previously exempted

[42] With Luce and Milkman (2021:12), I calculated such costs associated with a potential home care wage increase in New York State.

home care aides (2016).[43] My respondents still cite the burden of those obligations several years later. But when venting about managed care and labor costs, they also invoke local policies like New York City's Paid Sick and Safe Leave Law (2014). One senior manager, who previously worked as a home care aide, said, "Everybody should have some safety net if they get sick. But some places just do not have the funding. . . . Where are you going to get the money from? I feel bad for everybody all around. It's really tough. . . . I have never worked in [public] budgets . . . but I know in general money does not grow on trees" (Agency Interview 2).

Another manager, Angela, bemoaned that, in essence, the floor created by mandated labor costs was now equal to the revenue ceiling. Thus, as an agency, you end up "paying out every [dollar] that you receive." She continued, "Where would you get money from for so many workers to be on paid sick leave, to be on vacation pay? Where would that money come from? You'd be in bankruptcy in no time!" Angela revealed toward the end of our interview that she was, in fact, intimately familiar with the prospect of bankruptcy:

> I used to run this company. I used to own it. And I sold it. I sold it in 2020. It got too hard during the pandemic. I wanted to sell it before the pandemic, but [back] then, I was just hanging on with it and see. And then the pandemic came and I got a buyer. . . . I started it from scratch in 2016. . . . [Before that] I was working at a home care agency, and because of certain problems, [they] get rid of me, and I determine that I'm going to open an agency all by myself. . . . I'd be my own boss. But I lose that status now [laughs]. (Agency Interview 17)

[43] Before the federal Department of Labor issued its new rules, home care aides in New York State already had minimum wage coverage and partial—but lesser—overtime coverage. They were entitled to overtime pay at one and a half times the *minimum wage* instead of one and a half times their *regular hourly wage* (Polson 2013:18). Interviews suggest that, in aggregate, the cost of this change was significant, even if the regular hourly wage for most workers was little more than the minimum wage. Also adding to labor costs was the Fair Labor Standards Act requirement that employers pay for time traveled between work shifts; this applied to home care aides who traveled from the home of one client to another in the same day (National Employment Law Project 2015:3).

New ownership, however, has not solved the agency's woes. In addition to the misalignment of labor costs and Medicaid funding, this agency and others face a second burden as subcontractors within the organizational hierarchy of managed care.

2. Late payments from managed care insurance companies

When embarking on research for this dissertation, I expected to hear about late payment as a type of violation experienced by workers at the hands of their employers. What I did not anticipate was that employers themselves have a late payment problem, and that the two problems are likely related. One of the most common complaints among owners and managers was that the managed care insurance companies can take months, even years, to reimburse agencies for services that agencies have rendered. As with workers living paycheck to paycheck, such delays can have grave consequences for an agency's viability, and indeed, for its ability to pay its employees.

Some agencies and managed care insurance companies have a cooperative relationship, conducting routinized negotiations and lobbying together through the same industry association (Expert Interview 3). Some are even owned by the same individuals or entities, allowing those owners to collect profits from both tiers of the managed care contracting hierarchy (Expert Interview 1). My data and Nisbet's (2018), however, suggest that contentious relationships are common and that many agency operators, with resentment, feel exploited by the insurance companies. Agencies operate knowing that they will provide services before being reimbursed, and they typically bill the insurance companies either every thirty days or every sixty days. But interview respondents believe managed care insurance companies exploit this arrangement.

Elena, a director at a medium-sized for-profit agency in Staten Island, expressed her perspective in this way:

> So unfortunately, most of these companies look for ways . . . look for reasons not to pay. . . . If you don't bill with the right code, if you accidentally bill too soon, or any little [thing] . . . they pick [that] up as a mistake, [and] they reject the claim. So you can service a patient for months and months and months and not get paid for months and months and months. And so you're [paying] out of pocket as a business owner, because you can't deny services to the patient. . . . We have [a managed care] company right now . . . and we were servicing a cancer patient [for them]. And they denied every single claim that we submitted. Every single one. And so this patient is receiving home health aide services through us . . . [but] we still haven't seen a dime. (Manager 19)

In the managed care paradigm, the state has tasked the managed care insurance companies with reviewing bills and preventing fraud. This delegation becomes problematic, however, when insurance companies have an incentive to avoid paying claims: they can take the whole cut of Medicaid funding if they can secure payments from the state without having to pay their subcontracted agencies. They can attempt this strategy by denying claims outright or by outlasting an agency's attempts at collection. The interview data suggests that insurance companies attempt this strategy often.

This pattern of late payment contributes to agencies' financial hardships. When asked what would help her agency survive, a different manager, Cheryl, said that timely payment would be the most helpful change. She elaborated, "To get payments, sometimes it's a struggle for the agency. It takes months to get payment. . . . They [the insurance plans] keep saying that the [information is] wrong. Ten months, no pay." I asked how the agency has handled such delays in the past, and Cheryl said the situation had become quite dire: "The owner refinanced. They did a lot of stuff. They got a lot of loans" (Agency Interview 5). The manager who had sold her agency, Angela, also attested that the new owners have taken out loans to endure late payments. She summed up the basic dilemma: "You have to find [money for] payroll on a

weekly basis, and when you are not getting paid on a weekly basis, then, you know, it's hard" (Agency Interview 17). Eddie, the owner who had pivoted away from Medicaid cases, was one of the most ardent critics of the late payment practices, based on his own experience and what he had witnessed at other agencies: "The delay can happen for a year or two years depending who you're dealing with. . . . And that delay can bring a lot of the agencies out of business. I know of agencies that have lost their business because the insurance companies wouldn't pay on time" (Agency Interview 8).

There is little recourse for an agency that hopes to contest late payments. They can report an issue to a state office that mediates such disputes, but doing so has drawbacks. Eddie warns of retaliation, noting that, "When you do get the Department of Finance involved, you become marked. . . . [The insurance companies] pull that contract away from you. They will no longer work with you." In his experience, however, attempts at mediation rarely work anyway. "There has to be some type of penalty they have to pay for . . . hold[ing] onto payment. And if that penalty is not severe enough, of course they're going to do it as much as possible, because they don't have to pay for the next year or two years" (Agency Interview 8).

Responses to Managed Care Pressures

The combined financial burdens posed by basic market pressures and the Medicaid managed care system produce a degree of firm-level desperation that I did not expect to find at the outset of this research. While the COVID-19 pandemic intensified those burdens, as shown by the owner who sold her agency, interview respondents make clear that their problems have mounted ever since the shift to managed care in 2011. Other data sources affirm their experiences and suggest that they represent broader patterns in the industry. The Home Care Association of New

York's weekly trade publication, for instance, has thoroughly chronicled the struggles of its members.[44] The association also conducts an annual survey of home care agencies in New York State; the 2019 study found that 40 percent of surveyed licensed home care agencies reported negative operating margins (Home Care Association of New York State 2021:5).[45]

Interview respondents describe multiple strategies that agencies use to survive, other than controlling costs and taking out loans. Eddie's shift away from Medicaid home care to Medicare-funded skilled nursing was reiterated by another manager and is a move that Nisbet (2018:835) began to see in 2014 and 2015 (Agency Interview 12).[46] Some larger agencies have maintained Medicaid home care as a steady line of business because they have achieved sufficient volume, while also diversifying into a range of non-Medicaid home care services and expanding beyond New York State (Agency Interview 18). In doing so, the flaws in Medicaid home care are softened by a larger business portfolio.

By contrast, the small and mid-sized agencies that remain within the Medicaid managed care system have few options but to buckle down and hope for growth. Eddie, again, offers useful insights:

> Unless you micromanage every aspect of the business of an agency, you won't see much of a profit. And even then you don't see much of a profit! [But] you will have serious difficulty maintaining an agency unless you have an excellent billing and collection company, or a superb collection department that will retrieve the funding in a timely

[44] As of August 2023, past issues of the association's *Situation Report* dating to January 2015 can be accessed at https://issuu.com/hcanys.

[45] The association's survey uses a convenience sample but is the only available data source that measures operating margins among New York State home care agencies. Given the methods, there is wide year-to-year variation in the percentage of agencies that report negative margins; between 2017 and 2021, that figure has ranged from about 30 to 65 percent. Thus, the survey and this particular variable serve as general indicators of financial hardship, not especially accurate but nevertheless useful for triangulating with interview data and other sources.

[46] There is some historical irony here. In the middle of the twentieth century, it was the struggling visiting nurse services who turned to less expensive home health aides as part of their own survival strategies (Buhler-Wilkerson 2001:187).

> manner and will focus strictly and not let anything go by. It doesn't matter [how small]. The pennies—you have to go after them.[47] (Agency Interview 8)

A different long-time agency owner shared this word of warning to new owners:

> You need to have a lot of money to survive. It will take five years to get to the point of [being] self-sufficient, you understand? All these expenses. All these funds. Everything. It's going to eat you alive. And I can tell you, I am 72 years old. And we started from scratch. . . . For so many years we didn't have any money [until we started] getting bigger, getting better contract[s], better rates, et cetera. (Agency Interview 14)

Many agencies will not survive. This seems especially true of nonprofit agencies, another trend detected in Nisbet's (2018) interviews from 2014-2015 that has extended to the present. When I asked one nonprofit director about the future, his reply was bleak: "The future of nonprofit home care? There is no future." Nonprofits are no longer viable, he explained, because they lack the capital to invest in the marketing and billing practices that are now required to compete successfully (Agency Interview 4).[48]

The organizational response most relevant to this dissertation, however, is not micromanagement, persistence, or closure, but rather, breaking the law. At least some noncompliance in the formal home care industry is motivated by the financial burdens I have detailed above. We know that, across industries, some firms are financially stable and may flout labor standards as part of their business model or to enlarge their profits, while other firms resort to noncompliance out of desperation. The incidence of labor standards violations, for instance, appears to rise during economic crises (Fine et al. 2020). The higher rates of violations in home care than other low-wage service industries (Barnes et al. 2020) may reflect that financial

[47] For readability, I have reordered sentences from the original interview transcript in presenting this quotation. All sentences in this quotation were originally part of the same paragraph.

[48] The main exception is the Visiting Nurse Service of New York, now known as VNS Health (Famakinwa 2022). Founded in 1893, this non-profit organization survived the national decline of the visiting nurse services described above and has since grown into a healthcare giant in New York State. The organization has nonprofit and for-profit subsidiaries, including the controversial managed care plan that enrolled ineligible members (Bernstein 2013).

hardship is especially acute in the Medicaid home care field. Such is the perspective of a New York City regulator who oversees multiple industries. When asked how home care employers compare to those in other fields, she pointed to the tough economics: "The biggest difference is the very narrow profit margins in that industry, that make it ripe for exploitation. . . . And the workforce is predominantly women, women of color, immigrant women, which is another factor. . . . But the profit margin is definitely a major factor" (City Interview 6).

Opportunities to Violate Standards

If a home care agency owner opts to break the law to improve their margins, they can do so by illegally boosting revenues or by reducing expenses. The former involves fraudulent billing: the type of fraud common to healthcare industries that depend on public dollars, including hospice care (Kofman 2022), nursing homes (Nolan 2023), and Medicare in general (Abelson and Sanger-Katz 2022). The latter, given the centrality of labor costs, involves shirking labor standards, whether by failing to pay for a required insurance product or by committing a form of wage theft. In this section, I discuss a final theme that emerged in researching the structure of the formal home care industry: that opportunities to violate labor standards are readily available. I then turn to the chapter's conclusion.

The formal home care industry in New York State, despite its high rate of violations, is in fact relatively well regulated. Any agency that provides home care services must be licensed by the state health department, even if that agency only serves non-Medicaid, private-pay clients. More than twenty states lack such requirements (PHI 2020b), giving private-pay agencies latitude to cut corners without much fear of detection. The New York case, however, demonstrates that the design of specific regulations can influence firm compliance and

noncompliance. Specifically, interviews highlighted two New York State regulations that create easy opportunities for home care agencies to pocket funds that they should be paying to their employees.

The first is the so-called "13-hour rule." In the context of both Medicaid-funded and private-pay home care, some clients need home care assistance around the clock. To staff such cases, agencies will often assign a single worker to take a full 24-hour shift, or even multiple 24-hour shifts in a row. The worker stays at the client's home for the duration of the assignment, then returns to their own home. The state's minimum wage laws do not specify how such arrangements should be compensated, so interpretation of the law has fallen to the Department of Labor, which has long held that workers on such shifts should be treated as "live-in" workers. As such, home care agencies need to pay them for only 13 hours of a 24-hour shift, as long as the workers receive three hours of meal breaks and eight hours of sleep time (including at least five uninterrupted hours). In practice, those conditions are rarely met, and the burden falls on the workers to report any interruptions and to take action if management denies them pay (NY Union Staff 1; State Interview 1; City Interview 6). Like the owner Eddie who cautioned that "you become marked" if you complain about an insurance company's late payments, workers understand that complaining may lead to retaliation. So full implementation of the 13-hour rule is largely unrealistic. The practical and moral problems with this arrangement have sparked frequent legal and political disputes.[49]

[49] These disputes over the 13-hour rule have left a long trail of reporting and documentation. For journalistic overviews, see Lewis (2017, 2019a, 2019b, 2022); Lewis has long covered the issue for *Gothamist* and other New York publications. For information about the main grassroots effort to end the 13-hour rule, see the Ain't I A Woman campaign website at www.aintiawoman.org, including its worker testimonials. See Lee (2021) for a report produced by the office of New York State Assembly Member Ron Kim, which takes aim at a nonprofit agency that workers have repeatedly sued for violating the 13-hour rule. Data in the report draws primarily from two legal cases that also include useful documentation: *Chan et al. v. Chinese-American Planning Council Home Attendant*

For private-pay agencies, the 13-hour rule is a valuable opportunity. They can get away with paying workers for only 13 hours of work while charging unwitting clients for full 24-hour shifts. In the Medicaid context, agencies can only bill insurance companies for the 13 hours of sanctioned labor, so they must pay wages out of pocket if a worker exceeds those hours; this is a potential cost burden (Nisbet and Morgan 2019:1624; Agency Interview 6). But because the law is so hard to implement, agencies have a ready opportunity to dodge their obligations. As long as workers opt not to report interrupted sleep or breaks, agencies get free extra labor. The perverse incentives commonly yield violations. Agencies, including nonprofits, have explicitly instructed workers not to report work that exceeds the 13 hours, and they have penalized workers who do report such work (State Interview 1). Further, agencies have exploited the law's weaknesses to recruit Medicaid clients. One former state regulator explains, "It's how they got business. . . . They were promising families through-the-night care, and that's what they gave them. Because if they really meant that nobody [should work] more than 13 hours, they just would have assigned [two] 12-hour shifts. There's no reason to assign someone to 13 hours a shift and hope that all the rules get met." By adding one hour to a 12-hour shift, "they only had to pay the worker one more hour for a whole night of care" (State Interview 1).

Second, many agencies have learned to exploit flexibilities in New York State's Wage Parity Law. As noted earlier, the law was what 1199SEIU won in exchange for support of Governor Cuomo's 2011 Medicaid overhaul. The law raised wages from $7.25 to $10 per hour for thousands of home care aides employed outside of New York City's locally run home care program (Polson 2013:140–44). In addition, the law required that employers pay additional

Program, Inc. and *Chu et al. v. Chinese-American Planning Council Home Attendant Program, Inc.* For a proposed solution introduced in the state legislature, see Epstein (2021).

compensation on top of the base wage rate; as of 2023, the requirement in New York City is $4.09 per hour in supplemental compensation that can be provided as wages, benefits, or a mix of both. At agencies represented by 1199SEIU, the $4.09 is paid into the union benefits funds, and the union monitors that transfer. At non-union agencies, however, the allocation of the $4.09 is left to management's discretion (Agency Interview 16; NY Union Staff 4 and 5). This is an invitation to cheat.

Speaking to this issue, a Brooklyn-based owner named Viktor begins by echoing the importance of "pennies" in the home care business: "Really in this industry it's about pennies. . . . If we save ten cents on the hour for each patient that we serve, it's going to be hundreds of thousands of dollars. Ten cents can mean 200 grand in profit" (Agency Interview 16). He explains that the lawful way to capture those ten cents is to "control your costs in the office" or to "get the best rates you can" when negotiating with the managed care insurance companies. Another way is to exploit the Wage Parity Law. In October 2022, total required compensation for New York City home care aides rose to $21.09—the supplemental $4.09 plus a new base wage of $17 per hour. Viktor tells me to consider a scenario: "Right now we're going to have to pay $21.09. Even if we pay $21 flat, we'll be making so much money on that nine cents. You understand what I'm saying?" He proceeds to attest that this illegal practice is widespread. By skimming mere cents off the Wage Parity Law's $4.09 requirement, agencies can significantly reduce their labor costs and boost their bottom lines.[50]

[50] Viktor explained that wage theft is not always so subtle. Sometimes, he told me,

> New agencies open up and they have a really bad [reimbursement] rate with an insurance, and they're just starting to hire new workers. Those workers may not be aware of what pay is required. [So the agencies] start to pay them kind of little. When it's time to pay the rest . . . they [the agency owners] may realize, "We don't have it [enough money]." So they continue to pay them less than they're required. . . . They can't afford to pay them what they're supposed to be paying them. . . . So sometimes it happens just in that simple form.

If it is common for agencies to dip into the Wage Parity funds, one can imagine how they could similarly siphon off money from their workers' base wages; a strategic "miscalculation" of payroll taxes and deductions could funnel equally sizable amounts into owners' pockets instead of workers' bank accounts. Thus, while some agencies might overtly steal wages by improperly paying overtime hours or by paying a subminimum wage before taxes and deductions—the types of violations typically measured in survey data like mine—other agencies can exploit subtle opportunities posed by both poorly designed legal standards and routine payroll processes.[51]

Conclusion

At the outset of my interviews, I did not intend to ask business owners about their operating margins, marketing plans, or billing practices. Instead, I planned to focus on how owners and managers perceived labor standards enforcement. But when the first two interviews digressed into business conditions and firms' financial challenges, I knew I would need to explore the connection between business hardships and labor violations in subsequent interviews. The above analysis is the result.

Viktor also gave an example of how such owners rationalize this form of wage theft: "They're like, 'It's kind of my livelihood. . . . We're kind of small and we—' " His trailing off aptly conveyed the tentativeness of such justifications; such owners tend to be well-intentioned, he said, and end up "inadvertently" violating the law. "Inadvertently"—his word—is a generous characterization, one he uses to contrast such owners with the more unscrupulous violators.

[51] Responding to the weaknesses of the Wage Parity Law, the state Department of Health is planning to strengthen oversight in 2023. Licensed home care agencies, like those examined in this chapter, will be required to submit independently audited financial statements each year to ensure compliance with that law (Montgomery 2022). Interview data, however, points to potential challenges in implementing this new measure. Viktor, the owner quoted above, complained that audits must be conducted by independent accounting firms that "we have to hire ourselves. . . . So we have to . . . pay them 10, 20, 30 grand, to overview your payroll and make sure you're paying Wage Parity correctly" (Agency Interview 16). It is unclear how many agencies, already stretched thin, will cover this new cost.

There are caveats to these findings. First, this chapter spotlights financial pressures, but numerous other social, economic, and cultural factors can also lead home care agencies to break the law. The following chapters will discuss the role of regulatory actors as a constraining, or sometimes enabling, force. Chapter 4 will also discuss how such institutions do or do not shape norms about compliance in the formal home care industry. Knowledge can also play a part: sometimes employers are not fully aware of their legal obligations, especially new laws. Such awareness matters in both formal home care and informalized domestic work. In addition, research in progress (Workplace Justice Lab 2023) has found that violations are sometimes a function of business size and owners' race/ethnicity and nativity. Small businesses, in particular, often cannot afford back-office systems that automate timekeeping, payroll processing, and sick leave accrual. In the case of small businesses owned by immigrant people of color, this resource deficit often stems from lack of access to capital. The resulting operational gaps leave them prone to accidental violations—a dynamic that appeared on two occasions in my interview data.[52] Recognizing that this underlying cause of violations may be common, labor regulators in the city of Minneapolis have launched a pilot project that seeks to boost compliance by providing capacity training and support to small businesses owned by immigrant people of color (Ramstad 2022). Such an intervention could prove valuable in New York's home care industry, given the prevalence of small home care agencies owned by immigrants like my interview participants.

A second caveat is that a few agency owners I interviewed did not share in their counterparts' despairing business outlook. Three of the twenty respondents, in particular, stuck

[52] When I asked one agency manager about the biggest challenge she faced, she replied: "Paperwork. You really need to move to electronic paper forms and signs [for onboarding]. . . . Some agencies, especially the larger ones if they can afford it [are] doing it electronically. But you'll find some of the smaller ones, we can't afford to pay all that fee for that" (Agency Interview 1). Another small agency was still tracking paid sick leave accrual and usage with pen and paper, even after the city had fined them for improper paid sick leave payments (Agency Interview 10).

out as potentially emblematic of patterns that diverge from the main trends I present in this chapter:

- First, Cheryl, the manager of a small Medicaid-funded agency with only about thirty home care aides, was enthusiastic about the potential for expansion, even though she voiced familiar gripes about managed care companies and even though her agency had to close during the pandemic due to a staff shortage. When I asked, "Do you see opportunities to grow coming up?" she responded, "Every day. Every day. We put in authorizations for three new cases today. So that means eight people will go to work" (Agency Interview 5). This case suggests that the unrelenting demand for home care means that some small and mid-size agencies can indeed endure, and that new agencies may continue to enter the market. Perhaps this is why the industry landscape that Nisbet described eight years prior still looks similar.
- Second, Susan, a franchisee of a national home care company, had few complaints about business—but she operates fully outside the Medicaid program, serving approximately forty private-pay clients and employing about fifty workers (Agency Interview 20). My aggregate interview data was unclear as to why more owners have not pivoted exclusively to the private-pay market; I suspect it is because that market is much smaller and is dominated by large national brands, so the barriers to entry are higher. Clients in that market also pay the highest rates out of all home care consumers—nearly $70,000 per year in the New York City area (Genworth 2021). To the extent that wealth is associated with race, this is also likely a whiter market. It is unlikely a coincidence that Susan was one of the few respondents who presented as white and U.S.-born.

- Third, the director at the large multi-state agency cited earlier expressed much confidence in her company's future. What distinguishes that company from most of the sampled agencies is its high degree of diversification: while New York's Medicaid program is one of its main sources of business, it operates in eight states and also has contracts to serve clients covered by Medicare, Veterans Affairs, workers' compensation insurance, and long-term care insurance (Agency Interview 18).

These respondents and any patterns they represent, however, appear to be exceptions in the New York City market, which remains full of financially strained small and mid-size firms dependent on Medicaid (Home Care Association of New York State 2022, 2023).

Finally, this is not the first study to observe that Medicaid managed care poses problems for business viability and labor regulation. The main precursors cited in my analysis—Nisbet, Morgan, and Polson's work on New York's transition to managed long-term care—also discuss agency managers' challenges within the new system and their behavioral responses. Polson (2013) examined the politics and expected impacts of managed care, but not its connections to labor conditions. Nisbet (2018) initially focused on managed care's unanticipated administrative costs and complexities, which thwart the goals of government outsourcing. But in a follow-up study with Morgan (2019), Nisbet turned more directly to labor issues, documenting how home care agency managers have modified their scheduling practices in response to the bind imposed by managed care and rising labor standards. This chapter builds on their research by lending new evidence of that bind, while also probing unexamined relationships: the links between Medicaid managed care, firm-level financial pressures, and labor standards violations. What I find is that Medicaid managed long-term care counteracts the real-world potential of employment standards

that appear improved on paper. In an industry reliant on limited public dollars, poorly funded mandates pose untenable cost burdens that can drive businesses toward noncompliance.

By investigating the "root causes" of violations, this chapter also builds on the work of Piore and Schrank (2018). It reveals that core drivers of noncompliance sometimes lie beyond the workplace or individual firm, embedded in policy designs that structure employer behavior. Chapters 3 and 4 examine how effectively regulatory actors can contend with those forces. But what we have begun to see is that rooting out systemic violations in an industry like Medicaid-funded home care may require policy reforms rather than enforcement interventions alone.

Beyond the issue of regulation, this chapter makes an additional contribution to the study of formalized home care. Past research tends to concentrate on the everyday challenges that workers face, particularly in relation to their own well-being and the quality of care they provide—topics of interest to public-health scholars and funders. To the extent that home care *firms* are researched, studies have similarly focused on assessing interventions around staff retention. Sociological research on the formal home care industry is less common. When researchers have studied the role of agencies, they have done so in relation to the labor process, work conditions, and relations between workers and care recipients, not labor standards enforcement (Cranford 2020; Price-Glynn and Rakovski 2015). Against the backdrop of this literature, the original research presented in this chapter sheds light on under-researched facets of the industry: its organizational structure, the perspectives of agency owners and operators, and the dynamics underlying labor standards compliance and noncompliance.

Chapter 3
Unions and Home Care Aides

To what extent do labor unions counteract the home care industry's perverse dynamics and agencies' resulting tendency toward noncompliance? The fact that we can pose this question at all is somewhat remarkable. Not only does it mean that unions have organized workers in this challenging context, but also that these efforts have endured despite unrelenting union decline; the year 2022 saw U.S. union membership fall to its lowest point yet, 10.1 percent among all workers and 6.0 percent in the private sector (Hirsch, Macpherson, and Even 2023).

In addition to the adverse effects of union decline on wages, work conditions, and economic inequality, this long trend has also propelled a shift in workplace regulation. Once led by organized labor and rooted in labor law, the task of enshrining and enforcing labor standards now relies primarily on employment law and an array of local, state, and federal agencies (Fine 2017; Fine and Gordon 2010; Galvin 2020; Patler, Gleeson, and Schonlau 2020). This pattern has appeared not only in the United States but also in other countries where union influence has waned, including the United Kingdom and New Zealand (Brown et al. 2000; Harcourt, Wood, and Harcourt 2004). Yet unions, however diminished, continue to play a role in upholding worker rights, especially in industries and geographies where they have retained heft or have newly organized. Home care in New York City is such a case, allowing us to investigate how and to what extent they facilitate labor standards enforcement when the workforce is dispersed across tens of thousands of private homes.

Prior research finds that unions have positive effects on labor standards enforcement in other industries. Unions have been shown to increase workers' awareness of their rights and their likelihood of asserting them (Brown et al. 2000; Budd and McCall 1997; Hirsch, Macpherson,

and DuMond 1997; Kramer 2008; Weil 1991, 1992; Weil and Pyles 2005). Unions do so by informing workers about labor standards, providing access to a grievance process, shielding against employer retaliation, and simply offering workers "someplace to go . . . somebody you can gripe and complain to" (Stacey 2011:153). When workers do complain, unions can compel employer compliance through formal grievances, arbitration, or confrontational workplace actions. These actions can lead to higher rates of legal compliance among unionized firms (Brown et al. 2000). Such effects can extend beyond union-negotiated contracts to public policies, with union members more likely than non-members to access the protections of anti-discrimination statutes (Harcourt et al. 2004), unemployment insurance (Budd and McCall 1997), workers' compensation (Hirsch et al. 1997), and family leave (Kramer 2008). Research has also shown than unions strengthen the enforcement of occupational safety and health laws, leading to higher rates of OSHA inspections, more inspections carried out in the presence of union representatives, more violations cited, and larger penalties assessed (Morantz 2012; Sojourner and Yang 2020; Weil 1991, 1992).

The generalizability of these studies, however, is typically limited by a broad focus on the overall labor force or, conversely, a narrow focus on congregate workplaces such as construction sites, mines, plants, and healthcare facilities. Existing research does not address whether union effects on enforcement extend to more decentralized employment contexts, or how such effects might materialize. Numerous studies have examined the process of *organizing* isolated workers into unions, including home care aides (Boris and Klein 2012; Delp and Quan 2002; Mareschal 2006; Rhee and Zabin 2009). But little research exists on the subsequent efficacy of such unions in making rights a reality for their members.

Many facets of home care potentially impede the link between unions and effective labor standards enforcement. In Chapter 1, I introduced the obstacles posed by atomized workplaces as well as emotional and relational constraints. In Chapter 2, I detailed the forces that lead home care employers to violate standards. Scholars who study home care and unions have observed further challenges, such as that workers and care recipients sometimes question the appropriateness of unionism in the context of intimate care work (Boris and Klein 2012; Stacey 2011). Union efforts can falter if they do not tailor to their messages and organizing techniques to this uniquely emotional, interpersonal labor (Cranford 2020; Cranford, Hick, and Bauer 2018). In addition, the demographic composition of the home care workforce complicates the process of rights enforcement: while immigrant workers are more supportive of unionism than is often assumed (Milkman 2006:128, 2020:133), scholars have painted a bleaker picture when it comes to the arduous and byzantine process that unionized immigrant workers confront when asserting rights (Gleeson 2016:70–71). Considering these multiple challenges, one cannot assume that the traditional impacts of unions on the enforcement process apply to the home care context.

This chapter delivers mixed findings. Based on regression analysis of my New York City survey data, I do not find evidence that unions prevent violations from occurring; there is not a statistically significant relationship between union membership and workers' experience of minimum wage and overtime violations. However, I do find evidence suggesting that unions improve workers' knowledge about their rights, knowledge about what to do when violations occur, and willingness to take action in response to violations. These are impressive results in any industry, let alone in home care. To interpret these statistical findings, I use interview data that reveals how unions, specifically 1199SEIU and Local 389 of AFSCME District Council 37, inform and empower their members. At the same time, the interview data leads me to conclude

that unions are likely unable to prevent wage and hour violations because of the industry pressures and opportunities outlined in Chapter 2. Current union practices seem insufficient to counteract those forces. Unions might be better able to deter and prevent violations by exploring new practices built around proactive intervention. A more sustainable approach, however, would involve dampening the underlying pressures that drive employers to noncompliance, and reforming weak laws that allow employers to easily cut corners.

Context: Home Care Unionism in New York City

Mirroring national trends, New York City's home care workforce has grown steadily since the 1970s, as an aging population and changes in health care financing have spurred demand for home care services. Based on recent estimates, at least 160,000 home care aides now work in New York City, comprising 73 percent of the state's overall home care workforce (Jabola-Carolus, Luce, and Milkman 2021).

These aides span the various employment arrangements outlined in Chapter 2. The largest group includes home care aides employed by state-licensed private agencies that provide Medicaid services and by federally certified agencies that provide shorter-term Medicare services. The second group includes home care aides employed through Medicaid's self-directed home care option, the Consumer Directed Personal Assistance Program (CDPAP). In New York State, these workers are paid and coordinated by fiscal intermediaries contracted by managed care plans; but as in other self-directed programs, care recipients have the power to hire, train, supervise, and dismiss workers. Finally, an unknown number of home care aides are hired directly by private households. (In this chapter, I will generally use the term "consumer-directed" instead of "self-directed" to align with conventions in the New York home care field.)

Sustained home care organizing in New York emerged in the 1970s, led by SEIU locals 144 and 32B-32J. By the mid-1980s, these SEIU locals represented 24,000 workers, while the healthcare union 1199 claimed 20,000 and AFSCME 6,000. When 1199 affiliated with SEIU in the late 1990s and absorbed the home care members of the merged SEIU Local 32B-32J-144, the resulting healthcare union became the largest and most powerful New York union to represent home care aides (Fink and Greenberg 2009 [1989]). Today, 1199SEIU and its Home Care Division represent approximately 55,000 home care aides, mostly in the New York City area. Local 389 of AFSCME District Council 37 claims a smaller but significant membership of approximately 10,000, followed by the United Food and Commercial Workers International Union (UFCW) Local 2013 and the Retail, Wholesale and Department Store Union (RWDSU) Local 338 (Union Interviews 6 and 8).[1]

Home care union density in New York City is difficult to measure, as annual estimates are unreliable due to small sample sizes in the Current Population Survey, the only official data source available. A prior study notes that 1199SEIU staff members estimated New York City home care union density to be roughly 50 percent in 2013, down from 60 percent before the Great Recession (Polson 2013:118). The latest figures suggest that the rate is now between 30 and 40 percent, depending on the precise number of home care aides and union members in New York City.[2]

[1] Recently, other unions have also sought to organize New York home care aides, including the International Brotherhood of Trade Unions and the International Union of Journeymen and Allied Trades (IUJAT). Interviews and informal conversations over the course of my research suggest that IUJAT Local 1660, called the Home Healthcare Workers of America, has a reputation for signing sweetheart deals with home care agencies, an approach that does little to improve work conditions.

[2] 1199SEIU declined to provide their New York City union density or membership numbers. But if, for instance, we assume that 45,000 of their 55,000 home care members work in New York City, and that the other unions combine for 15,000 members, then the number of unionized home care aides in New York City is approximately 60,000. Given the estimated total number of home care aides in New York City (160,000), this would mean union density of 37.5 percent. It is possible that 160,000, however, is an underestimate, as discussed in my report with Stephanie Luce and Ruth Milkman (2021). One factor that can contribute to underestimation is that many aides in self-directed

Within home care overall, unions focus their efforts on agency-employed home care aides as well as those employed through CDPAP. Because New York State contracts private-sector fiscal intermediaries to manage the CDPAP workforce, these home care aides are subject to the National Labor Relations Act and its procedures for union elections.[3] Collective bargaining in New York State home care thus occurs at the firm level, either between unions and fiscal intermediaries or between unions and traditional for-profit and nonprofit agencies. Privately hired home care aides fall outside the scope of contemporary union organizing because they are generally considered domestic workers and are thus prohibited from collective bargaining by the National Labor Relations Act. Instead, as I explore in subsequent chapters, privately hired aides who organize do so with worker centers and nonprofit organizations such as the National Domestic Workers Alliance and its local affiliates.

Medicaid programs may not report their main occupation as home care, especially if they are a paid relative of the care recipient (Osterman 2017). If the true number of home care aides is closer to 200,000, then union density would be lower, near 30 percent. That figure would be close to Milkman and van der Naald's (2022) estimation that union density in the home healthcare industry in the New York City metro area is 26.2 percent. That number, however, may be lower than the true New York City rate because it includes suburbs where union density is likely lower; it also excludes home care aides who are classified into industries other than home healthcare, such as individual and family services.

[3] The rapid growth of CDPAP, noted in Chapter 2, illustrates how unions face place-specific challenges in addition to the general obstacles involved in home care. In New York State, 1199SEIU has had to channel significant resources into keeping up with CDPAP expansion. The urgency of new organizing in that area likely detracts from resources available for internal organizing. Further, the union has been ensnared in legal, political, and public relations fights around the 13-hour rule. Affected workers and their advocates have criticized 1199SEIU for not adequately prioritizing the issue or obtaining adequate recompense for violations. Outside New York, as also discussed in Chapter 2, the 2014 *Harris v. Quinn* Supreme Court ruling has posed a different challenge. Home care aides in self-directed Medicaid programs can now decline to pay union fees in states where they are legally employed by public entities and are thus considered quasi-public employees. Responding to this change has been a costly distraction from the everyday tasks of engaging members and enforcing contracts, tasks already made difficult by the dispersed nature of the workforce.

Data and Methods

In the analysis below, I use quantitative data from my 2019–2020 multi-city In-Home Care Worker Survey. I supplement that data with analysis of qualitative interviews, including twenty interviews with New York City home care aides and ten interviews with staff and officials from two unions that represent such aides.

Survey Sample

The In-Home Care Worker Survey was a self-administered online survey that yielded a final sample of 1,758 home care aides, childcare workers, and housecleaners in New York City, Los Angeles County, San Francisco, and Seattle. The survey built on innovative work by Schneider and Harknett (2019a, 2019b), who use targeted Facebook and Instagram advertisements to construct survey samples and recruit participants for research on unstable scheduling in retail and food service. Schneider and Harknett demonstrate that this strategy can overcome barriers to surveys of traditionally hard-to-reach, low-wage occupations—namely the absence of sampling frames and the limitations of convenience samples through worker organizations. Through Facebook's advertising platform, Schneider and Harknett construct a sampling frame that includes a national pool of users who list any of 80 major companies as their employer. These users see the survey ads in their Facebook and Instagram feeds, and those who click are redirected to an external survey website.

Although this method produces a non-probability sample, Schneider and Harknett show that, with post-stratification weighting, it yields univariate and multivariate results consistent with those based on "gold standard" surveys like the Current Population Survey. In light of its strengths, other labor researchers have since adopted this strategy, including Griesbach et al.

(2019) in their study of platform-based food delivery work. As an alternative to convenience samples accessed through worker organizations, the approach is well suited for studying outcomes such as rates of workplace violations (which would likely be biased downward among organized workers) and awareness or assertion of rights (which would likely be biased upward among organized workers).

For my survey, I adapted Schneider and Harknett's approach to address the particularities of paid in-home care occupations; I detail these strategies in Appendix A. In New York City, ads ran between August and October 2019. In addition to English, the ad text and survey questions were professionally translated into eight languages: Spanish, Russian, Tagalog (Filipino), Korean, Haitian Kreyòl, Nepali, and simplified and traditional Chinese. The ads were displayed a total of 487,000 times to over 214,000 people in New York City. From that universe, over 7,900 individuals clicked the survey link, with a final sample of 579 home care aides and domestic workers—a participation rate of 7.3 percent.[4] Participants were screened into the survey if they: (1) were 18 years of age or older; (2) had worked in a private home as a home care aide, nanny, housecleaner, or housekeeper in the previous seven days; and (3) had performed this work in New York City. The analysis in this chapter is based on the subsample of 335 home care aides who met these criteria. I describe the characteristics of this sample in more detail below. The survey was hosted on Qualtrics and could be taken on any device with internet access, but nearly all respondents used a smartphone.

[4] Because the survey was not a probability sample, I follow guidance outlined by Baker and co-authors (2013) in referring to the "participation rate" instead of "response rate." Among all who answered screening questions and began the survey, the completion rate was 55 percent—comparable to Schneider and Harknett's completion rate of 52 percent.

Qualitative Interviews

At the end of the online survey, respondents were asked to provide their contact information if they would be open to future research participation. So, to recruit interview participants, I contacted seventy-three New York City home care aides who took the survey in English or Spanish and provided an email address or phone number.[5]

This outreach led to twenty worker interviews: eleven with English speakers and nine with Spanish speakers, the latter conducted with an interpreter. Interviews were semi-structured and aimed to understand the experiences of union and non-union aides with workplace violations and claims-making. Interviews with union members also probed interactions with and attitudes toward their unions. Three interviews were conducted prior to the COVID-19 pandemic in January and February 2020, while the majority were conducted in person and by phone in December 2021 and January 2022. An overview of participant demographics and employment arrangements is presented in Appendix A, Table A.2. In discussing the interview findings below, I use pseudonyms for individuals and their employers to protect respondents' identities.

Key informant interviews with union staff and officers were conducted in January and February 2022. These included: six participants from 1199SEIU, given its leading role in New York home care unionism; two participants from the SEIU International Union; and two participants who worked for AFSCME District Council 37, whose affiliate Local 389 represents a smaller number of home care aides historically employed through city contractors. These interviews examined how the two unions interface with their members, educate them about their rights, and support them when workplace problems arise. Interviews also addressed how the

[5] While New York City's home care workforce spans dozens of linguistic groups, and while the survey was conducted in eight languages, interviews focus on English and Spanish speakers because those are the two largest language groups in the home care population based on my analysis of American Community Survey data.

unions interact with home care agency managers to promote compliance. At the request of participants, material from these interviews is attributed anonymously.

Key Measures

The quantitative analysis uses a series of logistic regressions to assess the relationship between union membership and four outcomes related to labor standards enforcement.

Legal knowledge. First, I examine workers' awareness of labor standards. Past studies finding a link between unions and stronger enforcement often posit knowledge as a causal mechanism: unions educate workers about their rights, which in turn improves the likelihood that workers will access protections or complain about violations, and that violations will be resolved (Brown et al. 2000:622–25; Budd and McCall 1997:480–81; Hirsch et al. 1997; Kramer 2008; Weil 1991:22). The assumption that knowledge facilitates worker action is sometimes questioned, given the steep risks of seeking to hold an employer accountable (Casanova, Rodriguez, and Roldán 2018; Gleeson 2016). But neither scholars nor unionists dismiss the role of knowledge entirely.

To measure knowledge, I constructed an index variable for workers' awareness of three basic protections: the minimum wage, overtime, and paid sick leave. Each component is a binary variable, such that the awareness index values range from 0 to 3. A value of 0 means that a worker indicated no awareness of any of these protections; a value of 3 means that a worker indicated awareness of all three protections. Among the component variables, the basic minimum wage question took the form: "Have you ever seen, heard, or read anything about workers' right to be paid at least a minimum wage?" Subsequent questions were similarly worded, a design based on research about paid family leave implementation (Milkman and Appelbaum 2013). Answer choices were "No," "Yes," and "Don't know," with "No" listed as the first choice to

mitigate social desirability bias. To create binary variables, I recoded "Don't know" responses as "No."[6] A Cronbach's alpha test indicates that, together, the three items in this index variable have a scale reliability coefficient of 0.62; the items are relatively consistent in measuring the underlying construct of legal knowledge.[7]

Procedural knowledge. The second outcome variable measures whether workers have basic procedural knowledge about how to take action in response to a rights violation. Unions, in theory, should lower the barrier to worker claims-making, offering more accessible and supportive resources than the often-intimidating government bureaucracies upon which non-union members must rely. To ensure that the measure is appropriate to both union and non-union workers, I rely on a broad, subjective survey question: participants were asked to indicate their level of agreement with the sentence "I would know how to get help if my rights were violated." Answer choices fall on a four-point scale ranging from "strongly disagree" (1) to "strongly agree" (4). Although the question measures only an elemental notion of procedural knowledge, its breadth can also capture workers' feelings of social support (or isolation)—an outcome that may also be associated with union membership and that may play an influential role in rights enforcement. In this way, and in its applicability to union members, the question has advantages over similar questions used in prior studies.[8]

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[6] Survey questions concerning overtime and paid sick leave measure awareness of standards set by both statute and collective bargaining, depending on the respondent's union status. Workers reporting that they are union members, for instance, were shown a question about contractually guaranteed paid sick leave rights, while non-union workers were shown a question about New York City's paid sick leave law.

[7] While the recommended threshold is 0.7, this knowledge index variable is composed of relatively few items, and each item has only two values, 0 and 1; these two features can lead to a lower scale reliability coefficient even if scale items have a high degree of internally consistency.

[8] The 2008 Unregulated Work Survey measured procedural knowledge by asking participants, "Do you know where to file a complaint with the government if you are having a problem with an employer?" (Bernhardt et al. 2009). With its focus on government-oriented action, such a question is more appropriate when studying non-union workers, as scholars have continued to do in recent research (Patler et al. 2020). For union members, the question

Minimum wage or overtime pay violations. The third outcome variable measures whether a worker has experienced a minimum wage or overtime pay violation in their current job—specifically, regularly hourly pay less than New York City's legal minimum wage or overtime pay less than time-and-a-half. I follow past studies by constructing this variable using respondent wage and hour data, instead of relying on workers' self-reported violations (Alexander and Prasad 2014; Bernhardt, Spiller, and Polson 2013; Patler et al. 2020). I first measured workers' hourly wage rates and compared the results to the applicable minimum wage in New York City.[9] I then used a short series of Yes/No questions about workers' overtime hours and payment rates to determine whether respondents had experienced an overtime pay violation.[10] If, by these calculations, a worker had experienced either a minimum wage or overtime violation, then such a worker receives a value of 1 on the final binary variable for minimum wage or overtime pay violations.[11] Although this variable cannot determine the occurrence of violations with certainty,

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may be confusing because their unions, not government agencies, are their primary resource when facing problems with an employer.

[9] For workers who are paid a flat rate by the week or another interval, I converted their wages to hourly rates using other variables that assessed pay intervals and hours worked per interval. In 2019, at the time of the survey, New York City had two separate minimum wage rates based on employer size: "small" employers with ten or fewer employees were required to pay a minimum wage of at least $13.50 per hour; "large" employers with more than ten employees were required to pay at least $15 per hour. The survey did not include a question that directly probed employer size; instead, it determined whether a worker was employed directly by a private household or by an agency that coordinates home care services. To determine which minimum wage rate applies to a given worker, I assume that their employer is "small" if they are paid by a private household and "large" if they are paid by a private agency. (While certain affluent households may have more than ten employees and newly founded agencies may have fewer than ten employees, available data indicates that such cases are exceedingly rare.)

[10] First, respondents indicated whether their weekly or daily work hours ever exceed a certain threshold. Respondents saw a threshold that applies to them based on their employment arrangement; in New York City, the overtime hour threshold differs for live-in workers (44 hours in a week) and live-out workers (40 hours in a week). Among sampled New York home care aides, 39 percent reported that their hours worked (with a single employer) sometimes exceed the overtime thresholds. These respondents were then asked if they are always, sometimes, or never paid for those hours. Finally, if a respondent answered "always or sometimes," they were asked to indicate their rate of payment. Based on this question series, I construct a binary indicator of whether a respondent has likely experienced an overtime pay violation.

[11] Readers familiar with the home care industry in New York may wonder whether overtime, and thus overtime violations, still exist now that home care aides are entitled to the overtime protections of the Fair Labor Standards Act. Some interview respondents have noticed that home care employers now assign less overtime because the labor

it nevertheless offers a useful approximation—especially compared to self-reported measurements, which are prone to even greater error (Alexander and Prasad 2014; Bernhardt et al. 2013; Patler et al. 2020).

Worker claims-making behavior. The last outcome variable measures workers' willingness to take action after experiencing a possible rights violation—that is, to engage in what sociologists refer to as "claims-making behavior." I draw from a survey question that asked, "If you thought that your rights had been violated, how likely or unlikely is it that you would take the following actions?" Participants were then presented with a series of actions and were prompted to indicate their likelihood of pursuing each action, on a four-point scale ranging from "very unlikely" (1) to "very likely" (4). The sole action shown to both union and non-union workers was "Speak with my employer or client about the issue," so I use this variable to measure participants' willingness to engage in claims-making behavior. Recent research has found that speaking directly to one's employer or supervisor is one of the most common but understudied forms of claims-making, one that "captures initial stages of the dispute pyramid, and represents a significant . . . step toward challenging workplace conditions" (Patler et al. 2020:7).[12] As workers move up the "dispute pyramid" (Miller and Sarat 1980), they engage in

cost is greater (Union Interviews 3 and 4). (As noted previously, before 2016, New York State home care aides received overtime at a rate of 1.5 times the legal minimum wage when they worked over 40 hours in a week for a single employer. They are now entitled to 1.5 times their regular pay rate.) However, although employers may now avoid the use of overtime, some sources indicate they still resort to it and that correct payment has remained a problem (Nisbet 2018; Schaub 2017). One home manager interviewed by Nisbet (2018:1627) said that she has tried to minimize overtime hours but cannot avoid them completely: in aggregate, her employees work about 1,700 hours per week, but the agency still "end[s] up with at least 200 hours of overtime . . . you gotta cover the shifts." Nisbet also finds that the overtime rule change had no effect on some agencies, because they were already paying the higher overtime rate as a way to attract workers.

[12] For this analysis, I use *willingness* to engage in claims-making behavior instead of actual claims-making behavior due to data limitations. My survey did ask whether a respondent took action in response to a self-reported violation, but this measurement was constrained both by reliance on self-reported violations and by the survey sample size. Because self-reported violations miss many violations and because a small proportion of workers pursue claims after violations (Fine et al. 2021; Weil and Pyles 2005), the number of sampled workers who report taking action is too low to be used in regression analysis.

more formal but costly actions, such as filing a union grievance or a private lawsuit. Because formal courses of action typically diverge for union and non-union workers, a focus on speaking with one's employer provides a valuable opportunity to compare the same claims-making behavior across the two groups. We would expect union members to express greater likelihood of taking such action, as they should have more knowledge about how to take action and should feel more protected from employer retaliation than their non-union counterparts.

Covariates

Union membership. In national surveys, union membership is typically measured by asking whether a respondent is a member of a labor union or covered by a union contract. Despite the limitations of self-reporting, these measures are widely accepted, and I replicate them, asking first about union membership, then union coverage. I combine those two variables into a single binary, with "Don't know" responses coded as "No."

Demographic variables. The regression models include controls for age and race/ethnicity (white, Black, Latinx, Asian). I omit gender because 96 percent of the sample identify as women, and such data imbalance creates imprecise estimates in regression analysis. I also include indicators for place of birth (1=U.S.-born, 0=foreign-born) and English language ability (1=speaks English well or very well or is a native speaker; 0=does not). Educational attainment is also measured with a basic indicator (1=completed at least an associate's degree or some college; 0=has not).[13]

Employment variables. The second set of covariates controls for workers' employment characteristics, including: their occupational tenure (years); whether they ever work overtime

[13] The survey did not ask participants to provide their immigration status, given the heightened anti-immigrant national ethos and resulting fear among immigrant workers at the time of the survey.

hours (1=yes, 0=no); and their employer type (whether they are employed by a traditional home care agency, a private household, or a fiscal intermediary contracted under Medicaid's Consumer Directed Personal Assistance Program). Workers in New York State's consumer-directed program are permitted to provide paid care to relatives, which can add complexity to the employment relationship. In this chapter, I include any such workers whose client is a relative, because the outcome variables are nevertheless relevant to this group. Even if a worker provides paid care to a relative, they may encounter wage violations if paid incorrectly by the fiscal intermediary. Thus, it also matters that such workers know their rights and know what to do if their rights are violated; the importance of raising and enforcing labor standards among this group is underscored by the fact that many have voted to unionize in recent years. But to account for potential differences between this group and all other home care aides, I include a control variable indicating whether a worker provides paid care to a relative.

Social network variables. Lastly, to account for other social factors that may influence worker knowledge and workplace violations, I include variables indicating whether a respondent: ever interacts with other home care aides (1=yes, 0=no); ever participates in volunteer work, social clubs, or religious institutions (1=yes, 0=no); and knows any friend, acquaintance, or relative who has sought help from an organization or government agency because of their own work issues (1=yes, 0=no). In the regression models, I introduce these variables stepwise because they may mediate between union membership and the outcome variables.

Weighting and Missing Data

In Appendix B, I describe my techniques for weighting the sample data and addressing missing data. In brief, I follow Schneider and Harknett (2019a, 2019b) by applying post-stratification weights to better align the Facebook-based sample with population benchmarks from the

American Community Survey. Following Patler and coauthors (2020), I preserve observations with missing data using multiple imputation with chained equations (Allison 2001; von Hippel 2007). Table 3.1 presents the full set of variables, including imputed values for the covariates as well as weighted and unweighted descriptive statistics to show the results of weighting.

Results and Interpretation

The regression results reveal how unions may affect labor standards enforcement in home care. Union membership and coverage have a strongly positive and statistically significant association with workers' legal and procedural knowledge. While union status is negatively associated with the incidence of wage violations—suggesting that unions might decrease the likelihood of violations—the coefficient size is modest and not statistically significant. With subtle variations, these results are consistent across several robustness checks, including models using alternative weights, listwise deletion instead of imputation, and more extensive imputation (see Appendix B). Below I review the results in greater detail for each of the four main outcome variables, focusing on estimates whose p-values are less than 0.05.

Table 3.1. Descriptive Statistics for Variables Used in Regression Models

	Unweighted Mean or Percentage	ACS Benchmark (2019)	Weighted Mean or Percentage	Missing Data (cases and percent of total N, 335)
Outcome Variables				
Legal knowledge index, mean (0–3)	2.12	-	2.09	15 (4.5%)
Procedural knowledge, self-reported, mean (1–4)	3.08	-	3.17	6 (1.8%)
Minimum wage or overtime violation	41.1%	-	37.5%	17 (5.1%)
Likelihood of claims-making behavior, mean (1–4)	3.02	-	2.99	4 (1.2%)
Explanatory Variable				
Union member or covered	39.4%	-	37.4%	3 (0.9%)
Demographics				
Race/Ethnicity				
White (non-Hispanic)	26.3%	11.0%	11.0%	0
Black (non-Hispanic)	20.9%	27.8%	27.7%	0
Hispanic/Latinx	35.2%	38.6%	38.7%	0
Asian, Asian American, Pacific Islander, and other	17.6%	22.6%	22.6%	0
Age (mean)	52.6 years	48.1 years	52.6 years	43 (12.8%)
U.S.-born	10.1%	21.4%	13.9%	0
Speaks English well or very well or is a native speaker	45.1%	62.0%	54.7%	22 (6.6%)
Completed at least an Associate's degree or some college	56.1%	32.9%	32.8%	6 (1.8%)
Employment				
Occupational tenure (mean)	8.0 years	-	8.6 years	0
Employer type		-		0
Private household	7.5%	2.0%	8.0%	0
Home care agency	77.3%	-	79.7%	0
Fiscal intermediary (consumer-directed program)	15.2%	-	12.3%	0
Client is a relative	8.7%	-	8.3%	0
Ever works overtime hours	46.4%	-	41.4%	23 (6.9%)
Social Networks				
Interacts with other home care aides	71.4%	-	65.4%	2 (0.6%)
Participates in volunteer work, social clubs, or religious institutions	17.3%	-	19.3%	1 (0.3%)
Knows others who have sought help for work issues	15.9%	-	15.1%	2 (0.6%)

Legal and Procedural Knowledge

The first two models, shown below in Table 3.2, use ordered logistic regression to accommodate the legal knowledge index and the procedural knowledge scale. Union status is positively and significantly associated with legal knowledge. The magnitude of the relationship can be reported using a proportional odds ratio, given the ordered logit model: for unionized workers, the odds of a high legal knowledge score (three out of three) versus a score less than three are 2.18 times higher than for non-union workers. Although a core function of unions is to educate their members about their rights, this strong relationship between union status and legal knowledge is surprising given the challenge of reaching such a dispersed workforce. And while the nature of the cross-sectional data precludes causal claims, it is reasonable to suspect an underlying causal relationship behind this statistical association, as I will outline in later sections.[14]

Unionized home care aides are also more likely than non-union aides to report that they know how to get help if their rights are violated. In stepwise analysis using ordered logistic regression, the coefficient size decreases slightly when the social network controls are introduced to the model (see Appendix B). But the result remains statistically significant (p=0.024) when controlling for the full set of covariates, as shown in Table 3.2. For unionized workers, the odds of a high procedural knowledge score (four out of four) versus a score less than four are 1.75 times higher than for non-union workers. As with legal knowledge, a causal relationship seems likely: union representation provides workers information about how to seek workplace remedies, as well an actual process for pursuing those remedies. Thus, the data suggests that

[14] There is also some evidence that potential causation points in both directions, as further regression analysis (not shown) indicates that individuals who know more about their rights are more likely to be unionized. The other significant predictors of union representation are occupational tenure and employer type. Agency-employed, non-CDPAP aides are more likely than CDPAP aides to be unionized, which is consistent with information provided by union staff members.

unionization remains an effective tool for strengthening workers' procedural knowledge even in the challenging context of home care.

Table 3.2. Results of Ordered Logistic Regression Models for Legal and Procedural Knowledge

	Legal Knowledge Index (0–3)	Procedural Knowledge, self-reported (1–4)
Union member or covered	0.780 (0.263)***	0.562 (0.249)**
Demographic Controls		
Black (non-Hispanic)†	0.617 (0.439)	1.586 (0.442)***
Hispanic/Latinx	0.546 (0.379)	0.846 (0.373)**
Asian, Asian American, Pacific Islander, and other	0.304 (0.442)	0.465 (0.414)
Age	0.006 (0.012)	0.004 (0.013)
U.S.-born	1.035 (0.383)***	−0.374 (0.351)
Speaks English well or very well or is a native speaker	−0.286 (0.282)	−0.232 (0.287)
Completed at least an associate's degree or some college	0.045 (0.244)	−0.392 (0.241)
Employment Controls		
Occupational tenure	0.027 (0.021)	−0.020 (0.021)
Employed by private household†	−0.291 (0.401)	−0.400 (0.410)
Employed by fiscal intermediary (consumer-directed program)	−0.394 (0.346)	0.266 (0.362)
Client is a relative	0.283 (0.470)	0.134 (0.418)
Social Network Controls		
Interacts with other home care aides	0.526 (0.248)**	−0.408 (0.249)
Participates in any volunteer work, social clubs, or religious institutions	−0.573 (0.292)**	0.704 (0.310)**
Knows others who have sought help for work issues	0.213 (0.344)	0.433 (0.341)
Total Observations	320	329

*p<0.1 **p<0.05 ***p<0.01 Standard errors are in parentheses.
†Reference group is *white* for Race/Ethnicity and *home care agency* for Employer Type. Note: 99% of white workers in this sample are foreign-born, nearly all of whom are Russian speakers born in Russia or former Soviet states.

Whether unionized or not, workers who interact with other home care aides are likely to have more legal knowledge than those who have no interaction. A probable explanation is that workers discuss their jobs and share information when they come into contact. Given that approximately 65 percent of the weighted sample report that they sometimes interact with other aides, such a mechanism of knowledge transmission may be common—at least in New York City, with its population density and glut of home care agencies. What is notable, however, is that union status has an effect over and above worker interaction. In fact, as shown in Appendix B, stepwise introduction of the social network covariates has minimal effect on the relationship between union status and legal knowledge. This suggests that there are aspects of union membership, beyond connecting workers with one another, that boost workers' rights awareness.

Among the social network variables, the other significant result is less straightforward than the worker interaction predictor. It is unclear why respondents who participate in volunteer work, social clubs, or religious institutions would be less likely to know about basic workplace rights but more likely to know how to get help if their rights were violated. The variable is intended to capture civic engagement in a general sense, synthesizing multiple forms of engagement typically measured in the General Social Survey.[15] The resulting question addresses varied activities and is thus open to interpretation among respondents. Given the references to religion and volunteer work, which is often organized by religious institutions, it is possible that the synthesized question might capture religiosity as much as it does civic engagement. To the extent that is the case, the regression result invites speculation that unobserved characteristics of the religiously devout might somehow be associated with less exposure to, or interest in,

[15] In my survey, I adapt the synthesized civic engagement survey question from Griesbach et al.'s (2019) survey of platform food delivery workers.

information about worker rights. The survey question about *procedural knowledge*, however, compels such workers to imagine a scenario in which their workplace rights were violated and asks if they would know how to get help. Churchgoers, like other civically engaged people, would have social networks that they could tap for assistance.

Finally, the analysis of knowledge-related outcomes underscores the roles of race, ethnicity, and immigration. The legal knowledge model indicates that U.S.-born workers are more likely than foreign-born workers to know about basic labor standards, even when controlling for race/ethnicity and English language ability. This may be in part because many immigrant workers learn about U.S. employment laws rights later than U.S.-born workers, who tend to have more years of experience in U.S. workplaces and more years of social and cultural exposure to discourse about the minimum wage and overtime. An alternative, narrower explanation is that there are differences between the two groups in terms of the quantity and content of information they receive about labor standards—for instance, perhaps immigrant workers are less likely to be notified by their employers about policies like the minimum wage, overtime, or paid sick leave.

The procedural knowledge model highlights the intersection of race/ethnicity and immigration. In the unweighted survey sample, there are 88 white respondents, all but one foreign-born and nearly all Russian speakers born in Russia, Ukraine, Uzbekistan, or other former Soviet countries. This group is the reference category in the race/ethnicity variable, so the coefficients in Table 3.2 represent a comparison between that group and Black and Hispanic/Latinx workers, respectively. Nearly 75 percent of Black workers in the sample were born in Jamaica, Guyana, Haiti, or elsewhere in the Caribbean; the other quarter are U.S.-born. Collectively, these workers are markedly more likely than the white, Russian-speaking

immigrant group to report that they know how to get help if their rights are violated. The difference between Hispanic/Latinx workers and the Russian-speaking immigrants is similarly notable though somewhat less pronounced. (Among the Hispanic/Latinx group, 43 percent are Dominican-born; 37 percent were born in Central or South America, with no country comprising more than 6 percent; and 20 percent are U.S.-born, including Puerto Rico.)

One likely explanation is that U.S.-born Black women and Caribbean immigrant women have been part of New York City's home care workforce, and home care unions, for longer than the other groups. They were central to 1199's first campaign to raise wages in the 1980s and thus have a longer history and deeper culture of engagement within that union (Donovan 1989; Ness 1999). Another possibility is that immigrants from the former Soviet Union harbor the type of institutional distrust and skepticism of civic and political organizations that political scientists have documented in post-communist countries (Mishler and Rose 2001; Pehlivanova 2009; Pop-Eleches and Tucker 2011). Additional explanations might relate to contrasting levels of immigrant incorporation or density of social ties in the United States. Past research, for instance, has documented the community-building practices of West Indian nannies in Brooklyn (Mose Brown 2011). If West Indian home care aides experience similar forms of cohesion in a way that Russian-speaking aides do not, such a contrast might account for the gaps in workers' procedural knowledge and sense of social support captured in this survey measure. Research on certain Russian-speaking immigrant groups, namely migrants born in Ukraine, has found that such within-group cohesion may indeed be limited; among the Ukrainian immigrant population in San Francisco, social divisions between older and newer waves of migrants are pronounced, with recent migrants facing exclusion from churches and cultural organizations founded by prior waves. Since the 1990s, individuals among the latest wave of migrants, including many home

care aides, tend to live "atomized lives . . . that reinforce immediate family relations" and embrace a view that "relying on others from the region, exchanging favors, and doing things through connections . . . signaled a Soviet subjectivity that could not succeed in the post-Soviet world." Among these workers, the viability of such individualism is reinforced by "their racialization into the dominant group as 'white' in the U.S. context" (Solari 2017:134–37; 187–88).

Mechanisms of Union Impact on Worker Knowledge

Tracing possible pathways from union status and worker knowledge requires a closer look at the everyday practices of home care unionism. These practices can be grouped in two: those common to most unions, and those which are distinct adaptations to the structure of home care.

Like unions in other industries, those that organize home care aides rely on standard outreach and organizing methods. They call, text, mail, and email members. They hold membership meetings at the union hall. They recruit volunteer shop stewards and delegates to anchor a union presence within agencies. At large agencies, they even try to persuade management to let them set up tables or use rooms in agency offices, where union reps can hold drop-in hours (Union Interview 2). These are all simple strategies through which unions build a basic infrastructure for informing and supporting members despite the scattered nature of the workforce. 1199SEIU, moreover, reaches its home care members through its expansive benefits funds. For instance, its training and employment funds offer classes, programs, and services that engage an average of approximately 20,000 home care aides each year (Union Interviews 3 and 4).

These conventional practices, however, do not ensure contact between workers and union representatives. Setting up a table is impossible at many agencies. Calls and texts go

unanswered, especially among aides who crisscross the city daily to assist multiple clients, "traveling here and there and everywhere—Bronx, Brooklyn, Staten Island—to make ends meet," as one organizer explained in an interview. Without a shared worksite, the organizer continued, "The challenge is getting members in one place at the same time—getting them in the same room" (Union Interview 6). But interviews with both workers and union staff returned again and again to one unexpected, if mundane, mechanism that unions use to overcome these outreach challenges.

Among home care aides employed by traditional agencies, unions have a way to reach all workers within their bargaining units on a regular basis, typically face to face: in-service training events. More concretely: to become certified as a home health aide in New York State, a worker must receive 75 hours of initial training, including both classroom and supervised practical training. However, to remain certified, home health aides must complete 12 hours of continuing "in-service" training every year, provided by their agency employer often in agency offices. Similarly, most personal care aides must receive 40 hours of initial training and six hours of in-service training per year.[16] These ongoing training requirements inadvertently serve a valuable role in rights education and in equipping workers to respond to workplace violations. They necessitate recurring in-person trainings events at which otherwise isolated workers gather, interface with their agency employers, and hear from union organizers.

The primary function of occupational credentialing in the home care context is not labor standards enforcement. Rather, from the perspective of government regulators, home health aide certification and similar licensure are often intended to promote service quality and client health

[16] Several sources outline different aspects of these training requirements (LeadingAge New York 2017; PHI 2020a, 2020b; Polson 2013; Schaub 2017).

while also enhancing worker skills and safety. From a worker's perspective, credentialing can mean greater earnings potential, respect, and status. For instance, from the 1940s through 1970s, many domestic-worker activists and policy advocates embraced credentialing, including robust training programs, as a leading strategy to transform work conditions (Nadasen 2015). By turning "domestics" into "household technicians," the problem of worker exploitation and devaluation might be mitigated.[17]

But in addition to the manifest functions of skills-based training and occupational certification, these requirements also have important latent functions: they create a space where workers can connect with each other and with union representatives and build the capacities and dispositions necessary to understand and assert their rights. In this way, compulsory training events trigger key protective mechanisms and counteract the workplace isolation inherent to in-home care occupations.

Nearly every agency-employed interview participant described their experience with in-service trainings, which are typically held two or three times per year and attended by anywhere between ten and forty workers. Trainings may be organized by language group and often serve as "refresher courses," allowing aides to brush up on material covered in their initial trainings. Other times they introduce new specialized material, as became necessary during the COVID-19 pandemic. Some workers find these interesting, such as Natalia, who reflected, just prior to the pandemic, "The trainings have been really great. They teach us biology, about different diseases, symptoms to watch out for, how to care for the patient, universal precautions . . . administration

[17] In contrast, among higher-paid professions, such as physicians and nurses, licensure has partly served as a way to limit access to the occupation and preserve prestige and earnings levels (Duffy 2011:48–49, 55–56).

codes, rights, patient confidentiality . . . harassment, sexual harassment. There's been a lot of training."

Agencies also use the trainings as staff meetings, informing workers of legal and organizational updates. For instance, Lorena mentioned that she and her colleagues learned through an in-service training about the exact date when New York City's $15 minimum wage would take effect—that "we would see the pay increase in that very first paycheck [of the new year]." She continued, "They bring materials about the policies of the agency. They talk about procedures, and pay rates, and they ask us to bring our pay stub to see if we have accumulated paid time off, to make sure that we take it before we lose it."

But these trainings-as-staff-meetings can also blend into union meetings. Lorena continued: "After that, someone from the union comes and speaks to us about our rights. They tell us that we can go back to study, we can become citizens. They talk to us about bank accounts and retirement [and how] they will help us file our taxes for free. . . . A representative from the union is always in the in-service trainings, so we can also always call them if we need to." This point is key: periodic in-person trainings form a backbone of union activity in New York home care unionism. Union staff use these gatherings as an opportunity to share information, sustain member engagement and enthusiasm, and recruit participants for collective actions. Through this contact, workers learn—and are reminded—that the union is a resource to which they can turn.

The efficacy of union interventions in these trainings likely varies based on the motivations and skills of the union representative present. One can imagine that union organizers might often fail to make an impression on workers, or even meet with hostility, as detailed in some accounts of home care unionism (Stacey 2011:137–40). But Ramona, recalling trainings at her unionized agency, expressed that union representatives usually present more than just rote

updates or public service announcements. A common problem for home care aides is that, despite decades of activism and legal progress, clients still often treat them with disrespect, as maids instead of as trained professionals. Some union staff understand this issue well and deliver empowering messages, prodding workers to assert themselves and demand the respect they deserve. In Ramona's words:

> When we go to the in-service, the union itself tells you, "You are not housekeeping. You are not domestic cleaners. You are home attendants. There's a difference. Cleaning lightly, yeah [that's fine], but the job is specifically to take care of the patient." That's what they train us for. If they get a stroke, if they fall, we know what to do in those moments.[18]

In-service trainings provide a space for such interactions and such rhetoric, taking home care aides out of their isolated workplaces and connecting them with organizations that share vital information and prompt individual and collective action. These conditions, in place for home care aides at unionized home care agencies, are conducive to greater legal and procedural knowledge and, as I discuss below, to worker claims-making.

In-service trainings trigger one further process that may also facilitate rights enforcement: mutual support among workers. When asked what in-service trainings are like, Teresa replied with exasperation: "Long. Very long days. We have to stay, like, eight hours in the classroom." But all of that time is spent in the company of other workers. "And what happens?" I asked. She explained, "We talk. We listen to videos. Bond." In-service meetings provide rare opportunities for otherwise isolated workers to forge connections, share information, and discuss common challenges. Ramona echoed this idea when asked if the trainings were helpful: "Yes, very

[18] When union organizers deliver this message about job duties and dignity, they speak directly to a grievance felt by several aides I interviewed. Another worker, Natalia, told me with frustration, "Sometimes people think, when you arrive, that you're a housekeeper. So they hand you a mop, and they ask you to clean or wash their clothes. And I have to tell them, 'I am a home health aide. I am not a housekeeper.'"

helpful. Because we meet with other colleagues, and fellow workers. So we share our problems, and how we can solve them. . . . We look out for each other. We don't have any other option." She continued: "The boss is not on our side, it's on the client's side. So it's the only way to take care of each other."

This qualitative evidence about in-service training demonstrates how, abstracted into a causal model, unionism can be seen to interact with occupational credentialing and industry structure to improve workers' awareness of labor standards. Without occupational credentialing, unions would be unable to require workers to gather with each other and with organizers. Without agencies serving as social and physical nodes in New York's home care industry, unions would have to invent other ways to organize countless weekly trainings across the city.[19]

In-service training as a mechanism applies to home health aides and personal care aides but not to workers in the Medicaid consumer-directed program, who lack certification requirements. In some cases, when first hired, these consumer-directed aides visit the fiscal intermediaries that are responsible for onboarding and managing payroll. But consumer-directed workers I interviewed reported that they had never stepped foot in such offices; instead, a coordinator simply met the worker at the care recipient's home on the first day, gave brief instructions, and processed requisite paperwork. One of these workers did not know what a union was or that 1199SEIU existed. The regression results do not provide evidence that these anecdotes represent a systemic problem; the difference in knowledge between agency-based and consumer-directed aides is not statistically significant in either model. But the qualitative data

[19] One model they could look to is Washington State. As a result of its collective bargaining agreement, SEIU 775 hosts state-mandated trainings in its training centers (Campbell et al. 2021:41). But compared to New York City, this arrangement appears tenable thanks in part to the smaller scale of Washington's home care workforce and fewer ongoing training requirements.

does suggest that the growth of New York's consumer-directed workforce presents unions with a dual challenge: how to unionize these workers and, after that, how to interface with members in the absence of training requirements and of agencies as meeting places.

Minimum Wage and Overtime Violations

Compared to the first two regression models, the third produces more unexpected results, shown below in Table 3.3. The model fails to support the hypothesis that union representation reduces the likelihood of minimum wage or overtime pay violations. The coefficient of the union status variable is negative, but this result is not statistically significant. Thus, unions might decrease the likelihood of violations among the true population of home care aides, but the data provides scant evidence of such a relationship.

Whether one works overtime hours is, of course, a significant predictor because only individuals who work overtime can experience overtime pay violations. The greater likelihood of violations among private-household employees compared to agency employees is also expected and is consistent with past research (Barnes, Galvin, and Fine 2020; Bernhardt et al. 2009). But the magnitude is striking: the odds of a wage violation for direct private-household employees are 268 percent higher than the odds for agency-based employees. Given the typical informality of private-household employment, home care aides in that context are far more susceptible to wage violations than employees of home care agencies.

Occupational tenure is negatively and significantly associated with violations, meaning that home care aides with more years of experience are less likely to experience violations. Specifically, a one-year increase in occupational tenure is associated with a 6 percent decrease in the odds of experiencing a minimum wage or overtime violation. The causality behind this relationship could point in either or both directions. On one hand, home care aides who

experience few or no violations may be more likely to remain in this occupation, while those who experience more violations might quit the home care field in search of alternatives. On the other hand, interview data suggests that workers who stay in the home care field develop strategies or capacities over time to better protect themselves and avoid harmful situations.

Table 3.3. Results of Logistic Regression Model for Minimum Wage and Overtime Violations

	Minimum Wage or Overtime Violation in Current Job (0/1)
Union member or covered	−0.172 (0.330)
Demographic Controls	
Black (non-Hispanic)†	0.161 (0.573)
Hispanic/Latinx	−0.194 (0.483)
Asian, Asian American, Pacific Islander, and other	−0.313 (0.571)
Age	−0.015 (0.018)
U.S.-born	−0.424 (0.504)
Speaks English well or very well or is a native speaker	0.349 (0.386)
Completed at least an associate's degree or some college	0.584 (0.312)*
Employment Controls	
Occupational tenure	−0.058 (0.028)**
Employed by private household†	1.302 (0.579)**
Employed by fiscal intermediary (consumer-directed program)	0.441 (0.493)
Client is a relative	−1.419 (0.728)*
Ever works overtime hours	2.272 (0.315)***
Social Network Controls	
Interacts with other home care aides	−0.367 (0.336)
Participates in any volunteer work, social clubs, or religious institutions	0.350 (0.373)
Knows others who have sought help for work issues	0.140 (0.418)
Total Observations	318

*p<0.1 **p<0.05 ***p<0.01 Standard errors are in parentheses.
†Reference group is *white* for Race/Ethnicity and *home care agency* for Employer Type. Note: 99% of white workers in this sample are foreign-born, nearly all of whom are Russian speakers born in Russia or former Soviet states.

Union status, in this analysis, is not a significant predictor of wage violations. But before exploring this null finding, we can first consider the possibility that there *is* a real relationship, one that might be detectable in a different or larger sample with greater statistical power. Qualitative interview data yields evidence that unions do, in some instances, have a deterrent effect on violations within unionized home care agencies. In interviews with both union and non-union workers, I asked respondents whether they had experienced any violation of their workplace rights, such as getting paid less than minimum wage, not receiving overtime pay, or having been denied paid sick leave. Several unionized workers offered a succinct response, like that of Lorena, a long-time 1199SEIU member: "No, not that I'm aware of. Because I have my union. So I get paid for the days that I work, and they pay us $15 an hour." Another home care aide, Ellen, had worked for several union *and* non-union agencies in Staten Island over the years, so she had insights into both worlds. During one stretch of employment with a non-union agency, she was assigned to cases working twelve-hour shifts, seven days a week. But the agency would often fail to pay her at the correct overtime rate. I asked if she had faced similar problems when working for subsequent agencies, including one named North Star Home Care. She said she had not, noting that, "When I worked for North Star, I was part of 1199. So they weren't able to get away with anything like that." She punctuated her response with a laugh, as if amused by how the union had tamed the employer. The union's presence appeared to promote employer compliance; Ellen reports that, at that agency, she never had an issue that required the help of a union representative.

But Ellen's and Lorena's testimonies do not necessarily represent a broader pattern. Instead, interviews reveal a different trend that better aligns with, and potentially explains, the regression results: respondents emphasize the role of unions in remedying workplace problems

retroactively rather than in preventing them. In other words, they suggest that unions in the home care context may be better at producing *corrective* effects than *deterrence* effects. As an illustration, an aide named Teresa has worked for several agencies throughout her career and spoke approvingly of 1199SEIU's ability to protect workers. What she valued most about the union was its ability to help her resolve workplace problems that arise. When we turned to the topic of frequent violations in the home care industry, she remarked, "That's one of the reasons I believe in getting into the union. Because even when you're in an agency, if one of the supervisors or coordinators speaks out to you or is not fair about something, you have a right to contact your union. And the union will fight for your job." Teresa's default is to think of the union as entering the picture *after* issues come up. Comments like these point to the possibility that unions in the home care industry might have a stronger impact on resolving violations than on deterring them. This notion gained plausibility as I collected interview data. Indeed, when presenting the non-significant union regression result to a union staff member, I was met with the reaction, "It's not even a little bit surprising" (Union Interview 5).

Why might unions have more success in correcting rather than deterring wage violations in the home care industry? In short, qualitative data suggests that union representation does not fully counteract the industry pressures and opportunities outlined in Chapter 2. Even when their workers are unionized, agencies have incentives to cut costs by skirting labor standards, and they find opportunities to do so. They also tend to believe that they can get away with it and rarely fear the penalties of getting caught.

The interviews analyzed in this chapter shed further light on these dynamics, adding to the managerial perspectives cited in Chapter 2. Union staff members explain that unionized agencies face the same financial pressures as any other agencies—and perhaps stronger

pressures, because unionization can mean higher labor costs in the short run (Union Interview 5).[20] One union organizer confirmed that even some unionized agencies regularly violate the 13-hour rule, and that the burden falls on the workers to report any interrupted breaks and to take action if management denies them pay (Union Interview 1). Leaders of 1199SEIU have also clarified how violations of the Wage Parity Law can unfold: "Aides employed by [agencies] may not know whether the care they are providing is paid for by Medicaid, and therefore subject to the Wage Parity Law. Some [agencies] take advantage of this confusion to pay less than the required total compensation" (Schaub 2017:5). Even if workers know they are entitled to the Wage Parity protections, the compensation formula can be confusing and can make it difficult to verify correct payment—especially at agencies where there is a weaker union than 1199SEIU or no union at all (Union Interviews 4 and 5).

Obfuscation such as this surfaced in an interview with Dalia, a 52-year-old home health aide who, before immigrating from Colombia, had worked as an investigative attorney in a Colombian government agency. She had previously worked for a non-union New York home care agency that was recently the subject of a major state investigation and an $18.8 million settlement. The agency had been found in severe violation of wage laws, affecting 12,000 current and past workers. Dalia was one of them. But when I asked whether she detected any pay irregularities while working at that agency, she admitted, "No, not really. I just wasn't paying close enough attention to the details." When employers manipulate wages, workers may struggle to notice—even former lawyers. Although that agency was not unionized, Dalia's experience demonstrates how employers can systematically violate laws without their employees knowing.

[20] In the long run, unionization can raise productivity (Doucouliagos and Laroche 2003; Sojourner et al. 2015) and reduce staff turnover (Hammer and Avgar 2005; Martin 2003) and the associated costs of recruiting, onboarding, and training new employees.

A similar pattern can occur within unionized agencies, although survey and interview findings suggest that violations might be discovered sooner there than in non-union agencies.

Unscrupulous agencies wager that most workers will overlook violations like Dalia did, and that any who catch on will rarely speak out. As one union staff member explained, "Every employer has every incentive to try to screw people, because nine times out of ten, if not 99 times out of 100, they get away with it" (Union Interview 5). When asked if the same was true of unionized agencies, the staff member noted that management at such agencies generally behave the same way as their non-union counterparts, because they face similar incentives. They make the same calculations, according to another staff member: "The agencies are betting that the worker won't call the union and let us know" (Union Interview 6). Their bet is generally safe: union organizers attest to how challenging it can be to connect with members in the absence of a shared workplace, and workers know that raising a complaint can set off a disruptive and emotionally taxing process, even with union protection.[21]

Finally, union presence may be insufficient to prevent violations because, even when caught in noncompliance, agencies rarely face significant penalties. One staff member summarized this challenge: "If every so often they don't get away with it, what's the price that they pay? Very little" (Union Interview 5). Interviews leave some ambiguity about the absence of penalties and about what constrains unions' ability to raise penalties. One factor, which I analyze closely in Chapter 4, is that the most serious deterrents—large fines, criminal charges, and threat of business closure—lie in the hands of state actors who are reluctant or unable to use them. So, although unions can appeal to government regulators to intervene against problematic

[21] The survey did not ask about frequency of contact, but among union members, 38 percent report that they had communicated with a union representative or organizer in the past twelve months.

employers, this type of indirect tactic can be a hard sell and rarely yields the desired results. If unions want the ability to directly penalize employers in ways that will deter future violations, they must win the ability to do so through collective bargaining. That option is largely a nonstarter: employers do not want to give unions sticks that can be turned back against them. Unions can resort to other types of sticks beyond the confines of bargaining; they can create political and public relations problems for serial violators through conventional protest and pressure tactics. But it seems doubtful that such an approach can turn a scofflaw into a complier.[22]

Given these difficulties, unions seem to have had more success in developing systems to remedy rather than prevent violations. Two examples arose in interviews. First, when asked how their union promotes employer compliance, one staff member explained that they use the grievance process extensively: "Management forgets about the contract all the time. We have to remind them. So you just file a lot of grievances" (Union Interview 6). The most common outcome is for management to resolve complaints before grievances reach arbitration. But that type of outcome does not necessarily deter future violations. Second, unions have gained the ability to regularly review lists of employees that an agency has rendered inactive and thus out of work—whether retired, terminated, suspended, or simply having fallen below a requisite number of weekly hours. The lists are a useful tool for identifying and remedying contractual violations, such as wrongful terminations, suspensions, and employer retaliation. The catch is that union organizers must call each person on the list to understand their situation and assess whether a violation has occurred—a burdensome task. One organizer who represents an agency with

[22] Given these difficulties, we can see why unions sometimes resort to incentives, or carrots, to promote compliance. For instance, unions can reward employers who play fairly by helping them lobby for policies of mutual interest, or perhaps of interest only to employers.

thousands of employees detailed how she receives a new list every week and that calling each contact is one of her most time-intensive duties. When she finds someone who feels their contract has been violated, it is then incumbent on the worker to decide whether to seek redress and to file necessary paperwork if so (Union Interview 2). In this scenario, one can see how agencies might find it expedient to flout contractual standards as a default, then deal with complaints only if problems are later detected and workers step forward. The onus falls on the union and its members to pursue a remedy, while management has little to fear. In light of such dynamics, it is reasonable that survey data would show a non-significant relationship between union status and wage violations.

Worker Claims-Making

Although union membership may not prevent violations, a final quantitative analysis shows how unions matter after violations occur. Using ordered logistic regression, I examine union's corrective role by testing the relationship between union representation and claims-making behavior. Table 3.4 presents the results. Echoing the qualitative data discussed above, union representation is positively and significantly associated with the likelihood of speaking to one's employer after a labor standards violation has occurred. By bringing a potential violation to an employer's attention, a worker begins the process of pursuing a remedy and may even achieve an immediate resolution. Union representation makes this initial claims-making step more likely.

Some of the mechanisms that underlie this relationship are the same as those that link union representation to greater legal and procedural knowledge. Workers in unionized settings receive information about their rights and what to do if they suspect their rights are violated; they interact with union representatives at in-service trainings, and some further engage with their union through chapter meetings and benefits programs. Together, these factors likely enhance

workers' sense of agency, empowering them to act when they face problems. Unionized workers have an organization behind them; when asked what contributes to statistical findings such as this, an 1199SEIU staff member offered a simple explanation: "the relationships that those workers have with their organizers." The staff member elaborated:

> They have a go-to person. . . . They have a support system. They have people in the [education] fund. . . . They might have a question about, "My kid needs surgery." And we really do handhold and meet workers where they are, at eye level, and follow through and have clean handoffs—whether it's within our power to do it or we gotta go outside and find it. So that's the secret sauce of the union and the [union benefit] funds and our power. It's the relationship and the respect that we have for workers to make sure that they're accessing all the resources and information and tools that they need. (Union Interview 3)

Another mechanism is that unions protect workers from employer retaliation. Descriptive analysis of my survey data finds that, among workers who self-reported a rights violation but did nothing about it, fear of losing one's job was the most common reason for inaction—more common than language difficulty and not knowing what to do. The regression results around claims-making suggest that unions can mitigate this fear. Union contracts contain provisions that require just cause for disciplinary action, including termination. And a key role of union representatives, as noted above, is to enforce such provisions, ensuring that members are not wrongfully disciplined or fired. Thus, a union member weighing whether to speak out about unpaid wages, for instance, has less reason to fear retaliation than does a non-union worker.[23]

[23] While statutory employment rights sometimes include anti-retaliation provisions, such protections are more difficult to enforce in the absence of a union.

Table 3.4. Results of Ordered Logistic Regression Model for Likelihood of Claims-Making

	Likelihood of Speaking to Employer about Violation (1–4)
Union member or covered	0.480 (0.239)**
Demographics	
Black (non-Hispanic)†	0.852 (0.427)**
Hispanic/Latinx	0.700 (0.373)*
Asian, Asian American, Pacific Islander, and other	−0.081 (0.402)
Age	0.002 (0.013)
U.S.-born	0.470 (0.388)
Speaks English well or very well or is a native speaker	0.612 (0.253)**
Completed at least an Associate's degree or some college	0.507 (0.241)**
Employment	
Occupational tenure	−0.007 (0.022)
Employed by private household†	−0.692 (0.391)*
Employed by fiscal intermediary (consumer-directed program)	0.120 (0.360)
Client is a relative	−0.834 (0.450)*
Social Networks	
Interacts with other home care aides	−0.096 (0.249)
Participates in volunteer work, social clubs, or religious institutions	−0.029 (0.295)
Knows others who have sought help for work issues	0.004 (0.332)
Total Observations	331

*p<0.1 **p<0.05 ***p<0.01 Standard errors are in parentheses.
†Reference group is *white* for Race/Ethnicity and *home care agency* for Employer Type. Note: 99% of white workers in this sample are foreign-born, nearly all of whom are Russian speakers born in Russia or former Soviet states

In addition to union status, three demographic variables are associated with greater likelihood of claims-making behavior. English language ability and educational attainment are unsurprising: workers who have more education and better English skills feel more comfortable approaching their employer about workplace issues. The race and ethnicity variables, meanwhile, extend the differences seen in the legal and procedural knowledge models: Black home care aides are more likely than white Russian-speaking aides to say they would speak to their employer about a violation. As with the knowledge outcomes, this pattern may stem from

different histories of involvement in New York's home care workforce and unions, or from social and cultural differences between immigrants from the Caribbean and those from the former Soviet Union. Alternatively, it is possible that Russian-speaking white workers are employed by different types of agencies than are Black workers; if those agencies have a greater tendency to discourage workers from speaking out, such as through more severe disciplinary practices, then that organizational difference could produce this regression result.

Overall, this analysis suggests that union representation is a key factor, although not the only factor, shaping workers' claims-making behavior. The findings bolster the evidence that unions serve a constrained but meaningful role in enforcing labor standards within the home care industry. In concluding, I discuss the implications of these findings and of the survey results more broadly.

Discussion and Conclusion

Based on interviews and an original survey of 335 home care aides, this chapter has detailed how unions contribute to labor standards enforcement in the home care context. The analysis is not without limitations, which I discuss in Appendix B. But the results, paired with qualitative data, offer unique evidence about the relationship between unions and their members in an unwieldy industry during an era of union decline. Specifically, I show how unions, despite acute workforce dispersion, educate home care aides about their rights and provide resources for resolving violations. While unions may not prevent violations from occurring, they offer unionized workers a corrective mechanism unavailable to most non-union workers.[24]

[24] To the extent that most unionized survey respondents were 1199SEIU members, the findings can be interpreted in the context of disputes over the 13-hour rule. The mixed results validate both the union and its detractors. If 1199SEIU were the negligent union that some critics have made it out to be, it is very unlikely that the regression

These findings add to the larger literature on the role of unions in labor standards enforcement, which has previously focused on congregate workplaces or on the labor force overall. Further, recent research has advanced our understanding of the social determinants of workers' rights awareness and claims-making, specifically educational attainment and differential legal statuses among immigrant workers (Patler et al. 2020). This chapter complements that research by examining an institutional determinant, unionization. It also points to possible differences in enforcement-related outcomes by race, ethnicity, and region of origin.

In the specific context of home care, this chapter also clarifies the conditions under which unionism may succeed or fail in translating abstract rights into changes in workers' lived experiences. My findings highlight a particular constellation of institutional factors that likely underpin union effects on workers' legal and procedural knowledge and claims-making behavior: namely, a positive confluence of occupational credentialing, agency-based employment, and unionism. According to union staff members, the facilitating role of occupational credentialing and training was an unintended development. But it has proven useful and can serve as a model for home care unions in states with weak training mandates. By advancing laws or rules that require ongoing training requirements, unions can create a toehold that allows them to regularly interface with members and to combine skills training with rights education. They can go even further by incorporating curricula on subjects like racial justice, following the example of National Nurses United and the New York State Nurses Association (Luce 2021).

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analysis would show positive effects of union membership on worker knowledge and willingness to take action. The qualitative interview data further supports that 1199SEIU has a meaningful system of internal organizing. At the same time, my data's failure to show a link between union membership and the occurrence of violations can be interpreted as evidence of the union's shortcomings. One of my arguments in this chapter, however, is that even the most vigilant unions would struggle to prevent violations of a standard so flawed as the 13-hour rule.

Finally, the survey and interview findings also yield a new vantage on the role of private agencies as intermediaries among workers, clients, and home care funding sources, building on work by Cranford (2020) and Polson (2013). I show how agencies can operate as both a resource and an impediment from a labor standards enforcement perspective. On one hand, they play an important role in aggregating isolated workers, serving as social and physical nodes that bring structure to vast networks of household workplaces. On the other hand, agencies face strong incentives to cut costs and shortchange workers. Noncompliant agencies deprive workers of much-needed wages and benefits and pose recurring regulatory dilemmas for unions and government alike. This dual role of home care agencies prompts larger questions about what restructuring the home care industry in New York State and beyond might look like, and what benefits might be gained by consolidating agencies or replacing them with public or nonprofit intermediaries. Such questions have arisen in prior policy debates and proposals, though mainly in fiscal terms—agencies and other healthcare intermediaries, with their administrative and overhead costs, introduce sizable and potentially avoidable costs into the home care system (Polson 2013:14). Unions like 1199SEIU have also advocated to consolidate agencies, which could facilitate unionization (Schaub 2018). The findings of this chapter suggest that such debates over the proper place of agencies in home care provision should grapple with their dual impacts on labor standards enforcement. I further discuss practical implications and policy alternatives in Chapter 6.

Chapter 4
City Hall Takes on Rights Enforcement

The previous chapter argued that labor unions are an important, if limited, force for protecting workers' rights in private homes. However, unions reach only a fraction of the country's paid in-home care workers. Among home care aides who assist older adults and people with disabilities, only workers in the formal, publicly funded workforce have been able to unionize at a large scale—and only in certain states. Given these constraints, union contracts and enforcement mechanisms currently have little relevance to most in-home care workers.

Across the economy, in industries where unions have been unable or unwilling to organize, worker centers have emerged as an alternative model of labor organization (Fine 2006; Gleeson 2009, 2012; Gordon 2005c). As I will discuss in Chapter 5, these organizations play a vital role in labor standards enforcement by offering rights education, legal services, and a conduit between workers and lawyers or regulators. Yet this model is difficult to sustain and scale up, and, like the union model, reaches only a small percentage of workers (Fine 2006; Fine, Narro, and Barnes 2018:13). And while worker centers sometimes enforce worker rights directly by protesting employers, unlike unions they lack their own institutional framework for settling disputes.

Government agencies are uniquely positioned because they can do what unions and worker centers cannot: enforce labor standards across all paid in-home care work, especially among non-unionized home care aides and among domestic workers employed by private households. This chapter examines what happens when government agencies try to realize that enforcement potential. While federal and state agencies mostly began enforcement in the in-home care sector after the 1974 Fair Labor Standards Act amendments, recent years have seen

unprecedented local-level action in the context of a national "bottom-up labor policy boom" (Fine 2017:36). One of the most groundbreaking government initiatives has unfolded in New York City, which, since 2015, has established a municipal labor standards enforcement office and a special unit dedicated to in-home care workers—the first of its kind in any U.S. city. This chapter uses these institutional innovations as a case study, an opportunity to ask: how do government actors pursue labor standards enforcement within in-home paid care work, and to what effect?

My analysis of this case treats New York City's paid sick leave law as its focal point, as that law is the principal labor standard that local regulators have authority to enforce in the in-home care sector. However, in explaining the outcomes of local enforcement efforts, I confront data that points to a combination of both local factors and the wider regulatory landscape in the sector, including the enforcement of wage and hour laws and the role of state-level regulators like the New York State Department of Labor and Department of Health. Thus, although I anchor the case study in a specific local government agency and paid sick leave law, the analysis also involves state actors, state laws, and the interactions between state and local actors. Mostly absent from this analysis is the federal DOL, for the same reasons that local labor offices have stepped in: since the 1970s, stretches of Republican presidencies and congressional gridlock have depleted that department's resources and created a major gap in labor standards enforcement (Bobo 2011; Dietz, Levitt, and Love 2014; Weil 2010).[1]

[1] Analysts have tracked the falling ratio of labor investigators to total U.S. workers as one indicator of this enforcement gap. In 1962, the federal DOL's Wage and Hour Division had approximately one investigator per 18,000 U.S. workers. By 2007, that figure stood at one investigator per 173,000 U.S. workers (Bobo 2011; Dietz et al. 2014). More investigators were hired during the Obama administration, which improved the ratio to roughly one investigator per 124,000 workers—still far below historical levels (Dietz et al. 2014:238–40). As a result of its staff constraints, the federal Wage and Hour Division channels its limited resources to priorities that have national ramifications and to states with weak labor departments and few non-state regulatory actors. Federal regulators thus

Based on interviews with advocates, experts, employers, and government staff and officials, I find that the organizational structure of agency-based home care has allowed the city to conduct proactive investigations aimed at deterring violations in the industry overall. These investigations have produced some immediate improvements at targeted agencies, but evidence of industry-wide effects is minimal. I explain these limited effects using existing theories of regulatory outcomes, which work well in the context of agency-based home care.

In contrast, regulation theories and on-the-ground best practices poorly address the more informal segment of the workforce, which includes domestic workers hired directly by households. Here, New York regulators have encountered the same barriers that impede local and state efforts across the country, including the industry's informality, extreme decentralization, and a predominantly immigrant workforce fearful of government action and vulnerable to employer retaliation. These features have prevented city enforcers from using the type of deterrence actions and proactive investigations that they have deployed in agency-based home care. As a result, city enforcers, like state and federal regulators before them, seem unable to "move the needle" on compliance in the domestic work context. However, by creating a governmental division devoted to paid care work, the city's labor standards office has forged a space for sustained dialogue and strategic creativity around this sector, which may prove instrumental to future enforcement.

In relation to practical implications, this chapter further develops a general insight that began to emerge in Chapters 3 and 4: whether in formal home care or informalized domestic work, regulators must consider reshaping the industry's structure if they hope to achieve broad,

play a minor role in states like New York, which have functioning state and local labor departments and relatively robust ecosystems of unions, worker centers, and legal advocates (Interview, David Weil, 2022).

sustainable change in employer compliance and workplace conditions. Without such structural reforms, regulators will likely face unrelenting and unmanageable labor standards violations.

Background

New York City's Office of Labor Policy and Standards

The New York City Council and Mayor's Office took a progressive turn in 2013, when local elections ushered in a wave of officials committed to strengthening the rights of low-wage workers. Arising from the fervor of the Occupy movement and the national discourse around inequality that it spurred, the local political shift reflected one crosscurrent of rising U.S. populism, what one observer dubbed "the Revolt of the Cities" (Meyerson 2014). In New York, Mayor Bill de Blasio and the new progressive-led city council expanded the city's paid sick leave law and pursued new pro-worker policies, such as protections for freelance workers and fair scheduling laws for retail and fast-food workers. To implement and enforce those reforms, the city created a new agency, the Office of Labor Policy and Standards, in 2015. In recent years, as cities have responded to labor activism and stagnant federal labor standards by raising minimum wages and enacting worker-friendly laws, similar offices have sprouted across the country (Fine and Piore 2021; Shepherd and Fine, forthcoming).[2]

In New York, the Office of Labor Policy and Standards is housed within the city's Department of Consumer and Worker Protection, a department whose previous scope—"consumer affairs"—expanded to include worker protection under the de Blasio administration. The labor standards office began with a staff of 37 in 2017, including 10 investigators, 13

[2] Most of these local labor standards enforcement agencies have been established since 2015. One exception is San Francisco's, which was founded in 2001 (Dietz et al. 2014:230).

attorneys, and smaller numbers of researchers, intake and outreach workers, and operations staff. As of 2021, the staff size and composition remained largely unchanged (NYC Department of Consumer and Worker Protection 2022c:22).

Since its founding, the Office of Labor Policy and Standards—henceforth the "labor standards office"—has embraced the expertise of leading scholars and practitioners in the enforcement field. Most notably, the office has built its efforts around the practice of strategic enforcement, as defined in Chapter 1: instead of reacting to individual worker complaints and treating each as an isolated case, regulators seek greater impact and efficiency by proactively targeting industries with the most violations and those where regulators can most likely make a difference (NYC Department of Consumer Affairs 2017b; Weil 2008, 2010). In applying this new model and rejecting the old, the office identified agency-based home care as a top priority for its initial enforcement projects (City Interview 1; NGO Interview 11).

Around the same time, in 2015 and 2016, progressive staff within the city council recognized the rapid growth of the home care industry and the immense regulatory challenge it posed. Nationally, home care was in the spotlight, not just for its growing role in the economy but also because the federal DOL was seeing through its rule change to finally extend wage and hour protections to home care aides (National Employment Law Project 2015; Interview, David Weil, 2022). City council staffers saw a need and an opportunity to harness this momentum (City Interview 1; NGO Interview 1). They also knew that the workforce comprised key groups that progressive lawmakers hoped to empower: low-income women, people of color, and immigrants. As a result, these insider activists proposed building an extra regulatory platform for home care, an entity that could be both symbolic and effective. They drafted a bill to add a special division in the labor standards office dedicated to the home care workforce (City Interview 2).

Responding to input from worker advocates at the National Domestic Workers Alliance, they broadened the proposal to include nannies and housecleaners, occupations that were smaller than home care but had similar histories, demographic compositions, and regulatory needs (NGO Interview 1).

The city council passed legislation to establish the Paid Care Division as a unit of the labor standards office in 2016. This unit was charged with connecting workers to legal services in the labor standards office, conducting research on the target industries, and coordinating with worker organizations to strengthen and enforce labor standards in the paid in-home care sector. In practice, the Paid Care Division has only ever had one staff member: the city's paid care advocate. However, the office's larger staff of investigators, lawyers, and researchers join the advocate in carrying out paid care initiatives (City Interview 7).

Across all sectors, including paid care, the efforts of the labor standards office are shaped by legal jurisdiction. In particular, New York City lacks the authority to legislate or enforce its own municipal minimum wage, the result of a 1963 ruling in which a state court sided with business plaintiffs and declared the city's new $1.25 minimum wage to be preempted by the state's $1.00 minimum wage (Benewitz and Weintraub 1964; Fine and Shepherd 2022). Because of this restriction, New York City's recent legislative and enforcement efforts have addressed legal standards beyond wages. The labor standards office is now responsible for implementing and enforcing an array of laws, including special protections for freelancers and food delivery workers; schedule predictability for fast-food and retail workers; and "just cause" protections for fast-food workers, ensuring they cannot arbitrarily be fired or have their hours cut (NYC Department of Consumer and Worker Protection 2022b).

Paid Sick Leave

In the paid care sector, the labor standards office and its Paid Care Division have focused on the city's Paid Sick and Safe Leave law, which covers workers across industries.[3] The law, which preceded the city's major industry-specific reforms, marked the first breakthrough in New York's new era of pro-worker municipal governance, one that built on earlier living wage and prevailing wage laws (Luce 2004; NGO Interview 9).

City council members first proposed the paid sick leave law in 2009, when pressure from advocates dovetailed with local elections and a swine flu outbreak to raise the issue's salience. At the time, such legislation existed in only three small cities and was gaining traction nationally. But Mayor Michael Bloomberg and City Council Speaker Christine Quinn, a centrist Democrat, blocked the bill for nearly four more years. In 2013, Quinn's opposition became a liability as she campaigned to succeed Bloomberg as mayor; her stance on paid sick leave was the chief target of her rivals, including eventual winner Bill de Blasio. Pressed further by the media, campaign backers, the Working Families Party, and progressives in the city council, Quinn finally allowed a vote on the sick leave bill but never fully relented, resulting in a watered-down law. Later that year, she lost the mayoral election to de Blasio, who quickly signed a stronger version into law in early 2014. In an article declaring "Leaders Begin City's Left Turn with Sick Pay Proposal," *Times* reporters noted that de Blasio's support "carried a potent symbolic weight, offering a chance to show early action on his campaign promise to close the gap between the city's working class and its elite" (Grynbaum and Taylor 2014).[4]

[3] The law's "safe leave" provision allows paid time off for situations of domestic violence, sexual assault, and stalking.

[4] This timeline is drawn from the *New York Times*'s extensive coverage of the events (Barbaro and Grynbaum 2013a, 2013b; Chan 2009; Grynbaum 2013; Lee 2009; McGeehan 2010; Taylor 2013, 2014; Yee 2013).

The law provided paid sick leave rights to an estimated 1.2 million workers across the city, particularly low-wage, non-union workers who lacked such protections (Swarns 2014). At businesses with five employees or more, which includes nearly all home care agencies, workers could now accrue up to 40 hours per year to tend to their own illnesses or those of family members.[5] The law also covered domestic workers hired directly by private households, but only allowed them to accrue up to 16 hours of paid sick leave per year; amendments in 2020 equalized that number with other workers, at 40 hours.[6] Other amendments expanded the scope of the law, which now permits workers to use accrued hours to address experiences of domestic violence, sexual assault, and stalking (Lew and Torres 2021; NYC Department of Consumer and Worker Protection 2023a).[7]

Since 2020, the city and state have had concurrent jurisdiction over paid sick leave. As a result, aggrieved workers in New York City can bring paid sick leave complaints either to the city or to the state DOL, but they likely receive speedier assistance from the city, which has more experience enforcing paid sick leave. In addition, because the state DOL is responsible for wage and hour complaints while the city is not, the city has greater capacity to address paid sick leave cases (City Interview 6).[8]

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[5] The minimum required accrual rate was set at one hour of sick time for every 30 hours worked; someone working 40 hours per week would accrue the full 40 hours of paid sick leave after about 7 months, or 30 weeks.

[6] Lawmakers originally reasoned that they only needed to grant domestic workers two paid sick days because the state's Domestic Workers' Bill of Rights already provided them three days of paid rest per year.

[7] The 2020 amendments to the city law responded to the state's enactment of a more generous paid sick leave law. The two laws now align. Large businesses must provide up to 56 hours per year. Certain businesses with fewer than five employees must also provide paid sicks days; they previously were only required to offer *unpaid* leave.

[8] Despite recent amendments, the city's paid sick leave law lacks a key enforcement provision: a private right of action, which would otherwise "allow workers, in addition to filing complaints with a government agency for violations of the law, to be able to take their employers to court to sue for violations under that law" (Fine and Shepherd 2022:35). As Fine and Shepherd (2022: 23–24) explain, Mayor de Blasio insisted on omitting that provision in 2014 as a concession to New York City business advocates.

Violations of the law take multiple forms. In egregious cases, employers might refuse to pay for sick days or demand that employees work despite an illness. In other cases, employers might violate secondary aspects of the law that are meant to ensure workers can access its protections. Specifically, the law contains the following provisions, quoted here from city materials:

- Employers must allow employees to use safe and sick leave as it is accrued, with no waiting period for new hires.
- Employees can use safe and sick leave for unexpected reasons without giving advance notice.
- Employers must provide employees with a written safe and sick leave policy that describes the benefit and how to use it.
- Employers can require documentation only when employees use more than three workdays in a row of safe and sick leave, if the documentation requirement is explained in the employer's written policy.
- Employers must inform employees of their accrued, used, and total leave balances on a paystub or through an employee-accessible electronic system. (NYC Department of Consumer and Worker Protection 2023a)

When the labor standards office investigates employers for possible violations, it attends to these provisions as well as the core issues of nonpayment or refusal to permit time off.

Analysis of the Formal Home Care Industry

In 2017 and 2018, city labor standards enforcers mounted their first major initiative targeting the in-home care sector: an investigative sweep of over forty home care agencies. Leaders in the labor standards office designed the sweep with the goal of deterring paid sick leave violations in the industry overall, which by 2017 had seen more worker complaints than almost every other industry (NYC Department of Consumer Affairs 2017a). By proactively investigating compliance at a subset of agencies, the office aimed to "shift expectations" so that agencies of every kind would know that the city was monitoring them and would hold violators accountable (City Interview 7). More bluntly, a former staff member believed the sweep would "send a level of fear through the industry" and ensure "the industry gets the message it's gotta clean up its act" (City Interview 1). From the outset, the city strove to spread this message; a 2017 press release declared, "Department of Consumer of Affairs Puts Home Healthcare Industry on Alert with Paid Sick Leave Investigations." In the announcement, Commissioner Lorelei Salas's statement expressed both the department's goals and its unapologetic pro-worker stance: "We want to make it clear to this industry, which has had so much trouble complying with the law in the past, that New York City is paying close attention to its treatment of its workers."

As a cohesive and well-publicized effort, the sweep presents an opportunity to examine whether and how a government agency can affect labor standards compliance in the home care industry. Unlike the question of labor union impacts, however, this one cannot be answered with the available survey data; there is no individual-level variable equivalent to union membership. Instead, I rely on qualitative data and shift the unit of analysis to the organizational level, assessing the influence of the investigations on home care agencies. As in Chapter 2, I draw upon my 20 interviews with agency owners and senior-level managers, and I supplement them here

with interviews of city and state regulators, NGO staff members, union leaders, industry experts, and other researchers. Appendix A describes how I sampled the home care agencies and how I conducted those interviews. In the remainder of this section, I first examine what, if any, impacts resulted from the investigate sweep. Then, I borrow from the literature on "responsive regulation" to explain what I find.

In brief, among investigated agencies, the sweep resulted in immediate, short-term deterrence of paid sick leave violations. It is also possible that the effort produced more lasting, longer-term deterrence among the investigated agencies, but interview data in this regard was both sparse and inconsistent. Among the approximately 659 agencies in New York City that were *not* investigated, it is possible that the sweep had spillover or ripple effects that caused immediate deterrence, but there was also little evidence of this in the interview data. Lasting deterrence within this larger group was thus unlikely. I detail each of these findings below. The results point to the necessity of either addressing the root causes of violations outlined in Chapter 2 or devising new deterrence strategies, such as repeated audits and stronger sanctions, which I discuss in Chapter 6.

Impacts on Investigated Agencies

By carefully executing investigations and settlements, the labor standards office bolstered paid sick leave compliance among the targeted agencies. The sweep uncovered violations, brought violators into compliance, and secured compensation for wronged workers. Specifically, over 80 percent of the investigated agencies (34 of 42) were found to be in violation and settled with the city, paying both civil penalties to the city and restitution to affected workers. As part of the effort, investigators interviewed over 500 workers and reviewed extensive personnel documents and communications. Among the violations uncovered were "widespread denials of sick leave

requests, workplace-wide restrictions regarding the use of sick leave, and retaliation when workers tried to use sick leave" (NYC Department of Consumer Affairs 2018a). One of the largest employers had illegally fired four employees for using paid sick leave (NYC Office of the Mayor 2021). More fundamentally, "workers frequently reported never having seen a notice of their rights or their employer's sick leave policy" (NYC Department of Consumer Affairs 2018a).

All 34 violators settled with the Department of Consumer and Worker Protection. Most settled by mid-2018, while 11 resisted until city litigators started to move those cases toward trial; the threat of trial led all to settle by early 2020 (City Interview 6; NYC Department of Consumer and Worker Protection 2020a). Finally, cases involving two of the largest and most noncompliant agencies, Amazing and Intergen (not pseudonyms), dragged on because investigators uncovered extensive wage violations in addition to sick leave, which required referral to the state attorney general and DOL. Together, the 34 paid sick leave settlements required the agencies "to pay a total of $2.54 million in restitution to more than 11,000 workers, pay $155,000 in civil penalties, and comply with the Law going forward" (NYC Office of the Mayor 2021).[9] The Amazing and Intergen settlements were by far the largest, totaling $2.03 million to compensate 6,500 workers.[10]

The labor standards office implemented its requirement to "comply with the Law going forward" in different ways depending on the agency and on the specific violations found. For

[9] Whereas private civil settlements often allow defendants to deny wrongdoing, the labor standards office prohibits such non-admission clauses in its settlements; thus, all agencies admitted to their violations by settling (City Interview 6).

[10] The joint investigations by the attorney general and state DOL yielded an additional $16 million settlement with Amazing and Intergen, which were owned by the same individuals (NYC Department of Consumer and Worker Protection 2022c).

some, the office simply required them to revise their internal personnel policies or take small actions like distributing a notice of the city's paid sick leave law to their employees. As one agency manager told me, "We were paying the aides a certain way for sick days, and apparently it was incorrect." After settling, he said, the office "was helpful" to his agency in reformulating their policy so that it aligned with the law (Agency Interview 10). A manager at another agency reported her experience similarly, admitting that her agency had to "make some adjustments" but describing the process as otherwise unremarkable (Agency Interview 1).

With other agencies, the labor standards office had to work harder to ensure ongoing compliance. Such was the case with Amazing and Intergen, the most flagrant violators. In interviews, city staff explained that the labor standards office had gone to exceptional lengths to ensure that these employers obeyed the paid sick leave law after they were caught in noncompliance (City Interview 6). The settlement laid out numerous demands on the agencies beyond revising their personnel policies, including that they appoint a staff compliance officer to monitor compliance and report to regulators; train employees about the sick leave law and obtain a written, dated acknowledgment that each employee received notice of their rights; and "create a new employee manual with updated policies that must be submitted to the Attorney General and [the Department of Consumer and Worker Protection] for approval and have it translated and distributed to all employees" (NYC Office of the Mayor 2021). Almost a year after the settlements were announced, enforcement staff were still scrutinizing the two agencies and implementing the terms of the agreement (City Interview 6).

The settlement agreements and resulting efforts to ensure compliance demonstrate how the industry-wide sweep deterred violations in the short run. This outcome had positive real-life consequences for thousands of workers: the 42 agencies employed at least 15,000 workers in

2017, and the settlements also covered thousands of past employees who had been wronged.[11] Thus the direct footprint of the sweep was significant. But did it last?

My interviews suggest that the impacts on investigated agencies have possibly extended beyond the short term—that the investigations and penalties have deterred violations among at least some investigated agencies nearly four years after they initially came into compliance. Interview data alone cannot determine actual compliance, and interviewed managers insist, of course, that they abide by the law. But these managers spoke about the industry sweep as a painful experience that had disrupted their lives or hurt their budgets in a way that would lead them to avoid future investigations. One refused to detail his agency's case but summarized the ordeal as "awful, really awful" (Agency Interview 14). Another declined to disclose his agency's settlement amount but griped that "they hit you hard with the penalties. . . . It was an amount that made us uncomfortable" (Agency Interview 10). Expressions like these suggest that the investigations made a lasting impression on agencies.

City regulators did not fully leverage the penalties allowable under the paid sick law: they issued only $10,000 in one-time fines to Amazing and Intergen and $145,000 to the other 32 agencies—an average of about $4,500. On paper, the law allows far greater penalties: $500 per violation per worker per year; so if a business employs 1,000 aides and denies them paid sick leave for two years, the city could fine the business $1 million. The labor standards office, however, has discretion to reduce fines in settlement negotiations; and because cash-strapped employers like home care agencies often struggle to pay up, the office prioritizes worker

[11] My estimate of at least 15,000 workers—roughly 10 percent of all New York City home care aides—is based on my analysis of data from the NYS Department of Health (2019). In press releases, the Department of Consumer and Worker Protection claimed that the investigated agencies employed a much larger number, nearly 30 percent of all home care aides (NYC Department of Consumer Affairs 2018a). The department was unable to clarify its estimation method when I requested further information.

restitution over fines to ensure that affected workers receive money owed to them (City Interview 6). Still, for mid-size and small agencies, fines of even a few thousand dollars can hurt when, as described in Chapter 2, so many face negative operating margins (Home Care Association of New York State 2021).

The pain of being investigated by the city was intensified at fifteen agencies where the paid sick leave probes also revealed wage-related violations. When state agencies pursued these referrals, their own investigations loomed over the agencies for several more years. One agency manager initially denied my interview request because his agency was too busy; I could try again in a few weeks, he said. When we finally spoke, he explained the delay: "We've been getting audited by DOH [Department of Health] and DOL. Now DOL wants to look into everything because of our paid sick leave [issue]. They check *everything*. You have no idea." As with my interview questions about the city labor standards office, I asked if state regulators were being helpful to promote compliance or if they were more punitive. "They are *not* being helpful," he stressed. "They're looking to slap us with fines. They're not playing nice" (Agency Interview 10). In this way, the city investigations led to extended scrutiny and inconvenience—as of late 2022, state investigations still had not ended for some agencies first targeted in 2017. When they do end, those agencies will have reason to hesitate before risking delinquency again.

Yet it is not clear how long deterrence endures, especially at agencies that settled early with the city and avoided state-level wage and hour investigations. While such agencies may have found the city investigations "awful" and the fines "uncomfortable," the duration of deterrence likely depends on the labor standards in question and the interplay of numerous individual and organizational traits. For instance, a business fined for paid sick leave violations might stay in compliance because providing paid sick leave is a relatively small business

expense, whereas a business fined for overtime violations might feel pressure to cut corners again because overtime wages are a major labor cost. But a business owner's values, risk tolerance, and social milieu—among other factors—likely mediate between financial pressures and decisions to re-violate (Kagan, Gunningham, and Thornton 2011). The uncertainties surrounding the duration of deterrence merit both further research and action: indeed, as of late 2022, city regulators were deliberating about how to follow up on their 2017–2018 initiative and the agencies they targeted (City Interviews 6 and 7).

Impacts on Non-Investigated Agencies

Beyond identifying violations and bringing select agencies into compliance, did city regulators achieve their main goal of "shifting expectations in the industry" and deterring violations more broadly? Available evidence is limited but suggests that, while deterrence among the 659 non-investigated agencies possibly occurred in the short run, lasting deterrence was unlikely.

For deterrence to occur, at a basic level, non-investigated agencies must become aware of such government action. Interview data on this matter was mixed: fewer than half of respondents said they had heard of the paid sick leave investigations or settlements. Given that interviews occurred four years after the main group of settlements, it is possible that some had heard at the time but had since forgotten. However, these same interviewees had not heard of the Amazing and Intergen settlements either, which had been announced within the past nine months. Similarly, because some interviewees were managers but not owners, it is possible that they were not as apprised of industry news as their higher-ups; as one told me, "My boss usually keeps track of all those things, and I'm sure she heard about that" (Agency Interview 2). But even some owners claimed they were unaware; their reasons typically echoed a long-time executive who

said, “I don’t pay attention to who’s in trouble. I’m too busy” (Agency Interview 4). Ultimately, given these muddled patterns and the small number of participants, interview data only indicates that some knew about the investigations—suggesting a possible basis for deterrence—but many did not.

Looking beyond individual respondents, however, we can find signs of broader awareness among non-investigated agencies. The Department of Consumer and Worker Protection successfully garnered media attention to spread the word about their initiative at multiple points in time, including the launch (July 2017), the main group of settlements (September 2018), the 11 delayed settlements (January 2020), and the Amazing and Intergen settlements (November 2021). The department issued press releases at each moment and held a press conference announcing the main group of settlements. More than a dozen outlets covered the initiative’s course in print and online, including the *New York Daily News*, the *New York Post*, and *El Diario*, as well as the *Bronx Daily*, *Bronx Times*, *Queens Chronicle*, and *Staten Island Advance*. So did local radio and television, including both English- and Spanish-language networks (Galindo 2018). In addition to local press, multiple stories in *Home Healthcare News* informed industry readers of the crackdown.

Even agency owners missed the media coverage must have encountered the news through other industry actors. Law firms that advise home care agencies posted cautionary updates on their websites and outlined the requirements of the paid sick leave law (Weitz and Hyderally 2021). And agencies that are part of the main industry trade group, the Home Care Association of New York State, could find the news in their email inboxes. One of the association’s main services is to inform members of regulatory changes; it dedicated space to the 2018 settlements

in its weekly newsletter, sent to nearly 400 member agencies and organizations (Home Care Association of New York State 2018).

Dense social networks within the home care industry make it even more likely that agency owners learned of the city's enforcement actions. When I asked one owner how he heard about the 2018 settlements, he said that one hears about such news simply because "[y]ou're in the industry. It's not a big industry. Everyone knows everybody. . . . [There are] eleven hundred home care agencies [in New York State]. It's not that many" (Agency Interview 16).[12]

Several interviewees also spoke about networks that existed among specialized managerial roles, not just among owners. When I asked one senior manager at a Staten Island agency how they learn about new regulations, they explained that they receive notices from offices like the Department of Health but that they often resort to their peers for clarification: "[In] the home care industry, there's kind of a little circle of information that people will share with each other. Like our director of patient services, our DPS, might share information with other DPSes in different agencies" (Agency Interview 1).

Canvassing home care agency storefronts around the city, one gets the impression that the social ties across agencies are indeed dense and that word gets around. This social proximity seems especially close in contexts of geographic and ethnic concentration. As I moved from one agency to the next, seeking participants, it was not uncommon for office staff to deflect my requests onto neighboring agencies: as one told me, "There's no one here who can help you, but you can try the agency down the street, under the train. They're my friends. They're Russian, too." To illustrate the geographic density of New York home care agencies, Figure 4.1 presents

[12] Suspecting that he might be exaggerating, I replied, "Eleven hundred sounds like a lot to me," but he insisted. "Eleven hundred owners is not that many owners." He seemed to mean that "everyone knows everyone" in the way that residents of a small town might generally know one another.

two areas in Brooklyn, each one square mile, where concentration is especially great. In Midwood, there are 31 home care agencies within one square mile. There are 36 in an area covering Sheepshead Bay and Brighton Beach, where home care is the most common occupation and agencies cater to a large and aging Russian-speaking population.[13]

Figure 4.1. Densely Concentrated Home Care Agencies in New York City Neighborhoods[14]

Midwood, Brooklyn:
31 agencies in one square mile

Sheepshead Bay and Brighton Beach,
Brooklyn: 36 agencies in one square mile

Awareness does not necessarily lead to action. While news of the city's enforcement initiative may have spread broadly, evidence of behavioral change is weaker. In considering this evidence, we can look to the empirical research on deterrence via publicizing legal violators, also known as "naming and shaming." In the sphere of labor standards, there is effectively only one such study: economist Matthew Johnson (2020) finds that, when the federal Occupational Safety

[13] Author's analysis of 2020 ACS 5-year sample (Ruggles et al. 2023).

[14] Source: author's compilation of data from NYS Department of Health (2023), mapped by Daya Johnson using QGIS. For a city-wide map of home care agencies, see Appendix C.

and Health Administration (OSHA) issues press releases and gets strategic media coverage just like New York City regulators did, violations significantly decrease at firms located within the same industry and local area as the publicized offender.[15] The effect size, estimated with regression discontinuity, is large: one press release deters as many violations as approximately 200 worksite inspections. However, Johnson's supplemental regression analysis reveals that the effect is only statistically significant in locales with relatively high union density, which he does not account for in his main models.[16] Interpreting this result, he suggests that non-investigated firms might improve their compliance to avoid OSHA complaints from unionized workers or from unions seeking to organize workers. This hypothesized mechanism is somewhat elaborate. A simpler pathway, which Johnson could not evaluate with available data, is that non-investigated agencies *hear* about investigations and, *fearing* that they could be next, comply with the law. Union presence perhaps ensures that firm managers both "hear" and "fear," especially because unions play a role in spreading information, requesting OSHA investigations, and facilitating safety enforcement more generally (Weil 1991; Weil and Pyles 2005).

Union density in New York City's home care industry is relatively high. In this context, however, unions would not ask the city to investigate unionized agencies for paid sick leave compliance; unions would handle such problems themselves. And among non-union agencies, there is little reason to believe that getting caught with paid sick leave violations would expose

[15] In 2009, OSHA launched a standardized practice of issuing press releases when violators were fined at least $40,000 (or, in some regions, $45,000). By contrast, the average OSHA inspection during Johnson's study period was approximately $4,600. Facilities whose fines exceeded the press-release cutoff point represented just 1 percent of total cases, reflecting OSHA's intention to publicize only the worst violators (Johnson 2020:1873, 1877).

[16] In a separate model, he finds a similar result: the effect size is only statistically significant in states that do not have "right-to-work" laws (Johnson 2020:1898).

them to unionization; nearly all the investigated agencies remain non-union.[17] Thus, to be deterred from future violations, a non-investigated agency must directly fear the prospect of a city probe.

Interviews suggest that the city's home care sweep may have produced some initial fear among the 659 non-investigated agencies but that any such fear was unlikely to endure. One interviewee, the director of a small nonprofit agency in the Bronx, affirmed this perspective. Trained as a nurse, she prided herself on providing quality care to clients and treating her employees well, but she regarded her peer agencies with some disdain. "I have 325 aides, and I know all of them personally. I'm always available. The other agencies—they're too big. It's all about the money. The directors don't know who their aides are. They never see them." She had heard about the paid sick leave settlements and was "not surprised." Did it change how her peer agencies operated? "They get scared for a little bit," she answered, "but they forget" (Agency Interview 7). Forgetfulness is a known issue in regulatory studies: as Robert Kagan and colleagues (2011) write in reviewing past research, "Amidst the cacophony of information and urgent demands that business managers receive, the deterrent messages sent by legal penalties often do not get through or soon drift out of consciousness."

While no interviewee directly admitted that they had been scared into compliance, we can reasonably expect that some of the targeted owners griped to their peers about the costs and headaches of getting caught, and that this word of mouth set off at least some ripples of concern. But respondents echo the point that such fears have dissipated. When asked about the paid sick leave sweep, one Brooklyn-based owner was dismissive: "That was minor. Nobody really looks

[17] Interviews and NLRB voluntary recognition data indicate that workers at one of the investigated agencies are now represented by Home Healthcare Workers of America, IUJAT Local 1660. That union, as noted in Chapter 3, has a reputation for signing sweetheart agreements with agencies.

at that [now]" (Agency Interview 16). Another candid assessment emerged in an exchange with a union staff member, interviewed in early 2022, shortly after the last settlements were announced (Union Interview 4):

> Q: Do you think that [the city initiative] had any broader impact on the industry in New York City?
>
> A: No.
>
> Q: And why doesn't something like that scare agencies?
>
> A: Because they weren't scared! They weren't scared. . . . They had to pay a fine, and they probably did the same shit again. I mean, I think what might have scared people is when [Attorney General] Tish James just fined these companies $19 million [for] not paying wage parity.
>
> Q: The recent ones, Amazing and Intergen?
>
> A: Yes. So that may have done it. . . . I don't know if they got more scared, because it just happened. That was the largest one. [But] they have a lot of money, so I guess as long as they're not in jail—[although] some of them *should* be in jail for Medicaid fraud.

These comments conflate deterrence among investigated and non-investigated agencies but are revealing nonetheless. The union respondent suspects that penalized agencies have likely repeated their offenses, and that criminal prosecution and imprisonment would be the most effective deterrents. Based on the foregoing analysis, I believe this respondent wrongly discounts the immediate—and possibly lasting—deterrence on investigated agencies, especially the smaller agencies burdened by costly investigations and fines. What seems more valuable in the respondent's answers is the general impression that little has changed in the home care industry and that the paid sick leave penalties available to the city are not severe enough. The large wage-related settlements negotiated with the attorney general and state DOL might have more power to deter, but even those may be inadequate.

Among agency respondents, the owner who asserted that "everybody knows everybody" offered the most thorough assessment of governmental enforcement efforts. Below, I refer to this

owner as Viktor and quote several passages from our interview given their detail and relevance. Few interviewees were as trusting or voluble, which meant that I could broach topics and ask follow-up questions that were often out of bounds in other conversations. Ultimately, Viktor's testimony is a striking example of how owners like him perceive government regulators as permissive, even after the city's unprecedented paid sick leave sweep and subsequent state-level cases. Attitudes like his illustrate why lasting deterrence is so unlikely among non-investigated agencies, and perhaps even among certain investigated agencies.

Viktor began with an anecdote about an agency that committed Medicaid fraud amounting to roughly $50 million dollars. He was scandalized as much by the government's response as by the crime:

> The state asked [the owner] to settle for $22 [million]. . . . I think they finally settled for $7.5 [million] and our district attorney or somebody came out with [a] communiqué that said, "Amazing, we recovered $7.5 million!" But the guy—they let him stay in business! He's doing great. He's doubled his business since then.

Viktor knew of another agency that had been shut down for "blatant, blatant fraud," billing Medicaid millions of dollars for services they had not provided. But the state had taken no such steps for violators of labor standards, even though wage theft in home care is often Medicaid fraud as well—illegally pocketing public dollars. He pondered the state's inaction:

> In this industry, for some bizarre reason, the government has been updating and making rules more strict and more strict and imposing criminal liability, but they haven't actually set any examples of "Don't do this." Not one agency has been shut down yet. Not one. . . . Not one [case] where they're like, "Hey, this is an agency that was running. They committed Medicaid fraud and labor law violations by not paying correctly. We're shutting them down." I think if that would happen once or twice, I think that would just stop everything.

That last assertion, which dovetails with the unionist's perspective, suggests what type of regulatory signal would be taken most seriously by agency owners. Moderate enforcement actions, like the city's settlements, send more muted signals.

Viktor claims that legal compliance is part of his business strategy, a way to avoid the costs and inconveniences of being investigated. Taking this claim at face value, at one point in our conversation I ask if he is frustrated by his peers' noncompliance. His reply unspools into a rant that further illustrates his perception of government lenience:

> I think [their compliance] is frustrating for everybody who wants to work in a normal way. But that's the nature of the business. . . . We personally don't know how to play these games [at our agency], so I found [it best] not to play these games. Some people are excellent at this, especially agencies that can settle and continue doing business—clearly it was worth it [for them]. You know, if they [Intergen and Amazing] settle for $18 million, my guess is they probably withheld something like $60–70 million in pay. Which means if they would have gone and robbed a hundred banks, they probably wouldn't have gotten the same amount of money . . . And not only get that kind of money, but stay in business? And probably they got a payment plan, too. I promise you. The government always gives you a payment plan. They never say, "Pay up," because what you say is, "I don't have anything." They say, "Okay, well, you can pay it out over the course of X amount of years." It's nice. Kind of like a loan, you know what I mean?

He ends with a laugh, amused by the guile of his competitors and the inefficacy of enforcement.

Why do regulators let noncompliant agencies continue to operate? Viktor suspected that the government's stance had a straightforward logic:

> Most of the time, the way the state approaches it, or the authorities, is very simple. They say, "Okay, [if] we shut this agency down, who's paying back the money that was owed? However, if we let them run, we take some money, great. We recovered something. We have something to show for what we [did]." So they kind of don't look at the big picture.

His analysis is not far off. While authorities might dispute aspects of this characterization, their own accounts, discussed below, echo the core tension that he identifies—specifically the drawbacks of closing a business or imposing stiff monetary penalties.

Explaining Weak Deterrence in Agency-Based Home Care

There are three main facets to the regulatory problem in agency-based home care. The first encompasses the pressures and opportunities to cheat, outlined in Chapter 2. The second is the difficulty of identifying violations in a sprawling industry where willful violators actively evade detection. The third is the inability or unwillingness of enforcers to sufficiently escalate sanctions against violators, as the above passages illustrate.

While there is much common sense involved here, scholars of responsive regulation provide a framework for considering sanctions in more depth. Building on economist Ian Ayres and sociologist John Braithwaite's touchstone work (1992), these researchers (Kagan et al. 2011; Gunningham 2010, 2011; van Erp 2011) posit that effective regulation is built on three premises. First, business compliance is not simply motivated by cost-benefit analysis; decisions about compliance are made *not* by one-dimensional rational actors but by humans also driven by norms, values, and social pressures. In every firm, these social and cultural factors interact with basic economic pressures in different ways. Amid this variation, firms can be sorted into types—for instance, regulatory laggards or scofflaws, reluctant compliers, committed compliers, and true believers. Empirical studies suggest a normal distribution, such that most firms are neither "recalcitrant 'bad apples'" nor "duty-bound 'good apples'" (Kagan et al. 2011). Most are generally inclined to comply and to accept the legitimacy of regulations, as long as the rules seem reasonable and seem evenly applied to competitors.

The second premise of responsive regulation is that regulators must be able to interact regularly enough with firms—whether by dialogue or inspection—to determine which firms are which types. The third is that regulators need to be able to respond to these different firm types appropriately using tactics ranging from most cooperative to most punitive. Overpenalize a

committed complier for a slip-up, and you risk losing legitimacy; underpenalize a scofflaw, and you risk emboldening them while wasting your efforts. Ayres and Braithwaite's (1992) heuristic in this regard is an "enforcement pyramid," with softer tactics like warnings and negotiations at the bottom, and punitive fines and incapacitation at the top.[18] Regulators need to escalate to the steepest sanctions against the scofflaws. And they need to issue overall sanctions with enough regularity both to remind the average firm to play by the rules, and to reassure them that they aren't suckers for complying—that they aren't wasting time and money on compliance while their competitors cheat (Gunningham 2011; Kagan et al. 2011).

Within New York's home care industry, we do not know whether agencies fall into a normal distribution along the spectrum of compliance inclination. But one clear contributor to weak deterrence is that regulators do not seem to know either. The scale of the industry, combined with limited resources, have prevented them from learning about their regulatees and tailoring strategies accordingly. To demonstrate this point, I turn to the first of three key excerpts from an interview I conducted with a former Department of Health (DOH) official who ran the state's Medicaid program (State Interview 2). Referring to agency-based home care, the former official explains:

> My perspective as Medicaid Director was [that] the industry's too big. . . . There are too many players. And we did not have a good handle on who the players were. And so if you have a smaller group of MLTCs [insurance plans] and a smaller group of LHCSAs [agencies], [you have] the ability to monitor, oversee, and hold accountable the people who are doing it wrong. . . . It becomes clearer who the good ones and the bad ones are . . . and you create more levers for accountability and cooperation.[19]
>
> [Currently] we've got 800 LHCSAs. . . . I can't name 10 LHCSAs, and I ran the Medicaid program. . . . There's just so many of them, and they all have basically the same name—AAA Home Care, Best Home Care, Affirm Home Care. . . . And so this market

[18] This approach transcends the often-invoked binary of "compliance versus deterrence" (or "persuade versus punish") (Gunningham 2011). In its flexibility, it combines features of the U.S. sanction-oriented model with the Franco-Latin model of cooperative "root-cause regulation" (Piore and Schrank 2018).

[19] MLTCs are managed long-term care plans; LHCSAs are licensed home care services agencies.

> is faceless and nameless. When you have a faceless and nameless market, the ability to cut corners or extract value with low risk of enforcement is very high.
>
> And so my perspective as Medicaid director was, we need to have fewer people with better levers of accountability that are scared of falling outside the line or doing the wrong thing. [Then] if you're an MLTC that's shortchanging the LHCSAs or playing hardball, or you're a LHCSA that's not paying your workers appropriately . . . [there's] real teeth and accountability not to cheat. And then you fix it. But that's impossible in the current environment.

This comment confirms the perceptions of agency owners like Viktor. The DOH feels overwhelmed and outmatched by the industry it regulates, making compliance and accountability elusive. Eight hundred agencies may seem like "not that many" to an agency owner—but that number seems much larger to the regulators responsible for monitoring, auditing, and investigating them.

Interview participants from city and state labor standards offices did not openly express the same concern about the industry's scale. But given that those offices must regulate *all* industries and not just home care, we can expect that they, too, do not yet have a full handle on the industry's players. Further, given the novelty of the city's labor standards office, it has had little sustained interaction with industry players. Its sweep of 42 agencies, for instance, yielded direct contact with only a small minority of firms. It will be difficult for regulators at all levels of government to calibrate their enforcement strategies until they accumulate more interactions with, and knowledge about, their targets.

In addition to this relational limitation, city and state regulators are either unable or unwilling to fully escalate sanctions. They are not deploying the top of the enforcement pyramid, namely incapacitation: suspending or shutting down a business. At the city level, regulators have no lever for taking such action against a home care agency. That power lies with the state DOH, which licenses home care agencies. So, in cases that involve only municipal paid sick leave violations, shutting down an agency through license suspension or revocation is not an option.

However, in cases that involve wage violations—or both wage and sick leave violations—the state DOH can, on paper, escalate to incapacitation.

Health officials seem to disregard that option for at least three reasons. First, DOH must ensure the delivery of authorized home care services to Medicaid recipients. The labor shortage in this industry makes that task difficult and leaves little room for any reduction in service providers' capacity. As a labor union official said in an interview, "There's not going to be a meaningful effort to shut down agencies that are in the process of providing a service for which there's scarcity" (Union Interview 5).

A second, related factor is legal liability. The former Medicaid director quoted above could not speak directly to the DOH decision-making process around license revocation, because that authority lies elsewhere in the department, outside of the Medicaid program. But our exchange helps explain why officials likely avoid shutting down agencies:

> Stripping a license is a really hard thing to do. Especially when it's the core of [a company's] being. Because if you strip someone's license, they will sue you, and so [you] have to be on very firm ground to do it. . . . It's a very difficult decision . . . because it's also disruptive, right? You're going to have to transition the home care aides to new agencies, you're going to have to transition the [clients] to new agencies.[20]

Not only would an agency sue the state, but so too might the care recipients and their families.

The third—and perhaps most fundamental—obstacle to license suspension and revocation is that DOH officials do not view *enforcement* as one of their main responsibilities, especially when it comes to worker issues. They think of themselves as rule-setters whose goal is

[20] Examining other industries, Fine and Gordon (2010:565) observe that government regulators are sometimes reluctant to use the most severe penalties available because doing so is resource intensive. They cite an example from the building trades in Los Angeles, where city regulators have the power to withhold contract payments and debar contractors, thus excluding them from future city contract bids. But those penalties are rarely used. Echoing my New York respondents, a city regulator tells Fine and Gordon, "The penalties actually assessed in the majority of cases are not severe enough to remove the incentive a contractor has to cheat." Another tells them, "Debarring more is what it would take [to raise compliance levels] . . . but debarment is much more time-consuming than other avenues, which has limited his department's use of that route."

to ensure that Medicaid recipients receive safe, high-quality services at a cost that the state can bear. Still, the Medicaid program plays a central role in implementing wage standards, including the minimum wage increases that the state has enacted in recent years. So, when interviewing the DOH official, I asked whether the department could do more to bolster labor standards compliance in the future. The participant responded:

> DOH is not an enforcement agency. We're a regulatory agency. We set the rules. We make the payments. We can administer some sanctions, but the real investigation and enforcement is Medicaid Fraud Control Unit and the Office of Medicaid Inspector General. . . . To some degree, yes, we help with investigations by guiding our proper colleagues in making the best case possible to recover money that's been misspent fraudulently. But we don't have an investigative apparatus within DOH, in Medicaid, to really go about enforcing those types of issues. I mean, we enforce other things like accurate encounter-data submission, or failure to file things timely, and those may attach to some monetary penalties prescribed by statute, but we're not an investigative agency.

This disposition is understandable. At the individual level, DOH officials are not trained as labor standards enforcers; they did not pursue careers in the health department out of a commitment to workers' rights. And at the organizational level, historically DOH has not been expected or equipped to enforce labor standards. The same applies to the other entities that the interviewee cites: the Office of the Medicaid Inspector General (within DOH) and Medicaid Fraud Control Unit (within the attorney general's office) do not see themselves in the business of worker protection either; they are more preoccupied with fraudulent billing than with labor standards. However, these individual and organizational dispositions create a regulatory misalignment: the sanctioning power needed by proper labor standards enforcers is held by officials who will not use it. As long as the authority to revoke home care licenses rests only with DOH, labor standards violators will not face a serious threat of forced closure.

Unable to fully escalate pressure against home care agencies, city and state labor standards enforcers are left with monetary penalties as their main sanctioning tool. Here too,

however, officials are reluctant to use the powers available to them. The most illuminating data in this regard comes from an interview with a former state Department of Labor official, which is worth quoting at length. The official lays out the strategic maze involved in trying to deter violations, not only in home care but across industries.

> We basically have the most severe monetary penalties of any state. We have liquidated penalties of 100 percent, we have civil penalties up to 200 percent, we have 16 percent interest. I mean, the bill can get triple and quadruple pretty easily. [But] more was not always better. At all.

He explains why state regulators often settle with violators for less than what the law allows—precisely the approach that leads owners to perceive enforcement as weak:

> The only time workers ever got paid was when we made a deal with employers to give us cash so we could give it to workers. If they fought the case and they went to [appeals], first of all, it was possible that they would win. And the second thing was, even if DOL won, we had no resources, no personnel, to convert those judgments into cash. People went out of business. People moved money around.

This pattern has persisted despite New York State's strong wage theft penalties, which were legislated as part of the 2011 Wage Theft Prevention Act, a bill championed by Make the Road New York and other worker advocates. The DOL official elaborates:

> When the Wage Theft Prevention Act and all the really great worker-protection laws came around . . . the advocates thought—and I agreed—this is a hammer, and people are going to want to avoid being hammered by this. But all it did was force people into very lengthy litigation with the Department of Labor. And so workers were then waiting a long time for that process to take its place, to run its course. And then if the employer ended up losing at the end of that very long period, assuming we could still find the workers. . . . All that stuff would have to line up.

In this way, the threat of monetary penalties is a weak deterrence tool if employers can wiggle out of paying. Over time, the official, and DOL more broadly, had to confront this inefficacy. The respondent recounts their reasoning:

> I asked myself a terrible question, which was, is it worth switching our focus to get less than the law allows for these workers who have been harmed, but cash in hand? As opposed to getting everything I could possibly get, but it's likely it only exists on a piece

> of paper? And so I didn't make the decision myself. I just asked workers. Tons of workers. Every single worker that came into the office—I asked that question. And we had all the investigators ask the question. . . . "What do you want us to do?" And they [the workers] were like, "I hate the fact that I'm not getting what I'm owed . . . but I'll take three years [of back pay] and 50 percent liquidated damages over six years [of back pay] and 100 percent liquidated damages if I actually get the money and I get it soon." And we switched the whole way that we did things. And we went from getting $18 million a year to $35 million a year, every year. That's a big difference.

By reducing the penalties on employers, the state DOL became more successful in recouping stolen wages for workers.

This strategic pivot, however, raises a question, which I posed to the official: What happens to deterrence in this new approach? The response:

> So, I gave up deterrence in exchange for cash. Because I thought it was in the workers' best interest. I didn't think we were going to achieve deterrence by imposing these huge costs, because I didn't think the costs would ever actually get paid. And when I reviewed the files, the history was clear that that money was never getting paid, so it wasn't a deterrent in the first place. So I really wasn't giving anything up.

Before the pivot, monetary penalties were the only major deterrence tool that DOL had used; it was in this sense that the official "gave up on deterrence." However, they recognized that deterrence in general remained an important goal, so they searched for alternative tools that would be more effective. The official became particularly interested in criminal prosecutions and license revocation, which required collaboration with other government agencies. DOL launched two strategic programs to build those collaborations, but neither became fully operational during the official's tenure at the agency. The official reflected on the two initiatives:

> They always required daily nursing by DOL leadership in order to keep them going. But I thought if we could arrest, you know, 40 or 50 average-Joe business owners a year for wage theft, that that would have a much bigger deterrent effect than 200 percent civil penalties. We never got there, though. I think we arrested maybe 20 people one year . . . mostly in construction.

Such arrests emerge from partnership between the DOL and either the state attorney general or local district attorneys. License revocation, meanwhile, requires DOL to partner with whatever

state agency grants licenses for a specific industry; nail salons, for instance, are licensed by the New York Department of State, and became the target of joint deterrence efforts in 2015. In the home care industry, such action would require DOH involvement. But for the reasons discussed earlier, that partnership has been more elusive—"we never got that far with them," according to the DOL official.[21]

More recently, DOH has independently contemplated more subtle ways to use its licensing powers to reduce Medicaid fraud—not by singling out agencies to shutter, but rather by requiring that all agencies reapply for approval to serve Medicaid cases and by considering past wage and hour violations when screening applicants. In this way, the state Medicaid program could potentially filter out regulatory laggards and scofflaws. However, this proposed selection process ran into bureaucratic hurdles and had not been implemented as of mid-2022, according to the former DOH official. The department has developed a similar reapplication process for a subset of agencies that participate in the Medicaid consumer-directed home care program, which has its own screening mechanism. Applicants with histories of fraud would be denied reapproval. It is unclear, however, how fully these standards are being implemented and how many agencies will be evaluated. At the time of our interview in fall 2022, the owner Viktor attested that some of his peer agencies had received tentative reapproval despite past fraud settlements. He challenged regulators to do better:

> I really want to see—are they going to actually finally put their foot down and say, "You know what? You have been under a fraud investigation. We have settled with you in the past. So you're not allowed to contract [with Medicaid]." [We're] talking about leniency with respect to violations, so it's a big deal.

[21] Progress on both deterrence programs was disrupted by the COVID-19 pandemic and subsequent changes in DOL leadership. Current officials did not respond to multiple interview requests.

Even if DOH leverages more of its licensing or contracting power to improve compliance, the state DOL and city labor standards office will lack the full range of tools needed for their own enforcement projects. Collectively, these regulators will also continue to swim upstream against the home care industry's pressures and opportunities to cheat.

Such is the context that a new regulatory entity confronts when embarking on enforcement in agency-based home care. Thus, while the present study cannot fully assess the impacts of the city's Office of Labor Policy and Standards and its paid sick leave sweep, the interview data offer scant evidence of industry-wide change. To achieve large-scale compliance, local and state regulators must chip away at employers' perceptions of lax enforcement created by past and present governmental practices. And they must address the industry's structural features that undergird noncompliance. Only by doing so can they "build and sustain a culture of commitment to regulatory norms" (Kagan et al. 2011) and improve conditions for the formal home care workforce.

Analysis of Domestic Work

However flawed, the structure of the agency-based home care industry allowed the city's labor standards office to conduct a proactive enforcement campaign that produced at least some discernible impacts on compliance. By contrast, the structure of domestic work, paired with legal and resource constraints, has severely limited any comparable efforts. During their first six years of existence, the labor standards office and Paid Care Division opened their doors to individual domestic workers and their complaints, disseminated know-your-rights materials, and held workshops and convenings. They partnered with worker advocates to develop strategies and hold themselves accountable to workers. But they were unable to launch any initiative aimed at

uncovering or deterring violations at a large scale. Only at the end of 2022 did city officials unveil a new domestic worker "mediation program," a promising tool for identifying and resolving more domestic worker complaints—but one unlikely to spark industry-wide change.

The lack of a defined strategic intervention, even in the presence of supportive politicians and administrative leaders, highlights the barriers to domestic worker rights enforcement. It also makes for a less clear object of study than the home care industry sweep. Nevertheless, the city's active engagement around domestic work is as an analyzable intervention in its own right, one that encompasses the case work, public outreach, and civil society collaboration pursued by the local labor standards office and its Paid Care Division. To understand the effects of this intervention, I rely on 20 interviews with key players and experts: a city council staff member who drafted legislation to create the Paid Care Division; six current and former staff members of the city's labor standards office and Paid Care Division; two state and federal labor officials with experience around domestic work; four researchers who have studied the labor standards office and its counterparts in other cities; and eight worker center leaders who have collaborated with the city to enforce domestic worker rights. Most interviews were conducted in 2022; three were conducted in 2018 and 2019. Participants were asked to describe the office's activities in relation to domestic work; the perceived impacts of those activities; and the opportunities and challenges involved in such efforts. To supplement the interview data, I use information from city reports and written requests.

Direct Impacts on Domestic Employers and Workers

As with agency-based home care, the city can currently enforce its paid sick leave law in domestic work, but not state-level wage and hour laws. The volume of these direct enforcement activities has been minimal. From 2017 through 2021, the labor standards office has received

less than a dozen domestic worker complaints (out of 1,500 complaints across all industries), opened seven investigations, and announced two settlement agreements.[22] Based on my survey data, this low volume means that most paid sick leave violations go unaddressed; 10 percent of the surveyed domestic workers in New York City report that they have been explicitly denied paid sick leave requests, so it is likely that at least several thousand violations have not resulted in formal complaints. This pattern conforms with past research on wage and hour violations, which consistently finds a chasm between high violation rates and low complaint rates in domestic work across the country (Barnes et al. 2021; Galvin et al. 2020; Weil and Pyles 2005).

Although interview respondents acknowledge that the enforcement figures are low, none see this as a failing of the labor standards office or Paid Care Division. Instead, they believe that city enforcers are making a valuable contribution to a long-term project, even if results are slow to appear and other changes to policy and culture will be necessary. Further, researchers I interviewed note that New York City is not unique in struggling to bring in domestic worker cases. In other cities and states, no labor standards enforcement agency has found a way to make large-scale progress with domestic worker cases (Researcher Interviews 3 and 4). Even Seattle, which has exceptionally strong domestic worker protections and has invested the most resources per capita into enforcement, has seen little change as measured by enforcement data. From mid-2018 through the end of 2022, Seattle's Office of Labor Standards filed only two investigations

[22] These figures are based on multiple sources: "total complaints" (NYC Department of Consumer and Worker Protection 2022c:23); "domestic worker complaints" (City Interview 3); "investigations" (NGO Interview 3); "settlements agreements" (NYC Department of Consumer and Worker Protection 2022a). In addition to the two publicly announced settlements, a 2018 report by the Department of Consumer Affairs states that it "successfully secured $10,500 in restitution for care workers in three separate PSL [paid sick leave] cases concerning household employees directly employed by individual households" (NYC Department of Consumer Affairs 2018b:37). The timing and details of those cases are not disclosed.

and resolved one.[23] While they may find some solace in such comparisons, New York advocates and enforcers nevertheless express disappointment in their inability to break from this pattern. But they know that they are up against immense historical and social obstacles.

Still, regardless of respondent attitudes, it is conceivable that governmental interventions have affected employer compliance in a way that is not captured by official data on complaints and investigations. In other words, even though few workers have come forward to assert their rights, it may be the case that more domestic employers are complying with labor standards after, for example, seeing the city's paid sick leave ads on the subway or a post about Paid Care Division materials in a Facebook group for new parents.

A few interview anecdotes hint at such possibilities. One former city staff member recalled that the labor standards office and Paid Care Division sometimes received emails from domestic employers asking about their obligations to nannies or housecleaners, which she took as a sign of some wider impact on compliance (City Interview 3). A worker-center organizer, interviewed in 2018, believed that paid sick leave compliance was improving, based on what she heard from the 30 to 50 domestic worker members who participated in monthly meetings. As for a broader assessment of the city's efforts, she said it would be "best to wait and see in a couple of years—how far we can push them, and what they can do." I interviewed the organizer again in 2022, a little over a year after she had left her role at the worker center. Reflecting on its impacts between 2018 and 2021, the organizer thought that the labor standards office had continued to positively affect paid sick leave compliance, including by advocating to strengthen the law. "They were very involved in really pushing for the [2021] paid sick leave expansion. . . . Even

[23] In addition to investigations, the City of Seattle has received 25 worker inquiries about the city's Domestic Worker Ordinance. Case data is from the city's data dashboard, current as of January 2022 (Seattle Office of Labor Standards 2022).

before that we were doing [joint] convenings within all boroughs, trying to talk to members about paid sick leave. So I think it is making impact. It's really good to have that agency" (NGO Interviews 2 and 6).

In addition to potential effects on employer compliance, official complaint data might also fail to capture changes in workers' awareness of their rights. Worker outreach and education have been core activities of the Paid Care Division, reaching thousands of domestic workers over the past six years. During the first year, 2017, the Paid Care Division made its debut with three large convenings in Queens, Brooklyn, and Manhattan. The division collaborated with numerous city agencies and worker organizations, which turned out their members en masse. Approximately 500 nannies, housecleaners, and home care aides participated. They learned about their rights as both workers and immigrants, heard about the new division and how it could help, and developed priorities for future initiatives (NYC Department of Consumer Affairs 2018b). One convening also trained workers in interviewing and negotiating with domestic employers, a delicate task but crucial for prompting compliance at the start of a job (NGO Interviews 1 and 2). Beyond the convenings, the Paid Care Division reported nearly 250 other outreach events—like flyering outside subways—that reached over 7,000 workers in 2017.[24] Outreach continued apace in subsequent years, with open houses at major public library branches, targeted conversations with nannies at playgrounds, and, during the pandemic, webinars and other virtual events (NYC Department of Consumer Affairs 2019:31; NYC Department of Consumer and Worker Protection 2020b:18, 2021:36, 2022c:32).

[24] These figures include outreach to agency-based home care aides, so they overestimate the number of privately hired domestic workers reached.

This domestic worker outreach built upon the city's broader paid sick leave awareness campaign that blanketed subways, buses, newspapers, and airwaves in 2014 and 2015 and intermittently thereafter. In its first phase in 2014, English and Spanish ads ran on "1,000 subway cars and 1,000 buses, as well as on bus shelters and phone kiosks" (NYC Office of the Mayor 2014). The city also organized a mass outreach day, with 1,400 volunteers distributing "more than 350,000 paid sick leave brochures in eight languages at 150 subway stations across the five boroughs" (NYC Department of Consumer and Worker Protection 2023b). According to other researchers, the city's willingness to devise campaigns like this have set New York apart from its progressive peers. The Department of Consumer and Worker Protection has not only publicized paid sick leave but also *itself,* to ensure that workers know it exists as a resource for them. In an interview, sociologist Hana Shepherd explains that one notable trait of New York's labor standards enforcers is that, despite or perhaps because of their constraints, "they have a lot of creative energy and out-of-the-box thinking. Their media campaign—advertising the office—was light-years ahead of anywhere else" (Interview, 2022).

Paired with the Paid Care Division's targeted outreach, these awareness campaigns raise the likelihood that domestic workers know about their paid sick leave rights and government recourse available to them. One can hypothesize that this awareness could translate into a reduction in violations: if even a few hundred domestic workers were reached by the city's paid sick leave outreach and now ask to use such leave and receive it, that could mean a modest shift in violation rates.

We lack such data. But what we do know is that many surveyed domestic workers report awareness of both paid sick leave and relevant city agencies. Approximately 53 percent of domestic worker respondents I surveyed in 2019 had heard of the city's paid sick leave law,

roughly consistent with the Community Service Society's findings about low-income workers across New York City's low-wage industries (Lew and Torres 2021). The rate among domestic workers in New York is slightly higher than among domestic workers surveyed in other cities in this dissertation, where paid sick leave awareness hovers between 40 and 45 percent. Moreover, in New York, 32 percent of domestic workers say they had heard that the city has an agency for protecting workers' rights—second only to San Francisco (36 percent), which established its labor standards office 15 years earlier, in 2001.[25] It is conceivable that these figures reflect unobserved changes in overall paid sick leave compliance among New York City households.

Obstacles to Direct Impact in Domestic Work

Although the city's outreach efforts to date may have yielded unmeasured reductions in paid sick leave violations, interviewees conclude from their own experience and from the low complaint and case volume that local enforcers have hardly "moved the needle" in terms of industry compliance.[26] Interviewees cite three main challenges.

First is the structure of domestic work, outlined in Chapter 1: isolation from other workers and institutions; fear among a workforce of largely undocumented immigrants; the failure of domestic employers to view themselves as real employers subject to legal obligations, rooted in cultural norms and a history of under-regulation; the inability of regulators to conduct surprise inspections and of workers to file anonymous complaints, unlike in congregate workplaces; and the high level of dependence on employer recommendations compared to other

[25] For further comparison, 49 percent of New York City domestic worker respondents report that they have heard of the state DOL, which has existed for much longer and which, in addition to wage and hour enforcement, oversees the widely known unemployment insurance program.

[26] Participants used the specific phrase "moved the needle" in City Interviews 1 and 5, but the assessment of limited progress was a consensus across interviews.

low-wage workers, especially among nannies. Transposed into Ayres and Braithwaite's (1992) "response regulation" model, the industry's most basic challenge is invisibility: except in rare cases when workers come forward with complaints, regulators have no way to know which of the city's 3.2 million households employ domestic workers. And if they could know, the volume would be overwhelming. The notion of having repeat interactions with an employer, learning about their compliance style, and responding with the right tactics from the "enforcement pyramid" is mostly irrelevant.

Second, the state's preemption of wage and hour regulation hinders the city's ability to address domestic workers' concerns, which, to workers, can limit the appeal of the city as an avenue of redress. As a former lawyer for the labor standards office observes, "The issues that workers really care the most about—which are getting paid the minimum wage and overtime, and getting paid the wages that they're due—are out of the direct control of the City" (City Interview 1). Until the COVID-19 pandemic, paid sick leave violations often had less financial impact on a worker than, for example, consistent underpayment for months or years (City Interview 5). A worker out for a week with a flu might lose $500—not a small amount, but would it be worth filing a complaint at the risk of getting fired, blacklisted, threatened with deportation? Organizers mention that during the pandemic, paid sick leave took on more significance, as domestic workers faced longer illnesses, more brazen denials of paid and unpaid leave, and overall worse treatment by employers (NGO Interviews 3 and 8). These conditions led to a surge of participation in the New York chapter of the National Domestic Workers Alliance and even a small uptick in worker complaints at the Paid Care Division (City Interview 6).[27] But

[27] According to NDWA staff (NGO Interview 8), the number of domestic workers in their New York State contact database quadrupled during the pandemic, which was an unprecedented growth rate. Their online membership

the city's narrow jurisdiction over domestic worker employment standards remains an obstacle, as in agency-based home care.[28]

Finally, the city's labor standards office and Paid Care Division have shared the plight of many public institutions: resource deficits. Despite the impressive outreach campaigns, interviewees agree that, as another former staff member expressed, "it's not funded to the level that it needs to be funded in order to do all the work that needs to be done" (City Interview 5). Former Paid Care Division staff report that hiring and budget freezes during the Trump administration between 2017 and 2020 made it especially hard to operate. Even with a supportive mayor and city council, federal funding cuts to New York State and New York City resulted in an ethos of "make it work with the budget you have" (City Interview 3). Staffing levels dropped further with the pandemic's onset in 2020, before returning to pre-pandemic levels in 2021 (NYC Department of Consumer and Worker Protection 2022c).

Other cities also faced budgetary issues, but New York has invested comparatively fewer resources into its labor standards office, leaving both bureaucrats and advocates frustrated (NGO Interview 8; Salas 2020). Systematic cross-city data on per capita funding for labor standards enforcement does not exist, but funding levels in New York City are much lower than in some of its counterparts. In 2020, for instance, New York City's labor standards office had a budget of around $1.5–2 million, while San Francisco's had a budget of about $8.5 million, despite that city's vastly smaller population (Fine and Shepherd 2022:26). Data on staffing levels is more

meetings also regularly drew between 200 and 300 participants, up from a few dozen at their monthly chapter meetings before the pandemic. And the number of cases handled by their legal clinic roughly doubled.

[28] Leading up to New York State's 2023 legislative session, the city comptroller's office worked with allies and state representatives to propose a reform that would empower city offices to enforce the state's wage and hour laws, though not modify them. The proposal did not pass during the 2023 session but could transform the city's enforcement landscape in the future (NGO Interview 9).

readily available and indicates that New York City ranks low among localities with labor standards offices. As of 2023, New York City's enforcement agency has approximately 0.5 staff members per 100,000 residents, which is more than Chicago (0.2), similar to Philadelphia (0.6), and less than the City of Los Angeles (1.2), Minneapolis (1.2), San Francisco (3.8), Denver (4.6), and Seattle (4.9).[29] With fewer resources, New York City's office lacks a staff team designated only for outreach, and, until 2023, had no funding to contract with community-based organizations to deepen outreach and intake as peer cities have done (Researcher Interview 4). Current staff members, however, are encouraged by funding improvements for paid care work secured from the new mayoral administration, which will cover two new attorneys, two new investigators, and additional outreach (City Interview 6). For the 2023 budget year, the city council also approved a $300,000 initiative to strengthen outreach to domestic workers and employers and educate them about domestic worker rights.[30]

Organizational Impacts

More money and broader jurisdiction may help enforcers "move the needle" in boosting compliance, but only to a point. My interviewees repeatedly voiced strategic bafflement in the face of the industry's structural features: nearly 50 years after the federal DOL began enforcing wage and hour laws in domestic work, there remain no obvious governmental strategies for uncovering, remedying, and deterring violations in a way that meets the scale of the compliance problem in this industry. This strategy gap vexes not only local enforcers, but also state and federal officials who have the jurisdictional latitude that New York City lacks.

[29] My calculations based on data provided to me by the Workplace Justice Lab at Rutgers University, August 2023.

[30] National Domestic Workers Alliance staff, email message to author, November 10, 2022.

Yet respondents see New York City's labor standards office and Paid Care Division as valuable interventions precisely because they have generated multiple forces—actors, arenas, interactions, and relations—geared toward the search for effective strategies. These forces, in turn, have produced intermediate outcomes that can be understood as "organizational impacts," referring not to the direct conditions of employment but rather to the institutional features that can potentially shape employment conditions. Three main organizational impacts stand out: expanded enforcement capacity; willingness to prioritize domestic work; and sustained strategic creativity. I discuss each in the subsections below, first describing an existing hurdle in domestic worker rights enforcement, then detailing how a given organizational impact addresses that problem.

1. Expanded enforcement capacity

Before the creation of the Office of Labor Policy and Standards in 2016, worker advocates had pressed for such an office not only because new local laws like paid sick leave needed enforcement but also because the state DOL was so incapacitated. One respondent involved in the labor standards office's founding explains, "There are many more workers who are experiencing violations than the New York State DOL will ever reach" (City Interview 1). Or, as the former DOL official quoted earlier laments, "The agency is already completely backed up. It's underwater most of the time" (State Interview 1). As with the federal DOL, New York DOL budgets suffered in the 1980s and 1990s and saw deeper cuts during the 2007–2009 Great Recession (NGO Interview 11).

In the late 2000s, advocates were nevertheless hopeful, as governor Eliot Spitzer had built a strong track record on workers' rights enforcement in his prior role as attorney general and had brought those commitments to his state DOL, which was poised to implement the Wage

Theft Prevention Act that advocates had passed in the legislature. Then, as one interview participant detailed, state-level progress stalled. After Spitzer fell to scandal and Andrew Cuomo became governor in 2010, Cuomo "basically just brought it [all] to a screeching halt. . . . And just a horrific backlog and terrible practices ensued" (NGO Interview 11). Instead of restaffing the DOL after the recession, Cuomo opted for austerity and undermined the department's flow of cases; he had previously done the same during his own tenure as attorney general, abandoning Spitzer's approach and instead "controlling and clamping down and stopping enforcement" (NGO Interview 11).[31] With Cuomo as governor, advocates campaigned to increase DOL's budget so that it could double its number of investigators from approximately 120 to 240, but they were thwarted. "His whole statement was, 'Nothing's wrong with the DOL, and the existing budget is sufficient for their work,'" recalled a worker rights attorney with expertise in domestic work cases. "What you'll hear from the Worker Protection division at DOL is that, even though they cannot publicly contradict the governor, 'We can't do our job effectively because we don't have enough investigators'" (NGO Interview 3).

The slowdown in domestic worker rights enforcement was acute. After winning passage of the 2010 Domestic Workers' Bill of Rights at the state level, advocates needed to send worker complaints to the state DOL to leverage new standards for wages, rest days, and recordkeeping (Goldberg 2014). They did so, facilitating an average of 70 complaints annually between 2010 and 2015 (Marron 2016). But DOL's backlog rendered the agency ineffective as a venue for

[31] When asked whether there were moments during the Cuomo administration when DOL became more hands-on, one worker advocate answered: "Oh, all kinds of those moments. Nail salons, and then right after the nail salon article in the *New York Times*, he launched the Low-Wage Worker Task Force, which he named me to and a bunch of other people to, and it was a complete meaningless surface-level [stuff], like all the things that he did. . . . They would just do a really surface-level thing, he would put out a press release, and that would be over. So he was the master at claiming the headline, pretending to take action, and doing something really meaningless to sort of take the pressure off."

enforcement. While some cases could be closed quickly if a domestic employer acceded to a worker's initial claim, many dragged on for years, much like the DOL official described in the prior section. The worker rights attorney was more specific, outlining a typical timeline upon filing a case: one year before DOL had capacity to open the case, one year for investigating it, and another year to resolve it—at best three years. But employers would often refuse to settle, leading DOL to issue an order or determination, which in turn had to be docketed in state court to enter an enforceable judgment—another year, or even longer if an employer appealed. If the judgment remained unpaid, the case would be referred to collections, which could take yet another few years. The life cycle of a DOL complaint could easily reach seven years (NGO Interview 3).[32]

For domestic workers, the endeavor seemed endless. A staff member at the National Domestic Worker Alliance reflects on the frustration: "When workers don't get answers and they feel like they've shared all this stuff [about their cases], they get really demoralized. So . . . I was evaluating all the time, is this even worth it? Is this making it harder to organize workers? And so, a lot of our affiliates at that point didn't go to the DOL. They were like, 'Usually our cases disappear in a black hole, and it's not good for our organizing'" (NGO Interview 1). Thus, even though the former DOL official reduced employer penalties to help workers get their money, the overall claims process often proved too daunting. As the next chapter explains, this "black hole" has generally led New York worker centers and their legal partners to tackle wage and hour violations through private action and lawsuits instead of public enforcement channels.

[32] Domestic worker organizations in California have experienced a similar problem of excessively lengthy cases (NGO Interview 10). But years-long cases are common across low-wage industries and are not unique to domestic work (Gleeson 2016).

Against this state-level backdrop, a worker-friendly agency in the city brought a welcome change in governmental enforcement capacity, even if, for now, it cannot process wage and hour complaints. Interviews suggest that this expanded capacity matters in two ways.

First, city enforcement of paid sick leave helps pull domestic work into the realm of government regulation and oversight, a necessary step toward establishing new expectations and norms among both workers and employers. In its efforts, the city declares that there are rules to be followed, rights to be claimed. The presence of the local labor standards office also means that a new actor has entered the industry, with authority and at least some resources to intervene; employers can get in trouble for breaking the rules.

Second, the labor standards office and Paid Care Division relieve worker advocates from carrying the burden of outreach and public education alone. Before 2017, nonprofit organizations were the main players educating domestic workers about their rights and encouraging them to file complaints for violations; the federal and state labor departments did not conduct outreach to these workers or their employers. One worker organizer flagged this problem in 2016 when testifying in support of the legislation that created the Paid Care Division: "Information . . . on rights and responsibilities can be hard to come by. Public education has been limited, and at this stage falls largely on community-based organizations like those in the New York Domestic Workers Coalition, which have limited resources and are unable to sustain and scale their efforts alone" (Julien 2016). The labor standards office and Paid Care Division have partly alleviated this concern and have compensated for the lack of state and federal outreach; the city's pamphlets and trainings address not only paid sick leave but also the range of domestic worker rights across jurisdictions.

The establishment of the labor standards office and Paid Care Division created opportunities for governmental enforcement capacity to expand even further. They serve as both budget lines than can receive funding for domestic worker rights enforcement and actors that can pursue more funding for themselves, as they recently did by applying for special program funds from the mayor's office (City Interview 6). In addition, as the worker-center organizer noted earlier in this chapter, the labor standards office advocated within government to equalize domestic worker paid sick leave protections with those of other workers, a successful move that has streamlined outreach messaging and, by extension, enforcement efforts overall. The potential for city enforcers to bulk up their own capacities—observed by other researchers as well (Shepherd and Fine, forthcoming)—is also clear in the current push to gain wage and hour enforcement powers for the city (NGO Interview 9).

The drive to expand the city's labor enforcement capacity, in domestic work and beyond, has been fueled by advocates outside of government, worker-friendly council members, and a progressive city comptroller—but also by the individuals within the agency itself. Ultimately, at a micro level, the creation of that labor standards office and Paid Care Division inserted dozens of individuals into local government whose sole concern is worker protection: in the eyes of Terri Gerstein, a former state DOL deputy commissioner and Attorney General Labor Bureau chief, "[Now] there's someone who goes to work every day thinking, 'How do I use the city's powers to empower workers or protect their rights?'" (Gerstein 2022).

In New York, that "someone" has often been solidly pro-worker, which is not always the case with local labor standards agencies in other cities. According to Shepherd and Fine (forthcoming),

> Distinct from all the other offices, the public and internal representation of the New York City [Office of Labor Policy and Standards] is unequivocal: they go beyond the general

> worker-focused orientation of San Francisco or Seattle and declare explicitly that they are "a dedicated voice in City government for workers" and "NYC's central resource for workers."

This pro-worker stance was absent from the initial enforcement of paid sick leave, when the Department of Consumer Affairs bowed to small business owners and took a conciliatory approach (Fine and Shepherd 2022:24). But by 2016, new leadership sparked a shift: the Commissioner of Consumer and Worker Protection was now Lorelei Salas, who had previously served as Make the Road New York's legal director and as state DOL Acting Deputy Commissioner for Worker Protection. After first immigrating to the United States, she had also worked as a nanny for four years—an experience that, she says, anchored her commitment to domestic worker rights enforcement (Salas 2020). Liz Vladeck, then head of the labor standards office, had worked as counsel for UNITE HERE, Workers United, and the Change to Win Federation.

Together, according to Shepherd, the two leaders embraced an attitude of "We're going to hire advocates—we're not going to hire just anyone off the street who passes the civil service test" (Interview, 2022). They followed through, hiring lawyers and investigators with pro-labor backgrounds. One such lawyer recalled of their time at the labor standards office and the Paid Care Division, "It really felt like I was a movement lawyer embedded in government . . . just taking a lot of cues from the worker organizers and figuring out how to navigate the bureaucracy in order to achieve whatever goals the worker groups were trying to achieve" (City Interview 5). Leaders also hired a community engagement director who had been a worker-center organizer and brought that grassroots orientation to the city agency: "My bottom line was accountability to worker centers" (City Interview 4). It is not unusual for labor offices to feel accountable to worker organizations, but typically that accountability is directed toward more politically

powerful players, such as unions in the building trades. Worker centers like those in New York's domestic worker coalition tend to have much less clout; unlike unions, they do not fund political campaigns or mobilize large voting blocs. Thus, the labor standards office exhibited a unique commitment to worker centers, one seemingly driven by moral values rather than political motives.[33]

The city's pro-worker posture and staff composition filled another gap left by the state DOL. Although worker centers found reliable allies in DOL leadership positions, the staff investigators they encountered often embraced an unrealistic ideal of "neutrality" when dealing with a worker's complaint against an employer. Staff at the National Domestic Worker Alliance saw this stance as misguided and restricting:

> DOL really trains up investigators as law enforcers, almost akin to police officers. [So] a lot of them may strive to be what they feel as neutral [and to not] seem like they're shortchanging employers' point of view. But in a context where power is always tilted towards the employer . . . they may not see that or understand it. . . . A lot of investigators work hard at their jobs, but they're not necessarily passionate about workers' rights or passionate about employment relations, so they might not necessarily want to go deep into this stuff. (NGO Interview 1)

Thus, the city's labor standards office has built capacity for governmental enforcement not only through a new institutional presence and new staff and resources, but also through personnel who immerse themselves in the project of worker protection and empowerment.

[33] The ability of New York City's labor office to hire organizers and advocates also demonstrates the importance of bureaucratic flexibility that other cities sometimes lack. In Los Angeles, for instance, the labor standards office must hire through to the city's civil service system, which means that the individuals available for hire rarely have professional backgrounds in workers' rights or labor organizing (Shepherd and Fine, forthcoming).

2. Willingness to prioritize domestic work

Across contexts, labor standards enforcers must decide how to allocate finite resources. Historically, they have rarely prioritized domestic work, as demonstrated by the federal DOL official quoted in Chapter 1 ("We don't really break our backs on cases that involve only one individual," he told the *New York Times* in 1975). The federal and state officials I interviewed in 2022 displayed no such dismissiveness and, rather, have track records of taking the industry seriously. But the basic resource problem has not changed. Labor enforcement agencies are reluctant to prioritize domestic worker cases because they tend to be so small—a single workplace with only one or two workers, and little payoff in terms of monetary yield, public relations, and political capital. New York City's labor standards office and Paid Care Division have been willing to buck this calculus under certain conditions.

Officials who lack domestic work enforcement experience sometimes assert that such cases are resource-intensive or constitutionally risky because they require going into private homes (Researcher Interview 4). However, investigations of unpaid wages and sick leave do not, in fact, require home visits, which saves significant staff time and avoids privacy concerns. Domestic employers and workers can instead respond to investigator inquiries by mail or by visiting city offices; meetings between relevant parties and investigators can also happen at city offices. Furthermore, according to a National Domestic Workers Alliance analysis, "Many complaints filed by domestic workers are for unpaid wages at the end of a job, which is a relatively simple matter to investigate and resolve. DOL staff shared this assessment with the National Domestic Workers Alliance in an advocate meeting in January 2016" (Marron 2016). It may indeed be true that domestic worker cases are often straightforward for government

agencies to investigate, but that does not mean that regulators tend to see such cases as worth their while.

Specifically, government agencies must justify their expenses to elected officials—mayors, governors, comptrollers, legislatures—in the language of numbers and metrics. Domestic work investigations, however, do not translate well into that language. For example, in 2022, New York City's labor standards office reached a $20 million settlement with the fast-food chain Chipotle for violating the city's fair scheduling and paid sick leave laws (Scheiber 2022). The settlement affected 13,000 employees. By contrast, to date, the city's largest paid sick leave settlement with a domestic employer amounted to $19,000 and affected one worker (NYC Department of Consumer and Worker Protection 2022a). Successful domestic worker investigations are dramatically smaller in scale than those involving large companies.

Agency leaders who care about enforcement for enforcement's sake might value domestic worker cases apart from their political and budgetary worth. Yet such leaders still may not prioritize domestic work investigations for a different reason: they believe such cases have minimal deterrent effects, perhaps even less than the home care cases discussed earlier in this chapter. Without clear potential to "spill over" and "ripple" in a way that significantly reduces violations among other households, it makes little sense to invest in domestic worker cases. This hesitation is especially felt by regulators who pursue a "strategic enforcement" model. Researcher Jenn Round, formerly of Seattle's labor standards office, summarizes how local and state regulators have adopted this model: "Strategic enforcement is really [about], how do you get the biggest bang for your buck? How do you use your limited resources in a way that's going to have ripple effects—in a way that's going to impact the behavior of other employers in that high-violation sector?" (Interview, 2022).

When Round and colleagues advise local and state labor standards regulators, the question of domestic work regularly comes up because the industry meets a key criterion for strategic prioritization: high violation rates and few workers coming forward with complaints. But the industry's relationship to a second criterion—scalable impacts—is less obvious. "It's always just a really complicated conversation," says Round. Regulators voice reservations such as, "'We don't know what to do, and . . . we'd rather focus on these industries where we think we can have a bigger impact, a bigger splash, get broader compliance.'" David Weil, who developed the concept of strategic enforcement and championed it as administrator of the Wage and Hour Division of the federal DOL, understands the complexity around domestic work: "It's a tough one, because we know well that there's rampant violation in that industry. But . . . there isn't an obvious structure to try to effect compliance at scale in that area" (Interview, 2022). The resulting tendency to bracket domestic work puts an extra burden on worker advocates when trying to persuade regulators. One New York domestic worker organizer appreciates past state DOL attempts to help, but notes, "It's always challenging, because you not only have to prove there's the issue, but you have to prove it's worth the use of the resources" (NGO Interview 1).

The act of creating the Paid Care Division signaled, from the outset, New York City's willingness to prioritize domestic work regardless of the conventional cost-benefit equations. On one hand, this commitment has not been fully tested, as the city has yet to launch a domestic work investigative initiative that would require major resources. On the other hand, the labor standards office and Paid Care Division have displayed a steady willingness to develop non-investigative initiatives aimed at the domestic work industry despite the constraints of jurisdiction, resources, and industry structure. It would be difficult to imagine that the office

would withhold resources should a promising investigative strategy eventually emerge, as evidenced by its new investments in the domestic work mediation clinic I discuss below.

According to interview participants, the willingness to prioritize domestic work in departmental activities has produced its own secondary benefits. In particular, the city has advanced domestic workers' long fight for greater social recognition. Some may consider this symbolic, but to a former staff member of the labor standards office it was the most concrete impact of their efforts to date. Describing the domestic workforce, she begins:

> This is Black and brown women. And the work that they are doing is from years of systemic racism . . . and is just not looked at as valued work. So . . . one success I will say about the Paid Care Division: it was trying to put value to those workers, and letting them know that as a city, we see you, we hear you, and we want to talk to you. And you are an equal worker, employee, compared to an office worker, and you deserve the same benefits. (City Interview 3)

The extent to which workers have felt this recognition is unclear, but organizers attest that it has at least spread to other corners of city government, where domestic workers have gained access and inclusion. Asked about the Paid Care Division's impacts, a National Domestic Workers Alliance leader responds that it has transformed "the city [government's] overall understanding of domestic work." She elaborates on this change:

> So previously there really wasn't that much knowledge and/or interfacing with domestic workers at the Department of Consumer Protection, even with MOIA [Mayor's Office of Immigrant Affairs] or the Commission on Human Rights. I think that because we have that one office, the Division of Paid Care, we get invited to participate in these overall discussions and hearings on labor [and on] the state of workers' [rights]. And then during the pandemic, even getting that foot in the door to talk to the mayor and the different health agencies about domestic workers. . . . It allowed us to have way more interfacing and conversations with people that we normally probably would not have had or would have been much more difficult to get. (NGO Interview 8)

In this way, the labor standards office, and the Paid Care Division in particular, have led other agencies to recognize domestic workers as an important constituency, one that deserves a seat at the table.

3. Sustained strategic creativity

By 2018, the backlog at the state DOL spurred worker centers to resolve cases privately whenever possible. Organizers' objections to investigator "neutrality" reinforced that shift. Nevertheless, senior-level DOL leaders received high praise from organizers in interviews: "They've been our go-tos, and they've been really willing to experiment and try anything" (NGO Interview 1). The problem, however, was that their experiments failed or froze, and these DOL leaders eventually left the agency.

Among other initiatives, the state DOL dispatched investigators and intake specialists directly to worker-center meetings, reducing the barrier between workers and the department. But DOL staff brought with them cultural insensitivities, faulty assumptions about domestic work, and unrealistic expectations around documentation and proof. The partnering worker centers were put off by the experience and considered it a failure (NGO Interview 1). Later, DOL created a special liaison to help retrieve domestic worker cases from the "black hole" and keep workers updated. But this faltered, too, because it did not accelerate case progress. One former DOL official remembers how he and his team struggled to break through in the realm of domestic work:

> We tried a million different ways to get at that problem. It's an even more difficult problem than the home health aide thing, because everybody who complained in the domestic setting got blacklisted. If you can't get a recommendation from the person whose kids you used to watch, you're done. . . . We thought about a million things. . . . We worked with a lot of different groups, we thought about this in a lot of different ways, and we never got anywhere. (State Interview 1)

This sense of defeat should be put in context: these administrators, after all, did more than one would expect from an agency depleted under Governor Cuomo. But perhaps more crucial than DOL's lack of progress is the subsequent lapse in experimentation at the state level.

New York City's office and Paid Care Division have helped fill the gap; one of their main organizational impacts has been sustained strategic creativity. This outcome overlaps with greater enforcement capacity and willingness to prioritize domestic work but represents a distinct institutional feature that advances the search for effective strategies, for enforcement initiatives that can directly reshape work conditions.

A simple manifestation of this impact is that city staff already inclined to strategic creativity—per Shepherd and Fine's (forthcoming) research—have been given time and encouragement to develop new ideas. This organizational stance contrasts not only with the state DOL in recent years but also local labor standards offices elsewhere. Neither Los Angeles City nor County, for example, have staff members or initiatives dedicated to paid care work, and as a result they have done little to bolster enforcement in the domestic work industry (Researcher Interview 4). Similarly, while San Francisco has given outreach contracts to domestic worker organizations, it has not institutionalized any form of strategic planning around domestic work within its labor standards office; when asked about this absence, a former staff member of San Francisco's office said that creating a paid care division like New York's would be a good place to start (City Interview 8).

One of the main ways that New York City has institutionalized strategic creativity is by requiring, through the original Paid Care Division legislation, regular meetings of an advisory group comprised of city agencies, worker centers, and advocates. By convening roughly four times a year, this body has ensured a venue for sustaining dialogue and collaboration among key players involved in domestic work policy and enforcement.[34]

[34] The working group pre-dated the labor standards office and Paid Care Division but became more formalized upon their creation (NGO Interview 1).

From the start, the working group brainstormed how to address the structural and jurisdictional constraints involved in New York City domestic worker rights enforcement. All members recognized that exclusion of wage-related violations would be a problem. And from their prior experience with the state DOL, advocates and organizers lacked faith in the conventional approach of bringing in complaints and opening investigations. So the group began to consider methods of "alternative dispute resolution"—ways to resolve violations without having to subject workers to the taxing and risky process of filing formal complaints.

These discussions birthed the idea of establishing a mediation clinic, a program that would allow domestic workers and their employers to use a no-cost, neutral mediator to resolve disputes without going to court or going through the city's official complaint process. The program became reality at the end of 2022. A domestic worker and their employer can now request an initial consultation with the Department of Consumer and Worker Protection, in which a department staff member hears about the dispute, collects information and documents, and advises the parties whether to pursue mediation. According to the department's materials, if the parties proceed, a "mediator from the Center for Creative Conflict Resolution at the NYC Office of Administrative Trials and Hearings will work with the worker and employer to understand the issues and reach an agreement that is fair for everyone" (NYC Department of Consumer and Worker Protection 2022d). One of the critical innovations of the program is that the mediator can try to resolve wage-related matters, because both the process and resulting agreements are voluntary.

The six-year road that led to the program's launch exemplifies the sustained strategic creativity that the labor standards office and Paid Care Division have brought to domestic worker rights enforcement. It also attests to the value of institutionalizing dialogue between

stakeholders. When I asked a long-time domestic work leader about the origins of the idea, she said that it came from neither the worker centers nor the labor standards office. "It was actually an inter-agency [working group] idea. That was us, as stakeholders or CBOs [community-based organizations], and the agencies . . . meeting on a regular basis and finally coming up with this idea. Then the Department of Consumer and Worker Protection took that on and developed it" (NGO Interview 8).

Once the idea existed, however, the worker centers and advocates latched on. A former lawyer in the labor standards office and director of the Paid Care Division retraces the development of the mediation program, including its roots in worker advocacy both within and outside of the domestic worker movement:

> The organizers were really pushing for this—this is an example of me taking a cue from them. . . . It was an idea that they had raised almost in every single meeting that I was in, just dating back to probably 2016, [when] we started to engage with these groups and really diving into this question of alternative enforcement measures. And there were a couple of models of different places where this [mediation approach] has worked in the past. Not with domestic workers, though. The main model is farm workers in Florida. And so . . . this was one of their things that they thought could be worth a try. (City Interview 5)

The initiative required persistence, but the right individuals and organizational capacities were there to keep it going:

> Frankly, it took some two years for us to say, "Okay, let's try this out." There was [a] research component ramping up to this. . . . I talked to both worker groups that have tried out these types of models . . . and then different mediators about what could work in this space. And I convened a team within OLPS to really work on and create a model for this thing—the plan of how this mediation pilot project was going to work . . . It was a researcher, a lawyer, and then the paid care advocate, [and me]. . . . So we wanted to make sure all of the infrastructure for that was there. (City Interview 5)[35]

[35] With permission from the interview respondent, I have rearranged some sentences in this quotation and the previous, to improve readability.

The pandemic delayed the final steps of the planning and launch, but progress eventually resumed despite the interruption and despite the departure of key staff members. Such persistence further shows how the labor standards office and Paid Care Division, as institutional interventions, have served to sustain experimentation in a way that the state DOL and other agencies have been unable to do.

The mediation program might not work. It might fail to meet its own immediate goals, and it will likely have a minimal impact on industry-wide violation rates. Some interview respondents, including some who worked to develop the program, worry that domestic employers simply might not participate: "Why would an employer decide to go through mediation with a worker when they can simply fire them?" (City Interview 3) And some believe that mediation is effectively already built into conventional DOL wage cases, so they see the new program as redundant (NGO Interview 6). It is also unclear whether workers who participate in the clinic will be safe from blacklisting after their disputes are resolved.

Some interview respondents are more hopeful. Now that the city has a tentative way to broach core wage and hour issues, workers might be more willing to risk coming forward (City Interviews 5 and 6). The initial phase of the program also establishes, for the first time, a formal partnership between the city and domestic worker organizations. The New York chapter of the National Domestic Workers Alliance, for instance, will receive a $20,000 contract to refer one case per month to the program. And while advocates expect that most cases will be referred from the worker centers to the city, the city will also reciprocate, referring any unorganized workers back to the worker centers for further support (NGO Interview 8). Ultimately, however, staff who built the program see it as an attempt to advance the search for effective strategies, regardless of the outcome: "It wasn't intended to be permanent, right? It was just a pilot project,

and I think that doing that experiment [will be] really informative about if we want to do this full scale, if this doesn't work, or if it needs to be tweaked" (City Interview 5).

Hypothetically, the organizational strategies outlined above should facilitate direct impacts on workers' lived experiences. They each breed conditions that should be conducive to identifying and executing impactful enforcement strategies. But before turning to a discussion of the theoretical implications of my analysis, below I examine one final pattern that the interviews revealed. Specifically, key players inside and outside of government questioned the very premise that, for domestic work, effective enforcement strategies could be found.

Beyond Domestic Worker Rights Enforcement

Why do domestic employers violate labor standards? Unlike home care agencies, domestic employers are not motivated to cut corners by market competition or by a perverse Medicaid funding structure. Instead, we can place noncompliant domestic employers in at least three groups: (A) those unaware of their obligations; (B) those who cannot afford the cost of compliance; and (C) those who willfully disregard the laws. Investing in more employer outreach and training could improve compliance within group A. But other types of strategies would be needed to meaningfully reduce violations within groups B and C—strategies that a local enforcement agency, or any labor standards enforcement agency, cannot implement, because they involve social policy and immigration law.

The first underlying challenge is U.S. care policy. Both city staff and worker advocates observe that their struggle with rights enforcement is entangled in the problem of inadequate public infrastructure for elder care and childcare. Households directly hire home care aides and nannies largely because meager public programs produce a regime of individualized, private care provision. With millions of households made to act as employers, enforcers face the seemingly

impossible terrain that they do. As a former city staff member sees it, "There's an underlying systemic issue of childcare, and if you fund childcare appropriately, a lot of these issues wouldn't exist. So it's a broken system within another broken system" (City Interview 3). If more childcare moved from private homes into centers—and if more eldercare happened through agencies or public programs—enforcers would not have to contend with the structural roadblocks of domestic work, and other enforcement actors like labor unions could enter the picture.

Moreover, when individual households act as private employers, they often do so with tight budgets. As past research suggests, domestic employers have struggled to abide by minimum wage laws when their own incomes have stagnated and when public subsidies for elder care and childcare are so anemic (Thomason et al. 2018). And while wealthy households hire domestic workers at high rates, systematic surveys in California and New York State find that many domestic employers have moderate and low incomes; in New York State, 32 percent of domestic employers have household incomes below $50,000, and 59 percent have incomes below $100,000 (Pinto et al. 2017:25). Many employers say they would pay their workers more if they could—35 percent overall in the California study, including 44 percent of those who employ nannies (Waheed et al. 2016:35).[36] In an interview, an advocate who organizes domestic *employers* and promotes responsible employer practices empathizes with such households, recognizing that her organization sets a high bar, perhaps too high:

> Not even Amazon, not even Bezos, provides these employment practices [that] we are asking a parent to do! So it gets to a moment in which you say, are you really being real? Let's talk about what's reality in this sector, right? And I think if someone has the capacity to hire a nanny and do it in the high-road way, they should do it. But at the same

[36] The California study found that the lowest income households—those with annual incomes below $25,000—comprised 31 percent of domestic employers, compared to 21 percent of all California households. This income group was especially overrepresented among employers of nannies and home care aides (Waheed et al. 2016:55).

> time, we need to put pressure in the government to create more daycares—and not daycares [that] are underfunded and understaffed. (NGO Interview 5)

A related assessment is shared by one of the New York City staff members who developed the mediation program. Looking back on her work, she is skeptical of the whole endeavor of trying to enforce domestic worker rights without broader policy and cultural change:

> What you always go back to [is that] there needs to be a real culture shift in the way that we think about this work as a society. And frankly it needs to have a lot more government funding than it does, and people start to take it seriously, and then the workers can get paid. I'm not really sure that going from household to household saying, "Do you pay the minimum wage, do you pay overtime?" is ultimately effective. (City Interview 5)

Perspectives such as these call on enforcement actors to broaden their attention from rights enforcement alone to the policy and social context in which enforcement occurs. Some organizations, like the National Domestic Workers Alliance and Caring Across Generations, have adopted such multi-pronged, multi-layered analysis and strategy. What is not clear yet is whether, or how, local officials and enforcement agencies can infuse their efforts with a similar approach.

Immigration policy looms as another hefty barrier and a potential target for strategies beyond labor standards enforcement. Labor and employment laws generally apply to workers regardless of their immigration status. However, as Gleeson (2010:569) suggests, efforts to strengthen enforcement of those laws "may be insufficient to ameliorate the fundamental challenge that undocumented status poses some workers." Gleeson focuses on how this status impedes workers from making claims. Pervasive fear of being discovered and deported feeds a disposition of "avoiding problems." Uncertainty about the future creates a short-term mindset in which work conditions seem temporary and endurable. And undocumented status can lead workers to see being a "good," uncomplaining worker as core to their sense of belonging in the

United States.[37] Although undocumented workers sometimes pursue complaints despite these obstacles (Gleeson 2016), immigration policy still poses powerful constraints.

My interviews suggest that undocumented status of employees also affects their employers' behavior, not simply by giving employers a vulnerability to exploit but by shaping their general attitudes toward labor standards. The lawyer who represents domestic workers describes this issue:

> Immigration law still is really the obstacle, because employers see it as an all-or-nothing approach: I either follow all the laws, meaning I do the I-9 to verify work authorization, I issue paychecks with all the required taxes and deductions—or I do nothing, and I avoid legal oversight by paying under the table with cash, or now Venmo or Cash App. And even though we fought for these strong labor laws, and they are not contingent on immigration or tax law, I worry about employer compliance as long as [employers] still have that attitude of, "Well, actually, I'm not supposed to employ you," and it's, like, a secret, hidden relationship.

If indeed domestic employers take labor standards less seriously when their employees are undocumented, then finding a way to win legal status for immigrant domestic workers would be a potent tool for transforming labor standards compliance—for creating a "sea change" among domestic employers, in the words of this interviewee.

In addition, reducing immigrants' vulnerability through new visa programs or paths to citizenship would facilitate essential regulatory changes, such as requiring domestic employers to register with labor standards offices. As I discuss further in Chapters 5 and 6, promoting formalization through registration would enable regulators to finally see into this otherwise opaque industry. To date, workers and advocates have often dismissed that idea because, in shining a light on employers, it could also expose undocumented workers—a reluctance that reinforces Gleeson's (2010) claim about the underlying challenges posed by undocumented

[37] Since Gleeson's 2010 study, she and collaborators have found that education can moderate the effects of immigration status: greater educational attainment has positive impacts on claims-making behavior of noncitizen workers, especially those who are undocumented (Patler et al. 2020).

status. Those concerns are likely to persist, as current U.S. politics negate the possibility of a progressive immigration overhaul. As the lawyer acknowledges, “This [idea] is just so frustrating, because I don’t think that we’re anywhere close to offering a path towards legalization.” But as with the critique of social policy, this focus on immigration nevertheless forces one to consider the limits of rights-enforcement strategies alone and the centrality of other policy domains.

Discussion and Conclusion

In New York City, local government has joined the field of labor standards enforcement, yielding new potential to improve compliance in the in-home care work sector. In the first six years of this intervention, the city undertook a bold investigative sweep of the agency-based home care industry and explored possible approaches to the informalized domestic work industry. This chapter suggests, however, that the city’s impacts on both industries have been modest. In agency-based home care, the investigative sweep bolstered compliance among targeted agencies in the short run, and perhaps longer run as well; this result aligns with sociolegal studies that find a causal relationship between targeted investigations and compliance at individual firms, or what are known as “specific deterrence” effects (Kagan et al. 2011). But ripple effects across the industry—“general deterrence” effects—appear unlikely, especially in the longer run; the pressures and opportunities to flout labor standards are too great, and the penalties insufficiently threatening. In short, regulators have yet to establish a culture of compliance in which a combination of fear and duty motivate firms to respect the law (Kagan et al. 2011).

My findings here echo those in Chapter 3; both government offices and labor unions demonstrate limited success in preventing violations in the agency-based home care industry. This apparent inefficacy stems in part from the fact that both regulatory actors confront the same adverse industry dynamics. But one difference is that, on paper, government regulators possess more imposing enforcement tools than do unions, namely the power to issue fines and to suspend or revoke business licenses. In partnership with attorneys general or district attorneys, DOL and DOH can also pursue criminal prosecution. But I have shown why government actors rarely use those powers, and thus why unions who seek government assistance against offending employers might be met with frustration.

These findings about perceived—and real—government leniency fit neatly within existing scholarship on responsive regulation. We would not expect significant improvements when regulators lack the will or ability to fully escalate sanctions or regularly apply them—ingredients necessary to deter scofflaws while reminding and reassuring the average firm about compliance norms. The impacts of the city's efforts, in particular, have been limited by the one-time nature of its investigative sweep. Owners and managers I interviewed expressed no concern that another sweep might follow; and some had not heard about or did not remember the initial sweep to begin with. One can imagine future initiatives that are more frequent and expansive, a possibility I explore in Chapter 6.

On a related point, this chapter lends empirical evidence to a proposed modification of the responsive regulation framework, advanced by Fine and Gordon (2010:562). Specifically, they argue that the gradual approach of escalating sanctions up the "enforcement pyramid" is not appropriate in every context. The reality of the twenty-first century U.S. economy and its regulatory landscape is that "many of the firms in the low-wage sector are unlikely to ever be

visited by an inspector, let alone effectively monitored over a period of time." Gradual escalation based on repeated encounters is thus a useful ideal but an unrealistic practice. Fine and Gordon conclude:

> In a setting where there are few repeat encounters, a more assertive approach is required to disrupt the status quo. As an initial stance, inspectors must make clear that systematically noncompliant firms should expect to pay a high price immediately (even if they eventually negotiate something less painful in exchange for broad behavioral change). This approach should be sustained until a new set point of compliance is reached.

Such a prescription, based on the present impossibility of frequent interaction between regulators and regulatees, seems apt for New York home care industry. If the number of regulated agencies were smaller, and if the state and local labor offices had more resources, the responsive regulation framework might be tenable—as would certain aspects of the root-cause regulation model, which also implies an inspectorate able to visit individual establishments with some regularity and tailor remedies to each. In the absence of those capabilities and conditions, however, Fine and Gordon's perspective seems highly applicable.

In contrast to home care, domestic work's intractable industry structure has prevented city enforcers from undertaking any major enforcement initiatives. Resource-related and jurisdictional constraints have further impeded enforcement. Instead, local regulators have focused on outreach and public education, which may have had marginal impacts on industry-wide compliance levels; but there is no available data to validate that possibility. Instead, the existence of the labor standards office and its Paid Care Division have produced several organizational impacts, including greater enforcement capacity, willingness to prioritize domestic work, and sustained strategic creativity. These conditions could facilitate future enforcement actions, but interview participants worry about underlying barriers to change,

namely the immigration laws and care policies (or non-policies) that construct the domestic workforce in its current form—isolated, vulnerable, and underfunded.

This analysis of this informal sector complicates existing frameworks, which assume that regulators can identify their regulatees. Domestic work is often referred to as "invisible"—an ambiguous term. In the context of regulation, however, invisibility has a precise meaning: enforcement agencies simply cannot identify which households are domestic employers. As a result, there is little basis for proactive investigations or other large-scale government enforcement strategies; domestic work seems to require more imaginative, and perhaps more daring, approaches to "strategic enforcement" or "responsive regulation." For instance, while some regulators may see ripple effects as elusive in this context, a combination of steep penalties and "naming and shaming" could be applied to willful or repeat violators. A single, well-publicized case could cause information and fear to ripple through a city's domestic work industry, potentially altering employer behavior at scale. Repeated use of that tactic could sustain effects over time. Chapter 6 further discusses the possibilities and limitations of naming and shaming.

Overall, my findings show that, despite their differences, agency-based home care and privately hired domestic work pose similar challenges for labor standards enforcers. Specifically, widespread violations are undergirded by the present structure of each industry. Without addressing those underlying drivers of noncompliance, large-scale change will likely remain elusive. Thus, even though New York City and State regulators have moved away from a reactive, "whack-a-mole" approach to enforcement (Researcher Interview 3), we can expect violations to arise at unmanageable rates, absent fundamental industry reforms. These conclusions underscore the relevance of industry structure as a driver of noncompliance—and

the importance of altering such structures for achieving change. Enforcement strategies that assume industry structures are fixed may prove myopic and ineffective. This holistic perspective is often left implied in the interdisciplinary enforcement scholarship; new research programs and insights might arise from making this perspective more explicit.

Chapter 5
Worker Centers, State–Civil Society Collaboration, and Domestic Work

The prior chapter concluded that, in the domestic work industry, government agencies struggle to enforce labor standards at a broad scale because they have no way to identify most household employers. This chapter examines what alternatives exist given the current industry structure of domestic work, including housecleaning, childcare, or home care services hired directly by households. I ask: What is the role of worker organizations in enforcing labor standards? Can they enforce labor standards without the state? And is it possible for them to work constructively *with* the state to strengthen enforcement? To answer these questions, I trace the enforcement-related actions of New York City worker centers and worker advocates since the enactment of the New York Domestic Workers' Bill of Rights in 2010. Drawing primarily on interview data and organizational documents, I present the findings as a narrative, structured into three main periods between 2010 and 2023. I then discuss the theoretical and practical implications of the case study. The analysis sheds light on the potential of, and barriers to, strengthening domestic work regulation through government–civil society partnerships.

The chapter builds on past studies of worker centers and co-enforcement. Interdisciplinary research on co-enforcement (introduced in Chapter 1) argues that effective labor standards regulation requires formalized, sustained, and vigorous collaboration between government and worker organizations. My analysis largely aligns with this thesis. I find that, although worker organizations may have some success enforcing labor standards without government agencies, they are more effective together. Worker organizations develop trusting relationships with vulnerable workers, encouraging them to come forward with violations and to

transcend their workplace isolation. Government agencies, meanwhile, have authority to investigate, prevent, and deter violations.

At the same time, I find that real-world applications of the co-enforcement ideal have eluded domestic worker organizations and regulators. In New York, minimal progress toward co-enforcement has unfolded at the state level. Greater collaboration has developed at the local level, in New York City; but this progress has taken several years and still falls short of the robust partnerships envisioned in the co-enforcement literature.

My findings also clarify the potential and limitations of worker centers in the domestic work context, conforming with past literature on worker centers in general. In New York City, a handful of these small organizations, with city-level partners, have made impressive inroads into the enforcement terrain despite severe resource constraints. But they have encountered the same problems as so many worker centers before them: limited resources and scalability (Fine 2006; Fine, Burnham, et al. 2018; Gordon 2005c; Milkman 2010).

One could imagine a scenario in which worker centers and city regulators both have abundant resources, enabling them to contact a majority of New York City domestic workers and address every complaint that they received. Such capacity would, no doubt, considerably strengthen labor standards enforcement. But in assessing the empirical evidence, I arrive at a similar viewpoint to the one I advanced in the prior chapter: without restructuring the domestic work industry, even the most robust co-enforcement is likely to have limited impact. This is because informalized or "gray market" employment fundamentally constrains enforcement in this sector. This limitation has two implications. First, in theory and practice, co-enforcement is an incomplete tool on its own, as Fine and collaborators argue in their calls to pair co-enforcement with "strategic enforcement" (e.g., Fine and Round 2021). Second, worker centers

and their government partners must devise new strategies to grapple with informality if they hope to achieve systemic change. Strategies used to date, such as promoting the use of work agreements and voluntary standards, do not sufficiently address the issue.

Worker Centers and Co-Enforcement

Against the backdrop of steady deunionization, worker centers emerged over the past three decades as an alternative vehicle for advancing workers' interests. In a touchstone book on the subject, Fine (2006) defines worker centers as "community-based mediating institutions that provide support to low-wage workers." They differ from other nonprofit organizations in that they combine service delivery (e.g., English classes, rights education, legal services), advocacy (for policy reforms and enforcement), and organizing (member empowerment and leadership development). Most worker centers focus on immigrant communities, often fusing identities and movements; they tend to revolve around strong ethnic and racial identification, and from that starting point they branch into both worker-rights and immigrant-rights struggles (Fine 2006; Fine, Burnham, et al. 2018; Gleeson 2012; Gordon 2005c).[1]

Unlike labor unions, worker centers do not engage in collective bargaining, and they operate on a much smaller scale: they typically have few staff members, tight budgets, and comparatively minuscule memberships. An analysis based on a sample of 104 centers found their median annual revenue in 2012 to be $410,000 and the modal revenue to be between $100,000 and $200,000 (Gates et al. 2018). By contrast, UNITE HERE's Chicago-based Local 1 had a revenue of $9 million that year, and SEIU's total revenue was $307 million. And whereas union

[1] As of 2022, there were 246 worker centers across the United States (Kochan et al. 2022:32).

revenue depends largely on membership dues, worker centers rely primarily on private foundation funding, government grants, and individual contributions; in 2012, membership dues accounted for only 1.8 percent of total worker center revenues. These funding sources introduce constant financial instability, even among outlier worker centers that have multi-million-dollar budgets (Gates et al. 2018). Synthesizing several worker center case studies in Los Angeles, Milkman (2010:15–16) notes that, despite their constraints, these organizations tend to punch above their weight: "Considering that most worker centers are tiny organizations with a handful of paid staff and modest financial resources, their record of legislative and public policy accomplishments is extremely impressive."

Research on the role of worker centers in enforcing those accomplishments accelerated in the context of three trends: (1) labor standards violations had grown ubiquitous by the early twenty-first century, especially in low-wage industries (Bernhardt et al. 2009; Weil and Pyles 2005); (2) scholars and regulators were developing the new model of "strategic enforcement" to address such vast noncompliance; and (3) worker organizations by the early and mid 2000s were beginning to engage not only in advocacy for new rights but also in implementation and enforcement (Gleeson 2012; Gordon 2005c; Luce 2004). Against this backdrop, researchers began to analyze the conditions under which labor standards are successfully implemented. Luce (2004), for instance, concludes that such success is more likely when civil society actors combine "outside" and "inside" strategies, pressuring government to improve oversight and enforcement through protest tactics while also collaborating with government through task forces or other forms of dialogue. Fine and others have since examined collaborative strategies in particular; Fine and Gordon (2010), in an early example of this work, posit that the efficacy of enforcement can be augmented through formal partnership between government and either

worker centers or labor unions. In the 2010s, such partnerships increasingly appeared at the state and local levels, and Fine began analyzing these cases and elaborating the notion of "co-enforcement," which is now a key concept in the field of labor regulation.

In defining the term, Fine (2018:146–47) writes, "Co-enforcement is when unions, worker centers and other community-based non-profit organizations and high-road firms, in relationship with government inspectors, help educate workers on their rights and patrol their labor markets to identify businesses engaged in unethical and illegal practices." This is not simply delegation of state responsibilities: "In contrast to government contracting with a third party to take over a service previously delivered by a government agency, co-enforcement is intended to complement rather than replace government enforcement capacity."

Indeed, to work well, co-enforcement must "recognize and leverage the unique, non-substitutable capabilities of state and society" (Fine 2018:149). Only workers have the daily, on-the-ground knowledge of workplace activities and possible rights violations. Worker *organizations* can build trusting relationships with workers in a way that government agencies typically cannot, allowing them to channel information between workers and regulators. Government agencies, meanwhile, have the legal and social power to investigate employers, compel them to disclose records, and punish violators. Each group has other unique capacities—worker organizations, for instance, can use their media prowess to pressure lawmakers or their community alliances to counteract the political influence that low-road employers exert on regulators (Milkman 2010:11, 16). What matters is that each party participates fully in the enforcement process in a way that leverages its strengths.

Fine's research enumerates optimal conditions for co-enforcement. It should be formalized, with clear roles, decision-making processes, and sources of accountability; it should

be sustained over time, not just a one-time campaign; and it should involve "vigorous" rather than superficial collaboration. Co-enforcement is also more effective when it focuses on specific industries, informed by principles of strategic enforcement. Finally, co-enforcement requires political support, routinized information flows and clear communication, and adequate and consistent funding (Fine 2017, 2018; Fine and Gordon 2010).

Co-enforcement is both an analytical and normative construct. In its normative role, as a regulatory "best practice," co-enforcement is meant to be used in tandem with "strategic enforcement" (Fine and Round 2021). Analytically, co-enforcement is a distinct concept that can serve as a yardstick or ideal type against which to measure empirical cases of state–civil society collaboration; this is how I employ the concept in this chapter.

Indeed, empirically, not all cases of collaboration meet the definition of co-enforcement. As a result, it may be helpful to conceive of enforcement-related collaboration between government and civil society as a continuum. Collaboration in a given case can move along this continuum over time, building from light, informal dialogue to strong, formal partnership—or advancing and regressing with changing political winds and funding streams.[2] In this framework, outlined below in Table 5.1, "co-enforcement" refers to strong collaborations, in which state and civil society organizations fully partner to educate workers about their rights *and* patrol their labor markets for violations. In such partnerships, workers and worker organizations play an active role in feeding information to regulators and supporting workers who bring complaints forward, and regulators provide the resources for them to do so while also deploying their own

[2] Luce (2004:74–75) observes that the implementation of labor standards overall can similarly ebb and flow over time, moving between expansive, moderate, narrow, and blocked.

unique authority. Co-enforcement thus represents one end of a continuum, while dialogue alone refers to the other.

Table 5.1. Collaboration between Regulatory Agencies and Worker Organizations

Intensity	Description
Light	Informal or formal dialogue, with some information sharing between parties
Moderate	Dialogue plus government funding for civil society organizations to conduct worker/employer outreach
Strong	Co-enforcement, with organizations funded to participate in outreach *and* some combination of formal industry monitoring, worker intake, investigations, and case support.

There are several benefits to viewing collaboration as a continuum. First, this approach avoids overstretching the concept of co-enforcement, reserving the term for appropriate cases. Second, it provides a framework for studying cases in which actors are informed by principles of co-enforcement but have not achieved them in practice. Finally, it can guide longitudinal analysis in which one considers how and why state–civil society collaboration develops, stalls, and transforms over time. Modeling such analysis is one of the main contributions of this chapter.

Cases, Data, and Methods

As of 2023, no U.S. city has established the strong version of government–civil society collaboration in the domestic work sector. San Francisco and Seattle have developed moderate collaborations by routinizing dialogue and funding nonprofit organizations to contact and train domestic workers and employers. Los Angeles and New York City have lagged, but New York

City has seen recent progress that makes for a valuable case study. In October 2022, the New York City Council established the NYC Worker and Employer Empowerment Initiative. For the first time, local civil society organizations were promised city funding to conduct outreach and education about worker rights among both domestic workers and domestic employers. The budget allocation for the first year was $300,000, shared among four organizations.[3] This development finally pushed New York City's domestic work regulation up the continuum from light to moderate collaboration.

At the time of writing, it is too early to assess the impacts of that initiative. Instead, I trace the trajectory that preceded its creation, which occurred twelve years after worker centers first won the New York State Domestic Workers' Bill of Rights. What makes the New York case different from Los Angeles, San Francisco, and Seattle is the well-defined transition from light to moderate collaboration. This change over time reveals the dynamics of enforcing worker rights in the domestic work sector—including what worker organizations can achieve alone and what they might achieve in partnership with government.

In analyzing the New York City case and making select comparisons to Los Angeles, San Francisco, and Seattle, I draw from the interviews that informed Chapter 4 as well as additional interviews with staff members of government agencies and worker centers in the other cities. I also use organizational memos, meeting notes, and other documents shared with me by the New York chapter of the National Domestic Workers Alliance.

[3] The four organizations are the National Domestic Workers Alliance; Adhikaar for Human Rights; Carroll Gardens Association; and Hand in Hand: The Domestic Employers Network.

The Development of Government–Civil Society Collaboration in New York

1. Venturing into Enforcement

In 2010, New York State enacted the Domestic Workers' Bill of Rights, the most significant policy victory for domestic workers since the 1974 Fair Labor Standards Act amendments. The state-level legislation marked the culmination of a six-year campaign by several domestic worker organizations and allies (Goldberg 2014a, 2014b).[4] Through their campaign coalition, the groups rebuilt the infrastructure for domestic work organizing in New York and beyond, which had crumbled after the organizing efforts of the 1960s and 1970s (Nadasen 2015). The law itself clarified and reinforced domestic workers' rights to the state minimum wage and overtime laws, while also creating new rights: overtime pay for live-in workers and for privately hired home care aides; one unpaid rest day per week; three paid rest days per year; and protection from sexual and racial harassment (Fernandes 2015; Goldberg 2014b).

Because the organizations had limited prior experience organizing domestic workers, the campaign years were full of new challenges that prevented them from planning for implementation and enforcement. One interview participant, recalling the campaign and putting it in context, urged me to remember that "[t]his was the early years of domestic worker organizing in New York. It was very grassroots" (NGO Interview 17). Organizers, let alone domestic workers, had scarcely interacted with government in any way other than protesting or lobbying. Some groups started running out of resources necessary to stay involved. Further, the campaign had to navigate dramatic shifts in political conditions, including Governor Eliot

[4] The engine of this campaign was the New York Domestic Workers Justice Coalition, which was anchored by Domestic Workers United and included Adhikaar for Human Rights; Andolan: Organizing South Asian Workers; CAAAV Organizing Asian Communities; Damayan Migrant Workers Association; and Haitian Women for Haitian Refugees. An essential ally was Jews for Racial and Economic Justice, which organized progressive domestic employers.

Spitzer's 2007–2008 scandal and resignation, followed by the Great Recession. The economic crisis, in particular, soured legislators on the pay-related provisions in the proposed Bill of Rights. These challenges drove wedges between coalition members, causing lasting organizational rifts by the end of the campaign. Enforcement was an afterthought (NGO Interview 17).

The final bill lacked key provisions that workers and organizers had championed in their initial proposal, including a living wage, cost of living adjustments, health coverage, advance notice of termination, severance pay, and paid vacations (Goldberg 2014b:277). Some observers criticized this compromise (Fernandes 2015, 2017). Some core organizers, too, felt that the law was mostly symbolic, although they understood that a compromise was inevitable and that symbolic wins can be valuable (NGO Interview 17). And yet, if the Bill of Rights served mainly to spark public discourse about domestic work and kickstart a new era of domestic worker organizing, it nevertheless changed legal statutes and created new rights. The worker organizations still standing at the end of the campaign had to confront the fact that laws do not simply enforce themselves.

A process of learning to "do enforcement" ensued. Because the coalition dispersed after the bill's passage, domestic worker organizations often experimented in isolation during the first few years after 2010. Goldberg (2014a, 2014b) examines the trajectory of the leading coalition group, Domestic Workers United (DWU). Finding itself on uncharted political terrain, DWU had to devise new strategies for life after the campaign. The group piloted three programs after 2010, which built on a repertoire used by New York–area worker centers in the two decades prior (Gordon 2005c). The first was a monthly legal clinic held with lawyers from the Urban Justice Center, designed to channel potential rights violations into lawsuits and into formal complaints

with the DOL. The second, inspired by labor unions and their use of shop stewards, sought to create a neighborhood-based steward structure, in which on-the-ground DWU members would be responsible for organizing and assisting other domestic workers.

The final DWU program was aimed not at workers but at household employers and public figures, seeking to pave the way toward a "modified version of collective bargaining" in the domestic work sector (Goldberg 2014b:284). In partnership with Jews for Racial and Economic Justice, which had supported the Bill of Rights campaign, DWU sought to educate employers about their new obligations and to organize high-road employers into a constituency that could eventually negotiate with workers over a model for standard contracts. Perhaps, for instance, domestic workers in a large apartment building or residential co-op could form a bargaining unit and negotiate a model contract with all the households in the building. Through such an initiative, liberal neighborhoods like Park Slope might be transformed into a "Domestic Work Justice Zone," achieving full enforcement of the Bill of Rights.

According to both Goldberg and my interview participants, the pilot projects faltered within a few years. The steward project required more staff organizer support than DWU could provide; the legal clinic shuttered, also for lack of staff capacity; and the "Justice Zone" remained little more than an inspiring vision.[5] Drawing on the work of Steve Jenkins and echoing Frances Fox Piven, Goldberg argues that these stumbles were rooted in the Bill of Rights campaign strategy, which relied on advocacy and lobbying and failed to build the organizing muscle and disruptive "social power" needed to implement the law effectively. This strategic orientation is common to worker centers; despite their commitment to organizing, in the sense of building workers' power to effect change themselves, worker center campaigns often

[5] Fernandes (2015) and a former NDWA staff member (NGO Interview 1) describe the end of DWU's legal clinic.

rely on advocacy led by professional staff, mobilization by relatively few members, and proposals "palatable to elite decision-makers" (Jenkins 2002:61, 72; Milkman 2010:12–13). Goldberg contends that such a strategic orientation is inadequate for enforcement and that worker centers must execute their legislative campaigns in a way that sets them up for success after passage. They should "prepare to win," developing strong grassroots leverage and enforcement strategies *while* clamoring for policy change, not after.

My interviews demonstrate that DWU was not alone in climbing this enforcement learning curve. The National Domestic Workers Alliance (NDWA), which has since become the foremost domestic worker organization in New York and nationally, began its learning process similarly. "We were used to campaigning for stuff, but not so much for what happens later on, with actually trying to hold government accountable," recalls one organizer (NGO Interview 1). "And the crazy thing was, I saw academics [and] folks in the public forum were trying to hold *us* accountable, like, 'You won this bill, but you're not enforcing it!' [But] I don't think any of our organizations don't do [enforcement] because we're *skirting* it; I think we don't do it because we don't know how to do it yet."

Indeed, none of the worker center participants that I interviewed were opposed to prioritizing enforcement. They did not complain about shifting modes of engagement away from confrontational campaigning and toward legal services, rights education, and quieter advocacy around policy implementation. The former NDWA organizer expressed, "It's hard to be in 'campaign mode' all the time, and we need to make sure that the rights we've won get enforced; otherwise they only exist in theory" (NGO Interview 1).

But the path to a coherent enforcement strategy was far from clear. NDWA, for its part, recognized that any future efforts would benefit from rebuilding the coalition. For NDWA, that

task was a prerequisite to any enforcement work, and it moved slowly. One of the coalition participants explains:

> [We] had become more of a tactical coalition at a certain point, and then once the Bill of Rights was won, we had to think again about what it meant to be a strategic coalition that was going to be in continued relationship with each other . . . and what we were going to focus on. And one of them that was on the table was Bill of Rights enforcement, and we were puzzling through what that might look like, and it was difficult. . . . [We'd say] "Let's pull these convenings together, let's go back to the base, let's talk to the base about [what to do]." (NGO Interview 17)

But the participant notes that, at the same time, "we were still trying to heal" from the coalition fissures. "So there was also some attention put to, how do we address [those] issues that came up in the campaign" (NGO Interview 17). Because that process moved so slowly, some coalition members began to launch ad hoc enforcement campaigns, like DWU had done with its pilot projects. A few worker centers—Adhikaar for Human Rights, Damayan Migrant Workers Association, and the Community Resource Center—teamed up with legal service organizations to offer free clinics for workers facing violations (NGO Interview 1). Damayan, with its base of immigrant domestic workers from the Philippines, also focused on human trafficking; the group identified domestic workers who were subjected to forced labor by international diplomats, then paired legal aid with protests and publicity to draw attention to the issue.

Thus, the period from 2011 to 2015 saw scattered forays into the realm of rights enforcement. To the extent that the worker centers were moving in this direction, the strategic tendency was to be selective and ad hoc: *focus on cases that the worker centers could organize campaigns around*. The NDWA organizer explains, "Organizations had legal clinics, but they saw it more as opportunity to recruit workers as members. . . . Very few [workers] actually had cases that became something unless it was a case in which the organization spent some time with lawyers and the worker assessing, 'Could a workplace justice campaign be run out of this?'"

(NGO Interview 1). Another organizer described the campaigns similarly, noting that they yielded "flashpoints—you would get a lot of media around it, and unless you have a sustained push and a long-term vision, then they kind of dissipate." At the same time, this "strategy around sort of shaming employers and getting wins for the workers [was] good for of course the worker and the community, because people start to understand their collective power" (NGO Interview 17).

2. Breaking New Ground on Enforcement

August 2015 marked the five-year anniversary of the Domestic Workers' Bill of Rights. Leading up to the milestone, NDWA's staff convened an "enforcement working group" comprised mostly of organizations that had been Bill of Rights coalition members and had been running legal clinics: Adhikaar, Damayan, and the Community Resource Center. From each organization, the working group connected staff members who had been contemplating enforcement and hoped to get more serious about that aspect of their work. By gathering, says one organizer, "We learned a lot about how people ran their legal clinics, how they partner with legal services organizations, how they thought about how to prioritize when it came to worker cases given limited resources, how they did political education with workers" (NGO Interview 1).

Two immediate outcomes emerged. First, the groups were able to persuade the Urban Justice Center to resume the free, centralized legal clinic that it had piloted with DWU a few years earlier. Second, the groups began to pick up where DWU left off, looking to enforcement strategies beyond the standard legal clinic model. Specifically, working-group members recognized that nonprofit legal clinics had a narrow reach due to funding and staff limitations.

NDWA's lead New York organizer, Irene Jor, found legal clinics useful for learning how to address and resolve individual complaints—and also for diagnosing problems in the enforcement process: "If you don't go into that nitty-gritty [of case work] . . . it's really difficult to say, 'This is how the system should be restructured' " (Interview, 2019). But, based on lessons shared in the working group, Jor was also worried that the status quo approach to legal clinics was no match for the scale of violations that domestic workers faced. She started to dream of a system in which, "[If] any worker came forward, they would get the full support they needed to understand their situation and take action and have it resolved." Whereas worker centers had tended to prioritize cases that were media friendly and conducive to protest action, Jor hoped that NDWA and its affiliates could start to conduct legal aid in a more sustainable and inclusive way.

As a result, NDWA spurred a shift from the selective, ad hoc, campaign-oriented case model to a more constant and universal approach to enforcing the Bill of Rights: *rectify as many violations as possible*. Given the values of worker centers like NDWA and its partners, however, the goal was to do so in a way that would still promote organizing: cultivating workers into leaders, educating workers so they feel empowered to take action, and building networks among workers to facilitate collective actions. "It shouldn't always be someone from the outside ensuring that workers have their rights," says Jor. "We shouldn't be the gatekeepers."

To advance legal aid and organizing, NDWA's New York chapter launched its Groundbreakers program in 2015. The program took inspiration from similar efforts by the worker center Make the Road in New York, car wash workers in Los Angeles, and domestic worker counterparts throughout California (Interview, Irene Jor, 2019; NGO Interview 16).[6] The Groundbreakers program built new roles for workers within New York's domestic worker

[6] In California, domestic worker organizations had begun to experiment with enforcement after winning their own "bill of rights" in 2013.

organizations, combining systematic worker outreach and peer-led support around worker complaints and investigations. Jor explains that, instead of relying solely on volunteer legal clinic attorneys and a few staff organizers, the program developed "a new type of organizing role for a domestic worker, [one] that would build organization and would help us be able to move this enforcement strategy—or at least get to intimately know the enforcement system."

The pilot program kicked off in summer 2015 with a few thousand dollars from NDWA's national office. A team of Groundbreakers from each organization in the working group were trained about outreach and the Bill of Rights, then canvassed city streets and playgrounds to identify workers who faced violations. The Groundbreakers followed up to get those workers to the legal clinic. The pilot was successful enough to convince a philanthropic organization, the Robin Hood Foundation, to grant the program approximately $150,000 annually over the next three years, split among NDWA and the other enforcement working group members. With the funding, the NDWA chapter hired a full-time program coordinator, gave stipends to several Groundbreakers from across the coalition, and subcontracted the Urban Justice Center to sustain the legal clinic.

The Groundbreakers program brought new organizational structure, resources, and excitement to the project of enforcing domestic workers' rights in New York. It represented a turning point that set the worker centers on a new strategic direction in domestic worker advocacy, one that has extended to the present. This direction has involved three main priorities: assisting as many workers as possible; building worker leadership while doing so; and developing partnerships with government regulators. These are familiar elements in the worker center playbook (Fine 2017; Gleeson 2012; Gordon 2005c; Luce 2004; Milkman 2010). However, the worker centers were forced to pursue these priorities along two parallel tracks,

given the jurisdictional divide between state and local levels. Engagement at each level of government gave rise to distinct impacts and challenges.

3. Dual Tracks of Enforcement

State level: Enforcement with or without government regulators?

When the Groundbreakers grant began, both the worker centers and the Robin Hood Foundation hoped that the program would help "establish a strong relationship" between the organizations and the New York State DOL—and that such progress toward co-enforcement, in turn, would facilitate favorable case outcomes for domestic workers (NGO Interview 8). As the last chapter discussed, reaching this goal proved challenging given DOL's case backlog and opaque communications. But examining the perspective of the worker centers in more detail reveals the strategic consequences of this shortcoming. Chapter 4 argued that the gap in state-level enforcement capacity meant that the entry of the city-level regulators brought important benefits. Here, I argue that the state-level incapacity led worker centers to bypass the DOL entirely and to find success in enforcing workers' rights without government involvement. This turn amounted to a striking failure of the state government's regulatory capacity and of any attempt at co-enforcement. It also posed a strategic and ideological tension for the worker centers.

During the Groundbreakers program, the first step for the worker centers was to bolster their own outreach and intake, improving workers' access to the claims-filing process. Then, in addressing claims, the worker centers and their legal advocacy partners began to learn what approaches were most effective. NDWA's program coordinator recalls:

> As workers started to actually get their money back, and as the Groundbreaker teams got more sophisticated in their outreaching and educational efforts, more and more workers were actually coming forward with claims. . . . [And] we spent quite a bit of time in the

> beginning trying to determine what's a better route for workers, DOL or [private, non-governmental] legal advocacy. (Interview, 2022)

Within two years, a clear answer emerged. All key worker center and legal advocates agreed that, as one assessed, "The private route is way more effective, more expedient" (NGO Interview 8). This realization led to them to pivot to tactics long used by worker centers (Fine 2006; Gordon 2005c). The most common course of action was for Urban Justice Center attorneys to resolve cases through negotiation after sending a demand letter directly to the employer of an aggrieved domestic worker. Such a letter outlined the possible violations; stated how much money the employer might have to pay if found liable for wage theft; and requested that the employer or their attorney respond in order to reach an amicable resolution and avoid litigation. The lawyer quoted in Chapter 4 explains the calculus:

> A demand letter and direct negotiation gets you money in hand. We're not really creating systemic reform by doing these privately. But at the end of the day, what is best for our domestic workers at this moment? And it was just—there was no point in sending anything to the DOL. . . . We were resolving everything through a demand letter in the amount of time it would take DOL to even start an investigation. And when DOL did start an investigation, it attempted to resolve the case through settlement and did not advocate as strongly on the amount owed to the worker. So there were no incentives for domestic workers to utilize the DOL process if they could have free private representation" (NGO Interview 3)[7]

Why was private action effective? The lawyer, who also ran legal clinics for workers in other industries, notes that domestic work has two advantages when it comes to resolving cases. First, she explains, "We had a much higher success rate with domestic workers than we do with

[7] New York worker centers were not alone in confronting a state DOL that moved slowly. In California, domestic workers also experienced long waits and opaque communications. Unlike in New York, however, NDWA affiliates and legal advocates still found it worthwhile to pursue claims with the state enforcement agency (NGO Interview 16). As a result, California advocates questioned the New York approach. The New York State attorney recalls conversations in which California counterparts would ask her, "Why aren't you filing with the DOL [as well] when you send the demand letter?" And she would think to herself, "That doesn't even make any sense because then we just have to withdraw it, because they haven't even opened the case by the time we've actually gotten a settlement through demand letter. It literally just doesn't do anything" (NGO Interview 3).

day laborers and restaurant workers because [domestic] employers are . . . personally liable. There's no business to shield their liability." Second, she found that most domestic employers subjected to demand letters "had never bothered to learn their legal obligations, and they're very conscientious once they realize there are legal implications because they are an employer." In contrast, "Bad businesses and bad contractors—they know what they're doing. They take active measures to avoid complying, and they know how to play the system. I think domestic worker employers . . . they just don't want to accept that they are employers, which is a cultural problem in this industry. So the moment I send a demand letter, for most employers, that would help resolve cases."

Thus, the Groundbreakers program revealed a promising strategy for one facet of rights enforcement: collecting unpaid wages after a domestic worker seeks legal help. Advocates concluded that domestic employers are generally responsive to direct contact from a lawyer because these employers feel legally exposed and because "cheating the system" is not baked into their business model in the way that it might be for restaurants, construction contractors, or formal home care agencies.

Yet the five interview participants involved in the Groundbreakers program agree that, although bypassing the DOL makes short-term sense, it is not scalable, sustainable, nor politically desirable. "This is where the tension lies," one of them reflects. "Not a lot of cases were actually getting in front of government agencies or even in court. That [strategy] has won money, and won money in the hand for our workers much faster, but it is not really creating the sea change that we need. There must also be dedicated public investment and infrastructure to effectively to scale up the enforcement" (NGO Interview 3). Indeed, the Groundbreakers pilot program assisted hundreds of workers over three years, but that is a mere fraction of the

domestic workers in New York City and State. In addition, while the program was good at recovering unpaid wages, it did little to address other facets of rights enforcement, such as deterring violations from occurring in the first place or systematically reducing fear of employer retaliation.

Moreover, the program was dependent on philanthropic funding, which was both temporary and which contradicted organizers' belief that it was the government's job to lead labor standards enforcement. Interviewed in 2019, the final year of the initial Groundbreakers grant period, NDWA organizer Irene Jor stressed the need to move toward an enforcement model that "really is done through government agencies." She hoped to see "public enforcement that everyone can access . . . and isn't dependent on free, privately funded legal services." Her successor, chapter co-director Marrisa Senteno (Interview, 2022) subscribes to the same view: "Moving forward, [we're] thinking about the enforcement not just as something CBOs [community-based organizations] do, but [also], what is the moral responsibilities of government agencies?"

In sum, the pilot program failed to establish co-enforcement at the state level or to equip DOL to tackle domestic work cases at a large scale. But as a demonstration project, Groundbreakers succeeded in one important regard. Before 2015, the worker centers had limited evidence that domestic worker complaints could be resolved in a reliable and systemized way. But the program changed that. "It can no longer be said by any [agency or] by the Department of Labor that domestic worker cases can't be adjudicated," says NDWA's Marrisa Senteno (Interview, 2022). "Now that we have enough cases that have come forward [and] we have a track record of getting workers their money back . . . we have busted that myth." In this way, the

program allowed the New York chapter to successfully pursue new resources and relationships for enforcement, most notably at the local level.

Local level: Strengthening collaboration over time

NDWA and its fellow worker centers were not closely involved in the local 2009–2013 campaign for paid sick leave or the 2014–2015 politicking that produced New York City's Office of Labor Policy and Standards—the focus of Chapter 4. During those years, the domestic worker organizations were preoccupied with regrouping from their state-level Bill of Rights campaign. By 2015, however, their heightened focus on enforcement dovetailed with the city government's new commitment to labor standards. This confluence enabled the worker centers to advance their enforcement priorities at the local level, developing new ways to assist as many workers as possible, build worker leadership, and forge partnerships with government regulators. While Chapter 4 combed the mixed impacts of the labor standards office on domestic worker rights enforcement, it did not analyze a key aspect of that office's progress: its relationship to worker centers and other advocacy groups. I address this gap below by revisiting the case through the lens of co-enforcement.

Collaboration between local government and domestic worker organizations began in 2016, first as *informal dialogue* around the proposed creation of the Paid Care Division within the labor standards office. The legislative drafters informed NDWA about the bill and invited feedback from them and the other domestic worker organizations. These conversations also brought the worker centers into contact with key players behind the newly enacted labor standards office, which would house the Paid Care Division.

Once the Paid Care Division itself was enacted in August 2016, NDWA and its allies gained a path to *formal, routinized dialogue* with city regulators. The final bill included both a general requirement that the Division coordinate its efforts with community stakeholders, as well as a more specific mandate to convene a working group to provide recommendations for enforcement and for new policy development (New York City Council 2016). However, the bill would not take effect for six months, and its text afforded the Division another year after that to meet the working group requirement. Moreover, the bill only required the working group to convene once a year.

Aiming to set a higher bar, the worker centers convened a proto–working group to begin immediately, in the fall of 2016. Inspired by San Francisco's Community Collaborative, in which the local labor office funded and coordinated with worker centers from across industries, the New York NDWA chapter dubbed the effort the "NYC Domestic Worker Collaborative." It soon became better known as the "Inter-Agency Working Group on Domestic Workers" because it brought multiple city agencies to the table: the Commission on Human Rights, Mayor's Office of Immigrant Affairs, Mayor's Office of International Affairs, Department of Consumer Affairs (DCA), and DCA's Office of Labor Policy and Standards. On the civil society side were NDWA, Adhikaar, Cidadão Global, Damayan, We Dream in Black, Hand in Hand, and the National Social and Economic Rights Initiative (NYC Domestic Worker Collaborative 2016). The attempt to formalize collaboration is reflected in a joint strategic plan that the group produced in 2016, outlining their shared vision, goals, operating principles, and mutual expectations. To routinize their dialogue, they aimed to meet once a month.

This new Inter-Agency Working Group became a central venue for sharing information and ideas, establishing communication channels, and informing city agency decisions as the

labor standards office and Paid Care Division took shape. In interviews, former and current city staff who were involved express the value of this dialogue. One city staff member, for instance, recalls that, at the time of the Paid Care Division's launch:

> [The organizations] were already on the ground doing a lot of informal trainings and outreach with paid care workers. . . . So they were the ones who were telling us what was happening on the ground and stories they had heard directly from paid care workers who had come to them. And they had models and so many ideas about how to actually do outreach and increase awareness—especially among workers that are undocumented and who might have concerns about going to an official government office. So that was really central—making sure that everything the division does [is] in collaboration with community-based organizations and other stakeholders. I actually don't think the [labor standards] office would work without that. (City Interview 2)

Formalizing dialogue allowed local government actors to gather ideas and knowledge to which worker centers had unique access—a key facet of moving toward co-enforcement.

Civil society organizations deepened their own learning about enforcement through dialogue with government agencies. One worker center organizer recollects how these conversations sometimes led her to think beyond her strategic and ideological comfort zones:

> We got together, and I remember we decided to break out enforcement into a couple categories. If we could make the right interventions, which direction would we want to travel? So . . . we talked about things that were more progressive [types of] discipline and allowed folks, if they made a mistake, to be able to correct it. And then also very punitive [discipline] in the areas where we see it's not punitive enough, [where] there's not enough of a deterrent. So it's interesting, because getting into that stuff with government makes you think in a law enforcement type of brain, which is not how you think as an organizer. And it's also kind of scary because you're thinking about things like punishment. (NGO Interview 1)

In this way, the structured space for government–civil society dialogue expanded each party's knowledge and ways of thinking about labor standards enforcement.

Once the Paid Care Division became functional in 2017, the legal requirement to form an advisory group took effect, so dialogue became further institutionalized. According to the labor office's stakeholder engagement director, whose position itself signaled the office's commitment to community collaboration, "We convened regularly. . . . It was part of our mandate. We had to

convene the group" (Interview, 2022). But it was not merely an obligation. Regulators continued to find it beneficial to hear from the worker centers, as a former agency staff member recalls: "I liked it, because I was able to gain some insight and better understand what their needs were, and then figure out how to do my job" (City Interview 5). The information flow was not simply one-directional. As noted in Chapter 4, government and civil society actors also put their heads together, brainstorming possibilities that cannot be easily traced to one party or the other—the mediation clinic being the prime example (NGO Interview 8).

Worker center members leveraged the opportunity for dialogue but were not always satisfied. One shares this critique:

> A big question folks had was, "Once the Division of Paid Care is up and running, what do we do with this [temporary] working group?" And I was like, "I guess maybe it'll become the [actual, mandated] working group . . . but it kind of wasn't. It was just hard. I didn't have control over how things could feed into each other. . . . You know, you can't ask anyone to facilitate something quite like the way you imagine it. . . . I think part of me was hoping that division would drive the process like that, but I just don't think you can always count on it. (NGO Interview 1)

Another interviewee initially hoped that the advisory group could become a central coordinating hub for the various domestic worker advocacy groups, like the California Domestic Workers Coalition. "But then we realized housing it in the government created so many restrictions. It was just like, 'Oh, we can't do this'" (NGO Interview 4). These experiences encapsulate the dilemmas common to the institutionalization of informal, quasi-governmental initiatives: government brings new capacity and legitimacy to a project, but advocates relinquish their control (Jasper et al. 2022). Luce (2004) identifies similar tradeoffs for worker organizations in living wage task forces and advisory boards. In the New York domestic worker case, over time, worker center leaders recognized the importance of creating a coordinating body outside of

government while also using the mandated advisory group to interface with government agencies (NGO Interviews 4 and 5).

Some interview participants had further reflections: follow-through after advisory group meetings was sometimes lacking, and frequent turnover among both city staff and worker center organizers impeded progress (NGO Interviews 5 and 7). But looking back on the efficacy of the advisory group as of 2022, a Hand in Hand organizer expresses that the parties have maintained goodwill despite the shortcomings: "It was nobody's fault, I just think it needed more capacity to really move such a huge partnership and just—it was a big challenge."

City staff acknowledged the limits of collaboration through a non-binding advisory group. Reflecting on the role of the worker centers, a former staff member confesses, "I don't think that they had enough decision-making power, but they were there at the table, and we were listening to them" (City Interview 4). The staff member adds that, in advisory groups in other policy realms, "sometimes the 'grassroots' has to really fight for the community to have a majority voice." But that was not the case in the Paid Care Division's advisory body. "This was really dominated by organizers. . . . The right people were at the table" (City Interview 4). Interview participants from worker centers generally agree.

The agency's emphasis on dialogue, although not co-decision-making, with civil society groups reflects an underlying orientation that left the door open for deepening collaboration. In interviews, city staff members consistently voiced support for the principles of co-enforcement. One former lawyer in the labor standards office offers her perspective on civil society partnership:

> Even the most well-meaning city or state government, even in a time of abundant resources, is never gonna fund the agency at the level that it needs to be. . . . [So] the way the agency can be most effective is by working in collaboration with those organizations. There's no way the city agencies on their own are ever gonna be able to reach as many

> workers as they're gonna need to be able to. And identify the violations that they're charged with rooting out. (City Interview 1)

Another, describing the labor standards office's stance toward collaboration, states:

> The premise is that we need to be taking strategic direction from the worker centers and the organizing groups on how to talk to these workforces and how to enforce their rights, and how to ensure that they trust [us]. . . . [And] ensuring that what we're doing is in step with what they're doing . . . [t]hat we can be in partnership where we have a particular role and the worker centers have a particular role. (City Interview 4)

This is the language of co-enforcement, even if the substance was not yet there. The agency seems to understand the need, in Fine's terms, to "leverage the unique, non-substitutable capabilities" of government and worker organizations. And they recognize that collaboration should be robust and meaningful, not superficial. These commitments proved sufficient to sustain constructive dialogue over several years, from 2016 through the conclusion of this research in 2023.

Although the advisory group brought some structure to collaboration, dialogue alone meant that "light collaboration" defined the state–civil society relationship until 2023. Only then was there any formal and funded relationship between the city and civil society partners. For the previous seven years, there were neither resources nor agreements in place to define roles, sources of accountability, or decision-making processes. In this respect, New York City lagged behind San Francisco and Seattle in granting funds to domestic worker organizations. Why did it take New York so long to catch up and to move into the terrain of "moderate collaboration"?

The reason was not legal; the law establishing the Paid Care Division explicitly allowed the labor standards office to contract with worker organizations for certain worker training activities, and it mandated collaboration in general. Rather, the delay stemmed from a lack of will and capacity on the part of both government and worker organizations.

On the city side, the labor standards office lacked funds to allocate to worker centers (City Interview 4). As described in Chapter 4, the office was poorly funded overall, so creating any funded collaborations would require its leadership to ask the mayor for more money. In their research on local labor standards offices, Shepherd and Fine (forthcoming) find that agency leaders are expected to manage their respective agency budgets in coordination with the mayor's office—as opposed to directly lobbying the city council for funds. But in New York, Mayor Bill de Blasio was reluctant to empower the labor standards office because he feared alienating small businesses, who might otherwise bear the brunt of enforcement activities (Fine and Shepherd 2022). As a result, Fine explains, Commissioner Lorelei Salas "was always really frustrated by the whole budget process, and [Deputy Commissioner] Liz [Vladeck] too. . . . Really frustrated about how much money they could raise, and what it meant in terms of their limitations" (Interview, 2022). Fine has gathered further insight from interacting with the office in her role as a policy expert and advisor: "Liz [Vladeck] never seemed persuaded by the need for providing funding for co-enforcement partnerships. She wasn't saying, 'This is not a good idea.' I don't think they ever thought, 'We'll never do this.' But I do think they were trying to figure out how to do close partnerships. And maybe they felt like they already had them, and that the groups they were working with didn't need them as much. . . . And I don't think the advocacy community was clamoring for it."[8]

[8] Despite any reservations among leadership, the labor standards office publicly signaled some openness to the notion of funding the worker organizations. In a 2018 report, it declared that the Paid Care Division "will also consider recommendations from working group members to: . . . Devote City funding to partner organizations to support work that enables workers' full participation in organizing activities in their primary languages, as well as programs that promote racial justice and equity" (NYC Department of Consumer Affairs 2018b:37). Still, any sincerity of such a statement was counteracted by political and fiscal realities. One of the former Paid Care Division staff members suspects that some of the weak political will stemmed from the city's lack of jurisdiction over wage and hour laws: "If we couldn't do the enforcement, why have more money for it?" (City Interview 3)

Indeed, the worker centers and advocacy groups also lacked the organizational will to mount a push for funded collaborations. According to one worker center leader, the absence of resources for co-enforcement at least partly reflected a simple fact: "There just hasn't been a concerted ask [from us]" (NGO Interview 4). Some reluctance stemmed from NDWA's logistical concerns about pursuing city funding; and given their central role as a coordinating group between the worker centers, this hesitance set the tone for the other groups. Specifically, NDWA had heard bureaucratic horror stories from other nonprofit organizations that received city funding:

> You have to first spend the money and then you'll get reimbursed. And I think I was a little fearful of, "What if we spend the money and don't get reimbursed?" Because some organizations told me . . . they got approved, but they didn't get the money. . . . [And] what I heard from everyone is that the paperwork is insane. Like, you need a staff member who is dedicated to that." (NGO Interview 1)

NDWA had no such capacity to manage city grants at the time. In addition, during the initial years of dialogue-based collaboration, NDWA got the sense from the labor standards office that, "They themselves wanted to do the outreach and education as opposed to contract it out" (NGO Interview 1). Without capacity or desire to pursue contracts, NDWA and the worker centers deferred to that division of labor.

By 2022, however, circumstances had changed. The pandemic years of 2020 and 2021 brought domestic workers flooding into the worker centers with concerns about job loss, severance, sick leave, and mistreatment (NGO Interview 8). Galvanized by the new organizing and refocused on rights enforcement, the organizations finally decided to "make a concerted ask" of the city. The campaign, primarily based on lobbying by organizers and workers, yielded the breakthrough noted in Chapter 4: the city council approved a $300,000 initiative to strengthen outreach to domestic workers and employers and educate them about domestic worker rights.

Worker center leaders were pleased with their quick success: "I think the fact that we asked for it and . . . we're going to get it [in] this first year is a good sign" (NGO Interview 4). The city's responsiveness stemmed, at least in part, from the well-established dialogue between government and domestic worker organizations.

Analysis and Discussion

Toward co-enforcement in the domestic work industry

At the state level, what we see is a case study of failed progress toward co-enforcement. The worker centers' experience with the New York State DOL closely aligns with Fine's (2018:154) description of the conditions that enable or hinder co-enforcement:

> Worker organizations that are actively bringing workers forward need to know not only what the regulatory agency is capable of doing and how it functions . . . but also to be kept abreast of how cases are proceeding. When organizations facilitate complaints, but are not able to get information on how the case is proceeding, their credibility with the workers they have encouraged to step forward is undermined. After this happens repeatedly, organizations can begin to view filing complaints with the state as a last resort.

The domestic worker organizations in New York eventually made this exact calculation after several years of sending cases to the state DOL. Even though key DOL leaders made genuine efforts to prioritize domestic worker cases, and even though the Robin Hood Foundation facilitated collaborative initiatives during the Groundbreakers program, DOL was never able to adequately process or communicate about worker complaints. As a result, NDWA and its affiliate worker centers largely abandoned the state DOL as an enforcement venue and partner. Their state-level strategic discussions since 2018 have thus revolved around how they could campaign to reform DOL and create real capacity for co-enforcement—and state-level enforcement more generally.

In the absence of effective state-level regulation, the worker centers demonstrated their value as enforcement actors. In doing so, they reinforced one of the key premises of co-enforcement: that civil society groups are vital to the enforcement process. They developed enough reach and trust among domestic workers to successfully welcome thousands of them to their legal clinics and to resolve cases through private legal action. Government agencies, in New York and elsewhere, have demonstrated no comparable efficacy.

Non-state enforcement raises the question of whether government regulators are necessary at all for enforcement in the domestic work sector. Worker center leaders, and regulators themselves, would contend that they are. Analysis of transnational cases also offers evidence that effective enforcement requires government involvement (Seidman 2007). It seems that the same is true in the domestic work context. This is not because government can resolve cases better or even address the limits of scalability—such might not be the case even given more government capacity. Rather, government is necessary to enforcement because it has authority to compel resolutions in the most intractable cases and because enforcement entails more than simply resolving complaints. As discussed in prior chapters, enforcement is as much about *preventing* violations as it is about addressing them. Civil society organizations need government's help in that regard. While these organizations have developed proficiency in addressing common domestic worker grievances, neither in New York nor elsewhere have they demonstrated an ability to reduce the prevalence of violations in the sector more broadly.

Furthermore, historical antecedents in the United States have shown that civil society efforts to prevent violations and promote employer compliance easily falter without government's statutory or administrative backing. Specifically, during both the Progressive Era and the 1970s, reformers and worker organizations promulgated voluntary codes of conduct,

prodding employers to treat domestic workers fairly (Nadasen 2015; Smith 1999). That strategy, as Smith (1999) concludes, has been a poor substitute for government mandates. Today, domestic worker advocates and allies, including NDWA and Hand in Hand, have also turned to voluntary standards and model contracts. But even when distributed through government websites as in Seattle, such tools have gained little traction in bolstering compliance (NGO Interview 15).[9] The case for co-enforcement in the domestic work context thus remains compelling. Government agencies need civil society organizations for enforcement; those organizations need government, too.

The New York story at the local level demonstrates that, if co-enforcement is ever achieved in practice, it can take years to develop. Indeed, no jurisdiction has realized more than a "moderate" version of government–civil society collaboration in the domestic work sector. Instead, what emerges from examining the local New York case through a co-enforcement lens is a picture of government and civil society actors cooperating and sustaining dialogue over several years, spurred by committed advocates and by requirements embedded in local law. Building on such a foundation, dialogue can morph into more formal, funded partnership. This is a sensible trajectory; if there is something surprising about it, is it how much time can elapse between stages and how civil society groups might contribute to the delay, whether due to inexperience, justifiable hesitance, or mere inability.

[9] This does not mean that such tools are without value. As Gervis (2021:199) notes based on an interview with Palak Shah (Founding Director of NDWA Labs), modeling practices in a voluntary context can sometimes facilitate their acceptance in a mandatory context.

A missing piece of strategy?

Perhaps more striking are the continuities and limitations of the strategic orientation that has undergirded the worker centers' trajectory toward co-enforcement. As outlined earlier, this orientation has involved three main priorities: assisting as many workers as possible; building worker leadership while doing so; and developing partnerships with government regulators. Over time, these priorities have formed a "common sense" or paradigm that worker centers and their allies have embraced since first launching the Groundbreakers program in 2015. Stuck at the margins of this paradigm, however, are the tasks of prevention and deterrence. As this chapter has shown, the civil society organizations have made progress in addressing violations after they occur, and the new city-funded outreach program uses training and education as prevention tools. But these organizations have not identified concrete strategies to systematically prevent and deter violations. As a result, just as they lacked a "concerted ask" in the years before securing city funds for outreach, they still lack a demand or program for large-scale prevention and deterrence.

As I noted in Chapter 1, prevention and deterrence are related but not identical. Regulators and worker centers can help prevent violations by educating domestic employers about their obligations and requiring that they use written employment agreements. Deterrence is prevention achieved specifically by punishing, or threatening to punish, employers who violate labor standards. Worker centers and regulators understand the importance of both to their collaborative efforts. The Inter-Agency Working group articulated this very point in 2016 when participating groups drafted their collective vision and goals:

> An effective enforcement system in the short term exercises strong punitive measures for the most serious "zero-tolerance" offenses, and also offers alternative dispute resolutions in cases where it can improve the employment relationship. In the long-term this system must create systemic shifts, and lend itself to preventing violations from occurring while raising workplace standards above the requirements of the law. (NYC Domestic Worker Collaborative 2016)

Concretely, however, only the idea of alternative dispute resolution has materialized into an organizational practice, through the city's domestic worker mediation clinic. But mediation is meant to address grievances, not prevent them. The other elements of this vision—strong punitive measures (deterrence), broader prevention, and systemic shifts—have eluded the worker centers, both in their independent projects and in their collaborations with regulators. As a result, labor standards violations remain widespread, and only a minority of domestic workers and employers know about their rights and obligations: for instance, only 24 percent of New York City domestic workers in my survey sample were aware that the state-level bill of rights existed; a similar share of employers (29 percent) were aware of the law as of 2016 (Pinto et al. 2017:36).

In this regard, a common thread emerges across this dissertation's three main chapters: worker centers, government agencies, and unions alike have no clear answers for how to conduct prevention and deterrence at the scale required in the in-home care sector.

In the domestic work industry specifically, analyzing this impediment inevitably leads back to the problem of informality. For organizers to reach the vast and churning domestic workforce, and for regulators to identify and monitor domestic employers, large-scale formalization seems necessary, even in the absence of progressive immigration reform. In particular, worker organizations and advocates could benefit from considering a strategy that they have kept at arm's length: some form of mandated registration or licensing on the part of employers, workers, or both. Although this strategy carries serious risks given many workers' immigration status, it nevertheless remains one of the most promising solutions given the improbability of any federal policy change that would grant such workers authorization. Further, even if immigration reform could occur, formalization would still be needed to ensure broad labor standards compliance in private households. As the history of domestic work in the United

States attests, informality and its associated harms were widespread long before the entrance of undocumented immigrants into the occupation (Duffy 2011; Milkman 2020; Smith 1999). In a domestic employment relationship, the fact that an employee has federal work authorization does not necessarily translate into a formal, legally compliant arrangement—or into visibility to regulators and organizers. Registration or licensing of employers, if not workers as well, would facilitate regulation and co-enforcement in a way that is otherwise impossible. The next chapter explores such possibilities and their tradeoffs in more detail.

Conclusion

This chapter advances the co-enforcement scholarship by examining a case study of government–civil society collaboration over time. Few, if any, previous studies have done so in depth. The results reveal three main insights about co-enforcement as a theoretical lens.

First, real-world examples appear rare; in domestic work and home care, no instances of "strong collaboration" or actual co-enforcement have yet emerged. This raises the question of what future empirical research on co-enforcement should examine, and how. We could imagine an alternative version of this chapter comparing New York City's slow road from light to moderate collaboration with Los Angeles's even slower road, or with Seattle's quick leap to moderate collaboration. We would likely find that the differences have depended on factors like political will, worker centers' organizational capacity, history of relationships between local government and worker organizations, and local idiosyncrasies such as New York City's wage and hour preemption or Los Angeles's arcane civil service rules that sow regulatory dysfunction. Some of these factors arise in my cross-city interview data; others are discussed by Shepherd and Fine in their forthcoming study of labor standards offices across cities. Whether conducting this

genre of co-enforcement research would be theoretically or practically worthwhile is debatable and should be considered by future scholars.

Second, when used as an isolated concept in empirical research, the notion of co-enforcement lends itself to a relatively narrow scope of analysis, in which one traces the relationships and interactions between government and civil society but not necessarily the underlying obstacles that limit enforcement efforts. The issue of informality, for instance, comes into focus not through the lens of co-enforcement but rather by analyzing what is missing in the New York collaboration story to date. This case study thus reinforces the idea that co-enforcement, both analytically and practically, is a tool that has more power when used in tandem with other perspectives, including "strategic enforcement" and "root-cause regulation" (Fine and Piore 2021; Fine and Round 2021). Future research and practice will benefit from embracing such integrated approaches to regulation and from interrogating how industries might be restructured to tackle labor standards violations more systematically.

Third, more research is necessary to understand the relationship between co-enforcement and the "outside strategies" or conventional protest politics that Luce (2004) finds are important for strong implementation. Co-enforcement in theory and in practice depends on cooperative relationships—and sometimes financial relationships—between government and worker organizations. Even in "light" collaborations, worker organizations often seek government funds. This raises a question: what strategic possibilities might be lost when worker organizations cannot afford to antagonize government actors? Some worker centers and community-based organizations have had many years to learn to play politics, and so can move coherently between "naughty and nice" tactics (Jasper 2006). And yet there are constraints posed by prioritizing government partnerships, including the simple demands of preparing for meetings with

government agencies and fulfilling government grant-reporting requirements. Even if small organizations like New York's NDWA chapter develop the political dexterity to pursue inside and outside strategies, they often lack capacity to do both effectively. Splitting such strategies across organizations is a potential alternative but raises its own set of coordination challenges. These considerations might be explored in future research related to co-enforcement, picking up on themes that Luce observed in the living wage fights and that preoccupied earlier scholars of government-funded community action programs (Coit 1978; Gittell 1983).

Ultimately this chapter also serves as a historical contribution. There has been no academic or public documentation of how domestic worker organizations in New York City and State have grappled with rights enforcement in the years since 2013, when Goldberg's (2014a, 2014b) research ends. The intervening decade produced organizational, political, and policy shifts that altered the landscape of enforcement after the initial Bill of Rights was passed. The focus of Goldberg's work, DWU, became a minor player in the New York domestic work scene, as its key leadership transitioned to the national helm of NDWA. In turn, New York's NDWA chapter and affiliates drove efforts to collaborate with government and to forge a way forward on enforcement. In addition, in New York, new local protections and local government allies shifted the main locus of action from the state to the city. Finally, NDWA, with its Groundbreakers program, set in motion an enforcement trajectory that departed from the fractured, ad hoc efforts that immediately followed the 2010 Bill of Rights. By offering a history of domestic work enforcement efforts in New York between 2010 and 2023, I document a productive chapter in the long history of domestic worker organizing and advocacy.

Chapter 6
Implications and Alternatives

In the past two decades, home care aides and domestic workers have built on the achievements of the 1970s discussed in Chapter 1, puncturing any notion that the workforce is structurally bound to a fate of legal exclusion. Home care aides have shown that unionization is possible despite workplace atomization. Domestic workers continue to win new rights through state and local legislation, and they have built an impressive organizational infrastructure that has outlasted the shorter-lived mobilizations of prior decades.

Yet as this dissertation has found, the translation of abstract gains into concrete improvements remains a mammoth challenge. Progress on that front has moved slowly compared to the pace of recent legal gains. Still, enforcement landscapes have changed since the 1970s. In states where home care and domestic work are most prevalent, there are now active ecosystems of worker-friendly regulatory actors. Government labor standards enforcers in some of the largest states—and even at the federal level—no longer exhibit the dismissive attitude toward in-home care work held by past lawmakers and administrators.

But whether they realize it or not, state and non-state regulatory actors face a grave risk. As they toil to inform and organize workers, to right the wrongs of lawbreaking employers, and to forge new partnerships and strategies, the limited scale of their impacts imperils the possibility of meaningful social change. Viewing their efforts in historical perspective, it is all too easy to imagine another generation of rights won but poorly enforced, the passing of another half century without a transformation of the status quo.

In concluding this dissertation, I thus address the question of alternatives: What would it mean to restructure home care and domestic work? And what can regulatory actors do differently

within the confines of existing structures? The majority of this chapter attends to the first question, as its open-endedness prompts multiple and ambitious answers. I then turn to narrower, more immediate recommendations tailored to government regulators, unions, and worker centers.

Industry Restructuring

Home Care

A reconstituted home care industry could take several forms, all difficult to achieve. The simpler transformations would leave intact Medicaid as the main public funder of home care services, such that most home care aides would continue to assist Medicaid recipients. More ambitious changes would create new systems of long-term care provision, namely the type of social insurance programs that advocates have proposed in past decades, as described in Chapter 2. This model has been endorsed by organizations in the NDWA orbit, including its spinoff group Caring Across Generations, as well as by policy organizations like PHI and the National Academy of Social Insurance.

Reforms within the Medicaid Framework

In New York State, government regulators and 1199SEIU agree that there are too many home care agencies. The idea of consolidating the industry into fewer firms appeals to both of these actors and has even led to concrete policy proposals. As the former health department official attested in Chapter 4, greater concentration of agencies would facilitate oversight, while for 1199SEIU, such a change would facilitate new organizing. From the perspective of labor standards enforcement, consolidating New York City's 700 home care agencies into a smaller

number would mean that each firm would have a greater volume of clients, which in turn would yield higher operating margins, greater business stability, and, perhaps, less pressure to violate labor standards.

One downside of consolidation is that the owners of small and mid-size agencies, like those I interview in this project, would have to sell their businesses. There would be racial- and immigrant-justice implications: my interviews suggest that a substantial proportion of agencies in New York City are owned by people of color and immigrants. Moreover, as a practical obstacle, few politicians want to be associated with the closure of hundreds of small businesses.

Beyond consolidation, New York and the 22 other states that use managed care could abandon the model, treating it as failed experiment in administering Medicaid long-term care services. In New York, and likely elsewhere, the impetus to adopt managed care was both fiscal and ideological: with the 2011 reforms, Governor Andrew Cuomo wanted to rein in the state's mounting expenditures on Medicaid long-term care, while also extracting government from the business of social service provision. The governor's fiscal rationale, however, was based largely on a misdiagnosis. His justification of the managed care proposal was that the existing financing structure was to blame for New York's high level of Medicaid home care spending. However, Medicaid home care expenditures in New York had long exceeded those of other large states like California because New York provided recipients more services and paid home care aides comparatively better—not necessarily because of its financing structure (Sparer 1996). Moreover, the quickly rising cost of New York Medicaid's home care programs between 2004 and 2010 was not the result of the financing structure either; rather, it was caused by several home care agencies exploiting regulatory loopholes and committing large-scale Medicaid fraud (Polson 2013:118, 126–28; Union Interview 7). If that problem had been diagnosed correctly, the

state could have conceivably contained the costs of its Medicaid home care programs without managed care and, instead, with more robust DOH oversight.

Such an approach could be adopted in the future and would become even more viable if paired with industry consolidation. In this model, the state would contract directly with licensed home care agencies, eliminating managed care companies as intermediaries. Doing so would require that the DOH rebuild its administrative capacity, a significant investment but one that would at least be partly offset by recouping the profits and fees currently taken by managed care companies. In terms of labor standards enforcement, abandoning the managed care model would help relieve the most severe pressures that drive home care agencies toward noncompliance, including the pattern of late reimbursement payments detailed in Chapter 2.

Removing managed care plans from the contracting chain would also allow state governments to implement higher standards more effectively. In New York, implementation of minimum wage increases in recent years has been a debacle: in the managed care paradigm, the state injects new funds into the Medicaid program to subsidize the raises—however, in the interest of preserving market dynamics, the state Medicaid agency does not require that those funds be passed down to agencies and their workers. Instead, agencies must renegotiate their contracts with each managed care plan, hoping to secure higher reimbursement rates sufficient to pay their employees the new minimum wage. This arrangement is not tenable and results in situations like the one faced by the agency owner Adrian, whose story opened Chapter 2; on the eve of a $2 per hour minimum wage increase, he had not yet secured higher reimbursement rates from the managed care plans and had no way to pay his workers the new wage. A direct relationship between the state Medicaid agency and the home care agencies would eliminate such problems. The political obstacle, however, is obvious: insurance companies and managed

care organizations have a vested interest in the current system. What reformers have on their side are numbers—the 1,100 home care agencies statewide, among which there are likely hundreds with managed care complaints like those I heard in interviews. And there are decades of historical precedent, including the many years during which New York City ran its own home care program through direct agency contracts.

Among proposals that would preserve the basic framework of Medicaid home care, a final option is to end contracting entirely. This public-sector option would likely have the most impact on the realization of labor standards in the formal home care industry. By reversing the practice of privatization, state government could abandon the logic of service provision that thrusts contractors into competition that hinges on cutting labor costs—a race to the bottom. This model would thus remove any firm-level pressures and behaviors from the enforcement equation. Initially, this idea may seem far-fetched, but the model has already existed in self-directed Medicaid home care programs in Illinois, Oregon, Washington State, and California. While these programs have involved some degree of contracting, most home care aides are employed by county-level or state-level public agencies, who share employer responsibilities with the care recipients who "self-direct" their aides in relation to daily tasks (see Chapter 2). This model does not fully solve the problem of compliance; public agencies sometimes pay workers late or incorrectly, and care recipients may still exploit and mistreat workers (Cranford 2020). But the built-in economic motivations behind violations are absent.

Despite its appeal, this alternative has two main weaknesses. First, the past decade has revealed that it may be harder to sustain unionization in this public-sector model than in a privatized industry structure. In the initial years of large-scale home care elections, between 1999 and 2014, the public-sector model seemed friendlier to labor organizing. However, the 2014

Harris v. Quinn Supreme Court decision showed that tying home care employment to the public sector was a liability, an easy target for right-wing opponents. As a result, SEIU has had to innovate, and in Washington State, it has successfully persuaded state officials to shift self-directed home care employment onto a single, unionized private agency (Union Interview 10). This approach, called "agency with choice," may spread to other states (Campbell et al. 2021:40). The logic is that workers' employer of record is now a private entity, which renders the union less susceptible to legal attacks on public-sector unionism.

The second problem with the public-sector model is that, while labor standards violations may be less common, the standards themselves remain limited by the budgetary and political constraints that afflict Medicaid. Because Medicaid is jointly funded by federal and state tax revenue, and because it is administered at the state level, it is continuously subject to budget negotiations and competing spending priorities. As a result, state and county governments rarely allocate sufficient funding for the wages and benefits received by home care aides who assist Medicaid enrollees. In California counties, it is common for home care aides in the Medicaid self-directed program—In-Home Supportive Services—to receive the statutory minimum wage or perhaps a dollar more. Thus, employment conditions are inadequate across the Medicaid-funded home care industry, whether in New York's managed care system or California's In-Home Supportive Services program. Better alternatives would not only promote labor standards compliance but also allow pay and labor standards to significantly rise.

Reforms beyond Medicaid

Medicaid, as I explained in Chapter 2, was never intended to be the country's cornerstone of paid home care provision. As such, it is unsurprising that it has proven so inadequate for meeting the

population's home care needs and for sustaining the workforce that makes existing care possible. There is a common-sense policy alternative that could provide greater access to home care, better working conditions for home care aides, and more stable and robust financing: a universal social insurance program dedicated to home care and long-term care provision, established either through Medicare or as a standalone policy. Among experts in home care and long-term care, there is a clear consensus that only such an approach can transcend the fundamental constraints of Medicaid as an underfunded social assistance program. Thus organizations like PHI, Caring Across Generations, and the National Academy of Social Insurance have begun to invest significant resources into outlining and advocating for such an alternative, with an emphasis on its potential to improve care access and quality while sustainably raising standards for home care aides and other long-term care workers (Campbell et al. 2021; Espinoza 2019; Veghte et al. 2019). Among their sources of inspiration, they have looked to international models such as Germany and the Netherlands, which offer universal benefits for people with disabilities of all ages, and Japan and France, which provide universal benefits for older adults (Campbell et al. 2021:101).

Advocates can now also invoke a model closer to home. Washington State's Long-Term Care Trust Act, enacted in 2019, began collecting payroll contributions in 2022, and will disburse its first benefits in 2025 (Veghte et al. 2019:156). That initiative, the country's first universal social insurance program for long-term care, will begin with a modest scope but has the ability to expand and to serve as a template for a federal policy.[1] Shifting to the federal level

[1] The Washington program will initially provide each recipient a daily benefit of $100, up to a lifetime total of $36,500. That amount is somewhat low—for instance, it could fund a few hours of assistance per day, for one year. Currently, a state commission is deliberating the details of the program's implementation, including rules around the hiring of home care aides and the labor standards entailed. Because SEIU 775 was closely involved in the act's passage and has representation on the commission—and strong political influence outside the commission—the union will be influential in shaping the program's workforce implications.

will be important for achieving economies of scale and for transcending economic competition between states; universal healthcare programs at the state level are expensive to administer and come with the risk of scaring off businesses and investors (Sparer 1996). The political feasibility of a federal program is, no doubt, dubious. But a social insurance program funded by payroll deductions or other dedicated taxes would transform the formal home care industry and its financial logics, escaping the "losing dynamic" of austerity-stricken Medicaid programs that often resort to managed care and that can rarely raise wages without cutting home care services (Veghte 2022).

Domestic Work

In this dissertation, I have argued that the structure of the domestic work industry is even more unwieldly than that of formal home care, given its greater fragmentation and pervasive informality. This poses an acute problem for regulatory actors. But this problem is not unique to the United States.[2] Globally, labor regulators and domestic worker activists face the same challenge and have not yet found clear solutions. Reviewing cross-national enforcement practices in the domestic work context, the International Labour Organization (2015:19) summarizes the state of affairs in a way that echoes my U.S. findings:

> Informality transforms domestic work into an invisible and apparently undetectable activity. A proactive approach to problems in the sector is hindered by the fact that . . . labour inspectorates may be forced to rely on [incomplete] information. . . . [Thus] inspectorates tend to focus on other areas in which they can show better results. Labour inspection strategies, techniques and practices [targeting domestic employment] are neither designed nor implemented, and the myth of the impossibility of managing the

[2] The commonality of domestic work across countries appears especially clear when compared to the structure of formal home care in the United States, which, despite recent evidence of cross-national welfare state convergence, retains a distinctly American essence given the incredible complexity and variation that arise from the intersection of federalism and welfare state privatization.

> domestic work sector is perpetuated. This is particularly serious as complaint-driven intervention models cannot adequately respond to the needs of the sector.[3]

In Chapter 5, I conclude that bringing greater formality to domestic work employment is likely necessary to transcend this global pattern of ineffective labor standards enforcement. In Europe and Latin America, and even the United States, we can find cases that inform the search for solutions.

This section is structured in two parts. The first discusses four variations of formalization: (1) employer registration, which would help bring domestic employment into government regulators' field of vision; (2) industry boards that control the domestic work labor supply and the employment process; (3) transitioning domestic employment to formal organizations, which would end the individualized employment relationship; and (4) unionization and collective bargaining, which would transform labor market dynamics. The second part explores a more radical vision, which entails not the formalization of domestic work but its gradual diminution. This vision, which would also depend on immigration reform, synthesizes bold social policy proposals to imagine an alternative in which working parents rely less on outsourcing childcare to low-wage workers, households employ fewer low-wage workers to clean and maintain their homes, and individuals needing home care services can turn to the type of social insurance program outlined above.

[3] Even in the Franco-Latin regimes praised by Piore and Schrank (2018), domestic work often leads government labor regulators to default to a U.S.-style complaint-based approach instead of root-cause regulation. The International Labour Organization (2015:19) reports that, as in the United States, this approach does not work: in 2011, the labor ministry in Portugal received less than 20 domestic worker complaints; Spain's received none. In Peru, from 2008 to 2011, domestic workers filed only 16 complaints. This report does not provide complaint figures for other European countries but notes that domestic workers filed "virtually no complaints" with enforcement agencies in other European Union member states.

Variations of Formalization

1. Employer Registration through Tax Incentives and Worker Benefits Programs

In Europe and Latin America, programs that combine tax incentives, technology, and social insurance coverage have yielded some success in formalizing domestic work. French regulators, for instance, have devised several policy tools and incentives, most notably tax deductions for domestic employers who register with the government; employee professionalization through training and certification; and a free online service through which domestic employers can sign work contracts, pay wages, and manage payroll contributions all in one place (Advancing Personal and Household Services 2020).[4]

In Latin America, formalization efforts have had a distinctly worker-centered bent, arguably because the region has seen a confluence of leftist governments and strong domestic worker organizing in recent decades (Blofield 2012). Uruguay has been a leader in this regard; in addition to deploying tax incentives like France, the Uruguayan government has merged the oversight of labor standards, social security, and tax compliance into a single, powerful system of domestic work regulation. If a household registers as a domestic employer, they receive tax benefits but are also obligated to establish a written contract with the worker they hire and to make social security contributions on the worker's behalf. Regulators have established an

[4] Political scientist Nathalie Morel (2015) argues that policies such as those in France have mainly aimed not to raise labor standards but rather to address macroeconomic concerns. Facing sluggish economies, high unemployment, and the need for tax revenue, E.U. governments have come to view privately hired housecleaning, childcare, and home care as a key growth sector. Furthermore, by incentivizing households to hire "low-skilled" immigrants for domestic work jobs, governments believe they can free up "high-skilled" and "high-productivity" women to participate in the labor force more fully. Such a strategy reflects the desperate state of economic policy in post-industrial countries, where governments look to squeeze society for bits of growth wherever they can (Benanav 2020). The primary goal of domestic work formalization in Europe, then, has been to create jobs and taxable employment relationships, not to improve labor standards or protect workers. Thus, available research suggests that the benefits of formalization for labor standards enforcement, such as the knowledge of which households employ workers, have not been tapped (Morel 2015:178; 186).

integrated database in which they cross-check this information and monitor compliance. They can see, for instance, when a household claims a domestic-employer tax deduction but has not executed a work contract or is not paying the requisite payroll contributions. Chile and Argentina also are at the vanguard of formalization policies; they too have leveraged work contracts, social security contributions, and employer databases as tools for formalization, undergirded by strong tax incentives and steep penalties for noncompliance (Interview, Adriana Paz, 2023).[5]

These cases demonstrate that, if regulators can start to systematically identify domestic employers, the industry becomes more visible and new possibilities emerge for labor standards enforcement. However, what limits their relevance to the U.S. context is unauthorized immigration. In most Latin American countries, immigrant domestic workers do not face the profound legal precarity experienced by unauthorized workers in the United States. As discussed in Chapter 4, proposals to formalize domestic work in this country are complicated by the risk that undocumented domestic workers might become visible to the wrong regulators, to immigration enforcement.

Yet U.S. worker centers and advocates have recently shown small signs of openness to formalization as a strategy, pointing to a possible alternative to the enforcement paradigm that has guided New York domestic worker organizations since 2015, detailed in Chapter 5. This development has been driven by the organizations' campaigns to raise labor standards through new policies. Specifically, because domestic workers have such limited access to employment benefits, NDWA and its affiliates have championed the idea of "portable benefits" that domestic workers can accrue and retain across jobs (Gervis 2021). Building on a long history of portable benefits in other occupations, such as waitresses (Cobble 1991), advocates see the model as

[5] Adriana Paz is the Latin America Regional Coordinator for the International Domestic Workers Federation.

especially suitable for housecleaners and nannies employed by multiple households or those who transition from one household to the next as time passes. Such models have been enacted, though not yet implemented, in Philadelphia and San Francisco. Related legislative campaigns are developing in Seattle and elsewhere.

If fully implemented, government-mandated portable benefit programs will allow administrators to access basic information about participating workers and employers. Such data could render domestic employment relationships visible to regulators in a dramatically new way and could enable greater compliance-monitoring, prevention, and deterrence (Gervis 2021:170).[6] In my interviews, participants in San Francisco and Seattle noted that they and their allies are entertaining this possibility while continuing to take seriously the vulnerability of undocumented workers (NGO Interviews 15, 16, and 19). San Francisco organizers, in particular, voiced eagerness to address the problem of informality. Domestic employers are sometimes unidentifiable not only to regulators but to workers themselves; organizers at the Chinese Progressive Association have found that Chinese immigrant domestic workers often do not know their employers' full legal names, a basic hurdle to filing complaints (NGO Interview 12). San Francisco's new portable benefits program for paid time off could help remedy such simple but fundamental issues.

2. Industry Boards: Employer and Worker Registration Paired with Labor Market Restructuring

In the past decade, U.S. labor scholars have increasingly seen sectoral bargaining and industry standards boards as promising alternatives to traditional firm-level collective bargaining (Andrias 2016; Cohen 2018; Cohen and Dubal 2022; Jacobs, Smith, and McBride 2021; Madland 2021).

[6] In describing this possibility, Gervis again cites an interview with Palak Shah of NDWA Labs.

NDWA and its affiliates have also taken an interest in this policy idea and have successfully enacted a limited prototype in Seattle, where a domestic worker standards board, comprised of worker and employer representatives, develops nonbinding proposals to improve and enforce standards in the local domestic work industry. NDWA has also included a call for a national industry standards board in the Domestic Worker Bill of Rights that its legislative allies have introduced in the U.S. Congress.

The Seattle model is highly constrained: because it lacks policy-making power, tools to require employer registration, and direct enforcement mechanisms, it serves mostly as an institutionalized forum for dialogue between worker centers and government regulators (NGO Interviews 14 and 16). There are some benefits in creating such forums (Elliott-Negri et al. 2021). But this model also suggests that the "industry standards board" concept currently circulating in U.S. labor networks could use some revision—an argument also made by Elliott and Fine (2023).

An international example—the Indian state of Maharashtra—offers another potential solution to informal and precarious work (Marshall 2019:51–52, 63–65, 68). The Mathadi Act of 1969 established a regulatory system for informalized *mathadi* workers, or manual laborers in numerous sectors who load, unload, carry, weigh, and stack physical goods. The law established local mathadi boards with broad authority, including setting wage and employment standards; requiring workers and employers to register and to use the board's hiring system to arrange jobs; and processing wage payments as well as social security and healthcare contributions. This model combines the advantages of the Uruguayan system—registration that enables compliance monitoring—with a labor market mechanism that compels employers to comply with standards. Because employers must hire workers through the mathadi boards, these boards serve as

employment agencies whose functions resemble those of union hiring halls. By controlling the labor supply, the boards can exclude unscrupulous employers and thus incentivize compliance.[7]

The mathadi-board model seems surprisingly translatable into the domestic work context and the federalized system of U.S. labor regulation. One could imagine, for instance, California or Washington State enacting a law that permits cities or counties to establish local boards in the mathadi vein. In Seattle, the existing domestic worker board could be vested with real authority and could integrate and expand the domestic work placement service already run by one of the city's worker centers, Casa Latina. Further, by creating a regulatory regime specific to domestic work, the city could tailor benefits programs to this context, which would overcome the challenge of twisting existing cross-industry benefits programs to fit domestic work's idiosyncrasies—an issue that has hampered the implementation of the portable paid time off programs (NGO Interview 19). Seattle, moreover, has already moved in the direction of a regulatory regime specific to domestic work, namely with its 2018 Domestic Workers Ordinance. The mathadi model thus offers a compelling way to reorganize and strengthen existing institutional experiments in the United States. A final merit of this approach is that it could be adopted independently of federal immigration reform.

3. The 1970s Model: Formalization through Agency-Based Employment

Among the virtues of the mathadi model is that it inserts an intermediary between workers and employers, thus disrupting the power imbalance inherent to informal, one-to-one employment

[7] As an accountability mechanism, the boards must report to the state labor commission. This is an important layer of oversight, because, in practice, the boards are not perfect. The local nature of the boards means that some enact higher standards than others. And boards have sometimes been criticized for being too neutral, insufficiently protective of workers, or too vulnerable to political influence.

relationships. In the 1970s, at the same time the mathadi model was being developed, U.S. domestic worker activists viewed third-party intervention as the most viable solution to the problems of domestic work, a solution that could be just as relevant in the United States today as when it was first proposed. The NCHE argued that domestic workers should be employed by private agencies and cooperatives instead of by private households. Reflecting on their first national convention in 1971, executive director Edith Barksdale Sloan (1971) told the press, "If you interpose an agency, you can do away with the personal stuff and base the whole occupation on skill and ability. . . . Conditions won't change as long as the service is master-servant, one to one."

Alongside its allies, NCHE thus developed programs to promote "a thorough overhaul of household work" through the development of high-road intermediaries (Johnston 1972). With household service firms, "the housewife" (their term) would be "relieved of her legal responsibilities as an employer," while the worker would have "recourse to the intermediary firm in the event that she has a problem on the job." NCHE believed that the goal of transforming conditions in domestic work would be "fully realized only when the majority of household workers are employed by intermediary firms rather than individually" (NCHE 1971).

The organization's archival records leave a trail of mixed success on this front. NCHE had a direct hand in three cooperatives in the early 1970s, but two had failed by 1974. While it is unclear how many firms and cooperatives its members independently established around the country, NCHE intensified its messaging around this proposal through the 1970s and developed multiple guides and handbooks to assist domestic workers in establishing their own household service enterprises.

NCHE leaders and allies would be disappointed to see that the one-to-one employment model persists today in the United States, but they might be encouraged by Belgium, Denmark, Finland, and Sweden, where third-party employment of domestic workers has become widespread (Morel 2015). In Latin America and the United States alike, the idea lives on, but generally at a small scale. There are domestic worker cooperatives in New York City and elsewhere, but they are few. Argentina is one exception, where, since 2004, the government's National Program for Home Care Workers has assisted the development of home care worker cooperatives; it is a model, though not without flaws, that could be adapted elsewhere (Pérez 2022).

For-profit digital platforms, like Care.com and Handy, represent a new form of third-party intermediary, but they fail to play the intermediary role of employer. They serve primarily as matching services through which households can find workers, and vice versa. But the platforms do not employ workers directly, leaving intact the one-to-one employment relationship and its exploitative potential.[8]

In the realm of traditional private agencies and cooperatives, however, the U.S. immigration system once again emerges as an obstacle. This consideration was mostly irrelevant to U.S.-born domestic workers and activists in the 1970s, but it now compromises the utility of

[8] Overall, this dissertation has dealt little with Care.com both because of the project's scope and because the company's claims about its ubiquity seem exaggerated. Only 57 of my 1,758 survey respondents, about 3 percent, indicated that they used Care.com to find one of their current jobs (the survey spanned Los Angeles County, New York City, San Francisco, and Seattle, as noted in Chapter 1 and Appendix A). Even fewer reported using Handy. But Care.com and similar intermediaries have been the subject of recent labor scholarship (e.g., Ticona and Mateescu 2018), and advocates can leverage them to raise labor standards among those who use the platforms. Recognizing this potential, in 2015, NDWA and Hand in Hand persuaded Care.com to create a "Fair Care Pledge" through which domestic employers could voluntarily commit to certain employment practices, including fair pay, provision of paid time off, and use of employment contracts (Care.com 2015). More recently, NDWA Gig Worker Advocates—an organization spun off from NDWA—announced a pilot project with Handy (now owned by Angi Inc.) to raise standards for approximately 4,500 housecleaners hired through the platform in Florida, Kentucky, and Indiana. The two-year initiative, launched in 2021, guarantees minimum earnings of $15 per hour, paid time off accrual, and occupational accident insurance (NDWA Gig Worker Advocates n.d.; Poo 2021).

the agency-based route to formalization. The essence of that vision, however—that "conditions won't change as long as the service is master-servant, one to one"—remains a potent idea that should anchor serious proposals to restructure the domestic work industry.

4. Unionization and Collective Bargaining

One of the reasons that NCHE promoted an agency-based model was because the organization also aspired to achieve collective bargaining rights for domestic workers, who had been excluded by the 1935 National Labor Relations Act.

In more recent decades, domestic worker activists have revived the idea of collective bargaining, reflecting the convergence of worker center and union models that Milkman observed among Los Angeles labor organizations in the early 2000s. Milkman (2010:16–17) argues that many worker center leaders "have come to recognize the limitations of their capacity to foster lasting social change using the worker center model alone. This, in turn, has led some . . . to experiment with efforts to promote unionization among low-wage workers." We can see this pattern in the campaign for the 2010 New York Domestic Workers' Bill of Rights. Worker centers included collective bargaining rights among their initial policy proposals, but as in the 1970s, lawmakers rejected the demand.[9] Against this backdrop, many of the worker center leaders and staff I interviewed express interest in unionization and gaining collective bargaining rights; but given the longstanding barriers, they are not actively organizing around these goals.

Yet, in considering variations of industry formalization, we can ask: what could domestic worker unionization look like in the United States today? There are two main possibilities. The

[9] As a compromise the enacted law required the state DOL to study whether domestic worker collective bargaining is feasible. The report essentially concluded that it is not, but it recommended granting domestic workers such rights nonetheless (Goldberg 2014b:279; New York State Department of Labor 2010).

first is similar to the worker center model: unionization without collective bargaining. Even without collective bargaining rights, domestic workers can form unions. This model is common throughout Latin America today and has historical precedents in the early twentieth-century United States (Katzman 1981; van Raaphorst 1988). In Latin America, these unions are often national in scope and are registered with government labor departments as official representatives of their members. They receive funding from international institutions, philanthropic foundations, and other unions, and they participate in regularized dialogue with government regulators. In countries that have ratified Convention 189, they play a central role in government-led roundtables that convene to implement the convention's requirements. When their members experience violations, they shepherd worker complaints to relevant government agencies (Interview, Adriana Paz, 2023).

The second possibility is domestic worker unionization with collective bargaining. In the European Union, this arrangement exists in France, Italy, Germany, Sweden, and Finland (Baga et al. 2020; Mather 2015; Morel 2015). The scope and quality of collective bargaining agreements vary dramatically. Agreements in Sweden and Germany, for instance, cover relatively few domestic workers (Mather 2015; Morel 2015). By contrast, Italy's national domestic worker bargaining agreement is both expansive in content (International Labour Organization 2013) and inclusive in coverage, with protections that apply to undocumented immigrants (Baga et al. 2020:17). In South America, Uruguay is the only country with robust collective bargaining, which observers attribute to the fact that it is one of the few countries with an organization capable of representing employers at the bargaining table (Goldsmith 2017). Perhaps more relevant to the United States is the example of São Paulo, Brazil; there, at the city

level, collective bargaining occurs between the domestic worker union and a local association of domestic employers (Interview, Adriana Paz, 2023).

To the extent that U.S. worker centers and advocates wish to consider the possibility of unionization, they can look to these cases for lessons and inspiration. Unionization with collective bargaining is the more valuable model, with transformative potential similar to the mathadi industry-board model. Given current political realities in the United States, however, domestic worker unionization with collective bargaining seems far less plausible than the mathadi model. Although the exclusionary clause of the National Labor Relations Act is contained in a mere thirteen words, their deletion is likely beyond the capacity the country's lawmakers in the foreseeable future.

Reduction of Domestic Work, Not Formalization?

The long and narrow pathways to any version of large-scale formalization suggest another possibility: given the unyielding challenge of raising and enforcing labor standards in domestic work across decades and continents, might a dramatic reduction of the occupation be a surer solution?[10] A package of existing social policy proposals could contribute to such a change, which I summarize below.[11]

[10] The question is not entirely without precedent. A steep decline in the domestic workforce during most of the twentieth century led some sociologists to predict the coming end of the occupation, as Lewis Coser (1973) did in his article "Servants: The Obsolescence of an Occupational Role." The data seemed quite clear: the U.S. Census Bureau counted nearly 2 million domestic workers in 1940, roughly 1 million by 1970, and fewer than 500,000 by 1990 (Milkman, Reese, and Roth 1998:491). Some activists seemingly welcomed this trend, even as they took up the domestic worker cause; Chapter 1, for instance, cited how NCHE director Edith Barksdale Sloan (1974) admitted that she had felt "doubtful about the possibility of upgrading an occupation that I felt should be done away with." But the pattern did not hold. By the 2000s, privately hired domestic work began to expand, which scholars have attributed to rising inequality (increasing the demand for domestic work) and new immigration (increasing the labor supply) (Duffy 2011; Milkman et al. 1998).

[11] The advocacy group Caring Across Generations has proposed a similar package of policies that it calls "Universal Family Care," which includes paid family leave, expanded early childhood education and care, and a universal long-term care program. The National Academy of Social Insurance cited earlier (Veghte et al. 2019) outlines policy

The caveat is that deploying these policies is not, in fact, simpler than formalization. Envisioning an end to domestic work must be paired with a proposal for immigration policy overhaul, or else the result would be counterproductive: dramatically reducing the number of domestic work jobs would close off one of the better employment opportunities available to undocumented women (Milkman, Reese, and Roth 1998:495; Romero 1992).[12] Given this consideration, the following proposals would have to work in tandem with progressive immigration reform that would allow undocumented immigrants to obtain work authorization.

- *Giving parents more time to care*: To better reconcile parenthood and employment, Gornick and Meyers (2003) argue for a combination of (1) generous paid family leave, (2) reduced work time and more work schedule flexibility, and (3) more affordable early childhood education and care outside the home. Such policies would give parents more time to care for their children themselves, instead of outsourcing care to low-wage domestic workers—especially during infancy and the earliest years of childhood.
- *Shifting childcare to publicly subsidized programs as children age*: The expansion of free or affordable early childhood education and care, especially for children ages three to five, would also reduce the need for domestic workers. International models abound, such as the publicly subsidized day care program pioneered in Quebec and now extended throughout Canada (Isai 2023). This care could be provided in centers or in the homes of

design options for each element of that package. That policy package aims to improve care access and create high-quality care jobs in the formal sector, not to reduce the role of informalized domestic work in U.S. society. But like the proposals I outline, it could serve both aims.

[12] For women without work authorization, there are few options beyond domestic work. Some include agriculture, street vending, and formal sector industries in which employers take chances around immigration compliance in exchange for cheap labor (such as meatpacking, restaurants, and garments and textiles). Romero's (1992) study found that domestic workers generally regarded their jobs as preferable to such other options. Milkman et al. (1998:495) summarize other literature with similar findings.

state-registered, unionized childcare workers who offer group day care, as in California (Gold 2023).

- *Creating social insurance programs for universal long-term care*, as described earlier in this chapter: Doing so would reduce the need for informalized or "gray-market" home care services.

There is no well-defined policy proposal for reducing the use of paid housecleaning and housekeeping services, as demand for that work is likely driven by multiple sources ranging from macro-level economic inequality to excessive work hours to micro-level gender inequality in unpaid household labor. Social policies such as those proposed by Gornick and Meyers (2003) could dampen some of those forces. In addition, insofar as housecleaners also provide services for older adults, expanded long-term care programs might shift some of informalized housecleaning work into the realm of formal home care.[13] The larger problem of economic inequality, however, may be the core driver of housecleaning and housekeeping services; that problem requires a distinct set of policy and political solutions.

Strengthening Enforcement without Industry Restructuring

Although I have argued that restructuring home care and domestic work is necessary to broadly realize labor standards, regulatory actors must also grapple with present realities and the everyday demands on their organizations. Government regulators, for instance, cannot simply

[13] If paired with immigration reform, new home care jobs created by a universal long-term care program could allow housecleaners who are currently unauthorized to become home care aides. Such a transition would simultaneously address the national home care labor shortage and enable immigrant women to pursue more rewarding work. Research consistently shows that home care aides find their jobs meaningful, despite currently low pay and poor conditions (Jabola-Carolus et al. 2020; Milkman 2018, 2023; Stacey 2011). This rewarding nature of home care work contrasts sharply with housecleaning and housekeeping (Hondagneu-Sotelo 2001).

abandon their enforcement tasks and take up the banner of industry overhaul. At best, without neglecting their administrative duties, they can supplement enforcement activities with intragovernmental advocacy for systemic change. Thus, bracketing the more radical proposals presented above, I turn now to narrower matters of labor standards enforcement, namely the conditions under which regulators succeed or fail in reducing violations given current industry structures. In this section, I discuss how government agencies, unions, and worker centers can strengthen their enforcement efforts.

Home Care

What government regulators can do

First, regulators like New York State's DOL need to gain powers of license suspension and revocation, so that they can use more severe sanctions against noncompliant home care agencies. In New York, those powers currently lie with the DOH, which does not use them as tools for labor standards enforcement.[14] Similar divisions of authority exist, and should be addressed, in other states that have home care licensure requirements. In states that lack licensure requirements, the obvious strategy is to create some and to invest labor departments with power to suspend or revoke them. California offers one example of how labor departments can gain such powers; Senate Bill 588, enacted in 2015, gave the Labor Commissioner's Office greater ability to collect unpaid wages and damages by such means as issuing stop orders that halt business operations and rendering upstream firms liable for their subcontractors' violations (Fine and Round 2021:23).

[14] In New York State, the DOH would still be responsible for licensing home care agencies, so in practice, license suspension and revocation powers would need to be shared by both health and labor officials.

Case studies show how the ability to suspend or cease business operations is a vital element of effective enforcement. In the agricultural sector, for instance, an exemplary case is the Coalition of Immokalee Workers, a Florida-based organization that has raised standards for farm workers and crafted a highly innovative and effective enforcement model. Through its Fair Food Program, the coalition persuaded major corporations like McDonald's and Walmart to agree to buy tomatoes (and now other produce) exclusively from suppliers that adhere to a code of conduct that enshrines numerous labor standards. One of the pillars of enforcement is that noncompliant suppliers can be suspended from selling their produce to participating corporations (Fine and Bartley 2018; Marquis 2017). These market consequences speak much louder than the fines that can be levied by government agencies. In states like New York, which have large agency-based home care industries, the ineffectiveness of the fines-based approach necessitates more powerful alternatives; license suspension and revocation would be especially impactful tools.[15]

Second, the mixed results of New York City's home care industry sweep suggests that enforcers need to conduct proactive compliance audits with more frequency and regularity. One-off, occasional investigative sweeps have limited potential to uncover and deter violations. The Coalition of Immokalee workers again offers a model. The organization created a third-party auditor, the Fair Food Standards Council, whose investigators visit participating farms twice a year to evaluate compliance among suppliers. These thorough audits can take from two days to two weeks, and they include interviewing workers, evaluating the adequacy of employers'

[15] Perhaps New York City could also create some form of home care agency licensure requirement, so that its labor standards office would also have stronger enforcement tools. That office, after all, is housed within the Department of Consumer and Worker Protection, whose primary responsibility is licensing businesses (Salas 2020). For further discussion of how governments can leverage licensing powers for labor standards enforcement, see Dejillas (2020) and Gerstein and Gong (2022).

timekeeping and payroll systems, and combing through employers' financial records to ensure correct payment practices (Fine and Bartley 2018:90; Marquis 2017:123–24). These audits, paired with continual workers' rights education and 24/7 complaint hotlines, have created a comprehensive system for monitoring labor standards compliance, buttressed by the strong penalty of employer suspension.[16]

Third, legislatures and executives at every level of government need to commit more resources to their labor departments. With their current budgetary and staffing levels, most labor standards offices, especially New York City's, cannot conduct regularized audits of the home care industry. Even without more resources, however, enforcers can explore other approaches, such as auditing a small random sample of home care agencies annually. In New York City, auditing 5 percent of agencies, for instance, would currently involve around 35 agencies each year, similar to the scope of the 2017–2018 investigations. But such an approach likely would have a much smaller impact than systematic audits of the entire industry. Here we see that not only greater resources but also industry consolidation could facilitate enforcement: if New York City had only 35 agencies in total, enforcers could regularly audit the entire industry.

Fourth, regulators should consider selective use of "naming and shaming" violators, but, at least in New York's home care industry, should not rely heavily on this strategy. My findings suggest that, contrary to Johnson's (2020) study, the practice of publicizing violators appears to work poorly in the formal home care industry. This is not surprising, as most home care agencies do not have brands to protect and are nearly indistinguishable to consumers—conditions that limit deterrence-via-publicity, according to established theories (van Erp 2011; Gunningham

[16] By contrast, when employers in other industries know that the chances of being audited are exceedingly low, they have less incentive to comply (Stansbury 2021).

2011).[17] There seem to be some exceptions, such as large nonprofit agencies that care about their reputations and depend on government grants to provide social service other than home care.

Finally, regulators should explore new strategies for preventing violations that rely on employer education and technical assistance rather than sanctions alone. Many labor departments, including New York City's, are aware of this priority and deploy such strategies (Lambert and Haley 2021). But the ongoing experiment in Minneapolis, cited in Chapter 2, may yield new models, such as subsidizing automated payroll systems for small businesses (Workplace Justice Lab 2023).

What unions can do

My analysis of union activities in the agency-based home care context leads me to conclude that, as a first priority, unions should leverage their unique political influence to help government regulators gain the powers and resources outlined above. Unions like 1199SEIU and AFSCME Local 389 should continue their member education and outreach practices, which appear to work relatively well in cultivating an informed and empowered membership. But to prevent and deter contractual violations, and to promote legal compliance at non-union agencies, unions need government's help. To this end, unions in New York and beyond could use their lobbying muscle to advance legislation giving state labor departments power over home care agency licenses.[18]

[17] Along these lines, interview respondents at agencies investigated by the city worried more about the inconvenience and cost of getting caught than any potential reputational fallout. Further, non-investigated agencies did not seem especially aware of or bothered by news of the city's paid sick leave investigations.

[18] As mentioned above, such licensing power might need to be shared between labor and health departments.

Second, in New York, unions should similarly use their unique position as political players to reform the Wage Parity Law and end the 13-hour rule—two of the main opportunities that agencies have to cheat their workers, discussed in Chapter 2. 1199SEIU has collaborated with regulators over several years to strengthen Wage Parity Law enforcement, but ultimately a revision of that law might be a more sustainable solution. Similarly, efforts to better enforce the 13-hour rule are mostly futile, but 1199SEIU has been reluctant to invest the political capital necessary to scrap the rule entirely and win adequate back pay for wronged workers. Yet that union is perhaps the only actor in the state's home care field with sufficient political influence to reform that rule and thus resolve its enforcement challenges.

Third, home care unions that bargain with individual agencies should find ways to insert new prevention or deterrence mechanisms into their contracts. Like government agencies, they can look to the Fair Food Program as a model. Although that program exists outside the framework of collective bargaining, it nevertheless involves agreements that establish auditing requirements; unions can fight for similar proactive measures to expand their enforcement repertoires beyond tools that retroactively respond to problems.

Finally, in New York and beyond, unions that represent home care aides in self-directed Medicaid programs should identify channels for more regularized interaction with members. In New York State, the lack of training or certification requirements for these aides means that there are no in-service training meetings where union organizers can interface with workers on an ongoing basis. The situation in California is similar, as care recipients are empowered to train home care aides in whatever manner they choose (Campbell et al. 2021). This discretion is rooted in the ethics of self-directed programs, so it is not something that can or should be challenged. However, to better inform and empower their members in relation to labor standards,

unions should explore alternative ways to mandate or strongly incentivize recurring interaction between organizers and members.

Domestic Work

What government can do

Without restructuring the domestic work industry, there are at least three ways for government to strengthen enforcement on its own.

First, the New York City case demonstrates the value of establishing sub-units dedicated to domestic work. The Paid Care Division provided new, if limited, resources for addressing domestic work enforcement challenges. These resources gave local regulators the capacity to institutionalize dialogue with worker centers and advocates and to develop innovations like the city's domestic worker mediation clinic. Labor standards offices in other cities and states, and even at the federal level, could easily replicate this model. They could also draw upon international precedents; Uruguay, again, is exemplary, as its national labor ministry created a special division to monitor compliance with domestic work legislation (International Labour Organization 2015:18).

Second, as in the home care context, legislatures and executives need to provide substantially more funding to labor offices to address the unique challenge of domestic work. This is especially true in cities where domestic workers are covered by relatively strong standards but labor offices have far fewer resources than their peers; these include New York City, Chicago, Philadelphia, and Los Angeles. My analysis of the New York State DOL, moreover, attests to the scarcity of enforcement resources at the state level; the general absence of the federal DOL in the domestic work context reveals the same.

Finally, while naming and shaming generally seems ill-suited for New York's home care industry, it could be more effective in promoting domestic employer compliance. There are two potential approaches here: soft (anonymous press releases) and hard (non-anonymous press releases). New York City has already used the soft approach, issuing a press release about two paid sick leave settlements with domestic employers. But that move yielded little to no press coverage, so it is highly unlikely that domestic employers heard about it.[19] The hard approach, which would involve actual naming and shaming, is a stickier proposition. The named individual could face job loss and other potentially life-altering consequences, and they might well sue the city. Further, this form of punitive action would trouble proponents of restorative or transformative justice. But the legal, economic, and ethical calculations around such action would also have to take into account the potential deterrent impacts. Past research illustrates what such effects might look like. Ahmer Qadeer's (2023) study of the New York City public advocate's "Landlord Watchlist" finds that publicizing the names of the city's most delinquent landlords did not yield statistically significant reductions in housing code violations; but based on interviews with two dozen landlords, Qadeer finds that many landlords improved their efforts to comply due to concerns about landing on the list. We can imagine similar results in the domestic work context, perhaps by naming and shaming only a single employer. Thus government regulators who have no other large-scale enforcement strategies may wish to consider this approach. If this "hard" version proves politically impossible for such regulators, an alternative approach is for them to publicly disclose an offending employer's name but to leave the "shaming" to worker centers or other advocates.

[19] Online searches for press coverage about the settlements turn up no results. A larger settlement in Seattle—$71,000 to a domestic worker for numerous wage and sick leave violations—received more media coverage, including a TV spot on the local NBC affiliate (Ramirez 2022).

What worker centers can do

If they are unable or unwilling to pursue domestic-work formalization, worker centers should sustain their programs to educate workers about their rights, recruit them into their organizations, and assist them with complaints and resolutions. They should also continue to expand programs that raise awareness among domestic employers about their obligations, as the worker-allied organization Hand in Hand has been doing across the country. But all of these efforts need to occur at a much larger scale, backed by more ample resources.

The goal, in this approach, is to reach some type of cultural tipping point, such that awareness becomes widespread and that the norm among domestic employers becomes compliance, at least in specific geographies. To move toward this goal, worker centers and organizations of high-road employers like Hand in Hand must leverage all available channels through which domestic employers communicate among themselves and with workers. This includes Facebook and WhatsApp groups, neighborhood apps, and school networks. These efforts must also be sustained over time, as the pool of domestic employers regularly churns. New parents, for instance, enter that pool each day as they look for childcare for the first time; others leave it as their children grow older. Some worker centers, like the Carroll Gardens Association in Brooklyn, have begun to pursue this type of cultural and normative change at a local level, reviving one of the very early approaches to implementing the Domestic Workers' Bill of Rights (NGO Interview 4). But to avoid the quiet dissolution of that effort, like the 1970s sticker campaign before it, worker centers will need greater resources and organizational constancy than they have had before.

Summation

This chapter has identified diverse policies and strategies that regulatory actors can weigh as they address widespread labor standards violations in the in-home care sector. While even the most modest of these require significant time, money, and political capital, this dissertation suggests that there are no cheap or easy solutions. Yet this research shows that systemic noncompliance has specific causes which, although rigid, are not immutable. Moreover, success is not unprecedented; as this chapter attests, those who seek change can look to the farm workers in Florida, laborers in Maharashtra, and domestic workers in Uruguay. In doing so, activists, policymakers, and workers themselves may forge new models to emulate.

Appendix A
Methods and Data

In-Home Care Worker Survey

My research goals required the design of an original survey because existing data sources provide limited opportunities for examining labor standards enforcement. For instance, the Current Population Survey (CPS) is useful for estimating minimum wage violations by comparing respondents' reported wages with the federal, state, or local minimum wage (Barnes et al. 2021; Galvin 2016; Galvin, Round, and Fine 2020; Weil and Pyles 2005), but the CPS offers little data in relation to other labor standards and contains few variables that can be used for explanatory analysis. Furthermore, small numbers of observations at the state and local level hamper its utility, especially when focusing on individual occupations like home care aides and domestic workers.

Original surveys targeting specific industries or occupations, however, depend on the existence of sampling frames—appropriate lists of relevant workers from which to recruit participants. Such sampling frames allow researchers to construct random, or probability, samples. In the context of paid in-home care, such sampling is rare but not unprecedented. In one instance, the Centers for Disease Control and Prevention conducted a national survey of home health aides in 2007, focusing on job satisfaction and retention. The sampling frame included home health aides employed by private home care agencies that receive Medicare funding, but it excluded personal care aides and aides hired directly by households. Moreover, the survey relied on telephone interviews, which have become increasingly impractical due to declining response rates (from 36 percent in 1997 to 6 percent in 2018) (Couper 2017; Kennedy and Hartig 2019).

As an alternative, non-probability samples are more common, and they typically take one of two forms. First is convenience or purposive sampling, often used in partnership with worker centers or non-governmental organizations. Researchers collaborate with these organizations and their members to recruit participants through community events, legal clinics, outreach in public spaces, or workers' personal networks (Casanova 2019; Casanova, Rodriguez, and Roldán 2018; Gleeson 2016). This option was not ideal for my purposes due to the selection bias involved in this approach: those sampled through organizations and snowballing may know more about their rights or feel more inclined to action by virtue of contact with other workers or organizations. The methods used by Bernhardt and collaborators (2009) addressed the limits of non-random samples by employing respondent-driven sampling. A variation of snowballing, this method involves having respondents recruit others, tracking recruitment patterns, and measuring personal network size to estimate and adjust for each respondent's probability of being sampled. The person-to-person approach also facilitated participation of undocumented immigrants and off-the-books workers, a key advantage for a study that included low-wage occupations. The main drawback of this model is that it demands substantial resources and organizational capacity, especially for multi-city studies.

In search of an alternative that would be feasible, that would reach in-home care workers, and that would dampen some of the biases inherent to non-probability samples, I ultimately turned to the Facebook-based sampling strategy used by Schneider and Harknett (2019a, 2019b). Social scientists have considered the research uses of Facebook over the past decade (Brickman Bhutta 2012), and rising levels of internet access, smartphone ownership, and Facebook usage have expanded that potential. As Abrams, Harknett, and Schneider (2022:1445) write, "Social media profiles provide a sampling frame with similar coverage to landlines, but with the

advantage of being portable, durable, and verified for hard-to-reach and transient populations like service-sector workers." Among low-wage workers, Facebook profiles may be even more stable than cell phones (Ticona 2022), whose users often experience disconnection (Gonzales 2016). Advocacy organizations report widespread use of Facebook among in-home care workers, a pattern that makes sense given the demographic alignment of this workforce's composition and of Facebook's user base. According to the Pew Research Center (Auxier and Anderson 2021), approximately 75 percent of U.S. adults ages 18–64 use Facebook; people of color use the platform at a higher rate than white people, women at a higher rate than men, and urban residents at a higher rate than non-urban residents.[20] Reviewing this data, I concluded that Facebook usage among my target population was likely widespread, rendering Schneider and Harknett's model a compelling option for survey participant recruitment.

To target ads in a way that would reach home care aides, nannies, and housecleaners, I had to construct a sampling frame using different strategies than Schneider and Harknett. Unlike in retail and food service, the decentralized industry structure of home care and domestic work means that Facebook lists very few companies that can be used for targeting. One alternative I used involved targeting ads by individuals' self-described job titles, such as "home health aide," "elder care aide," and "personal attendant." The constraint here, as with the use of employer names, is that the sampling frame includes only those who list such information in their Facebook profiles. To reach a broader universe of workers, I also targeted ads based upon demographic criteria available in Facebook's ad platform. For instance, analysis of American Community Survey data reveals that nearly one in eight Latinx women in New York City (13

[20] Qualitative research also has found that immigrant workers employed as in-home care workers heavily rely on Facebook to maintain contact with relatives in their countries of origin (Francisco-Menchavez 2018).

percent) work in the in-home care sector. Thus, depending on the alignment of Facebook users with the true population, recruitment ads reaching Latinx women in New York City might be relevant to approximately one in eight users who see them. To target ads in this way, I chose ad settings that would reach users who identify as Hispanic or Latino, who use Facebook in Spanish, or who indicate that they previously lived in a Latin American country. Those who clicked on the ads served, in effect, as a sampling frame. I used the same approach to reach other linguistic, racial/ethnic, and immigrant groups. As a participation incentive, respondents were invited to enter a drawing for one of five $50 digital Target gift cards.

The survey was developed with input from other researchers, staff of government agencies, the National Domestic Workers Alliance, the Service Employees International Union, and local affiliates of both organizations. The content focused on wages and work conditions, awareness of rights, and contact with worker organizations and government agencies. Questions about awareness of rights draw from Milkman and Appelbaum's (2013) survey on paid family leave, and from the Institute for Employment Studies survey on workers' knowledge, and exercise, of employment rights (Meager et al. 2002). Questions on job satisfaction derive from the General Social Survey, while questions on work conditions and rights violation draw upon the 2007 National Home Health Aide Survey (Bercovitz et al. 2010), the 2008 Unregulated Work Survey (Bernhardt et al. 2009), and the 2011 National Domestic Workers Alliance survey (Burnham and Theodore 2012). Numerous original questions were crafted with guidance from CUNY Graduate Center faculty with expertise in survey research, and were further informed by research on effective survey design (Groves et al. 2009; Marsden and Wright 2010; Schaeffer and Dykema 2011). I tested and refined the survey questionnaire using three rounds of cognitive interviews (15 total) and a one-week online pilot in New York City.

I selected Los Angeles County, New York City, San Francisco, and Seattle as survey sites because they feature significant home care unionization rates as well as government agencies in the vanguard of labor standards regulation (Fine and Piore 2021:1086). Few other locales meet these two criteria.

The data that resulted from this survey ultimately addressed several research questions beyond the scope of this dissertation. The data most relevant to the dissertation's aims came from the subsample of New York City home care aides, analyzed in Chapter 3. I have analyzed the survey data from Los Angeles and San Francisco in other publications (Jabola-Carolus 2020a, 2020b).

Interviews

For interviews with home care agency owners and managers, I sampled agencies in three ways:

- First, I contacted the 42 agencies investigated in the city's 2017–2018 industry sweep, using a list provided to me by the labor standards office. I called and visited agencies in person, which resulted in four interviews. (Among the other agencies: 30 did not respond to multiple interview requests; 4 refused; and 4 could not be reached due to disconnected phone numbers or outdated addresses.)
- Second, I drew a sample of non-investigated agencies. To create a sampling frame, I used New York State Department of Health registration data for licensed home care services agencies (NYS Department of Health 2023). As of the most recent (2022) data, there were 701 agencies registered in New York City—659 when excluding investigated agencies. From this list, I drew a simple random sample of 66 agencies, 10 percent of the relevant population. To recruit participants, I called each agency by phone, which yielded

four interviews; I visited the remaining in person, which yielded six interviews, for a total of ten interviews with non-investigated agencies.

- Finally, I supplemented those interviews with a purposive sample of agency types that were not represented in the other samples, specifically four nonprofit agencies and two agencies that had been investigated by state and federal agencies instead of by the city.

Potential participants were offered $50 interview incentives, and I explained that I was a graduate student conducting interviews about challenges in the home care industry, including staffing, the pandemic, and regulations. I began interviews with questions about the duties involved in running a home care agency and about efforts to recruit and retain workers during and after the pandemic; when eventually turning to regulations, I asked whether interviewees had heard of the city's paid sick leave investigations and probed other knowledge and attitudes around employment regulations.[21] Most interviews were conducted during business hours and lasted 30 to 45 minutes; two lasted 75 to 90 minutes. Table A.1, below, summarizes participant characteristics.

[21] Initially, I was concerned that participants might worry I was an undercover government inspector, which was often likely the case. After several interviews, however, I began to realize than many respondents were more concerned that I might be a business rival. The first indication was that participants sometimes refused to answer questions I thought were innocuous and trust-building, such as how many clients they served or how they marketed their agencies. The pieces came together when one owner, still skeptical after an interview, texted me to say that none of the information he shared should be used as the basis for any future business ventures. The fact that some owners are more worried about competitors than regulators captures themes analyzed in Chapter 4.

Table A.1. Home Care Agency Owners and Managers Interviewed (Fall 2022)

Characteristic	Number of Agencies (N = 20)
Location of office where interview was conducted	
Bronx	8
Brooklyn	6
Manhattan	1
Queens	3
Staten Island	2
Agency has offices in multiple boroughs	10
For-profit	18
Medicaid is primary source of business	16
Unionized	
By 1199SEIU	3
By Home Healthcare Workers of America (IUJAT)	3
Respondent's role	
Owner or executive director	8
Senior manager	12
Respondent demographics[a]	
Racial/ethnic presentation: U.S.-born white	3
Gender presentation: man	7
Staff size (home care aides only)[b]	
0 – 49	4
50 – 99	3
100 – 249	4
250 – 499	6
500 – 999	0
1000 or more	3

Source*:* Data compiled by author. Note: All agencies were Licensed Home Care Service Agencies. All interviews were conducted in English.

[a] Interviews did not include demographic questions because of time limitations and because I aimed to minimize distrust and skepticism, which many respondents openly expressed. As I discuss in the previous footnote, respondents worried I was a government inspector or a competitor fishing for information. And because nearly all opted to be interviewed during business hours amid hectic schedules, they had little time to offer. I anticipated these constraints based on Polson (2013) and Wu (2018) and on conversations with those authors before the fieldwork, and I designed my interviews accordingly.

[b] Three interview respondents did not disclose their staff sizes. In those cases, I use data collected by the state, which is less current but nevertheless offers an approximation (NYS Department of Health 2019).

For interviews with home care aides, I recruited participants using a sign-up form at the end of the online survey. I detail this process in Chapter 3. Table A.2 presents an overview of participant demographics and employment arrangements.

Table A.2. Home Care Aides Interviewed (December 2021–January 2022)

Pseudonym	Language	Race/Ethnicity	Birthplace	Age	Employment Type	Union Member
Alicia	English	Black	U.S.	42	Agency	Y
Alina	Spanish	Latinx	Dominican Republic	31	CDPAP	Y
Allison	English	Black	Jamaica	58	Agency	Y
Amelia	English	White	U.S.	61	Agency	N
Ana Maria	Spanish	Latinx	Mexico	57	CDPAP	Y
Dalia	English	Latinx	Colombia	52	Agency & CDPAP	N
Ellen	English	Black, Latinx, Native	U.S.	36	Private Household	Y
Isabel	Spanish	Latinx	Mexico	38	Private Household	N
Lorena	Spanish	Latinx	Dominican Republic	55	Agency	Y & N
Monica	English	Black	Barbados	54	Agency	Y
Nara	Spanish	Latinx	Dominican Republic	50	Agency & CDPAP	Y & N
Natalia	Spanish	Latinx	Ecuador	60	Agency	Y
Natasha	English	White	Russia	31	Agency	N
Nina	Spanish	Latinx	Dominican Republic	50	Agency	N
Ramona	Spanish	Latinx	Peru	57	Agency	Y
Sandra	English	Black	Trinidad	47	Private Household	N
Tamara	English	Black	Guyana	64	Agency	Y
Teresa	English	Latinx	U.S.	56	Agency	Y

Note: All respondents identify as women. For union members, "Y & N" indicates that the respondent works for multiple home care agencies and is a union member at one but not the other. For employer type, "Agency & CDPAP" indicates that the respondent has multiple jobs, one through a traditional agency and another through Medicaid's Consumer Directed Personal Assistance Program (CDPAP).

Appendix B
Regression Analysis Details

Weighting

As noted in Chapter 3, I follow Schneider and Harknett (2019a, 2019b) and apply post-stratification weights to better align the Facebook-based sample with population benchmarks from the American Community Survey (ACS).[22] I calculate the weights using race/ethnicity and education benchmarks from the ACS, stratifying respondents into eight cells (two education categories by four race/ethnicity categories). The weighting calculation aligns the proportion of each cell in my sample with the proportion of each cell in the ACS sample. For instance, Black home care aides who have not attended any college are approximately 14 percent of my sample and 19 percent of the ACS sample. The resulting weight for respondents in this subgroup is the ratio of 19 percent to 14 percent, or about 1.3. Overall, because white workers (nearly all Russian-speaking) and workers who have completed at least some college were overrepresented in my sample compared to ACS benchmarks, the main result of the weighting process is to down-weight those subgroups and up-weight people of color with less educational attainment.

[22] In creating the ACS benchmarks, I include individuals ages 18 and over who work in New York City and are either home health aides (occupation code 3601) or personal care aides (3602) within four industries: home health care services, individual and family services, private households, and employment services. This method of isolating home care aides in national survey data follows multiple prior studies (Banerjee et al. 2022; Department of Consumer Affairs 2018; Shierholz 2013; Wolfe et al. 2020).

Missing Data

For most variables, the amount of missing data was small, between 0 and 5 percent on the outcome variables and between 0 and 6 percent on the covariates, with the exception of age (13 percent). Small amounts of missing data, however, add up across variables and would lead to a loss of around 20 percent of observations using listwise deletion. Such loss could create biased estimates and would waste useful information contained in the deleted observations (Allison 2001). Further, variables with the most missing data—age, English language ability, and overtime hours—are critical controls because they may be associated with the outcome variables.

To address my covariates that have missing data, I use multiple imputation with chained equations. In STATA, this approach imputes missing data for each variable, one at a time, beginning with the variables that have the least missing data. As each variable is filled in, it is then used in subsequent regressions to impute data for other variables. The result is a sequence of regressions, or "chained equations." The process repeats a specified number of times. Based on guidelines by Graham, Olchowski, and Gilreath (2007), I specify 20 imputations, resulting in 20 datasets that contain some imputed data. The final regression estimations leverage the variation across the 20 datasets: for each covariate, the STATA regression output reports the mean coefficient across the datasets and calculates standard errors using variance both within and across the datasets, which capture the uncertainty inherent to sample-based analysis.

Following von Hippel (2007), I include the outcome variables in the imputation process because information from those variables can improve the imputation of the covariates; but any observations with missing data on the outcome variables are excluded from the actual regression analyses.

Additional Models: Stepwise Introduction of Social Network Variables

As noted in Chapter 3, to check the robustness of my results, I performed additional analysis using stepwise introduction of the three variables that measure social networks. Tables B.1 and B.2 present the results of these regression models.

Table B.1. Stepwise Regression Results Using Multiple Imputation (for Knowledge and Violation Outcome Variables)

	Legal Knowledge Index		Procedural Knowledge, Self-Reported		Minimum Wage or Overtime Violation, in Current Job	
	Model 1	Model 2	Model 1	Model 2	Model 1	Model 2
Union member or covered	0.785*** (0.258)	0.793*** (0.262)	0.578** (0.247)	0.556** (0.249)	−0.183 (0.324)	−0.172 (0.330)
Demographics						
Black (non-Hispanic)†	0.388 (0.428)	0.583 (0.439)	1.654*** (0.435)	1.588*** (0.442)	0.239 (0.565)	0.161 (0.573)
Hispanic/Latinx	0.449 (0.368)	0.528 (0.378)	1.023*** (0.365)	0.856** (0.373)	−0.093 (0.473)	−0.194 (0.483)
Asian, Asian American, Pacific Islander, and other	0.030 (0.426)	0.285 (0.442)	0.716** (0.399)	0.450 (0.412)	−0.122 (0.547)	−0.313 (0.571)
Age	0.001 (0.012)	0.004 (0.012)	0.005 (0.013)	0.002 (0.013)	−0.012 (0.017)	−0.015 (0.018)
U.S.-born	0.823** (0.360)	1.027*** (0.012)	−0.343 (0.327)	−0.381 (0.350)	−0.331 (0.484)	−0.424 (0.504)
Speaks English well or very well or is a native speaker	−0.243 (0.292)	−0.260 (0.295)	−0.242 (0.275)	−0.2.65 (0.283)	0.353 (0.383)	0.349 (0.386)
Completed at least an associate's degree or some college	0.053 (0.242)	0.033 (0.245)	−0.389 (0.238)	−0.420* (0.241)	0.557* (0.309)	0.584* (0.312)
Employment						
Occupational tenure	0.030 (0.021)	0.028 (0.021)	−0.108 (0.020)	−0.019 (0.021)	−0.055** (0.027)	−0.058** (0.028)
Employed by private household†	−0.182 (0.399)	−0.279 (0.406)	−0.455 (0.400)	−0.347 (0.407)	1.221** (0.575)	1.302** (0.579)
Employed by fiscal intermediary (consumer-directed program)	−0.386 (0.343)	−0.388 (0.346)	0.288 (0.361)	0.272 (0.363)	0.434 (0.484)	0.441 (0.493)

Client is a relative	0.227 (0.460)	0.265 (0.469)	−0.068 (0.415)	0.114 (0.418)	−1.375* (0.719)	−1.419* (0.728)
Ever works overtime hours	n/a	n/a	n/a	n/a	2.271*** (0.310)	2.272*** (0.315)
Social Networks						
Interacts with other home care aides	-	0.529** (0.249)	-	−0.415* (0.248)	-	−0.367 (0.336)
Participates in any volunteer work, social clubs, or religious institutions	-	−0.575** (0.290)	-	0.725** (0.309)	-	0.359 (0.373)
Knows others who have sought help for work issues	-	0.220 (0.522)	-	0.430 (0.339)	-	0.140 (0.418)
Total Observations	320		329		318	

*p<0.1 **p<0.05. ***p<0.01

†Reference group is *white* for Race/Ethnicity and *home care agency* for Employer Type.

Table B.2. Stepwise Regression Results using Multiple Imputation (for Claims-Making Outcome Variable)

	Likelihood of Claims-Making (n=331)	
	Model 1	Model 2
Union member or covered	0.470** (0.236)	0.480 (0.239)**
Demographics		
Black (non-Hispanic)†	0.858** (0.424)	0.852 (0.427)**
Hispanic/Latinx	0.703* (0.367)	0.700 (0.373)*
Asian, Asian American, Pacific Islander, and other	−0.073 (0.392)	−0.081 (0.402)
Age	0.002 (0.013)	0.002 (0.013)
U.S.-born	0.526 (0.361)	0.470 (0.388)
Speaks English well or very well or is a native speaker	0.609** (0.252)	0.612 (0.253)**
Completed at least an associate's degree or some college	0.499** (0.240)	0.507 (0.241)**
Employment		
Occupational tenure	−0.007 (0.021)	−0.007 (0.022)
Employed by private household†	−0.700* (0.387)	−0.692 (0.391)*
Employed by fiscal intermediary (consumer-directed program)	0.118 (0.360)	0.120 (0.360)
Client is a relative	−0.835* (0.450)	−0.834 (0.450)*
Ever works overtime hours	n/a	n/a
Social Networks		
Interacts with other home care aides	-	−0.096 (0.249)
Participates in any volunteer work, social clubs, or religious institutions	-	−0.029 (0.295)
Knows others who have sought help for work issues	-	0.004 (0.332)

*p<0.1 **p<0.05. ***p<0.01
†Reference group is *white* for Race/Ethnicity and *home care agency* for Employer Type.

Limitations

We can consider several limitations when evaluating the external validity of the analysis in Chapter 3. First, the non-probability sample used in the survey analysis is prone to bias, even if past research has shown that post-stratification weighting applied to Facebook ad-based samples produces results consistent with probability samples. The debate over online non-probability

samples remains unsettled and will likely continue as their use proliferates (Valliant and Dever 2018). In particular, the use of online ads involves three main types of potential bias: coverage bias (who can be reached online); selection bias (who sees the ads); and non-response bias (who clicks the ads and takes the survey). These forms of bias are not unique to online non-probability surveys, but future research is needed to understand their extent.

Second, in its focus on New York City, the analysis is constrained by characteristics unique to this context. Alternative industry structures and training requirements likely affect union impacts. Descriptive statistics from my Los Angeles County survey data look similar to those in New York City: unionized home care aides have higher levels of legal and procedural knowledge than non-union aides, as well as somewhat lower levels of rights violations. However, it is unclear whether these differences between groups are statistically significant.[23] If home care unionism in California does, in fact, have similar effects as in New York, the mechanisms of influence might not look the same. California and other states rely more heavily on state-funded, self-directed home care without agency intermediaries. This relative absence of agencies and ongoing training requirements mean that unions effectively interface with and influence their members in different ways than in New York.

Finally, the generalizability of my findings may be limited by organizational and temporal factors. First, the union respondents in both the survey and interviews were primarily members of 1199SEIU, and in more modest numbers, AFSCME Local 389. Patterns in the data, then, may not extend to all unions but rather to unions who share characteristics with 1199SEIU and DC37, including a commitment to organizing members and enforcing contracts. Second,

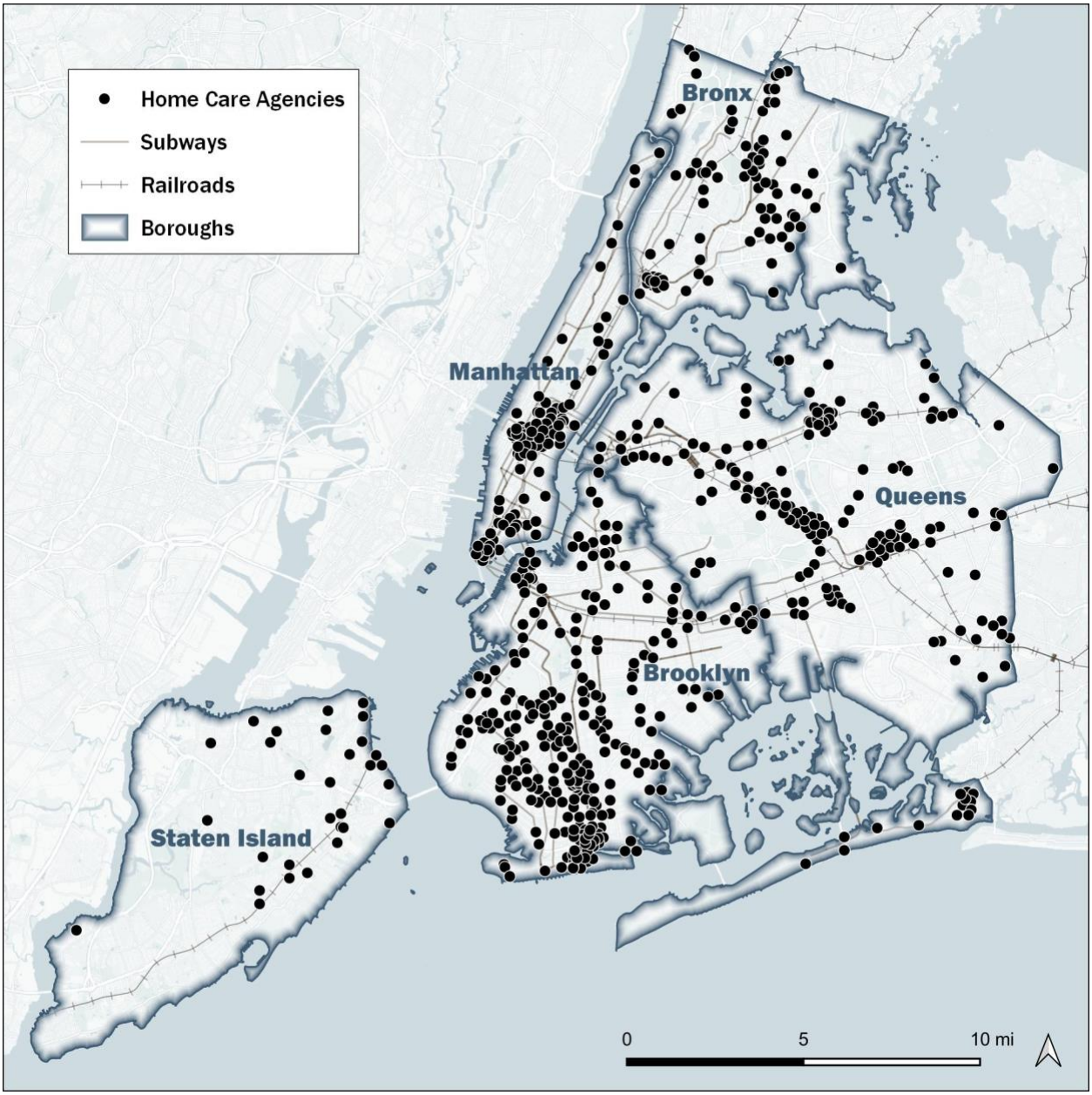
[23] Regression analysis of my Los Angeles survey subsample would not be meaningful because almost all union members are employed through California's self-directed home care program; this multicollinearity would prevent the analysis from isolating the effects of union membership from those of employment type.

because the survey data was collected in 2019, it is possible the pandemic affected union impacts on the outcomes I have analyzed. Such effects, however, could point in multiple or opposing directions. Union staff members report that in-service trainings shifted online during the most severe waves of the pandemic, reducing opportunities to meet workers in person. But staff also say that their unions, by necessity, supported members and expanded their operations in unprecedented ways to meet the demands of the crisis. However, by mid 2022, when I conducted additional interviews with union staff members and home care agency owners and managers, organizational practices seemed to be returning to pre-pandemic conditions. Many agencies had resumed or hoped to resume their in-person trainings.[24] Whether future training will remain in person or go virtual will be determined by government agencies who regulate training requirements. My findings suggest that unions and workers have a major stake in those decisions.

[24] One manager was especially eager to resume in-person events: "Some of the training, you want [aides] to do hands-on, and you don't really get that in doing it remote. If I want to make sure someone can transfer a patient, I want to see it! We have a bed in our training room. . . . I want to see them move the person out of the bed into a chair. . . . Remotely, you can demonstrate to them but will never really see them doing it" (Agency Interview 1).

Appendix C
Map of Home Care Agencies in New York City

Figure C.1. Licensed Home Care Services Agencies Registered in New York City, 2022



Source: Author's compilation of data from NYS Department of Health (2023), mapped by Daya Johnson using QGIS.

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