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UTAH DOMESTIC WORKERS AND THE POTENTIAL OF A DOMESTIC WORKERS BILL OF RIGHTS

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Introduction

As a result of the COVID-19 pandemic, there has been opportunity to look at who and what allows our society to function. The term “essential worker” appeared in the beginning of quarantine restrictions and brought attention to critical industries that were often not in the public’s view. With more and more people forced to stay at home and take on new roles as caregivers of their elderly, sick, and young family members many came to the realization of the difficulty of care work. The public was able to see the importance of cleanliness and how that burden was and is often placed on underpaid workers. In light of the pandemic, it has become clearer how domestic workers are essential participants in our economy and society, despite being historically undervalued and mistreated. Since 1935, the U.S. Congress introduced three major labor policies: the National Labor Relations Act of 1935, the Fair Labor Standard Act of 1938, the Occupational Safety and Health Act of 1970. These laws prevent worker exploitation, set a minimum wage standard, and regulate worker hours. However, domestic workers were left out of receiving these important protections. Domestic workers, whose titles include nannies, caregivers, housecleaners, day-workers or live-in help, are primarily immigrant women of color (Burnham & Theodore 2012, p. 11). The nature of domestic work, often employed by a family or individuals and working within the private sphere, leaves them vulnerable to exploitation and mistreatment. The absence of basic coverage set forth in major US labor policies leaves domestic workers without protection through legislation and further exposes them to risk. Within the last two decades, social movements began working to call attention to worker vulnerability and the need to create protection for domestic workers. Most notably, the creation of the National Domestic Workers Alliance (NDWA) in 2007. The NDWA works specifically for labor protections and has over 60 affiliates and chapters in 19 states. The NDWA aided in the creation of the Domestic Workers Bill of Right and have been active in nationwide and state campaigns for the instatement of the legislation. The successes of these efforts include the passing of a state Domestic Worker Bill of Rights in eight states: Oregon, California, Connecticut, Illinois, New York, Massachusetts, Hawai‘i, and Nevada. These laws give domestic workers the rights that are set forth in the Fair Labor Standard Act which includes the right to overtime pay, paid vacation, safe working conditions, meal breaks, rest days, and protection from harassment. Currently, Utah, does not have an affiliation with the National Domestic Workers Alliance nor has the state passed a Domestic Workers Bill of Rights.

Current research on domestic workers illuminates how workers are made invisible in social, economic, and legal spheres. For many groups, legislation is the end goal. Though eight states have passed a version of Domestic Workers Bill of Rights, all are democratic majority states. In fact, the majority of the states that have some form of affiliation with advocacy groups who push for legislation like the NDWA are democratic majority states. This means that many domestic workers from republican majority states are left without the resources provided by

advocacy groups. Domestic workers from republican majority states are also likely to be left out of research done on domestic workers. The studies on domestic workers by the NDWA have been completed on a national level, focusing mainly on metropolitan areas. Currently, no research on domestic workers has been done in the state of Utah. The purpose of this study is to begin to grasp the state of domestic workers in Utah, a majority conservative state, and analyze if Utah's domestic worker population can benefit from legislation like the Domestic Workers Bill of Rights. The creation of legislation to protect workers, such as domestic workers, must be backed up by data that demonstrates a need. Therefore, this study examines the domestic workers in Utah by triangulating surveys, qualitative analysis of policies, and secondary scholarly analysis

Literature Review

Research on domestic workers examines the historical context, immigration patterns, legal and economic factors in order understand domestic worker experiences. Scholars argue that the devaluing of social reproductive labor performed by domestic workers has led to invisibility of workers in the eyes of the law and society (Hester 2018). Helen Hester in her article "Care under Capitalism" argues that social reproductive labor has been consistently devalued because of its association with femininity. According to Hester (2018) social reproductive labor, "describe[s] the activities that nurture future workers, regenerate the current work force, and maintain those who cannot work – that is, the set of tasks that together maintain and reproduce life, both daily and generationally". There is a social attitude that care work is somehow the implicit responsibility of women, therefore there is little need for compensation. It is a social responsibility, not a form of labor. The society perception "labor" often calls up an image of the manufacturing industry or other forms of labor in a "masculine setting[s]" (Hester 2018). These are seen as the true participants and contributors to the economy. However, these types of labor make up a small part of our economy, much of our economy relies on the service industry and will continue to do so in the future According to the Bureau of Labor Services, "19 in 20 new jobs created from 2014 to 2024, and 80% of US jobs today are part of the service industry" (2018).

Despite social reproductive labor playing an essential role in the continuation of our economy, the care economy is often ignored and labeled as "low-wage and unskilled" (Macintosh & Nelson, 2018). Belief that social reproductive labor is somehow separate from economic activities imposes the expectation and social connotations of gender roles on the economy. The care economy is feminized and is thus seen as motivated out of virtue and love and therefore is demonetized (Fraser 2016, p.30). The standard economy is assigned masculine features of being emotionless, transactional, and motivated solely by the generation of wealth. This separation also relegates care from the public to the private domestic sphere and "constitutes the principal institutional basis for women's subordination in capitalist societies" (2016, p.31). This leads to the deliberate exclusion of domestic work from labor law and the devaluation of their work. Rai, Hoskyns, and Thomas (2013) expand upon this in their article on depletion of social reproduction. They claim that participants enter the markets already at a disadvantage with "unequal capabilities, bargaining capacities, and resources". Though domestic workers can exchange their labor for wage the exchange will be unequal (Rai, Hoskyns & Thomas, 2013).

Race and immigration provide another crucial lens to understand the experience of domestic workers. While in powerful Western countries like the United States domestic work is undervalued, immigrant women and women of color are made into commodities by their country of origin. Fraser (2016) emphasized this in their work, explain that "there are countries whose

entire development strategy is to facilitate emigration of women to wealthy countries to regions for this purpose [domestic work]” (p. 34). Scholars such as Silvey and Parreñas examine migrant domestic workers narratives to inform public policy recommendations. Silvey and Parreñas (2020) observe that migrant domestic workers mostly do so out of economic need, coming from countries with little opportunity for social mobility. Their findings speak further prove that if a country desires to understand the experience of domestic workers, it is of utmost importance to analyze the labor and migration policies of the importers and exporters of domestic workers. The difference in legislation and policy between the sending and receiving countries increases vulnerability and likelihood of exploitation for migrant workers (2020). The current state of immigration and labor policies pushes immigrant domestic workers to work in the informal economy, adding to the precarity and invisibility of their work. Fukushima notes that invisibility of a domestic worker is seen as a valued skill to a domestic worker’s employer (2019, p.73). Invisibility of domestic works also manifests in the form of immigration status. In many studies, including the National Domestic Workers Alliance in 2018, have found a prevalence of immigrants without documentations among the domestic worker population. It is at the intersection of being a woman of color, an immigrant, and a domestic worker that the threat of exploitation heightens.

In their book “Effective Protections for Domestic Workers: a guide to designing labor laws”, Oelz, Müller-Scherf, and Preiser (2012) break down the potential labor laws have in protecting domestic workers. Domestic workers have the potential to not only receive protection from state and national laws but also, due to the prevalence of migrant domestic workers, can be included in bi-lateral and multi-lateral agreements across countries (Oelz, Müller-Scherf, & Preiser 2012, p. 9). Oelz, Müller-Scherf, and Preiser advocate for labor law reforms on domestic work to consult with both worker and employer organizations (2012, p. 10), which can be seen in the with various states in the U.S. and their collaboration with the National Domestic Worker’s Association which has resulted in the creation of a Domestic Worker Bill of Rights. The National Domestic Worker’s Association has played a large role in the US advocacy for domestic workers, acknowledging the lack of legislative protection given to domestic workers.

Methods & Analysis

This white paper is informed by a mixed- methods data collection during the spring of 2021, where the researcher combined survey and policy analysis. The first section of this report offers a policy benefits analysis of each Domestic Workers Bill of Rights that were passed in the following states: Oregon, California, Connecticut, Illinois, New York, Massachusetts, Hawaii, and Nevada. The policy analysis was carried out beginning in the spring of 2021, through the creation of a policy matrix. The matrix includes data regarding the year of the law, populations impacted, code, bill type, summary of the law, amendments to the law, costs, penalties, and definitions provided through the language of the law. The variables measured include hour regulations, day of rest, overtime pay, wage, deduction limit, workers compensation, minimum wage requirement, harassment protections, specifies safe work conditions, discrimination protections, education programs, employer transparency (contract/and or records provided), collective bargaining power, and states penalties for employer violations. The matrix was used to record the frequency of the variables in the Domestic Workers Bill of Rights across the 8 states and noted unique characteristics of each states’ legislation.

In addition to a policy matrix, a survey was distributed between April 9 and April 21, 2021. Participants included any Utah resident 18 years-old or older who identifies as a domestic worker. Acknowledging that domestic workers provide a range of services, participants were

provided with a definition of domestic workers and a list of titles including nanny, a caregiver of people with disabilities, sick, recovering, or elderly persons, a housecleaner, a housekeeper, a maid, or a gardener for a private household. Participants responded to 19 questions divided into six sections entitled: Domestic Worker, Pay, Contracts, Workplace Environment, Workplace Discrimination/Harassment, & Demographics. Questions ranked the participants level of agreement using the Likert scale. Respondents were asked to respond to statements such as “I experienced working without being paid or I have felt unsafe at work”. Comunidades Unidas helped in facilitating the recruitment of participants and the dissemination of the survey through email lists, Facebook and Twitter. The survey instrument design was adapted from existing models created by the National Domestic Workers and translated into Spanish.

Comunidades Unidas posted links to the English and Spanish versions of the survey on their Facebook page. Coalition of Labor Union Women posted the English survey on their site as well as shared it through their email list. Many other Facebook groups such as Mexicanas in Utah, Latinos in Utah, and Women of Color Salt Lake City, allowed me to post the survey flyers and link on their Facebook pages. The survey was also distributed by Comunidades Unidas at 3 COVID vaccination sites in Salt Lake City, West Valley, and Kearns and the Mexican Consulate in Salt Lake City on April 17 2021. Descriptive statistics were applied to analyze survey data.

Participant Summary

100 participants were recruited for the survey, 79 met the inclusion criteria. 73% of participants identified as White Hispanic and 77% identified as female. The majority participants answered the Spanish version of the survey. When participants were asked to specify their job title, 55% identified as either a housekeeper/housecleaner, 14% as a childcare provider, 14% used the title domestic worker, 8% as a caregiver of people with disabilities, sick, recovering, or elderly persons, 3% as a gardener of a private household, and 6% identified as a title other than the ones provided.

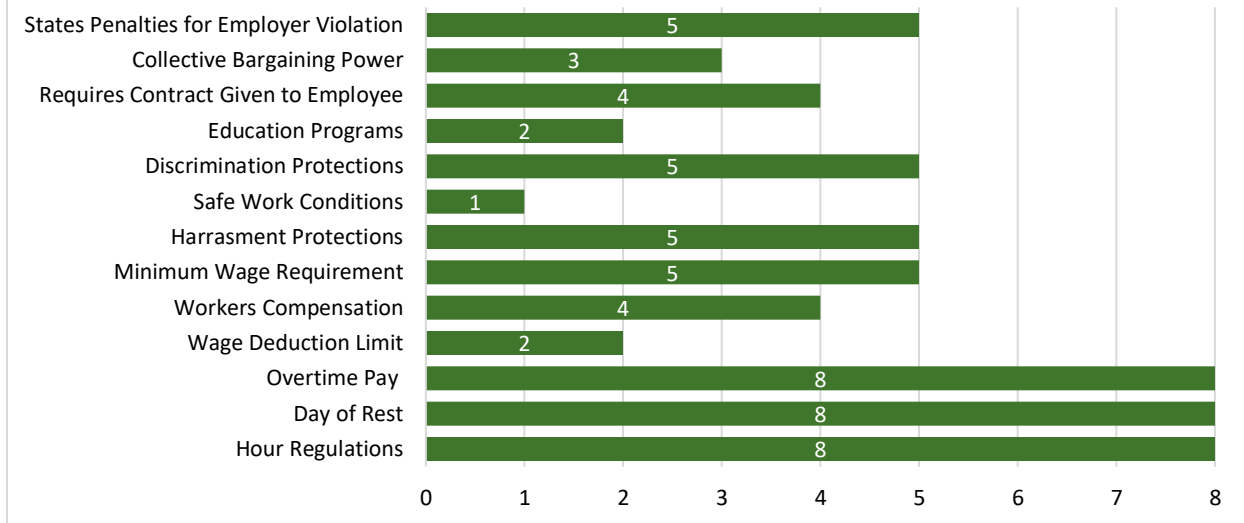
Findings

Policy Analysis

State Domestic Workers Bill of Rights were passed in California, Connecticut, Hawaii, Illinois, Massachusetts, Nevada, New York, and Oregon. Each state varies in legislation. California and Illinois were the broadest forms of the bill recording only 4 of the variables measured.

Connecticut and Massachusetts were the most specific forms of the bill, including 11 of the 13 variables measured. Though each bill varied by state, each state included the basic rights found in the federal law, the Fair Labor Standard Act; hour regulation, a day of rest per every calendar week, and overtime pay (time and half-time) for working over 40-45 hours a week. Despite the overwhelming research stating that domestic workers are at heightened risk for employer harassment and discrimination (Burnham & Theodore 2012), California, Hawaii and Illinois did not explicitly include harassment protections, and California, Illinois and Nevada did not include discrimination protections.

Variable Frequency in State Domestic Worker Bill of Rights



Pay

The section entitled “Pay” included questions included rights given by the Fair Labor Standard Act, the right to overtime pay and the right to be paid the minimum wage. In Utah, the minimum wage is \$7.25 per hour. In spite of minimum wage standards, workers continue to experience being paid below the legal requirement. Although 60% stated that they did not experience being paid below the minimum wage, a high representation of 1 in 4 (24%) of the respondents conveyed they had experienced being paid below the minimum wage. In addition, federal standards require that workers are paid for over-time work. However, domestic workers are oftentimes left out of such protections.

37% of the respondents overall agreed they experienced working without overtime pay. Research shows that domestic workers commonly experience having their wages withheld (Burnham & Theodore 2012). In this study, 23% of the respondents experienced having their wages withheld and 22% worked without being paid.

Contracts

Contracts between an employer and employee are an efficient measure to ensure employer transparency, appropriate wages, and work environment, and give the domestic workers a form of legal protection should their employer violate their contract as they had their work specifications in writing. However, 54% of respondents have worked as a domestic worker in the state of Utah without a contract.

Workplace Environment

Many State Domestic Workers Bill of Rights specified regulations for domestic workers’ work environment, as many are often forced to work long hours with minimal or no breaks. This seems to be the experience of approximately half of this study’s respondents. 43% of respondents agreed to having worked without scheduled breaks. 52% frequently worked longer than 9 hours a day. 52% either agreed or strongly agreed. 27% percent, a little over 1 in 4 respondents, agreed that they have felt unsafe while working.

Discrimination & Harassment

Studies have focused on harassment and exploitation endured by domestic workers, many scholars citing the intersection of being undocumented many women of color magnifying the issue. It is significant to note that 13% of survey respondents opted to not respond this section. 25% of respondents have felt uncomfortable discussing work complaints with my employer. 16% of respondents have experienced sexual harassment from their employer and 20%, precisely 1 in 5, of respondents experienced verbal, psychological, or physical abuse from their employer. Formalizing domestic work in the eyes of the law and public could prevent this type of exploitation of domestic workers.

Conclusion & Recommendations

There are various limitations when studying the domestic worker population. Many domestic workers participate in the informal economy, mostly due to lack of citizenship documentation. Immigration issues add another layer of complexity to their work environment and makes it difficult to get a completely accurate snapshot of their population

Interestingly, all models of legislation are from Democratic majority states. Acknowledging that Utah is a Republican majority state, passing a domestic worker bill of rights in the Utah would mean that the state could lead conservative majority states in protecting domestic workers. Passing domestic worker legislation would affirm Utah's claim of being welcoming to migrants. According to the Nation Domestic Worker Association approximately 46% of domestic workers are foreign born (Burnham & Theodore 2012). Domestic worker legislation is relevant to Utah as a state with a growing Latinx population, growing 78% from 2000-2010 (Utah Department of Health, 2015), many of whom participate in the informal economy as domestic workers (Burnham & Theodore 2012). As the migrant and Latinx population grow in Utah, supporting domestic workers and their families, 20% of whom reported food insecurity and 60% report spending more than half their income on rent/mortgage (Burnham & Theodore 2012), Utah has an opportunity to make an impact on these families. The state of Utah perceives itself as prioritizing families, by working to create safe environment for its domestic workers, you are also securing the livelihood of their families and increasing their ability to contribute to the economy.

Recommendation #1

The state of Utah should pursue the creation of its own Domestic Worker Bill of Rights.

Creating legislation for domestic workers would give domestic workers the needed support and legal protection to prevent exploitation. At the very least Utah should include the right to overtime pay, a day of rest, and hour regulations, all of which were included in every state Domestic Work Bill of Rights. Taking into account the 54% of workers who had not received a contract, including the requirement for worker contracts to always be provided will protect workers from future exploitation and give them the documentation necessary to pursue legal action against their employer if necessary.

Recommendation #2

The state of Utah should allocate state-funding to organizations who provide resources to Domestic Workers. Several states had included education programs in their bill of rights by creating taskforces, committees, or community-based programing for domestic workers in their bill of rights. These programs educate domestic workers on their rights and provide resources. Education programs would aid domestic workers in advocating for themselves and improving

their economic situation. If the state of Utah does not wish to create these programs themselves, they can fund on organizations who will focus on domestic workers.

Recommendation #3

Organizations in the state of Utah should continue research on our domestic worker population. The state of Utah does not have any affiliation or chapters with the National Domestic Workers Alliance nor has any previous research been done focusing on domestic workers. By allocating time to understanding the domestic worker population in Utah, we will be able to better tailor our aid to lessen domestic worker exploitation and help them fare better economically. Research will also aid in bringing attention of the public and our legislators to domestic workers.

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