

ESSAYS

From the Margins to the Citadel: Domestic Workers and a New Moral Economy of the Labor Market

CÉSAR F. ROSADO-MARZÁN*

This Essay takes as a starting point federal retrenchment in workers’ rights to envision a stronger legal regime the domestic workers’ movement inspired. That movement has driven twelve states, two cities, and the District of Columbia to adopt Domestic Workers’ Bills of Rights, extending long-denied labor protections while also pioneering new rights and a participatory regulatory institution. These victories—uneven though they may be—reveal not only discrete rules but also the contours of a new moral economy of the labor market: a framework of values, norms, and institutions that reshape work relations and redefine workers’ role in the political economy. Although enacting a comprehensive federal statute that extends these gains to all U.S. workers is quixotic at present, reformers can focus on consolidating these rights for domestic workers and for all other workers and on seizing future opportunities to press for federal legislation when the time is ripe.

TABLE OF CONTENTS

INTRODUCTION 1408

I. BROKEN RULES, EXCLUDED WORKERS, AND A RISING MOVEMENT. . . 1412

 A. ERODED LAWS, DEFLATED VALUES 1412

 B. DOMESTIC WORKERS EXCLUDED 1414

 C. DOMESTIC WORKERS RISE 1416

II. ACCESSING THE HOUSE OF LABOR. 1418

 A. EXTENDING MINIMUM WAGE LAWS. 1418

 B. HEALTH AND SAFETY PROTECTIONS 1420

* Edward Carmody Professor of Law, University of Iowa College of Law, and Faculty Liaison to the Iowa Labor Center; cesar-rosadomarzan@uiowa.edu. © 2026, César F. Rosado-Marzán. The author is deeply indebted to the hard work of his research assistants—Zayin A. Barnes, Ashlyn Koontz, and Genesis Mazariegos—and of the Editors of *The Georgetown Law Journal*, as well as to Heather Rothman, who provided professional editing support on a more developed draft. He presented prior versions of this Essay at the 2025 Labor Law Research Network meeting in Bangkok, Thailand; at the University of Iowa College of Law faculty workshop; and at *The Georgetown Law Journal*’s 2025 symposium. The author used ChatGPT, Claude, Google’s NotebookLM, and Microsoft Edge as editing tools. All mistakes are solely the author’s own.

C. DISCRIMINATION AND HARASSMENT	1422
III. CAMPAIGNING BEYOND THE CASTLE WALLS	1425
A. JOB PROTECTION	1425
B. FAIR SCHEDULING: RULES, BREAKS, AND PAID TIME OFF	1426
C. SINGLE-WORKER EMPLOYERS	1427
D. WRITTEN CONTRACTS	1430
E. PRIVACY	1433
F. DOMESTIC WORKERS' STANDARDS BOARDS/TASK FORCES	1434
IV. A NEW MORAL ECONOMY OF THE LABOR MARKET	1436
A. EGALITARIAN VALUES	1436
B. EQUITABLE VALUES	1437
C. DIGNITARIAN VALUES	1438
D. DEMOCRATIC VALUES	1439
E. IMAGINING A NEW LAW OF WORK	1440
CONCLUSION: A STRONG AND VIRTUOUS HOUSE FOR ALL	1444

INTRODUCTION

*“[Domestic workers] know and affirm the legitimacy of aspiring to be treated as workers like any other. They also know—perhaps better than most ordinary and even other atypical workers—how permeable the boundaries are between servitude and subordination, normalized time and boundarilessness, and employers’ emotional coercion and employees’ free choice.”*¹

Labor and employment law (also referred to here as “work law”) scholars lament the decline of their field, a trend primarily marked by collapsing labor union membership and eroding collective bargaining.² This decline has contributed to the rise of precarious employment,³ rampant wage theft,⁴ deepening

1. ADELLE BLACKETT, *EVERYDAY TRANSGRESSIONS: DOMESTIC WORKERS’ TRANSNATIONAL CHALLENGE TO INTERNATIONAL LABOR LAW* 73 (2019) (emphasis added).

2. See Kate Andrias, *The New Labor Law*, 126 YALE L.J. 2, 5 (2016).

3. Arne L. Kalleberg, *Precarious Work, Insecure Workers: Employment Relations in Transition*, 74 AM. SOC. REV. 1, 2 (2009) (terming “precarious work” as “employment that is uncertain, unpredictable, and risky from the point of view of the worker”).

4. See generally KIM BOBO, *WAGE THEFT IN AMERICA: WHY MILLIONS OF WORKING AMERICANS ARE NOT GETTING PAID—AND WHAT WE CAN DO ABOUT IT* (2009) (documenting the widespread

economic inequality,⁵ and democratic backsliding.⁶ As social scientists Robert Putnam and Shaylyn Romney Garrett show in their historical study of American inequality, rising economic polarization fuels hostile and intransigent politics, fractures society, and pushes cultural values toward narcissism.⁷ Yet, amid this bleak landscape, workers fight back, often in unexpected places. Workers toiling in sectors many times overlooked, such as the so-called essential workers during the COVID-19 pandemic, bring attention to low pay, overwork, hazardous conditions, discrimination, and harassment in nursing homes, warehouses, meatpacking plants, and the “gig” industries.⁸ These workers highlight their marginalization, despite their importance to us all. They contest outdated and unfair legal exclusions in the law of work, including the “independent contractor” and “domestic worker” categories,⁹ pointing toward reform.

This Essay argues that we can draw valuable lessons from one of these unlikely groups of marginal workers fighting back¹⁰: domestic workers. Domestic work, understood in this Essay as caregiving for children or older adults, house cleaning, and cooking performed in someone else’s home,¹¹ has historically been viewed as not being real work at all.¹² This perception reflects longstanding racial and gendered norms that have kept domestic workers both socially and legally marginalized.¹³ Indeed, domestic workers remain excluded from the National

practice of wage theft and arguing that weakened labor laws and a decline in union organizing contribute to the epidemic).

5. See Anna Stansbury & Lawrence H. Summers, *The Declining Worker Power Hypothesis: An Explanation for the Recent Evolution of the American Economy* 1–2 (BROOKINGS PAPERS ON ECON. ACTIVITY, 2020); Henry S. Farber, Daniel Herbst, Ilyana Kuziemko & Suresh Naidu, *Unions and Inequality Over the Twentieth Century: New Evidence from Survey Data* 1 (NAT’L BUREAU OF ECON. RSCH., Working Paper No. 24587, 2021); Bruce Western & Jake Rosenfeld, *Unions, Norms, and the Rise in U.S. Wage Inequality*, 76 AM. SOC. REV. 513, 513 (2011).

6. Angela B. Cornell, *Labor’s Obstacles and Democracy’s Demise*, in THE CAMBRIDGE HANDBOOK OF LABOR AND DEMOCRACY 49, 49–50 (Angela B. Cornell & Mark Barenberg eds., 2022).

7. See generally ROBERT D. PUTNAM & SHAYLYN ROMNEY GARRETT, *THE UPSWING: HOW AMERICA CAME TOGETHER A CENTURY AGO AND HOW WE CAN DO IT AGAIN* (2020).

8. See generally JAMIE K. MCCALLUM, *ESSENTIAL: HOW THE PANDEMIC TRANSFORMED THE LONG FIGHT FOR WORKER JUSTICE* (2022) (describing struggles by various essential workers who succeeded in getting at least temporary recognition as rights-deserving subjects).

9. See *Fact Sheet 13: Employee or Independent Contractor Classification Under the Fair Labor Standards Act (FLSA)*, U.S. DEP’T OF LAB.: WAGE & HOUR DIV. (Mar. 2024), <https://www.dol.gov/agencies/whd/fact-sheets/13-flsa-employment-relationship> [<https://perma.cc/EFD8-H5HU>]; Ali Rogin, Juliet Fuisz, Kaisha Young & Andrew Chambers, *Why U.S. Domestic Workers Have Fewer Labor Protections Than Other Employees*, PBS NEWS (June 15, 2024), <https://www.pbs.org/newshour/show/why-u-s-domestic-workers-have-fewer-labor-protections-than-other-employees> [<https://perma.cc/4FQU-3S8Y>].

10. See generally RUBEN J. GARCIA, *MARGINAL WORKERS: HOW LEGAL FAULT LINES DIVIDE WORKERS AND LEAVE THEM WITHOUT PROTECTION* (2012) (describing marginal workers).

11. See Rogin et al., *supra* note 9; *Occupation Groups in the Informal Economy: Domestic Workers*, WIEGO, <https://www.wiego.org/informal-economy/occupational-groups/domestic-workers/> [<https://perma.cc/Y3DK-YVTK>] (last visited May 17, 2026). For purposes of this Essay, domestic workers exclude homecare and personal care aides employed by agencies (third parties), groundskeepers, electricians, plumbers, chauffeurs, tutors, and medical professionals such as therapists and nurses.

12. Peggie R. Smith, *Work Like Any Other, Work Like No Other: Establishing Decent Work for Domestic Workers*, 15 EMP. RTS. & EMP. POL’Y J. 159, 164, 177–78 (2011).

13. *Id.* at 177–78.

Labor Relations Act (NLRA),¹⁴ the Occupational Safety and Health Act (OSH Act),¹⁵ core provisions of the Fair Labor Standards Act (FLSA),¹⁶ and, given the small size of domestic worker employers, Title VII of the Civil Rights Act of 1964.¹⁷ Yet despite these exclusions, in recent years, domestic workers have secured unprecedented rights at the state and local levels,¹⁸ making these workers unlikely champions of the labor movement. Their victories challenge assumptions about who drives innovation in the law of work today.

More importantly, domestic worker successes point toward a new “moral economy” of the labor market, defined in this Essay as a set of values, norms, and institutions that structure the way people relate with others at work.¹⁹ Historians and social scientists coined the moral economy concept while studying how European and Asian peasants harnessed tradition to resist market prices of essentials such as food.²⁰ Other groups that lose out as markets expand, including industrial workers, have similarly resisted the market through “cultures of solidarity.”²¹ Labor has focused on valuing equality, including substantive rather than formal equality (what this Essay calls “equity”),²² dignity for all despite

14. 29 U.S.C. § 152(3).

15. *Policy as to Domestic Household Employment Activities in Private Residences*, OCCUPATIONAL SAFETY & HEALTH ADMIN., <https://www.osha.gov/laws-regs/regulations/standardnumber/1975/1975.6> [<https://perma.cc/WQL3-THG8>] (last visited May 17, 2026).

16. Originally excluded from the FLSA, the Act was amended by Congress in 1974 to include domestic workers, albeit it still excluded “casual babysitters and domestic service workers employed to provide ‘companionship services’ to elderly persons or persons with illnesses, injuries, or disabilities.” *Domestic Service Final Rule Frequently Asked Questions (FAQs)*, U.S. DEP’T OF LAB.: WAGE & HOUR DIV., <https://www.dol.gov/agencies/whd/direct-care/faq> [<https://perma.cc/5744-FF8B>] (last visited May 17, 2026).

17. Title VII of the Civil Rights Act of 1964 fails to protect most domestic workers because it only covers employers who employ fifteen employees or more. 29 C.F.R. § 1975.6 (2023); *Domestic Workers Bill of Rights FAQs*, NAT’L DOMESTIC WORKERS ALL., <https://www.domesticworkers.org/programs-and-campaigns/developing-policy-solutions/domestic-workers-bill-of-rights/domestic-workers-bill-of-rights-faqs/> [<https://perma.cc/7KLD-TPMD>] (last visited May 17, 2026).

18. *Infra* Section I.C.

19. See Western & Rosenfeld, *supra* note 5, at 517.

20. See E.P. Thompson, *The Moral Economy of the English Crowd in the Eighteenth Century*, 50 PAST & PRESENT 76, 78–79 (1971) (defining the moral economy of the eighteenth-century English peasants as a “consistent traditional view of social norms and obligations, of the proper economic functions of several parties within the community. . . . An outrage to these moral assumptions . . . was the usual occasion for direct action.”); JAMES C. SCOTT, *THE MORAL ECONOMY OF THE PEASANT: REBELLION AND SUBSISTENCE IN SOUTHEAST ASIA* vii (1976) (asserting a parallelism of moral economy and a “subsistence ethic” that includes “peasant conceptions of social justice, of rights and obligations, of reciprocity”).

21. See RICK FANTASIA, *CULTURES OF SOLIDARITY: CONSCIOUSNESS, ACTION, AND CONTEMPORARY AMERICAN WORKERS* 17–22 (1988).

22. See Martin O’Neill & Stuart White, *Trade Unions and Political Equality*, in PHILOSOPHICAL FOUNDATIONS OF LABOUR LAW 252, 256 (Hugh Collins, Gillian Lester & Virginia Mantouvalou eds., 2019) (describing how unions promote political equality and harness pressures against oligarchy); Alysia Blackham, *Collective Action, Voice and Equality: Equality Bargaining to Achieve More Equal Futures?*, 45 ADEL. L. REV. 554, 555 (2024) (describing aspirational goals of unions to promote equality via collective action rather than through ineffective individual procedures such as lawsuits).

social class or station,²³ and social democracy (hereafter referred to simply as “democracy”) rather than merely liberal, political democracy.²⁴

This Essay argues that the moral economy of domestic work is grounded in the same values as is the broader labor movement—equality, equity, dignity, and democracy—but with a distinctive emphasis. Because domestic workers were originally excluded from the twentieth-century moral economy of the labor market,²⁵ their movement places greater weight on basic equality and dignity than its predecessor did. This emphasis yields “egalitarian dignitarianism”: a conception of dignity focused on guaranteeing every individual or group a baseline level of humane treatment, distinct from feudal notions of dignity tied to rank or status.²⁶ By contrast, the traditional labor movement is best described as equitable dignitarianism, an approach that seeks dignitarian outcomes by recognizing differences among individuals or groups and tailoring treatment accordingly. Labor and employment law acknowledgment of unequal bargaining power between workers and employers, for example, justifies differential treatment through protective legislation to achieve dignitarian results.²⁷ The domestic workers’ movement embraces equitable dignitarianism as well, but egalitarian dignitarianism comes into sharper focus in its organizing and demands given its historical exclusion from the twentieth-century moral economy of the labor market.

A new moral economy for domestic work is emerging in two steps. First, domestic workers fought to enter what this Essay calls the “House of Labor”—the regulatory space in which most U.S. workers have enjoyed basic protections since the New Deal, including minimum wages, overtime pay, health and safety standards, and safeguards against discrimination and harassment. Lawmakers excluded domestic workers from these protections for decades, but the movement has now secured many of them in some states, cities, and the District of Columbia.²⁸ Second, domestic workers have pushed beyond the House of Labor to win rights that most other workers still lack. They have fought for job protections that defeat the at-will employment presumption, fair scheduling rules, rules that bind employers of even a single domestic worker, written contracts, privacy rights, and—in Seattle and Philadelphia—a domestic worker board and taskforce, respectively.²⁹ These reforms expand the scope of the law of work and help us reimagine a new moral economy of the labor market for all workers.

23. GUY MUNDLAK, ORGANIZING MATTERS: TWO LOGICS OF TRADE UNION REPRESENTATION 20–21, 23 (2020).

24. See Kate Andrias, *An American Approach to Social Democracy*, 128 YALE L.J. 616, 625, 629, 684 (2019) (describing social democratic norms inherent in a pre-1947 Fair Labor Standards Act, wherein unions played a role in setting wages); MUNDLAK, *supra* note 23, at 17 (describing the role of unions in fomenting “industrial citizenship”).

25. See *supra* notes 13–17 and accompanying text.

26. See *The Feudal System*, BBC, <https://www.bbc.co.uk/bitesize/articles/zct4r2p#zbxw2v4> [https://perma.cc/J249-89FF] (last visited May 17, 2026).

27. See, e.g., 29 U.S.C. § 151 (NLRA).

28. *Infra* Part II; see *supra* notes 14–17 and accompanying text; Smith, *supra* note 12, at 177–87.

29. *Infra* Part III.

The Essay proceeds as follows: Part I summarizes our broken work law and the historical exclusion of domestic workers from it, as well as the domestic workers' movement succeeding in changing that historical exclusion. Parts II and III survey domestic workers' contemporary legal victories extending rights to domestic workers, including rights other workers enjoy and rights most U.S. workers do not. Part IV analyzes the moral foundations and broader significance of these rights, arguing that they signal a changing moral economy of the labor market for domestic work. Part IV reflects on the implications of this shift for a broader moral economy of the labor market for all workers while also addressing counterclaims: that written contracts can impair the rights of workers by formalizing detrimental working conditions; that increasing labor protections create inefficiencies resulting in diminished employment; that laws on the books do not immediately transfer to real rights for workers; and that the absence of collective bargaining and unions for domestic workers, and thus for all other workers, leaves workers bereft of an effective system of work law. The Essay then concludes.

I. BROKEN RULES, EXCLUDED WORKERS, AND A RISING MOVEMENT

The labor protections of the twentieth century—and the moral economy they sustained—are sclerotic. Domestic workers, meanwhile, were never even included in that now calcified framework.³⁰ Their segregation from foundational labor and employment laws was a deliberate act of racism, sexism, and political compromise, leaving millions without basic protections.³¹ They have thus organized, mobilized, and demanded recognition.³² This Essay argues that this movement powerfully reclaims values of equality, equity, dignity, and democracy that work law once promised.

This Part first briefly summarizes the current state of labor and employment law erosion for all workers, followed by a description of domestic worker exclusion. It ends with an account of contemporary struggles by domestic workers to be included in the basic rights most workers have received since the New Deal.

A. ERODED LAWS, DEFLATED VALUES

The American law of work is in crisis, and the consequences reach far beyond the workplace. What was once a robust framework for economic fairness and worker empowerment—especially for white and male workers—is now a crumbling foundation incapable of supporting the moral economy.³³

At the heart of this collapse is the dramatic decline of labor unions. In the 1940s and 1950s, unions represented about one in three private sector workers.³⁴

30. See *supra* notes 13–17 and accompanying text.

31. Juan F. Perea, *The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the Nat'l Lab. Relations Act*, 72 OHIO ST. L.J. 95, 96, 97 n.4, 104, 109–14 (2011); Smith, *supra* note 12, at 178–87.

32. See *infra* Part II.

33. Western & Rosenfeld, *supra* note 5, at 517–19; see Perea, *supra* note 31, at 116.

34. JAKE ROSENFELD, WHAT UNIONS NO LONGER DO 1–3 (2014).

By 2025, union membership in the private sector plummeted to just below six percent.³⁵ This erosion is not narrowly economic. It is also moral in scope. Unions were once architects of a moral economy, a system of values, norms, and institutions that governed the relationship between workers and employers.³⁶ Unions bargain for the wages of their members, providing a modicum of fairness to workers' pay in an economy in which capital has the upper hand.³⁷ But their actions don't benefit just their members. By engaging in politics, unions shape public policy to elevate pay and workplace standards for all workers.³⁸ Important unions such as the United Auto Workers (UAW) strove to "reshape the consciousness of millions of industrial workers, making them disciplined trade unionists, militant social democrats, and racial egalitarians."³⁹ Unions more generally sought equitable pay regimes, backed redistributive public policy, and participated in government boards to deliberate on national wage policies.⁴⁰ Those activities represented egalitarian, equitable, dignitarian, and democratic values.

The consequences of union decline have been stark. As unions lost power, employment law protections and workplace rights weakened in tandem, contributing to an ever-widening gap between the ultra-rich and everyone else.⁴¹ Historically, unions helped sustain the minimum wage as a cornerstone of economic justice. But as unions declined, so too did the real value of the minimum wage, eroded by inflation and long-term congressional inaction.⁴² Meanwhile, wage theft—employers illegally withholding earned pay—has become rampant, affecting millions of workers each year.⁴³ Health and safety laws are routinely ignored and underenforced, leaving workers exposed to dangerous workplace conditions.⁴⁴ The COVID-19 pandemic laid bare this failure, as countless workers deemed "essential"—"in meatpacking and poultry processing, agricultural work, health care, construction, child care, and critical retail"—were compelled to work in unsafe conditions, often without adequate protection,⁴⁵ all while many government

35. *News Release: Union Members — 2025*, U.S. DEP'T OF LAB.: BUREAU OF LAB. STATS. (Jan. 28, 2025), <https://www.bls.gov/news.release/pdf/union2.pdf> [<https://perma.cc/GZG5-C746>].

36. Western & Rosenfeld, *supra* note 5, at 518–19.

37. *See id.* at 533.

38. *Id.*

39. *Id.* at 518.

40. *Id.* at 518–19.

41. Andrias, *supra* note 24, at 619–20; *see also* Western & Rosenfeld, *supra* note 5, at 518–19 (highlighting how the labor movement strove for equitable pay, redistributive public policy, and participated in centralized government boards that contributed labor's input on wage policies).

42. *See* Oren M. Levin-Waldman, *State Type and Congressional Voting on the Minimum Wage* 1–2 (The Jerome Levy Econ. Inst., Working Paper No. 243, 1998).

43. *See generally* BOBO, *supra* note 4.

44. *See* Brian Stauffer, "When We're Dead and Buried, Our Bones Will Keep Hurting," HUM. RTS. WATCH (Sep. 4, 2019), <https://www.hrw.org/report/2019/09/04/when-were-dead-and-buried-our-bones-will-keep-hurting/workers-rights-under-threat> [<https://perma.cc/4MCY-2GST>].

45. Donald Kerwin & Robert Warren, *US Foreign-Born Workers in the Global Pandemic: Essential and Marginalized*, 8 J. MIGRATION & HUM. SEC. 282, 284 (2020) (highlighting how the federal government prioritized production over employee health and safety); *see also* Michael Grabell & Bernice Yeung, *The Battle for Waterloo: As COVID-19 Ravaged This Iowa City, Officials Discovered Meatpacking Executives Were the Ones in Charge*, PROPUBLICA (Dec. 21, 2020), <https://features.propublica.org/waterloo-meatpacking/as-covid-19->

officials did little to intervene.⁴⁶ Today, climate change adds another layer of risk, with workers laboring outdoors dying in extreme heat.⁴⁷ Racial and gender equality at work have also suffered important reversals with the decline of unions.⁴⁸

Obsolete labor law, as we now enter the ninth decade since the enactment of the National Labor Relations Act (NLRA) in 1935,⁴⁹ also erodes democracy. Labor law supports unions, and strong labor unions have historically served as bulwarks against authoritarianism.⁵⁰ Research shows that vibrant unions help ordinary people participate in protest events and elections⁵¹ and foster political equality.⁵² Democracy decays as unions fall apart.

In sum, the crisis of the American law of work weakened unions, unraveling collective bargaining, workers' political power, and the moral economy of the labor market.

B. DOMESTIC WORKERS EXCLUDED

Although many workers have seen their rights erode over time, domestic workers stand out as a group largely never included in the first place. Landmark New Deal labor and employment laws—the NLRA, Fair Labor Standards Act (FLSA), and Social Security Act (SSA)—explicitly excluded such workers.⁵³ This segregation was not an accident. Rather, it was the product of a political compromise designed to preserve the New Deal coalition, particularly its Southern Dixiecrat wing, which sought to maintain Jim Crow-era racial hierarchies.⁵⁴ Black domestic and agricultural workers formed the backbone of the Southern economy, and Dixiecrats refused to

ravaged-this-iowa-city-officials-discovered-meatpacking-executives-were-the-ones-in-charge/ [https://perma.cc/9USZ-5WY3] (reporting that meatpacking workers stood elbow-to-elbow with only a third wearing face coverings and many improvised from bandanas and old T-shirts, despite widespread plant outbreaks); Clark Kauffman, *Lawsuit: Tyson Managers Bet Money on How Many Workers Would Contract COVID-19*, IOWA CAP. DISPATCH (Nov. 18, 2020, at 16:05 ET), <https://iowacapitaldispatch.com/2020/11/18/lawsuit-tyson-managers-bet-money-on-how-many-workers-would-contract-covid-19/> (detailing employer failures contributing to meatpacking plant COVID-19 infections, including inadequate personal protective equipment, disregard of workers' symptoms, and managers who avoided the plant floor and wagered on how many workers would contract the virus).

46. See Kerwin & Warren, *supra* note 45, at 284 (highlighting how the federal government gave production priority over employee health and safety).

47. Nina Mast & Emma Cohn, *Extreme Heat Is Deadly for Workers and Costly for the Economy: States Can't Afford to Wait to Pass Protective Heat Standards*, ECON. POL'Y INST.: WORKING ECON. BLOG (Aug. 27, 2025, at 08:00 ET), <https://www.epi.org/blog/extreme-heat-is-deadly-for-workers-and-costly-for-the-economy-states-cant-afford-to-wait-to-pass-protective-heat-standards>.

48. See ROSENFELD, *supra* note 34, at 119.

49. See *National Labor Relations Act*, NLRB: GUIDANCE, <https://www.nlrb.gov/guidance/key-reference-materials/national-labor-relations-act> [https://perma.cc/Y5HH-23UJ].

50. See J. Samuel Valenzuela, *Labor Movements in Transitions to Democracy: A Framework for Analysis*, 21 COMPAR. POL. 445, 447 (1989); Cornell, *supra* note 6, at 54–55.

51. Jasmine Kerrissey & Evan Schofer, *Union Membership and Political Participation in the United States*, 91 SOC. FORCES 895, 897–98 (2013); Valenzuela, *supra* note 50, at 447 (noting that labor organizations “provide an underlying grid for the choreography of demonstrations and protests”).

52. See DIETRICH RUESCHEMEYER, EVELYNE HUBER STEPHENS & JOHN D. STEPHENS, *CAPITALIST DEVELOPMENT AND DEMOCRACY* 270 (1992).

53. Perea, *supra* note 31, at 109–14; Smith, *supra* note 12, at 178–87.

54. Perea, *supra* note 31, at 102–03, 109–14; Smith, *supra* note 12, at 177–78.

support federal labor protections that might disrupt that system.⁵⁵ As Edgar G. Brown, director of the National Negro Council, testified before Congress in 1949, “[u]nfortunately, 80 percent of the Negroes are outside of the benefits of the [SSA]. . . .”⁵⁶ Domestic service thus carries the stigma of racial inferiority—a stigma that helps explain why legislators have long neglected to reform an occupation increasingly dominated by people of color.⁵⁷

Societal perceptions of domestic work as not being real work, given gender norms, made it even more difficult to regulate domestic work like other work.⁵⁸ The persistent gendered belief in “separate spheres” has denied domestic workers legal protection, holding that the private home is a domestic sphere governed by care and affection, distinct from the public sphere of employment dominated by economic interests and rationality.⁵⁹ Additionally, a “hostile-worlds” perspective has supported the view that government meddling into the domestic sphere corrupts caring and affective norms.⁶⁰ In this manner, legislators had intersectional reasons to exclude domestic workers from the law of work. These legislators excluded Black women.⁶¹

Some progress came later, however. In 1950, Congress amended the SSA to include domestic workers.⁶² In 1974, Congress revised the FLSA to extend minimum wage and overtime protections to some domestic workers.⁶³ But significant gaps remained. The law excluded casual babysitters and those providing “companionship services” to elderly or disabled individuals.⁶⁴ The NLRA continues to exclude domestic workers entirely, meaning that domestic workers lack legal protections to form labor unions, bargain collectively, or otherwise act concertedly for their “mutual aid or protection.”⁶⁵

Other major laws of work also fail to protect most domestic workers due to structural limitations. Title VII of the Civil Rights Act of 1964, for example, only applies to employers with fifteen or more employees—far more domestic workers

55. See Perea, *supra* note 31, at 116 (“Southern congressmen could not countenance such radical changes in the ability of southern whites to exploit southern blacks.”); Smith, *supra* note 12, at 177–78.

56. JOSEPH FISHKIN & WILLIAM E. FORBATH, *THE ANTI-OLIGARCHY CONSTITUTION: RECONSTRUCTING THE ECONOMIC FOUNDATIONS OF AMERICAN DEMOCRACY* 378, 568 n.106 (2022).

57. See Smith, *supra* note 12, at 177–78; see also Peggie R. Smith, *Aging and Caring in the Home: Regulating Paid Domesticity in the Twenty-First Century*, 92 IOWA L. REV. 1835, 1848, 1857, 1859 (2007) [hereinafter Smith, *Aging and Caring in the Home*] (discussing how race and subnational politics contributed to excluding domestic workers from the scope of New Deal legislation).

58. Smith, *supra* note 12, at 164.

59. Viviana A. Zelizer, *Money, Power, and Sex*, 18 YALE J.L. & FEMINISM 303, 305–06 (2006) (defining “separate spheres” as an idea that identifies two separate areas of social life characterized by different principles); see César F. Rosado-Marzán, *Personal and Political: How the Illinois Domestic Workers’ Bill of Rights Connected Lives*, 57 U.C. DAVIS L. REV. 3033, 3040–41 (2024).

60. See Zelizer, *supra* note 59, at 305 (defining “hostile worlds” as an idea that separate spheres contaminate and corrupt each other on contact); Rosado-Marzán, *supra* note 59, at 3040–41.

61. See Smith, *Aging and Caring in the Home*, *supra* note 57, at 1857.

62. *Id.* at 1859 & n.18.

63. See Smith, *supra* note 12, at 180–81.

64. *Id.* at 181 & n.134.

65. 29 U.S.C. §§ 152(3), 157; see *id.* at § 185.

than the typical household employs.⁶⁶ The U.S. Department of Labor's regulations bar extending the Occupational Safety and Health Act (OSH Act) to household workplaces.⁶⁷

This history shows that domestic workers' marginalization is not merely a recent byproduct of work law's decline but also a foundational feature of the law itself. These workers' systematic exclusion—rooted in racial hierarchy, gendered norms, and the ideological insulation of the private home—placed domestic workers outside the law and the moral economy of the labor market from the start. Although later reforms partially corrected these injustices, persistent statutory gaps and structural exclusions continue to deny domestic workers' full recognition as workers entitled to collective voice, minimum wage, civil rights, and workplace safety,⁶⁸ underscoring the depth and durability of their legal segregation.

C. DOMESTIC WORKERS RISE

Despite these longstanding exclusions, domestic workers have not remained silent, and their advocacy has grown stronger and more organized in recent decades.⁶⁹ The scale of the workforce gives urgency to their cause: As of 2021, approximately 2.2 million people were employed as domestic workers in the United States—90.2% of them women, approximately 58% nonwhite, and nearly 35% foreign born.⁷⁰ With the aging U.S. population, demand for domestic care work will rise even further, making legal protections increasingly critical.⁷¹

It was within this context that, in 2003, the pioneering New York Domestic Workers Coalition launched the first Domestic Workers' Bill of Rights campaign in the United States.⁷² Advocates met with legislators dozens of times, educating them about the realities of domestic work and the need for reform.⁷³ These efforts culminated in the 2010 passage of the New York Domestic Workers' Bill of Rights, which expanded minimum wage and overtime protections, guaranteed a weekly day of rest, and established paid leave, antidiscrimination safeguards, and access to disability benefits.⁷⁴

Inspired by New York's success, other states followed suit. Today, California, Connecticut, Hawaii, Illinois, Massachusetts, New Mexico, Nevada, New Jersey, Oregon, Rhode Island, Virginia, the District of Columbia, and the cities of

66. Smith, *supra* note 12, at 178–79.

67. *Id.* at 189.

68. *See supra* notes 62–67.

69. *See, e.g.*, Lauren Hilgers, *Out of the Shadows*, N.Y. TIMES MAG. (Feb. 21, 2019), <https://www.nytimes.com/interactive/2019/02/21/magazine/national-domestic-workers-alliance.html>.

70. *See* ASHA BANERJEE, KATHERINE DECOURCY, KYLE K. MOORE & JULIA WOLFE, ECON. POL'Y INST., DOMESTIC WORKERS CHARTBOOK 2022 1, 41 (2022), <https://files.epi.org/uploads/256483.pdf> [<https://perma.cc/2B8R-ZEF5>].

71. *See* AI-JEN POO, THE AGE OF DIGNITY: PREPARING FOR THE ELDER BOOM IN A CHANGING AMERICA 12 (2015) (ebook).

72. Rosado-Marzán, *supra* note 59, at 3047–48.

73. *See id.* at 3048.

74. *Id.*

Philadelphia and Seattle have passed similar bills.⁷⁵ No bill, however, is identical to any other; some are more comprehensive than others.

This wave of activism also helped form national organizations like the National Domestic Workers Alliance (NDWA), founded in 2007.⁷⁶ With more than seventy affiliate organizations and chapters across the country, the NDWA works to secure new legal protections, improve working conditions, and build a politically empowered movement of domestic workers.⁷⁷

The movement that led to the formation of the NDWA is global in scope and has extended to the international stage. In 2011, after years of organizing and two years of formal negotiations, the International Labour Organization (ILO) adopted Convention 189, establishing global labor standards for domestic workers, which countries should incorporate into their national laws once they ratify the convention.⁷⁸ Domestic workers played a central role in lobbying for the convention in Geneva, making their voices heard through chants, songs, and direct engagement with ILO delegates.⁷⁹

The NDWA also attempted to persuade Congress to pass a national law protecting all domestic workers in the country.⁸⁰ Representative Pramila Jayapal (D-WA) and numerous cosponsors introduced H.R. 4826, the Domestic Workers Bill of Rights Act, in the U.S. House of Representatives on July 29, 2021.⁸¹ Its purpose was to strengthen and standardize the rights of domestic workers nationwide.⁸² The legislation would have established comprehensive federal safeguards, such as overtime pay for live-in domestic workers, written employment agreements, earned sick days, fair scheduling, privacy protections, regulated meal and rest breaks, and civil rights protections against discrimination at work.⁸³ Committees of the 117th Congress received the bill but never advanced it.⁸⁴

75. *Domestic Worker Bill of Rights*, NAT'L DOMESTIC WORKERS ALL., <https://www.domesticworkers.org/programs-and-campaigns/developing-policy-solutions/domestic-workers-bill-of-rights/> [https://perma.cc/5AZV-MKGZ] (last visited May 17, 2026).

76. See Lisa Moore, *The Founding of the National Domestic Workers Alliance*, A HIST. OF DOMESTIC WORK & WORKER ORG., <https://www.dwherstories.com/timeline/thefounding-of-the-national-domestic-workers-alliance?prev=timeline> [https://perma.cc/N7UG-3EXK] (last visited May 17, 2026).

77. See *About Our Work*, NAT'L DOMESTIC WORKERS ALL., <https://www.domesticworkers.org/about-domestic-work/our-work/> [https://perma.cc/BZP6-ZT4F] (last visited May 17, 2026).

78. See BLACKETT, *supra* note 1, at 10–11, 130–31, 183–85.

79. Diana Sierra Becerra, *Winning an International Organizing Tool*, A HIST. OF DOMESTIC WORK & WORKER ORG., <https://www.dwherstories.com/timeline/winning-aninternational-organizing-tool?prev=/timeline> [https://perma.cc/6WXM-7K2N] (last visited Jan. 22, 2026); JALA PRT, *C189 Conventional Wisdom*, at 14:25 (YouTube, July 10, 2015), <https://www.youtube.com/watch?v=RzDs7NfB9dw>.

80. See *NDWA President Ai-jen Poo Joins U.S. Rep. Pramila Jayapal to Underscore Urgent Need for Congress to Pass Domestic Workers Bill of Rights Act*, NAT'L DOMESTIC WORKERS ALL., <https://www.domesticworkers.org/press-releases/ndwa-president-ai-jen-poo-joins-u-s-rep-pramila-jayapal-to-underscore-urgent-need-for-congress-to-pass-domestic-workers-bill-of-rights-act/> [https://perma.cc/N4BL-MZVG] (last visited May 17, 2026).

81. Domestic Workers Bill of Rights Act, H.R. 4826, 117th Cong. (2021).

82. See *id.*

83. *Id.* §§ 101, 110–11, 112, 114–15, 131.

84. See *H.R. 4826 — 117th Congress (2021-2022)*, CONGRESS.GOV, <https://www.congress.gov/bill/117th-congress/house-bill/4826/all-actions?overview=closed#tabs> (last visited May 17, 2026). The bill

Passed, it would have helped domestic workers rebuild the values, norms, and institutions that anchor equality, fairness, dignity, and democracy in the household workplace. It did not. Therefore, advocates searched for these rights elsewhere—in state and city legislatures, as we will see below.

This Section traced how domestic workers, long excluded from core labor protections, have increasingly organized for legal recognition at the local, state, national, and international levels. Beginning with New York’s pioneering campaign and culminating in a wave of state and city bills of rights, domestic workers have transformed their marginalization into a powerful movement. Although federal reform has stalled, the growth of organizations like the NDWA and the influence of international norms such as ILO Convention 189 underscore that domestic workers have become central architects of a renewed moral economy, one now being built primarily from the ground up, through state and local law.

* * *

In sum, the old moral economy is dying, but it never included domestic workers. Domestic workers have thus engaged in a long fight for recognition. Excluded from its protections, they have built a movement to claim rights long overdue. To that part of the story, we now turn.

II. ACCESSING THE HOUSE OF LABOR

Despite the movement’s current failure at the federal level, state and city Domestic Workers’ Bills of Rights have filled some of the gaps, granting both recognition and tangible protections to millions of domestic workers. Chief among these protections are extensions of minimum wage coverage to parts of the domestic worker sector still excluded from them, health and safety standards, and antidiscrimination and anti-harassment laws. This Part examines these victories.

A. EXTENDING MINIMUM WAGE LAWS

Some of the Domestic Workers’ Bills of Rights have moved to dismantle remaining exclusions of domestic workers from minimum wage protections. Illinois directly erased the exclusion, amending the definition of “employee” in its minimum wage law to include domestic workers,⁸⁵ while simultaneously extending complementary rest day and overtime protections through amendments to the One Day Rest In Seven Act.⁸⁶ New Jersey similarly removed longstanding exclusions from its wage and hour law, striking language that had exempted part-time

was reintroduced in 2025, and over 100 members of Congress co-sponsored the bill in support. Press Release, Office of Representative Pramila Jayapal, *Jayapal Introduces Legislation to Protect Domestic Workers* (June 12, 2025), <https://jayapal.house.gov/2025/06/12/jayapal-introduces-legislation-to-protect-domestic-workers/> [https://perma.cc/ZV7Q-FTVU].

85. 820 ILL. COMP. STAT. 105/3(d) (amending the definition of “employee” to include domestic workers “notwithstanding subdivision (1) of this subsection (d)” and replacing the prior domestic-service exclusion in § 105/3(d)(3) with “(Blank)”).

86. One Day Rest in Seven Act, 820 ILL. COMP. STAT. 140/2 (as amended by the Domestic Workers’ Bill of Rights Act, 820 ILL. COMP. STAT. 182/1).

child-care workers from statutory wage floors.⁸⁷ Rhode Island amended its General Laws to strike the domestic-service exclusion from the definition of “employee” for purposes of the minimum wage law.⁸⁸ At the municipal level, Seattle enacted a pair of ordinances extending labor protections to domestic workers⁸⁹ under a definition that encompasses not only traditional employees but also independent contractors, part-time workers, and temporary workers, thereby closing loopholes that have historically enabled hiring entities to circumvent wage obligations.⁹⁰

Some jurisdictions also provide special wage-and-hour rules for domestic workers, such as supplemental wage rates, and customized overtime thresholds for live-in workers. For example, in California, a domestic worker classified as a “personal attendant”⁹¹ is prohibited from being “employed more than nine hours in any workday or more than 45 hours in any workweek unless the employee receive[d] one and one-half times the employee’s regular rate of pay for all hours” exceeding those limits.⁹² Nonetheless, this rule is less protective than is the general overtime law of California, which requires overtime pay after eight hours in a day and forty hours worked in one week.⁹³

Similarly, New York, Illinois, and Massachusetts mandate that domestic workers must be allowed at least twenty-four consecutive hours of rest in every calendar week, and if they voluntarily agree to work on this day of rest, they must be compensated at the overtime rate for all hours worked on that day.⁹⁴

Some states have legislated compensation rules unique to domestic workers. Nevada requires an “on-duty” domestic worker be paid for all working time, including sleeping time and meal breaks, except as otherwise provided by law.⁹⁵

87. New Jersey Domestic Workers’ Bill of Rights Act, S. 723, 220th Leg., Reg. Sess. (N.J. 2024) (amending N.J. STAT. ANN. § 34:11-56a4 to strike the exclusion for “part-time employees primarily engaged in the care and tending of children in the home of the employer”).

88. H.R. 7532, 2024 Gen. Assemb., Jan. Sess. (R.I. 2024) (amending 28 R.I. GEN. LAWS ANN. § 28-12-2 to strike the exclusion for domestic service); *see also* R.I. Legislative Council, Explanation of H.R. 7532, 2024 Gen. Assemb., Jan. Sess. (R.I. 2024) (“This act would allow individuals employed in domestic service or in or about a private home to be included as an employee, for purposes of minimum wages law.”).

89. Seattle, Wash., Ordinance 125668 (Sep. 21, 2018) (amending SEATTLE, WASH., MUN. CODE § 14.04.030); Seattle, Wash., Ordinance 125627 (Jul. 27, 2018) (establishing the Domestic Workers Standards Board).

90. SEATTLE, WASH., MUN. CODE § 14.04.020.C (“The provisions of this Chapter . . . shall apply to both employees and domestic workers.”).

91. According to California law, personal attendant “means any person employed by a private householder or by any third-party employer recognized in the health care industry to work in a private household, to supervise, feed, or dress a child, or a person who by reason of advanced age, physical disability, or mental deficiency needs supervision. The status of personal attendant shall apply when no significant amount of work other than the foregoing is required. For purposes of this subdivision, ‘no significant amount of work’ means work other than the foregoing did not exceed 20 percent of the total weekly hours worked.” CAL. LAB. CODE § 1451(d).

92. *Id.* § 1454.

93. *Compare id.*, with CAL. LAB. CODE § 510(a).

94. N.Y. LAB. LAW § 161(1); 820 ILL. COMP. STAT. 140/2(a). Massachusetts’ rest protections only extend to domestic workers who are employed for forty hours or more a week. MASS. GEN. LAWS ANN. ch. 149, § 190(b).

95. NEV. REV. STAT. ANN. § 613.620(1)(d).

The Oregon Domestic Workers' Protection Act establishes specific overtime thresholds.⁹⁶ First, domestic workers must be paid an overtime wage of one and one-half times their base rate for hours worked over forty hours in a workweek.⁹⁷ Second, if the domestic worker lives in the home of the employer, the overtime threshold is hours worked over forty-four hours in a workweek.⁹⁸ Third, if a domestic worker voluntarily agrees to work on their mandated weekly rest day, the employer must pay the overtime rate specified for all hours worked.⁹⁹

The District of Columbia requires that service contracts specify the rate per hour and the overtime rate for domestic workers who are employees.¹⁰⁰ This also aligns domestic workers' rights with existing district laws, including the Minimum Wage Revision Act of 1992.¹⁰¹

Taken together, these examples of wage and hour provisions show that Domestic Workers' Bills of Rights largely pursue inclusion and extol egalitarianism. They bring domestic workers within the core architecture of minimum wage and overtime law by dismantling still-existing exclusions based on irrelevant race and gender norms. At the same time, legislatures have tailored these protections to the distinctive conditions of domestic work—especially live-in arrangements—by adjusting overtime thresholds, mandating rest periods, and requiring compensation for on-duty time. The result is a regulatory approach that affirms domestic workers' status as workers entitled to baseline labor standards—dignity—while selectively modifying those standards to reflect the realities of work performed in private homes—equity. The law thus lives up to the slogan that domestic work is “like any other” and work “like no other.”¹⁰² Consequently, the domestic workers' movement spearheading these efforts, as further described below, extols equality, equity, and dignity, values that build egalitarian dignitarianism and equitable dignitarianism for a new moral economy of the labor market.

B. HEALTH AND SAFETY PROTECTIONS

Working in private homes creates unique health and safety challenges, and yet domestic work is excluded from the Occupational Safety and Health Act (OSH Act) and adjacent health and safety protections, such as workers' compensation law.¹⁰³ To no surprise, about one-quarter of domestic workers do not feel safe at their jobs.¹⁰⁴ This is why the International Labour Organization (ILO) Convention 189 instructs every member state to provide domestic workers “the right to a

96. OR. REV. STAT. ANN. §§ 653.547–653.553.

97. *Id.* § 653.547(2)(a).

98. *Id.*

99. *Id.* § 653.547(2)(b).

100. D.C. CODE ANN. § 32-1071.02(b)(1)(F).

101. *See id.* § 32-1003.

102. *See* Blackett, *supra* note 1, at 19.

103. Katharine Silbaugh, *Turning Labor into Love: Housework and the Law*, 91 NW. U. L. REV. 1, 76–78 (1996).

104. *Domestic Workers Bill of Rights: Survey & Stories*, NAT'L DOMESTIC WORKERS ALL. 2 (July 2021), <https://www.domesticworkers.org/wp-content/uploads/2021/07/Domestic-Workers-Bill-of-Rights-Fact-Sheet-Survey-Data-2021.pdf> [<https://perma.cc/CZW3-U5TJJ>].

safe and healthy working environment” and to take effective measures to ensure their occupational safety and health.¹⁰⁵ Proposed federal legislation mentioned earlier, the Domestic Workers’ Bill of Rights Act (H.R. 4826), sought to close gaps in federal law by providing access to health and safety resources to domestic workers.¹⁰⁶ Its core health and safety provisions aimed to address systemic issues through a hotline¹⁰⁷ and to improve safety of cleaning products and their use via consumer protection laws¹⁰⁸ and safety training through educational materials on hazardous chemicals.¹⁰⁹

The now-tabled federal bill¹¹⁰ followed in the footsteps of states, cities, and the District of Columbia that extended health and safety protections to domestic workers. These include the District of Columbia, Illinois, Massachusetts, Nevada, New Jersey, New York, Philadelphia, Seattle, and Virginia.¹¹¹ Health and safety protections vary by jurisdiction, addressing hazards ranging from exposure to cleaning chemicals to workplace monitoring and inclusion under general occupational health and safety laws.

For example, the District of Columbia extended occupational health and safety protections by amending “the D.C. Occupational Safety and Health Act of 1988 to eliminate the exclusion of domestic servants from the definition of an employee.”¹¹² Virginia expanded protections by amending and reenacting sections of the Virginia Code, applying the laws applicable to employee safety to domestic service workers.¹¹³ The Virginia Commissioner of Labor and Industry is authorized, upon presenting appropriate credentials, and with the consent of the household employer, or with a judicial warrant, to enter and inspect “any place where an individual is engaged to perform domestic service” “to carry out the purposes of the occupational safety and health laws of the Commonwealth.”¹¹⁴ Furthermore, the law called for the convening of a group to recommend how to better ensure the safety and health of such employees in the workplace.¹¹⁵

105. International Labour Organization, Domestic Workers Convention, 2011, June 16, 2011, No. 189, *reprinted in* BLACKETT, *supra* note 1, at app. 2, at 189–90.

106. Domestic Workers Bill of Rights Act, H.R. 4826, 117th Cong. (2021).

107. *Id.* § 121.

108. *Id.* § 122.

109. *Id.* §§ 122–23.

110. *See H.R. 4826 — 117th Congress (2021-2022)*, *supra* note 84.

111. *Domestic Worker Bill of Rights*, *supra* note 75.

112. Domestic Worker Employment Rights Amendment Act of 2022, 70 D.C. Reg. 902 (Jan. 27, 2023); D.C. CODE ANN. § 32-1101.

113. H.B. 2032, 2021 Gen. Assemb., Spec. Sess. I (Va. 2021).

114. *Id.* Inspection of household workplaces has been an internationally controversial issue. The fact that the state of Virginia has legislated it, even on a voluntary basis, is quite significant. *See generally* NATALIE SEDACCA, HUMAN RIGHTS AND THE PROTECTION OF DOMESTIC WORKERS IN LABOUR AND MIGRATION LAW (forthcoming 2026) (arguing from an international human rights perspective that homes employing domestic workers are hybrid spaces requiring some public oversight, and that human rights provisions on decent work and the prohibition on forced labor support limited intrusions into employer privacy if carefully targeted to protect domestic workers).

115. *See* VA. CODE ANN. § 40.1-22.

New York law defined the term “employment” to include domestic or personal work in a private home.¹¹⁶

Together, these health and safety protections aim to provide domestic workers with health and safety protections given to other workers, promoting equality. Because these are protections domestic workers cannot attain by themselves via contract and they require government intervention, they are equitable. And because they attempt to provide a baseline level of treatment for workers, they are also dignitarian. Like minimum wage law extensions, health and safety law extensions to domestic workers thus promote egalitarian and equitable dignitarianism.

C. DISCRIMINATION AND HARASSMENT

Domestic Workers’ Bills of Rights have extended crucial protections against discrimination and harassment to a workforce historically excluded from such safeguards. These laws ensure that domestic workers, like employees in other sectors, are legally protected from unequal treatment based on race, gender, or other characteristics and that they have recourse if subjected to harassment in the workplace. By bringing domestic workers under the umbrella of antidiscrimination and anti-harassment laws, these measures affirm that employment in private homes must meet the same standards that apply in more traditional workplaces.

Jurisdictions that have extended discrimination and harassment protections to domestic workers include Connecticut, Hawaii, Illinois, Massachusetts, New Jersey, New York, Oregon, the District of Columbia, and Seattle.¹¹⁷

Connecticut extended coverage under the employment-related antidiscrimination and harassment laws administered by the Commission on Human Rights and Opportunities (CHRO) to domestic workers, regardless of the number of employees their employers hire.¹¹⁸ This action provides covered domestic workers with protections against employment-related discrimination based on characteristics such as “race, color, [religion], age, sex, gender identity or expression, marital status, national origin, ancestry, . . . mental . . . [or] physical disability” along with protections against sexual harassment.¹¹⁹ The legislature extended coverage by amending the general statutes concerning “domestic service and the Commission on Human Rights and Opportunities” and repealing the exclusion of domestic workers from the definition of “employee.”¹²⁰

Hawaii enacted provisions that make it an unlawful discriminatory practice for any employer to discharge or “discriminate against any individual employed as a domestic [worker], in compensation or in terms, conditions, or privileges of employment because of the individual’s race, sex including gender identity or expression, sexual orientation, age, religion, color, ancestry, disability, marital status, or reproductive health decision.”¹²¹

116. 2010 N.Y. Laws 481 (codified at N.Y. WORKERS’ COMP. LAW § 201).

117. *Domestic Worker Bill of Rights*, *supra* note 75; *see infra* Section II.C.

118. *See* S.B. 446, 2015 Gen. Assemb., Jan. Sess. (Conn. 2015); CONN. GEN. STAT. ANN. § 46a-51(9).

119. CONN. GEN. STAT. ANN. § 46a-60(b).

120. S.B. 446, 2015 Gen. Assemb., Jan. Sess. (Conn. 2015).

121. HAW. REV. STAT. ANN. § 378-2(a).

Illinois removed the exclusion of domestic servants in private homes from the definition of “[e]mployee” in the Illinois Human Rights Act, thereby including them in civil rights protections against discrimination.¹²²

Massachusetts established protections by making it an unlawful discriminatory practice for an employer to “subject a domestic worker to unwelcome harassment based on sex, sexual orientation, gender identity, race, color, age, religion, national origin or disability if the harassment . . . creat[es] an intimidating, hostile, or offensive working environment,” or to “engage in unwelcome sexual advances” or “requests for sexual favors.”¹²³

New Jersey also removed the exclusion of domestic workers from the Law Against Discrimination.¹²⁴

New York amended existing law to ensure domestic workers are protected against unlawful discriminatory practices related to discrimination and harassment.¹²⁵

Oregon law made discrimination and harassment against domestic workers an unlawful employment practice.¹²⁶ Employers cannot “[e]ngage in unwelcome sexual advances” nor “[s]ubject a domestic worker to harassment based on gender, race, religion, disability, sexual orientation, gender identity or national origin” if the conduct “unreasonably interfer[es] with . . . work performance by creating an intimidating, hostile or offensive work environment.”¹²⁷

The District of Columbia amended the D.C. Human Rights Act of 1977 to eliminate the exclusion of domestic servants from its protections.¹²⁸ This amendment clarified the “application of [the D.C. Human Rights Act of 1977] to domestic work arrangements.”¹²⁹

In Philadelphia, the Domestic Workers Bill of Rights states that nothing in the chapter supersedes or affects the applicability of the Fair Practices Ordinance, which provides protections against unlawful discrimination.¹³⁰

Seattle enacted an ordinance “broadening coverage of unfair practices to include domestic workers and hiring entities,” specifically “extending protections to domestic workers and extending obligations to hiring entities.”¹³¹ The ordinance amended the Seattle Municipal Code, applying the provisions concerning

122. H.B. 1288, 99th Gen. Assemb., Reg. Sess. (Ill. 2016); see Trevor Montgomery, *Dozens of Domestic Workers Travel to Springfield as IL Senate Votes on State’s First Bill of Rights*, ARISE CHI. (Apr. 12, 2016), https://www.arisechicago.org/dozens_of_domestic_workers_travel_to_springfield_as_il_senate_votes_on_state_s_first_bill_of_rights.

123. MASS. GEN. LAWS ANN. ch. 149, § 191.

124. See *NJ Law Against Discrimination*, N.J. DIV. ON C.R., <https://www.njoag.gov/about/divisions-and-offices/division-on-civil-rights-home/know-the-law/njlad/> [https://perma.cc/9LZJ-JXUT] (last visited May 17, 2026).

125. See 2010 N.Y. Laws 481 (codified at N.Y. WORKERS’ COMP. LAW § 201).

126. See OR. REV. STAT. ANN. § 653.551.

127. *Id.* § 653.547(4).

128. Domestic Worker Employment Rights Amendment Act of 2022, 70 D.C. Reg. 902 (Jan. 27, 2023); D.C. CODE ANN. § 2-1401.02.

129. 70 D.C. Reg. at 902.

130. PHILA., PA., CODE § 9-4508(1).

131. Seattle, Wash., Ordinance 125668 (Sep. 21, 2018).

“employers” to “hiring entities,” “employees” to “domestic workers,” and “employment” to “domestic service.”¹³² This inclusion allows for protection against discrimination, which explicitly encompasses harassment, including sexual harassment and “harassment based on other protected classes.”¹³³

These provisions show that Domestic Workers’ Bills of Rights have dismantled many civil rights exclusions that long left domestic workers vulnerable to discrimination and harassment. Across jurisdictions, lawmakers have achieved this primarily by repealing statutory carve-outs and redefining “employee” and “employment” so that existing civil rights laws cover work performed in private homes. The resulting framework affirms a core normative claim: Domestic work is work, and it must be governed by the same antidiscrimination and anti-harassment standards that apply in conventional workplaces. It is an egalitarian achievement that also values equity—it recognizes that these are protections that weaker bargaining agents, such as domestic workers, cannot attain on their own via contract. And it is dignitary to boot, as it recognizes that baseline, nondiscriminatory treatment is essential. Extending discrimination and harassment protections to domestic work therefore promotes egalitarian and equitable dignitarianism.

* * *

Through state and local legislative reforms, domestic workers have begun to enter what was once an exclusive House of Labor, whose gates were shut by the intersectional forces of gendered and racialized values and politics in the United States.¹³⁴ By extending minimum wage, health and safety, and antidiscrimination protections to workers long excluded from such rights,¹³⁵ state and local laws have helped affirm what should have been obvious many years ago: that domestic work is real work deserving of basic protections. The new laws affirm that work performed in private homes is no less deserving of fundamental workplace rights than are other forms of work. In this sense, domestic workers are shaping a new moral economy of the labor market that is more egalitarian than the former one. The laws also are motivated by equitable values, as all these protections recognize the inherent inequality in bargaining power between domestic workers and employers, requiring state support. And they are dignitarian to the extent they signal the need to guarantee a basic floor of treatment to all these workers. Hence, domestic workers’ entry to the House of Labor is an act motivated by egalitarian and equitable dignitarianism.

But the domestic workers’ movement has not stopped at getting a room in the House of Labor and gaining the benefits afforded to most other workers. It has also campaigned outside the castle walls to win other rights that most U.S. workers do not enjoy. It is to that part of the story we now turn.

132. *Id.*

133. *Id.*

134. See Smith, *supra* note 12, at 177–78.

135. See *supra* Section II.C.

III. CAMPAIGNING BEYOND THE CASTLE WALLS

Beyond simple extension of existing laws, Domestic Workers' Bills of Rights also seek rights that most other U.S. workers do not enjoy. Many provide job protections that defeat the at-will presumption, thereby providing a measure of job security in a sector long marked by sudden and willful dismissals.¹³⁶ Others may provide for fair workweek rules mandating certain scheduling rules, breaks, and paid time off (PTO).¹³⁷ Most also make employers liable for civil rights violations even if they only employ one domestic worker.¹³⁸ Some require written contracts that bring clarity and structure to the job.¹³⁹ Privacy rights also exist in some of the laws.¹⁴⁰ Together, these protections move beyond basic labor standards in American law to build a framework that many other workers, especially in the low-wage sector, do not enjoy. Finally, and as we will read more fully in Part IV, these rules are structuring a moral economy architecture based not only on more robust egalitarian values but also on equitable, dignitarian, and democratic values.

Below, the Essay explains these novel protections for U.S. workers.

A. JOB PROTECTION

Four jurisdictions—Massachusetts, Nevada, New Jersey, and Philadelphia—have taken steps to abrogate employment at will in the domestic work sector. Massachusetts,¹⁴¹ Nevada,¹⁴² and Philadelphia¹⁴³ require employers to offer either severance or lodging in lieu of or in addition to notice when terminating a domestic worker without cause, helping ensure financial and housing stability during employment transitions. The amount of severance or notice required might differ by jurisdiction and whether the worker resides in the employer's home.¹⁴⁴ Massachusetts and Nevada require written notice and thirty days of lodging for live-in workers terminated without cause.¹⁴⁵ New Jersey, however, requires two weeks' notice for regular domestic workers and four weeks for live-in workers.¹⁴⁶ Philadelphia similarly requires two weeks' notice for regular workers and four weeks for live-in workers.¹⁴⁷

These dismissal protections mark a meaningful departure from employment at will in the domestic work sector by introducing baseline expectations of notice, severance, and housing.¹⁴⁸ As we will read further below, job-protection rules sustain a moral economy that tempers employer power and recognizes the

136. See *infra* Section III.A.

137. See *infra* Section III.B.

138. See *infra* Section III.C.

139. *Infra* Section III.D.

140. *Infra* Section III.E.

141. MASS. GEN. LAWS ANN. ch. 149, § 190(k).

142. NEV. REV. STAT. ANN. § 613.620(1)(k).

143. PHILA., PA., CODE § 9-4503(4)(c).

144. See, e.g., MASS. GEN. LAWS ANN. ch. 149, § 190(k).

145. *Id.*; NEV. REV. STAT. ANN. § 613.620(1)(k).

146. N.J. STAT. ANN. § 34:11-74(a).

147. PHILA., PA., CODE § 9-4503(4)(a).

148. See *At-Will Employment - Overview*, NAT'L CONF. ST. LEGISLATURES, <https://www.ncsl.org/labor-and-employment/at-will-employment-overview> (last visited May 17, 2026).

unequal vulnerabilities that define domestic work. These protections value equity and dignity, or what I have called equitable dignitarianism.

B. FAIR SCHEDULING: RULES, BREAKS, AND PAID TIME OFF

Insufficient regulation of working hours and leave enables some employers to exploit workers. According to the National Domestic Workers Alliance (NDWA), more than one-third of domestic workers do not receive meal or rest breaks.¹⁴⁹ To address this gap, most of the Domestic Workers' Bills of Rights laws provide some kind of fair scheduling right that includes how to schedule workers, providing paid or unpaid breaks, and/or some form of PTO.

In New Jersey¹⁵⁰ and Philadelphia,¹⁵¹ for example, live-in domestic workers are restricted to working no more than six consecutive days.

In terms of overtime, California requires additional pay for personal attendants who work more than forty-five hours a week.¹⁵² Nevada enforces overtime after eight hours in a day or forty hours in a week, though high earners may be exempt.¹⁵³ Oregon requires a forty-hour weekly limit for regular workers and forty-four hours for live-in employees.¹⁵⁴

Rest and break requirements are designed to safeguard workers' well-being. A weekly rest period of at least twenty-four consecutive hours is mandated for domestic workers in Illinois,¹⁵⁵ New York,¹⁵⁶ Oregon,¹⁵⁷ Massachusetts,¹⁵⁸ and Nevada.¹⁵⁹ Additionally, Massachusetts and Nevada require full-time domestic workers to receive forty-eight consecutive hours of rest each month.¹⁶⁰ Employers in Oregon must provide live-in workers at least eight consecutive hours of rest within every twenty-four-hour period.¹⁶¹

Short breaks are also regulated. In New Jersey and Philadelphia, domestic workers are entitled to a paid ten-minute rest break for every four hours worked, along with a thirty-minute meal break, which may be unpaid if the worker is fully relieved of duties.¹⁶² Nevada takes a more stringent approach, requiring that all time spent on duty—including meals and sleep—is compensated.¹⁶³

Some of these states also provide for PTO, but details vary among them, ranging from general leave accrual systems to specific entitlements for holidays, sick

149. *Domestic Worker Bill of Rights*, *supra* note 75.

150. N.J. STAT. ANN. § 34:11-73.

151. PHILA., PA., CODE § 9-4503(2)(d).

152. CAL. LAB. CODE § 1454.

153. NEV. REV. STAT. ANN. § 608.018.

154. OR. REV. STAT. ANN. § 653.547(2)(a).

155. One Day Rest in Seven Act, 820 ILL. COMP. STAT. 140/2.

156. *Domestic Workers' Bill of Rights*, N.Y. ST. DEP'T OF LAB., <https://dol.ny.gov/domestic-workers-bill-rights> [<https://perma.cc/YWE3-ZT66>] (last visited May 17, 2026).

157. OR. REV. STAT. ANN. § 653.547(2)(b).

158. MASS. GEN. LAWS ANN. ch. 149, § 190(b).

159. NEV. REV. STAT. ANN. § 613.620(1)(e).

160. MASS. GEN. LAWS ANN. ch. 149, § 190(b); NEV. REV. STAT. ANN. § 613.620(1)(e).

161. OR. REV. STAT. ANN. § 653.547(2)(c).

162. N.J. STAT. ANN. § 34:11-72(a)–(b); PHILA., PA., CODE § 9-4503(2)(a)–(b).

163. NEV. REV. STAT. ANN. § 613.620(1)(d).

days, and severance. For example, Philadelphia mandates PTO, requiring employers to provide forty hours of paid leave per year, accrued at a rate of one hour for every forty hours worked.¹⁶⁴ Other jurisdictions specify exact paid days off. Oregon requires at least three paid personal days per year for domestic workers who averaged thirty or more hours per week over the prior year.¹⁶⁵

Fair scheduling rules, mandated breaks, and PTO directly address the unbounded and unpredictable use of workers' time, one of the central sources of exploitation in domestic work.¹⁶⁶ By placing limits on consecutive workdays, tailoring overtime thresholds, compensating on-duty time, and guaranteeing rest and leave, Domestic Workers' Bills of Rights transform time from an employer-controlled prerogative into a legally protected dimension of work. In doing so, these laws help construct a moral economy in which equitable values take hold by addressing the distinctive vulnerabilities of live-in and isolated workers. They also reflect dignitarian values, affirming that domestic workers are entitled to rest, time off, and a life beyond work.

C. SINGLE-WORKER EMPLOYERS

A major achievement in many Domestic Workers' Bills of Rights is the extension of liability for discrimination and harassment to employers who hire even a single domestic worker. This reform affirms that certain labor rights, particularly freedom from discrimination and harassment, are so fundamental that they cannot depend on employer size or be outweighed by economic considerations.

For example, Connecticut's human rights statute, which prohibits workplace discrimination, defines an employer as "any person or employer with one or more persons in such person's or employer's employ."¹⁶⁷ Although the statute used to exclude domestic workers, Connecticut's Domestic Workers' Bill of Rights struck the exclusion.¹⁶⁸

In the District of Columbia, the Domestic Worker Employment Rights Amendment Act of 2022 amended the District's Human Rights Act explicitly to cover all employers of domestic workers.¹⁶⁹ The act now applies to all D.C. employers with no minimum employee threshold.¹⁷⁰

Similarly, Hawaii makes it unlawful for any employer to discriminate against "any individual employed as a domestic."¹⁷¹ Because Hawaii law already defined an "employer" as "any person" employing at least one employee,¹⁷² the enactment of the state's Domestic Workers' Bill of Rights automatically extended discrimination protections to domestic workers regardless of employer size.

164. PHILA., PA., CODE § 9-4503(3)(b).

165. OR. REV. STAT. ANN. § 653.547(2)(e).

166. See *Domestic Worker Bill of Rights*, *supra* note 75.

167. CONN. GEN. STAT. ANN. § 46a-51(10).

168. S.B. 446, 2015 Gen. Assemb., Jan. Sess. (Conn. 2015); CONN. GEN. STAT. ANN. § 46a-51(9).

169. See Domestic Worker Employment Rights Amendment Act of 2022, 70 D.C. Reg. 902, 902 (Jan. 27, 2023); D.C. CODE ANN. § 2-1401.02.

170. See D.C. CODE ANN. § 2-1401.02(10).

171. HAW. REV. STAT. ANN. § 378-2(a).

172. *Id.* § 378-1.

Illinois similarly prohibits discrimination and harassment against domestic workers; employers of just one worker are covered.¹⁷³

In Massachusetts, employers and hiring entities that employ at least one domestic worker must comply with state employment discrimination laws, which expressly prohibit discriminatory and harassing conduct against domestic workers.¹⁷⁴ Under the state's Domestic Workers' Bill of Rights, an "employer" is "a person who employs a domestic worker to work within a household."¹⁷⁵ Hence, single-worker employers and hiring entities are covered.

In New Jersey, domestic workers gained protection under the New Jersey Law Against Discrimination following passage of the Domestic Workers' Bill of Rights Act. The act created broad liability for *any* "person, firm, business, partnership, association, corporation, limited liability company, or other entity, including referral, employment, and internet-based or on-demand platforms, that provides compensation directly or indirectly to a domestic worker."¹⁷⁶ These hiring entities are now subject to the full scope of prohibited employment practices in the state, including discrimination in hiring, firing, compensation, terms and conditions of employment, harassment, retaliation, and failure to provide reasonable accommodations.¹⁷⁷

New York's Domestic Workers' Bill of Rights also prohibits employment discrimination and harassment against domestic workers,¹⁷⁸ without specifying any minimum employee threshold.¹⁷⁹ Employers of even a single domestic worker are thus subject to liability under the statute.

Oregon extends liability to "a person employing a domestic worker," thereby covering employers of even a single worker.¹⁸⁰ Under Oregon law, these protections encompass wages, rest periods, the right to prepare one's own meals in the household, PTO, discrimination and harassment, and retaliation.¹⁸¹

Virginia's antidiscrimination law defines "employer" to include any person employing "one or more domestic workers,"¹⁸² thereby protecting domestic workers even when they are the sole employee of the household.

The City of Seattle has also extended liability to one-worker employers of domestic workers.¹⁸³ Thus, the ordinance protects domestic workers who are the sole employees of a hiring entity.

173. See 820 ILL. COMP. STAT. 5/2-101.

174. MASS. GEN. LAWS ANN. ch. 149, § 191.

175. *Id.* § 190(a).

176. N.J. STAT. ANN. § 34:11-70 (emphasis added); New Jersey Domestic Workers' Bill of Rights Act, S. 723, 220th Leg., Reg. Sess. (N.J. 2024).

177. See N.J. S. 723; N.J. STAT. ANN. § 10:5-12.

178. 2010 N.Y. LAWS 481 (codified at N.Y. WORKERS' COMP. LAW § 201).

179. See N.Y. EXEC. LAW § 292.

180. OR. REV. STAT. ANN. § 653.547.

181. See *id.*

182. VA. CODE ANN. § 2.2-3905.A.

183. Seattle, Wash., Ordinance 125668 (Sep. 21, 2018).

Philadelphia's Fair Practices Ordinance also covers employers with just one employee¹⁸⁴ and includes protections against discrimination.¹⁸⁵ It expressly states that the law applies to domestic workers.¹⁸⁶

However, some jurisdictions provide only limited protections for domestic workers employed by single-worker employers, falling short of full discrimination coverage. California, for example, offers only bifurcated protections for domestic workers employed by single-worker employers. Employers of a single domestic worker are subject to the Domestic Workers' Bill of Rights provisions governing hours and overtime.¹⁸⁷ The state's Fair Employment and Housing Act (FEHA) extends *harassment* protections to single-worker employers and hiring entities, including domestic workers classified as independent contractors, but does not cover discrimination claims by single-worker employers.¹⁸⁸ Full antidiscrimination protections apply only to employers with five or more employees.¹⁸⁹

Nevada's Domestic Workers' Bill of Rights is similarly limited. It imposes liability on single-worker employers for matters of contract, wages, hours, and privacy¹⁹⁰ but does not extend to employment discrimination unless the employer has at least fifteen employees.¹⁹¹ Rhode Island's and New Mexico's laws, while also extending liabilities to single-worker employers, only do so for minimum wage protections; they do not extend to employment discrimination claims brought by domestic workers.¹⁹²

Taken together, these victories, although uneven, show how domestic worker advocates have persuaded some jurisdictions to adopt bills of rights that safeguard core civil rights at work, regardless of employer size. Across some of these cases, jurisdictions assert that dignity at work—the right to be treated equally and under a modicum of decency—should never be subordinated to economic concerns. Put differently, even the smallest employers, regardless of their limited resources, must not discriminate or harass the domestic workers they rely on. Therefore, by extending liability even to the smallest employers, the law is sending a signal that there is no compromise possible when it comes to basic dignity at work. Assumed employer poverty is no excuse to discriminate and harass. And because government must guarantee this dignitarian right, the law also shows equitable sensibilities. Thus, extending liabilities to single-worker employers is an act that equitable dignitarianism motivates.

184. PHILA., PA., CODE § 9-1102(h).

185. *Id.* § 9-1103.

186. *Id.* § 9-1104(d) (exempting from coverage employer preferences for “the hiring or firing of an individual in a personal or confidential capacity, provided such work in a personal or confidential capacity is not work as a domestic worker”).

187. CAL. LAB. CODE § 1451; *see id.* § 1454.

188. *See* CAL. GOV'T CODE § 12940(j)(4)(A).

189. *Id.* § 12926(d).

190. NEV. REV. STAT. ANN. § 613.620.

191. *Id.* §§ 613.310, 613.330.

192. *See* 28 R.I. GEN. LAWS ANN. §§ 28-12-2, 28-5-6; N.M. STAT. ANN. §§ 50-4-1, 50-4-21, 28-1-2.

D. WRITTEN CONTRACTS

Written contracts are a cornerstone of formal employment relationships in most of the world—for all workers—but not in the United States.¹⁹³ Such contracts also remain mostly absent in the U.S. domestic work sector. Despite their critical role in clarifying expectations around wages, duties, and hours, as of 2021, an estimated 84% of domestic workers still lacked such agreements.¹⁹⁴ This gap leaves many domestic workers vulnerable to abuse and ill-equipped to challenge it.¹⁹⁵

The absence of employment contracts also carries particular consequences for live-in domestic workers who share a residence with their employers. Their work-day seldom truly concludes, and they remain available for duties at almost all hours.¹⁹⁶ Living in the employer's home leaves workers dependent on their employer for both housing and meals, blurring the line between work time and rest time and intruding on the worker's personal life.¹⁹⁷

Not only are domestic workers potentially subject to unfair conditions, but also, workers who go without meaningful information about the positions they take—the very kind of details that written employment contracts supply—operate from a weakened negotiating position.¹⁹⁸ This is exacerbated by the fact that many domestic workers are women migrating from developing countries; many have poor English language skills and lack social networks to help them navigate their rights in their new surroundings.¹⁹⁹ According to Lorelei Salas, the former Acting Deputy Commissioner for Worker Protection at the New York State Department of Labor, these mostly foreign-born workers are susceptible to abuse, and one particular factor, verbal agreements, contributed to the workers' disadvantage, as they lack the certainty of terms written employment contracts better provide.²⁰⁰

More job information for the workers would narrow the information gaps that presently disadvantage such workers and would lead to agreements more closely aligned with what employees actually want.²⁰¹ Economic theory suggests that workers equipped with fuller knowledge of a job's terms and conditions are better situated to find positions that properly suit them, with pay that genuinely reflects the work involved.²⁰²

193. Grace Yang, Rob Flemer & Daniel Rhim, *Understanding Employment Law Outside the United States for Multinational Employers – Part 1*, LITTLER (Sep. 4, 2025), <https://www.littler.com/news-analysis/asap/understanding-employment-law-outside-united-states-multinational-employers-part> [<https://perma.cc/HL6R-2ECY>].

194. See NAT'L DOMESTIC WORKERS ALL., *supra* note 75.

195. See Smith, *supra* note 12, at 164.

196. *Id.* at 166.

197. Talle D. Gilmore, *The New York Domestic Workers' Bill of Rights: Justice at the Door*, 7 INTERCULTURAL HUM. RTS. L. REV. 147, 155 (2012).

198. Cynthia Estlund, *Just the Facts: The Case for Workplace Transparency*, 63 STAN. L. REV. 351, 372 (2011).

199. See Gilmore, *supra* note 197, at 155.

200. *Id.* at 155.

201. Estlund, *supra* note 198, at 372.

202. *Id.* at 371.

Indeed, international law, namely International Labour Organization (ILO) Convention 189, provides for written contracts.²⁰³ Article 7 mandates that “[e]ach Member shall take measures to ensure that domestic workers are informed of their terms and conditions of employment, in an appropriate, verifiable and easily understandable manner, and preferably, where possible, through written contracts in accordance with national laws, regulations or collective agreements.”²⁰⁴ Convention 189 also “emphasizes the regulation of working hours to ensure that [domestic workers] have reasonable work schedules, periods of daily and weekly rest, and annual paid leave,” measures essential for the overall wellbeing of employees.²⁰⁵

Not only do written contracts formalize employment relationships but they also help limit employer discretion in areas such as workload, compensation, and changes to employment terms—issues that often lead to inequities. The power and bargaining imbalance between worker and employer makes employees susceptible to abuse.²⁰⁶ For example, as explained earlier, an absence of clear terms and expectations for live-in workers creates an environment that leaves workers on call all the time.²⁰⁷ In addition to physical and mental exhaustion, this absence of clear working hours might also mean that domestic workers may not be compensated for some of their work.²⁰⁸

Recognizing these vulnerabilities, a growing number of states, cities, and the District of Columbia have taken steps to mandate or encourage the use of written contracts for domestic workers. Among these are the District of Columbia,²⁰⁹ Nevada,²¹⁰ New Jersey,²¹¹ and Philadelphia.²¹² In these jurisdictions, employment contracts require clear and comprehensive terms. Massachusetts requires a written notice or record with the terms of employment.²¹³ These typically cover the identity and contact information of the employer, the location of the work, detailed job duties, and the start and end dates of employment.²¹⁴ According to these laws, compensation terms must be spelled out, including wage rates, overtime pay, payment methods, and any deductions.²¹⁵ Additional provisions often

203. Domestic Workers Convention art. 7, June 16, 2011, ILO No. 189 [hereinafter C189].

204. *Id.*

205. Andrian Liem, Sabina Satriyani Puspita, Fajar Anggraini & Lita Anggraini, *Securing the Rights and Health of Domestic Workers: The Importance of Ratifying the ILO's C189*, GLOBALIZATION & HEALTH, Aug. 1, 2024, at 2.

206. See Gilmore, *supra* note 197, at 155.

207. Smith, *supra* note 12, at 166.

208. INT’L LAB. OFF., EFFECTIVE PROTECTION FOR DOMESTIC WORKERS: A GUIDE TO DESIGNING LABOUR LAWS 49 (2012), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40dgreports/%40dcomm/%40publ/documents/publication/wcms_173365.pdf [https://perma.cc/X9Z9-F6EZ].

209. D.C. CODE ANN. § 32-1071.02.

210. NEV. REV. STAT. ANN. § 613.620(1)(a).

211. N.J. STAT. ANN. § 34:11-71.

212. PHILA., PA., CODE § 9-4502(1).

213. MASS. GEN. LAWS ANN. ch. 149, § 190(l) (2014).

214. D.C. CODE ANN. § 32-1071.02(b)(1); NEV. REV. STAT. ANN. § 613.620(1)(a); N.J. STAT. ANN. § 34:11-71(a); PHILA., PA., CODE § 9-4502(1); MASS. GEN. LAWS ANN. ch. 149, § 190(l).

215. D.C. CODE ANN. § 32-1071.02(b)(1); NEV. REV. STAT. ANN. § 613.620(1)(a); N.J. STAT. ANN. § 34:11-71(a); PHILA., PA., CODE § 9-4502(1); MASS. GEN. LAWS ANN. ch. 149, § 190(l).

address transportation needs and benefits such as health insurance or severance pay.²¹⁶

Scheduling is also essential. Contracts must outline weekly hours, provide start and end times, and include provisions for meal and rest breaks along with paid or unpaid leave entitlements.²¹⁷ For live-in domestic workers, agreements must go further, describing lodging arrangements, personal time, and, in Nevada, conditions under which employers may access the worker's living space.²¹⁸

Legal standards may require employers provide these contracts at the beginning of employment, write them in both English and the worker's preferred language, and ensure all parties sign them.²¹⁹ Parties must update the contract, or draft a new one, if terms change.²²⁰ Jurisdictions also prohibit some clauses. The District of Columbia, New Jersey, and Philadelphia expressly state that parties cannot use the contract to waive rights.²²¹ The District of Columbia adds that domestic workers and hiring entities may not agree to a non-compete provision.²²² New Jersey goes even further by prohibiting any "[m]andatory pre-dispute arbitration agreement for claims . . . regarding the . . . rights of the worker" under the Domestic Workers' Bill of Rights.²²³ It also bans "[n]on-disclosure," "non-competition," and "non-disparagement agreement[s] limiting the ability of the covered domestic worker to seek compensation for performing domestic services after the worker ceases to receive compensation."²²⁴ To support compliance, jurisdictions may require government agencies to provide multilingual contract templates and ensure that referral and employment agencies inform hiring entities of their legal obligations.²²⁵

Nevada similarly mandates that employers provide a written agreement at the start of employment.²²⁶ The employer must also ensure its contents are explained in a language the worker understands.²²⁷

These examples underscore how some jurisdictions now mandate written contracts to better enforce domestic workers' nonwaivable rights, clarify terms, limit abuse, and better align jobs with workers' preferences. They formalize wages, hours, duties, and living arrangements. As we will see further below, written

216. D.C. CODE ANN. § 32-1071.02(b)(1); NEV. REV. STAT. ANN. § 613.620(1)(a); N.J. STAT. ANN. § 34:11-71(a); PHILA., PA., CODE § 9-4502(1); MASS. GEN. LAWS ANN. ch. 149, § 190(1).

217. D.C. CODE ANN. § 32-1071.02; NEV. REV. STAT. ANN. § 613.620(1)(a); N.J. STAT. ANN. § 34:11-71(a); PHILA., PA., CODE § 9-4502(1).

218. D.C. CODE ANN. § 32-1071.02(b)(1)(N); NEV. REV. STAT. ANN. § 613.620(1)(a)(10).

219. D.C. CODE ANN. § 32-1071.02(a), (d)(1)(A); NEV. REV. STAT. ANN. § 613.620(1)(a); N.J. STAT. ANN. § 34:11-71(a), (c); PHILA., PA., CODE § 9-4502(1)-(2).

220. D.C. CODE ANN. § 32-1071.02(b)(4).

221. D.C. CODE ANN. § 32-1071.02(c)(1)(A); N.J. STAT. ANN. § 34:11-71(b); PHILA., PA., CODE §§ 9-4502(1), 9-4508.

222. D.C. CODE ANN. § 32-1071.02(c)(1)(C).

223. See N.J. STAT. ANN. § 34:11-71(b)(1).

224. *Id.* § 34:11-71(b)(2).

225. See NEV. REV. STAT. ANN. § 613.620(3); N.J. STAT. ANN. § 34:11-71(c)-(e).

226. NEV. REV. STAT. ANN. § 613.620(1)(a).

227. *Id.*

contracts also advance a moral economy of the labor market whereby equitable and dignitarian values prevail. They advance equity by reducing information asymmetries and bargaining disadvantages, especially for migrant and live-in workers, thereby tailoring protection to structurally unequal conditions. Contracts also promote dignity by recognizing domestic workers as autonomous rights-bearing individuals with defined hours, pay, and private lives rather than as always-available servants. Therefore, the provision of written contracts is motivated by equitable dignitarianism.

E. PRIVACY

Several jurisdictions have enacted specific rules to safeguard the privacy of domestic workers, directly addressing the vulnerabilities inherent in working and, in some cases, living within a private household. These rules go beyond basic labor standards to articulate clear boundaries regarding surveillance, personal property, and private communications.

The District of Columbia requires the city mayor to “issue rules necessary to implement the provisions of” the Domestic Worker Employment Rights Amendment Act, including “[p]rocedures for limiting the collection, retention, use, and disclosure of information related to the immigration status of individuals covered by” the title.²²⁸

Massachusetts grants specific and enforceable privacy rights.²²⁹ The core provisions include a general right to privacy.²³⁰ The statute establishes that domestic workers are granted a right to privacy under Section 1B of Chapter 214 of the state’s General Laws, just like other workers in that state enjoy.²³¹ The law also forbids an employer from restricting or interfering with a domestic worker’s private communications, monitoring those communications, or taking possession of a “worker’s documents or other personal effects.”²³² Additionally, employers hiring a domestic worker for sixteen hours or more a week must provide information, including “the circumstance[s] under which the employer will enter the domestic worker’s designated living space on the employer’s premises.”²³³

New Jersey also provides explicit rules that protect a worker’s privacy and personal autonomy.²³⁴ First, employers are prohibited from keeping or holding a domestic worker’s original personal documents.²³⁵ It also forbids an employer from monitoring or recording a domestic worker in designated private spaces and during private activities.²³⁶ This prohibition applies to monitoring, recording, or interfering with a worker’s private communications.²³⁷

228. D.C. CODE ANN. § 32-1071.05(3).

229. MASS. GEN. LAWS ANN. ch. 149, § 190(i).

230. *Id.*

231. *Id.*; see MASS. GEN. LAWS ANN. ch. 214, § 1B.

232. MASS. GEN. LAWS ANN. ch. 149, § 190(i).

233. *Id.* § 190(l).

234. N.J. STAT. ANN. § 34:11-75.

235. *Id.* § 34:11-75(a).

236. *Id.* § 34:11-75(b).

237. *Id.* § 34:11-75(c).

Oregon protections relate to documents, living conditions, and harassment.²³⁸ First, the employer may not request or require possession of the worker's passport.²³⁹ Second, if the domestic worker lives in the employer's home, the employer must "provide a space with adequate conditions for uninterrupted sleep" for a minimum of "eight consecutive hours of rest within each [twenty-four hour] period."²⁴⁰

Philadelphia's rules include provisions protecting a domestic worker's safety and privacy by prohibiting hiring entities from monitoring or recording a domestic worker in several locations of the home.²⁴¹ These include bathroom "or similar facility" use and privacy in the domestic worker's private living quarters.²⁴² Monitoring, recording, or interfering with a domestic worker's private communications is also prohibited by the Philadelphia ordinance.²⁴³

These provisions demonstrate that Domestic Workers' Bills of Rights recognize privacy as a core labor protection, responding to the heightened vulnerability of domestic workers. Across jurisdictions, these laws establish boundaries against employer intrusion by restricting surveillance, protecting private communications, safeguarding personal documents and belongings, and regulating access to workers' living spaces. They affirm that domestic workers retain fundamental rights to privacy and personal autonomy at work and that employment in a private household does not authorize employers to collapse the distinction between labor control and intimate life. As we will see below, privacy protections highlight the relevance of equitable and dignitary values and are thus motivated, as with other aspects of the various state and local laws, by equitable dignitarianism.

F. DOMESTIC WORKERS' STANDARDS BOARDS/TASK FORCES

The cities of Seattle and Philadelphia have moved to establish dedicated regulatory bodies aimed at improving labor standards for domestic workers—a standards board in Seattle and a task force in Philadelphia. They are designed to serve as a forum for dialogue among employers, workers, worker representatives, and the public and to recommend policy measures to implement the Domestic Workers' Bills of Rights.²⁴⁴

Seattle enacted its board first. Under Chapter 14.23 of the Seattle Municipal Code, adopted through Ordinance 125627, the city established a Domestic Workers Standards Board as a tripartite body charged with analyzing and making

238. See OR. REV. STAT. ANN. § 653.547.

239. *Id.* § 653.547(4)(a). Depriving workers of their passports or identity documents restricts freedom of movement and consequently increases workers' risk of becoming victims of forced labor. See Int'l Lab. Org., *ILO Indicators of Forced Labour* 19 (2012) (listing "retention of identity documents" as one of eleven indicators of forced labor).

240. *Id.* § 653.547(2)(c).

241. PHILA., PA., CODE § 9-4503(5)(b).

242. *Id.*

243. *Id.* § 9-4503(5)(c).

244. See SEATTLE, WASH., MUN. CODE § 14.23.030(A); see also PHILA., PA. CODE § 9-4509; CITY OF PHILA., OFF. OF WORKER PROTS., THE PHILADELPHIA DOMESTIC WORKERS TASK FORCE: SPRING 2023 REPORT 6 (2023), <https://www.phila.gov/media/20230426140536/Domestic-Workers-Task-Force-Spring-2023-Report.pdf> [https://perma.cc/VDH3-XDJD].

recommendations on domestic worker industry standards.²⁴⁵ The board comprises thirteen appointed members drawn from hiring entities, individual household employers, domestic workers, worker organizations, and the broader community.²⁴⁶ Appointments are divided among the city council, the mayor, and the board itself, with members generally serving three-year terms.²⁴⁷ Its principal functions include recommending new legislation, policy changes, outreach and education strategies, and enforcement mechanisms.²⁴⁸ The board is also required to develop a biennial workplan—subject to city government approval—addressing training, wage and overtime standards, access to paid leave and benefits, hiring practices, and enforcement.²⁴⁹

The Philadelphia body, formally called the Domestic Workers Standards and Implementation Task Force, like the Seattle board, is a tripartite body. As of its Spring 2023 Report, it included two Philadelphia City Council members, a representative of the Philadelphia Department of Labor, three domestic worker leaders affiliated with the NDWA, the Pennsylvania NDWA director, a Community Legal Services attorney, and two employers of domestic workers. The Philadelphia Department of Labor is authorized to convene its members.²⁵⁰ The Philadelphia Task Force, in turn, is authorized to convene the administration, city council, and affected stakeholders to discuss mechanisms supporting implementation of the city's Domestic Workers Bill of Rights, including regulations promulgated thereunder.²⁵¹ The Philadelphia Department of Labor's Office of Worker Protections must also file at least an annual report with the Chief Clerk of Council reporting the Philadelphia Task Force's policy recommendations or findings.²⁵² Like the Seattle board, it produces recommendations rather than binding rules.²⁵³ Standard-setting and enforcement power remain with the Philadelphia Department of Labor's Office of Worker Protections.²⁵⁴ Together, these initiatives represent an emerging institutional approach to domestic worker protection. Rather than relying solely on one-time statutory reform that state officers enforce, standards boards embed ongoing, participatory governance. They create formal mechanisms through which affected parties can continually inform labor standards, signaling a shift toward sustained democratic engagement in an industry long characterized by informality and exclusion. As the discussion below will show, these boards also support a moral economy grounded in, among other things, democratic values.

* * *

245. SEATTLE, WASH., MUN. CODE § 14.23.030(A); Seattle, Wash., Ordinance 125627 (Jul. 27, 2018).

246. SEATTLE, WASH., MUN. CODE § 14.23.030(B).

247. *Id.* § 14.23.030(B)–(C).

248. *Id.* § 14.23.030(G).

249. *Id.* § 14.23.030(H)–(I).

250. PHILA., PA. CODE § 9-4509(1)–(2); CITY OF PHILA., OFF. OF WORKER PROTS., *supra* note 244.

251. PHILA., PA. CODE § 9-4509(1).

252. *Id.* § 9-4509(2).

253. *Id.* § 9-4509(1).

254. *Id.* § 9-4506.

Domestic worker activists have ventured beyond the comforts of the House of Labor to win rights that most U.S. workers still do not have.²⁵⁵ They acquired job security provisions that soften the harshness of at-will employment.²⁵⁶ They fought for and won fair scheduling rules that protect rest and personal time.²⁵⁷ They demanded written contracts to set clear expectations, privacy protections to safeguard worker autonomy inside the household, and standards boards that give domestic workers a formal voice in policymaking and enforcement.²⁵⁸ Their victories can also send a powerful message: Other workers can claim similar rights at state and local levels, if not beyond. In the next Part, the Essay explores the values domestic workers are writing into law via their successes—a new moral economy of the labor market—and encourages all U.S. workers and labor activists to pursue the same, even if the task appears Herculean.

IV. A NEW MORAL ECONOMY OF THE LABOR MARKET

Collectively, the Domestic Workers' Bills of Rights do more than merely extend long-denied protections to domestic workers or inscribe discrete, new technical rules for their employers; they reshape a new moral economy of the market for domestic work. Below I discuss how, by inserting new egalitarian, equitable, and dignitarian norms into law, these statutes challenge the historical devaluation of domestic work and assert a new vision of fairness for domestic work. And by developing a new institution that includes domestic workers' voices imparting their own rules—a domestic workers standards board—this moral economy is also democratic. In this way, the laws move beyond narrow rules to articulate a new moral framework for employment: one that elevates equality, equity, dignity, and democracy. This Part continues by arguing that reformers and activists should attempt to diffuse these norms more broadly by consolidating further wins for all workers in states and cities amenable to these reforms and remain ready to campaign for federal legislation when the time is ripe. It ends by addressing some counterarguments: that written contracts can limit domestic worker rights by putting on paper undesirable terms; that labor protections increase the price of labor and will lead employers to hire fewer workers and contribute to unemployment; that laws on the books require enforcement; and that the absence of collective bargaining and unions leaves domestic workers, and all workers, bereft of an effective system of labor rights.²⁵⁹

A. EGALITARIAN VALUES

Egalitarian values demand that those who are alike be treated alike.²⁶⁰ Domestic Workers' Bill of Rights laws embody this principle by dismantling longstanding exclusions that treated this workforce as less deserving of fundamental workplace

255. See, e.g., *supra* Section III.D (written contracts).

256. *Supra* Section III.A.

257. *Supra* Section III.B.

258. *Supra* Section III.D.

259. See *infra* Section IV.E.

260. See *Egalitarianism – Definition and Explanation*, OR BRIEFINGS, <https://oxford-review.com/the-oxford-review-dei-diversity-equity-and-inclusion-dictionary/egalitarianism-definition-and-explanation/> (last visited May 17, 2026).

protections.²⁶¹ These statutes seek to extend to domestic workers—although unevenly—the same wage and hour, health and safety, antidiscrimination, and anti-harassment protections afforded to workers in other sectors, thereby correcting historical exclusions.²⁶² By placing domestic workers on equal legal footing with others, these laws ensure that a workforce predominantly composed of women, immigrants, and people of color²⁶³—groups historically relegated to the margins of the law of work—gain access to the same basic standards and to workplace respect. In doing so, these laws affirm a vision of equality that recognizes domestic work as socially valuable and deserving of the same protections afforded to other occupations.

B. EQUITABLE VALUES

Equitable values call for treating the different differently to achieve fair outcomes.²⁶⁴ They lie at the core of labor and employment law, which aim to protect workers as weaker parties in the employment relationship.²⁶⁵ As Professor William Boyd reminds us, “[f]air price, fair wage, fair trade, the doctrine of unconscionability, prohibitions on price gouging,” among other equitable legal doctrines, which had origins in medieval law, made their way into contemporary economic law to deal with manifest realities of unfairness.²⁶⁶ Labor law, consumer law, tenant law, and other laws of the “economically subordinate” thus came to fruition to more expressly provide for these subordinated groups.²⁶⁷ Given these groups’ asymmetrical bargaining position in relation to employers,²⁶⁸ labor and employment law provides job security, scheduling rules, and written contracts, for example, as concrete instances of equity in practice.

In this sense, the Domestic Workers’ Bills of Rights, which mandate (although unevenly) job protections, fair scheduling, written contracts, and privacy rights do so, in important part, because workers cannot negotiate these for themselves.²⁶⁹ These rights are equitable because they attempt to remedy the power imbalance between domestic workers and their employers. On their own, domestic workers lack the bargaining power to secure these terms. They would remain vulnerable to, for example, sudden dismissal, erratic schedules, and violations of basic privacy.²⁷⁰ By requiring contracts to clarify expectations, notice to reduce

261. See *supra* Section I.B., Part II.

262. See *supra* Part II.

263. See *supra* note 245 and accompanying text.

264. See MARK GOULD, *REVOLUTION IN THE DEVELOPMENT OF CAPITALISM: THE COMING OF THE ENGLISH REVOLUTION* 345–50 (1987).

265. SERGIO GAMONAL C. & CÉSAR F. ROSADO-MARZÁN, *PRINCIPLED LABOR LAW: U.S. LABOR LAW THROUGH A LATIN AMERICAN METHOD* 32, 32 n.5, 62 (2019).

266. See William Boyd, *Just Price, Public Utility, and the Long History of Economic Regulation in America*, 35 *YALE J. ON REG.* 721, 721–22 (2018).

267. See Harry W. Arthurs, *Labor Law as the Law of Economic Subordination and Resistance: A Thought Experiment*, 34 *COMPAR. LAB. L. & POL’Y J.* 585, 594, 597–99 (2013).

268. See *id.* at 590.

269. See *supra* Part III.

270. Smith, *supra* note 12, at 164, 194–95.

economic insecurity, and breaks and paid leave to safeguard humane treatment,²⁷¹ these laws recognize (again, if unevenly) that equity demands protections for weaker parties. In doing so, they give domestic workers a stronger and fairer footing in the employment relationship.

C. DIGNITARIAN VALUES

Dignitarian values require the recognition of the equal moral and legal standing of all individuals by virtue of their humanity.²⁷² Unlike hierarchical notions of dignity, such as those that differentiated the dignity of the king, the queen, or the peasant—all based on social rank and status—the modern conception is universal and egalitarian, requiring all persons be treated with respect and afforded basic legal protections.²⁷³ Minimum wage; safe working conditions; safeguards against discrimination, harassment, and retaliation; general job stability; fair scheduling rules; breaks; PTO; transparency of terms via written contracts; and privacy all uphold the dignity of domestic workers by establishing a baseline of humane treatment. The law also places dignity on a pedestal when it extends liability to employers who only employ one domestic worker,²⁷⁴ sending a clear signal that no matter how little the employer, or their worker, makes, workers deserve a modicum of dignity and respect in the workplace that the law will enforce. Thus, labor protections affirm that domestic workers deserve a basic floor of rights that honors their humanity and rejects the historical view of this work being less than dignified.²⁷⁵

When combined with equality or equity, dignity appears in two modalities in domestic worker activism and in their bills of rights. The first is a more common egalitarian notion: Every person, by virtue of their humanity, deserves the same basic level of dignity as the next, regardless of race, religion, gender, caste, rank, status, or social class. This is the dignity that domestic workers claim after decades of exclusion from basic workplace rights—an insistence that they are no less human, and no less deserving of protection, than workers in any other sector. Their work is “work like any other.”²⁷⁶

The second variant is equitable. Rather than treating everyone the same, equitable dignitarianism recognizes that some people occupy structurally disadvantaged positions and that protecting their dignity requires differentiated treatment. This form of dignity is generally inherent in the law of work, which aims to equalize the bargaining field between capital and labor through enforceable rules.²⁷⁷ State-supported and state-enforced minimum wages, health and safety standards, antidiscrimination and anti-harassment protections, job security provisions, fair scheduling requirements, written contracts, and privacy rights all rest on a

271. See *supra* Part III.

272. See JEREMY WALDRON, DIGNITY, RANK, AND RIGHTS 242–44 (Meir Dan-Cohen ed., 2012).

273. See *id.*; BBC, *supra* note 26 and accompanying text.

274. See *supra* Section III.C.

275. See Smith, *supra* note 12, at 164.

276. BLACKETT, *supra* note 1, at 19.

277. See GAMONAL C. & ROSADO-MARZÁN, *supra* note 265, at 31–32, 46.

common premise—namely that workers, given the power imbalance with their employers, cannot secure these protections on their own and that the absence of such protections threatens their dignity. Starvation wages, hazardous conditions, unpredictable scheduling, uncertain terms of employment, and breaches of workplace privacy are all undignified conditions. To remedy them, the state must intervene. Equitable dignitarianism centrally motivates the law of work.

Domestic workers have themselves recognized equitable dignitarianism in their insistence that while their work is “work like any other,” it is also “work like no other.”²⁷⁸ This duality explains why their bills of rights not only extend general workplace protections to domestic workers but also tailor certain provisions to the distinctive conditions of their occupation. Live-in workers, for instance, labor and reside in the same space—a circumstance that creates uncommon vulnerabilities found in few other employment relationships. Accordingly, their bills of rights include special privacy protections guaranteeing separate sleeping quarters and clear agreements governing when employers may enter those quarters.²⁷⁹ The same logic shapes provisions that adapt overtime rules for live-in workers and establish specific regulations on working time, recognizing that when the workplace is also the home, the boundary between labor and rest requires affirmative legal protection. These tailored provisions reflect the equitable premise that treating domestic workers with dignity sometimes demands not identical treatment but rather treatment responsive to the specific conditions under which they work.

D. DEMOCRATIC VALUES

Democratic values are those that prescribe that members of the polity hold the power to run society.²⁸⁰ To quote Abraham Lincoln, it means a “government of the people, by the people, for the people.”²⁸¹ Workplaces that set all terms of employment exclusively by employers essentially function as dictatorships.²⁸² Labor law has thus extolled, since its incipience, the importance of industrial democracy, whereby workers share the task of setting the rules that shape their work.²⁸³ Unions, via workers’ concerted action and collective bargaining, have served as institutional channels through which workers exert their democratic rights in the workplace.²⁸⁴ But unions need not be the only institutions for

278. See BLACKETT, *supra* note 1, at 19, 73.

279. See *supra* Section III.D, Section III.E.

280. See *What Is Democracy?*, GEO. UNIV.: DEP’T OF GOV’T, <https://government.georgetown.edu/news/democracy-governance/what-is-democracy/> [<https://perma.cc/SR9T-TZ29>] (last visited May 17, 2026).

281. *The Gettysburg Address* (1863), NAT’L CONST. CTR., <https://constitutioncenter.org/the-constitution/historic-document-library/detail/abraham-lincoln-the-gettysburg-address-1863> [<https://perma.cc/BB6U-HTKB>] (last visited May 17, 2026).

282. See Stephen Macedo, *Introduction* to ELIZABETH ANDERSON, *PRIVATE GOVERNMENT: HOW EMPLOYERS RULE OUR LIVES (AND WHY WE DON’T TALK ABOUT IT)* x–xi (2017).

283. Nelson Lichtenstein & Howell John Harris, *Introduction: A Century of Industrial Democracy in America*, in *INDUSTRIAL DEMOCRACY IN AMERICA: THE AMBIGUOUS PROMISE* 1, 2–4 (Nelson Lichtenstein & Howell John Harris eds., 1993).

284. *Id.* at 6.

industrial democracy.²⁸⁵ Other institutions, such as worker or sectoral boards, could perform some of the roles—albeit not all—of labor unions.²⁸⁶

The Seattle Domestic Workers Standards Board and the Philadelphia Domestic Workers Standards and Implementation Task Force embody democratic values by creating a formal space wherein domestic workers, their organizations, employers, and community representatives can collectively deliberate on labor standards.²⁸⁷ Structured with balanced representation across stakeholders and appointments confirmed by elected officials,²⁸⁸ the boards institutionalize participation and accountability. A board's core duties—holding public hearings, gathering input, and making recommendations on issues ranging from wage standards to health benefits and enforcement²⁸⁹—ensure that policymaking reflects the voices of workers alongside employers and the public. In this way, the boards democratize labor regulation by shifting the voice exclusively from the employer to other stakeholders as well, including the workers themselves. Government retains the ultimate authority in setting terms, not the employer.

E. IMAGINING A NEW LAW OF WORK

U.S. work law would look very different if it were to adopt for all workers many of the specific rules domestic workers have been claiming for themselves. By extending coverage to workers historically and more recently excluded from basic protections, such as many independent contractors and gig employees,²⁹⁰ the law would become more egalitarian. Differences between many independent contractors and employees are often in name only.²⁹¹ Including these workers within the scope of basic labor protections would advance the values of basic equality.²⁹² They should also enter the House of Labor.

Job protections and fair scheduling would also help restore deflated equitable values in the U.S. system of work law and, through legal reform, reinforce fairness and a new moral economy of the labor market. A federal statute providing for job stability—thus curtailing employment at will—along with fair scheduling and written contracts, would do for workers what markets alone cannot.

Providing written contracts should also be a practice activists should seek to extend to all workers. Employees everywhere deserve the structure and clarity of employment contract terms along with protection from arbitrary changes to their employment conditions. Indeed, such is the rule in most of the world.

285. *See id.*

286. Andrias, *supra* note 24, at 697–98 (describing how the FLSA's wage committees contributed to building democracy).

287. *See supra* Section III.F.

288. Seattle, Wash., Ordinance 125627 (Jul. 27, 2018); PHILA., PA CODE § 9-4509(1)–(2).

289. *See id.*

290. *See* JEREMIAS PRASSL, HUMANS AS A SERVICE: THE PROMISE AND PERILS OF WORK IN THE GIG ECONOMY 4 (2018).

291. *See id.* at 4, 6.

292. *See* Veena Dubal, *On Algorithmic Wage Discrimination*, 123 COLUM. L. REV. 1929, 1969–75 (2023) (describing how algorithmic management of workers inherently treats workers differently, leading to disparate pay and cost outcomes for workers).

Germany,²⁹³ France,²⁹⁴ the United Kingdom,²⁹⁵ and China,²⁹⁶ for example, all require employers to provide their employees with regulated, written contracts that specify mandatory terms and prohibit the inclusion of unlawful ones. Such terms protect against employer abuse. They temper risks associated with employer discretion and arbitrary changes by clearly defining job expectations and conditions, forfeiting a volatile and unpredictable work environment.

Additionally, requiring even small employers to respect fundamental labor protections—such as the right not to be discriminated against, harassed, paid an undignified wage, or work in dangerous conditions with no basic privacy—would send a clear dignitarian message that all workers deserve a baseline of decent treatment, regardless of how much or how little their employers earn. Employers who cannot provide very basic pay and dignified employment conditions should refrain from employing someone at all.

Worker or sectoral boards or task forces—composed of workers, their representatives, employers, and public-interest members—could recommend wages and other terms and conditions of employment at the industry, state, or local level.²⁹⁷ Such boards or task forces would go a long way toward fortifying democratic values and curtail the autocracy of the workplace. They give workers—and some employers—an important voice in matters that directly affect them. Especially given the decline of unions,²⁹⁸ worker or sectoral boards could serve as an alternative for promoting workers' democratic participation in the U.S. political economy.²⁹⁹

True, in 2026, political conditions at the federal level are not favorable to this kind of reform. Yet the Republican turn to populism might make some of the proposals advocated by domestic workers appealing to contemporary legislators of both parties.³⁰⁰ Even if federal political conditions are unripe, states, cities, and the District of Columbia have already proven fertile ground for many of these

293. *Nachweisgesetz* [Act on the Proof of the Existence of an Employment Relationship], Aug. 1, 2022, BGBl I at 1174, § 2 (Ger.).

294. C. TRAV. [Labour Code], art. L.1222-1–6 (Fr.).

295. *Employment Rights Act 1996*, c. 18, § 4 (UK).

296. *Labor Contract Law of the People's Republic of China*, (promulgated by the Standing Comm. Nat'l People's Cong., June 29, 2007, effective Jan. 1, 2008), art. 10, 17, 26.

297. See Andrias, *supra* note 2, at 87 (identifying existing wage boards as systems where workers can help set wages and standards for all workers in a sector).

298. *Id.* at 5.

299. See Sara Slinn, *Analytical Framework for Understanding Broader-based and Sectoral Bargaining Models*, in *THE LAW AND COLLECTIVE BARGAINING: SOURCES AND PATTERNS OF REGULATION IN THE MODERN WORLD OF WORK* 153, 161–72 (Paolo Tomassetti, Alexis Bugada & Anthony Forsyth eds., 2026) (classifying various models of sectoral and broader-standard setting and bargaining through the ILO's perspective of social dialogue); Cynthia L. Estlund, *Sectoral Solutions that Work: The Case for Sectoral Co-Regulation*, 98 CHI.-KENT L. REV. 539, 542 (2023) (arguing for sectoral co-regulation rather than bargaining). But see César F. Rosado-Marzán, *Quasi Tripartism: Limits of Co-Regulation and Sectoral Bargaining in the United States*, 90 U. CHI. L. REV. 703 (2023) (arguing that tripartite sectoral bargaining, common in sectoral frameworks, is generally incompatible with U.S. liberal market economy framework).

300. Emily Brooks, *The Movement: GOP Rebels Showcase Party Shift on Labor Issues*, THE HILL (Jan. 20, 2026, at 08:00 ET), <https://thehill.com/newsletters/the-movement/5693623-labor-unions-gop-populism/> [<https://perma.cc/4YS2-KEZR>].

reforms.³⁰¹ Labor activists should continue to consolidate the gains of domestic workers, ensuring that they enjoy similar rights in all jurisdictions that have embraced Domestic Workers' Bills of Rights, and press on to claim similar rights for all workers in those states and cities open to it.

Critics may argue that some of the rights obtained by domestic workers are of questionable value. Take written contracts, for example. Couldn't employers use them to entrench clauses harmful to workers' interests, just as many already do through employment handbooks?³⁰² Certainly, that possibility exists. Although written employment contracts create structure and stable guidelines,³⁰³ employers may include terms that disadvantage employees. One example might include clauses that allow employers to change schedules at will, creating the same volatile hours employment contracts are meant to protect against. To avoid this dilemma, states must regulate written contracts and employment parameters protecting workers' rights and creating a fair work environment. The idea is not to let workers and their employers hammer out an unregulated, written contract. It is to put ink on paper to inform the worker of their statutory rights and terms and conditions that meet the legal standards.

For example, as stated above, some employment contract terms are explicitly prohibited, such as waivers of legal rights and pre-dispute arbitration and non-compete agreements.³⁰⁴ Jurisdictions should also mandate the presence of various terms, in the way that New Jersey, Nevada, and Philadelphia do.³⁰⁵ Mandatory terms could include the place where the worker is required to work, notice periods to end the relationship, work schedules, rate of pay, overtime, and frequency and method of pay, as we saw in the case of Nevada.³⁰⁶ Requiring employers to provide the contract gives workers notice of what to expect and, if binding expectations are breached, a legal remedy to the breach.

Therefore, terms that disadvantage employees need not be too much of a concern if the law also regulates the content of employment contracts and provides certain nonwaivable rights.

Some pro-market skeptics might also argue that workplace protections would weaken or overburden the U.S. labor market.³⁰⁷ They might claim that imposing wage minimums, health and safety standards, antidiscrimination and anti-harassment rules, job protections, fair scheduling, and written-contract requirements would increase labor costs and unemployment. But these arguments, without

301. See *supra* Part III.

302. See, e.g., MJ HUGHES CONSTRUCTION, EMPLOYEE POLICY HANDBOOK 13 (2025), <https://mjhughes.com/wp-content/uploads/2025/03/34797385528333-2025-Employee-Handbook.pdf> [<https://perma.cc/DAC2-5RER>] (discussing layoffs of employees based on arbitrary factors without recall rights and lack of severance pay).

303. See *supra* Section III.D.

304. See *supra* notes 222–23 and accompanying text.

305. See *supra* Section III.D.

306. See NEV. REV. STAT. ANN. § 613.620.

307. See Richard A. Epstein, *In Defense of the Contract at Will*, 51 U. CHI. L. REV. 947, 953, 972 (1984).

more, overstate their claims. Many jurisdictions in the United States and abroad³⁰⁸ already impose such terms. The evidence that they contribute to unemployment is highly contested.³⁰⁹ This Essay, moreover, proceeds from a well-supported premise: that workers' rights and U.S. work law are in tatters, and that economic inequality and democratic deficits in this country stem, in significant part, from that broken system.³¹⁰ Opposing the kinds of gains domestic workers have achieved would only deepen inequality and accelerate democratic decay. Extending those gains, by contrast, would help restore some semblance of equality, equity, dignity, and democracy for all workers. None of this is to deny that regulation—and certainly overregulation—can produce detrimental labor market effects. That's possible. But that is a policy question that deserves to be attacked, parried, and riposted with facts, not with blind assertions grounded in narrow economic assumptions about how markets work.

Skeptics might also note that the rights granted by these laws could be more symbolic than real. This Essay presents no direct evidence on employer compliance or enforcement. That criticism is valid, and future research should address the extent of compliance and the mechanisms for effective enforcement, including via boards and task forces.

Finally, labor law scholars may contend that the greatest weakness of the domestic workers' movement is its inability to organize unions capable of collective bargaining. That critique has merit: Labor law reform is indeed urgent. Yet the perfect should not be the enemy of the good. Many of the rights advanced by domestic workers—job protections, fair scheduling, coverage of single-employee employers, privacy rights, written contracts, and sectoral boards or task forces³¹¹—shift power toward workers. They also infuse our legal system and political economy with egalitarian, equitable, dignitarian, and democratic values that run against the grain of market hegemony. In this sense, these rights and the moral economy they foster can set the stage for further, broader, and deeper reforms.

* * *

Domestic Workers' Bills of Rights do more than redress past wrongs. By hard-wiring egalitarian, equitable, dignitarian, and democratic values into law, they elevate domestic labor to a place of dignity and shape a new moral economy for domestic work. The laws make clear that all work warrants protection, fairness demands a power re-balance, dignity is a fundamental human right, and

308. Drew DeSilver, *The U.S. Differs from Most Other Countries in How It Sets Its Minimum Wage*, PEW RSCH. CTR. (May 20, 2021), <https://www.pewresearch.org/short-reads/2021/05/20/the-u-s-differs-from-most-other-countries-in-how-it-sets-its-minimum-wage/> [<https://perma.cc/2WEY-WWUH>].

309. See David Card & Alan B. Krueger, *Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania*, 84 AM. ECON. REV. 772, 772 (1994) (finding that New Jersey's minimum wage increase did not reduce employment in the fast-food industry relative to Pennsylvania, challenging the conventional prediction that higher minimum wages necessarily decrease employment).

310. See *supra* Section I.A.

311. See *supra* Part III.

democracy belongs on the job. Diffusion of these rights across the United States may be uneven. Political resistance is strong.³¹² However, these reforms operate as laboratories on how to reignite the law of work and the moral economy of the labor market. Scaling them across states and sectors—think retail, warehouse workers, workers hired via apps (“gig workers”), and so on—could revive a moral economy of the labor market that honors equality, equity, dignity, and democracy for all workers.

CONCLUSION: A STRONG AND VIRTUOUS HOUSE FOR ALL

This Essay has argued that a new law of work, one inspired by the specific rules and general values embedded in the Domestic Workers’ Bills of Rights, can offer a promise that today’s federal law of work can no longer deliver and that it never even provided to many workers such as domestic workers. The domestic worker movement has shown that law can be rebuilt from the ground up, state by state, locality by locality, animated by values of equality, equity, dignity, and democracy. Though the walls of the powerful may appear high and strong, and they are, domestic workers—marginal workers segregated from basic workplace protections and socially stigmatized through race and gender norms, rarely seen as champions of the working class—have already begun to breach them through victories in states and cities across the nation. These laws reveal that an egalitarian, equitable, dignified, and democratic moral economy of the labor market is not a utopian dream but an emerging reality—still incomplete, still contested, yet grounded in hard-won legal and political achievements. Advocates and workers should thus consolidate the gains already made, compel jurisdictions to continue extending broad and meaningful rights to domestic workers, and follow the movement’s lead to deliver those same rights to all workers.

312. See *supra* Part III; *supra* notes 80–84 and accompanying text.