



Protecting Domestic Workers' Rights

An examination of care work trends shows where labor rights are under attack.

DOMESTIC WORK: THE ORIGINAL GIG WORK

Domestic workers could be considered the “[original gig economy workers](#).” Workers in this field, whether they be house cleaners or home care workers, do the necessary and often devalued work that keeps the rest of the economy running. Domestic work is also, quite literally, the future of work. As the Bureau of Labor Statistics [reports](#), home health aides and personal care aides are anticipated to be two of the top four fastest-growing occupations by 2028. But despite the growing dependence on domestic workers, pay and worker protections are remarkably inadequate. The history of exclusion of domestic workers from labor laws is steeped in the industry’s legacy of slavery. Domestic workers are predominantly women, especially women of color, which means poor pay and protections exacerbate existing inequalities. Many issues faced by domestic workers today can offer more insight about the future of employment. Like other gig workers, domestic workers are affected by ambiguous employer-employee relationships, and are prone to carve-outs that exclude them from receiving crucial worker protections.

ATTACKS ON WORKER RIGHTS

One source of erosion in worker protections is the misclassification of employees as independent contractors, a practice that’s especially common among low-wage work like domestic work. The isolation of domestic work means workers are particularly vulnerable to misclassification. Misclassification comes at a high cost for

workers. As the National Employment Law Project [explains](#), classification as an independent contractor means workers are responsible for paying both the employer and the employee side of Social Security and Unemployment taxes, whereas employees only pay half that amount. Independent contractors are not entitled to a variety of worker protections, including a minimum wage and overtime pay, workers’ compensation, unemployment insurance, employer benefits like healthcare and retirement funding, and protection from discrimination.

The costs of misclassification are not borne by workers alone. Several franchisees launched a [lawsuit](#) against California home care company Griswold International in 2014, alleging that the company’s franchise model, which depended on its use of independent contractors as care workers, was illegal in several states and cost them \$3 million in franchise startup fees. Meanwhile, the companies profiting off domestic work are mounting legal and lobbying fights to erode the rights of the workers they employ. Franchisors in the [rapidly-growing](#) home care industry push for carve-outs that would allow them to deny domestic workers, and workers, across sectors, crucial labor protections. The Home Care Association of America and the International Franchise Association — which includes dozens of home care franchise agencies among its members — [launched](#) a failed lawsuit against an Obama-era Department of Labor regulation that extended

basic protections, like overtime and minimum wages, to 2 million home care aides. The IFA has also fought against bills that would prevent [misclassification](#), [provide fair workweek scheduling](#). The association also joined home care agencies in an unsuccessful [lawsuit](#) against Seattle's minimum wage raise. All of these fights, regardless of their success, are meant to keep worker advocates in a constant state of defense while eroding protections that could help domestic workers, and workers across all sectors.

CODIFYING WORKER PROTECTIONS

Policymakers have several options ahead of them to provide domestic workers — and all workers — with crucial protections. First and foremost, Congress should pass the national [Domestic Workers Bill of Rights](#). The legislation takes a broad definition of domestic worker and hiring entity to set a floor for domestic worker rights regardless of classification as an employee or employer, and would help prevent the kind of pay docking and abuses that are rampant in domestic work. Congress should also pass the [PRO Act](#). The legislation would give workers more bargaining power while codifying a host of other provisions that protect workers — including protecting workers with multiple employers and preventing misclassification.

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