

Statement of Ai-jen Poo, Executive Director, National Domestic Workers Alliance

June 9, 2021 Hearing before the U.S. Congress Joint Economic Committee

“The Gender Wage Gap: Breaking Through Stalled Progress”

Introduction

Chairman Beyer, Ranking Member Lee, and Members of the Committee, thank you for the opportunity to testify on how to break through the gender wage gap.

My name is Ai-jen Poo, and I am the Executive Director at the National Domestic Workers Alliance (NDWA). Founded in 2007, the National Domestic Workers Alliance is the nation’s leading voice for 2.2 million domestic workers who work as nannies, home care workers, and house cleaners in private homes.¹ NDWA works to raise and strengthen industry standards to ensure that domestic workers achieve economic security and opportunity, and have protections, respect, and dignity in the workplace. NDWA organizes domestic workers, cultivates the leadership of women and women of color, leads campaigns for policy change, engages in social innovation to deliver greater economic security and benefits to domestic workers and their families. NDWA reaches and engages over 250,000 domestic workers on a regular basis through our 70 affiliate organizations in 36 cities and 17 states, local chapters in Philadelphia, Washington, D.C., and New York City, and through digital platforms.

A History of the Wage Gap Within the Domestic Workforce

The gender and racial wage gaps have been ever present in the domestic workforce, which has long been seen as undervalued and unskilled labor. During the New Deal era, Congress enacted the Fair Labor Standards Act to raise substandard wages and to give additional compensation for overtime work.² Congress also enacted the National Labor Relations Act to guarantee employees the right to form labor unions.³ However, domestic workers were excluded from these signature

¹ About the National Domestic Workers Alliance, <https://www.domesticworkers.org/about-us>

² United States v. Rosenwasser, 323 U.S. 360, 361 (1945) (internal quotation marks omitted)

³ National Labor Relations Act, 29 U.S.C. §§ 151-169 (1935)

New Deal laws. Given that Black workers in the South were concentrated in low-paying sectors, such as agriculture and domestic work, these laws would have surely provided a large benefit to these workers.⁴ For the exact reason that raising wages and allowing the opportunity to join a union would have resulted in increased economic and political power, Southern congressmen refused to support the labor law provisions of the New Deal if they covered Black workers.⁵ The exploitation of underpaid Black labor was far too important in upholding the regional economy of the South.⁶ Keeping Black workers subjugated was also integral to maintaining an order of racial hierarchy.⁷ For several decades after the passage of the New Deal, domestic workers were denied the federal right to organize and collectively bargain, and the right to a minimum wage and overtime pay. In addition to this history of racial exclusions, domestic work is associated with women -- gender roles that define cooking, cleaning and care as household duties or a labor of love to be performed by women, naturally women's work, and not real work.⁸

Domestic Workers Organize for Increased Labor Protections

Through the power of organizing, domestic workers have won important victories and made progress toward equal protections. In 1974, Congress amended the Fair Labor Standards Act to cover a significant number of workers who are “employed in domestic service in one or more households.”⁹ At the same time -- through an exemption of domestic service workers who provide companionship services to older adults and people with disabilities¹⁰, and domestic workers who reside in the households in which they provide services (i.e., live-in domestic workers) -- Congress left many domestic workers out of minimum wage and overtime pay protections.¹¹ A 1975 DOL regulation clarified that live-in domestic workers were covered under minimum wage

⁴ Marc Linder, *Farm Workers and the Fair Labor Standards Act: Racial Discrimination in the New Deal*, 65 *Tex. L. Rev.* 1335, 1373-1375 (1987).

⁵ Sean Farhang and Ira Katznelson, *The Southern Imposition: Congress and Labor in the New Deal and Fair Deal*, *Studies in American Political Development*, p. 15 (2005).

⁶ *Id.*

⁷ Juan F. Perea, *The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act*, 72 *Ohio St. L.J.* 95, 100-104 (2011).

⁸ Alexandra Finley, *The Washington Post*, *Women's household labor is essential. Why isn't it valued?* (May 29, 2020) available at <https://www.washingtonpost.com/outlook/2020/05/29/womens-household-labor-is-essential-why-isnt-it-valued/>

⁹ Fair Labor Standards Amendments of 1974, Pub. L. No. 93-259, § 7, 88 Stat. 55, 62 (1974).

¹⁰ FLSA defines individuals who receive companionship services as “individuals who (because of age or infirmity) are unable to care for themselves.” See Fair Labor Standards Act, Pub. L. No. 75-718, 52 Stat. 1060 (1938). In this testimony, I refer to such individuals as older adults or aging adults and people with disabilities.

¹¹ Pub. L. No. 93-259, § 7, 88 Stat. 55, 62.; 29 U.S.C. 13(a)(15), 13(b)(21).

protections but not overtime requirements.¹² Then, in 2013, the Department of Labor extended minimum wage and overtime protections to home care workers.¹³ However, live-in domestic workers who are hired directly by their household employer remain excluded from the FLSA overtime pay protection.

Organizing at the crossroads of the women’s rights, civil rights, and labor rights movements also helped shift the cultural perception that work done inside the home had the same inherent value as work done outside the home.¹⁴ However, after decades of being written off as merely “women’s work” or “help around the house,” domestic work continues to be underpaid and undervalued.

The Socioeconomic State of Domestic Workers

Domestic workers are over 90 percent women, while well over half are women of color, and more than a third are immigrants.¹⁵ They are much more likely than other workers to be living in poverty, regardless of occupation. The typical domestic worker is paid \$12 an hour, or 39.8 percent less than a typical nondomestic worker who is paid \$19.97 an hour.¹⁶ The average annual income of a domestic worker is less than \$16,000 per year as compared to \$39,000 for nondomestic workers.¹⁷

Pay may be even lower within each specific domestic labor industry. On average, house cleaners are paid under \$15,000 a year, nannies are paid about \$13,500 a year, non-agency home care workers are paid about \$18,000 a year and agency-based home care workers are paid about \$20,000 a year. House cleaners also have twice-poverty rates that are nearly 20 percentage points higher and nannies have twice-poverty rates over 10 percentage points higher than you would expect these rates to be if these workers were employed in nondomestic occupations.¹⁸

¹² 29 CFR § 552.2 available at <https://www.law.cornell.edu/cfr/text/29/552.2>.

¹³ 29 CFR Part 552 at 60454-55.

¹⁴ Phyllis Palmer, *Outside the Law: Agricultural and Domestic Workers Under the Fair Labor Standards Act*, 7 J. Policy Hist. 416, 418, 427-78 (1995).

¹⁵ Julia Wolfe, Jori Kandra, Lora Engdahl, and Heidi Shierholz, Economic Policy Institute, *Domestic workers chartbook* (May 14, 2020) available at <https://www.epi.org/publication/domestic-workers-chartbook-a-comprehensive-look-at-the-demographics-wages-benefits-and-poverty-rates-of-the-professionals-who-care-for-our-family-members-and-clean-our-homes/>

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

Several factors compound domestic workers' lack of financial security. They are far less likely to get employer-provided benefits, like health insurance or paid time-off, and cannot access paid family and medical leave or paid sick days. Fewer than one in ten domestic workers are covered by an employer-provided retirement plan and one in five receives health insurance coverage through their job.¹⁹

Domestic workers are also vulnerable to wage theft and other workplace violations and abuse, largely due to the fact that they work in isolation in private homes where there is a stark power imbalance between domestic workers and their employers. Many domestic workers often work without a written contract.

Furthermore, domestic workers remain excluded from most federal labor and workplace protections including the National Labor Relations Act, the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Occupational Health and Safety Act and the Family and Medical Leave Act.²⁰ As stated earlier, live-in domestic workers still do not have overtime protections under FLSA.

The experiences of NDWA members illustrate the persistence of domestic workers earning poverty wages. Zofia, a home care worker from Illinois, worked 84 hours per week and earned just \$500 weekly while caring for an elderly patient with Parkinson's and dementia. After learning her rights and how to calculate her proper wages from an NDWA affiliate, Zofia found she was owed thousands of dollars for 11 months of work. With support from our affiliate, she led meetings and direct negotiations with the employer, and recovered \$11,000 in owed wages.

Carmen²¹ has worked as a domestic worker for almost 10 years and lives in Massachusetts. When she worked as a live-in nanny, Carmen worked 12 hours and sometimes up to 20 hours a day. She got paid a total of \$350 a week and was never compensated for her overtime hours. Her employer relied on the FLSA overtime exclusion to not pay for all the hours she worked. Leonora²² -- also a live-in nanny who lives in a border state -- has been a domestic worker for the past 18 years. Leonora worked Mondays to Fridays from 6:30am to 7pm and received a total of \$220 each week in violation of both the minimum wage and overtime protection under the FLSA.

¹⁹ Id.

²⁰ Economic Policy Institute, Domestic workers are underpaid and unprotected by labor law during the coronavirus pandemic (May 14, 2020) available at <https://www.epi.org/press/domestic-workers-are-underpaid-and-under-protected-by-labor-law-during-the-coronavirus-pandemic/>

²¹ Name has been changed to protect privacy.

²² Name has been changed to protect privacy.

Finally, Diwata²³ is a home care worker from the Philippines. The United States has been her home for the past 30 years but she lives in fear of being deported as undocumented. She loves her work, caring for people one-on-one in their homes. Before the pandemic, she worked as a caregiver for four years for the same client. Her client's daughter advertised the position at \$15 dollars an hour, but they paid Diwata only \$10 an hour -- less than the minimum wage in California. She found out that they were paying other workers who were citizens \$15 an hour. She was upset, but she was afraid to speak up and ask for the advertised wage because of her immigration status.

The pandemic has been especially devastating for domestic workers who were already struggling to financially support themselves and their families. Many domestic workers experienced sudden job losses, without access to unemployment insurance or other COVID-19 relief.²⁴ Those who did retain employment risked their lives and those of their own families to care for families in other households, in order to stay afloat.²⁵

On a call with our members last year, one woman held up her phone to the camera to show us that she only had one cent left in her bank account. Like many domestic workers, she was faced with the impossible choice of keeping herself and her family safe, or risking eviction and the threat of not feeding her family. Susie Rivera, a home care worker in Texas for over 40 years, has continued working as an essential worker through the pandemic, without sick days, paying out of pocket for her own PPE and safe transportation to reach her clients, and to support her family, earning a wage of \$11 per hour.

A Case Study on the Benefits of Closing the Wage Gap for Home Care Workers

Low wages and lack of strong workplace protections perpetuate and widen the gender and racial pay gaps. It is also shortsighted policy that has much broader risks. An investment in home care workers is a salient case study.

²³ Name has been changed to protect privacy.

²⁴ In March 2020, 52% of domestic workers surveyed by NDWA had no work, and a week later, that number increased to 68%. NDWA also surveyed more than 20,000, largely Spanish-speaking domestic workers, from March to September 2020, and found that, by late March, 90 percent of these workers lost jobs due to COVID-19. The situation worsened in early May, when nearly 7 out of 10 respondents were out of work. See National Domestic Workers Alliance Labs, *6 Months in Crisis: The Impact COVID-19 on Domestic Workers* p. 15 (2020) available at https://domesticworkers.org/sites/default/files/6_Months_Crisis_Impact_COVID_19_Domestic_Workers_NDWA_Labs_1030.pdf. See also Julia Wolfe, *Domestic workers are at risk during the coronavirus crisis* (April 8, 2020) available at <https://www.epi.org/blog/domestic-workers-are-at-risk-during-the-coronavirus-crisis-data-show-most-domestic-workers-are-black-hispanic-or-asian-women/#:~:text=According%20to%20new%20data%20from,68%25%20by%20the%20next%20week>

²⁵ See generally Madeline R. Sterling, Emily Tseng, and Anthony Poon, *Experiences of Home Health Care Workers in New York City During the Coronavirus Disease 2019 Pandemic*, *JAMA Intern Med.* (2020). See also Luke Winkie, Vox, *What domestic work looks and feels like right now* (Jan 15, 2021) available at <https://www.vox.com/the-goods/2021/1/15/22225692/national-domestic-workers-alliance-us-covid-19-rights>

Raising the pay for home care workers would disproportionately benefit women, who make up nine of ten individuals in the home care industry.²⁶ It would also benefit the 63% of home care workers that are Black, Hispanic, Asian American/Pacific Islander or Native American.²⁷

Failing to invest in home care workers ultimately harms other Americans who rely on these workers to live independently and with dignity. Home care is one of the fastest growing occupations in our economy, as the caregiving demand has skyrocketed. 88% of aging adults preferring to receive long-term supports and services (LTTS) in home and community-based settings,²⁸ and by 2050, the population of people 65 and older will nearly double.²⁹

Despite the fact that home care work is one of the fastest growing occupations in our economy and can greatly increase the quality of life for consumers, wages have not kept up with the demand for these jobs. According to PHI, the median hourly wage for home care workers only increased by a total of 91 cents between 2009 and 2019.³⁰ In the same time period, the number of jobs in this industry saw growth of over 1,400,000 jobs or approximately 145%.³¹ The increase in wages is vastly deficient to keep up with the increase in prices of staple foods, housing, and other goods over the last 10 years.³²

²⁶ PHI U.S. Home Care Workers Key Facts, p. 3 (2019) <https://phinational.org/wp-content/uploads/2019/08/US-Home-Care-Workers-2019-PHI.pdf>.

²⁷ Christian Weller, Beth Almeida, Marc Cohen, and Robyn Stone, Leading Age, Making Care Work Pay, p. 13 (Sept. 2020) available at <https://leadingage.org/sites/default/files/Making%20Care%20Work%20Pay%20Report.pdf>

²⁸ The AP-NORC Center for Public Affairs Research, Long-Term Care in America: Americans Want to Age at Home (May 2021) available at <https://apnorc.org/projects/long-term-care-in-america-americans-want-to-age-at-home>

²⁹ U.S. Department of Health and Human Services, Assistant Secretary for Planning and Evaluation, What is the lifetime risk of needing and receiving long-term services and supports (April 4, 2019) available at <https://aspe.hhs.gov/basic-report/what-lifetime-risk-needing-and-receiving-long-term-services-and-supports>

³⁰ PHI, Direct Care Worker Median Hourly Wages Adjusted for Inflation, 2009 to 2019 available at <http://phinational.org/policy-research/workforce-data-center/#tab=National+Data&natvar=Wage+Trends>

³¹ PHI, Direct Care Worker Employment, 2009 to 2019, available at <http://phinational.org/policy-research/workforce-data-center/#tab=National+Data&natvar=Employment+Trends>

³² Bureau of Labor Statistics, Consumer Price Index Historical Tables for U.S. City Average, available at https://www.bls.gov/regions/mid-atlantic/data/consumerpriceindexhistorical_us_table.htm. See also Irene Jiang, Business Insider, How much American grocery staples like bread, bacon, and coffee cost now versus 10 years ago (Dec. 18, 2019) available at <https://www.businessinsider.com/grocery-price-change-bread-bacon-cost-10-years-ago-now-2019-12#tomatoes-11>. See also Aimee Picchi, CBS News, It's been a record 11 years since the last increase in U.S. minimum wage (Jul. 24, 2020) available at <https://www.cbsnews.com/news/minimum-wage-no-increases-11-years/>

Care work is also emotionally taxing and physically punishing -- involving heavy lifting, long hours, and exposure to potentially hazardous materials.³³ Low pay, combined with difficult and poor working conditions, has led to chronic staffing shortages in the home care sector, and instability for care workers and the families that they serve.³⁴ Even home care workers that love their jobs are more likely to leave for another profession with better pay or benefits -- leading to high turnover rates.³⁵ For example, PHI found that in all 50 states and the District of Columbia, wages of direct care workers are lower than the median wage for other occupations with similar entry-level requirements, such as janitors, retail workers, and customer service representatives.³⁶ A living wage would help to relieve worker shortages, both by encouraging home care workers to stay in this field and work more hours, and by attracting new employees.³⁷

A care recipient's health outcomes would also improve. This workforce provides critical support to people with disabilities and older Americans with activities of their daily living, such as bathing, dressing and often provides invaluable medical care, such as managing their medications or performing tracheostomy care. As care recipients receive more services day-to-day, their home care worker can become more familiar with their needs,³⁸ and recipients receive more consistent and dependable care, making it easier for them to live independently.³⁹

In addition, domestic workers spend their days supporting family caregivers. According to the AARP, over 50 million Americans now serve as unpaid caregivers for adult family members or

³³ Linda Burnham and Nik Theodore, Home Economics: The Invisible and Unregulated World of Domestic Work, National Domestic Workers Alliance, pp. 28-32 (2012) <https://domesticworkers.org/sites/default/files/HomeEconomicsReport.pdf>

³⁴ Chris Farrell, Forbes, The Shortage Of Home Care Workers: Worse Than You Think (April 18, 2019), available at <https://www.forbes.com/sites/nextavenue/2018/04/18/the-shortage-of-home-care-workers-worse-than-you-think/?sh=6f1ed6f83ddd>

³⁵ Margaret Barthiel, NPR, Many Health Workers Earned Low Wages, Suffered Losses During The Pandemic (March 10, 2021) available at <https://www.npr.org/local/305/2021/03/10/975626535/many-health-workers-earned-low-wages-suffered-losses-during-the-pandemic>

³⁶ Robert Espinoza, PHI, Competitive Disadvantage: Direct Care Wages Are Lagging Behind (Oct. 13. 2020) available at <https://phinational.org/resource/competitive-disadvantage-direct-care-wages-are-lagging-behind/>

³⁷ CUNY Academic Works, The Case for Public Investment in Higher Pay for New York State Home Care Workers: Estimated Costs and Savings, pp. 14-15 (2021) available at https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1806&context=gc_pubs

³⁸ Leading Age, Making Care Work Pay, p. 4 available at <https://leadingage.org/sites/default/files/Making%20Care%20Work%20Pay%20Report.pdf>

³⁹ Id. at p. 20.

friends.⁴⁰ 61 percent of these unpaid caregivers are women.⁴¹ Many are in the sandwich generation -- simultaneously bringing up their own children and caring for their aging parents.⁴² These multigenerational caregivers must expend more of their time and income on caregiving, while forgoing their own financial stability and overall well-being.⁴³ Domestic workers enable millions to participate in the workforce, knowing their homes and families are in good hands. That is why we call care jobs job-enabling jobs. However, when family caregivers cannot access care, their labor force participation may stall.⁴⁴

That domestic workers are integral to the rest of the workforce became clear when, as a result of the pandemic, women's overall participation in the workforce dropped to 57% -- the lowest level since 1988.⁴⁵ Women have suffered more COVID-19 related job loss in large part to having to shoulder the majority of caregiving and household responsibilities -- sharply exacerbated by school and childcare center closings. Some women had to make the choice to leave the workforce when it became impossible to juggle their work schedules, while also taking care of their children, their aging parents or other loved ones that needed care. The impact of prolonged shutdowns exposed the lack of foundation or infrastructure to support our ability to care for our families.

Policy Solutions to Close the Wage Gap Among Women and Women of Color

Congress can play a direct role in breaking through the gender and racial wage gaps by enacting a holistic set of policies to bolster both the wages and economic power of the woman-led domestic workforce. In turn, it will make care more accessible and reliable, enable other women workers to return to and stay in the workforce, and fuel the economic recovery.⁴⁶

⁴⁰ NAC and AARP, *Caregiving in the U.S.* p. 4 (2020), available at <https://www.aarp.org/content/dam/aarp/ppi/2020/05/full-report-caregiving-in-the-united-states.doi.10.26419-2Fppi.00103.001.pdf?intcmp=AE-CAR-BAS-IL>

⁴¹ *Id.* at p. 10.

⁴² CNBC, *Rising costs, less in savings: How the pandemic is slamming the 'sandwich generation'* (Dec. 15, 2020) available at <https://www.cnbc.com/2020/11/27/how-the-pandemic-is-slamming-the-sandwich-generation.html>

⁴³ Jessica Grose, *The New York Times*, *'It's Pretty Brutal': The Sandwich Generation Pays a Price* (Feb. 18, 2020) available at <https://www.nytimes.com/2020/02/11/parenting/sandwich-generation-costs.html>

⁴⁴ Leila Schochet, Center for American Progress, *The Child Care Crisis Is Keeping Women Out of the Workforce* (March 28, 2019) available at <https://www.americanprogress.org/issues/early-childhood/reports/2019/03/28/467488/child-care-crisis-keeping-women-workforce/>

⁴⁵ National Women's Law Center, *The Pandemic, The Economy, & The Value of Women's Work* p. 3 (March 2021) available at https://nwlc.org/wp-content/uploads/2021/03/Final_NWLC_Press_CovidStats.pdf

⁴⁶ S&P Global, *The Key to Unlocking U.S. GDP Growth? Women* (2018) available at https://www.spglobal.com/Media/Documents/03651.00_Women_at_Work_Doc.8.5x11-R4.pdf

First, Congress must support President Biden's critical investment of \$400 billion in Medicaid's home and community-based services (HCBS) in the American Jobs Plan.⁴⁷ This meaningful investment would make it possible to both expand services to people with disabilities and older Americans and pay home care workers family-sustaining wages. Congress can also enact the National Domestic Workers Bill of Rights,⁴⁸ being led by Congresswoman Pramila Jayapal and Senator Kirsten Gillibrand. The National Domestic Workers Bill of Rights strikes the remaining FLSA exclusion for live-in domestic workers and establishes other baseline standards such as earned sick days, privacy protections, meal and rest breaks, safety and health measures, and fair scheduling provisions⁴⁹ to protect domestic workers from substandard working conditions.

Congress should also consider a pathway to citizenship for immigrant domestic workers and other essential workers through the Citizenship for Essential Workers Act (H.R. 1909/S.747) and the SECURE Act (S. 2144). Adding to the existing power imbalance, immigrant workers are more vulnerable to workplace violations and mistreatment, including wage theft, physical and verbal abuse and labor trafficking. However immigrant workers are even less likely to report labor abuses.⁵⁰ Getting these workers on a stable pathway to citizenship would better ensure their rights are respected, that they can negotiate for fair wages and working conditions, and can speak up against mistreatment on the job -- without fearing retaliation because of their immigration status.

Conclusion

Congress has a profound moment of opportunity to rebuild and reset our economy to be more inclusive and equitable. Work that is associated with women has traditionally been less valued. Care jobs are the quintessential example of this. The pandemic has only revealed and deepened inequity for women who were already struggling. By supporting efforts to raise wages and improve the quality of low-wage jobs -- beginning with the jobs like care jobs, historically associated with women and women of color -- we can promote equity from the bottom up, ensuring that all working women are valued, and paid well enough to support their families. We can break the patterns of gender inequality that appear in our economy, among care workers like domestic workers and the other women workers in the economy that they support every day. Thank you.

⁴⁷ The White House, FACT SHEET: The American Jobs Plan (March 2021) available at <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>

⁴⁸ Domestic Workers Bill of Rights, H.R. 3670/S. 2112 (2019) <https://www.congress.gov/bill/116th-congress/house-bill/3760/text>

⁴⁹ Id.

⁵⁰ Paul Harris, The Guardian, Undocumented workers' grim reality: speak out on abuse and risk deportation (March 28, 2013) available at <https://www.theguardian.com/world/2013/mar/28/undocumented-migrants-worker-abuse-deportation>