



Unvarnished

**Precarity and Poor Working Conditions
for Nail Salon Workers in New York State**

ILR Worker Institute

Unvarnished: Precarity and Poor Working Conditions for Nail Salon Workers in New York State

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Table of Contents

EXECUTIVE SUMMARY	3
INTRODUCTION	11
BACKGROUND	12
The making of the modern nail salon industry	12
Labor conditions in nail salons	14
Worker advocacy driving industry change	16
METHODOLOGY	19
Analysis of government data	19
2021 Nail Salon Survey	20
Focus groups	20
MAPPING THE NEW YORK NAIL SALON INDUSTRY	23
Mapping the industry	23
Mapping the workforce	27
FOCUS GROUP FINDINGS	33
Wages, schedules, and benefits	33
Health and safety issues	41
Discrimination and harassment	43
Workers and their rights	45
DISCUSSION	51
“It’s difficult to survive”: Low wages and no benefits	51
“You have to put a stone on top of your heart and smile”: Barriers to workers speaking out	52
Training, skill-building and rights education as sources of worker agency	53
Navigating ethnic hierarchies and discrimination	55
Shallow compliance vs. genuine compliance	56
RECOMMENDATIONS	61



Executive Summary

Worker advocacy and investigative reporting have put a spotlight on the unjust labor practices prevalent in New York State’s nail salon industry. In low-wage industries across the country, workers persistently face violations of fundamental workplace laws. Wage theft—when workers are not paid the wages they are owed—is widely used by employers as a way to cut labor costs; workers are commonly denied the right to take breaks to eat or use the bathroom; and retaliation is swift for organizing or speaking out to protect their rights. These conditions define the nail salon industry in New York State, where a highly competitive market of microbusinesses depends on a workforce comprised predominantly of immigrant women of color. The challenges of raising standards in this industry echo those faced in other sectors that are similarly characterized by an abundance of very small businesses, vulnerable workers, and sharp economic competition, as nail salon businesses commonly strive to remain competitive by cutting corners on labor costs and health and safety measures.

This report maps out the contours of New York’s nail salon industry and workforce and examines labor conditions in the industry and their impact on workers’ lives. The report also assesses how recent legislation has affected nail salon workers’ rights, as well as the impact of the COVID-19 pandemic. This research aims to deepen our understanding of the industry and workforce—importantly, by bringing workers’ voices to the center of the discussion—in order to make recommendations toward meaningfully improving standards across the industry.

The implementation of new legislation and regulations has been an important step toward improving wages and working conditions in New York State’s nail salon industry, but our research suggests that the struggle to improve pay and

other conditions remains unfinished. With a workforce predominantly made up of immigrant women of color who are paid low wages and often have limited alternative job opportunities, our research found that this precarity heightened fears of retaliation, seriously undermining workers’ willingness to speak out about violations or unfair conditions. Employers often exploit workers’ vulnerability by implicitly or explicitly discouraging workers from learning about their rights or speaking out about violations. Complex pay structures—and likely language barriers as well—also appear to generate confusion about what wages workers are legally owed and what rights workers have.

The **“Background”** section of this report traces the making of the modern nail salon industry in the United States and gives a brief overview of labor conditions in nail salons. This section also narrates the recent history of nail salon worker advocacy in New York, drawing attention to the role of worker organizing and advocacy in driving industry change.

“Methodology” describes the mixed-methods research design of our study, which included analysis of government data on the industry; focus groups with nail salon workers conducted in Mandarin, Spanish, Nepali, and Vietnamese languages; and a statewide survey of nail salons on pricing and number of employees. The research design was shaped by the principles of community-based participatory research (CBPR) and Critical Participatory Action Research (CPAR), which provide frameworks for engaging in collaborative research with individuals and groups who are directly affected by the issue under study. The research was conducted by the Worker Institute at Cornell University ILR School in partnership with the New York Healthy Nail Salons Coalition, Adhikaar

BY THE NUMBERS THE NEW YORK NAIL SALON INDUSTRY

An analysis of government data to depict the characteristics of New York State's nail salon industry and workforce. This data is from the Bureau of Labor Statistics (BLS) and the U.S. Census Bureau's American Community Survey (ACS) Public Use Microdata Samples (PUMS). While we presume that these data undercount the actual number of nail technicians in New York State and exclude certain marginalized groups in particular, the data provide an outline of demographic and geographic trends in the workforce.

NEW YORK NAIL SALONS

82% small businesses with 5 or fewer nail technicians

55% have 3 or fewer nail technicians



81% of survey respondents in the 2021 Nail Salon Survey were businesses located in New York City, Westchester County, and Long Island.



#1
in highest concentration of nail technicians

#2
in number of nail salons

**It is likely more, as it is possible that government data undercounts the number of establishments due to unregistered or unincorporated businesses.*

Average prices of nail salon services are markedly lower than the nationwide average:

\$13.71 average service price in the NYC metro area	\$17.35 average service price for the rest of New York State
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(also the region with the highest cost of living and doing business)

Outside of the NYC metropolitan area, the locations with the highest density of nail salons include:

Rochester	Albany	Poughkeepsie	Buffalo
212	154	166	162

NAIL SALON TECHNICIANS/WORKERS

84.4%

identify as women

and are predominantly women of color

73%

Asian/Pacific Islander

21%

Latinx



PRIMARY LANGUAGES

39%

Chinese

19%

Spanish

14%

Vietnamese

12%

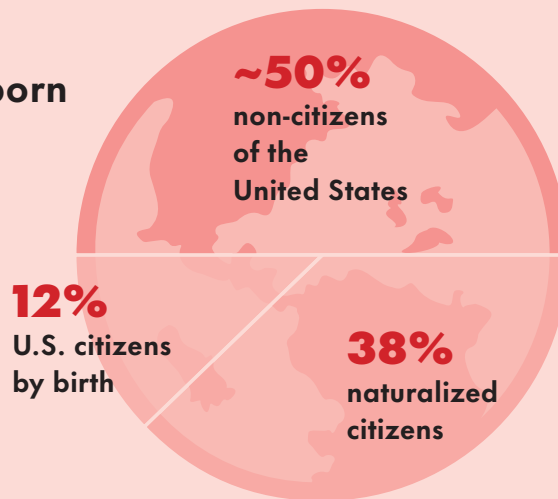
English

11%

Korean

88%

foreign-born



WAGES

Bureau of Labor Statistics (May 2020)

\$13.74

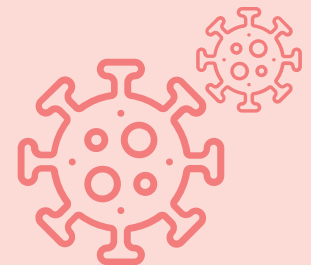
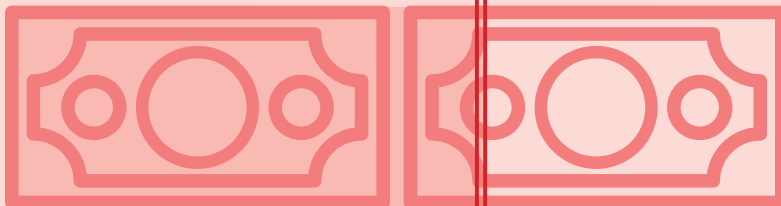
average New York City metro area hourly wage for nail technicians

\$13.87

average New York State hourly wage for nail technicians

\$18.62

Statewide "living wage" for a single adult



Although salon employment levels dropped sharply in 2020 due to the COVID-19 pandemic shutdown, Bureau of Labor Statistics data from the first two quarters of 2021 indicate that the industry is steadily recovering jobs lost to the pandemic.

Wage data from the U.S Census Bureau ACS PUMS data are nearly identical, showing an effective hourly wage of \$13.89, while the median wage is just \$10.58 per hour. The analysis also suggests that nail technician wages tend to be lower in regions where non-citizens make up greater shares of the workforce.

for Human Rights & Social Justice, Workers United/ New York New Jersey Regional Joint Board, New York Committee for Occupational Safety and Health (NYCOSH), and Mekong NYC.

The **“Focus Group Findings”** section shares an analysis of the focus group data, and the **“Discussion”** section draws out the key threads and puts them in conversation with the analysis of government data and existing research. The significant findings of this study include the following:

“It’s difficult to survive”: Low wages and no benefits

Our research indicates that, despite recent legislation that sought to raise wages and strengthen worker protections in the industry, nail salon workers in New York earn low wages and have limited access to workplace benefits, which are largely inadequate. Many respondents described enduring significant stress due to economic insecurity, unpredictable schedules, and lack of benefits. As a workforce that is largely immigrant women of color, the impact of this insecurity ripples out far and wide, as these workers often shoulder the burden of supporting their families and communities with paid work alongside unpaid care work. How workers experience these circumstances of low income and limited benefits also seems to be shaped in part by their access—or lack of access—to social protections, as determined by their immigration and employment status. The lack of legal immigration status clearly exacerbates the likelihood and the impact of economic insecurity for nail salon workers.

“You have to put a stone on top of your heart and smile”: Barriers to workers speaking out

With a workforce made up predominantly of immigrant women of color, the economic insecurity and social marginalization that many nail salon workers experience inherently creates substantial risk for speaking out about unfair work conditions and/or labor violations. Because low wages often make it difficult for

workers to cover their family’s monthly living expenses—let alone to collect savings—the prospect of losing work can stifle workers’ willingness to speak out about violations. For many workers, the fear of retaliation seemed to be informed by either witnessing or personally experiencing reprimands or retaliation for speaking out. Other workers described employer inaction as a common response to speaking out, leading them to express the futility of doing so. The research also pointed to the importance of taking into account how coethnic and family relations between workers and owners affect labor relations in the nail salon industry.

Training, skill-building, and rights education as sources of worker agency

The focus group discussions revealed several factors that made workers feel more empowered to speak out, including access to training and skill-building, awareness of workers’ rights and protections, and collective (rather than individual) action. These findings about skill-building are significant in light of workers’ descriptions of an informal ethnic hierarchy and stratified wage system, in which certain workers are excluded from opportunities to learn new skills and increase their wages. Focus group participants also emphasized how awareness of their rights and protections was an important element of empowering workers to speak out about labor conditions. Indeed, the broader dynamics of focus group recruitment and participation illuminated the role of both trust-building and rights education in facilitating workers’ willingness to speak openly about their workplace conditions.

Navigating ethnic hierarchies and discrimination

Workers’ descriptions of an “ethnic hierarchy” within the labor force—unequal pay, treatment, and working conditions for workers of different ethnic backgrounds—point to several important dynamics. Latinx and Nepali-speaking workers were more likely to report being confined to lower-status and less lucrative work and having more limited mobility within the industry. The

experience of workers who share coethnic relations (or even family relations) with their employers, on the other hand, is likely to be distinct from that of workers who feel relegated to the bottom of an ethnic hierarchy. These circumstances, taken together with the substantial diversity of New York’s nail salon workforce, suggest that there will be important differences in how nail salon workers of different backgrounds experience their position as workers, potentially shaping labor relations and workers’ willingness to speak out in different ways. In addition to the differential and discriminatory treatment attributed to an informal ethnic hierarchy, participants described other specific forms of unequal treatment from employers and customers, including language discrimination and differential treatment of undocumented workers.

Shallow compliance vs. genuine compliance

The focus group discussions suggest that a significant proportion of nail salons are not fully complying with new wage and hour requirements and health and safety regulations. In addition to widely reported wage and hour violations, the focus group discussions highlighted other violations regarding benefits and health and safety regulations—it appears that many employers do not provide adequate personal protective equipment (PPE), have not yet installed ventilation systems, and do not provide paid sick leave. Wage theft clearly continues to be an issue, as only around half of all participants across the Spanish, Nepali, and Mandarin groups reported being paid the legally required minimum wage. Yet even among salons that are complying with new wage regulations, some employers are effectively “canceling out” the financial benefits to workers by reducing workers’ hours.

The **“Recommendations”** section draws on the research findings to outline concrete steps to lift standards and enforce existing protections across New York State’s nail salon industry:

- **Use a sectoral approach to raise standards comprehensively across the industry, to create a landscape where nail salons can improve conditions on a level playing field.**

While employers’ noncompliance with recent minimum wage legislation and other protections is one reason for the persistence of wage theft and health and safety issues in the industry, our research suggests that existing standards are inadequate and unable to address many of the issues that workers face. The particular features of New York’s nail salon industry suggest that a sectoral approach would be more effective in raising industry standards, by taking wages and other labor standards out of market competition and creating a set of standards that are tailored to the particular contours of this industry. Sectoral approaches such as wage boards or labor standards boards (sometimes referred to as “sectoral councils”) can be particularly relevant in industries with a high number of small businesses where no one employer or small group of employers controls the overall labor market—a defining feature of New York’s nail salon industry. To make higher wages and standards viable, sectoral approaches to raising standards in New York’s nail salon industry must also include strategies for establishing pricing standards across the industry.

- **Center worker voice and organizing in strategies to lift and enforce industry standards, and support worker organizations’ critical role in bolstering worker voice and agency.**

Our findings highlight how the precarity of New York’s nail salon workforce seriously undermines worker voice and agency, discouraging workers from advocating for better conditions or reporting violations. Yet the focus group discussions also demonstrated that workers who had participated in organizing meetings and

workers' rights education were more willing to speak out about their workplace conditions. Amid the power dynamics of this industry, any strategies for lifting industry standards must support collective empowerment of nail salon workers by facilitating workers' ability to exercise voice and organize. Labor standards boards can be useful in industries where workers have limited structural bargaining power, as they institutionalize worker participation in setting wages and standards. Yet there is consensus among scholars and advocates that such sectoral approaches are only effective in meaningfully lifting standards when there are strong worker organizations and actively organized workers involved. Worker organizations should conceive of labor standards boards as one element within a broader strategy of base-building, organizing, and expanding the power of workers.

The enforcement challenges that emerged in our research make it clear that workers themselves must be empowered to advance their rights and protections. Setting sector-wide standards alone will not automatically address the widespread lack of compliance with existing laws and regulations. Worker and community organizations can play an essential role in engaging marginalized workers who are often disenfranchised from systems for seeking redress. Worker organizations in New York have spent years cultivating membership bases and relationships of trust with nail salon workers, resulting in greater organization and awareness of rights among significant segments of the workforce. In light of research confirming that enforcement is strengthened by the presence of unions, worker centers, and organized workers, **worker organizations with a history of organizing and advocating for nail salon workers should have a central role in any initiatives to raise standards and strengthen enforcement. As the nail salon workforce grows, these organizations should be appropriately resourced to continue engaging workers in education, organizing, and enforcement of workers' rights.**

- **Strengthen enforcement capacity and implement enforcement mechanisms that create meaningful consequences for noncompliance.**

The structure of the nail salon industry and circumstances of the workforce present particular challenges for industry oversight and enforcement, pointing to the need for stronger and more targeted enforcement mechanisms to bring more nail salon businesses into compliance with new and existing laws and regulations. Increasing the size and funding of the labor inspectorate and pursuing more proactive investigations are necessary first steps in strengthening enforcement capacity to confront widespread violations in low-wage industries such as the nail salon industry; these should complement enforcement approaches that engage worker organizations, as described above. Given our focus group findings that suggest many nail salon workers are not fully aware of their rights, and other sources that indicate many nail salon owners may not have a clear understanding of the requirements of labor and employment laws, a strategy linking business licensing to training on workers' rights for nail salon workers and employers could be effective in driving compliance.

- **Ensure diverse representation of New York's nail salon workforce—including the most marginalized workers—in any initiatives to raise and enforce standards.**

Nail salon workers are a highly diverse workforce in New York, and different groups occupy distinct positions within the informal "ethnic hierarchy" of the workplace, leading to differing experiences of working conditions, power dynamics, and opportunities for mobility. Initiatives to raise standards and strengthen enforcement in the industry should involve workers who represent diverse backgrounds in order to ensure solutions are relevant to these different experiences. Further, our findings on the heightened insecurity of undocumented workers and the relegation of some groups to the bottom rungs of the workplace hierarchy underscore the necessity of including the most

marginalized workers in the development of any solutions. Here again, the role of worker and community organizations will be essential as trusted bridges for meaningful inclusion of workers who are often excluded.

- **Make training more accessible and relevant for nail salon workers.**

Access to formal and informal opportunities for training and skill-building emerged as an important means for nail salon workers to secure higher wages, to feel empowered to speak out, and to experience greater job security; yet opportunities to learn new skills and get promoted are often unevenly distributed, with some workers citing discrimination based on their race/ethnicity or immigration status. Training for both licensing and skill-building should be made widely accessible for nail salon workers, including the creation of standardized channels for training and promotion. Special attention must also be paid to the diversity of the nail salon workforce—recognizing diversity of ethnic background, primary language, literacy, and immigration status—to ensure that any training and licensing processes are fully accessible to all workers. The New York Nail Salon Worker School—also known as the NYCOSH Beauty School—provides an effective model of the type of training programs that should be expanded and funded, offering a non-profit alternative to for-profit beauty schools that many workers find unaffordable and using a highly effective popular education pedagogy that yields a 95% pass rate for the licensing exam. In addition to the training program for licensing, the Beauty School provides workshops on nail salon workers’ rights and creates a pathway for workers to engage in organizing—ultimately helping to cultivate workers’ power and voice in New York’s nail salon industry.





Introduction

In recent years, New York State’s nail salon industry has come under the glare of public scrutiny and exposure for unjust labor practices that have been deeply harmful to nail salon workers’ lives. Such problems are common for workers laboring in low-wage industries. Around the country, such workers persistently face violations of fundamental workplace laws.¹ Wage theft—when workers are not paid the wages they are owed—is widely used by employers as a way to cut labor costs; workers are commonly denied the right to take breaks to eat or use the bathroom; and retaliation is swift for organizing or speaking out to protect their rights.² For many workers in low-wage industries, the laws meant to protect them are inadequate or outdated; another pervasive problem is weak enforcement of the laws that do exist. The agencies responsible for enforcing worker protections are severely underfunded, effectively leaving the burden on workers to report violations—yet sharp power inequalities leave workers highly vulnerable to retaliation, discouraging them from asserting their rights.

These conditions define the nail salon industry in New York State, where a highly competitive market of microbusinesses depends on a workforce consisting predominantly of immigrant women of color.³ The challenges of raising standards in this industry echo those faced in other sectors characterized by an abundance of very small businesses, vulnerable workers, sharp economic competition, and thin profit margins.

Worker advocacy and media attention prompted the implementation of new legislation to regulate New York State’s nail salon industry. Yet widespread compliance with new standards has proven elusive—workers continue to face issues

ranging from wage theft to health and safety concerns, and nail salon businesses continue to face pressure to keep labor costs low. Amid these changes, the COVID-19 pandemic imposed a complete disruption of business as usual, shutting down virtually the entire industry and leaving thousands of workers without jobs.

This report maps out the contours of New York’s nail salon industry and workforce and examines labor conditions in the industry and their impact on workers’ lives. In light of the significant changes of recent years, the report assesses how recent legislation has affected nail salon workers’ rights, as well as the impact of the COVID-19 pandemic. This research aims to deepen our understanding of the industry and workforce—importantly, by bringing workers’ voices to the center of the discussion—in order to make recommendations toward meaningfully improving standards across the industry.

This report builds on existing research on the nail salon industry in the United States with a focus on the specific and distinct features of the industry in New York State. Our research brings together the “big picture” provided through analysis of government data with the finely textured portrait conveyed by workers in focus groups. Data from focus groups in four languages (Mandarin, Spanish, Nepali, and Vietnamese) draws attention to the unique diversity of New York’s nail salon workforce and allows the perspectives of workers themselves to shape our understanding of labor conditions and labor relations in the industry, and how these affect workers’ lives. Finally, the research explores the role of worker organizing and rights education, facilitated by the participatory frameworks informing the research design.





Background

The making of the modern nail salon industry

The nail salon industry has grown exponentially since the 1980s, with manicures and pedicures being transformed from a high-end luxury service for the wealthy to an affordable beauty service widely accessible to all. Vietnamese refugees and immigrants played a pivotal role in fueling the rapid expansion of professional nail care and the proliferation of nail salons across the United States, a trend traced back to the arrival of Vietnamese refugees in the country after the end of the Vietnam War. Prior to the 1980s, professional nail care had mainly been offered as a secondary service for wealthy clients at upscale beauty salons. Vietnamese nail salon owners and workers changed the geography, accessibility, and popularity of nail care by opening standalone nail salons in a wide range of neighborhoods, offering a diverse array of nail services and adopting new technologies (such as acrylic nails), and setting far lower prices for services than upscale salons.⁴

While Vietnamese workers and entrepreneurs have firmly established their predominance in the nail salon industry nationwide, other immigrant and ethnic groups have also developed niches in the industry. In New York, Korean and Chinese immigrants constitute a substantial proportion of the industry as both nail salon owners and workers.⁵ As with other “ethnic niches” in the labor market, the concentration of Asian immigrants and refugees in the nail salon industry has been shaped by various social, geopolitical, and structural conditions. Relatively low barriers to entry for nail salon work (which were even lower in New York State prior to the introduction of licensing requirements in the 1990s) have made it accessible to new immigrants who face discrimination in other sectors of the labor market and who may not

have fluency in the English language, transferable credentials, or legal immigration status.⁶ Similarly, establishing a nail salon business does not require a major capital investment. Once an initial foothold is established, social networks and family relationships facilitate the entry of subsequent immigrants into these ethnic niches.

The continued proliferation of nail salons over the years has generated sharp competition, driving down the prices of services and generating pressure to keep labor costs down. Low prices and thin profit margins have locked in low wages for most nail salon workers. With a workforce made up mostly of racialized immigrant women who are paid low wages, the labor patterns of the nail salon industry bear some important similarities to other forms of service work and care work dependent on the labor of immigrant women of color, such as domestic work.⁷ Both domestic work and nail salon work are examples of the low-paid service jobs that have rapidly increased in number alongside the growth of high-paying professional jobs in “global cities.”⁸ Both nail salon workers and domestic workers tend to be immigrant women of color who have often migrated from countries impacted by U.S. economic, military, and/or political intervention. Both jobs demand some degree of emotional labor, wherein the worker’s managing of emotions is an integral part of the service work provided. Yet certain distinctions are also significant. Whereas domestic workers often labor in private homes for professional women who are outsourcing cleaning and childcare duties, nail salon clientele now span individuals of all incomes, given the sharp decline in prices described above. Nail salon workers are also more likely to have a fellow immigrant as their employer, and for some workers, an employer of the same ethnic background—or even of the same family.⁹ The presence of coethnic owners and

workers facilitates entry into the industry, but can also engender complex labor relations that may present obstacles to worker organizing.

Labor conditions in nail salons

The structure of the nail salon industry leads to particular challenges in enforcing existing laws and regulations and improving standards. Across many low-wage industries, employers systematically violate labor and employment laws as a strategy to control labor costs.¹⁰ A weak enforcement and penalty regime is one enabling factor, yet there are also particular industry characteristics that are strongly correlated with high rates of violations. The predominance of small firms across an industry, the lack of provision of workplace benefits, and the use of nonstandard pay systems are all measures associated with high violation rates—they are also all features of the nail salon industry.¹¹

Wage theft is a prevalent issue for nail salon workers, with minimum wage and overtime violations facilitated by a complex array of payment structures.¹² The most common wage structures in the nail industry are flat daily wages, commission-based pay, and hourly wages.¹³ Employers are responsible for paying minimum wage regardless of wage structure, but these different configurations can make it difficult for workers to know whether they are actually being paid the minimum wage, or whether they are actually legally owed the minimum wage. A consequential exception to minimum wage law is for workers who are classified as “independent contractors” instead of employees; independent contractors are not protected by minimum wage laws or a range of other protections, including overtime pay, union organizing protections, and workers’ compensation. Misclassification of employees as independent contractors has emerged as an increasingly common practice across various low-wage industries¹⁴—aimed at curbing labor costs and employer responsibility—and it appears to be a significant issue in the nail salon industry,¹⁵ despite stringent licensing

requirements on who can legally be classified as an independent contractor.¹⁶ One small-scale survey in New York found that 44% of nail salon workers surveyed reported being misclassified as independent contractors by their employers.¹⁷

Some states, including New York, have a subminimum wage for tipped workers—also known as a “tipped minimum wage.” The subminimum wage for tipped workers in the nail salon industry was recently phased out after an active worker advocacy campaign for “One Fair Wage,” and nail salon employers in New York are now required (as of December 2020) to pay workers the full minimum wage.¹⁸

Nail salon workers are also exposed to numerous **health and safety risks** on the job, from the products they use to perform services, the physical demands of the work, and potential disease transmission from customers—the latter risk being particularly heightened during the COVID-19 pandemic. Recent research has documented the significant short-term and long-term health risks nail salon workers face due to exposure to hazardous ingredients and toxic chemicals in the products they regularly use, as well as ergonomic hazards.¹⁹ For example, three chemicals dubbed the “toxic trio”—formaldehyde, dibutyl phthalate (DBP) and toluene—are widely used in nail products and have been associated in other settings with long-term effects including risk of reproductive harm, cognitive development issues, cancer, and various forms of irritation and allergies.²⁰ Among nail salon workers, respiratory irritation, skin irritation and allergies, musculoskeletal pain, and headaches have all been consistently documented in studies,²¹ while potential links to reproductive harms and cancer have been documented anecdotally and merit further research.²²

All of these workplace issues are rendered more acute by the vulnerable position of nail salon workers. Nail salon workers in New York are predominantly immigrant women of color who are paid low wages and often have limited alternative job opportunities, leading some employers to exploit workers’ vulnerability and implicitly or

TIMELINE:

RECENT LEGISLATIVE AND REGULATORY CHANGES IN NEW YORK'S NAIL SALON INDUSTRY

2015 • MAY - JULY

Governor Cuomo implements emergency regulations and new legislation³⁵:



Multi-agency enforcement Task Force created (including the Department of Labor, Department of State, and Department of Health).



Salons are required to post the Nail Salon Bill of Rights.³⁶



Language options for the Nail Specialty licensing exam expanded to include Nepali, Tibetan, and Vietnamese.



Nail Specialty Trainee license option established, allowing nail salon workers to work under the supervision of a licensed nail technician while completing a 26 hour training course and passing the exam to upgrade to a full Nail Specialty License.³⁷



Legislation passed requiring nail salon owners to purchase wage bonds proportional to the number of employees, as protection against wage theft.³⁸



Employers are required to provide safety equipment at each workstation and provide it to workers at no cost upon request. Required safety equipment includes a properly fitted N-95 or N-100 respirator, protective gloves made of nitrile, and protective eye equipment.

2016



New regulation requiring nail salons to have a ventilation system goes into effect on October 3, 2016. Any nail salon opening on that date or later will need to have a ventilation system, while existing salons were given five years to comply.³⁹ The deadline for existing salons was ultimately extended by six months (to April 4, 2022) during the COVID-19 pandemic.⁴⁰



The statewide \$15 minimum wage is enacted as part of the 2016-17 State Budget, to be phased in over the course of five years across the state.⁴¹

2018



New regulation allows nail salon workers to take an oral version of the state board exam.

2019



The subminimum wage is eliminated for miscellaneous tipped workers—including nail salon workers—who must now be paid the full minimum wage up front. The change was announced on December 31, 2019 and phased in over the course of the following year.⁴²



The \$15 per hour minimum wage is fully phased in for small employers in New York City.

explicitly discourage workers from knowing their rights or speaking out about violations.

Worker advocacy driving industry change

Labor conditions in New York nail salons attracted national attention in 2015 when *The New York Times* published a two-part exposé revealing issues such as widespread wage theft, intimidation of workers, and serious health risks. Yet behind the scenes of this sudden spike in public awareness and the subsequent legislative changes in the industry was over a decade of worker organizing and advocacy in New York City's nail salon industry.²³

Community organizations in New York City have been engaging nail salon workers in advocacy efforts since at least the 1990s, with early efforts centered around wage theft claims as well as health and safety issues in the industry.²⁴ Similar efforts have been undertaken across the United States, particularly in states with high concentrations of nail salon workers; the California Healthy Nail Salon Collaborative, founded in 2005, is a prominent example.²⁵ The most recent wave of organizing and advocacy in New York—which played a critical role in catalyzing the recent legislative changes in the industry—has its roots in several community and worker organizations. A brief sketch of the history of the New York Healthy Nail Salons Coalition sheds light on these processes, which are often made invisible in mainstream narratives about industry and legislative change.²⁶

The recent advocacy of the coalition originated with local community organizations that sought to support their members who were grappling with health and labor issues as nail salon workers. In 2010, the New York Committee for Occupational Health and Safety (NYCOSH) partnered with community organizations Adhikaar for Human Rights & Social Justice and MinKwon Center for Community Action to hold workshops for nail salon workers about the hazards they were facing on the job.²⁷ Geared toward members of Adhikaar

and MinKwon who worked in nail salons, the workshops were designed as Trainings of Trainers (ToT) that prepared worker leaders to lead the workshops for other nail salon worker members. The collaboration drew upon NYCOSH's expertise in developing accessible curriculums using a popular education style and a ToT design, and Adhikaar and MinKwon's experience with organizing within the Nepali-speaking and Korean communities, respectively. At that point, Adhikaar had been providing support to Nepali-speaking nail salon workers for five years.

In 2011, Adhikaar held a forum for 50 Nepali-speaking nail salon workers to identify the issues most important to them. The key issues that emerged were wage and hour issues, health and safety issues, and increasing language access for training and licensing materials. Over the following few years, the agenda laid out by this convening led to research and advocacy around these issues, including the organizations collaborating with Public Advocate Letitia James to release a report, an increase in inspections at nail salons, and advocacy at the New York City Council.²⁸ In 2014, nail salon workers joined with Adhikaar and NYCOSH to launch the New York Healthy Nail Salons Coalition (NYHNSC), an advocacy project seeking to transform the industry.

With the aim of tackling these issues comprehensively across the New York City nail salon industry, the coalition launched a legislative strategy. On May 1, 2015—International Workers' Day, also known as May Day—the coalition released a package of legislation that it sought to pass at the municipal level, as it seemed out of reach to pass progressive labor legislation at the state level under Governor Andrew Cuomo. One week later, a *New York Times* exposé cast a national spotlight on labor conditions in New York nail salons.²⁹ Adhikaar had been actively working with the journalist, Sarah Maslin Nir, for a year, connecting her with members and with other organizations nationally; when the article series was finally published, it sparked a deluge of attention to the plight of nail salon workers. Within one week, the Cuomo administration contacted

the coalition and invited them to meet with the governor and his team to discuss how to address these issues. The coalition then worked directly with Cuomo's team to develop state legislation addressing some key issues in the nail salon industry (see timeline above for more details).

In the meantime, a follow-up editorial published in *The New York Times* mentioned the organizing and advocacy work of NYHNSC,³⁰ prompting a group of Dominican nail salon workers to show up at the NYCOSH office seeking support for the reproductive health issues they had all experienced since working in the industry. As NYCOSH does not directly organize workers, staff contacted the New York New Jersey Regional Joint Board of Workers United, which opened the door to expanding the coalition. Soon, dozens of Spanish-speaking nail salon workers were coming into the office of Workers United, seeking recourse for wage theft and health issues. The coalition convened a multilingual forum for around 150 nail salon workers that included training on health and safety issues and wage and hour laws, and also connected workers with a lawyer who had agreed to take on small wage theft claims. As the coalition's membership of nail salon workers steadily grew in the subsequent years, two dues-paying worker associations were eventually created: Latinx members of Workers United created the New York Nail Salon Workers Association, and Nepali-speaking members of Adhikaar created the Nail Salon Workers Association.

Most of the nail salon workers engaging with the coalition were unlicensed and found the state licensing process financially inaccessible; proprietary beauty schools were charging anywhere from \$1,000 to \$5,000 for the licensing course. Limited literacy also presented challenges for some nail salon workers when it came to the licensing exam. To tackle these issues, the coalition successfully lobbied the Cuomo administration to change licensing regulations to create a Nail Specialty Trainee category in 2015.³¹ Under this new system, a nail salon worker would register as a trainee online and become eligible to take classes with state-approved agencies while

simultaneously working at a salon. The new rules also opened up the pathway for new schools to register, and NYCOSH was able to register as a provider of licensing courses. The New York Nail Salon Worker School—also known as the “NYCOSH Beauty School”—was created by NYCOSH in 2016 as a non-profit provider of licensing courses for trainees; Adhikaar and Workers United are partners in curriculum development and convening the beauty school.³²

The school uses a popular education approach and complements the state-mandated licensing training with “know your rights” workshops on labor, health and safety, wages and hours, and immigration. Since 2016, 850 nail salon workers have graduated from the course and received their licenses. The NYCOSH Beauty School has a 95% pass rate for students who take the licensing exam, compared to the average pass rate of around 60% at for-profit beauty schools.³³ Courses are available in Spanish, Nepali, and English, with plans to add Vietnamese courses through an expanded partnership with Mekong NYC; given that Mekong NYC has been organizing nail salon workers in Vietnamese and Cambodian communities, the organization formally joined the coalition in January 2022. As many workers initially join the nail salon worker association groups in order to access the New York Nail Salon Worker School, the school is a valuable example of how a training program can support workers' empowerment and provide a bridge for workers to become involved in organizing and advocacy.

The New York Healthy Nail Salons Coalition continues to operate the beauty school and support the growth of the nail salon worker associations; the coalition has also continued campaigning for legislation to lift standards in the industry. The coalition and members of the nail salon worker associations were actively engaged in the campaign to eliminate the subminimum wage for tipped workers through the One Fair Wage campaign (see timeline above for details about the legislation) and are currently also advocating for legislation to establish a minimum standards council for New York State's nail salon industry.³⁴

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Methodology

The objectives of this research were to deepen our understanding of New York State’s nail salon industry and workforce, to examine how labor conditions affect workers’ lives, and to understand what challenges exist in enforcing workers’ rights and protections in the industry—in order to inform potential pathways toward meaningfully improving standards across the industry. To meet these objectives and answer the research questions, a mixed-methods research design was required. Here, analysis of national government data on the industry and the workforce helped in understanding the broader trends in the State of New York, and focus groups of nail salon workers provided essential insight into the experiences and perceptions of nail salon industry conditions from the perspective of the workers. The research was conducted by the Worker Institute at Cornell University ILR School in partnership with the New York Healthy Nail Salons Coalition, Adhikaar for Human Rights & Social Justice, Workers United/ New York New Jersey Regional Joint Board, New York Committee for Occupational Safety and Health (NYCOSH), and Mekong NYC.

The research design was shaped by the principles of community-based participatory research (CBPR) and Critical Participatory Action Research (CPAR), which provide frameworks for engaging in collaborative research with individuals and groups who are directly affected by the issue under study.⁴³ These frameworks recognize and challenge the traditional power dynamics of knowledge creation and ground research in a broader purpose of confronting injustice and amplifying the experience and insights of those with limited sociopolitical power. Practically, this meant that nail salon workers and partner organizations collaborated with the Cornell research team in research design, data collection, analysis, and dissemination of the results.

The frameworks of CBPR and CPAR were essential to accomplishing our research objectives. In conducting research on a workforce that is largely composed of workers who are socially and economically marginalized, it was critical to include workers in the research process itself in order to develop an in-depth, textured understanding of workers’ experiences. The community organization partners have well-established relationships and networks among nail salon workers and thus played a critical role in engaging workers directly in the research process. This participatory approach allowed the research to be more effective in recruiting nail salon workers through trusted networks, designing research questions that reflected participants’ experiences and categories of understanding, and interpreting the data with context that added precision and depth to our analysis. Moreover, the research objective of confronting conditions of inequity and exploitation in the nail salon industry is profoundly aligned with the imperative to democratize knowledge production and to include in the research process those who have been pushed to the margins.⁴⁴

Analysis of government data

In order to map out the characteristics of New York State’s nail salon industry and workforce, our research team analyzed government data to capture the size and geographic features of the industry and workforce, demographics of nail salon workers, wages, and employment trends since the COVID-19 pandemic. The analysis draws on data from the Bureau of Labor Statistics (BLS) and from the U.S. Census Bureau’s American Community Survey (ACS) Public Use Microdata Samples (PUMS). The data provide a useful portrait of trends within the industry and workforce; however, please see “The Limitations

of Government Data” for an explanation of how the data likely excludes a significant number of workers in the industry, given systematic undercounting of immigrants and marginalized groups in government surveys.

Whereas data from the BLS provide relatively current pictures of the size of New York State’s nail salon industry, the coarseness of the data does not allow for breakdowns of the workforce by geography or employee demographics. Thus, to better understand the workforce, it is necessary to look to other, finer-resolution data. The premier source for such data is the U.S. Census Bureau’s American Community Survey (ACS) Public Use Microdata Samples (PUMS). ACS PUMS data provide rich information on a person’s employment, occupation, demographic, socioeconomic, and household characteristics. To protect individual privacy, these detailed person-level records are anonymized and made available at geographic units of analysis called Public Use Microdata Areas (PUMAs). At present, there are 145 PUMAs across New York State, drawn in ways that attempt to respect most major city and county boundaries while preserving respondent anonymity.

Tapping into the richness of ACS PUMS data comes at the cost of currency. Because it takes substantial time to collect, process, clean, and publish all the data asked for by the American Community Survey, ACS PUMS data are always published on a delay. Moreover, to provide researchers with sufficient numbers of records to produce representative samples for statistical analyses at the PUMA level of analysis, the Census Bureau pools multiple years’ worth of responses together and publishes PUMS data for five-year time periods. The product of these observations is that the most recent PUMS data available at the time of this writing were collected from 2015-19 (that is, the data used herein come from the current five-year U.S. Census ACS PUMS data for 2015-19).⁴⁵

2021 Nail Salon Survey

To create a more detailed mapping of the New York State nail salon industry, the research team conducted a survey of nail salons across the state to collect information on manicure pricing, the number of nail technicians employed, and services offered in addition to nail services (e.g., hair services, massage, waxing, etc.).

Between September 28 and October 14, 2021, the research team conducted a telephone survey of 5,693 nail salons, which were identified from business datasets compiled by our research team, previous surveys carried out by Workers United, and data from Yelp and Google. The survey received responses from 3,942 salons, 3,781 (96%) of which confirmed that they provide manicure services.

Focus groups

The research team conducted focus groups with 26 nail salon workers in order to explore in greater depth labor conditions in the industry, the impact of these labor conditions on workers’ lives, and challenges in protecting workers’ rights. Focus group questions inquired about workers’ wages and working conditions and how these affect their lives; health and safety conditions in nail salons; and their experience of workers’ rights and protections, discrimination and harassment, and speaking out about workplace violations.

After securing approval from Cornell University’s Institutional Review Board for Human Participant Research (IRB), five focus groups were held with workers in New York City and in upstate New York (Rochester). In order to reflect the linguistic diversity of this predominantly immigrant workforce, focus groups were carried out in Spanish, Mandarin, Nepali, and Vietnamese. The selection of these languages was influenced first by considering significant demographic groups among the nail salon workforce—with a particular consideration of ethnic groups that had substantial representation in this workforce

but whose experiences were not necessarily reflected in existing research. There are significant concentrations of Chinese, Latinx, and Nepali-speaking nail salon workers in New York City, while upstate regions have higher concentrations of Vietnamese workers.⁴⁶ In this report, the focus groups are generally labeled by language (rather than by the ethnic background of the participants).

We also took into consideration the recruitment channels that were available to us. In an industry with workers who are socially and economically marginalized, we have found it critical to draw on the frameworks of community-based participatory research (CBPR) and Critical Participatory Action Research (CPAR), as described above. For the focus groups, this approach enabled the more effective recruitment of worker participants, the ability to collaboratively design the focus group protocol to be relevant and responsive to workers' experiences and therefore collect better data, and the development of research skills and leadership capacities of workers and organizers in community organizations.

We convened a committee of four nail salon workers (Spanish-speaking and Nepali-speaking) to serve as the Research Advisory Committee. These workers reviewed the initial draft of the focus group guide, giving detailed feedback on the question topics, the phrasing of the questions, and considerations for how participants might respond. Because the Mandarin and Vietnamese focus groups were carried out at a later stage, we were not able to include Chinese and Vietnamese workers in this committee, unfortunately. Based on the input of the committee, the focus group guide was revised and submitted to the IRB for approval.

While the lead researcher from the Cornell team facilitated the Spanish-language focus group, we identified facilitators for the other focus groups who were bilingual and who had a connection to that particular ethnic community of nail salon workers. These facilitators, who were either community organizers or had community organizing experience, completed the CITI Program "Human Subjects Research (IRB) Training"

course in order to be certified by the IRB to become part of the research team. The facilitators also received one-on-one training with the lead researcher from the Cornell team to prepare them for focus group facilitation. In addition to general training in the focus group protocol and facilitation guidelines, the training also included clear guidance on how to "switch hats" from their role as organizers or advocates to one as researchers and a discussion of trauma-informed facilitation. Facilitators' personal and professional connections to these communities positioned them well to tailor the focus group protocol to their group, taking into consideration social and cultural norms on the discussion of sensitive topics and the circumstances that might shape workers' participation.

The facilitators also took the lead in recruitment of participants for their respective focus groups. The recruitment criteria specified that participants must be currently employed at a nail salon and have worked in the industry for at least one year; for those participating in virtual focus groups, they also had to have access to a computer, tablet, or smart phone with internet access. Facilitators were also instructed to recruit participants who did not work at the same nail salons, to preserve confidentiality. Participants were provided with a \$50 pre-loaded debit card for their participation in the focus group.

For the Spanish focus group, participants were recruited from the nail salon worker association of Workers United, while Nepali-speaking participants were recruited from Adhikaar's nail salon worker association. As members of these respective nail salon associations, participants in the Spanish and Nepali focus groups had previously participated to various degrees in meetings and trainings on nail salon workers' rights and had an established relationship of trust with these organizations. Participants for the Mandarin focus groups were recruited from contact lists of Chinese nail salon workers provided by Workers United and NYCOSH; most of these workers had not participated in meetings or workshops on workers' rights and had little or no connection to these organizations (particularly because the

contact lists were several years old). Recruitment for the Vietnamese focus group took place through snowball sampling via the network of upstate New York contacts established by Mekong NYC. These workers also had no previous connection to the organization. As described in the “Findings” and “Discussion” sections of this report, these dynamics of recruitment seem to have shaped participants’ willingness to speak openly about working conditions and how they described workplace conditions and violations.

Participants in the Spanish, Nepali, and Mandarin focus groups were residents of New York City, while the Vietnamese focus group participants were residents of Rochester in upstate New York. The Spanish and Mandarin focus groups were held virtually on Zoom, while the Nepali and Vietnamese focus groups were held in person (with COVID-19 safety protocols in place). The Spanish and Vietnamese focus groups each had seven participants, while the Nepali focus group had eight. Two Mandarin focus groups were held with two participants each (for a total of four participants); this approach was designed to mitigate the Chinese workers’ discomfort with speaking openly about workplace conditions in front of people they did not know.

To protect the anonymity of focus group participants, each participant was assigned a number and was instructed to state their number before responding to questions; this allowed

transcribers to accurately identify different speakers without revealing their identities. Each focus group began with a comprehensive consent process that included the following: a description of the purpose and topics of the research, a reminder that participation was voluntary and that participants could leave at any time, an explanation of confidentiality and anonymity protocols, and an oral or written consent agreement. Participants were also provided with several phone numbers for organizations they could call to raise concerns or questions about workplace issues or to seek confidential counseling regarding any difficult emotions the focus group questions might bring up. Each focus group ran between 60 to 120 minutes, covering the question themes listed above.

The focus groups were audio recorded, and the recordings were subsequently transcribed and then translated into English. Analysis of the transcripts included a first round of coding in Airtable to identify broad themes, and subsequent rounds of coding for patterns and variations within each theme. In line with the CBPR/CPAR approach of our research, the facilitators and other staff at the partner organizations also played a vital role in analysis of the data. Facilitators and partners participated in debrief and feedback meetings in which they provided valuable context to the focus group data and helped to clarify and interpret various data points, based on their experience and knowledge of New York’s nail salon industry.



Mapping the New York Nail Salon Industry

Mapping the industry

Nationwide, New York State stands out for its density of nail salons and nail salon workers. New York has the second-highest number of nail salons and the highest concentration of nail salon workers in the United States; four out of the five counties with the highest number of nail salons nationwide are in New York.⁴⁷ The New York metropolitan area has far more nail salons per capita than any other metropolitan area in the country, with roughly twice as many as the runners-up, Los Angeles and San Francisco.⁴⁸

The nail salon industry was growing steadily before the COVID-19 pandemic, with employment in the industry increasing at a rate of about 9.5% per year before the COVID-19 pandemic.⁴⁹

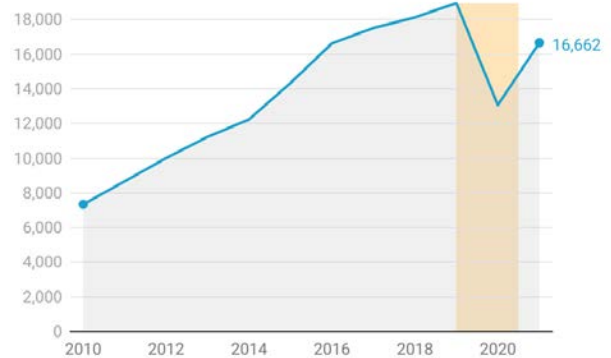
Determining precise numbers of nail salons and workers in New York presents some challenges; the particular challenges in estimating the number of workers are explored in detail in the following section. Our 2021 Nail Salon Survey began with a list of 5,757 nail salons across the state,⁵⁰ out of which 3,781 salons responded to the survey and confirmed they were open; the remaining salons on the list did not respond, so we do not know how many of them are still in business. Bureau of Labor Statistics (BLS) data from 2020 listed 3,700 establishments (suggesting a small proportion of businesses had not reopened, as 3,800 were listed in 2019). As it is possible that government data undercounts the number of establishments due to unregistered or unincorporated businesses, we can treat the 3,781 confirmed nail salons as a “floor value” that establishes the minimum number of nail salons currently operating statewide.

The COVID-19 pandemic had a sudden and forceful impact on the nail salon industry and its workforce. When non-essential businesses in New

York were ordered to close down on March 20, 2020, nail salons were required to close for many months, leaving thousands of workers without a job. As a significant number of nail salon workers are undocumented, many were also unable to access social protections such as unemployment insurance (UI) or Pandemic Unemployment Assistance (PUA). Although salon employment levels dropped sharply in 2020, the BLS data from the first two quarters of 2021 indicate that the industry is steadily recovering jobs lost to the pandemic. The BLS identified 18,950 nail salon employees in 2019; this number had plummeted to 13,063 at the end of 2020, then subsequently rose to 17,277 by mid-2021 (see the following section for a more detailed discussion of the workforce and the limitations of government data).

As noted in the “Background” section, the structure of the nail salon industry creates an environment conducive to wage theft and other violations, and

Employment in Nail Salons in New York State, 2010-2021*



*Except for 2021, data reported are BLS annual averages. The value for 2021 is the average employment recorded during the first two quarters of the year. Annual average data were not available at the time this chart was created.

Highlighted area shows initial effects of the COVID-19 pandemic.

Chart: Russell Weaver, Cornell University • Source: Bureau of Labor Statistics (BLS) Quarterly Census of Employment and Wages (QCEW) Series ENU36000105812113 • Created with Datawrapper

THE LIMITATIONS OF GOVERNMENT DATA

This section relies on data from the Bureau of Labor Statistics (BLS) and ACS PUMS. While we presume that these data undercount the actual number of nail technicians in New York State and exclude certain marginalized groups in particular, we are using the data to provide an outline of demographic and geographic trends in the workforce. The limitations described below highlight why it has been critical to complement this analysis with data collected through relationships with workers and community organizations.

There are significant challenges in determining a reliable estimate of the number of nail salon workers in New York. As other research has indicated,⁶⁵ substantial discrepancies exist between the number of nail salon workers reported in ACS and BLS data and the numbers reported by state licensing data. The New York database of Nail Specialty Licenses lists nearly 38,000 licensees, while the ACS PUMS data lists roughly 26,300 workers, over 18,700 of whom (71%) identify as employees. Importantly, this discrepancy points to notable limits of available government data when considering a workforce of workers who are predominantly immigrant women of color. Governmental surveys like the ACS tend to systematically undercount immigrants and members of other marginalized communities,⁶⁶ suggesting that the official administrative data on nail technicians will necessarily be incomplete. In many instances, figures derived from ACS PUMS data might usefully be thought of as “floor values”—actual numbers might be higher due to undercounting.

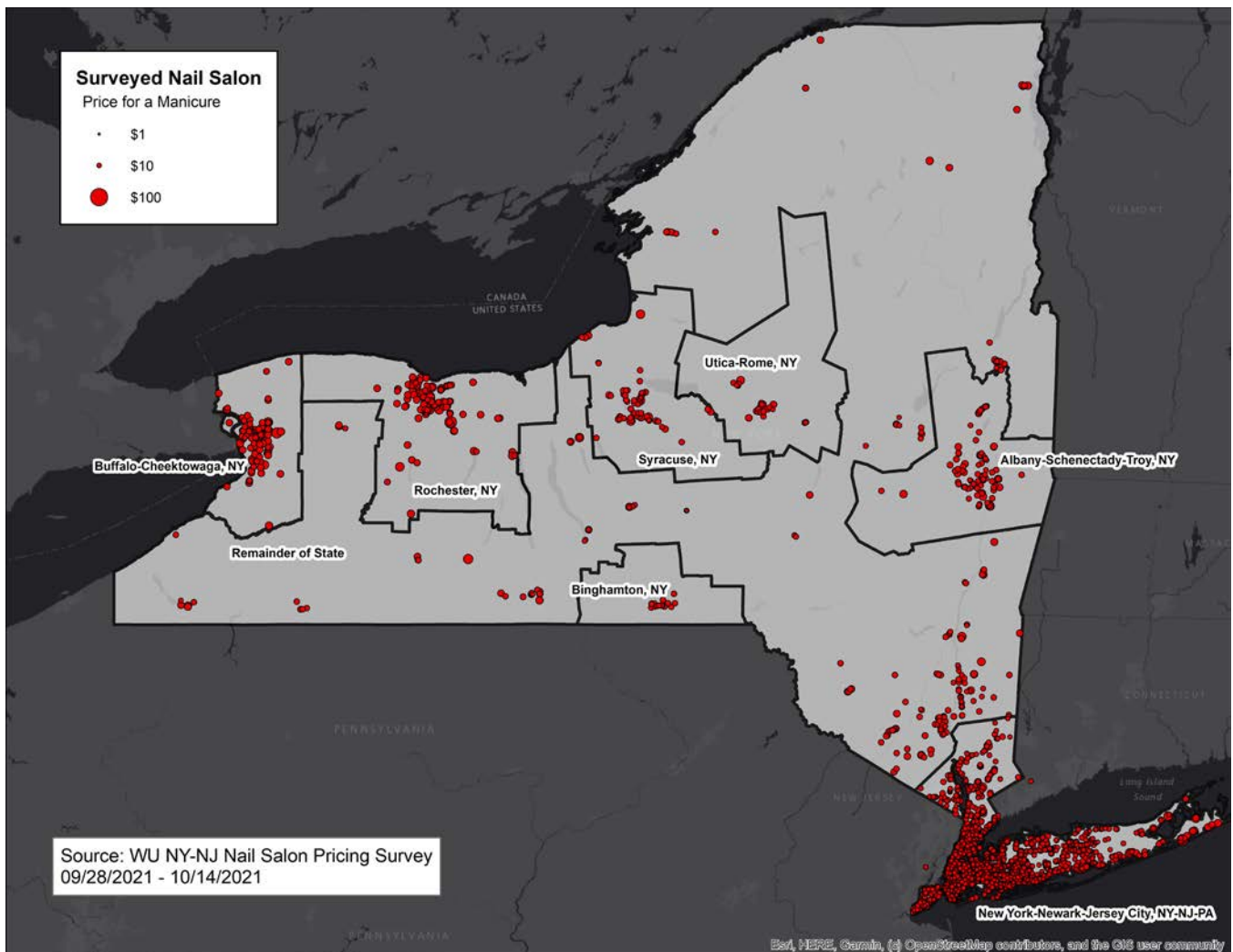
One example of these limitations emerged in our research. According to the ACS PUMS data, there are 27 Nepali-speaking nail technician employees in New York State; yet the community organization Adhikaar has a member contact list of more than 1,300 Nepali-speaking nail technicians in New York City alone. While some of these may not be currently employed in the nail salon industry, the vast discrepancy between the ACS PUMS data and Adhikaar’s data highlights why we treat the ACS PUMS data as providing floor values. For workers who are socially marginalized, we have found

that community-based organizations may offer important correctives to the exclusions inherent in government data.

While we were unable to access the most recent database of Nail Specialty Licenses because of technical errors, our scan of 2019 licensing data for New York revealed important issues with the data: thousands of records showed licensees whose address was in a different state, and several thousand more records appeared to present issues of duplication. Further, having a license does not confirm that the licensee is actively working as a nail technician. We thus did not rely on the licensing data as a reliable representation of the workforce for this research. It is worth noting, however, that many nail salon workers are also working without a license, often due to financial or language barriers, for example; thus, while the licensing data likely includes individuals who are not actively working in the nail salon industry, there is likely also a large number of nail salon workers who are not included in that database.

The data reported in this section focuses on a specific subset of those who work in nail salons: Nail Technicians (Manicurists and Pedicurists). The BLS’s most recent data report 11,890 such workers across the state. This figure is nearly identical to the 11,854 persons who self-identified as Manicurists and Pedicurists in the most recent (2015-19) U.S. Census ACS PUMS dataset. This section profiles the 9,918 of those workers (84%) who indicated that they work for employers (i.e., are not self-employed). It is worth noting that misclassification of nail technicians as “independent contractors” instead of “employees” is a known issue in the industry, suggesting that some of the workers who identified as “self-employed” are likely misclassified.

Given the circumstances described above, we posit that the actual number of nail technicians in New York exceeds the number identified by ACS PUMS data. Given the exclusion of more than 1,000 Nepali-speaking workers identified above as one known example, we expect that the ACS PUMS data excludes thousands of nail technicians across New York State.

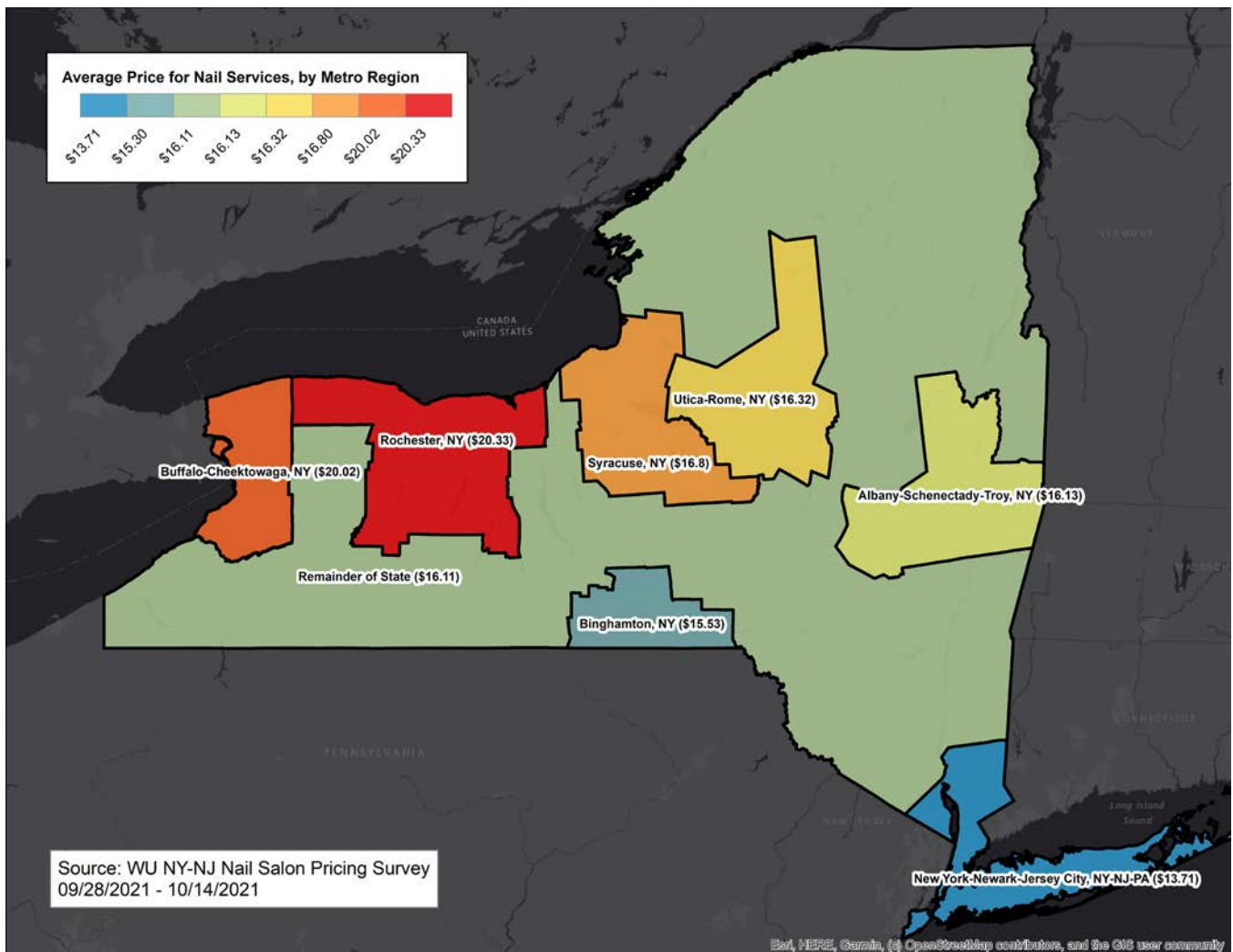


leads to particular challenges in enforcing existing laws and raising standards. The predominance of small firms across the industry is one of these features: the vast majority (82%) of nail salons in New York are microbusinesses with five or fewer nail technicians, while more than half (55%) reported having three or fewer nail technicians.⁵¹ In an industry dominated by very small businesses, profit margins are often relatively thin and individual businesses are likely to have limited power in price-setting.⁵²

Indeed, the average prices of nail salon services are markedly lower than the nationwide average.⁵³ Within New York State, average prices for manicures are significantly lower in the New York City metropolitan area (\$13.71)—also the region with the highest cost of living and doing

business—compared to the rest of the state (\$17.35).⁵⁴ The New York City metropolitan area is also home to the highest concentration of nail salons; 81% of respondents in the 2021 Nail Salon Survey were businesses located in New York City, Westchester County, and Long Island. Outside of the New York City metropolitan areas, the locations with the highest density of nail salons include Rochester (212 salons), Albany (154), Poughkeepsie (166), and Buffalo (162).⁵⁵

This concentration of nail salons in the New York City metropolitan area likely generates sharp economic competition, driving down service prices. While New York City nail salon prices are particularly low, such competition and its downward pressure on prices is an issue nationwide. In a 2018 survey of nail salon owners



and technicians across the United States, the top business challenge cited was “competition/too many discount salons.”⁵⁶

Using pricing data from our 2021 Nail Salon Survey, the map above depicts average manicure prices in major metropolitan regions across New York State. The Buffalo and Rochester regions in Western New York are associated with the highest average prices, at more than \$20 for a manicure. By contrast, manicure services in the New York City metropolitan region cost just \$13.71 on average—the lowest value in the state by roughly \$2.

Region	Avg Manicure Price	Total # of Salons Surveyed
NYC	\$14.32	1901
Long Island	\$12.45	909
Westchester	\$13.59	281
Rest of NYS	\$17.35	690

Mapping the workforce

Various factors converge to make nail salon workers particularly vulnerable to workplace exploitation and other violations. **Nail salon workers in New York are predominantly immigrant women of color who are paid low wages and are disproportionately likely to live in unaffordable housing situations.**

Nail technicians in New York are a highly diverse group, with the highest number from Asian or Latinx backgrounds.⁵⁷ Specifically, 73% of nail technicians in New York identify as Asian or Pacific Islander, and 21% of nail technicians identify as Hispanic or Latinx; statewide, 84.4% of nail technicians identify as women. Within these broad racial/ethnic categories, nail salon workers represent diverse ethnic and cultural backgrounds. The most common primary languages of nail technicians in New York State are Chinese (39%), Spanish (19%), and Vietnamese (14%), followed by English (12%) and Korean (11%); the remaining 5% of nail technicians speak a mix of over 20 other languages. Downstate and in New York City–adjacent counties, there are high concentrations of Chinese-, Spanish-, and Korean-speaking workers, while most Vietnamese- and Burmese-speaking pluralities are upstate. Survey data and membership data from community organizations also reveal concentrations of workers who are not adequately reflected in government data, such as concentrations of Nepali-speaking and Cambodian nail technicians in New York City; please see “The Limitations of Government Data” for a more detailed explanation.

New York has the highest concentration of nail technicians in the nation.⁵⁸ New York City has the highest concentration of nail salon workers in the state, with the Jackson Heights and North Corona areas of Queens having the highest concentration of workers as residents in all of New York. Outside of New York City, there are high concentrations of nail salon workers upstate in Newburgh (Orange County), Albany (Albany County), Rochester (Monroe County), and North and East Niagara County.

Consistent with the linguistic diversity described above, the ACS PUMS data shows that 88% of nail technician employees are foreign-born. Half of all nail technician employees reported that they are non-citizens of the United States, while 38% reported being foreign-born, naturalized citizens; 12% reported being U.S. citizens by birth.⁵⁹ It is worth reiterating that the challenges described in “The Limitations on Government Data” certainly apply here, as immigrants are systematically undercounted by government surveys.

The following diagram (on page 28) depicts the citizenship status of nail technicians in metropolitan regions across the state. The regions with the highest concentrations of non-citizen nail technicians are Utica-Rome (87%), upstate areas outside of major metropolitan regions (“Remainder of State,” 67%), and New York-Newark-Jersey City (52%). With the exception of Utica-Rome, nail technicians in upstate cities (and their surrounding regions) are more likely to be U.S. citizens, either by birth or through naturalization.

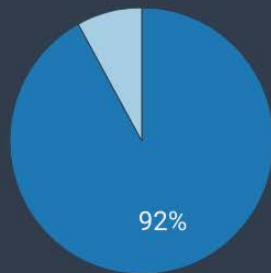
Nail technician wages

The vast majority of nail technicians in New York are paid low wages and enjoy few, if any, work-related benefits. As of May 2020, the BLS cites the hourly mean wage of nail technicians as \$13.87 statewide and \$13.74 for the New York metropolitan area. Wage data from ACS PUMS data are nearly identical, showing an effective hourly wage of \$13.89, while the median wage is just \$10.58 per hour⁶⁰—more than \$8 per hour below the statewide “living wage” of \$18.62 for a single adult (from the MIT Living Wage Calculator).⁶¹ Altogether, nearly 9 out of 10 nail technicians earn below this threshold. Regarding benefits, most nail technicians do not have employer-provided healthcare; only 22% report having employer-provided health plans, compared to almost 72% of New York workers in general.

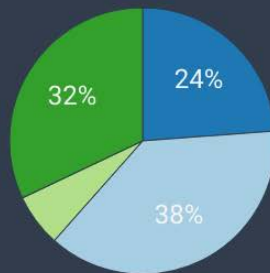
In examining nail technicians’ wages, the government data analyzed above presents certain limitations. First, the subminimum wage for tipped

Citizenship Status of Nail Technicians* in New York State, by Metro Region

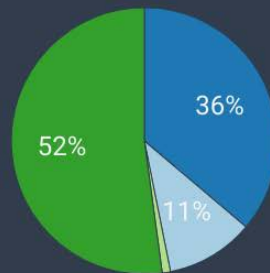
■ Naturalized Citizen
 ■ Born in US
 ■ Born Abroad to American Parents
 ■ Not a Citizen



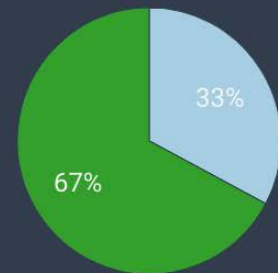
Albany-Schenectady-Troy



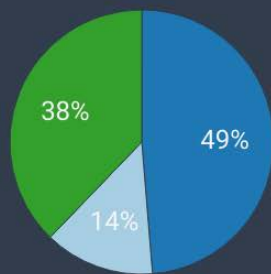
Buffalo-Cheektowaga-Niagara Falls



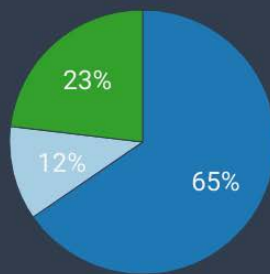
New York-Newark-Jersey City



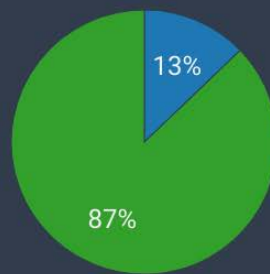
Remainder of State



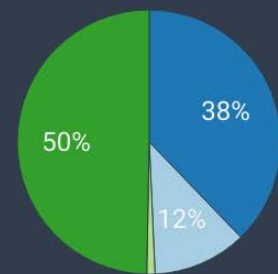
Rochester



Syracuse



Utica-Rome



New York State, Total

*Excludes self-employed workers

Note: the Binghamton metropolitan region is omitted from this chart due to the small number of nail technicians represented in that region in the ACS PUMS data.

Chart: Russell Weaver, Cornell University; Source: Author's Estimates from U.S. Census American Community Survey (ACS) 5-Year Public Use Microdata Samples (PUMS), 2015-19; Created with Datawrapper

workers in the industry was recently phased out, and nail salon employers are now required (as of December 31, 2020) to pay workers the full minimum wage,⁶² yet the lag in reporting government data means that we do not have 2021 data for wages. Further, recall that the analysis in this section is based on nail technicians who identify as “employees” in ACS PUMS data (a number that is nearly identical to BLS figures). Because it is impossible to distinguish between nail salon owners, genuine independent contractors, and employees misclassified as independent

contractors, the self-employed category was excluded from our analysis. Yet misclassification of employees as independent contractors is a known issue in this industry. Taking this together with the above-mentioned tendency of government surveys to systematically undercount immigrant workers, **it is likely that the government survey data excludes some of the workers who are among the most marginalized in the industry and are therefore more vulnerable to wage theft—misclassified workers, immigrant workers, and specifically undocumented immigrants.**

Proper Wages for Nail Salon Workers

Location	First 40 Hours per Week, at Least	After 40 Hours per Week, at Least
NYC	\$15.00/hour	\$22.50/hour
Long Island and Westchester County	\$15.00/hour	\$22.50/hour
Remainder of NYS	\$13.20/hour	\$19.80/hour

Please Note: the numbers above are minimums. If, for instance a worker is paid at a higher hourly rate than \$13.20 (remainder of NYS), their overtime is calculated at 1.5 times that higher rate.

*Beginning December 31, 2020, nail salon employers must pay the full applicable minimum wage rate, and cannot take any tip credit.

Source: "Information for Nail Salon Workers." Retrieved from: <https://www.ny.gov/nail-salon-safety-what-you-need-know/information-nail-salon-workers>

For some insight into specific wage data that may be more inclusive of marginalized workers (even if relying on a relatively small sample of workers), it is helpful to look at a small-scale survey carried out in April 2021 by the New York Nail Salon Workers Association (NYNSWA). This research found that 76% of the workers surveyed reported being paid less than the minimum wage.⁶³ The average hourly wage for all workers surveyed in New York City was \$11.48 (at a time when the minimum wage was \$15 per hour), and the average hourly wage for workers in Long Island and Westchester was \$10.96 (where the minimum wage was \$14 per hour at the time the survey was conducted).

Notably, the survey also found that 46% of respondents were misclassified by their employers as "independent contractors" instead of as "employees," which underscores the above-mentioned limitations of the analysis of government data; these may be workers who are excluded from government data. The wage structures reported by survey respondents included a flat daily rate (52% of respondents), an hourly wage (30%), and commission-based payment (18%). The 207 survey respondents were members of the NYNSWA who were actively employed as nail salon workers; NYNSWA's membership is primarily Latinx workers.

Wages and pricing data

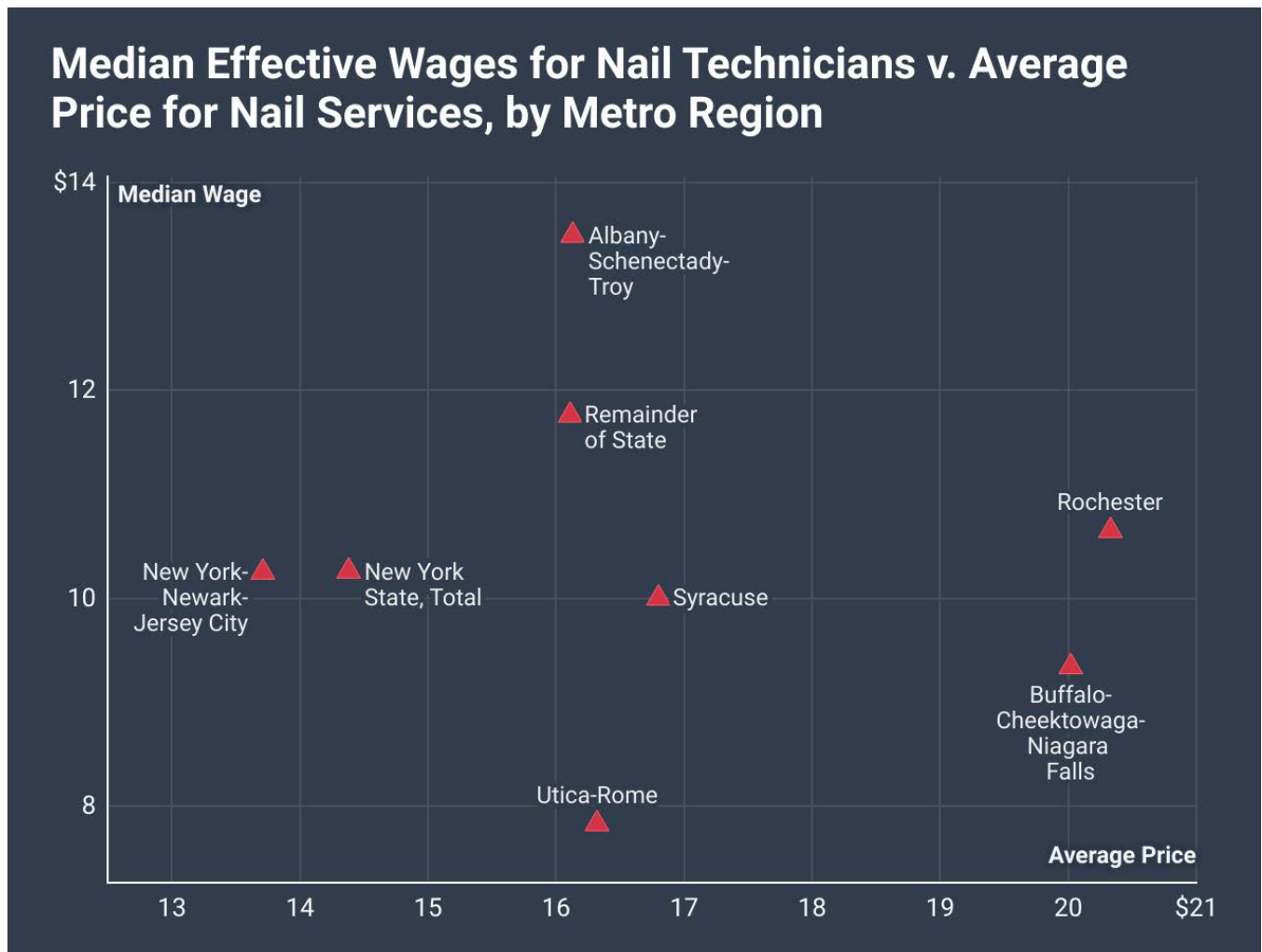
Using the ACS PUMS data on median wages in metropolitan areas, we explored the relationship between wages and manicure prices on a regional level. The following scatterplot (on page 30) depicts regional median wages and average manicure prices in those metropolitan regions. Interestingly, at this level of analysis, the pattern of average manicure prices does not appear to explain the regional variation of nail technicians' median wages.

For example, observe that average manicure prices in the Buffalo-Niagara metropolitan region are among the highest in the state, while median effective wages paid to nail technicians in the region are among the lowest. One possibility that emerges from these findings is that profit margins for salon owners are potentially higher in upstate regions like Buffalo, Rochester, and Utica-Rome, where prices are moderate to high and nail technician wages are relatively low. Likewise, profit margins are plausibly much thinner for downstate salons, where average prices are much lower compared to the rest of the state.

While there is no apparent correlation between average manicure prices and median hourly wages when analyzing regional wage/price patterns statewide, an analysis of a smaller set of

more specific data on wages and service prices in New York City did reveal a clear correlation between service prices and the rate and amount of wage theft. A NYNSWA survey carried out in 2019 collected wage declarations from nail salon workers in all five boroughs of New York City as well as Long Island, Westchester, Dutchess, and Putnam counties and compared the wage declarations with service pricing data from 85 nail salons where respondents worked. Among nail salons charging less than \$13 for a manicure, 87% of workers surveyed were experiencing wage theft, while 75% experienced wage theft at salons with manicure prices between \$13 to \$15. At salons

charging \$16 or more for manicures, the rate of wage theft among workers surveyed plummeted to 0%. The *amount* of wage theft showed a similar correlation, as workers faced an average of \$123 in wage theft weekly at salons charging \$15 or less for manicures, whereas workers at salons charging more than \$16 for manicures were paid an average of \$58 more than the minimum wage per week.⁶⁴ Additional research exploring local relationships between service prices and wages would be highly useful, in order to more fully understand the various factors shaping these patterns.



*Excludes self-employed workers
 Note: the Binghamton metropolitan region is omitted from this chart due to the small number of nail technicians represented in that region in the ACS PUMS data.

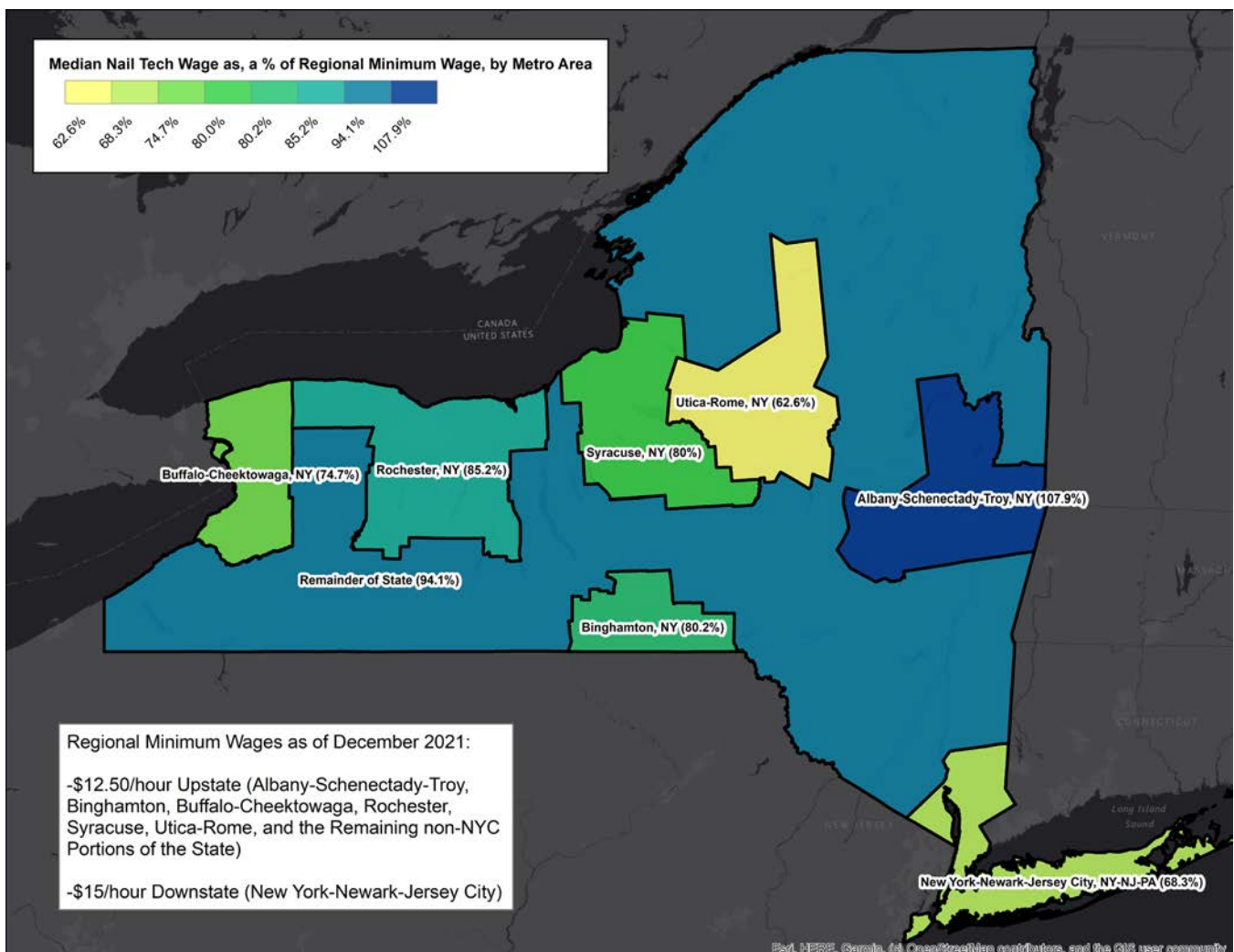
Chart: Russell Weaver, Cornell University; Source: Author's Estimates from U.S. Census American Community Survey (ACS) 5-Year Public Use Microdata Samples (PUMS), 2015-19; Prices: WU NY-NJ Nail Salon Pricing Survey (09/28/2021 - 10/14/2021); Created with Datawrapper

Wages and citizenship data

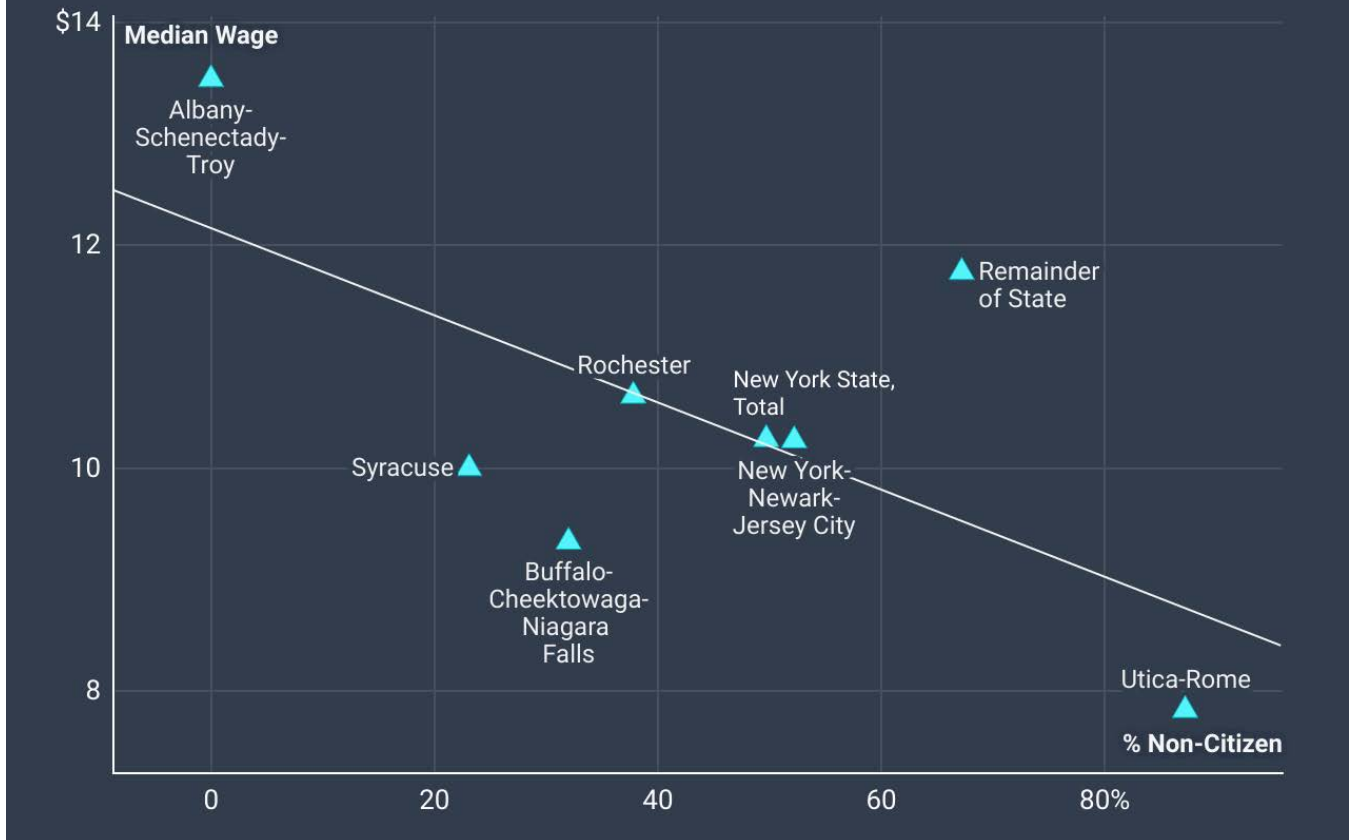
While the relationship between wages and pricing data was unclear at a statewide regional level, there appears to be a strong relationship between nail technician wages and the citizenship status of the workforce.

Recall that the median effective hourly wage for such workers was found to be just \$10.58 per hour. The following map breaks this statewide figure out by metropolitan region and reports it as a function of the relevant regional minimum wage. At the time of this writing (December 2021), the “upstate” minimum wage in New York State was \$12.50 per hour. The “downstate,” or New York City area, minimum wage was \$15 per hour.

Observe that in Utica-Rome, where ACS PUMS data suggest that nearly all nail technicians are non-citizens, the median effective hourly wage derived from self-reported data (\$7.83) is just 62.6% of the regional minimum wage—the lowest value in the state. The second-lowest value occurs in the New York-Newark-Jersey City metropolitan region, where the median effective wage (\$10.25 per hour) is roughly 68% of the downstate minimum of \$15 per hour. Only in the Albany-Schenectady-Troy region does the median effective wage for nail technicians (\$13.49) exceed the regional minimum wage (\$12.50). Perhaps not coincidentally, that region is the only one represented in the map where zero self-identified nail technicians reported to be non-citizens in the ACS PUMS dataset.



Median Effective Wage for Nail Technicians* v. Non-Citizen Share of the Nail Technician Workforce, by Metro Region



*Excludes self-employed workers

Note: the Binghamton metropolitan region is omitted from this chart due to the small number of nail technicians represented in that region in the ACS PUMS data.

Chart: Russell Weaver, Cornell University; Source: Author's Estimates from U.S. Census American Community Survey (ACS) 5-Year Public Use Microdata Samples (PUMS), 2015-19; Created with Datawrapper

This apparent relationship between nail technician wages and citizenship is made more explicit in the above figure, in which the two variables are visualized in a scatterplot. **The downward-sloping trendline plotted through the points supports the notion that nail technician wages tend to be lower in regions where non-citizens make up greater shares of the workforce.**

Considering the demographic characteristics, the low wages, and citizenship status patterns that have emerged in our analysis herein, the findings make it clear that New York's nail technicians are highly precarious workers.



Focus Group Findings

This section details the findings of the focus groups carried out with nail salon workers in New York City and Rochester, New York. As described in detail in the “Methodology” section, focus groups were carried out in Spanish, Mandarin, Nepali, and Vietnamese. In the discussion of the findings, the focus groups are labeled by language (rather than by the ethnic background of the participants). Participants in the Spanish, Nepali, and Mandarin focus groups were residents of New York City, while the Vietnamese focus group participants were residents of Rochester in upstate New York.

Wages, schedules, and benefits

WAGES

Focus group participants described a range of wage structures that persist in the New York nail salon industry. Participants described receiving an hourly wage, a flat daily wage—also referred to as a “base pay”—or commission-based pay, wherein workers are paid a percentage of the price of any service they perform for customers. In some cases, a “base pay” is supplemented by commissions; in most cases, wages are supplemented by tips.

Roughly half of all participants across the Spanish, Nepali, and Mandarin groups reported that they were being paid the legally required minimum wage, whether as an hourly rate (in most cases) or as a daily wage that amounted to the minimum wage once tips were factored in. Among the remaining participants, some reported that their wages were below minimum wage, and others did not respond. In the Nepali and Spanish focus groups specifically, fewer than half of the participants reported being paid the minimum wage; in the Mandarin focus groups, three out of four

participants did. Only one participant in the Vietnamese upstate focus group described his wages, noting that he received commission-based pay and that his income varied week to week depending on customer volume.⁶⁷

Yet our research suggests that even in salons that are abiding by the recent requirement to pay the full minimum wage, some employers have responded by reducing workers’ hours. Among the focus

group participants who were receiving the legally required minimum wage, many lamented that the implementation of the higher minimum wage had led employers to reduce their hours and/or specifically to reduce or remove their overtime hours, leaving them with effectively no increase in their incomes despite the significant change in the law. One participant did note that the new minimum wage was helpful, because previously her income had been very dependent on tips, which were inconsistent and often inadequate. Some participants observed that the salons where they work had fewer employees than before the pandemic, and employers were assigning a heavier workload to existing employees; some also connected this to the shift from commission-based pay to being paid an hourly minimum wage, noting that under this pay configuration, employers preferred to hire fewer staff and have them take on more work to save money. Another issue commonly described by participants was the rising prices of everyday necessities since the pandemic, making the higher minimum wage less meaningful; this is explored more below. Given that the minimum wage increase was implemented during the same period in which the COVID-19 pandemic disrupted the nail salon industry, it is likely that both have influenced employers’ decisions regarding pay and scheduling.

LIFT UP
Nail Salon Industry

↑ STANDARDS ↑



Lately, there have been weeks where I make \$150 or \$170 and that's with working four days.[...] I am very angry. [...] One week I went to work Tuesday, Wednesday, and Thursday. And on Thursday I got to work at 10:00 in the morning and suddenly it was 5:00 in the afternoon. I had not had a single customer. It was a waste of a day. I spent [money] on transportation, food, and wasted my time. I didn't make any money. I grabbed my things and went home. [...] It's not fair to spend eight hours in a salon and make nothing, or only make \$20. Sometimes you show up at work and she'll have you service two customers throughout the day. In eight hours, you only earn \$25. And many of us have to do it. And there are people who say, 'But you earn commission.' Yes, but people have to understand that if I earn a commission and I don't make anything that day, you are supposed to pay me for a day's work, even if I didn't make anything that day. It's the same old thing. You can complain and report it and it's the same thing. Nothing happens. This is why we sometimes prefer to keep quiet and get on with what little we earn."

Workers who were not being paid the minimum wage reported pay structures such as hourly wages, a daily "base pay," and commission-based pay. Some reported that they were paid on a commission basis and that the employers did not make up the difference when their commissions frequently fell short of minimum wage.

Some participants described stratified wage systems at the salons where they work.

One participant noted that workers could choose either to be paid "on the books" with an hourly pay at the legal minimum wage or to be paid "off the books" and get an hourly wage of \$13.50 plus commission. Other participants described different wages for workers with legal immigration status and those with undocumented status, with the undocumented workers receiving lower pay and often being pressured to work longer hours. This appeared often to be a distinction drawn between workers who were paid "on the books" and those paid in cash, but one Nepali-speaking participant said that the wage differential existed at her salon even when all workers were being paid in cash.

Many participants described a stratified wage system dependent on experience and skill level. Chinese participants detailed a system where workers are classified as rookies, junior, junior-senior, or senior workers depending on their skill level and which services they are able to perform.⁶⁸ Rookies are new workers with little to no experience, whereas junior workers do "little jobs" such as manicures, for example, and senior workers do "big jobs" such as gel manicures. This system is corroborated by a scan of job listings on a Mandarin job listings website, where many listings specify what level of experience they are seeking in workers and some note that "rookies" should not apply.⁶⁹ While the Chinese participants recounted being given opportunities to learn new skills and climb the rungs of this informal wage step system, some participants in the Spanish and Nepali focus groups described being relegated to work on the bottom rungs, such as pedicures.

Another arrangement described by the Chinese participants was the "apprenticeship," where

an inexperienced worker is hired at a nail salon to undergo training and progressively learn more skills; note that the informal system described here is distinct from the new category of “Trainee” added to the state licensing options.⁷⁰ “Apprentices” are generally paid a very low daily wage; in some cases, apprentices actually pay the salon to be trained until they reach a certain skill level and begin receiving wages.⁷¹ According to the participants, apprenticeships have become much less common in New York City since the higher minimum wage was implemented in the industry.⁷² This is supported by the job listings advising that they are not looking for rookies, although we did see one Brooklyn job listing for a salon accepting apprentices. Participants noted that employers no longer want to hire inexperienced workers if a \$15 minimum wage is being enforced.



Because they pay everyone equally, why not hire someone who knows everything?”



Yeah, the bosses don’t run charities. They can’t spend that money on someone who doesn’t know anything.”

One Chinese participant described how she began working as an apprentice roughly eight years ago, being paid a flat daily wage of \$50 for a 9 to 10 hour shift. Her pay increased each year, and she continues to work at the same shop, now with a daily wage of “over \$100” plus tips. She noted that the daily “base pay” increases as the worker is able to perform more (and more difficult) services. New apprentices begin by only doing foot washing, for example. Another worker said she began working as an apprentice around 2010, and she paid the salon

\$100 to begin training. Interestingly, the Chinese participants generally did not speak negatively of the apprenticeship system. Although they did not enjoy the periods of little or no pay, they accepted the system as a “necessary” entry point into the industry; a couple of participants expressed worry that workers new to the industry would have limited opportunities to find work without apprenticeships being available.



Sometimes we feel we don’t want to be so explicit and transparent with the unspoken rules, because we don’t want those in the future who want to enter the industry to have no opportunity. If we make such a big deal out of it, then the future people have no chance in the industry, they’d be so afraid.”

The Chinese participants also described the apprenticeship system as a more useful form of training than the beauty school programs they had attended or were familiar with. They noted that the beauty school programs are highly expensive and do not give new nail technicians enough practical experience, being more focused on explaining the licensing exam and process; they said this leaves workers with limited applicable skills when they do begin working in a salon. Given these reflections, the participants were likely unaware of the recently implemented “Nail Specialty Trainee” category of licensing (see “Background” for more details).

Some workers described employers who practiced what we can call “shallow compliance,” complying with the laws on paper but not in practice. Several participants in the Spanish focus group mentioned working at salons where the employer required workers to sign forms verifying that they were being paid the minimum wage, being paid overtime rates, and being granted paid sick leave. These workers described how the forms misrepresented their pay and benefits—in fact, they were not being paid

the minimum wage or overtime and were not given paid sick leave. Yet employers at those salons told workers that they were required to sign the forms in order to keep their jobs, and so they did. One of these participants noted that she and other workers got together to file a complaint about this, and they were successful in winning improved pay and working conditions at the nail salon.

As the main or sole providers for their families, many focus group participants described an acute struggle to afford their daily living costs.

A number of participants noted that since the pandemic, rising rent and utilities costs and the rising prices of food and other consumer items had become an exacerbating factor. Some participants explained that having a dual income household was essential to being able to cover their family's living costs, as their income from working in nail salons was inadequate and/or seasonally inconsistent. Many participants described the psychological stress they endure in struggling to provide for dependents in New York and sending remittances to dependents in their home countries. Among the numerous participants who are the main or sole providers for their families, many described the particular pressure of being single mothers. Some in the Spanish and Nepali groups were overcome with emotion as they described the stress of providing for their families with inadequate wages and rising prices. Among the stressors they mentioned were rising rent costs, rising food prices, the challenges of paying for and securing childcare, and the pressure of sending remittances. Two participants in the Mandarin focus groups mentioned that their families in China sometimes send money to help them pay for expenses.



"I'm in the same situation as the *compañeras* and well, the situation is complicated because the expenses don't stop; they keep coming. Aside from that, the fact is that inflation has impacted food, utilities, and other things right now, especially with this cold snap. You spend a little more on gas and electricity, so it's complicated. And well, the kids continue going to school. In my case, I have young adults, so it's always more complicated and more so at this time because you would like to provide them with the best, for example, a dinner with all the trimmings. However, we can't afford to spend too much. Now, in these difficult times, it is hard to come by certain things. And with the salary they provide us with, well, it's very little. Employers don't want to give us so many hours because they're not complying with the law. They don't pay us what they should pay us."



Well, I think that economically it's very difficult for us right now. After the salons reopened, there hasn't been too much work. It makes no difference if they are paying us \$15 an hour because they have cut our hours. [...] I have to take advantage of the situation, as the *compañeras* say, because there is little staff reporting to work. I stay. I am a single mother of two children. I also have to support my mother. So, sometimes I'll say, I have to do it for them. But what about my health? What if something happens to me? [...] It's a little difficult, but well, you do what you can."

Indeed, the focus group discussions revealed that low wages and unpredictable hours have a pernicious impact on workers' lives and wellbeing.



[In winter] .. I'd say we merely make ends meet. Some of us have some savings, or something similar. [...] I'd say most likely we could make ends meet or make a living. But sometimes we do worry it won't be enough. Take me for example—I'm the only source of income in this family because I'm a single parent with two children. If my shifts or work hours get cut, then I do feel a lot of pressure."

Many participants in the Nepali focus group described the immense strain of sending remittances to family in Nepal, particularly during a time when many said they were struggling to make ends meet for their family in New York.



We all are just workers; our income is very low. However, we have to support the family as well as support the community. And nowadays, because of expensive living costs, it's very hard—but we are doing our best."



Of course, we have to give a lot of support since we are living in America. [...] In Nepal the situation is different depending on the cities and villages, it's very hard to find a job and feed the family. Now after the pandemic, there are no jobs there, so we have to support them from here for everything like rent, groceries. [...] We not only support our siblings, but we also support our other relatives. We live in America, so people assume we are making lots of money and have a good life."

WORK SCHEDULES

Focus group participants described three primary factors shaping changes in their work schedules: seasonal changes, the COVID-19 pandemic, and increased regulation of the nail salon industry

(including the higher minimum wage and the purported increase in enforcement of the right to overtime pay). Because nail salons tend to receive far more customers during the warmer months of the year, many participants reported that their work schedules had reduced days and hours during the winter. The COVID-19 pandemic was a significant disruption to the industry, as described above, and although our data show that many businesses and jobs have recovered, participants noted that some salons had reopened with fewer staff, and many were experiencing a lower volume of customers (presumably not only because of the pandemic conditions but also because our focus groups were conducted in the winter). In these periods of slower business, workers describe having their hours reduced; for some, this occurred in a more ordered manner with a predictable winter schedule, but for many it has led to an unpredictable work schedule wherein they might be sent home after working for three to six hours, or conversely, they might be suddenly called

in on an unexpectedly busy day or pressured to work extra time during busy periods such as the holidays. Most of the participants who described these irregular work schedules were in the Spanish and Nepali focus groups, whereas workers in the Mandarin focus groups with reduced work hours seemed to have a regular, albeit reduced-hours, work schedule. In the Mandarin focus groups, participants said that during the winter, their work schedule was reduced to only two to four days per week.

The overall increased regulation of the nail salon industry was also named as a factor that changed workers' schedules.

Once the subminimum wage was phased out and the enforcement of overtime pay strengthened, some workers saw their hours reduced. In addition to general reductions in work hours, a number of participants described no longer being allowed to work overtime, because their employer did not want to pay the legally required overtime wages. Again, these changes seemed to primarily affect workers in the Spanish and Nepali focus groups.

The implementation of the higher minimum wage occurred shortly before the COVID-19 pandemic lockdown in early 2020, making it difficult to fully disentangle how much each of the two factors shaped employers' decisions to reduce hours (given that nail salons appear to be experiencing a lower volume of customers since reopening). Yet several workers named the change in hours as coinciding with the raising of the minimum wage, and the focus group discussions suggest that both factors have had a significant impact.



When the day is a bit slow, and there are not many customers, she sends us home. I also have to pay for transportation myself and it's not close. I am a single mother of three children: two live here and my other son is back home in my native country. I also support my parents. So, for me it is stressful and also a huge change since they apparently had to pay us a little more. We are seeing virtually no difference. For me it's even worse because before I worked at least six days, now I don't. Now I can only work 40 hours, sometimes 38. It all depends on what suits [the owner]. For example, if there are holidays, she doesn't pay us anything. She wants us to work, but if we don't want to, there's no problem because she can hire other people. However, I have to because I need to support my children."

Irregular schedules and the reduction of work hours generate significant stress for workers.

Many participants described financial stress, as their income was both lower and less predictable. Some workers also noted that the irregular schedules created challenges for securing childcare. For those workers who had the least control of their work schedules, it was difficult to secure even an unpaid day off, even during holidays or when a child was sick. For workers who are not being paid minimum wage and/or are being paid on a commission basis, working 10 to 12 hour shifts may be the only way to earn sufficient income to cover costs of living; yet working longer hours often creates added stress and additional financial pressures in securing childcare. Further, the reduced work schedules during winter and since the minimum wage increase have foreclosed the option of longer hours for some workers who need more income.

MEAL AND BATHROOM BREAKS

The right to take meal breaks and bathroom breaks was compromised for many of the focus group participants, who reported that their ability to take breaks was dependent on the volume of customers: on busy days at the salon, some workers described being pressured by their employers or managers to skip or reduce their lunch break, or to wait until their shift was over to use the bathroom. In some cases, participants described it less as a directive from management and more as something they practiced to avoid losing income; the ability to take more customers would particularly impact workers being paid on a commission basis as well as workers who are dependent on tips to supplement a low base wage. This issue was mainly prevalent among workers in the Spanish and Nepali focus groups, where some workers described eating their meals one bite at a time in between customers, or limiting their water intake so they would need to go to the bathroom less frequently. One worker in the Nepali focus group reported having one hour of pay removed for her lunch break, but not being allowed a full hour for the lunch break. On top of the added stress of such a schedule, some workers have also described health problems associated with not being able to use the bathroom regularly or skipping meals.



Sometimes when it's your turn to have lunch, customers will start to arrive. You'd rather service your customers than eat something. You have an obligation to do so out of need. You know [that otherwise] you're not going to make any money, even if you're there."

In the Mandarin focus groups, on the other hand, all four participants reported that they were able to take adequate break time. While the timing of their breaks also depended on customers, workers described being able to take bathroom

breaks as needed and lunch breaks; one worker said lunch breaks were 30 minutes long during a 9 to 10 hour shift.⁷³

SICK LEAVE, VACATION, RETIREMENT, HEALTH INSURANCE

Paid time off seems to be rare for nail salon workers. Across all the focus groups, only one participant (in a Mandarin focus group) reported having paid sick leave, which is now legally required in New York; one other participant (in the Spanish focus group) reported having had it in a previous job, although the employer did not allow the full amount of paid sick leave to which workers were entitled.⁷⁴ Paid holidays and vacation also appear to be rare; two workers, both in Mandarin focus groups, reported receiving some paid holidays or vacation days. No participants reported having any retirement benefits.

Given the health and safety issues named below, it is worth reiterating that few nail technicians have employer-provided healthcare—only 22% in New York State report having employer-provided health plans, compared to almost 72% of New York workers in general. **No participants in our focus groups reported having employer-provided health plans;** two Latinx participants said that their employers had made them sign a form indicating their pay and benefits, including health insurance, but when they asked the employers how to access that health insurance, it was apparently not a benefit actually given to the workers. Some workers in the Mandarin and Spanish focus groups reported having Medicaid; other participants in the Spanish focus group either had no health insurance at all or did not respond. In the Nepali focus group, workers reported having private health insurance or Medicaid, and in the Vietnamese focus group, the workers who responded said they had private health insurance.

The lack of benefits creates stress and anxiety for some workers. Several workers discussed the stress of taking unpaid sick days when their incomes were already so low; one worker described being

promised paid sick leave by an employer only to be taken down a tortuous path of bureaucracy and ultimately told she did not qualify. Several workers also described anxiety about the future, noting that this work becomes more physically challenging as they grow older, yet without any retirement benefits, it is difficult for them to imagine how they will be able to stop working.



So we keep working and working but what if something happens to our health and we cannot work? That would be a nightmare for us. Those who work on a salary basis have a pension and other benefits, but we don't have that. What will happen after we retire?"

Health and safety issues

The most prevalent health concerns across the focus groups were respiratory irritation, skin irritation and allergies, and musculoskeletal pain. Participants mostly linked the respiratory and skin irritation to chemicals in the products used to do customers' nails as well as in cleaning products. While some linked it more specifically to the use of acrylic nails, others suffered such irritation despite not working with acrylic. Musculoskeletal pain—such as pain in the back, shoulders, hands, and legs—was linked to the general physical requirements of the job, including sitting in one position and hunched over for long periods of time, often exacerbated by the lack of an ergonomic workstation set-up. Some workers noted in particular the impact of doing massage work at the salons, citing this as a particular source of chronic pain in the long term. Several workers also described circulation problems stemming from both the general physical requirements of the job and from doing massage work specifically.

The inability to take lunch and bathroom breaks, described in more detail in the "Schedules" section above, was also described as a source of health problems by some participants. On top of the added stress of such a schedule, some workers also described health problems associated with not being able to use the bathroom regularly or skipping meals.



As the *compañeras* said, sometimes you don't have time to go to the bathroom or eat. We also don't drink a lot of water because if you drink a lot of water, you have to go to the bathroom a lot. This is harmful to your health in many ways. Today, most of us bend the employers' rules a bit so that we don't suffer from any [of these] health issues, but sometimes we also fear being fired from work."

Salons' adherence to health and safety requirements appears to vary widely. Given the health risks that nail salon workers face, new regulations implemented in 2015 in New York stipulate that nail salon employers must provide the following equipment at each workstation and provide it to workers who request it at no cost: N-95 or N-100 respirators, protective gloves, and protective eye equipment. While the personal protective equipment (PPE) named here has become familiar across society during the COVID-19 pandemic, the requirements were introduced years before the pandemic. Yet the pandemic has of course generated a new set of health and safety concerns for nail salon workers, particularly given that their work often requires them to be in close proximity to clients for extended periods of time. The PPE regulations have thus taken on a heightened importance in light of the aggravated risk of infectious disease transmission that nail salon workers face.



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Across all of the focus groups, many participants said their employers do not provide adequate PPE. For example, some workers noted that their employers do provide protective equipment but not the correct kinds; instead they provide inadequate masks (such as surgical masks, or in one case even cloth masks, instead of N-95 respirators) and/or low-quality gloves that tear frequently. Others said that their employers do not provide PPE, and instead require workers to buy their own. Several participants mentioned that their employer posted signs about the PPE regulations and sometimes even put boxes of masks out, but did not actually allow workers to use the masks for free. It does not seem that protective eye gear is normally provided. Two workers in the Mandarin focus groups noted that some workers prefer not to wear certain types of PPE, for example, finding surgical masks more comfortable to wear than N-95s, or finding protective eye gear inconvenient to wear. In the Nepali and Mandarin focus groups, some workers reported that their employers provide adequate PPE and at no cost to the workers.

Although new ventilation requirements have been in place for new salons that have opened since October 2016 and with an October 2021 deadline for existing businesses to install these new systems, the Department of State granted a request from salon owner associations to delay these requirements for another six months.⁷⁵ **Among the focus group participants who responded to this question, a little over half of them reported that their employers had installed ventilation systems,** with most noting it had been installed recently. Workers in the Mandarin focus groups and the upstate Vietnamese focus group were most likely to report having a ventilation system, while the situation for workers in the Spanish and Nepali groups was quite mixed.

Another safety issue that participants described was customers refusing to abide by COVID-19 precautions such as mask-wearing; they noted that customers could not be forced to abide, so the workers simply had to accept the risk. Two participants who work in nail salons in Staten

Island said that around 80% of their customers do not wear masks.

Discrimination and harassment

The most prevalent forms of discrimination and harassment described by focus group participants were discrimination and unequal treatment of workers based on race, ethnicity, national origin, and/or immigration status; owners, managers, and customers were all sources of this treatment.

IMMIGRATION STATUS DISCRIMINATION

As noted in the “Wages” section above, some focus group participants described employers exploiting the vulnerability of undocumented workers by paying them lower wages and requiring them to work longer hours. In the Spanish focus group, participants said that workers who did not have a Social Security number were paid as independent contractors, and they were paid a lower wage than employees. Some workers in the Nepali focus group said undocumented workers were paid in cash and paid lower wages, as well as working longer hours and being treated with disrespect. A couple of workers linked this with language barriers, noting that having limited English language skills also led to lower pay and poor treatment from their bosses. In a Mandarin focus group, one participant said that although she had seen many Chinese workers being exploited by their bosses over the years, their lack of legal immigration status and limited English language skills prevented them from reporting violations.

ETHNIC HIERARCHY

The focus group discussions pointed to an informal ethnic hierarchy in the industry, shaping the pay, treatment, and other working conditions of nail salon workers.

Most participants said that workers of the same ethnic background as salon owners were at the top of the hierarchy—for example, Korean workers

received preferential treatment in Korean-owned nail salons. Workers in the Spanish focus group who worked at Korean-owned nail salons said that the owners consistently gave more lucrative jobs—such as high-tipping customers—to Korean workers over Latinx workers. In a Mandarin focus group, participants said it was normal to encounter such unfair treatment at salons, noting that the Korean workers were treated better than Chinese workers at their shops; one added that Chinese workers would be treated better than Latinx workers at Chinese-owned shops. The unequal treatment they described at their salons included assigning “better” customers—those who are known to tip well and those who request multiple services—to Korean workers and also blaming Chinese workers for any mishaps in the salon. Some of the Chinese participants noted that this was to be expected, and that they chose to tolerate it because they felt the salons where they worked were otherwise “OK.” Some workers in the Spanish and Nepali groups also said that they were expected to do the cleaning tasks at their salons and generally given less desirable tasks because of their ethnic background. In the upstate Vietnamese focus group, participants commented that they did not face ethnic discrimination because their employers were also Vietnamese.



You become afraid of the discrimination that you witness because there is a lot, a lot of discrimination against Latinos. [Discrimination] also happens to other people because, well, unfortunately there is a lot, a lot of discrimination.”



At work the ones who do the cleaning most often are always Hispanic people. There are many people who work there, but the majority of us who do the cleaning are Hispanic. And if we have to clean the tubs and all that pedicure stuff, the majority who have to do it are Hispanics.”

Several workers described more overtly abusive treatment from employers.

One worker in the Spanish focus group recounted an incident at her previous workplace where the salon owner hit her; although she called the police, the case was dismissed. She noted that none of her colleagues spoke up to confirm her account, out of fear that they would be fired (as she subsequently was). One worker in the Nepali focus group described how the manager at her nail salon would verbally abuse the workers in front of the clients, and other Nepali workers reported employers making discriminatory and offensive comments about their ethnic background.

RACIAL/ETHNIC DISCRIMINATION FROM CUSTOMERS

Workers in the Spanish, Mandarin, and Nepali focus groups described experiencing discrimination from customers as well.

A number of participants in the Spanish focus group related experiences of customers discriminating against them as Latinx workers. Some participants described customers requesting service from an Asian worker instead, implicitly or explicitly making assumptions that the work of Latinx nail techs was inferior; others described being insulted by customers for their ethnic background. One Chinese participant also said that customers would occasionally reject service from Chinese workers and ask the owner to receive service from a Latinx worker instead.



But there are people who don't understand that and start insulting you. They believe that because they're paying a certain amount, you have to put up with everything."

Language discrimination also emerged as an issue. Several Latinx participants said that they had been told by their employers and/or customers that they were not supposed to speak in Spanish while working. In cases where workers face harassment from customers, employers will generally refuse to address workers' concerns.



There were also customers who came and told the boss that they didn't like us to speak Spanish, because they felt uncomfortable. They felt like you were talking about them. I was one of the workers [...] who always told the boss, 'Believe me, your customer is not so important for me to be talking about her incessantly. I have much more important things to do than talk to my customers about your customers or about people who feel uncomfortable. If she is offended, well, she should learn Spanish, because I had to learn English, at least a little English. She needs to learn Spanish if she wants to understand what I'm saying.'"

Regarding the rise in anti-Asian violence in New York during the COVID-19 pandemic, one Chinese worker commented that she felt safe at her workplace, but that she and her colleagues were scared while commuting on the subway.

In meetings with the Research Advisory Committee of workers and in focus group discussions, some workers noted that sexual harassment appears to be a more common issue among workers who do private massage work at nail salons (as opposed to chair massages in the common spaces). While most participants did not describe personal experiences with workplace sexual harassment, one participant described an earlier experience with a regular massage customer who made her and the other workers feel objectified and uncomfortable.

Workers and their rights

With a workforce predominantly made up of immigrant women who are paid low wages and may have limited alternative job opportunities, it is easy for employers to exploit workers' vulnerability and implicitly or explicitly discourage workers from knowing their rights or speaking out about violations. Complex pay structures—and likely language barriers as well—appear to add to workers' confusion about what wages they are legally owed, and participants reported that many nail salon workers are not aware of the different laws that protect them.

BARRIERS TO SPEAKING OUT

Among focus group participants, **fear of retaliation—either being fired or having their hours reduced—emerged as the strongest deterrent to speaking out about unjust working conditions.** As reported in the "Wages" section above, many participants described the financial challenges of covering their families' living expenses each month, given the low wages in the nail industry and the aggravating effects of rising prices. **Such widespread economic insecurity among nail salon workers makes the prospect of losing their jobs a daunting one,** as they are unlikely to have access to savings or any social protections.



I also think it's fear, because we depend a lot on work. **Honestly, you can't have any savings with low wages.** I mean, you can't say, 'I'm going to quit this job.' Sometimes it takes me a month to pay the bills and I can't save anything. [...] Sometimes we feel alone, and we feel that this happens only to us, and that no one can help us. **We are afraid of retaliation in the workplace.** Maybe we won't lose our job, but nothing will ever be the same. [...] Sometimes they'll cut hours or days from your work schedule. [...] This is a pervasive fear among the *compañeras*."

This fear is exacerbated by limited job alternatives. Particularly for workers who are undocumented and/or have limited English language skills, the range of jobs they have access to may be limited. One participant in a Mandarin focus group said she had seen many Chinese workers exploited by Chinese bosses, but had never heard about a nail salon employer being sued or reported over the course of more than 10 years working in the industry. She said that workers would not report problems because they often lack legal immigration status and had limited English language skills; further, she did not know what proof workers could provide to give evidence of wage theft. For problems that persisted, she said Chinese workers would "jump shops" (seek employment elsewhere) instead of reporting violations.

As for finding alternative jobs within the nail salon industry, participants noted that job availability fluctuates seasonally; several noted the difficulty of finding a different nail salon job during the winter, when business is slower. Participants also emphasized that nail salon jobs had been more scarce since the COVID-19 pandemic; in a "loose" labor market, there is more competition among workers for a smaller number of jobs. Some workers reported that the salons where they work had reopened with fewer staff, amplifying the risks of losing their jobs.



In the present situation, work is more important than raising our voices. [...] In summertime it's easier to get a job. In the current situation, if I speak out I am going to lose my job. The economy is super down now. If my owner knew we were going to raise our voice she would fire us—so nobody wants to raise their voice now."



In summer, I can change my salon—if I lose my job here, I can move on to other places. But in the wintertime, it's really hard to get a job. In winter, nail technicians get fewer hours than in the summertime. Therefore, even knowing one's rights, one has to remain silent and endure. If we complain now, what will happen now that the holiday is over? People who raise their voices with the owner get fired. I have seen [this] so often."

Some focus group participants outlined perceived ethnic/cultural distinctions in nail salon workers' willingness to speak out about workplace issues. One participant in the Nepali focus group said employers like Nepali workers because they "keep quiet if something happens" out of a fear of being fired; this participant commented that Latinx colleagues were more likely to speak up about problems. Two participants in the Mandarin focus groups also commented that their Latinx colleagues were more likely to speak up about their rights than Chinese workers were; one noted that the Latinx workers were more well versed in their rights and laws. However, one participant in the Spanish focus group said that employers often take advantage of Latinx workers not being aware of their rights and existing laws. According to participants in the Mandarin focus groups, Chinese workers are more

likely to choose to either quietly endure injustices or leave a job rather than speaking out about problems. They framed this as a matter of mindset, noting that even if something unfair is happening at work, one has a choice as to whether or not to be bothered by it. Echoing participants in other focus groups, they noted that particularly at a time when there is strong competition for nail salon jobs, it is not worth it to lose your job over small issues. Despite some participants' perception of sharp distinctions between different groups' willingness to speak out about workplace issues, there was actually substantial consistency across focus groups in workers describing the choice to remain silent rather than risk losing work. The distinction that emerged was perhaps more subtle; workers in the Spanish and Nepali focus groups were more likely to describe these conditions as unjust or inadequate, whereas workers in the Mandarin groups were more likely to frame these conditions as "the way things are." As mentioned in the methodology, the participants of the Spanish and Nepali groups were active members of Workers United and Adhikaar and had participated in trainings and meetings about workers' rights, whereas the participants in the Mandarin group had not participated in such organizing; this distinction and its implications are explored further in the "Discussion" section below.



Sometimes it is about one's rights, but [...] if we can't even afford living, where are the rights to maintain? My family is waiting for the rice to be put into the pot."



I think that's a very, very touchy subject for us. Because at the end of the month, what they pay us is not enough. So, the stress of not being able to cover your economic responsibilities sometimes forces you to be very stressed at home or with your children. You can't do many things because your income is limited. I think it is very complicated for us because, even if it is said or, even if it is about changing the situation, our situation does not change. And a lot of people can say, oh, it's because you let them take advantage of you. **But, even if we complain or say I'm not going to work, then you lose your job and you don't even get the little bit [of money] you get with them. Then it's difficult. You have to endure and try to survive with what you manage to get at the end of the month."**

A distinct barrier to speaking out became apparent through a challenging dynamic in the upstate Vietnamese focus group.

Participants in this group were generally hesitant to respond to questions during the focus group, and those who did share gave relatively brief responses. It was not until the recording was stopped that some shared more candid reflections; while we will not quote any of them specifically because the comments were made outside of the formal focus group, the general insights offer some useful context. These workers noted that it was common for Vietnamese nail technicians to be employed by family members, a dynamic that clearly complicates workers' willingness to speak about unfair or illegal work conditions. Another related situation is that some Vietnamese workers have been "sponsored" to immigrate to the United States by a family member who owns a nail salon in New York, and in exchange they agree to work at that family member's salon; this of course also creates complex relations of obligation. While it is difficult to determine precisely how prevalent these dynamics are, existing literature on Vietnamese

and Korean nail salon workers confirms the complex dynamics of relations between coethnic workers and owners, given community and family entanglement.⁷⁶ A discussion with a Vietnamese Occupational Safety and Health Administration (OSHA) staff member in Buffalo, New York, who works on health and safety in nail salons also confirmed these insights. He noted that in Buffalo, many Vietnamese nail salon workers are employed by family members, and some of them have been sponsored to immigrate to the United States by these family members. He described generally entwined lives of Vietnamese nail salon workers and owners as they live in the same communities and go to the same churches (in addition to often being members of the same family). He also noted that the Vietnamese community in Buffalo was generally wary of speaking with people from outside the community. These dynamics are explored in more depth in the “Discussion” section below.

SPEAKING OUT

Some participants in different focus groups described how the fear of losing their job diminished as they gained experience and felt more confident about their ability to secure work in the industry. For example, two participants in the Vietnamese focus group said that when they want to protest unfair conditions at work, they threaten to quit; these workers are both very experienced nail techs and are fluent in English, having grown up in the United States. Interestingly, at least one of them works for a family member.



[If] they don't speak up then it's probably because they are new and afraid to lose their job. That's it. And then an experienced person, they are not afraid to lose their job, because they know they can always go somewhere else."



At first, I couldn't speak up at the salon because I was afraid I would be fired. I am experienced now, so I can raise my voice; even if I am fired I can go to another place."

These comments on what we can call “seniority” in the industry are consistent with participants’ comments about the “apprenticeship” system described in the “Wages” section above. One Chinese participant said that apprentices had to take every opportunity to improve their skills until their skillset was strong enough to enable them to negotiate higher wages.

One participant in a Mandarin focus group commented that Chinese workers were more likely to deal with problems at work by “jumping shops”—finding work at a different salon—rather than speaking up. She described “jumping shops” as a strategy that workers used to increase their base pay (daily wage), as it was sometimes easier to command a higher base pay at a new shop with their recently acquired new set of skills. This worker noted that in all her years in the industry, she had never heard about a nail salon owner being sued or reported, because workers chose to find another job rather than speak up.

Among participants who described speaking out about violations or unfair working conditions, most described being met with employer inaction, reprimands, threats of retaliation, or actual retaliation. Two participants in the Spanish focus group described their experience with reporting violations in their workplace, with starkly distinct results. One participant’s experience stood out as positive among the more negative experiences described in the focus groups. This worker united with her coworkers to report their employer for wage theft; after an investigation, the employer was ultimately required to pay back wages to the workers. This participant also commented that because of the claims and successive follow-up inspections, the



Us Chinese are like this—stay quiet for peace. If I don't want to work here anymore I jump to another shop, right? Who wants trouble? [...] Because if you sue, or go to the Department of Labor, you must have proof. In restaurants they have punch cards, which is a form of proof. But in nails, they don't do that, you only have a mouth. When I didn't get paid for overtime, what proof could I have provided? But it's better now, because more people have immigration status now. There are still problems though—like I said, people deal with it by [saying] 'I don't want to work here anymore, I'm not happy with the base payment, so I will jump to another shop.' So I really have never heard about a nail salon being sued or reported—never.”⁷⁷

work conditions had greatly improved and the employer was treating workers with more respect. Another participant, on the other hand, described how she had reported a previous employer to the police because he hit her one day at work; she also told an inspector from the Department of Labor that the employer was forcing the workers to sign wage verification forms that falsely represented their wages. In this case, the police dismissed her claim and the employer fired this worker; she said she is now afraid to speak up at her new job.

Some participants spoke about the importance of supporting workers in understanding their rights.

Participants noted that many nail salon workers are not aware of the laws that protect them, making them less likely to speak out about any injustice. One participant in the Spanish focus group said that learning more information about workers' rights and meeting with other nail salon workers had made her more confident in speaking openly about her workplace experience—in fact, she said this was what enabled her to participate in the focus group. A number of participants in the Nepali and Spanish focus groups emphasized the importance of workers coming together to protect their rights, pointing out that workers who speak out on their own are vulnerable to retaliation and are rarely able to make changes. In the Mandarin focus groups, participants suggested that it would be useful to have access to community resources to support workers in disputes with employers or customers. These workers felt that existing systems for reporting were not accessible to many workers and feared they were likely to cause problems for workers.





Discussion

Nail salon worker respondents in our study are paid low wages, have inadequate workplace benefits, and are often plagued by economic insecurity and unpredictable schedules; many workers endure differential and discriminatory treatment based on their racial/ethnic background and/or their immigration status. This finding is bolstered by government data indicating that nail salon workers in New York State are paid low wages and are disproportionately likely to live in unaffordable housing situations. As a workforce that is largely immigrant women of color, the impact of this insecurity ripples out far and wide, as these workers often shoulder the burden of supporting their families and communities with paid work alongside unpaid care work. The implementation of new legislation and regulations has been an important step toward improving wages and working conditions in New York State's nail salon industry, but our research suggests that the struggle to improve pay and other conditions remains unfinished. This section draws out the key threads of the focus group findings and puts them in conversation with our analysis of government data and existing research on the industry.

“It’s difficult to survive”: Low wages and no benefits

Our research indicates that, despite recent legislation, nail salon workers in New York earn low wages and have limited access to workplace benefits. Focus group discussions highlighted widespread economic insecurity, with many participants (particularly in the Spanish and Nepali focus groups) using phrases such as “it’s difficult to survive.” Our analysis of government data, read alongside more recent small-scale survey data, clearly confirms that “nail technician” is a low-wage job. Wage theft is certainly one

element contributing to workers’ economic security, with some employers simply not complying with minimum wage and overtime requirements. Yet even among participants whose employers were complying with the new minimum wage, the boost in their hourly wage was, for many workers, effectively negated by reductions in work hours as well as rising costs of living. The raised minimum wage appears to have prompted some employers to reduce workers’ hours, in order to limit any increase in labor costs. Because the implementation of the higher minimum wage occurred shortly before the COVID-19 pandemic led to a complete shutdown of nail salon businesses, it is difficult to disentangle the impact of each. Virtually all nail salon workers lost their income overnight with the mandated closing of “non-essential businesses” on March 20, 2020. Although most salons have since reopened, business has reportedly been slower—likely because of both the ongoing pandemic and the normal winter slump that nail salons experience. This reduced volume in business presumably makes it easier for employers to reduce workers’ hours without experiencing staffing shortages. A recent study on nail salon reopening in California during the COVID-19 pandemic found that the vast majority of survey respondents (both nail salon workers and owners) reported a decline in customers and that their salon staff had been downsized by one or more people.⁷⁸

Workplace benefits are largely inadequate for nail salon workers. Paid time off is rare, according to focus group participants; despite the legal requirement to provide paid sick leave in New York,⁷⁹ only one participant currently had access to paid sick leave (and one other reported having had limited paid sick leave at a previous nail salon). The right to meal breaks and bathroom breaks was a contentious issue for a

number of focus group participants, who reported implicit and explicit pressure to skip their breaks when the salon was busy. Although government surveys indicate that 22% of nail technicians have employer-provided healthcare plans in New York, no participants in our focus group did. While access to healthcare was uneven, participants described a number of health and safety concerns. The most common occupational health concerns described in the focus groups largely echoed those highlighted in existing research: respiratory irritation, skin irritation and allergies, and musculoskeletal pain. Relatedly, many participants reported that their employers did not provide adequate personal protective equipment (PPE).

Economic insecurity, unpredictable schedules, and lack of benefits are a significant source of stress for many nail salon workers. Particularly in the Spanish and Nepali focus groups, workers described the psychological stress endured as they struggled to cover their families' living costs in New York; single mothers and those supporting family abroad through remittances also described an acute added layer of stress. Unpredictable schedules—primarily at salons where employers would send workers home early or call them in unexpectedly according to how busy the salon was—aggravated worker stress, resulting in less predictable income and making it more complicated to secure and pay for childcare.

Workers' experiences of this low or reduced income and limited benefits seem to be shaped in part by their access to social protections, as determined by their immigration and employment status.⁸⁰ For example, participants in the Mandarin focus groups were less likely to say it was “difficult to survive” or speak of acute economic security; all of these workers had access to unemployment insurance, Medicaid, and other benefits such as SNAP or WIC. Vietnamese focus group participants noted that immigration status is not generally an issue within their community in Rochester, and several of them reported receiving both the pandemic stimulus checks and

unemployment insurance. Among the Nepali-speaking participants, half of the group reported having access to unemployment insurance; among the Latinx participants, no one reported having access to unemployment insurance or regular Medicaid (one said she had received emergency Medicaid during a visit to the hospital).⁸¹

The focus group discussions also suggest that undocumented workers are more likely to receive lower wages (particularly if they are paid “off the books”). Given these conditions, alongside the lack of access to social protections and the presumably more limited options for alternative work, **the lack of legal immigration status clearly exacerbates the likelihood and the impact of economic insecurity for nail salon workers.** Our analysis of government data also demonstrated that nail technician wages tend to be lower in regions where non-citizens make up greater shares of the workforce, indicating that non-citizens in general are more likely to be paid lower wages. Economic insecurity was not limited to undocumented immigrants, however. Indeed, the focus group discussions made it clear that economic security challenges cast a shadow on workers with different immigration statuses.

“You have to put a stone on top of your heart and smile”: Barriers to workers speaking out

With a workforce made up predominantly of immigrant women of color, the economic insecurity and social marginalization that many nail salon workers experience inherently create substantial risk for speaking out about unfair work conditions and/or labor violations. In focus group discussions, the fear of retaliation—either being fired or having hours reduced—overwhelmingly emerged as the primary factor discouraging workers from speaking out or reporting violations. Because low wages often make it difficult for workers to cover their family's monthly living

expenses—let alone to collect savings—the prospect of losing work can stifle workers’ willingness to speak out about violations. Many workers described the need to “endure” difficult conditions in order to continue providing for their families, and participants in the Nepali focus group shared an expressive idiom: “You have to put a stone on top of your heart and smile.” These conditions of vulnerability are also amplified in times when the nail salon business slows down, whether during regular seasonal fluctuations or the pandemic-induced drop in clients.

For many workers, the fear of retaliation seemed to be informed by either witnessing or personally experiencing reprimands or retaliation for speaking out. Other workers described employer inaction as a common response to speaking out, leading them to describe the futility of doing so. As noted above, immigration status compounds this vulnerability in significant ways too, potentially leading to lower wages and therefore greater economic insecurity, foreclosing access to most social protections, and often limiting access to alternative work.

The specific insights that emerged from the Vietnamese focus group point to the importance of taking into account how coethnic and family relations between workers and owners affect labor relations in the nail salon industry. Existing literature documents these dynamics among both Vietnamese and Korean nail salon workers and owners, revealing how this can constrain workers from speaking out about unfair labor practices.⁸² In a study about Korean nail salon workers in New York, Kang (2010) describes these complex relations, noting that “[c]oethnic workers trade off low wages, long working hours, and, in some instances, derogatory treatment in return for jobs, training, support in adjusting to their new country, and potential assistance in establishing their own businesses.”⁸³ Kang highlights how these circumstances often impede worker resistance, a point echoed by Phan (2016) in a study of Vietnamese nail salon workers in California. The existence of coethnic relations thus facilitates

workers’ entry into the industry, while also activating relations of obligation amid entwined social networks and even family relations. Staff at Adhikaar noted a similar dynamic among Nepali-speaking members who work for Nepali-speaking owners, indicating that many of these workers have shared that they feel uncomfortable speaking out about workplace issues because they feel there is community pressure to stay silent. This can influence workers’ willingness to speak out in different ways, potentially stifling workers from making claims or speaking out about violations to external parties, but also potentially providing workers with opportunities to negotiate wages and working conditions through these interpersonal channels.

Training, skill-building, and rights education as sources of worker agency

The focus group discussions revealed several factors that made workers feel more empowered to speak out, including access to training and skill-building, awareness of workers’ rights and protections, and collective (rather than individual) action.

Focus group discussions highlighted how the fear of losing work decreased as workers gained experience and skills, making them more confident about their ability to secure work in the industry. Access to training (whether formal or informal) and skill-building not only enabled workers to secure higher wages, it also bolstered their sense of security in confronting unfair working conditions—whether through leaving to find a better job or speaking out. Importantly, however, the confidence gained from increased skill and experience appears to be tempered by periods of time in which business is slower and the labor market is relatively “loose.”

These findings about skill-building are significant in light of workers’ descriptions of an informal ethnic hierarchy and stratified wage system, as certain workers reported exclusion from opportunities to learn new skills and increase their wages. Focus group

discussions highlighted that nail technicians' wages are often tied to the specific services they provide at the salon. Some workers described this with general language about levels of experience and roles, while the Chinese participants described a system of classification ranging from rookies and junior (or "little job") workers to senior (or "big job") workers—a system also documented in the *New York Times* investigation and corroborated by a scan of a Mandarin job listings website.⁸⁴ The ethnic hierarchy in the industry seems to shape some workers' access to this "ladder" of job and wage levels, as some participants in the Spanish and Nepali focus groups described being excluded—on the basis of their ethnicity—from opportunities to do "higher-status" and more lucrative services.

Given these findings about experience and skills, it is not surprising that nail salon workers are even more vulnerable to wage theft and other labor violations when they are first entering the industry. There did not appear to be widespread awareness of the recently added "Nail Specialty Trainee" category of licensing among participants who described the informal "apprenticeship" system, where an inexperienced worker is hired at a nail salon for very low wages (or no wages) to undergo training and progressively learn more skills. Participants noted that the apprenticeship system had become far less common in New York City since the implementation of the higher minimum wage and increased enforcement of labor protections, because employers did not want to pay \$15 per hour for an inexperienced worker. Employers would potentially have similar hesitations about hiring those with a Nail Specialty Trainee license, perhaps underscoring the need to create more widely accessible and protected on-ramps into the industry.

Focus group participants also emphasized how awareness of their rights and protections was an important element of empowering workers to speak out about labor conditions. One worker in the Spanish focus group pointed out that she only felt comfortable speaking candidly in the focus group

because of her previous participation in workers' rights discussions and trainings; many participants in the Nepali focus group spoke about how rights education had been a necessary foundation for them to feel able to speak out about conditions in the industry; they also noted that many nail salon workers are unaware of their rights and protections as workers. **Indeed, the broader dynamics of focus group recruitment and participation illuminate the role of both trust-building and rights education in facilitating workers' willingness to speak openly about their workplace conditions.** As noted in the methodology, the Spanish and Nepali focus group participants were recruited from members of Workers United's New York Nail Salon Workers Association and of Adhikaar's Nail Salon Workers Association, respectively; these workers had thus participated to various degrees in meetings and trainings on nail salon workers' rights and had an established relationship of trust with these organizations. The participants of the Mandarin focus groups and the Vietnamese focus group, on the other hand, were recruited among workers who had not participated in such training or collective meeting spaces.⁸⁵ The facilitator of the Mandarin focus groups was able to cultivate a space of trust by holding two very small groups instead of one larger group, assuaging workers' hesitance to speak in front of others they did not know.

Although the focus group discussions did not reveal many stories about nail salon workers reporting violations with successful outcomes, it is worth noting that the one positive experience shared involved workers *collectively* making a claim. This worker joined with her coworkers to report long-standing wage violations at the nail salon, and the subsequent investigations resulted in the workers being awarded back wages. In this case, the collective nature of the claim seemed to be an important factor in allowing the workers to overcome their fear of speaking out.



Sometimes fear forces us to remain silent or put up with it and endure it—until we’ve had enough. When a complaint is made, this makes a big difference. It helps a lot because, although [the employers] are practically being forced to do what is asked of them, they change the way they treat us. They respect us a little more as people, as workers.”

Navigating ethnic hierarchies and discrimination

Workers’ descriptions of an “ethnic hierarchy” within the labor force—unequal pay, treatment, and working conditions for workers of different ethnic backgrounds—point to several important dynamics.

Hierarchies within a workforce are generally informed by various social, political, and geographical factors; processes of racialization and the gendered nature of work interact with particular historical patterns of migration and labor.⁸⁶ In the nail salon industry, there is also a specific situation where some workers share a linguistic and ethnic background with their employers and thus reportedly receive preferential treatment. The experience of being in the lower rungs of the hierarchy seems to limit some workers’ mobility within the industry; workers in the Spanish and Nepali focus groups were less likely to describe receiving training or other opportunities to increase their pay or promote their position, and more likely to describe being confined to lower-status (and less lucrative) work in nail salons.

These circumstances, taken together with the substantial diversity of New York’s nail salon workforce, suggest that there will be important distinctions in how nail salon workers of different backgrounds experience their position as workers. While there are certainly Latinx nail salon owners, they are far less prevalent than Korean, Vietnamese,

and Chinese nail salon owners, making coethnic “entanglements” between owners and workers far less common for Latinx workers. While Nepali owners are not a predominant group among nail salon owners, a significant number of Nepali-speaking Adhikaar members do work for Nepali owners, as noted above. The experience of workers who share coethnic relations with their employers (as described in the section above) is likely to be distinct from that of workers who feel relegated to the bottom of an ethnic hierarchy, potentially shaping labor relations and workers’ willingness to speak out in different ways. The experience of hierarchies in the workplace can also lead to divisions among workers, which may be experienced most starkly when there are language barriers. Such divisions often present obstacles for worker organizing.

In addition to the differential and discriminatory treatment attributed to an informal ethnic hierarchy, participants described other specific forms of unequal treatment from employers and customers.

Some participants described how nail salon workers are subject to differential treatment based on their immigration status, with some employers giving undocumented workers lower wages and longer hours. Language discrimination also emerged as an issue, particularly within the Spanish focus group, as some employers instructed Latinx workers to avoid speaking in Spanish while at work. Such employer dictates seem to be a response to common experiences of language discrimination stemming from customers, a situation that has been documented both in scholarship and in popular culture.⁸⁷ The demands of emotional labor inherent in service work mean that customers often expect attentive conversation to be part of their nail salon experience, and accordingly respond with suspicion and irritation when nail technicians speak to each other in a language customers do not understand. Customers often suspect that the conversation is about them, and sometimes make requests to workers or managers that they stop speaking in their native language. While this was mainly reported in the

Spanish focus group, similar experiences have been documented in research about Korean nail salon workers, suggesting it is a common experience across different ethnic backgrounds.⁸⁸

Shallow compliance vs. genuine compliance

The focus group discussions suggest that a significant proportion of nail salons are not fully complying with new wage and hour requirements and health and safety regulations. The implementation of new legislation regulating the nail salon industry seems to have yielded several different scenarios: genuine compliance, “shallow compliance,” and disregard (no compliance).

A number of workers described how the new regulations and increase in inspections had prompted their employers to be more vigilant about compliance, which in some cases yielded genuine compliance and in others led to “shallow compliance.” In cases of shallow compliance, employers made efforts to appear to be adhering to laws on paper—for example, by having workers sign wage declarations or contracts, or putting PPE supplies out on display—but did not actually adhere to these in practice. Overall compliance with new laws and regulations seems to be partial at many nail salons. In addition to widely reported wage and hour violations, the focus group

discussions highlighted other violations regarding benefits and health and safety regulations—it appears that many employers do not provide adequate PPE, have not yet installed ventilation systems, and do not provide paid sick leave.

Wage theft clearly continues to be an issue, as only around half of all participants across the Spanish, Nepali, and Mandarin groups reported being paid the legally required minimum wage. Those being paid an hourly wage appeared to be somewhat less likely to be experiencing wage theft, although those who reported not being paid minimum wage described a range of pay structures including commission-based pay, daily flat rates, and hourly wage. This reflects the findings of surveys carried out by the New York Nail Salon Workers Association (NYNSWA)/Workers United, which indicated the persistence of wage theft across different pay structures, with hourly wages being moderately less likely to be linked with wage theft.⁸⁹

Yet even among salons that are complying with new wage regulations, some employers are effectively “canceling out” the financial benefits to workers by reducing workers’ hours. Although employers’ desire to keep labor costs low is of course a widespread phenomenon, this apparently common unwillingness on the part of nail salon employers to increase labor costs seems to be heightened by the problem of thin profit margins.



Recommendations

The issues documented in this research point to three imperatives: strengthening enforcement of existing laws and regulations, lifting wages and standards across the industry, and fostering worker agency.

These imperatives echo persistent issues across most low-wage industries, where marginalized workers widely endure wage theft and other violations of their rights, and consistent enforcement of worker protections remains elusive.⁹⁰

The structure and power dynamics of New York State's nail salon industry present considerable challenges for enforcement and raising industry standards. As in other industries dominated by very small businesses and thin profit margins, nail salon businesses commonly strive to remain competitive by cutting corners on labor costs and health and safety measures.⁹¹ With a workforce predominantly made up of immigrant women of color who are paid low wages and often have limited alternative job opportunities, our research found that this precarity heightened fears of retaliation, seriously undermining workers' willingness to speak out about violations or unfair conditions. Employers often exploit workers' vulnerability by implicitly or explicitly discouraging workers from learning about their rights or speaking out about violations. Complex pay structures—and likely language barriers as well—appear to also generate confusion about what wages workers are legally owed.

Many workers, advocates, organizers, scholars, and policymakers have contended with the question of how to lift standards in low-wage industries, taking into consideration the specific challenges of the 21st century low-wage economy. The recommendations that follow leverage these insights while drawing on the findings of our research to address the specific features of New York State's nail salon industry.

Use a sectoral approach to raise standards comprehensively across the industry, to create a landscape where nail salons can improve conditions on a level playing field.

While employers' noncompliance with recent minimum wage legislation and other protections is one reason for the persistence of low wages and health and safety issues in the industry (this is explored further below), our research suggests that existing standards are inadequate and unable to address many of the issues that workers face. As one example, the implementation of a higher minimum wage appears to have prompted new issues for workers regarding scheduling and payment practices; even among employers who are compliant with minimum wage requirements, workers reported reductions in hours that effectively negated any financial benefits. These circumstances indicate the need for standard-setting that can consider the comprehensive, interrelated issues with wages, service pricing, scheduling, health and safety, and enforcement rather than solely relying on separate legislative reforms.⁹²

Like many workers in low-wage industries, nail salon workers have limited structural bargaining power: they are considered easily replaceable, and they do not occupy a particularly strategic location in the labor market wherein a work stoppage could cause wider-scale disruption of the economy.⁹³ The workforce is atomized across thousands of microbusinesses, and the thin profit margins of these businesses increase the likelihood that they would declare bankruptcy when workers file wage theft claims, or shut down in response to unionization.⁹⁴ The "race to the bottom" of pricing for services such as manicures and pedicures

has pushed down New York nail salon prices—and particularly New York City prices—to be significantly lower than average prices nationwide, suffocating workers’ wages in the process. Further, misclassification of workers as independent contractors continues to be an issue in the nail salon industry, leaving misclassified workers excluded from core labor protections, including unionization rights.

These features of New York’s nail salon industry suggest that a sectoral approach would be an effective strategy for raising industry standards, by taking wages and other labor standards out of market competition and creating a set of standards that are tailored to the particular contours of this industry.

“Sectoral bargaining” has gained a new wave of attention in the United States in recent years. The term is used to describe a range of different systems for setting standards at a sectoral level, including multi-employer bargaining, bargaining extension, legislated sectoral wages, and wage and standards boards.⁹⁵ Sectoral approaches such as wage boards or labor standards boards are distinct from collective bargaining processes,⁹⁶ and can be particularly relevant in industries with a high number of small businesses where no one employer or small group of employers controls the overall labor market—a defining feature of New York’s nail salon industry.⁹⁷ Labor standards boards (sometimes referred to as “sectoral councils” or “industry committees”) generally have a mandate to set standards for workers across an entire industrial sector by convening worker representatives, employer representatives, and government or public representatives to deliberate on wages and other standards, take public and expert testimony, and make recommendations.⁹⁸ Standards to be negotiated vary and can include wages and wage scales, scheduling, benefits, terms and conditions of employment, and training. Importantly, sectoral standards can apply to all workers, regardless of whether they are considered employees or independent contractors. Some boards are authorized only to make recommendations that must subsequently

go through a legislative process, while others are empowered with more of a legislative role.⁹⁹

To make higher wages and standards viable, sectoral approaches to raising standards in New York’s nail salon industries should include strategies for establishing pricing standards across the industry.

The remarkably low service prices in New York are subject to intense market competition, keeping profit margins thin and suppressing wages. More research is needed to determine a pricing model for the industry that would enable sustainable and compliant business practices and remain accessible to customers; such research should include an analysis of business costs across the state, further research on the relationship between pricing and wages, as well as examples of price regulation strategies in other industries. Worker organizations can be creative in communicating with consumers on the subject of pricing and workers’ rights, potentially engaging consumers as allies in supporting an industry that respects and protects workers’ rights. This could potentially be linked to “high-road” strategies, wherein businesses can get certified as a high-road employer by demonstrating that they adhere to certain standards.¹⁰⁰

A few recent examples of wage boards and sectoral councils being implemented or proposed illustrate a range of distinct features in their design. In Seattle, worker organizations and unions successfully campaigned for the establishment of a Domestic Workers Standards Board with a mandate to make recommendations on a wide range of working conditions for domestic workers.¹⁰¹ While the COVID-19 pandemic has caused significant delays in implementation, worker organizations have surveyed domestic workers to identify their needs and determine negotiation priorities; the first priority the Board took on was creating portable benefits for domestic workers. The worker organizations also used the survey as an organizing tool to engage domestic workers, highlighting one approach to actively engaging a broad base of workers in the sectoral approach.¹⁰²

In New York, wage boards have recently been used to instate sectoral standards for wages and hours. In 2015, the demands of the Fight for \$15 movement yielded the establishment of a wage board for the fast food industry in New York State. The board—composed of representatives of workers, employers, and the public—recommended raising the minimum wage in the industry to \$15, to be implemented in different stages statewide. The recommendation was adopted by the state’s acting commissioner of labor, and within a few months the state legislature passed a \$15 minimum wage for all workers.¹⁰³ More recently, the Farm Laborers Fair Labor Practices Act set overtime pay standards for farmworkers in New York and also required the state labor commissioner to convene a wage board to hold hearings and make recommendations as to whether overtime thresholds below 60 hours per week should be implemented. In January 2022, the wage board voted to recommend a staged implementation of a 40 hour per week overtime threshold for farmworkers.¹⁰⁴

In California, fast food workers and advocates are campaigning for passage of the FAST Recovery Act (AB 257), which would create a statewide fast food sectoral council through which workers, franchises, parent companies, and state regulators would set wages and other standards for the industry.¹⁰⁵ The fast food sectoral council is proposed as a response to a range of persistent issues in the industry, including low pay and pervasive economic insecurity among workers, a lack of benefits, and widespread lack of enforcement of COVID-19 safety protocols. The proposal of a sectoral council that includes both franchises and parent companies is meant to respond to the fissured nature of the industry, in which there are myriad individual franchise owners who often lack the power to set standards, and a small set of parent companies that are dominant.¹⁰⁶

The examples above warrant further study, to inform the design and implementation of future wage boards and sectoral councils. The details of how sectoral approaches are designed and

implemented matter greatly. Indeed, some advocates and scholars have warned against sectoral bargaining proposals for “rideshare” drivers that risked driving down standards for workers, because they precluded workers from securing employment status and were not founded in democratic worker power.¹⁰⁷ While these examples are instructive, it is also worth noting that the structure of the rideshare app market is markedly distinct from New York’s nail salon industry. Yet the necessity of strong, democratic worker involvement is a vital and relevant point that is explored in more depth below. While sectoral standard-setting is not a panacea for all labor issues, it is a strategy that could create a strong foundation for lifting standards across New York’s nail salon industry in a manner that benefits and potentially empowers workers while also creating a level playing field for businesses in the industry.

Center worker voice and organizing in strategies to lift and enforce industry standards, and support worker organizations’ critical role in bolstering worker voice and agency.

Our findings highlight how the precarity of New York’s nail salon workforce seriously undermines worker voice and agency, discouraging workers from advocating for better conditions or reporting violations. Yet the focus group discussions also demonstrated—implicitly and explicitly—that workers who had participated in organizing meetings and workers’ rights education were more willing to speak out about their workplace conditions. **Amid the power dynamics of this industry, any strategies for lifting industry standards must support collective empowerment of nail salon workers by facilitating workers’ ability to exercise voice and organize.**

Labor standards boards can be useful in industries where workers have limited structural bargaining

power, as they institutionalize worker participation in setting wages and standards and thus create “institutional power” for these workers. Yet there is consensus among scholars and advocates that such sectoral approaches are only effective in meaningfully lifting standards when there are strong worker organizations and actively organized workers involved, lest it become “sectoral begging.”¹⁰⁸ While labor standards boards and sectoral councils do not inherently lead to a more organized workforce, strategic organizing around sectoral standard-setting mechanisms can help create infrastructure for organizations to expand their base of organized workers and promote collective action.¹⁰⁹ Worker organizations should conceive of labor standards boards as one element within a broader strategy of base-building, organizing, and expanding the power of workers.¹¹⁰ In light of this, labor standards boards often institute specific protections against retaliation for workers who participate in the process;¹¹¹ such protections would be relevant to New York’s nail salon workforce, given their vulnerability to retaliation.

The enforcement challenges that emerged in our research make it clear that workers themselves must be empowered to advance their rights and protections. Setting sector-wide standards alone will not automatically address the widespread lack of compliance with existing laws and regulations. Worker and community organizations can play an essential role in engaging marginalized workers who are often disenfranchised from systems for seeking redress. Worker organizations in New York have spent years cultivating membership bases and relationships of trust with nail salon workers, resulting in greater organization and awareness of rights among significant segments of the workforce. As detailed in the “Background” section, these organizations have already played a key role in sparking new legislation and enforcement efforts in the industry and making existing systems for training and licensing more accessible and effective. In light of research confirming that enforcement is strengthened by the presence of unions, worker centers, and

organized workers,¹¹² **worker organizations with a history of organizing and advocating for nail salon workers should have a central role in any initiatives to raise standards and strengthen enforcement. As the nail salon workforce grows, these organizations should be appropriately resourced to continue engaging workers in education, organizing, and enforcement of workers’ rights.**

Partnerships between government enforcement agencies and worker organizations—a strategy sometimes described as “co-enforcement”—have emerged as an important and effective mode of intervention in circumstances where violations are widespread and the government’s capacity for enforcement is limited.¹¹³ Importantly, co-enforcement strategies have proven highly effective in industries where workers do not have the power to compel compliance and are unlikely to report violations to government agencies.¹¹⁴ Effective co-enforcement strategies engage worker and community organizations that have industry expertise and relationships with workers, educating these groups about the law and relying on their membership base and existing networks to conduct worker outreach that both raises workers’ awareness of their rights and resources and exposes violations of labor and employment law. While some co-enforcement partnerships are relatively informal, others are more formalized and direct funding to the partner organizations.¹¹⁵ Co-enforcement approaches are thus not only effective and efficient but can also ultimately channel resources toward creating a more organized and informed workforce, strengthening workers’ position in the long term.¹¹⁶

Strengthen enforcement capacity and implement enforcement mechanisms that create meaningful consequences for noncompliance.

The focus group findings suggest that a substantial number of nail salon employers are failing to fully

comply with existing laws and regulations, as wage theft and health and safety violations persist. As described above, the structure of the nail salon industry and circumstances of the workforce present particular challenges for industry oversight and enforcement, pointing to the need for stronger and more targeted enforcement mechanisms to bring more nail salon businesses into compliance with new and existing laws and regulations.

In the quest to tackle pervasive wage theft and other labor violations across low-wage industries, the inadequacy of the existing regime of enforcement has been widely documented.¹¹⁷ Agencies charged with enforcement are severely understaffed and underfunded, creating significant limitations in addressing high levels of wage and hour violations and health and safety violations. The complaint-based nature of enforcement, where the burden generally falls on workers to initiate claims, has also proven wholly inadequate for vulnerable workers in low-wage sectors.¹¹⁸ This point is certainly relevant in New York's nail salon industry, given that our research found significant barriers that discourage workers from speaking out.

Increasing the size and funding of the labor inspectorate and pursuing more proactive investigations are necessary first steps in strengthening enforcement capacity to confront widespread violations in low-wage industries such as the nail salon industry. To counter the weaknesses of complaint-based enforcement, many states and localities nationwide—including New York State and City—have adopted the approach of “strategic enforcement,” which includes proactive investigations in industries with high rates of violations and targeted investigations aimed at provoking wide-scale changes in employer behavior.¹¹⁹ Labor investigators’ proactive sweeps of 230 nail salons in New York in 2015 are an example of strategic enforcement meant to both identify and deter violations.¹²⁰ While such strategic enforcement initiatives are insufficient on their own, they should complement the co-enforcement approaches described above.

The use of business licensing processes to drive compliance with labor and employment laws, and in particular to deter or create stronger consequences for wage theft, is another tactic of strategic enforcement that is relevant in New York’s nail salon industry.¹²¹

One approach entails the suspension of business licenses for failure to settle outstanding wage theft judgments, or denial of licenses to those with a history of labor violations. Another tactic involves using the licensing application process to educate applicants about issues such as misclassification, employing strong language that clearly spells out violations of the law. Other approaches are centered more on publicizing violations so that customers can see information about wage theft violations in publicly available apps or databases.

The janitorial industry in California provides another useful example of how business registration can be used to deter labor abuses and drive compliance; in this case, the legislation aimed to stop workplace sexual harassment and violence in the industry.¹²² The Property Service Workers Protection Act (AB 1978) mandates that all janitorial services companies must register with the state labor commissioner annually and requires every company to conduct in-person sexual harassment prevention training for employers and employees on a biennial basis.¹²³ Another law—the Janitor Survivor Empowerment Act (AB 547)—was subsequently passed in 2019, requiring that the employee training requirement be fulfilled by specified organizations that would provide qualified peer trainers.¹²⁴ Given our focus group findings that suggest many nail salon workers are not fully aware of their rights, and other sources that indicate many nail salon owners may not have a clear understanding of the requirements of labor and employment laws,¹²⁵ **a strategy linking business licensing or registration to training on workers’ rights for nail salon workers and employers could be effective in driving compliance.**

Ensure diverse representation of New York’s nail salon workforce—including the most marginalized workers—in any initiatives to raise and enforce standards.

Having established the importance of solutions that include workers and support worker agency, it is also essential for these initiatives to recognize and represent the full diversity of the workforce. Nail salon workers in New York are a highly diverse workforce, and different groups occupy distinct positions within the informal “ethnic hierarchy” of the workplace, leading to differing experiences of working conditions, power dynamics, and opportunities for mobility. Initiatives to raise standards and strengthen enforcement in the industry should involve workers who represent diverse backgrounds in order to ensure solutions are relevant to these different experiences. Further, our findings on the heightened insecurity of undocumented workers and the relegation of some groups to the bottom rungs of the workplace hierarchy underscore the necessity of including the most marginalized workers in the development of any solutions. Here again, the role of worker and community organizations will be essential as trusted bridges for meaningful inclusion of workers who are often excluded.

Make training more accessible and relevant for nail salon workers.

Access to formal and informal opportunities for training and skill-building emerged as an important means for nail salon workers to secure higher wages, to feel empowered to speak out, and to experience greater job security. While informal job categories with different pay scales

appear to exist in many salons, opportunities to learn new skills and get promoted are often unevenly distributed, with some workers citing discrimination based on their race/ethnicity or immigration status. **Training for both licensing and skill-building should be made widely accessible for nail salon workers, including the creation of standardized channels for training and promotion.** For example, a labor standards board could establish wage scales with steps for training and experience.¹²⁶ **Special attention must also be paid to the diversity of the nail salon workforce—recognizing diversity of ethnic background, primary language, literacy, and immigration status—to ensure that any training and licensing processes are fully accessible to all workers.**

The New York Nail Salon Worker School—also known as the NYCOSH Beauty School—provides an effective model of the type of training programs that should be expanded and funded. The NYCOSH Beauty School is a non-profit alternative to for-profit beauty schools that many workers find unaffordable and uses a highly effective popular education pedagogy that yields a 95% pass rate for the licensing exam. The organizations involved in convening the Beauty School—NYCOSH, Adhikaar, and Workers United—were also involved in lobbying the state to expand language options for the licensing exam, provide low-literacy options for the exam, and to establish a new “trainee” category of licensing that is more attuned to how hiring in the industry actually operates. These organizations are thus well positioned to understand and implement training approaches that are genuinely accessible to nail salon workers. In addition to the training program for licensing, the Beauty School provides workshops on nail salon workers’ rights and creates a pathway for workers to engage in organizing—ultimately helping to cultivate workers’ power and voice in New York’s nail salon industry.

ENDNOTES

1. Bernhardt, A., Milkman, R., Theodore, N., Heckathorn, D. D., Auer, M., DeFilippis, J., González, A.L., Narro, V. & Perelshteyn, J. (2009). *Broken laws, unprotected workers: Violations of employment and labor laws in America's cities*. Bernhardt, A., Boushey, H., Dresser, L. & Tilly, C. (Eds.). (2008). *The gloves-off economy: Workplace standards at the bottom of America's labor market*. Ithaca, NY: Cornell University Press; Cooper, D. and Kroeger, T. (2017). *Employers steal billions from workers' paychecks each year*. Economic Policy Institute; Figueroa, M., Guallpa, L., Wolf, A., Tsitouras, G., & Colón Hernández, H. (2021). *Essential but unprotected: App-based food couriers in New York City*. Cornell University, ILR School, The Worker Institute and Workers' Justice Project; Hinkley, S., Bernhardt, A. & Thomason, S. (2016). *Race to the bottom: How low-road subcontracting affects working conditions in California's property services industry*. University of California, Berkeley, Center for Labor Research and Education; Milkman, Ruth, Ana Luz González, and Peter Ikeler. (2012). Wage and hour violations in urban labour markets: A comparison of Los Angeles, New York and Chicago. *Industrial Relations Journal* 43(5): 378–98.
2. *Ibid.*
3. The U.S. Small Business Administration defines a "microbusiness" as a firm with one to nine employees. Retrieved from: https://www.sba.gov/sites/default/files/Microbusinesses_in_the_Economy.pdf
4. Eckstein, S., & Nguyen, T.-N. (2011). The making and transnationalization of an ethnic niche: Vietnamese manicurists. *The International Migration Review*, 45(3), 639–674.
5. Oh, J.-H. (2007). Economic incentive, embeddedness, and social support: A study of Korean-owned nail salon workers' rotating credit associations. *International Migration Review*, 41(3), 623–655; Kang, M. (2010). *The managed hand: Race, Gender, and the body in beauty service work*. Berkeley: University of California Press.
6. Kang, 2010, *The managed hand*; Sharma, P., Waheed, S., Nguyen, V., Stepick L., Orellana, R., Katz, L., Kim, S. Lapira, K. (2018). *Nail files: A study of nail salon workers and industry in the United States*. UCLA Labor Center and California Healthy Nail Salon Collaborative. On the number of Chinese nail salon workers in New York State, see the "Mapping the Workforce" section.
7. For an exploration of this dynamic in the realm of paid reproductive labor, see Glenn, E. N. (1992). From servitude to service work: Historical continuities in the racial division of paid reproductive labor. *Signs: Journal of Women in Culture and Society*, 18(1), 1-43.
8. Sassen, S. (2001). *The global city: New York, London, Tokyo*. United Kingdom: Princeton University Press.; Kang, 2010, *The managed hand*.
9. Willet, J. (2005). Hands across the table: A short history of the manicurist. *Journal of Women's History*, 17(3), 59–80.; Kang, 2010, *The managed hand*.
10. Bernhardt et al., 2009; Bernhardt et al., 2008.
11. Bernhardt, A., Spiller, M. W., & Theodore, N. (2013). Employers gone rogue: Explaining industry variation in violations of workplace laws. *Industrial and Labor Relations Review*, 66(4), 808–832.
12. New York Nail Salon Workers Association and NY NJ Regional Joint Board of Workers United (2020). *Race to the bottom: Low prices & stolen wages in NY's nail salon industry*; Sharma et al., 2018.
13. *Race to the bottom*; Nir, S. M. (2015a, May 8). The price of nice nails. *The New York Times*. <https://www.nytimes.com/2015/05/10/nyregion/at-nail-salons-in-nyc-manicurists-are-underpaid-and-unprotected.html>
14. Carré, F. (2015, June). *(In)dependent contractor misclassification* (No. 403). Economic Policy Institute. <https://www.epi.org/publication/independent-contractor-misclassification/>.
15. Sharma et al., 2018; see also *One fair wage denied: Chasing compliance in NY's nail salon industry*. (2021). New York Nail Salon Workers Association (Workers United).
16. Nail salon workers in New York can only operate as independent contractors if they have an appearance enhancement business license and fulfill the attendant requirements (in addition to having a Nail Specialty License). See requirements here: https://dos.ny.gov/system/files/documents/2022/03/appearance_enhancement_dec_2020.pdf
17. *One fair wage denied*, 2021
18. See "Timeline: Recent legislative and regulatory changes in New York's nail salon industry" and "Worker advocacy driving industry change" for more details. The required minimum wage is \$15 per hour in New York City, Long Island, and Westchester County, and \$13.20 per hour in the remainder of New York State. See: <https://dol.ny.gov/minimum-wage-0>
19. Huynh, TB, Doan, N, Trinh, N, Verdecias, N, Stalford, S, Carroll-Scott, A. (2019). Factors influencing health and safety practices among Vietnamese nail salon technicians and owners: A qualitative study. *Am J Ind Med*. 2019; 62: 244– 252.; Ma, G.X., Wei, Z., Husni, R. et al. (2019). Characterizing occupational health risks and chemical exposures among Asian nail salon workers on the East Coast of the United States. *J Community Health* 44, 1168–1179; Sharma et al., 2018; Nguyen, L. V, Diamond, M. L., Kalenge, S., Kirkham, T. L., Holness, D. L., & Arrandale, V. H. (2022). Occupational exposure of Canadian nail salon workers to plasticizers including phthalates and organophosphate esters. *Environmental Science & Technology*, 56(5), 3193–3203.
20. Huynh et al., 2019; Walsh, S. A. (2012). Beyond the polish: An examination of hazardous conditions in nail salons and potential solutions for the industry in New York City. *Journal of Law & Policy*, 21(1), 243–282.
21. Roelofs, C., Azaroff, L. S., Holcroft, C., Nguyen, H., & Doan, T. (2008). Results from a community-based occupational health survey of Vietnamese-American nail salon workers. *Journal of Immigrant and Minority Health*, 10(4), 353–361; Quach, T., Nguyen, KD., Doan-Billings, PA. et al.

- (2008). A preliminary survey of Vietnamese nail salon workers in Alameda County, California. *Journal of Community Health*, 33(5), 336–343.
22. Quach T, Von Behren J, Goldberg D, Layefsky M, Reynolds P. (2015). Adverse birth outcomes and maternal complications in licensed cosmetologists and manicurists in California. *International Archives of Occupational and Environmental Health*, 88(7), 823–833; Quiros-Alcala, L., Pollack, A. Z., Tchangalova, N., DeSantiago, M., & Kavi, L. K. (2019). Occupational exposures among hair and nail salon workers: a scoping review. *Current Environmental Health Reports*, 6(4), 269-285.
23. Gerstein (2020) highlights this pattern across the United States, noting that much of the new state and local legislation protecting workers has been passed as a result of substantial organizing by worker and community organizations. Gerstein, T. (2020). State and local workers' rights innovations: New players, new laws, new methods of enforcement. *Saint Louis University Law Journal*, 65(1).
24. See Kang (2010) for a brief description of these organizing and advocacy efforts in the 1990s and 2000s. Kang, M. (2010). Manicuring intimacies: Inequalities and resistance in nail salon work. In E. Boris & R. Salazar Parreñas (Eds.), *Intimate labors: Cultures, technologies, and the politics of care* (pp. 217–230). Stanford University Press..
25. Kang, 2010, Manicuring intimacies; see also <https://www.cahealthynailsalons.org/>
26. The history outlined in this section draws on conversations with the New York Healthy Nail Salons Coalition and its member organizations, as well as on the other sources cited throughout.
27. The workshops were funded by a three-year OSHA (Occupational Safety and Health Administration) grant.
28. See Policy Report: How Safe is Your Nail Salon? here: <https://s3.documentcloud.org/documents/1392469/policy-report-how-safe-is-your-nail-salon-by-new.pdf>; also see <https://adhikaar.org/nail-salon-campaign/>
29. Nir, S. M. (2015, May 8). The price of nice nails. *The New York Times*. <https://www.nytimes.com/2015/05/10/nyregion/at-nail-salons-in-nyc-manicurists-are-underpaid-and-unprotected.html>
30. The Editorial Board. (2015, May 12). Opinion | Justice for nail salon workers. *The New York Times*. <https://www.nytimes.com/2015/05/12/opinion/justice-for-nail-salon-workers.html>
31. See details about the Nail Specialty Trainee license here: <https://dos.ny.gov/nail-specialty-trainee>
32. See an overview of the New York Nail Salon Worker School here: <https://nycosh.org/initiatives/new-york-nail-salon-worker-school/>
33. Krieger, S. (2020, January 13). NY nail salon worker school graduates 500th student. *LaborPress*. <https://www.laborpress.org/ny-nail-salon-worker-school-graduates-500th-student/>
34. Covert, B. (2018, August 23). “Algo hermoso”: NY nail salon workers join fight for a fair wage. *Rewire News Group*. <https://rewirenewsgroup.com/article/2018/08/23/algo-hermoso-ny-nail-salon-workers-join-fight-for-a-fair-wage/>
35. Nir, S. M. (2015, May 11). Cuomo orders emergency measures to protect workers at nail salons. *The New York Times*. <https://www.nytimes.com/2015/05/11/nyregion/cuomo-orders-emergency-measures-to-protect-workers-at-nail-salons.html>
36. See the Nail Salon Worker Bill of Rights here: <https://dol.ny.gov/system/files/documents/2021/12/p718-12-21.pdf>
37. See “Information for Nail Salon Owners” here: <https://www.ny.gov/nail-salon-safety-what-you-need-know/information-nail-salon-owners>
38. See “Information for Nail Salon Owners” here: <https://www.ny.gov/nail-salon-safety-what-you-need-know/information-nail-salon-owners>
39. Nir, S. M. (2016, July 22). Ventilation to be required in all New York nail salons. *The New York Times*. <https://www.nytimes.com/2016/07/22/nyregion/ventilation-to-be-required-in-all-new-york-nail-salons.html>
40. The Department of State issued an emergency regulation allowing businesses until April 4, 2022 to comply. The emergency action amended Section 160.16 of Title 19 of the New York Codes, Rules and Regulations (NYCRR). Retrieved from: <https://dos.ny.gov/nail-specialty>
41. See the stages of phasing in the \$15 per hour minimum wage here: <https://www.ny.gov/new-york-states-minimum-wage/new-york-states-minimum-wage>
42. Retrieved from: <https://www.governor.ny.gov/news/governor-cuomo-announces-end-subminimum-wage-across-miscellaneous-industries-statewide>
43. For more on community-based participatory research (CBPR), see Wallerstein, N. & Bonnie, D. (2018). “The theoretical, historical and practice roots of CBPR.” In Wallerstein, N., Duran, B., Oetzel, J.G. & Minkler, M. (Eds). *Community-based participatory research for health: Advancing social and health equity*. (Third edition.) San Francisco, CA. For more on Critical Participatory Action Research (CPAR), see Fine, M., Torre, M. E., Oswald, A. G., & Avory, S. (2021). Critical participatory action research: Methods and praxis for intersectional knowledge production. *Journal of Counseling Psychology*, 68(3), 344.
44. Fine et al., 2021
45. Data were retrieved from IPUMS USA: Steven Ruggles, Sarah Flood, Sophia Foster, Ronald Goeken, Jose Pacas, Megan Schouweiler and Matthew Sobek. IPUMS USA: Version 11.0. Minneapolis, MN: IPUMS, 2021. <https://doi.org/10.18128/D010.V11.0>
46. The term “Nepali-speaking” is used by Adhikaar to describe their membership in order to be inclusive of those who speak Nepali but do not identify as Nepalese. Adhikaar defines the Nepali-speaking community as descendants of Nepal, Bhutan, India, Burma, and Tibet that speak Nepali. We follow this convention throughout the report when speaking about this population of nail salon workers.
47. Sharma et al., 2018; BLS. “Occupational Employment and Wages, May 2020. 39-5092 Manicurists and Pedicurists.” <https://www.bls.gov/oes/current/oes395092.htm>
48. See Nir, 2015, The price of nice nails.

49. BLS. "All Employees in Private NAICS 812113 Nail salons for All establishment sizes in New York -- Statewide, NSA (Series ID ENU36000105812113)". <https://data.bls.gov/cgi-bin/srgate>

50. This list of nail salons was generated from business datasets compiled by our research team, previous Workers United surveys, and data from Yelp and Google.

51. 2021 Nail Salon Survey

52. Bernhardt et al., 2013

53. A Nails Magazine survey found the nationwide average price of a manicure in 2018 to be \$21.34. NAILS Magazine. The Big Book 2018-2019. Retrieved from: <https://lsc-pagepro.mydigitalpublication.com/publication/?m=61302&i=612248&p=14&pre=1&ver=html5>

54. 2021 Nail Salon Survey

55. 2021 Nail Salon Survey

56. Nails Magazine, The Big Book 2018-2019.

57. Sharma et al., 2018.

58. Berry-James, R. M., Gooden, S. T., & Johnson III, R. G. (2020). Civil rights, social equity, and Census 2020. *Public Administration Review*, 80(6), 1100-1108.

59. Data in this section were retrieved from IPUMS USA: Steven Ruggles, Sarah Flood, Sophia Foster, Ronald Goeken, Jose Pacas, Megan Schouweiler and Matthew Sobek. IPUMS USA: Version 11.0. Minneapolis, MN: IPUMS, 2021.

60. New York has the highest concentration of Manicurists and Pedicurists per 1,000 jobs in the nation, at roughly 1.37. BLS. "Occupational Employment and Wages, May 2020. 39-5092 Manicurists and Pedicurists." <https://www.bls.gov/oes/current/oes395092.htm>

61. Data in this section were retrieved from IPUMS USA: Steven Ruggles, Sarah Flood, Sophia Foster, Ronald Goeken, Jose Pacas, Megan Schouweiler and Matthew Sobek. IPUMS USA: Version 11.0. Minneapolis, MN: IPUMS, 2021.

62. Unfortunately, this estimation procedure is not entirely straightforward. Up until 2019, PUMS data for number of weeks worked were reported in "bins" (e.g., 1-13 weeks, 14-26 weeks, ... , 50-52 weeks). As such, it is not possible to identify the precise number of weeks worked for persons who responded to the ACS prior to 2019 (recall that the ACS data used in this report were collected over a five-year period from 2015 to 2019). To overcome this challenge, the author drew on the "unbinned" data on weeks worked that were collected from respondents in 2019. Specifically, starting in 2019, all workers who respond to the ACS are now asked to report the exact number of weeks they worked in the prior year. While the PUMS data provide these precise values for 2019 respondents, they also—for consistency and compatibility with older data—continue to report each respondent's weeks worked "bin." This memo therefore computes the average (precise) number of weeks worked for 2019 respondents, by bin, for all workers in New York State. It then assigned that "regional typical" bin value to persons within that bin who responded to the PUMS prior to 2019.

A second complication arises in the way that income is recorded and hours worked are reported. Namely, some respondents report that they work for wages and have self-employment income. However, the ACS only collects one

data point per worker on "hours worked." Accordingly, it is not possible to decipher how many hours might be dedicated to wage work versus self-employment. To address this issue, the memo relied on the PUMS variable "earned income" as opposed to "wage and salary income." Earned income is simply income earned from wages/salary plus income earned through self-employment. Both numbers are annualized. For workers who work only for wages (and do not have self-employment income), earned income is equal to wage and salary income. Adopting all of the preceding assumptions and analytical strategies, each worker's effective (self-reported) hourly wage was calculated as:

Annual Earned Income / (Number of Weeks Worked * Hours Worked per Week)

This value was computed for all noninstitutionalized persons 16 years or older who reported that they were in the labor force and earned income at the time they responded to the ACS. Note that self-reported hours worked may include or reflect uncompensated work time. It is not possible to identify these specific cases with certainty. However, it is reasonable to assume that at least some workers whose effective hourly wages are below minimum wage, and whose occupations are not currently exempt from minimum wage laws, have been impacted by employer wage theft. Because these considerations are outside the immediate scope of this report, the memo merely flags this possibility for future research.

63. MIT Living Wage Calculator. "Living Wage Calculation for New York." <https://livingwage.mit.edu/states/36>

64. The required minimum wage is \$15 per hour in New York City, Long Island, and Westchester County, and \$13.20 per hour in the remainder of New York State. Retrieved from: <https://dol.ny.gov/minimum-wage-0>

65. Sharma et al., 2018

66. Berry-James, R. M., Gooden, S. T., & Johnson III, R. G. (2020). Civil rights, social equity, and Census 2020. *Public Administration Review*, 80(6), 1100-1108.

67. This worker was the only male participant across all of the focus groups.

68. *The New York Times* investigation documented this system as well, and translated the classifications as "Big Job," "Medium Job," and "Little Job" workers. See Nir, 2015, *The price of nice nails*.

69. Based on a review of job listings posted on <https://168worker.com/> in February 2022.

70. See details about the Nail Specialty Trainee license here: <https://dos.ny.gov/nail-specialty-trainee>

71. This informal apprenticeship was also described in Nir, 2015, *The price of nice nails*.

72. As of January 1, 2020, nail salon workers must be paid the full minimum wage (rather than the subminimum wage for tipped workers). The required minimum wage is \$15 per hour in New York City, Long Island, and Westchester County, and \$13.20 per hour in the remainder of New York State. Retrieved from: <https://dol.ny.gov/minimum-wage-0>

73. Some of the meal break practices described by respondents seem to accord with labor law requirements, while others may be in violation of the length and/or timing of required meal breaks. According to Labor Law Section

- 162, non-factory employees in New York State are entitled to a 30-minute lunch break between 11am and 2pm for shifts that last six hours or longer during that period of time. For shifts of more than six hours that begin between 1pm and 6am, employees are entitled to a 45-minute meal break midway between the beginning and end of the shift. Further, all employees are entitled to an additional 20-minute meal break between 5pm and 7pm for workdays that extend from before 11am to after 7pm. Retrieved from: <https://dol.ny.gov/system/files/documents/2021/03/meal-and-rest-periods-frequently-asked-questions.pdf>
74. Employers in New York State with 5 to 99 employees must provide up to 40 hours of paid sick leave per calendar year; note that this benefit is mandated for employees, not workers who are classified as independent contractors. Retrieved from: <https://www.ny.gov/programs/new-york-paid-sick-leave>
75. The Department of State noted that in consideration of the COVID-19 pandemic, it would issue an emergency regulation allowing businesses until April 4, 2022 to comply. The emergency action amended Section 160.16 of Title 19 of the New York Codes, Rules and Regulations (NYCRR). Retrieved from: <https://dos.ny.gov/nail-specialty>
76. Willett, 2005; Kang, 2010, *Manicuring intimacies*; Phan, D. T. (2016). *Unpretty nails: Addressing workers rights violation within the Vietnamese nail salon industry*. *UCLA Asian Pacific American Law Journal*, 21(81), 81–106.
77. It is not possible to corroborate this participant’s perception that more Chinese immigrant nail salon workers have legal immigration status than did earlier in her career.
78. Herrera, L., Waheed, S., Macias, M., Fu, L., Nguyen, T., Nguyen, D. (2021). *Reopening during COVID-19: The experience of nail salon workers and owners in California*. California Healthy Nail Salon Collaborative and UCLA Labor Center.
79. Employers in New York State with 5 to 99 employees must provide up to 40 hours of paid sick leave per calendar year; note that this benefit is mandated for employees, not workers who are classified as independent contractors. Retrieved from: <https://www.ny.gov/programs/new-york-paid-sick-leave>
80. U.S. citizens, legal permanent residents (“green card” holders), and those with Temporary Protected Status (TPS) are eligible for Medicaid. Undocumented immigrants are only eligible for Medicaid for the treatment of emergency medical conditions and prenatal care. Retrieved from: <https://www1.nyc.gov/site/ochia/coverage-care/medicaid.page>
81. Undocumented workers are not eligible for unemployment benefits under the current state and federal systems. See Smith, R. 2020. “Immigrant Workers’ Eligibility for Unemployment Insurance.” National Employment Law Project. <https://www.nelp.org/publication/immigrant-workers-eligibility-unemployment-insurance/>. Workers who are classified as independent contractors or who are working “off the books” are also ineligible for unemployment benefits. One temporary exception existed during the COVID-19 pandemic: “Pandemic Unemployment Assistance was a federal program that was part of the Coronavirus Aid, Relief and Economic Security (CARES) Act that provided extended eligibility for individuals who have traditionally been ineligible for Unemployment Insurance benefits (e.g., self-employed workers, independent contractors).” Retrieved from: <https://dol.ny.gov/unemployment/unemployment-insurance-benefits-self-employed-contractors-and-farmers>
82. Phan, 2016; Kang, 2010, *Manicuring intimacies*
83. Kang 2010: 223, *Manicuring intimacies*
84. Based on a review of job listings posted on <https://168worker.com/> in February 2022. See also: Nir, 2015, *The price of nice nails*.
85. See the “Methodology” section for a more detailed explanation of the recruitment of focus group participants.
86. Waldinger & Lichter refer to the ranking of job candidates by ethnic or racial groups as a “hiring queue.” See Waldinger, R. D. and M. I. Lichter. 2003. *How the other half works: Immigration and the social organization of labor*. University of California Press. For another description of an ethnic hierarchy among nail salon workers, see Nir, 2015, *The price of nice nails*.
87. Kang 2010, *The managed hand*; Willett, 2005. This dynamic was also featured in an episode of the TV show *Seinfeld*.
88. Kang 2010, *The managed hand*
89. *Race to the bottom*, 2020; *One fair wage*, 2021
90. Bernhardt et al., 2008; Bernhardt et al., 2009; Cooper and Kroeger, 2017; Figueroa et al., 2021; Hinkley et al., 2016; Milkman et al., 2012.
91. Bernhardt et al., 2009
92. Madland, D. (2021, April). *Raising standards for fast-food workers in California: The powerful role of a sectoral council*. Center for American Progress. <https://www.americanprogress.org/article/raising-standards-fast-food-workers-california/>
93. For an analysis of variations in workers’ bargaining power, see Silver, Beverly J. (2003). *Forces of labor: Workers’ movements and globalization since 1870*. Cambridge University Press.
94. On nail salons declaring bankruptcy when workers file claims, see Phan, 2016.
95. Ken Jacobs, Rebecca Smith, and Justin McBride. (2021). *State and local policies and sectoral labor standards: From individual rights to collective power*. IRLE Working Paper No. 104-21.
96. For example, unions and worker organizations that participate in labor standards boards or sectoral councils are not certified as bargaining agents for all affected workers. See Andrias, K., & Rogers, B. (2018). *Rebuilding worker voice in today’s economy*. Roosevelt Institute: New York, NY, USA.
97. Andrias and Rogers, 2018; see also “Sectoral Bargaining: Principles for Reform” (2021). Principles for Sectoral Bargaining. <https://concerned-sectoral-bargaining.medium.com/sectoral-bargaining-principles-for-reform-7b7f2c945624>
98. Andrias and Rogers, 2018; Jacobs et al., 2021; Andrias, K. (2016). *The new labor law*. *Yale Law Journal* 126(1). For the history of wage boards in the New Deal era, see Andrias, K. (2018). *An American approach to social democracy: The forgotten promise of the Fair Labor Standards Act*. *Yale Law Journal*, 128 (3).
99. Andrias and Rogers, 2018; Jacobs et al., 2021.

100. See the Healthy Nail Salons certification program of the California Healthy Nail Salon Collaborative, which focuses on health and safety standards: <https://www.cahealthynailsalons.org/healthy-nail-salon>. Adhikaar also convenes a group of Nepali-speaking nail salon employers with the aim of supporting high-road business practices.
101. The board was established through passage of the Domestic Workers Ordinance (Seattle Municipal Code [SMC] §14.23). See <https://www.seattle.gov/domestic-workers-standards-board>
102. Jacobs et al., 2021
103. McGeehan, P. (2015, July 23). New York plans \$15-an-hour minimum wage for fast food workers. *The New York Times*. <https://www.nytimes.com/2015/07/23/nyregion/new-york-minimum-wage-fast-food-workers.html>. See also: “A \$15 minimum wage for New York’s fast-food workers.” (July 2015). National Employment Law Project. <https://www.nelp.org/wp-content/uploads/Fact-Sheet-15-Minimum-Wage-for-New-York-Fast-Food-Workers.pdf>
104. See “Farm Laborers Wage Board Hearings” here: <https://dol.ny.gov/farm-laborers-wage-board-hearings>
105. Sainato, M. (2022, March 1). ‘We’ll be heard’: California could grant fast food workers unprecedented power. *The Guardian*. <https://www.theguardian.com/us-news/2022/mar/01/california-fast-food-workers-bill-fast-recovery-act>; Madland, 2021.
106. Madland, 2021.
107. Dubal, V. (2022, January). Sectoral bargaining reforms: Proceed with caution. *New Labor Forum*, 31(1), 11-14.
108. Andrias, 2016; Jacobs et al., 2021; Principles for sectoral bargaining, 2021; Cohen, L. (2022, January). US bargaining and organizing rights trail every other democracy. In *New Labor Forum* 31(1), 8-10.
109. Jacobs et al., 2021.
110. Andrias & Rogers, 2018; Jacobs et al., 2021.; Richman, D. S. (2020). *Tell the bosses we’re coming: A new action plan for workers in the twenty-first century*. United States: Monthly Review Press.
111. For examples, see Jacobs et al., 2021.
112. Fine, J. (2017). Enforcing labor standards in partnership with civil society: Can co-enforcement succeed where the state alone has failed? *Politics and Society*, 45(3), 359–388.
113. Fine 2017; Patel, S.N. and Fisk C.L. (2017). California co-enforcement initiatives that facilitate worker organizing. Harvard Law School Symposium; Fine, J., & Bartley, T. (2019). Raising the floor: New directions in public and private enforcement of labor standards in the United States. *Journal of Industrial Relations*, 61(2), 252–276.
114. Patel and Fisk, 2017
115. Fine, 2017
116. Patel and Fisk, 2017
117. Fine, 2017; Galvin, D. J. (2016). Deterring wage theft: Alt-labor, state politics, and the policy determinants of minimum wage compliance. *Perspectives on Politics*, 14(2), 324–350; Weil, D. and Pyles, A. (2005). “Why complain? Complaints, compliance, and the problem of enforcement in the US workplace,” *Comparative Labor Law & Policy Journal* 27(59).
118. Weil and Pyles, 2005; Fine, 2017
119. Strategic enforcement was initially introduced at the federal Wage and Hour Division (WHD) under the leadership of David Weil, who was Administrator of the division from 2014-2017. See Weil, D. (2018). Creating a strategic enforcement approach to address wage theft: One academic’s journey in organizational change. *Journal of Industrial Relations*, 60(3), 437–460. .
120. Barker, K., & Buettner, R. (2016, February 29). Nail salon sweeps in New York reveal abuses and regulatory challenges. *The New York Times*. <https://www.nytimes.com/2016/03/01/nyregion/nail-salon-sweeps-in-new-york-reveal-abuses-and-regulatory-challenges.html>
121. The examples in this paragraph derive from Gerstein, 2020.
122. For an overview, see West, Z., Pinto, S., and Wagner, K.C. *Sweeping change: Building survivor and worker leadership to confront sexual harassment in the janitorial industry*. Ithaca, NY: Cornell University, ILR School, The Worker Institute.
123. California Legislative Information. (2016). “AB-1978 Employment: property service workers.” Retrieved from: https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1978
124. California Legislative Information. (2019). “AB-547 Janitorial workers: Sexual violence and harassment prevention training.” Retrieved from: https://leginfo.ca.gov/faces/billCompareClient.xhtml?bill_id=201920200AB547
125. Barker and Buettner, 2016.
126. Jacobs et al., 2021

Author Bios

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Zoë West, PhD, is an anthropologist and oral historian whose work centers on labor organizing, low-wage work, and migration. Her current projects include research on alternative labor organizing models and an oral history of gender, work and activism during the COVID-19 pandemic. She teaches courses on labor, immigration, and oral history at Columbia University and the Harry Van Arsdale Jr. School of Labor Studies at SUNY Empire State College. As a founding member of Rhiza Collective, Zoë works with organizations to develop training programs for political education and grassroots leadership development. She edited and compiled the oral history collection *Nowhere to Be Home: Narratives from Survivors of Burma's Military Regime* (McSweeney's, 2011; NDSP Books, 2016). Zoë has a PhD in Social Anthropology from the University of Oxford.

Russell Weaver

Russell Weaver, PhD, is a quantitative geographer and Director of Research at the Cornell ILR Buffalo Co-Lab. He was previously an Associate Professor (with tenure) in the Texas State University Department of Geography, where he taught courses in community geography, community development, urban planning, geographic thought, and quantitative data analysis. His research programs are aimed at understanding pathways for context-sensitive, sustainable, and equitable community economic development. He is the lead author of *Shrinking Cities: Understanding Urban Decline in the United States*, and his work appears in such journals as *The Annals of the American Association of Geographers*, *Ecological Economics*, *Applied Geography*, and *Community Development*. Weaver holds a master's degree in Economics and a PhD in Geography from SUNY Buffalo.

KC Wagner

KC Wagner chairs the Equity at Work Initiative at The Worker Institute at Cornell ILR. She has specialized in the prevention of sexual harassment, gender bias, bullying, gender-based violence, and promoting inclusiveness in the workplace for over 30 years. KC has provided training to worker centers, unions, corporations, non-profit, educational, and government organizations in diverse industries, professions, and workplace settings. She has also provided educational coaching to those who have engaged in harassing behaviors, developed programs that engage men as allies in addressing sexual and gender-based violence, testified as an expert witness in several landmark sexual harassment cases, and engaged in applied and participatory research on related issues. In New York, she has received recognition for her work around sexual and gender-based violence from Cornell's Advisory Committee on the Status of Women, the New York State Coalition Against Domestic Violence, and the New York Metropolitan Chapter of the US National Committee for UN Women. KC holds a Masters in Social Work from Hunter College School of Social Work and a Master's of Labor and Industrial Relations from Rutgers University.

Organizational Bios

Adhikaar for Human Rights & Social Justice



Founded in 2005, Adhikaar, meaning “rights” in Nepali, is a women-led community

and workers’ center that provides direct services to the Nepali-speaking community and organizes low-income workers and impacted community members to promote social justice and human rights. We create access to information, build community leadership, and grow collective power to win rights for our communities, and dignity and equity for all.

adhikaar.org

Mekong NYC



Mekong NYC is a social justice organization that brings dignity and value to the lives of Southeast Asians in the Bronx and throughout New York City.

We do this through community organizing and movement-building, centering healing through arts and culture, and creating a strong safety net rooted in community power.

mekongnyc.org

New York Committee for Occupational Safety and Health (NYCOSH)



The New York Committee for Occupational Safety and Health (NYCOSH)

is a membership organization of workers, unions, community-based organizations, workers’ rights activists, and health and safety professionals. NYCOSH uses training, education, and advocacy to improve health and safety conditions in our workplaces, our communities, and our environment. Founded in 1979 on the principle that workplace injuries, illnesses and deaths are preventable, NYCOSH works to extend and defend every person’s right to a safe and healthy workplace.

nycosh.org

New York Healthy Nail Salons Coalition



Founded in 2014 by Adhikaar and the New York Committee for Occupational Safety and Health (NYCOSH), and joined by Workers United NY NJ Regional

Joint Board in 2015, the NY Healthy Nail Salons Coalition was formed around the central idea that nail salon workers deserve just jobs: healthy workplaces with living wages and a voice in their working conditions. The Coalition includes workers, community, occupational health, consumer, and public interest law organizations to combat wage theft, health and safety violations, and other abuses in the nail salon industry. Since its founding, the coalition won the nation’s first Nail Salon Workers’ Bill of Rights in 2015, and successfully

advocated to eliminate the tipped subminimum wage for nail salon workers in 2019.

nyhealthynailsalonscoalition.square.site

New York New Jersey Regional Joint Board, Workers United



The New York New Jersey Regional Joint Board, Workers United a/w SEIU is a strong, progressive Union. We are dedicated to organizing in order to fight and change an unjust

economic system. Our Joint Board represents thousands of workers in the retail, manufacturing, and garment industries and is home to the Starbucks Workers United Campaign and the NY Nail Salon Workers Association.

workersunitednynj.org

The Worker Institute at Cornell ILR School

ILR Worker Institute

The Worker Institute at Cornell engages

in research and education on contemporary labor issues, to generate innovative thinking and solutions to problems related to work, economy and society. The institute brings together researchers, educators and students with practitioners in labor, business and policymaking to confront growing economic and social inequalities, in the interests of working people and their families. A core value of the Worker Institute is that collective representation and workers' rights are vital to a fair economy, robust democracy and just society.

ilr.cornell.edu/worker-institute



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