

Article

Why Workers' Rights Are Not Women's Rights

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Abstract: “Why workers’ rights are not women’s rights” is an argument whose purpose is to make clear why workers’ rights rest on a masculine embodiment of the labor subject and it is this masculine embodiment which is at the center of employment contracts and employment relations systems. By excavating the gender subjects implicit to and explicit in regulations of labor, the paper reveals the opposition of paired terms, masculinity and femininity privileging production over reproduction and naturalizing gender-based power relations. The paper identifies various laboring activities associated with differential rights and responsibilities. An examination of the treatment of part-time employment and waged caring labor, framed in labor, welfare, immigration, and citizenship policies and practices, locates exclusions from labor standards and exemptions from entitlements due to eligibility requirements and thresholds that assume the masculine embodiment of the worker-citizen. Gendering the analysis illustrates how contemporary labor laws and conventions grant rights on the basis of, and to, a rather abstract conception of the prototypical worker-citizen. Its origins lie in what classical political economy labeled a capitalist logic, as well as the historical practices in which free class agents entered into contracts for continuous, full-time work free of care responsibilities outside of the wage/labor nexus. Thus, it is this particular abstract construction of the proto-typical worker which instantiates the separation of “rights to” from “responsibilities for”, and it is this separation that allows the masculine embodiment of the labor subject. Modes of regulation privileging rights over responsibilities will valorize the masculine worker-citizen whose rights derive from their participation in wage labor and simultaneously devalue the feminine worker who is directly connected to caring labor.

Keywords: rights; labor law; gender; regulation; social reproduction; citizenship; shared responsibilities

1. Introduction

“Why workers’ rights are not women’s rights” is an argument whose purpose is to make clear that workers’ rights rest on a masculine embodiment of the labor subject, and it is this masculine embodiment that is at the center of employment contracts and employment relations systems. By excavating the gender subjects implicit to and explicit in regulations of labor, the paper reveals the opposition of paired terms, masculinity and femininity, privileging production over reproduction and naturalizing gender-based power relations, and identifies various laboring activities associated with differential rights and responsibilities. An examination of the treatment of part-time employment and waged caring labor, framed in labor, welfare, immigration, and citizenship policies and practices, locates exclusions from labor standards and exemptions from entitlements due to eligibility requirements and thresholds that assume the masculine embodiment of the worker-citizen.

The feminist analytics used in this paper highlights how the tension between inclusionary and exclusionary principles impacts on the capability of women workers to make claims on and to exercise rights in a political community [1]. Policies and laws draw boundaries of what constitutes work and who is recognized as a worker worthy of rights and social protections. A feminist lens also deciphers an apparent paradox; why gender unequal outcomes result despite the application of gender-neutral principles. An equal treatment frame aimed at formal equality in the labor market founders without addressing inequality of circumstances between men and women, and among differently positioned women with regard to the work of social reproduction. For this reason, legal protections and workers’ rights solely based on the wage-relation in general, and standard employment more specifically, neither guarantee nor necessarily foster egalitarian social relations that are either class or gender-based.

Gendering the analysis illustrates how contemporary labor laws and conventions grant rights on the basis of, and to, a rather abstract conception of the prototypical worker-citizen. Its origins lie in what classical political economy labeled a capitalist logic, as well as the historical practices in which free class agents entered into contracts for continuous, full-time work, free of care responsibilities outside of the wage/labor nexus. Thus, it is this particular abstract construction of the proto-typical worker which instantiates the separation of “rights to” from “responsibilities for”, and it is this separation that allows the masculine embodiment of the labor subject. Modes of regulation privileging rights over responsibilities will valorize the masculine worker-citizen whose rights derive from their participation in wage labor and simultaneously devalue the feminine worker who is directly connected to caring labor.

The paper argues that framing of “rights to” as separated from “responsibilities for” in labor laws and employment regulations has disqualified some categories of work and workers from social protections, and has disadvantaged women from claiming rights as workers. Three examples highlight relevant issues in relation to: (i) paid home care work; (ii) transnational care work; and (iii) part-time work. The first example examines unequal treatment of US female home care workers denied basic workers’ rights because their responsibilities for care of the elderly are deemed casual labor outside of labor standards. The second reviews immigration laws and citizenship policies finding that universal claims for workers’ rights by women engaged in care labor are complicated by the lack of enforcement mechanisms within and between states, and by the failure of national states to assume responsibility for ensuring workers’ rights of and offering adequate social protections to female migrant workers employed in their territorial jurisdiction. The third considers the equal treatment frame prominent in

regulations of labor: both the European Union (EU) and the International Labor Organization (ILO) have promulgated employment policies and conventions to address women's inferior position in paid labor, while issues related to responsibilities for social reproduction remain stubbornly within the purview of domestic politics.

Finally, deconstructing gendered subjects and key words in regulations of labor is a feminist project for orienting political action that can wed workers' rights to women's rights. The paper revisits socialist-feminist and feminist standpoint theories' insight that reproductive labor, particularly household caring labor, is both a locus of exploitation and a site from which resistant subjects and alternative visions might emerge [2]. A new feminist politics focused on both "rights to" and shared "responsibilities for" can dislodge the prototypical masculine worker-citizen from dominating legal protections, and can frame alternative political imaginaries tying together a feminist politics of recognition to a labor politics of redistribution. Unless "rights to" and "responsibilities for" principles are co-constitutive frames of reference, workers' rights alone will not realize gender equality and justice.

2. Rights to *versus* Responsibilities for: Framing Regulations of Labor

Frames of reference in regulation of labor privilege rights accorded to the wage labor subject without responsibilities for care. In capitalist societies, waged work is seen "as a moral duty, as life's most noble calling, and as the necessary center of social rights and citizenship" [3]. Citizenship confers exclusive rights and duties to an individual *vis-à-vis* a sovereign state, whereas the more expansive social rights extends "entitlements [including welfare and social wages] enjoyed by citizens and are enforced by courts within the national framework of a sovereign state" ([4], p. 167). More specifically, labor regulations codify basic rights and benefits to a worker-citizen based on formal participation in the waged labor force.

Labor regulations and laws govern employment relationships, including both implicit and explicit contractual rights and obligations, are both class- and gender-based. In general, labor regulations constrain an unfettered capitalist marketplace, imposing rules on "the exercise of discretion by those with market or institutional power" ([5], p. 1), which can significantly modify both employer and union behavior ([6], p. 5). Yet, employers' prerogatives render some subjects out-of-bounds from regulation. Fundamentally, labor law assumes that the individual enters the labor market free of responsibilities for care. Since women are charged with this responsibility for childcare (reproduction) and household maintenance (consumption), they do not enter the labor market as free rational agents like men do [7]. In this way, the labor subject in regulations is already gendered. Much of labor law and employment regulation derives labor standards based on the hetero-normative masculine embodiment of the labor subject who is presumed to engage in waged work without interruptions for care responsibility.

Since the 1930s, Fordist labor regulations standardized benefits around an implicit male work biography of continuous employment paying a family-wage, a set of social benefits and entitlements, and regulatory protections in a national context ([8], p. 10). A system of legally binding agreements, centralized and coordinated bargaining along with a network of laws reinforced what Muckenberger (1989) has called the standard employment relationship or SER (*Normalarbeitsverhaeltnis*). This relationship was built on and assumed a gender division of labor in which a male-breadwinner would provide financial support while a female-care giver would perform unpaid domestic labor to sustain the family. Contractually, those workers, either male or female, who deviate from this standard, suffer

penalties in terms of foregone promotions and training, lost earnings, limited pensions, and a risk of social exclusion. Temporally, time thresholds, imposed as a basis of qualification for benefits, exclude or differentially include nonstandard employment from regulation or subject them to different and often inferior protection. For example, fair labor standards regulation basing eligibility against a historically negotiated standard work schedule withholds overtime pay from many nonstandard workers when calculating their overall working time. Regulatory measures and labor law frameworks do not adequately grasp or respond to fragmented temporal features such as unpredictable hours, long and split shifts, periods of on-call duty, that are typical of domestic work ([9], p. 513). Labor regulations fashioned around a prototypical masculine worker-citizen as the implicit norm for and the basis of explicit rights to employment protections and entitlements have disregarded responsibility for care¹.

Labor laws discursively and materially accord differential rights across categories of work and workers, either through exclusion altogether or through exemption from a range of entitlements. All non-waged workers fall outside labor law jurisdiction, are classified as non-employed and therefore ineligible for rights associated with wage employment. Some waged workers enjoy differential treatment because of their employment status (as informal labor) and/or because of their worker's status (as a welfare recipient, as a prisoner, or as a non-citizen). Regardless of the number of years worked and the intensity of their labor, informal labor does not qualify for most employment-related entitlements. More generally, there are legal boundary markers differentiating rights and obligations based on categorical differences created and enforced by jurisdictions. "Jurisdiction sorts the where [territory], the who [authority], the what, and the how of governance..." [10]. These jurisdictions can create "different bundles of rights and responsibilities for similar activities"², in part, because the status of the worker or the labor activity can cross "a number of jurisdictional boundaries between nation states, different areas of law and different levels [and agencies] of government within a nation" ([11], p. 237). Within the national state, agencies (e.g., welfare, immigration, and prisons) issue their own "labor rules" that apply different labor standards based on the classification of the work and workers [12]; for example, workfare rules derive from welfare agencies and guest workers come under the jurisdiction of immigration laws. Each agency determines its own labor rules and their associated rights: for example, who and what types of work are worthy of protection; what claims can be made and by whom; and what labor activities are deserving of legal recognition. More specifically, welfare policies and agencies dictate work conditions and contractual rights that may not comply with general labor standards law, such as mandatory workfare programs that force welfare recipients to work in jobs that may pay subminimum wages. Likewise, the domain of immigration law and citizenship requirements determines the lives and livelihoods of non-citizens working in a bounded national territory. Immigration law may allow for the issuing of special work visas stipulating different workers' rights based on their legal status rather than on the nature of their work performed. Altogether, various jurisdictions construct the standard worker so that some categories of work and workers, both paid and unpaid, do not enjoy the same entitlements and rights.

¹ Even an economic "Bill of Rights", guaranteeing a right to a job or a right to a job paying a living wage, value wage labor over non-market work.

² I want to thank Penelope Ciancanelli, Frances Raday, and the anonymous reviewer for their extensive and insightful comments.

Determining which area of law, which government agency, and which level of the government(s) (state, provincial, federal, national, transnational) oversees the governance of a worker and the enforcement of her rights also can cause what Fudge calls “jurisdictional conundrums” ([11], pp. 243–44). Judy Fudge identifies such conundrums arising from global care chains, employment agencies in the case of domestic migrant workers who perform live-in work in Canadian homes. Migrant domestic workers ‘transgress’ jurisdictional boundaries; their status as temporary workers and as migrants complicates jurisdictional boundaries for claiming and exercising rights accorded by law, and exempts them from an array of labor (working time) and gender regulations (such as childcare subsidies, maternity leave). She goes on to show that: “The objects of governance—what is to be regulated—whether domestic work is a matter of family law or employment law or whether migrant workers fall within immigration or labor law—are associated with governance technologies (how the object should be governed), which in turn, can be understood in terms of institutional capacities and rationalities” ([11], p. 243). Jurisdictional conundrums describe conflicts and tensions over institutional responsibilities for legal governance.

Women working full-time, full-year in so-called standard employment also encounter differential treatment than men, on average earning lower wages, enjoying fewer opportunities for overtime pay, seniority benefits, and promotional/training. In general, labor regulations, by legal statute and/or by collective bargaining agreements, have fallen short in fostering women’s rights. Labor regulation, buttressed by the implementation and the enforcement of affirmative action, sexual harassment, maternity leave, and other gender-specific regulations, improves women’s economic standing, but will not undo vertical and horizontal sex segregation that places women in disadvantageous and inferior positions relative to men in the economy. These laws have not eliminated barriers that impede women’s autonomy and empowerment, in part because they lack strong provisions and enforcement mechanisms and in part because the image of the “ideal” worker conflicts with cultural assumptions and stereotypes that deem parenting a female function. In these ways, the masculine worker-citizen conferring rights without responsibilities for care remains at the heart of labor law.

Relational Perspectives: Framing Rights and Responsibilities

Feminist legal scholarship has critically assessed conventional conceptions of “rights” in theory and in practice. New approaches direct attention to the difference between formal and substantive dimensions of equality [12–14], and propose a sociological account of rights as relational [15]. In their introduction to the special themed issue on “elusive equalities”, the editors recall Sandra Fredman’s multidimensional concept of substantive equality, including: (i) a redistributive dimension; (ii) a recognition dimension; (iii) a transformative dimension; and (iv) a participative dimension. Their example illustrates why the formal concept of equal rights, even if embedded in a substantive right, such as affirmative action policies, will not achieve equality of outcomes on these four dimensions if the policy, as in this case, does not address the structural disadvantages (wage hierarchies) that give rise to inequalities ([14], p. 422). More broadly, equality between men and women does not necessarily erase inequalities, such as class and racial inequalities amongst women and increasing inequality for men [14]. From such a sociological perspective, rights can be viewed as relational. Jennifer Nedelsky frames a relational approach to the conception of rights and laws: “What rights do and have always done is construct [social] relationships—such as those of power, responsibility, trust, and obligation”([15],

p. 231) that can either foster or undermine an individual's ability to exercise autonomy ([16], pp. 148–49). Rights can be assessed in terms of whether they promote the realization of core values (such as equality, security, freedom, responsibilities) in interpersonal relationships (see [17], p. 333). Distinguishing the formal and the substantive dimensions of equality and articulating a relational theory of rights advance approaches attuned to social consequences and social contexts by considering what rights do.

The argument outlined here is compatible with the relational approach, and takes note of the substantive dimensions of equality. These approaches subsume responsibilities in their notion of “what rights do”: rights reference legal claims that structure relationships of power, responsibility and care. My alternative suggests that responsibilities for is a core social value and a key principle governing interpersonal relationships (both paid and unpaid) and demarcating institutionalized social relationships in and between the political, economic and family spheres. “Responsibilities for” require and assume that individuals take others into account. Shared responsibilities, more specifically, emphasize the social structures and practices that go into the daily and intergenerational maintenance of the working population (social reproduction) and the social relationships inherent to taking care of and caring for others. This conception of shared responsibilities encompasses but goes beyond the notion of personal responsibilities—a common rhetorical expression in liberal discourses. I caution when “responsibilities for”, are divorced from “rights to”, can lapse into paternalism. Historically, in colonial regimes, ruling elites assumed the posture of patrimonial authority over a conquered population. The archetypical patrimonial relationship of master and servant bound the servant “to [the family] by ties of affection, loyalty, and dependence” [18]. As dependents in this context, servants did not have an independent status for grounding rights³.

Taken in tandem, labor laws and welfare policies exhibit ambivalence with respect to the rights associated with responsibilities for different types of dependency. Dependents derive rights on the basis of their potential (youth), current (unemployed) and former (retired workers) position *vis-à-vis* the waged labor market. At the same time, others' rights are derived from their status as mothers, as wives, as children, as the elderly, or as welfare recipient. For example, retired workers' dependence on the state is viewed differently than welfare recipients' dependency. In the first instance, the state guarantees, to different extents, retired workers' right to a pension. Pensions are a negotiated benefit deferring income until the worker reaches an age threshold, either determined by a collective agreement and/or a labor law. In the second, a welfare recipients' dependence is stigmatized. The current rhetoric in the US chastises welfare recipients for their dependence on the state, attenuates their right to long-term support (imposing limits on the amount of time for receipt of welfare over one's lifetime, establishing restrictive criteria for eligibility to receive benefits, and requiring work among those deemed able-bodied), and emphasizes their personal responsibility for finding a long-term solution in the labor market rather than being guaranteed rights to a basic income. More ambivalently, mothers may receive an allowance for taking care of children; this responsibility is given standing in

³ I am grateful for the comments raised by Mary Anne Case and Frances Raday when I presented a version of this paper at the “Women's International Human Rights in Contested Public Spaces”, Hebrew University. They asked if the “responsibilities for” frame would mean paying mothers, who have large numbers of children, to stay at home. The mother allowance (e.g., kindergeld in Germany) policy entrenches an unequal gender division of domestic labor. Rather, my notion of shared care responsibilities requires socializing the costs and provision of services to enhance women's autonomy in the family, and to enable women to participate fully outside of the family.

the law as an allowance rather than income reserved as a right. In other words, not all dependencies and responsibilities around care are treated equally.

Valorization of the wage labor relation and its masculine embodiment in much of labor regulation is premised on the gender “opposition of independence/dependence [which] maps onto other valued hierarchical oppositions: masculine/feminine, public/private, success/love, individual/community, economy/family, and [rational/emotional] ([19], p. 322). By extension, the wage labor relation symbolically is connected to meanings of fatherhood and motherhood and their corresponding rights and responsibilities. More specifically, labor regulations and social policies treat men as independent wage earners not as dependent caretakers; “as rights-earning individuals not as needy family members; and as beneficiaries of cash benefits (unstigmatized) not as recipients of (unearned) services” ([20], p. 464). The opposition between paired terms, symbolically, discursively, and culturally privilege “masculinity—not necessarily men—[which] is key to naturalizing the (symbolic, discursive, cultural, corporeal, material, economic) power relations that constitute multiple forms of subordination and exploitation...feminist research documents the deeply sedimented normalization of gender as governing code, valorizing that which is characterized as masculine (reason, agency) at the expense of that which is stigmatized as feminine (emotion, dependence)” ([21], p. 35). A mode of labor regulation and policy premised on independence over interdependence tends to valorize the masculine worker-citizen whose rights derive from their participation in wage labor and tends to devalue the feminine connected to responsibilities for care and caring labor.

Some policies incorporate shared responsibilities with workers’ rights. A relational reading of rights is possible in some labor-related laws, such as pension laws provide survivor benefits and pension sharing with a married partner, albeit excluding those intimate partnerships (same-sex relationships) not legally recognized. Though mediated through another person’s wages and through the relationship to another person, pensions are an example of legally enforced rights based on responsibilities. Many countries now provide a right to subsidized childcare (though some are means-tested such as in the US), and some countries have a highly developed social infrastructure for childcare (as in Sweden). Over the past several years, paid maternity leave has been replaced by parental leave, including father’s entitlements promoting the possibility of shared care responsibilities. Shared responsibilities can revalue social parenting, which is a prerequisite for gender equality in the labor market. However, long duration on leave can have deleterious effects on wages and mobility, though the effect is mediated by policy regimes and institutional factors (see [22]). The masculine embodiment of the labor subject remains a dominant frame of reference, and this implicit assumption is consequential for the realization of substantive rights and shared responsibilities.

3. Unequal Treatment: Responsibilities without Rights among Home Care Workers

Labor laws result in unequal treatment among workers whose labor responsibilities do not fit the classification of a worker deserving of rights. One of the most disadvantaged categories of work is performed by paid home care workers who are denied rights as workers, as women, and often, as citizens⁴. In the US this occupational category owed its existence to welfare policies enacted during the New Deal administration. At the outset, home care was part of public relief assistance to the poor, both for

⁴ This section draws on the excellent historical analysis of home care work in [23].

clients who received care and for caregivers who were unemployed. Home care was designed to assist indigent elderly and disabled people, and directed at poor African American women who were hired to fill the bulk of these jobs. Its welfare designation stigmatized the service and the service providers by defining the labor activity as an unearned benefit rather than as work deserving rights. The discourse and the corresponding welfare policies disparaged both home care clients and workers for their dependence on the state, and promoted waged work as the means of gaining independence and rehabilitating poor women of color ⁵. Through the welfare channel, this workforce took on the cast of helpers responsible for care and not rights-bearing individuals.

US labor law reinforced the inferior status of this largely female workforce by excluding home care from labor standards (such as minimum wages and over-time pay) and social security. Home care workers' ineligibility stemmed from their classification as housekeepers and as companions instead of as workers. Throughout, amendments of labor standards law continued to exclude home care workers, analogizing home care with casual baby-sitters, and so deemed different from real workers. The legal basis for the exclusion was the "companion exemption", which applied across the board, exempting for-profit agencies from compliance with labor standards requirements. In 2013 the Obama Administration issued a labor ruling that extended minimum wage and overtime protection to the almost 2 million home care aides ([23], p. 214), but took the unusual step of delaying the effective date until 1 January 2015 [24], which coincides with the all-Republican Congress that can reverse the rule ⁶.

A recent court decision overturned the US Labor Department's new rules that would have required agencies and families employing home care aids for the elderly and the disabled, to pay at least the federal minimum wage and overtime; this would have ended the 1974 regulation labeling these workers as "companions". In this case, the presiding judge reasoned that only Congress could remove the companionship label and sided with the industry's position that equated home care aids with occasional babysitters. *The New York Times'* editorial questioned the rationale applied, citing a unanimous 2007 Supreme Court decision that "Congress intended its broad grant of definitional authority ...to include the authority to answer these kinds of questions". This court decision may only delay the ruling ([25], p. 8), yet an entrenched and unstated gender bias continues to influence assumptions regarding the boundaries and the definition of work and associated rights. On the one hand, the new rules acknowledge that labor activities, such as responsibilities for bathing, cooking and cleaning, entitle home care workers to receive minimum wages and overtime. On the other hand, boundary markers still relegate some aspects of care work to the status of companionship or non-work. For example, the new rules exclude time spent sleeping at a client's home from labor standards. However, an aide sleeping at a client's home may be called upon at any time to perform a service. By contrast, the law recognizes breaks/naps taken by workers in male-typed occupations, such as doctors, fire-fighters, and police officers (so prevalent among police that the activity earns the sobriquet of cooping); time taken off for naps on-the-job are a legally accepted part of their work effort during their work schedule.

⁵ The notion of rehabilitation first emerged in health care programs provided for veterans who returned from service in need of care. Rehabilitation programs attended to soldier's wounds, and prepared them, body and soul, to reenter the waged labor force.

⁶ The regulation covers those aids who provide care "that exceeds 20 percent of the total hours she works each week", and excludes live-in domestic workers who reside in their employer's home and are employed by an individual, family or household [24].

Even countries that recognize citizens' right to care services do not always accord equal compensation and the same rights to waged workers performing home care work and personal services in households. Much of this work is considered casual or informal labor ineligible for both social protections and a range of citizenship entitlements. In the EU domestic workers employed in private homes, even when covered by other labor laws, fall outside the ambit of working condition norms enumerated in the EU Working Time and Pregnancy Workers' Directives ([9], p. 512). Working time regimes tend to exclude domestic workers from coverage because their fluctuating and unpredictable work schedules deviate from the standard work schedule at the core of labor standards law. The actual conditions of domestic work and among workers depend on the welfare, care and migration regimes (e.g., how they entered the country, the nature of their legal status, the specific provisions of the work arrangement, and the jurisdictional resolution to conflicting provisions of different laws and policies). Generally, labor law devalues the labor and the labor activity among those responsible for home-based care work. The case of waged home care work shows how women's responsibilities for care have been excluded from eligibility for claiming a host of workers' rights.

4. Citizenship and Immigration: Women's Rights versus Workers' Rights

Today, many home care workers are migrants, either moving from less developed areas in their home countries or traveling long distances across national borders, primarily from the global South to the global North. The highly contested policy and politics around immigration and citizenship point to the dilemmas posed by, and the tension between workers' rights and gender equality projects. Citizenship, and more accurately non-citizenship, divides women who may occupy the same territorial and even intimate spaces, yet who occupy different social locations. The model of citizenship has frequently been predicated on the increased availability of externalized and/or professionalized care services. Much of the redistribution of care has taken place between different groups of women, both within Western societies and on a global scale ([26], p. 534). The liberal discourse of universal rights conflicts with the prevailing insular, nationalist notions of citizenship. "Liberal discourses of equality and inclusion are left to citizenship law while immigration law performs the dirty work of inequality and exclusion" (Danvergene, cited in [27], p. 11). Practically and legally, citizenship stands "for an (at least relative) ethic of closure" ([28], p. 136). Immigration policies similarly define an inside and an outside for the recognition of rights in a bounded political space. An examination of citizenship and immigration policies and practices highlights how tension between inclusionary and exclusionary principles defining entitlements impacts on the capability of differently positioned women workers to make claims on, expect responsibilities for, and to exercise rights in a political community.

4.1. Transnational Gendered Work, National Citizenship Rights

The practical and conceptual basis of citizenship is built on the assumption of an exclusionary bounded political community in contradistinction to universalistic claims of inclusiveness. Such bounded notions mark as "other" or as "foreign" those deemed outside the political community. This "ethic of closure" assumes and reifies boundaries that do not only operate at the "territorial-edge of a nation", but also "within the territorial interior" ([28], p. 136). In general, citizenship designates "distinct practices and institutions" and describes the "quality of relationships among members of a political community

and the rules associated with the constitution and maintenance of community membership” ([28], pp. 128–29). A form of industrial citizenship, forged by trade unions, limits rights to workers designated by collective bargaining agreements either industry-wide (as in Germany) or firm-based (as in Japan). In both cases, rights are not equally enjoyed by everyone presently working, citizen and non-citizen alike, in the same territorial space.

A broad notion of citizenship moves from one that distinctly refers to political engagement to one that encompasses economic justice ([28], p. 130), as realized by a universal right to decent work promulgated by the ILO. It frames questions such as: who is a citizen, what rights attach to citizenship, and what are the boundaries of citizenship? Feminists go further to make visible the “linkages between women’s citizenship and the demands of social reproduction” ([28], p. 131). But feminists and non-feminists alike tend to uncritically view the national society “as the total universe of analytical focus and normative concern” ([28], p. 140)⁷. Importantly, the failure to acknowledge the transnational scale of production and increasingly of reproduction, particularly transnational care chains has implications for citizenship as an “aspirational” concept in feminist theory and practice.

Increasing commodification and transnationalization of domestic and reproductive work reveals the “divided nature of citizenship” ([28], p. 127). Citizenship performs double duty: it affirms a commitment against subordination and toward inclusion; and it is in the service of subordination and exclusion [28]. In the first sense, feminists have called for women’s participation in the public sphere of paid labor as a means of achieving “full and equal ‘citizenship’” ([28], p. 128). At the same time, feminists’ attempts to engender concepts of citizenship and to achieve “full-citizenship” rights falter when the transnational organization of domestic servitude and responsibilities for reproductive labor is not taken into account. As women enter paid labor outside of the home, they increasingly pay for reproductive services performed by migrant women, either in their homes or in the larger service economy (restaurants, laundries). Bosniak succinctly poses the problematic issue for feminism: “Achievement of citizenship for some women through the participation in paid work increasingly relies on labor of citizenship-less others” [28]. In this way, citizenship or more accurately non-citizenship becomes an axis of inequality and exploitation, dividing women from the global North and global South. Yet, Bosniak cautions against the rhetorically tempting equation that “First World” women’s full citizenship is gained at the expense of “Third World” women’s denial of citizenship ([28], p. 137). Exploitation of migrant women is not based on the appropriation or transfer of citizenship. Citizenship is not an object or “single quantity” transferable from some women to others. By contrast, care and more specifically love and affective labor, as Hochschild argues, represents a nonrenewable “good” or resource expropriated in a commercial exchange [28]. This “is an exchange that is contingent upon economic inequality—international and domestic—and histories of gender and racial subordination, as well as upon the operation of national immigration controls” ([28], pp. 137–38). Citizenship is divided to the extent that workers with citizenship enjoy different rights than non-citizens.

Non-citizenship accords different protections to workers present in the same political territory of a nation-state and strips migrant workers of avenues of redress. Migrant workers, especially those unauthorized to work in a country, are less able to exercise options of voice and even voluntary exit. The inherent vulnerability to deportation makes unauthorized migrant workers’ reluctant to invoke

⁷ For an exception see [11].

their inalienable human rights for fear of being reported. Deprived of state-sponsored income alternatives compounds fear of losing or leaving a job ([28], p. 136), even in the face of abuse, for all migrants regardless of how they enter a country. The global dimension of care work highlights the “other” citizenship discourse of exclusion ([28], p. 135).

All countries impose restrictions on rights and benefits of non-citizens, and most do not extend equal protections before the attainment of full-citizenship ([29], p. 1135). However, eligibility for full-citizenship rights vary, ranging from more draconian laws denying any pathway to citizenship in migrant labor regimes in Singapore and in Dubai to more welcoming laws granting the possibility of citizenship after a specified length of time, such as the two-year waiting period in Spain and Canada. One notable example, the Canadian Live-in Caregiver Program, 1992, a special provision of the general Temporary Foreign Workers Program, is designed to attract qualified nurses as live-in workers for the elderly and the disabled ⁸. Under this program live-in caregivers receive an employment contract and a pathway to permanent residency. Though deemed a “best practice” program by the ILO, the law matches workers to a specific employer, restricting workers’ mobility in the labor market and their ability to seek better work opportunities, and leaving workers vulnerable to possible abuse by employers whose working conditions often escape the notice of federal and provincial governments because of their inadequate monitoring of program compliance ([11], p. 248). In the US, lawful permanent residents enjoy some basic political and social rights ([28], p. 136), yet so-called “illegal aliens” are ineligible for most state-sponsored benefits. As a consequence, their “irregular immigration status renders them vulnerable to subordination in a variety of arenas” ([28], pp. 136–37), depriving workers of basic rights and disregarding responsibility for their social protections.

4.2. Immigration and Citizenship: Differential Workers’ Rights and Women’s Responsibilities

Immigration law “performs the dirty work of inequality and exclusion” (Danvergene, cited in [27], p. 11) by regulating who can enter a country, specifying the length and terms of their stay, and restricting the location and type of jobs available. In particular, the introduction of guest worker programs creates a category of worker relegated to the tenuous legal status of “temporary settler” ([29], p. 1135). Some of these programs restrict incorporation of migrants and often of their families, denying women migrants the ability to nurture their own families even as they are permitted to care for others in privileged families ([29], p. 1134). Parrenas [29] concludes that, “in this way receiving nations can secure a supply of low-wage workers who can be repatriated if the economy slows down”. Through immigration law, the state relinquishes responsibility for social reproduction of migrant labor and subjects migrants to different workers’ rights.

In Japan, relaxation of restrictive immigration policies and practices in the last decade of the 20th century, not coincidentally during one of its worst economic crises and confronting a ticking time-bomb of an aging population, puts in sharp relief differential treatment of migrant workers and the divided nature of citizenship. Short-term programs for industrial training introduced in 1990, and technical internships permitted in 1993 created a pool of temporary labor ([30], p. 66). These policy revisions served to induce migration of a relatively cheap female labor force without provoking too much political opposition from conservative members of the Diet or from the population at large ([30], p. 66).

⁸ See Judy Fudge for a detailed examination of this program ([11], p. 245).

Recruitment of Filipinas and Indonesian women on short-term training visas to perform health care guaranteed that women would fill these limited term contracts. The status of “trainee” deprived these workers of both explicit and implicit contractual commitments for continuous employment, and denied recognition of these workers’ actual skills, their previous work experience and their educational achievements, thereby enabling employers to pay lower wages. Moreover, the trainee program is part of a policy orientation in which Japan erects a “high wall” for “foreign labor” limiting their stay in the country [31]. Short-term visas, like guest worker programs, function as revolving doors with legal requirements directing workers to return home after a fixed time period.

More generally, immigration policies and restrictions on pathways to citizenship permit differential treatment of migrant workers. Immigration law, as discussed above, restricts labor’s freedom of movement: where they can settle, the duration of their residence, and the type and conditions of work available to them. As a result, migrant labor often ends up in the lowest tiers of the labor market, and in precarious forms of employment. Because of the “illicit” nature of sex work and the isolation of much domestic work, many female migrants face extreme precariousness. This precariousness is not only produced by the informalized nature of the employment relationship and job characteristics, but also is inherent to the differential rights and protections accorded to non-citizens through immigration laws and restrictions on citizenship, that are further complicated by jurisdictional conundrums.

Overall, policies dealing with immigration and citizenship largely remain the purview of the nation-state, though the European Union relaxes their strict borders for members in the larger community. As a result, migrant labor may work in the shadows, unprotected by employment regulation in the country in which they reside yet out of reach of protections offered by the country of their origin. Political institutions and the realization of rights are relentlessly still located at the national and sub-national levels. Social protections and citizenship, unlike migrant labor, are not similarly mobile, but rather are realized and enforced by local and sometimes conflicting jurisdictions within nation-states and based on the male worker-citizen. Transnational domestic work troubles abstract, national-based definitions of citizenship formulated in law and in feminist theory. One of the few avenues for achieving full citizenship is to emulate the masculine embodiment of the labor subject by ceding responsibility for care/reproductive labor to low-wage workers, often women of color and migrant women. The example of transnationalization of waged domestic and reproductive work reveals the “divided nature of citizenship” ([28], p. 127).

5. Equal Treatment, Unequal Outcomes: Rights without Responsibilities

By contrast, the use of an equal treatment frame can produce unequal outcomes for those categories of workers and work deviating from the male standard employment relationship. An equal treatment frame not only informs regulations specifically aimed at gender equality in the labor market, but also influences the language representing rights and protections in many labor regulations. In some cases, labor laws may adopt gender-neutral language to specify equal treatment between different classes of workers, such as between full-time and part-time employment. However, the laws and policies applying this equal treatment frame may produce unequal outcomes when the enumeration of rights does not acknowledge responsibilities rooted in the social structure of a given society and are based on the male standard employment relationship.

5.1. EU Directives on Part-Time Work

The EU Directive on Part-time Work (97/81/EC) illustrates the inherent problem of achieving women's rights within a rubric of workers' rights without recognition of unequal care responsibilities. This Directive prohibits less favorable treatment between comparable full-time and part-time workers solely based on their employment status "unless different treatment is justified on objective grounds". The Directive on part-time work compels member states to adopt regulations providing at least minimum employment protections. The equal treatment provision diminishes employers' incentive to use part-timers as a low-wage labor pool, which may help to account for the declining numbers of short-term part-timers and the slowing of the rate of increase of part-time employment among women in the UK [32]. Women have been beneficiaries of the framework agreement on part-time work because of the gender composition of part-time employment. However, the Directive on part-time work remains silent on worker's right to request part-time work without loss of seniority and security. As a result, member states decide on whether, to whom and under what conditions to make available such a right. Almost two decades before the EU passed the Directive on part-time work, Sweden established a worker's right to request six hours a day (pro rata pay) work schedule until children turned eight. German law grants the right to work part-time to employees in enterprises with more than 15 employees, while a similar right exists with a lower threshold of 10 workers in the Netherlands. At the other extreme, there is no statutory right to request reduction of working hours in Italy ([33], p. 6). Equal treatment turns into unequal outcomes because the Directive urges rather than mandates that member states eliminate obstacles to part-time employment, and only instructs employers to "give consideration" to workers who request transfers between part-time and full-time work to accommodate personal or family responsibilities ([33], p. 6). Without a clear mandate, member states are free to determine the terms and the substantive content of equal treatment. The regulation of part-time labor refers back to the full-time normative frame of the male standard employment relationship. At best, equal treatment extends pro-rated benefits for the same work at reduced hours.

Furthermore, the equal treatment frame does not address unequal responsibilities between men and women around the work of social reproduction. Family responsibilities and care are not given the same legal standing in labor law as standards directly related to waged employment. For example, parental leave is a right enshrined in the 1996 EU Directive on Parental Leave (96/34/EC). The revised Framework Agreement on Parental Leave 2010/18/EU extends the idea of shared responsibilities by entitling both mothers and fathers to take at least four month of unpaid parental leave, incentivizing fathers to take leave as a nontransferable entitlement ([34], pp. 441–42)⁹. These newer provisions do not mark a strong enough shift to foster shared responsibilities for care among both fathers and mothers. This directive formulates a framework agreement that is more of a symbolic achievement than a practical change because "the conditions under which the right has to be secured are left to national regulation since it involves matters of pay bargaining, minimum wages or social security outside the competence of the Community" ([36], pp. 443–44). Moreover, the absence of a directive

⁹ The revised Framework Agreement on Parental Leave 2010/18/EU, entitles all workers, irrespective of their employment contract (open-ended, fixed-term, part-time or temporary) to parental leave until the child has reached an age that is determined by national labor and/or collective agreements, but before the child turns eight. This Directive extends worker's right to return to the same job after taking parental leave [35].

on childcare relegates the organization of reproductive work to resolution in the mixed national economy of privately and publicly provided care. Not only the provision of care, but also the quality of care work, largely stands outside the purview of much labor law. Care work remains a responsibility of individuals and families, usually defaulting to women, when labor regulations fail to address unequal responsibilities for social reproduction.

As a result, uneven and unequal outcomes continue in a context of gender-based hierarchies, especially as it affects women who have primary responsibility for care work. Vosko makes the important point that, though legally binding, the equal treatment approach at the center of many EU directives is aimed at formal equality in the labor market without addressing inequality of circumstances between men and women [37,38]. While improving employment conditions of part-time employment across the community, the Directive has not significantly altered the gendered character of the employment form and its variation across countries. Nonstandard work regimes and laws are not designed to disrupt the association of part-time work and the gender division of domestic labor ([9], p. 512). Further, despite the recent application and interpretation of laws and directives giving men the right to parental leave, substantive gender equality would “require a ‘leveling up’ option, extending women’s parenting rights to fathers” ([34], p. 441). Still, the masculine embodiment of the abstract worker-citizen, and the standard employment-centrism, remains an implicit reference of the equal treatment frame in the language and provisions of labor law adopted by the EU and implemented by its member states.

5.2. Fair Treatment, Gender Differences: UN and ILO

Similarly, UN agencies’ fair treatment and decent work campaigns and conventions do not realize equality of outcomes between men and women and between differentially situated women. The UN and its specialized agencies, such as the International Labor Organization (ILO), diffuse legal norms around decent work¹⁰, yet the nation-state retains primary responsibility for giving substance to international conventions. The ILO and its Conventions illustrate the progress and tension in trying to align international legal norms with national action to advance gender equality and workers’ rights in globalizing labor markets. Much like the EU, the ILO centers workers’ rights on the abstract masculine worker-citizen without responsibilities for the work of social reproduction.

The International Labor Organization faces institutional and discursive barriers to establishing an international human rights legal regime inclusive of both worker’s and gender-related rights and responsibilities. As an agency within the UN, the ILO is charged with the promotion of norms around a relatively new campaign on “decent work” and fair treatment of all workers through conventions on working conditions and new labor standards. In this effort, the ILO must contend with its own history in which workers’ rights discourses reflect the legacy of male-dominated trade unions; and tri-partite interests of the social partners are organized around national unions, employers’ associations and governments. Consequently, labor conventions explicitly framed around gender equality issues and responsibilities for care and domestic labor conditions have lagged behind those conventions more directly focused on the seemingly gender-neutral issues of wages and working conditions.

¹⁰ “Opportunities for all men and women of working age, including migrant workers, to obtain decent and productive work in conditions of freedom, equity, security and human dignity should be promoted...The human rights of all migrant workers, regardless of their status, should be promoted and protected” (cited in [4], p. 112).

Nonetheless, the ILO has taken up issues of central concern to women workers, and that address gender inequality at work.

The promulgation of a convention on part-time work is a case in point. In 1994, two years before the EU formulated its directive, the ILO adopted the Part-Time Work Convention (No. 175), and Articles 4–7 enumerated the measures that, “shall be taken to ensure that part-time workers receive the same protection as that accorded to comparable full-time workers”, including the right to organize and protection against termination of employment and entitlements to maternity leave, paid annual leave, sick leave, and paid public holidays [35]. This convention neither names women as the targets of need nor references the gender-specific convention on the elimination of discrimination against women, as an important condition for linking workers’ rights and women’s rights. Instead, the convention resorts to the more gender-neutral language of equal treatment to promote better working conditions. Other conventions lack a strong enough commitment to fostering fathers’ responsibilities as a means for achieving gender justice: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) privileges maternal rights, while fathers are “dealt with by exhortation more than an entitlement; and only the 1981 Workers with Family Responsibilities Convention even reference fathers family responsibilities ([34], pp. 449, 451). At the same time, CEDAW adopts a substantive equality project that obligates parties to ensure, through law and other appropriate means, the practical realization of the principle” (Art. 2(a))” (cited in [39], p. 2). Like the EU example, the ILO Part-time Convention offers limited protections through the equal treatment frame.

In contrast to the EU, the UN lacks legal authority and cannot impose sanctions to compel governments either to adopt or to comply with labor conventions, and thus has rhetorical importance in some cases more than direct impact on regulatory reform. These new legal norms circulate in an emergent transnational human rights regime. On the one hand, new conventions, as discussed above, call attention to, and allow individuals to make, legitimate claims within the United Nation’s system. On the other hand, human rights designate either a narrow or a broad set of normative principles and entitlements that vary from place to place and with different gender connotations. Responsibility for ensuring against domestic violence, relevant to women, lag behind other international human rights laws ([40], p. 33). Moreover, human rights in practice often are limited to political and civil rights rather than more expansively to include a host of economic, social and cultural rights. Human rights principles refer to the abstract individual rather than the capabilities of differently positioned groups, such as women, to realize equal rights.

A recent departure was signaled by the promulgation of 2011 ILO Convention Concerning Decent Work for Domestic Workers (No. 189) [40] after a long campaign waged by domestic worker’s organizations and their allies. The convention entitles domestic workers to the same basic rights and employment conditions “as those available to other workers in their country”. This convention specifically deals with female-typed work and extends the principle of equal rights. Though still new, domestic workers have used the language and provisions of the convention in their collective organizing efforts to gain recognition for their rights as workers in New York. Jurisdictional conundrums may arise because the reference group for claiming rights hinges on “workers in their country”.

The emergence of a transnational human rights regime shifts sites of “normativity” for individuals claiming rights away from the State as the exclusive subject, but national boundaries still limit the realization of those rights ([41], p. 33) and what jurisdiction has responsibility for ensuring rights in a

national state. Sassen ([41], p. 33) pursues this line of argument further when she eloquently describes the impact of the international human rights regime on “undermining the exclusive authority of the State over its citizens...” If all people are entitled to claim human rights, then membership in nation-states no longer is the exclusive ground to realize rights. In this way, “human rights begin to impinge on the principle of nation-based citizenship and thus the boundaries of the nation” [41]. Though human rights norms seemingly universalize an individual’s claims “by virtue of being human, and as a consequence of...shared vulnerability” ([4], p. 167), these conventions lack substance and substantive content from which individuals/groups can claim and exercise their rights. Human rights are often framed negatively, in terms of abstract individual freedoms from harm, rather than positively, in terms of concrete collective guarantees to receive care and to attain the good life wherever the person resides.

The resilience of the inter-national system enfeebles the human rights regime and diminishes the effectiveness of the UN agencies to ensure equal rights. Individuals still face significant hurdles in exercising human rights outside of their “home” country and come up against different interpretations and recognition of human rights in both “home” and “host” countries. An international human rights regime still has few effective institutional mechanisms for enforcing and forcing states to recognize “women’s rights as human rights” and to link workers’ rights with women’s rights. There are few available avenues to mandate that a state recognize human rights of workers, both citizens and non-citizens. Similarly, there are few institutional mechanisms to enforce and claim jurisdiction over interpretation and implementation of substantive human rights when workers suffer abuse in their home or host country. And there are few sanctions to ensure that states will abide by rulings of the international court of justice in The Hague. Although the State is not the exclusive subject of international law, it remains one of its main objects. Institutions and policies for the recognition of citizenship rights and immigration effectively re-inscribe national boundaries of that policy: who can claim which rights and which jurisdiction is responsible for ensuring human rights. The transnational human rights regime has less to do with the institutions supporting collective needs for care and solace (interdependence associated with feminine embodiment of the caregiver) and more to do with individual claims for freedom and autonomy (independence associated with masculine embodiment of the worker-citizen). Instead, the transnational human rights regime defers responsibilities for care to private spaces in national territories through immigration laws and citizenship policies.

6. Reframing Workers’ and Women’s Rights

Feminism, as a theory and as a political project, directs attention to how masculinized egocentric capitalism disregards responsibility for the care of others [42]. Capitalism, by shedding workers and informalizing labor, does violence to the economic security of families and communities left in the wake of this economic destruction. The externalization and privatization of social reproduction, shifting risks and responsibilities to individuals and families, then, is part and parcel of this logic, and thereby more prominent as a result of neo-liberal global capitalism. A feminist political economy puts care and social reproduction at the center of analyses and for the framing of new social imaginaries. In our most intimate settings and relationships we can see the changing nature of work and life. An alternative vision based on caring for others or an ethic of shared responsibility can orient action toward interdependence and mutual recognition, and can offer a critique against this momentum towards non-responsibility for social provisioning. As discussed, feminists argue that a narrow view of the

domestic economy as a bounded political unit and as a limited set of economic activities misrepresents power relationships in the domestic sphere. The political instance is not confined to either large scale political institutions or abstract legal norms, but also is inscribed in seemingly mundane talk among women who reform their intimate domestic arrangements. As shown in the case of Indian factory workers, a reassertion of the importance of “domestic” politics results from women’s increasing participation in the “public” sphere. Women are reconstituting and claiming new identities, relationships, rights and shared responsibilities around domestic citizenship.

6.1. “Domestic” Politics, Domestic Citizenship: Women Factory Workers in India

What happens if the field of vision shifts to a different register, considering micro-political practices as well as discourses linking domestic citizenship to work? Have feminists’ attempts to engender concepts of citizenship been too focused on the abstract legal “content” of rights conveyed in and by states? Do macro-institutional perspectives and abstract philosophical debates deflect from view how women rework “domestic citizenship”, as they traverse and stray from the normative gender order? How are women remaking citizenship by constituting alternative family forms and modes of belonging to families with correspondingly new rights and shared responsibilities within the domestic realm [43]?

Analysis of female factory workers’ counter-narratives of “domestic citizenship” reveals the role of women in fostering shared responsibilities [43]. Women employed in TV assembly factories represent a relatively privileged category as an “aristocracy of labor” in India. This type of work takes place in contained spaces considered “respectable” because of the clean interiors rather than on the crowded, unprotected warren of city streets. This is the case even though factory jobs are considered low skill and often entail informalized employment relationships¹¹. In such globalized spaces of the factory, women formerly excluded from the public sphere engage in a kind of “domestic” politics and redefine citizenship for claiming rights and sharing responsibilities.

The analysis of “domestic citizenship” marks a departure from the literature that typically emphasizes the category of labor or worker, relating a disembodied, masculinized, and atomized individual as the bearer of a narrow set of political rights. Jayati Lal ([43], p. 1) appropriates Veena Das and Renu Addlakha’s concept of domestic citizenship to make visible the “privileging of the family and community in the construction of women as subjects of the nation and the constitution of women’s rights...” Her definition highlights the unacknowledged assumption of masculine embodiment associated with the proto-typical citizen that has failed to comprehend the specificity of women’s position *vis-à-vis* the state. Women have derived rights principally through their relationships in the family as mothers, as sisters and as wives. The notion of domestic citizenship shines a light on women’s lives, but not simply determined by a set of institutions or legal statuses. Rather, Lal reworks the concepts of politics and publics in terms of women’s counter-narratives to articulate new associational forms and affective relations. “It appears that the complex relation between narratives disseminated in the public sphere and experimentation with norms in the domestic sphere might have pried open the domestic space such that new definitions of domestic citizenship emerged...opening

¹¹ Another chapter in Lal’s manuscript [44] shows how public factory spaces are “domesticated”. Are there differences between industrial home-workers *vis-à-vis* factory workers and street vendors and factory workers? Both street vendors and home-workers work in isolation from others plying their trade. These are questions for future research.

new avenues for women” (Veena Das and Renu Addlakha cited in [43]). Women whose life stories produce novel kinship relationships challenge domestic femininity and create new definitions of domestic citizenship as shared responsibilities.

In “public spaces” at work, women gain a new presence for themselves and others in factory spaces, where they forge semi-publics enabling them, sometimes unintentionally, to rewrite gender scripts and reconfigure domestic citizenship through the circulation of counter-narratives of their lives. The circulation of counter-narratives “re-story” gender in “domestic spaces” of home, turning what signifies outside in and inside out. “These [women’s] stories are suggestive of the multiple sites where ideological betrayals to normative femininity take place—they occur through the creation of alternative forms of households and the fictive bonds of kinship that are forged by women, through the subjective dis-identification with and in the hegemonic patriarchal household, and their commitment to and desire for alternative affective communities at work” ([43], p. 32). Women assemble affective communities at work through seemingly mundane banter of gossip. Such talk is deeply political because it produces community through communicative interactions [45], and calls attention to alternative practices, making them visible and available for emulation. In this way, counter-narratives give meaning to and frame alternative biographies pointing to new gender “lifelines”.

These new “lifelines” constitute a “politics of refusal”, that is, a refusal to inhabit the category of Indian woman, straying from the gender scripts that sustain and define the category, and even calling the category into question ([43], p. 33). Decisions about living arrangements, however, are not necessarily preceded by political intentions. Instead, influenced by the circulation of “other” women’s stories, it enables a woman to try reordering gender relations in her life. Lal’s theoretical and epistemological use of the term “life stories” draws on narrative analysis and the narrative construction of identities¹². Her presentation of women’s life stories in the flux of biographical narratives follows a diachronic rather than merely synchronic logic, as implied by the alternative life-course perspective more typical in US sociology. Construction of new lifelines extends meaning of domestic citizenship beyond political institutionalized settings.

In matter-of-fact language, women’s stories recount extraordinary tales out of ordinary experiences. Their life stories unravel the threads that bind women to normative domestic femininity. Echoing Simone de-Beauvoir, “one is not born, but rather becomes, a woman”, Lal [42] coins the term “unbecoming women” to denote “the conscious, oppositional, and productive aspects of women’s rewriting of their gendered life-scripts”, which articulates new possibilities and new modes of belonging. Unbecoming women suggests not only the productive aspects of women rewriting their life stories through fictive bonds and familial reformation, but also conveys the enactment of “gender outlaws” who refuse to conform to and perform in accordance with norms of femininity deemed appropriate, attractive and flattering.

The life stories of factory women are shaped by economic globalization in ways that have gone unnoticed in theories of citizenship focusing on formal political institutions and abstract legal norms. Deploying the concept of domestic citizenship enables Lal [43] to excavate logics of social action in women’s counter-narratives of domestic life. Domestic citizenship and politics occur in new spaces of

¹² Jayati Lal made this important point in personal email correspondence when she was affiliated with the University of Michigan, Ann Arbor, MI, USA (27 November 2009).

globalized production and city life. It may well be that the symbolic and geographic distance from their natal home, and through migration to work in globalizing cities opens structures of feeling and affective relationships in which women can rewrite their gender scripts.

Female migrant workers are reimagining domestic citizenship, both in terms of their relationship to the spatial imaginary of the nation as their natal home and to the transnational families of their conjugal homes. In the former, female migrants demand rights *vis-à-vis* the nation-state, redefining and extending domestic politics outside territorial boundaries of that state [29]. In the latter, a new domestic politics emerges out of the reformation of family in women's life stories. Female migrants forge new modes of belonging and affective communities that can become the basis of claiming rights and sharing responsibilities as they negotiate their physical distance and autonomy from their homes. Home and domestic citizenship can take on a double meaning and ground a new feminist politics for reframing workers' and women's rights and share responsibilities. However, more research is necessary to explore the entanglement of "intimate" or domestic citizenship and rights to understand how women rewriting their gender scripts empower them to claim workers' rights.

6.2. *Sharing Responsibilities*

A new feminist politics revisiting socialist feminist and feminist standpoint theory can reframe workers' rights as women's rights. Kathi Weeks [46] productively mines socialist feminism and standpoint theories to ground a feminist critique and post-Fordist politics that can realize gender and class equality (also see [2]). Socialist-feminism and feminist standpoint theory conceived "unwaged reproductive labor, particularly household caring labor, both as a locus of exploitation and as a site from which resistant subjects and alternative visions might emerge" ([46], p. 234). This recognition of the household as a site of socially necessary domestic labor for the reproduction of capitalism advanced the larger project of expanding what constituted work. Feminist standpoint theory "focused on caring labor, embracing its differences from industrial production as a potential source of alternative epistemologies and ontologies" ([46], pp. 236–27). Weeks questions the mapping of older binary divisions of space and gender in separate spheres, though acknowledges women's primary responsibility for the privatized work of care ([46], p. 238). Fundamentally she argues that: "In contexts where reproduction is no longer identifiable with a particular space or a distinctive set of practices and becomes coterminous with production, there is a need for new ways to pose the antagonism and acquire critical purchase". Left out of the picture is the friction that exists in the framing of work and welfare, rights and responsibilities. The insight that caring labor is a potential source of critique and politics can be carried over to situate reproductive labor in economic and gender justice projects.

The problem with work is the subordination of all forms of social solidarity to its acquisitive logic, ignoring communal interests, cooperative arrangements outside the market orbit, and devaluing socially necessary reproductive labor, especially related to female-typed work, such as paid and unpaid care, intimate practices, and affective labor. Integral to a feminist political project is a proposal to explore alternative policies aimed at what the UN "Report of the Working Group on the issue of discrimination against women in law and practice" refers to as "the three 'Rs' of unpaid care work": recognition of care work as a productive economic activity; reduction of care work as a female-type function; and redistribution of care work as an economic and social right ([47], p. 26). Contemporary

feminist scholars argue that an independent income, as well as control over the resource of time, are lynchpins for “personal freedom, self-determination and self-realization” both in private intimate relationships as well as in public life (Tove Stang Dahl cited in [26], p. 533). A politics framed around equality in the workplace alone will not obtain either economic or gender justice, and thus must go further to foster new modes of belonging and life ([14], p. 426). Women’s primary responsibility for the provision of care creates a major barrier to their full participation in productive economic activities. My proposed feminist political project seeks to revalue shared responsibilities around care in order to realize substantive equality.

7. Conclusions: Can Workers’ Rights Ensure Women’s Rights?

The paper questioned why framings of workers’ rights do not translate into women’s rights. To answer this question the paper distinguished between “rights to” and “responsibilities for” in legal frames and discussed two different dimensions of “responsibilities for” in labor laws: the treatment of labor responsibilities of home care workers; and institutional responsibilities for the promulgation and enforcement of rights and shared responsibilities (jurisdictions). From the examples reviewed here, the framing of workers’ rights substantially and substantively derives from the standard employment relationship with its implicit reference to the masculine embodiment of the worker-citizen. Workers’ rights to social protections and entitlements without the recognition that unequal responsibilities for care tend to favor those who are able to offload responsibilities for social reproduction and tend to disadvantage those who perform these responsibilities, whether paid or unpaid. Moreover, there are different rights based on different responsibilities across categories of work and workers.

The first example discussed how US home care workers are at a triple disadvantage, denied rights as workers, as women, and, increasingly, as citizens, due to their legal status deviating from the male standard employment relationship. A reading of labor law provisions found devaluation or differently valued labor responsibilities assigned to care and domestic work. US labor standards law treats care work as unskilled, and some aspects of labor activity as non-work. Even more so, the hard to quantify nature of responsibilities and erratic work schedules entailed in the delivery of care leaves care workers in a legal limbo, partly fulfilling the criteria for some workers’ rights and partly excluded from others.

Transnational care work further complicates the claiming of rights because of the type of work performed and because migrant workers cross various jurisdictional boundaries; for example, many of the conventions on human rights circulate at the transnational scale though enforcement occurs primarily at the national and sub-national scales. Paid domestic work, whether performed by migrant or local workers, lacks sufficient regulatory social protections, leaving women who dominate in this form of labor vulnerable to sexual exploitation, long unregulated hours of work, and low wages. Migrant workers face the added problem of claiming rights due to combined disadvantages related to their citizenship and employment status. Furthermore, migrant women, and men, are deprived of the ability to nurture members of their own families, in part due to labor regulations, such as those that grant special work visas only to individual workers. Thinking beyond the boundaries of the nation-state highlights the stakes for women workers on both sides of the citizenship divide. It raises questions about the realization of economic and political rights, and responsibilities for care organized along global care chains: Should rights and protections be limited to those formally recognized as citizens or to all “those territorially present workers? What obligations (responsibilities) do we owe to people

whose opportunities for decent work in their own societies have been thwarted, in part, by a system of international political economy that has served to benefit our own nations [including the transfer of care]?” ([28], p. 141). Can multi-scalar governance assume responsibilities for adjudicating jurisdictional conundrums in order to guarantee women their rights as workers? How can we rationalize the experience of workers under multiple jurisdictions with inconsistent and, at times, contradictory provisions?

Similarly, the analysis of the EU and the ILO directives and conventions on part-time employment found that while extending the principle of equal treatment between standard and nonstandard employment may improve women’s employment conditions, they have not significantly altered the gendered character of these employment forms. On the one hand, these regulations diminish the disadvantages associated with part-time employment by requiring pro rata equality in wages and social benefits, and thereby, promote women’s rights as workers. On the other hand, in law and in practice women in part-time employment continue to suffer disadvantages because neither adequately changes the economic, social and cultural circumstances that contribute to the persistence and growth of “involuntary” part-time employment among women. Consequently, strengthening equal employment opportunities law will not necessarily realize substantive gender equality. Gender inequality will persist as long as the basis for equal treatment refers back to some golden age of industrial or company citizenship based on a standard male work biography reflecting continuous and relatively stable employment unburdened by care responsibilities. For example, though rights to shared parenting responsibilities have entered policy and case law (see [34]), maternalism still dominates special provisions for care. As Vosko [37] suggests, policies and labor laws must apply a broader conception of “labor market membership” to acknowledge that “workers typically have gaps in employment, fluctuating levels of employment intensity, and jobs of varying duration over the life-course”. A life-course perspective to labor market membership can connect the gender division of labor responsibilities in households and employment structures into the design of laws aimed at economic security. The increasing trend toward nonstandard and informalized employment poses new challenges for labor laws and labor politics based on a male breadwinner standard employment relationship. A new frame of reference is necessary, one that takes into account shared responsibilities for care.

Who will take responsibility for care and under what conditions will depend on the outcome of future political negotiations, economic pressures, and possibly the recognition of substantive benefits—to both workplace and home—of creating and implementing policies that facilitate share responsibilities for caring and balanced with employment. Acker ([42], p. 36) puts the argument succinctly, “as long as the workplace is organized on the assumption that workers have no other responsibilities, women will carry the responsibility for care”. Currently, as collective bargaining breaks down and more individuals are “freed” to negotiate their own work conditions, the rights to benefits of such individualized arrangements would most likely accrue to single, highly educated women who can best emulate the masculine embodiment of the labor subject, for whom responsibility for care is a non-issue. One reason why the ILO’s decent work campaign does not go far enough, even rhetorically, is that it fails to articulate an integrative agenda for valuing and realizing shared care responsibilities. Taking a page from CEDAW’s provision on care support would go some way in exhorting men to share the responsibility for raising their children with women.

Two political interventions can promote women’s rights alongside workers’ rights. The first entails a proposal for the development of a “reproductive commons” based on an individual’s rights to

publically resourced reproductive labor and services [48]. Such a reproductive commons can engender substantive equality by establishing a public commitment to share responsibility for the provision and the compensation of reproductive services. The reproductive commons is consistent with the UN Working Group's cutting-edge proposals for "a social protection floor" to provide care services for children and other persons who require care because of disability, sickness or age ([47], p. 7). This intervention could serve single mothers and poor families without the resources to secure their livelihoods through extant measures such as parental leave. Sharing responsibilities for care and guaranteeing a right to an equal distribution of care can free women to participate fully in the political life of their communities and to engage fully in rewarding economic activities. A second political strategy calls for a gender audit analogous to the gender government budgeting exercise enacted by feminist economists. A gender audit applies gender mainstreaming principles already in existence. Such a gender audit could interrogate legal categories in order to expose gender biases; identifying jurisdictional conundrums; and leveraging different scales and legal technicalities as resources for political reform and transformation. It would create a ledger for itemizing labor laws in terms of both the derogation of women's rights, and how shared responsibilities are treated in order to identify areas in need of reform. As I have argued, women's rights are not only a matter of law and policy. We must move away from a work-centric political project for emancipation and for tipping the scales of justice. Feminist politics must reclaim spaces, both public and private, to forge new modes of belonging and affective communities that can become the basis of claiming rights and sharing responsibilities. Shared responsibilities, like the history of rights, require negotiation over divisions of labor and expansion of the substantive content of economic and gender justice in the context of work and intimate social relationships. Only then can workers' rights also ensure women's rights.

Conflicts of Interest

The author declares no conflict of interest.

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