

## Réduire la précarité d'emploi dans le secteur de la garde d'enfant en milieu familial de la ville de New-York

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### Résumé

*La main d'œuvre fondée sur le sexe et la race qui œuvre dans le secteur nord-américain des soins à domicile est aux prises avec un taux élevé de précarité d'emploi. Les travailleurs et travailleuses qui prodiguent des soins à domicile (garde d'enfants, soins de santé et travail domestique) doivent composer avec l'instabilité du marché du travail, sont peu protégés par la réglementation en place et ont un accès restreint à la syndicalisation et à la négociation collective, puisque le droit du travail et l'organisation du travail font obstacle à toute action collective de leur part. Dans cet article, nous étudierons les multiples aspects de la précarité que vivent les gardiennes en milieu familial dans la ville de New-York. Nous évaluerons les forces et les limites de deux campagnes menées par le mouvement ouvrier visant à réduire la précarité dans ce secteur de travail. La première, une initiative syndicale, cherche à développer un nouveau modèle d'emploi pour les gardiennes d'enfants en milieu familial. La seconde, une campagne réussie d'organisation syndicale, a été menée par l'organisme communautaire ACORN et la fédération unie des enseignants (United Federation of Teachers). En conclusion, nous discuterons des perspectives d'avenir en ce qui a trait à la précarité dans le secteur des soins à domicile ainsi que du potentiel de syndicalisation et de lutte des travailleurs et travailleuses en ces temps d'austérité néolibérale.*

# Mitigating Precarious Employment in New York City's Home-Based Child Care Sector

Simon Black<sup>1</sup>

## *Abstract*

*In North America's home-based care sector, a gendered and racialized workforce experiences a high degree of precariousness in employment. Home-based care workers—home child care providers, home health care aides, and domestic workers—struggle with labour market insecurity, lack regulatory protection, and have limited access to unionization and collective bargaining as labour laws and the organization of work stand as barriers to workers' collective action. This article details the multiple dimensions of precariousness experienced by home child care providers in New York City before turning to explore two labour movement-led efforts to mitigate precariousness in the city's home-based child care sector. The first case involves a union-initiated project to develop a new employment model for home child care providers. The second looks at a successful union organizing drive led by the community organization ACORN and the United Federation of Teachers. The article evaluates the strengths and limitations of these efforts to address the multiple dimensions of precariousness experienced by home child care providers. In conclusion, the article discusses the future of precariousness in the home-based care sector and the potential of care worker organizing and resistance in an era of neoliberal austerity.*

It is now fashionable in policy circles to stress the importance of the early years for later life ... but children are too often examined as if they had no care providers who themselves have needs that must be addressed in order to offer good care (Armstrong and Armstrong: 35)

Take advantage of increased competition: Because of the recession, more recent college grads, and some laid-off employees, are turning to caregiving as a way of earning a living. As a result, prices have come down a bit.

Hourly rates have fallen around \$1 to \$1.50 since the recession began (Advice to parents seeking affordable child care in a New York Daily News article) [Palmer: 2].

## **Introduction**

Maria has worked fifteen years for the City of New York. Unlike many of the city's public sector workers, Maria does not have a pension nor has she accumulated a single day of paid vacation. Last year Maria earned US \$18,000 to support her and her two children, leaving the family below the poverty line. While Maria does not operate a subway car, staff a library, or police New York's streets, she does provide a service essential to the day to day functioning of the city; Maria is just one of the city's 28,000 home-based child care providers who contract with the municipal Administration of Children's Services (ACS) to care for thousands of New York's low-income children.<sup>2</sup>

Maria recently became a proud union member and in 2010 voted to ratify the first contract between the city's home child care providers and New York State's Office of Children and Family Services (OCFS). Despite the ominous fiscal clouds hanging over New York State, Maria and her colleagues have made tremendous gains through collective action; before May 2007, home-based providers like Maria were classified as independent contractors under New York State's labour law and prohibited from collectively bargaining for better wages, benefits, and working conditions.

The work of New York City's home child care providers, like the other 3 million plus home-based workers across the US, has been characterized by low wages, no benefits, and limited access to statutory entitlements and collective representation. This picture of generalized labour market insecurity typifies 'precarious employment' (Vosko, 2006). Yet over the past decade, through grassroots mobilization and innovative organizing strategies, the labour movement has made gains in the fight to regulate precarious employment in the home-based care sector (see Boris and Klein, 2012; Poo, 2011; Smith, 2010; Kelleher, 2008). Beginning in 1999, with home health care aides in California, and continuing with the unionization of 50,000 Illinois home child care providers six years later, unionization has resulted in important gains for some of the most precarious workers in the US economy (see Boris and Klein, 2008). As Boris and Klein (2012: 7) remark, "women's labors—

once considered outside the market or at the periphery of economic life—have now become the strategic sites of workers struggle and the direction and character of the American labor movement.”

This article explores two labour movement-led efforts to mitigate precarious employment in New York City’s home-based child care sector. These efforts were launched in the wake of welfare reform as the introduction of work requirements for millions of poor women on welfare resulted in a massive expansion of the home-based child care sector across the US (Reese, 2010). Throughout the history of the American welfare state, poor single mothers on welfare have been encouraged and/or coerced to substitute the unpaid work of caring for their own dependents—children, the elderly, the disabled and the sick—with the paid work of caring for the dependents of others (Boris and Klein, 2012; Reese, 2010). From the welfare rights movement of the 1960s to the contemporary union campaigns to organize home care workers, the intersection of welfare, paid and unpaid care, and the low wage labour market has been a site of resistance for poor women in the US, and racialized women in particular.

As unionization is not a panacea for precariousness, the labour movement has employed a range of innovative tactics and strategies in the struggle against labour market insecurity. Organized labour has challenged employment and labour laws through political mobilization and advocacy (Cranford et al., 2005) and partnered with community organizations to advance living wage ordinances (Luce, 2004). In the home care sector, partnerships between the providers and consumers of care have produced powerful coalitions which lobby for increased public funding for home child care and home health care, effectively making the links between quality care and quality care work (see Folbre, 2006).

In New York City, the Satellite Child Care Program sought to address the multiple dimensions of precariousness faced by home child care providers through a comprehensive training, accreditation, and employment model. Satellite was spearheaded by the Consortium for Worker Education (CWE), a non-profit training and education organization affiliated to the New York City Central Labour Council. While Satellite was relatively small in scale, a coalition between the United Federation of Teachers (UFT) and community organization ACORN (Association of Community Organizations for Reform Now) resulted in a successful union

organizing drive and the ratification of a first contract between the city's home child care providers and New York State. The UFT-ACORN campaign successfully sought to reclassify home child care providers from independent contractors to state employees—for the purpose of collective bargaining—under state labour law. Through mobilization and political pressure, the union created an employment relationship between providers and the state, paving the way for union recognition, collective bargaining, and a first contract. This organizing model has been employed by unions seeking to organize home-based care workers across the US (see Boris and Klein, 2008 and 2012).

While Satellite more effectively addressed the multiple dimensions of precariousness experienced by home child care workers, the program ultimately fell victim to the gendered logic of the American welfare state that devalues care work and fails to adequately fund quality public child care, preferring reliance on the market and the family. And while the unionization of New York City providers has brought about important improvements, these efforts have run up against the same constraints and must now confront an agenda of neoliberal austerity which seeks to offload more of the responsibilities and costs of care from the state onto families—and more accurately, onto women who continue to do an unequal share of the gendered work of social reproduction in the household.

This article first explores the concept of 'precarious employment', its use in recent scholarship and its relation to the more familiar concept—at least in a US context—of 'contingent work.' Neoliberal labour markets have been characterized by the growth and persistence of precariousness and in recent years 'precarious employment' has garnered increased attention by scholars and policy makers (Standing, 2011; Vosko, 2006 and 2010). Yet for many workers who remained outside the standard employment relation (SER) of capitalism's 'golden age'—including workers in the care economy—precariousness in employment is nothing new.

The article then addresses the context of precarious employment in New York City's child care sector, particularly the growth of home-based child care following the neoliberal welfare reforms of the mid-1990s, before exploring the two case studies in-depth. It concludes by examining the prospects for these and similar efforts in the wake of the 2008-2012 recession and the 'fiscal crisis' of state and municipal governments. While stimulus money

has provided some promises to improve the wages and working conditions of home-based child care providers, the neoliberal approach to deficit reduction consolidating at multiple levels of government threatens to increase precariousness and roll back the hard-fought victories for workers in New York City's home-based child care sector. While significant, the gains made in limiting precariousness in the sector are tenuous.

The research presented here is part of a larger project exploring the nexus of welfare reform and child care policy in New York City and Toronto. Data was collected via a number of methods. Interviews were conducted with key organizers and staff in both the UFT-ACORN campaign and the Satellite Child Care Program. The author also interviewed municipal civil servants and advisors to the New York City government who oversaw welfare reform and child care policy at the local level. Data on the employment conditions of care workers was obtained through policy documents, interviews with UFT staff and municipal bureaucrats in the city's Administration for Children's Services, and union materials, as well as previously-published reports on employment conditions in New York's child care sector (see e.g. Bernhardt et al., 2007; McGrath and DeFilippis, 2009). The interviews and union materials, including organizing documents and other union literature, informed the description and analysis of the campaigns.

### **The Multiple Dimensions of Precariousness in Employment**

Building on the work of Rodgers (1989), Vosko (2006: 29-33) has theorized four dimensions of precarious employment: the first is the degree of *certainty* of continuing employment and regulatory protection. In contemporary labour markets, job tenure is increasingly tied not only to a single job but also to multiple jobs and to work relationships involving multiple parties. The second, *regulatory effectiveness* refers to whether laws and policies are applicable to workers in need of protection and are enforceable. The third, *control over the labour process* primarily indicates workers' coverage under a collective agreement and parallel mechanisms for self-employed workers. And lastly, *adequacy of the income package* refers to an individual's income from employment, government transfers (direct and indirect), and statutory and employer-sponsored benefits. Precarious employment is thus characterized by uncertainty, limited access to regulatory protections, lack of control, and low

income (Vosko, 2006: 148).

Furthermore, precariousness is shaped by employment status (i.e. whether a worker is self-employed or in paid employment), the form of employment (for example, temporary or permanent, part-time or full-time) and social context and social location, i.e. the context of occupation, industry, sector, or geographic location and the social relations of inequality such as gender, race, ethnicity, citizenship, disability and class.

Unlike the more static concept of ‘contingent work’—which the U.S. Bureau of Labour Statistics characterizes as “any job in which an individual does not have an explicit or implicit contract for long-term employment or one in which the minimum hours worked can vary in a nonsystematic manner”. Polivka and Nardone, (1989: 11) in Vosko (2009: 7) argue that precariousness “can appear in different guises and can be present to differing degrees within any particular job”. Thus, precariousness is better thought of as a continuum rather than a dichotomy of conditions, such as ‘good’ versus ‘bad’ jobs or ‘standard’ versus ‘nonstandard’ employment. Whereas the concept of ‘contingent work’ refers almost exclusively to form of employment, the form and level of concentration of precariousness varies across jobs and across labour markets (Vosko, 2010).

### **Precarious Employment in the US Labour Market**

According to Carre and Heintz (2009: 44-49), three dimensions of employment are particularly relevant to precariousness in the US case: duration (expected and effective duration as well as total working hours); social protection; and coverage by government labour standards.

Furthermore, three forms of employment exhibit strong propensities towards precariousness: temporary employment (including short-term hires, day labourers, on-call workers, and temp agency workers); involuntary part-time work and multiple part-time job holding; and involuntary independent contracting.

In 2005, there were 140 million individuals employed in the US (aged 15 and over), 12.7 million working in forms of employment with a higher probability of being precarious along one or more of the dimensions mentioned, representing 9.1 per cent of all US employment (Carre and Heintz 2009). In addition, Carre and Heintz (2009: 43) observe that in the US, “exposure to

more precarious, less desirable, forms of employment tend to mirror long-standing patterns of inequality in the labour market". Women, African-Americans, Hispanics, and immigrant workers, who are historically underpaid, underemployed and unemployed workforces, have higher incidences of precariousness. The segmentation of the US labour market, with these workforces marginalized in some occupations and industries (including, home-based care), has meant a higher degree of exposure to precarious employment than for white male workers.

### *Precariousness and the Standard Employment Relation*

We can better understand these labour market dynamics by contrasting precarious employment to the standard employment relation (SER). The product of working class struggles against labour market insecurity, the SER was consolidated as an employment norm during the period of capitalism's post-war 'Golden Age' (Vosko 2006 and 2010). The SER is "Defined by a full-time continuous employment relationship, where the worker has one employer, works on the employer's premises under direct supervision, and has access to comprehensive benefits and entitlements" (Vosko 2010: 1). However, in the US, full-time permanent jobs paying a 'family wage' and with access to private and social benefits, entitlements and regulatory protection, tended to be restricted to the adult male citizen workforce with immigrants and racialized workers typically outside the SER. The SER was also associated with a particular gender contract, the male-breadwinner, female-caregiver model (Vosko et al. 2009), which did not apply to many white working class women and women of colour whose economic realities were such that they by necessity combined unpaid domestic work in the home with paid employment.

A key dynamic in the growth of precariousness in employment is the mismatch between labour market conditions and employment and labour law. With the expansion of non-standard forms of work, employment law designed around the norm of the SER is increasingly inadequate to regulate new labour market conditions, leaving a growing number of workers unprotected by basic employment standards and labour laws (see Cranford et al. 2005). America's home-based care workers (including home child care providers, home health care aides, and domestic workers) have typically been classified as independent contractors, not employees,

leaving them without access to key regulatory protections and the legal right to collective organization and bargaining. In order to better understand the particular employment circumstances of New York's home-based child care providers, it is first necessary to look at the landscape of child care in the city.

### **Child Care in New York City**

With 30 per cent of its children living in poverty, there is a high need for publicly subsidized child care in New York City. The city combines federal, state and local funding streams to provide child care services to approximately 120,000 children under the age of 12, two-thirds of whom are under the age of 6 (CCI, 2008). Despite this, New York families continue to experience a serious shortage of quality, affordable early care and education (CCI: 27). For instance, the shortage of regulated care for children under age 3 means that only one space is available for every five children in need. Thus, due to underfunding, even those families whose low incomes qualify them for child care subsidies do not necessarily receive them.

Ninety four percent of New York City's child care workers are women (CCI, 2008). White women are concentrated in the more securely employed school-based workforce and management positions in child care centres while the more precarious assistant-teacher positions in community-based centres, family day care and informal providers are disproportionately women of colour (NYC ECPDI, 2007). The variety of child care settings is reflective of the fragmented and patchwork approach to the provision of child care in the US. In New York, there is a centre-based workforce in both for-profit and non-profit child care centres. This includes child care workers in the city's Head Start and Early Head Start programs. Although centre-based workers' wages are low, these workers are classified as employees, may be unionized (especially in non-profit centres contracted with the city), and are covered by appropriate employment standards and labour law.

Organized labour has sought to mitigate precarious employment in New York City's child care sector through unionization. Beginning in 1966, AFSCME (*American Federation of State, County and Municipal Employees*) DC 1707 pioneered organizing in the sector with its campaign to unionize workers in New York City's subsidized day care centres (DC 1707, 2012).

Despite venturing into what was relatively uncharted territory for the labour movement, and facing a long and difficult campaign, the union was successful in organizing 6,000 daycare employees in more than 350 centres. DC 1707 had continued success, organizing workers in the city's expanding Head Start programs in 1976. The union has a strong history of political mobilization and lobbying and has been successful in securing increased funding for child care at the state and municipal level. The cumulative result of these efforts is that today, the city's publicly subsidized child care centres are largely unionized, giving workers a degree of labour market security superior to New York's (until recently) non-union home child care providers.

### *New York City's home-based child care workforce*

Up until May 2007, the 28,000 providers who make up the city's publicly subsidized home-based child care workforce were classified as independent contractors under New York State labour law; yet due to their receipt of subsidy payments, these providers have a financial, employment-like relationship with the state (NWLC 2007). These providers have various care arrangements. Family day care providers provide care in a private home for up to six children under the age of 13 while group family providers care for 5 to 12 children in their own home. These providers number around 7,000 and must abide by state regulations administered by city agencies. Family and group family providers are visited by the City's Department of Health and fingerprinted and cleared through the state's Child Abuse Registry. They are also required to complete 30 hours of training every two years and 15 hours of health and safety training before registering. These providers may be independent or affiliated with a family child care network that offers support services. The City's Administration of Children's Services (ACS) funds its own networks for providers serving children that receive public subsidy. ACS-contracted networks administer payments to these providers as well as recruiting, training, and monitoring providers and referring children to them in return for a fee.

The largest group of home-based child care workers comprises license-exempt or 'informal' providers who care for fewer than three children. These providers are often referred to as 'family, friend and neighbour care'. Informal providers account for 21,000 of the 28,000 home-based child care workforce. Low-income

families eligible for child care subsidies can use their subsidy to pay for this type of care. These providers must follow state regulations but are not regulated to nearly the same extent as family and group family providers.

Then there are the thousands of workers who provide non-subsidized (i.e. “private-pay”) in-home care to children, either independently or through agencies, operating regulated family day cares or providing care as part of the informal economy. Providers may care for more than a few unrelated children in the provider’s home, for related children in the provider’s home, or provide care in the child’s own home. The city is also home to thousands of nannies or au-pairs working through agencies, or independently, in both the formal and informal economies.

Despite the growing body of knowledge on the importance of early childhood development for lifelong learning and success—and research confirming a strong link between child care quality and the wages, working conditions, and skills of child care workers (see Folbre, 2006)—investment in this workforce, both in New York City and nationally, are minimal (NYC EDPDI, 2007: 3). Take the issue of remuneration: the mean hourly wage of child care workers nationally was \$9.32 in 2007 compared to \$15.48 for a preschool teacher, \$30.51 for a kindergarten teacher and \$36.63 for an elementary school teacher. Occupations with comparable wages include parking lot attendants (\$9.29) and bell hops (\$10.88).

Based on the average number of hours they work, centre-based child care providers earn approximately \$18,623 per year (AFT, 2008), while home-based providers average annual earnings range from a low of \$6,209 in New Mexico to a high of \$16,367 in Washington (NWLC, 2007: 6). The child care industry has more workers with earnings below the poverty line than any other sector of the US economy with over 50 per cent of its labour force working poor (Gregory, 2008). New York State’s mean hourly wage for centre-based child care workers was \$9.91, ranking third nationally behind Massachusetts and Connecticut. Despite this, in New York City poverty level incomes prevail amongst both home-based and centre-based providers and the child care workforce overall exhibits a high turnover rate due to low pay (Ibid.).

The incomes of home-based providers are directly related to the rates at which the state (with payments administered by the City) compensates them for the care of a subsidy-eligible child.

The ‘market rate’ is the maximum level of payment that the State will reimburse a provider for such care. It is important to note that rates are not a wage and providers must supply the space in their home and pay related bills (food, phone, internet etc.) out of their overall income. The State sets the market rate based on a survey of providers across New York every two years. In New York City, the market rate represents the 75<sup>th</sup> percentile of rates charged to parents by private programs across the five boroughs.

The rate varies by age group and type of care with infants under 1 ½ in centre care the highest rate and school-age children (6-12) in informal (license-exempt) care, the lowest. Centre, group family, family and license-exempt market rates decline in that order (CCI, 2008). As Tuominen (quoted in Smith, 2008: 338) notes, “on the public-private continuum, women’s care work that is most removed from the public sphere seems to have the least public value and receives the least economic reward”. Care workers operating in a home setting thus receive lower rates of remuneration than their peers doing equivalent work in child care centres, hospitals or nursing homes.

The method for setting market rates is a long-standing point of contention for home child care providers. The State survey means that providers operating from homes in higher income counties – where the market can bear higher rates than inner-city New York – will subsequently be compensated at a higher rate for a publicly subsidized child. New York City’s rate is only two-thirds that of its surrounding suburban counties (Smith 2008). While a provider can charge more than the market rate, it is unlikely that low-income families will be able to pay more than their subsidy allows. In many low-income communities, the government is the primary or only purchaser of child care. As Smith (2006: 337) observes, with limited market competition in such areas, market rates can be “artificially low” and significantly lower than rates charged by providers who do not care for subsidized children.

The market rate is problematic on another level; as Smith (Ibid: 336) argues, the rate “reflects harmful gender-based assumptions about the value of work performed primarily by women”. While states see labour market dynamics as a “fair basis for establishing wages,” historical occupational sex segregation and gender discrimination taint “the market’s wage-setting process”. Child care, which is associated with women’s unpaid work in the

home, “suffers from a perception that caring for children, while socially important, is unskilled emotional work of only marginal economic value” (Ibid: 337).

This gendered dynamic overlaps with the geography of rate-setting and the racialization of the home-based child care workforce. Most US urban centres are socio-spatially polarized, with low-income groups, disproportionately people of colour, concentrated in particular areas of the city. State reimbursement systems perpetuate class- and race-based disparities among home-based providers, with racialized providers more likely to care for subsidized children than white providers, and thus a greater percentage of their earnings come from the government (Smith, 2006: 339). Providers in higher-income communities are less likely to accept subsidized children with non-subsidized children aplenty; whereas providers in low-income communities are not likely to turn away subsidized children given their own economic need and the fact that most children needing care in their community are subsidized (Ibid.). Thus, poor women of colour caring for poor children of colour are systematically disadvantaged by a market rate system based on state surveys of local child care markets.

### **Home-Based Child Care Providers and Precarious Employment**

With a general overview of the city’s home child care sector in place, this section sketches the multiple dimensions of precariousness experienced by home-based providers in New York City.<sup>3</sup> Job tenure for providers is directly dependent on their work relationships with multiple parties, i.e. the parents of children in their care. Low-income families may use their care subsidy (in the form of a voucher) for any provider who meets the basic regulatory requirements established by the State. Families are under no obligation to leave their child in the care of an individual provider for any particular length of time and can withdraw their children from care with little notice. For providers, this means low levels of job certainty with incomes fluctuating depending on the number of children in their care (at or under the regulated limits) and the duration of that care. Due to low levels of job certainty, providers tend to have periods where care work is supplemented by other forms of part-time employment or cash assistance (welfare).

In terms of regulatory effectiveness and control over the

labour process, prior to May 2007 providers were classified as independent contractors and were therefore not covered by basic labour and employment legislation in New York State. Their employment status excluded them from minimum wage, prevailing wage, overtime, employment insurance, and health and safety laws. They did not have the right to organize or collectively bargain. And with parents often working non-standard hours, providers also had little control over their hours of work. Due to the differing work schedules of the multiple children in their care, providers may work up to 15 hours a day without a break. Providers also had little respite from occupational injury and illness. They may care for sick children exposing themselves to illness, and carers typically lift and manoeuvre children throughout the day making them susceptible to muscle strains, particularly back pain.

Reimbursement rates typically fall below minimum wage and it is not unusual for providers to have annual incomes near or below the poverty line. Delays in payment from the municipal agency administering child care subsidies can exacerbate financial difficulties with providers unable to pay rent or other household bills on time. Providers receive no vacation pay or paid time off for illness or injury. Their pay is determined by how many children they care for, the children's age, and the weekly duration of care. Providers had no access to health, dental, life/disability insurance through their jobs and may or may not have access to benefits through a spouse. Providers also do not have a pension plan. Depending on their income level, providers may qualify for limited government transfers such as food stamps, cash assistance, or the Earned Income Tax Credit.

### **Mitigating Precariousness Through a New Employment Model: The Case of Satellite Child Care**

To date, the Satellite Child Care Program represents the most comprehensive approach to mitigating precarious employment for home-based subsidized child care providers in New York City. Through the development of an innovative training, accreditation, and employment model—establishing a clear employee-employer relationship—Satellite addressed all four dimensions of precariousness experienced by providers.

The program was an initiative of the Consortium for Worker Education, a non-profit education and training organization

associated with the New York City Labour Council. Seed money for the program came in the form of a welfare-to-work grant from the federal government, one of many competitive grants awarded directly to local entities (e.g. government, industry councils, or non-profits) by the US Department of Labour with the purpose of developing workfare programming. In addition, the CWE applied its significant union-backed lobbying power to convince New York State legislators to fund the project and recognize Satellite Child Care as a distinct category of child care differing from regular family day care, centre-based, and informal care. Seeing its potential as a welfare-to-work initiative, New York City's Human Resources Administration (HRA) and New York State's Office of Children and Family Services provided CWE with technical support. Welfare recipients eligible for the program were recommended to Satellite through HRA or CWE's community contacts. Despite the partnership, the CWE remained the sponsor and manager of the entire project.

According to the CWE, Satellite sought to address two problems: the lack of 'good' work for women leaving welfare and the lack of affordable, quality, and accessible child care for low-income families (given the scarcity of child care centres in the city's poorer neighbourhoods).<sup>4</sup> Satellite trainees underwent an assessment process to determine their suitability for the program, including a background check and a two-week job-readiness course. In partnership with a child care resource and referral agency, Satellite trainees were placed in a 12-week long-internship (500 hours) of which 60 per cent was spent in supervised, hands-on work activity at a partnering day care agency and the other 40 per cent in in-class instruction. This extensive professional development counted towards the trainee's welfare-to-work requirements established by the city's workfare program and was the equivalent of earning an associate degree in early childhood education.

After completing the training program, participants set up family child care programs (called 'off-site classrooms') in their homes and affiliated with a day care agency. Satellite was designed to match the quality and developmental aspects of centre-based care, from organized activities, high-nutrition meal plans, structured parental involvement, and ECE-trained providers. Most importantly for the discussion here, although the program was funded by the state and city, providers were made *employees* of the CWE, not

independent contractors, and were represented by District Council 1707 of the American Federation of State, County, and Municipal Employees. As unionized employees they were covered by a collective bargaining agreement between CWE and DC 1707. This new employment model meant that Satellite providers, although working in-home like family day care providers, were given assistance in site preparation, a start-up kit of safety and educational supplies, and received biweekly visits from qualified support staff. Satellite carers also worked toward professional accreditation through classes.

The Satellite program mitigated precariousness along all four dimensions. In terms of certainty, the job tenure of Satellite providers was tied to a single job i.e. that of Satellite employee. It was up to the CWE, not providers, to recruit children to the Satellite program. Crucially, if providers did not have the maximum number of children in their care for any length of time, they remained full-time employees (40 hours/week) and were not subject to reduced pay. If a child's parent pulled them from Satellite care, CWE, and not the individual provider, was responsible for filling the open space. In addition, under the collective bargaining agreement, Satellite providers were covered by seniority provisions.

In terms of regulatory effectiveness, Satellite providers were classified as full-time employees of CWE and were members of DC 1707. They were accorded the same basic regulatory protections as other workers of the same employment status under labour law. Working with a sympathetic employer in the CWE, the employer and union ensured that overtime was recorded and paid, health and safety conditions met and vacations covered. When it came to control over the labour process, with union status providers had access to traditional means of exerting control in the workplace, such as grievance and arbitration procedures.

However, under the providers' collective bargaining agreement there was to be no strike, stoppage, slow-down, picketing or other interference of any kind with the work of the provider homes and employees by the union or by employees covered by the agreement. Accordingly, there was to be no lockout by the employer of any employees covered by the agreement. Bi-monthly visits were paid to providers by CWE staff to ensure minimum program requirements were being met, yet providers had relative autonomy in determining programming for children in their care, permitted it

met the high-quality requirements established by Satellite.

In regard to the income package, Satellite providers started at \$18,200 per year (regardless of the number of children enrolled) and under the collective bargaining agreement received cost of living allowances of 2% each year for three years and then a 3% increase in year five of the agreement. They were paid approved overtime for hours worked beyond 40 per week and earned up to \$25,000, bringing them above the federal poverty threshold for a two-adult, two-child family. Providers received benefits, including full health insurance, pension, vacation and sick leave, as well as tuition reimbursement for their professional development. While Satellite employees' annual incomes remained at the low end, especially given the cost of living in New York City, the social wage greatly enhanced their economic security.

Despite its comprehensive approach, the model established by the Satellite program ultimately ran up against the constraints imposed by a state committed to low-cost care. In order for the model to be successful, the reimbursement rates paid by the state to CWE for children in Satellite care, which in turn paid the salaries of Satellite providers, had to be at or near the rate paid to child care centres for the subsidized children in their care. In effect, Satellite was to be home-based child care subsidized at the rates of the city's centre-based care. This rate was never realized and as alternative funding streams (e.g. legislative line items from the state government) dried up, CWE incurred significant debts to keep the program afloat. The program, established in 1998, lasted until 2005 and at its peak had just over 100 employees/providers on its books.

Although providing developmentally enriching care equivalent to that available in the city's child care centres, Satellite butted up against the realities of a city and state intent on meeting the increased demand for care that resulted from welfare reform with low-cost informal and family day care. The death of the Satellite model meant that low-income neighbourhoods remained under-serviced by quality care on par with that available in the city's centres. Some employees of Satellite, due to their training and professional development, were able to find employment in child care centres while others turned to providing informal or family day care.

## **Mitigating Precariousness Through Unionization: The UFT Home Child Care Providers Union**

Around 2002, community organization ACORN heard from a number of its members who were also home child care providers about delayed payments from the city, low wages, harassment by inspectors, and the isolation experienced in their work. Acting on this information, ACORN used their neighbourhood chapters throughout New York City to canvass providers for their experiences. A meeting followed soon after during which providers discussed their issues and voiced determination to build collective strength and develop the organizational capacity necessary to negotiate rates and working conditions with the city and state. In the following six months, this small group of 200 or so providers had limited success in their lobbying efforts and the incipient organization of providers disbanded.

With an eye on the campaign to unionize home child care providers in Illinois, ACORN determined that an established union would better serve New York City's providers with significant lobbying power at the state and municipal level. The community group chose to approach the United Federation of Teachers for a number of reasons. First, ACORN had built a healthy working relationship with the UFT through past campaigns. Second, noting campaigns to professionalize home child care providers, ACORN believed the campaign to unionize providers would be enhanced by framing their struggle as one of earning respect for the first "teachers", as opposed to caregivers, with whom children come into contact. Lastly, UFT had the political clout and resources to make the campaign a success.

With UFT agreeing to a partnership with ACORN, organizing efforts recommenced after a three-year hiatus. ACORN acquired a list of the city's subsidized home-based child care providers from the Administration of Children's Services and put together a team of twenty full-time organizers to survey providers and determine whether there was widespread support for unionization. Within three months, organizers had collected 6,000 union card signatures and held a meeting with over 250 providers. Numerous obstacles faced the campaign, including providers' fear that organizing would upset the agency-run child care networks to which many belonged and would result in their refusal to place children with pro-union providers. Furthermore, the primary stage of the campaign was for

the right to form a union: providers had to commit to a long struggle, first to be reclassified from independent contractors to employees of the state, then to collective bargaining and the negotiation of a first contract.

Despite these obstacles, UFT-ACORN held a rally in October 2005 to which 1,300 providers came, a clear show of strength which put the City and State on notice that home-based child care providers were capable of mass mobilization and were serious in their commitment to organize for respect and better their working conditions. From here the providers won some small but significant victories: back pay totalling over \$130,000 owed to providers by city agencies; City Council established a program to reimburse providers' out-of-pocket expenses for supplies and learning materials; and regular meetings were held with city agencies to discuss issues such as language barriers between providers and the city agency responsible for child care, as well as issues with the health and safety inspection process under which many providers felt they were penalized without cause.

Using their collective political power in the state capital of Albany, UFT, ACORN, AFSCME (which had established an agreement with the UFT for organizing jurisdiction outside of New York City), New York State's left-wing Working Families Party, local church ministers and members of the Black and Latino Legislative Caucus convinced the Republican-controlled New York State senate to pass a bill (61 to 0) giving home-based child care providers the right to unionize. The Democrat-controlled Assembly followed by a margin of 108 to 34. However, Republican Governor George Pataki vetoed the bill arguing that it misclassified private sector workers as public employees and that unionization would jeopardize the State's federal child care funding – an argument easily dismissed given four states had passed similar legislation with no change to federal funding.

While the Senate overrode the Pataki veto, the unions waited to work with newly elected Democratic Governor Elliot Spitzer who made sympathetic overtures to providers during his election campaign. Soon after taking office in 2007, the new governor issued an executive order defining home-based child care providers as state employees for the purpose of collective bargaining. In October 2007, UFT-ACORN submitted 12,000 authorization cards to the State Employment Relations Board that certified that the union had

enough cards for an election. 8,382 providers voted to join the UFT with only 96 voting no. After two years of negotiations, the UFT providers reached an agreement in principle with the state of New York on a first contract and voted to ratify the contract on January 15<sup>th</sup> 2010, with 3,658 ballots cast in favour and 54 against (Landau, 2010).

In the time between organizing and ratification, the union made some important steps forward. The state adjusted market rates in 2007 to account for the increased costs of providing care, yet New York City, which is responsible for paying the rates, refused to respect the adjustment in violation of state law, drawing threats from the State Office of Children and Family Services. The state and elected officials applied pressure on the Bloomberg administration and 2009 mayoral challenger Bill Thompson was vocal in his support for the providers. The providers held demonstrations, which included teachers and other members of UFT demanding “justice and respect” (Landau, 2010). Finally, in May 2009, eighteen months after home child care providers joined the UFT, the City agreed to pay the market rate and make retroactive payments dating back to 2007.

While the providers’ union status and first contract have mitigated precariousness, unionization has failed to match the more comprehensive approach established by the Satellite model. In terms of the degree of certainty, providers remain reliant on a number of employment relationships with multiple parents. Parents can continue to use their subsidy at a provider of their choice and switch providers with little notice. Low levels of job certainty remain with incomes fluctuating depending on the number of children in their care (at or under the regulated limits) and the duration of care.

In theory, ‘regulatory effectiveness’ is the dimension of precariousness where providers had greatest success. Providers were successful in their campaign to be reclassified as employees of the state for the purposes of collective bargaining, winning the right to organize and negotiate a contract. Providers are now covered by a collective agreement. However, there remain questions over the enforceability of the contract; the city’s withholding of a state-approved wage increase (described above) is a case in point.

In regards to control over the labour process, depending on the number of children in their care and the work schedules of parents, providers continue to work irregular and often long hours.

However, unionization has introduced some important provisions. The first contract provides for the development of a new grievance procedure in consultation with the state. Providers will be able to use the grievance procedure to resolve payment and contract disputes as well as licensure and inspection issues that impact their work environment. As under Satellite child care, providers are prohibited from legal strike or work action. Indeed, in the eleven states in which home child care providers have organized and negotiated contracts, only in Illinois do they have the right to strike (NLWS 2010).

However, unionization has addressed the inadequacy of providers' income package in a number of ways. In terms of wages, the union has negotiated an increase in the market rate, giving providers more money for each child in their care. Yet this increase is not substantial and the unfair process by which the state sets the rate, which systematically disadvantages providers serving children in low-income urban areas, has not been addressed in any substantial way. With regard to benefits, the first contract has guaranteed health insurance for all providers, a marked improvement. The state has also agreed to assist with liability and disability insurance, details of which have not yet been released.

The contract also provides funding for professional development and grants to improve the quality of care and upgrade skills. A grant is also available to help licensed providers purchase supplies and upgrade their facilities. Prior to unionization, this was an economic burden solely shouldered by providers. In addition, funds have been made available to facilitate the transition of informal providers into licensed providers, which will allow them to qualify for a higher market rate.

## **Conclusion**

Union representation under US labour law has been premised on two assumptions: an unambiguous relationship between employer and employee and a shared worksite. Neither of these assumptions fit the reality of home-based care workers (Boris and Klein, 2008: 35). Classified as independent contractors, the last ten years have seen home child care providers wage political struggles to win gubernatorial executive orders and/or state legislation which sees the state serve as the providers' employer of record, giving them the legal authority to unionize and collectively bargain with state agencies (see NWLC, 2010). Unionization has led to improved wages and

benefits and given home child care providers a voice in negotiations with the state and the capacity to exercise their collective power to demand increased funding for child care. Overall, unionization has secured “a role in making decisions affecting providers’ lives” (NWLC, 2010: 6). While these gains are notable, as the case of home child care in New York City shows, unionized home child care providers still experience multiple dimensions of precariousness in employment.

Union status is closely connected to precarious employment. As Anderson et al. (2006: 315) have concluded: “Unions mitigate precarious employment, and unionized workers are more secure, have higher incomes, and more of a social wage than non-unionized workers. Yet hierarchies exist among unionized workers: even among unionized workers, women and people of colour are more precarious, especially when it comes to income level and social wage benefits.” Historically in the US, home-based care work has been a site of racialized and gendered precariousness, with women, people of colour, and immigrants disproportionately represented in the ranks of home child care providers, home health care aides, and domestic workers. As scholars such as Boris and Klein (2012), Smith (2006) and Reese (2008) have argued, state policy has actively constructed home-based care work as a gendered, racialized and precarious labour market.

The Satellite child care program developed a new model of home child care that was recognized and funded—albeit for a short time—by the state and city government. Satellite sought to address the four dimensions of precariousness experienced by home child care providers by creating an employment model that approximated the standard employment relationship, in which providers had a full-time continuous employment relationship with one employer and access to social benefits and entitlements that completed the social wage. And in addition, Satellite, working with its labour partners, ensured these providers were represented by a union and covered by a collective bargaining agreement.

For New York City’s home-based child care workforce, mainly women of colour, Satellite provided a model that addressed their labour market insecurity while providing quality care for the children of low-income working mothers transitioning from welfare to work. Yet Satellite was not viable precisely because of its success: the American welfare state has relied upon a gendered

and racialized low-wage labour force to provide care for those who needed it; leaving the burden of costs and responsibilities of care on individuals and families, not the state. Satellite proved more expensive than the state's reliance on precariously employed home child care providers.

As part of the neoliberal austerity agenda, New York City's mayor Michael Bloomberg is planning to cut child care subsidies for more than 14,000 low-income children in the city's 2013 budget. The mayor has attempted to roll back subsidized child care in the city every year for the last six years; the current round of cuts would bring the total number of subsidies cut by Bloomberg since 2006 to 30,000. The UFT Providers union, along with the city's other child care unions, have opposed the cuts, holding demonstrations in front of city hall and rallying public support to their cause. Concerned parents and child care advocates have joined union members in the fight to preserve child care subsidies.

As Reese (2010: 237) comments, union efforts in the area of home child care have brought "new vitality to state and local campaigns to improve child care services because, in organizing child care providers, unions also organized families receiving child care subsidies". The future of precariousness in the home child care sector will be dependent on the strength of coalitions between providers and consumers; coalitions built on acknowledging the link between quality care and quality care work. Home child care providers must link with home health care workers, domestic workers, and others who provide and receive care, to form what Stone (2000) has called a broad-based care movement. Such a movement would focus not only on people's right to care but the right of paid caregivers to give quality care without compromising their own economic and social well-being.

## **Endnotes**

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2. The figure of 'Maria' represents the economic circumstances and employment conditions of the average New York City home child care provider.
3. This sketch applies to home-based providers in the rest of New York State, but the focus here is on New York City providers.
4. Satellite providers were typically located in New York City's public

housing projects where the need for child care in the wake of welfare reform was acute.

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