Employment Law Should Be Enforced

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Why do many people regard those they bring into their houses to clean or take care of their children as somehow not deserving the safety net that cushions the economic falls of normal workers? Why do people who would heap contempt on the claims of cynically self-interested farmers that their migrant workers are independent contractors not think twice about pinning that label on their “domestic help”?

In the furor over the illegal employment of nannies and cleaning women, the interests of these low-wage workers have been largely ignored. Because private household service workers are not employed by profit-making businesses, many people think that they are not real employees. Because they perform work that was traditionally done by mothers, wives, grandmothers, daughters and other female relatives without monetary compensation, some people seem to think that they are not even engaged in real work. Finally, some employers, imagining that their household servants are merely in transition to something bigger and better, have convinced themselves that it’s not worth taking the relationship seriously. (In fact, the median tenure of private household cleaners and servants — six years — is the same as that of all workers.) This devaluation of women’s household labor is ironic in light of the ostensible reason for renewed interest in the servant problem — the massive increase in the number of professional women with children employed outside of the home.

The Zoe Baird controversy focused on the practicalities of hiring “domestic help.” Unfortunately for the $660,000 per year Ms. Baird and spouse, only 1/10 of 1 percent of Americans are rich enough to identify with the child care “solution” available to such a high-income family. Although no one confused this couple’s situation with the child-care needs of the average working parent, the importance of this problem is evidenced by the ease with which discussion moved in this direction. While commentators and reporters have exposed widespread violation of the laws governing cleaning women and nannies, almost all of the discussion has adopted the point of view of the household employers, with scant mention of the importance of employment and tax laws for low-wage workers. Significantly, no one asked Ms. Baird how many hours her servants worked and what their effective hourly wage amounted to.

Wage rates in large part reflect workers’ bargaining power. Farm workers, cleaning people, child-care workers and other low-wage, isolated, non-unionized workers especially need the protections of labor and employment tax laws, including social security, minimum wage and unemployment and workers compensation, because they lack the bargaining power to capture enough income to provide for their old age and possible future disability or unemployment. It was precisely to avoid forcing domestic workers on to welfare that Congress decided to cover them under the national wage and hour law.

Personal servants remain the most miserably compensated workers in the United States. Although the available data leave something to be desired precisely because widespread non-compliance with the law frustrates the process of data collection, these are salient facts. Of the more than 1 million workers, 96 percent are women and 42 percent black or Hispanic. In 1987, 45 percent of them were paid less than the federal minimum wage of $3.35 per hour — by far the highest rate among all employees. It comes as no surprise that in 1991 they also recorded the lowest median weekly earnings among all full-time wage and salary workers — $163. This figure amounted to only 44 percent of the median for all women workers ($368).

Because household employees, like other isolated low-wage workers, do not have the bargaining power to protect themselves, the Internal Revenue Service, the U.S. Department of Labor and state labor officials should vigorously enforce the law against household employers.

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