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The Making of a "Simple Domestic:" Domestic Workers, the Supreme Court, and the Law in Postrevolutionary Mexico*

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Abstract

This article examines the legal construction of domestic labor as an unskilled and undervalued occupation in postrevolutionary Mexico, a milieu that was otherwise renowned for an extraordinary expansion of workers' rights. Based on the writing of legal scholars and legal disputes between domestic workers and their employers that reached Mexico's Supreme Court, the article discusses how a discourse that framed domestic labor as an occupation confined within the protective bounds of the household became an enduring legal formula to justify and reinforce the exclusion of domestics from labor protections recognized for other workers. In so doing, it shows how Supreme Court jurisprudence ultimately redefined the criteria for delimiting this large occupational category based on what was understood as its particular spatialization (the indoor household space) and its distinctive temporalization (guided by family needs instead of production demands). Designating workers who fit these criteria as "simple domestics," the Court erased any professional specialization among them, marginalizing this overwhelmingly female workforce from other service workers, such as doormen and private drivers, who had previously been considered "domestic."

This article examines the emergence and consolidation of an enduring legal discourse that constructed domestic work as an unskilled and undervalued occupation in mid-twentieth-century Mexico. The exclusion of domestic workers from essential labor protections in different parts of the world has been noted by advocacy groups as well as a varied feminist scholarship.[1] But when these legal exclusions were established, Mexico had recently emerged from a social revolution (1910–1920) that had brought claims of social justice to the center of public life, becoming renowned for a remarkable expansion of workers' rights and protections. In this propitious milieu, domestic workers themselves were invigorated to claim equal rights in court, and Mexican judges and legal scholars became unusually compelled to develop a coherent set of arguments to justify these exclusions.

The regime that grew out of the Mexican Revolution drew its legitimacy from its commitment to create a more egalitarian society than the one prevalent during the Porfirio Díaz dictatorship (1876–1910). This commitment was cemented in the two most renowned articles of the Mexican Constitution of 1917: Article 27, which laid the foundations for major agrarian reform, and Article 123, which promised workers a robust set of social, economic, and political rights.[2] These included, among others, the right to form unions and strike; to

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receive minimum wage, weekly rest, and maximum working hours; and compensation for overtime work, accidents, and unjustified dismissal.

Domestic labor, typically a low-wage occupation performed by poor women, and a ubiquitous feature of Mexican society,[3] was initially included within the revolutionary sway to uplift the working classes. Salvador Alvarado, a revolutionary leader and self-proclaimed "socialist" who in 1915 became the governor of Yucatán, had pointed to domestic service as the quintessential example of labor exploitation, calling for its "complete abolition" as the "near slavery" practice it had been until then.[4] Alvarado's decrees in Yucatán became a source of inspiration for those in charge of drafting Article 123 at the Constituent Congress in 1917.[5] Thus, the preamble to this article specifically stated that its provisions would apply to "all workers, day laborers, *domestic servants*, and in a general way to all labor contracts."[6] A document that was no less than the fundamental blueprint for Mexican society in the twentieth century thus contained the promise to uplift all workers, including domestic workers, on equal terms.[7]

More than a decade after the Revolution, however, the travails of regime consolidation and economic reconstruction had gradually displaced the new government's commitment with labor egalitarianism. The two most important labor bylaws enacted after the Revolution, the Federal Labor Law of 1931 and the Social Security Law of 1943, reversed Article 123's universalist spirit by excluding domestic workers from the complete set of labor benefits and protections confirmed for other workers. A first section of this article discusses the political context that, during the 1930s and 1940s, led to these exclusions, as well as the emergence of what proved to be a durable legal discourse to justify it. This discourse was introduced into Mexico's legal doctrine by a handful of labor jurists with close connections to the political elite. In the treatises they authored, they contended that labor protections were premised on the natural division that reigned between a public sphere of market transactions and a private sphere of intimate, domestic life.[8] Revolutionary law, these scholars asserted, was intended to protect those employed in the exploitative sphere of the market; in contrast, they argued that as an occupation confined within the bounds of the household, domestic labor was unburdened by the abuses to which other workers were subjected, and therefore less in need of public regulation.

The article then examines how this discourse was deployed, interpreted, and expanded by Supreme Court justices between the 1930s and 1960s, as Mexico's highest court adjudicated a number of disputes between domestic workers and their employers. Upholding the assumption that the household space suspended the hierarchies and the tempo of the outside world, justices reinforced the law's exclusion of domestic workers from the suite of protections from labor rights. I argue that by 1970, when the Federal Labor Law was repealed and replaced by a new code, Supreme Court jurisprudence had legally redefined the practice of domestic labor based on its particular spatialization within the household, defined narrowly by the area bounded inside its inner walls. On that basis, the Court limited key rights to domestic workers

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based on the distinctive temporalization justices attributed to this space—one that was guided by family needs rather than market demands. Lastly, I show how Mexico's highest court homogenized domestic workers into the new legal category of "simple domestic," which denied skill markers within this category. In so doing, I show that the Court separated household workers from other service occupations that catered to domestic needs, such as private drivers and doormen of residential buildings, which had previously been considered "domestic."

Labor Law in Post-revolutionary Mexico

With the enactment of important bylaws and expansion of the labor bureaucracy between the 1920s and the 1940s, various actors connected to the national government underscored the protective and "humanizing" mission of postrevolutionary labor law. In this vein, authorities cast the Federal Labor Law of 1931 and the Social Security Law of 1943 as the pinnacle of the government's obligation to the working classes. To a certain extent, these laws materialized the protective provisions of Article 123, confirming key protective provisions and creating a social security institute that provided free general healthcare, economic benefits, and a range of cultural activities to workers and their dependents.[9]

On the other hand, as these bylaws expanded rights contingent on labor status, their protective reach within the working classes narrowed. The Federal Labor Law designated domestic labor as a "special" type of work that set those engaged in that occupation apart from the labor standards available to "regular" workers. As I will show below, although the law entitled domestics to elemental protections such as severance payment and the right to file grievances against employers in labor tribunals, it excluded them from measures such as the eight-hour maximum workday, overtime payment, and the minimum wage. The Social Security Law of 1943 reinforced distinctions among the social and economic rights that different sectors of the working classes could claim by excluding from its benefits not only domestic workers, but other occupations that represented the majority of Mexico's workforce, such as seasonal and agricultural workers, as well as those engaged in "homework."[10]

During the gestation and discussions of these legal projects, lawmakers rarely explained, or even acknowledged, these exclusionary clauses.[11] It was clear, however, that by the early 1930s the priorities of governing elites had shifted from those of revolutionary leaders in the midst of armed struggle.[12] More than a decade after the Revolution, national authorities strove to consolidate the new political regime and engage in a program of rapid industrialization that they hoped would bring economic growth and political stability. One of the most important challenges faced by those at the head of the national government, however, was that of balancing these objectives with the demands of a labor movement that had become part of the governing party's broad governing coalition, and that by the early 1930s had acquired significant political muscle.[13]

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Each in its own way, these two labor bylaws show how those authorities deployed labor and welfare reform as an instrument to face this challenge and harness organized labor into the state's scheme of economic modernization with political stability. While the Federal Labor Law of 1931 gave labor assurances that the state was willing to guard the protective measures of Article 123, it also included clauses that curtailed trade unionism's independence from the state—a move designed to send industrialists the message that labor militancy would remain under tight government oversight.[14] The code required, for example, that unions register with labor authorities in order to be legally recognized, obligated them to provide advance notice of any strike, and stipulated that the strike's legality would be determined by a labor tribunal, where a government representative held the key vote.

Meanwhile, the Social Security Law of 1943 strove to align the interests of a labor movement emboldened by the prolabor presidency of Lázaro Cárdenas (1934–1940) with those of a national government increasingly committed to political stability under single-party rule.[15] The law created an institute, the Instituto Mexicano del Seguro Social (IMSS), responsible for providing workers and their dependents with social security and medical care. A growing and affluent IMSS became a powerful instrument that allowed party leadership to reconfigure the terms of its alliance with labor in years to come. IMSS displaced the provision of these crucial benefits from union to government control and gave the president decree power over the expansion of its coverage. Furthermore, the institute's tripartite governance—composed by representatives from government, business, and labor federations—allowed the president to restrict labor discord to an institutionalized arena, on the one hand, and on the other, to reward compliant labor bosses with well-paid posts within IMSS bureaucracy.[16]

These efforts of co-option would come to fruition during the Mexican Miracle, a period between the 1940s and 1960s characterized by a sustained economic growth and political stability. Of course, these "carrot" strategies did not always work, and more militant strands of trade unionism were never completely annihilated. But from the late 1940s onward, national authorities demonstrated their willingness to resort to violence and intimidation to cultivate a compliant labor leadership that did not threaten the prospect of industrial peace.[17] At the cost of union autonomy, expanding labor benefits brought workers in urban settings, particularly in manufacturing and the public sector, tangible gains and additions to the family wage. But with limited financial resources and a reduced political commitment to engage in large-scale economic redistribution, those outside the embrace of the broad political pact that sustained the Mexican Miracle became increasingly invisible to labor institutions and their safety net.[18]

By the 1940s, it became clear that if the postrevolutionary government could not assure "humanizing" working conditions for all workers, as those who drafted the 1917 Constitution had pledged, they at least had to signal their readiness to do so for those affiliated to the large labor confederations

that had become part of the regime's governing coalition. It was their hands and favor that national authorities deemed crucial for achieving rapid industrialization and consolidating the regime that emerged from Mexico's civil war.

Legal Discourse and Domestic Labor

With lawmakers barely recognizing the exclusion of domestic workers from key protections, it became the task of a set of renowned legal scholars to explain how a regime that still drew much of its legitimacy from its revolutionary roots could exclude such a sizable portion of the workforce from the labor standards that were considered one of the Revolution's most cherished gains. In the late 1930s and early 1940s, from the ranks of Mexico's National University (UNAM), jurists such as Mario de la Cueva and Jesús Castorena began to assemble scattered pieces of labor legislation and jurisprudence into a coherent body that became the groundwork of Mexican labor law doctrine for decades to come.[19]

In the legal treatises they authored, these jurists argued that it was precisely the "humanizing" mission of revolutionary labor legislation that justified the exclusion of domestic workers from key protective measures. The purpose of the state's forceful intervention in socioeconomic affairs was to safeguard the weaker party in this relationship, thereby instilling employment relationships with a "humane" character. Nonetheless, casting the household as a sphere that turned rent-seeking into cooperation, class-struggle into harmony, and enmity into intimacy, they contended that domestics established "personal bonds with their employers" that made their workspace intrinsically "humane." According to this reasoning, this familial bond was a "privilege" not available for those who toiled in industrial or commercial establishments, one that reduced the need for public intervention in their employment relationship.[20]

There was, of course, a wide chasm between the actual experience of most household workers and the idealized representation advanced by these jurists.[21] By the 1930s, some social organizations, domestic workers themselves, and even some authorities had pointed to the exploitative employment practices in the sector, and it is hard to believe that legal scholars were unaware of the existence of these voices. Like many other workers around the country, during the organizing fervor of the 1920s and 1930s, household workers had begun to form unions to defend their rights—surely emboldened by their explicit mention in Article 123's preamble.[22] Though usually small and local, alliances between these unions and national movements fighting for the recognition of women's political and social rights were not unheard of.[23] In addition to these experiments in collective organization, domestic workers with and without union representation frequently resorted to labor tribunals to seek redress against long working hours and other abuses to which their employers subjected them. As I will show in the next section, many managed to bring their suits all the way to Mexico's Supreme Court, and the results of these cases were occasionally reported in national newspapers.

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Furthermore, during the congressional discussions of the Social Security Law, the Senate received petitions from local organizations pressing to incorporate domestic workers and peasants into its provisions. Finally, even some voices inside the government joined in the defense of domestic workers' labor rights; in 1942, a report by the Investigative Committee on the Situation of Women and Children Workers of the Ministry of Labor concluded that the working conditions of domestic workers in Mexico City were closer to the "inhumane principles of the system of chattel slavery than to the guidelines of social justice that should govern employment relationships in a civilized nation." To offset their vulnerability, the author of the report urged authorities to eventually extend social security coverage to these workers.[24] Lawmakers and high officials usually forestalled these requests by affirming that, as social security coverage expanded, the excluded labor sectors would eventually become incorporated; but while coverage was indeed extended to certain sectors of seasonal and rural workers during the 1950s, especially organized ones in booming economic sectors, no president decreed the inclusion of domestic workers within its ordinary provisions.

Yet, in their legal commentary, jurists elided the social and political context in which labor bylaws were enacted and would have to operate, presenting them, in abstract terms, as the culmination of the revolutionary goals of social justice. But even if their scholarly writing suggests as much, jurists did not write these treatises in a political vacuum. They were personally and politically close to prominent members of the Institutional Revolutionary Party that ruled Mexico until 2000, and they alternated their scholarly work with senior posts in the nation's federal administration.[25] Even their purely scholarly work was representative of a broader effort that sought to bring the national university into the service of vigorous institution-building that was set in motion in the 1930s.[26] Indeed, these jurists' compilations and treatises became instrumental for the public defenders and officials that staffed an expanding labor bureaucracy and its tribunals.

This university-state alliance, as well as their proximity to Mexico's intellectual and political elite, made their work enormously influential across many generations of lawyers, public servants, and intellectuals.[27] The interpretation of postrevolutionary labor law advanced by these legal scholars and the place of domestic labor within this interpretation soon acquired a nearly hegemonic status within Mexico's legal and political circles, informing, as we will see, even the Supreme Court's interpretation on this matter.

Domestic Labor in Mexico's Supreme Court

During the labor effervescence of the 1920s and 1930s, workers rapidly began to make use of the newly established system of labor tribunals in an attempt to translate Article 123's promises into concrete workplace gains, and domestics were no exception.[28] Labor tribunals, or Conciliation and Arbitration Boards, were a central component of postrevolutionary labor legislation, enshrined by

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Article 123 as the appropriate venue where workers could claim their recently acquired rights. After Mexico's Supreme Court recognized the ample judicial powers of these boards over work-related matters in the mid-1920s, this new labor jurisdiction underwent a period of consolidation and expansion, heightened by the enactment of the Federal Labor Law, which furthered stipulations on how they would operate in practice. Each board would be composed of a three-person jury comprising a representative of the government, labor, and capital. Besides stipulating the regional minimum wage, recognizing unions, and deciding on the legality of strikes, they would adjudicate all labor disputes, collective or individual. According to the Federal Labor Law, boards would also provide free representation for workers in need, place the burden of proof on the employer, and decide according to "conscience" rather than by the more rigid rules of evidence used in the traditional judiciary.[29]

The disputes analyzed in the rest of this article originated in a first-instance labor tribunal and then reached Mexico's Supreme Court through the *juicio de amparo*, a review sought by individuals "against an action of a public authority" that violated their constitutional rights.[30] Both workers and employers were entitled to seek judicial review when the labor board's ruling benefited the other party; if the Court decided that the board ruling violated the constitutional rights of the person at hand, it granted an *amparo* that nullified the original decision. Since its formulation in the late nineteenth century, the *amparo* applied only to the individual petitioner. But the Supreme Court's published opinions on any specific matter (called *tesis*) still set an important precedent for legal interpretation, and five consecutive rulings to the same effect created jurisprudence that was binding on all lower courts.[31] Most of the cases the Court heard on the domestics' labor rights date back to the 1930s and early 1940s; as the decade of 1950 approached, the amount of cases decreased, and remained low throughout the 1960s.[32] This is most likely due to the logic of the Mexican legal system rather than any changes in the relationship of domestic labor; the more the Court pronounces itself over a certain matter, the less contention one can expect to see over the accurate legal interpretation at lower courts.

Over the almost four-decade period spanned by the disputes analyzed here, justices exhibited a remarkably consistent rationale to solve cases involving contention over domestics' labor rights. This should not suggest that Mexico's highest court was isolated from the country's larger political developments. To the contrary, a series of reforms dating back to the 1920s had rendered the Court less independent from the executive branch, and for this reason the Court's composition and rulings increasingly reflected the shifting priorities and alliances of the single-party regime.[33] Within the first weeks of his administration, for example, President Lázaro Cárdenas appointed to the Supreme Court a new cohort of ministers sympathetic to his vision of labor mobilization and inaugurated a new chamber purely dedicated to labor matters, whose members pledged to bring "justice to the underdog."[34] In contrast, under the presidencies of Manuel Ávila Camacho (1940–1946) and Miguel Alemán (1946–1952), conservative justices were appointed, and the Court served—in

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conjunction with other political strategies sketched in the previous section—the government's mission of curbing a labor movement emboldened during the Cárdenas presidency, going so far as to attempt to virtually deny unionized workers the right to strike in 1948.[35]

But whether prolabor or antilabor, radical or conservative, Supreme Court justices resolved disputes involving household workers by making reference to the distinct nature of the household space, usually to deny the worker at hand the full set of claimed benefits. While the disregard of notably prolabor justices for domestic workers' claims to equal rights may be striking, it actually reveals the way in which even those actors firmly positioned within the Left of the political spectrum in postrevolutionary Mexico were wary of regulating the widespread occupation of domestic labor—a service that, it is safe to assume, the whole of Mexico's ruling class and intellectuals employed.[36] More crucially, these rulings also reveal how the variety of actors who identified as prolabor—including labor jurists who were well-versed in Marxist ideology, labor leaders, justices, and President Lázaro Cárdenas himself—tended to overlook a ubiquitous work arrangement that they most likely considered difficult to organize in corporative and mass organizations. In turn, these prolabor actors oriented their efforts towards invigorating workers whom they deemed the protagonists of Mexico's road to modernization: primarily those engaged in manufacturing and the public sector, as well as those affiliated with large national confederations.[37]

Within the Protection of the Household: The Spatialization of Domestic Labor

According to the Federal Labor Law of 1931, the defining feature of domestic labor was its spatialization inside the household. While this characterization was not unique to Mexico, historical research shows that this spatial definition was relatively novel, linked to the advent of industrialization. As household production declined, the term "servant" went from describing a rather unspecified employee of either sex, who performed both productive and non-productive activities inside or outside the household, to the wet-nurses, nursemaids, and cooks who came to staff the residences of the bourgeoisie—now a predominantly female role increasingly differentiated by occupation *inside* the home.[38]

Mexican elites increasingly viewed service as a household activity, but by the early twentieth century there was ambiguity about what constituted the defining feature of domestic labor: Was it the activity performed, its productive or non-productive ends, or the space where it took place? Nineteenth-century civil law did not make any distinction between these elements. The 1870 Civil Code for Mexico City, for example, defined a domestic worker as "one who temporarily serves another individual, living with him and receiving a certain remuneration," which could encompass a number of service jobs occurring in non-residential settings and linked to productive activities.[39] In addition, throughout the nineteenth century, the Mexico City government issued a series of decrees that required all servants to register at the local police office,

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where they would be issued a passbook in which employers were to write comments on their behavior.[40] It is telling that the numerous decrees reinstating this measure explicitly stated that the rule would apply to both household domestics and to “domestics” serving in public institutions or commercial spaces.

The records of the Constituent Congress of 1917 further reveal that terms such as “domestic” and “servant” did not exclusively indicate those working in private residences. Francisco Múgica, a well-established revolutionary general renowned for his support of labor mobilization, was the delegate responsible for presenting Article 123 to the plenary.[41] Confusion arose among the deputies when Múgica stated that the article’s provisions were to apply to all workers, including domestics. One delegate asked if the article was meant to include domestics who worked *inside* households. Múgica responded that they were included, explaining that the commission had initially embraced only “economic work, and economic work is work that produces something.” But, he continued, domestic servants were incorporated in the final version because “we considered that we should not make any distinctions, but quite the contrary, balance all work subject to salary.”[42] The delegate in the plenary sought further clarification, this time asking if the article also included “the work of *criados*.” Using a colloquial term that had its origins in the pervasive practice of adopting poor infants into better-off homes to be “reared” in exchange for unpaid labor, the delegate revealed that his surprise stemmed from his association of this occupation with household dependency rather than with the rights earned by labor.[43] But notwithstanding the delegate’s astonishment, Múgica confirmed that the provisions of Article 123 were indeed meant to include *criados* serving in private households.

In the following years, as some trade unions that included domestic workers among their ranks began to appear throughout the country, many of these organizations espoused the more encompassing definition of “domestic” that privileged the activities executed over the space where they occurred, revealing the close connection between residential household workers and other service jobs. Thus, organizations such as the Sindicato de Domésticos de Izquierda in Ciudad Juárez, Chihuahua, or the Sindicato de Domésticas y Similares of Tampico, Tamaulipas, among others, included both household servants and people occupied in service professions more broadly defined, such as restaurant waiters, cooks, chambermaids, concierges, and other workers in the hospitality business.[44]

The fates of these varied service occupations, however, would soon diverge. The Federal Labor Law reversed the constitutional pledge to “balance all salaried work” by introducing a distinction among the rights to which service workers were entitled based on the *space* where their work was performed. A worker defined by the law as one “from either sex who usually performs labors of cleaning, assistance, and the like in the interior of a home or of another space of residence” would be regulated by a separate framework. Interestingly, the law still used the same word, *doméstico*, to assert that “domestics working in hotels, restaurants, hospitals, and other types of commercial

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establishments" would be considered regular workers, with the full benefits associated with this status.[45]

The articles that regulated private domestic labor under the Federal Labor Law overtly disqualified workers engaged in this occupation from key benefits such as maximum working hours and overtime pay. Unlike other workers, domestic servants could have verbal rather than written contracts, allowing the job description and expectations from each party to remain ambiguous, and making it difficult to prove compliance with agreed terms in case of disputes.[46] The code also displaced the responsibility of protecting the worker from the government onto the household head. Employers would be responsible for providing domestics with room and board and paying for services that regular workers would receive through IMSS, such as funerals in case of death and medical assistance should the domestic worker fall ill.[47]

Regarding the minimum wage—one of the most celebrated protections of the 1917 Constitution—the code established that the room and board (*alimentos*) would count as a third of a domestic worker's overall income. The law was not clear whether servants were altogether ineligible for the minimum wage, or whether the total sum of room, cash, and board should amount to the stipulated minimum.[48] Commenting on the code's opacity regarding this matter, jurist Mario De la Cueva concluded that domestic workers should not be entitled to the minimum wage: This benefit was intended to be enough to sustain a worker and his family, covering their basic necessities and "honest amusements." But since servants received food and lodging from their employers and already lived within a family, they had "less need for recreation" and a family wage, and could therefore receive a salary inferior to the stipulated minimum.[49]

The exclusion of domestic workers from important benefits created contention over who was and who was not a domestic under the law. As could be expected, in legal disputes workers tried to find their way out of a category that warranted less legal and monetary benefits, while employers conveniently argued that their employees, as "simple domestics," were not entitled to the protections they claimed. The law established that domestic workers were those engaged in assistance duties *inside* the household. But where exactly did the *inside* of the household end and the *outside* begin? As will become clear, in its rulings and opinions the Supreme Court provided a narrow definition of what indoor space entailed.

The 1936 case of Dolores Díaz and her employer Eva de la Llata reveals both the contention implicit in the definitional criteria of domestics as well as the arguments that Supreme Court justices would deploy during the following decades to mark a difference between the inside and the outside of the household. Díaz went to the local board of Tijuana, Baja California, when her employer dismissed her from her job in the summer of 1936. Díaz claimed that during the year that she had worked for de la Llata, she had been paid less than the minimum wage, had worked more than the eight-hour maximum, and had not been given her obligatory weekly rest. As was mandatory, the jury first sought to reconcile the parties, but to no avail; de la Llata

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refused to pay Díaz the requested amount since, she claimed, Díaz had been hired as a “simple domestic” and had no right to a maximum workday or overtime pay.[50] Díaz, in turn, maintained that she had been more than a mere domestic. De la Llata, it turned out, owned a small hotel and a building with suites for rent. Díaz had lived with her employer in the top apartment of the building, but besides aiding de la Llata in household work, she had cleaned the guests’ laundry and hotel rooms.

As procedure commanded, the board gathered evidence to determine the true nature of Díaz’s job—or rather, the exact space where it took place. Witnesses reported to have regularly seen Díaz doing things “proper to a *sirvienta,*” such as cooking and answering the door. Díaz also lived inside the family’s residence, and part of her payment was supplied through room and board. This led the board to conclude that the true nature of Díaz’s contract had been one of a domestic worker, and thus she was not entitled to most of the benefits she claimed. Díaz appealed this ruling in the Supreme Court, but the justices denied her the *amparo* by arguing that, because she shared a household with her employer, Díaz was no more than a “simple domestic.” In its published opinion, the Court established an important precedent for interpreting what the minimum wage for domestics entailed—an issue that, as we have seen, was opaque under Federal Labor Law. Suspending the interventionist role of the state in labor affairs, the Court stated that because of its “sui generis nature,” parties in this sector had “the freedom to agree on a salary” that could very well be below the minimum.[51]

A 1940 case that emerged from Mexico’s rural periphery provides further evidence that, in deciding who merited classification as “domestic,” justices prioritized the space where the work took place rather than the activities performed. After Alfredo Sosa was dismissed from his job at his employer’s private estate in Mexico City’s rural periphery, Sosa resorted to a local labor board to sue for the difference between his salary and the minimum wage, and to collect overtime pay for the sixteen daily hours and lack of weekly rest during the time he had worked for him. Sosa listed the many and varied activities that his job required of him, which, he claimed, merited him the classification as an ordinary worker. These included watering the garden, taking care of the orchard and the small animals, and guarding the doors of the estate. After the local board ruled in favor of Sosa, the employer sought judicial review in the Supreme Court, claiming that the board did not appreciate the evidence correctly because Sosa had been hired as no more than a domestic under his service. To support his case, he clarified that Sosa lived in the estate with his wife and family, that the orchard only produced goods for domestic consumption, and that Sosa was also responsible for cleaning the estate’s small house. The Court agreed with the employer and provided an *amparo* that nullified the original board’s ruling. In the sentence, justices argued that Sosa was a “simple domestic” who provided “global service activities” in the residential household in which he lived, and was therefore not entitled to either minimum wage or overtime pay.[52]

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The criteria that justices employed to delineate the boundaries of the category of a "simple domestic" come more clearly into focus by looking at several cases in which the Court denied this classification, as occurred with doormen (*porteros*) of residential apartment buildings. In Mexico City of the 1930s, it was customary for *porteros* (and *porteras*, since many of them were actually women) to receive payment in kind, with the owner of the building allowing them to dwell in a small room in exchange for their services. As doormen started to use labor tribunals to demand—and obtain—minimum wage payment, employers challenged these rulings in the Supreme Court by resorting to two main arguments: that the employee had agreed to work under those conditions; and that, as "mere domestics," they did not have the right to this benefit. After all, the definition of domestic service in the nineteenth-century Civil Code had allowed the treatment of doormen and household workers under the same provisions.

The court never explicitly denied that doormen of apartment buildings should be classified as household domestics under the Federal Labor Law. But in contrast to their rulings on "*simples domésticos*," during the 1930s—both before and after Cárdenas' overhaul of the Court—justices appear to have been eager to use doormen's demands for minimum wage as an opportunity to make a statement on how the paternalistic mission of postrevolutionary labor law should transcend a laissez-faire understanding of labor relations. As one of the rulings acceding to a doorwoman's demand for a minimum wage read: "Given the deep economic inequality that prevails in labor matters, the notions of freedom of contract, equality between the parties, and free will is absurd when one of the parties is compelled, due to the urgencies of their predicament, to accept even the most burdensome conditions."[53] In a similar case, the Court ruled that even if Mexico City custom allowed doormen to receive payment in kind, labor law mandated that "justice shall trump custom," upholding the labor tribunal's ruling that the employer should pay her doorwoman the minimum wage.[54] And, in comparison with cases in which service was rendered inside the household space, the rulings of the 1930s stipulated that the room provided to doormen should not be calculated as part of their wages: Boarding, they argued, was not a benefit, but rather "an essential condition" to carry out a doorman's job.[55]

In contrast, the Court was willing to recognize the validity of custom in disputes over the minimum wage between household workers and their employers. In 1939, Irene Muñoz sought redress at a labor board in Tapachula, Chiapas, after being dismissed by her employer, Herlinda García. The board ruled that the employer had to pay Muñoz severance pay based on the calculations of the stipulated minimum wage. Seeking judicial review in Mexico's highest court, the employer cast herself as the victim of an unfair ruling and a misplaced "anti-capitalist phobia"—a grievance that, voiced at the end of Cárdenas' presidency, was likely meant as a criticism of his leftist policies. García complained that the board had not taken into consideration that the worker agreed to accept part of her payment in kind, nor the custom in Tapachula where it was unheard

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of for servants and *criadas* to earn more than the $12 pesos that she had paid Muñoz. This custom was so engrained that García claimed to be “utterly certain that neither in the residential home of the Governor nor in those of the labor board members, and perhaps not even in the household of the Labor Department’s chief himself, do domestics in charge of sweeping floors, buying groceries and the like, earn more than $10 or $12 pesos a month.” The prolabor justices appointed by Cárdenas, who had pledged to defend the weakest party in an employment relationship, unanimously sided with the employer, granting her an *amparo* that reversed the local board’s ruling, and publishing an opinion that accepted that part of a domestic worker’s wage could be paid in kind.[56]

The Rhythm of Family Life: The Temporalization of Domestic Labor

As they addressed the contention over who should be regarded as a “simple domestic” under the law and what rights they were entitled to, Supreme Court justices implicitly recognized that those working outside the household space, such as doormen of residential buildings and private drivers, had the ability to exercise some control over their workday as well as the relationship between work-time and wages. Treating the work of doormen as timed labor that could be measured by a clock, commodified, and then sold to an employer, the Court entitled this occupation to the maximum work length and overtime pay. In contrast, justices and jurists argued that time within the home was not possible to rationalize and assess in the same fashion, for the home had a rhythm of its own that was guided by the requirements of family life rather than productive demands.[57]

The Federal Labor Law, as we have seen, established that domestic workers were subject neither to the maximum working day of eight hours nor to overtime pay. Explaining this significant difference between domestic and regular workers, labor law specialist Mario de la Cueva argued that domestic work was regulated by family life, which “entailed a series of little services that are absolutely unsuited to the establishment of working hours.”[58] The idea that domestic life had a “natural” rhythm that precluded the establishment of working hours represented a continuation of nineteenth-century civil law, which stipulated that servants were obliged “to perform everything compatible with their health, state, strength, ability and condition.”[59]

Castorena explained the discrepancy in the regulation of worktime between domestic and regular workers in postrevolutionary labor law by asserting that legislators at the Constituent Congress of 1917 had introduced the maximum eight-hour working day to protect the “physical condition” of those working under the tyranny of factory-like time discipline.[60] But, he reasoned, this need was null in the case of domestics, who performed their tasks “according to the rhythm and necessities” of the family household, a pace “which is by no means uninterrupted.” This allowed “domestics long respites to attend to their own needs, in such a way that the actual number of hours that they work is in fact less than the maximum hours allowed by law.”[61] The disparity between Castorena’s reasoning here and his interpretation of similar situations for

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ordinary workers is noteworthy. According to this labor law specialist, breaks within the workday of an *obrero* had to be computed as paid time, since it was understood that, even if the worker was not engaged in a particular task, the *obrero* was kept in the workplace to "respond to an extraordinary situation or supervise a given process, demonstrating that an actual respite is absent."[62]

Echoing Castorena's arguments, the Court systematically denied household workers the right to overtime payment or additional compensation for Sunday work.[63] Justices asserted that these provisions were not warranted for "simple domestics" due to how differently time moved when guided by family requirements as opposed to production demands. In a 1948 published opinion on the matter spurred by a dispute between a domestic worker who sought compensation for years of overtime work, justices quoted Castorena nearly verbatim, stating that domestics were not entitled to the maximum eight-hour workday, overtime payment, respites, and national holidays, "because their work is not continuous, undergoing constant interruptions; and living inside their employer's house, even when they must remain in it at all times, they enjoy long respites and time to attend their own needs, so much so that the time in which they are actually working is very limited."[64]

Conversely, the Court distanced private drivers from "simple domestics," in view that they did not work within the inner walls of the household, and in so doing, allowed them the benefits of timed-labor. In 1960, Teodoro Resnikoff sought judicial review after a local tribunal in Mexico City mandated that he had to pay his (male) dismissed driver, Salvador Osnaya, a large sum, corresponding to the host of benefits to which he was entitled as a regular worker. The employer argued that, as someone in his family's service, Osnaya was a domestic rather than a regular worker, and thus ineligible to receive the benefits he claimed: "Due to the peculiarities of his work, and because he received *alimentos* in my home, he should clearly have been considered a servant."[65] But the Court's opinion differed, and denied the *amparo* on the grounds that someone who did not provide cleaning or assistance services *inside* the household space could not be considered a domestic, but "simply the driver of a private vehicle with the obligation to work under a certain schedule."[66]

The 1930s rulings that distanced doormen from domestics also granted this profession the benefits associated with timed-labor. Indeed, by the late 1930s, the Court had established a taxonomy of sorts of residential doorman jobs that could serve as the foundation for their benefits in labor law jurisprudence. On the whole, these rulings established that if *porteros* were occupied in their job all day long, they had the right to receive the minimum wage; if, by contrast, their work engaged them for only a few hours a day, leaving open the possibility to perform other remunerated tasks that could supplement their salary, employers only had to pay the proportion of the minimum wage corresponding to the daily hours worked.[67]

Despite this, Supreme Court justices never attempted to investigate how household domestics structured their working day. Nor did they endeavor to distinguish between live-in and non-live-in maids, even if by 1970 a good thirty

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percent of Mexico City domestics were on a live-out arrangement. Working for a set number of hours on a daily or weekly basis, they enjoyed, under this logic, a more clear-cut separation of work and leisure, possibly having an experience that in this regard was more akin to what the law defined as “public domestics,” such as a hotel chambermaid or cleaner. Live-out domestics, furthermore, did not enjoy any of the boarding benefits that were supposed to compensate their salary—nor, for that matter, the alleged “intimacy” derived from living under the same roof as the family.[68]

In sum, by the early 1940s, Supreme Court jurisprudence recognized that for *porteros* and private drivers, the clock was the legitimate judge of work and that, as such, these workers could measure their worktime, value it, and lease it to their employers. Conversely, Supreme Court justices, drawing upon the doctrine authored by legal scholars, legally constructed the inner walls of the household as a space where the differences between work and leisure blurred, and where time progressed at a pace that could not be valued, disciplined, or compensated with regulations designed for what they thought of as the ordinary labor market.

A “Simple Domestic:” The Homogenization of Domestic Labor

On occasions, domestic workers resisted an occupational label that signaled exclusion from important rights not by arguing that their work was not restricted to the household space, but rather on the basis of their professional specialization and the skills they deployed inside the household. Nonetheless, just as justices refused to acknowledge the possibility of different arrangements and work-schedules for domestic workers while recognizing those of drivers or doormen, Supreme Court rulings disregarded the importance of skill or hierarchy inside the household by amassing under the homogenous category of “*simple doméstico*” the different roles and skills deployed within the domestic space.

The 1942 case of María Cruz Sánchez illustrates this process. Sánchez worked as a seamstress in the wealthy home of Gabriela Vélez de Posada, in the city of Puebla. She maintained that she had worked twelve hours a day on tasks that included altering the family’s garments, making clothes for the children, and “so many patches that it would be impossible to list them.” After a month of work, however, her employer accused Sánchez of stealing a golden medallion, taking her to the police office. But just a few hours later Vélez de Posada came back to the police station asking to have Sánchez released; it so happened that while Sánchez was arrested, Vélez de Posada had found the medallion at home. The next day, instead of resuming her chores, Sánchez went to the Puebla labor tribunal to file a grievance against her employer, Vélez de Posada, for intimidating behavior and lack of decency. She claimed that this justified her separation with the benefit of severance pay and compensation for all the hours of overtime work. But the board resolved that, as a domestic worker, Sánchez had no right to a maximum workday or overtime pay.[69]

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Sánchez then sought judicial review by the Supreme Court. She emphasized that she had been hired exclusively as a seamstress and not a servant: She did not engage in kitchen work, nor did she clean rooms, buy groceries, scrub floors, or perform any of the other labors appropriate to a "*criada*." Still, Vélez de Posada had unjustly "given her the title of *sirvienta*, perhaps ignorant that a *sirvienta* is the one who serves." The Supreme Court, however, upheld the ruling of the labor board and denied the *amparo*, arguing that the defendant had "exposed and proved" that, working inside the household, Sánchez had been hired as a "simple domestic."[70]

Raquel Díaz, a nanny in Cuernavaca, had a similar experience in 1951. Upon dismissal by her employers, she went to the local labor board, where the jury ruled that her former employers, the couple Saavedra-Garduño, had to pay her the difference between her salary and the minimum wage for all the years she had worked for them. Entitlement to the minimum wage, a right denied to domestics, de facto recognized Díaz as a regular worker. The employers appealed to the Supreme Court, arguing that the board had not considered Díaz as a private domestic, even though she had worked inside their home "taking care of their child, cleaning and ironing his clothes, and taking him for a walk, that is, engaging only in the work done by domestics."[71] Justices granted the employers an *amparo* that reversed the labor board's ruling, and used the occasion to provide a more detailed definition of domestic work than the one provided in the Federal Labor Law—one that laid bare their construction of the household as feminized space where the interests of the domestic worker were conflated with those of the housewife. The Court's published opinion stated that a nanny was not entitled to minimum wage benefits for "the mere fact that she was dedicated to the care and attention of a child." Rather, "it shall be taken into account that all work performed for the service and assistance of a family, in its place of residence, and that serves to support the tasks of a housewife (*ama de casa*), is the domestic service that our labor law has exempted and for which it has established its own set of benefits."[72]

This is one of the rare *tesis* that make explicit mention of the role that gendered notions of work and the family played in the Supreme Court's decision to deny domestic workers rights granted to other service jobs. Indeed, while justices occasionally did attribute the classification of "simple domestic" to male workers whom they deemed dependent on the needs of household life,[73] the fact that domestic labor was an overwhelmingly feminized occupation—both in its actual composition as well as in the way it was publicly discussed—never seemed too far from the justices' reasoning. Lawmakers and jurists usually referred to the domestic servant as a feminine subject; newspaper columnists frequently discussed the "servant problem" as one resulting from the ignorance of women, sometimes of indigenous provenance, who arrived in the big city to work in households without speaking proper Spanish or knowing how to use modern kitchen equipment; and even welfare reformists who advocated for improving labor conditions for domestic workers did so by appealing to notions of feminine feebleness and vulnerability.[74]

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The particular 1951 opinion prompted by the dispute between Raquel Díaz and her employers, however, came at a time when the view of the household as the rightful women’s sphere had become not only dominant, but also acceptable as a public argument among the high echelons of the Mexican government—especially after the failed suffragist campaigns of the late 1930s. Indeed, when President Adolfo Ruiz Cortines finally granted Mexican women the right to vote in 1953, he did so celebrating the motherly virtues of abnegation and sacrifice that they would bring to the public sphere.[75] Supreme Court justices espoused a similar notion. As Ann Varley has shown, in their resolution of cases of marital discord during the 1950s, Supreme Court justices also sanctioned an idealized notion of a patriarchal nuclear family with a breadwinning husband and a dependent wife.[76]

Concluding Remarks

In recent years, the International Labour Organization (ILO), domestic workers, and several advocacy groups across different countries have promoted the adoption of standards that guarantee better working conditions for household workers, recognizing that the labor done by this “invisible” and feminized sector has been dismissed as “not real work.”[77] This article has explored how domestic labor was set apart from the labor standards recognized for other workers in postrevolutionary Mexico, a context otherwise renown for an expansion of workers’ rights. With the enactment of the Federal Labor Law of 1931 and the Social Security Law of 1943, national authorities showed their readiness to depart from the labor egalitarianism embraced by earlier revolutionary leaders and deploy labor and welfare reform to preserve (and adjust) the broad labor-state coalition that undergirded the single party regime. While workers in the (mostly male) sectors of manufacturing, export agriculture, and state bureaucracy gained significant advantages during this period, large segments of the population, whose favor governing elites did not deem crucial to consolidate the regime, were left out from reaping the benefits of the economic growth and labor protections expanded during the Mexican Miracle. Among them, domestic workers stand out for the sheer size of their occupational sector, the explicitness of the clauses mandating their exclusion, and the consistency of the arguments that governing elites mobilized to justify restricting their labor benefits.

Faced with these unfavorable conditions, domestics resorted to labor tribunals to claim the rights they felt entitled to as workers, compelling prominent members of the legal profession to rationalize setting apart this large sector from key revolutionary gains. Between the 1930s and 1960s, legal specialists and Supreme Court justices responded to these claims by constructing an enduring legal discourse grounded in the idea that the domestic and the public spheres were naturally distinct, and thus work occurring inside and outside the household space did not require the same kind of regulation. The ideology of a division of spheres was, of course, not of their own invention. A variety of actors had

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mobilized arguments of this sort towards different ends in the years following armed struggle, including reformists eager to protect women and minors in the workplace, male union leaders determined to push women out of privileged job posts, and politicians opposing women's right to vote during the suffragist campaigns of the 1930s.[78] But in the labor law treatises they authored, jurists widely elaborated on this ideology and granted it an aura of scientific truth. Supreme Court justices, for their part, recognized the notion that the domestic space was naturally distinct as an acceptable method of legal argumentation.

Under this argument, justices reinforced household workers' exclusion from key provisions. In so doing, the Court provided quite a literal interpretation of the exact meaning of *inside* household space that excluded professions such as drivers and doormen that, though legally and historically associated with domestic service, were not considered to be intimate with the family. The Supreme Court recognized them as professionals that, engaged outside the inner walls of the household, enjoyed a certain autonomy from family rhythms and requirements, entitling them to benefits such as maximum working hours, overtime pay, and a family wage. At the same time, the Supreme Court denied the relevance of specialized work to household workers, the majority of whom were women.[79] Its rulings erased actual differences between the work performed by domestics *inside* the household: Justices transformed gardeners, seamstresses, and nannies into "simple domestics," as if the nature of the inner household space effectively suspended the skills that differentiated people in the job market.

As domestics continued to bring grievances against their employers, the notion that the household was an innately protective space where no labor exploitation could occur rang increasingly hollow. But the arguments that jurists and justices deployed to exclude domestic workers are not valuable because they convey their honest convictions about the "humane" relationship between domestics and their employers. Rather, their thinking is illustrative of how actors within the postrevolutionary governing elite, even those who positioned themselves as prolabor, constructed a legal formula through which the exclusion of this sizeable workforce was compatible with the revolutionary and prolabor rhetoric that still infused state discourse and policies. Enshrined in Supreme Court jurisprudence and labor doctrine, this legal categorization of domestic labor had by the 1940s acquired mainstream status and an inertia that was difficult to break. When, in the spring of 1970, the 1931 Federal Labor Law was repealed and a new one enacted—a legal project in which a veteran Mario de la Cueva participated as legal advisor—the new law maintained that domestic labor was a "special" category of work and kept its provisions virtually untouched. As in the 1931 code, hotel, hospital, and restaurant "domestics" were considered regular workers entitled to the full set of labor benefits. But this time, as an effect of Supreme Court jurisprudence, the law stipulated that so were doormen and watchmen (*veladores*) of residential buildings.[80]

In the last decade, a host of Latin American countries have ratified ILO's Convention No. 189, which, under the title "Decent Work for Domestic

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Workers," encourages member states to pass legislation that ensures household workers a minimum wage, weekly rest, maternity benefits, and other social protections. But Mexico, the nation that in the 1920s founded a new regime committed to defending and uplifting the working classes on equal terms, is one of the few in the region that has not done so, nor has its government passed legislation that secures a minimum wage or extends social security protections to this large and feminized occupational sector. Meanwhile, and despite renewed activism by domestic workers themselves, the timeworn notion that the household is a naturally protective and harmonious space continues to serve a generation of legal scholars as justification for the unequal labor standards that pervade this still sizable occupational sector.[81]

NOTES

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1. See for example, Christine Delphy, *Close to Home: A Materialist Analysis of Women's Oppression* (London, 1984). For a recent examination of household workers' organizing strategies, see the articles in Premila Nadasen and Eileen Boris, eds., "Historicizing Domestic Labor: Resistance and Organizing," *International Labor and Working-Class History* 88 (2015): 4–10.

2. On the Constitution, see E. Victor Niemeyer, *Revolution at Querétaro: The Mexican Constitutional Convention of 1916–1917* (Austin, 1974). On the role of labor during and after the Revolution see Barry Carr, *El movimiento obrero y la política en México, 1910–1929* (México, 1976); John Lear, *Workers, Neighbors, and Citizens: The Revolution in Mexico City* (Lincoln, NE, 2001); Kevin J. Middlebrook, *The Paradox of Revolution: Labor, the State, and Authoritarianism in Mexico* (Baltimore, MD, 1995); Alan Knight, "The Working Class and the Mexican Revolution, C. 1900–1920," *Journal of Latin American Studies* 16 (1984): 51–79.

3. In recent years, historians of Latin America have examined how central domestic service was in structuring social relationships in the region. See the articles in Jocelyn Olcott, George Reid Andrews, and Alejandro de la Fuente, eds., "Labors of Love: Production and Reproduction in Latin American History," *Hispanic American Historical Review*, 91 (2011): 1–27; Silvia Arrom, *The Women of Mexico City, 1790–1857* (Stanford, CA, 1985); Bianca Premo, *Children of the Father King: Youth, Authority, & Legal Minority in Colonial Lima* (Chapel Hill, NC, 2005); Nara B. Milanich, *Children of Fate: Childhood, Class, and the State in Chile, 1850–1930* (Durham, NC, 2009); Henrique Espada Lima, "Wages of Intimacy: Domestic Workers Disputing Wages in the Higher Courts of Nineteenth-Century Brazil," *International Labor and Working Class History*, 88 (2015): 11–29; Ann S. Blum, *Domestic Economies: Family, Work, and Welfare in Mexico City, 1884–1943* (Lincoln, NE, 2009); Ann S. Blum, "Cleaning the Revolutionary Household: Domestic Servants and Public Welfare in Mexico City, 1900–1935," *Journal of Women's History* 15 (2004): 67–90; Elizabeth Q. Hutchison, *Labors Appropriate to Their Sex: Gender, Labor, and Politics in Urban Chile, 1900–1930* (Durham, NC, 2001); Elsa Chaney, Mary Garcia Castro, and Margo L. Smith, eds., *Muchachas No More: Household Workers in Latin America and the Caribbean* (Philadelphia, PA, 1989).

4. Salvador Alvarado, *Decretos de Salvador Alvarado, del 2 al 71* (Mérida, 1915), Decreto número 20; On Salvador Alvarado, see Gilbert Joseph, *Revolution from Without: Yucatán, Mexico, and the United States, 1880–1924*. Durham, NC, 1988. On Alvarado's gender ideology, see Stephanie J. Smith, *Gender and the Mexican Revolution: Yucatán Women & the Realities of Patriarchy* (Chapel Hill, NC, 2009). On how Alvarado's reforms affected domestic workers, see

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Emma Pérez, "'She has Served Others in More Intimate Ways': The Domestic Servant Reform in Yucatán, 1915–1918," in *Las Obreras: Chicana Politics of Work and Family*, ed. Vicki L. Ruiz (Los Angeles, 1993), 41–64.

5. Niemeyer, *Revolution at Querétaro*; Alberto Trueba Urbina, *El artículo 123* (México, 1943).

6. *Constitución Política de los Estados Unidos Mexicanos* (México, 1917), Article 123. Italics mine.

7. Shortly afterwards, in 1918, the state of Veracruz, where labor effervescence was high, passed the first state labor code following the guidelines stipulated by Article 123, entitling domestics to the same rights as other workers and even promising them some additional benefits. *Ley del Trabajo del Estado Libre y Soberano de Veracruz-Llave.* (Orizaba, México, 1918), Capítulo 5.

8. The notion of separate spheres was not unique to Mexico. As a well-established body of literature has shown, arguments of this kind were also mobilized elsewhere to argue either for the expansion or curtailment of women's rights during this period. For a discussion about its origins and uses, see Linda K. Kerber, "Separate Spheres, Female Words, Woman's Place: The Rhetoric of Women's History," in *No More Separate Spheres! A next wave American studies reader*, ed. Cathy N. Davidson and Jessamyn Hatcher (Durham, NC, 2002): 29–65; Frances E. Olsen, "The Family and the Market: A Study of Ideology and Legal Reform," *Harvard Law Review* 96 (1987): 1,497–578.

9. On the Federal Labor Law, see William J. Suarez-Potts, *The Making of Law: The Supreme Court and Labor Legislation in Mexico, 1875–1931* (Stanford, CA, 2012), chapter 8; on the Social Security Law see Michelle L. Dion, *Workers and Welfare: Comparative Institutional Change in Twentieth-Century Mexico* (Pittsburgh, PA, 2010).

10. Domestic labor and homework were traditionally feminized occupations. According to the 1930 census, 70.8 percent of those classified as domestic workers were women (INEGI, *Quinto Censo de Población 1930*). Although the census does not include data for homework, labor authorities recognized this as a feminine occupation epitomized by the seamstresses who sewed garments at home for meager commissions. During the 1930s, they engaged in several efforts to extend labor protections to seamstresses engaged in outwork. In a way, the exclusion of homework from the Social Security Law reversed these efforts. See Porter, *Working Women in Mexico City*, 32–38, 185.

11. When the provisions concerning domestic labor in the Federal Labor Law were voted on in the summer of 1931, Congressmen approved them unanimously and without further comment. See *Diario de los Debates de la Legislatura XXXIV*, Año I, Período Extraordinario, Número de Diario 16, July 23, 1931. On the brief discussion regarding these exclusions before the Social Security Law was passed, see *Diario de los Debates de la XXXVIII Legislatura,* Año III, Período Ordinario, December 23, 1942.

12. In an agrarian country with an incipient industry and labor movement, the Constitution's expansive provisions on workers' welfare can be seen, as historian Alan Knight has suggested, as an exercise in "utopian legislation." Indeed, the enactment of the Constitution at the peak of the civil war represented Carranza's attempt to legitimize his rule as he faced the challenge of the more radical revolutionary factions. Alan Knight, *The Mexican Revolution*, vol. 2, 470–72.

13. In their effort to consolidate control over competing regional forces during the 1920s, national politicians relied on the Regional Confederation of Mexican Workers (CROM) for political and electoral support. Unlike other strands of trade unionism that espoused anarcho-syndicalist tactics, Morones, CROM's leader, was a moderate and a pragmatic willing to accept government patronage and resources in exchange for political support. These tactics made CROM the largest and most powerful labor federation during the 1920s. See Norman Caulfield, *Mexican Workers and the State: From the Porfiriato to NAFTA* (Fort Worth, TX, 1998).

14. This situation was possible thanks to the weakened position in which CROM found itself in the aftermath of the Great Depression, when the law was enacted. The government made Aaron Sáenz, the Secretary of Industry, Commerce, and Labor and soon-to-be sugar mogul, who was perceived as a sympathizer of industrial interests, responsible for the legal project. Still, business was not entirely satisfied with the law that emerged because the government still had to accommodate CROM, and could not contravene the constitutional mandates of Article 123, which employers deemed excessive. See Suárez-Potts, *The Making of Law*, 252–53. See also Nora Hamilton, *The Limits of State Autonomy: Post-Revolutionary Mexico* (Princeton, NJ, 1982).

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15. The party was founded in 1929 by Plutarco Elías Calles as the Partido Nacional Revolucionario (PNR). Leadership changed the party's statutes and name twice thereafter: to Partido de la Revolución Mexicana (PRM) in 1938, and to Partido Revolucionario Institutcional (PRI)—its current name—in 1946. For recent discussion on the nature of Mexico's one-party rule, see Paul Gilingham and Benjamin Smith, eds., *Dictablanda: Politics, Work, and Culture in Mexico, 1938–1968* (Durham, NC, 2014).

16. The creation of IMSS was crucial in the making of what historian Michael Snodgrass has called the "golden age of *Charrismo*," an era spanning from the 1940s to the 1970s in which, at the expense of union democracy and independence, Mexico's national government cultivated compliant union bosses and provided workers real material gains with little need for violence. Michael Snodgrass, "The Golden Age of Charrismo: Workers, Braceros, and the Political Machinery of Post-Revolutionary Mexico," in *Dictablanda*, 175–95. See also Guillermo Farfán, *Los orígenes del Seguro Social en México: un enfoque neoinstitucionalista histórico* (México, 2009); Luis Medina, *Del Cardenismo al Avilacamachismo* (México, 1978).

17. On the changing relationship between Mexico's national government and the labor movement, see Jorge Basurto, *La clase obrera en la historia de México. Del Avilacamachismo al Alemanismo (1940–1952)* (México, 1984); Medina, *Del Cardenismo al Avilacamachismo*; Olga Pellicer de Brody and José Luis Reyna, *El afianzamiento de la estabilidad política* (México, 1978).

18. The law established that the president and his appointed IMSS director should use a set of technical guidelines to direct the expansion of coverage. Although expansion often responded to political pressures, even these technical guidelines prioritized coverage of industrial and male-dominated sectors. Authorities likely presumed IMSS would allocate benefits from a breadwinning man to his dependent wife and children, and that most women would be covered by their working husbands. Under this logic, as Nichole Sanders has shown, women without breadwinning men were welcomed in the poverty-relief programs of the Secretaría de Asistencia Pública. *Gender and Welfare in Mexico: The Consolidation of a Postrevolutionary State* (University Park, PA, 2011). For how similar gendered assumptions organized welfare provision in other contexts see Linda Gordon, ed., *Women, the State, and Welfare* (Madison, WI, 1990); Susan Pedersen, *Family, Dependence, and the Origins of the Welfare State: Britain and France, 1914–1945* (New York, 1993); Alice Kessler-Harris, *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th-Century America* (New York, 2001); Karin Alejandra Rosemblatt, *Gendered Compromises: Political Cultures and the State in Chile, 1920–1950* (Chapel Hill, NC, 2000).

19. Along with Salvador Trueba Urbina, these jurists are still regarded as the champions of labor law doctrine in Mexico. See Néstor del Buen, "Prólogo," in *Temas selectos de derecho laboral*, ed. Kurczyn Villalobos and Rafael Tena Suck (Mexico City, 2014), ix.

20. Jesús Jesús Castorena, *Tratado de Derecho Obrero* (México, 1942), 285, 413.

21. As Olívia Maria Gomes da Cunha has pointedly argued for Brazil, the household reproduced rather than erased class, race, and gender-based distinctions of the outside world. "Learning to Serve: Intimacy, Morality, and Violence," *Hispanic American Historical Review* 88 (2008): 455–91.

22. Goldsmith, "De sirvientas a trabajadoras"; Goldsmith, "Sindicato de trabajadoras domésticas en México: (1920–1950)," *Política y Cultura*, 1 (1992), 83.

23. In 1937, for example, an all-women union in Veracruz that demanded better conditions for household cooks in Veracruz used the network of the national suffragist movement to ask President Cárdenas for union recognition and support. See Jocelyn Olcott, *Revolutionary Women in Postrevolutionary Mexico* (Durham, NC, 2005), 116.

24. Paula Alegría, "Aplicación del Seguro Social a los trabajadores domésticos," *Trabajo y Previsión Social*, June 1942.

25. Mario de la Cueva, the most renowned among these jurists, alternated his academic work with senior posts in the federal administration. He was a high official in Mexico's Supreme Court under President Lázaro Cárdenas (1934–1940), and in subsequent administrations he served as President of the Federal Conciliation and Arbitration Board and dean of UNAM. He also served as mentor to various generations of Mexico's power elite, among which we can count public intellectuals, public servants, an attorney general, and a future President. See Roderic Ai Camp, *Mexico's Mandarins: Crafting a Power Elite for the Twentieth-First century* (Berkeley and Los Angeles, CA, 2002), 131; *Testimonios sobre Mario de la Cueva* (México City, 1982) and "Palabras del doctor Jorge Carpizo en el Homenaje por

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el centenario del natalicio del doctor Mario de la Cueva," *Boletín Mexicano de Derecho Comparado*, vol. 35, núm. 104 (2002): 623–34.

26. Jessica Mack, "Defining Autonomy: Commitments and Freedoms at Mexico's National University, 1923–1933," Paper presented at the Latin American Studies Association Congress, Lima, Peru, April 29, 2017.

27. On the influence of jurist Mario de la Cueva over various generations of Mexican intellectuals, politicians, and lawyers, see *Testimonios sobre Mario de la Cueva*.

28. See Middlebrook, *The Paradox of Revolution*, 56, 59; Sonia Hernández, *Working Women into the Borderlands* (College Station, TX, 2014), chapter 5; Aurora Gómez Galvarriato, *Industry and Revolution: Social and Economic Change in the Orizaba Valley, Mexico* (Cambridge, MA, 2013), chapter 6.

29. Historians of Mexico have barely paid attention to the ways in which local labor tribunals have operated. So far, our understanding has come from legal historians studying the relationship between labor tribunals and the Supreme Court (see note 30). Middlebrook has examined the operation of the Federal Arbitration and Conciliation Board, which functioned in a similar way but had jurisdiction over industries of "national importance" only—such as oil, railroads, and mining. There is also some work from economists and political scientists that study the operation of labor boards in contemporary Mexico. See Middlebrook, *The Paradox of Revolution*; David S. Kaplan, Joyce Sadka, and Jorge Luis Silva-Mendez, "Litigation and Settlement: New Evidence from Labor Courts in Mexico," *Journal of Empirical Legal Studies* 5 (2008): 309–50; Kevin J. Middlebrook and Cirila Quintero Ramírez, "Las juntas locales de Conciliación y Arbitraje en México: registro sindical y solución de conflictos en los noventa," *Estudios Sociológicos* 16 (1998): 283–316.

30. Only recently have historians begun to evaluate the crucial role that the Supreme Court played in consolidating the ample social rights promised by the Revolution. In the years after the 1917 Constitution was enacted, the Supreme Court tended to deny the authority of labor boards under the argument that, by conferring judicial powers to the executive branch, boards contravened the constitutional separation of powers. In practice, the Court's unwillingness to recognize the authority of labor boards hindered the enforcement of the provisions of Article 123. This tendency was reversed in 1924, after a Congress controlled by President Álvaro Obregón (1920–1924) dissolved the old court and appointed a new body of justices whose rulings recognized labor boards' power to adjudicate all work-related matters, making them "more effective in terms of vindicating social provisions for workers." James, "Liberal Jurisprudence, Labor Tribunals, and Mexico's Supreme Court, 1917–1924"; see also William J. Suarez-Potts, "The Mexican Supreme Court and the Juntas de Conciliación y Arbitraje, 1917–1924: The Judicialisation of Labour Relations after the Revolution," *Journal of Latin American Studies* 41 (2009): 723–56.

31. The cases analyzed were the result of a search of all cases involving domestic service among these *tesis* between 1917 and 1970. I focused on cases regarding the interpretation of labor legislation, disregarding the Court's opinions in cases that involved domestic servants in other branches of law. As far as I know, there is no comprehensive catalog of Supreme Court records after 1917, but the Court's opinions are periodically collected in the *Semanario Judicial de la Federación*. When an opinion was concerned with domestic workers' labor rights, I visited the Supreme Court's historical archive to access the complete record of the dispute that had prompted its *tesis*. Using this search methodology, I found a total of forty-nine cases that the Court resolved regarding domestic workers' labor rights between 1931 and 1970. Because there is no comprehensive catalog, it is possible that there are some other cases involving domestic servants that reached Mexico's Supreme Court that do not appear in the *Semanario*, but as long as there is no catalog available to researchers, it is hard to explore this archive in a more comprehensive way.

32. My search (following the method described in note 36) yielded twenty-two cases for the 1930s, fourteen for the 1940s, nine for the 1950s, and only four for the 1960s.

33. A series of reforms during the 1920s and 1930s undermined the autonomy that the 1917 Constitution initially granted the Supreme Court, effectively making justices, according to Andrea Pozas-Loyo and Julio Ríos-Figueroa, "regime supporters." See "The Transformation of the Role of the Mexican Supreme Court," in *Judicial Politics in Mexico: The Supreme Court and the Transition to Democracy*, ed. Andrea Castagnola and Saúl López Noriega (New York and London: Routledge, 2016), 23. See also Pilar Domingo, "Judicial Independence: The Politics of the Supreme Court in Mexico," *Journal of Latin American Studies* 32 (2000): 705–35.

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34. As jurist Mario de la Cueva reflected some years later, this chamber had adapted "to the social and political conditions the country lived under President Cárdenas." Rafael Quintana Miranda, "Creación de la Cuarta Sala de la Suprema Corte de Justicia de La Nación en el periodo de La Quinta Época del Semanario de Justicia de la Federación," in *Temas selectos de derecho laboral*, 463–76.

35. Throughout the 1940s, the Court exhibited less inclination to recognize the legality of strikes, but organized labor repudiated what came to be known as the "*tesis Corona*" as an unfair attempt to curtail the right to strike. Proposed by Justice Luis Corona in 1948, the "*tesis Corona*" argued that the relationship between employer and employee could not be unequal under the existence of a collective labor contract, which nullified the conditions for a legal strike. As the case was discussed in Mexico's highest court, an outraged labor movement mobilized a campaign to defend the right to strike and was in the end rejected by a small margin. Lucio Cabrera Acevedo, *La Suprema Corte de Justicia durante el Gobierno del General Manuel Ávila Camacho, 1940–1946* (México, 2000); Basurto, *Del Avilacamachismo al Alemanismo (1940–1952)*.

36. One can only help but wonder, for example, who was in charge of preparing and serving the lavish banquets that jurist Mario de la Cueva was famous for hosting at his home, as one student of his remembered in a homage that the National University held in the jurist's memory. See "Palabras del doctor Jorge Carpizo en el Homenaje por el Centenario del Natalicio del doctor Mario de la Cueva," 631.

37. As historian Jocelyn Olcott has shown, while Cárdenas had vowed to protect and uplift women, his attention was mostly geared towards women employed in the industrial sector. But little was devoted to the higher numbers of women working in residential households and the service sector more broadly. See "Miracle Workers: Gender and State Mediation among Textile and Garment Workers in Mexico's Transition to Industrial Development," *International Labor and Working-Class History*, 63 (2003): 45–62.

38. José Moya, "Domestic Service in a Global Perspective: Gender, Migration, and Ethnic Niches," *Journal of Ethnic and Migration Studies* 33 (2007): 559–579; For Mexico, see Blum, *Domestic Economies*. For comparison with Brazil, see Sandra Lauderdale Graham, *House and Street: The Domestic World of Servants and Masters in Nineteenth-Century Rio de Janeiro* (Austin, TX, 1992).

39. *Código Civil del Distrito Federal y Territorio de la Baja California* (México: 1870), title 13, chapter 1.

40. These measures were supposed to guarantee the morality and honesty of servants, "indoctrinating them and improving their condition." "Bando publicado por el Sr. Gobernador del Distrito Federal el 6 de abril de 1852," in *Memoria de los Ramos Municipales*, presentada por D. Ignacio Trigueros (México City, 1866). For similarities with Brazil see Graham, *House and Street*, 123.

41. Cited in Niemeyer, *Revolution at Querétaro*, 65–66. Múgica's support towards labor organizing would become patent during his governorship of Michoacán in 1920–1921 and as member of President Lázaro Cárdenas' cabinet between 1934–1939. See Medina, *Del Cardenismo al Avilacamachismo*.

42. Niemeyer, *Revolution at Querétaro*, 66.

43. See Nara Milanich, "Degrees of Bondage: Children's Tutelary Servitude in Modern Latin America," in *Child Slaves in the Modern World*, ed. Gwyn Campell, Suzanne Miers, and Joseph C. Miller (Athens, GA, 2011), 108. On this long-lasting practice, see also Blum, *Domestic Economies*; Premo, *Children of the Father King*; Milanich, "Women, Children, and the Social Organization of Domestic Labor in Chile."

44. Mary Goldsmith has documented the existence of these unions, but there has been little research done on their internal workings and culture, bargaining strategies, or their relationship to labor federations. See "Sindicato de Trabajadoras Domésticas," 83.

45. *Ley federal de trabajo de 1931*, chapter VI, article 129. The Chilean national labor legislation made a similar distinction. See Hutchison, *Labors Appropriate to Their Sex: Gender, Labor, and Politics in Urban Chile, 1900–1930* (Durham, NC, 2001), 215.

46. *Ley federal del trabajo de 1931*, chapter I, article 26.

47. Ibid., chapter VI, article 130.

48. Ibid., article 131.

49. De la Cueva, *Derecho mexicano del trabajo* (México,1938), 739.

50. Amparo directo en materia de trabajo, 558/37 (June 15, 1937), AHSCJN.

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51. *Semanario Judicial de la Federación* (hereafter *SJN*), LII: 2144 (1937). During the following decades, domestic workers continued to claim the difference between their wage and the minimum wage in labor tribunals, usually after being dismissed by their employers, and some of these cases reached the Supreme Court via the *amparo* recourse. In its rulings on the issue, the Court continued to deny this benefit to household workers over the following decades. See, for example, *SJF*, Quinta Época, LIV: 2621 (1937); *SJF*, Quinta Época, LXIII: 3712 (1940); *SJF*, Quinta Época, LXXII: 5702 (1942); *SJF*, Quinta Época, C:363 (1949); *SJF*, Quinta Época, CXVI: 451 (1953).

52. This case is somewhat different from other Court rulings in that it mentions that even if the worker, as a domestic, was not entitled to the minimum wage, in his specific case the employer could not count the room in which the domestic lived as a portion of his wages, because his job entailed taking care of the estate, which he would be unable to do without living there. This appreciation, however, did not have any legal consequence, as the sentence ruled that, as a domestic, the worker was not entitled to the minimum wage. *Amparo directo*, 2391/42 (July 30, 1942).

53. 14756/33 (July 8, 1933), AHSCJN.

54. 13295/33 (May 26, 1933), AHSCJN.

55. See 13295/32 (May 26, 1933), AHSCJN;13295/3 (May 26, 1933), AHSCJN; 1679/33 (November 21, 1933), AHSCJN; 2934/33 (November 22, 1933), AHSCJN; 2322/34 (October 9, 1934), AHSCJN; 6351/34 (November 19, 1935), AHSCJN. There is only one case I found in which justices applied the same reasoning to the case of a worker they classified as "domestic." See *Amparo directo*, 2391/42 in note 57.

56. 6588/40 (March 20, 1940), AHSCJN.

57. On the innovation of timed labor in industrial Britain and its contrast with task-oriented work, see E. P. Thompson, "Time, Work-Discipline, and Industrial Capitalism," *Past & Present* 38 (1967): 56–97.

58. Mario de la Cueva, *Derecho mexicano del trabajo*, 738.

59. *Código civil del Distrito Federal y territorio de la Baja California* (México: 1870), title 13, chapter 1, article 2,557. The code also regulated domestic servants' fixed-time contracts, for example, of wet-nurses or servants hired to aid an employer during a trip, stipulating that the contract was valid until the completion of the task. See title 13, chapter 1, articles 2,554 and 2,555.

60. Castorena, *Tratado de derecho obrero*, 281.

61. Ibid., 413, 285.

62. Ibid., 281.

63. See, for example, *SJF*, Quinta Época, LIV: 2621 (1937); *SJF*, Quinta Época, LXIII: 3712 (1940); *SJF*, Quinta Época, LXXII: 5702 (1942); *SJF*, Quinta Época, C:363 (1949); *SJF*, Quinta Época, CXVI: 451 (1953). See also Amparo directo, 2391/42 (July 30, 1942).

64. *SJN*, Quinta Época, XCVIII: 675 (1948).

65. Amparo directo, 4606/60 (March 8, 1961), AHSCJN.

66. See *SJF*, Sexta Época, XLV, Quinta Parte: 18 (1961). This ruling echoed the position of the Union of Private Chauffeurs, which had, in the 1940s, expressed its discontent with the fact that private drivers were excluded from important labor rights under the argument that they were domestic workers. This notion, they argued, lacked any "empirical or logical base … since there was no relationship between the tasks of cleaning and assistance inside the household with their work driving an automobile in the streets, avenues and highways." See "Replica a una tesis jurídica," *El Nacional*, August 25, 1944.

67. 6914/36 (May 11, 1937), AHSCJN; 1241/36 (July 16, 1937), AHSCJN; 1954/37 (October 22, 1937), AHSCJN; 3901/38, AHSCJN. (October 14, 1937); 5405/38 (October 26, 1938).

68. Gloria Brenda Leff Zimmerman, "Algunas características de las empleadas domésticas y su ubicación en el mercado de trabajo de la ciudad de México," Undergraduate thesis, (Universidad Nacional Autónoma de México, México City, 1973).

69. Amparo directo, 8609/41 (1942), AHSCJN.

70. Ibid.

71. Amparo en revisión en materia de trabajo, 6498/51 (June 5, 1952), AHSCJN.

72. *SJF*, Quinta Época, CXII: 1261, (June 5, 1952).

73. See, supra, the dispute between Alfredo Sosa and Miguel García.

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74. "Las sirvientas domesticas de Veracruz, se organizan," *El Nacional*, September 23,1938; "Sindicato de 'Gatitas'," *El Nacional*, September 26, 1938; "El pavoroso problema de las domésticas," *La Prensa*, April 15, 1939; "El salario de las criadas", *El Nacional,* March 25,1942; "El Caso de las Cocineras", *Excélsior*, May 1, 1943; Ángeles Mendieta Alatorre, "Las sirvientas: auténtica esclavitud en el siglo XX," *El Nacional*, June 4, 1958; "La sirvientas, desprotegidas," *El Nacional*, October 9, 1969; Paula Alegría, "Aplicación del Seguro Social a los trabajadores domésticos."

75. While postrevolutionary politicians tended to subscribe to an ideal model of female domesticity, during the 1920s and 1930s, this ideal was confronted by feminist groups who defended the women's suffrage and civic participation on the basis of equality rather than difference. These voices waned significantly by the 1940s, after the failed attempt to get the vote. Sarah A. Buck, "The Meaning of the Women's Vote in Mexico, 1917–1953," in *The Women's Revolution in Mexico*, ed. Stephanie Mitchell, and Patience A. Schell (Lanham, MD, 2007), 107–43; Olcott, *Revolutionary Women in Postrevolutionary Mexico*; Stephanie J. Smith, *Gender and the Mexican Revolution*; Gabriela Cano, "Una ciudadanía igualitaria: el Presidente Lázaro Cárdenas y el sufragio femenino," *Desdeldiez*, 1995, 69–116.

76. "Women and the Home in Mexican Family Law," in *Hidden Stories of Gender and the State in Latin America*, ed. Elizabeth Dore and Maxine Molyneaux (Durham, NC, 2000): 238–26.

77. See ILO's Convention No. 189, "Decent Work for Domestic Workers," adopted in 2011.

78. See Olcott, *Revolutionary Women in Postrevolutionary Mexico*; Susan M. Gauss, "Working Class Masculinity and the Rationalized Sex: Gender and Industrial Modernization in the Textile Industry in Post-Revolutionary Puebla," in *Sex in Revolution: Gender, Politics, and Power in Modern Mexico*, ed. Jocelyn Olcott, Mary Kay Vaughan and Gabriela Cano (Durham, NC, 2006): 181–196; Heather Fowler-Salamini, *Working Women, Entrepreneurs, and the Mexican Revolution: The Coffee Culture of Cordoba, Veracruz*. (Lincoln, NE, 2013). For comparison, see how São Paulo industrialists during the mid-twentieth century attempted to render the workplace more "humane" in an effort to promote industrial harmony. Barbara Weinstein, *For Social Peace in Brazil: Industrialists and the Remaking of the Working Class in São Paulo, 1920–1964* (Chapel Hill, NC, 1996).

79. Recent scholarship on women's labor has shown how gender plays a key role in defining skill. See Ava Baron, ed., *Work Engendered: Toward a New History of American Labor* 1 (Ithaca, NY, 1991); Ava Baron, "Questions of Gender: Deskilling and Demasculinization in the U.S. Printing Industry, 1830–1915," *Gender & History* 1 (1989): 178–99; Anne Phillips and Barbara Taylor, "Sex and Skill: Notes towards a Feminist Economics," *Feminist Review* (1980): 79–88. On the gendered definition of skill in Mexico's textile industry, see Jocelyn Olcott, "Miracle Workers;" for a similar process in Colombia, see Ann Farnsworth-Alvear, *Dulcinea in the Factory: Myths, Morals, Men, and Women in Colombia's Industrial Experiment, 1905–1960* (Durham, NC, 2000).

80. The new law now made the employer responsible for "cooperating in the general instruction on the domestic worker," and added that the room provided should be clean and the food "healthy and satisfactory." No maximum working hours were set, although this time the code added that the employer should allow the domestic enough time to eat and rest nightly. It also stipulated that local *Juntas* would set a regional minimum wage for domestic service that would be different from the minimum wage of regular workers. However, as long as the *Juntas* did not establish this minimum wage—and they never did—the provisions on minimum wage would not apply. *Ley federal del trabajo 1970*, Capítulo XIII, as published in *Diario Oficial de la Federación*, Mexico City, April 1, 1970.

81. For a striking example of how this discourse has survived into the 21st century, see Juan José Ríos Estavillo, *Derechos de los trabajadores domésticos* (Mexico City, 2000).

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