

I. UNREGULATED WORK IN THE MANUFACTURING INDUSTRY IN NEW YORK CITY

Even after three decades of deindustrialization, apparel and food manufacturing remain important industries in New York City, employing about 40,000 workers. The story of survival is a complex one, in which local firms have tried to adapt to globalization, unions have fought to keep manufacturing in the city, and government agencies have launched programs to improve enforcement of employment laws. Smaller firms now specialize in niche markets, but still operate with very tight margins and face constant cost pressures. So while the infamous sweatshop conditions of the 19th century no longer prevail, the industry nevertheless creates a significant amount of unregulated work.

TRENDS IN THE INDUSTRY

Since the 1980s, New York City has been losing its manufacturing jobs – driven overseas by global competition, or out of the city (or to the outer boroughs) by escalating rent prices. While apparel factories have been hardest hit, food manufacturers (especially large plants) have also closed down or moved out. The manufacturing that remains in the city tends to be small factories that have been able to find niche markets. For example, certain types of garments require quick production and frequent style changes, giving local shops an advantage. In food manufacturing, large commercial baking is moving out of the city but artisan baking is growing, and ethnic foods are a growing segment. Still, competition is intense and margins are razor thin.

In the apparel industry, further cost pressures result from the growing power of retailers, who now impose stringent conditions on their orders and the amount they will pay to manufacturers. The manufacturers are in turn using subcontractors (often in multiple layers) and imposing what are often unrealistic cost constraints; in some cases, subcontractors do not receive enough money for a given order to pay the workers in compliance with wage laws.

THE WORKERS

Manufacturing in New York City has long depended on immigrant workers, with countries of origin shifting over time to reflect broader immigration trends. Today, it is largely Latino and Asian (particularly Chinese and Korean) immigrants who work in the industry. Gender segregation is quite marked – both in the manufacturing jobs that the workers hold, and in the industries that they move to in search of better jobs. For example, the decline in the apparel industry has pushed women into industries such as industrial laundries, nail salons, domestic work, home health care, and informal childcare. Men are more likely to work in food manufacturing, and to search for better jobs in restaurants or driving a taxi or livery cab.

WORKPLACE VIOLATIONS & REGULATORY EFFORTS

According to industry experts, garment sweatshops in New York City had mostly disappeared by the 1960s but began to resurface in the 1970s, as local factories tried to compete with lower-cost firms overseas. In response, the 1980s saw a renewed push to eradicate child labor and homework, and as a result these practices are far less common today (although we heard some reports of homework in our fieldwork). In order to address wage and hour violations, the New York State Department of Labor created the Apparel Industry Task Force (AITF) in 1987 and added additional multi-lingual staff in 2001. Assessing the impact of the task force is difficult, however, given continued rapid changes in the industry.

Unions have also struggled to maintain a floor on working conditions as their industry has literally grown away from them, both geographically and structurally (e.g. unionized manufacturers will use non-union subcontractors). In both apparel and food manufacturing, unions are forced to expend much of their energy on ensuring that core employment and labor laws are enforced in their

workplaces, as well as trying to keep manufacturing firms in the city. They have had success in providing health benefits for their members (which non-union workers rarely have access to), but have struggled to significantly raise wages above what non-union shops are paying. The upshot is that while union factories are more likely to comply with workplace laws, violations are widespread in the larger non-union sector.

Overtime violations are the most prevalent – especially among workers who are paid piece rates rather than an hourly wage (see Table I). In 2001, the U.S. Department of Labor found that 48% of garment factories in New York City were not in compliance with overtime requirements, and 13% were not in compliance with minimum wage requirements. In food manufacturing, respondents reported minimum wage violations for entry-level jobs, especially in unregistered shops in Sunset Park. “If they make \$40-50 a day, it’s a lot of money,” reports one community organizer.

In the apparel industry, a specific problem is “ghost factories,” factories that open for a few weeks and then disappear without paying the workers (sometimes re-opening in a new location with a new name). Compounding the problem, workers fear retaliation and so only file wage complaints after their factory closes or after they have left the job; however, at this point it can be difficult to

obtain any wages owed. Professor Tarry Hum (2003), an expert on the garment industry, provides a specific example of employer intimidation: a group of workers she studied met in the office of a community organization to discuss their grievances, only to be confronted there by both their contractor employer and the manufacturer that they were trying to hold accountable.

Health and safety conditions are also a recurring issue. Repetitive stress injuries are common in both food and apparel manufacturing. In garment shops, conditions are often overcrowded, fire exits may be blocked, and the dust produced by having too much material in too small a space frequently causes respiratory problems. Improper ventilation has become a particular concern as factories relocate to the outer boroughs, opening in spaces not designed for industrial use.

There are indirect causes of health and safety problems as well. On-the-job-injuries began to rise in the apparel industry in the 1980s and 1990s, which industry experts attribute to the speed-up that was occurring in the shops. “You see people just die of exhaustion on the machines,” reports a staff member of a local community group. Speed-up is also an issue in food manufacturing, leading some workers to remove safety guards from their machines in order to work faster; similarly, safety mats may not be placed and proper footwear may not be provided or used.

TABLE I.
CHARACTERISTICS OF UNREGULATED WORK IN THE MANUFACTURING INDUSTRY
IN NEW YORK CITY

INDUSTRY SEGMENTS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Industry segments	Violations are common in non-union apparel and food manufacturing plants. In the apparel industry, violations are concentrated among non-union contractors and subcontractors (rather than the manufacturers supplying goods to retailers).
Ownership size and firm Structure	Apparel: Average firm size for factories has been declining with the use of multiple layers of subcontractors; it is now about 25-40 workers, although there is a wide range in size. Food manufacturing: Average firm size is approximately 40 workers, but there is a wide range in size, partly depending on the type of food being produced.
Union density	Apparel: Approximately 15-25% of apparel industry is unionized, but few union plants are in unregulated segment. Food manufacturing: Approximately 10-20% of commercial bakeries are unionized, but few union plants are in unregulated segments.
THE JOBS WHERE WORKPLACE VIOLATIONS ARE COMMON	
Occupations	Apparel: Sewing operators, floor workers, pressers, hangers, packers, and cutters in non-union shops. Food manufacturing: Helpers/assistants, porters, and machine operators in non-union shops.
Typical wages	Apparel: Non-union workers paid by the hour earn around the minimum wage; piece-rate earnings vary widely, but fall below the minimum for some workers. Food manufacturing: Non-union entry-level positions were paid \$7-\$8 per hour in 2004, with some reports of wages as low as \$5 per hour. Other positions such as drivers can be paid more.
Typical hours	Apparel: Typical schedules are 10-12 hours per day, 6-7 days a week, though there are strong swings in hours with seasonal cycles and big orders. In some cases, workers have trouble obtaining enough steady work to remain in the industry. Food manufacturing: Typical work weeks are 35-40 hours but also vary by season, with 60-70 hour weeks during holidays, and temporary layoffs in January and February.
Payment method	Payment is both hourly and piece rate, and both on the books and off the books, even within the same factory.
Benefits	Health benefits and paid time off are very rare (except in union shops).
THE WORKERS MOST AFFECTED BY WORKPLACE VIOLATIONS	
Demographics	Apparel: Most workers are immigrants, primarily Latino, Chinese and Korean. The average age of production workers is 40 years old and appears to be rising. Occupations are heavily gendered, with women working as sewing operators and men working in better-paid positions as cutters, pressers and hangers. Food manufacturing: Heavily male, and also immigrant.
Immigration status	Both documented and undocumented workers.
INTERMEDIARIES PLACING WORKERS IN UNREGULATED JOBS	
Various types of employment agencies (storefront agencies that charge a fee, temp agencies, and non-profit placement agencies) place workers in factories, but only a small percentage of workers find manufacturing jobs this way. There is also some day labor in apparel.	

INDUSTRY-SPECIFIC LAWS AND REGULATIONS

The majority of workers are covered by core employment and labor laws. Additional regulations include:

Apparel: Article 12A of New York State labor law creates requirements for registration of factories. This registration is contingent on having workers' compensation and unemployment insurance coverage for all employees for the past five years. If goods are manufactured in violation of labor law, they can be tagged as "hot goods" and it is illegal to sell them.

Food manufacturing: Meat products are regulated by USDA/FDA.

COMMON WORKPLACE VIOLATIONS

Minimum wage and overtime	<p>Apparel: Minimum wage violations are a significant problem and concentrated in non-union factories; for example, in 2004 some workers paid by the piece were earning as little as \$4 per hour (without considering time-and-a-half pay for overtime hours). Overtime violations are widespread; some workers are paid straight-time for hours over 40, while others are paid a slightly higher rate but less than the required time-and-a-half.</p> <p>Food manufacturing: Depending on segment, minimum wage violations can be frequent for entry-level positions in non-union plants.</p>
Non-payment of wages	Non-payment of wages occurs when apparel factories close down without paying the workers wages owed.
Illegal deductions	Workers report that apparel employers sometimes take 5% from checks as a "cashing fee."
Employer taxes	Some employers pay workers "on the books" for the first 40 hours in the week, while additional overtime hours go unrecorded in payroll records. When paying off the books, employer taxes are rarely paid.
Workers' Compensation	Some garment factories fail to carry workers' compensation.
OSHA	Health and safety problems are common in unregulated workplaces, both because of direct violations (e.g. failure to provide adequate ventilation or protective gear) but also as an indirect result of other workplace practices (e.g. speed-up that causes repetitive stress injuries or unsafe work practices).
Discrimination	Apparel workers report discrimination in pay and treatment, based on complex hierarchies of race, ethnicity, gender, and immigration status.
Retaliation & the right to organize	Because of fears of retaliation, workers often register complaints only after their factory closes or they have left the job.

Note: All violations were assessed using legal standards in effect when interviews were conducted, and in particular, wage rates are from 2004-2005.

Sources: Original data gathered by authors during fieldwork from 2003 through 2006 in New York City, as well as the following secondary sources: Chin (2001), Crean (2003), Fitz (2002), Greenhouse (2004b), Hum (2003), Humowiecki, Lee and National Employment Law Project (2002), New York Industrial Retention Network (1999), New York State Department of Labor (2007b), New York State Department of Labor (2007c), Romney (2004), Ruiz (2005), Russ (2002), US Department of Labor (2002), US Department of Labor (2005a), US Department of Labor (2005d), US Department of Labor (2006a), US Department of Labor (2007), United States General Accounting Office (1994a), Varcasia (2002), Varcasia (2004), Zimny, Garren and ILGWU Legal Department (2002).