



BEYOND

SURVIVAL

Organizing to End Human Trafficking of Domestic Workers

National Domestic Workers Alliance
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NATIONAL DOMESTIC WORKERS ALLIANCE

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Foreword

Ai-jen Poo, Director
National Domestic Workers Alliance

Most of the first cases of domestic worker abuse that I worked on involved survivors of trafficking. Some of the women were trafficked by global banking executives, others by foreign diplomats. One woman in particular had a profound impact on me in 1999. Her name was "Lily" and she was brought to the United States at the young age of 15 with the promise of decent wages and access to an American education. She spent the next fifteen years living in a quiet suburban neighborhood with the family who trafficked her, cooking, cleaning and helping to raise their three children. However, not only was she not allowed to go to school, she was never paid, her mobility was restricted and her communication with her own family and the outside world was completely cut off. She read a newspaper article about the story of another trafficked domestic worker case that I was working on, and managed to find a way to call our office. We helped her to escape, find legal counsel and rebuild her life. She became an example and inspiration to many other workers who have courageously come forward to seek justice as survivors of trafficking. In the years since, countless women have walked into the doors of organizations like ours, all with similar stories: promises of a better life in the U.S. as a domestic worker that quickly gave way to threats, unpaid wages, endless hours, withheld identity documents and fear and shame.

The sad news is that nearly twenty years later, women are still walking into organizations with hauntingly similar stories. And the mark that their experiences have on them, on their dreams and on their families is indelible. The good news is that many of those same women went on to become leaders in their communities, strengthening the rights of workers like them and setting new norms through amplifying the voices of women who refuse to be victims. One of the most powerful moments of my life was at our 2014 National Domestic Workers Congress, when trafficking survivors took the stage to make an impromptu and timely announcement: they had just rescued another trafficked domestic worker from the Virginia house where she had been laboring, and they had brought her from captivity into the warm embrace of our members. I know from witnessing that moment and many others like it, that survivors themselves must be leaders in ending labor exploitation - there is no other way to make the changes that we need.

Women bear a disproportionate burden of the responsibility of caring for families, and must do that whether they are born into circumstances of great wealth or extreme poverty. For those women who are born into lives with little opportunity, seeking work in the U.S. and leaving their own families behind may offer the only hope that their children don't end up living a life of extreme poverty. The attempt to brake the cycle of poverty on the part of millions of women who migrate abroad for work lends itself to circumstances of extreme abuse and exploitation. We can change that together - everyone has a role in abating that suffering and danger. This report includes clear and simple steps that the U.S. federal government, states, service providers, the media and other countries can take to reduce trafficking and change the situation of trafficked domestic workers. Led by survivors, we can shine a light in the shadows of our economy, and create real pathways out of poverty and extreme vulnerability for the women whose work makes all other work possible.

1 | About NDWA and the Beyond Survival Campaign

The National Domestic Workers Alliance (NDWA) is the nation's leading voice for dignity and fairness for the millions of domestic workers in the United States, most of whom are women.

Founded in 2007, NDWA works for the respect, recognition, and inclusion in labor protections for domestic workers. The alliance is powered by 44 affiliate organizations—plus our first local chapter in Atlanta—of over 10,000 nannies, housekeepers, and caregivers for the elderly in 29 cities and 16 states. NDWA is winning improved working conditions while building a powerful movement rooted in the human rights and dignity of domestic workers, immigrants, women, and their families by:

- Working with a broad range of groups and individuals to change how we value care, women, families, and our communities.
- Developing women of color leaders and investing in grassroots organizations to realize their potential.
- Building powerful state, regional, and national campaigns for concrete change.

Domestic workers care for the things we value the most: our families and our homes. They care for our children, provide essential support for seniors and people with disabilities to live with dignity at home, and perform the home care work that makes all other work possible. They are skilled and caring professionals, but for many years, they have labored in the shadows, and their work has not been valued. These workers deserve respect, dignity and basic labor protections.

In 2013, NDWA launched our Beyond Survival campaign to build survivor leadership and promote a community organizing approach to ending human trafficking. The campaign is guided by member organizations that have a long history of working against human trafficking work: Damayan Migrant Association, Adhikaar, and CASA de Maryland. The campaign seeks to empower survivors of labor trafficking to become agents of change, bring their stories and voices into the main arenas of the trafficking debate that have historically been devoid of any discussion of workers' rights, and develop a vision for transformative change.

We call our campaign "Beyond Survival," as an indication that we are ready to move beyond the narrative of victimization, and towards true transformation and survivor-led advocacy and policy change in the US and around the world.

DOMESTIC WORKERS WHO HAVE SURVIVED HUMAN TRAFFICKING ARE MORE THAN VICTIMS

They are family members, teachers, counselors, artists, dancers, scientists, medical professionals, caregivers, and community leaders. They live at the intersection of many identities, and human trafficking does not define them. As organizers, they can move beyond just survival and into visionary leadership.

SYSTEMIC PROBLEMS REQUIRE SYSTEMIC-LEVEL SOLUTIONS

Human trafficking does not occur in a vacuum, so criminal justice approaches only address one part of the equation. As a society, we must first analyze the impacts of globalization, trade, migration, gender, race, and inequality in order to fully address and prevent human trafficking.

ECONOMIC, LABOR, AND MIGRATION RIGHTS SHOULD BE PRIORITIES

Workers and their families should be protected through economic, labor, and immigration policies that protect human rights. Forced migration, spurred by economic necessity, social and cultural discrimination and gender-based violence puts people at risk for trafficking and exploitation. Alleviating these “push factors” is a critical prevention element that would restore security for families. If and when they do choose to migrate, workers should be allowed to migrate safely and freely change employers.

SELF-DETERMINATION, ORGANIZING, AND SOCIAL SERVICES ARE INTERCONNECTED

In order to be truly survivor-centered, law enforcement and social service programs should emphasize self-determination and choices that help restore dignity. In addition, social service providers should recognize the value of labor organizing and leadership development in the healing process. Building partnerships with community-based organizations is an important step that social service providers can take to help survivors thrive beyond the case management period.

GOVERNMENTS AND EMPLOYERS SHOULD BE HELD ACCOUNTABLE

Diplomatic immunity should not be used to shield traffickers from justice. Governments should uphold international and human labor rights standards, and take action to address power imbalances between domestic workers and social protections. Further, governments should ensure adequate investigations, certification, and services for victims of trafficking and labor, who are frequently undeserved compared to those trafficked for sex.

ONLY A MOVEMENT-BUILDING APPROACH CAN DISMANTLE HUMAN TRAFFICKING

Survivor-led organizing around root causes is the real key to a long-term approach to ending human trafficking. Slavery has been illegal for over 100 years, laws alone fall short. We need a mass movement with survivors and workers in the lead, connected and in solidarity with other people's movements.

2 | SUMMARY & RECOMMENDATIONS

Around the world, an estimated 52 million people are employed as domestic workers, providing services such as child care, cleaning, and elder care, in private homes. In the United States alone, official estimates indicate that about two million people are engaged in such work, but because of the large number of undocumented immigrants involved, the real number is likely much higher.

While there is not yet nationally representative data about trafficking and forced labor in domestic work, there are a number of smaller studies, as well as individual cases, that have shed light on the problem and helped shape an analysis of how and why exploitation manifests.

The main arenas of the trafficking debate have focused on trafficking of sex workers and children. Those who have been trafficked for the purpose of supplying low-cost domestic work are often overlooked. While there is a great deal of overlap between different types of trafficking, the specific forms of labor exploitation associated with domestic worker trafficking deserve more focused attention. This report provides an overview of the problem of domestic worker trafficking. It then draws on the experiences of NDWA and our allies to put forward detailed recommendations for action at multiple levels.

Our overall view is that addressing this issue adequately will require a rights-based framework that tackles root causes and promotes basic immigration and labor rights. Therefore, our recommendations for governments— in the United States and around the world—cover a broad range of agencies and types of actions— from visa reform to more effective investigation of wage violations.

At the same time, we believe that nongovernmental organizations, with workers in the lead, are key to building the power necessary to end trafficking of domestic workers. Our recommendations for service providers and advocacy groups emphasize the need for leadership development among workers and survivors. Because human trafficking is a long-term structural problem, the recommendations in this report are only a first step. We look forward to working with allies inside and outside governments to build on these proposals for undoing the structural barriers to ending domestic worker abuse.

SUMMARY OF RECOMMENDATIONS

Government Accountability

United States Federal Government

Interagency Recommendations

1. Government agencies affiliated with the President's Interagency Task Force on Human Trafficking should collaborate and should provide resources to worker centers and community-based organizations to develop anti-trafficking materials and proposals focused on labor trafficking in general, and domestic work in particular.
2. The new Interagency Working Group for the Consistent Enforcement of Federal Labor, Employment and Immigration Laws established as part of the President's November 20, 2014 Executive Action on Immigration should include the Department of State (DOS) to ensure that migrant domestic workers and other workers who receive work visas through consular processing are not excluded from collaborative efforts to address low wage immigrant worker exploitation.
3. The Interagency Working Group should recommend that the Department of Homeland Security strengthen USCIS programs to ensure immigrant workers who are undocumented or who have temporary visas and may fall out of status during a dispute with an employer, contractor, or recruiting agent can maintain legal status and work authorization through deferred action, parole in place, or other appropriate measures.
4. In exploitation and trafficking cases where the workers are immigrants (with or without authorization), Immigration and Customs Enforcement (ICE) should not be the primary federal investigating agency because of the inherent conflict between ICE's role in detaining and removing unauthorized immigrants and the overarching priority in these cases of serving immigrant victims of crime.

Department of Homeland Security

5. DHS should end partnerships with local and state law enforcement as these partnerships increase fear of police in low-income worker communities and prevent trafficked workers from seeking help.
6. DHS should train and mandate its agents to request continued presence for suspected victims of human trafficking, and should continue to improve screening procedures so that suspected victims are not arrested, detained, or deported.
7. The DHS's United States Citizenship and Immigration Services (USCIS) U and T visa adjudicators should receive additional and specialized training on victims of labor trafficking and workplace-based crime.

Department of State

8. Department of State (DOS) should improve and fully implement effective pre-departure and post-arrival programs for domestic workers and their employers, and include domestic worker groups.
9. DOS should establish annual in-person monitoring and exit interviews, and include domestic worker groups.
10. DOS should carefully monitor applications to ensure foreign missions are not misclassifying domestic workers under A-2 visas.
11. DOS should ensure meaningful consequences for diplomats and international officials and agencies who defraud or abuse domestic workers, including requesting waivers of immunity and suspending countries and agencies from the ability to bring more workers.

12. DOS should revise the B-1 and J-1 au pair programs to ensure that domestic workers employed in these programs receive similar protections- including the right to contracts and prevailing wages, and stays of removal if the worker pursues a criminal or civil case against an abusive employer.

Department of Labor

13. The Department of Labor (DOL) should consult with worker centers and community based organizations to understand the dynamics of domestic worker trafficking and exploitation, especially as it begins to certify T visas and expanded categories of U visas.
14. DOL should partner with worker centers to increase Wage and Hour Division capacity to investigate and respond to wage and hour violations experienced by domestic workers.

Department of Justice

15. The Department of Justice (DOJ) should prioritize human trafficking cases that domestic workers bring forward. Evidence shows that forced domestic work is likely one of the most prevalent forms of trafficking for labor in the U.S.
16. DOJ prosecutors should always request the restitution available to survivors under the Trafficking Victims Protection Act.

Victim Services Funding

17. Agencies, particularly Health and Human Services (HHS) and DOL, should receive adequate appropriations to provide services
18. Federal funding for victim services should address long-term needs such as housing and employment.
19. Victim services programs should promote collaboration and access to funds by community-based organizations that are well positioned to assist domestic workers.

Federal Legislation

20. Congress should reform temporary work visa programs with more mobility, transparency, oversight, and a pathway to citizenship.
21. Congress should increase the cap on U visas to reflect the actual need.

State Governments

19. State legislatures should pass Domestic Workers' Bills of Rights
20. State Departments of Labor should investigate and certify U and T visas for victims of human trafficking and other serious workplace-based crime.
21. States should improve legal protections for low-income workers, including strong, accessible enforcement mechanisms that allow low-income workers in high-exploitation industries including domestic work to protect their rights and be compensated for employer wrongdoing.

International Governments

22. Governments should ratify and implement the International Labor Organization (ILO) Decent Work for Domestic Workers Convention (C. 189, and its accompanying recommendation (R201) and all relevant ILO Forced Labor instruments (Convention 29, Protocol 29 and its accompanying recommendation (R203) Governments should reform domestic policy with regard to sponsorship systems and domestic worker coverage under labor laws
23. Governments should reform domestic policy with regard to sponsorship systems and domestic worker coverage under labor laws, with particular attention to the freedom of association and right to organize

24. Embassies should partner with ethnic community-based organizations to provide emergency services and resources, and training for staff
25. Given the specific problems faced by domestic workers employed by diplomats are common on a global scale, governments should mandate training and oversight for diplomats and consular officers who employ migrant domestic workers.
26. Through multilateral and bilateral cooperation, reform labor recruitment and employment processes, including eliminating all recruitment fees for workers.
27. Trade agreements should include strong worker protections and include the rights of domestic workers to fair wages and appropriate workplace protections.

Building Power Together

Service Providers

29. Service providers should partner with community-based worker/immigrant rights organizations to enhance capacity and promote self-determination for survivors.
30. Service providers should engage in advocacy as allies alongside survivors and community-based organizations.

Advocacy Organizations and Partners

31. Advocacy organizations should collaborate with workers and survivors in the development of materials and policy proposals.
32. Advocacy organizations should share resources and funding with worker centers and survivor groups to build survivor skills and training to be advocates, and either hire directly or fund local groups to hire survivor organizers.
33. Advocacy organizations should take a comprehensive approach to human trafficking, and address root causes and related issues including immigration reform and labor rights.
34. Advocacy organizations should initiate participatory research with survivor groups, and involve survivors in uncovering problems and solutions that would most benefit survivors and prevent human trafficking and exploitation.
35. Labor unions should recognize and speak out on the prevalence of labor trafficking and train union leaders and members to identify possible trafficking and provide survivors with resources and support.