



Human Trafficking *at* Home

LABOR TRAFFICKING OF DOMESTIC WORKERS





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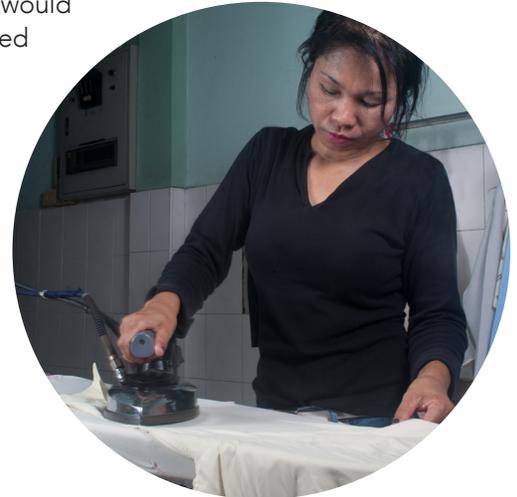


Introduction

When Lea¹ was asked to come to the United States to work as a nanny she jumped at the chance. The money she was promised would go a long way in her country - and she could have it all sent directly to a bank back home as all her living expenses were to be paid by the family she came to work for. But when Lea arrived at the family's home in a mid-sized southern U.S. city, she was told she was not just caring for children but also cooking and cleaning for the whole family. Her shifts started at 5 a.m. and she was expected to work until 1 a.m. She was told that she was not allowed to leave the home and that if she tried to go out, she would be deported. Less than half the money she was promised was deposited in her bank account and when she complained her employer beat her with her fists and with a telephone. Her employer took her passport when she first arrived in the country and would not give it back when she said she wanted to leave.

Lea felt she had nowhere to turn. In many ways, she was right. She was also not alone.

From December 2007 to December 2017, the Polaris-operated National Human Trafficking Hotline learned about approximately 8,000 labor trafficking cases. The highest number of cases - almost 23 percent - involved domestic work. In human trafficking prosecutions, the highest number of criminal and civil cases for labor trafficking in 2017 were domestic work-related.²



The fact that domestic workers make up the greatest percentage of labor trafficking cases recorded by the National Hotline can be attributed in part to this workforce's near total lack of interim legal options - ways to get justice, get back pay or otherwise get help before a situation becomes intolerable or escalates into trafficking. Domestic workers are explicitly excluded from some labor protections and de facto left out of others. This plays out in practical, tangible ways but also in shaping norms and attitudes that lead to exploitation and abuse. Our legal framework implies that these people do not matter as much as others, which is a dangerous message to send to employers.

On top of the lack of protections under U.S. law, the system by which many domestic workers from foreign countries enter the United States is so poorly designed that it could arguably be said to encourage exploitation and trafficking. Social services that provide assistance specifically for this population are relatively few and far between.

The result is that many domestic workers labor in exploitative conditions and experience wage theft while working longer hours than agreed upon and usually performing additional tasks - like a nanny also being a housekeeper - without any corresponding increase in wages. The situation escalates into human trafficking if, for example, the domestic worker was engaged or recruited through fraudulent means or if, as in Lea's case, the worker is forced to remain on the job through threats, violence or other forms of force or coercion.

¹ Names and potentially identifying information have been changed in this and all subsequent stories to ensure confidentiality

² The Human Trafficking Institute. (2018). 2017 Federal Human Trafficking Report. P. 3, 52. Retrieved from https://www.traffickingmatters.com/wp-content/uploads/2018/05/2017-Federal-Human-Trafficking-Report_hi-res.pdf



Domestic workers and the economy

The lack of resources for and attention paid to this workforce belies both the sheer volume of people involved and the importance of domestic work to the U.S. economy. There were nearly two million domestic workers in the United States in 2012.³ They work as nannies, homecleaners and homecare givers.⁴ That number is only going to go up. As the baby boom generation seeks supports that will allow them to age at home, the homecare industry alone is projected to grow by 52 percent from 2016 to 2026.⁵

The economic value of domestic workers to the country as a whole goes far beyond the wages of the workers themselves, as the ability to engage domestic help makes other economic activity possible. For example, whereas traditionally one parent - usually the mother - cared for children and the home without pay, today, thanks to domestic workers there are increasing numbers of two-income households.⁶ Domestic workers also make it possible for adults with sick or aging relatives to remain in mainstream employment while resting assured that their loved ones are cared for.

These services are not luxuries but rather vital underpinnings to our economy. Indeed, it is hard to imagine how much would be lost in terms of productivity if this workforce were to walk off the job. It is time to put legal and societal supports in place that recognize this reality.

About this report

This report, a joint project of Polaris and the National Domestic Workers Alliance (NDWA), is an attempt to put legal and societal recommendations forward by compiling and sharing qualitative and quantitative information about the realities of life for domestic workers. That includes understanding the day-to-day working conditions of a wide range of workers cross the industry as well as drilling down on the details of reported cases of human trafficking of domestic workers. Data comes from Polaris's operation of the National Human Trafficking Hotline, from an extensive survey of domestic workers conducted by the NDWA and through third party research. With this information, and by working with partners, domestic workers and survivors of human trafficking, stakeholders seeking to end the labor trafficking of domestic workers can begin to craft and implement data-driven solutions.

3 Shierholz, H. (2013). Low Wages and Scant Benefits Leave Many In-Home Workers Unable to Make Ends Meet. Economic Policy Institute. Briefing Paper #369. P. 4. Retrieved from <https://www.epi.org/publication/in-home-workers/>

4 National Domestic Workers Alliance. (NDWA), Institute for Policy Studies. (2017). The Human Trafficking Of Domestic Workers In The United States: Findings From The Beyond Survival Campaign. P. 8. Retrieved from https://ips-dc.org/wp-content/uploads/2017/03/Beyond-Survival-2017-Report_FINAL_PROOF-1-1.pdf

5 Paraprofessional Healthcare Institute (PHI). (2018). Workforce Data Page: Retrieved from <https://phinational.org/policy-research/workforce-data-center/#tab=National+Data>

6 UCLA Labor Center. (2016). Profile, Practices and Needs of California's Domestic Work Employers. P.9 Retrieved from <http://irle.ucla.edu/wp-content/uploads/2016/03/Profile-Practices-and-Needs-of-Californias-Domestic-Work-Employers.pdf>

ABOUT POLARIS

Founded in 2002, Polaris is named for the North Star, which people held in slavery in the United States used as a guide to navigate their way toward freedom. Polaris uses data-driven strategies to prevent and disrupt human trafficking, a \$150 billion industry that robs 25 million around the world of their freedom. Polaris serves victims and survivors through the 24/7 National Human Trafficking Hotline, coordinating with referral partners nationwide as a national access point for trauma-informed support. Polaris is building one of the largest public data sets on human trafficking in the United States, digging deeper to learn how the business of human trafficking really works, in real time. This report on the domestic worker is another in the series of reports being produced by Polaris to invigorate stakeholders' strategic response to labor trafficking.

ABOUT NDWA

The National Domestic Worker Alliance (NDWA) is "the leading unified national voice for dignity and fairness for domestic workers in the United States." The NDWA was established in 2007 to "work for the respect, recognition, and inclusion in labor protections of domestic and home care workers across the country." The NDWA's membership includes various categories of domestic workers - nannies, housekeepers and caregivers for the elderly and people with disabilities. With 65 local affiliate organizations and chapters in 37 cities and 18 states, the NDWA is the leading, unified national voice for dignity and fairness for domestic workers in the United States.



Effective solutions will have to address the complex sociological factors that make domestic workers vulnerable and, on the other side of the coin, foster impunity among abusive employers.

There are also tangible steps policymakers can take now to address legal inequities and broken systems that put domestic workers in jeopardy of abuse, exploitation and trafficking.

Specifically, it is long past time to reexamine U.S. laws governing labor and employment, which either explicitly or de facto exempts domestic workers from the basic protections afforded most other workers under U.S. labor law.^{7,8}

Additionally, changes are necessary to the design and implementation of the process by which temporary work visas are assigned and overseen. Under the current system, these visas make it all too easy for bad actors to entice workers from abroad into abusive situations and coerce them into staying and suffering because they truly have no other acceptable choices.

While public awareness of human trafficking as a concept has become more widespread over the past decade than before, the vast majority of educational and “see something say something” type campaigns in this sphere are focused on sex trafficking. In many communities there is not even a general understanding of labor trafficking as a crime. If we are to make a dent in labor trafficking of domestic workers, there must be a concerted effort to reach and educate both people who are likely to come into contact with domestic workers and potentially vulnerable workers themselves such as diaspora community groups with which some victims may have ties.

Finally, it is time to create some real accountability for employers. In cases like Lea’s, where there are clear indicators of human trafficking, there are laws that provide some avenues for assistance but policies, procedures, laws and societal norms that would have kept this situation from escalating to the point of human trafficking in the first place are needed. For that is the ultimate goal: Preventing abuse, exploitation and trafficking and creating a culture in which domestic workers are paid an adequate wage for the work that they do, work in a safe and healthy environment, have easily accessible recourse should something go wrong and are treated with the respect they deserve for doing jobs that have significant economic value and inherent dignity.



7 NDWA. (n.4)

8 Seattle Domestic Workers Alliance. (n.d.). Home Equity: Inequality and Exclusions Facing Domestic Workers in Seattle. P. 8. Retrieved from <https://crosscut.com/sites/default/files/files/SDWA%20-%20Home%20Equity%20Report.pdf>



Why domestic workers are vulnerable: Demographics, cultural and historical norms

The nature of the work itself; the economics and demographics of power and powerlessness; historical and cultural biases all play a role in making domestic workers particularly vulnerable to certain kinds of employment abuse, exploitation and labor trafficking.^{9,10,11,12}

In the United States, domestic workers are mostly women^{13,14} and a significant number of them are immigrants or foreign-born.¹⁵ Throughout the economy, foreign-born workers are less likely to hold professional and management positions, more likely to be working in service positions and earn less than native-born workers.¹⁶ While the Equal Pay Act of 1963¹⁷ makes it illegal to pay different wages based solely on an employee's sex, women continue to be paid up to 20 cents less on the dollar than men¹⁸ across economic sectors. United States citizens who are domestic workers are more likely to be older adults and also more likely to be from minority communities. Many domestic workers have low literacy levels and are in situations of recent economic hardship. All of these demographic factors translate into a lack of bargaining power or leverage in the workplace, which in turn translates to vulnerability to exploitation and trafficking.¹⁹

That vulnerability is exacerbated by the structure of most relationships between employers and domestic workers. A subset of domestic workers are matched with employers through formal processes via employment agencies and have a more formal relationship as they are actually directly employed by the agency. However, most use informal, word-of-mouth referrals or increasingly, online channels, to promote their services and find employment. That means they likely have little verifiable information about what they are getting into when they choose to work for a particular employer.

For domestic workers, sociological and historical factors also play a role. Domestic work was an integral part of chattel slavery in the United States.²⁰ People in slavery cleaned, cooked, cared for children and otherwise provided the scaffolding for life as it was known in the American south during slavery. Following the abolition of chattel slavery, empowering domestic workers was deemed likely to change the racial dynamics of that era and not pursued.²¹ Over a century later, the legacy of slavery is still playing out in ways both tangible and less so. The exclusion of domestic workers from protections under certain U.S. labor laws is an example of a tangible hangover from the slavery and Jim Crow eras as those laws were purposefully crafted to block former slaves from

9 Chuang, J.A. (2010). Achieving Accountability for Migrant Domestic Worker Abuse. *North Carolina Law Review*. 88:5 (1627-1654)
10 Rosen, R.J. (2018, March 12). Survivors of Human Trafficking in Their Own Words. *The Atlantic*. Retrieved from https://www.theatlantic.com/business/archive/2018/03/survivors-human-trafficking-in-own-words/555029/?link_id=1&can_id=1d5c96d7560ad516fcd02021dde20c0b&source=email-three-powerful-stories-of-survival&email_referrer=email_316148&email_subject=three-powerful-stories-of-survival
11 Kopplin, Z. (2017, March 27). They Think We Are Slaves. *Politico Magazine*. Retrieved from <https://www.politico.com/magazine/story/2017/03/au-pair-program-abuse-state-department-214956>
12 Owens, C., Dank, M., Breausx, J., Banuelos, I., Farrell, A., Pfeffer, R., Bright, K., Heitsmith, R., and McDevitt, J. (2014). Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States. A Research Report by the Urban Institute, Northeastern University and Justice Policy Center. Retrieved from <https://www.urban.org/sites/default/files/publication/33821/413249-Understanding-the-Organization-Operation-and-Victimization-Process-of-Labor-Trafficking-in-the-United-States.PDF> (Pg. 8)
13 Mendez, J.B. (1998). Of Mops and Maids: Contradictions and Continuities in Bureaucratized Domestic Work. *Social Problems*, 45, 114-135.
14 Shierholz. (n 3)
15 *ibid*
16 U.S. Department of Labor Bureau of Labor Statistics. (2017). TED: The Economics Daily Page. Retrieved from <https://www.bls.gov/opub/ted/2017/foreign-born-workers-made-83-point-1-percent-of-the-earnings-of-their-native-born-counterparts-in-2016.htm>
17 U.S. Equal Employment Opportunity Commission. (n.d.). The Equal Pay Act of 1963. Retrieved from <https://www.eeoc.gov/laws/statutes/epa.cfm>
18 National Partnership for Women and Families. (2018). Fact Sheet: America's Women and the Wage Gap. Retrieved from <http://www.nationalpartnership.org/research-library/workplace-fairness/fair-pay/americas-women-and-the-wage-gap.pdf>
19 United Nations Human Rights Committee. (2005). Domestic Workers' Rights in the United States: A Report Prepared for the U.N. Human Rights Committee In Response to the Second and Third Periodic Report of the United States. Retrieved from <https://www.law.unc.edu/documents/clinicalprograms/domesticworkersreport.pdf>
20 National Domestic Work Alliance (NDWA), (2012). Home Economics: The Invisible and Unregulated World of Domestic Work.
21 Chuang. (n. 9)



amassing power to hold employers accountable. Less tangible but still very real is the lack of respect for the jobs domestic workers do, and therefore for the workers themselves, as if somehow changing diapers or sweeping floors is not respectable, is not really “work” and therefore not deserving of the kinds of benefits typically available to other blue collar workers.

This tragic historical legacy exists alongside the fact that domestic work also has roots in a “trade-by-barter” practice in many immigrant communities, which are a leading source of domestic workers in the United States. The domestic worker - who is sometimes an immediate or distant family member - is assigned to a relative to provide domestic services in exchange for room and board, and vocational or formal education training. These “benefactors” are considered to be above-board and beyond reproach. This was the situation that a labor trafficking survivor found herself in when she left her native Cameroon for the United States at the age of ten. Her benefactor promised her parents she would get a quality education and room and board in return for light help around the house.²² Instead, she was told she was “too stupid” to attend school and had to work instead, often going for weeks at a time without food. In another case, one convicted trafficker²³ - reportedly the son of a former President of Guinea - had kept a young girl in a situation of labor trafficking from when she arrived in the United States at age five until she escaped when she was 21.²⁴ She was reportedly living in a one-room mud house without electricity.

All of these cultural and historical factors are exacerbated because domestic work, by its very definition, takes place in homes where potential traffickers have every expectation of privacy. Domestic workers rarely have colleagues who share their day-to-day experiences and can corroborate reports of abuse. Nor are there code inspectors or similarly situated government officials who are responsible for ensuring the workplace is adhering to health, safety and licensing regulations. Additionally, many domestic workers live in the houses of their employers. This creates an environment in which the worker may be isolated and have few opportunities to reach out for help.

Human trafficking versus labor exploitation

The [Trafficking Victims Protection Act of 2000](#)²⁵ (TVPA), defines labor trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage or slavery. (22 USC§7102)”²⁶ When an individual through any of these *actions* (induce, recruit, harbor, transport, provide or obtain) engages a domestic worker for the *purpose* of (labor or services) but retains them through the *means* (force, fraud or coercion) the individual is a labor trafficker, regardless of any other role they hold, and the domestic worker is a labor trafficking victim. A crucial distinction between labor exploitation and labor trafficking is that in a labor exploitation situation, an individual can expect to walk away from a non-ideal work environment without the expectation of undue harm. Studies identify domestic work as a leading venue for labor trafficking,²⁷ in which the victims are predominantly female.²⁸

22 Chumbow, E. (2017). Testimony of Evelyn Chumbow - Senate Committee on Foreign Relations. Retrieved from https://www.foreign.senate.gov/imo/media/doc/022416_Chumbow_Testimony.pdf

23 The United States Department of Justice. (2019, January 11). Couple Convicted of Forcing Young, West African Girl to Labor in Their Southlake, Texas Home for 16 Years. Retrieved from <https://www.justice.gov/opa/pr/couple-convicted-forcing-young-west-african-girl-labor-their-southlake-texas-home-16-years>

24 Ramirez Jr., D. (2019, January 10). Southlake Couple Found Guilty of Holding Young African Woman as Servant for Years. Retrieved from <https://www.star-telegram.com/news/local/community/fort-worth/article224238625.html>

25 Library of Congress. (2000). H.R. 3244 - Victims of Trafficking and Violence Protection Act of 2000 Page. Retrieved from <https://www.congress.gov/bill/106th-congress/house-bill/03244>

26 National Human Trafficking Hotline. (n.d.). Federal Law. Retrieved from <https://humantraffickinghotline.org/what-human-trafficking/federal-law>

27 Polaris. (2018). Growing Awareness. Growing Impact. Retrieved from <http://polarisproject.org/sites/default/files/2017NHTHStats%20%281%29.pdf>

28 Ibid



U.S. labor law excludes domestic workers

Most workers have at least some legal tools in their proverbial back pockets. Domestic workers do not. Below are the most significant laws governing the rights of employers and workers in the United States.

The [National Labor Relations Act](#) (NLRA)²⁹ of 1935 - also widely known as the Wagner Act after New York Senator Robert F. Wagner - codifies the rights and responsibilities of private sector workers to form unions and bargain collectively for better wages and working conditions. *Domestic workers were expressly excluded from this law* in what has been reported as an attempt by the political forces of the time to keep African-American workers from building power.³⁰

The [Fair Labor Standards Act](#)³¹ (FLSA) of 1938, which guarantees workers minimum wage and overtime pay, originally excluded domestic workers. The implications for the domestic worker is well-documented in a report by the International Labor Organization (ILO).³² A [1974 amendment](#)³³ to the law now guarantees [domestic workers](#)³⁴ minimum wage. However, [live-in domestic workers](#)³⁵ remain excluded from overtime pay - despite the fact that to effectively carry out their responsibilities, live-in domestic workers may routinely be required to work overtime. Unfortunately, the ineligibility of live-in workers to receive overtime pay can also be erroneously extended to non-live-in domestic workers who are not legally excluded from overtime pay.

The [Occupational Safety and Health Act](#)³⁶ (OSHA) of 1970 stipulates that employers should provide a safe workplace free from health hazards for their employees. OSHA-covered workplaces are subject to unannounced inspections to ensure applicable health and safety standards are met. Unfortunately, *OSHA does not apply to [self-employed individuals](#)*³⁷ - a category into which most domestic workers legally fall. Even domestic workers employed through a service or agency rarely have full OSHA protection as these businesses tend not to be larger organizations. [Employers of fewer than ten](#)³⁸ individuals may have partial exemptions and exclusion from certain OSHA activities. For example, *businesses employing fewer than 10 people are not required to [keep an injury and illness record](#)*.³⁹ This is despite the fact that domestic workers, especially

29 National Labor Relations Board. (1997). Basic Guide to the National Labor Relations Act. Retrieved from <https://www.nlr.gov/sites/default/files/attachments/basic-page/node-3024/basicguide.pdf>

30 NDWA. (n. 20)

31 U.S. Department of Labor. (2011). The Fair Labor Standards Act of 1938, As Amended. Retrieved from <https://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

32 Goldberg, H. (2015). The long journey home: the contested exclusion and inclusion of domestic workers from federal wage and hour protections in the United States. The International Labor Organization - Conditions of Work and Employment Series. 58. Retrieved from https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_396235.pdf

33 United States Department of Labor. (n.d.) Wage and Hour Division History Page. Retrieved from <https://www.dol.gov/whd/about/history/whdhist.htm>

34 United States Department of Labor. (2013). Fact Sheet #79: Private Homes and Domestic Service Employment Under the Fair Labor Standards Act (FLSA) Page. Retrieved from <https://www.dol.gov/whd/regs/compliance/whdfs79.htm>

35 United States Department of Labor. (2013). Fact Sheet #79B: Live-in Domestic Service Workers Under the Fair Labor Standards Act (FLSA) Page. Retrieved from <https://www.dol.gov/whd/regs/compliance/whdfs79b.htm>

36 United States Department of Labor. (n.d.). Occupational Safety and Health Administration Law and Regulations Page. Retrieved from <https://www.osha.gov/law-regs.html>

37 Occupational Safety and Health Administration. (2016). Workers' Rights. Retrieved from <https://www.osha.gov/Publications/OSHA3021.pdf>

38 Conn. E.J., & Strainis-Walker, A.R. (2012). The So-Called "Rule of 10": A Myth about OSHA's Lack of Jurisdiction Over Small Employers. By Epstein Becker & Green, P.C. Retrieved from <https://www.oshalawupdate.com/2012/01/09/the-so-called-rule-of-10-a-myth-of-oshas-lack-of-jurisdiction-over-small-employers/>

39 United States Department of Labor. (n.d.). Occupational Safety and Health Administration Law and Regulations Page. Retrieved from <https://www.osha.gov/laws-regs/regulations/standardnumber/1904/1904.1>



housekeepers and cleaners, typically provide services that involve the use of cleaning agents and the use of equipment for household work that may be unsafe or require safety gear and can be a health hazard.

[Title VII of the Civil Rights Act](#)⁴⁰ of 1964 codifies [unlawful employment practices](#)⁴¹ relating to discrimination with regards to race, color, religion, sex or national origin. Under this law, individuals are protected against discrimination during the hiring process and from sexual harassment while employed. *The law, however, applies only to “covered employers,” that is, those with 15 or more employees.* In this context, employers are counted if those 15 or more employees are on the job each working day for at least 20 weeks of a calendar year. Most domestic worker employers do not employ 15 or more employees for any significant length of time. *The limitations of the law expose domestic workers to discrimination.*

[The Age Discrimination in Employment Act of 1967](#),⁴² which protects adults against age discrimination in the workplace, applies only to employers of 20 or more people. Similarly, while the [Americans with Disabilities Act of 1990](#)⁴³ stipulates equal opportunities for people with disabilities in the work environment, the protection does not apply to employers of less than 15 people, which is often the case with employers of domestic workers. Interestingly, the laws speak to employers in an industry affecting commerce. Although the domestic worker services do not directly affect commerce, their roles in American households make it possible for their employers to contribute to the American economy. A shortfall of domestic workers can result in a shortage of workers, which can affect commerce. Yet, domestic workers are excluded from these protections that are available to other workers who influence the economy.

40 U.S. Equal Employment Opportunity Commission. (n.d.). Title VII of the Civil Rights Act of 1964 Page. Retrieved from <https://www.eeoc.gov/laws/statutes/titlevii.cfm>

41 Cornell Law School Legal Information Institute. (n.d.). 42 U.S. Code § 2000e-2 - Unlawful employment practices Page. Retrieved from <https://www.law.cornell.edu/uscode/text/42/2000e-2>

42 U.S. Equal Employment Opportunity Commission. (n.d.). The Age Discrimination in Employment Act of 1967 Page. Retrieved from <https://www.eeoc.gov/laws/statutes/adea.cfm>

43 Americans With Disabilities Act Of 1990, As Amended. (2009). Retrieved from <https://www.ada.gov/pubs/adastatute08.htm#12112a>



Daily lives of domestic workers

The near total lack of legal protection for domestic workers manifests in the day-to-day lives of individuals who serve as nannies, housekeepers and caregivers as wage theft, poor working conditions and broken promises.

Between June 2011 and February 2012, NDWA, the Center for Urban Economic Development, University of Illinois Chicago and DataCenter, a national research and training organization for social justice movements, joined forces to survey 2,086 nannies, caregivers and house cleaners.⁴⁴ The survey participants were from 71 countries and were living at the time they responded in 14 U.S. metropolitan areas: Atlanta, Boston, Chicago, Denver, Houston, Los Angeles, Miami, New York, San Antonio, San Diego, San Francisco, San Jose, Seattle and Washington, D.C.

The workers were asked a range of questions designed to elicit information about labor and employment practices - whether workers have contracts; how wages are determined and paid; how workers' health and safety are protected, and more.

The results of the survey, described below, illustrate the widespread vulnerabilities and rampant exploitation of workers across the industry.

Long days - and nights

Having honed her child development skills as a teacher in the Philippines, Anna was hired as a live-in nanny for a family of four in Midtown Manhattan. Anna's workday is long, and she works every day of the week. She begins at 6 a.m. when the children wake up, and ends around 10 p.m. when she finishes cleaning the kitchen, after having put the children comfortably to bed. Her work consists of multiple tasks: cleaning, laundry, preparing family meals, and tending to all the children's needs, including teaching them to read. At night, she sleeps between her charges on a small mattress placed on the floor between their beds. (NDWA HOME ECONOMICS, PG 18.)

Contracts

The International Labour Organization emphasizes the importance of outlining for workers the terms and conditions of their employment in an "appropriate, verifiable, and easily understandable manner," preferably through written contracts.⁴⁵ In the domestic work industry, having a contract is particularly important as contracts can correct some of the disadvantages of employment laws that do not apply to the industry either due to the location of the work (private homes) or the number of employees (usually less than 15). However, it is important to note that the simple existence of a contract does not necessarily provide enough - or even a minimum - of protection for workers if it is not enforceable.

According to the NDWA survey, few domestic workers were laboring under the protection of written contracts that clearly delineated and codified their rights and responsibilities. Indeed,

⁴⁴ NDWA. (n. 20)

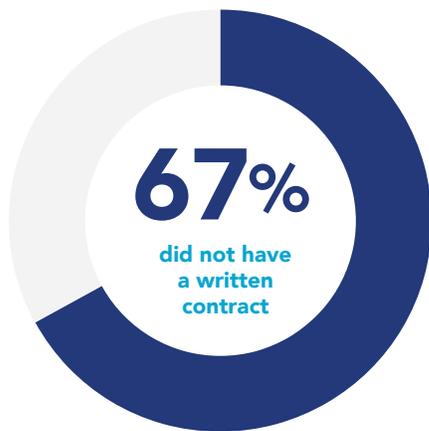
⁴⁵ International Labour Organization. C189 - Domestic Workers Convention, 2011 (No. 189). (n.d.). Article 7. Retrieved from https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189



written contracts were the exception and not the norm for domestic workers. Only eight percent of survey respondents reported having a written contract, while 67 percent indicated their job expectations were only covered during informal conversations with their primary employers.

The contracts that did exist were quite varied. Contracts included provisions on job responsibilities (96 percent) and work hours (77 percent); wages (97 percent), time of payment (91 percent) and schedule (84 percent). Contracts often excluded important labor provisions such as pay provision when a worker is not needed during scheduled hours (78 percent), vacation time (77 percent), holiday time (77 percent), sick leave (80 percent) or job-related medical expenses (87 percent).

Even among those with written contracts, 30 percent reported that in the 12 months prior their employers disregarded at least one of the provisions of their contract.

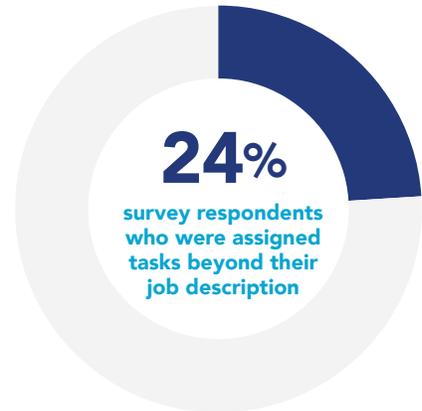


Contract Provisions	Percentage of provisions included
job responsibilities	96 percent
work hours	77 percent
wages	97 percent
time of payment	91 percent
schedule	84 percent
pay provision when a worker is not needed during scheduled hours	22 percent
vacation time	23 percent
holiday time	23 percent
sick leave	20 percent
job-related medical expenses	13 percent



Job responsibilities

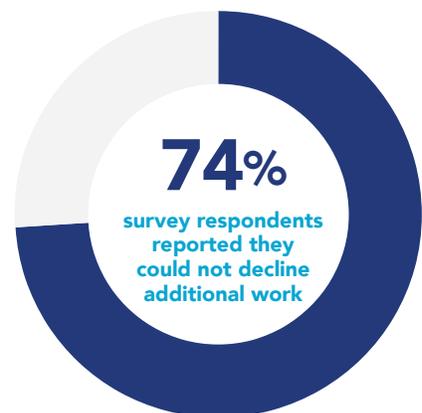
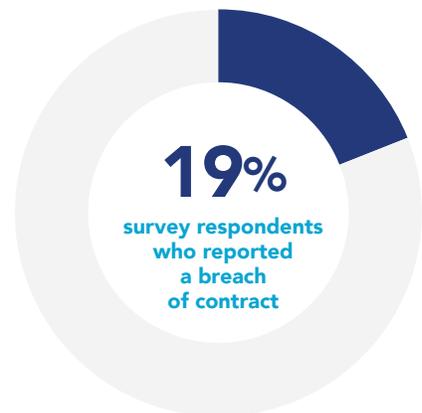
The domestic worker is greatly compromised in an environment without clearly delineated job responsibilities. A contract will allow for the specification of the expected assignments for a position. For all the workers, 24 percent reported that they were assigned tasks beyond their verbally agreed upon job description. Among those with a written contract, 19 percent of the workers reported a breach of contract regarding their responsibilities. With the power imbalance existing between domestic workers and their employers, 74 percent reported that they could not decline taking on additional work when told to do so.



Hours of employment

Defined job responsibilities serve as guidelines for determining what hours of employment will be required to perform the assignments. For the average domestic worker, the hours of employment are arbitrary, especially in the absence of a contract. Even with contracts, workers reported that the terms regarding hours of work and schedules were violated routinely. Of the workers who responded to the survey:

- 49 percent of live-in workers had been required to work during sleeping hours or days off.
- 35 percent of domestic workers had worked long hours without breaks some time in the past 12 months. The exact details of what constituted long hours were not delineated in the survey.
- 25 percent of live-in workers were unable to get at least five hours of uninterrupted sleep at night during the week before their interviews due to responding to extended responsibilities.
- 67 percent of the workers did not receive any pay for their extra time worked.





A treaty to protect domestic workers

In 2011, the International Labour Organization issued C189 - Domestic Workers Convention, 2011(no. 189),⁴⁶ which outlines the rights of domestic workers and the responsibilities of their employers. The Convention was the result of widespread international consensus on the need to protect this vulnerable workforce and includes provisions on organizing for domestic workers, bargaining powers, employment contracts, protections, wages and benefits. The Convention has been ratified and is currently in force in 25 countries. The United States is not one of them. The failure of the United States to ratify the Convention continues to put domestic workers at risk for trafficking, even when they arrive from other countries where they may have been protected.

Wages

Although employers may not offer low wages upfront, when they alter work hours and responsibilities, wages can drop significantly. For example, one worker reported being paid an average of \$1.27 per hour when her wages were calculated using her actual work hours. While domestic work tends to be low wage across the board, the situation is particularly egregious for those who provide live-in services, the survey found.

Overall, the survey found that:

- 23 percent of domestic workers were paid below the state minimum wage.
 - Among live-in workers, 67 percent made less than the state minimum wage, with their median hourly wage being \$6.15.
- 70 percent of all domestic workers earned less than \$13 per hour.

How wages are determined

Wages are influenced by race, status (live-in or live-out) and by citizenship/immigration status as well as the primary type of work of the individual. Overall, among the major groups of domestic workers - nannies, caregivers and housecleaners - nannies did the best.

The average hourly wage for all domestic workers, whether they live in or out of the home where they are employed, was \$11.00 for nannies, \$10.00 for housecleaners and \$10.00 for caregivers, and the average wage per hour across all occupations was \$10.00.

⁴⁶ ibid



Median hourly wage for domestic workers			
CITIZENSHIP STATUS	Nannies	Housecleaners	Caregivers
all U.S. citizens, including naturalized citizens	\$12.51	\$11.91	\$10.19
U.S. born	\$12.56	\$12.00	\$10.30
foreign-born	\$12.25	\$11.58	*
documented immigrants	\$10.00	\$10.00	\$9.59
undocumented immigrants	\$9.86	\$10.00	\$8.33
RACE	Nannies	Housecleaners	Caregivers
White	\$12.55	\$12.50	\$12.00
Black	\$12.71	\$10.89	\$10.00
Latino	\$8.57	\$10.00	\$10.00
Asian/Other	\$11.11	\$10.00	\$8.33
LIVE-OUT OR LIVE-IN	Nannies	Housecleaners	Caregivers
Live-out	\$11.55	\$10.71	\$10.00
Live-in	\$6.76	\$5.17	\$7.69

**While informative, the small sample size of this category should be noted. Additional research is needed before drawing conclusions about the validity of these results.*

(TABLE SOURCE - ANALYSIS OF 2011-12 NATIONAL DOMESTIC WORKERS SURVEY.)



Quality of life

Domestic workers are typically low paid and the survey found that many struggle to meet basic daily needs. Specifically, the survey found that for 48 percent of the workers, the hourly wage from their primary job was inadequate to support a family. With housing as the largest expense for live-out workers, 60 percent reported spending more than half their income on rent or mortgage and 37 percent reported having to pay their rent or mortgage late because of financial constraints at least once during the 12 months preceding the interview. Twenty percent of respondents to the survey even had trouble paying for food in the month preceding their participation. All of these influence their quality of life which can have implications for their life expectancy.

Safe working environment

OSHA does not cover the private homes where domestic work occurs, and employers are not obligated to provide safe working conditions or protective gear for the workers. This is despite the fact that the nature of domestic work includes heavy lifting and the regular use of cleaning chemicals. All categories of workers, nannies, caregivers and housecleaners reported poor health outcomes related to their work. For the 12-month-period preceding the interviews, 38 percent of workers suffered from work-related pain in their shoulder, elbow, wrist or hip. There were outcomes specific to each type of domestic work. Thirty-six percent of nannies reported contracting an illness while at work, and 29 percent of caregivers reported they suffered a back injury. For the housecleaners, 29 percent reported suffering from skin irritation, and 20 percent reported that they had had trouble breathing.

Trapped in toxicity

Miriam works as a housecleaner in Los Angeles. Her employer supplies her with a range of cleaning products, including common brands of detergents, abrasives and disinfectants, as well as an array of specialty products to clean wood floors, shine silver and remove grease from kitchen appliances. Miriam's employer prohibits her from opening the windows while she cleans, insisting that the house will get dusty if air is allowed to circulate. Miriam suffers from various skin and respiratory ailments, and she attributes her worsening allergies to her constant exposure to cleaning products. (HOME ECONOMICS, NDWA, PG 28.)

Employment benefits

Domestic workers rarely have access to the kinds of employer-provider benefits available to workers in many other industries. **Of those workers surveyed:**

- 65 percent lacked health insurance.
- 82 percent did not receive paid sick leave.
- 76 percent did not get unpaid time off to see a doctor.
- 19 percent did not receive the medical care they needed for a work-related injury in the past three years.
- Four percent reported that their employers contribute to their workers' compensation insurance.
- Fewer than two percent received retirement or pension benefits.
- Less than nine percent had employers paying into the Social Security fund.



Benefits for domestic workers

In 2018, the NDWA Labs - the innovation arm of the NDWA - introduced the portable benefits platform [Alia](#).⁴⁷

Alia will allow housecleaners who sign up to have access to benefits for paid time off and insurance premium coverage (individual disability, life or accident insurance). Employers who sign up make a monthly contribution. The program is currently available to housecleaners only. It is expected to extend to other categories of domestic workers over time.

Protection against discrimination and harassment

Protections against discrimination and harassment in the workplace currently do not apply to employers of fewer than 15 people, which means domestic workers are rarely laboring in situations covered by these laws. The survey found that 91 percent of respondents said they would not complain about their employment situation for fear they would lose their job. These fears are not unfounded. For those respondents who had been fired at some point in their working lives, 18 percent believe they were let go for raising issues about their contracts or verbal working agreements and 23 percent believe they were fired for flagging concerns about work conditions. For 85 percent of undocumented immigrants, the fear that their immigration status would be used against them kept them from complaining about work-related problems.

Providing legal protection for domestic workers against discrimination and harassment is necessary but would be inadequate to protect workers without a corresponding change in the power dynamics that promotes job insecurity.

Injured, then fired

Carmen, a grandmother from Nicaragua, was initially hired as a live-in housecleaner for a Miami couple. After a short time on the job, her responsibilities were expanded to include laundry, gardening, childcare and looking after the family's ten dogs. She was promised lodging and food, though she was only allowed to eat when there was food to spare. For the myriad tasks she performed each day, Carmen was paid \$30 some weeks, \$50 others, but most of the time she was paid nothing at all. When she broke her arm while on the job, she initially tried to work through the pain. As it became clear that she needed medical attention and would not be able to continue working as she had been, her employers fired her, leaving Carmen injured and without a job or a place to live. (HOME ECONOMICS, NDWA, PG 24.)

⁴⁷ National Domestic Workers Alliance. (2019). Alia.



Human trafficking in domestic work

While not every situation in which a worker is being exploited amounts to labor trafficking, the results of the NDWA survey demonstrate that domestic workers are subject to bad conditions and limited protections which make them vulnerable to other forms of abuse and exploitation.

In the environment of normalized exploitative conditions without adequate legal protections, labor trafficking thrives.

Understanding the National Human Trafficking Hotline data

This report analyzes information about suspected situations of human trafficking involving domestic workers which were communicated to the National Human Trafficking Hotline (National Hotline) via telephone calls, email, online tip reports/webforms and text messages from January 1, 2013 - December 31, 2017.⁴⁸ Each individual situation or “case” reported was assessed for trafficking and found to have at least moderate- or high-level indicators.⁴⁹ Assessments are made based on the information reported to the Hotline. The National Hotline is not able to verify the accuracy of reported information. Polaris defines a “case” of human trafficking as an individual situation of trafficking which could include one or multiple victims as well as one or multiple reported traffickers. Information about each distinct victim and trafficker referenced was also recorded and is included in this analysis.

It is important to note that the National Hotline is not a research-oriented program. Polaris staff who respond to incoming Hotline contacts are focused on helping survivors of trafficking access critical support and services to get help and stay safe. While advocates use detailed protocols to assess for indicators of human trafficking, they do not ask a set of standardized questions. Hotline staff adapt their phrasing and scope of questions in response to each individual’s answers and the circumstances of the call, web form submission, text message or chat content. Some factors that can influence the scope of questions include the person making contact’s safety, time and level of need as well as proximity to the victim and consequent level of awareness about their circumstances.

For example, when Hotline staff receive calls from victims in crisis situations with limited time to reach out for help, staff focus on the safety of the person on the other end and assisting with urgent needs such as emergency shelter or law enforcement assistance, and not on obtaining detailed information about the victim’s trafficking experience.

The data set is self-selecting in that these were the people who knew about the Hotline, were in a position to seek help and chose to do so. This is typical of human trafficking in general, where it is assumed that only a fraction of cases come to the attention of law enforcement and service providers and by extension, only a miniscule percentage of victims and survivors get help. In that context, information about cases from the National Hotline cannot be considered dispositive in terms of prevalence of human trafficking in domestic work or other spheres. But it does provide valuable insights about how this form of human trafficking happens that can be mined for ideas on how to expand the percentage of domestic workers who seek assistance and how to prevent further victimization.

⁴⁸ Beginning in 2018, individuals looking to connect with the Hotline can also do so through a web chat function.

⁴⁹ The National Human Trafficking Hotline and Polaris staff apply the U.S. federal definition of human trafficking as defined by the Trafficking Victims Protection Act (TVPA) to determine if a situation described through the helpline has indications of human trafficking. Cases which fully meet the TVPA’s standard are labeled as having “high-level indicators of trafficking.” Cases which partially meet the TVPA’s standard but are missing key pieces of information needed to conduct a full assessment are labeled as having “moderate-level indicators of trafficking.” Cases which do not meet the TVPA’s definition of trafficking but included elements of other labor abuse such as contract violation, wage and hour issues or health and safety concerns are labeled as “labor exploitation.” While many individuals reported experiencing labor rights law violations while working in domestic work, this data was not included in this analysis. Trafficking assessments made by helpline advocates are reviewed by helpline supervisors and/or the Polaris Data Analysis Program. Initial assessments may be revised by secondary review staff or as additional information is provided through subsequent contacts with the helpline.



Scope of the National Human Trafficking Hotline domestic work cases

Between January 1, 2013 and December 31, 2017, the National Hotline learned of 955 cases of trafficking in the domestic work industry referencing 1,211 individual victims. A case may reference one or more victims. The vast majority - 93 percent - were forced to provide only labor services. However, in the remaining seven percent of cases, the potential victims were forced to perform labor services and also forced to engage in commercial sex with their trafficker or other partners.

The details of the areas of domestic work was provided for only 82 percent of all the victims. Among them, 56 percent involved housekeepers/cleaners; 24 percent involved nannies or child care providers; eight percent involved care for adults and five percent involved household repairs. The other seven percent in the category of "other" performed domestic work such as transporting children to and from school, and dog walking.

Reporting domestic work trafficking

Domestic workers may report their trafficking situation themselves. This is not always possible as not all domestic workers have information about the National Hotline or have the opportunities to contact the Hotline. Individuals who have contact with victims or who observe suspicious activity may also contact the National Hotline to report a trafficking situation.

Domestic work trafficking: Who is making contact

(January 1, 2013 – December 31, 2017)

	Number of Cases (N= 955)
Victim Self-Report	459
Direct Contact with Victim	419
Indirect Contact with Victim	107
Observation of Suspicious Activity	45
	1,030*

*These statistics are non-cumulative. Multiple signalers may have contacted the Hotline about the same case and may have had different relationships to the victim or victims referenced. Accordingly, the sum of these categories exceeds the total number of cases.



The domestic worker trafficker

Most traffickers have only a business relationship with their victims - meaning they are either the direct employer or the recruiter. That said, there is still a substantial population of people - more than a quarter of the total data set - who are forced to perform domestic work such as house cleaning and child care by family members - including foster parents - and by intimate partners.

There is also a substantial population of victims who are trafficked by smugglers. In the vast majority of these cases the smugglers force victims to work in return for their participation in getting them safely into the United States. Force, such as kidnapping, is rarely used as a means of recruiting domestic workers in the United States.

This report focuses on trafficking that occurred within traditionally defined employer/worker relationships as opposed to those with other types of relationships. While the issue of trafficking of domestic workers with other types of relationships to their trafficker (familial, romantic, or other) is important and deserves attention, the remedies which would effectively address this issue are different and outside of the scope of this document.

In the context of the 955 cases reported during the time frame studied, contacts reported the identities of 1,210 potential traffickers.⁵⁰ Some situations referenced multiple traffickers. For 993 of those potential traffickers, the National Hotline was able to obtain information about their relationship to the victim.

Domestic work traffickers by relationship to the victim

(January 1, 2013 – December 31, 2017)

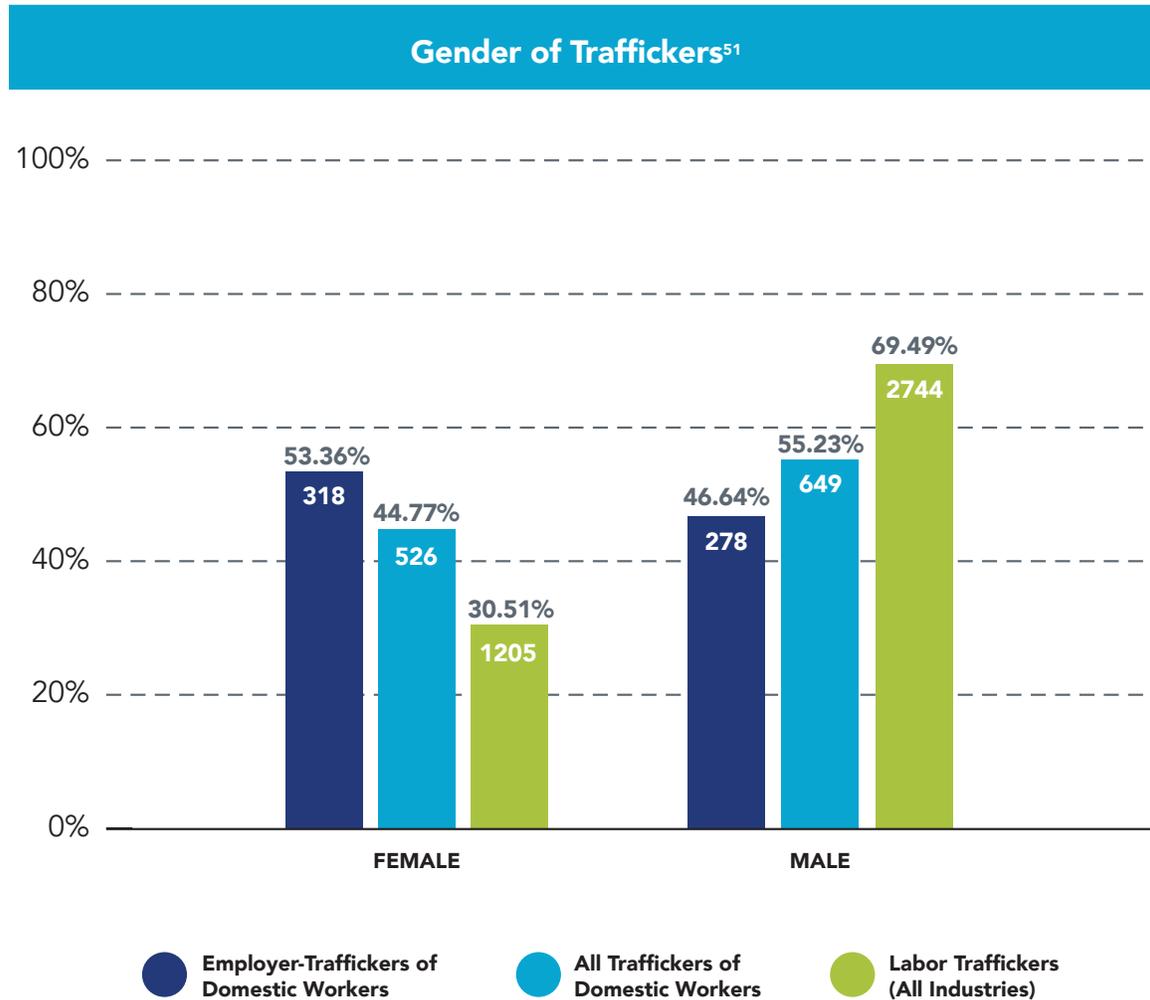
	Number of Traffickers	Percentage of Traffickers
Employer and/or Recruiter	604	60.83%
Familial and Intimate Partner	255	25.68%
Smuggler	128	12.89%
Landlord	6	0.60%
Total	993	100%

⁵⁰ The National Hotline records “traffickers” based on incoming information about an individual using some element of force, fraud or coercion. This does not indicate prosecution or conviction of any individual.



Who are the employer-traffickers?

A higher percentage of the alleged labor traffickers in all types of industries, and all categories of domestic work (employer and non-employer traffickers), are men. However, when you exclude the alleged domestic work traffickers who are either family members or intimate partners of the victim, women comprise a higher percentage of alleged traffickers. When employed in two-income households where there may be men, it is often the women who have oversight of the domestic worker and they are often reported as the employer.

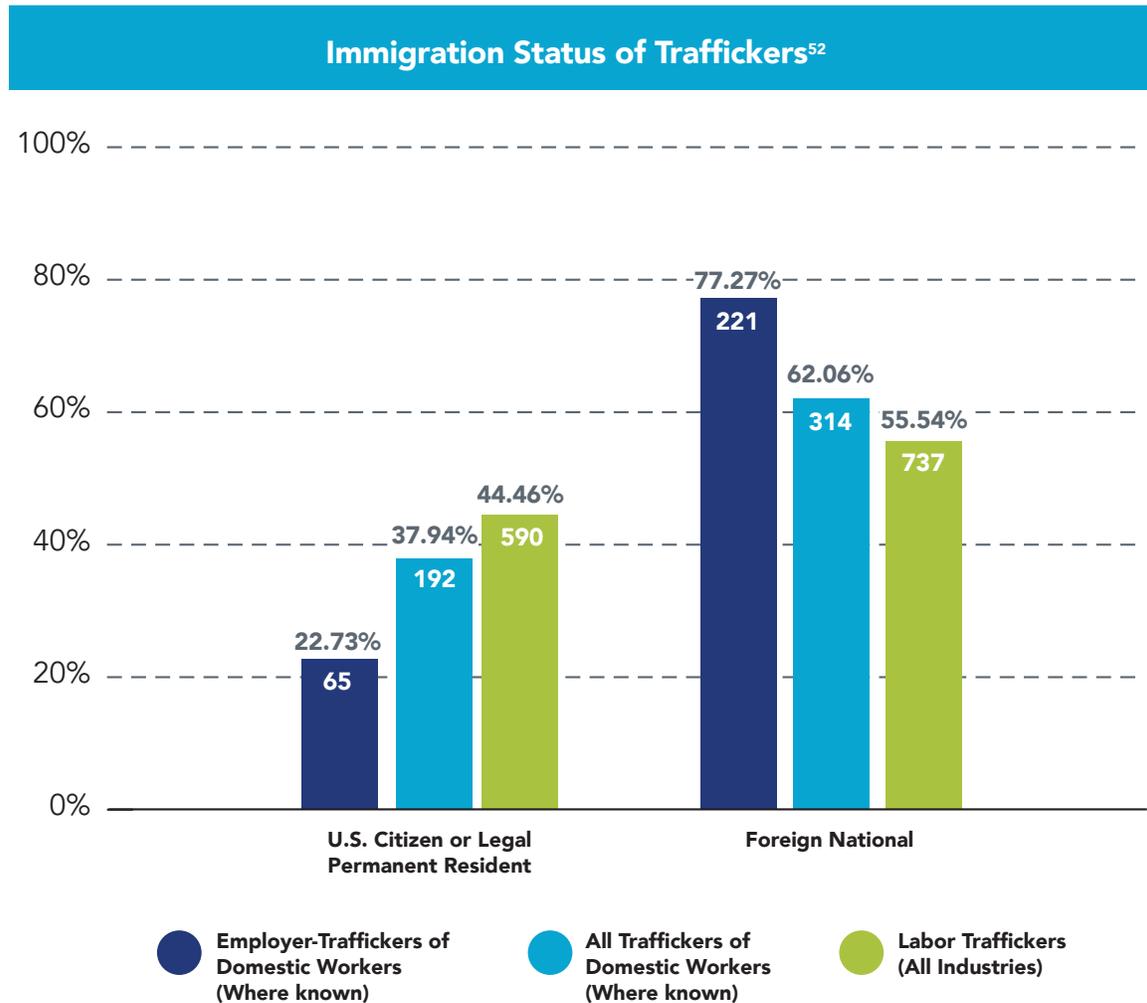


While the immigration status of alleged traffickers is not often reported, traffickers of domestic workers are more frequently reported to be foreign nationals than traffickers in other industries. This trend is amplified when the analysis is restricted to alleged traffickers with a traditional employer relationship to the victim.

⁵¹ The total number of employer-traffickers varies in each category as the amount of information reported about traffickers varies.



Employer-traffickers of domestic workers by immigration status



While signalers to the National Hotline may have information about a trafficker’s gender or immigration status, information regarding visa type is less frequently provided. Information about someone’s specific visa category is less likely to be known by another individual. Additionally, obtaining this information about alleged traffickers is generally not necessary in meeting the most urgent needs of the person making contact. As such, the National Hotline does not have information about the original visa status for more than three quarters of the traffickers reported. Of those traffickers whose original visa status was known, 79 percent were diplomatic employees with bilateral missions and international organizations holding the corresponding A-1 and G-1 visas. This should not be interpreted to mean that the majority of employers who are labor traffickers are diplomats but rather that the immigration status of diplomats may be disproportionately known by signalers due to their notable profession.

⁵² The difference in the total population by chart is a reflection of what information was provided for the National Human Trafficking Hotline. For instance, information about gender was more often obtained than information about immigration status.



Employer-traffickers of domestic workers by visa type

	Number of Traffickers	Percentage of Traffickers
A-1 & G-1 (Diplomat)	42	79.25%
A-2, Asylee, B-1 (Domestic Worker/Business)	4	7.55%
B-2 (Tourist)	7	13.20%
Total	53	100%

Employer-traffickers do not necessarily employ domestic workers from their home countries, and the top ten countries of origin of the employer-traffickers may be different from the top ten countries for their victims. Also, since reporting is based on awareness of labor trafficking as a crime, as well as knowledge and access to the National Hotline, there may be employer-traffickers from other nations that are not being reported through contacts to the National Hotline.

Employer-traffickers of domestic workers by top ten countries of origin

	Number of Traffickers
1 United States (Including 23 Dual Citizens)	54
2 Saudi Arabia	34
3 Mexico	22
4 Qatar	19
5 Philippines	15
6 India	12
7 Kuwait	11
8 United Arab Emirates	10
9 Nigeria	8
9 Venezuela	8

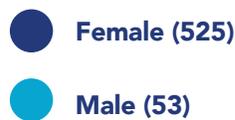
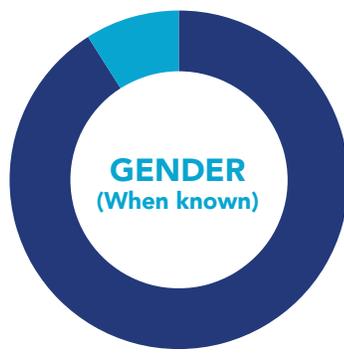


Who are the domestic worker victims of employer-traffickers?

Close to half of all the domestic worker trafficking victims are victims of employer-traffickers - 587 individual victims. Of this subset of victims, 98 percent were victims of labor trafficking and two percent were victims of labor and sex trafficking.

Almost all the victims of employer traffickers - 99.3 percent - were adults at the time contact was made with the National Hotline. A large majority of the victims were women - 91 percent - as is the case for most domestic workers, whether they are victims of trafficking or not.⁵³ It is important to note that the total number of victims in each demographic category varies depending on the information provided to the National Hotline by the individual signaler.

Gender & age status of domestic work employer-trafficked victims



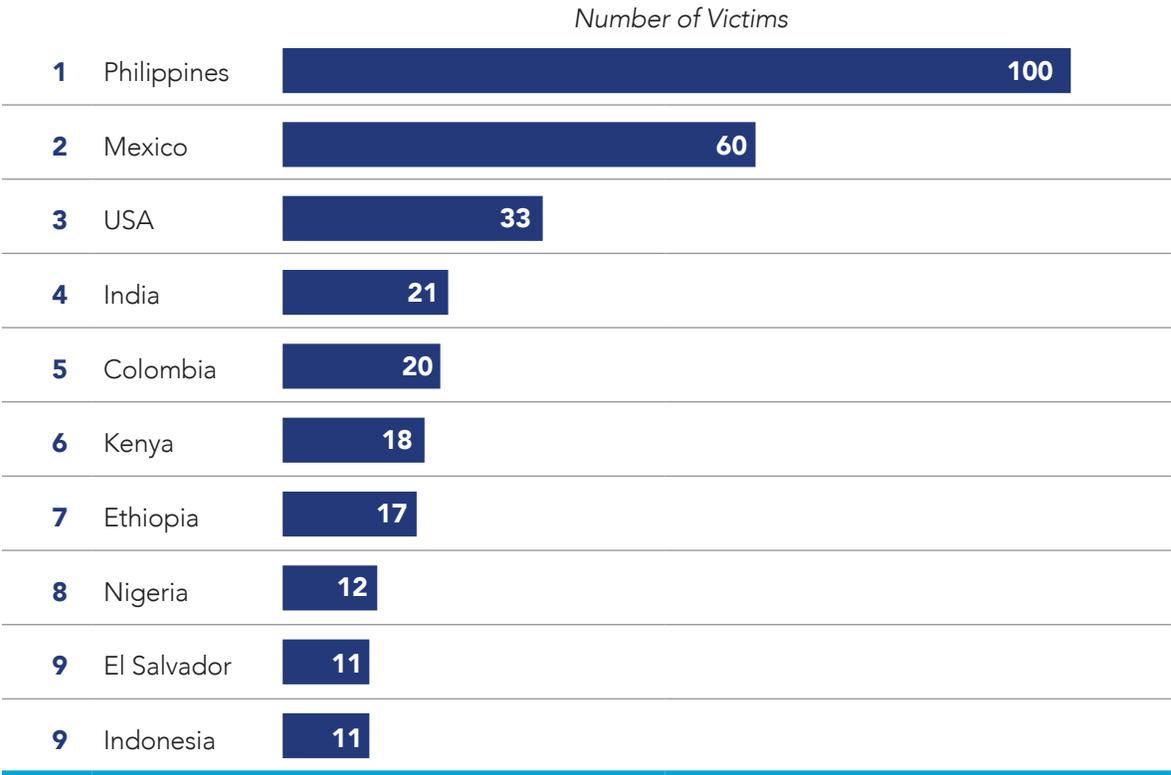
According to some reports, domestic workers are mostly immigrants.⁵⁴ Immigration status was not provided for seven percent of the victims. However, when this information was provided, 92 percent of trafficking victims were foreign nationals. This is not surprising. Many countries export labor to boost their national economy with the repatriation of funds to the home country from their nationals employed abroad. Although these countries should have a vested interest in protecting their citizens against human trafficking, they may be conflicted about what their priority should be - ensuring that their citizens have money to send back home regardless of the conditions under which they work, or making sure that their citizens are working with credible employers only, even if this means a reduction in income.

⁵³ Mendez. (n 13)

⁵⁴ Shierholz. (n 3)



Top 10 home countries of domestic work employer-trafficked victims



With four of the first ten countries being in Latin America, the number one first language for these victims is Spanish. The records indicate English as the second most common first language. While many service providers use translation services so that victims should be able to access information and services, Spanish translation services are more readily available than for Tagalog, Amharic and Portuguese speakers. Unfortunately, there are often other non-language barriers that prevent victims from accessing services.

Recruitment and vulnerability

The National Hotline collects data on the factors that make victims vulnerable to trafficking, and the recruitment tactics used by traffickers. With this information, stakeholders may develop strategic responses that eliminate the vulnerabilities of victims, and disrupt the recruitment practices of traffickers.

The National Hotline delineates 28 risk factors/vulnerability categories of characteristics that make an individual susceptible to traffickers. When the person making contact does not provide risk factor information, the record will indicate "Not Specified." Because people contacting the Hotline are not asked a standardized set of questions and only provided information that was deemed relevant to their interactions with the Hotline staff, the risk factor categories are likely significantly underreported. As such, the data points in this document represent only the number of individuals for whom a particular piece of information was provided and should not be considered a comprehensive statement on the total number of individuals who qualify for a particular category.

The 28 risk factors in the Hotline's data dictionary relate to both sex and labor trafficking, and consequently not all of them are present for cases of domestic work victims of labor trafficking. A victim may have more than one risk factor, so these numbers are non-cumulative.

Risk factors were reported for 85 percent of the victims.



For victims of employer-traffickers, the most prevalent risk factor/vulnerability reported to the National Hotline is having **“recently migrated or relocated”** to the United States (90.4 percent). These newly arrived domestic workers may not understand their rights in the United States. This is particularly true among individuals who come from countries where abuse is normalized and tolerated, and also lack adequate systems for reporting abuse or holding traffickers accountable. Indeed, many move here with an employer who abused them in another country. They arrive in the United States unaware that they have rights and supports that were not available to them previously. Among workers who are familiar with U.S. labor laws, many are not familiar with avenues for assistance or are hesitant to reach out for help due to low levels of trust in institutions.



This was the case for a Zara who had worked with her employer for three years in a middle east country. She moved with her employer to the United States on a B-1 visa to provide domestic work services. For two years, she endured poor working conditions (which may have been consistent with her experience in their previous location) without seeking help. Eventually, she was forced to resign and leave her employment for finally protesting about her work conditions. She was able to find help to contact the National Hotline.*

The second leading risk factor reported is **“self-reported economic hardship”** (7.6 percent).



One National Hotline case recorded the story of Misty who accepted the help of her employer-trafficker when he posed as a beneficiary. He offered to help her get back on her feet because of her economic hardship. Instead, she ended up in a sex and labor trafficking situation. Eventually, she was able to escape to a shelter from where she contacted the National Hotline.*

Often, economic hardship is compounded by recruitment or registration fees would-be workers may have paid to secure their employment. In such cases, even when the victims are aware of their labor trafficking situation, they may be reluctant to leave the little income that they do receive because they have limited financial means to sustain them.

The third leading risk factor reported is **“recent financial debt”** (4.8 percent). As with economic hardship, the need for income to pay off the debt or face worse consequences may overshadow the other factors in the situation such as making less than they were promised or laboring in unsafe conditions.



Blossom had paid almost \$2,000 to facilitate her trip to the United States. In the process, she was taken to a home where she had to perform domestic work and was told she needed to make additional payments before she could make the trip.*

The fourth risk factor reported is **“recent unemployment/underemployment”** (4.2 percent). These individuals may be in a hurry to change their unemployment status and thus may not adequately scrutinize the job announcements or employers who offer them a position.



Max had to stop working when he had a health condition diagnosis. He owed his landlord rent from when he was in the hospital. After working 15 hours a day and seven days a week for several months for the landlord, Max was surprised to hear that his rent debt was still unpaid and he needed to continue to work under the same conditions.*

The fifth leading risk factor reported is **“unstable housing”** (3.8 percent). Some domestic work positions include housing opportunities - a very attractive feature for workers, particularly in housing markets where affordable, safe accommodations are hard to find. The fear of becoming homeless may make it difficult to evaluate the risks that accompany the offer of housing.



Courtney, for example, accepted room and board in exchange for domestic work and a weekly stipend but only received \$500 for five months of working 20 hours a day. This was despite finding the housing that was offered in deplorable conditions.*

* Not actual name



Other notable risk factors include **“physical health concerns”** (3.6 percent), experience of **“non-sexual violence/abuse”** (2.8 percent) and **“mental health concerns”** (two percent). Those with physical or mental health concerns who may have faced employment discrimination in the past may feel that they lack viable alternatives. And when one has experienced violence or abuse in the past, such behavior may become normalized.

Top 10 risk factors for domestic work employer-trafficked victims		<i>Number of Victims</i>
1	Recent migration/relocation	451
2	Self-reported economic hardship	38
3	Recent financial debt	24
4	Recent unemployment/underemployment	21
5	Unstable housing	19
6	Physical health concern	18
7	Experienced abuse/violence (non-sexual)	14
8	Mental health concern	10
9	Illiterate or semi illiterate/welfare system involvement/witnessed abuse/violence	6
10	Experienced sexual abuse/violence	5

In many cases, these vulnerabilities may have been factors in the recruitment tactics used by the employer traffickers.

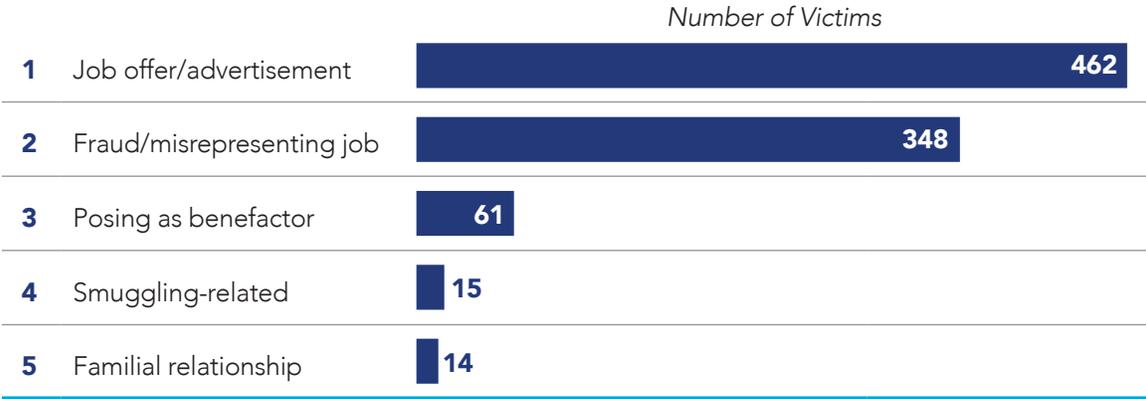
The National Hotline categorizes recruitment categories into eight major categories. One victim may be recruited by more than one tactic. Thus, the numbers for each category are non-cumulative. For 18 percent of the victims recorded, information about recruitment is not available.

The vast majority of the victims - almost 97 percent of the trafficking victims for whom the information is known - were recruited through **“advertisements or direct job offers.”** Direct job offers can come through word-of-mouth or other informal referral process. Domestic workers are often recruited through social networks.

The next most reported recruitment tactics was the use of **“fraud or misrepresentation of job”** (73 percent). The third most prevalent recruitment tactic was employer-traffickers **“posing as benefactors”** (13 percent). Other factors that were barely featured were: **“smuggling-related”** (three percent), and **“familial relationships”** (2.9 percent). Even though these victims were reported to be in domestic work employment positions, it appears that they may have been “recruited” for their positions by smugglers or family members.



Top 5 recruitment tactics for domestic work employer-trafficked victims





Methods of control⁵⁵

As is often the case with victims of domestic violence, labor trafficking victims often find themselves in situations where, to an outsider, the question is “why don’t they just leave?” The answer, of course, is the essence of the crime of trafficking: Their traffickers use carefully honed and extremely effective methods of control to keep them on the job and compliant.

The National Hotline records information about 36 defined categories of force, fraud or coercion, which are the methods of control a trafficker uses to prevent their victims from leaving the situation. The method of control may not be specified in all cases. If the specified method falls outside of the 36 categories, it is classified as “other.” Traffickers may use more than one method of control for a victim. Thus these records are non-cumulative.

Top 10 methods of control for domestic work employer-trafficked victims	
	Number of Victims
1 Economic - takes/withholds earnings	431
2 Fraud/misrepresentation of job	395
3 Excessive working hours	340
4 Emotional abuse - verbal/manipulation	275
5 Withholds/denies needs or wants	265
6 Isolation - keeps confined	241
7 Withholds/destroys important documents	226
8 Isolation - denies access to support	201
9 Monitoring/stalking	153
10 Threat to report to immigration	141

Employer-traffickers use a wide range of methods to control domestic worker victims. We focus on the ten top leading methods of control while noting the others.

The primary method of control is **“financial.”** For 75 percent of the victims, the employer- trafficker took or withheld the earnings of the domestic worker. While earnings are, of course, the primary reason most people hold jobs, wages are particularly important to domestic workers who are at increased levels of vulnerabilities because of financial hardship or debt.

How this plays out depends on the individual situation. Often, the employer-traffickers tell the worker that their wages are regularly deposited into a designated account. The victim has no access to the account and thus, no knowledge of how much money they have in “their account.” As a result, the victims become more vested in collecting their “saved earnings” and are reluctant

⁵⁵ See Methods of Control Appendix



to consider leaving without their money. In reality, though, the employer-traffickers often do not operate any account for the victims. There simply is no money.



In one case, for example, Tony went to work for the employer-trafficker to pay off a debt of about \$2,500. Six months later, despite working 15 hours a day, seven days a week, Tony was told the debt was still outstanding. He contacted the National Hotline after the employer-trafficker set out to evict him from the room in the office where he was living.*

The second leading control method is **"fraud/misrepresentation of job"** - experienced by 69.5 percent of victims for whom this information was known. In some cases, the victims do not know they will be engaged in domestic work when they take the job. But for those who are aware of the nature of the work, especially those on A-3, B-1, G-5 and J-1 visas, many report the job to be fraudulent because they find their employer-traffickers do not comply with the work terms agreement.



In one such example, Charmene had a contract that showed she was being employed as a nanny, but got to the job to find out that she was also the cook and the housekeeper - all for the same wage.*

The third method of control is **"excessive working hours."** This was experienced by almost 60 percent of victims for whom this information was obtained, many of whom reported having to begin work very early in the morning and working throughout the day, sometimes into the early hours of the next day. The excessive working hours deprives victims of the opportunity to rest, eat or to attend to any other personal basic needs.



Ethel, who was hired as a nanny but also worked as a housekeeper, rarely received breaks when she worked and did not have Saturdays and Sundays off.*

The next most prominent method of control was **"emotional abuse - verbal/manipulation"** - experienced by 48.4 percent of those in the data set. Some domestic workers reported that the verbal abuse came in response to them speaking up about their work conditions. For others, it was entirely unprompted.



Fifi reported that her trafficker was so verbally abusive, she made her cry a lot.*

Almost 47 percent of victims for whom information about methods of control was provided had their **"needs or wants denied/withheld"** in significant ways.



For Lolita that meant not being allowed to have a SIM card in her phone. Instead, her employer-trafficker would give her the family SIM card occasionally so that she could send text messages to her family but she could not speak to them. She was charged for those text messages. Lolita was finally able to leave her trafficking situation amidst threats of deportation by her employer-trafficker and contacted the National Hotline.*

Around 42 percent of the victims are controlled by being **"isolated,"** either confined to the home or workplace. While these seems like it would be difficult for a trafficker to enforce, in fact it is not hard to keep immigrant domestic workers who don't have connections in the United States from meeting or speaking with anyone outside the household. This is purposeful.

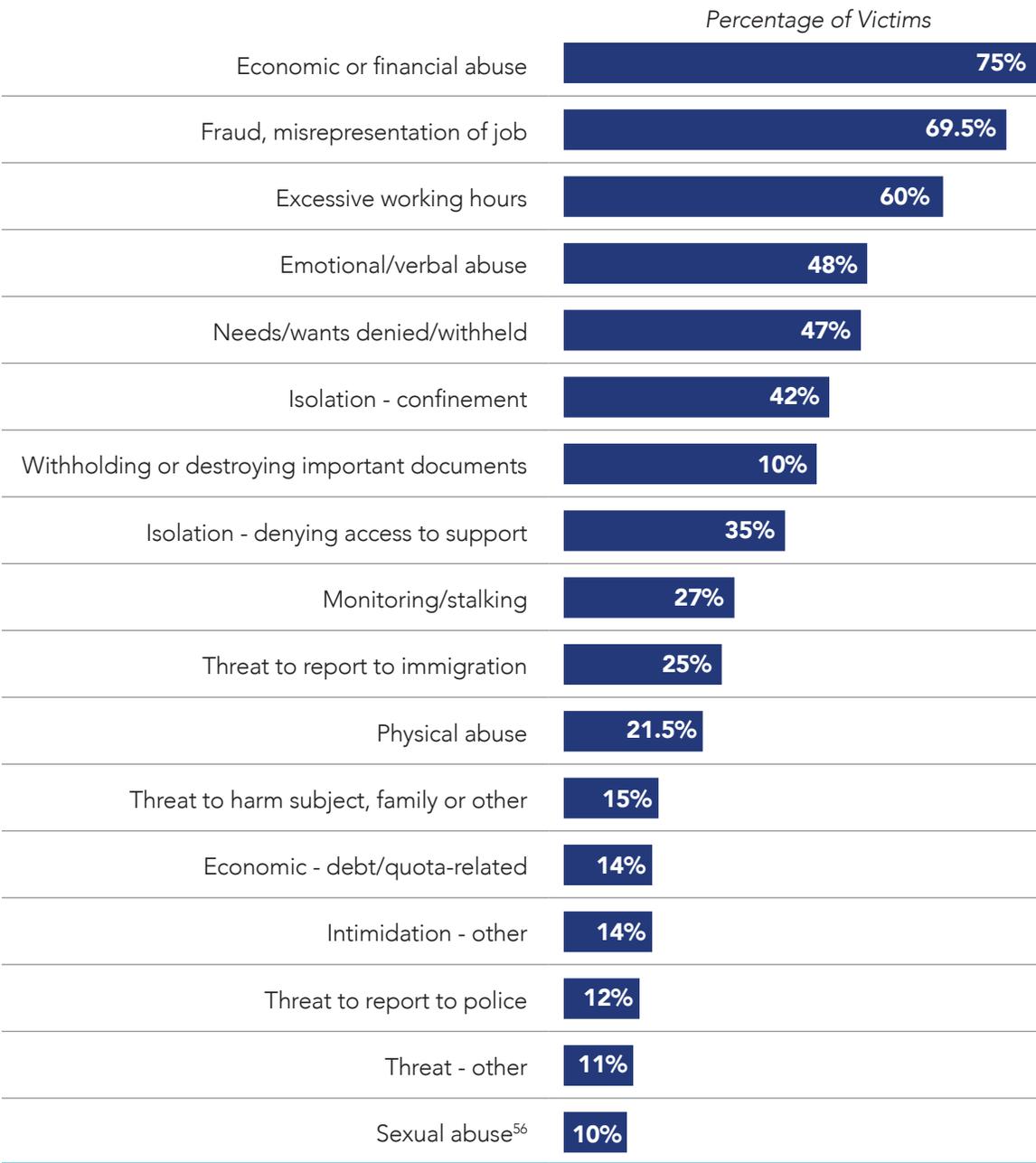


Mariam, whose immigration status was not reported, was not permitted to go out, and was verbally abused each time she tried to go anywhere. She was in touch with her mother who might have been able to help her but their communication was monitored. She was often forced to hang up the phone after short conversations and was never able to disclose her situation. After she fled to a mental health treatment facility, she was finally able to fully disclose her experience to her mother who then contacted the National Hotline.*

* Not actual name



Methods of control of domestic workers in trafficking situations*



*Percentages are based on victims for whom this information was reported. Many victims experienced multiple methods of control.

For 40 percent of the victims for whom this information was provided, employers **“withholding or destroying important documents”** was a key method of control. Documents such as passports and paperwork attesting to legal working status are particularly important to immigrant domestic workers. Other important documents include letters of employment, contracts, bank statements and birth certificates.

⁵⁶ Sexual abuse here references sexual assault on the victim, and is not part of the potential commercial sex in sex and labor trafficking situations.



Pat, who arrived on a work visa, found herself working up to 20 hours a day despite her contract stipulating an eight-hour work day. Her employer-trafficker had possession of her passport, ID and referrals, and she remained in her situation for a while, trying to retrieve them. Eventually, she fled without her documents. She reached the National Hotline from the shelter where she had taken refuge.*

For 35.4 percent of the victims **“isolation - denies access to support”** was reported as a method of control. This can include any form of support that is important for domestic workers, whether it be emotional, structural, financial or otherwise. Without information on the options available to them, a domestic worker in a trafficking situation is not able to navigate out of their situation.



Tina, for example, had arrived on a work visa with her employer-trafficker who came to the United States for medical reasons. Tina was not allowed to own a phone or engage with any source of support. She was able to disclose her situation to community members while at a mall with the employer-trafficker’s children, who threatened to report Tina to their parents. One of the community members from the mall contacted the National Hotline.*

For 26.9 percent of the domestic workers, their trafficker’s method of control was by **“monitoring/stalking.”** This was particularly prevalent for live-in domestic workers, many of whom reported not being allowed to leave the home without the approval of their employers. Such approval almost never came. When it did, the employer or their designee acted as chaperones, thereby keeping the domestic worker from being able to take advantage of their contact with the world outside.



Naomi was not allowed to interact with others and was only able to get help after she managed to slip a note to a neighbor stating that she was being forced to work and needed help.*

The tenth method of control is **“threat to report to immigration”** - 24.8 percent. Domestic workers who are immigrants may not fully comprehend the laws of the land where they are working and living. What they do know is that they would like to remain in the country legally, and without violating any laws. Some employer-traffickers “manufacture” offenses that they assure victims will lead to their deportation. Or they allow the domestic workers’ visas to lapse to make them become undocumented immigrants and begin to use that as a control mechanism.



Maya had been smuggled into the country when she was 16 years old. Upon arrival, she was handed over to the woman who paid her smugglers and was made a domestic servant. She was physically abused and regularly threatened that she would be reported to immigration authorities if she did not cooperate. One day, she fled and was able to contact the National Hotline via online tip report.*

* Not actual name

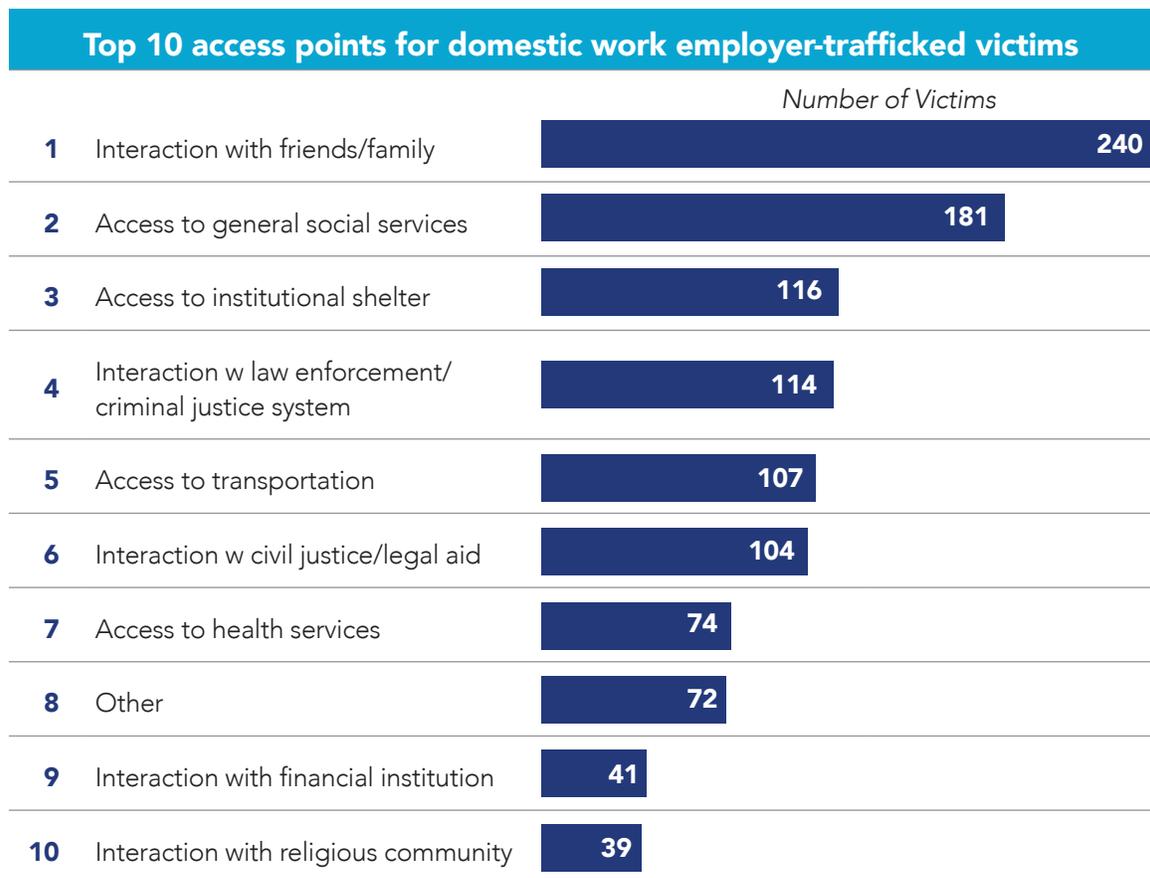


Access points

The National Hotline collects data on access points - the avenues by which domestic worker victims connect with society outside of their trafficking situations and generally away from their traffickers or trafficker-appointed monitors. While this is important information to understand about all human trafficking, it is particularly valuable data for considering how best to protect and support domestic workers. These workers - especially those who live-in - often have few opportunities to get information their traffickers don't want them to have, such as brochures explaining their legal rights or information about how to contact the National Hotline for help. Pinpointing those opportunities and figuring out how best to take advantage of them can make the difference in a domestic worker staying in an abusive situation or recognizing that help is available.

The National Hotline tracks reported interactions with 13 possible access point categories. There is the option to include unspecified access points under the category of "Other." Categories are selected if the information suggests that the victim had interaction with that access point while in their trafficking situation or utilized the access point as a means of escaping their trafficker.

There was no information on access points for nearly 19 percent of the victims. Where information of access points is provided, one victim may have had been able to connect to more than one access point. A victim who gets to a healthcare visit using public transportation would have had access to two access points for instance - transportation and healthcare. Thus, the count of access points is non-cumulative.





The foremost access point for victims was **“interactions with supportive/neutral friends and family.”** Sometimes family members are unable to help, as was the case of Agatha*, a foreign national domestic worker who contacted the National Hotline.



In this case, Agatha and the employer-trafficker were both interacting with Agatha’s family. The employer-trafficker was sending payments to the Agatha’s family in her home country, and she was unable to disclose her abuse. The employer-trafficker was even able to employ Agatha’s sister and obtained a work visa that enabled the sister to join Agatha in her labor trafficking situation. The family either had no knowledge of indicators of labor trafficking (for instance, she was only contacting them when the employer-trafficker was available) or they were too financially dependent on the trafficker (even though they were being underpaid) to address the situation.



In another case, Florence came to the United States with an employer-trafficker for whom she had worked for many years in her home country, helping to raise the family’s four children. **Seven years** after Florence arrived in this country, she was able to make a friend who provided her with information about the National Hotline.*

In well-informed communities, family and friends can help a victim recognize that they are in a trafficking situation and help them access the necessary services to leave their situation. Faith-based communities and other community organizations can provide education and awareness training to community members on what practices constitute labor trafficking, the available provisions to hold traffickers accountable and the supports and services available for victims.

The second most frequent point was **“access to general social services.”**



For example, Eric had to use food stamps because he was not paid enough to keep himself fed. In that scenario, he interacted with government employees who administer the Supplemental Nutrition Assistance Program or SNAP, often referred to as food stamps.*

In many other cases, domestic workers showed up at social service facilities but it is not clear if they were able to disclose their trafficking situation and receive help. Ideally, service providers would have operational protocols to help them identify trafficking victims and connect them to care. Staff members who directly engage community members can receive training on identifying potential trafficking victims, when and how they can provide trafficking related information and reporting the situation as appropriate. The Blue Campaign program has a Human Trafficking Awareness Training⁵⁷ for Federal Employees. While the training is for those who engage in workforce acquisition, with the appropriate modifications, employees in other departments could use the exercise.

The third most frequent point was **“access to shelter.”** In these cases, the potential domestic worker victim had access to an institutionally sponsored shelter option.⁵⁸ For many, this access to a safe alternative shelter allowed them to safely leave their trafficking situation. Access to shelter is very important for human trafficking victims as some enter into and remain within a human trafficking situation because they have no other shelter (housing) options. A recent report⁵⁹ by Polaris identified housing systems as one of the industries with opportunities to intervene and prevent human trafficking. The report includes recommendations⁶⁰ for funders (federal and local

* Not actual name.

57 U.S. Department of Homeland Security. (n.d). Human Trafficking Awareness Training. Retrieved from <https://www.dhs.gov/blue-campaign/awareness-training>

58 Victims who had access to alternative shelter through family or friends were not included in this category.

59 Polaris. (2018). Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking. Retrieved from <https://polarisproject.org/sites/default/files/A%20Roadmap%20for%20Systems%20and%20Industries%20to%20Prevent%20and%20Disrupt%20Human%20Trafficking.pdf>

60 Polaris. (n.d). Housing and Homeless Systems Recommendation. Retrieved from <https://polarisproject.org/housing-and-homeless-systems-recommendations>



government, private and individual), private shelter systems and private rental management companies which include increasing available and affordable housing, and make rental properties more responsive to trafficking victims. The Polaris report also encourages domestic violence shelters to expand their organizational definitions of “domestic violence” beyond violence perpetrated by intimate partners to include (but not limit) any interpersonal violence occurring within the household. This would allow many more domestic workers access to domestic violence shelters that may otherwise turn them away, thus eliminating a barrier to leaving their trafficking situation.



Mona contacted the National Hotline after she had fled her trafficker and had been offered accommodation in a nearby city.*

The fourth most frequent point was **“interaction with law enforcement/criminal justice system.”** Sometimes this is a positive, but not always.



Ellen reported to the National Hotline that she had gone to law enforcement to report her abuse but was informed that it may not be possible to prosecute the employer-trafficker since she signed a contract.*

Some employer-traffickers make good on their threats and report the victims to law enforcement.



For Alicia, the neighbors called law enforcement after hearing screams coming from the employer-trafficker's residence. According to Alicia, the employer-trafficker harmed himself before letting law enforcement in and blamed his wounds on her. Alicia was arrested, held overnight at a local precinct and released the next day.*

Significant work has been done to train law enforcement officers to identify situations of trafficking and respond in a victim-centered and trauma-informed way. H.E.A.T. Watch in Alameda County, California⁶¹ and the Blue Campaign are two examples of programs that also include labor trafficking in their curriculums. However, training law enforcement agents to recognize labor trafficking, specifically in domestic work situations, must be expanded.

The fifth most reported point was **“access to transportation.”**



A family friend of Vicky reached out to the National Hotline. She had direct contact with Vicky* and offered to drive Vicky to access support services. In another case, Juliet*, a legal permanent resident domestic worker used the metro to get to and from work. She remained in the situation for years as her employer-trafficker had threatened her with arrest and deportation. Juliet was eventually able to connect with an individual (we do not know if the connection was made on the metro) who contacted the National Hotline.*

The recent ‘Intersections’ report⁶² by Polaris also identified transportation as one of the industries with opportunities to intervene and prevent human trafficking in domestic work. Most specifically, transportation services such as bus drivers and parcel delivery services were identified as prime audiences to detect potential trafficking in domestic work situations as these services often reach suburban areas and have consistent routes, making frequent contact with potential victims possible. As outstanding trailblazers in this initiative, both FedEx and UPS have partnered with Truckers Against Trafficking to receive training for their team members on how to identify and respond to

* Not actual name.

61 H.E.A.T. Watch. (n.d.). Labor Trafficking Page. Retrieved from http://www.heatwatch.org/human_trafficking/labor_trafficking#1

62 Polaris. (n.59)



trafficking while on our nation’s highways and suburbs.^{63,64} Along the same lines, and potentially even more frequently accessed, are school bus drivers since nannies experiencing trafficking and exploitation often must pick up children from school bus stops everyday. The report also includes recommendations⁶⁵ for training transportation employees on identifying and providing support to victims, displaying and promoting the National Human Trafficking Hotline information and for transportation organizations to provide free services for victims when needed.

The sixth most reported point was **“interaction with civil justice/legal aid.”**



For example, Dawn engaged an employment lawyer and received \$12,000 in unpaid back-wages.*

It was not clear if the case had been filed as a civil labor trafficking case or a case of wage theft. Civil justice and legal aid organizations can also display and promote information about contacting the National Human Trafficking Hotline, and provide training to employees on identifying victims and connecting them to services.

The seventh most reported point was **“access to health services.”**

It wasn’t only to access service for themselves. Some escorted a member of their working household to access healthcare services. The healthcare sector is in a position to recognize human trafficking victims and connect them to resources. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO),⁶⁶ which is nationally recognized for accrediting and certifying healthcare organizations, has current requirements⁶⁷ that specify protocols⁶⁸ for use by healthcare facilities for screening and reporting on cases of sexual assault and domestic violence. It also provides information on human trafficking.⁶⁹ Organizations like [HEAL Trafficking](#)⁷⁰ are promoting a public health response to human trafficking and working with partners to engage healthcare providers in responding to human trafficking. In order to effectively utilize the important position of healthcare providers, the Stop, Observe, Ask and Respond (SOAR) to Health and Wellness⁷¹ Act became law⁷² in December 2018. The new law will now allow healthcare professionals all over the country to receive crucial training on identifying and responding to human trafficking victims they encounter.



* Not actual name.

63 Risher, W. (2018, January 29). FedEx Freight enlists industry effort to train drivers to combat human trafficking. *Commercial Appeal*. Retrieved from: <https://www.commercialappeal.com/story/money/industries/logistics/2018/01/29/fedex-freight-enlists-industry-effort-train-drivers-combat-human-trafficking/1076176001/?from=new-cookie>

64 U.S. Chamber of Commerce. (2018, February). *How UPS Combats Human Trafficking*. Retrieved from: <https://www.uschamber.com/article/how-ups-combats-human-trafficking>

65 Polaris. (n.d.). Transportation Industry Recommendations. Retrieved from <https://polarisproject.org/transportation-industry-recommendations>

66 The Joint Commission (2018). About the Joint Commission Page. Retrieved from https://www.jointcommission.org/about_us/about_the_joint_commission_main.aspx

67 Maryland Healthcare Coalition Against Domestic Violence. (2006). Domestic Violence Policy Guidelines A Model for Maryland’s Healthcare Community. Retrieved from <http://healthymaryland.org/wp-content/uploads/2011/05/domestic-violence-policy-guidelines.pdf>

68 Futures Without Violence. (n.d.). Joint Commission’s Standard PC 01.02.09 on Victims of Abuse Page. Retrieved from <https://www.futureswithoutviolence.org/joint-commissions-standard-pc-01-02-09-on-victims-of-abuse/>

69 The Joint Commission. (2018). Quick Safety 42: Identifying Human Trafficking Victims. Retrieved from <https://www.jointcommission.org/issues/article.aspx?Article=Dtpt66QSsil/HRklecKTZPAbn6jexdUPHfBjJ/D8Qc=>

70 Health. Education. Advocacy. Linkages. (n.d.). HEAL Trafficking Page. Retrieved from <https://healtrafficking.org/>

71 U.S. Department of Health & Human Services. (2018). SOAR to Health and Wellness Training. Retrieved from <https://www.acf.hhs.gov/otip/training/soar-to-health-and-wellness-training>

72 United States Senator for Maine. Susan Collins. (2018). Collins, Heitkamp Bipartisan Bill to Help Identify, Protect Human Trafficking Victims to be Signed into Law. Retrieved from <https://www.collins.senate.gov/newsroom/collins-heitkamp-bipartisan-bill-help-identify-protect-human-trafficking-victims-be-signed>



Polly reported that she had seen the doctor for a health condition she had developed after her trafficking situation began.*

The eighth most reported access point is the category **“other.”** In cases with this category, domestic worker victims had requested the help of strangers.



In one such case, a stranger at the park, and in another, a stranger visiting a neighbor who appeared to be of the same ethnicity of the victim. In both cases, the strangers were able to reach the National Hotline; however, neither they nor the Hotline was able to reconnect with the victim.

These contacts were neither family nor friends but very aware community members who were willing and able to help.

The ninth category was **“interaction with financial institutions.”**



Toni, for example, reported going to the bank to access her wages as she was paid by direct deposit.*

The *“Intersections”* report⁷³ by Polaris also identified the financial services institution as one of the industries with opportunities to intervene and prevent human trafficking. The report includes recommendations⁷⁴ for financial institutions and the public sector including training employees, displaying the National Human Trafficking Hotline information, helping victims rebuild their credit and increasing resources to the relevant government agencies.

The tenth category was **“interaction with religious community.”** Faith communities and cultural organizations, which exist among many immigrant communities, are safety nets and can provide victims with information about how to get help - if the victim can reach them.



In one case, a priest contacted the Hotline about Naomi, a member of his congregation who was in a labor trafficking situation.*

At other times, the caller may be a congregation member. In addition to contacting the National Hotline, a religious community may be able to provide financial and emotional support to a domestic worker who has left a labor trafficking situation and is in a period of transition. Religious communities do not only have to respond to victims of trafficking. They can provide education and awareness programs to members of their community on identifying victims of labor trafficking, and the available support services they can access.

* Not actual name.

73 Polaris. (n.59)

74 Polaris. (n.d.). Financial Services Industry Recommendations. Retrieved from <https://polarisproject.org/financial-services-industry-recommendations>



Immigration and the trafficking of domestic workers

The domestic worker workforce, both globally and in the United States, is largely comprised of migrants.⁷⁵ Not surprisingly then, the population of human trafficking victims in this industry skews heavily toward foreign nationals.

Domestic work employer-trafficked victims by immigration status

	Number of Victims	Percentage of Victims
Domestic	44	8.07%
Foreign National	501	91.93%
Total	545	100%

Undocumented immigrants are among the most vulnerable population for any type of human trafficking because the threat of deportation presents a ready-made weapon of control. For many immigrants, particularly those fleeing severe economic deprivation or violence, returning to their home country is so dangerous or economically devastating that they have no real choice but to stay and comply with the stipulations of their trafficker.

Yet, among the domestic worker victims of employer-traffickers, only 19 percent of those for whom immigration status was recorded were undocumented. The rest came to the United States legally under the auspices of non-immigrant visas. That figure is no doubt skewed by the likelihood that someone with legal status would be far more likely than someone who came here illegally or overstayed a visa to disclose that status and to reach out for help.

Additionally, legal immigrants who are part of temporary work visa programs are also more likely to appear in the data set because they have been given information about labor rights in the United States and the services of the National Human Trafficking Hotline by the Department of State through what is commonly referred to as the Wilberforce Act or the "Know Your Rights,"⁷⁶ pamphlet in the process of having their visa applications reviewed and approved. The pamphlet includes information on what is and is not acceptable in the U.S. labor market, which may be very different from their rights in their home country. It also prominently features contact information for the National Human Trafficking Hotline.



75 Chuang. (n.9)

76 U.S. Department of State. (n.d.). Know Your Rights Pamphlet. Retrieved from <https://travel.state.gov/content/dam/visas/LegalRightsandProtections/Wilberforce/Wilberforce-ENG-100116.pdf>



In some cases, domestic workers who became trafficking victims entered the country legally on visas that allowed them to live here, but not necessarily to work. The most common of these situations are individuals who are in the United States legally on B-2 tourist visas, F-1 student visas and K-1 fiancé visas. And whereas individuals on F-1 and K-1 visas may be authorized to work under certain conditions (for instance F-1 students can take up training-related employment⁷⁷), their authorization is not for domestic work employment. As such, they will not receive domestic work specific information such as the “*Know Your Rights*” pamphlet from immigration authorities, and may be unaware of their vulnerability to become trafficking victims, or the options available to them in such situations.

Many others came to the United States on temporary work visas that were specifically created to allow them to work, for a limited time, in this country.

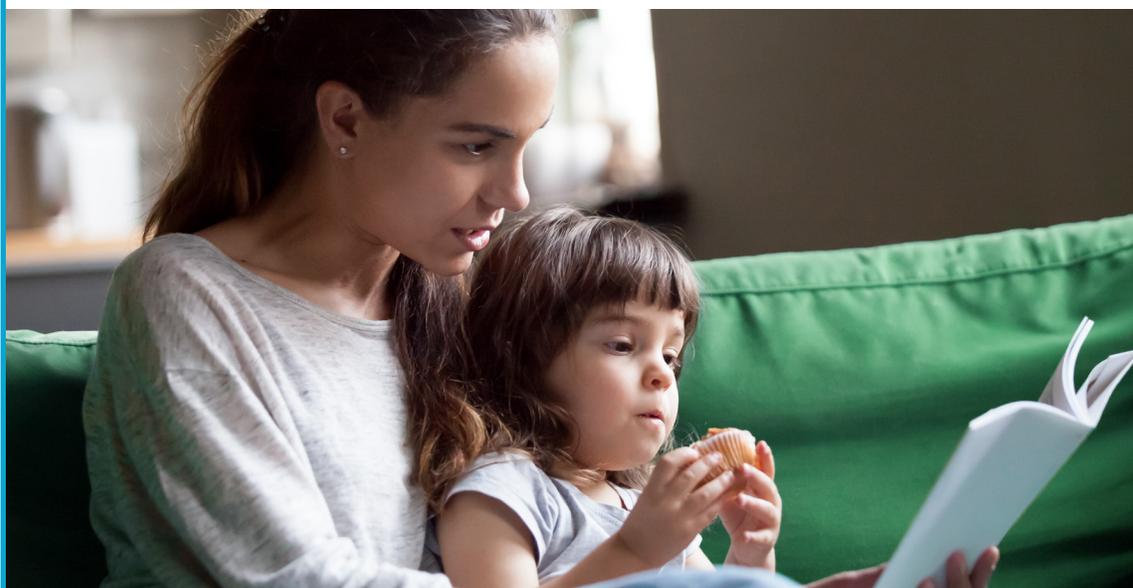
⁷⁷ Department of Homeland Security U.S. Citizenship and Immigration Services. (2018). Students and Employment Page. Retrieved from <https://www.uscis.gov/working-united-states/students-and-exchange-visitors/students-and-employment>



Temporary work visas: An overview

Over the course of this year, hundreds of thousands of laborers from around the world will be recruited from their home countries with the promise of a short-term job in the United States. The type of job aligns to a type of visa. The largest of these programs are the H-2A visas, which employ agricultural workers, and the H-2B visas, for a wide range of low and unskilled jobs in fields including domestic work but also landscaping and construction, among others. Employers seeking short-term overseas workers are supposed to prove that they have looked for and are unable to hire enough workers who are already legally here and allowed to work.

In some cases, this program works out well for all involved. Unfortunately, the system is so badly designed that it is rife with abuse in many visa categories. There are two major problems with most of the temporary work visas, across employment venues. The first is that most of these visas are non-transferable from one employer to another. That means a worker is only legally present in the United States if they are working for the employer who originally hired them. If the worker leaves the job listed on their visa they are immediately eligible for deportation. Traffickers know this all too well and use it as a weapon, threatening to call immigration if a worker complains about low pay, an unsafe work environment, inhumane living conditions or anything else for that matter.



The other major structural flaw in temporary work visa programs is that they often become a vehicle for workers to rack up significant debt. Many overseas recruiters charge would-be workers outrageous fees for things like attending the recruitment fair, or for the visa itself, or for transportation from their home country to the work site. In most cases it is illegal for these fees to be charged to workers but that prohibition is rarely enforced. The result is that many workers come to the United States already deeply in debt. When faced with abuse and exploitation they have to weigh speaking out and seeking help against the reality that if they leave the situation they will have even less ability to pay off their debts or better their economic situation or help their family than they would if they stayed and suffered.



Domestic workers face many of these issues, depending on the visa type they hold. Additionally, there are visas created specifically for domestic help that share many of the characteristics that can lead to or encourage trafficking.

Non-immigrant work visa categories for domestic workers

Visa Type	Description
A-3 ⁷⁸ /G-5 ^{79,80}	Personal attendants to diplomats (A-3) and employees of international organizations (G-5). In Fiscal Year (FY) 2013, the U.S. Department of State issued 1,135 A-3 visas and 736 G-5 visas. ⁸¹ These visas are tied to individual employers.
B-1 ⁸²	While most B-1 visas are issued to foreign nationals coming to the United States for short-term events such as meetings and conferences, business visitors entering the U.S. and United States citizens stationed abroad may request B-1 visas for their domestic workers. The U.S. reports B-1 visa counts alongside B-2 tourism visitors counts. In FY 2013, it issued 41,956 B-1/B-2 visas. This program receives very little oversight. These visas are not tied to individual employers.
H-2B ⁸³	Temporary non-agricultural workers may receive H-2B visas. These visas are tied to individual employers. In FY 2013, the U.S. Department of State issued 57,600 H-2B visas.
J-1 ⁸⁴	Participants of cultural and educational exchange programs who work as Au Pairs. In FY 2013, the U.S. Department of State issued 312,522 J-1 visas. These visas are tied to individual employers.
NATO-7 ⁸⁵	Domestic workers for individuals who hold a NATO-1 through NATO-6 visa may receive a NATO-7 visa.

78 U.S. Department of State. (n.d.). Visas for Diplomats and Foreign Government Officials Page. Retrieved from <https://travel.state.gov/content/travel/en/us-visas/other-visa-categories/visas-diplomats.html>

79 U.S. Department of State. (n.d.). Visas for Employees of International Organizations and NATO Page. Retrieved from <https://travel.state.gov/content/travel/en/us-visas/other-visa-categories/visa-employees-nato.html>

80 For the purposes of this report, Polaris combined substantively similar visa categories of A-3 and G-5 visas.

81 U.S. Department of State. (2013). FY 2013 NIV Workload by Visa Category. Retrieved from <https://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/NIVWorkload/FY2013NIVWorkloadbyVisaCategory.pdf>

82 U.S. Department of State (2015). U.S. Visas Brochure. Retrieved from https://travel.state.gov/content/dam/visas/PDF-other/VisaFlyer_B1B2_March_2015.pdf

83 U.S. Department of State. (n.d.). Temporary Work Visas Page. Retrieved from <https://travel.state.gov/content/travel/en/us-visas/employment/temporary-worker-visas.html>

84 U.S. Department of State. (n.d.). Know Your Rights Pamphlet. Retrieved from <https://travel.state.gov/content/dam/visas/LegalRightsandProtections/Wilberforce/Wilberforce-ENG-100116.pdf>

85 U.S. Department of State. (n.d.). Visas for Employees of International Organizations and NATO Page. Retrieved from <https://travel.state.gov/content/travel/en/us-visas/other-visa-categories/visa-employees-nato.html>



Human trafficking of domestic workers on temporary work visas

Domestic workers who come to the United States on temporary work visas face many of the same vulnerabilities to trafficking as those who come without documentation. For example, many have significant debt, ironically incurred as a direct result of fees illegally charged by recruiters in exchange for the visas. Many also face significant language barriers which make it difficult for them to seek help from the community outside their primary residence should that become necessary. Language barriers may also factor into their being duped into signing invalid or exploitative contracts.

Under the current system of temporary work visas, which ties workers to a single employer in most cases, the threat of deportation is very real. There is, however, a remedy. The Trafficking Victims Protection Act of 2000 provides for all victims of human trafficking the ability to apply for a “T” visa that can allow them to remain in the United States.⁸⁶ Additionally, a provision added in 2008 specifies that domestic workers with A-3/G-5 visas may remain in the United States legally while seeking legal justice for their labor trafficking experience.⁸⁷

Cultural factors also play a role in vulnerability. In many immigrant communities, the support systems are family and religious organizations. Immigrants who are unaware of the social services support system in the United States and who look exclusively to themselves or to their families in their home countries may come into the country and believe their employers to be their only source for all their requirements in the country.

Additionally, some domestic workers come from countries where their interactions with government and law enforcement are limited and fraught with suspicion. While they may have received information before coming to the United States about their rights and about how to seek help from the government should their rights be violated, this kind of cultural background makes it extremely unlikely that they will do so.

In theory, the fact that these workers are in the United States on a government-sponsored visa should substantially mitigate these vulnerabilities. After all, temporary work visa programs are supposed to be very carefully calibrated to ensure that employers are not trying to game the system in order to hire cheaper, overseas labor at the expense of unemployed American workers. In practice, however, these programs are spread across a variety of government agencies and there is very little oversight to keep traffickers and would-be traffickers in check.

As with all types of human trafficking, there are no reliable figures for the extent of the crime involving individuals with temporary work visas. Indeed, given the complexities and lack of oversight of these programs across the government, there are not even truly reliable figures of how many people there are living and working in the United States with these visas at any given time. A recent Polaris report⁸⁸ identified some 800 individual victims of human trafficking working in the United States on temporary work visas learned about through the Hotline between January 1, 2015 and December 31, 2017. Overall, these workers who are here legally, at the invitation and conceivably under the protection of the U.S. government, made up nearly half of the victims of labor trafficking during that time frame whose immigration status was known.

86 U.S. Citizen and Immigration Services. (n.d.). Victims of Human Trafficking: T Nonimmigrant Status. Available at <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>

87 Pub. L. No. 110-457, § 203(c)(1)(A), 122 Stat. 5044, 5058 (codified as amended at 8 U.S.C. §1375c(c)).

88 Polaris. (2018). Human Trafficking on Temporary Work Visas: A Data Analysis 2015 - 2017. Retrieved from <https://polarisproject.org/sites/default/files/Polaris%20Temporary%20Work%20Visa%20Report.pdf>



Domestic work employer-trafficked victims by top five visa types reported

		<i>Number of Victims</i>
1	B-1 (Domestic Worker/Business)	74
2	A & G (A -1, A-2, A-3, G-1, G-5)	64
3	B-2 (Tourist)	29
4	J-1 (Au Pair)	19
5	F1 (Student)	5

“Diplomatic” visas: A-3⁸⁹ and G-5^{90,91}

The most heavily publicized and often the most shocking cases of human trafficking of domestic workers involve individuals who came to the United States legally to work in the homes of diplomats and employees of international organizations. While some high-profile cases of this nature have been successfully prosecuted, obtaining justice for victims of this kind of trafficking is complicated by the fact that the traffickers are often protected by diplomatic immunity.⁹²

Domestic workers in these situations hold A-3 or G-5 visas, which are valid for up to three years and can be extended in two-year increments indefinitely. A-3 visas are given to the employees of foreign diplomats or foreign government officials who typically receive A-1 or A-2 visas. G-5 visas are given to employees of individuals working for international organizations, such as the United Nations and World Bank, who are given G-1, G-2, G-3, or G-4 visas. All the visas in this group tie the worker to the individual employer and otherwise have substantially similar rules.

In Fiscal Year (FY) 2013, the U.S. Department of State issued 1,135 A-3 visas and 736 G-5 visas.⁹³ Asia and Africa are often the leading suppliers of A-3 and G-5 domestic workers, with the Philippines being the leading source country.⁹⁴ Domestic workers in this category do not have visa portability. Their immigration status is tied to the employer on their visa application.

Attempts at reform of A-3/G-5 visas

Visas in this category are issued and overseen by the U.S. Department of State. In 2008, the William Wilberforce Trafficking Victims Protection Reauthorization Act mandated that the Secretary of State suspend issuance of A-3/G-5 visa privileges to any diplomatic mission or internal organization that has tolerated the abuse of exploitation of domestic workers holding these visas.⁹⁵ Until the end of 2018, the State Department did not revoke these privileges from any mission, though

89 U.S. Department of State. (2018). Visas for Diplomats and Foreign Government Officials Page. Retrieved from <https://travel.state.gov/content/travel/en/us-visas/other-visa-categories/visas-diplomats.html>
90 U.S. Department of State. (2018). Visas for Employees of International Organizations and NATO Page. Retrieved from <https://travel.state.gov/content/travel/en/us-visas/other-visa-categories/visa-employees-nato.html>
91 For the purposes of this report, Polaris combined substantively similar visa categories of A-3 and G-5 visas.
92 Vandenberg, M.E. & Bessell, S. (2016). Diplomatic Immunity and the Abuse of Domestic Workers: Criminal and Civil Remedies in the United States. *Duke Journal of Comparative & International Law*, 26:595-633. Retrieved from <https://scholarship.law.duke.edu/djcil/vol26/iss3/6>
93 U.S. Department of State. (n. 81)
94 Global Workers Justice Alliance. A-3 AND G-5 VISA (2012). Page retrieved from <http://globalworkers.org/visas/a-3%20and%20g-5>
95 Library of Congress. H.R. 7311 - William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008. Section 203 Retrieved from <https://www.state.gov/william-wilberforce-trafficking-victims-protection-reauthorization-act-of-2008/>



some met the criteria for suspension.⁹⁶ The Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 includes modification to the Wilberforce Act that now makes the consequence of suspension for erring missions less dependent on the discretion of the State Department and more dependent on the existence of a default or civil judgement for labor trafficking.⁹⁷ Following this change and based on the judgment of a 2016 human trafficking case, in April 2019, Malawi became the first country to lose its A-3 visa sponsorship privileges with a two-year suspension.

The State Department's Office of Protocol has, however, taken laudable steps to offer support and guidance to these potentially vulnerable workers. The Office of the Chief of Protocol at the State Department coordinates the affairs of domestic workers on A-3 and G-5 visas for bilateral missions and international organizations. It has a standing requirement that its office be notified of the arrival and departure of domestic workers in this category.⁹⁸ In 2009, it introduced two new requirements.⁹⁹ One was the "[pre-notification](#)" program, which requires the bilateral mission to submit a notification on any prospective before the domestic worker can apply for a visa. Unless a pre-notification application is received (and "passes" its evaluation), a worker may not be scheduled for a visa interview. The other was that foreign mission employees below the rank of Minister became required to demonstrate their financial ability to accommodate travel and payment obligations to a domestic worker.

In 2015, the Office of Protocol introduced the [In-Person Registration](#)¹⁰⁰ program for bilateral missions and international organizations in the Washington, D.C. area, which requires a domestic worker to register within 30 days of entering the country and to renew their registration annually. These meetings allow the Department to send a clear signal to the employers that the Department is monitoring for adherence to the employment contract. During the meetings, the Department checks in directly with the domestic worker on several issues such as contract compliance, payment information, banking practices, employment conditions, document possession, and opportunities to interact with family, friends and the community. At these meetings, visa holders are also given information about calling the National Hotline if they believe their rights are being violated and contacting 911 in the event of an emergency. Each visa holder is issued an official identification card that must be renewed annually, in person. In 2018, U.S. Secretary of State, Michael R. Pompeo, announced that the Department of State will expand the In-Person Registration program to two more states in 2019.¹⁰¹

The Department also has an [employment contract template](#)¹⁰² for domestic workers on A-3/G-5 visas.

In 2018, the Department of State introduced some additional requirements^{103,104} that will make it more difficult for A-3/G-5 domestic workers to become labor trafficking victims. The additional

96 The Senate Appropriations Language attached to the State Department's 2015 budget and continued in the 2018 Consolidated Appropriations Act of 2018 provides guidance on criteria for suspension. Consolidated Appropriations Act, 2018 § 7034(k), Pub. L. No. 115-141. ("Section 7034(k) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015 (division J of Public Law 113-235) shall continue in effect during fiscal year 2018.") Lists of federal civil and criminal cases by country is available in Appendix A and Appendix B of "Diplomatic Immunity and the Abuse of Domestic Workers: Criminal and Civil Remedies in the United States", Martina E. Vandenberg and Sarah Bessell, *Duke Journal of Comparative & International Law* 595-633 (2016) Retrieved from: <http://scholarship.law.duke.edu/djCIL/vol26/iss3/6/>

97 Congress (2017-2018). H.R. 2200 - Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018. Retrieved from <https://www.congress.gov/bill/115th-congress/house-bill/2200/text?format=txt&r=435>

98 United State Department of State. (2009). Diplomatic Note. Retrieved from <https://www.state.gov/documents/organization/153566.pdf>

99 *ibid*

100 United State Department of State. (2015). Diplomatic Note on Launch of In-Person Registration. Retrieved from <https://www.state.gov/documents/organization/248679.pdf>

101 United State Department of State. (2018). 2018 Meeting of the President's Interagency Task Force on Trafficking in Persons Press Release. Retrieved from <https://www.state.gov/secretary/remarks/2018/10/286572.htm>

102 United State Department of State. (n.d.). Domestic Workers Page. Retrieved from <https://www.state.gov/s/cpr/rls/c74676.htm>

103 United State Department of State. (2018). Domestic Worker Program Requirements Note to International Organizations. Retrieved from <https://www.state.gov/documents/organization/273803.pdf>

104 United State Department of State. (2018). Domestic Worker Program Requirements Note to Bilateral Missions. Retrieved from <https://www.state.gov/documents/organization/273804.pdf>



requirements are related to a domestic worker's relationship to the employer, health coverage for the domestic worker, consequences for employers under investigation for abuse or exploitation of domestic workers, the number of domestic workers for employers and dependents of domestic workers. The announcement rightly notes that this framework may evolve, as new measures to combat labor trafficking must continue to evolve as long as the problem persists.

Outside of the policies of the Office of Protocol, the World Bank recently instituted a new policy that attempts to curb abuse of domestic workers by requiring staff members who employ them to process their payroll through a designated third party company.¹⁰⁵ This policy ensures there is a formal record of wages being paid and allows for greater oversight.

Human trafficking of au pairs on J-1 "cultural exchange" visas

J-1 visas were created to foster international understanding through cultural and educational exchanges. The program has faced increasing scrutiny in recent years with evidence emerging that some businesses use these visas to recruit low-skilled foreign workers legally while avoiding regulations and requirements imposed by other, more closely watched work-authorization programs.¹⁰⁶ In one case, for example, students who were supposed to be involved in a summer cultural exchange program were put to work in a Hershey chocolate factory in 2011.¹⁰⁷ Similarly, in 2013 students came to America on J-1 cultural exchange visas to work at a McDonald's fast food establishment.¹⁰⁸



Among the best known and most common uses of the J-1 visa is the Au Pair program, which is overseen by the U.S. Department of State. Created by the Mutual Educational and Cultural Exchange Act of 1961,¹⁰⁹ the Au Pair program is designed to provide international students the opportunity to experience American culture in an American household in exchange for providing families with dependable live-in childcare. The day-to-day operations of this program are left largely to for-profit sponsor agencies who match clients - American families - with overseas students.

Unfortunately, au pairs regularly find themselves in situations of labor exploitation that for some escalate to labor trafficking. While recruitment fees are technically illegal for most of the temporary work visa categories,¹¹⁰ the au pair program is an exception - in part because it is not technically considered a "work" visa program. In the au pair program, student participants are required to pay a fee to one of the 16 privately run sponsor agencies who match students with families looking for au pairs. Host families also pay the agencies for the match. This unique position raises questions

105 The World Bank Group. Human Resources (n.d.). Request G5 Visa for a Prospective Domestic Employee Residing Outside the U.S. page. Retrieved from <http://web.worldbank.org/WBSITE/EXTERNAL/EXTSTAFF/EXTTHR/0,,contentMDK:22180902~menuPK:64231687~pagePK:64233720~piPK:64233738~theSitePK:444049~isCURL:Y,00.html>

106 Stewart, Meredith B. (2014, February 1). "Culture Shock: The Exploitation of J-1 Cultural Exchange Workers." Southern Poverty Law Center, Southern Poverty Law Center. Retrieved from <https://www.splcenter.org/20140201/culture-shock-exploitation-j-1-cultural-exchange-workers>

107 Preston, J. (2011, August 17). Foreign Students in Work Visa Program Stage Walkout at Plant. New York Times. Retrieved from <https://www.nytimes.com/2011/08/18/us/18immig.html>

108 Noguchi Y. (2013, March 18). U.S. Probes Abuse Allegations Under Worker Visa Program. National Public Radio. Retrieved from <https://www.npr.org/2013/03/18/174410945/u-s-probes-abuse-allegations-under-worker-visa-program>

109 Public Law 87.256. (n.d.). Retrieved from <https://www.gpo.gov/fdsys/pkg/STATUTE-75/pdf/STATUTE-75-Pg527.pdf>

110 Federal regulations prohibit employers from allowing workers to pay recruitment costs, employers' attorney or application fees, visa fees and border crossing fees. See 20 C.F.R. § 655.135(j); 20 C.F.R. § 655.122(h); 8 C.F.R. § 214.2(h).



about potential conflicts of interests for sponsoring agencies who are more likely to get repeat business from the host families than from the potential au pairs and therefore may prioritize the interests of these families over those of the students who are placed in their homes.

These concerns are not new. A 1990 report¹¹¹ by the U.S. General Accounting Office on the Au Pair program (which was being run by the U.S. Information Agency at that time) noted three principal findings - that some activities, including the au pair program, were not consistent with legislative intent; that the J-visa regulations did not provide proper guidance for the program as they were not very specific and did not offer a robust coverage for program activities and participants; and that there were persisting problems with managing the program.

Yet, as evidenced by a 2018 report issued by the International Labor Recruitment Working Group,¹¹² the problems persist nearly 30 years later. The findings of the report include the reality that the program focuses more on work than cultural exchange, with au pairs being overworked and unpaid. The report also finds that the State Department has so delegated authority to sponsor agencies that it lacks meaningful government oversight, and that sponsoring agencies are more vested in their profitability than they are in the well being of the students they are supposed to be serving.

In February 2018,¹¹³ a federal judge certified a class action lawsuit initiated in 2014 in which over 90,000 au pairs are alleging that the program is suppressing wages in defiance of federal and state wage laws such that program participants are being exploited. In January 2019,¹¹⁴ the au pairs through their counsel reached a \$65.5 million class action settlement. This settlement should cause the State Department to re-evaluate how the program is designed, and how sponsor agencies implement the program.

111 United States General Accounting Office. (1990). U.S. Information Agency Inappropriate Uses of Educational and Cultural Exchange Visas. Retrieved from <https://www.gao.gov/assets/150/148648.pdf>

112 International Labor Recruitment Working Group (2018). Shortchanged: The Big Business Behind the Low Wage J-1 Au Pair Program. Retrieved from <https://fairlaborrecruitment.files.wordpress.com/2018/08/shortchanged.pdf>

113 Eidelson, J. (2018, February 13). Au Pair Class Action Could Upend Decades-Old Program. Bloomberg Businessweek. Retrieved from <https://www.bloomberg.com/news/articles/2018-02-13/au-pair-class-action-could-upend-decades-old-program>

114 Romo, V. (2019, January 9). Au Pairs Sponsor Agencies Settle Wage Lawsuit, Offer \$65.5 Million in Back Pay. National Public Radio (NPR). Retrieved from <https://www.npr.org/2019/01/09/683831264/au-pair-sponsor-agencies-settle-wage-lawsuit-offer-65-5-million-in-back-pay>



Prosecution of the labor trafficking of domestic workers

Holding offenders accountable for their actions can serve as a strong deterrent for would-be traffickers and provide a measure of hope and empowerment to survivors and victims still in a bad situation. Unfortunately, criminal prosecution of labor trafficking cases is fairly rare. More often, cases involving exploitation and trafficking of domestic workers are brought civilly. Many of these cases result in financial awards to the domestic worker survivor that can be particularly difficult to collect when the employer-trafficker has diplomatic protections and/or leaves the country. Criminal prosecution of traffickers can encourage victims to report cases of labor trafficking, which is currently underreported. Conversely, when employer-traffickers can get away with the crime of labor trafficking, the motivation for other employer-traffickers to reevaluate and alter their practices, and refrain from labor trafficking practices will be diminished.

According to the 2017 Federal Human Trafficking Report,¹¹⁵ there were 783 active human trafficking legal cases in 2017. Of these, 89 percent were criminal cases, and 11 percent of them were civil cases. The active criminal cases (for both sex and labor trafficking) increased by seven percent from 2016 to 695 criminal cases in 2017.

Although the criminal labor trafficking cases prosecuted increased by 42 percent from 2016, they still comprised only five percent (34 cases) of all the 695 active criminal cases in 2017. The business model was identified in 30 of the 34 cases, and the vast majority of the cases - ten cases or 33 percent of the total - were in domestic work.

Unlike the active criminal cases where labor trafficking cases were only five percent, 91 percent (80) of the active civil cases (88) were labor trafficking cases. Again, for cases with business model identified (59), the majority of the cases were in domestic work, 44 percent (26).

It may be that the most labor trafficking cases (both criminal and civil) are in domestic work because domestic workers are prone to be trafficking victims and they are able to access services for prosecution.

The National Hotline data indicates that A-1/G-1 visa holders constitute the highest percentage of traffickers. We note that this may be because they are easier to identify than other traffickers. But holding that community accountable was not always achievable. However, the diplomatic immunity provision that made efforts to prosecuting cases with a diplomat potential trafficker exercises in futility has been greatly altered by precedent cases.¹¹⁶ Despite the changes, the rate of criminal prosecution of labor trafficking cases involving diplomats remains poor, and this also does not send a strong enough signal about consequences to offenders.

115 Feighs, K.E., & Richmond, J.C. (2018). 2017 Federal Human Trafficking Report. Human Trafficking Institute. Retrieved from https://www.traffickingmatters.com/wp-content/uploads/2018/05/2017-Federal-Human-Trafficking-Report_hi-res.pdf

116 Vanderberg, M.E., & Levy, A.F. (2012). Human Trafficking and Diplomatic Immunity: Impunity No More? *Intercultural Human Rights Law Review*, 7:77-101 Retrieved from <http://www.htlegalcenter.org/wp-content/uploads/Human-Trafficking-and-Diplomatic-Immunity-Impunity-No-More.pdf>



Restitution for domestic worker trafficking victims

The loss of wages has dire consequences for most domestic workers. Not only are they unable to pay debts they may have incurred in order to secure their employment, they have limited financial resources to meet their past or future obligations. In recognition of the importance of being compensated for services rendered, TVPA 2000 mandates that trafficking convictions should automatically include restitution awards for wages not received whether or not the services provided were illegal. Sadly, this rarely results in actual cash awards to survivors of human trafficking.

A 2018 report by the Human Trafficking Legal Center and the law firm WilmerHale¹¹⁷ found that prosecutors do not always make a request for restitution, despite the fact that doing so is mandatory. Of the 324 cases studied in the report, 33 percent (107) did not include a written request for restitution. More restitution requests were made in sex trafficking cases - 67 percent - compared to labor trafficking - 50 percent. Although the labor trafficking cases were fewer (4 cases compared to 213 cases for sex trafficking), the judge actually granted restitution in 100 percent of the labor trafficking cases in the study when it was requested. Collection on restitution orders was not always achievable especially for sex trafficking cases, which unlike labor trafficking, does not involve employer-traffickers who may have tangible assets and resources that can be easy to identify.

The report identified several stakeholders - from federal prosecutors, the federal judiciary, financial litigation units, the probation office, the Department of Justice Human Trafficking Prosecution Unit and the Child Exploitation and Obscenity Section (CEOS) and the Department of Justice Money Laundering and Asset Recovery Section (MLARS) - as having a role in ensuring that trafficking victims receive restitution when due. It recommends a series of actions including training, raising awareness, advocating new policies, standardizing procedures and improving intra-stakeholder collaborations if restitution is to be requested, ordered and collected routinely.

Domestic workers who have been trafficked have another option to recover lost wages through a congressional amendment that was made to the TVPRA in 2003, which provides an avenue for trafficking survivors to sue their traffickers for civil damages regardless of whether there has been a criminal prosecution. Domestic workers who are trafficking victims have taken the lead on utilizing this provision. According to another report¹¹⁸ by the Human Trafficking Legal Center, of the 299 civil cases filed by trafficking victims in the past 15 years, 94 of those - a full 31 percent of all the labor cases - were filed on behalf of domestic workers. By contrast, the second most common industry to face civil litigation by trafficking victims was agriculture, which represented 35 cases or 12 percent.

The Human Trafficking Legal Center has tracked the civil cases involving domestic servitude and issued a report in 2018.¹¹⁹ According to the report, of the 96 cases (this report has a different cut-off date than the previous report) which had been filed by the time of the report, over 50% of them (49) had been settled. While the settlement amount was not always disclosed (confidential settlements), the report notes that \$19,008,852.55 had been ordered in settlements and judgements. There was no information on how much of the ordered amount had been collected. The awards to domestic workers can inspire other domestic worker labor trafficking victims to seek justice for themselves even when there is no federal criminal prosecution.

117 The Human Trafficking Legal Center. (2018). United States Federal Courts' Continuing Failure to Order Mandatory Criminal Restitution for Human Trafficking Victims. Retrieved from <http://www.htlegalcenter.org/wp-content/uploads/2018-Mandatory-Restitution-Report.pdf>

118 Levy, A. F. (2018). Federal Human Trafficking Civil Litigation: 15 Years of the Private Right of Action. The Human Trafficking Legal Center. Retrieved from <http://www.htlegalcenter.org/wp-content/uploads/Federal-Human-Trafficking-Civil-Litigation.pdf>

119 The Human Trafficking Legal Center. (2018). Federal Civil Human Trafficking Cases Involving Allegations of Domestic Servitude. Retrieved from <http://www.htlegalcenter.org/wp-content/uploads/Federal-Civil-Human-Trafficking-Cases-Involving-Allegations-of-Domestic-Servitude-.pdf>



Solutions and responses to the trafficking of domestic workers

As awareness of human trafficking in all its forms has grown, mechanisms have been slowly put in place to prevent the crime, provide support to victims and survivors and hold perpetrators accountable. Collectively these efforts have helped countless people in domestic work and other spheres but there is still a tremendous amount left to be done to protect the rights, freedoms and livelihoods of the women and men who make their living cleaning, cooking and helping to care for our homes and our loved ones. There are laws, policies, procedures and regulations that, if enacted, would dramatically reduce vulnerability and victimization of domestic workers and help ensure that they are treated in all aspects of the workplace with the dignity they deserve.

Polaris and the National Domestic Workers Alliance are calling for the following actions to protect vulnerable domestic workers and support victims of human trafficking.

Pass a federal domestic workers bill of rights

While domestic workers are employed across the country, only those who live in certain states are protected by a domestic worker bill of rights. Senator Kamala Harris and Congresswoman Pramila Jayapal have announced plans to widen that safety net with the introduction of a Federal Domestic Workers Bill of Rights in the 116th Congress.¹²⁰ This federal legislative effort builds on the successful passage of domestic worker bill of rights in nine states (NY, CA, HI, MA, CT, OR, IL, NV and NM), and the city of Seattle. This proposed federal bill addresses the gaps in federal labor law and reduces the vulnerability of this workforce by strengthening protections, raising standards and innovating for the future of domestic work. Specifically, the Domestic Workers Bill of Rights:

- addresses overtime and sexual harassment protection
- creates new rights, benefits and protections to improve working conditions for domestic workers like written agreements, privacy protections and fair scheduling practices
- helps give domestic workers a voice and power to improve wages and working conditions and a path to improving retirement security and access to healthcare
- addresses education about, and enforcement of, these new rights and benefits, providing resources for community organizations to engage in both endeavors and protection from retaliation for exercising these rights
- reinforces the Department of Labor's role in overseeing workplace protections in the J-1 Visa program

¹²⁰ Covert, B. (2018, November 29). The New Federal Domestic Workers Bill of Rights Would Remedy Decades of Injustice. The Nation. Retrieved from <https://www.thenation.com/article/federal-domestic-workers-bill-of-rights-harris-jayapal-labor/>



Expand accountability and responsibility to employers

Know your responsibilities pamphlet

The Trafficking Victims Protection Act or TVPA is the overarching legislative framework by which the United States supports victims and survivors of human trafficking, holds perpetrators accountable and funds prevention and services. First passed in 2000, the TVPA codifies that labor trafficking is a crime and that victims can receive criminal restitution¹²¹ and can also bring civil damages cases against their traffickers.¹²²

The TVPRA 2008 added language requiring that temporary workers including domestic workers receive the *Know Your Rights* informational brochure before or when arriving for work in the United States. The *Know Your Rights* pamphlet, which is written in English and available in 44 other languages, includes the phone number for the National Hotline and provides information on human trafficking and unacceptable practices in employment situations.

The pamphlet, while extremely valuable, puts the sole responsibility for preventing themselves from becoming labor trafficking victims on the domestic worker, who is in an employer-employee power-imbalance situation in a new territory. Responsibility should be spread to the employer - in part by reminding the person for whom the domestic worker is providing service that regardless of how they view themselves, they are legally and technically an employer. One way to do this would be the creation and mandatory dissemination of a counterpart to the *Know Your Rights* pamphlet, perhaps entitled "**Know Your Responsibility.**" Requiring employers to read such a pamphlet when they apply for visas for their workers or in any other situation in which they can be held accountable will help eliminate any ambiguity in the minds of employers about their responsibilities.

One example to potentially model is the [World Bank's Code of Conduct](#)¹²³ guide aimed to establish minimum labor standards for Bank Group staff who employ domestic workers on G-5 visas to ensure fair labor treatment. This guide and the existing *Know Your Rights* pamphlet can be useful foundational materials for developing a **Know Your Responsibility** pamphlet, which ideally should also be issued by the Department of State.

Mandatory training for employers

Employers of domestic workers can be required to undergo training as a condition of their receiving a work visa for a potential staffer. Similarly, employers and would-be employers can be identified and required to watch a training as a condition of using online services and apps that match would-be workers with potential employers. The Government of Singapore, for instance, requires that anyone hiring a foreign domestic worker for the first time or who frequently changes domestic employees attend a [training](#)¹²⁴ to help them understand their roles and responsibilities as an employer before they submit a work permit application. Similarly, the World Bank's Human Resources Services Center also provides an in-person orientation and a resource on their Code of Conduct for staff who employ domestic workers on G-5 visas.¹²⁵ While many employers of domestic workers know they are obligated to pay wages, they may be unclear or unaware about what else may be required of them. These training resources can help eliminate any ambiguity for employee-turned-employers about their formal and legal responsibilities and can help keep them from evolving into traffickers.

121 18 U.S.C. §1593.

122 18 U.S.C. § 1595.

123 World Bank Group. (2017). G5 Domestic Employee Program. Retrieved from <http://pubdocs.worldbank.org/en/251831496341459107/G5-Domestic-Employee-Program.pdf>

124 Singapore Government. (n.d.). Employers' Orientation Programme (EOP) Page. Retrieved from <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/eligibility-and-requirements/employers-orientation-programme-eop>

125 World Bank Group. (n. 123)



Reform temporary work visas

There are a number of significant changes to temporary work visa programs that collectively, if enacted, would dramatically reduce the arsenal of weapons human traffickers currently have at their fingertips to defraud and control domestic and other workers.

End “tied” visas

Revamp the system to create a structured process that allows workers the freedom to choose employers within certain limits and removes the threat of deportation or severe financial hardship if the worker chooses to change jobs within the time limits of the visa.

Enforce ban on recruitment fees

Foreign labor contractors should be barred in all cases from charging workers and potential workers any fees related to recruitment and other expenses, such as travel to the job site. These fees must be the responsibility of the employer seeking workers. In many of the visa programs these fees are already technically banned but in practice that ban is not enforced. To make that ban meaningful, U.S. employers should be held liable for the use of recruiters who charge or take money from workers as a condition of employment.

Build transparency and accountability into the system

Steps to improve the system’s transparency and accountability include:

- Pass the [Visa Transparency Anti-Trafficking Act](#),¹²⁶ which would create a uniform system for reporting data that the government already collects on temporary visa programs and require that the information be made publicly available.
- Require foreign labor contractors to obtain a certificate of registration from the Secretary of Labor.
- Require the Secretary of Labor to maintain an updated list of all certified recruiters and enforce rigorous oversight of internal recruitment activities.
- Hold recruiters civilly and criminally liable for violations of these regulations.

Study and expand recent reforms to the A-3/G-5 protocols

As described earlier in this report, the Office of Protocol of the Department of State has implemented new protocols around A-3 and G-5 domestic workers. Both the Department of State and some members of the domestic work industry have reported that these programs have produced positive results. The pre-notification program eliminates the opportunity for employers to claim ignorance on violations, as their responsibilities are made very clear upfront. Although the Department reported a decline in the request for visas after it began implementing these measures, we believe it is better to have the request for visas from a limited few willing to comply with the requirements of engaging the services of domestic workers.

While there has not been any published report on the in-person and annual registration, anecdotally, some domestic workers have reported an increase in their self-esteem, improved cordial treatment by their employers, increase in wages to reflect actual wage due, and payment of back wages at the correct rate. This program is currently implemented with regards to A-3/G-5 visas only (currently in the Washington, D.C. area and expanding to two other cities in 2019). We recommend a study on if these programs and contract template can be adapted, and how they can be implemented for domestic workers in other non-immigrant visa categories such as B-1, H- visas, J, and NATO-7 visas.

126 Library of Congress. (2018). H.R. 4777 - Visa Transparency Anti-Trafficking Act of 2018 Page. Retrieved from <https://www.congress.gov/bill/115th-congress/house-bill/4777>



Create training and tools for immigration officers who screen domestic worker visa candidates

Domestic workers attend immigration interviews to obtain their non-immigrant visas. Some of them are already in labor trafficking situations when they present themselves for their immigrant visa interviews, but U.S. immigration officers not trained in human trafficking may not be able to identify obvious red flags during the interview process. In 2005, the Maryland Network Against Domestic Violence (MNADV) introduced the [Lethality Assessment Program \(LAP\)](#),¹²⁷ a tool designed for law enforcement officers to help screen individuals when responding to domestic violence-related calls to determine the lethality risk level and connect individuals to services as applicable. Many states across the country have adopted the protocol, which has been revised for use by non-law enforcement service providers. We recommend the development of a screening protocol similar to the LAP that U.S. immigration officers can use during visa interviews to determine the level of risk for labor trafficking of a domestic worker interviewee. A human trafficking screening protocol will help reduce the number of foreign national domestic workers who end up in labor trafficking situations. This will apply particularly to domestic workers who may have worked with their employers in other countries previously and may already, though unaware, be in labor trafficking situations.

Allow immigration options to support potential domestic worker labor trafficking victims

Domestic worker victims often remain in their situation out of fear of deportation. Yet, deportation is not the only possible outcome for a victim. There are avenues of relief that allow survivors of human trafficking to stay in the United States and continue working.

Sustain immigration provisions available to victims

Immigrant domestic workers who are trafficked in the United States and seek help to get out of their trafficking situation are in a no-win situation in many cases. Some come on legal visas but are immediately out of status when they leave the employ of the trafficker whose name is on the visa. Others came legally on other programs but their traffickers allowed their visas to expire.

The TVPA 2000 contains provisions for victims in trafficking situations who qualify to remain in the United States in the short term, and with the possibility of adjusting their status.¹²⁸ This is particularly helpful for victims who may have incurred debts in taking up their employment, or may be at risk of retaliation for assisting law enforcement to hold their trafficker accountable. The TVPA 2000 also created the U visa,¹²⁹ which is available to trafficking victims whose experience included mental and physical abuse. Having the options for a T-visa and U-visa can motivate victims to leave their trafficking situation.

Currently however, these provisions are under threat with the existence of:

- Narrower interpretations of eligibility and increasing difficulty getting law enforcement or labor agencies to certify T-visa applications and lower USCIS approval rates.¹³⁰

127 Maryland Network Against Domestic Violence (MNADV). (2011). Lethality Assessment Program Page. Retrieved from <https://lethalityassessmentprogram.org/about-lap/how-lap-works/>

128 U.S. Citizenship and Immigration Services. (n.d.). Victims of Human Trafficking: T Nonimmigrant Status. Retrieved from <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>

129 U.S. Citizenship and Immigration Services. (n.d.). Victims of Criminal Activity: U Nonimmigrant Status. Retrieved from <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>

130 Grant, M.G. (2018, August 22). It Is Now Even Harder for Trafficking Survivors to Get Visas. *The Appeal*. Retrieved from <https://theappeal.org/it-is-now-even-harder-for-trafficking-survivors-to-get-visas/>



- Increasing fear of deportation as a deterrent to potential applicants with the rule change that visa applicants that are denied will be automatically issued a Notice to Appear by USCIS.¹³¹
- The DOJ eliminating immigration judges’ ability to administratively close cases, a recourse that has been used by survivors of violence who are eligible for immigration relief but are currently in deportation proceedings and faced with lengthy wait times for their visas.¹³²

These provisions should be operated such that they provide the relief originally intended.

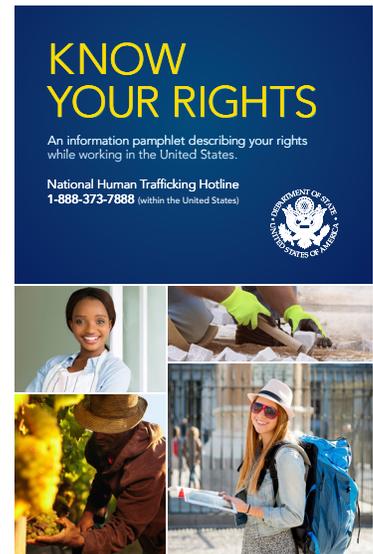
Modify immigration enforcement practices

Employer-traffickers sometimes deliberately bring in domestic workers on the wrong immigrant visa or allow their proper work visa to expire. There have been reported cases of domestic workers being denied access to their passport, and being kept in isolation so that they cannot maintain their immigration status. Domestic workers in these situations should not have to face deportation as first option. There is a need to change immigration enforcement practices to meet the needs of trafficking survivors and improve access to benefits and remedies for survivors of trafficking. Such changes should include ending the involvement of state and local police in immigration enforcement, ensuring immigrant workers can assert their labor rights without fear of deportation and restoring prosecutorial discretion that prioritizes family reunification and human rights.

Education and awareness

The social-ecological model theory for behavior change involves responding to issues at multiple levels.¹³³ The benefits of empowering the individual, engaging stakeholders and advocating for changes in policies, laws and practices need to be complimented with community-level interventions to maximize the potential for positive outcomes from strategic response initiatives.

In some communities, domestic worker victims, their family and friends, other community members and even traffickers have displayed a lack of knowledge of the behaviors that constitute labor trafficking. Community education can help clearly delineate practices that are labor trafficking. When domestic workers receive the “*Know Your Rights*” pamphlet from government officials, the information may be contradicted within communities that, for cultural reasons, consider traffickers as “benefactors” and use labor practices from other places as their standard for acceptable behavior. Faith, cultural and community organizations are critical channels for educating the general public, particularly immigrant communities, and they are often collaborating partners on health awareness initiatives. They are often regarded as more credible sources of information than non-community members and government entities, regardless of the authenticity of the information which they disseminate. Without adequate knowledge among community members, victims may remain in labor trafficking situations. Similarly, family members and friends may be complacent or refrain from intervening in trafficking situations if they are unaware of the resources



131 U.S. Citizenship and Immigration Services. (2018, June 28). Notice to Appear Policy Memorandum. Retrieved from <https://www.uscis.gov/legal-resources/notice-appear-policy-memorandum>

132 Brayman, L. (2018, June 4). The End of Administrative Closure: Sessions Moves to Further Strip Immigration Judges of Independence. Catholic Legal Immigration Network, Inc. Retrieved from <https://cliniclegal.org/resources/end-administrative-closure-sessions-moves-further-strip-immigration-judges-independence>

133 McLeroy, K. R., Steckler, A. and Bibeau, D. (Eds.). (1988). The social ecology of health promotion interventions. Health Education Quarterly, 15(4):351-377. Retrieved from https://www.academia.edu/170661/An_Ecological_Perspective_on_Health_Promotion_Programs



that are available for victims. Promising primary prevention strategies¹³⁴ to address intimate partner violence that can be adapted for trafficking include addressing social norms, engaging influential members of communities, targeting prevention education to specific groups and implementing media/marketing campaigns.

We recommend that trustworthy community organizations partner with their local domestic worker organizing groups to develop proper outreach and awareness initiatives aimed at educating communities about fair labor practices within these industries. The National Domestic Workers Alliance has a list of local affiliate organizations around the U.S.¹³⁵

Conclusion

Domestic workers are the unheralded backbone of the American economy, the people whose contributions to individual households and families quite literally make it possible for countless thousands of other workers to make their own economic contributions. Yet the system they labor under provides little or no support or protection against abuse, exploitation and trafficking.

We can and must do better on all fronts. That means changing laws and policies in ways that both protect workers and hold abusers, exploiters and traffickers both criminally and financially liable for their actions.

It also means reexamining the attitudes and biases that devalue domestic work and set the stage for abuse. The women and men who clean our homes, care for our children and our elders and otherwise take care of our daily needs deserve to do so for a living wage, in a safe work environment where they are valued, respected and able to seek recourse without fear of the consequences.

134 Armstead, T., Rambo, K., Kearns, M., Jones, K.M., Dills, J., and Brown, P. (2017). CDC's DELTA FOCUS Program: Identifying Promising Primary Prevention Strategies for Intimate Partner Violence. *Journal of Womens Health*; 26(1): 9–12. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5808986/pdf/nihms857716.pdf>

135 National Domestic Workers Alliance. (2016). National Affiliates Page. Retrieved from <https://www.domesticworkers.org/national-affiliates>



Methods of control appendix

Main Category	Sub-Category	Main Category	Sub-Category
Economic	Debt/Quota Related	Threats	Threat to Expose or Shame Subject
	Limits Access to Finance		Threat to Harm Subject, Family or Other
	Takes/Withholds Earnings		Threat to Report to Immigration
	Threat to Blacklist		Threat to Report to Police
	Other		Other
Emotional Abuse	Familial Related	Task-Related	Excessive Working Hours
	Verbal/Manipulation		Fraud/Misrepresentation of Job
	Other	Withholds	Withholds/Destroys Important Documents
	Withholds/Denies Needs or Wants		
Intimidation	Destroys Property	N/A	Induces/Exploits Substance Abuse Issues
	Displays/Threatens with weapon		Manipulation of Language Barriers
	Harms Others/Animals		Monitoring/Stalking
	Other		Physical Abuse
Isolation	Controls in Public		Potential Minor in Commercial Sex
	Creates Distrust of Others		Restricts Access to/Manipulates Children
	Denies Access to Support		Sexual Abuse
	Keeps Confined		Other
	Limits Access to Medical		
	Moves Subject Frequently		
	Other		