



Photo Credit: Mateya Kelley

ENGENDERING EXPLOITATION:

Gender Inequality in U.S. Labor Migration Programs

POLICY BRIEF

INTRODUCTION

Each year, thousands of women are recruited to work in the United States on temporary work visas intended to fill gaps in the labor market or to provide the opportunity for employer-sponsored cultural exchanges. While systemic flaws in U.S. temporary labor migration programs negatively impact the rights of both men and women,¹ labor migration is not a gender-neutral phenomenon. Instead, women's stories illustrate how gender bias and discrimination are deeply entrenched in the temporary labor migration programs, which facilitate women's exclusion from equal employment opportunities and foster gender-based discrimination in the workplace.

Women describe how employers and their recruiter agents frequently shut women out of equal employment opportunities or track them into jobs with less pay and fewer rights and benefits. In their worksites, they recount exploitation and abuse, ranging from wage theft to sexual harassment to human trafficking. And those who stand up to their abusers seeking legal redress all too frequently confront retaliation, employer-biased institutions, and/or insurmountable barriers to justices. Unfortunately, these women's stories of exploitation and abuse frequently go unheard. The exclusion of worker women's voices leads to the continuation of the status quo or reforms that exacerbate discrimination and privilege businesses' interests above all others.

¹ For an in-depth review of temporary labor migration programs in the United States, and an outline of characteristics unique and common to the multitude of non-immigrant work visas, see International Labor Recruitment Working Group, *The American Dream Up for Sale: A Blueprint for Ending International Labor Recruitment* (Feb. 2013), available at: <https://fairlaborrecruitment.files.wordpress.com/2013/01/the-american-dream-up-for-sale-a-blueprint-for-ending-international-labor-recruitment-abuse1.pdf>.

For more than a decade, Centro de los Derechos del Migrante, Inc. (CDM, or the Center for Migrant Rights) has worked with and provided legal representation to workers from Mexico recruited for jobs in the United States through diverse visa programs, or without work authorization. In 2014, CDM launched *Contratados.org*, the “Yelp” for migrant workers, providing a platform for migrant workers to safely share their experiences with specific employers and recruiters and access know-your-rights information for the most common temporary labor programs.² Both online and in-person,, migrant worker women have reached out to CDM about the discrimination they encountered at all stages of the temporary labor migration programs, vocalizing the unique needs and challenges women face when seeking access to the programs. Two years later, CDM filed a petition under the North American Agreement on Labor Cooperation (NAALC) regarding the failure of the United States to promote gender equality and equal pay for men and women under the H-2A and H-2B programs.³ Over the past year, CDM has sought to more systematically document the experiences of migrant worker women seeking access to, and ultimately employed through, temporary labor

migration programs to better understand how the programs operate in service - and to the detriment - of women. This brief contains findings to date from CDM’s ongoing, cross-visa and cross-sector study on women in temporary labor migration programs,⁴ highlighting ways in which temporary labor migration programs systematically serve to directly and indirectly foster discrimination against women throughout the labor migration process. The United States’ failure to track and make available data disaggregated by gender, visa category, and industry of work, means that the unique issues confronting women in temporary labor migration programs are often absent from policymaking and public debate. The findings and recommendations set forth herein interject women workers’ voices⁵ into the ongoing debates on comprehensive immigration reform and existing temporary labor migration programs.

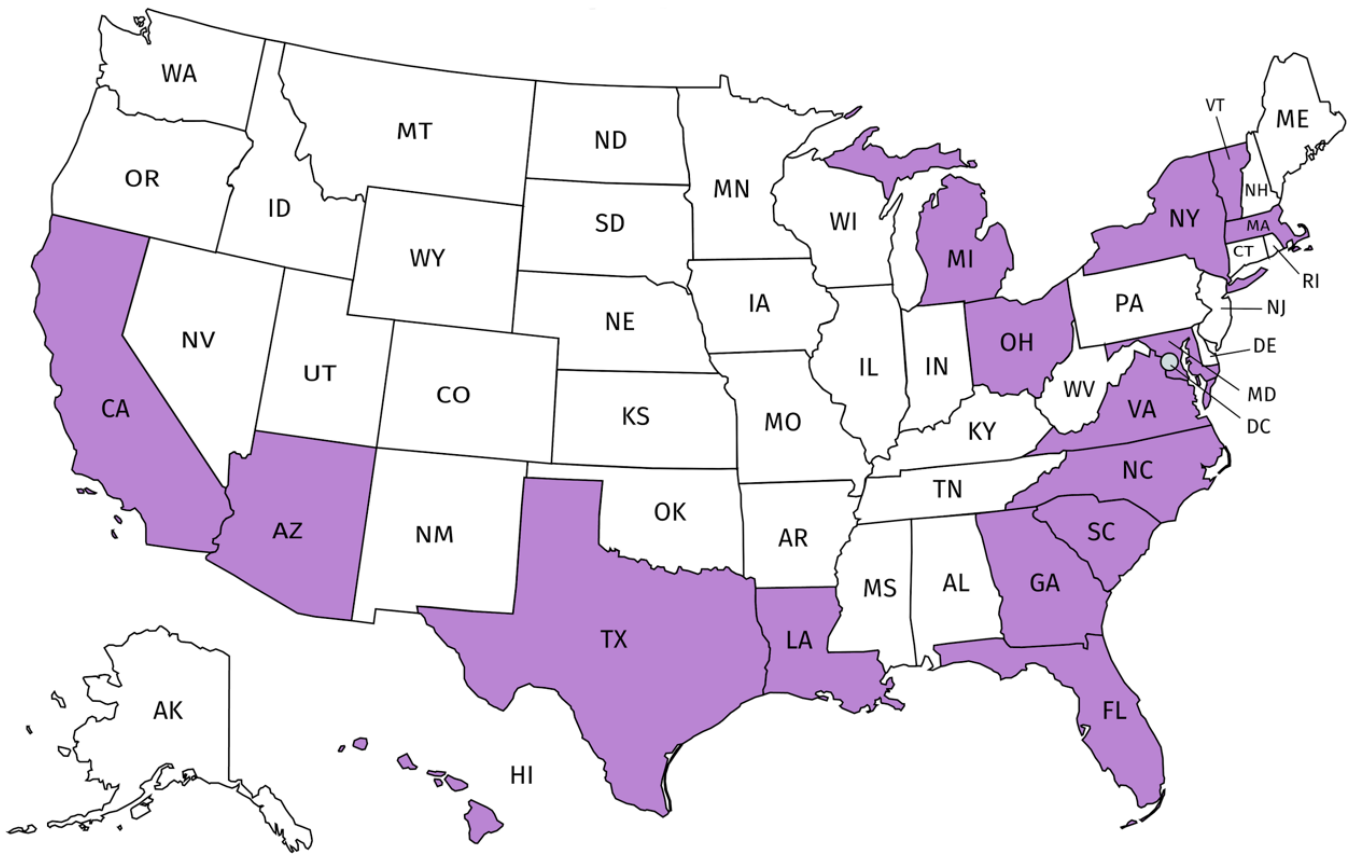
² See <http://www.cdmigrante.org/contratados/>.

³ The non-confidential communication was submitted to the National Administrative Office of Mexico on July 15, 2016, reporting on the persistent tracking of women into jobs under the H-2B program and away from the H-2A program, abuses in employment, and denial of access to justice. A copy of the petition is available at: <http://www.cdmigrante.org/wp-content/uploads/2012/01/NAALC-Petition-2016-English.pdf>.

⁴ This policy brief is based on extensive desk research, as well as detailed surveys of 34 women who participated in one of 5 labor visa programs: the H-1B, deemed a “skilled” visa for individuals in a specialty occupation, such as nursing ; the H-2A, for temporary agricultural workers; the H-2B, for temporary non-agricultural workers in seasonal industries; the J-1 Exchange Visitor Program, an initiative of the Department of State, for the purported purpose of increasing cultural exchanges, and through which the Au Pair program is run, as well as the Summer Work Travel Program; the TN visa, created under NAFTA, which permits qualified Canadian and Mexican citizens temporary entry into the United States to engage in professional-level business activities; and the C-1/D visa for persons employed as a crewmember on a vessel or aircraft, typically issued for cruise ship workers. It also draws on questions, conversations, and intakes with thousands of workers that CDM has reached through legal services, community outreach, and policy advocacy over the past twelve years.

⁵ While some interviewees cited consented to the use of their real names, others who chose to remain anonymous are identified by pseudonyms using quotation marks.

Surveyed Worker's States of Employment

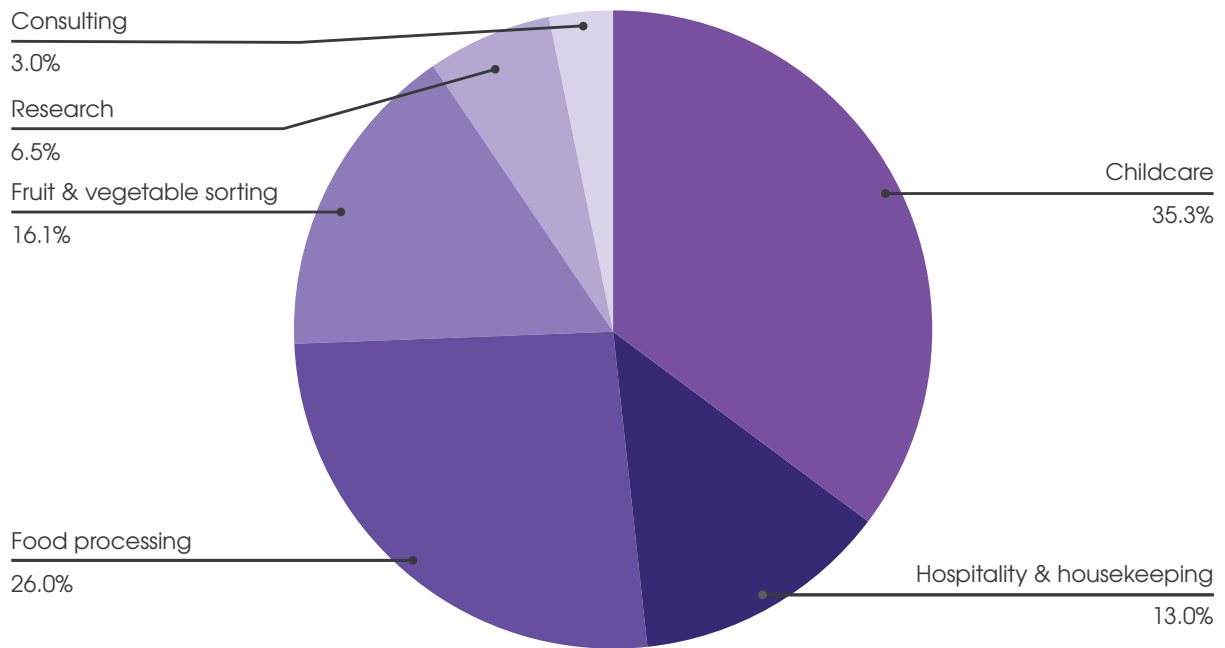


THE EXISTING TEMPORARY LABOR MIGRATION PROGRAMS FACILITATE GENDER-BASED DISCRIMINATION AND EXPLOITATION

Women who are prospective, current, and former participants in U.S. temporary labor migration programs share stories of gender-based discrimination that begins with recruitment, continues throughout their employment in the United States, and negatively impacts their ability to access justice. These stories reveal that

systemic flaws in the programs, coupled with restrictions on access to justice, disproportionately impact migrant women while empowering unscrupulous employers and recruiters with the means to ensnare them in exploitation and trafficking schemes.

Surveyed Women, by U.S. Industry of Employment*



*percentages may not add up to 100% due to rounding

A.

Employers use the recruitment process to discriminate against women, to defraud them, and to channel them into a limited range of gendered industries and roles.

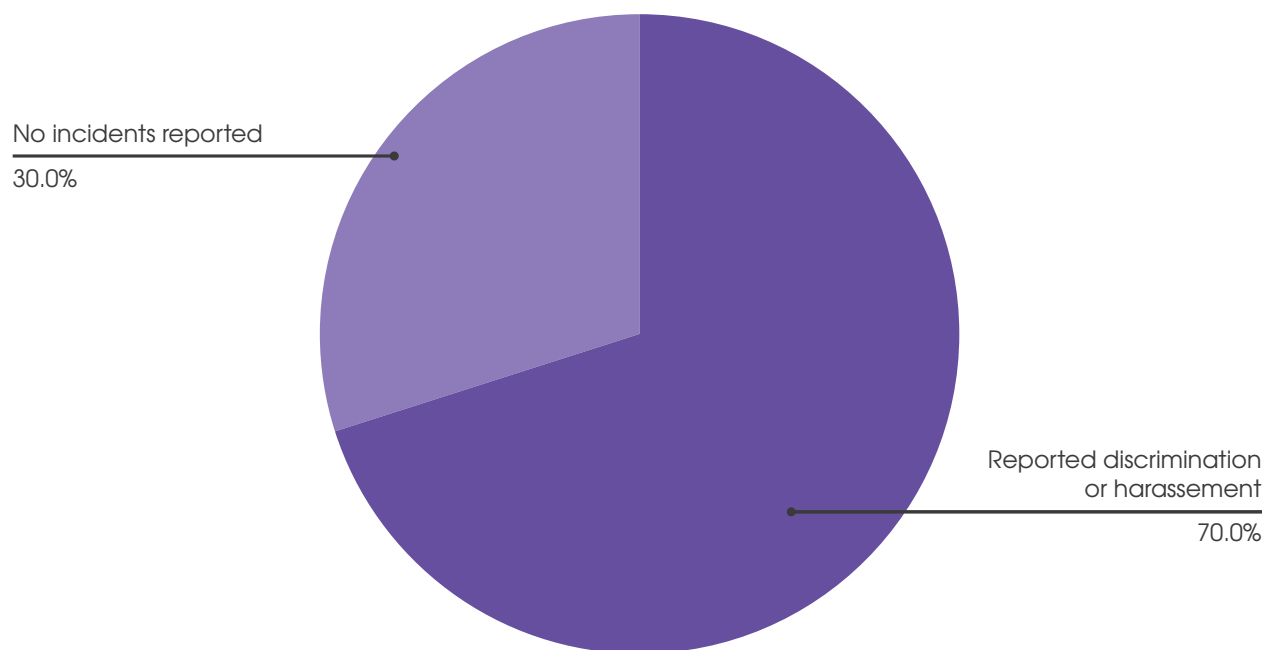
“They hired me as an Animal Scientist but had me cleaning food bins and bathrooms. I didn’t do anything that required a degree.”

“Rosa” (Mexico), employed on a dairy farm under the TN visa for skilled professionals, assigned to clean water troughs, unload animals, housekeeping, and other menial tasks she was told were more suited to women.

Persistent gender bias, lack of government oversight over recruitment, and the failure of the United States to enforce anti-discrimination and other labor and employment laws extraterritorially, conspire to permit employers and their recruiter agents to track women into visa categories and job sectors with lower wages, unequal income-earning opportunities, and fewer rights protections than their male counterparts. Employers using temporary labor programs tend to prefer women for employment in childcare, education, health care, personal and household services, and secretarial jobs, while selecting men instead for more labor intensive and often higher-paying jobs, like construction, utilities, transport and communications. Over half of the workers that CDM surveyed observed some form of sex-based discrimination in their recruitment or employment experiences, which took one of four shapes: 1) visa distribution by sex, e.g., men are more frequently offered and provided jobs under either the H-2A or H-2B visas, while women are more likely to be tracked exclusively into jobs under the H-2B visa⁶; 2) segmentation into gendered occupations

within the visa category, e.g., men under the H-2B program are offered and hired for landscaping jobs, while women are hired for housekeeping or domestic service; 3) assignment of gendered workplace roles, e.g., in agriculture, men harvest crops while women are tasked with crop sorting and maintenance; and 4) inequality in corresponding rates of pay, benefits, or opportunities for advancement within the same workplace resulting from 1-3, i.e. in the crab-picking industry, women assigned to crabmeat picking receive piece-rate pay, while men assigned to cooking and hauling crab earn hourly salaries. Gender-tracking is not limited to the H-2 programs. As “Rosa” shares in her story, employers participating in the TN visa program for skilled professionals regularly relegate women to gendered job, such as housekeeping duties and secretarial work, denying them both the earning and professional development opportunities employers and recruiters promise during the recruitment process.

Reported Incidents of Sex-based Discrimination or Harassment in Recruitment or U.S. Employment



⁶ See, United States Government Accountability Office, H-2A and H-2B visa programs, Increased Protections Needed for Foreign Workers, March 2015 (reissued May 30, 2017) (noting there are approximately three times as many women given H-2B visas compared to H-2A), available at: <https://www.gao.gov/assets/690/684985.pdf>. As detailed in the Communication filed under the NAALC, *supra* n. 4, the H-2B visa program extends inferior benefits and protections as compared with H-2A visas, despite 2015 reforms.

In many of these scenarios, women felt that recruiters and employers had misled them during the recruitment process, concealing the true nature of their jobs until the women arrived in the United States. In other cases, women were denied outright the ability to apply for jobs under the H-2A visa program and were instead funneled into jobs under the H-2B program. As with their male counterparts, many women report being charged unlawful recruitment fees and incurring significant travel expenses for which they are not reimbursed by the employer. As gatekeepers to U.S. jobs, labor recruiters wield significant power over workers' economic prospects; this unequal power dynamic is heightened with respect to women, whose employment options are scarce and few. Because recruitment happens internationally, workers face barriers to accessing justice in the United States for fraud, discrimination, or unlawful fees charged by recruiters in their home countries, despite these agents' ties to U.S. employers. Moreover,

abusive recruitment practices often follow workers to their jobsite, where recruitment debt, fear of retaliation, and blacklisting can coerce workers to withstand unsatisfactory, unhealthy, or unfair conditions. For example, Adareli,⁷ an H-2B chocolate worker, was blacklisted by her employer after speaking out about unjust treatment in her Louisiana workplace. Another H-2B worker, Silvia, found herself unemployed for years after falling out of favor with the sole recruiter in her town who was willing to hire women; today, she works hard to keep her current job, because even if it is not ideal, "it's the only thing there is." For the vast majority of workers in U.S. temporary labor programs, job mobility is not a right; instead, it is a privilege bestowed upon a lucky few according to the criteria of employers and their recruiters. And when employers are permitted to select their workforce by sex, nationality, or race, women and other minorities can be doubly burdened by the pressure to accept, or maintain, jobs at any cost.

"We don't like the work, but we don't question it. Why would we, when it's the only thing there is?"

Silvia (Mexico), an H-2B seafood worker who supports her family through seasonal migration to Maryland's Eastern Shore. Losing this job would leave Silvia unemployed and unable to provide for her two children.

B.

Women working in the United States on temporary visas confront the full range of workplace abuse and exploitation common to all guestworkers, including sexual harassment and assault. Combined with discrimination, these factors can exacerbate the conditions that contribute to human trafficking.

Gender discrimination is compounded by workers' multiple identities as women, non-citizens, and temporary workers, who are often additionally subjected to race and national origin discrimination. Recruiters and employers often seek women to fill jobs in industries with a history of abuse and exploitation, such as food processing, housekeeping, and live-in childcare. Women endure discrimination, abuse and exploitation within all categories of visas, whether classified

as "unskilled," like the H-2A and H-2B visas, or "professional," such as the H-1B and TN visas. For example, women recruited with TN visas, a program created for professionals under the North American Free Trade Agreement (NAFTA), similarly reported suffering recruitment fraud, exploitation, demeaning working conditions, and psychological harm as a result of their employment.⁸

⁷ Survey 2459

⁸ Surveys 2366, 2386, and 2649

“It’s false advertisement. It feels like hell on earth, but it’s advertised as an amazing experience. It’s sold to the au pairs as a cultural exchange, but to the family as free/cheap labor. We are too vulnerable. We should feel like we have freedom.”

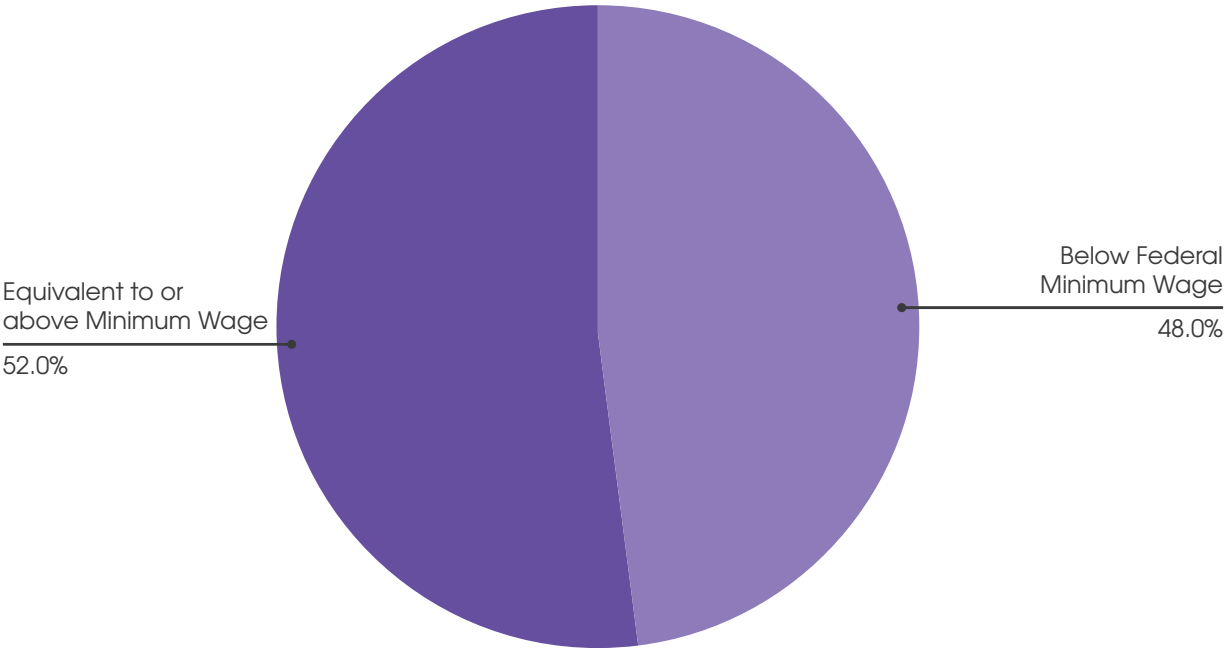
Estefani (Brazil), employed as Au Pair under J-1 visa, required to do laundry, housekeeping, and yard work, in addition to providing for the children, and suffered from a verbally aggressive employer who closely monitored her actions, and made both sexist and racist comments to her regarding her Brazilian heritage.

Job duties, rates of pay, and working conditions reveal gender-bias and discrimination.

As noted above, employers and their recruiter agents regularly channel women into certain jobs where they are responsible for carrying out specific, gendered tasks. Women interviewed found that these jobs often paid less and provide fewer hours of work than those available to men. Generally speaking, wages within those sectors predominated by women participating in temporary

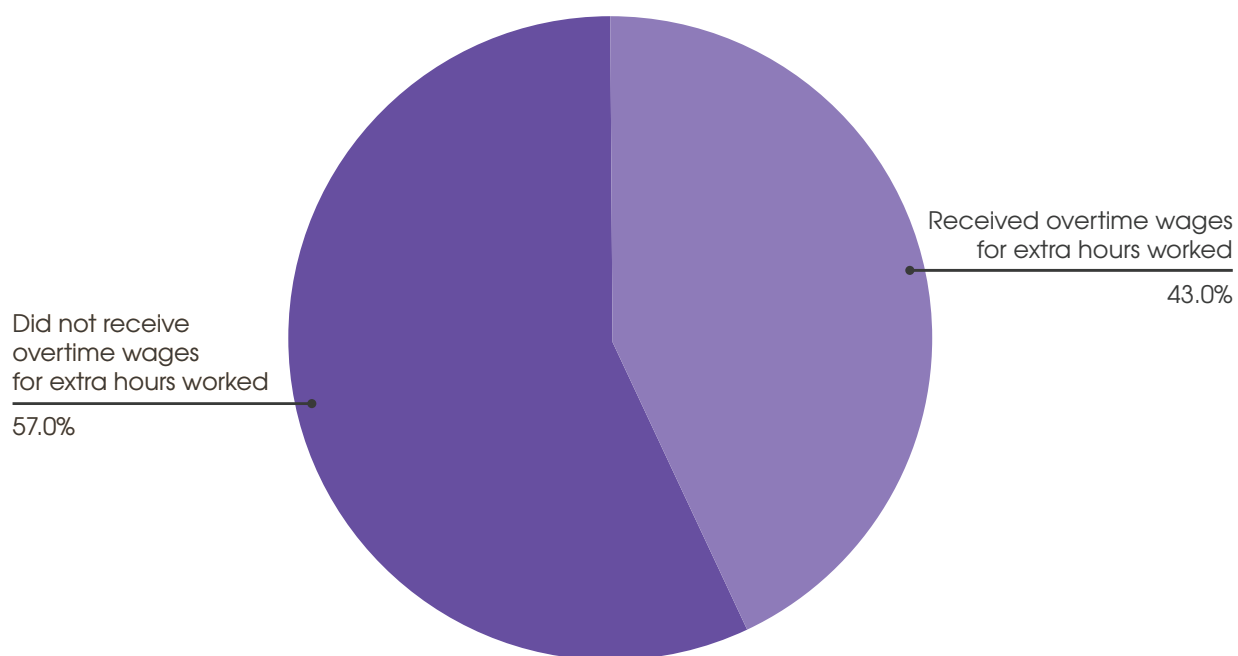
labor migration programs is exceedingly low. A J-1 Au Pair, who chose to remain anonymous, reported her employer paid her \$3.09 in hourly wages,⁹ while J-1 Au Pairs overall reported average earnings of \$3.83 per hour. Unfortunately, this trend is indicative of the systemic wage theft women confront across visa categories: of the women surveyed, nearly half (48%) were paid below the federal minimum wage at their time of employment, and 43% reported not having been paid for overtime hours.

Reported earnings relative to minimum wage at time of employment



⁹ Survey 2560

Reported Overtime Earnings



Comparing wages between workers in mixed-sex workplaces reveals similar disparities as those that exist between and among workplaces that are either predominantly female or male. For example, one female H-2B worker working in the crab picking industry reported that women in her worksite were tasked with picking crabs at a piece rate, whereas men were paid at an hourly rate to wash, cook, and clean the crabs and had greater earning opportunities.¹⁰ Daria, a worker employed in the fruit and vegetable packing industry, noted that despite having been recruited to work in a tomato packing company working eight hours a day, she was sent to sort cucumbers and was given just 3 to 5 hours per week; by contrast, the men who had been hired at the same worksite held H-2A visas and were given more work.¹¹ “Sandra,” employed in housekeeping services with a J-1 Summer Work Travel visa, reported that while men at her workplace were paid \$12 per hour, women earned a mere \$9.75.¹²

A hostile work environment, sexual harassment, and sexual violence are pervasive in many of the worksites and in many of the job sectors that rely on women workers on temporary labor migration visas.

Factors like physical and social isolation, language barriers, migration status, and lack of access to legal services contribute to migrant worker women’s increased vulnerability to workplace hostility, sexual harassment, and sexual assault. A significant number of women participating in the study reported experiencing or witnessing harassment on the job, aggressive behavior by supervisors and others in position of authority within the workplace, and sexual assaults in the workplace. One survey participant employed on a J-1 visa for work as a housekeeper and cook reported that a supervisor would get close to her and touch her, saying, “you are a very good girl.”¹³ Another H-2B crab worker described watching her male supervisor brazenly harassing female workers, putting his hands down their pants, grabbing their underwear, and openly bragging about his exploits.¹⁴ Lissette, who was recruited to work on a cruise ship through the C 1/D visa program, reported that her supervisors put tremendous pressure on her and subjected her to hostile, authoritarian treatment. She explained that supervisors were known to demand sexual favors of her female shipmates, some of whom suffered sexual assaults. These aggressions, coupled

¹⁰ Survey 2455

¹¹ Survey 2441

¹² Survey 2390

¹³ Survey 2385

¹⁴ Survey 2455

with inadequate food, insufficient breaks, the confinement of a ship and limited contact with the outside world, left her so physically and psychologically distressed that she suffered hair loss.¹⁵ “Leticia,” a TN worker, says she and her son have had to receive ongoing therapy for post-traumatic stress disorder (PTSD) resulting from her employers’ treatment.¹⁶ Many women participating in this ongoing study expressed hesitation at confronting the abusers or reporting

the abuse to supervisors, citing concerns over retaliation, fear, disillusionment with institutional authorities, or disorientation resulting from isolation and/or psychological manipulation.

Women living in employer-owned and operated housing reported a combination of deplorable living conditions, lack of security and privacy in their living quarters, or exorbitant deductions from pay for the cost of their housing.

It was a pigsty. There was no door. I cried a lot because everything was terrible – I had to sleep on the floor and I suffered backaches and couldn’t sleep. The floor was very dirty.

Daria (Mexico), recruited on H-2B visa for work in vegetable packing, had to pass through the men’s dormitory to use the bathroom, creating an environment that left the women feeling extremely uncomfortable and insecure.

Women who lived in employer-provided housing reported that accommodations often offered inadequate privacy and security, were unhygienic, or were generally ill-equipped for women living in mixed-sex environments. One woman, who chose to remain anonymous, was hired to pack vegetables under the H-2B program, where she was forced to live as the sole woman amongst thirteen men.¹⁷ Daria, who packed vegetables at a worksite that was 30% men and 70% women, reported having to pass through the men’s dormitory to access the bathroom, which had no doors to the stalls. “Leticia,” a TN worker, reported having to pay her employer such exorbitant rent that she

barely had enough money left over to support herself and her son.¹⁸ A woman who worked with an H-2B visa in a chocolate factory reported that the women’s trailers were so crowded that they were forced to improvise living space, sleeping on couches and among their belongings. At that time, eighteen women shared only two bathrooms.¹⁹

Several women also reported on the negative physical and emotional impact of their experiences with the temporary labor migration programs, compounded by difficulties in accessing affordable and safe medical care and other basic services.

¹⁵ Survey 2407

¹⁶ Survey 2367

¹⁷ Survey 2405

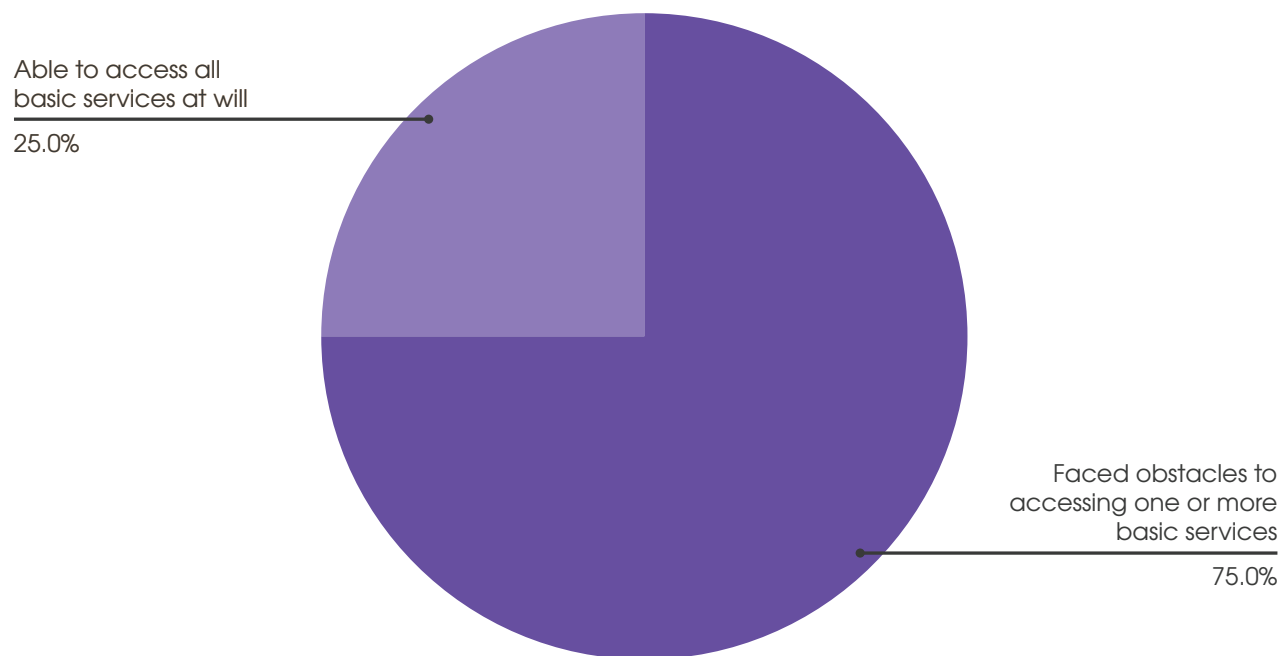
¹⁸ Survey 2366

¹⁹ Survey 2668

The industries that employ migrant worker women often combine poor health and safety records with time- or quota-pressured production standards. Physical isolation, limited mobility and transportation, and lack of access to health care benefits, all take their toll on workers' physical and psychological wellness. 75% of the study participants to date reported barriers to accessing one or more basic services, such as food, telephone, medical and legal services, while employed in the United States. "Sandra," who was recruited for a promised cultural exchange opportunity through the J-1 program, reported that her employer forced her to work long hours at minimum wage, and she suffered from physical and mental exhaustion, as well as lesions to her hands, as a result.

Unable to access any care, and closed off from interaction with the outside world, she sought medicine from her employer, who told her the hotel had no medicine available. Instead, she was forced to treat her lesions with leftover lotions found in the hotel's guestrooms.²⁰ Another woman reported that her employer docked her pay for using the bathroom.²¹ Yet another interviewee reported that her employer reserved the right to scrutinize her confidential, medical paperwork as a condition of granting her permission for prenatal doctor's visits. The same employer publicly mocked her female coworker's visit to a psychologist, telling other employees that she was "bad in the head."²²

Reported Ability to Access to Basic Services (Food, Medical, Legal, Telephone) at Will

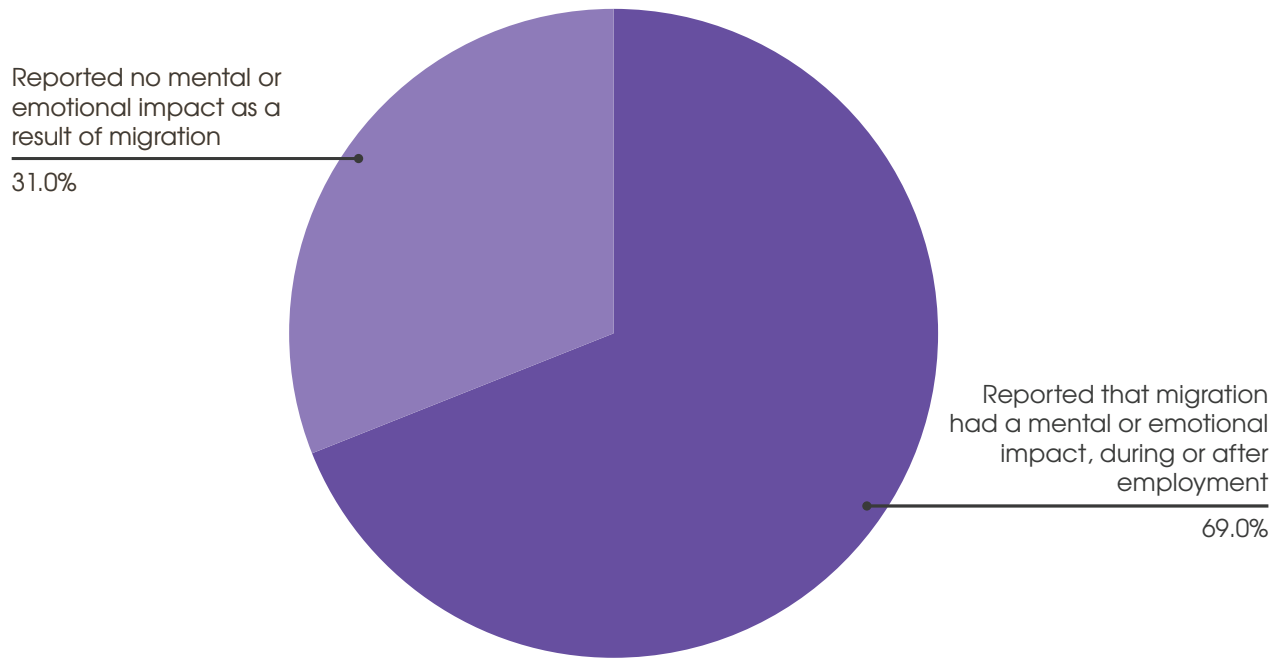


²⁰ Survey 2390

²¹ Survey 2405

²² Survey 2649

Reported That Migration Had a Mental or Emotional Impact, During or After Employment



Conditions Giving Rise to Human Trafficking:

Several women participating in the study reported that their employers and/or recruiter agents conducted practices or instituted policies that left them feeling trapped, unable to report abuses, and/or unable to leave. These included: applying heavy recruitment fees that left workers in debt; excessive monitoring and scrutiny of workers' personal matters and relationships;

employer-controlled housing; document retention; denial of access to transportation or communication; threats of retaliation; among others. Several workers also expressed concerns at their employer's and/or sponsor agency's control over their legal status in the U.S., which heightens workers' dependency on their goodwill and limits their freedoms. These factors, when combined with limited transportation and communication, inadequate access to basic services, and seclusion from the world beyond the workplace create conditions ripe for human trafficking.

There is no freedom. I felt trapped. The problem with the work visa system is that your boss holds over your head that he brought you to America. I will never apply to get a work visa again because of the horror that I have been through.

"Leticia" (Guatemala), employed on a TN visa for work as a biotech researcher, who had significant amount deducted from pay each month for employer provided housing, leaving her with just \$400/month to care for herself and son.

C.

The United States fails to ensure full and equal access to justice for women in temporary labor migration programs.

The United States is obligated to ensure equal rights under the law as well as full and equal access to judicially-enforceable remedies to all persons, regardless of their gender and migration status. Women participating in temporary work programs, however, are often denied their right to redress and compensation before the courts either because of explicit statutory or judicial exclusions, or because of the way guestworker programs are structured. The problems begin with deception in recruitment, where employers and their recruiter agents misinform or mislead women about the true nature of their work. Once in the United States, employers, sponsor agencies, and responsible government authorities fail to adequately inform workers of their rights. Workers subsequently find themselves working in physical and linguistic isolation with limited access to legal, medical, and

other basic services. The sex-based discrimination that begins in recruitment further impacts workers' access to justice: for example, many workers participating in the H-2B program and several other temporary worker programs are ineligible for access to free, government-funded legal services. By contrast, H-2A agricultural workers in the U.S. are eligible for these free legal services but tend to be overwhelmingly (96%) male.²³ For worker women in the J-1 au pair program, isolation in the home makes it difficult to connect with others, share experiences, and learn of opportunities for redress. In addition, the majority of women surveyed shared concerns that reporting their employers for workplace rights violations meant risking retaliation, job termination, deportation, blacklisting, and other retaliatory actions; many had first-hand experiences with retaliation in their workplace.

I would talk to my female colleagues about our rights so that we would defend our dignity. But I realized, in that environment, fear was still preventing us from standing up for ourselves like we were meant to do; fear to lose our job, have to return to Mexico and not being able to support our families.

Ignorance about this type of visa is the biggest problem. I lost everything we have because I am not able to work for another company. I was not able to defend my rights.

Adareli (Mexico), who worked four seasons packing chocolates on an H-2B visa, and was afraid to speak up about the mistreatment and discrimination, noting the lack of access to jobs under the H-2A visa program for women and pay disparities, because of debts incurred to obtain the visa, and fear that she would lose the chance to work those debts off and support her family if terminated or blacklisted from future opportunities.

Beatriz (Mexico), recruited to work on a TN visa as a management consultant, put to work performing secretarial tasks. Unbeknownst to her, the company was bankrupt, and it soon shut down.

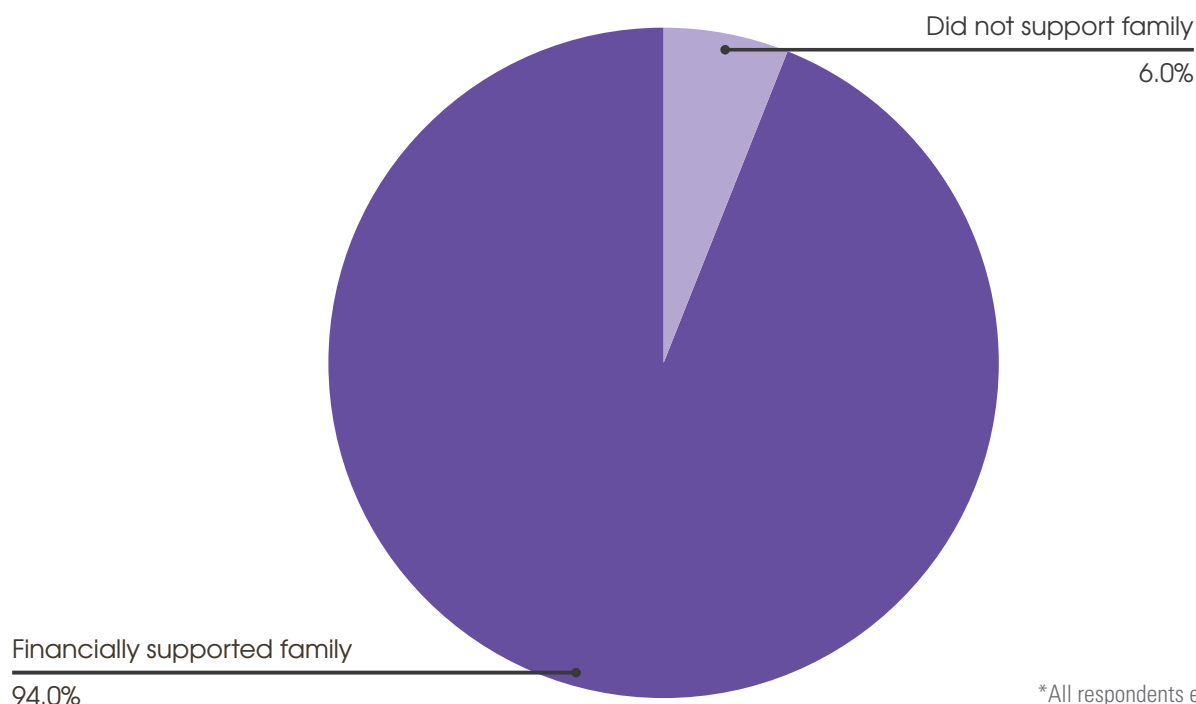
²³ FY2013 is the most recent year for which data on the gender breakdown of the H-2A and H-2B programs is publicly available. U.S. Gov. Accountability Office, GAO-15-154, H-2A and H-2B Visa Programs: Increased Protections Needed for Foreign Workers 18 (Mar. 2015), available at <https://www.gao.gov/assets/690/684985.pdf>

U.S. TEMPORARY LABOR MIGRATION PROGRAMS FAIL TO ACCOUNT FOR THE ROLE WOMEN PLAY AS CHILD CARE PROVIDERS AND OTHER FAMILY SUPPORT RESPONSIBILITIES THEY SHOULDER.

By and large, U.S. temporary labor migration programs and the employers that use them deny women equal employment opportunities by inadequately accounting for women's multiple social and economic responsibilities not only as workers, but as mothers and primary family caregivers as well. Worldwide, women disproportionately bear the burden of unpaid care work, which places them at a comparative disadvantage to their male counterparts with regards to full economic participation in the labor force.²⁴ While several U.S. states have passed childcare subsidy laws to provide women with equal economic opportunity, the failure to guarantee women on temporary labor migration programs access to these benefits further interferes with their access to the range of opportunities available under these programs. This exclusion creates additional barriers for migrant worker women seeking to enforce their rights and obtain judicial remedies for rights violations.

Ninety-four percent of study participants who were not J-1 Au Pairs (who are under 28, per program requirements) reported that they were financially supporting family members during and through their U.S. employment; these workers spent an average of 70% of their earnings on childcare and other family support. While several interviewees volunteered that access to childcare and childcare subsidies would open up their ability to participate in the temporary labor migration programs, many also noted that their working and living conditions were so poorly equipped that they could not possibly consider bringing their children. Still others observed that coworkers who were able to care for their children under adequate circumstances appears happier and more productive in their environments.

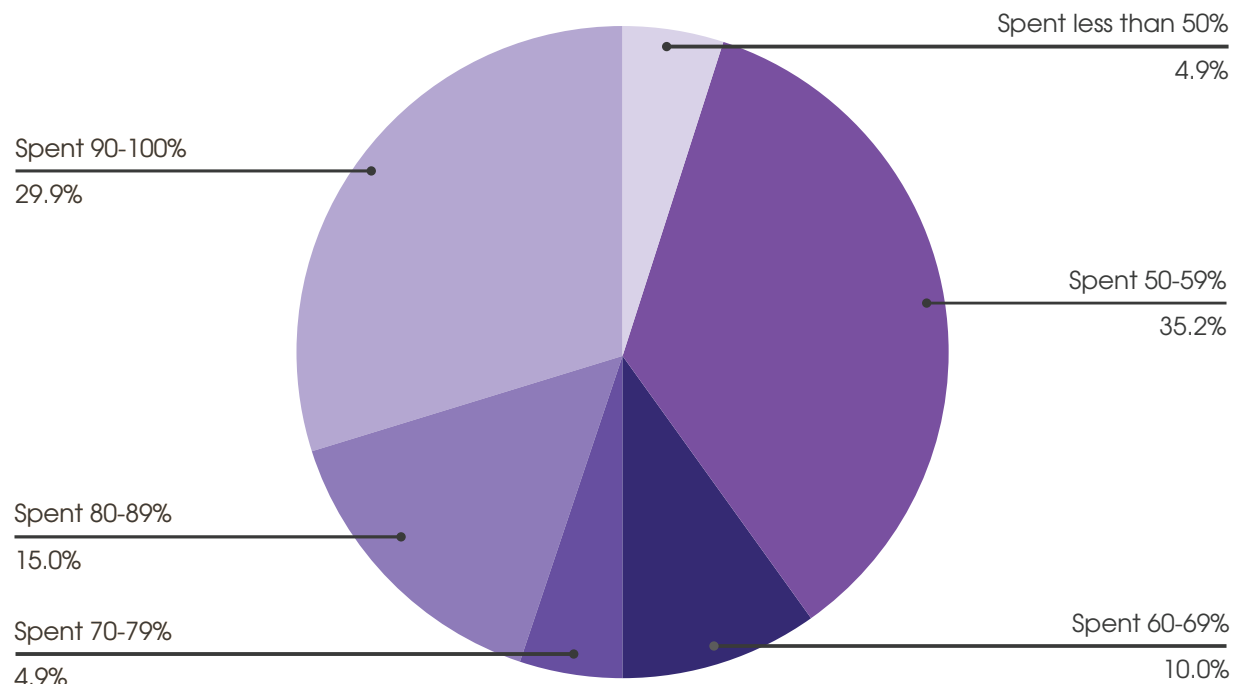
Financially Supported Family with U.S. Earnings*



*All respondents except J-1's.

²⁴ See <http://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures>

Reported % Earnings Dedicated to Family Support*



*Of those respondents who indicated they support family back home. Percentages may not add up to 100% due to rounding.

RECOMMENDATIONS

Ending abuses of women migrant workers requires interagency data collection and publication, consistent monitoring, and meaningful enforcement. Where the agencies lack authority to effectively protect workers, Congress must delegate authority for effective oversight. Congress should mandate that the Department of State, Department of Labor, Department of Homeland Security, and Equal Employment Opportunity Commission (“the Agencies”) create an integrated response to abuses of women migrant workers. Moreover, all temporary labor migration programs should be subject to the same rules and protections so that unscrupulous employers and recruiters do not use the patchwork of visa regulations to evade liability or to obscure the nature of abuses against women.

Data collection and publication:

- To ensure transparency and accountability throughout the temporary labor migration programs, the Department of State should work with the Department of Labor, Department of Homeland Security, and the Equal Employment Opportunity Commission to collect and publish current and complete

data in a manner that allows for comprehensive analysis of systemic abuses that permeate the labor migration programs, and serve to identify areas for congressional, administrative, and judicial action. Such data includes, but is not limited to:

- Data disaggregated by gender, age, and national origin of all workers who apply for temporary labor migration visas, and of all workers who ultimately come to the United States for employment, as well sector of work into which they are recruited.
- Data disaggregated by gender, age, and national origin, of all complaints filed by a worker employed through the temporary labor migration programs, the visa category, the industry of work, and the name of the employer against whom the complaint was lodged, the nature of the complaint, and what, if any, resolution was reached.
- The Agencies should create an interagency database, available in real time, that allows women to verify the existence of a job, the entire chain of recruiters between the employer and the worker, and the terms of their employment.

The database should also enable women to review the terms of a visa and status of the visa's approval, review their rights under the visa, self-petition for jobs, and avoid jobs and visa categories that would leave them vulnerable to abuses, exploitation, and human trafficking.

Protect against gender-based discrimination in recruitment

- In the above-mentioned database, the Department of Labor should publish detailed job offers and terms of employment for all temporary labor migration programs in order to ensure employer visa petitions contain bona fide job requirements, rather than requirements that serve to deny women access to employment.
- The Agencies should ensure women are granted full and equal participation in the temporary labor migration programs through rigorous monitoring and enforcement. Congress should create child care subsidies that support migrant women in gaining equal access to job opportunities.
- The Department of Labor should protect women who report abuses from retaliation, including blacklisting from future recruitment.
- Congress should pass legislation that holds employers strictly liable for discrimination and other abuses committed by recruiters.
- The Agencies should be fully funded to prosecute and sanction noncompliant recruiters. The Agencies should bar noncompliant recruiters from all temporary labor migration programs.

Protection against gender-based discrimination in employment

- The Agencies should monitor the practices of employers and recruiters in order to guard against discrimination, sexual harassment, and sexual assault in the workplace.
- The Agencies should protect women who report abuses from retaliatory job assignment, firing, deportation, and blacklisting for future job opportunities.
- The Department of Labor should protect women who report abuses from retaliation at the workplace.
- The Agencies should be fully funded to prosecute and sanction noncompliant employers. The Agencies should bar noncompliant employers from all temporary labor migration programs.

Protect against human trafficking

- Congress should ban recruiters from charging workers recruitment fees, across all visa categories, and Congress should hold employers liable for any fees that are charged. The Agencies should ensure that workers who acknowledge being charged fees are reimbursed and hired without delay and that they do not face retaliation for reporting recruitment fees.
- The Department of Labor should vet and certify contracts for all temporary labor migration programs. The Department of Labor should ensure that contracts are provided in language that workers understand. The Department of Labor should ensure that contract terms do not contain breach fees or other liquidated damages clauses that serve to coerce workers into remaining in abusive employment.

Ensure Access to Justice, Information, and Support Services

- The Agencies should ensure access to information for women migrant workers so that they can evaluate job offers and avoid efforts to channel them into abusive, gendered positions.
- Congress should ensure equal access to legal services across all visa categories. Congress should ensure that women who experience gender-based discrimination, either in recruitment or employment, can access legal services both within and outside the United States. Until Congress acts, the Agencies should ensure that women are not unfairly tracked into visa categories that lack access to legal services.
- The Agencies should ensure access to meaningful complaint processes. The Department of Labor and the Equal Employment Opportunity Commission should work with the Department of Justice to ensure access to justice for women, both within and outside the United States, who experience gender-based discrimination in recruitment or employment.
- The Agencies should ensure women are provided adequate protections and are granted access to social and other support services to facilitate reporting gender-based violence and other trauma.



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Transnational Legal Clinic

Transnational Legal Clinic

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