

LEFT OUT
ASSESSING THE RIGHTS OF MIGRANT DOMESTIC WORKERS IN
THE UNITED STATES, SEEKING ALTERNATIVES

HUMAN RIGHTS CENTER, UC BERKELEY
INTERNATIONAL HUMAN RIGHTS CLINIC
BOALT HALL SCHOOL OF LAW

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CLINIC INTERNS:
ALEX FREEMAN
KATHY ROBERTS
KAJA TRETJAK
CHARLOTTE WIENER

INTRODUCTION

The legal protections that promote safe, healthy, and fair working conditions for many U.S. residents have been largely denied to domestic workers, leaving hundreds of thousands needlessly vulnerable to exploitation and hardship. Around the nation, domestic workers, their advocates and allies are fighting to reverse this injustice. A number of domestic worker advocates have asked the International Human Rights Law Clinic of Boalt Hall to research and analyze the gaps in legal protections that confront domestic workers in the United States. This memorandum is the product of that effort. Its purpose is to provide broad background information with respect to U.S. immigration and labor regimes in order to assist domestic workers and their advocates in prioritizing their agendas and initiating substantive legal reforms.

For a number of reasons—the most significant being the high percentage of domestic workers that enter the United States from other countries—it was decided that this research would focus on the issues confronting migrant and immigrant domestic workers. Part one contains a description and analysis of the relevant immigration and employment structures currently in place. It examines the various immigration mechanisms through which domestic workers may enter the United States, as well as the employment and labor rights accorded to both documented and undocumented domestic workers under federal and California law. Additionally, it analyzes the accessibility and enforcement of these rights for a variety of domestic worker groups, including undocumented and trafficked workers.

Part two identifies a series of approaches utilized by particular cities, countries, and international organizations to address the struggles of domestic workers. Specifically, this section examines three reform methods: (1) private employer accountability, in the context of New York City's regulation of employment agencies, (2) reform of visa and immigration regimes, through analysis of the United Kingdom's Concession program and Canada's Live-in Caregiver Program, and (3) the Migrant Worker Convention, a potential for international law regulation. While many of these examples may be neither appropriate nor feasible for implementation in the contemporary United States context, they comprise a survey of disparate approaches to problems faced by domestic workers worldwide, and are intended as a helpful resource to keep in mind for advocates and domestic workers crafting their own movements for reform.

HOW DOMESTIC WORKERS ARRIVE IN THE UNITED STATES

Domestic workers enter the United States in a variety of ways, whether they are documented or undocumented. A documented domestic worker must enter the United States either with an employer or on a visa unrelated to domestic work, because individual domestic worker visas do not exist. The visas allowing individuals to legally enter the United States as domestic workers function as an optional piece of the employer's visa, tying the worker's immigration status to that of the employer. These

employment visas consist of the B-1 visa, A-3 visa, and G-5 visa. Each of these visas requires an employment contract for visa issuance. The visas unrelated to domestic work include the B-2, J-1, and F-1 visas. The U.S. Department of State's Foreign Affairs Manual (FAM) sets forth the regulations, policies and procedures for visa issuance and governs the manner in which visas for workers are processed. In addition, not all domestic workers arrive in the United States through legally sanctioned channels.

A domestic worker may obtain a B-1 visa through employment by either a U.S. citizen or a foreign national who enters the United States for business purposes and wishes to continue employing a domestic worker.¹ The FAM sets forth specific requirements for the employer, depending on whether he or she is a U.S. citizen or a foreign national, as well as for the domestic worker. An employer who is a U.S. citizen is required to be living abroad permanently, or temporarily for at least two years, while an employer who is a foreign national cannot intend to immigrate to the United States.² The domestic worker is required to have been working abroad for the same employer for at least six months.³ In addition, the domestic worker must have been employed as a domestic worker for at least one year.⁴ Finally, to ensure that the domestic worker is not planning to stay in the United States, it is necessary to show that the domestic worker has a permanent home abroad that she plans to keep.⁵

To obtain an A-3 visa, the domestic worker must be employed by a foreign diplomat such as an ambassador, public minister, career diplomat or consular officer.⁶ To obtain a G-5 visa, the domestic worker must be employed by an official of an international organization, such as the World Bank, International Monetary Fund, United Nations, Inter-American Development Bank, etc.⁷ Domestic workers on the A-3 and G-5 visas, but not B-1 visas, who go through one of the busier consular posts, will be given a brochure featuring the number of the Worker Exploitation Task Force Complaint Line.⁸

The J-1, B-2, and F-1 visas are not officially used by domestic workers wishing to come to the U.S. to work because these are not employment visas. Nevertheless, these visas may be issued to individuals who subsequently work as domestic servants. The J-1 visa is the au-pair visa, also known as the international exchange visitor visa for non-immigrants.⁹ The B-2 visa is a tourist visa and the F-1 visa is a visa for students.¹⁰

¹ 9 FAM § 41.31.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ 9 FAM § 41.22.

⁷ *Id.* at § 41.24.

⁸ *Id.* This complaint line is set up for victims of severe forms of trafficking and therefore a foreign domestic worker whose rights are not being adequately protected, but whose abuse is not "severe," may not be able to find redress. *See* Enforcement *infra*.

⁹ *Id.* at § 41.62.

¹⁰ *Id.* at §§ 41.31, 41.61.

Undocumented domestic workers consist of those who have overstayed their visa, have no visa or have false documents. Furthermore, victims of trafficking may also enter the United States under any of the legal classifications, or they may be smuggled into the country in violation of U.S. immigration law.

DOMESTIC WORKER RIGHTS UNDER FEDERAL LAW

By whatever means workers may have arrived in the United States, immigrant and foreign migrant workers enjoy most of the same employment and labor rights as citizen workers.¹¹ This includes undocumented workers.¹² And, most of the time, domestic workers are considered employees for the purposes of employment and labor law.¹³

While workers enjoy the protections of both federal and state laws, if an immigrant or migrant comes to work in a state with weak labor and employment laws, her best protections may be provided under the Fair Labor Standards Act (FLSA). FLSA is the federal wage and hour law that sets standards concerning minimum wages, maximum hours, overtime pay, child labor, equal pay, and record keeping.¹⁴ Though domestic workers were initially excluded from FLSA's jurisdiction, today any worker who "in any workweek is employed in domestic service in a household" or in one or more households, has recourse to FLSA.¹⁵ However, workers such as "babysitters employed on a casual basis, companions for the aged and infirm, and domestic workers who reside in their employers' households" still do not enjoy protection under this law.¹⁶

If a worker is employed in domestic service in a private home, and her work does not fall under the babysitter or companion exclusions, she is entitled to receive the federal minimum wage.¹⁷ If the worker lives in her employer's household, she may have room and board charges deducted from her minimum wage pay. According to U.S. Department of Labor Regulations, employers may either deduct the "fair value" of room and board if they keep records justifying the deductions or take deductions according to

¹¹ Legal Aid Society Employment Law Center, WORKERS' RIGHTS MANUAL (2003-2004) at 246. [Hereinafter WRM.]

¹² *Id.*

¹³ "Employees in domestic service" were added to the coverage of the federal Fair Labor Standards Act in 1974. 165 ALR Fed 163. *See also* California Labor Code and Wage Orders, according to which employees include "all persons employed in household occupations, whether paid on a time, piece rate, commission, or other basis." 8 CCR § 11150(1).

¹⁴ 29 U.S.C.A. §§ 201 et seq.; WRM at 82.

¹⁵ 165 ALR Fed 163. The FLSA does not define "domestic service," but Department of Labor Regulations describes it as "services of a household nature performed by an employee in or about a private home (permanent or temporary) of the person by whom he or she is employed." 29 C.F.R. § 552.3. The definition of "private home" is controversial, but in general it includes dwellings such as apartments, houses, and hotels. It doesn't include institutions such as hospitals. 165 ALR Fed 163.

¹⁶ 165 ALR Fed 163. Home healthcare attendants are excluded from this exclusion if they spend at least twenty percent of their work time performing general household work, or if they qualify as "trained personnel." 165 ALR Fed 163.

¹⁷ 29 C.F.R. 552.102.

formulae in the regulations.¹⁸ This credit is only allowed where the worker accepts the services or facilities voluntarily.¹⁹

If a non-live-in domestic worker works more than eight hours on any workday, more than forty hours per workweek, or on the seventh day of the workweek, she is entitled to overtime pay. Most live-in domestic workers are not entitled to overtime under federal law.²⁰ The Fair Labor Standards Act does not mandate meal breaks or rest periods for any workers.²¹

Domestic workers do not enjoy the full panoply of protections and rights afforded to most workers under federal law. For instance, domestic workers are not protected from retaliation for striking or attempting to bargain collectively under the National Labor Relations Act, since it excludes domestic workers from its definition of employees.²² Most domestic workers have no recourse under federal law if they are discriminated against since Title VII of the Civil Rights Act of 1964 only prohibits employers with *15 or more* employees from sexual harassment or discrimination on the basis of race, sex, religion, national origin, or pregnancy. Similarly, most disabled domestic workers are not entitled to reasonable accommodations under the Americans with Disabilities Act, which only forbids employers with *15 or more* employees from discrimination on the basis of disability.²³ The majority of domestic workers are not guaranteed safe and healthy working environments under the Federal Occupational Safety and Health Act, since it excludes “domestic household employment activities in private residences.”²⁴

To sum up, many domestic workers employed in the United States enjoy the right to receive federal minimum wage and overtime pay; nonetheless, they are denied many of the legal protections federal law provides to other workers.

DOMESTIC WORKER RIGHTS IN CALIFORNIA

If an immigrant or migrant comes to work in California, she will enjoy similar though broader rights and protections than those afforded under federal law.

In California, “all persons employed in household occupations, whether paid on a time, piece rate, commission, or other basis” are entitled to be paid the state minimum wage.²⁵ Live-in domestic workers cannot be charged for food or housing without a

¹⁸ 29 C.F.R. 531.3(b); 29 C.F.R. 552.100(c),(d).

¹⁹ 165 ALR Fed 163.

²⁰ 29 U.S.C.A. §§ 213(a)(15) and 213(b)(21).

²¹ WRM at 95.

²² 29 U.S.C. § 152(3).

²³ 42 U.S.C.S. 12111 § 5(a).

²⁴ 29 C.F.R. § 1975.6.

²⁵ 8 CCR § 11150(1). “Household occupations” means “all services related to the care of persons or maintenance of a private household or its premises by an employee of a private householder. Said occupations shall include, but not be limited to, the following: butlers, chauffeurs, companions, cooks, day workers,

voluntary, *written* agreement. Like its federal counterpart, California wage and hour laws exclude personal attendants.²⁶ However, personal attendants, whether live-in or not, are entitled to the California minimum wage if they spend more than twenty percent of their time doing other housework.

Non-live-in domestic workers are entitled to overtime pay under California law under the same conditions as under federal law; however, in California such workers are also entitled to rest periods.²⁷ Ten minute rest periods and a thirty minute meal period are considered on-duty and counted as time worked, unless the employee is relieved of all duty during the meal period.²⁸

Live-in domestic workers are entitled to overtime only if they work more than nine hours in a workday or if they work on the sixth or seventh workday. These workers must be given at least 12 consecutive off-duty hours on any workday. Work during off-duty time is compensable as overtime. Personal attendants are not entitled to meal breaks or rest breaks.²⁹

All domestic workers in California are entitled to be free from sexual harassment.³⁰

Many domestic workers are entitled to workers' compensation benefits if they are injured on the job. To qualify for benefits under California's Worker Compensation Law, domestic workers must work more than 52 hours during the 90 days prior to injury and must have earned \$100 or more during the same 90 days.³¹

Though rights and protections are relatively broad in California, domestic workers still do not enjoy the full complement of employment protections provided to most of the state's workers. Domestic workers may suffer discrimination, since California's Fair Employment and Housing Act only prohibits employers with five or more employees from discrimination on the basis of race, sex, religion, national origin, pregnancy, age,

gardeners, graduate nurses, grooms, house cleaners, housekeepers, maids, practical nurses, tutors, valets, and other similar occupations." 8 CCR § 11150(2)(I).

²⁶ 8 CCR § 11150(2)(J). The term "personal attendant" includes babysitters and means any person employed by a private householder or by any third party employer recognized in the health care industry to work in a private household, to supervise, feed, or dress a child or person who by reason of advanced age, physical disability, or mental deficiency needs supervision. *Id.*

²⁷ For every four hours worked, the worker is entitled to a ten minute rest period, unless the worker works less than three and one-half hours that day. This rest period is considered part of the hours worked and cannot be deducted from wages. 8 CCR § 11150(12). For every five hours worked, the worker is entitled to a thirty minute meal period, unless the employee works only six hours and consents to waive his/her meal period. 8 CCR § 11150(11).

²⁸ 8 CCR § 11150(11, 12).

²⁹ 8 CCR § 11150(1)(B).

³⁰ Fair Employment and Housing Act. Cal Gov Code §12940(j)(1). The FEHA prohibits employers with one or more employees from committing sexual harassment. Cal Gov Code §12940(j)(1). Sexual harassment is defined as unwelcome verbal, visual, or physical conduct based on sex that is severe or pervasive and affects working conditions or creates a hostile working environment.

³¹ Cal. Labor Code § 3351(d); Cal. Labor Code § 3352 (h).

disability, marital status, sexual orientation, gender identity, or on the basis of an English only policy.³² California occupational safety and health law excludes “household domestic service.”³³ Domestic workers who provide “domestic service in a private home” are excluded from obtaining unemployment insurance benefits unless the worker was paid \$1000 or more in any calendar quarter in the calendar year or the preceding year.³⁴ Undocumented immigrant workers are not eligible to collect unemployment insurance in California.³⁵

California employment and labor law provides most domestic workers with minimum wages and maximum hours, workers’ compensation for injuries on the job, and protection from sexual harassment. However, domestic workers in California are left without many of the basic legal protections afforded to other workers in this state.

ENFORCEMENT

If a worker’s rights have been violated, she is unlikely to find better enforcement mechanisms than those provided for under federal and California employment and labor law. Holders of special visas will find that the visa requirements as laid out by the Foreign Affairs Manual are not separately enforceable through a regulatory mechanism. Foreign victims of trafficking who choose to cooperate in prosecution proceedings are afforded significant benefits under the Victims of Trafficking and Violence Protection Act³⁶; however, those who benefit from this law are comparatively few.

For Workers in the United States and California

Workers in the United States and California may seek redress for rights violations through administrative agencies or through the courts. Under federal and California law, domestic workers may vindicate wage and hour violations through both of these avenues at their choice.³⁷ California workers seeking Workers’ Compensation or remedies for sexual harassment, however, must first go through administrative procedures before they can be heard in a court of law.³⁸

For Holders of Employment Visas

³² Cal. Gov. Code § 12926(c).

³³ Cal. Labor Code § 6303.

³⁴ Cal. Unemp. Ins. Code § 629.

³⁵ Cal. Unemp. Ins. Code § 1264.

³⁶ Benefits include immigration relief and restitution.

³⁷ A worker who has not been paid all of the wages she is owed under federal law may choose to bring a claim with the U.S. Department of Labor, or she may sue directly in federal court. *See* 29 U.S.C.S. § 216. If the worker has not been paid all the wages she is owed under California law, she may file with the California Labor Commissioner, or she may sue directly in state court. *See* Cal. Labor Code § 98.

³⁸ A worker who has suffered sexual harassment may file a complaint with the California Department of Fair Employment and Housing. Cal. Gov. Code § 12960. Workers injured on the job in California first apply for Workers’ Compensation with their employer. If an employer or its insurance carrier denies liability, a worker can file with the Workers’ Compensation Appeals Board. Cal. Labor Code § 5501. *See also* WRM at 160.

Immigration laws do not provide migrant domestic workers holding employment visas (B-1, A-3, G-5) the same administrative or legal recourse that U.S. labor laws provide. U.S. law has no mandatory employment contract provisions for domestic workers who are in the United States under employment visas.³⁹ Thus, domestic workers have only the FAM employment contract required for the visa application at the consular office abroad.⁴⁰ This contract is of little use because there is no government agency or department charged with its enforcement.⁴¹ Therefore, civil complaints cannot be based on FAM requirements and instead must be based on violations of U.S. law such as breach of contract.⁴² Essentially, the FAM contract confers no separately enforceable rights.⁴³

Given this lack of enforcement of migrant domestic worker rights, a worker's best option may be to leave an abusive situation by resigning from one's employer. However, a domestic worker's employment visa is predicated upon a specific employer, and leaving that job means losing legal immigration status.⁴⁴ This severely limits the worker's options. In addition, once the domestic worker has left the employer, it is possible that she may not be given a chance to obtain redress for the harm and instead will be sent directly back to the country that she came from by the Bureau of Immigration and Customs Enforcement (ICE).⁴⁵

For Undocumented Workers

Undocumented workers face risks merely living and working in the United States, and they are especially vulnerable in pursuing enforcement of their rights. Undocumented workers are not required to reveal their immigration status when filing a formal complaint with a government agency; however, their immigration status could be revealed through subsequent investigation and shared with immigration officials.⁴⁶

³⁹ HUMAN RIGHTS WATCH REPORT, *Hidden in the Home: Abuse of Domestic Workers with Special Visas in the U.S., U.S. Government Procedures, Guidelines, Rules and Regulations Governing Special Domestic Worker Visas*, ¶ 3 (2001), available at http://www.hrw.org/reports/2001/usadom/usadom0501-05.htm#P473_103973.

⁴⁰ *Id.* For specific contract requirements for B-1 visas, see 9 FAM 41.31, N6. 3-3. The G-5 and A-3 visa have additional recommended contract requirements in the State Department's Circular Diplomatic Notes as well as by the organization (U.N., World Bank, IMF, etc.) that employs the domestic worker's employer. *Id.*

⁴¹ *Id.* at ¶ 4.

⁴² *Id.* However, this is a difficult argument to make because the State Department does not keep copies of the FAM contracts, since it does not believe it has the ability to enforce them. *Id.*

⁴³ Although visa extensions are an opportunity for the U.S. government to examine how the domestic workers are being treated by their employers during visa extension procedures, the Bureau of Citizenship and Immigration Services (CIS) does not look at past employer conduct or compliance with the last contract. *Id.* at ¶ 9. In addition, FAM requirements do not preclude an employer who has breached his/her contract from employing other domestic workers. *Id.* Nor is the State Department required to deny visa issuance for breach of contract with previous domestic workers. *Id.* The exception is found in the Circular Diplomatic notes, which state that the visa may not be extended if there is "reason to believe that the employer failed to fulfill his or her obligations to a former or current employee." *Id.* Yet, the ambiguity of the language in these notes allows considerable room for employer discretion.

⁴⁴ *Id.* at ¶ 12.

⁴⁵ *Id.* at ¶ 13.

⁴⁶ "The California Labor Commissioner does not report documentation status to the INS." WRM at 249.

While undocumented domestic workers enjoy most of the same rights as their citizen and regularized immigrant counterparts, they may face civil or criminal penalties for using false documents to obtain employment.⁴⁷ The Immigration and Nationality Act (INA) prohibits the use of false documents in situations where the carrier knows the documents are false.⁴⁸ For workers carrying false documents who are discovered by immigration authorities, the first violation fines the worker between \$250 and \$2000 for each forged document, and additional violations carry fines of \$2000 up to \$5000 for each forged document.⁴⁹ In situations where a worker does not have a visa, the INA prohibits an employer, who knows the worker is undocumented, from hiring that worker.⁵⁰ In situations where the worker becomes undocumented, because of visa expiration or otherwise, the employer is prohibited from continuing to employ the worker.⁵¹

If an employer targets a worker for her immigration status in retaliation for asserting labor rights, that employer can face criminal and monetary sanctions.⁵² In addition, ICE must notify the Department of Labor (DOL) if, while responding to an employer's report of the worker's undocumented status, it finds that the worker's status is being used to interfere with a labor dispute.⁵³ In this case, no action can be taken on the worker's status until it is authorized by higher officials.⁵⁴ Finally, if ICE agents find a labor violation while at a workplace, they are also required to report it to the DOL.⁵⁵

Critical to this discussion is an understanding of the governmental agencies that enforce U.S. immigration laws. Historically, the Immigration and Naturalization Service (INS), now the Department of Homeland Security, had sole authority to investigate immigration violations in the United States.⁵⁶ However, there is currently a move towards authorizing local police to enforce immigration laws. In 2002, the Department of Justice authorized local police officers to either arrest or detain workers if they are found in violation of an immigration law or if their names are in the National Crime

⁴⁷ Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, 100 Stat. 3359 (codified as amended at 8 U.S.C. § 1324 et. seq.) (2003); 18 U.S.C. § 1546(b).

⁴⁸ INA § 274C (2003).

⁴⁹ *Id.*

⁵⁰ INA § 274A (2003). If the employer hires this undocumented domestic worker and does not know of his/her undocumented status, or has hired the domestic worker through a state employment agency, then the employer is not liable. *Id.*

⁵¹ *Id.*

⁵² ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND, *Rights Begin at Home: Protecting Yourself as a Domestic Worker* (2001). This applies if all of the following are true: the domestic worker began working for the employer after 1986, is undocumented, and the employer knows the worker is undocumented. *Id.*

⁵³ *Id.* Note that the Immigration and Naturalization Services (INS) has changed to the Department of Homeland Security (DHS), therefore this and all following references to immigration enforcement proceed on the basis that there has been a transfer of functions to new agencies without substantive changes in functions carried out by these authorities. See U.S. Citizenship and Immigration Services, "INS Transition to Department of Homeland Security" at <http://uscis.gov/graphics/homeland.htm> [November 13, 2003].

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ NATIONAL EMPLOYMENT LAW PROJECT (NELP), *Low Pay, High Risk: State Models for Advancing Immigrant Workers' Rights*, 21 (2002).

Information Center.⁵⁷ The recently proposed Clear Law Enforcement for Criminal Alien Removal Act of 2003 (CLEAR Act, HR 2671) poses additional difficulties for larger groups of workers; if it passes, the CLEAR Act will grant local police the authority to enforce immigration laws for both immigrants who are undocumented and for those who have overstayed their visa.⁵⁸ This is problematic for domestic workers because they may become more reluctant to call the police for help with unrelated matters, such as employment violations, for fear of adverse immigration action.

For Victims of Trafficking

A number of individuals each year are brought to the United States through force, fraud, or coercion, and are then forced to perform domestic work for little or no pay in slavery-like conditions. Many of these individuals enter the country under the B-1, A-3, or G-5 visas. If a domestic worker was tricked or forced into coming, and is subjected to forced labor while here, she is a victim of trafficking and may be helped by the United States' anti-trafficking law—the Trafficking Victims Protection Act of 2000 (TVPA)—regardless of whether she was documented when she entered the United States.⁵⁹

The TVPA strictly forbids trafficking of persons and provides law enforcement with cutting-edge legal tools for prosecuting perpetrators of trafficking.⁶⁰ Furthermore, the TVPA provides a range of protections and assistance to victims of trafficking.⁶¹ If a domestic worker falls within the definition of a “victim of a severe form of trafficking” and is willing to cooperate with U.S. law enforcement, he or she is eligible for a number of federally funded benefits and services, such as cash assistance and medical care, as well as relief from deportation. Unfortunately, all of this relief is dependent on the willingness of law enforcement personnel to grant a certificate stating that the victim is cooperating with relevant law enforcement agencies.

Domestic workers that are trafficked into the United States are often extremely isolated and vulnerable, and as such will have a difficult time accessing the protections provided by the TVPA. Furthermore, enforcement of the TVPA is hindered by low levels of public awareness of the problems presented by trafficking; many domestic workers that are trafficking victims are not recognized as such by local police, service providers, and community members.

⁵⁷ *Id.*

⁵⁸ NATIONAL IMMIGRATION LAW CENTER, *Sweeping Legislation Introduced to Require Local Police to Enforce Immigration Law*, Immigrants' Rights Update, Vol. 17, Issue 5 September 4, 2003.

⁵⁹ Department of Justice, Assessment of U.S. Activities to Combat Trafficking in Persons (Aug. 2003), at http://www.usdoj.gov/crt/drim/wetf/us_assessment.pdf. [Hereinafter DOJ Assessment].

⁶⁰ The TVPA criminalizes a broad range of activities associated with trafficking. It subjects to fine and/or imprisonment “whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person” for peonage, slavery, involuntary servitude, or forced labor. 18 U.S.C. § 1590.

⁶¹ The TVPA provides a host of protections to victims of “severe forms of trafficking.” The TVPA defines severe forms of 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 purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” 22 U.S.C. § 7102(8)(B). For purposes of this definition, “coercion” includes psychological manipulation.

EXAMPLES OF ALTERNATIVE REGULATIONS

As illustrated above, domestic workers in the United States face a wealth of obstacles in accessing their rights. While this is particularly true for vulnerable populations such as trafficked and undocumented workers, even workers holding valid employment visas face numerous challenges, such as, for example, the predication of their immigration status upon that of their employer and the exemption of domestic workers from numerous U.S. legal protections. In addressing the complex struggles faced by domestic workers in the United States, it is thus helpful to examine the various approaches taken by state actors around the world.

With the continuing rise of awareness and advocacy in the domestic work arena, a range of countries and localities have begun to adopt mechanisms to combat exploitation of domestic workers. Reform efforts vary significantly and are often geared toward specific worker populations; the following section identifies three broad approaches to protecting domestic workers: (1) private employer accountability, (2) reform of visa and immigration regimes, and (3) international law regulation.

The specific reform initiatives highlighted within this memorandum stem from a wide variety of historical and social practices not elaborated upon here. Thus, not all of these initiatives may be appropriate or even feasible to implement in the contemporary U.S. political context. While questions of applicability to the United States necessitate further research, these examples represent a range of interesting and disparate approaches to problems of forced labor and trafficking. Rather than serving as a recommendation or proposal, the compilation of reform measures presented here aims to provide a survey of basic approaches as a resource for those creating their own agenda to combat forced labor within the United States.

Before examining specific reforms, however, it is helpful to briefly note a set of key issues identified by NGOs worldwide with respect to regulation of forced labor, specifically in the domestic sector. Given the widespread consensus in advocate communities as to the significance of these areas, they may be helpful to keep in mind when formulating an agenda for reform.

The first is definition of domestic work, since definitions vary among countries, if exist at all.⁶² For example, Zimbabwe defines a domestic worker as a person employed in any private household to render services as yard/garden worker, cook/housekeeper or child-minder or disabled/aged-minder.⁶³ France defines the term as a salaried worker, full & part-time, doing all or part of household tasks but not including persons employed as gardeners or guards.⁶⁴ Spain, in contrast, defines domestic work as services provided for

⁶² Blackett, Adelle, International Labour Office, Industrial Relations and Labour Administration Dept., Labour Law and Labour Relations Branch, *Making Domestic Work Visible: The Case for Specific Regulation*, Geneva: International Labour Organization (1998), available at <http://www.ilo.org/public/english/dialogue/ifpdial/publ/infocus/domestic/index.htm>. Blackett identifies a list of factors in domestic work that necessitate labor regulation.

⁶³ *Id.*

⁶⁴ *Id.*

the home in which the work is done, including housekeeping, caregiving, gardening, and chauffeuring.⁶⁵ Official definitions, then, may exclude entire categories of persons from any relevant protections, depending on how narrowly they are tailored.

Another key issue is that of accommodation, since the dependence and vulnerability of domestic workers often stems from living within the employer's house.⁶⁶ This places into question employment and immigration programs that require such living arrangements. Issues related to that of accommodation include hours of work, time off, and minimum wages, all of which become much more difficult to regulate when employment occurs within a private home, especially when the employee resides within that home.

Similar to employment in other arenas, securing the right to organize is another issue flagged by advocates as key in reforming labor conditions of domestic workers.⁶⁷ This is particularly challenging in the domestic context since employees rarely interact and are isolated in the home rather than employed in a common workplace that would foster solidarity or provide greater access to outside organizers or monitors.

Additionally, advocates have identified termination of employment as a significant issue; summary termination has served as a frequent mechanism to punish workers perceived as insubordinate—those complaining about labor conditions or asserting their rights—as well as to intimidate observing workers into compliance.⁶⁸ To address this, Spain has mandated that employers of domestic workers document the cause of dismissal in writing in order to regulate the otherwise highly informal work relationship.⁶⁹ Gender issues are also relevant to problems surrounding termination: Singapore requires the termination and deportation of any foreign domestic worker who becomes pregnant or fails the compulsory sexually transmitted infection check, as well as anyone caught working at an unregistered address or violating any laws.⁷⁰

Finally, advocates note recruitment agencies as an issue, since they have been known to negligently or intentionally place workers in exploitative and abusive environments.⁷¹ One approach to address this last issue is to hold the private agencies directly accountable, as recently demonstrated in New York City.

Private Employer Accountability

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Anti-Slavery International, *Programme Consultation Meeting on the Protection of Domestic Workers Against the Threat of Forced Labour and Trafficking: Discussion Paper* (January 2003), available at <http://www.antislavery.org/homepage/resources/PDFpublication.htm>.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

New York City has attempted to secure worker protections through local legislation regulating the actions of private employers.⁷² In May 2003, the City Council unanimously passed an ordinance protecting the rights of domestic workers. The law requires employment agencies to outline the working conditions and terms of employment of domestic workers in writing, including wages, overtime, and social security requirements.

Employers are required to sign the form, ensuring that they are aware of the workers' rights and their own responsibilities. Agencies found in violation would face fines of up to \$1,000 each, while head officials could serve a year in jail.

Advocates have hailed the legislation as a new beginning and a stepping stone for achieving better working conditions in the domestic sector. Yet its shortcomings are clear: it covers only workers who find employment through the city's approximately 85 agencies, while many find employment through word of mouth. Further, the highly vulnerable population of undocumented workers often resorts to under-the-table arrangements that are not covered by this legislation.

Reform of Visa and Immigration Regimes to Prevent Domestic Forced Labor

An alternate approach to regulation of private employers is reform of federal visa and immigration programs. In combating exploitation of domestic workers, prevention measures are often key: programs in two countries, the United Kingdom and Canada, are worthy of a detailed examination.

Before examining specific programs, however, it is helpful to consider protections accorded to survivors of trafficking by several other countries. Mechanisms to combat human trafficking in general provide noteworthy lessons for protecting domestic workers since trafficked persons comprise one of the most vulnerable subcategories of this population.

State Measures to Protect Survivors of Trafficking in General

First, there exist important distinctions between civil law countries, such as Belgium, Italy, the Netherlands, Poland, the Ukraine, and Colombia, and common law countries, such as the United States and the United Kingdom; this is because certain elements of civil law systems have been described as significantly more "victim friendly."⁷³

⁷² See Timothy Williams, "NYC Council Passes Bill of Rights for Domestic Workers," *Associated Press*, May 14, 2003; Steven Greenhouse, "New Protections for Nannies are Approved by Council," *The New York Times*, May 15, 2003.

⁷³ Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*, "Introduction," (2002), available at <http://www.antislavery.org/homepage/resources/humantraffichumanrights.htm>. Civil law systems place heavier emphasis on statements and investigation as opposed to live testimony and in turn protect the trafficked person from being confronted by the trafficker in court. Thus, many civil law jurisdictions, including Poland, Belgium, and Thailand, which represents a mix of civil and common law

Existing trafficking provisions also vary in scope.⁷⁴ A recent study reports the United States exemplifies the most comprehensive criminal legislation against trafficking in persons.⁷⁵ Notably, in prosecution of traffickers the use of an integrated multi-agency approach marked by the cooperation of specialized police task forces, immigration, labor inspectors and officials, prosecutors, and NGOs has proved most effective.⁷⁶

Four countries, Belgium, Italy, the Netherlands, and the United States have adopted specific legislation to address the protection of trafficked persons, such as providing residency permits to survivors of trafficking.⁷⁷ Belgium and the Netherlands provide for a period of recovery, known as a “reflection delay,” which allows survivors to receive shelter, legal advice, medical care, and counseling, as well as time to decide whether or not to testify against the trafficker. The B9 regulation in the Netherlands allows such a period of three months, while Belgium allows for 45 days under the 1994 Circular; the proposed European Union Directive on short-term permits suggests a period of 30 days.⁷⁸

principles, allow a preliminary deposition of evidence, such as a sworn statement from the survivor in front of a licensed magistrate, which is then admissible as evidence at trial. *Id.*

While common law countries grant the survivor no guaranteed right to legal representation, civil law countries allow the crime victim to “join” the criminal action as an injured party and thus secure legal representation in criminal proceedings. In turn, the survivor’s lawyer may then interject in criminal proceedings by providing additional evidence and examining witnesses, as well as having access to the prosecution’s case materials. *Id.*

Additionally, civil law measures such as the giving of evidence at pre-trial hearings that are closed to the public and take place well ahead of the trial, as in Italy, can serve as a protection for trafficking survivors when accompanied by other safety mechanisms. However, such measures may have a negative effect, as has occurred in Thailand and Poland, where judges have used this device to obtain evidence and then implement rapid deportations. *Id.*

⁷⁴ Anti-Slavery International, *Human Traffic, Human Rights*, “Findings and Recommendations.” For example, the United Kingdom’s law only recognizes trafficking in prostitution, Thailand’s law only applies to trafficking in women and children, and Belgium’s anti-trafficking law is used to prosecute both trafficking and smuggling of people. Poland, Thailand, and the Ukraine, all of which have anti-trafficking provisions that are rarely used, and Nigeria, where a draft bill on trafficking is in the process of being adopted, have all identified lack of resources and clarity in the law, corruption, and insensitivity of law enforcement as key obstacles to successful prosecution. Other common obstacles include failure of communication between law enforcement agencies and ineffectiveness of the judiciary in applying the law. *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.* Problems exist in the implementation of these programs. Law enforcement officials rarely inform trafficked persons of their right to a reflection delay, either because they do not recognize survivors of trafficking as such, or because of a desire for swift prosecution. Further, grants of residency after the reflection delay in Belgium and the Netherlands are, much like in the United States, contingent upon participation in criminal proceedings against the trafficker. Italy, however, grants residency permits to trafficked persons who are considered in danger and who are willing to partake in a “social integration programme,” state-funded programs coordinated by recognized NGOs that include training, education and counseling. These programs too are riddled with implementation problems, since survivors are routinely pressured to participate in criminal proceedings in order to secure the residency permit. Further, because

The United Kingdom: Regulating Entry

In the United Kingdom, no reliable official figures exist on number of overseas domestic workers, although local NGOs such as Kalayaan and the Commission for Filipino Migrant Workers estimate 4,500 abused domestics currently reside within the country.⁷⁹ In contrast to the provisions of the U.S. Trafficking Victims Protection Act, trafficking offenses in the United Kingdom largely fall under pimping and immigration laws, and no residency procedure exists for trafficked persons.⁸⁰ Those agreeing to testify against traffickers may be issued exceptional leave to remain (ELR), which is not granted routinely and contains no family reunification provision.⁸¹ Advocates report significant lack of services for trafficked persons, and no cases of domestic workers testifying against employers in past four years have been recorded.⁸²

A series of work permit restrictions in the 1970s and decreases in quotas led to permits being issued primarily to professional and high-skilled jobs or for work that could not be performed by United Kingdom or European Union nationals.⁸³ At the time, there existed the Home Office Concession whereby wealthy individuals and returning British nationals could bring domestic servants into the country under two categories: (1) visitors and (2) persons named to work with a specific employer.⁸⁴

The Concession was problematic in a series of ways: No clear guidelines for officials existed in terms of granting the Concession, and workers generally received the visitor status although they were in fact employees. In turn, workers had no immigration status independent of the household for which they worked, and later applications to change employers were routinely refused on the grounds that no work permit was issued at entry.⁸⁵

The visitor status of this early Concession is an alternative to the current United States model that allows domestics to enter solely as workers for a specific employer; yet it also serves as an example of the complications that may arise in practice from a program that uncouples domestic workers from official employment status.

A coalition of advocates campaigned for reform of this procedure in the 1980s, seeking recognition of employee status in cases where it was clear that the persons involved were already recruited as domestics and entered to work in that capacity.⁸⁶ Other proposed reforms included the ability to change employers within the domestic

funding is largely channeled to projects addressing sexual exploitation, people trafficked into other sectors are often unable to access the permit due to lack of relevant services. *Id.*

⁷⁹ Bridget Anderson, *Britain's Secret Slaves: An Investigation into the Plight of Overseas Domestic Workers*, London: Anti-Slavery International, Human Rights Series, (1993).

⁸⁰ Anti-Slavery International, *Human Traffic, Human Rights*, "United Kingdom."

⁸¹ *Id.*

⁸² *Id.*

⁸³ Anderson, *Britain's Secret Slaves*.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

work category, the ability to reside in the United Kingdom after four years of work, and regularization of domestic workers who entered with employers but subsequently resigned employment and then overstayed their visa. Advocates also contested the lack of provisions for workers to stay while pursuing civil or criminal action, stating the exceptional leave to remain provision was not enough.⁸⁷

In 1991, the United Kingdom Home Office responded to the campaign by establishing “stricter screening to prevent exploitation.”⁸⁸ These new regulations required that a worker entering the country with an employer must be at least 17 years old and have been employed for 12 months overseas by same employer. These requirements are then confirmed in an interview with the worker that screens for exploitative situations, while both the employer and employee receive a state-issued pamphlet on the rights of domestic workers.⁸⁹

The coalition of advocates that lobbied for reforms has heavily criticized this response as failing to address the real problems at hand.⁹⁰ For example, because long-term abusive domestic work relationships are common, the 12-month requirement is not an effective prevention mechanism. While acknowledging entering domestic workers as employees, the government does not accord them the status of workers or the right to change employers. Additionally, about one third of the mandatory interviews take place with the employer present while the leaflet is seen as a cosmetic measure. It is geared not at employers but at workers, and thus facilitates exploitation by focusing on the worker’s immigration status and the fact that she cannot legally work for any other employers. Further, leaflets are not always distributed and there exist numerous reports of employers taking them away immediately after the interview.⁹¹

Canada: A Prevention Model

In contrast, Canada employs a program that is routinely cited as a model regulatory scheme in terms of preventing exploitation of domestic workers. The Live-in Caregiver Program (LCP) first began in 1992 and allows foreigners to work in Canada as live-in caregivers for 24 months, in return for which Canada grants them permanent residence.⁹²

Currently over half of the immigrants in the program come from the Philippines, while over 80 percent are women and many are well educated.⁹³ Canada divides foreign

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Citizenship and Immigration Canada Brochure, *Information for Employers and Live-in Caregivers from Abroad: The Live-in Caregiver Program*, Ottawa: Department of Public Works and Government Services, (1999).

⁹³ West Coast Domestic Workers’ Association, *Making New Canadians or Making Martyrs? Foreign-Born Domestic Workers’ Views and Recommendations about Immigration Policy and Legislation*, Vancouver, (1999).

nationals seeking entrance into immigrants or visitors; immigration policy is based on a point system.⁹⁴ Certain programs designed to fill needs for workers in specific arenas, such as the LCP, are outside of this point system.⁹⁵

In order to participate in the program, one must meet a series of requirements. For example, one must have validated offer of employment from Canadian employer.⁹⁶ The Canada Human Resources Centre then verifies the financial resources of employer, adequate space in home to accommodate a caregiver, and that hiring will not take away jobs from Canadians living in the province.⁹⁷

Training requirements that must be met in order to qualify were raised from those of the LCP's predecessor, the Foreign Domestic Movement Program.⁹⁸ Workers must now have the equivalent of a Canadian high school education, one year of paid domestic work experience, as well as the ability to speak, read, and understand English or French.⁹⁹ Employment authorization costs \$150.¹⁰⁰ One cannot bring any family to Canada during the span of this program.¹⁰¹

Despite the widespread recognition of the program as a model worldwide, it has come under much fire by the local advocacy community. One issue of contention lies in the training requirements: 2,435 women were accepted in program in 1995, and 2,453 in 1997.¹⁰² However, under the earlier Foreign Domestic Movement Program that entailed less rigid education and language requirements, 16,664 were accepted in 1991.¹⁰³ This disparity has largely been linked to the change in requirements.

Further, problems lie in the temporary status and work period requirements. The law requires a caregiver to work for one specific employer for 24 months before applying for residence, during which time she is granted a temporary residence status.¹⁰⁴ This must be completed in a three-year period, and any deviations result in fees, delays and other penalties that may lead to toleration of abuse and exploitation. Additionally, the program

requires the caregiver to live in the employer's home,¹⁰⁵ a situation demonstrated to lead to abuse.

⁹⁴ See Canada's Citizenship and Immigration Website, <http://www.cic.gc.ca>.

⁹⁵ *Id.*

⁹⁶ Citizenship and Immigration Canada Brochure.

⁹⁷ *Id.*

⁹⁸ See Patricia M. Daenzer, *Regulating Class Privilege: Immigrant Servants in Canada, 1940s-1990s*, Toronto: Canadian Scholars' Press, Inc. (1993); Audrey Macklin, "Foreign Domestic Worker: Surrogate Housewife or Mail Order Servant?" 37 *McGill L. J.* 687 (1992).

⁹⁹ Citizenship and Immigration Canada Brochure.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² See tables in Myriam Bals, *Les domestiques etrangeres au Canada, esclaves de l'espoir*, Paris/Montreal: L'Harmattan, 1999.

¹⁰³ *Id.*

¹⁰⁴ Citizenship and Immigration Canada Brochure.

¹⁰⁵ *Id.*

Currently, the LPC offers the most protection of similar programs and is routinely cited as a model for allowing workers to eventually become permanent residents.¹⁰⁶ Yet criticisms of the LCP are so severe that there exists a split in the advocacy community between those wishing to reform the program and those wishing to abolish it entirely.

Organizations for reform, such as the West Coast Domestic Workers' Association (Vancouver), Intercede (Toronto), and the National Association of Women and the Law, support the program as a way for women to immigrate to Canada, but insist on the need for major reforms.¹⁰⁷ Organizations for abolition, such as the Association des Aides Familiales du Quebec and the Philippine Women Centre of British Columbia, however, claim that the shortage of labor in this sector exists because of the poor conditions the work entails; thus, recruiting immigrants to fill jobs that Canadians will not perform is problematic as it resorts to a cheap, captive labor force and artificially maintains poor working conditions compared with rest of the market.¹⁰⁸

The Legislative Review Advisory Group on immigration legislation has recommended elimination of the program and inclusion of the workers in the Foreign Worker Program, designed to remedy shortages of labor in certain fields.¹⁰⁹ Under this scheme, a worker who has a permanent job offer and meets the LCP requirements would get permanent residence upon arrival, eliminating the live-in requirement and the dependency of temporary visa arrangements.¹¹⁰

This proposed reform would not eliminate all problems, and many questions remain: What is a permanent job offer? Would employers have control of continuing the offer? What about workers without permanent job offers? Further, the education requirements discriminate against many women. Thus, this proposed arrangement does not solve the fundamental problem of access to immigration.

INTERNATIONAL TREATIES: ALTERNATIVE MODELS FOR PROTECTING WORKERS

International treaties may serve as additional protection mechanisms, both by binding nations that have adopted them as well as by defining international standards and norms for those that have not. There are many international agreements that are relevant to the rights of workers, but this paper focuses on a recent international instrument—the Migrant Worker Convention—that has been drafted specifically to address the rights of

¹⁰⁶ See Bridget Anderson, *Britain's Secret Slaves*.

¹⁰⁷ See West Coast Domestic Workers' Association, *Making New Canadians*; Jennifer Hyndman, "Gender and Canadian Immigration Policy: A Current Snapshot," 19 *Les Cahiers de la Femme* 9 (1999); Intercede, *Report and Recommendations on the Foreign Domestic Movement Program*, Toronto (1990).

¹⁰⁸ See Daenzer, *Regulating Class Privilege*; Abigail B. Bakan and Daiva Stasiulis, eds., *Not One of the Family: Foreign Domestic Workers in Canada*, Toronto: University of Toronto Press (1997).

¹⁰⁹ Immigration Legislative Review Report, *Not Just Numbers: A Canadian Framework for Future Immigration*, Ottawa: Department of Public Works and Government Services, (1997).

¹¹⁰ *Id.*

migrant workers.¹¹¹ This treaty is particularly relevant to domestic workers because many of the individuals employed in that sector are foreign nationals.

The Migrant Worker Convention came into force on July 1, 2003. It contains a comprehensive range of rights that protect foreign domestic workers in any state that has adopted the treaty. Although the United States has not joined the treaty, and is thus not bound by it, the Convention is still important to migrant domestic workers in the United States because the treaty may be binding on the domestic workers' home country (Mexico, for example, has adopted the treaty).¹¹² Furthermore, the Convention articulates important international norms that may serve as legislative models for legal reform in the United States.

The Migrant Worker Convention provides a set of binding international standards to address the treatment, welfare and human rights of both documented and undocumented migrants, as well as the obligations and responsibilities on the part of sending and receiving states. The treaty focuses on safeguarding conditions both in the working environment and the migration process. A number of rights articulated in the Convention are particularly relevant to the domestic worker context, including the right to be free from inhumane treatment,¹¹³ forced labor,¹¹⁴ and interference with communications;¹¹⁵ the right to state government protection of migrant workers from intimidation by private individuals;¹¹⁶ the right to retain travel documents;¹¹⁷ the right to join trade unions;¹¹⁸ and the right to know one's rights under the law.¹¹⁹ In terms of

¹¹¹ "The term 'migrant worker' refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national." Migrant Worker Convention, Part I, art. 2.

¹¹² So far the treaty has been adopted primarily by countries that send, rather than receive, migrant workers. As of June 10, 2003, the treaty has been adopted by Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Cape Verde, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Mali, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Uganda, Uruguay.

¹¹³ Migrant Worker Convention, art. 10.

¹¹⁴ Migrant Worker Convention, art. 11.

¹¹⁵ "No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or other communications, or to unlawful attacks on his or her honor and reputation. Each migrant worker and member of his or her family shall have the right to the protection of the law against such interference or attacks." Migrant Worker Convention, art. 14.

¹¹⁶ "1. Migrant workers and members of their families shall have the right to liberty and security of person. 2. Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions." Migrant Worker Convention, art. 16.

¹¹⁷ Migrant Worker Convention, art. 21.

¹¹⁸ Migrant Worker Convention, art. 26.

¹¹⁹ The convention contains many other human rights protections that are particularly relevant to migrant domestic workers, including: right to return home (art. 8, 1-2); right to life for worker and family (art. 9); the right to have decision to expel explained in own language (art. 22 (3)); the right to enjoy same protections as nationals regarding conditions of work (wage, rest, holidays, etc.) (art. 25); the right to urgent medical care (art. 28); the right to have children educated (art. 30); and the right to know rights under the Migrant Worker Convention and relevant domestic laws (art. 33).

working conditions, the Convention attempts to safeguard migrant workers by mandating that they receive the same labor protections as nationals.¹²⁰

The implementation of the Migrant Worker Convention is monitored by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (“Committee”). States that adopt the Convention are obliged to report to the Secretary General of the United Nations on the measures they have taken to implement the Convention within a year of its entry into force for that nation.¹²¹ Under the terms of the Convention, states may also choose at any time to recognize the Committee as competent to receive and consider communications from individuals within that state’s jurisdiction who claim their rights under the Convention have been violated.¹²² If the Committee concludes that all domestic remedies have been exhausted and that no other international mechanism is addressing the alleged problem, it may demand an explanation from the state and declare its view of the matter.¹²³ Although the Convention is still too new to determine what its practical effect will be on the lives of migrant workers, the reporting requirement and the Committee’s capacity to hear individual complaints may help shame nations into guarding the rights of domestic workers.

CONCLUSION

Domestic workers, particularly vulnerable subgroups such as trafficked and undocumented workers, face a variety of challenges in their everyday lives. Lacking recourse to the law under numerous U.S. provisions, domestic workers may find broader employment protections in California, although yet stronger protections exist for most of the state’s other workers. Similarly, current U.S. immigration structures bind migrant domestic workers to their employers, and make enforcement of rights difficult and inaccessible.

Other cities, countries, and international organizations have also utilized a variety of approaches to address problems faced by domestic workers, and this memorandum aimed to provide a survey of these methods, ranging from private employer accountability, reform of visa and immigration regimes, and use of international law regulations, in order to assist advocates and activists formulating their own agendas for reform. It is hoped that the research provided here meaningfully contributes to those efforts.

¹²⁰ Migrant Worker Convention, art. 25.

¹²¹ Migrant Worker Convention, art. 73(1)(a). At the request of the Committee, a state is obliged to submit further reports on its implementation efforts every five years. Migrant Worker Convention, art. 73(1)(b).

¹²² Migrant Worker Convention, art. 77.

¹²³ *Id.*