



COMBATING ABUSES AGAINST FOREIGN-BORN WORKERS

HISTORY:

For as long as humans have existed, they have migrated, spreading goods, cultures and ideas across the globe. Currently, there are some 232 million international migrants, representing only 3.2 per cent of the world's population. Of those, 136 million live in developed countries, and 96 live in developing countries. Nearly two-thirds of all migrants live in either Europe (72 million) or Asia (71 million).

Migration has been recognized as an enabler of human development that has empowered not only migrants and their families, but also the societies they have left and those that have received them. These gains hail the need for effective and cohesive governance of migration, to better harness the social and economic opportunities of human movement.

Migration is also a consequence and symptom of lack of development, and related push factors such as violence and lack of opportunity, and its results are not always positive.

Countries that are ill prepared to meet the challenges faced by accelerating and diversifying migration do not reap benefits from it, but rather may suffer negative social and economic consequences. Where resources are limited or inadequately allocated to confront influxes of migrants, resources are strained and quickly depleted. Failure to effectively adapt to changing migration realities by proactively, effectively and sustainably integrating migrants perpetuates a destructive cycle in which strained relationships between host societies and migrant communities exacerbates hostility and discord between them.

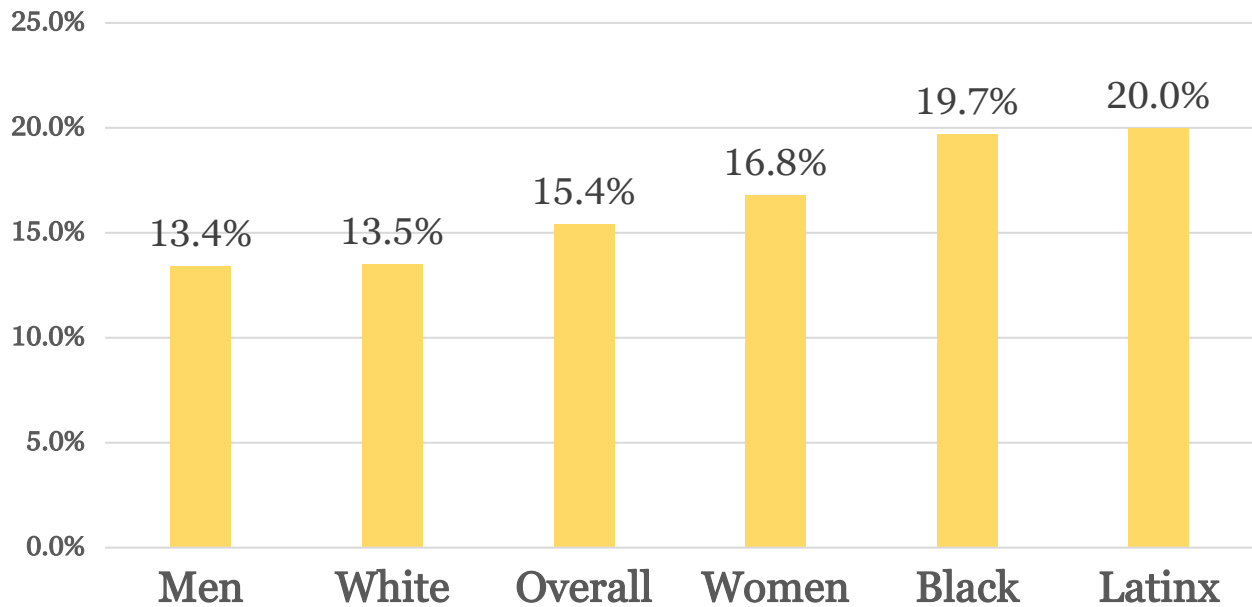
Some marginalized migrants may detract more from host societies than they can contribute, resulting in animosity between host and migrant populations. Left unchecked, this cycle can entrench vulnerability and fuel xenophobia and discrimination that can manifest in violence and other crimes perpetrated by and against migrants.

Houston Workers Were in a Precarious Economic Position Even Before the Pandemic

Even before the pandemic, many workers in Houston—especially workers of color—were in economically precarious positions. The overall poverty rate in Harris County during 2019 was 15.1 percent, with Black and Latinx individuals experiencing poverty rates more than 6 points higher than the county’s white residents. Women experienced higher poverty rates than men.ⁱ

Rising costs for necessities such as housing and transportation have made it even more difficult for low-income families in the county to survive. “Harris County and Houston have a reputation for housing affordability, but many of the findings of this report show that this affordability is disappearing,” Rice University’s Kinder Institute for Urban Research concludes in a June 2020 report, which found that nearly half of Harris County renters were “cost burdened,” meaning they spent more than 30 percent of their income on housing. According to the study, “Low-income renters face quickly increasing rents across the county and are squeezed into the few areas where affordable rentals still exist.” That means that more and more low-income residents are forced to move outside the 610 Loop, even further from available job opportunities.ⁱⁱ

Harris County Poverty Rates, 2019



Problems/abuses immigrants facing

Wage theft:

FJWC Between February 2018 and March 2019, workers who came to our worker center reported nearly \$.4 million unpaid wages.

Wage theft is a problem all over Texas. A 2017 report by the Economic Policy Institute found that 10.8 percent of low-wage workers in Texas had experienced a minimum wage violation—just one of several types of wage and hour claims—resulting in \$1.1 billion in lost

wages.ⁱⁱⁱ State regulators are often of little help. “The Texas Workforce Commission has few resources for combating wage theft. Out of a \$1.7 billion budget for 2018, only about \$4 million is dedicated to ‘labor law enforcement,’” the *Texas Observer* writes in a 2018 article on the statewide wage theft problem. “That leaves the commission outmatched by employers who have myriad ways to dodge accountability. They can intimidate workers into dropping allegations, bog down claims in endless appeals, declare bankruptcy, and lobby against any legislative crackdowns.”^{iv}

Lack of Access to Healthcare

Many Houston workers also still lack access to health insurance. Overall, 22 percent of Harris County residents under the age of 65 lack health insurance.^v The rate is even higher among immigrant workers. In the three-county Houston metro area (Harris, Fort Bend, and Montgomery counties), 42.8 percent of Latinx residents lack health insurance—nearly four times the rate of white residents (11 percent), and twice as high as Black residents (21.5 percent).^{vi} Texas as a whole has the nation’s highest proportion of uninsured residents—18.4 percent, exactly double the national average.

It has been widely reported that across the country, communities of color have been hit hardest by COVID-19. The same trends hold true in Harris County. At one point in the pandemic, 65 percent of people who were hospitalized in the county due to COVID were Latinx.^{vii} Current data from the Harris County Public Health and the Houston Health Department show that an overwhelming percentage of the county’s COVID-19 cases (67 percent) are among people of color: approximately 46 percent of the county’s COVID-19 cases are in the Latinx community, and 21 percent are Black or African-American

the pandemic has hit industries where they work especially hard, which has put many people who already were struggling to make ends meet even deeper into poverty. On the other hand, those who do have the opportunity to return to work are often going back to positions most at

risk of exposure to the coronavirus, including jobs in retail, restaurants, healthcare, construction, domestic work, and day laborers.

The Particular Challenges Facing Domestic Workers and Day Laborers

Domestic workers and day laborers have been especially vulnerable during the COVID-19 pandemic. About three-quarters of domestic workers are the primary breadwinners for their families, though they are typically paid low wages that leave them three times more likely to live below the poverty line than other workers. A nationwide survey by the National Domestic Workers Alliance found that by late March, 90 percent of domestic workers had lost work because of COVID-19.

- \$1.35 million in unpaid wages reported to Fe y Justicia. Wage theft was a component of 87 percent of calls we received during that period. The average claim was substantial, about \$3,317.
- 100 cases involving health and safety violations.
- 64 cases alleging workplace discrimination, including 14 involving sexual harassment.
- 49 complaints of workplace threats and violence
- 10 cases involving labor trafficking

Recommendations and Success events:

Ensure improved access to Harris County and City of Houston Health systems for all essential workers.

- Increased access to materials in languages most commonly spoken by domestic workers and essential workers, including Spanish, French or Spanish Creole, Caribbean Patois, Vietnamese, and Arabic.
- Funding for community organizations to support essential workers to navigate public health systems to increase their access to COVID-19 related preventative care and treatment.
- Funding to support virtual (phone and internet) access to healthcare systems in Harris County.

Establish an Essential Workers' Court in Harris County.

The Essential Workers' Court should be administered by a partnership between the County Judge's Employment Equity Office and Texas Workforce Commission, that will serve the interests of low wage essential workers in domestic work, construction, restaurant, hospitality, and retail workers. Such a court would:

- Allow essential workers in defined industries to bring forward claims for stolen or lost wages with expedited court hearings.
- Certify third parties such as labor advocacy groups, worker centers and unions to "legal advisors/workforce claim navigators" bring forward individual and group claims for workplace violations experienced by essential workers, including contractors and misclassified workers.

We need your help supporting these ways to *protect foreign-born workers*

1. Acknowledge the social and economic presence of undocumented migrants

Engaging public support through events and consumer campaigns Undocumented workers are too often thought of as taking advantage of public benefits and causing native workers to become unemployed. Changing the unfavorable image of undocumented workers and gaining public support is paramount in protecting their rights. Without public support, undocumented workers stand little chance of fighting exploitation and abuse, a reality that many endure on a daily basis. Numerous organizations engage in awareness-raising initiatives to dispel the negative images of undocumented workers by highlighting that these workers are human beings and that they contribute considerably to our economies.

2. Prioritize data collection

Policies in the fields of migration, employment, and social inclusion are often developed in the absence of concrete data about undocumented workers. As a result, many of these policies lose their effectiveness. Collecting both qualitative and quantitative data on undocumented workers is thus of utmost importance. NGOs play a crucial role in setting a relevant research agenda and in overcoming the many difficulties of gathering essential information about undocumented workers, who tend to live in the shadows.

3. Involve (local) NGOs in conducting research and making policies

Informing undocumented workers about their rights Undocumented workers do have rights, but many are unaware of this. Consequently, countless undocumented workers do not challenge their employers if the latter exploit or abuse them. Informing undocumented workers

about their rights is at the core of this report, since it is the first step towards ending the silent suffering of hundreds of thousands of undocumented workers.

4. Safeguard the right to organize

Building capacities through empowerment In order to prevent and stop exploitation and abuse, undocumented workers must be able to effectively exercise their rights. Empowering and developing undocumented workers' leadership capacities counteracts a system of dependency. Instead, workers are able to defend themselves and even engage in and influence the decision-making affecting their lives. These capacities are essential if workers are to become agents of their own rights.

5. **Unionizing undocumented** workers for an undocumented worker acting alone, asserting one's rights remains a major challenge. Unionizing undocumented workers is therefore very important, since it puts a worker in a much stronger position. There are, however, several obstacles preventing undocumented workers from joining unions, and not all traditional union structures and working methods are directly applicable to undocumented workers. Many trade unions in Europe and the United States have managed to overcome these difficulties, leading to an enhanced level of protection of undocumented workers.

6. Invest in workplace inspection

Working with employers to prevent exploitation and advocating for laws to hold them accountable to fair labor standards One way to prevent violations of undocumented workers' workplace rights is to work with employers. There are several successful examples of organizations that invite – and sometimes pressure – employers to respect well-defined minimum standards of employment. But there is also a need for legal measures holding

employers accountable if they exploit or abuse their undocumented employees. Such measures are indispensable to attain effective protection of undocumented workers' rights.

7. Open up the debate on the future of the low wage sector

Challenging exploitation and abuse through mediation and collective actions Other ways of asserting undocumented workers' rights are by engaging in mediation and collective actions. "Nobody wants a bunch of angry workers on their doorstep or circling their car, making it hard for them to do their work. ... (After repeatedly putting pressure on abusive employers as a group), now essentially all it takes is a call from our organization to the employer, telling him that so-and-so worked for him for x number of days, that he owes him x amount, and when can he get a check over to our office?" said Julia Perkins of the Coalition of Immokalee Workers. As an alternative to filing an official complaint through a governmental entity, collective actions and mediation have often proven to be very useful ways of upholding undocumented workers' rights.

8. Safeguard the right to equality before the law

Asserting undocumented workers' rights in the legal system When other means of protecting undocumented workers' rights turn out to be unsuccessful in resolving labor disputes, undocumented workers can resort to filing an official claim through legal channels. This can be a difficult and challenging task, as there are numerous obstacles involved in making a claim: the fear of being deported, high legal fees, and the need to prove the employment relation. Such barriers deter many undocumented workers from using the legal system. However, the law offers protection, and there have been numerous legal rulings in Europe and in the United States in favor of undocumented workers

9. Mainstream undocumented migrants in integration policies and in the Social Inclusion Strategy

Working with governmental agencies to promote undocumented workers' rights Undocumented workers tend to be reluctant to approach governmental agencies. Nevertheless, many governmental agencies, including the entity responsible for labor inspection, do not let a worker's irregular legal status impede their main task, namely to uphold fair working conditions and to sanction exploitative and abusive employers. Liaising with governmental agencies can therefore be helpful in improving the protection of undocumented workers, since these agencies can and will intervene in many instances to protect these workers

10. Regularize undocumented migrants

Advocating for legal status of undocumented workers A final way of preventing abuse and exploitation is to legalize the status of undocumented workers. There are many arguments for regularizing undocumented workers. Regularization leads to increased visibility of this particular social group, and thus to increased protection. It is a proven fact that not only undocumented workers, but society at large benefit from legalization procedures. Regularizing undocumented workers is a way to combat the informal economy and to stop the deterioration of general working conditions, which in the end affects all workers.

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Presenter.

ⁱ U.S. Census Bureau, American Community Survey, "Poverty Status in the Past Twelve Months," 2019, <https://data.census.gov/cedsci/table?q=poverty%20rate%20&g=0500000US48201&tid=ACST1Y2019.S1701&hidePreview=true>, accessed October 20, 2020.

ⁱⁱ The Kinder Institute at Rice University, "The 2020 State of Housing in Harris County and Houston," June 23, 2020, <https://kinder.rice.edu/research/2020-state-housing-harris-county-and-houston>.

ⁱⁱⁱ David Cooper and Teresa Kroeger, "Employers steal billions from workers' paychecks each year," Economic Policy Institute, May 10, 2017, <https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year/>.

^{iv} Gus Bova, “Wage Wars,” *Texas Observer*, June 13, 2018, <https://www.texasobserver.org/wage-wars/>.

^v Robert Wood Johnson Foundation, County Health Rankings and Roadmaps, 2020, <https://www.countyhealthrankings.org/app/texas/2020/measure/factors/85/data>.

^{vi} The Greater Houston Community Foundation and the Kinder Institute for Urban Research, Understanding Houston, “Access to Health Care in Houston,” <https://www.understandinghouston.org/topic/health/access-to-healthcare/#overview>.

^{vii} Mike Morris, Olivia P. Tallet, and Stephanie Lamm, “Essential workers, missed messages: COVID is raging through Houston’s Hispanic communities,” *Houston Chronicle*, July 16, 2020, <https://webcache.googleusercontent.com/search?q=cache:hoqTo7hM3zsJ:https://www.houstonchronicle.com/news/investigations/article/covid-houston-texas-hispanic-data-harris-county-15411614.php+&cd=2&hl=en&ct=clnk&gl=us>.