



## **DECLARATION OF AI-JEN POO**

### **ON BEHALF OF THE NATIONAL DOMESTIC WORKER ALLIANCE**

I, Ai-Jen Poo, swear and affirm that the following is true and correct to the best of my information, knowledge, and belief:

1. The National Domestic Workers Alliance (NDWA) is the nation's leading voice for dignity and fairness for the millions of domestic workers in the United States. Founded in 2007, NDWA works for respect, recognition, and inclusion in labor protections for domestic workers.
2. The Alliance is powered by over 65 affiliate organizations and local chapters, and by thousands of domestic worker members in all 50 states. NDWA works to improve working conditions for domestic workers - leading policy advocacy, research, and the development of innovative solutions to address the unique challenges of this sector - while building a powerful movement rooted in the rights and dignity of domestic workers, immigrants, women, and their families.

### **DOMESTIC WORKERS IN THE U.S.**

3. There are over 2.5 million domestic workers in the United States, who work in individual homes as caretakers for seniors, people with disabilities, children, and homes. Unfortunately, being a domestic worker too often means living in poverty and tolerating abuse.
4. Domestic work is often hidden and workplaces are unregistered and unregulated. As a workforce that is predominantly women, immigrants, and people of color, domestic workers have endured a long history of exclusion from basic labor protections - such as the Fair Labor Standards Act, Occupational Safety and Health Act, and Title VII protections against harassment and discrimination - rooted in the legacy of slavery and a perception that care work is not "real" work.
5. These long-standing exclusions have contributed to the vulnerability of domestic workers to exploitation by their employers - both day to day undervaluing and indignities, and more extreme forms of abuse like trafficking - and to significant barriers to accessing the remedies available to other workers.
6. A survey of over 2,000 domestic workers in 14 cities conducted by NDWA and the University of Illinois Chicago's Center for Urban and Economic Development found that

23% of domestic workers (and 67% of live-in workers) were paid below state minimum wages, and 30% reported having their employer disregard at least one provision of their employment contracts.

7. These are in addition to general problems of low pay and abusive conditions: 70% of all respondents were paid less than \$13 an hour and were not paid any overtime, 65% reported having no health insurance, 82% did not receive paid sick leave, 29% reported having some kind of long-term medical problems resulting from their work, and 25% of live-in workers reported getting no more than 5 hours of sleep at night. 20% of respondents reported having trouble paying for food in the previous month because of their low wages.<sup>1</sup>

### **DOMESTIC WORKER TRAFFICKING IN THE U.S.**

8. Due to the characteristics of the workforce and nature of the workplace, domestic workers are particularly vulnerable to human trafficking: overwhelmingly women, many immigrants unfamiliar with US laws, working in the homes of their employers, dependent on their employers not only for salaries but in many cases for shelter, food and immigration status.
9. Recruitment by international labor recruiters, who commonly charge fees for obtaining jobs and visas, is a common method of job placement and can result in indebtedness and indentured servitude.
10. Because their stay in the US is contingent on their employment, domestic workers on employment visas are often reluctant to denounce abuse or seek help, as are those who come to work outside of legal channels.

### **FINDINGS OF THE BEYOND SURVIVAL CAMPAIGN**

11. NDWA launched the Beyond Survival campaign in 2013. The mission of the campaign is to end the human trafficking of domestic workers in the US. Beyond Survival focuses on lifting up the experience and vision of trafficked domestic workers, developing the leadership of domestic worker survivors to organize to end human trafficking and to win federal policy changes that expand resources and protections for domestic workers and hold traffickers accountable.
12. The campaign is led by nine local grassroots organizations that are affiliates of NDWA: Damayan Migrant Workers Association, Adhikaar, Matahari Women Workers Center, Miami Worker Center, Pilipino Worker Center, Fe y Justicia Worker Center, Domesticas Unidas, Fuerza del Valle, and the Labor Justice Committee.
13. In 2017 the campaign released a report, “The Human Trafficking Of Domestic Workers

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<sup>1</sup> Linda Burnham and Nik Theodore, *Home Economics: The Invisible and Unregulated World of Domestic Work*, National Domestic Workers Alliance, Center for Urban Economic Development and the University of Illinois at Chicago DataCenter (2012), available at <http://www.domesticworkers.org/sites/default/files/HomeEconomicsEnglish.pdf>.

In The United States: Findings from the Beyond Survival Campaign,” based on data from 110 domestic worker trafficking cases where organizations from the campaign provided various forms of support to survivors.

14. While the specific conditions and forms of abuse varied among the cases, there were certain indicators that were present in a majority of the cases included in the findings. 85% of the survivors had at least part of their pay withheld, 80% had been tricked with false or deceptive employment contracts, 78% had employers threaten to report them for deportation if they complained about their working conditions, 75% had their movements and communication restricted or monitored by their employers, 62% had their passports or other identification confiscated, 74% reported emotional or verbal abuse by their employer, 66% reported physical or sexual abuse, either by their employer or a family member of their employer, and 45% reported fearing physical harm if they were to try to leave.<sup>2</sup>
15. Among the organizations in the campaign, a majority of the survivors they work with, around 75%, came to the US with employment-related visas. These survivors came primarily on A-3, G-5 and B-1 visas but others had come on J-1 visas, as students (F-1) or on low-skilled seasonal visas (H2-B).

#### ***Eliminating Immigration Vulnerability***

16. Domestic worker survivors of trafficking whose status in the US is tied to an employment visa, and those who lack immigration status or employment authorization, face tremendous hurdles accessing justice and holding their employers accountable.
17. To reduce vulnerabilities to exploitation inherent in these and other work visa programs, a comprehensive overhaul is needed, including regulation of labor recruiters, access to rights information and legal help, and the ability of workers to change employers while working in the US.

#### ***Promoting Accountability***

18. Most of the organizations in Beyond Survival have worked with survivors who have pursued civil litigation against their employers, and some have been successful in winning back stolen wages. However, accountability continues to be a major problem, particularly for workers in the US on A3/G5 visas in cases involving traffickers who are diplomats who can take advantage of legal protections such as diplomatic immunity to circumvent legal protections for domestic workers.
19. Other employers are often able to avoid paying wages after judgments are entered against them by moving outside of the US or through other means. Further advocacy efforts are

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<sup>2</sup> Sameera Hafiz and Michael Paarlberg, *The Human Trafficking Of Domestic Workers In The United States: Findings from the Beyond Survival Campaign*, National Domestic Workers Alliance and the Institute for Policy Studies (2017), available at [https://www.domesticworkers.org/sites/default/files/bs\\_report2017.pdf](https://www.domesticworkers.org/sites/default/files/bs_report2017.pdf)

needed to change policies and practices to ensure that domestic workers across the range of employment visa categories are afforded the same rights and protections as other workers, and that there are effective systems in place for workers to access justice and accountability for employers who commit trafficking and other forms of abuse.

### ***Involving Community-Based Organizations***

20. In addition to expanding the Department of State registration and monitoring program for domestic workers employed by diplomats to other cities with a high number of these visa holders, the State Department should work with culturally and linguistically appropriate community-based organizations that can help provide workers with information on human trafficking and rights education and ensure that workers have access to support and referrals to legal or other resources in cases of trafficking or abuse. This is an important strategy for the prevention and early identification of trafficking.

### ***Eliminating Erosion of Survivor Protections***

21. Beyond strengthening prevention and identification of trafficking, existing protections for survivors must be safeguarded. Under the Trump Administration, legal protections for survivors of trafficking are also under threat.
22. One of the critical protections that has enabled many immigrant survivors to escape their situations of trafficking and address their longer term needs and safety is the T visa, which allows certain immigrant survivors of trafficking to obtain a visa to remain in the US.
23. Currently however, these protections are under threat due to: narrower interpretations of eligibility and increasing difficulty getting law enforcement or labor agencies to certify T visa applications and lower USCIS approval rates;<sup>3</sup> potential applicants being deterred by the rule change that visa applicants that are denied will be automatically issued a Notice to Appear by USCIS;<sup>4</sup> and the elimination by the Department of Justice of immigration judge's ability to administratively close cases, a recourse that has been used by survivors of violence who are eligible for immigration relief but are currently in deportation proceedings and faced with lengthy wait times for their visas.<sup>5</sup>
24. Furthermore, increasingly harsh and indiscriminate immigration enforcement measures

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<sup>3</sup> Grant, M.G. (2018, August 22). It Is Now Even Harder for Trafficking Survivors to Get Visas. The Appeal. Retrieved from <https://theappeal.org/it-is-now-even-harder-for-trafficking-survivors-to-get-visas/>

<sup>4</sup> U.S. Citizenship and Immigration Services. (2018, June 28). Notice to Appear Policy Memorandum.. Retrieved from <https://www.uscis.gov/legal-resources/notice-appear-policy-memorandum>

<sup>5</sup> Brayman, L. (2018, June 4). The End of Administrative Closure: Sessions Moves to Further Strip Immigration Judges of Independence. Catholic Legal Immigration Network, Inc. Retrieved from <https://cliniclegal.org/resources/end-administrative-closure-sessions-moves-further-strip-immigration-judges-independence>

under the Trump Administration, coupled with a rise in anti-immigrant rhetoric and hate crimes, have created added fear and barriers for immigrant survivors of trafficking to access safety.

25. Several law enforcement agencies share responsibilities for investigating claims of labor trafficking, but the Department of Homeland Security's Immigration and Customs Enforcement is often the primary federal investigating agency for cases of domestic worker trafficking involving immigrants (both with or without authorization). Given ICE's role in deporting unauthorized immigrants, and an increase in very visible community and worksite raids, trafficked domestic workers are reluctant to report crimes committed against them.
26. This fear has been exacerbated by the increasing entanglement of ICE with state and local law enforcement agencies, which create the impression of local law enforcement as a federally deputized deportation force.
27. To ensure immigrant survivors can access safety and help, immigration enforcement practices must be changed to meet the needs of trafficking survivors and improve access to benefits and remedies. Such changes should include ending the involvement of state and local police in immigration enforcement, ensuring immigrant workers can assert their labor rights without fear of deportation and restoring prosecutorial discretion that prioritizes family reunification and human rights.

I declare under penalty and perjury under the laws of the United States that the foregoing is true and correct, to the best of my knowledge.

Name:                   /s/ Ai-jen Poo                    
Ai-Jen Poo  
Executive Director  
National Domestic Workers Alliance

Date:                   June 7, 2019