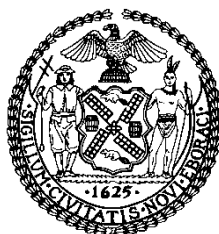


Catalina Cruz, Counsel
Muzna Ansari, Legislative Policy Analyst



THE COUNCIL

Briefing Paper of the Governmental Affairs Division

Matt Gewolb, Legislative Director
Rachel Cordero, Deputy Director, Governmental Affairs

COMMITTEE ON IMMIGRATION

Hon. Carlos Menchaca, Chair

Friday, February 27, 2015

**Oversight: Labor Trafficking in the Domestic Worker Industry-
Resources for Victims in New York City**

I. Introduction

On Friday, February 27, 2015, the Committee on Immigration, chaired by Council Member Carlos Menchaca, will hold an oversight hearing entitled “Labor Trafficking in the Domestic Worker Industry - Resources for Victims in New York City.” Those invited to testify include representatives of the Mayor’s Office of Immigrant Affairs (“MOIA”), affected individuals, legal service providers, worker advocacy groups, and academics who have researched the needs of trafficking victims.

II. Background

There are approximately 200,000 domestic workers in New York City¹, though the actual number may be higher, as undocumented workers are often difficult to identify.² These workers care for their employers’ homes and families; as nannies, housekeepers, elderly companions, cleaners, babysitters, nurses and cooks.³ Many of these domestic workers have been subjected to deplorable working conditions, including wage theft, long work hours with little or no breaks, and verbal, sexual and physical abuse.⁴ In many cases, the workers’ race or lack of immigration status make them more vulnerable to these circumstances.⁵

Labor trafficking of domestic workers is a serious problem in New York City. A 2011 study by Hofstra University and the Lifeway Network found that during the years 2000 through 2010, approximately 11,268 human trafficking victims interacted with private service providers

¹ Linda Burnham & Nik Theodore, *Home Economics: The Invisible and Unregulated World of Domestic Work*, National Domestic Workers Alliance, Center for Urban Economic Development and University of Illinois at Chicago DataCenter (2012).

² Domestic Workers United & DataCenter, *Home is Where the Work Is: Inside New York’s Domestic Work Industry*, (July 14, 2006).

³ *See Id.*

⁴ Tiffany Williams, *Beyond Survival: Organizing to End Human Trafficking*, National Domestic Workers Alliance, (January 2015).

⁵ *Id.*

in New York City.⁶ This same study determined that labor trafficking victims represented approximately 21.5% or 2,422 of the trafficking victims receiving services.⁷ Other studies and anecdotal accounts of human trafficking consistently identify a significant portion of labor trafficking victims as domestic workers.⁸ Human trafficking not only violates federal and state law, but it is also a violation of the freedom and basic human dignity of these workers.⁹

Domestic work occurs behind closed doors, making it difficult for workers to learn their rights and seek help when their rights have been violated.¹⁰ This also hinders the ability of service providers and appropriate government agencies to identify and serve the needs of possible victims.¹¹

III. Labor Trafficking

Human trafficking, also known as “modern slavery”¹² is not just a problem of massive international proportions, it is also a crime affecting thousands of New Yorkers every day.¹³ Human trafficking can occur in both legal and illegal businesses and activities,¹⁴ and it is characterized by the trafficker’s abuse of power against the victim for financial gain.¹⁵ Human trafficking is defined as the act of recruiting, harboring, transporting, providing, or obtaining a

⁶ Gregory Maney, et al, *Meeting the Service Needs of Human Trafficking Survivors in the New York City Metropolitan Area: Assessment and Recommendations*, (2011).

⁷ According to the National Trafficking Resource Center, an organization that operates the National Human Trafficking Hotline, in 2014, they received calls with 904 calls, 44 of which resulted in a possible labor trafficking case. National Trafficking Resource Center Statistics, available at <http://www.traffickingresourcecenter.org/state/new-york> (last visited, Feb. 25, 2014).

⁸ *Beyond Survival*, *supra* note 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² See *Meeting the Service Needs*, *supra* note 6; also see *Beyond Survival*, *supra* note 4.

¹³ Hofstra University’s survey estimates that “that private service providers in the New York City metropolitan area have interacted with at least 11,268 survivors between 2000 and 20100.” See *Meeting the Service Needs*, *supra* note 6.

¹⁴ See Hope for Children Organization of Australia, *the Global Slavery Index 2014*, (2014).

¹⁵ See International Labour Office, *Profits and Poverty: the Economics of Forced Labour*, (2014).

person for compelled labor or commercial sex acts through the use of force, fraud, or coercion.¹⁶

“The United States is considered a source, transit, and destination country for men, women, and children—both U.S. citizens and foreign nationals—subjected to sex trafficking and forced labor”.¹⁷ At a local level, New York City has been consistently identified as a preferred hub for human traffickers.¹⁸ The City’s various national and international airports, along with a large population and diverse types of formal and informal industries make it an ideal setting for this crime to occur.¹⁹ Although reports consistently identify a significant portion of labor trafficking victims as domestic workers, victims have also been identified in other major industries like hotels and hospitality, and agriculture.²⁰

This crime often occurs in obscurity, making identification and quantification of the problem a difficult task.²¹ However, some entities like the International Labour Office (ILO) have attempted to provide an idea of the magnitude of the issue. According to ILO, there are approximately 21 million victims of human trafficking worldwide.²² National statistics have varied, with some sources indicating that there are as few as 60,000²³ victims, while others estimate as many as 800,000²⁴ victims in the United States, with approximately 14,500 to 17,500

¹⁶ International, Federal and State definitions may vary depending on the specific legal elements of the crime, but for the most part, they all share the requirement of forced, fraud or coercion.

¹⁷ United States Department of State, *Trafficking in Persons Report 2014: Introductory Material*, available at <http://www.state.gov/documents/organization/226844.pdf>, (last visited Feb. 25, 2015).

¹⁸ See Safe Horizon Anti Trafficking Program Fact Sheet, available at <http://www.safehorizon.org/page/anti-trafficking-program--60.html>, (last visited Feb. 25, 2015).

¹⁹ *Id.*

²⁰ See United States Department of State, *Trafficking in Persons Report 2014: Country Narratives 2014*, available at: <http://www.state.gov/documents/organization/226849.pdf>, (last visited Feb. 25, 2015).

²¹ See *Meeting the Service Needs*, *supra* note 6.

²² International Labour Organization, *Forced labour, Human Trafficking and Slavery Fact Sheet*, available at: <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>. Note that estimates by the Global Slavery Index of 2014, place those numbers closer to 35.8 million people. See Hope for Children Organization of Australia, *the Global Slavery Index 2014*, (2014).

²³ Hope for Children Organization of Australia, *the Global Slavery Index 2014*, (2014).

²⁴ Polaris Project, *Human Trafficking Statistics Fact Sheet*, available at: <http://www.cicatelli.org/titlex/downloadable/human%20trafficking%20statistics.pdf>, (last visited Feb. 25, 2015).

foreign nationals being trafficked into the country every year.²⁵ In New York City, the closest estimate comes from the Hofstra University study, which found that from 2000 to 2010 approximately 11,268 human trafficking victims interacted with private service providers.²⁶

Trafficking persons is an increasingly profitable business. According to the ILO, traffickers make approximately \$51.1 billion dollars from labor trafficking worldwide, with nearly \$8 billion being generated from domestic work alone.²⁷ The ILO also estimates that traffickers make roughly an average of \$7,500 per labor trafficking victim in the domestic work industry.²⁸ There are limited reliable estimates of the profit made by traffickers in New York City. However, based on the ILO numbers, it is likely that in New York City traffickers make profits in the millions of dollars from forced domestic labor.²⁹

Human Trafficking has been codified as a crime by both the federal and New York State governments.³⁰ The Trafficking Victim's Protection Act (TVPA), and the subsequent Reauthorization (TVPRA), criminalized sex and labor trafficking at the federal level.³¹ The TVPRA also provided victims with statutory protections including social service benefits such as education, mental and physical health care, and job training.³² Additionally, victims can obtain T-Visas, which provide up to 4 years of non-immigrant status, as well as U-visas, which provide

²⁵ *Id.*

²⁶ *Meeting the Service Needs*, *supra* note 6.

²⁷ United States Department of State, *Civilian Security, Democracy and Human Rights: The Economics of Forced Labour Fact Sheet*, available at: <http://www.state.gov/documents/organization/228263.pdf>, (last visited Feb. 25, 2015).

²⁸ *Profits and Poverty*, *supra* note 15.

²⁹ *See id.*

³⁰ *See* New York State Bar Association, *Special Committee on Human Trafficking Report 2013*.

³¹ 22 U.S.C. § 7102(9) (2013). Note that the TVPRA defines severe form of human trafficking in relation to labor 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.” *Id.*

³² *See Special Committee on Human Trafficking*, *supra* note 30.

victims human trafficking and involuntary servitude (as well as other qualifying crimes), with a temporary visa.³³

New York State followed suit in 2007 by enacting the Anti-Human Trafficking law, which criminalized labor and sex trafficking at the state level.³⁴ New York State's law provides victim resources and further access to services.³⁵ Pursuant to New York Social Services Law Section 483-cc, persons who are identified and confirmed as victims of human trafficking may access emergency services like housing, food, mental health and other social services. Alarming, since the enactment of this law in 2007, only 37 people in New York City have been confirmed as victims of labor trafficking.³⁶ The law also directs state agencies to aid victims of human trafficking in obtaining a T-Visa by providing the victim or his representative with the required forms and certifications.³⁷

Small-scale reports and anecdotal accounts have pointed out that a majority of labor trafficking victims in New York City are in the domestic work industry.³⁸ In 2013, the City Bar Justice Center (CBJC) released a report examining approximately 150 of its own human trafficking cases.³⁹ The CBJC study found that 54.6% of the participants had been victims of

³³ See Trafficking Victims Protection Act §101(a) (15) (U) (iii).

³⁴ Under this law, a "person is guilty of labor trafficking if he or she compels or induces another to engage in labor or recruits, entices, harbors, or transports such other person by means of," among other things, drug inducement, debt bondage, immigration related penalties, "force" and "fear" of injury and damage to personal property. See NY CLS Penal § 135.35.

³⁵ See NY CLS Soc Serv § 483-bb, describing the process by where an authorized state agency may refer a possible victim for confirmation and emergency services.

³⁶ E-mail from Erika Hague, Temporary Assistance Specialist 2, Office of Temporary Disability and Disability Assistance to Catalina Cruz, Counsel to the New York City Council's Committee on Immigration, (Feb. 19, 2015) (on file with the Committee).

³⁷ "Upon the request of a human trafficking victim or a representative of a human trafficking victim, the state or local law enforcement agency or district attorney's office shall provide the victim with the United States Citizenship and Immigration Service (USCIS) Form I-914 Supplement B Declaration of Law Enforcement Officer for Victim of Trafficking in Persons." NY CLS Soc Serv § 483-dd.

³⁸ City Bar Justice Center, *Spotlight on 150 Human Trafficking Cases*, (December 2013).

³⁹ *Id.*

labor trafficking, and 79.3% of those labor trafficking victims were domestic workers.⁴⁰ Similarly, attorneys from Safe Horizon's Anti-Trafficking Program have reported that a large fraction of the program's clients are immigrant survivors of trafficking into domestic servitude.⁴¹

Immigrant domestic workers are often targeted by human traffickers who take advantage of their economic situation.⁴² Traffickers often recruit workers in their native country and bring those workers to the United States or recruit workers from their communities once they have migrated.⁴³ Traffickers typically make false promises of employment and/or charge workers exorbitant recruitment fees.⁴⁴ If charged such a fee, workers are then forced to work to pay off the existing debt and may be subjected to physical, sexual and psychological threats.⁴⁵

Domestic workers, who are also victims of labor trafficking, possess vulnerabilities that necessitate specific types of services. These services should not only help workers escape trafficking situations, but should also aid them in rebuilding their lives.⁴⁶ In order to achieve this, it is important to first understand why many of these workers are trafficked in the domestic work industry.

IV. Domestic Work Industry and Worker Vulnerabilities

Domestic workers often share similar demographics and backgrounds, as well as other characteristics, which place them at an increased risk of exploitation.⁴⁷ Many of them face

⁴⁰ *Id.*

⁴¹ *Beyond Survival*, *supra* note 4.

⁴² See Colleen Owens, et. al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, Urban Institute & Northeastern University (2014).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Meeting the Service Needs*, *supra* note 6.

⁴⁷ See *Understanding the Organization*, *supra* note 42. "In a survey of 244 domestic workers in San Francisco, for example, the vast majority of respondents reported being Latina (94 %), female (98%), and born outside the United

economic hardship, yet often have to provide financial support for their families in the United States and back home.⁴⁸ Research indicates that domestic workers, especially women, also confront various forms of abuse, harassment, and exploitation, including sexual and gender-based violence.⁴⁹ Furthermore, live-in employees have been found to be particularly at risk of exploitation⁵⁰, while undocumented workers have a significant prevalence of being abused or otherwise victimized.⁵¹ Economic necessity, compounded with other social vulnerabilities, often forces workers to accept any job, and endure substandard and often illegal working conditions.⁵²

The industry is not without regulations. Federal law provides domestic workers with limited safeguards to ensure that they are protected once they reach an old age⁵³, become disabled⁵⁴, or are unemployed.⁵⁵ Protections also exist to provide most domestic workers with at least minimum wage⁵⁶, and overtime.⁵⁷ However, overtime is only available to domestic workers that do not live with their employers.⁵⁸ New York State has established its own protections for domestic workers. In 2010, the State passed the Domestic Workers Bill of Rights, setting enforceable standards for overtime pay, rest days, paid days off, and other worker protections, as well as for the abuse of domestic workers.⁵⁹

States (99%). Moreover, 1 in 5 respondents said she had been insulted or threatened by her employer, and 1 in 10 indicated she had been sexually harassed and/or a victim of violence within the last two months.” *Id.*

⁴⁸ *See Home is Where the Work Is*, *supra* note 2; also see *Beyond Survival*, *supra* note 4.

⁴⁹ *Beyond Survival*, *supra* note 4.

⁵⁰ *Home is Where the Work Is*, *supra* note 2.

⁵¹ *Beyond Survival*, *supra* note 4.

⁵² *Home economics*, *supra* note 1.

⁵³ 42 U.S.C. §410.

⁵⁴ *Id.*

⁵⁵ *See* United States Department of Labor, *Unemployment Insurance Training on Federal Unemployment Tax Act (FUTA)*, available at:

<http://www.unemploymentinsurance.doleta.gov/unemploy/pdf/uilawcompar/2011/coverage.pdf>, (last visited Feb. 26, 2015).

⁵⁶ 29 U.S.C. § 213(b)(21); also see United States Department of Labor, *Fact Sheet #79B: Live-in Domestic Service Workers Under the Fair Labor Standards Act (FLSA)*, available at

<http://www.dol.gov/whd/regs/compliance/whdfs79b.pdf>, (last visited Feb. 26, 2015).

⁵⁷ *Id.*

⁵⁸ 29 U.S.C. § 213(b)(21).

⁵⁹ *See* Domestic Workers Bill of Rights No. A1470B/S2311E of 2009.

Despite the existing federal and statewide protections, workers continue to experience abuse and labor violations at the hands of their employers.⁶⁰ A national survey looking at the working conditions and experiences of over 2,000 domestic workers across 14 metropolitan cities, including New York City, found that 23% of workers surveyed were paid less than minimum wage, while 35% reported that they worked long hours without breaks.⁶¹

Locally, Domestic Workers United (DWU) conducted a survey of 547 domestic workers in New York City from 2003 to 2004.⁶² DWU's survey found that, approximately 41% of the workers that participated in the survey earned low wages, with 26% earning wages below the poverty line or below minimum wage.⁶³ Half of the workers reported that they often worked more than 50-60 hours a week and at least 67% didn't receive overtime pay for overtime hours worked.⁶⁴ Along with wage theft and other labor related violations, approximately one third of workers surveyed experienced verbal or physical abuse or had been made to feel uncomfortable by their employers.⁶⁵ The abuse and violations experienced by many domestic workers is also characteristic of the abuse and violations experienced by labor trafficking victims, generally.⁶⁶

Immigrant domestic workers are often the target of traffickers.⁶⁷ They may pay or become indebted to the employer or a third party in order to migrate to the United States and/or obtain the actual job, a process that can result in debt bondage.⁶⁸ Many domestic workers also experience fraud; they are lured with false promises of employment opportunities and are later

⁶⁰ *Home economics*, *supra* note 1.

⁶¹ *Id.*

⁶² *Home is Where the Work Is*, *supra* note 2.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *See Beyond Survival*, *supra* note 4.

⁶⁷ *Id.*

⁶⁸ *See Home is Where the Work Is*, *supra* note 2; *also see Beyond Survival*, *supra* note 4.

subjected to threats or actual physical harm, psychological coercion, abuse of the legal process, deception, or other coercive means to compel them to work.⁶⁹

Once a worker is identified as a labor trafficking victim, some services are available to help them escape their situation and find support in adjusting to their new life. Such services can be crucial for meeting basic needs and to avoid falling into similar situations. However, domestic work generally occurs in isolation, which in turn limits the workers' ability to move freely and seek help.⁷⁰ The worker's status⁷¹ or the relationship with the employer can also hinder a service provider's ability to help the worker, as the worker may feel extremely reliant upon the employer for survival and/or may be afraid of retribution if they reach out for help.⁷²

V. Survivor Services

Trafficking survivors' lives are riddled with challenges. If they escape their captors, meeting immediate and long terms needs is critical.⁷³ Hofstra's study, took an in-depth look at the services provided by private organizations in New York City working with human trafficking survivors.⁷⁴ This study highlighted "a large gap [] between the need for housing for survivors of human trafficking in the New York City metropolitan area [], and its availability."⁷⁵ Specifically, the study found that long-term housing was a problem: while the service was needed by 86.6% of clients, only 3.9% actually received it.⁷⁶ As the NDWA explains, "trafficked

⁶⁹ See *Meeting the Service Needs*, *supra* note 6.

⁷⁰ See *Home economics*, *supra* note 1; also see *Home is Where the Work Is*, *supra* note 2; also see *Beyond Survival*, *supra* note 4.

⁷¹ NDWA's survey found that "85 percent of undocumented immigrants who encountered problems with their working conditions in the prior 12 months did not complain because they feared their immigration status would be used against them." *Home economics*, *supra* note 1.

⁷² See *Beyond Survival*, *supra* note 4.

⁷³ *Id.*; also see *Meeting the Service Needs*, *supra* note 6.

⁷⁴ *Meeting the Service Needs*, *supra* note 6.

⁷⁵ *Id.*

⁷⁶ *Id.*

domestic workers are particularly at risk of homelessness because they often live in the home of the employer.”⁷⁷ NDWA further explains that “what’s needed is specialized housing: short-term emergency housing that is safe, immediate, culturally/linguistically accessible, and free, and long term housing that is accessible to victims who may not have good credit or work histories, and [is] affordable for workers who are just getting back to the workforce after trafficking.”⁷⁸

In addition to housing, trafficking victims have other social service needs ranging from legal assistance to trauma counseling, and medical care to employment services.⁷⁹ NDWA asserts that, “after housing, two areas in particular remain significant needs...mental health (in particular culturally and linguistically competent trauma counseling) and good jobs.”⁸⁰ However, access can often be an issue.⁸¹ Some of the findings from the Hofstra study are striking: while medical care is needed by almost 81% of clients, it is offered by only 1.8% of providers; and while employment placement is needed by 68% of clients, it is offered by only 12.8% of providers.⁸² Additionally, not all victims are able to access services equally: “three sub-groups of victims are most likely to be underserved: transgender victims, male survivors, and survivors under the age of 18.”⁸³ Alarming, Hofstra’s study also found that almost half of all providers “felt incapable of providing services to transgender individuals if they are survivors of labor trafficking.”⁸⁴

City agencies can also serve as a resource for survivors and service providers. New York City’s Mayor’s Office of Immigrant Affairs (MOIA) helps provide immigrant crime victims with

⁷⁷ *Beyond Survival*, *supra* note 4.

⁷⁸ *Id.*

⁷⁹ *Id.*; also see *Meeting the Service Needs*, *supra* note 6.

⁸⁰ *Beyond Survival*, *supra* note 4.

⁸¹ *Id.*; also see *Meeting the Service Needs*, *supra* note 6.

⁸² *Meeting the Service Needs*, *supra* note 6.

⁸³ *Id.*

⁸⁴ *Id.*

access to services.⁸⁵ The agency can help connect victims with city services or community based organizations that can help address their specific needs.⁸⁶

It is important to understand the types of services that exist and establish best practices for ensuring that agencies and providers are meeting the needs of victims in the best way possible. Failure to do so can create additional negative consequences for trafficking victims, including but not limited to: “experiencing additional human rights abuses, physical complications, psychological complications, social disorientation, unemployment, poverty, and suicide.”⁸⁷

VI. Conclusion

Domestic workers who are labor trafficking survivors require a variety of services, and while some services are available to this group in New York City, research shows that many vital needs are largely unmet.⁸⁸ These needs include but are not limited to emergency and long-term housing, medical care, telephone services, formal/general education, and volunteer programs for survivors.⁸⁹ Many advocates have described challenges in providing such services due to funding deficiencies and staffing limitations.⁹⁰

Today’s hearing will allow the Committee to learn more about the need for, and availability of social services for domestic workers who have been trafficked, and what the City, service providers, and other interested parties can do to assist this population.

⁸⁵ See Mayor’s Office of Immigrant Affairs, Resources for Crime Victims, available at <http://www.nyc.gov/html/imm/html/victims/victims.shtml>, (last visited Feb. 26, 2015).

⁸⁶ *Id.*

⁸⁷ *Meeting the Service Needs*, *supra* note 6.

⁸⁸ *Id.*; also see *Beyond Survival*, *supra* note 4.

⁸⁹ *Id.*

⁹⁰ *Id.*