



Freedom Network USA

Special Rapporteur on contemporary forms of slavery,
including its causes and its consequences

Mr. Tomoya Obokata
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VIA EMAIL

29 March 2024

Prof. Obokata:

Freedom Network USA (FNUSA) submits the following comments for your report on workers' organizations' role in preventing human trafficking. FNUSA is the United States' largest coalition of service providers and advocates working directly with human trafficking survivors and is committed to the human rights-based approach to human trafficking. Our 100+ members include survivors, legal and social service providers, academics, and advocates.

2. Workers' organizations' role in preventing human trafficking and helping victims

Workers' organizations in the United States provide protective factors against labor exploitation through better wages, grievance processes for labor violations, and better working conditions. US union workers make 18 percent higher salaries in a year than their non-union counterparts. The difference in union wages is even higher for African American workers and Hispanic workers, who make 20 percent and 35 percent more, respectively, than their non-union counterparts.ⁱ Union shops have safer working conditions and more effective grievance mechanisms for workers.ⁱⁱ These conditions make it more difficult for employers to exploit union workers and help reduce pay gaps for women, Black people, Indigenous people, and people of color.

In addition to the general prevention measures provided by unions, other worker organizations have taken direct action to help vulnerable workers. The Worker-Driven Social Responsibility Network is made up of worker organizations, allies, and advisors working on expanding, promoting, and replicating worker-driven social responsibility models in supply chains around the world.ⁱⁱⁱ The National Domestic Workers Alliance launched a worker and survivor-led campaign to end human trafficking of domestic workers through policy changes and peer-to-peer organizing efforts.^{iv}

In New York State, multiple worker-led organizing efforts are protecting workers and creating policies that prevent trafficking. Farmworkers in the US are particularly vulnerable to trafficking because many workers are hired on immigration visas that offer very few worker protections, and many workers are undocumented without work authorization from the US government. To address the low wages and lack of overtime protections for farmworkers, workers organized to pass a law that provides farmworkers the right to overtime pay and collective bargaining.^v In 2021, the state's first farmworker union began organizing for overtime pay, better wages, and better safety protections. Unions in New York have also been improving outreach efforts to

undocumented and temporary immigrant workers. In early 2023, the US government authorized the Deferred Action for Labor Enforcement program that provides immigrant workers with temporary protection from immigration removal after reporting labor violations. When workers have deferred action, they are eligible for work authorization and union membership, increasing their access to unions' protective benefits. Unions and service organizations like the Worker Justice Center of New York^{vi} have also been able to perform outreach to refugees resettled in the state to help them find safe employment situations as they receive work authorization.

4. Workers' organizations defending rights of workers in high risk sectors

Formal workers' organizations face significant legal and structural barriers to organizing, but despite the major gaps in US law protecting collective action, worker organizing takes place throughout many sectors. In the US, many jobs should be safe, and workers should have access to complaint mechanisms, but the lack of protective laws, compliance with basic safety measures by employers, and protections for workers in the sex trades create vulnerabilities to trafficking.

The Fair Food Program is a worker-driven social responsibility partnership that ensures agriculture workers have humane wages and working conditions. The program includes code of conduct agreements with growers and buyers to implement consistent worker protections and pay, worker-to-worker rights education, independent auditing, and market-based enforcement that requires buyers to suspend purchases from growers who fail to comply with the code of conduct. Buyers in the program include large fast food chains like Burger King, McDonald's, and Subway and national grocery chains like Whole Foods, Walmart, and Trader Joe's. The program has resulted in major reforms and a drastic reduction of forced labor in the tomato industry in Florida.^{vii}

Workers have also been organizing within the gig economy to earn protections for independent contractors. The sector has grown significantly, with over 3 million new workers added between 2019 and 2021, a majority being people of color.^{viii} Workers across the gig economy are classified as independent contractors, denying them access to benefits and collective bargaining.^{ix} Rideshare drivers and delivery drivers have been organizing to demand better pay, transparency about pay and tips, improved safety measures, and protections from retaliation.^x Despite organizing difficulties, workers have been making significant strides toward unionizing. They have also won victories, such as a new regulation that would reclassify many gig workers as employees and state laws that bring delivery drivers up to minimum wage.^{xi,xii}

Workers at Amazon, which employs over 1.5 million workers^{xiii} across the US, have been organizing in warehouses across the country for better safety protections and pay. In 2021, Amazon's warehouse injury rate was almost 1.5 times the industry rate.^{xiv} The Amazon Labor Union^{xv} successfully unionized its first fulfillment center in 2022 despite intense opposition from Amazon, including multiple instances of illegal retaliation, threats, and racialized comments.^{xvi}

Other important organizing is taking place in often overlooked sectors. The New York Healthy Nail Salons Coalition is organizing nail salon workers to fight for minimum safety standards and fair pricing.^{xvii} The Union of Southern Service Workers works to transform service jobs across the Southern United States into good union jobs with fair pay and strong safety protections.^{xviii} Black and Brown workers in the South have historically been excluded from organizing rights, resulting in lax labor protections for workers in the service industry. The #JustPay Campaign seeks to create a wage and benefits schedule that prevents human services workers in New York from being paid poverty wages.^{xix} The Model Alliance works to promote fair treatment, equal opportunity, and sustainable practices across the fashion industry. Matahari utilizes grassroots organizing to support women and femme workers in the domestic and service industries to fight wage theft and gain minimum safety and wage protections.^{xx}

Across industries under the sex work umbrella, workers have been organizing to protect each other and advocate for better working conditions. Workers in these industries are not inherently vulnerable to trafficking but are made vulnerable by policy failures and stigma. Grassroots organizing of Asian and Migrant sex workers and massage workers in New York City by Red Canary Song has created mutual aid efforts to assist workers with everyday needs and policy proposals to protect workers from abuse and trafficking.^{xxi} In Washington, Strippers are Workers organized dancers in adult entertainment clubs to propose and pass two pieces of legislation that provide significant protections for workers, including know-your-rights training, minimum security staffing, panic buttons, customer black-lists, caps on dancer fees, and a ban on back rent.^{xxii}

5. Challenges in preventing trafficking and protecting victims

The primary challenge workers face in preventing trafficking is the limitations on organizing within US law. Workers in many industries lack basic labor protections, are unable to organize, or are banned from taking collective action. There is also a stigma about unions fueled by union-busting and harassment by employers, negative interactions between unions and non-union workers, and anti-union messaging by companies and politicians. In some states, the lack of federal labor protections compounded with “right to work” and anti-immigrant laws have created opportunities for employers to exploit immigrant workers.

The US also administers multiple temporary worker visas that provide few protections for workers and are frequently utilized by traffickers. Temporary and seasonal workers on H-2A and H-2B visas often experience abuse and exploitation and face significant hurdles to reporting violations.^{xxiii} They are often unaware of their rights and isolated, and complaint follow-up is difficult once they have left the country. When workers do make complaints, they are not welcomed back for another season. The H-2B visa is tied to a specific employer, so workers are forced to remain in abusive jobs because they have nowhere else to go. Employers that violate labor laws often continue operating, sometimes under new names.

Many other work visas provide few protections and force people into positions where they are more likely to experience trafficking. Domestic workers traveling with diplomats on A-3 and G-5 visas are often isolated and unable to report trafficking, and their employers rarely face

punishment for exploiting them. Similar issues arise for the Au Pair program, where workers are isolated, unaware of their rights, and face significant barriers to reporting. International students in work-study and exchange visitor programs have little oversight, and the recruiting businesses are responsible for informing visitors of their rights and reporting abuses.^{xxiv}

The US is geographically large, which creates significant challenges for outreach to workers in remote places. Many workers in agriculture, construction, fishing, and natural resource extraction, like drilling and mining, are cut off from resources to report trafficking or organize. Many Indigenous people work in these industries, and few resources are dedicated to identifying and providing services to Indigenous survivors outside of major cities.^{xxv}

Undocumented workers have historically been left out of unionization efforts and perceived as threats to union jobs because of their low wages. This relationship between unions and undocumented workers has been improving since the National Day Laborer Organizing Network and the AFL-CIO signed a partnership agreement in 2006, but there is still a long way to go to protect both undocumented and union workers.^{xxvi} The lack of diversity in unions and among leadership needs to improve to expand access and include migrant workers. Immigrant workers need more opportunities for work authorization. Otherwise, many workers are unable to join unions and benefit from collective bargaining.

The anti-human trafficking sector has largely focused on sex trafficking in the US, and many organizations do not see unions as valuable partners. Few organizations acknowledge that unions are crucial trafficking prevention measures, and do not reach out to unions to partner on anti-trafficking initiatives, resulting in missed opportunities for collaboration.

Lastly, because the US has not adopted a framework that recognizes sex work as work, sex workers are left out of organizing efforts and legal protections, creating vulnerabilities to trafficking in the industry.

6. Practical recommendations

Anti-human trafficking organizations can take many steps to help support unions in preventing trafficking. They should prioritize meaningful partnerships with workers' rights organizations to build trust, share resources, and align goals. The anti-trafficking community should adopt a labor rights framework to prioritize protecting workers to prevent trafficking. Organizations can also seek out training from workers' rights organizations to understand the many forms of worker exploitation and how to prevent them. Anti-trafficking organizations can also partner on criminal record know-your-rights training so survivors with records can know their rights when interviewing.

Workers' rights organizations have a role to play in preventing the exploitation of children. Across the US, states are weakening child labor laws, making children more vulnerable to trafficking. Union shops provide mechanisms to report labor violations and have strong protections against children working in unsafe conditions. Expansions of worker organizing can allow workers in more industries to create protective policies that prevent children from being

exploited and provide better reporting mechanisms to more workplaces. Unions' access to workers is key to identifying exploitation across all age groups.

To increase worker organizing, barriers to collective action need to be removed. US labor law needs reform to protect workers' rights to organize. Unions need to make changes to improve access as well, including providing language access services. Unions need resources in more languages and organizers that speak workers' languages. Language access needs to extend to apprenticeships to reduce barriers to good union jobs. Racism and discrimination also prevent workers from joining unions and should be addressed across all industries. Clear information about expectations and membership for apprenticeships is important to allow workers to access apprenticeships. Organizing efforts should also expand to rural areas and non-traditional industries like gig work to help more workers.

Thank you for your consideration of these comments.

Sincerely,



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ⁱⁱ "Unions as Trafficking Prevention," Freedom Network USA, 25 October 2022, <https://freedomnetworkusa.org/2022/10/25/unions-as-trafficking-prevention/#:~:text=If%20they%20don't%20pay,take%20action%20against%20the%20employer.>

ⁱⁱⁱ Worker-Driven Social Responsibility Network, "About Us," <https://wsr-network.org/about-us/>

^{iv} National Domestic Workers Alliance, "Beyond Survival," <https://www.domesticworkers.org/programs-and-campaigns/developing-policy-solutions/beyond-survival/>

^v Sara Herschander, "How Farmworkers Are Organizing to Close the Wage Gap," Capital and Main, 7 January 2022, <https://capitalandmain.com/how-farmworkers-are-organizing-to-close-the-wage-gap>

^{vi} Worker Justice Center of New York, <https://www.wjcnyc.org/outreach>

^{vii} Fair Food Program, <https://fairfoodprogram.org/>

^{viii} Fola Akinnibi, "Gig Worker Protections Find Testing Ground in NYC, Seattle," Bloomberg, 2 January 2024, <https://www.bloomberg.com/news/articles/2024-01-02/delivery-drivers-for-uber-doordash-see-new-pay-protections-in-2024?embedded-checkout=true>

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^x See, Los Deliveristas Unidos, <https://losdeliveristasunidos.wordpress.com/>

Justice for App Workers, <https://justiceforappworkers.org/>

International Alliance of Delivery Workers, <https://weareiadw.org/>

Gig Workers Collective, <https://www.instagram.com/gigworkerscollective/?hl=en>

^{xi} Lisa Held, “Delivery Workers Are the Next Frontier of Labor Organizing,” Eater, 9 May 2022, <https://www.eater.com/23060554/delivery-workers-unionized-gig-economy-protections>

^{xii} Fola Akinnibi, “Gig Worker Protections Find Testing Ground in NYC, Seattle,” Bloomberg, 2 January 2024, <https://www.bloomberg.com/news/articles/2024-01-02/delivery-drivers-for-uber-doordash-see-new-pay-protections-in-2024?embedded-checkout=true>

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^{xiv} Katie Tarasov, “Amazon’s worker safety hazards come under fire from regulators and the DOJ,” CNBC, 15 April 2023, <https://www.cnbc.com/2023/04/15/osha-cites-amazon-for-unsafe-warehouses-as-injury-numbers-remain-high.html>

^{xv} Amazon Labor Union, <https://www.amazonlaborunion.org/>

^{xvi} Annie Palmer, “Amazon broke federal labor law by calling Staten Island union organizers ‘thugs,’ interrogating workers,” CNBC, 1 December 2023, <https://www.cnbc.com/2023/12/01/amazon-broke-federal-labor-law-by-racially-disparaging-union-leaders.html>

^{xvii} NY Healthy Nail Salons Coalition, <https://nyhealthynails.org/>

^{xviii} Union of Southern Service Workers, <https://ussw.org/>

^{xix} #Just Pay, <https://www.justpayny.org/>

^{xx} Matahari Women Workers’ Center, <https://www.mataharijustice.org/>

^{xxi} Red Canary Song, <https://www.redcanarysong.net/>

^{xxii} Strippers are Workers, <https://www.strippersareworkers.org/>

^{xxiii} Freedom Network USA, “Human Trafficking and H-2 Temporary Workers,” May 2018, <https://freedomnetworkusa.org/app/uploads/2018/05/Temporary-Workers-H2-May2018.pdf>

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