



PROMOTE ECONOMIC JUSTICE AND FINANCIAL SECURITY FOR SOUTH ASIANS.

Employed in a variety of occupations in the United States – from engineers, doctors, and lawyers to convenience store clerks, assembly-line workers, restaurant workers, taxi workers, and domestic workers – **South Asians face challenges in the workplace that cut across class, religious, and national origin lines.** Specifically, many South Asians are unable to attain financial security and economic independence because of immigration restrictions placed on foreign-born workers; limitations on the right to organize and unionize; exploitation in the workplace; labor trafficking; and discrimination by employers, landlords, and financial institutions.

Over 200,000 South Asians currently work in the United States on temporary visas and many others work without authorization. Working-class South Asians and temporary workers encounter unique types of harassment and exploitation, often compounded by limited language skills, immigration status, lack of information about rights and resources, and labor law restrictions. South Asian immigrants on skilled worker visas also encounter difficulties, often locked into jobs for years without the opportunity for career advancement or transfer as they await approval of their green card applications.

In addition to labor rights violations and immigration restrictions on workers, **language and poverty block the path to economic empowerment for many South Asians.** A significant percentage of the community lives at or near poverty, which is a particular concern for many working-class South Asians. In fact, the majority of Bangladeshis in the United States live at 200% of the poverty line and more than one-fifth of Pakistani and Bangladeshi children live in poverty.ⁱ Although only 13% of Indians are at 125% of the poverty level, this constitutes more than 200,000 individuals.ⁱⁱ For example, increasing rates of poverty and limited English proficiency within the South Asian community, in addition to **increased discrimination following 9/11, have prevented many South Asians from obtaining affordable credit or access to fair housing.** Many are also unable to attain economic self-sufficiency because of the lack of linguistically accessible financial education and vocational training for South Asians. Policies at the state and federal levels must be enacted and implemented to promote the economic advancement of South Asians.

Labor Rights

Earning a Living Wage While many South Asians have careers in the technology and medical fields, prevalent occupations for South Asians also include cashiers, retail sales, and production occupations.ⁱⁱⁱ

In order to ensure the economic well-being of all South Asians, including those who are working-class or living at or near poverty levels, policies must be enacted and expanded to ensure that a living wage and basic benefits are awarded to all workers.

Enacting and enforcing fair wage laws is necessary for South Asians to attain economic-self-sufficiency. Currently, the *Fair Labor Standards Act (FLSA)* sets a federal minimum wage rate, maximum work hours, and overtime for employees in certain occupations. Yet, there is insufficient enforcement of these standards which are frequently violated by many employers. In addition, many workers are excluded from its protections because they are misclassified as “non-employees” under the law. This problem is especially acute for taxiworkers, who are considered “independent contractors”, and live-in domestic workers^{iv}, rendering them ineligible for overtime and other benefits under the *FLSA*.

Obtaining Work-Related Benefits Many working-class South Asians are often denied basic employment benefits, including workers’ compensation (*see text box*), a guarantee of a safe working environment, and health benefits. Specifically, the absence of basic protections concerning workplace safety has impacted South Asian workers in certain occupations. For example, regulations implementing the *Occupational Safety and Health Act (OSHA)*, which was created to ensure workers’ safety and health, explicitly exclude domestic workers, many of whom are South Asian, from its protections despite the fact that these workers frequently sustain work-related injuries. Such injuries include those resulting from heavy lifting, handling toxic cleaning chemicals, and prolonged exposure to dust.^v

Lack of health benefits is also an issue for many South Asian workers. In fact, a recent report showed that immigrant domestic workers in New York City have difficulty obtaining medical care, with nine out of ten domestic workers surveyed reporting that their employers did not provide health coverage.^{vi}

Labor Trafficking Immigration laws have facilitated the practice of labor trafficking and led to the virtual enslavement of many South Asian immigrants. Labor trafficking can occur through the use of force, fraud, or coercion to exploit a person for commercial sex or for the purpose of subjecting

a victim to involuntary servitude, debt bondage, or forced labor. The use of force or coercion can be direct and violent, or psychological. As a result of labor trafficking, many workers are prone to severe exploitation by unscrupulous employers who take advantage of them because of their precarious immigration status.

For example, many South Asian women who are employed as domestic workers for diplomats and staff of international and foreign government entities enter the country on temporary A-3, B-1, and G-5 visas.^{vii} Numerous cases have revealed that South Asian domestic workers endure harsh conditions amounting to force, fraud, and coercion, including being confined in the home where they work, being physically assaulted by their employer, and receiving no pay for work.^{viii} Many are hesitant to seek recourse because their ability to stay legally

in the United States hinges upon their relationship with their employer. Some fear reprisal from their employers including isolating them from the outside world and threatening them with deportation. This is often exacerbated for those employed by senior diplomats who are protected by diplomatic immunity.

Similarly, many skilled workers trafficked into the United States on H-2B visas (temporary visas for nonagricultural workers), suffer abuses at the hands of their employers but have difficulty escaping exploitation due to the terms of their visas. Contract and

wage violations under this visa program are rampant because the Department of Labor lacks the legal authority to enforce prevailing wage requirements under the visa or employer-employee contracts.^{ix} Worsening the situation are high fees that recruiters, contractors, and employers charge these workers in order to gain access to jobs.^x This forces many H-2B workers into serious debts that they must repay by taking out high interest loans, and selling their homes in their country of origin.^{xi}

The H-2B program also affects South Asians. In 2006, for example, over 500 Indian pipefitters and welders were brought to the Gulf Coast on H-2B visas, after paying a lifetime’s worth of earnings to recruiters. Once they arrived in the United States,

DID YOU KNOW?

Many working-class South Asians are often denied basic employment benefits, including workers’ compensation. Taxiworkers, for example, are employed in especially dangerous jobs environments where their lives are often at risk, yet many have no workers’ compensation. This affects many South Asians, given that 7% of taxidriviers across the country and close to 40% of taxidriviers in New York City alone are South Asian. *Sweatshops on Wheels: Review and Recommendations for L.A.’s Taxi Workers Alliance* (2006); *The New York City Taxicab Factbook*, Schaller Consulting (2006).

they were imprisoned by their employer and were threatened with deportation. Due to the terms of their temporary visas, they could not leave their jobs or change employers, despite the exploitation they suffered, without losing their immigration status.

The Right to Organize and Unionize The ability to unionize and/or organize is critical for workers in order to counter exploitation in the workplace and to ensure better wages and working conditions.

While the *National Labor Relations Act (NLRA)* protects workers' rights to collectively bargain for improved workplace conditions and wages, many employers continue to unfairly suppress such efforts. There have been numerous cases of employer retaliation against South Asian workers, particularly those in service and retail industries, who have attempted to organize and challenge unfair employer practices.^{xiii}

Attempts to unionize and challenge work conditions are especially difficult for many South Asian women employed as domestic workers. These workers are specifically denied the right to unionize as the *NLRA* explicitly excludes them from its definition of an "employee." Yet, domestic workers are routinely subjected to various forms of abuse, including: wage and hour violations; passport deprivation; physical, sexual, and emotional abuse; and restrictions on freedom of movement.^{xiii} The inability of these workers to unionize severely undercuts their leverage against exploitative employers and undermines their rights to basic benefits such as vacation, sick days, and notice prior to termination.

Discrimination and Immigration Enforcement

Discrimination Occurring at the Workplace Many South Asian workers encounter discrimination at the hands of their employers and co-workers. Such discrimination can be based on various factors, including the victim's race, religion, and/or national origin. While discrimination has long been an issue for the community, the prevalence of such incidents

has risen sharply following 9/11. In fact, the Equal Employment Opportunity Commission (EEOC) reported a significant spike in complaints of workplace discrimination against individuals perceived to be Muslim, Sikh, or South Asian following 9/11.^{xiv} At its peak, over 500 complaints of workplace-related discrimination, including denying Muslim employees the right to pray at work, were reported in 2005 by civil rights organizations.^{xv} Similarly, Sikhs have been denied jobs as well as entry into places of business unless

they remove articles of faith. In fact, a survey conducted among New York City Sikhs showed that one in ten respondents reported being refused employment or denied a job promotion because of their Sikh identity.^{xvi} Hate crimes against South Asian employees while on the job are also a major concern for many workers. This is particularly the case for individuals who work in controlled environments, such as taxi workers, convenience store employees, and food delivery workers, who have increasingly become targets for violence by customers since 9/11.^{xvii}

While various laws exist to protect victims of different forms of discrimination – including Title VII of the *Civil Rights Act* (which bars employment discrimination based race, color, religion, sex, or national origin); the *Americans with Disabilities*

Act (which bars employment discrimination based on disability); and the *Age Discrimination in Employment Act* – individuals working in small businesses or as domestic workers are often not protected.

Immigration Enforcement at the Workplace The escalation of "interior enforcement" of immigration laws by the Department of Homeland Security (DHS) at worksites has negatively affected immigrants, disrupted local businesses, and resulted in the separation of many families with mixed immigration statuses. Workplace raids are ineffective means of enforcement that criminalize workers who seek jobs and better lives.

DID YOU KNOW?

The trend among predatory subprime lenders to employ marketing practices that target low-income and minority communities affects South Asians. In fact, certain neighborhoods in New York City with significant South Asian populations have the highest percentage of subprime lending in the country. The lack of fair credit and the increase in predatory lending have serious financial consequences on the lives of many South Asians. In particular, they have stunted the ability of South Asians to be able to purchase their own homes. In fact, homeownership for South Asians is difficult because of predatory lending practices that often target low-income, LEP, and minority communities. A *Report on the Housing and Community Development Needs Assessment of South Asian Americans in New York City*, Chhaya Community Development Corporation (2001).

Employment Verification Programs Aimed at Immigrant Workers Existing and proposed electronic employment verification systems have had a detrimental impact upon all workers, regardless of immigration status. One concern with such programs is their reliance on government databases with high error rates; in fact, the Social Security Administration estimates that 17.8 million of its records contain discrepancies related to name, date of birth, or citizenship status, with 12.7 million of those records involving U.S. citizens.^{xxiii} Due to database errors, foreign-born lawful workers are 30 times more likely than native-born U.S. citizens to be incorrectly identified as unauthorized for employment.^{xx} Another concern is that employers may misuse the verification process and unjustly fire immigrant workers.^{xx} Evaluations of existing employment verification programs have shown that employers often preemptively engage in prohibited employment practices while attempting to be in compliance with the law, including pre-employment screening, adverse employment action without confirmation of a worker's immigration status, and failure to inform workers of their rights.^{xxi}

Financial Security and Affordable Housing

Access to Credit In our society's credit-based system, in order for individuals to make certain purchases, such as buying a home, or for small businesses to set up their enterprises, they must demonstrate an established record in properly managing debt. Yet, many mainstream lenders do not provide loans to individuals who do not have strong credit histories, including newly arrived immigrants and/or low-income individuals. As a result, these individuals are forced into subprime lending markets with loans that have high interest rates and exorbitant fees (*see text box*). Due to the harsh terms of such arrangements, many South Asians find themselves trapped in a vicious cycle of struggling to pay off oppressive loans while already in financial distress.

Tenants' Rights and Access to Fair Housing Despite the fact that tenants are entitled to a range of rights, many South Asians frequently face discrimination and harassment by landlords based on perceived or actual race, religion, national origin, or immigration status. The *Fair Housing Act* prohibits discrimination on the basis of race, color, religion, sex, handicap, familial status, or national origin in housing-related transactions. Yet, landlords often engage in abusive practices against South Asian tenants, such as: violating rent control laws; unjustified refusal to rent; charging higher rents; and providing short-term notices to vacate or evict. These experiences have been exacerbated in

the post-9/11 environment. In fact, a recent study revealed that housing discrimination was a pressing issue for 11% of South Asians, Arabs, and Muslims surveyed in New York City alone following 9/11.^{xxii}

Affordable Housing The absence of sufficient affordable housing affects many low-income South Asians in the United States, especially those who are economically disadvantaged. According to Census 2000, the rate of homeownership among South Asians is lower than the national average, with more than 50% renting instead of buying a home.^{xxiii} Census 2000 data also indicates that South Asian families tend to be larger than the national average, likely the result of extended family members living together. In areas with insufficient affordable housing, many large South Asian families are forced to live in overcrowded residences. In addition, local ordinances related to overcrowding, conversions of single-family homes for multi-family use that fine residents often have negative consequences on South Asians and other immigrants who live in crowded quarters because of the inability to afford to live elsewhere.^{xxiv}

Finally, the current national mortgage foreclosure crisis has had an impact on communities around the country. While information about its impact on South Asian communities is currently unavailable, it is important that legislative and outreach efforts related to resolving the crisis include culturally appropriate counseling and prevention services for immigrants.

Access to Linguistically Accessible Financial Education and Vocational Training Opportunities For working-class and poor South Asians, access to financial education and vocational training programs is critical. Yet there are limited job training and financial literacy and vocational programs at the state and local levels that provide assistance in a linguistically accessible manner. Through programs targeted towards South Asians, many within the community will be able to embark upon the path towards economic self-sufficiency and financial independence.

KEY RECOMMENDATIONS

Support the right to collect a decent living wage with benefits.

- Congress and state legislatures should enact legislation that provides a living wage to all workers.
- Congress and state legislatures should require companies that apply for government subsidies to provide living-wage jobs.
- Congress and state legislatures should enact policies that broaden the class of workers, including domestic workers and taxiworkers, who are eligible to receive overtime.
- Congress and state legislatures should enact policies allowing domestic workers to obtain worker's compensation for work-related injuries.
- Congress and state legislatures should require employers to provide health care coverage and medical leave to low-income workers.
- Public and private funders should support organizations working to promote the basic financial rights of working-class South Asians.

Ensure work environments are free from exploitation and provide protections for labor trafficking survivors.

- Congress and state legislatures should support policies ensuring the protection of workers exploited because of their immigration status are protected.
- Law enforcement and immigration authorities should implement training programs aimed at identifying and assisting trafficking survivors, including the establishment of immediate health care, immigration assistance, and social service referrals.
- The U.S. State Department should seek waivers of immunity for foreign diplomats who abuse immigrant workers they bring into the country so survivors can seek redress in court.
- Congress should amend immigration law to allow all temporary workers the ability to gain permanent immigration status.
- Congress should amend immigration law to allow workers on temporary visas greater ability to be able to change employers or jobs.
- Congress should amend immigration law to allow the Department of Labor to enforce contracts and monitor workplace conditions for H-2B visa holders.
- Government agencies should regulate companies that recruit foreign workers and implement caps on recruiting fees charged.
- Federal and state labor rights agencies should publish and disseminate *Know Your Rights*

guides for workers suffering employer abuse in South Asian languages.

- Federal and state labor rights agencies should provide trainings for employers on their obligation to protect the rights of immigrant workers.
- Congress should enact just and humane immigration reform that protects the rights of all immigrant workers.

Support the rights of workers who seek to organize regardless of occupation or immigration status.

- Congress and state legislatures should enact policies that protect and preserve the freedom of workers to choose whether or not to form a union regardless of immigration status.
- Congress and state legislatures should change policies that limit the ability of domestic workers to unionize and organize.
- Federal and state labor agencies should ensure strong enforcement of laws protecting workers who are subjected to employer retaliation for their unionizing and organizing efforts.

Provide protections for those affected by workplace discrimination.

- Congress and state legislatures should adequately fund and support federal and state agencies charged with enforcing laws prohibiting discrimination in the workplace.
- Congress and state legislatures should preserve the ability of workers discriminated in the workplace the right to file lawsuits against their employers.
- Congress and state legislatures should enact policies that guarantee employees the right to practice their faith in the workplace.
- Federal and state labor and civil rights agencies should provide trainings to employers on cultural competency in South Asian cultures and religions.
- Federal and state civil rights agencies should publish and disseminate Know Your Rights materials in South Asian languages for individuals discriminated in the workplace.

Cease immigration enforcement at the workplace.

- Immigration and Customs Enforcement (ICE) should terminate enforcement strategies that target immigrant workers and employ racial profiling tactics.
- ICE should ensure that enforcement initiatives do not separate immigrant workers from their families.
- The Department of Homeland Security should ensure that employment verification programs do not lead unjust terminations and racial profiling of immigrant workers by employers.

Ensure access to financial education and vocational training opportunities for immigrant and limited English proficient workers.

- Federal and state agencies should provide resources on credit and financial education in South Asian languages.
- State immigrant affairs agencies should offer and provide funding for English as a Second Language (ESL) courses.
- State employment agencies should offer and provide funding for job training in South Asian languages for low-income or unemployed immigrants.
- Federal and state immigrant affairs agencies should provide funding for community organizations that offer training programs for low-income immigrants.

Ensure access to fair and affordable credit for immigrants.

- Congress and state legislatures should ensure that affordable loans from mainstream prime lenders are accessible to newly arrived and low-income South Asian immigrants.
- Congress and state legislatures should support and enforce anti-predatory lending legislation.
- Federal and state agencies that regulate the lending industry should prohibit predatory lending practices that target individuals based upon race, ethnicity, immigration status, and other factors unrelated to credit worthiness.
- Federal and state agencies that regulate the lending industry should disaggregate lending data by national origin to ascertain how discriminatory lending practices affect South Asians.
- Federal and state housing agencies should increase *Know Your Rights* resources on predatory lending for affected individual in South Asian languages.
- Federal and state housing agencies should support home ownership assistance and counseling provided by community-based organizations serving South Asians.

Ensure enforcement of tenants' rights and fair housing policies.

- Congress and state legislatures should adequately fund and support federal and state agencies charged with enforcing laws prohibiting discrimination in the housing context.
- State housing agencies should implement tenants' bills of rights policies.
- Federal and state civil rights and housing agencies should publish and disseminate *Know Your Rights* materials in South Asian languages

for individuals discriminated in the housing context.

- Federal and state housing agencies should forge relationships with community-based organizations to ensure the enforcement of existing housing access laws.

Support affordable housing for immigrants.

- Federal and state housing agencies should support the construction of low-income public housing that is in compliance with local health and safety codes.
- Federal and state housing agencies should develop more affordable housing to accommodate larger immigrant families.
- Federal and state housing agencies should provide housing assistance to all individuals in need, regardless of immigration status.

ⁱ U.S. Census 2000, Summary Files 1 through 4. See also *Demographic Characteristics of South Asians in the United States: Emphasis on Poverty, Gender, Language Ability, and Immigration Status*, South Asian Americans Leading Together (2007).

ⁱⁱ *Id.*

ⁱⁱⁱ *Id.*

^{iv} *Home is Where the Work Is: Inside New York's Domestic Work Industry* Domestic Workers United (2006).

^v *Swept Under the Rug: Abuses Against Domestic Workers Around the World*, Human Rights Watch (2006).

^{vi} See *supra* note iv.

^{vii} The A-3 visa covers domestic workers and personal attendants of foreign diplomats. The G-5 visa is for domestic workers and personal attendants of representatives of international civil servants. The B-1 visa covers domestic workers and personal attendants of other foreigners or U.S. citizens.

^{viii} *Sabbithi, et al. v. Al Saleh, et al.* (U.S. District Court of the District of Columbia 2007); *U.S. v. Alzanki*, 54 F.3d 994 (1st Cir. 1995); *Stories Break the Chain Campaign: Assisting the Enslaved in the Land of the Free; Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States*, Human Rights Watch (2001).

^{ix} *Close to Slavery: Guestworker Programs in the United States*, The Southern Poverty Law Center (2007).

^x *Id.*

^{xi} *Id.*

^{xii} *Fifteen Immigrant Workers Join Lawsuit Against Devi Restaurant* Asian American Legal Defense and Education Fund (2007). *Guest Workers Fired After Protesting "Slave" Conditions*, New America Media (March 2007). *Unregulated Work in the Global City: Employment and Labor Law Violations in New York City*, Brennan Center for Justice (2007).

^{xiii} See *supra* note iv.

^{xiv} *Muslim/Arab Employment Discrimination Charges since 9/11*, U.S. Equal Employment Opportunity Commission (2002).

^{xv} *The Status of Muslim Civil Rights in the United States*, Council on American-Islamic Relations (2007).

^{xvi} *Making Our Voices Heard: A Civil Rights Agenda for New York City Sikhs*, The Sikh Coalition (2008).

^{xvii} *Sweatshops on Wheels: Review and Recommendations for L.A.'s Taxi Workers Alliance* (2006).

^{xviii} *Congressional Response Report: Accuracy of the Social Security Administration's Numident File*, Office of the Inspector General, Social Security Administration (Dec. 2006).

^{xix} *Id.*

^{xx} *Transcript from Hearing on Employment Eligibility Verification Systems*, Subcommittee on Social Security, Committee on Ways and Means, U.S. House of Representatives (June 7, 2007).

^{xxi} *Findings of the Web-Based Basic Pilot Evaluation*, Westat, (2007).

^{xxii} *Discrimination Against Arabs, Muslims and South Asians in New York City Since 9/11*, New York City Commission on Human Rights (2003).

^{xxiii} See *supra* note i.

^{xxiv} "3200 Properties Cited for Code Violations", *Home News Tribune* (August 11, 2007).