



## EXECUTIVE SUMMARY

# WORKERS' RIGHTS ARE HUMAN RIGHTS SOUTH ASIAN IMMIGRANT WORKERS IN NEW YORK CITY



A report by DRUM – Desis Rising Up & Moving and the  
Community Development Project of the Urban Justice Center



# WORKERS' RIGHTS ARE HUMAN RIGHTS – South Asian Immigrant Workers in New York City

Immigrants in the United States live in every neighborhood, attend every school, and work in every sector. They are fully immersed in their local communities and contribute substantially to society and culture. In 2005, there were over 191 million international migrants across the globe<sup>1</sup> and in the United States one in every eight residents is an immigrant.<sup>2</sup> An estimated 37.9 million immigrant workers in the U.S. account for a significant portion of the economy and over 11 million undocumented workers and youth represent some of the most over-worked and under-valued people in U.S. society.<sup>3</sup> New York City has an estimated two million immigrants working in the city.<sup>4</sup>

Since 1990, South Asians, particularly those from Bangladesh, Pakistan, India, Nepal, Sri Lanka, Guyana, and Trinidad have increasingly been making New York City their home. South and East Asians now comprise 23% of the undocumented immigrant population in New York City, second only to Latinos, at 27%.<sup>5</sup> While many South Asians, particularly those who are undocumented, work in important service sectors that fuel NYC's economy, many face human rights violations in their daily lives.

Immigrants are growing targets of punitive federal, state and local policies. While anti-immigrant policies affect many communities, South Asian low-wage workers, most of whom are or are perceived to be Muslim in New York City, have been particularly targeted and profiled since September 11, 2001. As a result, these workers live in constant fear of targeting and deportation and are forced to remain in exploitative jobs with little opportunity for advancement.

In 2010, DRUM- Desis Rising Up & Moving created the first South Asian Workers Center to win rights for South Asian low-wage workers regardless of immigration status. To gather more information about the South Asian workforce in New York City, DRUM partnered with the Community Development Project at the Urban Justice Center to conduct 180 surveys; 7 focus groups and 10 in-depth interviews with South Asian immigrant workers in Queens, NY. The following findings are derived from this research.

## FINDINGS

### 1. South Asian workers are consistently underpaid.

*“We have families and we need to take care of them. But I only get paid 5 dollars an hour.”*

*– Retail Worker, Focus Group Participant #46*

- » Over half of all survey respondents make less than the minimum wage of \$7.25 per hour.
- » 83% of retail workers that were surveyed make less than the minimum wage.
- » 100% of retail workers that were surveyed make less than \$13.77, the hourly wage two working adults with two children living in Queens, NY need to support themselves.<sup>5</sup>

### 2. On average, South Asian workers earn less than industry-wide wages.

*“We have to work 12 hours a day. Old experienced workers earn \$50 a day. New workers earn less than \$45 a day.”*

*– Retail Worker, Focus Group Participant #16*

<sup>1</sup> “International Migration Facts and Figures.” *United Nations Department of Economic and Social Affairs, Population Division*, 2005. [http://www.un.org/esa/population/migration/hld/Text/Migration\\_factsheet.pdf](http://www.un.org/esa/population/migration/hld/Text/Migration_factsheet.pdf)

<sup>2</sup> Camarota, Steven A. “Immigrants in the United States, 2007: A Profile of America’s Foreign-Born Population.” *Center for Immigration Studies*. November 2007. [http://www.cis.org/immigrants\\_profile\\_2007](http://www.cis.org/immigrants_profile_2007) The term ‘immigrant’ is used throughout this report. For our purposes this refers to people who were not born in the United States, but rather moved here permanently from another country. This includes, but is not limited to, U.S. citizens, green card holders, those with permits or visas and those without documentation.s are under attack for thier nts make friends, eir lives in fear of deportation. in Queens)

<sup>3</sup> “The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey.” *Pew Hispanic Center*, March 7, 2006. <http://www.pewhispanic.org/files/reports/61.pdf>

<sup>4</sup> DiNapoli, Thomas P. and Kenneth B. Bleiwas. “The Role of Immigrants in the NYC Economy.” *Office of the State Comptroller, New York City Public Information Office*, January 2010. <http://www.osc.state.ny.us/osdc/rpt17-2010.pdf>

<sup>5</sup> Pearce, Diana M. “The Self-Sufficiency Standard for New York State 2010.” *Center for Women’s Welfare*. June 2010. This self-sufficiency standard is the wage that each of two adults needs to make to support themselves and two school age children in Queens.

Median Wages for Survey Respondents Compared to All NYC Hourly Workers, by Industry

	Median Wage/Hr for survey respondents	Median hourly wage for all workers in NYC <sup>7</sup>	Difference between survey respondents and all workers in NYC
Overall	\$7.00	\$12.03	\$5.03
Construction	\$10.50	\$26.93	\$16.43
Domestic	\$8.88	\$12.52	\$3.64
Restaurant	\$5.00	\$10.66	\$5.66
Retail	\$5.00	\$10.55	\$5.55
Taxi	\$6.65	\$12.33	\$5.68

### 3. South Asian workers experience harsh and hazardous working conditions.

*“We are expected to work under these horrible conditions. In the summer, we have no AC in the hot kitchen, and in the winter there is no heat.”*

–Restaurant Worker, Focus Group Participant #37

- » Two-thirds of domestic workers that were surveyed are not allowed to take breaks.
- » 2 out of 5 retail workers that were surveyed are not allowed to take breaks.

### 4. South Asian workers get little to no benefits.

*“When I would get sick, my boss would tell me that if you go see a doctor you won’t have a job anymore.”*

–Domestic Worker, Focus Group Participant #18

- » 95% of survey respondents do not have health insurance.
- » 75% of survey respondents do not get paid sick days, compared to 48% of all NYC workers.
- » 82% of survey respondents do not get paid vacation days, compared to 44% of all NYC workers.

### 5. Many South Asian workers experience harassment and mistreatment from employers, law enforcement and clients.

*“I parked the car and the police came with the blinking lights and said ‘Move the car, this is not a taxi stand.’ They pulled me over and they said, ‘Get out of America. Go back to your country.’”*

– Taxi Driver, Focus Group Participant #5

*“Sometimes they blackmail us because we do not have papers, saying ‘If you do something I will call immigration.’”*

– Retail Worker, In-Depth Interview #9

- » About 1 in 5 of survey respondents reported workplace harassment.
- » 1 in 4 restaurant workers and taxi drivers reported workplace harassment.

<sup>7</sup> “Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates, New York-White Plains- Wayne, NY-NY Division.” Bureau of Labor Statistics, May 2008. [http://www.bls.gov/oes/oes\\_arch.htm](http://www.bls.gov/oes/oes_arch.htm).

# POLICY RECOMMENDATIONS

The stories of wage theft, overtime violations and harassment included in this report indicate the urgent need for stronger labor protections for all workers, enforcement mechanisms to ensure that existing rights are protected, and reform to various immigration policies. The following are select recommendations from the DRUM report (please see the report for a full list).

## 1. Enforcement and Reform of Labor Laws

### Enforcement of existing laws:

- » The New York State legislature and Department of Labor (DOL) should restore funding and staffing levels for DOL enforcement units to at least their previous high in 2007. Since then, the DOL has lost 15 labor standards positions.<sup>7</sup>
- » DOL should increase its presence in several neighborhoods, including Jackson Heights, Queens by regularly bringing its “Labor on Wheels” van to the neighborhood.
- » Government labor officials at all levels should enforce labor laws in a status-blind environment to ease immigrant workers’ concerns about deportation.
- » DOL materials and staff should publicize that immigrants who are victims of minimum wage and overtime violations may be eligible for U Visas.

### New legislation:

The New York State legislature should:

- » Increase penalties against employers that retaliate against employees seeking their due rights under current labor laws.
- » Provide a clear way for employees to receive unpaid wages even when employers are not willing to pay. This could be done by creating a wage lien or imposing penalties for late payment.
- » Along with the governor, increase the minimum wage to at least \$14.77<sup>8</sup> and create an automatic system to increase the minimum wage each year.

## 2. Immigration and Law Enforcement

- » Immigration and Customs Enforcement (ICE) and the Federal Bureau of Investigation (FBI) should immediately discontinue the Secure Communities program.
- » The New York Council should support and pass upcoming legislation which would create an Inspector General with subpoena powers over the New York Police Department.

## 3. Global Migrant Workers Policy

- » The U.S. should ratify the United Nation’s International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families.<sup>9</sup>
- » The U.S. government should ratify, implement and abide by the standards of work globally set by the International Labour Organization (ILO).<sup>10</sup>
- » The U.S. government should ratify, implement and abide by the United Nation’s International Convention on the Elimination of Discrimination Against Women (CEDAW).<sup>11</sup>

<sup>7</sup> Bernhardt, Annette, Diana Polson and James DeFillippis. “Working Without Laws: A Survey of Employment and Labor Law Violations in New York City.” *National Employment Law Project*, 2010. [http://nelp.3cdn.net/990687e422dcf919d3\\_h6m6bf6ki.pdf](http://nelp.3cdn.net/990687e422dcf919d3_h6m6bf6ki.pdf).

<sup>8</sup> Pearce, Diana M. “The Self-Sufficiency Standard for New York State 2010.” *Center for Women’s Welfare*. June 2010. Self-Sufficiency Standard for a single adult in Queens County. <http://www.fiscalpolicy.org/SelfSufficiencyStandardForNewYorkState2010.pdf>

<sup>9</sup> United Nations General Assembly. “Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.” *Office of the United Nations High Commissioner for Human Rights*, signed December 18, 1990. <http://www2.ohchr.org/english/law/cmw.htm>

<sup>10</sup> International Labour Organization. “Labor Standards” <http://www.ilo.org/global/standards/lang--en/index.htm> Relevant Articles include C97, C143, C86, and C151.

<sup>11</sup> United Nations General Assembly. “Convention on the Elimination of All Forms of Discrimination against Women.” *United Nations*, signed December 18, 1979. <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>