



# 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



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## ACKNOWLEDGEMENTS

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## ABOUT THE AUTHORS



Founded in 2000, DRUM is a multi-generational, membership based organization of low-wage South Asian immigrant workers, youth, and families organizing for social and economic justice in New York City. DRUM organizes low-income South Asian immigrants for racial, economic, and social justice. Desi means people from Afghanistan, Bangladesh, Bhutan, Guyana, India, Nepal, Pakistan, Sri Lanka, Tibet, and Trinidad. DRUM builds the power of low-income immigrants through campaigns for policy change, base-building, leadership development, and membership services. Our long-term vision is to build the power of immigrants, youth, and workers in the U.S. in unity with all low-wage workers and communities of color for rights and dignity. We see our movements for justice in the U.S. rooted in working in solidarity with people of the global south for just global trade, economic, and foreign policies.



The Community Development Project (CDP) of the Urban Justice Center strengthens the impact of grassroots organizations in New York City's low-income and other excluded communities. We partner with community organizations to win legal cases, publish community-driven research reports, assist with the formation of new organizations and cooperatives, and provide technical and transactional assistance in support of their work towards social justice. CDP's Research and Policy Initiative partners with and provides strategic support to grassroots community organizations to build the power of their organizing and advocacy work. We utilize a "participatory action research" model in which low-income and excluded communities are central to the design and development of research and policy.



## EXECUTIVE SUMMARY

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% the undocumented immigrants 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>6</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/csa/population/migration/hld/Text/Migration\\_factsheet.pdf](http://www.un.org/csa/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 their 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> Passel, Jeffrey S. and D'Vera Cohn. "A Portrait of Unauthorized Immigrants in the United States." *Pew Hispanic Center*, April 14, 2009. <http://www.pewhispanic.org/files/reports/107.pdf>.

<sup>6</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>8</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>9</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>10</sup>
- » The U.S. government should ratify, implement and abide by the standards of work globally set by the International Labour Organization (ILO).<sup>11</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>12</sup>

<sup>8</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>9</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>10</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>11</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>12</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>

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## Definition of terms used in this report:

**Migrant:** For the global context, a ‘migrant’ is someone who either emigrates out from a nation-state or immigrates into a nation-state; migrant can also refer to people moving within a nation-state.

**Migrant Worker:** The United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families<sup>1</sup> defines migrant worker as “a person who is engaged or has been engaged in a remunerated activity in a State (nation-state) of which he or she is not a national.”

**Immigrant:** 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.

**Undocumented:** People that are not United States citizens, and do not have a valid green card, work permit or visa of any kind.

**South Asian or Desis:** refers to people from Afghanistan, Bangladesh, Bhutan, India, Nepal, Pakistan, Sri Lanka, Tibet, and parts of the South Asian Diaspora, including Africa, Great Britain, Fiji, Guyana, and Trinidad.

*“When their rights are violated, when they are marginalized and excluded, migrants will be unable to contribute either economically or socially to the societies they have left behind or those they enter. However, when supported by the right policies and human rights protections, migration can be a force for good for individuals as well as for their countries of origin, transit, and destination.”*

*U.N. Secretary General Ban Ki-moon  
Message for International Migrants Day  
December 18, 2011*

## I. INTRODUCTION

In 2005, there were over 191 million international migrants across the globe, a number that continues to grow rapidly.<sup>2</sup> In the United States, one in every eight residents is an immigrant.<sup>3</sup> Immigrants live in every neighborhood, attend every school, and work in every sector. They are fully immersed in their local communities, participating in and contributing substantially to society and culture. An estimated 37.9 million immigrant workers in the U.S. account for a significant and vital portion of the workforce; indeed, the US economy and society could not function without them.<sup>4</sup> Moreover, the over 11 million undocumented immigrant workers and youth represent some of the most over-worked and under-valued people in the U.S.<sup>5</sup> Despite their invaluable economic and social contributions, migrant workers' rights in the U.S. and other developed countries are increasingly violated in order to maximize corporate profits.

Immigrants with a wide variety of socio-economic backgrounds permanently move to the United States from many countries and New York City, as perhaps the most diverse city in the world, attracts a particularly large number of immigrants. In fact, there are an estimated two million immigrants working in New York City.<sup>6</sup> Many of them, particularly those who are undocumented, work in important service sectors that serve as the foundation for New York as a global finance capital. However, they are often not given due credit for their contribution to the City and face human rights violations in their daily lives.







Since the 1990s, an unparalleled number of immigrants have been migrating to the United States from South Asia, particularly from Bangladesh, Pakistan, India, Nepal, and Sri Lanka. South Asians and East Asians comprise 23% of the one million undocumented immigrants in New York City, second only to Latinos, at 27%.<sup>7</sup> In fact, Bangladeshis currently make up one of the fastest growing immigrant populations nationally.<sup>8</sup>

Disturbingly, these vital members of society are often subjected to harassment and mistreatment. Across the country, the human rights of immigrants are violated for various reasons, including their real or perceived heritage, immigration status, and religion. Immigrants are growing targets of federal and state policies like Arizona's SB 1070 bill,<sup>9</sup> 287 g programs,<sup>10</sup> the Secure Communities program,<sup>11</sup> and ongoing workplace raids. These policies create a culture of fear among immigrants, who worry on a daily basis about subsistence for their families and the threat of deportation.

While anti-immigrant policies affect many communities, South Asian, Muslim, Arab, and Middle Eastern low-wage workers have been particularly targeted and profiled since September 11, 2001. This is evident in the post-9/11 proliferation of anti-Muslim policies like the National Security Entry-Exit

Registration System (NSEERS) that required immigrants to be fingerprinted and photographed, surveillance of mosques by law enforcement, and rampant racial profiling.<sup>12</sup> Such policies have kept South Asian and Muslim immigrant workers even more fearful and vulnerable to exploitation.<sup>13</sup> Moreover, the culture of hate and discrimination that surrounds these policies has recently led to hate crimes aimed at Muslim low-wage immigrant workers, such as the stabbing of a Bangladeshi Muslim cab driver in New York City.<sup>14</sup>

For undocumented South Asian immigrant workers across New York City, the impacts of anti-immigrant policies and post 9/11 profiling are particularly acute since most are Muslim or perceived to be Muslim. As a result, South Asian undocumented workers are often forced to remain in low-paying jobs with little opportunity for advancement.

Founded in 2000, DRUM- Desis Rising Up & Moving has been organizing a mass base of South Asian low-wage workers and youth for racial, economic, and social justice. In 2010, DRUM created the first South Asian Workers Center to win rights for South Asian and other low-wage workers regardless of immigration status. To aid in their campaign, DRUM partnered with the Community Development Project at the Urban Justice Center to document the experiences of undocumented South Asian workers in New York City. This research, which included 7 focus groups, 180 surveys and 10 in-depth interviews, shows that undocumented South Asian workers across New York City are being systematically underpaid, overworked, mistreated, and harassed.

## **DRUM's Organizing Model**

Founded in 2000, DRUM-Desis Rising Up & Moving is one of the first mass-based organizing institutions of low-income South Asian immigrant workers and youth in the U.S. DRUM builds the collective power of working class South Asian immigrants for racial, economic, and social justice through base building, leadership development, policy change campaigns, and movement building. DRUM's membership base is multi-generational, hails from ten nationalities, speaks over six languages, and live and work across New York City.

DRUM's programs include: the South Asian Workers Center, Racial and Immigrant Justice program, YouthPower! and the Global Justice program.

### **Our local campaigns include:**

- » The Jackson Heights Workers Rights campaign to win better wages and conditions for retail and restaurant workers.
- » The End Racial Profiling campaign to win Inspector General oversight of the NYPD and roll-back of surveillance and profiling in Muslim communities.
- » The Dignity in Schools Campaign to end the school-to-prison pipeline and implement Restorative Justice programs in New York City public schools.

### **DRUM's national alliance campaigns are:**

- » The National Network for Immigrant and Refugee Rights (NNIRR) effort to roll back anti-immigrant enforcement and win full legalization for immigrants.
- » The Rights Working Group's campaign to pass the End Racial Profiling Act in Congress.
- » Dignity in Schools Campaign and Alliance for Educational Justice.
- » The National Campaign to Roll Back Surveillance in Arab, Middle Eastern, Muslim, and South Asian communities.

### **Global Justice: Global South Asian Migrant Workers Alliance**

In 2012, DRUM is launching the Global South Asian Migrant Workers Alliance. The alliance draws upon DRUM's lead role since 2005 in international migrant rights organizing through NNIRR, Migrant Rights International (MRI) and People's Global Action for Migration, Development and Human Rights (PGA). The alliance is a network of South Asian migrant worker organizations across North America, Europe, the Middle East, and Australia that will build the global migrant rights movement for policy change towards greater human rights protections and standards.



## II. BACKGROUND

Table 1: South Asians in New York City, 2009<sup>15 16</sup>

Population	642,339
Foreign Born	73%
Citizenship of Foreign Born	54%
No High School Diploma	21%
Limited English	42%
Median Family Income	\$42,809
Poverty Rate	23%
Population Under 18	31%



### South Asians in New York

In recent years, there has been a huge influx of South Asian immigrants into New York City, bringing the South Asian population to well over 600,000. Spread throughout the city, South Asians reside in all five boroughs, but as many as half live in Queens, particularly in the neighborhoods of Jamaica, Jackson Heights, Astoria, Flushing, Richmond Hill, and Elmhurst.<sup>17</sup>

A wave of mass migration of South Asians to the U.S. in the 1990s stemmed from both ‘push’ and ‘pull’ forces of global economic policies. On the one hand, the rapid opening of South Asian markets to neoliberal economic policies created greater concentrations of wealth and larger income inequality which ‘pushed’ millions of lower middle- and working-class South Asians to migrate to the U.S., Europe, and Middle East in search of more sustainable work. On the other hand, a growing service economy and reliance on cheap and easily exploitable migrant labor ‘pulled’ hundreds of thousands to metropolitan centers like New York City. Unlike the professional classes of South Asian migrant workers recruited to the U.S. post-1965, new South Asian migrants work mostly in low-wage, service sector jobs that underpin racial and economic inequity in healthcare, housing, and education.

Today, almost three-quarters of the South Asian population of New York City are foreign-born;<sup>18</sup> only 54% of whom are currently US citizens.<sup>19</sup> Of the other 46%, some have visas or green cards, but many are undocumented. Undocumented immigrants face daily challenges, both personal and professional, ranging from difficulty finding a job to being able to obtain and afford housing. These difficulties have created a disproportionate number of low-income South Asians. Indeed, 23% of South Asians in New York City live below the poverty line.<sup>20</sup>

### Lack of Reliable Population Data for South Asians

Much of the data available for the South Asian population is deeply flawed. Population data is almost exclusively based on census data in which respondents self-identify their race or country of origin. However, many South Asians find that their race or country of origin is not specifically offered as an option, forcing respondents to choose between “Asian Indian” or filling in an answer under “Other Asian.” This results in erroneously high numbers of “Asian Indians” and the gross undercounting of all other South Asians.<sup>21</sup> Many experts believe the South Asian population in New York City to be somewhere between 800,000 and 1 million.<sup>22</sup>

Before people even fill out the decennial Census, there are many other barriers to full participation. Primarily, Census forms must be filled out in either English or Spanish. While Language Assistance Guides (LAG) are available in a variety of South Asian languages, they are not disseminated with the Census form.<sup>23</sup> Furthermore, there is a drastic lack of government outreach to South Asians, primarily because very few Census Bureau workers speak South Asian languages.<sup>24</sup> Finally, since much of the South Asian population is undocumented, there is significant fear of deportation as a result of participating in the Census. This is aggravated by the fact that Immigration and Customs Enforcement (ICE) has refused to halt raids during Census collection.<sup>25</sup> Language barriers, combined with a lack of government outreach and the fear of deportation, have significantly limited South Asian Census participation, resulting in gross undercounting of the South Asian population.



## IN FOCUS: Jackson Heights, Queens

DRUM's community office is located in Jackson Heights, Queens, one of the most diverse neighborhoods in New York City and a historical hub for the South Asian community across the tri-state area. While serving as a cultural center for South Asian shops, restaurants, businesses, and community institutions, the working conditions immigrants experience have remained invisible.

Unlike the many immigrants who commute to Manhattan for work every day, many South Asian immigrant workers in Jackson Heights both live and work in this tight-knit immigrant enclave, preferring to seek work where they can interact with people of similar ethnic and linguistic backgrounds. A majority of South Asian workers here are undocumented immigrant women who do not speak fluent English.

As in other neighborhoods with a similarly high density of immigrant workers, exploitation is widespread and systemic. Employers in Jackson Heights regularly use immigration status to intimidate workers and force them to accept substandard compensation and working conditions. Many workers explain that employers even threaten to report them to Immigration and Customs Enforcement (ICE) if they complain about working conditions.

Close-knit community ties can also magnify the threats of retaliation and deportation by employers, often discouraging undocumented workers from reporting these injustices. It is not uncommon for workers who speak up about abuses to be “blacklisted” by neighborhood employers, preventing employees from finding work in other establishments, or being harassed in close-knit community circles.

Additionally, based on figures for 2011, the 115th Precinct which includes Jackson Heights was reported to have the third highest rate of “stop and frisks” by police in New York City<sup>26</sup>. Along with the reactivation of Secure Communities program in New York, this has led to increased fear of deportation among immigrant residents and workers.



### III. METHODOLOGY

DRUM- Desis Rising Up & Moving, a membership-led organization, initiated this research project to chronicle the experiences of undocumented South Asian workers in New York City, in response to the harsh working conditions and treatment that many of them face on a daily basis. To this end, DRUM, with support from the Community Development Project at the Urban Justice Center, conducted research that included a total of seven focus groups, one hundred and eighty surveys and ten in-depth interviews with South Asian workers in Queens, NY.

**Table 2: Demographic Characteristics of Focus Group**

Participants	Percent
Male	49%
Female	51%
Average Age	42
Country of Origin	
Bangladesh	77%
India	11%
Nepal	4%
Pakistan	9%
Current Industry	
Construction	17%
Domestic	15%
Restaurant	15%
Retail	32%
Taxi	21%

At the request of survey respondents, focus group participants, and interviewees, many of whom feared retribution, we omitted all unique identifiers.

The following research methods were utilized to comprehensively assess the current state of undocumented South Asian workers across the city:

**Focus Groups:** From December 2009 to March 2010, DRUM members and staff conducted five focus groups with a total of 47 workers. Each focus group consisted of workers from a single industry. During a second round of research, DRUM members and staff conducted two additional focus groups with retail workers to delve deeper into their experiences in the retail industry in Queens. Focus groups were conducted in Bengali, Urdu, and Hindi, depending on the industry and language proficiency of the participants. All focus group participants were also asked to fill out a short demographic questionnaire (See Table 2).

**Surveys:** DRUM members and staff conducted 180 surveys with workers from the following industries: construction, domestic, restaurant, retail, and taxi. Many were surveyed at their place of work, though some surveys were conducted over the phone and in the DRUM office. All quantitative data in this report represents a compilation of the surveys. See Table 3 for selected demographic information of surveyed retail workers.

**In-depth Interviews:** DRUM conducted in-depth interviews focused on a variety of work-related topics with five different workers, one from each highlighted industry. These interviews were used to develop the five worker profiles in this report. In addition, DRUM conducted five additional interviews of retail workers to highlight particular problems in the retail industry. These retail interviews are the basis of the retail worker “in-focus” profiles found in this report.

#### Who Participated in this Study

Respondents for the surveys, interviews and focus groups for this project were South Asian (or Desi) immigrants, all of whom live in New York City. We chose to focus our research more with workers living in Queens, as it has one of the highest concentrations of South Asian residents and workers in the city.

Secondly, we chose to focus on undocumented workers because they are most at risk of mistreatment and are often overlooked in many mainstream research projects. We selected the construction, domestic, restaurant, retail and taxi sectors because they employ a significant number of South Asian workers and DRUM members, are highly visible across the city, and often employ undocumented workers. Over the last two decades, these industries have also seen considerable growth in the South Asian low-wage workforce across the country, especially in large urban areas like New York City.

**Table 3: Demographic Characteristics of Surveyed Retail Workers**

Participants	Percent
Male	4%
Female	96%
Average Age	39
Country of Origin	
Bangladesh	82%
India	11%
Nepal	3%
Pakistan	4%

This report includes information on all five industries; however, it focuses considerably on retail workers. This is because the retail industry employs a larger portion of South Asian workers than other industries, and retail workers are generally unorganized and face harsh conditions. Moreover, the inception of this report came from the DRUM worker members of Jackson Heights who will continue to organize for better wages and respect.



## Where We Conducted Research

Focus groups participants, survey respondents and interviewees all work, live or both work and live in New York City. However, we particularly focused on Jackson Heights in the several square-block radius surrounding 74th street and Roosevelt Avenue. We chose to focus on this neighborhood because of its significant South Asian population and DRUM's close connection to this community.

## Industries Included in this Study

While South Asians in New York City work in a large number of sectors, we chose to focus on workers in five industries: construction, domestic, restaurant, retail and taxi. This section includes some basic information about each industry.

### *Retail*

In New York City, the retail industry is the top employer of low wage workers, most of whom work full time.<sup>27</sup> Citywide, the retail industry employs approximately 250,000 workers, 89% of them immigrants.<sup>28</sup> Jackson Heights has one of the largest concentrations of retail stores in Queens, many catering to South Asians.<sup>29</sup> Most retail workers are women, while a large majority of employers are men. Eighty percent of the workers are over the age of 25 years, and one-third are the sole providers for their families.<sup>30</sup> In many cases, employees rotate through multiple stores owned by a single person or family. The work often involves long hours of standing without any breaks. Wage theft and overtime violations are shockingly prevalent across New York City, and are concentrated in neighborhoods like Jackson Heights. In fact, a recent study by the Brennan Center for Justice found of all workplaces in New York City, the greatest number of workplace violations occurred at “ethnic retail” stores, and the study specifically cited South Asian workers in Jackson Heights as an example.<sup>31</sup> The Brennan Center study also referred to businesses that “operate in the informal cash economy, selling everything from appliances to traditional wedding dresses and religious items” with a predominately female workforce, most of whom are undocumented.<sup>32</sup>

### *Construction*

Each year, an estimated 250,000 people, 62% of whom are immigrants, work on construction sites in New York City.<sup>33</sup> Construction workers, particularly those who are undocumented, are exposed to unsafe working conditions. Injuries are common and considered inevitable. Most South Asian construction workers are male and have to commute long distances to construction sites across the city. Many are day laborers who are sometimes never paid for completed work. Since day laborers often do not know who they are working for, it can be nearly impossible to recoup these losses. Many day laborer organizations, like the Latin Americans Workers Project and NY Construction Workers United, continue to organize for construction workers' rights.

### *Domestic*

Many South Asians, particularly women, are employed in the homes of wealthy New Yorkers for work ranging from cleaning to babysitting. Citywide, approximately 85% of the more than 200,000 domestic workers are immigrants.<sup>34</sup> Depending on the employers, employees are expected to perform rigorous activities, often starting early in the morning and not finishing till late at night. Given the often informal nature of this industry, workers are often underpaid, and were only recently included under minimum wage laws. Furthermore, many domestic workers have long commutes from their low-income neighborhoods to the wealthy neighborhoods where they work. Some domestic workers are even brought to the United States by their employers, who often confiscate the worker's legal papers upon arrival. Recently,



New York State passed the Domestic Workers Bill of Rights after much advocacy by New York City organizations like Domestic Workers United, Andolan, Haitian Women for Haitian Refugees, Damayan, and Adhikaar.<sup>35</sup> Domestic workers continue to organize for better outcomes from new legislation.

## Restaurant

New York City's restaurants employ 200,000 people citywide.<sup>36</sup> Approximately 73% of these workers are immigrants.<sup>37</sup> The shameful secret of this booming industry is the mistreatment and harassment of undocumented workers, who are often shoved to the back rooms to wash dishes, prepare food or cook for little pay. This is symptomatic of the widespread discrimination in the restaurant industry that prevents immigrants from acquiring high-paying front-of-the-house positions. Restaurants have notoriously hazardous working conditions that jeopardize the health and safety of workers. Over the past several years, with the huge influx of Bangladeshis, New York City has seen an increase in the number of "Indian" restaurants staffed by Bangladeshis, primarily in the Jackson Heights area.<sup>38</sup> Restaurant Opportunities Center organizes workers throughout the city and has had a number of successes advocating for better working conditions in individual restaurants. Hazardous working conditions, however, are still rampant.

## Taxi

There are approximately 100,000 taxi-drivers citywide, of whom 84% are immigrants, primarily from Bangladesh, Pakistan, India, Dominican Republic, and Haiti.<sup>39 40 41</sup> The New York City Taxi and Limousine Commission regulates the industry and charges drivers expensive licensing fees.<sup>42</sup> Taxi-drivers, mostly self-employed men, are often harassed by customers and police officers. South Asian taxi-drivers have even been physically attacked because of their ethnicity, religion or both.<sup>43</sup> While flexible working hours lure many to this industry, drivers must often work long shifts simply to cover expensive garage fees, licensing fees and rental fees. Unfortunately, a state labor law explicitly exempts taxi-drivers from traditional minimum wage and overtime requirements.<sup>44</sup> The Taxi Workers Alliance has been the driving force to organize workers for greater rights and better conditions.

# IV. FINDINGS

This report is a compilation of the data collected through surveys, focus groups and interviews. The findings suggest widespread mistreatment of undocumented South Asian workers across New York City in all the industries that were examined. We particularly emphasize the retail industry because DRUM's South Asian Workers Center is focusing on this sector as one of the yet unorganized and highly vulnerable populations of largely women workers in the community. The women retail worker members of DRUM began meeting in 2010 to strategize ways to improve working conditions, thus creating the groundwork for this report.

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

*"We have families and we need to take care of them, but I only get 5 dollars an hour."*

— Retail Worker, Focus Group Participant #46

*"At the end of the (12 hour) day, I'm making \$50 to \$60, which isn't even covering my lease [for the taxi]."*

— Taxi Driver, Focus Group Participant #1

- » 55% 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 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>45</sup>



South Asians are one of the poorest populations in New York City, with 23% living at or below the poverty rate.<sup>46</sup> This can be attributed in large part to rampant wage theft in areas like Jackson Heights, Queens. While advocates estimate \$13.77 as a “living wage” for two adults with two children in Queens, the current minimum wage in New York State is set far below that at \$7.25 per hour.<sup>47</sup> However many employers are consistently ignoring even the minimum wage standards and paying South Asian workers far less. One restaurant worker explained how even with tips, many restaurant workers are still earning less than minimum wage:

*“The workers are paid very low- \$3 per hour plus tips. Now, the tips depend on the guests. There have been days when I worked for 12 hours but I got \$4 or \$5 in tips. That’s not good money. It makes you lose interest in the job but you have to do it in order to survive.”*

*—Restaurant Worker, Focus Group Participant #32*

**Table 4: Survey Respondent Wages, by Industry**

	Percent that make less than Minimum Wage (\$7.25)	Percent that make less than the Self-Sufficiency Standard (family of four) (\$13.77) <sup>48</sup>	Percent paid in cash
<b>Overall</b>	<b>56%</b>	<b>93%</b>	<b>83%</b>
Construction	9%	83%	88%
Domestic	44%	88%	85%
Restaurant	74%	96%	72%
Retail	83%	100%	82%
Taxi	57%	93%	88%

While underpayment is a widespread problem, it is acutely affecting undocumented immigrants who are particularly at risk for exploitation by employers. Fear of retaliation and deportation discourage many undocumented workers from reporting wage theft to the Department of Labor or pursuing other legal options. Furthermore, current laws make it difficult for undocumented workers to get back wages without revealing their immigration status. Without sufficient compensation, undocumented South Asian workers struggle to provide housing, food and other necessities for themselves and their families. Focus group participants repeatedly stated immigration status as the reason they are paid less:

*“For the work that we do and the money we deserve, we never get it because we do not have papers. Those who do have their papers and get paid \$300, we get \$150 or \$100.”*

*— Construction Worker, Focus Group Participant #24*

### **Shanu, Retail Worker**

When Shanu, a 39-year-old woman from Bangladesh, immigrated to the US, she did not anticipate how hard it would be to find a job that paid well. She has now worked in the retail industry for over 12 years, but has continually bounced from job to job, simply trying to find a place that pays her a decent wage.

“My responsibilities are to make sales, handle cash properly, and put away the jewelry at night. In Jackson Heights, whoever is new, they start at \$45 a day (for 10-12 hours). When I first started working, that was 12 years ago, I got paid \$35 daily for one year. I decided to leave that store because I asked the boss’s wife to give me a raise. She was very rude and told me, “if you don’t like it, you can leave”. I should make more than minimum wage. Now [at my new job], I get paid (better), but paid late. All gold jewelry stores and clothing stores are making a lot of money and they are giving very little money to the workers. They treat us like slaves. We are mentally harassed.”

## Finding 2: On average, South Asian respondents earn less than industry-wide wages.

While many South Asian workers make less than minimum wage, not all workers in these industries earn so little. On average, our survey respondents make \$5 per hour less than other workers in the same industry (Table 5). These statistics also show a disparity in pay between workers in different industries. South Asian construction workers tend to make higher wages than South Asian workers in other industries; however, even these highest averages wages of respondents are below living wage standards.

Table 5: 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>49 50</sup>	Difference
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

### IN FOCUS: Retail Workers and Long Hours

*“Workers 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*

As our results show, retail workers are disproportionately affected by low-wages; 83% of the retail workers we surveyed reported making less than minimum wage. In Jackson Heights, for instance, this is a direct result of the exploitation of undocumented workers within close-knit South Asian owned businesses, where workers are simply paid a flat rate by the day regardless of how many hours they work. At the end of the day, workers are not paid for overtime work, and do not even make minimum wage. This massive wage theft makes it difficult for workers to support families, particularly because many are the sole-provider.<sup>51</sup>

As shown in the following section, retail workers are forced to work long hours as well with 79% working nine or more hours per day. Workers do not have a choice about working these long hours. If they don't, the employers will simply fire them. Long hours combined with flat rate wages push wages well below minimum wage.





### Finding 3: South Asian respondents are forced to work long hours without receiving overtime pay.



*“The longest I’ve had to work was when I came in at 11 a.m. and worked until 3 a.m. (16 hours). There should be a proper shift in place but there is no such thing in Jackson Heights.”*

– Retail Worker, In-Depth Interview #7

Many South Asian workers are forced to work long hours, sometimes more than 15 hours in a single day. Compared to other workers in the same industry, survey respondents worked significantly longer hours (Table 6). This adversely affects their physical and mental health by preventing doctor’s visits and limiting time with family and friends. Focus group participants across industries reported long hours:

*“I’m working 15 to 16 hours a day, sometimes 7 days a week.”*

– Taxi Driver, Focus Group Participant #1

*“I really want to change the 12.5 hours. It’s inhumane. I can hardly do it but I have no choice. It’s not right for a person to wake up early and open the restaurant at 7 a.m. and leave at 8 p.m.”*

– Restaurant Worker, Focus Group Participant #34

Table 6: Average Time at Work for Survey Respondents, by Industry

	Mean Hours Per Day	Percent that work more than 8 hours per day	Percent that work more than 5 days per week	Percent that work 40 or more hours per week
Overall	10	65%	40%	63%
Construction	8	15%	13%	17%
Domestic	10	75%	17%	75%
Restaurant	9	42%	47%	57%
Retail	10	79%	43%	66%
Taxi	11	91%	64%	85%

#### Imran, Taxi Driver

A 39-year-old Pakistani man, Imran has been working as a taxi-driver for over 17 years, which has started to affect his health. His arms, legs and back often hurt after being stuck in a small, cramped car for 12 or more hours a day. Imran has also recently struggled with depression, which he attributes directly to his work.

“On an average day I work 16 hours. I start working at 5 a.m. and finish at 9 to 10 p.m. It’s a very hard job and I go the whole day without eating and I get tired. I’ve worked 20 hours in one day.

I wake up at 4 a.m. in the morning and then get ready for work at 5 a.m. At 10 a.m., we have a coffee break sometimes. When it’s busy, we don’t have a break until 2 p.m., then we just take lunch. Then, we start working again till 8 or 9 p.m. Then we go home, go to sleep and then the same the next day at 4 a.m.

For 16 hours you are sitting in the same position in the car; your eyes and your body hurt. You get stressed out over these things. The chemicals from other cars, the smoke it goes to your lungs and your nose and you get diseases from that. I wish that I worked 7 or 8 hours a day, like 6 days a week.”

## Overtime

Federal law requires most employers to pay workers at least time and a half for overtime work (more than 40 hours per week). Employers often take advantage of undocumented workers and do not pay them for this additional work. This is particularly true for domestic and retail workers; a study by the National Employment Law Project found the overtime violation rate by NYC industry to be 85% for private households and 81% for retail stores.<sup>52</sup> In several industries, overtime wage violations often occur because employees are paid a flat wage rate per day, regardless of how many hours they work. Focus group participants in all five industries reported overtime wage violations:

*“I am not paid any overtime for extra hours that I work in the week. I want to receive overtime.”*

*– Restaurant Worker, Focus Group Participant #35*

As one focus group participant explained, working such long hours also takes a physical toll on workers:

*“A person works for 12 to 13 hours. He has no energy or anything and he comes home. He has to sleep. I don’t get paid overtime.”*

*– Restaurant Worker, Focus Group Participant #34*

### IN FOCUS: Day Laborers

Many undocumented workers are only able to find temporary jobs, often having to find new work on a daily basis by standing on street corners and parks. These “day laborers” face steep competition for the few jobs available, and have to fight to get precious work. Workers may or may not even know who they are working for. Many times they are just given a flat rate for working the entire day, which turns out to be far below the minimum wage. Or worse, workers may never be paid for their completed work: a recent study found that 50% of day laborers had experienced wage theft.<sup>53</sup> In the worst cases, workers complete several weeks of work before realizing they will never be paid for their labor.

South Asian day laborers tend to work for South Asian employers. Many South Asian bosses recruit construction workers from within the community through personal networks. Sometimes, the bosses even know the workers’ families in their country of origin. This makes conditions particularly exploitative for the workers, and it is consequently much harder for them to organize for fear of backlash in the community and against their families.

However, there have been recent efforts to organize day laborers to obtain better wages and working conditions. Many cities, such as Los Angeles and Denver, have established formal job centers for day laborers to meet potential employers, access services, and minimize workplace abuses.<sup>54</sup>

## Finding 4: South Asian workers experience harsh and hazardous working conditions.

*“You have to work under very bad conditions: no bathroom breaks, no lunch breaks.”*

*– Retail Worker, Focus Group Participant #14*

### Lack of Breaks

- » 36% of all survey respondents are not allowed to take breaks.
- » 66% of domestic workers that were surveyed are not allowed to take breaks.
- » 41% of retail workers that were surveyed are not allowed to take breaks.

Across New York City, many workers are exposed to harsh working conditions and difficult working environments on a daily basis. In fact, a study of low-wage workers by the National Law Employment Project found that 81.3% of private households employing domestic help, 78.3% of restaurants, and 63.1% of retail businesses in New York City have violated meal break laws.<sup>55</sup> Undocumented workers, because of their immigration status, are particularly vulnerable to this type of exploitation, which was reported as rampant by survey respondents and focus group participants alike. Focus group participants explained how a lack of breaks affects them:

*“Every 5 minutes the boss comes to check in on the girls to make sure they are always working. The salesgirls must go to the basement and check on the cartons, no chit chatting, can only eat for 5 minutes, cannot drink tea or take medicine, no outside personal trips. We have to sneak to drink tea.”*

*– Retail Worker, Focus Group Participant #14*

*“We don’t get any breaks. Since we work long hours and are tired, it would be easier if we got a break. We do not get paid by the hour or the week. Employers only pay us at the end of the month. It is all the employer’s choice, we have no choice.”*

*– Construction Worker, Focus Group Participant #25*

### Hazardous Working Conditions

In some industries, the work itself is also hazardous. Despite Occupational Safety and Health Administration (OSHA) safety standards for these industries, many undocumented workers are forced to work in unsafe conditions. Some focus group participants cited specific hazards that they face because employers are trying to save money:

*“We are expected to work under these horrible conditions. In the summer, we have no air conditioning in the hot kitchen, and in the winter there is no heat, so it gets very cold.”*

*–Restaurant Worker, Focus Group Participant #37*



### Salim, Restaurant Worker

Salim is a 37-year-old Pakistani restaurant worker in a restaurant in Jackson Heights. For over three years, he has been baking naan (a type of traditional South Asian bread) in a hot 450-degree clay oven, sometimes making more than 150 pieces an hour.

“In Pakistan I was a mechanical engineer, but because I don’t have my papers here, I do this job. My boss doesn’t cover for any burn injuries, we have no medical benefits. I have to pay myself. We might get a day off if we get really injured, but it’s not paid. Like last Saturday, I burned myself because it was really busy. We had a lot of orders and customers. I had to make everything go really fast so I burned my hand.

My first job when I came here was the worst experience. No breaks, no payment. Every time, the boss would be yelling. One day he was yelling at me, behaving as if I’m his slave. He used dirty language. The job conditions in New York are really bad so everybody is scared.

I don’t like the whole environment of the restaurant business. They see us as slaves. Most of the workers here are undocumented, don’t have any papers, or know how to speak English, so we are scared and have to work here. There is no help for workers.”

### IN FOCUS: Retail Workers and Harsh Working Conditions

*“My boss doesn’t care about our well-being. We stand here for 8 to 10 hours a day. It’s very tiring. Sometimes when we have to go to the bathroom, we are not allowed to go.”*

*–Retail Worker, In-Depth Interview #9*

Retail stores are often characterized by their difficult working conditions. Workers are expected to stand for ten hours a day, with no breaks to eat or use the restroom. These contraventions are made at the workers’ expense, so that the owner can make as much money as possible. The resulting working conditions take a physical and mental toll on employees, impacting their work and personal lives.



## Finding 5: South Asian workers get little to no benefits.



*“After 9 years of working, only once did I get a Sunday off.”*

*– Retail Worker, Focus Group Participant #15*

### Time Off

» 82% of survey respondents are not allowed to take vacation days

Regardless of working conditions, all employees need some time away from work to rest and maintain their health and well-being. Though it is not required by law in the United States, many full time employees are granted at least a few vacation days. While research has proven that this precious time off is essential to maintaining a worker’s physical and mental health, many undocumented workers are denied this benefit.<sup>56</sup>

In addition to promoting good health, workers that participated in focus groups and interviews explained that time off also provides the opportunity for advancement. One worker wanted time off so he could learn English and expand his employment options:

*“I want to get a job where I’m allowed to take a day off so that I can learn how to speak English.”*

*–Restaurant Worker, Focus Group Participant #35*

**Table 7: Benefits of Survey Respondents Compared to All NYC Workers, By Industry**

	Percent that DO NOT get paid sick days	Percent that DO NOT get paid vacation days	Percent without health Insurance
All NYC Adult Workers	48% <sup>57</sup>	44% <sup>58</sup>	18% <sup>59</sup>
Overall Survey Respondents	75%	82%	95%
Construction	96%	96%	96%
Domestic	79%	83%	97%
Restaurant	65%	77%	87%
Retail	79%	74%	97%
Taxi	61%	91%	97%

## Jawed, Construction Worker

When 48-year-old Jawed emigrated from Bangladesh, he expected to easily get a job with good benefits for himself and his family. However, the only jobs Jawed could find came without sick or vacation leave or health insurance. Not only would such benefits greatly help Jawed maintain a healthy work-life balance, benefits like health insurance are in fact necessary for a construction worker since there is such a high rate of injury on the job.

*“At work there are no benefits. It’s a no work, no pay policy. There are no set break times. We eat while we are doing the work, which is if we can manage the time but we don’t actually get to sit down and enjoy a meal. We don’t have any benefits and we definitely should.”*

*I would like to have sick days, weekends off, vacation days for a minimum of one week, so that I can spend some time with my family. I also want to have the national holidays off. I have had to work on holidays on several occasions such as during Memorial Day or Labor Day, and I wasn’t given any holiday pay.”*

### Impact on Health

- » 75% of survey respondents do not get paid sick days.
- » 95% of survey respondents do not have health insurance.

Without vacation days, employees are overworked and their health suffers. But many Jackson Heights employers do not even let workers take paid sick days. A widespread lack of health insurance coverage from employers further exacerbates this problem. Additionally, without documentation, many workers are unable or afraid to access public health care options like Medicaid or Healthy NY. Focus group participants ruminated on the myriad issues facing them because they do not have health insurance:

*“My boss was yelling at me to get him something from the other store he owns across the street in Jackson Heights. When I was crossing the street in a rush, I got hit by a car and fell 13 feet away [from the car]. My boss didn’t call the cops or an ambulance because I am undocumented. The boss told my co-workers that if the cops do come, to tell them that I don’t work here because I am undocumented. My boss said that the police would ask him a lot of questions, so no one called the cops and I went to the hospital by myself. The next day, my boss fired me because my shoulder was injured.”*

—Retail Worker, Focus Group Participant #14

*“When I would get sick, my boss would tell me that if you go see a doctor you won’t have a job anymore and that they would not take or send me to see a doctor. One time I got really sick and had to go to the emergency room. I could not go to work, so I had to leave the job.”*

—Domestic Worker, Focus Group Participant #18

## IN FOCUS: Retail Workers and Lack of Benefits

*“We don’t have sick days. When we get sick we call in but most times we are pressured to come in to work despite being sick.”*

—Retail Worker, In-Depth Interview #6

Years of working long hours in a retail store drastically impacts the health and well-being of workers. When workers inevitably get sick, they are unable to take time off to rest and get better; almost 80% of the workers surveyed reported not being able to take sick days. Working sick not only inhibits recovery, it also threatens public health. Furthermore, most workers don’t have health insurance (97% of retail survey respondents had no health coverage), so even if they could get off work, many South Asian workers would struggle to pay for expensive medical care.

## **Finding 6: Many undocumented South Asian workers experience harassment and mistreatment from employers, law enforcement, and customer.**

*“I have been working in Jackson Heights for 16 years in quite a few stores. When I didn’t get paid for five months, I went to that store and I asked for the money. They [my employers] behaved very badly with me because we have no papers. Sometimes the employers blackmail us that, if you do something, they will call immigration. There are a lot of people that work here that do not have papers and they do not get paid properly either.”*

– Retail Worker, In-Depth Interview Participant #4

### **Harassment**

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

It is evident that South Asian workers, regardless of status, often encounter some sort of harassment in personal and professional settings. This harassment is often based on assumptions about an immigrant’s real or perceived religion, ethnicity or immigration status. Undocumented South Asian workers who participated in our study reported various types of harassment from almost everyone around them, including employers, law enforcement, and clients. Construction, domestic, restaurant, and retail workers are mostly harassed by employers, but taxi drivers are often harassed by police and customers. Focus group participants revealed instances of abuse and harassment from employers and law enforcement agents:

*“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



*“I didn’t have any clothes besides the ones I came with from India. During the cold winter, I was sent [by my employers] to go get groceries and was not given a jacket or even a sweater. Only I know how I managed to stay alive and survive each day. One day they were going to a party and dropped me off at a temple in Flushing, left me with only the clothes I had on. I was given \$10 and told that I should go back to India somehow.”*

– Domestic Worker, Focus Group Participant #17

### **Targeting of Muslim Workers**

Indeed, since September 11, 2001, there has been a rise in workplace discrimination, particularly towards Muslims and those perceived to be Muslim, including an increase in the use of ethnic slurs.<sup>60</sup> Undocumented Muslim workers have been particularly vulnerable to abuse and exploitation because of their immigration status and religious affiliation:

*“While driving my cab, police have stopped me for minor traffic violations or even no reason, and asked if I am a Muslim and if I pray or not.”*

– Taxi Driver, DRUM member



*“The relationship with my boss is okay, he screams at me but he’s very smart the way he deals with me...he knows about my immigration...because he knows I couldn’t find out or get another job. He tell me stories like- those who are undocumented aren’t getting jobs and about a guy who got fired from that job and he got arrested by FBI- these people are getting arrested. He tells you this story and that story- he keeps you in fear.”*

*– Restaurant Worker, Focus Group Participant #34*

*“I had a police officer who was an occasional customer at the Dunkin Donuts where I work. Once he heard me say something in Urdu to a co-worker and he became enraged and demanded to know what country I was from and if I had immigration papers. He went after my supervisor and wanted to see copies of my work permit.”*

*- Restaurant Worker, DRUM member*

## Barriers to Reporting Harassment

When workers experience workplace harassment or discrimination, they have the right to report it to the U.S. Equal Employment Opportunity Commission. However, undocumented workers tend to underreport harassment because of a fear of deportation. Moreover, in smaller tight-knit immigrant communities like Jackson Heights, social stigmas and fear of personal and familial retaliation further deter workers from reporting harassment to anyone, especially to federal authorities. In fact, focus group participants cited fear of deportation and retaliation as the primary deterrents to reporting harassment.

## IN FOCUS: Retail Workers and Harassment

*“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*

In addition, to being underpaid and overworked, many retail workers reported verbal harassment from the business owners, the business owner’s family, or both. Surveyed workers cited their immigration status as the main reason for this mistreatment. Many employers take advantage of their employees’ immigration status, often threatening to turn them in to Immigrations and Customs Enforcement (ICE).

## Husna, Domestic Worker

Husna, who is 44 years old, was able to come to the US over 12 years ago because she was sponsored by a Bangladeshi diplomat. Part of her original work agreement was to have money sent back home to her son in Bangladesh. But neither she nor her son ever saw any money and she was repeatedly mistreated and harassed.

“I’ve had two bosses here who harassed me. My first boss, who brought me to the United States, did not pay me. They had me do a lot of work all the time; before I came, they told me that I only had to cook. Still they would make me do everything. There was a washing machine but I wasn’t allowed to use it. I had to do laundry with my hands. They had a dishwasher, but I couldn’t use that either. I had to wash dishes with my hands. After doing all this, my hand and skin were ruined so much that I couldn’t touch water because it burned.

I had to sleep on the floor under the table. I wasn’t allowed to go outside. After two years, I asked to go downstairs since I was always upstairs on the 10th floor. If any Bangladeshi guests came to the house, I was not allowed to talk or go in front of them. I had a three year visa but never saw my passport. My boss held on to it all the time.”

## V. CONCLUSION



Since the 1990s, South Asian immigrants have been highly visible in every aspect of life in New York City. Yet, they are often invisible to the media and policy makers. Moreover, prevailing stereotypes of the myth of the model minority continue to negate actual economic, social, and political realities of working class South Asian immigrants. Arguably, many of those stereotypes have been replaced by new ones in a post 9/11 context towards Muslim communities, and those perceived to be Muslim. This double marginalization for low-wage and undocumented South Asian immigrant workers, particularly in New York City, has produced misguided law enforcement, immigration, labor, and social policies in the last decade. The findings in this report document the vast mistreatment of undocumented South Asian workers and demonstrate the pervasiveness of workplace violations that they face. The low-wage South Asian immigrant workers profiled in this report offer an alarming glimpse into the harsh conditions faced by hundreds of thousands of New Yorkers on a daily basis. The women, men, and youth who work under such oppressive and exploitative conditions live and work in our own neighborhoods, communities, and workplaces. The wide array of industries and employers that underpay, overwork and mistreat employees suggests the urgent need for reform.

DRUM's South Asian Workers Center is making strides to organize large numbers of South Asian workers as leaders in the fight to create more just and fair conditions for all workers. DRUM achieves this through membership building, developing leadership of workers to lead policy change campaigns, and forging alliances. Yet, DRUM's membership understands that South Asians are not the first group to face such conditions. For that reason, the organization works in solidarity with diverse communities of immigrants, workers, and low-income New Yorkers throughout the city. The members of DRUM learn from the invaluable work being done by diverse workers' organizations across the city, particularly those of taxi drivers, retail workers, domestic workers, day laborers/construction workers, street vendors, and restaurant workers.

The following policy recommendations were created in close consultation with some of these immigrant worker organizing efforts across the city to ensure that all workers are organizing collaboratively to improve conditions and treatment for immigrant workers.

## VI. POLICY RECOMMENDATIONS

All workers in New York City, whether documented or not, are covered by federal and state labor laws. These laws are overseen and enforced by the U.S. and New York State Departments of Labor along with the New York State Attorney General's Labor Bureau and local District Attorneys. Yet, as documented in this report, the rights and dignity of the nearly one million undocumented workers in New York City are regularly violated.

The stories of wage theft, overtime violations, and harassment included in this report indicate the urgent need for stronger labor protections for all workers as well as enforcement mechanisms to ensure that existing rights are recognized and protected.

In a collaborative and community driven process, the worker members of DRUM, along with policy advocates, outlined possible solutions to the problems highlighted in this report. The results are broad policy recommendations shared by many community and advocacy organizations across New York City and nationally. The breadth of recommendations gives ample opportunity for various levels of government to legislate reforms and implement better labor and human rights standards that would benefit all workers.

### 1. Enforcement and Reform of Labor Laws

Despite federal and New York State laws that exist to protect workers from abuse, survey respondents reported vast wage theft and hazardous working conditions. These findings indicate gaps in the enforcement of current labor laws. Such shortfalls could be addressed by implementing the following recommendations related to 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>61</sup>
- » City, State and Federal lawmakers should increase resources for the New York State Attorney General's Labor Bureau and local District Attorneys to allow them to prosecute the worst employer offenders. In recent years, divestment from lawmakers has caused the Attorney General's Labor Bureau staff to reduce the number of attorneys and managers from 18 to only 13, severely reducing the number of cases the Bureau is able to take on.
- » The DOL should increase the number of investigations arising from complaints, and it should proactively investigate the industries highlighted in this report through random and unannounced inspections in high-risk areas like Jackson Heights. Visits must be unannounced to ensure that the inspectors are able to observe real working conditions and get honest information from employers and employees.
- » DOL should increase its presence in several neighborhoods, including Jackson Heights, Queens by regularly bringing its "Labor on Wheels" van to the neighborhood. The "Labor on Wheels" program brings DOL employees to different neighborhoods so that workers can ask questions and learn about their rights in their community. DOL staff at these events should be fluent in South Asian languages, including Hindi, Bengali, Urdu, Punjabi, and Nepali.
- » 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.





- » DOL should revamp and redesign its website to ensure that workers can easily access information and understand forms in their native language. Specifically, the DOL should make the following changes:
  - Minimum wage and overtime violations forms should be available online.
  - All claim forms should be available in more languages, specifically South Asian languages including Hindi, Bengali, Urdu, Punjabi and Nepali.

### **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.
- » Ensure that workers have access to medical care during the workers' compensation claims process.
- » Along with the governor, increase the minimum wage to at least \$14.77 (the current Self-Sufficiency Standard for a single adult with no children in Queens County)<sup>62</sup> and create an automatic system to increase the minimum wage each year.
- » Allow local governments to set a higher minimum wage than the state to match the need of local economies.

## **2. Immigration and Law Enforcement**

In the years since 9/11, New York City has seen a significant increase in the surveillance and harassment of immigrant communities by law enforcement authorities.<sup>63</sup> These anti-immigrant activities are directly related to a larger struggle for worker justice: as documented in this report, such practices reduce trust in government and discourage immigrant workers from reporting labor violations. Accordingly, the following recommendations would increase the safety and security of immigrants in New York City, while simultaneously improving working conditions and supporting the economic advancement of hard-working New Yorkers.

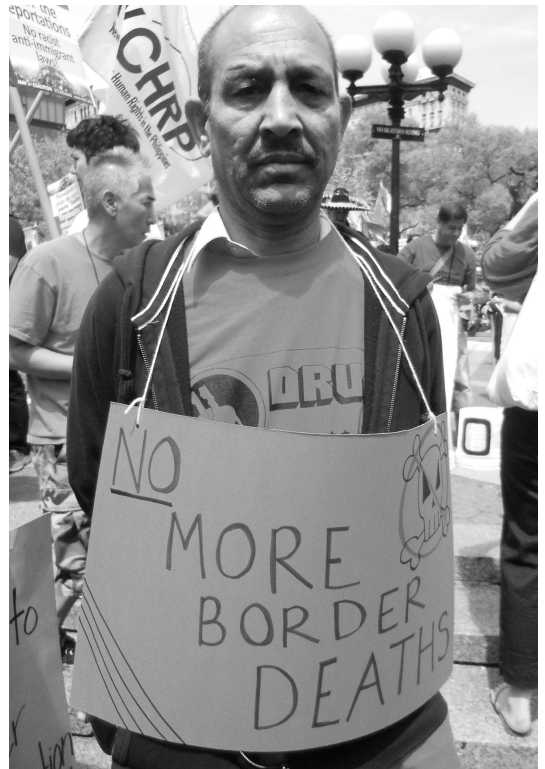


- » Immigration and Customs Enforcement (ICE) and the Federal Bureau of Investigation (FBI) should immediately discontinue the Secure Communities program.
- » New York State legislature and New York City Council should hold hearings and pass accountability measures to end law enforcement surveillance and profiling of Muslim South Asian communities.
- » 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 for the purpose of ending harassment of immigrants and ensuring enforcement of Executive Order 41, the “Don’t Ask Don’t Tell” policy for immigration status. The Inspector General would investigate and audit NYPD program and operations; recommend policies to promote civil liberties; identify waste, fraud and abuse; propose corrective action where necessary; and make reports to the Commissioner, Mayor, Council and public.

## **3. Global Migrant Workers Policy**

The exploitation faced by undocumented immigrant workers in New York City is not only a local, but a global phenomenon. The growing international undocumented workforce is often excluded from basic human rights protections because of parallel national immigration and labor policies, particularly in North America and Europe. As such, there is a rising global movement among migrant workers and advocates for international migration policy that would uphold universal human rights standards over disparate and often punitive national immigration policies in migrant receiving countries. In solidarity with this movement, federal elected officials can take the following steps:

- » U.S. foreign policy should support community-based models of development, including domestic job creation, that ensure sustainability, equity and communities as beneficiaries, rather than promoting migrant labor as a commodity.
- » The U.S. government should adhere to its commitments under the Universal Declaration on Human Rights (UDHR). In particular, Article 13 of the UDHR which underlines the free mobility of all people should negate the ongoing harassment by law enforcement officials of migrant workers.<sup>64</sup> Further, Article 23 (right to desirable work),<sup>65</sup> 24 (right to rest and leisure)<sup>66</sup> and 25 (right to adequate living standard)<sup>67</sup> all bear on the current conditions faced by most South Asian workers.
- » The U.S. should fulfill its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>68</sup>
- » The U.S. should adhere to its commitments under the 1951 United Nations Convention on the Status of Refugees, and its 1967 Protocol.<sup>69</sup> These standards particularly clarify the protections that should be accorded to many South Asian workers, particularly in relation to protections for employment and welfare.
- » The U.S. should ratify the UN International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families.<sup>70</sup> The Migrant Workers Convention outlines many critical elements which can prevent and eliminate the unscrupulous exploitation of all migrant workers particularly its extension of the concept of “equality of treatment” between nationals and non-nationals, and between documented and undocumented workers.
- » The U.S. government should ratify, implement and abide by the standards of work globally set by the International Labour Organization (ILO). ILO instruments relevant to migrant workers include Convention No. 97 (Migration for Employment)<sup>71</sup> and 143 (Migrant Workers)<sup>72</sup>, including their accompanying Recommendations (No. 86 and 151),<sup>73,74</sup> its Multilateral Framework on Labour Migration,<sup>75</sup> and most recently, Convention No. 189 and Recommendation No. 201 on Decent Work for Domestic Workers,<sup>76</sup> for which the U.S. State Department vigilantly advocated. These cumulative standards directly address a wide range of state protections and guarantees accorded to migrant workers, including those related to equal remuneration and wage payment, hours of work, work conditions, and freedom from harassment by both employers and law enforcement officials.
- » The U.S. government should ratify, implement and abide by the UN’s International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),<sup>77</sup> signed by President Jimmy Carter in 1980. Women’s rights to decent work, health, security and justice are crucial in the migration process and in their roles within communities and society as a whole.







## VII. CALL TO ACTION

South Asian immigrant workers in New York City are part of a rising force of migrant workers globally who bear the brunt of the impacts of neo-liberal economic policies. South Asian and all migrant workers and their families, particularly in the global north, have become an integral part of the social and economic fabric of receiving countries like the United States and a major force for progressive change in these countries. Yet, our local and national laws need a fundamental overhaul in order to uphold the basic human rights of these millions of workers on whose backs wealthy nations continue to prosper.

Domestic labor and immigration policy must be overhauled to protect human rights, grant legalization, and end anti-immigrant and anti-worker practices. Immigrant workers centers and organizing across the country should be better supported and included in all aspects of social, economic, and political rights efforts. However, immigrant worker issues in the U.S. must be framed and addressed far beyond reforming domestic policy alone, to developing global and foreign economic, trade, military, and environmental policies rooted in human rights over profit.

The global migrant rights movement has long advocated for the right of mobility (both the “right to stay” as well as the “right to migrate”). Yet, what would it take for millions of migrant workers forced to cross borders for survival, to have access to proper food, housing, work, and opportunities in their home countries in the global south? The continued inequality between the global north and south, a driving reason for migration, is itself a result of the ongoing legacies of colonial power relations. In fact, genuine “development” in the global south can only be possible by ending unjust free trade agreements and economic policies, wars and occupation, and environmental inequity imposed by governments and corporations of the wealthy nations as well as multilateral institutions. As immigrant and workers’ rights advocates within the U.S., we must also challenge global institutions such as the World Trade Organization, World Bank, International Monetary Fund, the G8, NATO, and the United Nations to acknowledge and respect human rights over profit expansion. Immigrant and all workers in the U.S. will build true equality and justice when we are able link arms with this rising movement for global justice.



## VIII. ENDNOTES

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A report by DRUM – Desis Rising Up & Moving and the  
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