



# Migration that Works

## **Proposal for an Alternative Model for Labor Migration**

**Introduction.** Migration that Works<sup>1</sup>, formerly the International Labor Recruitment Working Group, is a coalition of labor, migration, civil rights, and anti-trafficking organizations and academics advocating for labor migration that prioritizes the human rights of workers. Rather than the existing temporary labor migration programs, Migration that Works proposes an alternative model for labor migration that would obviate recruitment abuses by giving workers control over their visas and facilitating direct hiring.

**The Current System of Temporary Migration is Fundamentally Flawed.** Under the existing guestworker programs, workers are recruited in their countries of origin for temporary work by recruiters who discriminate in their selection of workers and often charge hefty fees to connect workers with employment. Workers often take out loans to pay these fees and other costs in the migration process, which leave workers vulnerable to exploitation, debt bondage, and human trafficking.

Upon arrival at the workplace, workers report abuses such as wage theft, substandard housing, harassment, discrimination in job assignment, injuries, and physical or verbal abuse. Because their visas are tied to their employers, workers face the difficult decision between remaining with an abusive employer or returning home to lost opportunities and insurmountable debt. Workers also face threats of retaliation, retaliatory firing, and non-hiring in subsequent years. Fear of losing a visa in retaliation for reporting abuses silences workers. When combined with the temporary nature of visas, the cross-border nature of migration acts as a barrier to legal complaints.

**A New Labor Migration Model Is Needed.** Migration that Works proposes a new framework for labor migration that shifts control over the labor migration process from employers to workers, elevates labor standards for all workers, responds to established labor market needs, respects family unity, ensures equity and access to justice, and affords migrant workers an accessible pathway to citizenship. The Migration that Works model incorporates (1) worker control over the labor migration process with (2) meaningful government oversight and (3) rigorous vetting of employers.

### ***Worker Control***

Rather than being recruited by an informal chain of recruiters, workers would self-petition for visas and connect directly with certified employers on a multilingual, government-hosted database of available jobs. Workers would be entitled to petition for their families. The simple and accessible self-petition process would eliminate the need

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<sup>1</sup> The following organizations and individuals are members of Migration that Works: AFL-CIO; American Federation of Teachers (AFT); Janie Chuang and Jayesh Rathod from the American University, Washington College of Law; Centro de los Derechos del Migrante, Inc. (CDM); Coalition to Abolish Slavery and Trafficking (CAST); Department for Professional Employees, AFL-CIO (DPE); Economic Policy Institute (EPI); Farmworker Justice; Farm Labor Organizing Committee; Friends of Farmworkers; Jennifer Gordon from Fordham University School of Law; Patricia Pittman and Susan French from George Washington University; Jobs with Justice; Justice in Motion; National Domestic Workers Alliance; National Employment Law Project; National Guestworker Alliance, New Orleans Workers' Center for Racial Justice; Polaris; Safe Horizon; Service Employees International Union; Solidarity Center; Southern Poverty Law Center; UniteHere! International Union; Jennifer Hill from the University of Miami, School of Law; Sarah Paoletti from the University of Pennsylvania Law School; and Verité.

for recruiters and root out the abuses they perpetuate, from charging fees to discrimination to threats of retaliatory non-hiring in subsequent years. Through the government’s job-matching database, workers would also be able to change employers. Workers would be able to petition for citizenship.

***Employer Certification***

Rather than subcontracting with recruiters to solicit workers, employers would apply for certification from the federal government in order to post job opportunities on the government’s job-matching database. Once certified, employers would select workers through a blind process that would focus on job competencies and would eliminate discrimination based on race, age, gender, national origin, and other bases of discrimination.

***Government Oversight***

Rather than piecemeal oversight of the current visa programs, the federal government would maintain a single database of certified employers containing a job-matching component in order to facilitate the direct hiring of migrant workers. The government would certify employers, thoroughly monitor compliance with the laws protecting all workers across all industries, and revoke certifications of noncompliant employers, fining them for violations. The government would hold employers strictly liable for abuses at all stages of the labor migration process. Additionally, the government would establish an independent commission to determine labor market need and establish prevailing wage rates. The job-matching database would post only those positions that were responsive to demonstrated shortages and offering market wages.

**Conclusion.** Through this paradigmatic shift, power imbalances between migrant workers and their employers would be corrected. Fundamental flaws in the temporary labor migration programs would be stemmed. The current system would be replaced with a coherent rights-based model that restores the dignity of work to all workers.

**COMPARISON OF EXISTING AND PROPOSED MODELS**

<b>Rights</b>	<b>Existing Model</b>	<b>Proposed Model</b>
<b>Freedom of Movement</b>	Workers are generally tied to one employer, cannot control where they live, and often have their passports and documents confiscated.	Workers petition for and control their work visas, choose a residence, and change jobs or industry sectors. Workers maintain control of their documents at all times.
<b>Freedom from Economic Coercion</b>	Recruiters charge workers recruitment fees, employer contracts include breach fees, and travel and subsistence costs result in work-related debt that force workers to remain with abusive employers.	Employers pay recruitment fees and costs. Workers arrive at the job site free of recruitment- and work-related debt.
<b>Self-Determination and Secure Employment</b>	Work visas are time-limited, and workers must return home when their visas expire. Previously full time jobs are made insecure and temporary. Political participation is limited.	Workers have a pathway to citizenship, freely exercise their political views, and freely pursue economic, social, and cultural development. Work visas no longer facilitate precarious work.

<b>Migration as a Family</b>	Workers generally cannot migrate with their families. Even when family members can migrate, they are not granted equal rights or work authorization.	Workers migrate with their families. All family members have equal rights, including access to work authorization.
<b>Equal Labor Protections</b>	The law limits some workers' rights and labor protections. Workers are paid less as compared to U.S. workers, which undercuts wages and working conditions for all workers. Employers use work visas to displace existing workers.	Workers are guaranteed high labor standards and just and favorable working conditions, including equal pay for equal work compared to both other migrant and U.S. workers. Genuine need is established before posting job opportunities.
<b>Organize</b>	Workers face barriers when they attempt to organize and join unions. Workers who do organize can face retaliation. The prevalence of staffing agencies and other third-party contractors prevents workers at the same job site from having the same employer.	Workers freely join trade unions and other worker-led organizations. Third-party employers are not eligible for certification, clarifying the employment relationship and reducing discrimination.
<b>Non-Discrimination</b>	Employers and recruiters hire and assign job duties based on discriminatory bases.	Workers are free from discrimination in hiring, job placement, and re-hiring.
<b>Whistleblower Protections, Personal Security, and Freedom from Intimidation</b>	Employers and recruiters retaliate against workers, threaten to blacklist workers who complain, and attack workers.	Workers freely report abuses without retaliation, intimidation, threats, or attacks.
<b>Access to Justice</b>	The border acts as a barrier to justice. Complaint mechanisms are not accessible. Some hearings require in-person testimony, and access to visas to pursue claims is restricted. Legal services are only available to some workers.	All persons are equal before the courts, tribunals, and decisionmaking bodies. Workers access fair and just processes and remedies, as well as legal services.
<b>Access to Benefits and Services</b>	Workers have difficulty accessing health care and other support services. Government benefits to which workers are entitled are difficult, if not impossible, to access across borders.	Workers have access to health care, mental health care, child care benefits, workers' compensation, Social Security (including survivors' benefits), and retirement benefits across borders.

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