

Labor Exploitation and Trafficking of Agricultural Workers During the Pandemic

A Snapshot: June 2021



Background

Over the last year, Polaris examined data from the U.S. National Human Trafficking Hotline to determine the potential impact of the COVID-19 pandemic on human trafficking in the United States. The effort involved comparing the volume of identified likely trafficking situations in separate periods before and during the pandemic response. In addition, differences in the demographics and other characteristics of situations were examined (see box below).

It is important to note the limitations of this analysis. First, this is an exploration of correlation and not causation, meaning that the

findings are not proof that the changes are caused by the COVID-19 pandemic. Next, the Trafficking Hotline exists to assist victims and survivors of human trafficking and data is gathered only for the purpose of providing that assistance; therefore, every person who makes contact with the Trafficking Hotline is not asked the exact same questions. This contributes to the possible measurement variation.

This brief is the third in a planned series presenting timely analysis and evidence to guide efforts to respond to emerging needs as a result of the COVID-19 pandemic.

Time Periods

- **Pre-shelter-in-place 2019: April 1st - September 30th, 2019**
- **Pre-shelter-in-place 2020: October 1, 2019 - March 31, 2020**
- **Post-shelter-in-place 2020: April 1st - September 30th, 2020**

The analysis compares a six-month post-shelter-in-place period to two deliberately chosen pre-shelter-in-place periods, based on the orders to stay home on March 15th in San Francisco, CA. By March 30th, most states that eventually enacted a shelter in place order had done so.

Independent sample t-tests were used to examine if differences between two time periods are likely to represent an actual difference rather than one that arose as a result of chance variations. In this analysis, significant findings were noted if differences against both time pre-shelter-in-place periods were significant at $p < 0.05$ levels (a standard level used in social science research, indicating a less than 5 percent probability that the difference is due to chance). Chi-square statistics were also used to examine for significant differences in the proportions of situations and victims of trafficking of certain characteristics.

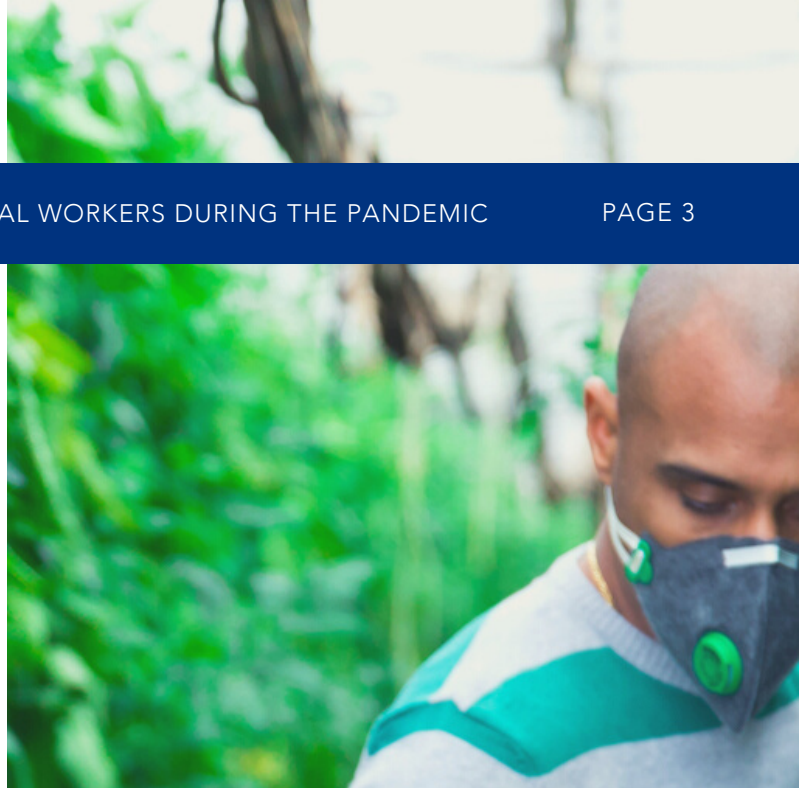
Findings

The analysis found possible decreases in reports of labor trafficking in key industries with one major exception: Agriculture.

In agriculture, there is some evidence that trafficking and exploitation may have in fact increased among these workers - individuals deemed “essential” during the global pandemic.

The most notable decrease in reports of trafficking came in the hospitality industry, which saw a drop of between 30 and 60 percent over comparable non pandemic periods. While it is hard to prove with our data, it is likely that this can be attributed in large part to a significant slowdown of economic activity and in some situations, a complete shutdown of this segment of the economy. In addition, there were some indications, though not statistically significant,¹ of reductions in situations related to commercial cleaning and domestic work. These findings are not a suggestion that trafficking has declined permanently in these sectors - only that the overall decrease in economic activity in these sectors may have also contributed to a decrease in the number of contacts about trafficking in these sectors.

¹ Some of these changes were not significant since the number of cases reported to the hotline in these categories are already small resulting in small sample sizes with reduced power to detect significant changes.



Among reported labor trafficking victims, there was more than a

70 PERCENT INCREASE

in those who held

H-2A VISAS

from less than 400 in a 6-month period to more than 600 in a similar period of time during the pandemic.



Daily Number of Situations With at Least One Likely Victim With an H-2A Visa

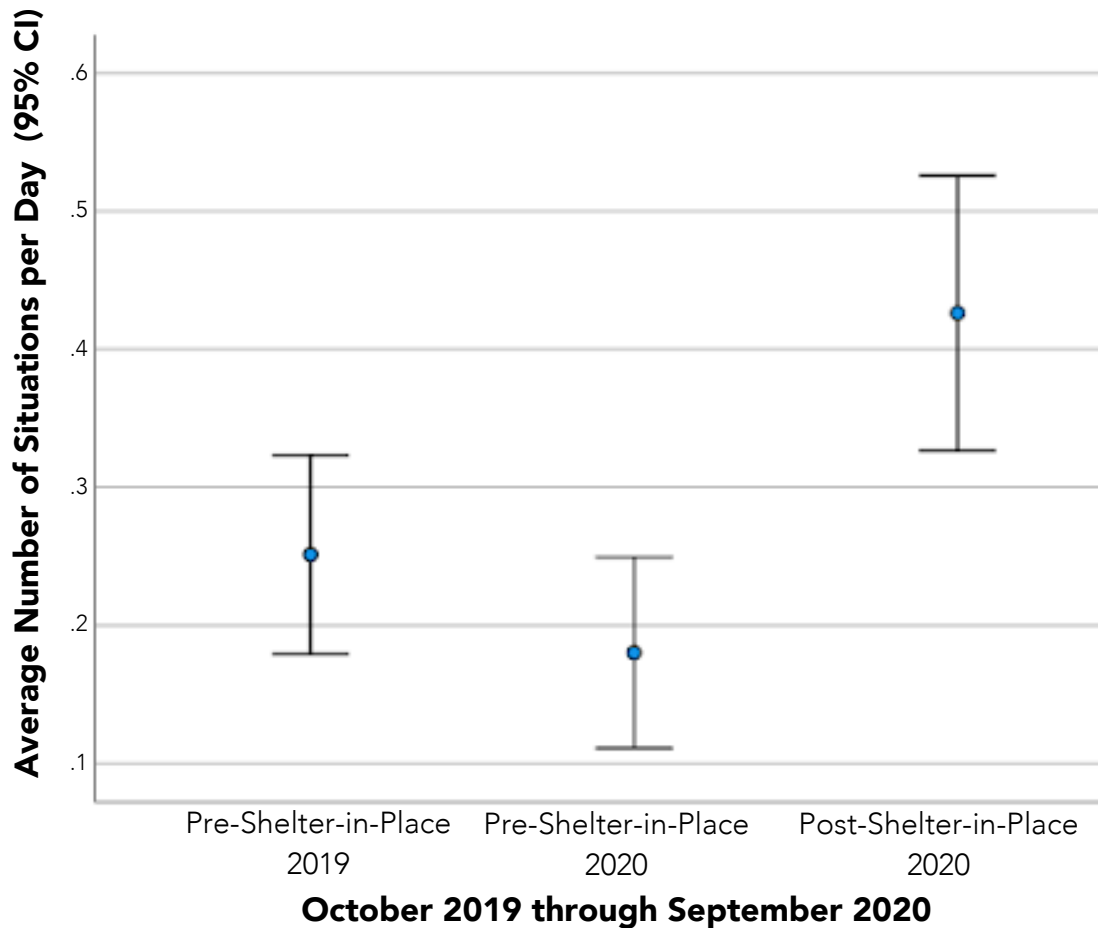


Figure 1

The agriculture sector, by contrast, remained up and running to the extent possible. Much of that sector is staffed by immigrant workers, many of whom come to the country on legal, temporary work visas called H-2A visas (see page 5).

Data from the Trafficking Hotline has long shown that workers in this country on certain kinds of legal, temporary work visas are disproportionately represented amongst victims we learn about.² The situation appears to have been exacerbated during the pandemic.

The daily number of labor trafficking and exploitation situations reported to the Trafficking Hotline that had at least one victim with an H-2A visa doubled for the 6-month period during the pandemic (see figure 1).

As a result, the proportion of reported labor trafficking victims with an H-2A visa went up significantly from approximately 11% to 25%.

² <https://polarisproject.org/resources/human-trafficking-on-temporary-work-visas-a-data-analysis-2015-2017/>

A man in a red shirt and green gloves is working in a field, using a hoe to dig the soil. The background shows rows of green plants in a field.

What is Labor Trafficking?

Labor trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.³ Abuses against workers during the recruitment process typically include substantial illegal recruitment fees, failure to reimburse visa and travel expenses incurred by workers, false promises about employment conditions, and lack of employment contracts. Once workers arrive in the United States, current rules and fee requirements make it impossible for legal temporary workers to change employers. The H-2A visa only authorizes the visa holder to work for a particular employer for the length of the visa. If the migrant worker quits his or her job, the visa is null and void - and the worker becomes unauthorized. This system gives employers disproportionate power over workers - power that is often misused to exploit these essential workers.

³ Trafficking Victims Protection Act of 2000, 22 U.S. Code § 7102 (2020). <https://www.law.cornell.edu/uscode/text/22/7102>

Available data on likely victims of labor trafficking from the last two years (October 2018 through September 2020) shows that H-2A visa holders whose demographics are known⁴ were male (98%), adults (100%), and of Hispanic or Latino origin (99%). Almost all of them reported fraudulent recruitment tactics that included false promises or job offer advertisements. During their exploitative employment, almost all likely victims experienced some type of coercion (99%) and fraud (94%) (see figure 2).

The pandemic has aggravated some of these experiences. The proportion of likely victims

of labor trafficking who held H-2A visas and experienced fraud during their employment went up from approximately 80 percent pre-pandemic to almost 100 percent, mostly a result of increases in the use of debt and quotas (see table below). In addition, while there were no significant changes in the overall proportions of victims experiencing coercion, those that experienced denial of their daily needs, stalking and threats to harm them or their families increased (see table). Finally, those who reported being denied medical care increased significantly from less than 20 percent pre-pandemic to 34 percent post-pandemic.

Exploitation of Victims of Labor Trafficking Who Held H-2A Visas

(October 2018 - Sept 2020)

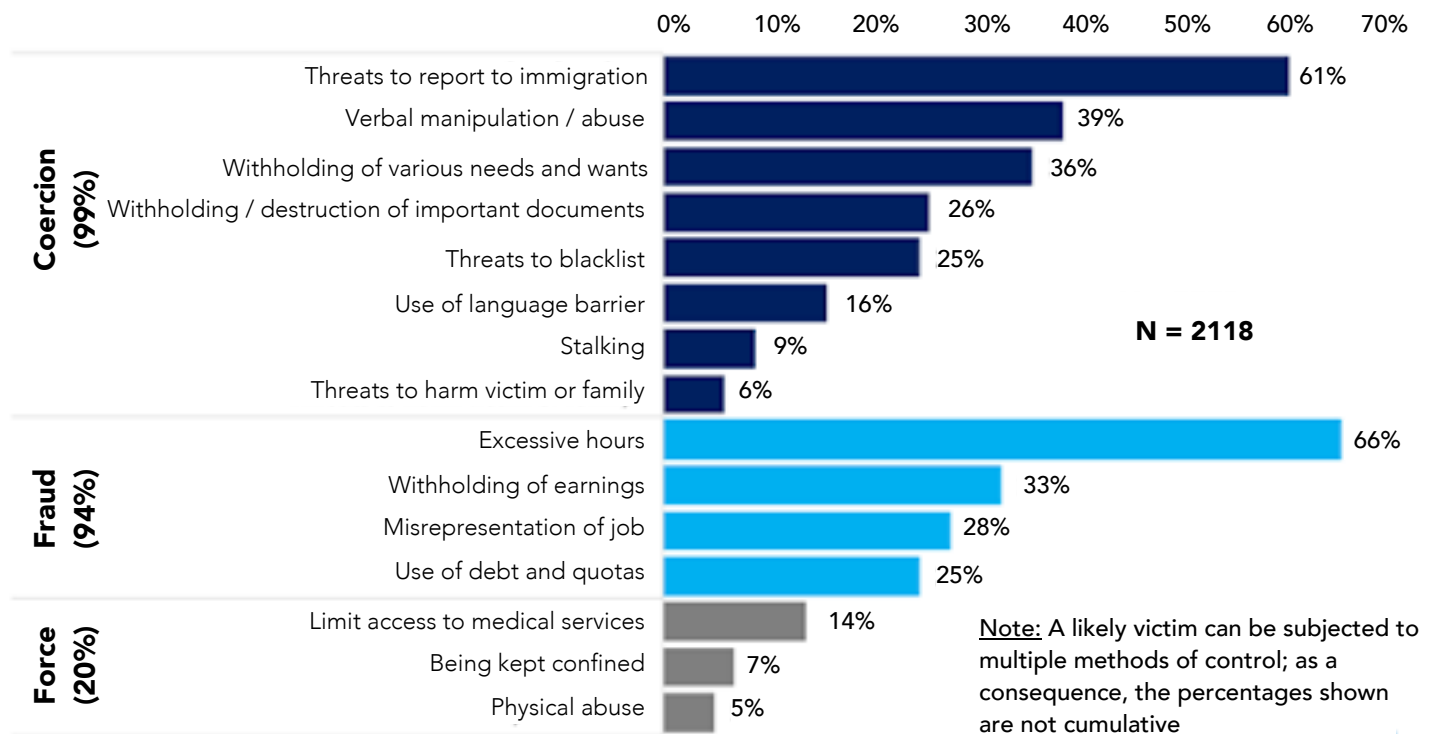


Figure 2

⁴ Of those labor trafficking victims who were H-2A visa holders, 60% had information on their gender; 85% of adult/minor status at time of contact with the Trafficking Hotline and 56% on their ethnicity.

Significant Changes in the Percentages of Likely Victims with an H-2A Visa that Reported Specific Force, Fraud and Coercion Tactics

		Pre-shelter-in-place 2019	Pre-shelter-in-place 2020	Post-shelter-in-place 2020
N (total number of victims with an H-2A visa)		372	268	629
Coercion	Withholding of various needs and wants	48%	42%	63%
	Stalking	11%	0%	24%
	Threats to harm victim or family	4%	7%	15%
	Threats to report to immigration	70%	89%	50%
	Withholding / destruction of important documents	37%	19%	2%
Fraud	Use of debt and quotas	12%	2%	43%
Force	Limit access to medical services	16%	6%	34%

During the pandemic, more than one third of victims with an H-2A visa reported being

DENIED MEDICAL CARE

despite their classification as essential workers.

Policy Recommendations

During the COVID-19 pandemic, federal, state and local governments designated agricultural workers as “essential,” underscoring our country’s dependence on migrant labor to secure our food supply. And yet, as this analysis demonstrates, the system in place to protect these workers is clearly inadequate.

Migrant workers, including those in the United States legally on H-2A, H-2B, and other temporary work visas, routinely face situations of financial exploitation, threats, and unsafe living and working conditions at the hands of their employers. As the data from the U.S. National Human Trafficking Hotline illustrates, the COVID-19 pandemic has exacerbated the systemic problems that are inherent in the temporary visa system that leave migrant workers vulnerable to trafficking and exploitation.

The Biden administration should prioritize **increasing interagency cooperation** between the Departments of Labor, State, and Homeland Security to quickly implement necessary protections for temporary visa workers, including:

- **Enforce the ban on recruitment fees** across all temporary visa categories.
- Significantly increase resources for Department of Labor enforcement in order to **support investigations** into health and safety and wage and hour violations to identify and hold accountable employers who engage in or derive profit from exploitative practices, and to strengthen the department's mandate to conduct oversight, including random audits of employers.

- **Improve transparency and resources** for workers in their home countries during the recruitment process, including:
 - Mandating that workers receive job offers and detailed contracts at the start of recruitment.
 - Ensuring that workers receive information in their own languages, prior to their departure, about workplace protections and other resources and rights available to them. This information must include COVID-19 safeguards, medical care, and vaccines, as well as other awareness materials like the *Know Your Rights* pamphlet even when regular consulate operations are interrupted as they were during the pandemic.
- **Issue regulations that provide whistleblower protections** to ensure that workers who assert their labor rights and/or acknowledge having paid fees are not fired from their current job and that the acknowledgement does not prevent them from being hired for future work. Ensure these rights are communicated to workers so they know the new and existing protections available to them and where to turn if they face exploitation.
- Identify steps to allow temporary visa workers to safely **leave exploitative working situations** without fear of deportation and to work with Congress to pass legislation that changes the system of temporary visas to allow for regulated and protected mobility of workers.



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