

Maryland State-Wide Strategic Plan

Environmental Scan Summary Brief



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General Overview

This report summarizes the themes presented in three existing environmental scans on human trafficking (sex and labor trafficking) in Maryland. In each section, identified themes will outline the themes in aggregate across each environmental scan.

The environmental scans included in this report are:

- Environmental Scan: A Review of Current Human Trafficking Trainings & Professional Development Opportunities Accessible to Frontline Staff in Maryland (PD Scan)
 - Publication date: 2017
 - o **Authoring organization:** Healthy Teen Network
 - o **Summary:** This document summarized various professional development opportunities delivered by organizations across Maryland and highlighted the topics covered, the pedagogical approach(es) used, and the intended audiences along with other notes, as relevant.
- Child Labor Trafficking in Maryland: Findings from an Environmental Scan (Child Trafficking Scan)
 - Publication date: 2023
 - Authoring organization: University of Maryland School of Social Work
 Prevention of Adolescent Risk Initiative (UMBSSW PARI)
 - Summary: This document summarized existing data on labor trafficking in Maryland and, to a lesser extent, nationally while highlighting overall trends in Maryland related to the geographic



trends, typology/morphology of labor trafficking, limitations of current resources and data, and other notes of interest.

- Picked Apart: The Hidden Struggle of Migrant Worker Women in the Maryland Crab Industry (Crab Industry Scan)
 - Publication date: 2010
 - Authoring organization: American University Washington College of Law and Centro de los derechos del migrante, inc.)
 - Summary: This report summarized qualitative data findings investigating the realities of women migrant workers seeking employment in Maryland's crab industry. The report describes the context of the work and systems contributing to exploitation in this industry while highlighting themes and providing policy and service recommendations based on those findings.

Limitations of This Brief

- This report focuses on three environmental scans of the state of human trafficking in Maryland, each with a specific focus. The state-wide strategic plan will need to incorporate not only the findings of this report but also data and expertise from much more wide-ranging sources to make sufficient recommendations.
- Two of the three reports are more than five years old. The themes identified in those two reports provide an opportunity to discuss whether the themes highlighted are still relevant and/or have changed since their publication.



Overarching Themes

- While the state has made progress in focusing on labor trafficking across the state, still programming, resources, and policy decisions disproportionately address sex trafficking. Additional supports to identify, address, and prevent labor trafficking are needed.
- Sex and labor trafficking may occur together and should be addressed accordingly.
- Some policies implemented in recent years have helped to better address
 human trafficking among youth and adults; however, these policies may
 need strengthening or additional policies may be needed to address
 human trafficking more fully in Maryland.
- Expanding partnerships among municipal, state, and national/Federal agencies may help address gaps in investigations and identification of trafficking victims and survivors.
- Broadening the use of validated screening tools, such as the Fukushima Survey, may help to identify victims and increase awareness of both sex and labor trafficking.
- Expanding awareness of, access to, and requirements for professional development for both sex and labor trafficking may better support the accuracy with which victims are identified and the support survivors receive.



 There may be a need to increase the amount of professional development available on labor trafficking; however, more information may be needed to understand better what is currently available.

Subsequent pages in this report will highlight more specific themes outlined in each environmental scan reviewed. The appendices in this report will present the recommendations described in each environmental scan for reference.



Trafficking Presentation Themes

- The Child Trafficking Scan asserts that in Maryland (as is the case in other states), historically, more attention has been paid to the presentation and characteristics of sex trafficking over labor trafficking. Therefore, more is currently known about how, where, and under what circumstances sex trafficking happens.
- That same report highlights that labor trafficking often involves unaccompanied minors migrating from other nations as well as domestic youth and adults with few opportunities for gainful employment.

Notable Context

A <u>Baltimore Banner article</u> from May 2, 2024, reported that unaccompanied minors come to Maryland at a higher rate than any other state and links those populations to three geographic locations: Prince Georges County, near the Delaware border, and East Baltimore.

The Crab Industry Scan focused on adult migrants who often use the H-2B visa process to secure employment in remote areas of Maryland's Eastern Shore. These migrants are subsequently exploited through circumstances created by their employers and recruiters.



- In all cases, the victims/survivors' characteristics that make them vulnerable
 to exploitation include living in poverty, their immigration status, geographic
 location, and access to basic services/care (food, transportation, education,
 medical care, etc.). The co-morbidity of trafficking and these characteristics
 are typical of trafficking generally.
- The Child Trafficking Scan points out that a victim's experience with sex trafficking may obscure labor trafficking experiences when present.
- In a survey of Maryland service organizations, among foreign nationals, labor trafficking (primarily domestic work) outpaces sex trafficking.



Policy Themes

- The Anti-Exploitation Act of 2019 (a labor trafficking-focused policy) provided the opportunity for legal investigation of labor trafficking; however, it does not establish a child abuse statute related to labor trafficking, meaning investigators cannot log a specific maltreatment indicator.
- Regarding H-2B visa programs, recommendations included improving inspections of working conditions and living quarters provided by employers and improving training and engagement with state- and county-level inspectors to identify potential trafficking and exploitation.

The authors of the Crab Industry Scan indicate that the issues migrants face in the H-2B program should be integrated into state programs that address the needs faced by migrants overall.

Notable Context

The Crab Industry Scan predates the COVID-19 pandemic, during which time the H-2B visa program was limited. More information would be needed to understand how it may have changed since then.

 Partnerships with national agencies may improve the oversight of visa programs, such as the H-2B visa program, and policies regarding recruiting migrants for these programs.



Much like at the state level, federal policies could improve how employers' resources (ex., housing, etc.) are delivered to migrants along with improving/increasing services to support migrants in avoiding exploitation and trafficking.



Investigation & Identification Themes

- Overall, there is a lack of investigative resources statewide.
- Various screening tools have previously focused on sex trafficking but with the introduction of additional questions (or adaptations of existing questions), they have successfully begun identifying instances of labor trafficking.
- Some labor violations may not be trafficking, which can make uncovering instances of labor trafficking challenging.
- Using the Fukushima Survey, when surveyed, many welfare workers did not believe they had worked with labor trafficking victims. Still, when asked about specific indicators of labor trafficking, many workers marked "yes." PARI has replicated this survey in Maryland and found similar results. This raises the question of whether this survey should be used longitudinally to measure changes in the perception of the prevalence of labor trafficking with an increased statewide focus.



Training & Professional Development Themes

- When the PD Scan was published, it indicated a disproportionate focus on sex trafficking over labor trafficking, as was indicated in other reports. It is unclear at this time how much this may have changed since 2017. However, we are aware of additional training on labor trafficking as well as adaptations to previously sex-trafficking-focused training to include labor trafficking content.
- The PD Scan also indicated that some professional development opportunities described in the report varied significantly regarding the interactivity, formality, and best practices used in their delivery. Some were short, variable presentations dependent on who delivered them, while others were formalized training opportunities delivered by trained trainers and subject matter experts.
- As the Maryland Human Trafficking Task Force evolves, it may be useful to repurpose the content in the PD Scan, among other resources, as a training/educational directory, including state, local, and national resources.





Recommendations Provided in Each Environmental Scan Reviewed



Appendix A: Recommendations from Picked Apart: The Hidden Struggles of Migrant Worker Women in the Maryland Crab Industry (p. 36-40)

State and Local Recommendations

- 1. Extend Maryland minimum wage and overtime protections to crab pickers and other seafood workers. Currently, crab pickers and other seafood workers are exempted from minimum wage and overtime protections under Maryland wage and hour law. Although federal law does offer these protections to crab pickers, the Maryland exemption sends a strong, and unfortunate, message about the value of this work and the rights that should be afforded to these workers. The lack of minimum wage and overtime protections for these workers has undoubtedly contributed, over time, to the low wage rates that historically have been paid to crab pickers wage rates that typically hover right around the federal minimum wage. Crab companies often lament the inability to recruit U.S. workers to perform the arduous task of extracting crabmeat; yet, the current state of Maryland law exacerbates this concern by contributing to the devaluation of this important work. The Maryland General Assembly should act promptly to repeal this long-standing exemption.
- Ensure regular, pre-season inspections of rental housing provided by employers to H-2B crab workers in Dorchester County, Maryland. Many of the H-2B workers interviewed for this report complained of crowding, lack of



privacy, and at times, nearly uninhabitable conditions in rental housing owned by the crab companies. The Planning and Zoning Department of the Dorchester County government should take a more active role in monitoring the conditions of rental housing offered to H-2B migrant workers. H-2B workers are particularly vulnerable as tenants, given the dual control exercised by the crab companies, over housing and working conditions. The county government should adopt a regular practice of inspecting rental housing in the early months of the year, prior to the beginning of the crab season and the arrival of the H-2B workers.

- 3. Educate H-2B crab workers at the beginning of each season about their basic rights as tenants in the state of Maryland. As a complement to regular housing inspections, H-2B crab workers should receive basic rights trainings from the county government, state government, or another suitable entity, focused on their rights as tenants. Housing conditions may deteriorate, or other concerns may arise over the course of the workers' months-long stay on the Eastern Shore of Maryland. The workers may simply be unaware of their rights as tenants and the basic conditions of habitability that their landlords must maintain. Educational efforts focused on tenants' rights would serve this purpose, and could also inform the workers of possible approaches and resources for resolving landlord-tenant concerns.
- 4. Promote greater engagement by Maryland Occupational Safety & Health (MOSH) with the crab industry, through consultative programs, cooperative efforts, and unplanned inspections. The frequency and variety of injuries and illnesses experienced by the crab-pickers strongly signals the need for greater engagement by Maryland Occupational Safety & Health (MOSH), the state agency charged with regulating such matters. There are a



range of approaches to promote greater oversight of health and safety matters, including unplanned inspections at crab houses, or collaborative partnerships between employers and MOSH. Given the unique nature of crab-picking work, and the particularized risks involved, all parties may benefit from the use of MOSH's consultative programs, which provide a holistic assessment of safety and health concerns and outlines possible improvements.

- 5. Implement comprehensive, bilingual occupational health and safety trainings for new and returning H-2B crab workers. At crab houses on the Eastern Shore of Maryland, formal safety training for workers is nearly universally absent. While MOSH should certainly have a more prominent oversight role, the H-2B workers themselves must be trained on how to perform their work safely and effectively, and how to handle work-related injuries and illnesses. Employers, perhaps in consultation with MOSH or other appropriate entities, should offer a comprehensive training to all crab-pickers on occupational health and safety matters. It is critical that the training be conducted in a linguistically and culturally appropriate manner.
- 6. Deploy bilingual health care outreach workers to the Eastern Shore, to assess, on a periodic basis, work-related injuries or other health concerns of the H-2B migrant workers. Many of the women interviewed had experienced health problems including both work-related issues and personal health matters during their time on the Eastern Shore of Maryland. Geographic isolation, language and cultural barriers, and the pressure to please employers all create disincentives to seeking and obtaining medical care. To combat these barriers, state agencies or not-for-profit organizations with health care personnel should perform outreach among the H-2B



- workers on the Eastern Shore. Conducting such outreach will yield more precise information about the types of institutions and services needed to address the health care needs of the migrant worker population in Maryland.
- 7. Support the growth of not-for-profit organizations and other entities that can conduct education and outreach, and provide legal and other services to the migrant worker population on the Eastern Shore of Maryland. There are scarce institutional resources on the Eastern Shore of Maryland for the significant migrant worker population, and more generally, for the growing immigrant population. Few organizations that cater exclusively to immigrants and migrants exist on the Eastern Shore. As noted above, the sole free legal service provider on the Eastern Shore, the Maryland Legal Aid Bureau, is prohibited from offering representation to H-2B workers. Other legal service agencies are hours away in Baltimore or in the counties north of Washington, D.C. The H-2B migrant worker population desperately needs an organization that can provide basic legal rights education, ongoing support, and referrals to other service providers. Private foundations and the state government should work to enhance the capacity of organizations to serve this isolated population.
- 8. Integrate H-2B migrant worker issues into the agendas of the Maryland Governor's Commission to Study the Impact of Immigrants in Maryland, and the Maryland Council on New Americans. The Governor of Maryland, Martin O'Malley, has established bodies to study the experiences and contributions of immigrants to the state of Maryland. While the H-2B guestworkers are not permanent immigrants, most return year after year, and spend six months or more in Maryland during the crab season. The Governor's Commission to Study the Impact of Immigrants in Maryland, and



the Maryland Council on New Americans are two bodies that could focus on the role of migrant workers in Maryland, and could issue recommendations to address some of the concerns raised in this report.

National Recommendations

1. Regulate recruitment practices, and sanction employers who utilize recruiters that charge excessive or improper fees to workers. Recent changes to regulations governing the H-2B recruitment process prohibit recruiters from charging any fees to workers, recognizing that these costs often leave workers in a state of effective indenture.245 Nonetheless, there is little enforcement of this prohibition, and employers are often able to evade any consequences of contracting with recruiters who charge such illegal fees to workers. Recruiters who charge these fees to vulnerable workers often have an incentive to fraudulently misrepresent the job opportunity offered, and to recruit workers for job opportunities that do not in fact exist.

H-2B regulations should promote transparency in the recruitment process, requiring employers to disclose any recruiters with whom they do business and to affirmatively guarantee that those recruiters will not charge recruitment fees to workers. Regulations should further provide a private remedy to enable H-2B workers to recover any improper recruitment fees from the employers themselves. The Department of State should also implement uniform consular procedures by which workers who are fraudulently promised H-2B jobs that do not in fact exist may recover any visa expenses that they paid in reliance on these false promises.



- 2. Strictly enforce the requirement that employers reimburse H-2B workers for transportation and visa expenses to the extent that these costs reduce the workers' wages below the federal minimum wage. Many of the workers interviewed incurred significant pre-employment costs in order to work in Maryland on H-2B visas. Pursuant to an August 21, 2009, Field Assistance Bulletin from the U.S. Department of Labor, employers may not require H-2B workers to pay visa expenses or the costs of their transportation from their home countries to their worksites in the United States to the extent that these expenses reduce wages earned during their first workweek below the federal minimum wage. This requirement should be strictly enforced by the Department of Labor. H-2B workers who are paid less than the minimum wage after accounting for these expenses should be provided with a clear remedy by which to recover these expenses from their employers, including visas that permit workers to remain in or return to the United States to pursue these claims in U.S. courts.
- 3. Treat H-2B work orders as job contracts that are enforceable by workers. During the recruitment process, many of the interviewed workers signed contractual documents, known as work orders, which specify the wage to be paid and the hours to be worked. The H-2A regulations, applicable to agricultural guestworkers, provide that the such work orders submitted by H-2A employers to the Department of Labor are enforceable as contracts between the employer and the guestworker. H-2B regulations should similarly provide, in explicit terms, that the H-2B work orders constitute actionable contracts. H-2B workers who are not paid the wages that their employer has represented that they will pay, or who work fewer hours than promised, should have a clear enforcement remedy.



- 4. Routinely inspect H-2B employer payroll records for compliance with wage provisions. The H-2B workers interviewed reported a range of deductions from their paychecks for work tools and other protective equipment. These items are primarily for the benefit of the employer; consequently, any such deductions that effectively reduce the workers' wages below the required minimum are unlawful under federal law. Unauthorized deductions may likewise be unlawful under state law. The federal Fair Labor Standards Act and corresponding state laws require employers to maintain accurate payroll records. H-2B regulations should be revised to provide for more active monitoring and review of these records by the Department of Labor (or other appropriate agency) to ensure that employers reimburse their H-2B workers for any improper deductions. Employers who have been shown to violate wage requirements within the previous five years should be selected for more careful review.
- 5. Make available to H-2B workers a broader range of free legal services, including services provided by Legal Services Corporation grantees. Many of the workers interviewed lacked information about their workplace rights, and knew of no local organizations that could provide legal advice or representation. H-2B workers are currently ineligible to receive free legal services from organizations funded by the Legal Services Corporation. This stands in contrast to H-2A workers who can, in fact, receive such services. Given the geographic placement of legal service providers in Maryland, this restriction effectively prevents H-2B crab workers from seeking legal advice and obtaining appropriate remedies for violations of regulations and other labor laws. H-2B regulations should be reformed to provide that H-2B workers



- will have access to appropriate legal services, including from these types of organizations.
- 6. Restructure guestworker visas so that workers are not tied exclusively to one employer, which will allow workers to leave abusive working conditions and still benefit from employment in the United States. Because H-2B visas currently permit the visa holder to remain in the United States only to work for a specific employer, workers who suffer abusive working conditions have no choice but to remain in that situation or return to their countries of origin. Because many H-2B workers incur significant debt to simply obtain their H-2B visas, they cannot even afford to return mid-season to their home countries and are, in effect, shackled to any terms of employment that their employer unilaterally imposes. The H-2B visa process should be reformed so that visas are not linked exclusively to specific employers. H-2B workers must be allowed the opportunity to find alternative employment when they report unsafe or unfair working conditions to an appropriate agency. This flexibility would help ensure that employers who flout H-2B regulations are sanctioned. It would also ensure that worker exploitation does not remain unreported because workers are scared of losing both their jobs and their right to remain in the United States.
- 7. Allow H-2B workers to access the U.S. justice system, and remove litigation barriers for workers who comply with the terms of their visa and return to their home countries. An H-2B worker's visa expires when the employer indicates that the need for their labor has terminated. Workers who have claims for unpaid wages, workers' compensation, or other claims against their employers are often required to leave the United States or risk deportation if they remain to pursue these claims in U.S. courts. Employers



often rely on the fact that once a worker returns to her home country, litigating a claim becomes exponentially more difficult or, in some cases, completely impossible. For instance, many states require workers seeking worker's compensation to be present in person to attend worker's compensation hearings.

These presence requirements are manifestly unfair to migrant workers who return to their home countries and have difficulty obtaining a visa to return to attend the required hearings. The Department of Homeland Security should implement a policy under which H-2B visas may be extended and deportation deferred for workers who wish to remain in the U.S. to pursue legitimate claims arising from their employment. Moreover, the Department of State should streamline its visa process for workers who must re-enter the U.S. to present testimony or appear at hearings relating to their claims. Finally, reforms to H-2B regulations should support the rights of injured migrants to testify remotely when they are unable to remain in or return to the U.S. to pursue their claims. This could be accomplished by requiring that individual courts or administrative bodies clearly establish a protocol through which workers may testify telephonically or via videoconference.

International Recommendations

The guestworker regulations fail to adequately protect the rights of migrant workers, and have fostered widespread non-compliance with provisions designed to ensure that migrants earn decent wages under decent working conditions. The following are applicable provisions and processes of international law that may be



utilized by worker advocates, lawmakers, and members of the human rights community to address concerns raised in this report.

- 1. Urge the U.S. government to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Advocacy groups and lawmakers should urge the United States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPRMW), which seeks to create an understanding of migrant workers' inalienable human rights, and to guarantee that domestic and migrant workers are treated equally. To more comprehensively protect the human rights of guestworkers employed in the U.S., the U.S. government should not only ratify the ICPRMW, but should also integrate its provisions into federal law.
- 2. Hold the U.S. government accountable for violations of relevant norms in international, regional, and multilateral treaties ratified by the U.S. The U.S. has ratified the International Covenant on ensure that migrants are provided with fair wages or Civil and Political Rights (ICCPR), which guarantees the right to be free from forced labor, the right to liberty and freedom of movement, and the right to due process and equal access to the courts to all persons within a signatory nation's territory, regardless of their immigration or documentation status. Although courts in the United States have held that private individuals cannot directly bring claims to enforce rights provided by the ICCPR,246 an international Human Rights Committee evaluates periodic reports submitted by signatory nations assessing whether those rights are generally respected. Guestworker abuses should be highlighted in these reports, with particular focus on the regulatory failure to



provide visas to workers who wish to pursue legitimate claims arising from their employment in the United States in U.S. courts. This deficiency effectively deprives workers of their right of equal access to justice.

The U.S. has also ratified the Organization of American States (OAS) Charter, which requires signatories to devote their "utmost efforts" towards providing "Fair wages, employment conditions and acceptable working conditions for all."247 Individuals may submit complaints about violations of rights provided by OAS governing documents directly to the Inter-American Commission on Human Rights (IACHR). Migrant worker advocates should utilize this procedure to expose both the failure of guestworker regulations to effectively working conditions, and the systematic exploitation of migrant and immigrant labor that has been institutionalized in the United States.

Finally, the U.S. and Mexico are signatories to the North American Agreement on Labor Cooperation (NAALC), which supplemented the North American Free Trade Agreement (NAFTA). Signatories to NAALC are bound to guarantee that individuals with legally recognized interests under each nation's laws are provided with an adjudication of their claims.248 Signatories to NAALC may initiate enforcement proceedings against another signatory, that may result in the imposition of sanctions on a nation that fails to resolve violations of binding NAALC provisions. The NAALC also obliges the U.S. to enforce its own health and safety laws through worksite inspections and other means.249 Migrant advocates should encourage the Mexican National Administrative Office – which oversees compliance with NAALC provisions – to bring an enforcement proceeding based on the systemic failure of the U.S.



guestworker program to ensure that Mexican guestworkers are provided with these essential labor protections. Further, advocates should urge federal and state agencies to ensure adequate health and safety oversight for migrant workers who are often required to live in unsanitary housing and are not provided with proper safety equipment.



Appendix B: Recommendations from Child Trafficking in Maryland: Findings from an Environmental Scan (p. 38-39)

- Address gaps in child abuse laws to include the elements of labor trafficking as a form of child maltreatment and include the ability to identify a nonparent/caretaker as the maltreater. The law should recognize and include Forced Criminality as a form of labor trafficking.
- Support Maryland's Department of Human Services and Juvenile Services in continuing to develop policies and practices to improve screening, reporting, investigation, and service connection for youth who are identified to be at risk of or a victim of labor trafficking.
- Develop specialized training on child labor trafficking for Maryland's public child welfare and juvenile services professional workforce.
- Increase access to programs that provide culturally and linguistically responsive supports and resources for unaccompanied youth and migrant families throughout the state.
- Provide an alternative to the labor of crime, by improving access to meaningful and gainful employment for youth; including competitively paid internships in businesses and industries that support vocational skill building and employment growth opportunities.

Implementing these recommendations will vastly improve Maryland's response to child labor trafficking by creating preventative and proactive changes to the way



we address vulnerabilities and risks, as well as by creating an infrastructure to effectively identify victims and connect them to services.



Appendix C: Recommendations from Environmental Scan: A Review of Current Human Trafficking Trainings & Professional Development Opportunities Accessible to Frontline Staff in Maryland (p. 47)

General Notes and Recommendations

The authors noted a few general challenges for the field addressing human trafficking in Maryland as they reviewed various training designs and spoke with trainers and professionals in the field and have included a few recommendations to support efforts to address human trafficking:

- There are relatively few trainings available that address issues regarding labor trafficking as compared to sex trafficking. Some of the trainings described in this document touch on labor trafficking, however, the overall field in Maryland appears focused on addressing sex trafficking. The field would benefit from strengthening the content related to labor trafficking in trainings include discussions of labor trafficking. Additionally, creating, repurposing, or adapting trainings to focus on labor trafficking may also prove useful to the field.
- When reviewing professional development designs and interviewing the staff from organizations that deliver these events, it appears that many available



professional development opportunities rely on didactic training mechanisms like lecture and have relatively few opportunities for participants to interact with content. Given how adults retain and apply information, increasing the opportunities for practice and interaction during training will likely better support increasing the field's skills to address human trafficking issues.

• The term "training" is used in a variety of ways across organizations and types of professional development events. Some organizations use training to refer to didactic events, some organizations use it refer to in-depth events that focus on skills acquisition, and others have used it to refer to short presentations. Typically, "trainings" should build participants' skills, and events that are more didactic might be better characterized as workshops, seminars, or presentations. If a professional is seeking PD opportunities with a specific level of intensity, they should inquire about the level of interaction and practice included in an event to better understand what level of skill acquisition they can expect from an event. Trainers wishing to increase skills acquisition should consider how and if their training event engages participants to learn and practice skill sets. Many trainers benefit from seeking capacity-building assistance from experienced trainers to increase the level of skills development they can expect from their training event.



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