

Waiting for Justice:

Time as Continuation of Harm in H-2A Exploitation and U-Visa Immigration

Chaeyeon Park

Abstract

Temporary labor programs are evaluated in terms of employment: wages, housing, transportation, safety, and the worker's freedom to leave. The case files examined during my summer research show that the relevant period is longer, as recruitment begins in the country of origin, and the consequences of abuse can continue for years after the job ends. I compare two groups of H-2A-related claimants from the Dominican Republic and Guatemala. Workers in the former group reached the United States and sought U nonimmigrant status after experiencing recruitment and workplace abuse by assisting the investigation into their employer's exploitation. More than six years after filing, and more than a decade after the underlying events, their petitions remained unresolved. Claimants in the second group paid for jobs that did not exist. They obtained a default judgment yet garnishment proceedings and a writ of fieri facias produced no compensation because counsel could not locate the perpetrator's assets. During the wait, workers continue to maintain contact with counsel and law enforcement for repeated questioning and supply records, reliving their injuries and dealing with financial uncertainty. This process requires substantial remedial labor. At each stage of legal recognition, workers remained responsible for the practical work needed to make their claims effective.

Problem Statement

In the H-2A program, often the same employer determines the worker's job, income, housing, and continued basis for remaining in the country. Losing a job can therefore jeopardize all aspects of a worker's life. It can also leave a family responsible for debt incurred to obtain the job. Griffith and Gleeson (2017) use the term "immemployment" to describe this overlap between immigration control and employment authority. This explains why a worker with formal labor rights may still hesitate to complain.

The anonymized case file A also directs attention to recruiters in the country of origin ("Recruiter COO"). After distributing information about available job opportunities in the U.S., he collected substantial payments from the victims and coerced them to work at his father's farm. Because the recruiter lived in the claimants' communities, their influence extended through family and local relationships. When the investigation began, families and friends of the recruiter reportedly threatened and confronted the victims' relatives. The workers thus faced pressure in two places, dependence on the U.S. employer and consequences for family members at home.

The central problem is the length of time between victimization and tangible relief. A filed U visa petition or a civil judgment may recognize a claim years before the worker receives security or compensation. The effect of waiting appears in Petitioner 544's file. His daughter was initially listed as a derivative beneficiary. While the petition remained pending, she married in her country of origin and withdrew from the U visa process. Such decisions record a concrete consequence of the timeline: time becomes an additional harm when years of administrative delay erode the practical value of relief and close options that were available when the claim began (Anonymized Case File A, Petitioner 544 file).

Literature Review

Research on the H-2 program has documented how legal status coexists with coercive working conditions. Woodmansee (2023) traces the combined effects of recruitment debt, employer-specific visas, retaliation, and weak enforcement. She argues that these conditions satisfy the international definition of forced labor in specific circumstances. When departure costs the workers their immigration status, housing, income, and access to future jobs, these anticipations give the employer leverage even in the absence of an explicit threat. Recruitment research locates this leverage before the worker travels. Centro de los Derechos del Migrante (2019) found that prospective workers often lacked a reliable way to confirm whether an advertised U.S. job existed. A recruiter could charge several months of local wages for access to a promise that the worker could not independently verify. Woodmansee (2023) reaches a similar conclusion on lawful jobs: unlawful fees and travel costs often place workers in debt before their first paycheck. Debt then narrows the worker's options after arrival, especially when promised wages or hours fail to materialize.

Griffith and Gleeson (2017) focus on the difficulty of enforcing rights. They compare the legal barriers faced by workers in precarious immigration categories. For H-2 workers, employer sponsorship, fear of blacklisting, and the short duration of the visa discourage claims. Beltran (2019) examines the same problem from the standpoint of legal representation. Geographic isolation, return migration, language barriers, and unequal access to lawyers complicate even well-founded civil cases. Both studies treat the worker's participation as essential to enforcement. The government largely depends on workers to report violations and evidence, while remaining involved after they leave the United States.

The U visa literature clarifies what may follow that participation. Abrego and Lakhani (2015) show that humanitarian relief can grant lawful presence without meaningful security or

incorporation: U visa holders and other recipients often remain unable to convert their status into stable employment, public benefits, family unity, or freedom from deportation fears, producing what the authors call “incomplete inclusion.” Cade (2026) shows that the U visa system transforms administrative delay into harm: as of 2025, applicants faced approximately five years without interim work authorization and nearly two decades before receiving U status. He conceptualizes this delay as “time tax” and a form of “slow violence” through which prolonged insecurities compound the very harms humanitarian relief was designed to remedy.

Civil judgments raise a different enforcement problem. LoPucki (1996) analyzes judgment proofing, the organization of assets and business activity in ways that place value beyond a creditor's reach. His corporate focus provides a useful concept for this case while leaving the defendant's specific conduct unresolved. A judgment establishes liability. Collection still depends on finding property that the court can reach. This report brings immigration adjudication and enforcement into the same frame by following how long claimants remain responsible for moving a recognized claim toward an actual remedy.

Methods

This report draws from an interdisciplinary study of 90 redacted files held by the Cornell Farmworker Legal Assistance Clinic. Sixty-five concern claimants from the Dominican Republic and twenty-five concern claimants from Guatemala. The files include declarations, attorney briefs, immigration forms, complaints, judgments, and post-judgment enforcement records. I marked the files for recurring accounts of recruitment payments, wage loss, workplace treatment, retaliation, and obstacles encountered after a claim began.

I then compared two sets of files that reached different legal forums. The former concerns workers who traveled to the United States, experienced alleged abuse on a farm, assisted investigators, and filed U visa petitions. The latter concerns claimants who paid for promised H-2A jobs, never traveled, and later obtained a default judgment for recruitment fraud. For each set, I reconstructed the sequence from recruitment through the latest attempted effort to obtain relief. Dates were especially important because agency records often measure a case from filing, while a worker may have been living with the consequences for years by then. I removed names, dates of birth, employers, recruiters, locations, and other combinations of details that could identify a petitioner and his beneficiaries.

Findings

In both groups, recruiters sold workers the prospect of earning U.S. wages while requiring payment before the workers could verify the jobs or begin earning. This arrangement gave recruiters the benefit of early payment while shifting to workers and their families the risk that the promised jobs would disappear or pay less than expected. For those who traveled to the United States, recruitment expenses also depleted the resources they might otherwise have used to leave when working conditions deteriorated. The employer allegedly withheld promised wages, charged workers for travel and related expenses, subjected them to verbal abuse, restricted meal and rest periods, required them to work in extreme heat, and failed to arrange medical care when they became ill (Anonymized Case File A). However, the losses incurred during recruitment reduced the workers' practical ability to refuse subsequent mistreatment.

The recruiter's position within the workers' communities extended this vulnerability. After the investigation began, families and friends of the recruiter reportedly threatened the

victims in their country of origin, calling the workers' families "traitors." (Anonymized Case File A). A complaint made in the United States could therefore expose families who had never migrated to potential retaliation. The recruiter's local standing provided an additional source of leverage by connecting the workplace dispute to family safety and the workers' prospects for future recruitment at home.

The U visa letter brief translated that extended history into four legal questions. It described the petitioner's recruitment and employment at the farm. It then explained why the conduct amounted to qualifying criminal activity, including fraud in foreign labor contracting, trafficking, obstruction of justice, and witness tampering. The brief also documented substantial physical or mental abuse and established that the petitioner possessed information and had helped the investigation and prosecution (Anonymized Case File A, Petitioner 459 Letter Brief). While this structure is necessary to prove eligibility, it also leaves some of the experience outside the frame: the demanding remedial labor from petitioners and their counsel to prepare the claim, but also to correct, supplement, and sustain it over time. In Petitioner 459's case, for example, the spouse's name was incorrectly recorded in both the declaration and the letter brief, necessitating a separate filing to correct the record. USCIS also issued Requests for Evidence (RFEs) to three of the 22 family groups, requiring additional responses before adjudication could proceed. These episodes demonstrate how clerical errors and additional evidentiary demands generate new rounds of legal work, further extending the time before relief becomes available (Anonymized Case File A, Petitioner 459 records and RFE records).

Agency action created further delay for seven of the 22 family groups. USCIS issued bona fide determinations even though the petitioners lived outside the United States. The case records treat those determinations as having no practical benefit for petitioners abroad. The families also

did not receive the waitlist notifications applicable to their circumstances, leaving them to wait while counsel sought the correct agency action. The process was also expensive. The case records list a \$920 filing fee for Form I-192 alone. Applicants documented severe financial hardship and requested fee waivers, which USCIS denied (Anonymized Case File A).

By the latest records reviewed, more than six years had passed since the U visa filings. However, the alleged crimes dated to approximately 2013 through 2014. A processing time that begins on the filing date misses the earlier years spent enduring the abuse, assisting investigators, and preparing the petitions.

The recruitment fraud claims reached judgment more quickly, but legal victory did not produce compensation. These claimants had paid for H-2A jobs but never entered the United States. After the defendant failed to respond, the court entered a default judgment, and counsel pursued enforcement through garnishment proceedings and a writ of fieri facias. Searches for reachable bank accounts and real property were unsuccessful (Anonymized Case File B). Even though the judgment confirmed the just remedy, actual compensation required a new set of inquiries into accounts, property, garnishees, and counties before the claimants could receive the money owed.

Comparing the two sets of files revealed that delay was not merely the absence of a final decision but a gap between legal recognition and practically meaningful relief. U visa petitioners provided evidence and cooperated with law enforcement years before receiving protection or legal status, while the tort claimants obtained a favorable judgment but remained unable to collect payment. In both processes, institutions completed discrete legal steps without ensuring that those steps produced tangible relief, leaving claimants to carry their cases through the remaining stages.

The resulting delay transferred the costs onto people whose economic security, health, or personal safety had already been harmed.

Discussion

The files suggest a sequence in which different institutions make claims on the worker's time. Recruitment draws on future earnings before the job begins, the employer controls the daily schedule and may also control transportation, housing, and access to medical care, and once a legal claim begins, the worker's time is used again through interviews, document requests, immigration requirements, and collection efforts.

The violence of U visa delay comes from extending the insecurity that the visa was designed to address. A worker may assist a criminal investigation and wait years for the protection connected to that assistance. Cade's "time tax" captures the loss imposed by the queue. The files identify two further parts of that cost. The relevant timeline begins with victimization and cooperation, years before USCIS records a filing date. The waiting period also contains work generated by new evidentiary demands and institutional mistakes. Correcting a name, responding to a Request for Evidence, and seeking the proper agency notice consume time without bringing the family closer to the substance of its original claim. The institution controls the schedule, while the claimant bears the practical consequences of mistakes made by counsel or the agency.

The tort case shows why institutional success should be measured at the point when relief reaches the claimant. A judgment entered, a certification signed, and a petition filed are important intermediate events. For the U visa process, useful measures would include the time from reported victimization to interim protection and work authorization. For civil claims, courts and advocates should track the time from judgment to collection, as well as the share of judgments that remain

unpaid. Earlier asset disclosure or preservation may also reduce the chance that recoverable property disappears before collection.

Finally, the recruiter-related threats show why enforcement must follow the full geography of the labor relationship. The case began in a home community, continued on a U.S. farm, and returned to that community through pressure on relatives. Treating the farm as the sole site of harm overlooks this movement. While employment may last a season, debt, fear, health deterioration from harmful working environments, immigration uncertainty, and an unpaid judgment last for years. In these cases, legal recognition arrived years before the security or compensation that claimants had sought.

References

- Abrego, L. J., & Lakhani, S. M. (2015). Incomplete inclusion: Legal violence and immigrants in liminal legal statuses. *Law & Policy*, 37(4), 265-293. <https://doi.org/10.1111/lapo.12039>
- Anonymized Case File A. (2020). U visa petition letter brief, worker declarations, and Form I-918. Cornell Farmworker Legal Assistance Clinic.
- Anonymized Case File B. (2018). Complaint, default judgment, garnishment records, and writ of fieri facias. Cornell Farmworker Legal Assistance Clinic. Confidential materials on file.
- Beltran, B. (2019). 134,368 unnamed workers: Client-centered representation on behalf of H-2A agricultural guestworkers. *New York University Review of Law & Social Change*, 42(4), 529-594. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3135578
- Cade, J. A. (2026). The U visa at 25: Legislative missteps, bureaucratic neglect, and geographic roulette. *New York University Law Review Online*, 101, 161-203.
<https://nyulawreview.org/online-features/the-u-visa-at-25-legislative-missteps-bureaucratic-neglect-and-geographic-roulette/>
- Centro de los Derechos del Migrante, Inc. (2019). *Fake jobs for sale: Analyzing fraud and advancing transparency in U.S. labor recruitment*.
<https://cdmigrante.org/fake-jobs-for-sale/>
- Griffith, K. L., & Gleeson, S. (2017). The precarity of temporality: How law inhibits immigrant worker claims. *Comparative Labor Law & Policy Journal*, 39(1), 111-142.
- LoPucki, L. M. (1996). The death of liability. *Yale Law Journal*, 106(1), 1-92.
<https://doi.org/10.2307/797267>

Woodmansee, S. (2023). Invisible hands: Forced labor in the United States and the H-2 temporary worker visa program. *California Law Review*, 111(4), 1223-1265.

<https://www.californialawreview.org/print/invisible-hands>