

# AFL-CIO

## STATEMENT FOR THE RECORD

### Senate Judiciary Committee Hearing

Farm to Table: Immigrant Workers Get the Job Done

Wednesday, May 31, 2023

The AFL-CIO is a democratic federation of 60 affiliated unions representing more than 12.5 million workers across all sectors of our economy. Our members work in every state in the country and they come from every region of the world. We represent working people with all types of immigration status, including undocumented workers, DACA and TPS holders, non-immigrant visa beneficiaries, legal permanent residents, refugees, and citizens. Together, we work to ensure fairness in the workplace and equal and enforceable rights for all working people, including those in our food chain.

As the federal government considers the acute challenges facing our workforce today, it is essential to acknowledge the core, underlying issues that prevent people from taking or keeping jobs in many industries. Looking to immigration policy alone to meet purported labor shortages without addressing pressing concerns around worker rights and labor standards risks perpetuating unsafe and unjust conditions in workplaces across the country. Unions stand ready to work with lawmakers to advance real solutions that will support a diverse, sustainable, well trained, and empowered workforce. To do that, we must commit to fix the systems that are failing working people, of which our immigration system is one of many.

This statement will highlight the unjust realities workers face in our increasingly precarious global economy and explain why we urge Congress to focus on five concrete recommendations.

#### *Real solutions:*

- #1 – Strengthen and enforce our labor laws and standards*
- #2 – Regularize the status of our current immigrant workforce*
- #3 – Expand permanent humanitarian pathways*
- #4 – Reform abusive temporary work visa programs*
- #5 – Support a robust role for unions*

#### **Overview**

For our economy to grow, our workforce must grow. In a historically tight labor market, and given current demographic trends, much of the new workforce growth will need to come through immigration. But how people come matters. That is why a more just immigration system must be designed to meet the real needs of people, rather than the purported needs of employers.

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**American Federation of Labor and Congress of Industrial Organizations**

815 Black Lives Matter Plaza NW • Washington, DC 20006 • 202-637-5000 • aflcio.org

**ELIZABETH H. SHULER**  
PRESIDENT

**FREDRICK D. REDMOND**  
SECRETARY-TREASURER

Successive waves of immigrants and refugees have always helped to build, serve and feed our nation. Today is no different. Far from posing a threat, newly arriving migrants can make valuable contributions to our society when afforded the proper supports to allow them to effectively and safely integrate into our communities.

The labor movement is committed to welcoming more refugees, asylum seekers and other forced migrants and helping them to integrate into the workforce with good union jobs. That is how we use immigration policy to expand the workforce while also ensuring full rights and protections, not only for migrants, but for the existing workforce. By contrast, guestworker programs as currently structured pose a real threat. Expanding this approach delivers an on-demand, disposable workforce that is separated from their families and denied political rights—in other words, totally disenfranchised. This is not a future of work we can or should accept.

We hear a lot about a labor shortage these days, but far too little about the crisis caused by the shortage of good jobs. Workers are no longer willing to risk their lives to work for meager wages without childcare support, paid leave or basic safety protections. Around the country, workers are taking collective action in record numbers to demand a fair share of the wealth we help to create, and for the first time in decades, working people are seeing significant gains in pay and standards for work that has been chronically undervalued.

Employment-based immigration proposals must be carefully considered within this broader context. Any policy that creates tiered rights in our labor market is unjust and bad for workers. This is why we cannot accept a subclass of millions of exploitable undocumented workers and must fight for a path to citizenship for all. It is also why we must not allow expansion of immigration to be driven solely by corporate interest. When workers come to our country with their status under the control of employers, this constrains their rights and agency, making them vulnerable to exploitation in much the same way as when they lack status entirely.

If migration pathways are expanded in ways that fuel further occupational segregation and suppression of rights and standards, workers and their unions will rightly object. Now is the time for policy makers to soundly reject the low wage immigration approaches that have fueled discrimination, exploitation and excess corporate profits for long enough. Instead, we need high road, value-added approaches that are fair for migrants and the existing workforce alike. Such approaches exist, and are outlined in more detail below.

### **Real Solution #1 – Strengthen and Enforce our Labor Laws and Standards**

All workers in our labor force need equal and enforceable rights. It is clear that we are in a historically tight labor market, but it is also clear that many industries are churning through workers and failing to retain them due to low pay and unfair, unsafe and unacceptable working conditions. Simply put, we need better, safer jobs that ensure full rights and pay family-sustaining wages. To support this, Congress should:

***Pass the PRO Act (118<sup>th</sup>: S.567, H.R.20).*** Congress must pass legislation to strengthen the rights of all workers to form or join a union and engage in collective bargaining and protected concerted activity to improve their working conditions.

Every worker deserves a voice on the job, but a collective bargaining agreement disproportionately helps those who need it most. Unions underpinned the growth of the middle class, and even today a unionized worker makes 10% more on average than comparable non-union worker, and has better access to many benefits. Comparatively, a union job helps women more than men, black workers more than white, and Latinas most of all. Indeed, a union contract may be the single best tool we have to close racial and gender gaps in pay and conditions. Removing the barriers to union organizing is particularly important for those, like immigrants, who have been marginalized and structurally excluded in our economy.

***Pass the POWER Act (118<sup>th</sup>: H.R. 1828).*** If we want to combat rampant wage theft, reduce death and injury on the job, and halt the resurgent abuse of child labor in the 21<sup>st</sup> century, we need workers to be willing to report violations and speak up when they see problems. And when immigrant workers find the courage to take action that helps enforce our labor laws, we must protect them.

For too long, employers have used immigration threats as a tool to scare workers into silence, thus allowing often egregious abuses to persist unchecked. These abuses, in turn, drive down wages and conditions throughout the industries in which they occur. Now, thanks to new procedures the POWER Act would support, instead of being at risk when they speak up, workers will be protected when they speak up—in fact, they will be protected *because* they speak up, and in so doing, help to keep all of us safe on the job.

Importantly, this legislation will also help to ensure that workers' rights are not chilled by employer threats to withdraw employment-based visa sponsorship.

***Promote living wages and quality job creation.*** To create an environment in which we can attract and retain workers and continue to welcome and effectively integrate more immigrants and refugees, we must commit to expanding access to dignified and meaningful work for all. Creating more precarious, low wage jobs is not going to cut it. We must raise the federal minimum wage and find innovative ways to revitalize communities that have lost their economic base, strengthen our public services and safety net, and commit to building and making things in our country again. The pandemic helped raise awareness of the essential nature of many service sector and seasonal jobs that have historically been undervalued, so we must see substantial elevation in wages and working conditions there as well.

***Shift enforcement priorities to protect workers, rather than punish migrants.*** It is striking—and tragic—that decades of enforcement-only immigration approaches have prioritized the detention and deportation migrant families over the protection of workers. Now is the time to strengthen and utilize mechanisms to protect all working people, regardless of immigration status. We call for a shift of emphasis away from viewing migrants as criminals, and toward holding employers accountable for criminal violations of worker rights. The United States currently spends twelve times as much on immigration enforcement as it does on labor standards enforcement, with similarly disproportionate staffing. Lawmakers should rebalance this investment to ensure adequate oversight of labor migration programs and protect migrant workers who take action to promote safe and fair workplaces.

## **Real Solution #2 – Regularize the Status of our Current Immigrant Workforce**

There is no way to accurately assess workforce need until we regularize the status of those who have been forced to work in the shadow economy, often for decades. The right way to use immigration policy to lift wages and standards is by expanding rights and protections to as many workers as possible. Here's how we lift the floor:

***Enact a broad and inclusive pathway to citizenship for all those who live and work here.***

Nearly four decades of Congressional failure to pass meaningful immigration reforms has created a near permanent subclass of millions of exploitable workers in our country. That is unacceptable, and it is how immigration policy becomes cheap labor policy.

From the perspective of the labor movement, the right way to fix this prolonged injustice is to enact a path to citizenship for all those whose labor helps our country to prosper. The fight for a broad pathway to citizenship has proven a long one, but it remains our North Star.

***Pass the DREAM and PROMISE Act (117<sup>th</sup>: H.R. 6).*** As a down payment on that broader goal, we support an immediate path to permanence for DACA and TPS holders whose status was threatened by the Trump administration, and who play such a vital role in our workforce, our communities, and our unions. In the Senate, we are calling for aligned passage of the DREAM (118<sup>th</sup>: S. 365) and SECURE (118<sup>th</sup>: S. 879) Acts.

***Urge the administration to make expansive use of the TPS statute.*** Only Congress can deliver the permanent protections workers expect and deserve. However, we must not allow Congressional gridlock to prevent incremental progress through other lawful means. Unions have consistently called for executive action to protect workers while we continue to push for legislative solutions.

Congress gave the President the power to designate Temporary Protected Status for countries that have been destabilized by conflict and disasters. The Biden administration has been using this tool in helpful ways, and we urge them to do still more. If DHS were to designate or redesignate all the countries that meet the statutory conditions, millions more people could become eligible for work permits. Given the current workforce realities, that would have far reaching benefit, particularly as we prepare to implement the important new federal infrastructure investments. And securing temporary status for more people now will provide working families with a measure of stability while we keep up the fight for permanence.

***Close gaps in our social safety net.*** Many of the policy changes we need to support our current immigrant workforce are not directly about immigration reform. If we want people to be able to live and work safely, that means they need access to quality healthcare and education, including higher education. They need driver's licenses and the safety net of unemployment insurance for rough times. Many of these decisions are made at the state level, where we see both progress and shameful attacks, up to and including recent efforts to rollback basic child labor protections.

***Pass the Keep STEM Talent Act (117<sup>th</sup>: S. 3638, H.R. 5924).*** Foreign-born, American-trained professionals need a high-road, empowered pathway to permanent status after completing their training.

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### **Real Solution #3 – Expand Permanent Humanitarian Pathways**

In the context of escalating mass human displacement, the imperative to increase resettlement commitment and capacity is real. Indeed, now is the time to radically center and scale up humanitarian pathways. By welcoming more refugees, asylum seekers and climate migrants and effectively integrating them into the workforce, we can also promote economic growth. But workers need the right kind of growth—we need worker-centered growth that generates shared prosperity and closes gaps in income and opportunity, rather than growth that accelerates the concentration of wealth and power in the hands of few. We urge lawmakers to:

***Restore and enhance asylum processing.*** The United States has obligations under national and international law to ensure that people will not be returned to dangerous situations—obligations the government cannot meet through expedited legal proceedings and removals. Our laws require a fair hearing for asylum seekers regardless of their country of origin. The AFL-CIO rejects any proposed changes that would limit due process for vulnerable populations at the border or run counter to established U.S. and international norms regarding the detainment of children and refugees.

Rather than limiting access, policymakers should explore possibilities to expand criteria for asylum to include victims of gender-based violence, gang violence, and climate change. A pilot regional program for climate migrants would be an important step forward.

***Set ambitious refugee resettlement numbers, including a target for the region.*** Amidst unprecedented levels of global displacement, resettlement needs are enormous and ever expanding. After nearly shutting down our refugee program in the previous administration, the U.S. should renew our commitment as a world leader in resettlement. Doing so would have the added benefit of helping to expand the workforce, including in industries within the food chain that have historically relied on refugee workers.

***Do not allow immigrant parole programs to replicate the abuses of guestworker programs.*** In recent years, the government has increasingly relied on parole programs to help meet pressing human need and respond to world events. Unions support and sympathize with these motivations. However, as with any new migration pathways, we want to ensure that adequate guardrails are in place to prevent exploitation, and we also have concerns about the path forward for hundreds of thousands of people who are being admitted to our country and our workforce on a temporary basis. The limited duration of the programs, the lack of a clear process for renewal, and the possibility of termination by future administrations requires us to think proactively now about how to protect the lives and livelihoods of parolees in the near future.

In particular, we are concerned that the structure of parole programs creates a potential for abuse by those seeking to exploit its sponsorship aspect.<sup>1</sup> Such concerns are heightened by new proposals to more explicitly use parole as a tool to address purported labor shortages in critical industries. Such proposals generate many important questions that must be carefully considered before creating new temporary pathways with potentially profound long-term

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<sup>1</sup> <https://www.nbcnews.com/news/latino/scammers-target-hopeful-applicants-bidens-humanitarian-parole-program-rcna68694>

workforce ramifications. Unions expect to be consulted in such discussions, and continue to call on lawmakers to focus on improving and expanding permanent humanitarian pathways that would give migrant families the stability necessary to live and work in our country safely and with dignity.

#### **Real Solution #4 – Reform Abusive Temporary Work Visa Programs**

As workers, through collective action, begin to make long overdue gains in pay and conditions, it is critical that lawmakers think carefully about how to respond to the employer clamor to use immigration policy to expand the workforce. To spur just and inclusive growth, we must ensure that any new workers joining our labor force do so with full rights and protections. That cannot happen through the current model of abusive temporary work visa programs.

Rewarding industries that churn through workers with access to a ready pool of temporary nonimmigrant workers with constrained rights could perpetuate low pay and abusive conditions in ways that turn temporary shortages into structural shortages. Instead, we urge Congress to:

***Fundamentally reform work visa programs.*** After decades of experience with the abusive model of guestworker programs that degrade labor standards and constrain the rights of migrant and U.S. workers alike, change is long overdue. Unions have outlined concrete recommendations for reforms that will promote good jobs, worker empowerment, employer accountability, fair recruitment, and racial and gender equity.

The need for more robust worker protections across our alphabet soup of work visa programs is clear, as is the need to ensure basic labor rights and standards within the exchange programs overseen by the Department of State. The AFL-CIO has endorsed the Seasonal Worker Solidarity Act (117<sup>th</sup>: H.R. 7549) and the H-1B and L-1 Visa Reform Act (118<sup>th</sup>: S. 979), as models of the types of reforms that are needed to protect all workers in relevant industries. In addition, unions and business groups have been sitting down together to develop a package of H-2B reforms that would make much needed improvements.

Unless and until fundamental reforms are implemented, it is important to highlight the growing workforce within these programs are not, in fact, *immigrants*, but rather, by definition, *nonimmigrants* with severely constrained rights and little to no ability to stay permanently. While this distinction may appear technical, it lies at the heart of the injustices in the structure of these programs and is a primary why reason unions object to increasing our reliance on these flawed pathways to meet basic workforce needs.

***Regulate foreign labor recruiters.*** The international labor recruitment industry that fuels work visa programs is rife with abuse and should be regulated through mandatory, enforceable mechanisms rather than voluntary programs, with a view to eliminating discriminatory and exploitative practices. The U.S. government should adhere to the ILO's "General Principles and Operational Guidelines on Fair Recruitment". In particular, unions are calling for the creation of an employer and recruiter registry system, and an absolute ban on charging workers recruitment or breach fees, which can lead to debt bondage and forced labor.

***Reduce dependency on temporary labor with severely constrained rights.*** If we continue on our current path, the challenge of meeting workforce needs will deepen, because instead of expanding permanent immigration and resettlement pathways, we are seeing a major expansion of temporary work visa programs. This risks turning temporary shortages into structural shortages. How?

Guestworker programs allow people to come here at the behest of employers and work, usually for low pay—but not to stay. Workers in these visa programs are generally separated from their families, so that means no next generation growing up in our communities to help bend the population curve. Relying on the unfettered expansion of temporary labor migration is a short-term fix that will result in bigger problems down the road as we fail to build and invest the future of our workforce.

As a result, industries will develop greater and greater dependency on these visa schemes that disempower and disenfranchise workers and shrink the pool of trained permanent employees in our workforce. That is not a future of work we want to see, which is why we push instead to expand permanent migration pathways and improve efforts to successfully integrate newly arriving refugees and asylum seekers into communities and industries where workers are needed.

### **Real Solution #5 – Support a Robust Role for Unions**

Like it was for generations before, the labor movement is a natural home for immigrants and refugees struggling to achieve economic security and social justice. Everyone who has a job should have the chance to join a union, particularly those who are at the greatest risk of abuse when seeking to navigate workplace issues on their own. With union membership comes representation at work, the added protection of a collective bargaining agreement, increased training opportunities, and a means to promote social cohesion with the existing workforce.

A value-added immigration framework requires labor rights that are available to all workers precisely for the task of building worker solidarity and worker power. Workers and their unions are a critical axis of social democracy and when we are weakened, it imperils other core democratic institutions. Our rights to a ballot, a union, and a just path to migrate are linked, and we must purposefully advance them together. We urge lawmakers to:

***Interrogate labor shortages claims.*** In a tight labor market, employer claims of worker shortages may gain more surface validity, but they often obscure important realities. Unions across all sectors of the economy have deep expertise regarding the workforce needs and realities in their industries<sup>2</sup>, as well as clear recommendations on how best to address them. We implore lawmakers to engage with unions before accepting one-sided assessments of the labor market and proposing policy responses that could entrench structural problems.

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<sup>2</sup> See, for example: <https://www.aft.org/teacher-shortage-task-force-report>, <https://www.aft.org/healthcare/healthcare-staffing-shortage-task-force-report>, and <https://www.nationalnursesunited.org/protecting-our-front-line-report>

***Promote workforce development and training.*** Relying on immigration alone to meet routine staffing needs is neither sustainable nor ethical. Permanent immigration pathways may be a part of the staffing formula, but we need a broader, inclusive, grow-your-own approach that aligns with efforts to improve job quality and worker retention.

The federal government should recognize that registered apprenticeships, and other union-management training programs, are among the most effective vehicles we have to prepare a diverse, skilled workforce for the future. Extending work authorization to more members of our current workforce will open up such skilled training pathways and remove barriers that prevent many immigrants from working on federally funded projects.

***Promote effective workforce integration of newcomers.*** We have seen many cautionary tales from our own country and around the world of what can happen when policymakers fail to plan effectively for community and workforce integration of newly arriving migrant populations. The potential for increased levels of immigration and refugee resettlement to fuel right wing populist backlash is real and foreseeable, so we must think not just about how many people will come, but where they will live, what they will do, and how to foster authentic social bonds that help to bridge divides in workplaces and communities. For our part, unions are committed to welcoming more immigrants, refugees and asylum-seekers into our communities and helping them integrate into the workforce safely, into good union jobs.

***Require community benefits and workforce agreements on federally funded projects.*** As vitally important new federal investments roll out, it is essential that we harness those resources to create good, safe jobs and inclusive opportunities. For example, new revelations continue to unfold regarding the extent of worker abuses in the auto manufacturing sector in the South, including exploitation of guestworkers, incarcerated workers, undocumented workers, and child migrants. Absent interventions to improve these deplorable conditions, critical federal investments in domestic electric vehicle production could perpetuate child labor and other egregious violations. Requiring community benefits agreements that include clear commitments on labor standards, workers' rights and workforce development pathways on such projects will ensure that companies that seek to access federal incentives sit down with unions and community organizations to promote fair and equitable workplaces, high quality family-supporting jobs, and the ability for employers to attract and retain a diverse, skilled and stable 21st century workforce.

## **Conclusion**

Workers are ready to help shape a just transition for our economy, and we believe that increased levels of immigration can be part of that vision. However, when immigration policies are structured solely to serve corporate interests, workers of all backgrounds lose, and the task to build support for welcoming policies becomes harder. In order to meet the humanitarian imperatives of our time, we must reject low wage immigration policy and chart a course forward that truly does respect and protect all working families.



The fact that increased immigration grows GDP and creates wealth—as many advocates taut—does not mean that those gains are shared evenly or fairly. To address pernicious injustices in our economy, we must pursue a policy agenda that centers equity, workers' rights and labor standards.

Adding more workers alone will not resolve our current workforce staffing issues. Unless and until employers address deplorable working conditions, inadequate compensation, and lack of basic dignity and respect on the job, they will be unable to attract and train new workers quickly enough to replace those who will continue to leave.

Unions have outlined a set of concrete and practical solutions to address these urgent structural issues. Let's work together to reduce the shortage of good jobs in our country and build an immigration system that ensures equal and enforceable rights for all workers, regardless of where we were born. It's time for real solutions.