

AFL-CIO

STATEMENT FOR THE RECORD

Senate Judiciary Committee Hearing

Preventing Child Labor and Ensuring the Safety and Well-Being of Unaccompanied Children
Part II

Wednesday, October 25, 2023

The AFL-CIO is a 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 nation 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 strive to ensure that every person who works in this country receives decent pay, good benefits, safe working conditions, and fair treatment on the job. Since the AFL's first national convention in 1881, we have called for strong laws to prevent child labor abuses, and we renew that call today.

Unions are outraged at the recent rise in corporate exploitation of children, most often immigrants, in dangerous workplaces around the country. This unconscionable reality has been enabled by failings of both labor and immigration policy that must be addressed holistically and urgently. We stand ready to work with lawmakers to advance real solutions that will lift labor standards across our industries, guarantee workers equal and enforceable rights, and ensure that migrant children arriving in our communities receive the support and protection they deserve. This statement will outline concrete recommendations to advance four key priorities, each of which is addressed in more detail below.

Real solutions:

#1 – Strengthen labor laws and standards

#2 – Hold employers accountable

#3 – Regularize the status of our current immigrant workforce

#4 – Enhance humanitarian pathways and processing

Real Solution #1 – Strengthen Labor Laws and Standards

We hear a lot about a labor shortage these days, but far too little about the crisis caused by the shortage of good, safe jobs. People are no longer willing to work for meager wages without childcare support, paid leave or critical safety and health 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, safety and health protections and standards for work that have been chronically undervalued.

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Rather than halting or reversing this much-needed progress, lawmakers should stand with workers and seize this opportunity to raise the floor for workplace standards. Better employment conditions and higher standards not only help to attract and retain workers, but also reduce poverty and curtail patterns of abuse that open the door to child labor. Simply put, we need better, safer jobs that ensure full rights and pay family-sustaining wages. To support this, Congress should:

Raise wages. Millions of working people who are vital to our economy and who anchor communities throughout the nation still work in poverty. Unless and until they can earn family sustaining wages, too many parents will have to confront painful choices about whether to send their children to work rather than school. No family should have to weigh such options in our wealthy nation, which is why we must commit to expanding access to dignified and fairly-paid work for all. Creating more precarious, low wage jobs is not going to cut it. We must raise the federal minimum wage, remove exceptions to the requirement for paying the federal minimum wage, and find innovative ways to revitalize communities that have lost their economic base. Congress should start by passing the Raise the Wage Act (118th: S.2488, H.R.4889) and use any and all other available policy levers to lift wage levels, including through our work visa programs and our federal procurement system. Raising wages will not only help to lift working families out of poverty, but also create broad bottom-up stimulus that helps spur inclusive economic growth.

Eliminate exclusions from our federal labor laws. To prevent exploitation in our workplaces, all workers must be able to count on the full protection of our labor and employment laws. The exclusion of agricultural and domestic workers from federal labor protections is a shameful legacy of our slave economy and has no place in modern society. The Children's Act for Responsible Employment and Farm Safety (118th: H.R. 4046) would be a critical first step to close existing loopholes that allow for children to work in agriculture at very young ages, under harsh conditions.

Protect the right to organize. 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.

Congress must pass the PRO Act (118th: S.567, H.R.20) 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. In a country where we rely on workers to enforce our labor laws by reporting violations, the support of a union plays a pivotal role in empowering workers to speak out. This is especially important in efforts to root out child labor and other egregious violations.

Importantly, 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 a comparable non-union worker, and has better

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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.

Prevent states from eroding standards. Across the country, both violations of child labor laws and proposals to roll back protections are on the rise. State legislators attempt to justify rollbacks in long-standing protections by claiming that employers cannot find workers, often in the most dangerous and low-paying industries. Children must not be used to fill in gaps when employers are unable to attract and retain workers. We must take urgent action to reverse these trends and to ensure that state legislation does not undermine standards that help protect all workers.

Real Solution #2 – Hold employers accountable

For decades— even centuries— employers have tried to increase profits by making children work. So the fact that the current surge in child labor is happening amidst record-breaking corporate profits is reprehensible, but hardly surprising. Robust government oversight is needed to hold employers accountable, but enforcement strategies must be thoughtfully developed to avoid compounding the harm to victims of workplace abuse. With that in mind, we urge lawmakers to:

Increase penalties. To prevent further child labor exploitation, we need to fix the fundamental flaws and loopholes that allow employers to operate with a sense of impunity. That starts with increasing penalties for corporations that violate the law. The Department of Labor must have adequate funding to investigate dangerous workplaces and enforce the Fair Labor Standards Act. And employers must be held jointly liable for the violations of any third party subcontractors or temp agencies with which they do business.

Congress should substantially raise maximum fines by roughly a factor of 10 and establish minimum fines for the first time by supporting the Combatting Child Labor Act (118th: H.R. 2956). In addition, we must prevent employers with frequent violations from selling goods to USDA by supporting the Child Labor Exploitation Accountability Act (118th: S. 1288, H.R. 2822).

Protect workers who report violations. 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 21st 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. That is what the POWER Act (118th: H.R. 1828) is designed to do.

For too long, employers have used immigration threats as a tool to scare workers into silence, thus allowing egregious abuses to persist unchecked. 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.

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 of 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 safe and fair workplaces for all.

Require community benefits and workforce agreements. 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, recent reports have revealed the extent of worker abuses in the auto manufacturing sector in the South, including exploitation of guestworkers, incarcerated workers, undocumented workers, and child migrants.¹ 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 to attract and retain a diverse, skilled and stable 21st century workforce.

Improved coordination between agencies. There needs to be a stronger, more coordinated approach to preventing and combating child labor in the U.S. This requires improved *and proactive* coordination between the Wage and Hour Division and other agencies within the U.S. Department of Labor like the Occupational Safety and Health Administration, as well as externally with other departments and agencies such as the U.S. Departments of Homeland Security and Health and Human Services. Often, coordination is only enacted when there is a referral, rather than a preventive approach; Congress should call for enhanced agency collaboration on bad acting employers, in particular as it relates to the safety and well-being of unaccompanied children.

Real Solution #3 – Regularize the Status of our Current Immigrant Workforce

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. The right way to use immigration policy to raise wages and standards is by expanding rights and protections to as many workers as possible. As

¹ Child workers found throughout Hyundai-Kia supply chain in Alabama. *Reuters*. December 16, 2022. <https://www.reuters.com/investigates/special-report/usa-immigration-hyundai/>

we lift up working families, we reduce the economic vulnerabilities that too often force children into the workforce. 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 have 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. Providing workers with a path to permanence will also enable family reunification and reduce much of the desperation caused by prolonged separation of parents and children.

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 swift passage of the DREAM (118th: S. 365) and SECURE (118th: S. 879) Acts.

Expand TPS protections. Congress gave the President the power to designate Temporary Protected Status for countries that have been destabilized by conflict and disasters, and Congress should urge the President to use that authority as expansively as possible to address pressing needs today. The Biden administration has been making important TPS announcements, and we urge them to do still more. If the Department of Homeland Security were to designate or redesignate all the countries that meet the statutory conditions, millions more people could become eligible for work permits, generating far-reaching benefits both at home and abroad. 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.

Recent reports suggest that many of the victims of child labor abuses around the country are Guatemalan migrants, often indigenous, who have been displaced by conditions that clearly warrant a TPS designation.² According to the U.S. Department of State's most recent report on human rights in Guatemala, the country is plagued by significant human rights issues, including crimes and violence targeted at indigenous groups, LGBTQI+ persons, individuals with disabilities, and activists and union leaders.³ Additionally, data from the World Bank ranks Guatemala in the top five countries in the world most affected by floods, hurricanes, and earthquakes.⁴ Recent natural disasters have had devastating consequences on the lives

² Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S. *The New York Times*. February 25, 2023. <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html?smid=url-share>

³ 2022 Country Reports on Human Rights Practices: Guatemala. U.S. Department of State. <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guatemala>

⁴ <https://climateknowledgeportal.worldbank.org/country/guatemala/vulnerability>

and livelihoods of millions of Guatemalans, especially in rural areas.⁵ The resulting damage to crops and homes has led to severe socioeconomic impacts, including persistent loss of livelihoods, food insecurity, and lack of safe drinking water.

TPS designation for Guatemala, and other countries facing similar conditions, would provide vital support to families who cannot return to their home countries, and whose precarious immigration status may otherwise push them into the shadow economy where they are more likely to face abusive employers, low wages, and the economic instability that may incentivize child labor.

Close gaps in our social safety net. Many of the policy changes we need to support immigrant working families are not directly about immigration reform. If we want people to be able to live and work safely, and children to be in school rather than on the shop floor, that means they need access to quality nutrition, 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.

Real Solution #4 – Enhance Humanitarian Pathways and Processing

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 support to allow them to integrate effectively and safely into our communities. However, the alarming rise in child labor abuses makes clear that newcomers, including unaccompanied children, do not receive adequate support today. Policy solutions must promote permanent, safe pathways and strengthen integration strategies.

In the context of escalating mass human displacement, the imperative to increase resettlement commitment and capacity is real, as migrant youth know all too well. Now is the time to radically center and scale up humanitarian pathways. By welcoming more refugees, asylum seekers and climate migrants, 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 in exploitation 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

⁵ Guatemala Assistance Overview. USAID Bureau for Humanitarian Assistance.
https://www.usaid.gov/sites/default/files/2022-11/USAID-BHA_Guatemala_Assistance_Overview-August_2022.pdf

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 that have been using the purported labor shortage as a rationale to call for rollbacks in child labor protections.

Keep families together. Any policies that separate children from their families generate a host of other serious consequences, including the potential to fuel child labor abuses. Without family support, the population of young migrants entering our communities is at heightened risk of being preyed upon by exploitative employers. The Departments of Labor and Health and Human Services have activated a taskforce to root out child labor, and to do that we must promote family unity.

Ensure due process and access to counsel. Anyone seeking refuge in our country should be afforded full and fair due process, including legal support to help navigate our complex immigration system. In particular, all unaccompanied children should receive access to lawyers to ensure that their rights are respected and that they are able to clearly present their claims for protection. Unaccompanied children have unique vulnerabilities that require special care and attention, as too often they arrive in our country scared, exploited, or otherwise in need of assistance.

Expedite processing. Processing backlogs at U.S. Citizenship and Immigration Services are disruptive to the economy and strain the ability of immigrant and nonimmigrant workers to support their families. In particular, unions are alarmed by delays in the granting of work permits⁶, which leave thousands of people unable to support themselves financially and force too many into the informal economy. This can be particularly problematic for vulnerable populations such as those applying for asylum or Special Immigrant Juvenile Status (SIJS).

Work permit delays are not only counterproductive in a historically tight labor market, but also open the door to labor exploitation and employer abuse. The same is true for delays in processing petitions for other forms of humanitarian protection, such as Special Immigrant Juvenile Status for migrant youth who have been abused, neglected, or abandoned by one or both of their parents, which the law requires to be processed within 180 days.

For working-age youth ages 16 and above, a prompt SIJS designation can mean the difference between exploitation in an unauthorized underground economy and lawful

⁶ See for example, "Work-Permit Backlog for Immigrant Spouses Takes Toll on Professional Women," *Wall Street Journal*, April 17, 2021. <https://www.wsj.com/articles/work-permit-backlog-for-immigrant-spouses-takes-toll-on-professional-women-11618668088>

employment with a work permit. We therefore urge USCIS to take all necessary actions to promptly process and approve SIJS petitions and comply with the statutory time period.

The functions of USCIS serve the national interest and warrant a base appropriation of revenue to reduce the reliance on fees for core agency functions. While we continue to advocate for core funding, we also call on lawmakers to improve the speed and efficiency of processing so that immigrants can seek safe employment and families will not be forced to consider sending their children to work as a means of survival.

Safeguard worker rights in parole programs. In recent years, the government has increasingly relied on parole programs to help meet pressing human needs 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, including of young migrants. The limited duration of parole 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.⁷ This is especially concerning in the context of child labor, where it has been reported that many children caught in this predicament face pressure to make money to pay their sponsors for “smuggling fees, rent and living expenses.”⁸ Unions 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.

Promote effective workforce integration of newcomers. We have seen many cautionary tales of what can happen when policymakers fail to plan effectively for community and workforce integration of newly arriving migrant populations, and the resurgence of oppressive child labor in 2023 is perhaps the most damning. 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.

Conclusion

Unions have outlined a set of concrete and practical solutions to address the urgent structural issues that are enabling the exploitation of children and migrants in our workforce today. Companies employing children in violation of the law are looking for ways to undercut the demands of a dynamic workforce that is winning better pay conditions through collective action—therefore, raising the floor and enforcing it is essential. Let’s work together to reduce the shortage of good jobs in our country and build an immigration system that ensures equal and

⁷ Scammers Target Hopeful Applicants to Biden’s humanitarian parole program. *NBC News*. February 6, 2023. <https://www.nbcnews.com/news/latino/scammers-target-hopeful-applicants-bidens-humanitarian-parole-program-rna68694>

⁸ Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S. *The New York Times*. February 25, 2023. <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html?smid=url-share>

enforceable rights for all workers, regardless of where we were born. It's time for real solutions that will relegate oppressive child labor to the history books where it belongs.

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