



Statement of Centro de los Derechos del Migrante, Inc.
Submitted to the Immigration and Citizenship Subcommittee of the U.S. House of
Representatives Committee on the Judiciary
April 3, 2019 Hearing: “Securing the Future of American Agriculture”

Centro de los Derechos del Migrante, Inc. (CDM or “Center for Migrant Rights”) submits this letter to supplement the record of the April 3, 2019 House Judiciary Subcommittee on Immigration and Citizenship hearing on “Agricultural Labor.” CDM founded more than a decade ago, is a not-for-profit transnational organization that is driven by its mission to improve the conditions of low-wage workers in the United States. With offices in Baltimore, Maryland, Mexico City, and Juxtlahuaca, Oaxaca, CDM has established itself as a powerful, transnational migrant workers’ rights organization. Since its founding CDM has helped over 15,000 migrant workers and recovered more than 20 million dollars in unpaid wages, thus establishing important legal precedents and policies to protect migrants all along the migrant stream.

We write to express our views about immigration policy and farmworkers, which is the subject of the April 3, 2019 hearing before the House Subcommittee on Immigration and Citizenship. We welcome efforts to reform our immigration system but we wish to ensure that agricultural workers and their families are treated fairly and consistently with our nation’s democratic and economic freedoms. As we move forward, we also want to ensure that the voices of farmworker women are heard throughout this process.

Roughly one-half of the farm labor force—over one million current agricultural workers—lack authorized immigration status. The criminalization of undocumented immigrants, increased deportations and other immigration enforcement actions have exacerbated an already untenable situation for farmworkers and the agricultural labor system.

Farmworkers’ poor working and living conditions are intrinsically linked to our country’s broken immigration system. The exclusion of farmworkers from basic labor protections such as the right to overtime pay, which are rooted in our nation’s history of racism, are an important factor in the poor conditions facing farmworkers and the instability in our agricultural labor system. Farm work is one of the most dangerous occupations in our country, yet farmworkers are excluded from key OSHA protections and not even covered by workers compensation in many states. Sexual harassment and assault of farmworker women are pervasive in agriculture. Farmworker wages are low—with roughly one-third of farmworkers having family incomes below the poverty level. An earned legalization program would help ensure a productive farm sector and fair treatment of the people who put food on our table.

A core element of a solution for the broken immigration system in agriculture must be a path to immigration status and citizenship for the current farm labor force. We commend Rep. Lofgren and Sen. Feinstein for introducing the Agricultural Worker Program Act of

2019, which is a positive and workable solution that will meet the needs of workers, agricultural employers, and our food system. The Agricultural Worker Program Act would provide a path to lawful permanent residency and citizenship for experienced agricultural workers and their family members. The bill is important for farmworkers because it would take away the constant fear of deportation and allow families to stay together. The bill also includes a future work requirement that addresses employer concerns about workforce stability. Finally, by enabling farmworkers to do their jobs without fear, the bill would help ensure compliance with labor, pesticide and food safety laws, improving the security of our entire food system.

Another important and growing sector of our farm labor force are H-2A workers. CDM has advocated for H-2A workers for more than a decade. The H-2A temporary foreign agricultural worker program provides agricultural employers with the opportunity to gain an unlimited number of visas to hire seasonal farmworkers each year. The H-2A program has almost tripled in size during the last decade: from about 82,000 positions certified in FY 2008 to over 240,000 positions certified in FY 2018. The H-2A program's unprecedented growth is problematic given the inherent flaws in the H-2A program which leave workers vulnerable to abuse and exploitation. Importantly, growth in the H-2A program does nothing to address the need to legalize current undocumented farmworkers and their families. There is no valid justification for using the H-2A program to bring in additional farmworkers on a large scale when there are more than one million productive farmworkers already here who should be granted a path to citizenship.

The H-2A program includes modest but inadequate wage and other labor protections developed over many decades in response to lessons learned from the Bracero program and former H-2 program. These past programs and the current H-2A program have not only harmed U.S. citizens and lawful permanent residents, but have taken undue advantage of thousands of vulnerable guestworkers. Stronger protections and enforcement are needed, not less.

Workers like José Ángel Lara Limon, Oscar Eumaña, and Guillermo Arnoldo Castro Lopez – all of them H-2A workers – would be able to access a pathway to stability through the Blue Card Bill. These workers have been coming to the U.S. to work in the tobacco fields from seven to 24 years. Each year these workers leave their families behind in Mexico for the work season lasting roughly eight months, and therefore miss milestones in their children's lives.

Any efforts to address a future worker program must include the following elements to ensure that farmworkers are treated with the dignity and respect they deserve:

- 1. A roadmap to immigration status and citizenship:** If future farmworkers from abroad are needed, they should have a meaningful opportunity to become immigrants and citizens. While some foreign workers may choose to work only seasonally and not remain permanently in the United States, they should have the chance to become full-fledged members of the nation that they help feed. The H-2A program should be modified to enable its participants to earn immigration status.
- 2. True economic freedom and opportunity-** Like any other industry, growers should have to compete in the marketplace to attract and retain workers by paying competitive wages and providing desirable working conditions. Any visa should provide workers with true portability so they can freely bargain for better jobs and leave abusive employers.

3. **Equality of treatment** - Temporary farmworkers should have the same labor protections and rights, including access to the courts, that cover other farmworkers. Because temporary foreign workers hold a restricted status that limits their ability to bargain for better labor standards, strong protections are needed to prevent exploitation of foreign workers.
4. **Fairness** – Farmworkers need to be paid more not less. Strong protections must preserve U.S. workers’ job opportunities and prevent depression in wage rates and other job terms.
5. **No discrimination** – There should be no incentives to discriminate against U.S. workers (including newly legalized workers). The law must ensure it cannot be cheaper or more advantageous to hire temporary workers than U.S. workers.
6. **Family unity** - Neither undocumented workers nor guestworkers should have to endure being separated from their families. Farmworkers deserve the right to live with their families and to be able to fully participate in their communities.
7. **Prohibit trafficking and recruitment exploitation and discrimination.** To prevent recruitment abuses, any program must clearly prohibit fraud and any recruitment fees or costs for visa workers as well as require transparency in any recruitment process, including public identification of all actors in any chain of recruitment. Further, the program must have strong enforcement mechanisms to ensure that there is no discrimination on the basis of any protected categories, such as gender or age, during the recruitment for workers.

Thank you for your consideration of this statement.

Sincerely,

/s/ Sulma Guzmán

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