

**Statement of Jessie Hahn
The National Immigration Law Centerⁱ**

**House Committee on the Judiciary
Subcommittee on Immigration and Citizenship**

Hearing “Immigrants as Essential Workers During COVID-19”

September 23, 2020

Chairman Lofgren, Ranking Member Buck, and members of the subcommittee, thank you for the opportunity to share the National Immigration Law Center’s perspectives on immigrants as essential workers during the pandemic.

The National Immigration Law Center (NILC) is the primary national organization in the United States exclusively dedicated to defending and advancing the rights and opportunities of low-income immigrants and their families. Over the past 35 years, NILC has won landmark legal decisions protecting fundamental rights, and has advanced policies that reinforce the values of equality, opportunity, and justice. A major concern of the organization has been ensuring that the rights of all workers, regardless of immigration status, are protected.

For decades, NILC has advocated for policies that reflect the needs of immigrant workers—fair pay and treatment, freedom to assert their rights, and basic dignity on the job. The COVID-19 pandemic has highlighted the contributions made by immigrant workers to their communities, workplaces, churches, and families. And it has also laid bare the overwhelming challenges they face. This moment calls for robust policies that recognize the contributions—and humanity—of immigrant essential workers.

I. Immigrants are essential and face increased risk.

Across the United States, immigrant workers continue to do the essential work needed to keep our nation functioning: keeping grocery shelves stocked and stores sanitized, delivering goods and services to private homes, caring for our families, and harvesting and processing the food that keeps the economy and our communities functioning. The majority of immigrants in the U.S. labor force, 69 percent, are essential workers. Nearly half of the Deferred Action for Childhood Arrivals (DACA)-eligible population are essential workers; over 500,000 individuals.ⁱⁱ

Because “immigrants represent large shares of the workers who are keeping essential businesses such as grocery stores and pharmacies open amid the crisis” these workers often face greater risk of contracting COVID-19.ⁱⁱⁱ Indeed, during this pandemic, “immigrants are disproportionately risking exposure to the virus to continue contributing their productive ability where it is needed...”^{iv}

Outside of retail work, other immigrant essential workers face significant exposure to the virus as well. For example, immigrants make up a disproportionate share (51 percent) of frontline workers in the U.S. meatpacking and processing industry, as compared with 17 percent of the general US workforce.^v The very high rates of infection, hospitalization, and death that meatpacking workers have suffered from Covid-19 has been well-publicized in national news media.^{vi}

In addition, immigrants represent 73 percent^{vii} of agricultural hand packers and packagers, and provide vital support to America's food supply chains during the pandemic. But through their labor, farmworkers faced particular risk "because of high rates of respiratory disease... low rates of health insurance coverage..." and often "substandard" living and working conditions.^{viii}

II. Immigrant essential workers are devalued.

While all essential workers lack the necessary health and safety protections during the Covid-19 public health crisis, the *six million* immigrant essential workers also face demonization from the Trump Administration and, in some cases, the constant fear of deportation.^{ix} During the pandemic, the Trump administration failed to issue appropriately protective CDC workplace guidance or enforce even the most basic workplace health and safety laws.^x Despite the clear risks posed to workers, the administration took the unprecedented step of refusing to enforce health and safety law by refusing to issue appropriate standards (requirements) and by failing to conduct workplace inspections.^{xi} In the meatpacking industry, the Administration even required plants to remain open in the face of widespread Covid-19 infections.^{xii} Yet healthy employees and a resilient supply chain are not two separate issues - workers have the right to be safe and healthy when reporting to work, and when deprived of these rights, it affects everyone in the workplace and the community.^{xiii}

Although these failures endangered all essential workers, OSHA's inaction posed a distinct threat for immigrant workers. Because immigrant workers are disproportionately overrepresented in essential industries, they were more likely to face on-the-job hazards relating to the virus.

OSHA's inaction compounded many existing realities of low wage, immigrant-dense industries. In workplaces across the country, workers are routinely mistreated, experiencing violations of basic labor rights, like nonpayment of minimum wage or overtime and retaliation.^{xiv} In addition, employers often retaliate against workers who complain about mistreatment and to undercut workers' efforts to improve their working conditions.^{xv} And some immigrant essential workers, including agricultural workers and domestic workers, lack basic labor protections under the National Labor Relations Act.^{xvi}

Undocumented essential workers are even more vulnerable. As one agricultural worker in Washington stated, immigrant workers are "afraid of getting sick" and "afraid of dying," but are also "afraid of complaining at work, to our supervisors."^{xvii} Immigrant workers are "ignored completely."^{xviii}

III. Change is needed now.

Congress should pass legislation that recognizes the needs of immigrant essential workers and helps ensure they live and work with dignity.^{xix} Legislation should:

1. **Provide legalization for undocumented immigrants.** Congress should pass a broad legalization bill that recognizes the contributions of essential workers and honors the humanity of all immigrants.
2. **Provide access to Covid-19 testing, treatment, and vaccines to all, including essential workers.** These should be provided regardless of ability to pay.
3. **Require a federal workplace safety standard.** Congress should pass a bill requiring OSHA to issue an Emergency Temporary Standard to ensure that all essential workers are protected from the spread of COVID-19. Currently there is no Occupational Safety and Health Administration (OSHA) standard that covers preparation for or response to the COVID-19 public health crisis in the workplace.
4. **Grant an automatic extension of work authorization to DACA and TPS immigrants.** Congress should automatically extend work permits for individuals with Deferred Action for Childhood Arrivals (DACA) or temporary protected status (TPS) and nonimmigrant visas. Given that over half of DACA recipients are essential workers, any lapse in their status would be disastrous for our nation's recovery.
5. **Extend and improve paid sick leave (PSL) and paid family and medical leave (PFML).** Congress should build upon and extend existing law in the Families First Coronavirus Response Act (H.R. 6201). By passing H.R. 6379, the Take Responsibility for Workers and Families Act, PSL and PFML would be extended to all employers regardless of size, include individuals caring for themselves or a family member experiencing symptoms of COVID-19, and require full wage replacement for all days used.
6. **Ensure workers can report violations of their rights without fear.** Congress should pass the POWER Act (H.R. 5908) to ensure that, despite the pressures of COVID, workers can report labor abuses without the fear of immigration-based retaliation. In addition, worksite immigration enforcement terrorizes workers and makes them more vulnerable to employers who force them to work in unsafe conditions. Given the high numbers of COVID-19 in detention facilities, worksite enforcement may also result in detained workers who are put into a high exposure environment. Congress should pass a bill halting all worksite enforcement during the pandemic.
7. **Pay essential workers.** Ensure that all workers, including immigrants, get the pay they are owed. Pass a bill requiring hazard pay for all essential workers.

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- ⁱ Ms. Hahn is the Labor & Employment Policy Attorney at the National Immigration Law Center. This statement was prepared on her behalf by Emily Tulli, Advocacy Consultant.
- ⁱⁱ “Spotlight on the DACA-Eligible Population.” New American Economy Research Fund, 2020, research.newamericaneconomy.org/report/spotlight-on-the-daca-eligible-population/.
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- ^v “Update: COVID-19 Among Workers in Meat and Poultry Processing Facilities — United States, April–May 2020.” Centers for Disease Control and Prevention, Centers for Disease Control and Prevention, 9 July 2020, <https://cdc.gov/mmwr/volumes/69/wr/mm6927e2.htm>.
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^{xviii} Villa, Lissandra. “Undocumented Immigrants Are Essential but Exposed In the Coronavirus Pandemic.” Time, Time, 17 Apr. 2020, time.com/5823491/undocumented-immigrants-essential-coronavirus/.

^{xix} The HEROES Act (H.R. 6800) contained many of these policy solutions.