

Executive Summary

As we struggle with the task of rebuilding our economy, it is important to do as any architect would: we must examine not only the structural flaws, but also the condition of the foundation. Recognizing early on that the strength of the economy depends on the strength of its workers, ordinary Americans and public leaders constructed a foundation of laws and standards to ensure that workers are protected from harm and can reap the fruits of their labor. In the last century, policymakers set a minimum wage, capped the number of hours an individual could be compelled to work, restricted the employment of children, granted workers the right to organize, and established workplace health and safety standards.

Workers, employers, and the government all play a role in maintaining these standards, especially through the turbulence of a changing economy and a dynamic workforce. In recent decades, however, employers and government have not upheld their end of the bargain—and workers are paying the price. The most alarming indicator of this fact is that thousands of workers die on the job every year from preventable incidents. That Hispanic Americans consistently have the highest rates of fatal occupational injuries of any group compelled the National Council of La Raza (NCLR) to take a closer look at the state of workplace standards. This report provides an in-depth analysis of those standards, and it exposes serious weaknesses in the foundation of job quality.

NCLR has found that death is only one indicator of neglect for basic worker protections. Cases of workers who are never paid, who are denied basic benefits because their employer misclassified them as independent contractors, who are never compensated for a disabling workplace injury, or who are never trained on how to avoid job site hazards are a daily reality in nearly every American industry. The majority of these violations occur in low-wage jobs. Therefore, while millions of Latinos are solidly in the middle class, the focus of this report is on essential

workers in less-skilled industries, such as production, food preparation and service, construction, farming, and maintenance—where more than one in every five workers is Latino.

Public opinion polls consistently find that Latinos believe strongly that opportunity comes from personal effort. The issues raised in this report prevent responsible, hardworking people from achieving the American Dream, but they are all amenable to policy change. Better enforcement of the laws on the books, modernized protections for a modern workforce, and investment in community-based strategies are essential first steps to restoring dignity to the workplace. At this unique moment of economic turmoil and anticipation for what lies ahead, a decision must be made about whether to take on these policy challenges or continue to chip away at the foundation of job quality. Workers' lives hang in the balance.

Major findings of this report include the following:

The experience of Latino workers sounds the alarm for what is happening to the quality of American jobs.

- **Latino workers are more likely to die from an injury at work than White and Black workers.** In 2007, 937 Latinos, the majority of them immigrants, were killed by an injury at work. The occupational fatality rate for Latinos has remained the highest in the nation for 15 years. The Latino death toll lays bare the state of decay in American workplace health and safety standards; in all, 5,657 workers died on the job in 2007.
- **Two in five Latino workers do not earn sufficient wages to keep their families out of poverty.** In 2007, 41.8% of Latino workers earned poverty-level wages, which were about \$10.20 per hour, to sustain a family of four.

- **While millions of Americans worry about losing their health insurance and retirement benefits, a significant portion of working Latinos is already living those fears.** In 2007, just over half (52.3%) of employed Latinos had health insurance through their employers, compared to 72.6% of White and 67.1% of Black workers. An even smaller share of Latinos (34.6%) had access to a retirement plan through their employers.

Many employers evade their legal responsibility to pay their workers and keep their work sites safe.

- **For employers who break the law, the chances of getting caught are slim and the penalties are low.** Employers who allow dangerous conditions to persist even after a worker becomes injured or is killed have little chance of facing penalties against them. Consequently, many employers have come to treat compliance with labor laws as optional and fines for noncompliance as merely a cost of doing business.
- **Some employers legally sidestep accountability for their workers' well-being.** For instance, the IRS code provides a "safe harbor" from penalties for employers who misclassify workers as independent contractors as long as they can prove that the misclassification is a common practice in their industry, which is often the case in industries with high Latino representation. An estimated one-third of businesses misclassify workers, robbing them of the benefits, retirement security, and health and safety protections they deserve.
- **Employers who take advantage of vulnerable workers drive down standards for all workers.** The enactment of the Immigration Reform and Control Act of 1986 made the workplace the frontier of immigration enforcement and shifted the balance of power heavily in favor of employers. Unscrupulous employers who cut corners and threaten workers with deportation if they complain are granted an unfair advantage over employers who follow the law.

Ongoing divestment and government inaction undermine basic labor standards and devalue the contributions of workers.

- **The enforcement capacity of the Department of Labor is severely constrained.** A typical full-time Occupational Health and Safety Administration (OSHA) employee has four times the caseload that an OSHA employee had in 1975. Employers' active discouragement of worker complaints and other causes of underreporting often misdirect these limited resources away from high-risk workplaces.
- **Millions of workers are without legal protection.** Millions of workers are excluded from basic protections simply based on the kind of work they do. Antiquated labor laws that exclude agricultural workers and domestic workers from coverage are especially damaging to Latinos, who represent 45.1% and 37.5% of these occupations, respectively. Additionally, since the 1970s, the shifting U.S. economy has crowded less-skilled workers—including many Latinos—out of high-quality manufacturing jobs and into lower-quality service jobs. Federal labor policies have lagged behind these changes, leaving wide segments of the workforce to labor in largely unregulated work arrangements, often for low pay and no benefits.

NCLR recommends the following steps to restore basic worker protections:

Reassert the federal government's role as workplace watchdog.

- **Make the punishment fit the crime for employers who break the law.** The penalties for employers who fail to uphold basic wage and safety standards must be sufficient deterrents against the tendency of unscrupulous employers to cut corners, which harms their workers and their competitors. Long-overdue increases in fines and elevated legal consequences for repeat and egregious violations—especially those resulting in a worker's death—are essential first steps.

- **Restore funding for government outreach and enforcement efforts, with emphasis on high-risk and emerging industries.** In order to keep pace with an increasingly complex labor market, Congress must devote adequate federal funds to the Department of Labor's Wage and Hour Division and OSHA. Targeted programs that reach low-wage workers, subcontractors, workers on multiple job sites, and limited-English-proficient workers should be prioritized.
- **Support community-based organizing structures for nonunionized and nontraditional workers.** In addition to working to open union jobs to Latinos, who are currently underrepresented in unions, the Department of Labor should partner with community-based organizations to pilot models for disseminating culturally competent and linguistically appropriate training and "know your rights" information to immigrant and low-wage workers. Community-based organizations can also help identify high-risk workplaces that traditional enforcement entities may miss.
- **Uphold the rights of all workers through comprehensive immigration reform.** More than ten million American workers, 81% of whom are from Latin American countries, work without legal authorization because our immigration system does not offer sufficient legal channels for immigrants. The culture of fear that exists in many workplaces enables employers to escape punishment for actively subverting workers' complaints. As a result, job quality declines for all workers. The first step toward leveling the playing field in the labor market is to fix the nation's broken immigration system. Comprehensive immigration reform requires a plan to make immigration policy more responsive to labor market needs, unclog naturalization backlogs, and incorporate stronger workplace protections.

Empower workers to defend themselves against exploitation.

- **Correct historical inequities in wage and hour laws.** The rampant exploitation of farmworkers and domestic workers could be significantly reduced by eliminating outdated legal exclusions in laws that set a floor on wages and a ceiling on hours.
- **Strengthen policies to protect workers in nontraditional arrangements.** Congress should pass legislation to close tax loopholes and crack down on industry norms that allow employers to legally evade accountability for these workers.