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Labor Movement Perspectives on Comprehensive Immigration Reform

Testimony
On Behalf Of
The United Food and Commercial Workers International Union (UFCW)
Before
**The House Subcommittee on Immigration, Citizenship, Refugees, Border
Security and International Law**
Of
The Committee on the Judiciary
For The Hearing on May 24, 2007
Regarding
Labor Movement Perspectives on Comprehensive Immigration Reform

Good morning. My name is Michael J. Wilson and I am representing the United Food and Commercial Workers International Union (UFCW). UFCW is the largest private sector union in North America—and it is one of the largest unions of new immigrant workers in the United States with more than 200,000 new immigrants as members. I am an International Vice President of the union and Director of the Legislative and Political Action Department.

We are the primary worker representative in industries that are major employers of immigrant workers—meatpacking, food processing, and poultry—and have a hundred-year history of fighting for safe working conditions and good wages on behalf of packing and processing workers.

Immigrants and their families come to this country prepared to work, pay taxes, and to abide by our laws and rules. They contribute more than \$300 billion to our economy annually.¹ In fact, each new immigrant contributes roughly \$1,200.² They play a vital role in our economy and are tightly woven into our nation's social fabric.

Roughly 25 million immigrants, from nearly every country in the world, are living and working in the U.S., yet our country effectively has no immigration policy. In fact, our current approach is geared more to 19th and early 20th century

¹ "Comprehensive Migration Policy Reform in North America: The Key to Sustainable and Equitable Economic Integration," (University of California, Los Angeles), August 29, 2001.

² American Immigration Law Foundation, Spring 2002.

immigration patterns than to the realities of the 21st century, fostering rampant abuse and exploitation of both immigrants and U.S. citizens.

Unscrupulous companies take advantage of the lack of a consistent system to recruit and lure immigrant workers across borders with little or no regard for federal law or workplace regulations. The employment verification system is inaccurate, inefficient, and easily manipulated by employers eager to take advantage of cheap foreign labor.

The mass and random enforcement activities that occur as a result—such as those which took place in the Swift & Company meat processing plants in December—lead to the disruption of families, the economy, and our communities. During the raids, ICE agents violated the agency’s own policies and procedures. The raids were designed and executed as political theatre—which is all they could be, given that the U.S. has no systematic or effective immigration system. In the process, more than 10,000 workers, both immigrant and non-immigrant, were criminalized simply for showing up to do their job, and subjected to gross violations of their human and civil rights. **Worksite raids, family disruption, and the criminalization of work—do not constitute an effective immigration system.**

In some economic sectors, American businesses need immigrant workers. But despite the various provisions for the free flow of capital and goods that are built into U.S. International Trade Policy, insufficient consideration has been given to the transnational flow of people that has become part and parcel of the 21st century global economy.

For example, 13 years of NAFTA have resulted in the loss of millions of domestic jobs for American workers. At the same time, in Mexico, real wages have declined significantly, millions of farmers have been dislocated, and millions more consigned to poverty, fueling the labor flight into the U.S.³

The result of our outdated immigration system—exacerbated by trade policies that are effectively devoid of enforceable labor protections—is an unauthorized U.S. population of an estimated 11.5 to 12 million as of March 2006.⁴ As a result, immigrants and native-born American workers in underpaid economic sectors are experiencing workplace abuse and the erosion of wages and working conditions. Our country’s archaic immigration policy—incapable of dealing with 21st century immigration patterns and economic realities—is undermining the very ideals and values our country was built on, and serving neither business nor workers.

³ Scott, Robert E and David Ratner. (2005, July 25). "NAFTA's cautionary tale: Recent history suggests CAFTA could lead to further U.S. job displacement." The Economic Policy Institute. <<http://www.epi.org/content.cfm/ib214>>

⁴ Passel, Jeffrey S. (2006, March 7). "Size and Characteristics of the Unauthorized Migrant Population in the U.S." The Pew Hispanic Center. <<http://pewhispanic.org/reports/report.php?ReportID=61>>

Some have suggested that a new guestworker visa program would be the legislative solution to satisfy the international supply and national demand for labor without letting workers “sneak in.” Some have described these programs as “break the mold” or “different” than prior efforts. Such proposals fail to acknowledge the disastrous effects of past and present guestworker programs and the obstacles that would impede the creation of new and improved temporary worker plans.

The post-World War II Bracero program was synonymous with worker abuse. Modern versions of the same—such as the H2-B—have had similar negative effects. In 1997 the U.S. Government Accountability Office reported that modern H-2A workers “are unlikely to complain about worker protection violations, such as the three-quarter guarantee, fearing they will lose their jobs or will not be accepted by the employer or association for future employment.”⁵ The Southern Poverty Law Center has said that our existing guestworker programs “can be viewed as a modern-day system of indentured servitude.” Even Ways and Means Chairman Rangel recently described our country’s experience with guestworker programs as “...the closest thing I’ve ever seen to slavery.”

Guestworkers, especially in low-wage economic sectors, face exploitation at nearly every step from securing visas to working in sweatshop conditions. We’ve seen the effects of today’s guestworker programs in our own industries—meatpacking and food processing—sectors that new guestworker legislation will likely effect.

For example, Sam Kane is one of the country’s largest independently owned beef slaughter and processing plants. It is located about five miles northwest of downtown Corpus Christi and employs approximately 600 people—121 of whom at one time were Mexican guestworkers. They were told that the pay would be “good” and were led to believe that the working conditions would not be overly difficult. They were also assured that they would have the “same rights as American workers.” Yet when a UFCW representative spoke with some of these “guests” after they’d been on the job for less than three weeks, they related that they had been misled and their promised rights severely curtailed.

Injuries became of major concern for the workers. They claimed that there was no nurse or clinic on the plant premises, and they had no health insurance. If a worker became sick, he or she had to go to the plant in person to request a day off without pay. Forced to live in substandard company housing, the workers were docked hours and denied benefits even after working 11-12 hours a day.

This kind of gross inhumanity and abuse in sectors where guestworkers are employed is thoroughly documented in a recent report by the Southern Poverty

⁵ “Changes Could Improve Services to Employers and Better Protect Workers.” GAO/HEHS 98-20, pp 60-61.

Law Center landmark report, “Close to Slavery; Guestworker Programs in the United States.

These workers were paid \$6.65 an hour approximately half of the industry wage for the same work. When the President says that these are jobs that Americans won’t do, this is exactly what we mean when we say that these are jobs that Americans won’t do at these wages. In 2007, no one should do this work at these wages, and the government should not help employers keep wages down.

The facts are incontrovertible: guestworker programs create an underclass of workers and engender racial and other discriminatory attitudes toward individuals who are afforded neither full rights on the job, full participation at the workplace, or full connection to the community. This creates a culture in which people believe that a person’s race, color, or national origin relegates them to a life of low-paying, no-future jobs. It also discourages domestic workers from those lines of work, segregating the workforce. Finally, when guestworkers choose to exert workplace rights—the right to a safe and healthy workplace or the right to form a union—they risk losing their jobs or being deported. They face the same employment dangers that any worker who speaks up confronts—you or I or any of your constituents, with a notable difference—they are temporary guestworkers. In effect, this amounts to compulsory consent to abuse and exploitation, and lowers working standards for all working people.

In 2005 the Brennan Center for Justice reported that there has been a “significant reduction in the government’s capacity to ensure that employers are complying with the most basic workplace laws.”⁶

The sad fact is that our nation is currently incapable of enforcing our country’s most basic labor laws and workplace protections. The United Food and Commercial Workers International Union has regularly witnessed employers who fire and discipline workers—whether immigrant, native-born, or a “guest”—because they were injured on the job; or they spoke out in support of union representation; or they sought the correction of a workplace safety and health hazard. Every time one of these firings take place—and they take place frequently—the employer violates federal law with little or no consequence for doing so.

It is more than naive to suggest that a new guestworker program can be constructed with adequate workplace protections—it is disingenuous. The outcome is sadly foreseeable: no matter how many abstract protections get written into a guestworker program, the approach will inherently provide employers with the opportunity to abuse and exploit workers, especially in low-wage jobs. A notable exception is AgJobs, which was negotiated between the employers and the union representing the workers, and will be enshrined in law.

⁶ “Trends in Wage and Hour Enforcement by the U.S. Department of Labor, 1975-2004.” Brennan Center for Justice, Economic Policy Brief, No. 3, September 2005.

American democracy works because it is inclusive. But all guestworker programs permanently exclude individuals who contribute to our economic well-being from participating in our democratic process. America's immigration system requires comprehensive reform that serves everyone who lives and works in America.

The following are the UFCW immigration reform principles which we believe are necessary to protect workers:

- ✓ **A Path to Citizenship:** Nearly 12 million immigrants provide their labor and talent to American employers. They make significant contributions to their communities, but are afforded neither labor rights nor due process protections. We must create a real pathway to citizenship for immigrant workers who have established themselves in the community, who are employed, and who have otherwise not broken the law.
- ✓ **End Worksite Immigration Enforcement:** Worksite programs like “Basic Pilot” and the ICE Mutual Agreement between Government and Employers (IMAGE) are riddled with problems, fail to adequately protect workers from discrimination, exploitation, and harassment, and fail as a substitute for a systematic approach to a fair and orderly immigration process.
- ✓ **Meaningful Employer Punishments for Immigration and Labor Law Violations:** Too often, when companies cannot export jobs in search of cheap wages and weak labor laws, they import workers to create a domestic pool of exploitable labor. The law must criminalize employers who recruit undocumented workers from abroad or otherwise circumvent immigration policies, and provide meaningful, enforceable penalties for companies that violate health, safety, and labor laws.
- ✓ **No New Guestworker or Temporary Worker Programs:** Guestworker programs allow employers to turn permanent, full-time, family-supporting jobs into temporary, go-nowhere jobs that exploit immigrants and native-born workers alike. When guestworkers choose to exert workplace rights, they risk losing their jobs or being deported. Guestworker programs create an underclass of workers and engender racial and other discriminatory attitudes toward individuals who are afforded neither full rights on the job nor participation in our society. In addition, existing guestworker programs should be reformed so that they include real worker protections—including the right to self-petition for legalization and the freedom to change jobs—and penalties for employers who break the law. Reform of existing programs should be a requisite prior to the creation of broad new

programs. Anything less will inevitably lead to the kinds of problems and scandals which will shame us all.

- ✓ **Revise the Permanent Employment-Based Visa System:** Instead of short-term “guestworker” visas, labor shortages should be filled with workers with full rights, a path to permanent residence, and, if they choose, citizenship. The number of visas available should respond to actual, demonstrated labor shortages. U.S. employers should be required to hire U.S. workers first, and wage rate requirements should be high enough to make jobs attractive to U.S. workers.
- ✓ **Wage and Working Condition Protection for All Workers:** All workers, including future immigrant workers, should have the same workplace protections as U.S. citizens, including fair wages, a safe workplace, and the right to join a union. Immigrant workers who report employer violations should be ensured whistleblower protections with special protections that include extending their immigration status and work authorization during the complaint process.

The interests and lives of America’s working families cannot be compromised. A single-minded immigration policy that disregards legal, labor, and workplace protections and only serves to provide employers with workers will inevitably result in economic and social calamity. Workers need to be at the heart of an effective and comprehensive reform of our immigration laws. Meaningful immigration reform should begin with the enforcement of basic workplace protections already on the books. Anything less, especially the enactment of a massive new guestworker program will exacerbate the systemic problems of our current system hurting all workers, their families, and their communities and robbing America of its fundamental values of inclusion and justice.