



## Job Quality in the Fields: Improving Farm Work in the US — Transcript

Hosted by the Aspen Institute's Food & Society Program and Economic Opportunities Program, January 24, 2024

### Description

Farm workers play an essential role in feeding our nation's families. Despite their key role in our food system, these workers are largely underpaid, receive little time off, and have little recourse when subjected to dangerous working conditions. Half of the households in this majority-Latino workforce of more than two million earn less than \$30,000 a year – and many struggle to put food on their own tables. Immigrant workers also face the risk of having their immigration status exploited, putting their safety and well-being in danger. Some become victims of forced slavery and human trafficking.

Better jobs for farm workers are possible and within reach. Multiple states have led the way in legislating better pay and protections, including the right to organize, a right these essential workers have long been excluded from. New high-road business models are showing ways workers and owners can succeed together, and new technologies are being developed to make farm work safer. But poor pay, dangerous working conditions, and inadequate labor and immigration laws persist for the vast majority of farm workers.

In this conversation, a panel of experts discusses the long-standing challenges in this essential sector and how to build good jobs for farm workers.

This is the first event in the discussion series, "The Hands that Feed Us." For more information, visit: <https://www.aspeninstitute.org/programs/the-hands-that-feed-us-a-series-exploring-job-quality-challenges-in-the-us-food-supply-chain/>

For more information about this event — including video, audio, transcript, speaker bios, and additional resources — visit our website: [as.in/farmworkers](https://as.in/farmworkers)

## Opening Remarks

### Corby Kummer

Executive Director, [Food and Society Program](#), The Aspen Institute

Corby Kummer is executive director of the Food and Society program at the Aspen Institute, a senior lecturer at the Tufts Friedman School of Nutrition Science, and a senior editor of The Atlantic. In recent years, the Food and Society program launched new initiatives that include the Food Leaders Fellowship, Conversations on Food Justice, Safety First: Protecting Workers and Diners, Food is Medicine Research Action Plan, and Open Access: Equitable Equity for Food Businesses.

### Maureen Conway

Vice President, The Aspen Institute; Executive Director, [Economic Opportunities Program](#)

Maureen Conway serves as vice president at the Aspen Institute and as executive director of the Institute's Economic Opportunities Program (EOP). EOP works to expand individuals' opportunities to connect to quality work, start businesses, and build economic stability that provides the freedom to pursue opportunity. View [Maureen's full bio](#).

## Speakers

### Gerardo Reyes Chavez

Key Leader, [Coalition of Immokalee Workers](#)

Gerardo Reyes Chavez is a key leader of the Coalition of Immokalee Workers. Reyes is a farmworker himself and has worked in the fields since age 11, first as a peasant farmer in Zacatecas, Mexico, and then in the fields of Florida picking oranges, tomatoes, blueberries, and watermelon. Reyes has worked closely with consumer allies to organize national actions — renowned for their creativity and effectiveness — designed to bring pressure on the large retail purchasers of Florida produce to join the Fair Food Program. He speaks publicly about the Fair Food Program at events across the country, such as the convening on farm labor challenges hosted by Harvard Law School's Labor and Worklife Program and the Interfaith Council on Corporate Responsibility's multi-stakeholder roundtable on ethical recruitment.

As part of the implementation of the Fair Food Program, Reyes and his colleagues conduct workers' rights education in the fields on all farms participating in the program. He also receives complaints of abuses in the fields, manages wage theft claims, and assists in the investigation of cases of modern-day slavery when they arise.

### Daniel Costa

Director of Immigration Law and Policy Research, [Economic Policy Institute](#)

Daniel Costa is the director of immigration law and policy research at the Economic Policy Institute (EPI), a think tank in Washington DC. Costa is an attorney who first joined EPI in 2010 and was EPI's director of immigration law and policy research from 2013 to early 2018. He returned to this role in 2019 after serving as the California Attorney General's senior advisor on immigration and labor. He is also a visiting scholar at the Global Migration Center at the University of California, Davis. Costa's areas of research include a wide range of labor migration issues, including governance of temporary labor migration programs, migration for both professional occupations and lower-wage jobs, worksite enforcement, and immigrant workers' rights, as well as farm labor, global multilateral processes related to migration, and refugee and asylum issues. He is the son of immigrants, fluent in Spanish and Portuguese, and holds degrees from UC Berkeley, Syracuse, and Georgetown.

### **L. Lloys Frates, Ph.D**

President, [Frutura](#)

Dr. L. Lloys Frates is the president of Frutura, a global produce company with a focus on environment, social, and governance (ESG), with business units in the United States, Uruguay, Peru, and Chile. Previous to Frutura, she was a managing director and investment and management committee member at Renewable Resources Group, a Los Angeles-based impact investor and asset manager focusing on sustainable agriculture and water in the US, Latin America, and Australia, where it has over 150,000 acres under management. Lloys serves on the boards of directors of Agrícola Don Ricardo — a Peru grower-packer-shipper of table grapes, avocados, citrus, and blueberries — and California Harvesters — an employee-benefit farm labor company working to create high-quality farm labor jobs.

In 2020, she was honored by the Commune of Santa Maria, Chile, for philanthropy to promote opportunities for farm laborers and their families. Lloys has experience in organized labor and served as an executive board member of UAW 2865, the union for graduate student employees at the University of California. Lloys leads the strategic planning committee and serves on the board of trustees at the Hollywood Schoolhouse, a Los Angeles pre-6 independent school located in central Hollywood. She is a member of the Southern California chapter of the International Women's Forum and Chief Women's Network. Lloys earned a doctorate and a master's degree from the University of California, Los Angeles, and a bachelor's degree from Sweet Briar College in Virginia.

### **Mireya Loza**

Associate Professor, [Georgetown University](#)

Mireya Loza is an associate professor in the department of history and the American studies program at Georgetown University. Her areas of research include Latinx history, labor history, and food studies. Her book, "Defiant Braceros: How Migrant Workers Fought for Racial, Sexual and Political Freedom," examines America's largest guest worker program. Her first book won the 2017 Theodore Saloutos Book Prize, awarded by the Immigration and Ethnic History Society, and the Smithsonian Secretary's Research Prize. Her research has been funded by the Ford Foundation, the National Endowment for the Humanities, and the Smithsonian's Latino Center.

Prior to joining the faculty at Georgetown, she taught in the department of food studies at New York University. In addition, she curates at the National Museum of American History.

## Moderator

### Ximena Bustillo

Reporter, Washington Desk, [NPR](#)

Ximena Bustillo is a multi-platform reporter at NPR covering politics out of the White House and Congress on air and in print. Before joining NPR, she was an award-winning food and agriculture policy reporter and newsletter author at POLITICO, covering immigration, climate, labor, supply chain, and equity issues. Bustillo got her start in journalism at the Idaho Statesman, where she helped spearhead the state's Spanish-language coronavirus news coverage through articles and public web forums. She is a graduate of Boise State University.

## Summary

This discussion highlights the challenges faced by farm workers in the US and potential solutions to improve their working conditions. The conversation emphasizes the importance of organizing and unionizing workers to exercise power and improve their situation. However, the panelists also note that the current immigration system creates barriers for many farm workers to obtain green cards and protection, leading to a power imbalance between employers and workers.

The exemption of farm workers from the National Labor Relations Act is also cited as a hindrance to organizing efforts. Panelists discuss the need for creative solutions outside of traditional labor laws, such as worker-driven social responsibility models and market-based approaches. They highlight examples of workers in different industries and countries organizing and implementing their own programs to improve working conditions. The panelists call for stronger regulations, increased enforcement, and greater accountability from employers and retailers. They also emphasize the importance of public awareness and support for the rights and well-being of farm workers.

## Transcript

### Corby Kummer (00:00:00)

Good afternoon everyone here at the mighty headquarters of The Aspen Institute in Washington DC and our wonderful online audience. Welcome. I'm Corby, Executive Director of Food & Society at The Aspen Institute, and it's my great pleasure to invite you to today's conversation, Job Quality in the Fields: Improving Farm Work in the United States. This conversation is a collaboration between our Food & Society Program and the Economic Opportunities Program here at Aspen. It's the first in a new three-part series we'll be doing together called The Hands That Feed Us: Job Quality Challenges in the Food Supply Chain. The next event will be March

19th, discussing job quality in the meat and poultry processing industries. And as with today, we have a wonderful series of panelists lined up for the March 19th discussion. You can register for the event online on our website, and those of you online can see the link in the chat.

I have to say how thrilled I am to be collaborating with the Economic Opportunities program. I think anyone who's dreaming up a program here at the institute views it as the most inspirational and forward-thinking program for job quality at the institute. Maureen, our colleague, whom you'll be hearing from in a moment, her colleagues Matt Helmer and Merrit Stiven are examples of how to run a program and how to be colleagues. So I'm very grateful to be working with all of them.

So today let's have a quick review of online stuff. I get to do the tech conversation. All of you online are muted. We welcome your questions starting right this minute. Please use the Q&A button at the bottom of your screen to submit questions and feel free to share your perspective in chat. Starting now, those of you in the audience could tune in our chat if you want to be part of it. It'll be visible to all of you who are attending. And we invite you to have a robust conversation as we hear a wonderful conversation here. We'll welcome your feedback and hope that you'll be able to stay for a minute or two afterward for a quick feedback survey. Feel free to post about the conversation, #TalkOpportunity. Any technical issues, again, message us in the chat. We'll be happy to solve all of them. The event's being recorded and we'll share it via email and post it on our websites. It's @AspenJobQuality is the posting for the Economic Opportunities Program. We are AspenFood.org. So join us for everything.

And I have to have a special welcome to David Street who is our Food Leaders fellow. We're thrilled to have him in the room. And I have to call out Gerardo's colleague, Marley Monacello as another Food Leaders fellow, a program that we're thrilled to do, but we're not as thrilled with our collaboration with Maureen and economic opportunities. One last thing, closed captions, just click the CC button on the screen. Maureen, thank you.

### **Maureen Conway (00:03:17)**

Thank you, Corby, and thank you everyone for joining us today. I'm Maureen Conway. I lead the Economic Opportunities Program as Corby described. And I am also thrilled, we in the Economic Opportunities Program are thrilled at working with our colleagues in Food & Society. We've actually partnered on events before with them. We've had a lot of overlapping interest in how food businesses operate and the kinds of opportunities they create, and so it's really fabulous to be working with you again and doing this three part series.

The issues of people who do the essential work of our society being unable to afford life's essentials has really been something we've been grappling with in the Economic Opportunities Program for a while following. In the wake of the Great Recession, we started doing events on this topic in something we called Reinventing Low Wage Work and we looked at a variety of occupations from healthcare to housing construction to home care and hospitality.

There's a wide range of occupations where people were really struggling. So even as employment was going up, people's ability to make it was not. We all saw during the pandemic the issues of essential workers not being able to afford life's essentials. And it's really great that we're focusing in particular on this set of workers that are indeed the hands that feed us, the

workers who grow our food, who process our food, and who bring it to our grocery stores, to our restaurants in this series. So many of these workers are overlooked in our society and even it's great to be starting with farm workers. Next week we'll get our jobs report out and we'll see how many jobs we've created, but what we won't be counting is farm workers, right? Because we don't even count agricultural workers. So I'm really glad that we are having this conversation and starting with farm workers because their work is important and they absolutely deserve to be counted.

So we are excited to have this conversation today. Just a brief reminder, as Corby mentioned, on March 19th, we'll be discussing Workers On the Line: Improving Jobs in Meat and Poultry Processing. That will be a virtual conversation. Hope everybody will join us for that.

But now it's my pleasure to introduce our panels for today's discussion. So let's see if I can figure out where they're all sitting. So to not quite my far right on the left is Daniel Costa, Director of Immigration Law and Policy Research at Economic Policy Institute. Let's see, I'm just going to have to not do this in the order that it's on my... Next to Daniel is Mireya Loza, Associate Professor in the Department of History and American Studies Program at Georgetown University. Next to Mireya is Gerardo Reyes Chavez, a key leader of the Coalition of Immokalee Workers. Next to me is Lloys Frates?

**Lloys Frates (00:06:37)**

Yes.

**Maureen Conway (00:06:39)**

President of Frutura and member of the board of California Harvesters. And we are very thrilled to have with us today Ximena Bustillo to moderate the discussion. Ximena is currently a politics reporter at NPR and has reported extensively on the intersections of agriculture, labor, immigration. So she's the perfect moderator for our conversation. And Ximena, let me turn it over to you.

**Ximena Bustillo (Moderator) (00:07:03)**

Wonderful. Thank you so much for all those kind intros. Getting names and places is always the hardest thing. So glad you had to do it. Thank you all so much for being here. I wanted to kind of start with a little bit of ground setting before kicking it off to these wonderful experts that we have to hear from today. I started covering food and ag as a journalist in 2020, right at the start of the pandemic, at a time where the food system was facing challenges. But what I kept hearing over and over again was that a lot of those challenges were just exacerbated problems that were already existing. This was a time period where people went to the grocery store and for the first time ever didn't find flour or chicken on the shelves. It was also a time period where folks who came to work in the fields or in processing plants needed to keep up with updated guidance laws, testing, knowing whether or not to come to work and the different challenges that came with that.

But in thinking about the labor force of this sector, the pandemic was a time period where, as you mentioned in the opening, it was deemed essential, essential work. And that word was

repeated over and over again and it was repeated that this was the population that was over-looked, not paid attention to and not looked at. But let's try to think about what that really means. Let's look at the agricultural labor force. We depend on farm workers in order to get food on our shelves. Who are these people? The USDA's most recent estimate is that around 40% to 50% of those workers are undocumented, but there's bipartisan consensus from Republicans, from Democrats, from strategists and researchers that that is very largely to be a really huge under count.

The other section of these workers are H-2A visa workers. This is a seasonal agricultural visa. Not everyone can access it, and there are specific stipulations. If you are a farmer and you want to use H-2A visas, you have to prove that you couldn't have hired someone domestically first, you have to pay for transportation, you have to pay for housing, and there are other costs that come with employing these workers. Although they do only make about 17% of the labor force, that has grown over time. And just in the last 10 years, H-2A visas have exploded four times the use. So we're seeing a greater resource of a visa program that many might argue is broken, cannot be managed and cannot be regulated.

The last bit of ground setting that I'll set here is there are very specific ways that we track and manage ag labor. There are a lot of laws federally that don't apply to farm workers that might apply to other employees, overtime laws, for example, are one of them, or the federal right to unionize. There are historical reasons as to why that is and we have experts that can speak to that. But it makes the enforcement of any laws that exist in order to regulate this specific sector really, really difficult.

So coming out of the pandemic, four years later where are we at? We are at a point where we are still talking about this essential demographic. What does that look like? Since then, we have had new laws implemented at the state level and small changes beginning at the federal level. But hopefully in this discussion we can kind of begin to see where we move forward after we continue to say a lot of the same things that are said every day about this population.

So with that, I'd love to kick it off for speaker introductions. Daniel, I'd love to start with you. And you research this population from the visa side and the immigration side particularly, I'd love for you to talk a little bit about the work that you've most recently done?

**Daniel Costa (00:11:07)**

Sure. I thank you first to Aspen for having me here and covering this issue. It's really important to me. And thanks for that great introduction, you really covered a lot there. And so I guess first maybe, just adding one tiny footnote to what you said, is just to give you a sense of the size of this population, we're talking about 2.4 million farm workers, about 1.6 million full-time equivalent jobs. It's about one and a half farm workers for every job. And for those H-2A workers, it's about 300,000 workers. And you mentioned the immigration status. The only other thing I wanted to say there is that you're talking about half of workers being undocumented, official numbers, 10% to 15% of the population on H-2A temporary visas. What that means is that 60% of this workforce either doesn't have an immigration status or has a temporary precarious status, and that means only 40% of the workforce has actual agency and rights in this labor market can really come forward and complain when there's lawbreaking on the job.

And so I just want to say that and also say that the farm workers, we know, have worked in one of the most difficult and dangerous occupations and are some of the lowest paid workers in the entire country. So I've been looking at issues having to do with wages and the H-2A program, farm labor contractors, and I could say more about that, which are sort of this staffing agency model that has really skyrocketed within agriculture, and tracking all of the policy developments that come out. And there's some new regulations that were just proposed both from the Labor Department and Department of Homeland Security. They did a lot of work on those and commented on them. So that's what's going on these days.

**Ximena Bustillo (Moderator) (00:12:50)**

In tracking this, we're going to be saying a lot of terms. There are a lot of lines here to track with farm labor in terms of status, how these workers get employed to begin with. So I'll do my best to connect the dots as y'all talk about it. But I think you're a great one to follow up with. You are our resident historian here. Can you talk a little bit about your research, but then the history that we are talking about here?

**Mireya Loza (00:13:19)**

So I spent most of the past, now it seems like about 20 years, talking to guest workers from the largest guest worker program, which is the Bracero Program from 1942 to '64. I work with the National Museum of American History and other institutions to create the largest repository of history of these guest workers. But what I learned in doing this history and writing and talking to people is that these categories were also very much in flux. Many times an employer could employ, say for instance, 50 guest workers and the worst employers would wake up the next day and find that half of their workforce was gone. And part of the reason is that folks don't want to put up with deplorable conditions, terrible housing and exploitation. And back in the 1940s, fifties and sixties, to basically become a person who was undocumented overnight also presented folks with freedom. Freedom that they don't have anymore because they can't possibly do that in the same way.

But it was the largest sort of, I would say, protest against being a guest worker to say, I would rather be undocumented and sell my labor on the margins than to work for you. And that was quite common for guest workers. My most latest work is actually pulling the thread even further to the first guest worker program in American history, which is 1917 to the 1920s. And to think about basically the US desires for basically Mexican agricultural labor. And it is a reality that a lot of my work tries to answer. I mean, what I want to get at is how did Latinos win the race to the bottom in terms of agricultural work? And how do we sort of think about a system that relies on very marginalized exploitable people? Why don't we ever think about basically the real thing that we need to think about, which is reforming these jobs so that anyone's children could work in these jobs with dignity instead of thinking about who is the most exploitable person for this job?

**Ximena Bustillo (Moderator) (00:15:19)**

And that is really good ground setting, speaking about demographics here, continuing to expand the scope of who it is that we're talking about. Currently, most farm workers are Latino or



Hispanic and an overwhelming majority of H-2A visa workers come from Mexico specifically. Some are starting to come from Central America. Those are new trends that we are seeing, but historically it has been Mexican workers. Gerardo, I would love to hear from you and the work you are doing out in Florida?

**Gerardo Reyes Chavez (00:15:54)**

Well, thank you for inviting us. It's an honor to be part of this panel. Well, I would say in our experience, we have seen how exploitation happens to any worker that's doing agricultural work. I myself come from that background as many of my colleagues. When I first started, my welcoming was that I wasn't paid for the job I did. We ended up without a home, without money to buy food and without a job. We didn't know anybody. That's when I met with some workers that were part of the second case of modern day slavery that the coalition helped to bring to justice by working with the Department of Justice, the FBI, the Department of Labor, and many other agencies.

What I could tell you about H-2A now is that any program that comes to land without any kind of oversight in terms of how the workers are doing in these operations, nobody to watch over them and their rights is going to result in catastrophe. And we've seen it in the two last cases of modern day slavery that we have been involved in helping workers. One of them, Blooming Onion, involved more than 71,000 workers. And it is in a span of about eight years since we received the first call from one of them, and because of the lack of access to these operations, it's a very difficult place to investigate. It took several years and it impacted this amount of workers that resulted in profits of money laundering from these criminal organizations of more than \$200 million. Another case happened in Pahokee, Florida. The Blooming Onion was Vidalia, Georgia. And in this case, they were selling the watermelons to Kroger, a supermarket. That was the first time that that connection between the market and these horrible conditions came to light.

And we will continue to see those cases as long as we don't create protections that are effective for workers. That's why we do the work of applying The Fair Food Program, which is something that we created in our own community by starting in 2001 with Taco Bell, 2005, we reached the first agreement then with McDonald's, Burger King, Subway, Whole Foods, all of the biggest food providers like Compass Group, Aramark, Sodexo, including Walmart. So there's 14 corporations that condition the purchasing to the implementation of the code of conduct that was created in Immokalee, Florida by us as workers. And it's being implemented with the protections against retaliations, workers can speak up. More than 4,000 complaints have been filed, all of them investigated and resolved. 10 problems identified in that process of investigation. And that has resulted in the creation of a new reality for workers in, I would say 11 states, or 10 states in the last 12 years now. It's going to be 12 years since we started to implement this.

So there workers on their H-2A working on these farms have guarantee rights that they can assert by simply calling the hotline. They have all the rights and they have a premium that comes from the market addressing the issue that you were mentioning earlier, workers who found themselves in operations outside of the Fair Food Program, they find a lot of wage theft, a lot of situations of abuse, violence, sexual harassment, all degrading things that are happening to our

communities. Inside the program, the law has to be respected. So the contracts that they sign onto, for instance, is something that it's also overbuilt for compliance in terms of the Fair Food Program.

**Ximena Bustillo (Moderator) (00:20:12)**

And for those two instances, Georgia and Florida, the Justice Department, the FBI gets involved in these investigations of what was called modern day slavery, bringing it back again to who it is that we're talking about. This is a population majority undocumented, as we have already said. Those who are on visas are tied to their employer for their visas. And so that already creates conditions where you can't just walk out the job if you don't like it, you can't just leave there. And that creates additional space for potential abuse. The government themselves have already kind of found and determined this. But again, talking about who these populations are, these areas are very remote, they're very sprawled out. It can be difficult to keep track of physically where these workers are. And so any laws that exist can be difficult to enforce or maintain.

But also on the employer side, and let's go to Lloys for this, thinking about the necessary other half of this coin, you can't have employees without employees, and there is a need and a demand for this labor in order to keep our domestic supply chain going and functioning. I'm curious if you could talk a little bit more about your work and your organization outside of California, a big state for this?

**Lloys Frates (00:21:36)**

Yeah, so I'm actually really humbled to be here. Our industry doesn't have these conversations, and I'm really pleased to be part of this collective thinking and help connect some of the ideas around farm workers. Gerardo, you may be surprised to hear this, but I was super excited to see that you were on the panel because it's really the Immokalee Workers and the Fair Food Program that shaped a lot of our thinking around farm labor. And you brought it up, Mireya, in the green room, I Am Not a Tractor!, Susan Marquis's book, I think from 2017. And that was the first time for me that I was able to connect the work that I'm doing in the private sector in fresh produce with my background as a doing aid and development work in Africa as a union organizer, and also with my academic focus on social movements and race class and gender.

So Frutura was really built, it's a new company, it was built in 2020, 2021. And this is really part of the thinking of the strategy of Frutura, we're a large global produce company, we operate in six countries and have about 10,000 employees at the height of harvest. I'm also really interested in what Mireya and Daniel have to offer around the historical context and the regulatory environment because it was in that environment that California Harvesters was built. So farm labor contractors were mentioned, and I hope we talk more about that because that is a part of this industry that is really difficult as well. But California Harvesters is a farm labor contractor based in the Central Valley of California that's really trying to raise the standard of work for farm workers. Its goal is to become an employee benefits company. It's not there yet. It doesn't have the scale.

(I realize I keep going on and off on the microphone. Is it okay?) But ultimately that's its goal. So I am really Looking forward to taking the learning from this panel away to the companies I work with in California and across the globe.

**Ximena Bustillo (Moderator) (00:23:29)**

So Mireya, I really want to kick off this discussion with you to go back to that history, right? Can you talk a little bit about some of the challenges that we have seen before and how some of those still exist today or new challenges? How did we get here?

**Mireya Loza (00:23:46)**

Definitely. I mean, some of the historical touchstones that I think about in answering that question, how do we get here? I think about World War I and World War II and these moments in which basically growers leverage a lot of their political voice to push the government, to push the Department of Labor to allow them to bring a temporary workforce. As the border gets different, it's different, more militarized, they actually do this again. And so one of the things that we need to disentangle, at least from the Bracero Program is the Bracero Program happened, but simultaneously, basically growers on this East Coast agricultural corridor pushed the Department of Labor to be able to recruit workers from the British West Indies. And they call these H-2 workers during the Bracero Program. So they are Black workers primarily, and what they find is they are focused on recruiting Black workers and Puerto Rican workers. And to their dismay, Puerto Rican workers cannot be pushed around because they are citizens. California growers also attempt at one point to bring in Puerto Rican workers, and they are sorely disappointed because they will not be pushed around.

And so what we find by the end of the Bracero Program is that people clamor to bring it to an end because of severe human rights violations. You have activists, organizers, many people who literally say, "We need to end this exploitation." This program shuts down, but the H-2 program never does. So what we find is that when I talked about these categories of guest worker and undocumented worker, in places like California that are the largest employers of braceros during the Bracero Program, they also learn, growers, to basically recruit undocumented workers. And so by 1964, '65, they also were kind of okay with letting the Bracero program go because they realized that they have access to undocumented workers. In other states like North Carolina, by the nineties and 2000s, they're like, "Hmm, this guest worker program, we just need to ask for more and more people."

And so what I find is that now as that border has become much harder to cross, and undocumented workers aren't readily available, California growers are now looking at the H-2 program, and I mean the H-2 program is getting bigger and bigger, as you said, but partly, I mean, it is phenomenal that we don't look closer at it because, I mean no one in the US would basically take a contract that your belonging, all of your rights are tied to one employer. Think about that. Would you want that for your children? One job and that is what they get with one employer. They can't say, I'm going to sell my labor on the free market to other employers. No, they're tied to that one employer.

What that does is, as you said, the power imbalance is so off that they can't possibly speak up because speaking up will lead to a contract termination. Speaking up could also lead to blacklisting, which means no one will ever bring you back. And so all of the power is in basically the hands of growers and very little power is in the hands of guest workers. And that's why we're seeing an uptick in basically labor rights violations in human rights violations and in cases of modern day slavery. And folks continuously tell me, "Well, we just have to reform it. Mireya, how do we reform this?" How do you reform something that was designed to be exploitative? How?

And the reality is I also get, but people are taking back dollars and they're converting them to pesos and this does so much good in their home communities. And I think to myself, you don't actually see what they're missing out on. They don't get to go to their kids' birthday parties. They don't get to have a day off per se. They don't get to be full human beings at work. And I come from a bracero family. My several uncles were Eros, and several cousins of mine are now basically guest workers in the US and Canada. And I sort of feel like the human toll is what people rarely talk about, that they really are missing out and they're not living full lives at work or full lives in communities. And partly because we are scared of the other alternative, what happens if we actually just give people green cards? Oh no, that's terrible. They'd have to be incorporated into the fabric of society.

**Daniel Costa (00:28:16)**

If I could just add a footnote to that, it is the argument that growers have and they might not say publicly, is that, well, if they have green cards, they won't stay in the fields.

**Mireya Loza (00:28:24)**

Yes.

**Daniel Costa (00:28:24)**

The sort of common knowledge that's out there is the best way to raise your wages and your conditions is to get out of agriculture.

**Mireya Loza (00:28:32)**

Yes.

**Daniel Costa (00:28:32)**

And that's the best way to do it.

**Gerardo Reyes Chavez (00:28:34)**

Just to kind of play a little bit with a counter argument to that argument. If people are treated with dignity and respect, we have seen by the experience of implementing the Fair Food Program in all the operations where it is currently implemented, people want to stay. People are not looking for another job to go to, even under the restrictive H-2A program because if

conditions are safe, if people are receiving, in the case of the program, a bonus that comes from the buyers, if they are free to speak up about the problems that they identify. During the pandemic, the companies, the growers participating in the program collaborated on trying to protect the workforce by including more transportation to make it possible for people to socially distance, even within that very complicated context, bringing industrial hand washing machines when the CDC was giving those recommendations. People want to stay in places where they are treated with dignity and respect from what we have seen.

So I would say we need to do something that changes the current landscape of H-2A in this country or we need something different completely. But I think that we can make it work by guaranteeing protections. That is the problem, I think at heart,

**Lloys Frates (00:30:00)**

I think too, and I know we're focused on the US context, but a really important part of this is what happens with the recruiting on the other side. So we can regulate that part in the US and we're not doing a good enough job. And I think you guys will talk to that. But the other thing is if you look in Mexico, the practices that are happening there, there is a lot of abuse on that side of the border in this program as well. So I know we're focused on the US, but we can't forget that network that happens.

**Mireya Loza (00:30:26)**

I would add, I mean the abuse starts with contractors in Mexico. We knew that in the Bracero Program and contractors weren't present as much in the Bracero Program in the ways they are now because people would go to basically points of contracting. But contractors are those middlemen that not only squeeze folks, but actually also are part of the abusive system.

**Ximena Bustillo (Moderator) (00:30:50)**

Daniel, I am curious, can you explain the process for H-2A? What is a contractor? What's this recruiting that everyone's talking about?

**Daniel Costa (00:31:01)**

Sure. If you're a worker in Mexico or another country, you first meet with a recruiter who says, "I have a job in X City and it pays this amount and we'd like you to come." And it may be done above board, it may be an individual doing, it may be a company, it may be a reputable company or not. And whether or not that job exists is sometimes an open question. And the problem is that there's no transparency about that recruitment chain so workers can't verify whether or not that job actually exists.

So on the employer side here in the US, first, an employer has to go to the Labor Department, get what's called a labor certification to say that they have the need for the job. If that gets approved, then it moves on to the Department of Homeland Security, which they file a petition for a worker. And then if the worker's going to come from abroad, then they have to file for a visa and the worker goes to a consulate to get the visa and then come to the United States.

And so the recruitment chain, it was mentioned, is one of... If you speak to any farm worker legal aid advocate, they'll tell you that the recruitment fees and abuses are really one of the biggest problems. And there was a proposal to do something about it that was decent in the 2013 comprehensive Senate immigration bill. That was a long time ago now, but no major effort has really happened since then. If that answers your question?

**Ximena Bustillo (Moderator) (00:32:26)**

I think so, yeah. Gerardo?

**Gerardo Reyes Chavez (00:32:28)**

I would add to that. There's so many aspects of what we are doing in our context, the National Service of Employment or SNE, it's a branch of the government with which we are working to basically clean up the channels of recruitment. And it is working because when workers arrive at a participating farm on the Fair Food Program, then they have their rights protected to speak up. So there is an oversight of what happens in those channels, and we have been able to clean that, the recruitment process in any participating farming. We're intending to expand these protections through something that was implemented this past October with the United States Department of Agriculture, which is now unrolling a pilot program, the US Stabilization Labor Force, I think is the official name. And correct me if I'm wrong on that.

But this is wonderful news because so far in the span of about three weeks, we have more than 30 farms that have applied because there's incentives involved in being part of the program, which is considered by the USDA as the highest level in terms of protection for workers, including H-2A, whomever is working in the field. So that will help us to expand these to I think 11 more states, 30 plus operations in the US. So there's a beautiful opportunity here if there are programs that can help us to clean the channels to save people from having to pay illegal recruitment fees, that in the cases of modern day slavery are taken and are enforced with violence, with threats of death for workers and their families, I think that we can do better. And I really commend the USDA for doing this directly to have an impact in the lives of workers, but we need to do more.

**Daniel Costa (00:34:41)**

I would stress that Congress needs to act. I mean, there are proposals out there on how to do this. And the blacklisting was mentioned, the legal fees are mentioned, but also it's a way for companies and employers who are the ultimate end users to really circumvent anti-discrimination laws. They can sort of choose the workforce they want. We only want strong men who are 20 to 30 years old. They can do that. That would never fly here.

**Ximena Bustillo (Moderator) (00:35:05)**

Gerardo, real quick, can you talk a little bit about some of the current challenges that farm workers face, top level?

**Gerardo Reyes Chavez (00:35:16)**

Well, the cases of modern day slavery, I mentioned the last two. There's going to be more cases happening where there's no protection overseeing. As I mentioned before, we see this every day with abuses that are reported onto our offices in Immokalee. Most recently, I cannot give many details because it's a case that is under their investigation, but there was a group of 28 workers that reported that they were not being paid correctly, that they were being basically robbed. They were stealing their hours, not paying them, treating them horribly. So they had to leave their contract. Many workers that I've talked to are in the same circumstances. The boss was shooting his gun next to the entrance of the mobile home that they had as part of their deal. And all of these different ways of intimidating the workforce where there's no oversight will continue to happen, sadly.

What we have seen is through the market, through the agreements that we have, there's a different type of power that it's aligning with us through the campaign for fair food to be able to create a different reality for workers in the fields. So it doesn't matter where the political winds are blowing, creating sometimes unintended consequences, I'm sure, but ultimately protecting workers independently of partisanship. I think it is important for us to support efforts like this that can guarantee that workers don't have to give up their dignity. We have been able to stop modern day slavery in its tracks in the operations that are protected under the Fair Food Program. The challenge now, it's to expand these protections. For that we need more buyers to become responsible purchasers of the fruits and produce that we are producing in the fields.

**Ximena Bustillo (Moderator) (00:37:25)**

I think the idea here is that this workforce is so unregulated and also kind of sporadic that when things go wrong, they go really wrong. And kind of trying to be able to find a way to fix that is kind of like a never ending hydra. I'm really curious for you, Lloys, if you can talk about some of the employer side of things and the employer challenges, because also not every farmer is putting a gun to their workers' heads. And I think that is another side of it. There are farmers who have the same workers come year after year after year, and the workers also want to work there, in a sense.

**Lloys Frates (00:38:06)**

There are, I'm going to pull us back to the dark for a little bit though, and unfortunately there's a lot of dark in this industry. And we'll talk about the light. There is some light. But I work in fresh produce. So California is primarily permanent specialty crops, things that grow on bushes, trees, and vine. It's considered the high value part of the agricultural system. And for lack of a better explanation, I would say the majority of the growers, the owners are caught up in a 20th century model. And part of that model is that labor is brown people who are replaceable. And it's not shocking given the history that you've spoken about. And yet it is shocking because there's a huge pressure on labor. We cannot get enough workers. And a skilled worker who is trained is extremely valuable to the grower. But you have this kind of 20th century model, and in a way it's solidifying rather than being broken open in California because land and water are so expensive in California, it's becoming that way in the Southeast too.

So no new players are entering this industry. The margins are low. You can't make money. The way you want to scale. And so what is happening is these old school California growers are consolidating the industry and they're repeating all these kinds of practices that they've done for time. Now, to your point, not everybody's a bad actor, right? There are people who are facing this history who want to do the right things. And even then it's a really difficult business. So the growers and this employer-employee relationship with the farm worker, and there's a lot of pressure on the grower to do better by the farm worker, and they should, 100% they should. That labor contractor is in there and that presents some challenges.

But what we don't often talk about, and you spoke about it a little bit, is the retailer. The retailer's on the other side of us. And I actually wish we had someone from the retail constituency at this table because it's a big part of the solution here. But the retailer is putting all kinds of pressure on us for food safety, for resources, for labor, for the environment, and they're not assuming that responsibility. So the retailer captures most of the margin in this business, and they are not paying for us to do the right thing. And so for example, Walmart, 22% of the grocery business in the United States, they make us sign a contract that says our workers have the right to organize. I think we all know about Walmart's history with organized labor, right? If you look at what's happening in Eureka, California, they have a union busting history. So not only are they not on board with some of the responsibilities they're pushing down at us, they're definitely not paying for it.

So it's a bit of a conundrum. Fresh healthy food is not a luxury. I'm sure a lot of businesses have this problem, but this is not a luxury. People have a right to eat fresh, healthy food at an affordable price. And up here, way up the food chain, the workers have a right to have a good job and be treated fairly. But everything in this system is broken and we're limping along with a really fractured kind of terrible system in the United States.

**Ximena Bustillo (Moderator) (00:41:11)**

One thing for you, just because California is a very unique state in terms of farm labor laws, they have some of the biggest, at least on paper, protections, they recently started overtime pay, things like that. Only four states do. But California did it first. Can you talk a little bit about these could be good laws, good policies, but the actual implementation of that, what does that look like?

**Lloys Frates (00:41:39)**

So they could be good laws and good policies, and it's the right thing. Raising the minimum wage is the right thing. It used to be that the agricultural day started at 10 hours, not at eight hours, in California. That was changed. But it doesn't always line up with the reality of the labor force, and it doesn't necessarily create the opportunities that Gerardo was talking about for farm workers. So one of the things that happens in California is farm laborers get paid by the piece. Now you have to meet a minimum wage. So if they're not making enough money to hit the minimum wage, you have to pay the minimum wage. When the minimum wage went up, any worker that was not making that minimum wage by the piece was just fired, right? You don't come back the next day. So there's no room for training, there's no room for improvement.



There's no room for people to grow in this industry because it's like you're gone. You didn't make it, you're gone.

So I think some of these things that they're well-meaning, they need to happen, and minimum wage needs to come up. The overtime hours should be eight hours, not 10. And yet it doesn't always match the workforce and the way that we work.

**Daniel Costa (00:42:40)**

Could I add one point that sort of underlies all of this discussion that we haven't mentioned yet, is the fact that labor standards enforcement is just wholly inadequate for agriculture. I mean, first of all, more broadly, we spend \$25 billion a year on immigration enforcement and about \$2 billion overall for labor standards enforcement. It's more than 12 times what we spend on that. So that shows where our priorities are. But the reality is that the Wage and Hour Division, which does the enforcement in the fields, is staffed at historically low levels. Their funding has been basically flat after adjusting for inflation since 2006. In the last two years, they've set the record for the lowest number of investigations in agriculture, just over 800 under the Biden administration. And that's because they're underfunded and understaffed.

And so what that means is that if you're an employer, there's less than a 1% chance that you're going to be inspected by the Wage and Hour Division. So that means you can do almost whatever you want and know that you can do it with impunity. But when the Wage and Hour Division doesn't inspect an employer, 70% of the time they find violations. And when it comes to farm labor contractors, 75% of the time they find violations. So that means that if they were doing more enforcement, they'd probably find more violations. But if you're a farm worker and you've complained, you don't know if they're going to get to you because you're just too far down on the list if you're just one worker. And so that is a thing, and that's caught up in politics because Republicans and centrist Democrats don't want to fund labor standards enforcement because they don't want people showing up and requiring employers to pay what they promised to pay.

And then the last thing I'll say about this is in my last report about labor standards enforcement and agriculture, we found that in the last two years, 75% of the penalties, back wages and civil money penalties, are the result of H-2A violations. Historically, about half has gone to H-2A violations, but now three quarters of the violations in ag are coming from H-2A. So it's obviously clear that it's not just one or two bad apples. This is systemic.

**Ximena Bustillo (Moderator) (00:44:47)**

And for you, putting this back together with that long history, we've been here before.

**Mireya Loza (00:44:53)**

I think we've been here before. In part, it's baked into the design, the Department of Labor, you're right, it's not equipped to do this. And the sadder thing to me is the coalition for Immokalee Workers is doing a fantastic job, but the reality is because the government isn't doing this, because the government isn't taking responsibility, right?

**Gerardo Reyes Chavez (00:45:13)**

Work to be done.

**Mireya Loza (00:45:14)**

And so then we have basically these courageous activists and workers coming together to try to solve something that our government should be doing. And it makes me sort of think about how we failed. And no one is actually pushing the government to do more. And there is no rally in front of the Department of Labor saying this needs to be funded for all of us because it isn't just agriculture. Now we're seeing poultry workers, all types of workers-

**Daniel Costa (00:45:41)**

Child labor.

**Mireya Loza (00:45:41)**

Child labor. We thought it was a thing of the past, but no. And the numbers are going to go up because there are no teeth in this policy.

**Daniel Costa (00:45:50)**

There're 800 Wage and Hour investigators to police a labor market of 160 million people. And they're also in charge of the H-2A program with 300,000 workers, the H-1B program with 600,000 workers, the H-2B program with 150,000 workers, you could easily triple the number of investigators and their funding and you'd still probably need to do more.

**Gerardo Reyes Chavez (00:46:10)**

For sure. Yeah.

**Mireya Loza (00:46:11)**

Definitely.

**Ximena Bustillo (Moderator) (00:46:12)**

And Gerardo, can you talk a little bit about some of the auditing that the Coalition of Immokalee Workers has done that she just mentioned is kind of replacing what the DOL should be doing?

**Gerardo Reyes Chavez (00:46:22)**

Yeah. Well, for all the reasons that were mentioned.

**Mireya Loza (00:46:22)**

Higher standards though

**Gerardo Reyes Chavez (00:46:26)**

Yeah, yeah. There was the need for the creation of the Fair Foods Standards Council, which holds the task of overseeing implementation and compliance at both level, at the level of the growers and at the level of the corporate partners that have signed on to it. What that means is typical auditing firms that are typically hired by corporations themselves only do or report to do about 15% of interviews with workers in the industries they are overseeing. That is the highest that they have mentioned. In our context in agriculture, we have full access to the farms because of the legally binding agreements with both levels. So the investigators don't have to look for opportunities to talk to workers outside of their workplace. They go where they are working and they follow as they are working to ask about different aspects of the auditing process. They speak to the biggest operations, never less than the 50% of the workforce. And in smaller operations, 100% is interviewed.

That doesn't give you just a snapshot or a picture of a reality. It gives you kind of a feedback because along with that, we go to the fields. We start all of that process of implementation with a session of education worker to worker that is paid by the companies, the growers that are participating. And from there, people receive a booklet with all the rights that they are entitled to. There's a bonus that's part of all of these paid by the market that has, since 2011 to today, amount to more than \$45 million. So there's economic incentives that are part of this program as well as the right to not have to overfill the bucket, which is your tool in the fields. You carry it every day. The extra weight used to go to the crew leaders. And now this is something that goes to the pockets of workers. So it's an effective 10% increase in production that is paid to you as a worker.

We don't have, what's the term, crew leader. We refer to them because of the history, they are the ones who were basically separate entities before the program entered into effect. But we are also addressing that aspect of the work because when farms enter into the Fair Food Program, they have to basically bring every worker as a direct employee. And that includes the workers under a crew leader that used to be a separate entity and where a lot of abuse, a lot of wage theft would take place. Now, all of those problems are embraced by the agricultural companies precisely to eliminate the possibilities of any of the issues that happened every day in the past to continue because they want to be in good standing with the market that has signed onto.

That's why it's absolutely crucial for more buyers to come on board. And we're asking Wendy's to join this program, but they haven't yet. I think that they will understand if they hear from more and more people across the nation. As well as Kroger. They were buying directly these watermelons from workers in Pahokee, Florida that were in this case of modern day slavery. So that's no secret. And I'm sure that there are more connections in other operations that have not made it too light. So I think that we need to do some more digging on that, and we need to bring people to the 21st century.

**Ximena Bustillo (Moderator) (00:50:22)**

And even with all that digging, again, remembering the group of people we're talking about, we aren't even, at least right now in this conversation, talking about all food and ag system workers. So there's going to be a whole separate discussion on meat and processing plant workers that is different. Dairy workers are also their own other world. And so kind of piecing out this broader system is just really, really difficult.

I kind of want to take a look at some lessons learned and look ahead before turning to audience questions. Lloys, I'm curious, can you talk a little bit about what the grower outlook is? As there is a pressure to be better, there are these new laws in a lot of states like yours that are increasing requirements and yet this is a population that is changing as we go forward?

**Lloys Frates (00:51:19)**

I mean, I would go back and probably build on what Gerardo said. I think the retailer is a big part of this. And if we look, most of our growers, packers and shippers in Frutera are in Latin America. And if you look at those, the practices are very different. And they're very different because they sell to European retailers. And the European retailers have different requirements and they audit the growers. Our Latin American growers get audited like 32 times a year from the supermarkets. The North Americans get Costco and Walmart, that's it, twice a year. So they have very different requirements. And the reason the European supermarkets have very different requirements is because the consumer demands it and the legal and regulatory structures are there to support it. So I don't want to say Europe is all unicorns and rainbows and everything works perfectly, but I do think the retailer has to get on board here. And the way we get the retailer on board is to pressure the consumer.

So look, there's going to be proactive growers and reactive growers. We've seen it with the environment, we've seen it with chemicals, we've seen it with food safety. Some people know it's coming, they get ahead of it, they embrace it. Others will go kicking and screaming, and they will still bitch about it 20 years later. I mean, people are still bitching about food safety. It's done. And we should have food safety. So if the retailer doesn't make those growers come along, they're not going to come along, they're just not. And the way you get the retailer to do that is that consumer that supposedly shares the value with that retailer because they have the right price or they have organic, so they like the way their store looks.

**Ximena Bustillo (Moderator) (00:52:52)**

And Mireya, kind of looking ahead here, we have always said these things, these workers are essential, they're important. We've also established that these problems have been here for decades. How are the conversations that we are having now, even if it's just post the pandemic, how does that propel us forward?

**Mireya Loza (00:53:12)**

I think we say these things kind of tongue in cheek, that this population is essential, but yet we don't want to give them full inclusion to society. And that is one of the major that I have. Full inclusion means that their kids have the same chances as other people's kids. That you might

bump into them in the grocery store. And I think that this kind of partial inclusion or no inclusion or living at the margins is just not enough. We've seen it across the 20th century. And now it's sort of like we forgot the lessons of basically the post-war period, and we think that we're inventing something new when in fact we're basically pulling on old paradigms. And the end of the Bracero Program, again, it's the severe human rights violations. And so I don't think that we're far off of that now in terms of the H-2 program.

And the other part and piece here that I see is the USDA in that a lot of folks think of agriculture as just this kind of capitalist system: growers and workers. But the reality is we prop up this industry with the USDA and the USDA chooses basically to subsidize some commodity crops, some export crops, more than say for instance, our fruits and vegetables. And so how do we build a system in which the government holds basically growers more accountable, that the government actually subsidizes and puts our tax dollars to feed us in better ways and to feed us in more just ways so the workers who are basically cultivating this aren't struggling and that they have high quality lives. And I think, again, for me, it's those two parts, so the USDA, the Department of Labor, but overall, us saying our government can't be a failed state. Our government needs to use our tax dollars to benefit us all.

**Daniel Costa (00:55:02)**

Well, you did mention the White House and what has the White House done on this? They've done everything in their power to expand the H-2A program to Central America, in part, without saying it explicitly, to take pressure off of the border and the asylum seekers that are coming. And just recently in the past few months, they've proposed some worker protections, but it's taken them three years. Before that, it's just expand, expand and this is great.

**Mireya Loza (00:55:23)**

Well, USAID is now proposing it as foreign aid. I'm like a crappy exploitative job in the US as foreign aid to your country?

**Daniel Costa (00:55:31)**

Samantha Power is out there talking about how great the H-2A program is.

**Mireya Loza (00:55:34)**

And over and over again, when people tell me this, I always say, "Is this the job you want for your kid?" And when you say it's the job you want for your kid, then it's the job for my cousins, my family members. But until you want your kids and your grandkids to work these contracts, then I don't believe you. Then I really don't believe you.

**Ximena Bustillo (Moderator) (00:55:54)**

Daniel, just to kind of close out and then go to audience questions, looking at what the regulatory future is here, what is the current trajectory that we are on?

**Daniel Costa (00:56:08)**

A bigger and bigger share of the farm workforce being made up of H-2A. I don't see a way around that. There's a lot of things that we need, but there's no appetite in Congress for it. We need a legalization for the current farm workforce that's undocumented. We need the H-2A program to be reformed fundamentally to maybe give H-2A workers a quick path to a green card after they're here for a year or 18 months to minimize the abuses that can happen while they're temporary. There are bills that have been proposed, but unfortunately Congress is not going to pass anything that has green cards in it. And then anything that has to do with reforming and improving wages and working conditions for farm workers, the farm lobby is just dead set against it, and they are very powerful. There's ag in every state and almost every district, and they regularly speak to their members of Congress. I've sat on panels testifying in Congress sitting next to farmers, and they do not want to see wages go up 1 cent. In fact, they want the H-2A program deregulated and don't want to have to pay for housing and transportation anymore. And that's what they're pushing for. So if anything, the momentum is towards making it worse.

**Ximena Bustillo (Moderator) (00:57:22)**

On that note.

**Mireya Loza (00:57:22)**

It's a pressing problem.

**Ximena Bustillo (Moderator) (00:57:23)**

I tried to pull us back into the light. We couldn't get there.

**Daniel Costa (00:57:31)**

I'm sorry.

**Ximena Bustillo (Moderator) (00:57:31)**

That's okay.

**Gerardo Reyes Chavez (00:57:31)**

Positive questions.

**Mireya Loza (00:57:34)**

We're a doom and gloom panel.

**Ximena Bustillo (Moderator) (00:57:36)**

The doom and gloom panel. I mean, I think coming back to all of it, it is still important. It's an active conversation. And really appreciate all y'all's expertise.

**Audience member 1 (00:57:47)**

So before we come to the room, we have a few hundred people joining us online, so I'm going to ask a couple questions there first. One is, "Could you please discuss the health challenges faced by farm workers such as heat stress, exposure to chemicals, musculoskeletal conditions related to hands and back, and challenges and potential solutions there?" Relatedly, "What do people see as the potential for technology and improving farm work?"

**Gerardo Reyes Chavez (00:58:14)**

Thank you for that question because as I said, there's so many things to mention. Just yesterday, the printed version of The Washington Post was talking specifically about how in the Fair Food Program operations farm workers were able to create their own protections. And this is something that when you think about what it feels like, I've been in the fields for many, many seasons also harvesting watermelons with a crew. And I know what it feels like when you are over 106 degrees plus humidity where you have to stop because your body cannot continue doing that job because you will be risking your life. I'm tired of seeing news about workers dying in the fields. And finally this happened because there's been this relationship implemented since 2011 with 90% of the tomato growers in Florida. That's without mentioning the recent growers that are joining to expand, including many other states. But there's been the implementation of protections, protocols to follow to prevent heat illness in the fields that are participating.

So it started from May to October, and this season it's going to be extended from April 15 to November 15. What that means is that workers in the fields are going to be receiving a break every two hours. The person on top of the truck, which in our context is called the dumper, the one who dumps the bucket, is not going to be receiving any buckets. So that's going to make it easier for workers not to feel that they have to keep running. So those breaks are for everybody.

With the special attention to moments in which we have heat advisories, there's going to be something that's going to happen in the entire sector, which is the addition to electrolytes because of scientific studies that came up revealing that the illnesses of heat stress are not just limited to the immediate symptoms or the origin ones. It is something that can damage your liver over time because of constant exposure to heat and the weight of the work itself. So studies have revealed that when drinking only water, if you don't add anything under those conditions, which are not normal in just every job, can prevent many of those illnesses. So in conversations with the industry, that's what's going to happen. So I'm happy to announce that to the world, but also happy that this is the path that we are following in which partnerships are translating into concrete actions to protect the workforce. This is something that gives us hope for the future.

**Ximena Bustillo (Moderator) (01:01:23)**

Lloys, I would love it if you could answer the technology side of it, kind of like the future of tech and honestly AI in replacing some of these workers, even if it's in smoky conditions or hot conditions. That way humans don't need to be out there. Where are we with that?

**Lloys Frates (01:01:42)**

We're not very far, to be honest. I mean, most of these crops are handpicked and they're mostly very fragile, cherries, grapes, and other things. And people are working. The holy grail is the automatic picker. People are trying with strawberries, they're trying with apples. We're not very far. But there is some stuff, like what we found is some technology around the edges. So for example, it sounds very simple, but I think Gerardo will get it. There are these automated carts. So instead of the picker picking them, putting them in a wheelbarrow and a guy taking the wheelbarrow all the way down the row to the swamper, which is the thing that takes it to the cold storage, this automatic cart can go up and down the row. And so you eliminate that manual labor of having to do the wheelbarrow. And that's a very promising technology. Yamaha, Google, and a bunch of other companies are working on it. There's a lot of optics that are used to figure out which things should be picked at which times.

But as far as actually replacing the workers, these crops are still very much handpicked. And just to build on what Gerardo said a little bit, training costs money, right? When you're training employees, they are not working and they are not earning money for you. So the growers will do the absolute minimum required by law. They'll do the heat training, they'll do the sexual harassment training, whatever your state or your... So I think again, going to the regulatory thing, ergonomics are really important. This is backbreaking work literally, people's bodies break down over time. People need to have training in ergonomics. Leadership training, right? How do we identify leaders and bring them up? So training is a big part of this equation as well. And the growers aren't going to do it because they don't make money while they're doing it. So we have to find a way for that to get in there.

**Daniel Costa (01:03:25)**

Can I just say one sentence to add onto what Gerardo said? It's great that CIW is doing things like this and it's great that other worker groups are coming up with innovation, but to sort of say what you said in a different way, we need laws and enforcement. California has a heat standard law. It's a massive improvement. It's a good thing. How many other states have that? It's been proposed at the federal level. Why doesn't it get anywhere? Why is this so hard to get passed?

**Mireya Loza (01:03:52)**

But I think this is the story of farm labor and policy. We create these laws to protect this group. And especially with H-2A workers, they're supposed to be highly protected, but there's no enforcement.



**Gerardo Reyes Chavez (01:04:08)**

Laws without enforcement are just pretty words on paper.

**Mireya Loza (01:04:12)**

That makes us feel better.

**Gerardo Reyes Chavez (01:04:12)**

Exactly. And I mean if there was a law, if it was just a law outside of the Fair Food Program about heat stress that provides shade in the fields, and us absent organizing as a community, there wouldn't be enforcement. I cannot see that happening with the lack of funding, as you were mentioning earlier. Nobody to oversee that means nothing, means just words on paper, sadly, many times.

**Daniel Costa (01:04:44)**

You're doing the enforcement, but I guess if the law was on the books, at least you wouldn't have to bargain for that.

**Gerardo Reyes Chavez (01:04:49)**

No, no, no, no. It's a good thing. It's a good thing that there are laws about that. But for us in our context, we have had these agreements where there's shade in the fields for every crew provided by the growers themselves that followed them with clean drinking water. That's something that didn't exist before. It's something that doesn't exist by law. But if there is a law, the program will-

**Daniel Costa (01:05:15)**

Again, you need capital for it rather than it being the standard. And that's a real problem.

**Ximena Bustillo (Moderator) (01:05:18)**

Want to squeeze in another question.

**Gerardo Reyes Chavez (01:05:20)**

The things can go together.

**Audience member 2 (01:05:29)**

I mean, if you think about almost any job in this country, it originally was very terrible until workers organized and unionized themselves and took the power into their own hands and said, "Look, we're not going to pick your grapes unless you treat us better. We're not going to pick your tomatoes." So I'd like to know what is the attitude of organizing workers to exercise that type of power going forward? I mean, I know they're given almost no protections under national labor

laws. California has relatively weak labor laws protecting agricultural workers. But it seems to me that the strategy for the future has to be that workers have to, I think, organize themselves to take control of the situation. That's what's transformed most of the labor movement in this country is organization, and we don't have that in our agriculture.

**Mireya Loza (01:06:16)**

But I would say that the changing line is that we're talking about sometimes an immigrant workforce that had pathways to getting a green card and belonging. And so that's one of the major shifts in the US workforce across the 20th century, that those immigration laws got stiff and stiffer and made it harder for certain populations to actually become green card holders. And so the deportation system has manned up.

So one of the things that is sort of missing in that discussion is that you could have been, say for instance, a Polish meat packer in the Midwest in 1945 and figured out how to become documented, how to become a person that is vocal and how to push so that your union does something for you. But now we're basically creating a workforce by design through immigration policy that has very few options to actually getting green cards. And so the deportation system will just erase them. It will just erase them. And it'll erase them if they speak too loudly, it'll erase them if they push back, it'll erase them if the employer decides, hey, I'm calling ICE. And so I think that's one of the things that has caused this massive employer power imbalance where workers are trying their hardest and they're not getting the results that they need to get.

**Daniel Costa (01:07:40)**

Well, wouldn't you say the exemption from the NLRA, that the farm workers are exempted from National Labor Relations Act, and being able to organize and have power relies on that and relies on enforcement of those laws. And we have it in California, there's the Agricultural Labor Relations Act, but nationwide, have it in New York now, but that's about it.

**Mireya Loza (01:07:57)**

Yes.

**Gerardo Reyes Chavez (01:07:59)**

We are still excluded is the synopsis of that. But I think that that's why it's important to think creatively outside of what has always been in front of us. And that's why we started to look at the market as farm workers. And to follow up a little bit, yes, when workers organize, either within the union context or where there's no possibility, like in our case in workers in many other states facing the same thing, what workers have been doing when they have observed the application of the program. When we started workers from the dairy industry, for example, they were facing a lot of problems. They came to shadow the work of implementation of the Fair Food Program in the fields. They came to shadow the way in which we were organizing and sharing our stories with the world through the Campaign for Fair Food to do the same. And now they are operating a program that they call the Milk with Dignity program.

Similar things are going on in other parts of the country. Workers in the Northeast right now. They were trying, and that's an interesting intersection with this conversation. They're part of WeCount!, that's the organization based in Homestead. They are trying to learn how we did the Fair Food Program to see if they can also land it in their own context. They were pushing for heat protections, not just for workers in nurseries, but for workers outdoors. And it was just shut down in the city of Miami, one of the most progressive ones they thought, but through the legislation it was killed. So they are looking at what the program does in terms of also heat protections. And they were just reading the news yesterday about how it works and it's gaining momentum.

So I think that along with construction workers in the Twin Cities that have created their own code and are looking for big construction companies to join in. As well as workers in other sectors outside the US in different industries like the garment sector in Bangladesh, Lesotho and Pakistan recently are applying some of the provisions that have to do with health and safety and also sexual harassment, in the case of Lesotho. The fishing industry in the UK wants to create their own WSR model. That's what we call it when it is outside the agricultural industry, the worker-driven social responsibility model.

So I think that we need to see more and more communities organizing, to what you were mentioning, in order to not just be following the limited protections that might exist and try to ask the government to protect us, but to also set examples with things that actually work through the market. If the government is falling short on protecting workers, then let's show them the way too. And maybe with that, we can have, like in the case of USDA, looking at the program and how it works, we can have a moment in which we can reconsider as a country and the government is going to also do their part. It's sad that that has to go that way, but I think that we have an opportunity.

**Ximena Bustillo (Moderator) (01:11:27)**

Wonderful. Well, I think that's all the time that we have today, so I'll take it back over to our folks over here at the Aspen Institute.

**Maureen Conway (01:11:34)**

Yeah, thank you all so much. That was an amazing conversation. So thank you Ximena for keeping it all on track. And thank you Geraldo, Lloys, Mireya and Daniel, that was really fantastic. We really appreciate all that you shared with us. As Corby mentioned, we do record our events, post them on the website. So if you want to go back to any of this, I know I will. So you can find it there in a couple of days. And please stay tuned, our next event is March 19th, as we mentioned. So please stay tuned for information on that. And I also want to thank my colleagues, Corby Kummer, and Mary Castillo in the Food & Society Program for their partnership. Matt Helmer and Merrit Stiven do so much great work on this series. So I really appreciate them. And thanks to all of you for joining and for participating in this conversation. Really appreciate your engagement in these discussions and hope we'll see you back soon. Thank you.