



STATEMENT OF MOST REVEREND JOSÉ H. GOMEZ

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On

The H-2A Visa Program

Submitted to

The House Judiciary Subcommittee on Immigration Policy and Enforcement

April 13, 2011

I am José H. Gomez, Archbishop of Los Angeles and Chairman of the U.S. Conference of Catholic Bishops' (USCCB or the Conference) Committee on Migration. I submit this statement to you on behalf of the USCCB Committee on Migration.

I would like to thank Subcommittee Chairman Elton Gallegly (R-CA) and Ranking Member Zoe Lofgren (D-CA) for permitting me to submit our statement on this important matter.

Today's hearing is entitled "The H-2A Visa Program: Meeting the Growing Needs of American Agriculture?" In my statement, I will outline the U.S. Bishops' opposition to the expansion of the current H-2A Visa Program and our support, instead, for reform through the passage of the Agricultural Job Opportunity, Benefits, and Security (AgJOBS) Act.

The Role of the U.S. Catholic Bishops in the Immigration Policy Dialogue

Mr. Chairman, the issue of immigration is complex and elicits strong opinions and emotions. It touches upon our national economic, social, and cultural interests and has been analyzed and dissected predominately in those terms. From the perspective of the U.S. Catholic Bishops, immigration is ultimately a humanitarian issue because it impacts the basic human rights and dignity of the human person.

The U.S. Catholic Church has a long history of involvement in immigration. The U.S. Catholic Church has a rich tradition of welcoming and assimilating waves of immigrants and refugees who have helped build our nation throughout her history. And, in 1988 USCCB established a legal services subsidiary corporation which currently includes 196 diocesan and other affiliated immigration programs with 290 field offices in 47 states. Collectively, these programs serve some 600,000 low-income immigrants annually.

The U.S. Catholic Bishops' interest in advocating on behalf of migrant farmworkers springs from our recognition that all persons are endowed with basic human rights and dignity.

Catholic Social Teaching upholds the right of persons to achieve dignity through work and to work to support their families. For more than 100 years, papal teaching has affirmed the rights of workers and of those whose livelihood comes from the land. In his encyclical, *Laborem Exercens*, Pope John Paul II spoke to the importance of agricultural work and the need to protect those toiling in the fields. Pope John Paul II stated that workers who enter a country to labor temporarily should be afforded the same rights as workers who live there permanently: "The person working away from his native land, whether as a permanent emigrant or a seasonal worker, should not be placed at a disadvantage in comparison with the other workers in that society in the matter of working rights. Emigration in search of work should in no way become an opportunity for financial or social exploitation."¹

In 2003, the U.S. Bishops published a pastoral letter on farmworkers in our country. In the letter, "*For I Was Hungry and You Gave Me Food: Catholic Reflections on Food, Farmers and Farmworkers*," the U.S. Bishops stated: "Food sustains life itself; it is not just another product.

¹ Pope John Paul II, *Laborem Exercens* (On Human Work), 1981, par. 23.

Providing food for all is a Gospel imperative, not just another policy choice. Agriculture... is not just another economic activity. A key measure of agricultural, immigration, and labor policies is whether they reflect fundamental respect for the dignity, rights, and safety of agricultural workers and whether they help agricultural workers to provide a decent life for themselves and their families.”

USCCB’s Position on the H-2A Visa Program

As you know, Mr. Chairman, the H-2A Visa Program creates a legal avenue for U.S. employers to bring temporary foreign workers into the United States to perform temporary or seasonal agricultural work.²

Under the Program, there are no annual limits on the number of temporary foreign workers that may be admitted into the United States. The Department of Labor (DOL), however, requires that employers certify that there are no U.S. workers able, willing, qualified, and available to perform the work prior to hiring a foreign, non-immigrant laborer. Moreover, employers must also show that the employment of H-2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.³

Workers who enter on an H-2A Visa are typically authorized to remain and work in the United States for no longer than one year.⁴ H-2A classification may be extended in increments of up to one year, with a maximum period of stay of three years. An individual who has held H-2A nonimmigrant status for a total of three years must depart and remain outside the United States for an uninterrupted period of three months before seeking readmission as an H-2A nonimmigrant.⁵

Mr. Chairman, by its nature, agricultural work is difficult and exacts a substantial physical and social impact on farmworkers. But by definition, H-2A temporary foreign agricultural workers face even greater difficulties. They leave their homes, families, and cultures in order to work long hours in a strange land.

When they arrive in the United States, H-2A workers are often exposed to substandard working conditions which affect their health; are paid insufficient wages and no benefits; have limited access to adequate housing and sanitation facilities; lack meaningful labor protections, which are minimal for migrant farmworkers and inconsistently enforced; and do not have a meaningful opportunity to organize or collectively bargain to improve their situations.

Moreover, the strictly temporary status of H-2A workers in the United States makes them even more vulnerable to exploitation and abuse. Indeed, migrant farmworkers often fail to complain about poor working conditions or an employer’s demands out of fear that they will be retaliated

² Immigration and Nationality Act (INA), § 101(a)(15)(H)(ii)(a), 8 U.S.C. 1101(a)(15)(H)(ii)(a).

³ See “H-2A Temporary Agricultural Workers,” Department of Homeland Security (DHS), *available at* <http://www.uscis.gov/portal/site/uscis>.

⁴ See 8 CFR 214.2(h)(5).

⁵ See 8 CFR 214.2(h)(5)(viii)(C).

against by not being recalled the following season.

All agricultural workers – those here both temporarily and permanently – are entitled to safe working conditions, adequate housing, a living wage and benefits for themselves and their families, and the opportunity to become permanent members of U.S. society.

Because of this, Mr. Chairman, the U.S. Conference of Catholic Bishops opposes any expansion of the current H-2A nonimmigrant worker program and instead supports reform through AgJOBS.

The AgJOBS bill has historically been a bipartisan, labor-management compromise which creates an avenue for a legal and stable labor supply, while strengthening protections for farmworkers. The AgJOBS bill would streamline and improve the H-2A guest worker program, giving workers the right to appeal to federal court for enforcement of their rights and to receive higher wages, both changes that are sorely needed to the current program. Moreover, it would provide an important path to legal residency that migrant farmworkers – including those documented and undocumented alike - should be afforded given their undeniable and inseverable importance to our agricultural industry and economy.

Conclusion

Mr. Chairman, the U.S. Catholic Bishops oppose the expansion of the current H-2A Visa Program and support, instead, reform through the passage of AgJOBS.

In lieu of maintaining or expanding upon the status quo in the H-2A Program, we urge Congress to consider truly workable alternatives. To do otherwise hurts workers and employers alike and diminishes us as a nation.

Thank you for your consideration of our views.