Climbing the Ladder: Roadblocks Faced by Immigrants in the New York City Construction Industry

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Executive Summary

As of 2021, immigrants comprised a larger share of the construction workforce than of any other sector in New York City (Office of the New York State Comptroller 2021). Between 2015 and 2019, immigrants comprised just 37 percent of the total New York City population, but 44 percent of the city’s labor force and 63 percent of all its construction workers (Ruggles et al. 2021). The Center for Migration Studies of New York (CMS) estimates that in this time period, 41 percent of the immigrant construction workforce was undocumented.

Economic exploitation and safety hazards are prevalent across the entire construction industry. However, despite the essential role immigrants play in the construction industry in New York City and the United States, immigrant construction workers are especially vulnerable to exploitation and dangerous conditions. Lack of employment authorization, social safety nets, English proficiency, credentials recognition, and training opportunities, as well as discrimination place immigrants at a stark disadvantage as they try to enter, negotiate, and advance in this industry. For this report, the CMS research team interviewed 16 immigrant construction workers from 10 countries and 10 other experts in this industry, including business representatives, union organizers, and representatives of community-based organizations (CBOs). Five of these representatives were immigrants and former construction workers. With research assistance from the New York-based consulting firm Locker Associates, Inc., CMS used these interviews, together with several other data sources, to examine how construction workers in New York City find employment, their work arrangements, and barriers and conditions that endanger their health, safety, and economic well-being. The report offers the following top-line findings:

• Between 2015 and 2019, the majority of foreign-born construction workers in the United States were undocumented (54 percent). While undocumented immigrants also comprised the largest share of immigrant construction workers in New York City, their share was considerably smaller (41 percent) than in the United States at large.

• The median annual earnings for construction workers in New York City between 2015 and 2019 was $40,400. The median annual earnings of US-born citizen construction workers ($45,500) and naturalized citizen construction workers ($42,500) were much greater than those of legal noncitizen construction workers ($31,000) and undocumented construction workers ($30,100). Furthermore, when omitting workers in non-trade occupations, such as construction managers and supervisors, the median annual earnings for all construction workers citywide dropped to $36,100.

• According to respondents, many immigrants are unaware of formal job networks, such as unions or workers’ centers, when they arrive in the country. As a result, some experience exploitation by job-placement agencies.

• The 46 percent wage gap between union workers and nonunion workers in the US construction industry is greater than the gap in any other industry.

• Unionized foreign-born construction workers in New York State earn 64 percent more than their nonunionized, foreign-born counterparts. As a former nonunion worker said, “There is no difference [between union and nonunion work,] except, who’s receiving the living wages, who’s receiving the safety and everything else on the jobs. Nonunion workers do the same work, except they’re not receiving the same living wages [as union workers].”

• Unions are especially important to immigrants in the construction industry in New York State. Unionized foreign-born workers in construction in New York State earn 64 percent more than their nonunionized counterparts. The union wage advantage is only 45 percent for other industries.
• Wage theft, often in the form of not paying workers for overtime, frequently goes under-reported as immigrants with little job security fear being laid off. Construction workers and other representatives reported that employers often use workers’ lack of legal status as a bargaining chip to underpay immigrants. They manipulate immigrants by claiming to be generous for providing these exploited workers the opportunity to work. As one undocumented day laborer from Mexico explained:

> It was very common for us to sometimes get off work two hours past our working hours. They do not pay us for those two hours. That is basically working all day long. Nobody wants that. In those two hours, I could have already arrived home. I could already be changing, eating. I could have already cleaned myself up, done the laundry. The basic working day [pays] $120. That’s what you are going to earn – $120, regardless of whether you worked from 7:00AM to 8:00PM. It’s $120… I don’t know if [the boss] does that intentionally. I do know that all of us who work with him are immigrants. I think that’s why there is also no one, in quotes, “legal” working with him. In this case, the boss is the only “legal” person. However, you are working based on that “word of mouth.” Like, “I am giving you the opportunity.” That is the justification employers use for doing things like that.

• The need to provide for their families combined with the lack of a social “safety net” often leads immigrants to accept poor working conditions and employment arrangements. Furthermore, undocumented workers cannot claim federal benefits, constraining them even further.

• Racial discrimination occurs both on union and nonunion sites. Structural racism in the construction industry has kept people of color in lower positions. Many immigrants reported people of color being placed in lower, more physically intense jobs on site, while easier and supervisory positions were given to their white colleagues. However, immigrants often do not report discrimination in order to maintain their ability to secure jobs in the future.

• Female construction workers face pay discrimination, unfair layoffs, and harassment. However, several respondents said that while sexism exists in the construction industry, it has been diminishing.

• Undocumented workers and foreign workers with limited English proficiency are more likely to work in construction occupations with higher fatality rates.

• The nesting of subcontractors (when general contractors hire subcontractors, who possibly hire sub-subcontractors, who then hire workers) has helped some contractors hide accidents and commit insurance fraud. Furthermore, this nesting has made it more difficult for immigrant workers to report and resolve wage withholding violations. Changes to New York State law have attempted to diminish wage theft by subcontractors by making general contractors liable for the actions of its subcontractors.

• Nonunion work sites regularly violate the standards intended to safeguard workers from falls.

• Venture-capital investments in construction technology in the United States grew more than 11 times faster than venture-capital investments in other industries from 2011 to 2019.

• In some ways, technological advancements have altered the mix of workers that are necessary in the construction industry. They have also opened opportunities for female workers and improved on-site safety.

• On average, construction workers have lower COVID-19 vaccination rates than workers in other industries.
In order to improve the working conditions of immigrant construction workers, this report offers a series of policy recommendations directed at public officials, policymakers, government agencies, and trade unions. For public officials, it is recommended that:

- Given that falls are the number one cause of fatalities on construction sites, the New York State Senate should not overturn the New York Scaffold Law.\(^1\) This law requires that employers adhere to certain standards when using scaffolding and assigns liability to parties responsible for managing projects for any accidents due to faulty or lack of scaffolding. This law protects workers when workers compensation is unavailable, not provided, or insufficient. Some business interest groups have lobbied for the law’s repeal.

- The New York State Senate should pass “Carlos’ Law.”\(^2\) The law is named after an undocumented Ecuadorian immigrant, Carlos Moncayo, who died on a construction site that had several reported safety violations. The law would increase the fines for companies whose safety violations result in fatalities from the current $10,000 maximum to instead range from $500,000 to $1,000,000. The law would also make worker endangerment first-degree, second-degree, and third-degree felonies.

- The New York State Senate and the Real Estate Board of New York should include prevailing wages for construction workers in the New York State 421-A Affordable New York Housing Program.\(^3\) Set to expire in June 2022, the program requires a prevailing wage for building service employees and a minimum average wage for construction workers in certain buildings. Governor Hochul’s 421-A replacement plan would exclude construction workers from the wage provisions. If the program is renewed, it is important that construction workers be accorded the same prevailing wage standards as those in the building service trades.

- State and local representatives should attend union and workers’ centers’ meetings to gather information to make informed decisions on legislation.

- New York City should offer subsidies for workers’ centers and other CBOs to provide more safety and job training.

- The NYC Mayor’s Office of Immigrant Affairs and the NYC Department Consumer and Worker Protection should produce more materials and hold campaigns about workers’ rights and opportunities that are specific to the construction industry. These materials should also be made available in indigenous languages.

- The US Department of Labor (DOL) should ensure prevailing wages are attached to federal infrastructure funds in state and local construction projects.

- The DOL’s Wage and Hour Division (WHD) should target smaller nonunion construction sites for more inspections to ensure compliance with labor laws.

- The US Congress should create a pathway to permanent residence for undocumented construction workers by passing pending legalization bills, including a rolling registry program. Under the 1929 US registry program, long-term undocumented immigrants can gain legal status by proving continuous residence in the United States since a stipulated date. Unfortunately, the required entry date to

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qualify has not advanced since passage of the Immigration Reform and Control Act of 1986⁴ (Kerwin, Pacas, and Warren 2021). Moving forward and regularly advancing this date as part of a rolling registry program would decrease the undocumented immigrant population and help immigrant construction workers avoid exploitative working conditions.

The report recommends that trade unions should:

- Not exclude members on the basis of immigration status, and federal apprenticeship programs should not require social security numbers for entry.

- Ensure the continuity of work for their members, such that they are trained and retrained to be able to have stable employment within a company, rather than returning to the union hiring hall upon completion of a project.

- Offer more English language courses, Know-Your-Rights training, and awareness-raising events, including through partnerships with CBOs.

- Hire organizers and representatives that reflect the cultural and linguistic diversity of their members.

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1. Introduction

Immigrants are essential to the US construction industry, especially in New York City. They have allowed and facilitated the industry’s rapid growth in recent years. Between 2015 and 2019, immigrants comprised 37 percent of total city population, but 44 percent of the labor force and 63 percent of all construction workers (Ruggles et al. 2021). The construction industry had the highest share of foreign-born workers of any sector in New York City. This share exceeded the share of foreign-born construction workers in the rest of the state (18 percent) and the nation (24 percent) (Office of the New York State Comptroller 2021). Even though construction workers put themselves at risk every day, often in essential occupations, they nonetheless face economic exploitation and avoidable safety hazards at work.

In this report, the Center for Migration Studies of New York’s (CMS’s) research team, with research assistance from the consulting firm Locker Associates, Inc. explores the ways immigrant construction workers find jobs, their work arrangements, and specific vulnerabilities that put them at risk of economic exploitation and expose them to dangerous — often fatal — working conditions. Based on the findings of this report, CMS proposes a series of recommendations for policymakers and unions to improve the conditions and prospects of immigrant construction workers.

2. Background Information

The construction industry has grown rapidly in recent years, and immigrant workers are especially important to the sector in New York City. During the last recession, the construction industry lost more than a quarter of its jobs across the nation (28 percent). New York State’s decrease in employment in the construction industry was not as severe as the nation at large (15 percent). Construction spending in New York City averaged less than $30 billion annually between 2007 and 2013. However, by 2018, New York State reached a record high of 398,400 jobs in construction, making the state the nation’s fourth largest construction sector. The sector had grown 30 percent since 2010 and surpassed its pre-recession level. New York City grew even faster. The city alone added 45,300 construction jobs since 2010, a 40 percent increase (Office of the New York State Comptroller 2019). By 2019, construction spending in New York City reached a record high of $55.5 billion, but decreased by 8.5 percent in 2020 with the COVID-19 pandemic. In 2020, construction firms accounted for 8.5 percent of New York City’s total economic output, generating an estimated $85 billion in economic activity (Office of the New York State Comptroller 2021).

Whereas North Americans (primarily Mexicans) represent the majority of immigrant construction workers at a national level, the construction industry in New York City is much more diverse. North Americans and Latin Americans make up 87 percent of the immigrants in the construction industry in the United States. However, while Hispanic Central and South Americans make up the largest group of immigrant construction workers in New York City (39 percent), non-Hispanic Central and South American immigrants comprise the second largest group (18 percent), followed by Europeans and Central Asians (15 percent), North Americans (15 percent), and East and South Asians (13 percent) (Figure 1).
Figure 1: Share of Foreign-born Construction Workers in New York City and the United States by Region of Origin

Source: CMS calculations using the five-year 2015-2019 American Community Survey (ACS) (Ruggles et al. 2021)

1 “South and Central America, Hispanic” includes Hispanic countries in the Caribbean.

2 “East and South Asia” includes the Middle East and the Gulf Cooperation Council countries.

A large share of the city’s construction workforce lives in the borough of Queens. Forty-five percent of

The definitions of the regions are detailed in Appendix Table A.1.
all construction workers live in Queens compared to just 35 percent of all workers in the city (Figure 2). Conversely, 15 percent of the city’s workers live in Manhattan, but 6 percent of the city’s construction workers live in Manhattan. Construction workers are concentrated in the Queens neighborhoods of Jackson Heights and North Corona (Community District (CD) 3), Ridgewood, Glendale, and Middle Village (CD 5), and Elmhurst and South Corona (CD 4). There is also a sizable number of foreign-born construction workers living in the Brooklyn neighborhoods of Bensonhurst and Bath Beach (CD 11).

**Figure 2: Distribution of Foreign-born Workers across New York City Boroughs**

![Pie chart showing distribution of foreign-born construction workers and all foreign-born workers across New York City boroughs.]

- **Foreign-born construction workers**:
  - Bronx: 43.3%
  - Brooklyn: 15.2%
  - Manhattan: 35.3%
  - Queens: 3.5%
  - Staten Island: 4.4%
- **All foreign-born workers**:
  - Bronx: 16.4%
  - Brooklyn: 29.6%
  - Manhattan: 15.2%
  - Queens: 35.3%
  - Staten Island: 3.5%

**Source:** CMS calculations using the five-year 2015-2019 ACS (Ruggles et al. 2021)

**Foreign-born construction workers in New York City have spent less time in the United States (18 years) than foreign-born construction workers across the whole country (21 years).** Nearly 18 percent of New York City construction workers arrived in the last 10 years compared to 16 percent of workers across the United States. Furthermore, 46 percent of New York City construction workers arrived before 2000, compared to 48 percent of construction workers across the country.

**New York City construction workers are older than the average construction worker in the United States.** The median age of construction workers in New York City was 42, two years older than for the entire United States. In New York City, 16 percent of all construction workers were 55 to 64 years old, compared to just 10 percent for the nation (Figure 3).
Between 2015 and 2019, more than half of the foreign-born construction workers in the United States were undocumented (54 percent). While undocumented immigrants also comprised the largest share of immigrant construction workers in New York City, their share was considerably smaller (41 percent) than in the United States. The remaining immigrant construction workers in New York City were split evenly between naturalized citizens and legal noncitizens (Figure 4).
There is a huge wage disparity between top-earners and bottom-earners in the construction industry, with immigrant workers, especially the undocumented, at the bottom of the pay scale. The median annual earnings for construction workers in New York City between 2015 and 2019 was $40,400. However, after removing workers in the non-trade occupations, such as construction managers and supervisors, the median annual earnings dropped to $36,100. Furthermore, there was a large disparity in earnings for workers according to their citizenship and immigration status. The median annual earnings of US-born citizen construction workers ($45,500) and naturalized citizen construction workers ($42,500) were much greater than those of legal noncitizen construction workers ($31,000) and undocumented construction workers ($30,100) (Figure 5).
Construction workers are a linguistically diverse workforce, with Spanish being the most common language. Among immigrant construction workers in New York City, the top five languages spoken at home are Spanish (52 percent), English (21 percent), Chinese (5 percent), Hindi and related languages\(^6\) (4 percent), and Polish (4 percent). Many workers have limited English proficiency. Moreover, there are significant disparities by occupation. Figure 6 shows the 10 construction occupations in which workers have the lowest self-reported English-speaking proficiency in New York City.

\(^6\) “Hindi and related languages” include Punjabi, Bengali, Urdu, and Hindi.
3. Literature Review

3.1. The Economic Importance of Immigrants in Construction

Employment of lesser-educated immigrants in manual jobs in the construction industry allows native-born workers to enter into more communication-intensive positions. As immigrant workers take positions in manual-intensive, lower-paying jobs, the demand for construction managers, designers, and supervisors has increased. This increase then fuels the industry’s expansion. This trend has led to higher wages for native-born workers in communications-intensive jobs (Peri 2012).

Hiring more immigrants in the construction industry may lower the wages of some, but also leads to lower prices of the sector’s services. Low- and medium-skilled construction workers are often substitutable workers in the construction labor market with immigrant workers. The movement of immigrants into the industry may slightly reduce the wages of low- and medium-skilled construction workers and leave the wages of higher-skilled native-born workers unaffected. Bratsberg and Raum (2012) found that increasing immigrant employment in the construction industry by 10 percent is associated with a 0.6 percent decrease in native-born workers’ wages, with low- and medium-skilled workers most affected. However, this decrease in wages is passed through to the consumer, leading to a 0.4 to 1.1 percent decrease in the price of construction services.

Immigrant workers help fill labor shortages in particular construction occupations, though the need for their labor is not always recognized. Between 2015 and 2019, immigrants comprised 37 percent of New York City’s population, 44 percent of its labor force, and 63 percent of its construction workers (Ruggles et al. 2021). As of 2020, approximately 37 percent of all essential workers in construction in New York State were immigrants (Nicholson and Alulema 2020). Seventy-five percent of surveyed firms by the Associated General Contractors of America in 2020 reported that worker shortages were a primary concern to their business (AGC 2020). However, only 20 percent of the same sample of firms expressed concern about the “impact of immigration policy on labor supply” (ibid.). Golden and Skibniewski (2010) found that deportation of undocumented immigrants from the workforce would raise construction costs by more than granting legal status to undocumented workers. They found that removing all undocumented workers from the workforce would increase construction labor costs by roughly 5 percent and total project costs by 3.2 percent. This increase would occur because of the resulting labor shortage. However, they found that granting legal status to undocumented immigrants and making them eligible for guest worker prevailing wage provisions would increase construction labor costs by only 4.1 percent and total project costs by 2.7 percent. As one organizer for Laborers Local Union 79 pointed out, if the America Jobs Plan of President Biden’s proposed infrastructure plan goes into effect, the demand for construction workers will only increase, exacerbating the labor shortage.

Latinos play a key role in the US construction industry, and younger immigrants can help offset the fiscal and labor market impacts of an aging population. As the US population ages, Latinos and immigrants are becoming an increasingly important force in the US economy. Latinos comprise approximately 19 percent of the total US population. The US Latino population grew on average by 1.09 million per year from 2010 to 2019, compared to the non-Latino population, which grew an average of 1.01 million people per year in the same time span. Latino labor market participation has been increasing over the past decade much faster (by 25 percent) than non-Latino labor market participation (3 percent). Latino workers are now approximately 6 percent more likely to be participating in the labor force than non-Latino workers. In 2019, 68 percent of Latino workers were in the labor market as opposed to 63 percent of non-Latinos. The Federal Reserve estimates that in 2022, approximately 350,000 primarily non-Latino workers will retire each month, creating a shortage of workers which will threaten economic growth. In the past decade, real Latino gross domestic product (GDP), or the economic contribution of Latinos in the United States to the US economy, has grown 70 percent faster than non-Latino GDP. While the construction industry accounts for less than 5 percent of the US GDP, construction accounts for approximately 9 percent of Latino GDP (Hamilton et al. 2021).
3.2. Finding Employment and Social Networks

Using social connections to find employment is commonplace, especially so for immigrants. In addition to word of mouth, immigrants have increasingly relied on other placement methods such as employment agencies and ethnic media sources (Liang and Zhou 2018). Newly arriving immigrants tend to form enclaves or “occupational niches” where foreign-born workers are clustered and overrepresented relative to that group’s share of overall employment. This ethnic clustering not only facilitates integration but also stimulates economic efficiency, as immigrants specialize in particular occupations where they are needed (Eckstein and Peri 2018). Immigrants also develop necessary skill sets for the communities to which they move (Iskander, Riordan, and Lowe 2013). These ethnic networks have been important in shaping political identities among immigrant workers, who have formed coalitions that were crucial in forming and developing the policies of unions (Morales and Saucedo 2015; Yu 2014). However, Sisk and Bankston (2014) found that while employment niches help immigrants find employment, they can also put immigrant workers at a greater pay disadvantage.

3.3. Work Arrangements and Employment Conditions

The unique employment structure and complexity of the construction industry has resulted in an inherently precarious workplace. Lack of control over the labor process, low income, and uneven development in the industry contribute to feelings of instability among workers (Mills 2017). Flynn et al. (2013) found that in the 1990s and early 2000s, Latino workers were 50 percent more likely than non-Latinos to have a fatal accident at work.

There is considerable literature on the history of employers misclassifying their workers as independent contractors when they should be treated as employees. Employers engage in this practice in order to evade payroll costs such as unemployment insurance and workers’ compensation. Misclassifying workers as independent contractors also allows employers to pay less than the minimum wage and avoid providing health insurance benefits and vacation leave to workers. Studies indicate that misclassification leads to substantial losses in tax revenue and funding for government social insurance programs at both the federal and state levels (Moe, Parrott, and Rochford 2020). Researchers have found widespread misclassification in the construction industry. The Fiscal Policy Institute (FPI) has documented these trends in New York City (FPI 2013).

The number and share of misclassified workers have declined over the past decade. Using FPI’s methodology, CMS estimates that in 2019 there were 47,000 misclassified construction workers in New York City, a 34 percent decline since 2011 (71,000) (See Appendix Table A.2). The share of misclassified workers also decreased from 46 percent to 31 percent during the same time period. The drop in the number of misclassified workers could be attributed in part to the enforcement of the New York State Construction Industry Fair Play Act that took effect on October 26, 2010. The law created a new standard for determining whether a worker is an employee or independent contractor in the construction industry and provides new penalties for employers who misclassify their employees. The decrease in misclassified construction workers is a promising development, yet the problem remains acute.

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4. Data

For this project, the CMS research team conducted 16 90-minute semi-structured interviews with immigrants working in construction occupations. The interviewees were from Albania, Bangladesh, Canada, Colombia, Croatia, the Dominican Republic, Ecuador (three interviewees), Guatemala, Honduras (two), and Mexico (four). Eight were naturalized citizens and eight non-citizens. Eight were members of unions, and eight were not. However, some of the union members began their career in nonunion work. Four of the interviews were conducted in English, and 12 were conducted in Spanish. One of the interviewees was female. These interviewees worked as laborers, carpenters, roofers, mason tenders, painters, drywall finishers, and air conditioning repairers. They had resided in the United States from between three months to 31 years, and for 17 years on average. They were 42 years old on average. Some had university degrees, and others had less than a primary education. One had a primary education, six had completed at least some high school, six had completed at least some university education, and the remaining three chose not to specify their education level.

The CMS research team also conducted 10 one-hour interviews of “other representatives” with extensive experience in the construction industry, including business, union, and other organization representatives. These included “representatives” at:

- La Colmena (a workers’ center on Staten Island);
- the Laborers Local Union 79;
- the New York Committee for Occupational Safety and Health (NYCOSH);
- the NYC District Council of Carpenters (carpenters union);
- the Painters District Council (DC) 9;
- Pathways to Apprenticeship;
- the United Brotherhood of Carpenters; and
- three others (from a city agency, a union, and a nonunion development company) who chose not to disclose their institutions’ names.

Six respondents were male, and four were female. The other representatives interviewed had been in the industry from two to 36 years. Most had spent the entirety of their careers in construction or close to the construction industry. Many of these agents were immigrants themselves from North America, Europe, and Central and South America. Five were former construction workers, both in union and nonunion jobs, and spoke both to their experiences as former workers, and in their current roles. Others were formerly advocates for labor rights.

This report also includes data analysis from several different surveys and administrative datasets. Analysis is conducted using the following data sources:

- US Census Bureau’s American Community Survey (ACS);
- Current Population Survey (CPS);
- Organization for Economic Cooperation and Development (OECD) venture capital funding data;
- Crunchbase data on construction tech funding (Obando 2021);
• US Department of Labor Occupational Safety and Health Administration (OSHA) Enforcement and Wage and Hour Compliance data;
• The Bureau of Labor Statistics Quarterly Census of Employment and Wages (QCEW);
• The Bureau of Labor Statistics and the and US Department of Labor Census of Fatal Occupational Injuries (COFI);
• The Center for Construction Research and Training’s (CPWR’s) Fatality Assessment and Control Evaluate (FACE) database as part of the Centers for Disease Control and Prevention’s (CDC’s) National Institute for Occupational Health and Safety’s (NIOSH’s) program;
• Carnegie Mellon University’s Delphi Group COVID symptom survey; and
• CMS estimates on immigrants eligible for legalization in Kerwin, Pacas, and Warren (2021).

CMS produces estimates of the undocumented population based on a methodology detailed in Warren (2021). Any analysis in this report which differentiates results by documentation status uses this data.

5. How Workers Find Employment

Almost all interviewed construction workers said that they found their first job through a personal contact. Some said they had friends and family in the United States before migrating, who told them they could find work for them if they came. Others said they met people in the United States of the same ethnicity who helped them find work. Still others said they found their first jobs through word-of-mouth, though not a personal connection. A representative of the United Brotherhood of Carpenters said, “I would say the vast majority of immigrants make these job networks when they arrive. Usually, immigrants end up in an area where Polish people, Irish people, Montenegrins, Albanians, or whatever live in the same neighborhood. Then they meet and grow their network from there.” Another Ecuadorian worker said, “the Hispanic community has created that bond of being a little bit more supportive.” A third worker said sometimes employers who speak Spanish look specifically for Spanish-speaking workers. Interviewees stressed repeatedly that personal connection and reputation is extremely important in holding on to jobs or securing future jobs, particularly in nonunion employment.

The way construction workers find work differs dramatically by union membership. Labor unions place workers at sites. When they finish a job, workers may return to the union hiring hall to seek new work. On the other hand, nonunion workers generally rely on reputation-building, personal connections, and going to specific locations to find work. Many interviewees mentioned “Las Esquinas,” or known street corners such as “Las Banderas” corner in Staten Island, where nonunion workers congregate in the morning and employers come seeking workers. Entrances to highways, Home Depot and Lowe’s parking lots, and certain intersections were also identified as job-seeking locations. However, the most important way people identified finding work was via word-of-mouth. Several nonunion workers said they found employment through social media. Many noted Facebook pages and groups as an important place to learn of job offerings. Some of these groups were specific to a single ethnicity, others specific to a single occupation. Interviewees also reported sharing job opportunities via WhatsApp or text messaging threads, though generally through personal connections rather than formal groups. Contractors often establish a connection with one trusted worker, who then gathers other workers of the same ethnicity or who speak the same language for the job. In some cases, these “gatherers” sometimes take a cut of the pay of the workers they gather. A representative from La Colmena explained a common scenario.
where a contractor offers $200 a day for a job, and one worker gathers workers and pays them $150 a day and keeps the rest for himself.

**Community workers’ centers also help place nonunion workers at sites.** A representative of La Colmena said that workers gather at their centers in the morning, and when employers come to the center looking for workers, the centers help identify and recommend workers with the necessary skills to complete the task. Undocumented workers are not excluded from workers’ centers. When new workers arrive with limited or no skills, the centers try to place them with a higher-skilled worker so that they can learn on the job. However, while the centers do their best to place workers, they cannot guarantee that all people who arrive at the center will find work for the day. Many nonunion interviewees expressed gratitude for the centers.

**Other community-based organizations (CBOs) help train and place people into work as well.** The New Immigrant Community Empowerment (NICE) encourages potential workers to apply to the union and accompanies them through the online application process. Pathways to Apprenticeship helps retrain formerly incarcerated people to re-enter the workforce in construction. Construction Skills, Inc., offers pre-apprenticeship training programs for workers who want to enter the union. Ninety percent of participants are from minority communities across New York City’s five boroughs (Construction Skills, Inc. 2022). Non-Traditional Employment for Women (NEW) is a program that helps prepare, train, and place women in construction jobs. It was the way one of the female interviewees entered the industry. Make the Road helps uplift immigrant communities and advocate for their rights and beneficial legislation to protect immigrant workers.

**Many immigrants are unaware of formal networks like unions or workers’ centers when they arrive in the country, and some experience exploitation by job-placement agencies.** Most respondents who had been in the country for a long period, including current union workers, said they were unaware of unions or workers’ centers when they first arrived in New York City. Others were unaware of the difference between unions or workers’ centers. For example, when asked whether they were affiliated with a union, one construction worker who had been in the United States just three months believed that the workers’ center through which he tried to find work was a union. Many interviewees spoke about the exploitative practices of employment agencies. One worker said people use employment agencies when they are desperate to find work. A representative of the United Brotherhood of Carpenters who used one of these agencies when he first arrived explained the business model of such agencies:

> They charge maybe a couple weeks or even a month of the salary, and nothing is guaranteed. You could go out there, they send you to work, especially on prevailing wage jobs, the public work. They know that the workers are supposed to receive the prevailing wages. Instead of receiving an hourly wage of $50 as a carpenter, those workers [who go through the agency] received maybe $15 to $20 an hour. The agency is taking the rest and providing no benefits to the workers, except to find a job.

Another worker similarly described these agencies as “mafias” that only send you offers for two or three days. He said, “You make the down payments to the [agencies,] and they send you home, where you must call the office again. They give you two or three options. Imagine that you work a month or two, and then you must pay them again.”
Box 1: Vulnerability of Formerly Incarcerated Workers

Formerly incarcerated workers are often exploited to work in dangerous and low-wage jobs. Two formerly incarcerated construction workers penned an op-ed in 2021 decrying exploitative practices in construction. They described how unregulated employment firms, known as “body shops,” target formerly incarcerated New Yorkers and exploit their parole status to coerce them into dangerous, low-wage, nonunion construction jobs (Coley and Simmons 2021). Some interviewees said employers try to exploit workers by spreading misinformation that unions will not accept people with a police record.

The New York City Council adopted a law on December 11, 2021, which attempts to regulate labor brokers which have historically exploited formerly incarcerated workers. The law, Int. No. 2318-A⁸, attempts to create more regulation and transparency around the operations of these labor brokers. It requires brokers to obtain a license from the city as an employer who provides workers for construction sites. In order to become licensed, brokers must:

- prove they are in good standing and provide a history of companies with which they have worked; and
- provide workers with written information about:
  - agreed-upon pay;
  - the company’s insurance policy number; and
  - equipment required for the assignment.

Brokers are also required to inform workers about their labor rights and safety responsibilities on the job sites they are linked to, such as minimum wage, overtime pay, safety requirements, and necessary certifications. Unlicensed labor brokers, as well as contractors who hire workers through them knowing they do not have a license, will be fined $500 a day. The law also tries to resolve the problem of “shell companies” closing and reopening under new names by requiring reporting transparency around brokers’ leadership and successors. Laborers Local Union 79 and the Mason Tenders District Council of Greater New York have advocated for this law’s passage (Wishnia 2021).

6. Unions and Work Arrangements

Immigrant construction workers have several different work arrangements. Some people are members of unions, some work on established contracts for nonunion companies, others work as independent contractors, and still others work as day laborers. Some union and nonunion workers work directly for companies and have fixed written contracts. One union representative explained that some people continually work for a company for 20 or 30 years as long as that company competitively bids to keep winning contracts. The workers interviewed with employee contracts received benefits and were generally pleased with their work arrangement. Many construction workers who should be considered employees are instead misclassified as independent contractors, typically so that companies do not have to provide them with benefits. However,

many interviewees noted that not all nonunion companies are “bad.” One representative of a nonunion corporation described that his company offers benefits, training, and opportunities for advancement, but overall, immigrant interviewees who worked for unions (many of whom formerly worked on nonunion jobs) spoke more highly of their work arrangements than nonunion workers.

**Overall, among immigrant interviewees, union workers reported having more regular schedules and better pay and benefits than nonunion workers.** Most union workers reported working seven to eight hours, five days a week, with overtime documented and paid at time-and-a-half. They reported being paid weekly or every other week. Many interviewees also identified benefits such as annuities, paid sick leave, pensions, healthcare, vacation time, and representation as reasons they joined the union. One worker who joined the union later in his career said of his time without union representation, “You don’t have any benefits. If you get hurt, how are you going to go to a hospital or the doctor? It’s very, very stressful.” Some nonunion employers offer good benefits packages, while others do not. A representative of Pathways to Apprenticeship said that some workers are offered the possibility to buy into employer-provided healthcare plans, but those plans offered poor coverage, deductibles as high as $10,000, or only emergency care. Workers’ centers like La Colmena often try to help nonunion workers obtain health care coverage through other sources, such as MetroPlus HealthPlus, which provides affordable health care through the New York City Health + Hospitals network.

**Unions are especially important for workers in the construction industry.** The union wage advantage is defined as the percentage difference in wage between union workers and nonunion workers in a particular industry. In 2021, the construction industry was the industry with the largest union wage advantage at 46 percent ($1,344 in median weekly wages, as opposed to $922) (Figure 7). Table 1 shows the union wage advantage for native-born and foreign-born workers in construction industries, compared to other industries over the past decade. At a national level, unionized native-born and foreign-born workers had hourly wages that were 38 percent higher than nonunion workers in both construction and other industries. However, in the construction industry, during the same time period, the union wage advantage for native-born and foreign-born workers was 44 percent and 53 percent respectively.
Unions are especially important for immigrant workers who may be otherwise exploited as “cheap labor that can be taken advantage of,” according to a representative of Pathways to Apprenticeship. Unions are especially beneficial to foreign-born workers in New York State. A representative of the carpenters union said that the base pay sometimes starts around $15 an hour for nonunion workers, and “there’s really no bottom to it.” The union wage advantage for native-born workers in New York State is the same as the national union wage advantage for other industries (38 percent) and less than the national union wage advantage in construction industries (16 percent as opposed to 44 percent). Yet foreign-born construction workers in New York State who are part of a union earn 64 percent more than their nonunion counterparts (Table 1). As one former nonunion worker said, “There is no difference [between union and nonunion work,] except, who’s receiving the living wages, who’s receiving the safety and everything else on the jobs. Nonunion workers do the same work, except they’re not receiving the same living wages [as union workers].”
Table 1: Hourly Wages by Union Membership and Nativity in Construction Compared to All Other Industries, 2021

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**Construction Industry**

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**New York State**

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**Construction Industry**

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*Source: Current Population Survey Annual Data (IPUMS 2021).*

*Note: The union advantage is the difference between the average union wage and nonunion wage divided by the average nonunion wage. Native/Foreign wage gap is the difference between the average natives’ wages and foreigners’ wages divided by the average foreigners’ wages.*

In New York State, foreign-born workers on average earn more than their native-born counterparts, but only if they are part of a union. The gap is particularly dramatic in the construction industry. In industries other than construction in New York State, nonunion native-born workers earn 5 percent more than nonunion foreign-born workers. This gap is 8 percent in the construction industry. On the other hand, foreign-born workers earn more than their native-born counterparts if they are part of a union, by 0.5 percent in other industries and 24 percent in construction (Table 1). These statistics indicate that union membership is particularly beneficial in regards to earnings to foreign-born workers in the construction industry in New York State. Referring to this wage gap and the wage inequality between developers and laborers, one union representative said, “I’m not saying every nonunion contractor is mistreating their employees, because that’s
not true. There are some very good nonunion contractors, but unions are what built the middle class. The middle class is the backbone of America and yet, we as a society, are allowing the higher-ups to destroy and eliminate the middle class, and then suppress the lower class. That’s not what America is about.”

Union membership in the construction industry has decreased over time, and the share of immigrant workers who are members has remained less than the share of native-born workers who are members. Figure 8 shows that the overall membership in construction unions dropped from 34 percent in 2011 to 17 percent in 2021. Native-born union membership dropped from 39 percent to 20 percent in the last decade, and foreign-born membership fell from 14 percent to 7 percent in the same period. Foreign-born construction workers are 123 percent less likely to be represented by a union than native-born construction workers. One representative of a local union said that they would not accept new members if their work was slow or they could not provide them with jobs.

Figure 8: Share of Construction Workers Who are Part of a Union in the United States, by Place of Birth, 2011 to 2021


Note: Union membership includes those who are represented by a union, though not a member of the union.

Unions have diversified over time. In the past, as one union representative described, some unions had a lottery for members. If a member’s name was drawn, they could sponsor a friend or family member to enter the union. This process excluded those without stable networks in the city, such as immigrants. In 2009, New York City entered into an agreement with the Building and Construction Trades Council and the Building Trades Employers’ Association to fill at least 45 percent of apprenticeships with minorities. By 2012, 66 percent of the city’s registered apprentices were people of color (34 percent Black, 28 percent Hispanic, and 4 percent other), up from just 36 percent in 1994 (Fuchs, Warren, and Bayer 2014). As of 2017, 21 percent of the union construction workforce and 16 percent of the nonunion construction workforce was Black (Mishel 2017). In comparison, 31 percent of union construction workers and 49 percent of nonunion
Construction workers were Hispanic (ibid.).

Agencies such as Nontraditional Employment for Women train women in specific trades and partner with unions to create pathways for them to enter unions. A representative of the New York Committee for Occupational Safety and Health said that although full equality has not been achieved in union membership, especially regarding gender equality, “Unions recognize that it’s no longer acceptable to have an all-white male leadership, I think, and they are starting to diversify their leadership as well and starting to provide opportunities for people to enter into leadership positions that is more equitable.”

However, one former apprentice and union organizer said that while apprenticeship programs are easier for minority workers to enter now than 30 years ago, as some of the indirect nepotistic practices have been removed, there is a lot of competition. His union, for example, has a 10 percent acceptance rate among applicants into the apprenticeship program.

The share of union construction workers that are immigrants has remained relatively stable over the past decade. Figure 9 shows the share of construction union members that are non-citizens, naturalized citizens, and native-born. Undocumented immigrants are still excluded from joining certain unions, which require proof of work authorization (an I-9 form). One worker said that when he joined his union a decade ago, members had to be a US citizen or legal permanent resident, though now his union welcomes persons with temporary work permits, although not undocumented immigrants. Even in unions that do not discriminate by immigration status, employers will sometimes not hire undocumented workers. In these cases, it becomes difficult for the union to place undocumented members in jobs.

Figure 9: Composition of Construction Unions, by Place of Birth and Citizenship, 2006 to 2021


Note: Union membership includes those who are represented by a union, though not a member of the union.
Box 2: Misinformation about Unions

Many immigrants, especially the newly arrived, are misinformed about unions. One worker said that there is “diversity of opinions” about unions among his nonunion employees. Another Honduran immigrant who did nonunion work and later joined the union after receiving Temporary Protected Status said:

I think one of the mistakes immigrants make when they come here is that, unfortunately, sometimes you have to connect with a group. They are people with limited knowledge of the system, or simply put, they are not capable of speaking or communicating what they’re supposed to communicate, so they are easily influenced. They will work blindly in anything that comes their way. For example, when I came here, my brother worked with a group of people and they didn’t believe in the union. Sometimes, we had in our minds, due to their influence, that what unions wanted was to leave everyone without jobs, that they didn’t want to see Hispanics, and it was never like that.

Unscrupulous employers and contractors perpetuate misinformation about unions, and threaten or intimidate immigrants to prevent them from joining unions. One union representative explained that part of immigrants’ hesitation around joining unions is due to lack of information or uncertainty of the outcome. Immigrants often fear that attempting to join a union will affect their future job prospects if they do not succeed in entering. As the main way nonunion workers find jobs is often through word-of-mouth or reputation-based, workers may fear being ostracized for trying to join a union. Furthermore, many interviewees described nonunion contractors using intimidation techniques to prevent their employees from joining a union. As the same union representative explained, “There’s also the threat from their employer. A threat that you and I wouldn’t see or hear about, but that employee would definitely hear about it behind closed doors, so he can’t join the union.” A union worker who formerly worked in nonunion jobs said:

[Nonunion workers] just believe what the contractor said. They don’t know the whole story. They sometimes see us outside doing picket lines or rallies and stuff like that, and the employer will say, “You see, they are outside there. They are fighting for your job. You better work, because they’re going to come over here and fight for this job, then this job is going to become a union job. You’re going to be in the street! ... [Nonunion workers] think we do rallies or are on picket lines protesting against the [nonunion] people who are working. We are not. We are there protesting against the people who pay them, to pay them the right amount, the living wage, so they don’t abuse them. Also, we strike so that these people know their rights. We are not there looking for their job. We are fighting for them even though we are not with them. Sometimes they don’t know that. I think it’s a miscommunication.

Nonunion workers, especially immigrants, are afraid to talk to union organizers. A former organizer of the United Brotherhood of Carpenters said, “Workers, especially immigrant workers, are afraid to talk on a nonunion job site, because they’re afraid that one of their bosses will see them talking to the union organizers, [and threaten to fire them.] That’s not easy for an immigrant who has a family and could end up losing this job.”

Some immigrants begin to see union workers as a threat to their livelihoods. A former undocumented worker who later received legal status and joined a union expressed how he felt before doing so:

It was simply that whenever people from the union came to organize a workplace and there were any workers not-registered in the union, they had to take them out because they were obviously working illegally. I was undocumented, so I had to leave. You kind of started hating them. Not hating them, but growing resentful toward union people.
7. Why and How Immigrant Construction Workers Are Economically Exploited

Construction workers are often economically exploited, and immigrant construction workers face several vulnerabilities which put them at even greater risk of exploitation. These barriers make it more difficult for immigrants to acquire favorable work arrangements and advance in their careers. First, many immigrant construction workers lack legal employment authorization. Fear of deportation and lack of other opportunities induce them to accept poor working conditions and treatment. Second, immigrant workers often lack a social safety net. Their need to provide for their families, without other means of support, often traps them in exploitative work arrangements. Third, language barriers prevent many workers from moving up in the industry, particularly in certain occupations. Fourth, immigrant workers often have the skills to perform certain tasks but lack formally recognized credentials or opportunities for retraining, which prevent their upward mobility. Finally, ethnic, racial, and gender discrimination serves as a roadblock to advancement and a source of vulnerability.

7.1. Lack of Legal Work Authorization

Immigrant construction workers are targets of exploitation and wage theft. Nearly every construction worker interviewee described experiencing or witnessing some form of wage theft in their career. Unionized workers can file a claim if they feel an employer has wronged them. Many immigrant workers, particularly those with verbal agreements, often do not have any mechanism through which they may financially protect themselves, besides quitting their job. As one nonunion day laborer from Mexico described:

There was this time they owed me money for a week, and I had to follow them around until they finally paid me, but I tell you, it is a lot of work running around, looking for their money, because that’s not your job. You have already finished working for them.... If they pay you at first, but they stop paying you, no problem, you can try the next day, but if they don’t pay you two days in a row, you leave.

One worker explained that his employer withheld wages while working in the Bronx, at Morris Heights hospital, but it took a lawsuit and four and a half years to recoup his pay. When asked why wage theft occurs, he explained the site was composed of “eight workers, seven immigrants and one nonimmigrant, a friend of the foreman, and guess why we were seven immigrants there? [The employer] was trying to scheme it.” Another worker described a boss on a nonunion site paying her late, because he wanted to take his girlfriend out for the weekend. When she questioned this reasoning, the boss replied, “You better f***ing work if you want to get paid, because I need to finish this, and as soon as I do, I’ll pay everyone.”

Day laborers often work on informal verbal by-the-day contracts. Because day laborers often enter into verbal agreements through which they are paid by the day, if they leave at the end of contractual hours, they risk not being paid. As one representative of the United Brotherhood of Carpenters said, “Most immigrants, when they do get hired or when they negotiate, they don’t work by hours or wages. They work by day. If they make a deal, then it’s $150 a day. That day could be 12 hours; that could be 14 hours. It doesn’t matter. [If they refuse to stay, the boss] would just tell them, ‘Don’t come anymore.’” Many interviewees said that immigrants are exploited because they do not have larger representation and have to do their own negotiating. Furthermore, when people are paid in cash “off-the-books,” workers do not qualify for unemployment benefits from the US Department of Labor in the case they cannot find work.

The climate of employment uncertainty and the competition to secure jobs often leads day laborers to work under verbal agreements. A representative of La Colmena explained that when workers look for work at the center or at informal sites where employers arrive looking for workers, if they hesitate to accept work in order to secure a written agreement, other workers will seize the work opportunity without a written
agreement. The La Colmena representative said even though workers’ centers try to inform workers that a written agreement could protect them from non-payment, many workers still accept jobs without one. Some interviewees explained that newly arrived workers will accept work for $120 a day, making it difficult for more established workers to compete at a higher wage. One worker said, in nonunion work, “The less united we are, the better off the boss is.” Another nonunion worker said:

It’s a trap, because you don’t know where to go. If, just to defend your rights and yourselves, you say, “You know what, screw this, I’m not working for you anymore.” You cannot do that. Where are you going to go work? You need to find something first, and then you can switch, and unfortunately, for undocumented workers, when they do that, the next employer is sometimes the same way.

Wage theft, often in the form of not paying workers for overtime, frequently goes unreported out of fear of being laid off, especially among immigrant workers with little job security. A city worker who files worker complaints, said it is likely that not paying workers in-full for overtime is likely more common than paying workers for overtime. One carpenter from Albania described the culture of lay-offs among those who did not agree to work unpaid overtime before he joined the union, saying “[The employers] say, ‘You’re going to stay. You can’t go home.’ If they tell you to stay, and you don’t stay, the next day you’d get the lay-off check.” Even sometimes when employers paid the workers overtime, it was not sufficient to compensate workers for the full hours worked. For example, the same worker illustrated, “[The employer] says, ‘Okay. We got to work one hour of overtime,’ and one hour of overtime past 3:30pm is to 4:30pm. You end up working until 5:15pm and you only get paid one hour.” In contrast, now that he joined the union, he explained that overtime work
is paid and optional, without fear of losing one’s job or being penalized, which he called a “life changer.” Another former nonunion worker described, “You’re going to stay because you’re trying to prove that you’re loyal first of all and that you are reliable. Then you’re going to stay there, because you want to make sure you have a job the next day.” One worker said he sued a nonunion company for not paying overtime. He was fired, but the US Department of Labor required all unpaid overtime to be back-paid to all workers. To this day the company is properly paying its workers overtime. As he put it, “I lost, but the guys won.” Construction wage violations are more likely to occur in New York City than in the rest of the United States. According to the US Department of Labor Wage and Hour Compliance data, whereas 6.6 percent of all OSHA wage theft violations occurred in the construction industry in New York City, only 4.9 percent of all OSHA wage theft violations occurred in the construction industry across the whole United States (DOL 2022a).

The “nesting” of subcontractors has made it more difficult for immigrant workers to report and resolve wage-withholding violations. “Nesting” refers to when general contractors hire subcontractors, who may hire sub-subcontractors, who then hire workers. In other words, there is no direct contractual relationship between the general contractor and the workers. The nesting of contractors reduces transparency and makes it easier for general contractors who are “up the chain” of contractors to “turn a blind eye” to what is happening down the chain of subcontractors. It is easier and cheaper to hire undocumented immigrants without a formal contract when they are employed in this nested structure of subcontractors. A city worker who processes workplace complaints confirmed that immigrants – especially undocumented immigrants – are more likely to work for less desirable subcontractors. These unscrupulous subcontractors can more easily commit wage theft. As a union representative who formerly worked as a nonunion worker explained, there may be no proof the worker actually worked for the subcontractor. Other times, for example, perhaps a subcontractor will go out of business after the completion of a project and worker complaints go unresolved. For this reason, immigrant workers often find themselves overworked and underpaid in poor conditions working for subcontractors.

Changes to New York State law have attempted to diminish wage theft by subcontractors by making general contractors liable for the actions of its subcontractors. On January 4, 2022, the New York State Bill S. 2766C9 went into effect in New York State which makes general contractors liable for all subcontractors they employ on a site. The general contractors thus become responsible for any debt its subcontractors owe to wage claimants including unpaid wages, benefits, and wage supplements. The intention of the law is to make general contractors increase monitoring and become more attentive to the payroll activities of its subcontractors to reduce wage exploitation. The law also requires that subcontractors provide payroll records, the names of employees and independent contractors, and information about contracted sub-subcontractors upon a contractor’s request. However, while this law makes general contractors responsible for all subcontractors and sub-subcontractors below it, the responsibility of intermediaries is unclear. A general contractor is responsible for the actions of sub-subcontractors, but it is not clear whether subcontractors are responsible for the actions of sub-subcontractors.

Undocumented workers even more often experience wage theft, as employers know they can exploit them more easily with little or no consequence. Most interviewees said that unauthorized workers were direct targets of abuse and exploitation. A city worker who works with workplace complaints explained that fear of exposing one’s lack of work authorization leads to the underreporting of workplace violations by undocumented immigrants. A representative of the carpenters union agreed, saying undocumented workers are especially at risk:

For the most part in the nonunion construction industry, the contractors who are in the nonunion construction industry see undocumented immigrants as a pool of

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exploitable labor—cheaper labor. They’re exploitable because they’re undocumented. There’s intimidation. There’s fear of losing your job. They work without the benefits that most union construction workers enjoy. No healthcare, no retirement, no state-certified apprenticeship training, none of the standards that apply on the union side of the building construction industry. ... Most of the discrimination that we’ve seen in New York City construction industry at the moment is the gravitation towards undocumented Latino immigrants so they can exploit them for extremely low wages and no benefits.

Another undocumented worker explained his experience firsthand with a former nonunion employer, saying, “He owes me a month’s work. He hasn’t paid me yet. You see, when you don’t have papers, they always humiliate you that way, and I can’t do anything. Since I am paid in personal checks, unfortunately, I am set up to lose.” An Ecuadorian worker explained the severity to which immigrant workers were exploited for their documentation status in the late 1990s, saying, “around ’95 to ’98, the bosses were very savage. [If they stepped out of line,] they followed [undocumented construction workers] with a leash. They beat them. They forced them out of their jobs. They threatened that they were going to report them to the immigration authorities.”

Employers often exploit workers’ lack of legal status to underpay them while acting as if they were magnanimous for offering undocumented workers an opportunity. An undocumented day laborer from Mexico described a common work arrangement of this sort and the corresponding exploitation:

It was very common for us to sometimes get off work two hours past our working hours. They do not pay us for those two hours. That is basically working all day long. Nobody wants that. In those two hours, I could have already arrived home. I could already be changing, eating. I could have already cleaned myself up, done the laundry. The basic working day [pays] $120. That’s what you are going to earn—$120, regardless of whether you worked from 7:00AM to 8:00PM. It’s $120... I don’t know if [the boss] does that intentionally. I do know that all of us who work with him are immigrants. I think that’s why there is also no one, in quotes, “legal” working with him. In this case, the boss is the only “legal” person. However, you are working based on that “word of mouth.” Like, “I am giving you the opportunity.” That is the justification employers use for doing things like that.

Several workers said newcomers still face this exploitation and are pushed to work 10 to 11 hours per day with no additional pay. Another worker reiterated:

Unfortunately, [undocumented immigrants] have to fight their own battles. Not all the time, but a lot of the time, they get threatened. If they say, “Oh, I worked 40 hours last week, and you only paid me for 32,” the employer will reply, “You’re lucky to be working. Just keep your mouth quiet, and if you’re lucky, this week you’ll get a 40-hour work week.” They’re being taken advantage of, besides the lack of pay.

Many unions and nonunion employers with formal contracts do not accept undocumented workers. A representative of a nonunion corporation explicitly indicated that he only hires workers with work authorization. Several union representatives said that their unions did not accept workers without legal work authorization into apprenticeship programs. A representative of the New York Committee for Occupational Safety and Health said, “A lot of unions want to be more helpful to undocumented workers,” but that especially in the building trades, restrictions on federal subsidies for apprenticeship programs prevents many unions from accepting undocumented workers.
7.2. Lack of a Social Safety Net

The need for immigrants to provide for their families, combined with the lack of a social “safety net,” often leads them to accept exploitative working conditions and employment arrangements. As one union representative noted, for immigrant workers:

*It’s the necessity, not having that support from a family member, being a first-generation here, or being the first one coming here. There’s no support from somebody else. You have to do what you have to do. You know that if you don’t go to work, you’re not going to provide, not even food for yourself. Most of these immigrants, they leave a family behind in their country and they have to work. They are going to do whatever it takes to work and get paid, even if it’s a different schedule, even if it’s in bad conditions, they are going to do it because they don’t have an option.*

Most of the immigrants and other representatives interviewed described immigrant workers as hard-working and loyal to employers for this reason. A retired construction worker and former labor organizer from Montenegro explained, immigrants “want to be involved with the society. They want to participate in society.” Some are the sole provider for their families back home or are trying to create pathways to bring their family. Even if they have documentation, sometimes they are indirectly excluded from public benefits, because they are unfamiliar with application processes or bureaucratic systems which, according to a representative of Pathways to Apprenticeship, makes immigrant workers more willing to work hard and take on extra hours. Unfortunately, this allows employers to take advantage of immigrant workers, by paying them late or withholding some or all of their pay. A representative of La Colmena said, “Immigrant workers are under more stress than other workers, because they need to feed the families.” A representative of the carpenters union agreed that newly arrived are more likely to be exploited than established immigrants because they “have a need to survive, [and] their expectation is lower. There are no standards.” Another representative of a union said, “I never fault the nonunion guy, whether he’s immigrant or non-immigrant. He’s trying to put food on his table for him and his family. You can’t fault somebody that’s trying to earn a living and being taken advantage of. It’s exploitation.”

Some immigrant workers arrive in the United States with debt, and their financial desperation leads them to be financially exploited. One worker said when he first arrived he was paid $12.50 an hour, explaining this is not uncommon among newly arrived immigrants:

*Obviously, we all come here for our families or to seek something better for ourselves. I met people who had just arrived in the country with a $30,000 debt. They were barely 16 or 17 years old. They would arrive and have to endure things, putting their heads down and taking their employers’ or supervisors’ mistreatment. They would put their heads down and keep going. They would tell me their weekly salary – $350 per week. It was very hard, and these guys had to withstand everything, whatever. They would ask for overtime. They would always be on the lookout for overtime hours to make a little more money and relieve their debt and the load they carry when they arrive in this country.*

The financial constraints of immigrant workers and fear of unemployment leads many immigrant construction workers to accept abusive and dangerous working environments. Nonunion workers interviewed reported how immense time pressure and verbal abuse negatively affected their mental health. A union electrician from Ecuador who services air conditioners describes the pressure he faced before joining the union:
I experienced being under pressure, with the supervisor breathing down my neck. It was as if I could not even come down to urinate, because they would knock on the stall’s door right away. You cannot drink water. You have to be there at all times, working and working. That is why I felt mentally exploited. The supervisor would treat me badly, talking down to me because some employers think they are doing you a favor. After all, if you quit, they can hire three other people. They put you in that psychological state, playing with your mind and with workers and expecting you to withstand their mistreatment. They want you to be afraid to leave that company and of being jobless. They would literally say, “We can pay them less than we pay you. I can hire two guys with the money I pay you,” and things like that.

Another former nonunion laborer said she “did so many things just to survive,” such as working on sites with no heaters in winter and using buckets instead of toilets. Others explained that the seasonal and project-based nature of work in construction allows immigrant workers to be further exploited as they will, out of desperation, travel far into New Jersey without extra pay to work on sites in off-periods. As one worker explained, she sometimes had to stay on-site and sleep in the houses they were constructing.

**Fear of losing one’s job on nonunion sites leads to toxic competition among immigrant workers and an unwillingness to train the lower-skilled workers out of a fear of being replaced.** Several immigrant interviewees described this “dog-eat-dog” dynamic. One worker explained that this leads to tensions even between people of the same ethnicity:

> There is jealousy at work. There is a fear that you might know more English than the man in charge there, and they see how you are prone to learning things easily. [The foremen] fear you might take their job from them. That is understandable because their employers have brainwashed them. They feel that they are in their position, that they earned it, and for nothing in the world will they allow somebody to come, learn about it, and take it away from them. That is why people say that your own race will not want to help you. Your race will speak ill of you to your employer. Those things happen. You have those struggles and fights. That is until you really sit down with them at lunchtime, at breakfast, or for coffee, and you talk to them and tell them about where you are from. Only then do they start to get to know you. You then realize that people are not bad; they are not selfish. Instead, they are protecting their families.

**Furthermore, undocumented workers cannot claim federal benefits.** One worker recounted his financial situation:

> It was difficult, so difficult that I even cried at one point in my life and regretted having been in the United States. What we had in the fridge was a bottle of water, two onions and three cloves of dried garlic. We had absolutely nothing. Since there was no possibility of getting government assistance, it was difficult.... We didn’t even have enough to eat, let alone pay the rent. It was a very hard situation.

### 7.3. Limited English Proficiency

Several immigrant workers and other representatives in the industry said that limited knowledge of the English language was a primary barrier to moving up. Many reported that they were treated better once their English-speaking capability had improved. A former carpenter from Montenegro explained, “There is always somebody who speaks English. The competition is there, and for our immigrants to ask for a raise, to
ask for some kind of upgrade in their job position, it’s very tough.” An Ecuadorian worker agreed:

*The language is very important, because workers are often great and they know how to do everything on the job 100 percent, but they can’t find opportunities, because they remain in the same cycle, saying, “People speak to me in Spanish here, and I feel comfortable.” That makes you stay stuck at a middle point and keeps you from going up one more rung in your ladder of life and work.*

**Immigrants who do not speak English are vulnerable to exploitation.** First, several interviewees said language barriers can prevent people from knowing their rights. Second, immigrant workers who do not speak English rely on third parties to secure employment, such as a personal contact who is gathering workers for a project and might take a cut of pay. A representative of Pathways to Apprenticeship said that immigrants who do not speak English often rely on other immigrant workers to navigate work arrangements and conditions. Some do not understand labor violations such as unpaid overtime and wage theft. She said, “English language skills, understanding of the culture, the amount of time here, and time to build networks” help people move up. Another former worker who was a victim of exploitative employment agencies reported that non-English speaking immigrants are the targets of these agencies’ exploitative practices. He said contractors also exploit non-English-speaking immigrants, saying, “Most of the time because [employers] could manipulate the system, use them and abuse them because they don’t know the language, they don’t know the rights, especially the contractors who work on public works projects.”

**Not all training courses are offered in other languages.** While several unions and CBOs said their courses were offered in Spanish, Polish, and other languages, some interviewees pointed out that this is not the case for all safety or job training. As one Ecuadorian shop steward explained, “Out of 3,500 Ecuadorians that roughly are members of the union, less than 500 Ecuadorians have that fire guard license, because you have to take the classes and the exam in English.” This license has to be obtained from the fire department and the licensure course and exam are not offered in other languages.

### 7.4. Lack of Training Opportunities and Credentials Recognition

According to a study by Bratsberg and Raaum (2012), immigrant workers are attracted to strongly performing sectors. In construction, however, this rule does not apply to all subsectors equally, as some occupations have more barriers to entry for immigrant workers such as certification and licensing requirements. A representative of La Colmena said, “Immigrant workers will bring a lot of experience, and they know what they’re doing, but they might not necessarily have the certifications or the meat on their resume that would make them able to be hired as a site safety supervisor, for example.” A union representative who was formerly a nonunion worker said, because of this lack of credentials, “If the person is working nonunion, as most of the immigrants are, when they change companies, unfortunately, they’ll always start from the bottom with the lowest wages that company offers. Even if they do the same work that they’ve been doing for a couple of years.”

**Many interviewees said that lack of formal training inhibits workers’ ability to move up.** Several union workers said their union offers them continuing education to learn specific skills, obtain certain licenses, or learn how to use new technologies. Many people also said their unions offered courses on harassment (often mandatory), diversity (not usually mandatory), and international leadership, a course focused on professional development and communication. Many nonunion workers reported never having any formal training at all. Many said they learned everything they know on the job. A representative of the carpenters union said he believes some nonunion employers do not invest in training workers, “because they want to keep that workforce down for lack of a better word. Because they want to keep them cheap and plentiful.” Some nonunion companies, however, do invest in re-training in specific trades. One employer,
who allowed workers to learn any trade, said their pay raises were directly tied to learning new skills. He believed that training workers for different trades was more beneficial than having workers remain in a construction laborers’ union, where workers can advance but not by moving into a new trade. Workers’ centers help fill in the gaps to train workers who do not have access to training opportunities elsewhere.

A representative of La Colmena said that many workers have low English language proficiency or levels of literacy. He said that the center helps them with literacy classes, as well as some basic job training and safety training. However, due to capacity constraints, these workers’ centers often cannot offer the same breadth of depth of training as unions or large companies. Workers and representatives all agreed that training was crucial to advancement in the industry.

Some nonunion workers said a lack of financial means to take training courses prevented them from getting jobs. Some nonunion companies offer job and safety training courses for workers to advance their careers. A representative of one nonunion employer said their company offers free job training if workers obtain a B grade or higher, or they pay 50 to 75 percent of the training cost otherwise. However, other nonunion workers who worked as laborers, especially undocumented workers, said they could not afford to pay for training courses besides the required Occupational Safety and Health Administration’s (OSHA’s) 10-hour and 30-hour courses, OSHA-10 and OSHA-30, which many take at no cost.

7.5. Ethnic and Racial Discrimination

Several interviewees reported being discriminated against for merely being immigrants. Overall, the anti-immigrant sentiment was a commonplace experience for immigrant workers interviewed. A representative from La Colmena said that the anti-immigrant rhetoric of President Trump directly affected people’s job opportunities while he was in office. One Ecuadorian worker explained he experienced discrimination from people passing the road site he was working on. When he would stop and redirect traffic, people would often yell from their cars, “Why don’t you go back to your country? Damn Hispanic, damn Mexican, damn Ecuadorian.” A Honduran union worker said that after he joined the union, many white colleagues would speak negatively about nonunion workers, saying they were immigrants stealing their jobs. A third Mexican worker said some employers would not hire him saying they did not want Mexican or Spanish-speaking workers. Furthermore, many interviewees said immigrant workers are often seen as more disposable and are the first to be laid off during a down-sizing.

Workers underreport discrimination in order to maintain their reputation and employability. As one undocumented worker from Mexico explained, “You always end the day with a ‘Thank you very much.’” If a worker faces discrimination, he can choose not to return to that site, but cannot burn bridges with employers, saying, “We avoid problems because perhaps, you never know, tomorrow, or the day after tomorrow, you’ll need that person to help you again. Sometimes things end a little bad, but you try to keep a good relationship and leave the doors open for the future.”

Ethnic discrimination occurs both on union and nonunion sites. Several interviewees recounted stories of these cases of this form of discrimination. An Ecuadorian shop steward who has been in the United States for 22 years recounted a story from when he first started in the industry. One of his colleagues had been physically abused by their boss on a nonunion site, which he attributed to ethnic discrimination. He reported that their Italian boss “insulted him, mistreated him, beat him, and sent him away from work and that Ecuadorian did not react at all. That stuck in my head.”

Structural racism in the industry has kept people of color in lower positions. Another Black Ecuadorian worker expressed:
I felt discriminated against because of my race because, at first sight, they saw that I was African, and they did not know I was Ecuadorian. When they learned I was Ecuadorian, it was as if it dawned on them a little. I was at least a little more accepted. Here in the union, there is a lot of discrimination because Latinos – Most workers are white, European, Croatian, Italian, and people from Europe. They are white. When they see a Latino arrive, there are some obstacles. They do not close the door on you, but they obviously will not put you in charge of a job. They are always above you. They treat you well because you are part of them, but it is not like they send you to the most comfortable jobs, like the ones they get. For example, now I am working at a stadium construction. I walk at heights and do ugly things. The group of whites works as guards. Their job is not stressful. That is how I feel discriminated against. They make me do ugly jobs, but they do not send the others. The whites are super-chilling in that sense. ...you do struggle. Most company owners are European; they know each other. They have a group of people always doing overtime. As I said, Hispanics are only sent to do the hard work, and whites do regular jobs and normal jobs. I do not think it only happened to me. Most of us Latinos struggle with that in the beginning.

One newly arrived Black Hispanic worker from Honduras explained that he felt racially-discriminated against on a nonunion site saying:

It was how they treated and mistreated me, the way they addressed me. I am a person of color. I’m Black. I was working with a Mexican guy and another Honduran, and when he came in it was like the apartheid. It felt very, very extreme. I felt discriminated against. I think it’s something that happens a lot, and that type of discrimination can’t be avoided. They make you feel bad and suffer.

Interviewees also reported discrimination among different ethnic groups of the same race. Many interviewees said that competition among immigrant workers in some nonunion jobs perpetuated discrimination. A representative of the New York Committee for Occupational Safety and Health said that discrimination cases “are not really necessarily discrimination against all Latinos by white [business] owners and by white workers. There’s also discrimination among Latinos of different ethnic groups.” An immigrant interviewee said that sometimes Latino managers or supervisors keep other immigrant workers down, and employers keep those managers in those positions so “they can use them as their voice.” For this reason, he said, “That is why Hispanics go as far as being managers,” but do not reach higher leadership positions. Another Latino worker expressed, “It is the saddest thing in life that sometimes Latinos themselves become racist towards other Latinos.”

Many workers described racial and ethnic “microaggressions” preventing them from having the confidence to move up. One worker explained, “It is often personal. People do not feel confident of progressing or growing and doing a good job [in a leadership position.] Also, the fact of being Hispanic, African American, small, or Hispanic and small, having indigenous features, and so on – People do not say anything to your face, but you do feel discriminated against. You can feel them looking down on you, but they do not say anything to you directly.”
Box 3: Gender Discrimination

Nonunion female workers can face pay discrimination. Several union representatives said that unions provided the same pay schedule regardless of gender. Women working in nonunion jobs said the same was not true for nonunion labor. A representative of the New York Committee for Occupational Safety and Health said that they often provide representation in pay discrimination cases for women working in nonunion construction jobs and that the discrimination is a “regular occurrence,” “like the 1950s for women in a lot of these job sites.” A former female construction worker said that despite the fact that she was managing the crew on her worksite, her supervisor told her explicitly, “I cannot pay you more, because if the guys find out that I’m paying you more than them, they won’t like that.”

Female workers are sometimes unfairly laid off. One female construction worker recounted a story of her foreman on a union site, for whom she had to read the blueprints because he was unqualified to do so. When the project slowed and he downsized the number of employees, he said, “I have a bunch of females that I want to take out from here. It’s too many females. I need men.” All of the people let go were female, with only one highly specialized female plasterer keeping her job. The interviewee did not report the incident to the union because she “didn’t want to start a fight, and sometimes, you have to pick your battles.”

Female workers face harassment on the job, in both union and nonunion work. Female construction workers said that the male worker mentality of “Women don’t belong in construction” is still very prevalent throughout the industry. Women noted receiving comments at work, such as: “What are you doing here?” “Why don’t you go home and cook for your kids, and your husband?” “You should go to college and get an office job.” “This is not for you – a pretty little thing like you, sweetie?” and, “No, don’t worry, honey, I’ll lift that for you.” A representative of Pathways to Apprenticeship explained that sometimes women also face sexual harassment in both union and nonunion work. There may not always be separate bathrooms for women on nonunion sites. Often there may be only one woman working on site, which she described as a “rough and lonely space” to work, especially for laborers or companies without a Human Resources department. She said that these issues, combined with more structural issues like a lack of childcare access for the early hours that construction workers work, make retention of female workers in construction a problem.

Several people said they believe that while sexism still exists in the industry, it has diminished over time. One female representative of the Painters Union DC 9 who was formerly a construction worker herself, said at the beginning, some men were hesitant to join her local saying, “A woman’s not going to tell me what to do.” However, she said that increased education about gender diversity of the members and the creation of a women’s committee to speak on gender issues has improved the work situation for female workers. As of 2019, more than 6 percent of New York City’s construction workers were women, as opposed to just 3 percent nationwide. Furthermore, the number of apprenticeship slots reserved for women across construction unions was 15 percent. Most of the slots were filled by women from the Nontraditional Employment for Women pre-apprenticeship program (Kadet 2019).
8. Health and Safety of Immigrant Construction Workers

Construction workers are under immense physical stress and face the risk of an accident every day. Workers are exposed to the cold, heat, heights, chemicals, difficult postures, and heavy lifting, while at the same time being under immense pressure to finish jobs quickly. Interviewees reported experiencing injuries, ranging from minor cuts to back fractures causing permanent damage. One reported on a colleague who had been in a coma for three months due to a fall. He had returned to work soon after he recovered.

Time pressure to finish projects results in safety rules not being followed. Representatives of Pathways to Apprenticeship and the New York Committee for Occupational Safety and Health said immigrant workers, and undocumented workers in particular, were more likely to be pressured to work at faster speeds, and as a result work in unsafe ways such as not tying off their harness. One Honduran worker explained:

I don’t know if we [finish impossible tasks] by inertia or if it is our Hispanic heritage to do things hurriedly. [Employers] want to have as many Hispanics as they can because they know Hispanics are resourceful, they find solutions. That’s how we are. We are creative. We get ideas. Don’t ask me how, but I’ll get that job done. However, sometimes we make the mistake of not following safety rules.

Construction workers face immense mental stress as well. One worker explained when he worked on nonunion sites, the workers would be “threatened to finish or else you do not get paid.” Several interviewees noted the uncertainty around getting paid or having a job the next day as a major source of stress. An Ecuadorian shop steward explained the stress of having to be “super-organized” with materials on site because the other workers’ safety depends on it. Many workers face the psychological stress of separation from their families. One interviewee explained his baby’s mother could not adjust to life in the United States and decided to return home. He said the separation from his child negatively affected him every day. A construction worker who was formerly a psychologist from Honduras who migrated temporarily to make extra money said that working in construction sometimes makes you “depressed, and you don’t even know why.” Though he was doing this work temporarily, he said he could not “imagine being [in the US construction industry] forever without having the possibility of returning home.” He explained that many immigrant workers in particular develop problems of substance abuse to cope with the stress of the job combined with the loneliness from being away from their families. The time pressure, he explained, leads many site bosses to abuse cocaine and many workers to abuse alcohol at work.

The same economic structures that allow for exploitation create unsafe conditions for workers. One former construction worker and representative of Laborers Local Union 79 explained that despite improved technology:

If you have a relationship built into the economy structurally, where some people can take advantage of other people to enrich themselves. That’s always going to play out as deadlines for people that are being taken advantage of.

A union representative said that nonunion workers “are almost threatened to work” in unsafe conditions. “The employee just goes along with it, because she doesn’t want to lose their job. It’s unacceptable.” A worker said that concerns about keeping his job pushed him into unsafe conditions.

I believe that on some occasions my life could have been in danger because of lack of experience, lack of knowledge, or because of my fear of heights ... Bosses cannot force you to do [something] you don’t want to do, but there’s also the risk of them saying, ‘This worker is not right for me.’”
8.1. Injuries

Several immigrant respondents reported that union job sites were safer than nonunion sites, a fact confirmed by OSHA data. During the past five years, only 10.6 percent of construction workers in New York City were members of a union. Of the 3,287 inspections conducted on construction sites between 2017 and 2021, 8 percent (263 inspections) took place on union sites. Over the same period, only 7.1 percent of violations were found on union sites. Thus, union sites had 1.18 violations per site, as opposed to 1.44 per nonunion site. Violations are ranked on a scale from 1 to 10, with a higher number corresponding to a more egregious violation. The average severity of a violation on a nonunion site was 6.4 as opposed to 5 on a union site (DOL 2022b).

On both union sites and nonunion sites, safety has improved. Figure 11 shows that the average violations per inspected site on both union and nonunion sites have been declining over the last decade. One former nonunion worker who later joined the union said:

[On union sites,] the company gives you a harness. They give you tools. They give you all the necessary safety gear for you to do your job. However, in nonunionized work, you do that job, and your employer does not even give you a harness. You are all tied up there with a rope or pulled from your shirt by somebody and things like that. I did it many times. ...I laugh about it now, but, oh my God. If something happens to you in nonunionized work, it is over. The dude died there. “Oh, what a shame. Let the Consulate deport their body.” Here in unionized work, God willing, this does not happen, and if something happens to me, I am backed up by the union, and so is my family.

Figure 11: Average Violations per Inspected Site by Union Representation, 2012 to 2021

Source: DOL (2022b).

According to OSHA enforcement data, over the past five years 76 percent of accidents occurred on nonunion sites. Over the past 10 years, the accident rate (or the share of sites with an accident) on nonunion sites has
remained between 3.3 and 14.3 percent (DOL 2022b). The actual rates may be higher due to underreporting on nonunion sites. A representative from Pathways to Apprenticeship explained the fear of losing one’s job due to reporting safety violations: “In the nonunion world, in particular, you’re at an at-will employee position, and if you see something that’s dangerous and you say you don’t want to do it, you’re at risk of being fired.” Another worker explained, on nonunion sites, if someone would complain about or ask for more protective equipment, “they just replace the need for that person’s services, and it would be ‘bye-bye.’” Several other workers raised concerns regarding this dynamic.

Nonunion contractors often do not formally report accidents to avoid increases to insurance premiums. A union representative confirmed this saying:

> When somebody is hurt pretty bad and they have to go to a hospital, it’s all documented. Then again, if one contractor, say, has two accidents, two claims. It doesn’t have to be the same job, you could have two jobs going but it’s the same contractor. Then, his premium is going to go up. It’s unfortunate that’s part of the trade that we chose. The construction industry is dangerous, but what happens a lot of times in this nonunion world is these contractors don’t report it. They tell the worker, “Look, I’ll pay that for you. I’ll cover any bills that you have but if anybody asks, you got hurt at home.” That’s another advantage to them besides paying their workers a lot less – they’re not paying this insurance premium for workers comp.

Another worker described injuring his hand and losing four days of pay. His employer covered the hospital bill without reporting the accident. However, in some cases workers receive no compensation for workplace injuries. The same worker said that he had been fired after reporting a workplace accident to a company for which he had worked for seven years. Another worker recounted that a machine cut open a coworker’s arm on a nonunion site. Afraid of the insurance repercussions, the employer made his coworker take a taxi to the hospital. After he recovered, the worker returned to work. Before he could sue, however, they fired him. The interviewee contrasted that story with the worker’s compensation and paid time off his unionized colleague received after an accident.

The same “nesting” of contractors which allows employers to commit wage theft also makes it easier for some contractors to hide accidents and commit insurance fraud. A representative of the carpenters union explained that when some nonunion contractors use subcontractors, even if accidents are reported, the subcontractors or “shell companies” go out of business and workers' compensation for accidents sometimes goes unpaid. He explained that developers want to “keep that [financial risk] at arm’s length. They don’t want to know who’s your subcontractor.” One retired organizer said that when he worked on nonunion sites it was common “when immigrant workers would get hurt to see employers drive them from the site and leave them in the front of the hospital, telling them, ‘Don’t tell [anyone] who you work for.’” A retired representative of the United Brotherhood of Carpenters similarly reported, “Unfortunately, sometimes because of the [lack of] papers, the contractor wants to avoid paying the insurance, so they’re going to risk people’s lives.”

Nonunion worksites violate standards intended to safeguard workers from falls at higher rates than union worksites. Table 2 shows the most-reported OSHA citations in the construction industry in the past five years. Ninety-two to 100 percent of the top 10 reported violations occur on nonunion sites. Many of the violated safety standards are in place to prevent falls, which represented the top cause of fatalities in the construction industry in 2020, accounting for 21 of the 54 deaths in New York State. Of the remaining deaths, 12 were due to exposure to harmful substances or environments, 11 to contact with objects, and 10 to other causes (BLS 2019). Employers do not always respond properly to work accidents. A former nonunion worker recounted how buckets of compound fell on her legs after she fell from a ladder: “I remember having this big bruise on my leg. [My employer] just told me, ‘Go home.’ I didn’t work a whole week, and I didn’t get paid that whole week.”
### Table 2: Top-reported OSHA Violations Reported in the Construction Industry and the Share of OSHA Violations on Nonunion Sites, 2017 to 2021

<table>
<thead>
<tr>
<th>Violation</th>
<th>Number of Violations</th>
<th>Share on Non-Union Sites</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unprotected sides and edges</td>
<td>190</td>
<td>97.1%</td>
</tr>
<tr>
<td>Scaffolds are not fully planked or do not have guardrails.</td>
<td>127</td>
<td>94.2%</td>
</tr>
<tr>
<td>Missing portable ladders required to access scaffolds whose point of entry is more than 2 feet up, or crossbars are being used to enter the scaffold.</td>
<td>126</td>
<td>95.9%</td>
</tr>
<tr>
<td>Improper guardrails to prevent falls (specifically residential)</td>
<td>124</td>
<td>99.2%</td>
</tr>
<tr>
<td>Improper guardrails to prevent falls (other construction)</td>
<td>119</td>
<td>97.6%</td>
</tr>
<tr>
<td>No list of hazardous materials on site</td>
<td>105</td>
<td>98.3%</td>
</tr>
<tr>
<td>No training on hazardous materials present on site</td>
<td>104</td>
<td>97.4%</td>
</tr>
<tr>
<td>Grounding path for circuits and cover not permanent or continuous</td>
<td>98</td>
<td>100.0%</td>
</tr>
<tr>
<td>Ladders used for purposes other than their intended use</td>
<td>96</td>
<td>96.8%</td>
</tr>
<tr>
<td>Ladders do not extend more than 3 feet above landing or are not otherwise secured.</td>
<td>94</td>
<td>92.7%</td>
</tr>
</tbody>
</table>

Source: DOL (2022b).

**Immigrant workers under report accidents, often due to lack of social “safety nets” or the need to send money to their families.** One worker from Colombia recounted two stories of injuries to co-workers on a nonunion site. The first worker fell from a ladder two stories up and kept working. The second had a glass fall on his arm but kept working during the week in blood-soaked bandages saying, “I hope this heals, but if I don’t work, I don’t get paid.” The Colombian worker said he “gets why they do it,” explaining that the latter worker “lives from one day to another, and basically sends all his money to his family.” The employer’s reaction to the incident was to tell the worker to “try not to strain himself” while still having the man carry bundles of cement. The interviewee said, even for him as a witness to the accident, it was “annoying to see that they degrade [workers] like this.”

**Several interviewees said nonunion contractors sometimes require workers to provide their own safety equipment, taking advantage more often of newly arrived immigrant workers.** One former worker from Montenegro, a retired United Brotherhood of Carpenters representative, recounted:

> The company would just hire immigrants and not supply them with the safety equipment and tell them “No, if you want it, you got to buy it.” Obviously, often they’re not going to buy it because they don’t have the money to spend on a safety harness, even though their life depends on it most of the time.
This practice persists. A Mexican laborer said that his employer required the workers to purchase their own tools, gloves, safety glasses, and earplugs, some of which he still lacks. He explained that he does not ask the employer for this equipment or change companies because he cannot risk missing work for a few days. Furthermore, he has heard from friends in similar positions in other companies that they also have to provide their own safety equipment. He said that when he has asked for safety equipment, the employer has replied, “That’s why I pay you every Saturday, so that you can buy it. It’s not convenient for me.” One other nonunion worker from Honduras who has been working in construction in the United States for just eight months, reported that his employer requires workers to bring safety equipment on their own “initiative.” While this worker brings his own gloves and hard hat, others on site do not or cannot.

Many employers tell workers that they are responsible for their well-being and safety on site, according to a representative of the New York Committee for Occupational Safety and Health. However, as this representative pointed out, safety is the employers’ responsibility. She said that their organization tries to inform workers of their rights to refuse activities that do not follow health and safety guidelines. As one Colombian day laborer explained, “when you’re at work, as an employer, building regulations don’t matter, because you need to get things done.” As a worker, then, he said, “It does not matter if you are on the roof; it does not matter how you do [the job.] At best, you’ll receive instructions, and from there, it is your responsibility. I think that combining ignorance with a lack of interest can generate quite a few accidents.”

Immigrant workers may be unaware of their right to ask employers for protection. One Colombian worker who had been working in construction in the United States for just three months said on his first job site, he worked on a roof without a harness or hardhat:

“At [the beginning,] I was not aware of all these oversight issues, of the protocols that must be followed. Many did not know that you could tell the boss, “Give me a harness. I am not going to go up to the sixth floor without a harness.” Back then, I was just fulfilling orders, because that was the job and because that’s why I came here. I feel that this is the big mistake migrants make, you know? One is pigeonholed into the idea that you only have to fulfill orders. I think you, in a way, remove that “person” part of yourself.

8.2. Fatalities

Fatalities are more likely to occur on nonunion than union worksites. The New York Committee for Occupational Safety and Health found that in 2019, 79 percent and 100 percent of construction worker fatalities on private work sites in New York State and New York City respectively occurred on nonunion sites. The number of fatalities in New York City in the construction sector dropped in 2020 after three years of continual increase. OSHA conducted the lowest number of inspections in New York State in 2020 since the agency’s inception, at just 2,080 inspections, down from 4,455 inspections the prior year, which was likely due to the suspension of in-person operations due to the COVID-19 pandemic. The average fine in 2020 for an OSHA violation was $33,000. Despite the fact that 97 percent of fatalities in New York State were on sites with OSHA violations, agencies with such violations are still eligible to receive federal subsidies for their development projects (Obernauer 2022).
Figure 12: Fatalities in the United States in the Construction Industry by Occupation and Nativity


Note: Population data is taken from the ACS, and fatalities are taken from the CFOI and summed from 2011 to 2019.

Immigrant workers are overrepresented in construction occupations with higher fatality rates. Construction laborers experienced the highest fatality rate of any industry between 2015 and 2019 at a national level, followed by roofers, carpenters, and electricians (Figure 12). Figure 13 shows the correlation between the fatality rate in an occupation (the number of fatalities per million workers in that occupation), and the share of foreign-born workers. The upward sloping line indicates that deadlier occupations have a larger share of immigrant workers in the United States.
Language barriers can prove to be fatal. One worker said, “It can be dangerous and hard to have people with different accents and different ways of speaking in English barking commands at you in a different language. That can be confusing and stressful, and therefore dangerous.” Figure 14 shows the correlation between the language proficiency of foreign workers in an occupation and the foreign fatality rate (the number of fatalities per million foreign workers) in an occupation in the United States. Limited English Proficiency (LEP) is measured by the share of workers in an occupation who reported that they “Speak English, but not well” or “Don’t speak English” in the ACS. From this analysis, it is not possible to determine if people are more likely to die in an occupation because they have LEP, or whether those with LEP are more likely to be able to find work in more fatal occupations. However, it is clear that English language proficiency correlates with worker safety.
Figure 14: Correlation between the Share of Foreign-born Workers with LEP and the Foreign-born Fatality Rate across Construction Occupations in the United States


Undocumented workers disproportionately work in more fatal occupations. Figure 15 shows the correlation between the share of foreign-born workers who are undocumented and the fatality rate of foreign-born workers across occupations (the number of fatalities per million foreign-born workers in that occupation) in the United States. The upward sloping line in Figure 15 indicates that occupations with a higher concentration of undocumented workers have a higher fatality rate of foreign-born workers.
Many interviewees reported that immigrants – especially undocumented immigrants – are overrepresented on smaller work sites, which are often more dangerous. As of 2017, 89 percent of firms in construction in New York City employed fewer than 20 people. These small firms accounted for approximately one-third of construction jobs in the city (Office of the New York State Comptroller 2021). However, small firms are more likely to experience fatal accidents. Figure 16 shows the share of fatalities that occur on sites of different sizes, according to a sample of fatalities on construction sites. Sixty-three percent of sampled fatalities in New York State between 1982 and 2018 occur on sites with less than 20 people, with 50 percent occurring on sites with less than 10 people. A union representative said that he sees the most instances of poor protection on smaller construction sites. However, he has also witnessed five- or 10-story nonunion sites with no guardrails or harnesses in place. Several immigrants interviewed, particularly the undocumented, reported working on small sites with no guardrails, harnesses, scaffolding, or other protective equipment.
8.3. Safety Precautions and Trainings

Unions, companies, and workers’ centers offer safety training to workers. Larger nonunion companies and union representatives identified specific safety training available for their workers, such as on lead danger and abatement or how to properly use specific tools. CBOs also offer basic safety training to construction workers.

Most workers interviewed, in both union and nonunion jobs, said their employer checked their OSHA Site Safety Training (SST) card. Under New York City Local Law 196, all construction workers in the city need to have completed a 10-hour course and a 30-hour safety course (OSHA-10 and OSHA-30) to receive an SST card. However, some union workers interviewed said in the past, on nonunion sites, employers would often not check for SST cards. It is unclear whether employers’ checking for SST cards is improving over time, or the difference is due to the sample of interviewees selected.

Interviewees said there are more site safety managers than in the past. Local Law 196 requires all sites working on buildings with more than four stories to have a site safety manager on site. According to a representative from the New York Committee for Occupational Safety and Health, this has led to higher compliance with safety measures. In the past, site safety managers were often either not present or simultaneously managed multiple sites. She attributed the improvement in site safety to a combination of better supervision and better trained workers on safety.

There is a black market for OSHA SST cards. A retired representative of the United Brotherhood of Carpenters, who worked previously as a nonunion and union construction worker said that there are “bogus certifications” for required OSHA cards that people can buy for a few hundred dollars. A representative of the Painters District DC 9 who worked formerly in nonunion construction mentioned witnessing the same practice and said the falsified SST cards even have functioning bar codes, a practice she called “disturbing.”

9. Technology

Investment in construction technology skyrocketed in the past decade. Venture-capital investments in construction technology in the United States grew more than 11 times faster than venture-capital investments in other industries from 2011 to 2019 (Figure 17). Approximately $136 billion in venture-capital funds was invested in the United States in 2019, $1.3 billion of which was invested in construction technology (OECD 2022). Of the $1.92 billion invested in construction technology in 2021, 57 percent was invested in late-stage projects, 39 percent in early stage projects, and 4 percent in seed rounds, or a financing round that raises initial capital to start a new business (Obando 2021).

Figure 17: Venture-capital Investment Growth in Construction Technology Compared to Other Industries (100 = 2011), 2011 to 2021

Source: OECD (2022) and Obando (2021) using Crunchbase data.


In some ways, technological advancement altered the mix of workers that are necessary. Many immigrant workers and representatives of unions and other agencies said construction is still labor-intensive work, which has not yet been and is not at risk of being replaced entirely by technology. However, it may be reducing the number of workers needed or changing the types of workers needed in some cases. The workers in demand are either highly-trained in the use of new technologies, or working in warehouses to produce what a Laborers Local Union 79 representative called pieces for “Lego construction,” a more modular type of construction which uses pieces pre-assembled off-site. A union representative said new technologies “take the craft out of” construction. He explained:
[Technology] enables somebody that maybe is not familiar with bending rebar to just instead know the technology of the computer to be able to bend it. We realized that was a disadvantage to our union contractors who are now not competitive, because [to get the contract,] they [would] have to put in a price of two or three guys [to manually bend the rebar,] on a job and next door, the nonunion contractor could just call and order it to be bent in a warehouse by cheaper labor and using machinery. And it’s a lot cheaper.

In these circumstances, the union may have to give up the jobs of those two or three workers who would bend the rebar in order to gain the full contract. By refusing to adapt, the union would risk losing the contract and the possibility to employ the other 30 workers. Other interviewees described some instances of machinery, such as bazookas, a taping- and spackling-gun that could replace workers as well. One interviewee said, technology “is only for the companies’ well-being, not the workers’ well-being.” However, many interviewees also said that new construction technology has opened the door for more women to enter into construction. Technology has made certain tasks less physically intensive, removing the barrier to entry into construction occupations for some women.

Overall, the relationship between technology and immigrants’ work opportunities is unclear. Some interviewees said that immigrant workers are left behind because many do not have the opportunity to go to school or to receive training on new technology, and are thus relegated to the lowest paying jobs. Many interviewees said much of the newer technology was digital, such as iPads and lasers, and not easily usable by non-English speakers. A representative of La Colmena said that those who cannot read English often cannot use the necessary machinery and even if they can speak English, they are left behind.

A representative of Laborers Local Union 79 said that some technology, such as cell phones and Google translate, have made it easier to communicate with non-native English speakers on site. Another union representative explained that because immigrant workers are hard-working and eager to learn and to provide for their families, they are able to pick up new technologies quickly, which “levels the playing field” for them in regards to their opportunities.

Unions have provided training for workers to keep up-to-date on changing technology. New technology has increased competition among contractors, and unions have found they need to retrain workers to use new tools and machinery to compete with the costs of nonunion contractors that have adopted those technologies. A representative from Pathways to Apprenticeship said:

[Union] members can pretty much go back for free at any time to update any certificates that might be expiring. Also, if there needed to be a new training on a new technology in a particular trade, those would be provided for them by their union. That is an advantage they would have that I think the [nonunion] population would not have access to.

However, many workers must learn how to operate large machinery on the job and are not compensated for learning new skills. One union worker said that when nonunion sites started bringing in cutting edge technologies that increased efficiency, the unions had to adopt the same technologies to remain competitive, but said, “Obviously, no worker got a raise for using these tools.”

Technology has improved on-site safety in some ways. Some machines such as the electric jack now have buttons to control the speed of the machine, allowing workers to move pallets more carefully. One worker explained, “You feel confident that you can control the normal speed ... Before when I started, it didn’t have it. Some in the field still don’t have it. That’s one plus, because before there were a lot of people who accidentally ran over their own feet with the electric jack.”
10. Impacts of the COVID-19 Pandemic

An Executive Order 202.13\textsuperscript{11} passed by New York’s former Governor Cuomo in March 2020 amended Executive Order 202.6,\textsuperscript{12} which previously categorized all construction work as essential. The new order said that only some types of construction were considered essential work and gave the Empire State Development Corporation (ESDC) the authority to decide what constitutes essential construction work.

On April 19, 2020, the ESDC said that emergency construction\textsuperscript{13} and essential construction\textsuperscript{14} could continue to operate during the pandemic (LoBue et al. 2020). Though some construction workers lost employment during the pandemic, many could continue to work, though often under precarious or uncertain public health conditions. Several construction workers said that they have faced hardships during the pandemic related to their health and livelihood. Union organizers reported difficulties in performing their work as well.

10.1. Economic Impacts

Several interviewees said that development projects slowed down amidst the uncertainty of the pandemic, and they lost work, if only temporarily. Interviewees explained that many developers paused their projects, and a union representative said that even where “proactive” developers tried to push ahead, banks and other institutions were afraid to lend money to them at the beginning of the pandemic. One worker said that when work slowed, immigrant workers were often the first to be laid off.

**Union workers said they were protected financially by the union during the pandemic.** Several union workers and union representatives said that their unions made it easy for them to pull up to $10,000 out of their annuities to cover their salaries for the months they could not work. Another worker said his union made a plan with the state of New York to ensure that laid off union workers had health insurance throughout the pandemic. He also said that they provided bonus and vacation checks to workers to help them cover expenses. Many nonunion interviewees explained that they did not have the same financial stability as union workers during the pandemic. A representative of a nonunion contractor said that his company did its best to keep workers employed, but for other nonunion workers, losing their jobs meant losing their livelihood and health insurance.

**Undocumented workers and workers without written contracts often did not have any access to benefits.** Undocumented workers and workers without a documented employment history cannot claim unemployment benefits from the US Department of Labor. Though New York State tried to financially protect these workers through the Excluded Workers Fund (NYS DOL 2021). None of the construction workers the research team interviewed were familiar with this fund. A union organizer who formerly worked on nonunion construction sites said, “All those workers were left in the darkness. No unemployment. No 401k, no annuity, or vacation check. No health insurance. I honestly used to say last year, and even now I say how did they do it? How did they survive?” These conditions may have perpetuated the public health crisis. As one worker explained:

\[
\text{That means that when someone is sick, they can’t go to work, and then they don’t}
\]


\textsuperscript{13} “Emergency construction” includes construction necessary to protect the safety of occupants.

\textsuperscript{14} “Essential construction” includes construction for infrastructure, utilities, transit facilities, hospitals and healthcare facilities, homeless shelters, some affordable housing, public and private schools, state and local government projects, some energy projects, existing projects and essential business, or sites with only one worker.
get paid. Or that means that when someone is sick, they do go to work, because they won’t get paid and they can’t lose that. I would guess that during COVID, we probably saw a fair number of people dragging themselves to work, not feeling well. That’s a public health risk as well, and it’s concerning.

Union organizers faced difficulty organizing workers during the pandemic. Union organizers often recruit members to the union through site visits followed by house calls. As a union organizer explained, due to the public health crisis, people did not want strangers in their household, and thus the effort to organize workers slowed. He said he tried to compensate for the restrictions by meeting people at parks or other outside locations, but he was not able to continue organizing at normal levels.

10.2. Health Impacts

Even where construction projects continued during the pandemic, many workers feared the health repercussions of going to work. Workers feared both close contact with other workers and commuting to work on public transportation. Most workers on both union and nonunion sites said they felt that their employers provided adequate personal protective equipment such as masks, and washing stations, though a few workers said they did not receive the proper PPE. Even with proper PPE, many were fearful of contracting the virus, especially at the beginning of the pandemic. For example, one union worker said even where masks were provided by the union or employers, they were not N-95 masks, but rather less protective surgical masks. A few nonunion workers said their employers did not provide them with any PPE. Another worker said, even though mask mandates were in place, no one was really enforcing them, and that social distancing was sometimes not possible. A union representative explained, on some sites:

*Even going down to lunch was a problem because you have hundreds of people on the construction site that have to go up or down the same hoist or through the same entrance, go to the same floor for coffee or a sandwich. We suggested that it was a good time to bring lunch to work, this way you didn’t have to put yourself in jeopardy by going to get lunch.*

Many workers reported the mental stress that arose from having colleagues pass away from COVID-19. “If a person got COVID, it’s like we had to say goodbye, you know? So, it affects you at some point, but on the other hand, you have to be strong too.”

Unions may have had better protection in place to prevent workers from getting sick or covering them if they did get sick. Many nonunion workers do not have health insurance coverage. One formerly undocumented worker said there were more barriers for undocumented workers to get tested, due to lack of health insurance, unawareness of health services, or fear of going to health clinics to reveal one’s lack of employment authorization. He said that many undocumented workers relied on emergency rooms, not knowing where else to seek care:

*Things are better in a way, but there are still consequences due to COVID from last year and here’s why. It’s two different worlds, and I know that as a fact. Especially for immigrant workers. For undocumented people, it was more difficult for them to go get tested. That even CityMD was open and there was a long line, but you
know you got to pay if you don’t have insurance. These people, in order for them to get tested or to get treated, they needed to go to the ER, and you know that was horrible.

A representative of the carpenters union said that unions had more consistent messaging, signage, and other materials across sites which he believed helped protect union construction workers during the pandemic more than nonunion workers.

A few construction workers working on hospital sites reported having to work in nontraditional roles during the pandemic. Some construction workers assisted the hospital staff who were overburdened, putting their own health at risk. One worker recounted:

We [construction workers] were divided into three groups. One group was transporting the bodies, one was bringing the PPE to the floors where the COVID patients were, and the third group was moving the stuff from regular doctors’ offices into storage so those offices could be converted into COVID patient rooms. I was in the elevator transporting the bodies, transporting the movers, and transporting the people with the PPE taking it everywhere. Every time a body came to the elevator, when that body left, I used to change my gown and PPE and had to clean the elevator. Sometimes that would happen 60, 70 times a day.

The interviewee said she caught COVID herself working on that site before vaccines were available, and she never regained her sense of smell and taste afterwards.

10.3. Vaccination among Construction Workers

Construction workers have a lower vaccination rate than workers in other industries. Under a voluntary weekly survey administered by Carnegie Mellon University on Facebook, a sample of respondents were asked if they had already received at least one dose of the COVID-19 vaccine. Figure 18 shows the responses over time. Across the whole sample surveyed the last week in February 2022, only 16 percent of workers in other occupations reported being hesitant to receive the vaccines, while 52 percent of construction workers said they were hesitant. Among unvaccinated workers across all occupations, (excluding those who said they would “Definitely” get the vaccine), the main reason for vaccine hesitancy was distrust of the government (59 percent), followed by fear of side effects (57 percent) and belief that the vaccine is ineffective (30 percent).

15 In May 2020, New York City announced a partnership with CityMD to offer COVID-19 polymerase chain reaction (PCR) tests to New Yorkers showing COVID-19 symptoms or with a known COVID-19 exposure free-of-charge, regardless of insurance coverage (NYC Office of the Mayor 2020). However, in April 2022, the US Health Resources & Services Administration (HRSA) announced that the HRSA COVID-19 Uninsured Program through which clinics could receive reimbursement for testing, treatment, and vaccination for the uninsured stopped accepting claims for testing and treatment on March 22, 2022, and for vaccinations on April 5, 2022 due to insufficient funds (HRSA 2022).
Figure 18: Share of Workers Who Reported Having at Least One COVID-19 Vaccine Dose in the Construction Industry Compared to Other Industries in the United States, Jan. 2021 to Feb. 2022


Note: Survey weights based on demographics pulled by Facebook are used.

11. Recommendations

Based on the findings of this report, CMS proposes the following series of recommendations for 1) policymakers and government officials and 2) unions.

11.1. Policymakers and Government Officials

CMS suggests policymakers and government officials take up the following recommendations:

11.1.1. The New York State Senate should not overturn the New York Scaffold Law.

Section 240 of The New York Scaffold Law provides that employers must adhere to certain standards when using scaffolding and assigns liability to parties responsible for managing projects for any accidents due to faulty or lack of scaffolding. This law protects workers when workers compensation is not available, not provided, or not sufficient. Certain policymakers and lobbyists are pushing for the removal of this law. However, the top five reported OSHA violations on construction sites from 2017 to 2021 all involved scaffolding problems and risk of falls (Table 2). In addition, falls constituted the top cause of fatalities during this period. To protect workers in the case of an accident, it is imperative the New York State Senate uphold this law.

11.1.2. The New York State Senate should pass “Carlos’ Law.”

New York State Senate bill S3314A\(^{17}\), commonly referred to as “Carlos’ Law,” was named after an undocumented Ecuadorian immigrant, Carlos Moncayo, who was buried alive on a job site where managers had repeatedly ignored safety warnings from inspectors. The contractor, Harco Construction, together with the construction company Sky Materials Corp, was only responsible for paying $10,000 for Carlos’ death, the maximum OSHA fine contractors currently face. Later, Harco was convicted of criminally negligent homicide, reckless endangerment, and second-degree manslaughter (Beebe 2021). Carlos’ Law seeks to change the fines bestowed upon companies to be from $500,000 to $1,000,000 for those whose safety violations result in fatalities. It also intends to make worker endangerment first-degree, second-degree, and third-degree felonies. The justification for this law is that only 80 managers or supervisors have been prosecuted and 12 convicted for the more than 400,000 workplace fatalities that have occurred since Congress enacted the Occupational Safety and Health (OSH) Act. Among the 12 convictions, an average of $1,000 was paid out in fines. Under the OSH Act, worker endangerment can only be considered a Class B misdemeanor, resulting in a maximum of six months imprisonment. Carlos’ Law has been stalled in the New York State Senate since 2017. It should be passed and enacted immediately.

11.1.3. The New York State Senate and the Real Estate Board of New York should ensure prevailing wages for construction workers are included in the New York State §421-A Affordable New York Housing (tax incentive) Program.

The New York State Legislation 421-A Affordable New York Housing Program\(^{18}\) is a New York State real estate tax exemption that was established in 1971 for the construction of new housing. In more recent years, the program has been used to promote affordable housing. Set to expire in June 2022, the program requires a prevailing wage for building service employees and a minimum average wage for construction workers in certain buildings. Governor Hochul’s 421-A replacement plan maintains the prevailing wage standards for building service employees but exempts construction workers from prevailing wage standards for 421-A recipients. Critics of 421-A claim that the program has outlived its original purpose by supporting housing that is more expensive than what is currently available on the market thereby contributing to New York’s affordable housing crisis (Stein and Chatterjee 2022). If the program is renewed, it is important that construction workers be accorded the same prevailing wage standards as those in the building service trades. Every interviewee aware of this legislation called for wage and/or labor standards to be attached to it. As a representative of the carpenters union said:

> When the city government doesn’t require labor standards on these projects that are being rezoned or getting tax abatements, the city is essentially paying twice. All these nonunion workers and more specifically the exploited immigrant workforce, the city, the taxpayers, New York City, New York State and regular taxpayers are footing the bill for all the social services. If anything happens to the workers, they’re going to walk into Elmhurst or Jacobi hospital, and who’s going to pay that? It’s going to be the taxpayer. It’s going to be the city, the government. Not only are they providing a huge tax abatement to these private sector developers, but they’re also paying on the other side. They’re perpetuating the problem of food insecurity and homelessness. These construction workers have no healthcare. It’s not good for the economy of the city to have that business model.


One union representative pointed out that by not attaching labor standards and wage provisions to development projects for affordable housing, the New York State Senate would be increasing the need for affordable housing by construction workers. He said that though he recognizes the need for affordable housing generally, it seems “backwards” to underpay those building the housing “instead of helping them achieve the goals to elevate them to make a good living-wage job.” He continued with an illustrative scenario:

Say a 50-story condo building goes up, and they build it with a nonunion contractor. The nonunion immigrant worker goes to work, and he has a job but again, he’s only making $20 to $25 an hour. He or she is really not winning. The union worker is on the outside looking in, so he’s not working, so he’s not winning. A consumer who’s paying for those condos does not receive a discount because it was built with cheaper labor. Only one person walks away from the table happy. That’s the developer, who –on some projects– receives a tax break with no labor standards attached. The developer just comes in, gets tax breaks, builds with cheaper labor, charges the consumer the market rate and walks away with exorbitant amounts of money, while everybody else is struggling.

11.1.4. State and local representatives should attend union and workers’ centers’ meetings to gather information to make informed decisions on legislation.

New York State representatives and local policymakers who are involved in the writing, amending, and passing of legislation which affects workers in the construction industry should attend union and workers’ centers’ meetings to hear the voices of the constituency most affected by the laws, so they can make informed decisions on legislation.

11.1.5. The NYC Mayor’s Office of Immigrant Affairs (MOIA) and the NYC Department Consumer and Worker Protection (DCWP) should produce more materials and hold campaigns about workers’ rights and opportunities that are specific to the construction industry.

MOIA and DCWP produce materials for New York City residents informing them of work rights and labor standards. These city departments should produce more informational materials targeted to the construction industry, given the heavy concentration of immigrants in this industry, and the industry’s distinct standards (such as the 421-A Affordable New York Housing Program) and requirements (such as safety licensures). In addition, these materials should be appropriately translated and distributed in immigrant neighborhoods and through local CBOs. Such material could also include information not only about rights, but about opportunities, such as where to obtain an OSHA certification free-of-cost and in foreign languages and about pre-apprenticeship programs such as Pathways to Apprenticeship, Nontraditional Employment for Women, Construction Skills, Inc., and Helmets to Hardhats.

11.1.6. New York City should offer subsidies for community workers’ centers and CBOs to provide more safety and job training.

Workers and other representatives pointed out that certification difficulties as a barrier to upward mobility and safety. One contractor pointed out that a potential cause for the shortage of workers in the industry is that, unlike other low-wage industries, many jobs in construction require different certifications even for low-paying jobs. Sometimes immigrants find it cost-prohibitive to obtain certifications. While unions offer members more advanced training and retraining courses, nonunion day laborers, especially the undocumented who do not have the possibility of joining many unions, are excluded from training and certification opportunities.
Workers’ centers and CBOs can fill these gaps, but need more resources to do so. For example, La Colmena said with their resources, they are able to provide basic training, but not more advanced certification programs. In order to minimize barriers to entry, New York City should offer subsidies to workers’ centers and other local CBOs to expand safety and job training programs to construction workers. Their support could also reduce safety hazards in the industry and help to combat the economic exploitation of workers.

11.1.7. The US Department of Labor should ensure prevailing wages are attached to federal infrastructure funds in state and local construction projects.

On the national level, the US Department of Labor is poised to update regulations in the Davis Bacon Related Acts19 that are critical to ensuring that laborers and mechanics are paid locally prevailing wages in federally funded construction projects (HUD 2022). As funds made allowable by Biden’s infrastructure legislation are flowing into state and local governments, this is a historic opportunity to strengthen labor standards and create good union jobs.

11.1.8. The US Department of Labor Wage and Hour Division (WHD) should target smaller nonunion construction sites for more inspections to ensure compliance with labor laws.

The WHD is responsible for conducting inspections of employers to ensure they are complying with several federal laws which set basic labor standards, including the Fair Labor Standards Act,20 the field sanitation standards of the Occupational Safety and Health Act,21 and certain employment standards and worker protections under the Immigration and Nationality Act.22 While inspections are generally conducted following an anonymous complaint, the WHD has the power to investigate certain businesses or industries where violations are likely to occur. Given the likelihood of wage theft occurrences in the construction industry (primarily on nonunion sites), together with the under-filing of complaints by construction workers, the WHD should more closely target smaller nonunion contractors for inspection.

11.1.9. The US Congress should create a pathway to legal residence for undocumented construction workers by passing pending legislation and creating a rolling registry program.

Almost every interviewee noted lack of work authorization as a reason immigrant workers are economically exploited, work in more unsafe conditions, and have difficulty moving up in their careers. Several representatives of unions, the New York Committee for Occupational Health and Safety, and La Colmena proposed legalization as a way to combat exploitation and help workers advance. A union representative said:

First off, there’s a real misconception that all undocumented immigrants are day laborers, and it’s just not true. A lot of undocumented immigrants are construction workers working for a specific company. I think we have avenues that we could use to help them, because politicians don’t want to create pathways to citizenship.


We’re all up against it. [Not creating these pathways] hurts our union members, and it hurts these immigrants who deserve a better life and to make more money. Many really aren’t able to get that opportunity, unfortunately.

Several pending bills would provide a pathway to permanent residence (“legalization”) for US undocumented immigrants. The bill that would provide the largest population-specific path to legalization is the Citizenship for Essential Workers Act. According to CMS estimates, roughly 55,000 undocumented immigrants in the construction industry (including in New York City) would be eligible for legalization if this bill were to pass. Legalization offers immigrants a pathway to permanent status and, ultimately, to naturalization. However, legalization should not be a one-off program. It should be available to immigrant construction and other necessary workers who are continuously arriving and entering the labor force. The US Congress established a registry program in 1929. Under this law, long-term undocumented immigrants can gain legal status by proving continuous residence in the United States since a stipulated date. Unfortunately, the required entry date to qualify for registry (January 1, 1972) has not advanced since passage of the Immigration Reform and Control Act of 1986 (Kerwin, Pacas, and Warren 2021). Moving forward and regularly advancing this date (as part of a rolling registry program) would decrease the undocumented immigrant population and help immigrant construction workers avoid exploitative working conditions. A union representative called for action:

Even immigrants coming in, there should be a way that they could come in and they could become US citizens because they live in fear, in a way. Some of these workers are undocumented workers, unfortunately, [with employers saying,] “If you don’t do what I tell you, I’m going call ICE (US Immigration and Customs Enforcement,) and you’ll be deported.” That’s not what America is about. [Immigrants] should come here and have the opportunity to become US citizens, if they choose to, so they don’t have to live in fear, so they can pay taxes, so they can have the right to vote. We just turn a blind eye to it but it’s been going on for years.

11.2. Unions

CMS offers the following recommendation to labor unions:

11.2.1. No union should exclude members on the basis of immigration status.

Under the National Labor Relations Act (NLRA), immigrant workers have the right to organize or take action to improve their working conditions, and it is illegal for an employer to use immigration status to prevent labor organizing or deny labor rights. The National Labor Relations Board will not ask workers about their immigration status when doing an investigation of NLRA violations (NLRB 2022). For this reason, unions should not exclude undocumented workers.

23 Original estimates based on the data in Kerwin, Pacas, and Warren (2021).


11.2.2. Unions should ensure the continuity of work for their members.

Most workers noted job uncertainty and turnover as a major source of stress. A representative of Pathways to Apprenticeship said that “it’s really important for unions to be able to have continuity for the workers they do have because people base their lives on the reliability of their career.” She noted that for this reason, it is not possible for unions to take on an indefinite number of workers. A representative of a large construction corporation who was not affiliated with a union emphasized the importance of unions fostering good, stable employer-employee relations, saying “good unions train and place people, and they let the employer-employee relationship form naturally. The worst problem of the construction industry is that when the project is finished, everyone is sent home. There’s no job security. Having a union makes it justifiable for employers to send employees back to the union [hiring hall] at the end of a project.” He continued that the unions and companies then should train workers “from using hands to using heads,” such that as workers age, they may continue with a company, and not be laid off due to the inability to meet the physical demands of the job.

11.2.3. Unions should offer more English language courses and partner with CBOs to do so when possible.

While several unions and OSHA certification platforms did offer courses in languages other than English, many construction workers and other representatives pointed out that the communal nature of construction work often makes at least some linguistic overlap across workers necessary. Some people pointed to the ability to communicate as a requirement to maintain safe working conditions on site. As a United Brotherhood of Carpenters representative said, “If you want to be in the construction business you have to learn language first, because if you wait until someone on site doesn’t understand something important to safety, it would be too late.” Some unions said they provided English language courses, while others did not. Interviewees reported on the success of partnering with local CBOs to offer classes to their members. Unions and CBOs should form strong partnerships for the purpose of providing language training to immigrant construction workers.

11.2.4. Unions should partner with CBOs to provide more Know-Your-Rights training and awareness-raising events.

While CBOs have access to community members, unions often have the expertise and knowledge about workers’ rights and opportunities. As a Pathways to Apprenticeship representative said, “Unions’ expertise is a really valuable piece of how community organizations craft our outreach, how to navigate helping people understand what they can advocate for.” Bringing in union representatives and organizers to speak at events at community centers is an opportunity to educate construction workers about how they can better their conditions.

11.2.5. Unions should continue to hire organizers and representatives that reflect the cultural and linguistic diversity of their members.

It is imperative that the union representatives reflect the increasing diversity of their members. A representative of the United Brotherhood of Carpenters said that a union will never be strong as long as its members or potential future members do not fully understand their rights or feel confident voicing their concerns at union meetings. For this reason, unions should ensure that its leadership reflects the linguistic and ethnic composition of their members.
References


## Appendix

### Table A.1: Regions of the World Definitions

<table>
<thead>
<tr>
<th>Region</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>Algeria, Cameroon, the Democratic Republic of Congo, the Arab Republic of Egypt, Eritrea, Ethiopia, the Gambia, Ghana, Guinea, Ivory Coast, Kenya, Liberia, Libya, Morocco, Nigeria, the Republic of Congo, Senegal, Sierra Leone, Somalia, South Africa, Sudan, Tanzania, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, and Zimbabwe</td>
</tr>
<tr>
<td>Central and South America (Hispanic)</td>
<td>Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela</td>
</tr>
<tr>
<td>Central and South America (non-Hispanic)</td>
<td>Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago</td>
</tr>
<tr>
<td>East and South Asia</td>
<td>Bangladesh, Bhutan, Cambodia, China, Cyprus, Hong Kong, India, Indonesia, Iran, Iraq, Israel, Japan, Jordan, the Republic of Korea, Kuwait, Laos, Lebanon, Malaysia, Mongolia, Myanmar, Nepal, Pakistan, the Philippines, Saudi Arabia, Singapore, the Syrian Arab Republic, Taiwan, Thailand, Turkey, West Bank and Gaza, the United Arab Emirates, Vietnam, and the Yemen Arab Republic</td>
</tr>
<tr>
<td>Europe and Central Asia</td>
<td>Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, the former Czechoslovakia, Denmark, England, Finland, France, the Republic of Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kazakhstan, the Krygyz Republic, Kosovo, Latvia, Lithuania, Moldova, Montenegro, the Netherlands, North Macedonia, Northern Ireland, Norway, Poland, Portugal, Romania, Scotland, Serbia, Slovakia, Spain, Sweden, Switzerland, the Ukraine, the former USSR, Uzbekistan, and the former Yugoslavia</td>
</tr>
<tr>
<td>North America</td>
<td>Bermuda, Canada, Cape Verde, and Mexico</td>
</tr>
<tr>
<td>Other</td>
<td>Australia, Fiji, the Federated States of Micronesia, New Zealand, Samoa, Tonga, and Other (non-specified)</td>
</tr>
</tbody>
</table>
### Table A.2: Misclassified Construction Workers in New York City, 2011–2019

<table>
<thead>
<tr>
<th></th>
<th>Year</th>
<th>Change from 2011 to 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2011</td>
<td>2019</td>
</tr>
<tr>
<td>Payroll Construction Trade Workers</td>
<td>153,988</td>
<td>148,638</td>
</tr>
<tr>
<td>Construction Trade Workers</td>
<td>83,028</td>
<td>101,954</td>
</tr>
<tr>
<td>Misclassified Workers</td>
<td>Number</td>
<td>Share</td>
</tr>
<tr>
<td></td>
<td>70,960</td>
<td>0.46</td>
</tr>
<tr>
<td></td>
<td>46,684</td>
<td>0.31</td>
</tr>
</tbody>
</table>

1. Excludes those not working for wages, (i.e. self-employed incorporated).

2. Because the QCEW does not report occupation, the shares of trade/non-trade occupations from the BLS Occupational Employment Statistics are used to estimate trade workers in the QCEW.