



OPENING STATEMENT

House Committee on Education and Labor

Chairman Robert C. "Bobby" Scott

Opening Statement of Chair Alma Adams (NC-12)

Subcommittee on Workforce Protections

From Excluded to Essential: Tracing the Racist Exclusion of Farmworkers, Domestic Workers, and Tipped Workers from the Fair Labor Standards Act

Zoom

Monday, May 3, 2021 | 12:00 p.m.

Today, we are gathered to examine the racist origins of denying farmworkers, domestic workers, and tipped workers full protections under the *Fair Labor Standards Act* and to chart a path towards finally addressing these inequities.

The *Fair Labor Standards Act*, or FLSA, is one of our nation's most significant labor laws. First passed in 1938, it created the federal minimum wage, set limits on work hours, and banned oppressive child labor. Yet, after more than 80 years, the FLSA still includes aspects of our nation's history of slavery and racial discrimination by expressly denying farmworkers, domestic workers, and tipped workers the full protections of basic wage and hour protections.

Following the abolition of slavery, Black Americans, a majority of whom lived in the South, were concentrated in agricultural and domestic jobs—with little to no pay—in order to preserve the profitable economy that had been built on the backs of slaves.

By the time President Franklin D. Roosevelt proposed what would become the FLSA, he knew that certain lawmakers who held the levers of power in Congress were committed to denying Black workers the wage protections that could lead to their economic and social freedom. Roosevelt acquiesced to the demands of these lawmakers by excluding specific occupations that were overrepresented by Black workers from labor protections.

Thus, to ensure its passage and allow employers to underpay Black Americans, the FLSA excluded agricultural and domestic workers.

In other words, by excluding jobs held by Black and Brown workers from basic worker protections, the FLSA, inserted institutional racism into federal wage and hour law.

And these exclusions robbed workers of color of economic security over the next three decades. I know this because I have lived it. In fact, my mother and grandmother were domestic workers. They cleaned other peoples' houses so I would not have to – so I could focus on going to school, getting a good education and securing a future I desired. Unfortunately, I saw first-hand how impossible it was for them to make ends meet and how impossible it was for them to cover basic necessities, let alone live comfortably.

Throughout the 1960s and 70s, Congress took limited steps to expand FLSA protections, responding to the demands of the 1963 March on Washington for Jobs and Freedom, the attention brought to the issue by the 1965 California grape strike, and the advocacy work from civil rights groups, women's organizations, and labor unions.

Expanding coverage to industries with high concentrations of Black workers, including agriculture, hotels, and restaurants, helped narrow the racial wage gap and significantly boosted wages for millions of workers.

Similarly, the tipped minimum wage is also rooted in denying Black workers economic security. Post-Civil War, formerly enslaved Black workers were denied wages in hospitality jobs and, instead, worked for tips. And while tipped workers were initially excluded entirely from the FLSA, later amendments extending coverage to these workers codified the practice of allowing employers to rely on consumers' tips to subsidize wages.

While there has been important progress, some racist FLSA exclusions are still on the books and continue to prevent people of color, who remain overrepresented in these jobs, from getting the pay they deserve.

Today, farmworkers **still** do not have overtime protections. Live-in domestic workers **still** do not have overtime protections. And tipped workers are **still** not guaranteed the full federal minimum wage.

But today's hearing is not just about reviewing the history of American labor law. It's about recognizing the multi-generational struggle of Black workers and workers of color and confronting our country's legacy of racism so that we can forge a more equitable future.

Many of my Committee colleagues have spearheaded efforts to correct these decades-old inequities, including:

- Representative Grijalva's *Fairness for Farm Workers Act*, which would phase out overtime exemptions for agricultural workers;
- Representative Jayapal's *Domestic Workers Bill of Rights Act*, which, among other things, would eliminate the overtime exemption for live-in domestic workers; and
- Chairman Scott's *Raise the Wage Act*, which would gradually phase out the tipped minimum wage.

We know that several states have extended these key protections to workers and their economies have continued to thrive.

Of course, no one can speak more authoritatively on institutional racism than the people who experience it each day. I am grateful we are joined by three women of color to help guide our discussion. And I want to thank them for being with us.