

Policies for Worker Power and Well-Being in the COVID-19 Era and Beyond: *Takeaways from the Just Recovery Survey*

The Just Recovery Survey¹ measures racial, gender, and income-based disparities in the experiences and responses of U.S. workers to the COVID-19 pandemic and related recession. Results speak to the clear need for policies to raise wages, combat wage theft, ensure equitable access to social insurance, establish robust whistleblower protections, and support workers' desire to organize.

Key Findings

TROUBLE PAYING BILLS: The pandemic has grown the share of U.S. households struggling to pay household bills, and those struggling pre-pandemic are suffering the most. Forty-two percent of households have experienced increased difficulties paying rent, utility, credit card, student loan, medical, and other household bills as a direct result of the pandemic. Within the bottom household income quartile, 65% of workers of color and 52% of white workers experienced increased difficulties paying bills. Households that were struggling to pay bills pre-pandemic were 25% more likely to report increased difficulties paying bills during the pandemic.

WAGE THEFT: Employers are stealing wages from workers during the pandemic, and at higher rates from Black workers, frontline workers, and those in precarious employment situations. The share of Black workers (14%) who reported that an employer had not paid them at the correct wage rate or for all hours worked, had stolen tips, or had deducted the cost of personal protective equipment from their pay during the pandemic was more than twice that of white workers (6%), and more than the 8% of workers overall. And 22% of workers with the highest level of concern about maintaining steady work through the next year reported wage theft, compared to 3% of workers least concerned about unemployment. Excluding physicians and other healthcare workers with professional degrees, 11% of frontline workers reported that their employers stole wages from them during the pandemic, compared to 7% of workers not classified as frontline.

¹ The Just Recovery Survey was administered by the survey research firm SSRS to 3,100 people across the U.S. in September and October of 2020 using its online SSRS Opinion Panel. 3,100 was polled, with an oversample of Black and Latinx respond. The survey is a joint project of Color Of Change, National Employment Law Project, TIME'S UP Foundation, and the Worker Institute at Cornell, and main survey report can be found here: <https://www.nelp.org/wp-content/uploads/Foundations-for-Just-Inclusive-Recovery-Report.pdf>.

BARRIERS TO ACCESSING PAID SICK AND FAMILY LEAVE: Employers are denying workers, and Black and frontline workers in particular, access to paid sick and paid family leave. Twenty-eight percent of Black workers who applied for paid sick leave or paid family leave said their employer denied their request, compared to 9% of white workers. Over 20% of frontline workers report that their employers have denied a request for paid sick or family leave during the pandemic, compared to 7% of workers not classified as frontline.

CAREGIVING RESPONSIBILITIES FORCING WORKERS TO GIVE UP PAID WORK: In the absence of robust and accessible paid leave, workers with added caregiving responsibilities during the pandemic, especially Black and Latinx women, are being forced to give up paid work. Survey results show that 17% of workers who are women and 12% who are men have given up paid work due to family caregiving responsibilities, while more than a quarter of women of color—27% of Black women and 28% of Latinx women—have been forced to do so.

BARRIERS TO ACCESSING UNEMPLOYMENT SUPPORT: Employers and government agencies are denying workers, and Black and Latinx workers especially, access to critical unemployment supports. Survey results show that 34% of Black workers, 26% of Latinx workers, and 14% of white workers who applied for unemployment assistance were denied it.

FEAR OF RETALIATION: Black and Latinx workers, and workers with precarious employment situations, are particularly concerned about employer retaliation for speaking up about unsafe workplace conditions. Thirty-four percent of Black workers and 25% of Latinx workers reported concerns about employer retaliation, compared to 19% of white workers. And 44% of workers expressing the highest level of concern about maintaining steady work reported fear of retaliation for speaking up about unsafe conditions at work, compared to 14% of workers expressing the least concern.

INTEREST IN UNIONIZATION: Black and Asian workers are more likely vote for a union, but they are less likely than white workers to currently belong to a union. Sixty-two percent and 61% of non-union Black and Asian workers, respectively, said that they would definitely or probably support a union at their job, compared to 42% of white workers and 44% of Latinx workers. However, union membership stands at 8% to 12% across these groups, woefully out of step with these levels of support. ***Non-union workers who experienced unjust actions by their employers were more likely to express support for unions.*** Over 60% of non-union workers who reported wage theft, for instance, said they would vote for a union at their job; by comparison, 41% of non-union workers who have not reported wage theft said they would vote for a union.

Policy Responses

Survey results point to the need for **new labor and employment policies** to raise the floor on pay and strengthen workplace protections and unemployment supports, **enforcement** of existing rights and protections, and efforts to ensure **equitable access** to existing rights, protections, and benefits.

Support broad-based financial security by raising the federal minimum wage to \$15 an hour and eliminating discriminatory exemptions. At the federal level and in 21 states, the minimum wage has been stuck at a paltry \$7.25 since 2009, leaving tens of millions of U.S. workers—including scores of frontline workers—struggling to make ends meet. Even worse, the subminimum wage for tipped workers has been stuck at \$2.13 since 1993, and some farmworkers and domestic workers are still deprived of federal minimum wage protections due to antiquated, racist exemptions designed to exclude jobs predominantly held by workers of color. Learn more [here](#).

Fight wage theft and enforce labor standards and protections. States and cities can crack down on wage theft via policies that do the following: compensate workers with robust liquidated damages equal to unpaid wages plus two times the amount of unpaid wages so that the employer penalty is not just the unpaid wages that should have been paid in the first place; increase civil fines for law-breaking employers; take business licenses away from repeat violators; allow workers to recover attorneys' fees and costs in litigation; lengthen the time limits within which workers must file their claims so that workers can recover all wages owed; require employers in high-violation, subcontracted, or typically undercapitalized industries to post a wage bond to cover potential unpaid wage claims; and pause deadlines for suing while worker complaints are being investigated and allow for wage liens against employers who have committed wage theft violations. Learn more [here](#) and [here](#).

Protect workers who raise workplace concerns by establishing robust anti-retaliation protections. Protect worker whistleblowers who sound the alarm when employers are endangering them with stronger safeguards against retaliation. States and local governments should adopt whistleblower protections (incorporating a private right of action that allows workers to take employers to court when they violate their workers' rights), strong penalties, protections for workers who notify fellow employees or the public of workplace hazards, and a right to refuse to work under dangerous conditions without being fired. And states should create "qui tam" public enforcement laws that give unions, worker centers, and other representative organizations the ability to bring enforcement actions in the name of the state or local government. Finally, to ensure that any protections against retaliation can be effectively enforced, states and cities should take the additional step of adopting a "just cause" standard for termination so that employers cannot use arbitrary reasons to mask retaliatory firings. Learn more [here](#) and [here](#).

Ensure adequate unemployment supports by reforming unemployment programs. Key unemployment insurance (UI) reforms that states should implement to promote access and benefits for all workers—particularly **Black**, indigenous, and **Latinx** workers, who are disproportionately unemployed—include the following: addressing literacy, language, and technology barriers to accessing unemployment systems; learning from workers of color

who are organizing in spite of the barriers, and supporting worker-centered solutions such as peer-to-peer training on navigating UI claimant processes; clarifying the definition of “employee” to ensure that online labor platform companies, whose workers are disproportionately people of color, provide workers with access to regular UI; adopting an “alternate base period” option for calculating earnings to ensure coverage for underpaid and intermittent workers; raising the “income disregard” to ensure that workers whose hours have been cut to part-time or who can only find part-time work can receive UI benefits; providing workers who refuse unsafe work access to UI; eliminating occupational exclusions such as those for agricultural and seasonal workers; and increasing the taxable wage base to stabilize funding of the UI system and ensure high-wage workers and industries pay their fair share and help shore up state unemployment trust funds. States should also create an excluded workers’ relief fund to provide financial assistance for unemployed immigrant workers and other jobless workers shut out of unemployment insurance programs. Learn more [here](#).

Expand access to and strengthen enforcement of paid sick leave and paid family and medical leave laws. Paid sick and family leave are critical benefits that allow workers to take time off work due to illness or to provide family care without foregoing pay. These benefits help prevent the spread of COVID-19 and other illnesses in workplaces, families, and communities. Federal pandemic emergency relief in 2020 provided millions of workers with access to paid sick and family leave to address pandemic-related illness and family care duties, although exemptions left millions of workers out of those protections. Federal pandemic relief in 2021 should extend access to paid sick and family leave to more U.S. workers. In the long term, federal policy should guarantee all workers access to paid sick leave. In the meantime, and to provide workers with more extensive leave benefits, states and localities can follow the lead of 13 states and dozens of localities by passing their own paid sick leave laws. States should establish paid family leave insurance programs, following the lead of eight states and the District of Columbia. Strategic and co-enforcement models that target high-violation industries, and workplace organizing rights can help ensure that all workers can avail themselves of their leave rights. Learn more [here](#).

Ensure that local governments have the local authority they need to raise the minimum wage and support workers in their communities. Local governments around the country are struggling to respond to their residents’ needs during the COVID-19 pandemic. Workers urgently need premium pay protection, whistleblower protections, paid sick leave, affordable housing, and more. In recent years, however, as the Fight for \$15 gained momentum and over 40 cities and counties have raised their local minimum wage, corporate and anti-worker interests have adopted a strategy of “preemption” to prevent local pro-worker organizing and policies. Working many times from model bills crafted by corporate, anti-worker interests, state legislatures have passed numerous preemption bills that prohibit local governments from using local authority to adopt higher wages and a wide range of progressive policies that could benefit workers, such as paid sick leave, fair scheduling, non-discrimination, broadband access, and affordable housing. Worker advocates at the state and local levels must oppose new forms of preemption and work to reclaim or establish clear local authority for responding to worker needs. Learn more [here](#), [here](#) and [here](#).

Make access to labor rights and protections more universal by adopting the “ABC test” to determine coverage and fighting corporate-backed exemption efforts. To ensure that more workers, including frontline workers in sectors like homecare and package delivery, are covered under federal, state, and local labor laws, legislators should establish the clear and expansive “ABC test” for employment status in all labor protections, including organizing rights, minimum wage, paid sick leave, and unemployment insurance. Unlike other worker classification tests, the ABC test creates a rebuttable presumption of employment and sets out a three-point test that determines whether workers are truly in business for themselves. This test has been used for years for unemployment insurance determinations in more than half of U.S. states, and states such as Massachusetts, New Jersey, and California have adopted it for many or most of their labor laws. Voters, legislators, and government administrators should resist efforts by corporations and industries to shrink worker access to labor rights by writing exemptions into the law. Learn more [here](#).

Support the ability of workers to unionize in order to promote worker economic security, health and safety, and agency and voice. At the federal level, establish a more expansive definition of employee to ensure that workers—particularly those often mislabeled as independent contractors in frontline sectors like construction, trucking, and homecare, as well as workers employed by online labor platforms like Uber—have access to organizing and bargaining rights. States should encourage companies they finance through subsidies, contracting relationships, and public pension fund investments to bargain with their employees, extend unemployment insurance to striking workers, ban the use of temporary help and staffing agency workers to break strikes, and extend collective bargaining protections to agricultural workers and other workers excluded from federal protections, such as domestic workers and independent contractors. Repeal right-to-work laws in effect in 27 states, which make it harder for workers to form strong labor unions. Learn more [here](#).