

FROM THE GROUND UP

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Focus on H-2A Guestworkers

Agencies Fail to Protect H-2A Workers

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Though the H-2A program provides immigrant farmworkers with a legal contract to work in the United States with some protections not afforded other workers, many of these guestworkers are not provided equal protection under the law. There are many instances in which government enforcement agencies have been derelict in their duties to protect these foreign guestworkers while in the U.S. Below are examples that have been noted in North Carolina.

When workers at L.C. Honeycutt's farm complained about pesticide violations, Honeycutt physically attacked Patricinio, one of the H-2A workers, in retaliation. While Mr. Honeycutt later pled guilty to criminal assault, his requests for foreign labor have continued to be fulfilled by the Federal Department of Labor (DOL). According to the DOL, loss of H-2A privileges occurs only if there is 'pattern and practice' of assault, and not a one-time physical attack.

Yet, in at least one instance, the U.S. DOL did not deny an employer's application for H-2A workers, even though DOL described the employer Evergreen Forestry Services' (EFS) as having "a woeful history of abuse" against workers. In 2002, fourteen EFS workers were killed in a van crash. Even though the U.S. DOL had acknowledged a 'pattern and practice' of poor behavior, they only issued vehicle safety violations, and continued to approve EFS's demands for H-2A workers.

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Guestworker History and H-2A Facts

compiled by Nadeen Bir, SAF

The Bracero Program, a guestworker program, was implemented in 1943 to deal with wartime labor shortages. At its peak between 1956 and 1959, roughly 450,000 Mexican farmworkers were brought to the U.S. yearly. The program ended in 1964. (*Federal News Service 1997 and the Farmworker Justice Fund*)

The H-2 program also began in 1943. Though not a government to government agreement like the Bracero Program, it contained similar statutory, regulatory and contractual labor protections for recruitment, wages, benefits, transportation, minimum-work guarantees, working and housing conditions. (*Farmworker Justice Fund*)

H-2 workers receive non-immigrant temporary visas to work for a specific period of time. H-2 workers are a captive workforce who have no freedom in changing employers and cannot advocate for themselves without facing the risk of losing their visas.

Revised in 1986, the H-2 program was divided into the H-2A agricultural program and the H-2B non-agricultural program. The number of workers issued H-2A visas doubled in the last six years to over 40,000 guestworkers. (*Farmworker Justice Fund*)

North Carolina is the single largest user of agricultural temporary foreign-born workers in the United States. From 1999 to 2003, approximately 10,000 Mexican H-2A workers have come to NC annually. (*North Carolina Justice and Community Development Center*)

According to the 2000 Department of Labor's National Agricultural Workers Survey, 25% of farmworkers are U.S. citizens, 24% are Legal Permanent Residents, and 52% are undocumented immigrants. Guestworker programs have been proposed as solutions to unlawful immigration.

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