

Southern Poverty Law Center report

# Slave labor conditions under US guestworker program

Barry Grey in Washington DC  
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The Southern Poverty Law Center (SPLC) held a press conference in Washington DC Monday to release a report documenting the brutal exploitation and abuse of foreign temporary workers under so-called “guestworker” programs run by the US Department of Labor.

The report, entitled “Close to Slavery: Guestworker Programs in the United States,” provides a wealth of detail of the appalling conditions faced by workers who come to the US as little more than indentured servants, legally bound to employers seeking immigrant workers they can cheat and terrorize with impunity. (The report can be accessed at the SPLC web site: [www.splcenter.org](http://www.splcenter.org)).

The report’s executive summary states, “Bound to a single employer and without access to legal resources, guestworkers are:

- \* routinely cheated out of wages;
- \* forced to mortgage their futures to obtain low-wage, temporary jobs;
- \* held virtually captive by employers or labor brokers who seize their documents;
- \* force to live in squalid conditions; and,
- \* denied medical benefits for on-the-job injuries.”

It continues: “Former Department of Labor official Lee G. Williams described the old ‘bracero’ program—the guestworker program that brought thousands of Mexican nationals to work in the United States during and after World War II—as a system of ‘legalized slavery.’ In practice, there is little difference between the bracero program and the current H-2 guestworker program.”

As the press conference and report made clear, the US government not only refuses to enforce the few regulations that exist to protect guestworkers, it works to maintain the system of super-exploitation, serving as a clearing house to provide companies with low-wage employees who have no legal means of defending themselves.

It is a measure of the immense decay of American democracy that such conditions can exist without any significant opposition from any section of the political or media establishment. Forty-seven years after Edward R. Murrow’s *Harvest of Shame* documentary about farm laborers in Florida shocked the conscience of the nation, contributing to the abolition of the “bracero” program, conditions as bad if not worse prevail under the current guestworker system.

The current guestworker system, known as H-2, was created in 1943 to allow the sugar cane industry to bring in temporary workers. It was revised by Congress in 1986 to include non-agricultural workers. The older, agricultural program is called H-2A, and the more recent non-agricultural offshoot is known as H-2B.

US Employers in 2005 imported over 121,000 temporary guestworkers: 32,000 H-2A workers for agricultural work, and 89,000 H-2B workers for forestry, seafood processing, landscaping, tourism, construction and other non-agricultural industries. The countries sending the most workers to the US under these programs were Mexico, Jamaica and Guatemala, with Mexico accounting for about 75 percent.

These programs are to be vastly expanded under the so-called “comprehensive immigration reform” proposals being advanced by the Bush administration with the support of the Democratic leadership in Congress. The McCain-Kennedy immigration bill brought before the Senate last year, co-sponsored by the dean of Democratic liberals, Edward Kennedy of Massachusetts, would establish an expanded program to supply US employers with temporary low-wage workers from around the world.

The SPLC’s report was timed to coincide with the upcoming congressional debate on immigration “reform” and argue against any such expansion of guestworker programs by exposing the reality of the existing system.

The report’s executive summary warns at the outset that “recent congressional proposals have included provisions that would bring potentially millions of new ‘guest’ workers to the United States.”

The main speaker at Monday’s press conference, Mary Bauer, the director of the SPLC’s Immigrant Justice Project and author of the report, began by saying immigration reform “should not rely on creating a vast new guestworker program. The current program is shamefully abusive in practice, and there is almost no enforcement of worker rights.”

The SPLC’s Immigrant Justice Project has filed seven lawsuits over the past two years against employers who underpaid guestworkers or otherwise abused them. One of the speakers at Monday’s press conference was Hugo Martin Recinos-Recinos, a former guestworker from Guatemala who was the lead plaintiff in a suit against a southern US forestry company.

Workers employed under US guestworker programs lack the

elementary right, Bauer said, to leave their employer and seek work with someone else. “The report exposes a system calculated to create systematic exploitation of workers.... The workers are in a kind of indentured servitude from which they cannot reasonably escape. The workers lack the ability to walk away...”

“They enter the country with a visa with the name of a particular employer, and that is the only employer for whom they have a legal right to work.”

This alone, Bauer explained, places the employer in a vastly superior position, since the worker’s legal right to remain in the US is contingent on his continuing to work for that one employer, no matter how badly the worker is underpaid or abused.

As the report documents, employers routinely use the threat of deportation to blackmail their guestworkers and keep them in line. The workers, the report states, “are bound to the employers who ‘import’ them. If guestworkers complain about abuses, they face deportation, blacklisting or other retaliation.”

This coercion is reinforced, Bauer noted, by the fact that most guestworkers are forced to borrow large sums to pay recruiters for US firms involved in the program. The workers’ crushing debt burdens make them all the more desperate to hang onto their jobs.

The H-2 visas are for individuals only and do not permit the guestworkers to bring their families to the US. As a result, the workers are separated from their wives and children for periods often lasting nearly a year.

Under federal law and Department of Labor regulations, there are certain legal protections for foreign farmworkers under the H-2A program. Employers are legally obliged to pay them prevailing wage rates and give them at least three-fourths of the total hours of work promised in their contract. The workers are also entitled to free housing in good condition, workers’ compensation benefits and lost-time payments for work-related injuries, reimbursement for travel costs, and access to federally funded legal services.

However, these rights exist almost entirely on paper. Employers routinely ignore the law and the federal government does virtually nothing to enforce it. The SPLC report notes: “The Government Accountability Office reported in 1997 that the DOL (Department of Labor) had never failed to approve an application to import H-2A workers because an employer had violated the legal rights of workers.”

For non-agricultural guestworkers in the H-2B program, Bauer explained, there are no protections, even on paper. “No labor regulations were ever promulgated by the DOL for this program at all,” she said. As a result, these workers—who comprise nearly 75 percent of all guestworkers—have no guarantee that they will receive at least three quarters of the work hours promised, nor do they have any right to free and clean housing, reimbursement for transportation costs, or legal services.

There is, Bauer said, a requirement that H-2B workers be paid the prevailing wage rate, but there are no means to enforce it. The Department of Labor contends that it does not have authority to enforce the prevailing wage provision, or any other aspect of H-2B workers’ contractual rights.

“Both programs are rife with abuses,” she said. “They start long before the worker gets to the US. Workers are forced to pay

enormous sums to obtain low-wage jobs in the US. Often \$2,500, and some pay much more. They almost always have to borrow money—at very high interest rates. They have to leave collateral, such as the deed to their home.”

She described the recruiters who supply guestworkers for US firms as “quasi-criminal armies” that extort money from workers and their families.

“Wage and hour violations are the norm, not the exception,” Bauer said. “Workers routinely receive less than they are supposed to. One of the most common complaints we receive from guestworkers is that their employers or supervisors have seized their identity documents.”

It’s a “commodity approach to human beings,” Bauer said. As the report notes: “Employers can even shop for guestworkers over the Internet at web sites such as [www.get-a-worker.com...](http://www.get-a-worker.com...)”

A number of suits filed in behalf of guestworkers involve companies that hired foreign temporary workers for cleanup and reconstruction projects in post-Katrina New Orleans.

Hugo Martin Recinos-Recinos spoke, through an interpreter, about his experiences working for Express Forestry under the H-2B program, and the class action civil suit he led against the company. He said he and his fellow workers were promised a wage of \$8 an hour. But instead they were paid on a piecework basis, and even though they worked from 6 a.m. to 7 p.m. six days a week, their paychecks said they had worked only 26 or 27 hours.

He described how a group of thugs came to his home in Guatemala and threatened to kill him if he did not drop the lawsuit. The SPLC report notes that a labor recruiter threatened to burn down his entire village.

“We don’t want this to happen again to the people who come after us,” the former guestworker said.

This reporter asked Bauer about the response of the Democrats in Congress to the issues being raised by the SPLC. She replied that the response of the Democratic Party was “mixed,” and added, “Very few people have seriously looked at these guestworker programs.”

Following the press conference I asked her whether the Labor Department’s policy of not enforcing guestworkers’ contractual rights had been introduced by the Bush administration. She replied that “non-enforcement” was also the policy under Clinton.



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