



FARMWORKER JUSTICE

Bracero Redux? - Discussions about a Bilateral Temporary Agricultural Worker Agreement between the United States and Mexico Raise Strong Concerns

Farmworker Justice is deeply concerned regarding recent reports of discussions between the governments of the United States and Mexico about a possible new bilateral agricultural guestworker program. Farmworkers - documented and undocumented, temporary “nonimmigrants” and U.S. citizens - perform the difficult and dangerous work of cultivating and harvesting the fruits, vegetables and other foods that help feed all of us. The quest for a new bilateral guestworker program arises in the context of a crisis in the U.S. agricultural labor system. At least half of agricultural workers are undocumented and they are increasingly fearful given the rise of anti-immigrant sentiment and rampant and indiscriminate immigration enforcement. The solution to this crisis must begin with recognition of the humanity of farmworkers through sensible immigration reform that includes a path to immigration status and citizenship for farmworkers and their families.

It is troubling that instead of seeking to stabilize the current labor force by treating farmworkers with the respect they deserve, the U.S. government is exploring options to create a new bilateral guestworker system. The history and legacy of the infamous Bracero program (1942-1964), which was the product of a U.S.-Mexico agreement to address alleged labor shortages in the U.S. during World War II, should cause great concern. The Bracero program became notorious for labor exploitation and racial discrimination. An understanding of the Bracero program is necessary because, as the saying goes, those who cannot remember the past are condemned to repeat it.

The Bracero program deserves its reputation for abusiveness toward Mexican citizens, but many are not aware that the U.S.-Mexico agreement and the accompanying law imposed substantial wage and labor protections in the work contracts. The guestworkers were entitled to the “prevailing wage,” free housing that met safety standards and was appropriate for the climate, workers’ compensation insurance, the opportunity for the worker to purchase non-occupational health insurance, free cross-border transportation in safe, insured vehicles, and a minimum-work guarantee. In fact, there were sincerely-made claims about the opportunities for Mexican workers and the benefits to both nations. The nature of the guestworker program, however, ensured that the workers were vulnerable and marginalized, and that however much they benefited from the opportunity and struggled for fair treatment, the program justly gained its reputation for discrimination and exploitation. It is therefore very troubling that, with minimal acknowledgement – or outright denial – of this past, there is discussion of a new bilateral agricultural guestworker program reminiscent of the Bracero program.

To the extent labor shortages exist in the U.S., agribusiness already has access to an unlimited number of temporary agricultural workers through the H-2A temporary foreign worker program. Despite agribusiness's aggressive campaign against the moderate worker protections in the H-2A program, the reality is that the H-2A program is serving employers' needs. In a time when the farm labor force is tightening, employers are increasingly turning to the H-2A program, and doing so successfully, to augment the workforce. The H-2A program has expanded rapidly in the past few years, reaching about 160,000 positions in FY 2016, and is expected to continue to expand rapidly. The vast majority of employer applications are approved in a timely manner and many employers return to the H-2A program year after year.

The H-2A program's protections, which originated during World War II, are rooted in the experiences of the larger Bracero program and lessons learned there. Unfortunately, because of the H-2A program's structural flaws and the economic differences between the United States and the sending countries, the H-2A program protections, like those in the Bracero program, have been inadequate to prevent widespread wage theft and other abuses. H-2A workers are tied to their employers and are dependent on them not just for their employment but also for their very presence in the U.S. Thus, H-2A workers are reluctant to challenge illegal employment practices or even speak with an attorney who might be able to help them. Many employers will take advantage of guestworkers as an exploitable, disposable labor supply that lacks economic bargaining power and political representation.

For too long, our agricultural labor system has relied on depriving workers of their voice and political power. Historically, agricultural workers have been excluded from important labor protections due to racial discrimination, as the agricultural labor force in the southern U.S. was mainly African-American when these protections were enacted. Discrimination in our immigration and labor laws has persisted, depriving farmworkers of fundamental human and democratic rights, including access to citizenship and basic workplace rights such as freedom of association. As long as agribusiness is ensured a limitless supply of workers -- be they undocumented or temporary "guestworkers" -- without access to a true immigration status and U.S. citizenship, farmworkers will face immense barriers to basic human rights and to improvements in labor rights and workplace conditions.

Against this backdrop, discussions regarding a new bilateral agricultural guestworker program are concerning, given the impact such a program would have on current and future farmworkers and rural communities. If agriculture and other sectors need additional labor from outside the U.S., such workers should be treated with respect for their contributions to our nation's success, and be granted the opportunity to be permanent members of our society and the communities they help build. The most important policy change to begin modernizing agricultural labor practices and treating farmworkers with the respect they deserve is immigration reform that grants undocumented farmworkers and their family members the opportunity to obtain immigration status and citizenship. America is a nation of immigrants, not guestworkers.