



# Freedom Network USA

## HUMAN TRAFFICKING AND FARMWORKERS

March 2013

Historically, our agricultural system<sup>1</sup> has relied on the labor of poor and disenfranchised people, many of whom have lacked full legal protections, including indentured and bonded laborers, slaves, sharecroppers, temporary workers, and undocumented migrants. Even U.S. citizen farmworkers can be vulnerable to exploitation due to poverty, limited legal protections, and a lack of knowledge about their legal rights.<sup>2</sup> The production of food is one of the most basic and critical services a worker can provide, yet agricultural workers are commonly mistreated and abused by labor recruiters, employers, and traffickers. This paper will explore the ways in which agricultural workers are vulnerable to trafficking and offer recommendations to better protect this population.

### **Who are the Farmworkers in the United States?**

According to the U.S. Department of Labor's (DOL) most recent National Agricultural Workers Survey,<sup>3</sup> 42 percent of farmworkers were migrant workers.<sup>4</sup> Seventy-two percent of all farmworkers in the United States were foreign-born.<sup>5</sup> Unauthorized and undocumented foreign-born workers have comprised roughly 50 percent of all farmworkers in the United States since 2001.<sup>6</sup> More than 78 percent of crop workers surveyed were male and 22 percent were female.<sup>7</sup> Seventy percent of the workers surveyed did not speak English "well," including 35 percent who did not speak English "at all."<sup>8</sup>

Immigration laws and policies often make foreign-national workers even more susceptible to human trafficking in the United States.<sup>9</sup> U.S. law provides all workers, even those who are undocumented, with basic labor rights,<sup>10</sup> but many of these do not extend to migrant and seasonal farmworkers.<sup>11</sup> For additional information about migrant and seasonal farmworkers, including those on temporary worker visas, please see the Freedom Network (USA)'s [Human Trafficking and H-2 Temporary Workers](#).

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<sup>1</sup> "Agriculture" refers here to both raising crops and livestock.

<sup>2</sup> For example, according to allegations in *United States v. Ronald Evans*, operating in Florida and North Carolina, Ronald Evans recruited homeless U.S. citizens from shelters across the Southeast, including New Orleans, Tampa, and Miami, with promises of good jobs and housing. At Florida and North Carolina labor camps, he and his family members deducted rent, food, crack cocaine, and alcohol from workers' pay, holding them "perpetually indebted" in servitude. No. 05-cr-159(S3)-J-32MMH, 2006 U.S. Dist. LEXIS 94368 (M.D. Fla. July 12, 2006). Also, in the case *United States v. Michael Lee*, where in Florida 2001, prosecutors alleged that Michael Lee used crack cocaine, threats, and violence to recruit homeless U.S. citizens for his orange growing and harvesting operation, creating a "company store" debt through loans for rent, food, cigarettes, and cocaine. He abducted and beat one of his workers to prevent him from leaving his employ. No. 09-14018-cr-Martinez-Lynch (S.D. Fla.).

<sup>3</sup> 2007-2009 U.S. Department of Labor's (DOL) National Agricultural Workers Survey.

<sup>4</sup> See NATIONAL CENTER FOR FARMWORKER HEALTH, INC., FARMWORKER HEALTH FACT SHEET: FACTS ABOUT FARMWORKERS (Aug. 2012), available at <http://www.ncfh.org/docs/fs-Facts%20about%20Farmworkers.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> The prevalence of trafficking of foreign-born agricultural workers is seen in number of recent human trafficking cases that have involved foreign born workers. See, e.g., *U.S. v. Garcia*, No. 02-CR-110S-01, 2003 U.S. Dist. LEXIS 22088, at \*21-22 (W.D.N.Y. Dec. 2, 2003); *EEOC v. Global Horizons*, 11-cv-03045-EFS (E.D. Wash. filed Apr. 19, 2011); see also *EEOC v. Global Horizons, Inc.*, 11-cv-00257-DAE-RLP (D. Haw. filed July 15, 2011); *Espejo Camayo v. John Peroulis & Sons Sheep, Inc.*, 10-cv-00772 (D. Colo. Apr. 6, 2010); *Velasquez Catalan v. Vermillion Ranch Ltd. P'ship*, No. 06-cv-01043 (D. Colo. filed June 1, 2006). See also Coalition of Immokalee Workers, CIW Anti-Slavery Campaign, <http://www.ciw-online.org/slavery.html> (last visited Feb. 21, 2013).

<sup>10</sup> See *id.* (Undocumented workers are entitled to the following basic rights: The right to protection against employer retaliation or threats; the right to minimum wage; the right to overtime pay if not otherwise exempt; the right to protection against discrimination and sexual harassment; the right to a healthy and safe work place, including education on hazardous materials and the right to free protective equipment for dangerous jobs; the right to join or organize a union; and the right to leave an abusive employment situation).

<sup>11</sup> North Carolina Farmworker Institute, Farmworkers and Immigration, <http://www.ncfarmworkers.org/2012/06/farmworkers-and-immigration/> (last visited Feb. 21, 2013).

Reliance on foreign-national farmworkers became institutionalized with the *Bracero* Program (1942-1962), an immigration-related farm labor policy that allowed agricultural growers to hire Mexican workers to make up for war-induced labor shortfalls. The H-2A program was created towards the end of the *Bracero* program to grant visas to certain foreign workers through U.S. employers.<sup>12, 13</sup> In order to qualify, agricultural employers must demonstrate that they cannot find enough willing and able U.S. workers. The program then binds the validity of the H-2A visa, and hence the worker, to the petitioning employer or association.<sup>14,15</sup> If workers leave their abusive workplaces, they consequently often find themselves facing undocumented status and deportation. In Fiscal Year 2011, 55,384 workers were issued H-2A visas, and 65,345 H-2A visas were issued the following period. Reports of forced labor are rising within the H-2A temporary worker program.<sup>16</sup> Thus, it is likely that many of the farmworkers who are trafficked are either undocumented or entered the country on H-2A (or on occasion, H-2B) visas.

### **Exploitative Nature of Agricultural Work**

Agricultural workers face high barriers to enforcing their rights and are particularly susceptible to human trafficking for the following reasons:

- 1) **Exclusionary federal and state laws for farmworkers:** Many federal and state laws have exemptions and exclusions for farmworker protection,<sup>17</sup> contributing to the susceptibility of farmworkers to trafficking. In most circumstances, farmworkers do not have the right to overtime pay or protections for their rights to unionize, organize, and collectively bargain with their employers.<sup>18</sup> These gaps in protection resulted from farmworkers' intentional exclusion from key federal labor laws, such as the National Labor Relations Act and the Fair Labor Standards Act (FLSA). FLSA also sets 12 as the minimum age for farm work, not 16 as in other jobs.<sup>19</sup> Herders in particular face additional risks to being trafficked. The DOL issued regulations and special procedures that provide specific guidelines exempting herders from many of the standards that exist for non-herding H-2A agricultural workers.<sup>20</sup> Furthermore, H-2A workers are specifically exempted from the Migrant and Seasonal Agricultural Worker Protection Act (AWPA), which would otherwise allow for enforcement of contract terms and agreements in federal court.<sup>21</sup>

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<sup>12</sup> SOUTHERN POVERTY LAW CENTER, CLOSE TO SLAVERY: GUESTWORKER PROGRAMS IN THE UNITED STATES 3-5 (2013 ed.), available at <http://cdna.splcenter.org/sites/default/files/downloads/publication/SPLC-Close-to-Slavery-2013.pdf>.

<sup>13</sup> U.S. Dep't of State, Multi-Year Graphs, available at [http://travel.state.gov/visa/statistics/graphs/graphs\\_4399.html](http://travel.state.gov/visa/statistics/graphs/graphs_4399.html) (last visited Feb. 21, 2013).

<sup>14</sup> MIGRANT FARM WORKER DIVISION OF COLORADO LEGAL SERVICES, OVERWORKED AND UNDERPAID: H-2A HERDERS IN COLORADO 8 (Jan. 4, 2010), available at <http://users.frii.com/cls/Overworked%20and%20Underpaid.pdf>.

<sup>15</sup> The H-2B visa program similarly binds the worker to the petitioning employer or association. See, Freedom Network, Human Trafficking and H-2 Temporary Workers (Sep. 2012) available at <http://freedomnetworkusa.org/wp-content/uploads/2012/09/FN-Factsheet-Temporary-Workers-H2-FINAL-9-19-12.pdf>.

<sup>16</sup> See, e.g., *EEOC v. Global Horizons*, 11-cv-03045-EFS (E.D. Wash. filed Apr. 19, 2011); see also *EEOC v. Global Horizons, Inc.*, 11-cv-00257-DAE-RLP (D. Haw. filed July 15, 2011).

<sup>17</sup> Fair Labor Standards Act, 29 U.S.C. § 201, et seq.

<sup>18</sup> National Labor Relations Act §2, 29 U.S.C. §§ 151-161.

<sup>19</sup> U.S. Dep't of Labor, Fair Labor Standards Act Advisor: Hours Restrictions, available at <http://www.dol.gov/elaws/esa/flsa/docs/hours.asp> (last visited Feb. 21, 2013).

<sup>20</sup> Memorandum from Wendy L. McConnell for Lenita Jacobs-Simmons, Deputy Assistant Sec'y on Special Procedures: Labor Certification for Sheepherders and Goatherders Under the H-2A Program to Reg'l Adm'rs (Aug. 1, 2001) (Field Mem. 24-01), available at [http://www.foreignlaborcert.doleta.gov/fm/fm\\_24-01.htm](http://www.foreignlaborcert.doleta.gov/fm/fm_24-01.htm); see also MIGRANT FARM WORKER DIVISION OF COLORADO LEGAL SERVICES, OVERWORKED AND UNDERPAID: H-2A HERDERS IN COLORADO 8 (Jan. 4, 2010), available at <http://users.frii.com/cls/Overworked%20and%20Underpaid.pdf> ("For example, ranchers can pay herders substantially lower wages and pay them less frequently, even though the herders are on-call 24 hours a day, seven days a week. Also, unlike other H-2A workers, herders can be housed in campers that do not have electricity, running water or toilets."); see also Jennifer J. Lee, *The Shepherd Project: Devising Systemic Change for Marginalized Workers*, CLEARINGHOUSE REV. 472, 475 (Mar.-Apr. 2012).

<sup>21</sup> FARMWORKER JUSTICE, NO WAY TO TREAT A GUEST: WHY THE H-2A AGRICULTURAL VISA PROGRAM FAILS U.S. AND FOREIGN WORKERS 25 (2011), available at <http://farmworkerjustice.org/sites/default/files/documents/7.2.a.6%20No%20Way%20To%20Treat%20A%20Guest%20H-2A%20Report.pdf>.

- 2) **Low wages, payment methods, and additional costs for workers:** Conditions of agricultural work are prone to exploitation, abuse, and thus vulnerability to trafficking. Employers often pay farmworkers in cash and at a piece rate, such as by-the-bin of produce they fill, increasing the difficulty in the amount of money that workers can earn.<sup>22</sup> Workers may be required to purchase clothing and supplies from a “company store” at inflated prices.<sup>23</sup> Migrant agricultural workers in the United States may incur large recruitment debts which could render their pay subject to unlawful deductions.<sup>24</sup> Compounded with the frequent lack of reimbursements for recruitment fees and travel costs, this deficiency in resources contributes to a worker’s vulnerability to debt bondage, peonage, and involuntary servitude.
- 3) **Isolation:** Many agricultural workers live and work in rural areas far away from potential networks providing support, assistance, and education about their rights, such as social and legal service providers, family, community networks, and unions.<sup>25</sup> Often these workers are isolated from populated areas, do not speak English, and cannot access public transportation. Finally, many workers are undocumented or have temporary immigration status, making them less likely to seek assistance with enforcing their rights and report illicit activities to authorities.<sup>26</sup>
- 4) **Hazardous conditions:** Agricultural work is consistently ranked as one of the most hazardous industries in the United States. Farmworkers also lack good access to medical care for work-related injuries. Constant exposure to heat and sun, use of hazardous machinery and tools, and exposure to agrochemicals and pesticides can lead to severe health problems.<sup>27</sup> Farmworkers frequently engage in very physical labor, including “stoop labor,” which is dangerous work activity including carrying large loads, climbing ladders, and riding on and working around heavy machinery, leading to high incident rates of musculoskeletal injuries. Other health risks stem from unsafe housing conditions, particularly overcrowding concerns,<sup>28</sup> contributing to the increase of sanitary issues, spread of infectious diseases such as tuberculosis, parasitic infections, and other problems.<sup>29</sup> Depression and substance abuse are increasingly common for migrant farmworkers.<sup>30</sup> Agricultural workers are often not provided with enough nourishment or given substandard food, resulting in low energy that can lead to other problems. Herders work with horses and are at further risk for accidents involving kicking, bucking, and falling.
- 5) **Fear of retaliation:** Employers often threaten workers with deportation if they complain or attempt to leave their abusive situations. Growers often make “no return lists” or “non-rehiring” a settlement condition for a labor dispute.<sup>31</sup> These consequences are often too great for farmworkers and their families, who rely on both growers and farm labor contractors for basic necessities, such as housing, transportation, access to health care, and in the case of temporary workers, legal status.

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<sup>22</sup> Sovereign Hager, *Farm Workers and Forced Labor: Why Including Agricultural Guest Workers in the Migrant and Seasonal Worker Protection Act Prevents Human Trafficking*, 38 SYRACUSE J. INT’L L. & COM. 173, 180 (2010); see also NATIONAL CENTER FOR FARMWORKER HEALTH, INC., FARMWORKER HEALTH FACT SHEET: FACTS ABOUT FARMWORKERS (Aug. 2012), available at <http://www.ncfh.org/docs/fs-Facts%20about%20Farmworkers.pdf>.

<sup>23</sup> See *United States v. Michael Lee*, No. 09-14018-cr-Martinez-Lynch (S.D. Fla.).

<sup>24</sup> SOUTHERN POVERTY LAW CENTER, 11, *supra* note 12.

<sup>25</sup> Hager, 183-84, *supra* note 22.

<sup>26</sup> *Id.*

<sup>27</sup> NATIONAL CENTER FOR FARMWORKER HEALTH, INC., OCCUPATIONAL HEALTH AND SAFETY (2009), available at <http://www.ncfh.org/docs/fs-Occ%20Health.pdf>.

<sup>28</sup> SOUTHERN POVERTY LAW CENTER, CLOSE TO SLAVERY: GUESTWORKER PROGRAMS IN THE UNITED STATES 37-39 (2013 ed.), available at <http://cdna.splcenter.org/sites/default/files/downloads/publication/SPLC-Close-to-Slavery-2013.pdf>.

<sup>29</sup> *EEOC v. Global Horizons*, 11-cv-03045-EFS (E.D. Wash. filed Apr. 19, 2011); see also *EEOC v. Global Horizons, Inc.*, 11-cv-00257-DAE-RLP (D. Haw. filed July 15, 2011).; NATIONAL CENTER FOR FARMWORKER HEALTH, INC., FARMWORKER HEALTH FACT SHEET: FACTS ABOUT FARMWORKERS (Aug. 2012), available at <http://www.ncfh.org/docs/fs-Facts%20about%20Farmworkers.pdf>.

<sup>30</sup> NATIONAL CENTER FOR FARMWORKER HEALTH, INC., FARMWORKER HEALTH FACT SHEET: FACTS ABOUT FARMWORKERS (Aug. 2012), available at <http://www.ncfh.org/docs/fs-Facts%20about%20Farmworkers.pdf>.

<sup>31</sup> Hager, 184, *supra* note 22.

## **Examples of Trafficking of Farmworkers**

With all of the vulnerabilities that farmworkers face, many farmworkers are at a high risk of being trafficked and subjected to forced labor, involuntary servitude, slavery, debt bondage, and peonage. The following case examples from Freedom Network members highlight the trafficking of farmworkers:

- **Violent Abuse and Forced Confinement for Forced Labor.** Many trafficking cases involving farmworkers have involved violence, abuse, threats, other forms of retaliation, as well as confinement and imprisonment, as demonstrated in the cases *United States v. Flores*<sup>32</sup> (workers assaulted, pistol-whipped, shot, and watched by armed guards as they harvest vegetables and citrus), *United States v. Cuello*<sup>33</sup> (more than 30 tomato pickers held in trailers in Florida, with one worker run down by a car), *United States v. Ramos*<sup>34</sup> (threats of death and threats with firearms for over 700 farmworkers in citrus groves of Florida), and *United States v. Navarrete*<sup>35</sup> (tomato pickers in Florida and South Carolina subject to beating, threats, restraint, confinement in trucks, and forced into debt).
- **Retaliation for Seeking Better Paying Jobs.** In 2010, three undocumented men were following the watermelon harvest from Florida to Delaware. Progressively moving north, they harvested the ripening watermelons. In Georgia, they joined a watermelon crew that paid on a piece rate basis, rather than by the hour or a flat sum of money, resulting in little pay. One evening after work, the three men told their crew leader that they were leaving to work for another crew that paid better wages. The crew leader told them that they could not leave, saying that they owed him money. The men said that they would pay him anything they owed him, but they were going. Later that night, eight to ten members of the crew leader's family showed up at the door of the men's hotel room, surrounded them, and attacked the three men. When the police showed up, the crew leader's family, who spoke English, said that the three victims started the fight, and the police arrested the victims. In another case,<sup>36</sup> Million Express Manpower recruited Thai workers for agricultural jobs paying U.S. wages in exchange for recruitment fees of \$11,250 each. However, instead of receiving steady work and decent treatment, the workers did not receive food, only received sporadic work that kept them from paying off their debts, and faced threats that kept them from leaving. Eventually they were able to escape and obtain a judgment against their traffickers.
- **Sexual Assault.** From 2000-2001, a woman went to eastern Washington to stay with friends while her asylum case was pending. She was kidnapped by a man who repeatedly raped her, threatened her with a gun, locked her in a trailer, and forced her to work in the fields harvesting fruit and pruning trees. He stood beside her, forbade her from talking to anyone in the fields, and collected her pay. Later when she was eventually able to escape and report her case to law enforcement, it was discovered that he had carried out similar schemes with a 16-year-old girl prior to her kidnapping and a 14-year-old girl subsequent to her escape.

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<sup>32</sup> Press Release, U.S. Dep't of Justice, Miguel Flores and Associate Sentenced to 15 Years for Enslaving Migrant Workers (Nov. 14, 1997), available at <http://www.justice.gov/opa/pr/1997/November97/482cr.htm.html>. See *United States v. Miguel Flores*, No. 98-4178, 1999 U.S. App. LEXIS 28082 (4th Cir. Sep. 29, 1999).

<sup>33</sup> U.S. DEP'T OF JUSTICE, REPORT ON ACTIVITIES TO COMBATING HUMAN TRAFFICKING: FISCAL YEARS 2001-2005 43 (2006) (describing *United States v. Cuello*); see also J.A. Buchholz, *Museum Shows Atrocities Farm Workers Face*, FLORIDA UNITED METHODIST NEWS SERVICE (Apr. 23, 2010), available at <http://www.flumc.info/cgi-script/csArticles/articles/000063/006391.htm>.

<sup>34</sup> U.S. DEP'T OF STATE, ASSESSMENT OF U.S GOVERNMENT ACTIVITIES TO COMBAT TRAFFICKING PERSONS 32 (June 2004), available at [http://www.justice.gov/archive/ag/annualreports/tr2004/us\\_assessment\\_2004.pdf](http://www.justice.gov/archive/ag/annualreports/tr2004/us_assessment_2004.pdf). See *United States v. Ramiro Ramos*, No. 04-12923, 2005 U.S. Dist. LEXIS 7927 (11th Cir. May 5, 2005).

<sup>35</sup> Press Release, U.S. Dep't of Justice, Four Defendants Sentenced for Roles in Scheme to Enslave Farmworkers in Florida, (Dec.19, 2008), available at <http://www.justice.gov/opa/pr/2008/December/08-crt-1134.html>. See *United States v. Cesar Navarrete*, No. 09-10182, 2009 U.S. App. LEXIS 20609 (11th Cir. Sep. 16, 2009).

<sup>36</sup> See *Asanok, et al. v. Million Express Manpower, et al.*, No. 07-cv-00048-BO (E.D.N.C. filed Feb. 12, 2007).

- **Denied Medical Attention.** In 1999, a man kidnapped a Guatemalan woman, smuggled her into the United States, and forced her to perform agricultural labor and domestic work in his Florida home and subjected her to sexual assault. While the man had the woman in his custody, he denied medical attention to her and her newborn baby, and the baby subsequently died. Law enforcement authorities and advocates were able to help her after local authorities responded to a domestic violence call.<sup>37</sup>
- **Smuggling Debts and Peonage.** In 2011, a 15-year-old boy left Mexico to financially support his struggling family. In his village, he met a smuggler who agreed to help him cross the border for \$5,000. Upon entry into the United States, the coyote immediately sent the boy to work on a farm in Texas and dictated the terms and ways he was to earn money to pay off the coyote. The coyote later moved the young man to Northern California and forced him to work on a broccoli farm. He threatened the young man to leave the farm and instructed him that he had to work there in order to pay what became a \$6,000 debt. The young man eventually developed a parasitic infection in his leg and was eventually sent to a hospital where he was able to report his account to social workers.
- **Debt Bondage and Unsafe Living and Working Conditions for Trafficking Survivors.** The U.S. Department of Justice filed charges in September 2010<sup>38</sup> and the U.S. Equal Employment Opportunity Commission (EEOC) filed actions in April 2011, against Global Horizons Inc., a Beverly Hills-based farm labor contractor, and eight farms. Global Horizons allegedly trafficked more than 200 Thai male victims to largely pineapple and apple farms in Hawaii and Washington between 2003 and 2007. According to the charges, Global Horizons fraudulently enticed Thai nationals into working at the farms with false promises of steady, high-paying agricultural jobs along with temporary visas that would allow them to live and work in the United States. This resulted in high recruitment fees, creating an overwhelming debt for the workers. When they reached the United States, Global Horizons confiscated the workers' passports, placed them in unsanitary and inhospitable living and working conditions, and threatened deportation if they complained.<sup>39</sup> In another case, *United States v. Bontemps*, the employers were charged with holding over 50 H-2A farmworkers from Haiti against their will to work in the pea and bean fields of Florida. The workers incurred large debts while making little pay. The employers also held their passports and visas, forcing them to work in fields recently sprayed with harsh pesticides, causing permanent scarring.<sup>40</sup>

## **Recommendations**

- 1) **Utilize a victim-centered, rights-based approach to identify and understand how temporary workers are trafficked and abused.** Although not all abused or exploited farmworkers are trafficked, they should be appropriately screened and identified as potential trafficking survivors.
- 2) **Permit farmworkers with H-2A visas to change employers.** Giving temporary workers portability among employers will reduce the opportunity for employers to exploit and take advantage of them.
- 3) **Create a path to permanent residency for farmworkers with H-2A visas.** Temporary work visas currently only allow workers to contribute to the U.S. labor market without offering them entry into the community as legal permanent residents or citizens. Congress should also pass the Agricultural Jobs, Opportunities, Benefits, and Security Act (AgJOBS), which would allow currently unauthorized farmworkers to earn legal immigration status by continuing to work in U.S. agriculture, make balanced changes to the H-2A program, and provide U.S. growers with a stable, productive, and healthy farm labor force.

<sup>37</sup> See Brief of Appellee at 2-3, *United States v. Jose Tecum*, No. 01-10822-JJ (11th Cir. May 24, 2002), available at <http://www.justice.gov/crt/about/app/briefs/tecum.pdf>.

<sup>38</sup> See *EEOC v. Global Horizons*, 11-cv-03045-EFS (E.D. Wash. filed Apr. 19, 2011); see also *EEOC v. Global Horizons, Inc.*, 11-cv-00257-DAE-RLP (D. Haw. filed July 15, 2011).

<sup>39</sup> Press Release, U.S. Dep't of Justice, Six People Charged in Human Trafficking Conspiracy for Exploiting 400 Thai Farm Workers (Sept. 2, 2010), available at <http://www.justice.gov/opa/pr/2010/September/10-crt-999.html>; Press Release, U.S. Equal Employment Opportunity Commission, EEOC Files its Largest Farm Worker Human Trafficking Suit Against Global Horizons, Farms (Apr. 20, 2011), available at <http://www.eeoc.gov/eeoc/newsroom/release/4-20-11b.cfm>.

<sup>40</sup> Press Release, U.S. Dep't of Justice, Three Indicted in Alleged Conspiracy Involving the Trafficking of Haitian Nationals (July 6, 2010), available at <http://www.justice.gov/opa/pr/2010/July/10-crt-778.html>.

- 4) **Remove exceptions and carve-outs to the law that make farmworkers vulnerable to trafficking.** Migrant workers still lack consistent basic labor rights. Chief among them is the right to collectively bargain and unionize. Without the ability to organize and internally advocate for their labor rights, it will be difficult for agricultural workers to empower themselves.<sup>41</sup> For example, Congress should end the unfair exclusion of H-2A workers from AWPAs. This would provide H-2A workers with further protections, such as a federal private right of action to enforce their job terms, disclosure of job terms at the time of recruitment, and safe transportation vehicles.
- 5) **Create oversight by an enforcement agency administering a single set of workplace protections.** Bring the fractured temporary visa programs into a single system with consistent regulations and oversight by an agency with workplace enforcement powers, such as the DOL. Currently, temporary visas are administered by various federal agencies in an incoherent disarray of differing rules. Creating a consistent approach to temporary work visas would improve transparency and equalize access to workplace protections.<sup>42</sup> Agricultural employers should be monitored, especially those that primarily utilize migrant workers as their chief source of labor and have been subject to complaints and investigations for worker abuses in the past. The DOL's Occupational Safety & Health Administration should ensure that H-2A workers are provided with safe housing, as required by the H-2A program, as many farmworkers that are trafficked are also subject to terrible overcrowding and inhumane housing conditions.
- 6) **Advocate for transparency and responsibility in the supply chain to ensure trafficking-free and slavery-free food sources.** Beyond legislative changes, pressure should be placed on both corporations and consumers to be conscious and responsible for the sourcing of trafficking-free food. For example, in response to the many trafficking cases in Florida and nearby states, Freedom Network member Coalition of Immokalee Workers (CIW) organized workers to boycott Taco Bell in 2001 to ensure the company purchased tomatoes from growers that paid their workers a fair wage. In 2005, Taco Bell agreed to many of CIW's demands, and the Alliance for Fair Food was formed. As of January 2013, 11 large corporations<sup>43</sup> and nearly all of the members of the Florida Tomato Growers Exchange – representing over 90 percent of the industry – have agreed to pay a premium price for more fairly produced tomatoes and to shift their Florida tomato purchases to growers who comply with the Fair Food Code of Conduct.<sup>44</sup>
- 7) **Eliminate fees charged by labor recruiters.** Foreign labor contractors, or employees of foreign labor contractors, should be prohibited from assessing any fee (including visa fees, processing fees, transportation fees, legal expenses, placement fees, and other costs) to a worker for any foreign labor contracting activity.

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<sup>41</sup> “Though California’s Agricultural Labor Relations Act grants farmworkers the right to join a union and mechanisms to engage in collective bargaining, farmworkers in most other states do not have the right to unionize, and agricultural workers are excluded from the National Labor Relations Act, leaving them vulnerable to being fired for simply joining a union.” FARMWORKER JUSTICE, NO WAY TO TREAT A GUEST: WHY THE H-2A AGRICULTURAL VISA PROGRAM FAILS U.S. AND FOREIGN WORKERS 31 (2011), *available at* <http://farmworkerjustice.org/sites/default/files/documents/7.2.a.6%20No%20Way%20To%20Treat%20A%20Guest%20H-2A%20Report.pdf>.

<sup>42</sup> See ASHWINI SUKTHANKAR, GLOBAL WORKERS JUSTICE ALLIANCE, VISAS, INC.: CORPORATE CONTROL AND POLICY INCOHERENCE IN THE U.S. TEMPORARY FOREIGN LABOR SYSTEM (2012), *available at* [http://www.globalworkers.org/sites/default/files/visas\\_inc/index.html](http://www.globalworkers.org/sites/default/files/visas_inc/index.html) (detailing suggestions about creating a consistent program for temporary visas).

<sup>43</sup> Yum Brands (2005), McDonald’s (2007), Burger King (2008), Subway (2008), Whole Foods Market (2008), Bon Appetit Management Company (2009), Compass Group (2009), Aramark (2010), Sodexo (2010), Trader Joe’s (2012), and Chipotle (2012)

<sup>44</sup> Coalition of Immokalee Workers, About CIW, <http://www.ciw-online.org/about.html#cff> (last visited Feb. 21, 2013).