

# Guest workers on US farms are in the eye of the coronavirus storm

Wednesday 3 June 2020, by [BACON David](#) (Date first published: 28 May 2020).

**In April, President Donald Trump [announced in a tweet](#) that, while stopping almost all kinds of legal immigration for at least two months, he was placing no limits on the continued recruitment of H-2A temporary migrant farm worker by growers. Trump claimed the escalating [COVID-19 pandemic](#) made his order necessary but cited no evidence to show that a ban covering all forms of family-based migration would stop the spread of the virus, while leaving employer-based migration unchanged would not.**

Agriculture Secretary Sonny Perdue explained, in [a January speech](#) to the American Farm Bureau Federation, the apparent schizophrenia. He wants Trump “to separate immigration, which is people wanting to become citizens, [from] a temporary, legal guest-worker program. That’s what agriculture needs, and that’s what we want. It doesn’t offend people who are anti-immigrant because they don’t want more immigrant citizens here. We need people who can help US agriculture meet the production.”

This promise is more than election-year politics. It is a big step towards a captive workforce in agriculture, based on a programme notorious for the abuse of the workers in it, and for placing them into low-wage competition with farm workers already living in the United States.

It is a step into the past. Family preference migration, in which immigrants can get residence visas (green cards) based on their family relationships, was won by the civil rights movement. Labour organisers Bert Corona, [César Chávez](#) and others convinced Congress to end the so-called ‘[bracero program](#)’, which brought millions of Mexican guest workers to the US, in 1965. They won an immigration policy based on family unification, instead of one based on the need of farm owners for a low-wage labour supply.

Trump has now suspended the family preference system. Whether it will be reinstated at some point is anyone’s guess. And the H-2A program, which is growing rapidly, is a direct descendent of the old ‘bracero’ regime.

Although growers have claimed the coronavirus has created a labour shortage making the H-2A programme vital, the scheme had begun to mushroom long before the pandemic hit. In 2019, the US Department of Labor gave agribusiness permission to fill 257,667 jobs with workers brought almost entirely from Mexico, with H-2A visas. That amounted to 10 per cent of all the jobs in US agriculture.

The programme has grown rapidly as H-2A workers take a larger and larger share of the jobs in farm labour. It is now five times bigger than the 48,336 jobs certified under George Bush Jr in 2005. In some states, H-2A certifications now make up more than 10 per cent of farm worker jobs. In Georgia, growers fill a quarter of all farm labour jobs with H-2A workers.

**The downside to H-2A**

H-2A workers are given contracts for less than one year, they can only work for the company that contracts them, and they must leave the country at the end of the contract. If they protest abusive conditions they can be fired and deported. And because they must reapply to come back for the following season, they are uniquely vulnerable to blacklisting.

Investigators from the *Centro de los Derechos de Migrante* (CDM, or the Migrant Rights Center), reported in an April study, [Ripe for Reform](#), that “many believed that they would not be allowed to return to work in the US at all if they did not complete a contract, regardless of the reason”.

One large recruiter, CSI, brings more than 20,000 workers to the US every year. In documents seen by *Equal Times*, it has workers sign a pledge that authorises a blacklist : “The boss has the right to fire me and I... will have to go back to Mexico, and the boss will report me to the authorities. This will obviously affect my ability to return legally to the United States in the future.”

“The vast majority of workers start their H-2A jobs deeply in debt,” the CDM reports, with some paying bribes of as much as US\$4,500 in order to secure a job, despite legal prohibitions on such ‘fees’. They are often housed in barracks on the grower’s property, miles from the nearest town, surrounded by barbed wire fences. “Some workers stated that they needed permission to leave the housing. Others indicated they were prohibited from leaving other than to buy groceries,” the CDM study found.

One worker, Mario, said he was charged US\$1000 a month for a bunk bed in a barrack with 30-40 other workers. When some workers tried to leave the boss illegally took their passports. “They didn’t want us to leave or go anywhere,” Mario said.

All interviewees in the CDM report suffered violations of basic labour laws, including minimum wages and breaks. Eighty-six per cent reported that companies would not hire women, or paid them less when they did. Half complained of bad housing, and a third said they were not provided needed safety equipment. Forty three percent were not paid the wages promised in their contracts.

“Fraud and misrepresentation about wages were very common,” according to the CDM. One worker reported getting paid US\$1.25 per hour after illegal kickbacks. Another got US\$400 for a seven-day week, working 11 hours a day. Underpayment over the lifetime of his contract was US\$11,000. Multiplied by the dozens of workers in an average crew picking fruit or harvesting vegetables gives an idea of the illegal profits available to employers who seemingly have little fear of consequences.

That lack of fear is understandable given the virtual absence of enforcement. In 2019, out of 11,472 employers using the H-2A programme, the Department of Labor only filed cases against 431 (3.73 per cent), and of them only 26 (0.25 per cent) were barred from recruiting for three years, with an average fine of US\$109,098.

After one H-2A worker, Honesto Silva, collapsed in a field in Washington State three years ago, and later died, 70 of his co-workers refused to go into the fields. The company, Sarbanand Farms, fired them, and threw them out of the labour camp. Because H-2A regulations require workers to leave the country if they are terminated, firing effectively meant deporting them.

Washington State’s new union for farm workers, *Familias Unidas por la Justicia* (Families United for Justice), supported that protest and others by H-2A workers – in 2018 at Crystal View farm and in 2019 at the King Fuji apple ranch. According to Edgar Franks, organiser for *Familias Unidas*, most of the workers who participated in the Crystal View and King Fuji strikes were not working for the company in the following season.

**Favours for growers, COVID for workers**

Since his election, President Trump has continually tried to make the H-2A programme more accessible and profitable for farm owners. The government dropped a restriction to allow growers to recruit only workers who had been recruited in the past. Then it suspended a regulation barring growers from keeping workers in the US beyond the end of their old contracts.

Another rule change relaxed the requirement that companies first advertise jobs to local residents before applying for H-2A workers. For employers, anxious to keep labour costs as low as possible, the most important promise was to cut the wages growers must pay H-2A workers, the Adverse Effect Wage Rate. Set high enough, in theory, not to undermine the prevailing wages of local farm workers, it actually puts a ceiling on them. If local workers demand wage increases growers can hire H-2A workers instead.

Low wages put enormous pressure on all farm workers to go to work, even during the coronavirus crisis. Farm worker families are among the poorest in the US, with an average annual income of between US\$15,000 and US\$17,500 – below the official poverty line of [US\\$22,050](#). Increasing that pressure during the COVID-19 crisis is the fact that half of the country's 2.5 million farm workers – those without legal status – were written out of all the relief programmes passed by Congress. The quarter of a million H-2A workers currently in the US were written out of the relief bills as well.

The coronavirus crisis adds additional risk to inequality. Like everyone else, H-2A workers must try to maintain the recommended distance of six feet between people in housing, transportation and working conditions. But the CDM says this is “impossible under conditions H-2A workers typically experience in the United States”.

There is no testing for them as they enter the country nor while they are working in the US. Additionally, employers are not required to provide health insurance to H-2A workers. If they stop working because they get sick, the conditions of their visa require them to leave the country. Once in Mexico they then have to find medical care, while their families and communities face the danger of infection.

As Congress began discussing bailout and relief packages, however, unions and community organisations began drafting proposals and demands. Thirty-six groups [signed a letter](#) drafted by the Washington DC advocates Farmworker Justice, calling for more protections for H-2A workers. Recommendations included safe housing with quarantining facilities, safe transportation, testing of workers before entering the US, social distancing measures at work, and paid treatment for those who get sick. In Washington State, Columbia Legal Services filed a suit, together with the United Farm Workers, *Familias Unidas por la Justicia* and farm worker organising project Community2Community, to force the state to set health standards for H-2A workers.

The changes to the H-2A program by the administration will not likely revert to their pre-pandemic state, however. And H-2A regulations were clearly ineffective in protecting workers before the crisis. Fourteen years ago conditions of H-2A workers were described in a report by the Southern Poverty Law Center, [Close to Slavery](#). CDM counsel Mary Bauer, who authored that report, told *Equal Times* : “I haven't seen any significant improvement in 30 years. Abuse is baked into a structure in which workers are vulnerable, and where there's always a new supply of workers to replace the old, the sick or those who complain and protest. A programme that gives workers virtually no bargaining power creates a perfect storm of vulnerability in the context of this pandemic.”

The CDM report makes the same point. “The problem with protecting workers merely by promulgating regulations,” it emphasises, “is that regulations cannot overcome the profound power imbalance between employer and worker under the H-2A program.” This statement could have easily described the old ‘bracero’ programme. In the 1960s the Chicano civil rights movement

campaigned not to regulate guest worker programs, but to abolish them. Activists fought for an immigration system based on family unification instead. That is the change President Trump now wants to [reverse with a tweet](#).

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