

**GUEST WORKERS' WORKING CONDITIONS IN
U.S. FARMING: THE EXAMPLE OF FARM
WORKERS FROM TAMAULIPAS***

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ABSTRACT

This article examines the working conditions of guest workers from Tamaulipas in U.S. agriculture, analyzes the participation of foreign temporary workers in unions, and describes the workplace risks suffered by these workers. In Tamaulipas, a state situated in the northeast of Mexico where problems of unemployment and underemployment have increased because of decreasing job opportunities in the farming sector, rural workers are eager to migrate to the United States as agricultural guest workers. However, farm work operates on the bottom rung of the job ladder, and seasonal guest workers are subject to severe exploitation. Tamaulipas's guest workers are isolated on remote farms, they are indentured to a single employer, they suffer from unsafe working conditions and underpayment, and they are generally powerless to complain of violations of their rights because they depend on the good will of their employers for future employment.

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INTRODUCTION

The U.S. H-2A Guest Worker Program, authorized by the Immigration Reform and Control Act (IRCA) of 1986, establishes a means for agricultural employers to bring nonimmigrant foreign workers to the United States. There are two general requirements for employers to obtain workers on H-2A visas. First, the employer must demonstrate that there is an inadequate supply of domestic labor at a specific time and place. Second, the employer must show that the use of foreign workers will not create an adverse effect on the wages of similarly employed U.S. workers. However, many problems with the program exist because of lax oversight and weak worker protections. The administrative mechanisms for determining if there are available domestic workers being unworkable (Read, 2006).

H-2A workers come to the United States openly and legally; they are permitted to work, but they do not enjoy the same protections as legal permanent residents: they are not eligible for government-funded benefits¹ (Chang, 2009) and are excluded from the Migrant and Seasonal Agricultural Workers' Protection Act (Hill, 2008). According to Wasem (2010), temporary legal residents pose a particular problem "because they are permitted to work and have likely paid into the system that finances a particular benefit, such as social security or a tax refund, for which they may not be eligible." A Mexican worker may receive U.S. Social Security benefits (Social Security provides cash benefits to retired and disabled workers) outside the United States if he worked in a Social Security-covered job for a specific period of time: a minimum of 10 years (Nuschler & Siskin, 2005). However, foreign agricultural workers temporarily admitted into the United States on H-2A visas do not work in Social Security-covered employment.

Their legal status does not guarantee fair treatment, because there is an imbalance of power between workers and employers. Nonimmigrants on temporary visas are bound to the employers who "import" them, and they have no ability to change jobs if they are mistreated. They are dependent on their employers for their ability to stay in the country and their opportunity to obtain a visa in the following year; as a result, they are too vulnerable to ask for better wages or working conditions. If the work situation is abusive or not what was promised, the worker has little or no recourse other than to go home. As Read (2006) pointed out, the central flaw from a workers' rights point of view is that employers control the right of guest workers to lawfully enter the country.

In Tamaulipas, a state situated in the northeast of Mexico, the H-2A Temporary Visa Program constitutes an important means of support for the rural economy. This program constitutes the most appealing way to migrate to the United States. Unauthorized workers have to pay up to \$3,000 to cross the border,

¹ Guest workers are eligible for Workers' Compensation benefits, but this is a state-by-state scheme, with varying rules, and frequently they are deprived of this benefit.

receive lower pay, have to hide from the immigration authorities, and run the risk of being deported; by contrast, seasonal guest workers are entitled to free housing, workers' compensation or equivalent insurance, and travel reimbursements, and if they last the season they are guaranteed pay for at least three-quarters of the hours promised by their contracts.

Tamaulipas's rural workers' demands are very low: for them, being employed is enough. Tamaulipas's proximity to the southeastern part of the United States (the area that demands the majority of the guest workers involved in the farming sector) reduces transportation costs. Moreover, the experience of Tamaulipas's farm workers in very demanding activities, like orange picking and sugar cane harvesting, increases their attractiveness. As a result, Tamaulipas constitutes an important area for recruiting H-2A workers.

This article examines the working conditions of foreign temporary workers in U.S. agriculture. First, we explain the methodology of the study. Second, we analyze the lack of job opportunities in Tamaulipas and the desire of rural workers to migrate to the United States through the H-2A Guest Worker Program. Next, we examine workplace abuse and violations of wage laws in U.S. farming. After that we describe workplace risks suffered by Tamaulipas's H-2A workers and study the causes of the limited participation of guest workers in unions.

METHODOLOGY OF THE STUDY

The research, conducted from March 2007 to October 2008, is based on in-depth interviews. The interview guide, based on open-ended questions, focused on farm workers lived experiences as they were represented in thoughts, ideas, feelings, attitudes, and perceptions. The interviews were tape-recorded and type-written. Fifty agricultural workers, who participated one or more times in the H-2A Guest Worker Program, were interviewed in 30 rural communities forming part of nine municipalities of Tamaulipas: Abasolo, Guemez, Hidalgo, Jaumave, Llera, Padilla, San Carlos, Tula, and Victoria (see Table 1).

Information-rich cases were selected nonrandomly, and a snowball sampling technique was used to generate the sample, as informants were asked to introduce us to farm workers they knew who could fit into the sampling strategy. In the center of Tamaulipas (Guemez, Hidalgo, Padilla, Llera, and Victoria), an area characterized by the strong presence of farm workers with experience in orange picking, 35 interviews were conducted. Six farm workers were interviewed in the south-west of Tamaulipas (Jaumave and Tula), the poorest area of this state. Finally, six farm laborers were interviewed in the north-east (Abasolo) and three were interviewed in the northwest (San Carlos), an area that has suffered a process of depopulation as a result of migration prompted by the lack of profitability of traditional crops: corn, beans and sorghum. On the other hand, because less than 3% of Tamaulipas's farm workers employed with H-2A visas are women, the sample included only male workers.

Table 1. Interviews Quoted in the Text

Aberlardo	39-year-old H-2A worker from Tanque Blanco (Tula, Tamaulipas), who worked in North Carolina in 1992 and 1993.
Ambrosio	34-year-old H-2A worker from Servando Canales (Guémez, Tamaulipas), who worked in Ohio in 2006 and in Washington State in 2008.
Arturo	32-year-old H-2A worker from Santa Engracia (Hidalgo, Tamaulipas), who worked in Virginia in 2002.
Aurelio	38-year-old H-2A worker from Miraflores (Guémez, Tamaulipas) who worked in Missouri and Alabama in 2007 and 2008.
Basilio	38-year-old H-2A worker from Guillermo Zúñiga (Hidalgo, Tamaulipas), who worked in North Carolina and Tennessee from 1996 to 2008.
Bruno	46-year-old H-2A worker from Emiliano Zapata (Hidalgo, Tamaulipas), who worked in North Carolina from 1991 to 2006.
Carlos	24-year-old worker from Abasolo (Tamaulipas), who worked in Illinois in 2004.
David	38-year-old H-2A worker from Santa Engracia (Hidalgo, Tamaulipas), who worked in North Carolina from 2003 to 2007.
Eduardo	35-year-old H-2A worker from Guillermo Zúñiga (Hidalgo, Tamaulipas), who worked in North Carolina from 1999 to 2008.
Felipe	28-year-old H-2A worker from Santa Engracia (Hidalgo, Tamaulipas), who worked in Illinois from 2005 to 2007.
Gustavo	40-year-old H-2A worker from Nuevo Dolores (Abasolo, Tamaulipas), who worked in Texas in 2000.
Hilario	40-year-old H-2A worker from Guadalupe Victoria (Hidalgo, Tamaulipas), who worked in Arkansas from 2000 to 2008.
Ignacio	28-year-old H-2A worker from La Soledad (Padilla, Tamaulipas), who worked in North Carolina in 2007.
Jaime	46-year-old H-2A worker from Tanque Blanco (Tula, Tamaulipas), who worked in North Carolina from 1995 to 2005.
Lorenzo	39-year-old H-2A worker from Alfonso Terrones Benítez (Tula, Tamaulipas), who worked in North Carolina from 1998 to 2007.

Table 1. (Cont'd.)

Lucio	37-year-old H-2A worker from Santa Ana (Victoria, Tamaulipas), who worked in Florida from 2004 to 2008.
Manuel	33-year-old H-2A worker from Vicente Guerrero (Victoria, Tamaulipas), who worked in Virginia from 2000 to 2008.
Mariano	39-year-old H-2A worker from Tanque Blanco (Tula, Tamaulipas), who worked in North Carolina in 1998.
Natalio	48-year-old H-2A worker from Servando Canales (Guémez, Tamaulipas), who worked in Washington in 2008.
Nicanor	53-year-old H-2A worker from Vicente Guerrero (Victoria, Tamaulipas), who worked in North Carolina from 1998 to 2006.
Oliver	27-year-old H-2A worker from Union Morales (San Carlos, Tamaulipas), who worked in Florida, Texas, and Louisiana from 2002 to 2008.
Orencio	40-year-old worker from Guadalupe Victoria (Hidalgo, Tamaulipas), who worked in Arkansas from 2000 to 2008.
Pascual	34-year-old H-2A worker from Rancho Nuevo (Victoria, Tamaulipas), who worked in Arkansas in 2003.
Prudencio	45-year-old H-2A worker from La Crucita (Hidalgo, Tamaulipas), who worked in North Carolina from 1993 to 2008.
Rafael	38-year-old H-2A worker from Emiliano Zapata (Hidalgo, Tamaulipas), who worked in North Carolina from 1998 to 2008.
Ricardo	42-year-old H-2A worker from El Olivo (Victoria, Tamaulipas), who worked in Washington in 2007.
Roberto	30-year-old H-2A worker from Caballeros (Victoria, Tamaulipas), who worked in Georgia in 2006.
Santiago	42-year-old H-2A worker from San Lorencito (Jaumave, Tamaulipas), who worked in North Carolina from 2001 to 2007.

^aNames used in this article are pseudonyms.

The farm workers interviewed were employed principally in North Carolina, Texas, Washington State, Florida, Virginia, and Georgia, in activities like tobacco, orange, and apple picking and Christmas tree cultivation.

We collected the data in Mexico because in the United States, guest workers could not speak freely. In 2006, we conducted participant observations of Mexican guest workers employed in South Florida's orange sector; however, during our visit we were not allowed to record interviews, and the farm workers, who lived in isolated labor camps, were reluctant to speak out. We realized that the guest workers had traveled to Florida to earn money for their families and they were not about to jeopardize their jobs by speaking up. By contrast, in their home towns, interviewees spoke more openly, with less defensiveness or fear of reprisals. When farm workers come back home they talk to friends and relatives about their experience, but they tend to overlook negative memories. By emphasizing their success, they expect to receive admiration and acknowledgment from their acquaintances. In the United States those who speak out can be sent back home; likewise, if they speak up about mistreatment and abuse to friends and relatives, they may lose the image of winners that they try to preserve. However, when we interviewed them in their communities, interviewees were willing to tell their stories to strangers. In a place far from the United States, and away from the presence of their friends and relatives, interviewees lost their fear of having their words come back to haunt them. Therefore, after showing them our credentials and briefly explaining the purpose of our study, we were able to create an environment of narrative-rich communication. We used storytelling as a method of discovery, and as time went on, interviewees became more interested in talking to us. In many cases, after we had finished recording the interviews, the conversation continued for a long time.

THE EMIGRATION OF TAMAULIPAS'S FARM WORKERS TO THE UNITED STATES

In Mexico, the negative effect of agricultural liberalization on the prices of basic crops has prompted rural outmigration (Boucher et al., 2007; Mendoza Cota, 2006). Accordingly, the Survey on Migration in the Northern Frontier of Mexico (EMIF) shows an increase in rural migration to the United States from 1998 onward as a result of the crisis in the Mexican farming sector (Izcara Palacios, 2009b). As a consequence, rural economies in Mexico are becoming more dependent on remittances from workers who are employed in the United States (Cordero Díaz, 2007).

In rural areas of Tamaulipas, problems of unemployment and underemployment have increased from the 1990s onward because job opportunities in the farming sector have decreased (García Salazar & Omaña Silvestre, 2001). As a result, both landless farm workers (Izcara Palacios & Andrade Rubio, 2007: 70) and peasants (Camargo López y Espericueta Reyna, 2006) have migrated in

search of better economic opportunities. Landless farm workers are the poorest residents of the rural areas of Tamaulipas because of problems of unemployment. They do not have anything except their hands, and usually they do not own the house where they live; therefore, when they are unemployed they suffer from poverty. Peasants, or *ejidatarios*, are also poor people; however, they own the house where they live and also a small parcel of land. Generally the income from their parcel of land is not enough for them to make a living, and as a result many of them also have to work for others as farm workers; however, they are never unemployed because there is always work to do on their own parcel of land.

As was pointed out by one interviewee, Lorenzo, "Here one works very little; you do not have a permanent job; sometimes you work, and sometimes you don't."

Since 1990, most rural municipalities in Tamaulipas have lost between 2% and 5% of their population each year as a result of outmigration (Izcara Palacios, 2009a). According to interviewees, rural areas of Tamaulipas are being depopulated as a result of international migration. Rafael pointed out that "people continue migrating; here, almost everybody goes to work there." Manuel expressed the same opinion: "Here almost every man goes to work there." Gustavo complained about international migration resulting from the declining profitability of agriculture and blamed this on the scarce support farmers received from the government. Oliver described in this way the desolation suffered by Tamaulipas's rural areas: "There are seasons when there are no men here in the ejido [meaning a village in which the land is owned communally; in this case, Union Morales, San Carlos]; there are only children; here, when they grow up they see the way to look for employment in other places, and most of them go to the other side [the United States] to work." Likewise, Ambrosio concluded, "Only children and women stay here."

Given the disparity in wage rates between the United States and Mexico, Tamaulipas's workers, who are desperate for employment, rarely complain about wages. Oliver remarked, "For me everything is all right; I only want a job." Similarly, Lucio explained that "for me having employment is enough, because you go safely and you have a job; we only have to work hard." The H-2A program offers to U.S. employers a never-ending stream of grateful, hardworking workers who will not complain about violations of their rights. However, guest workers' ignorance of their labor rights makes them more vulnerable to workplace abuse. As Natalio emphasized, "Although you receive a contract, you can not read it because you do not understand it. Only they understand it."

Tamaulipas's farm workers are eager to participate in the H-2A program. As Carlos, a farm worker who worked once in Illinois, commented, "We all have the dream of returning to work there." Becoming a guest worker is defined as "one of the best decisions I have ever taken in my life" (David). However, working in the United States is not pleasant; guest workers do dangerous and exhausting work, are isolated on remote farms, and work long hours for low wages. According to Hill (2008), guest workers' working conditions are close to

slavery. However, they have no choice; if they want to buy a house or a car, or pay for the education of their children, they have to work in the United States. Because of the stresses they face, a few days before leaving for the United States some workers experience anxiety and a strong desire to stay in Tamaulipas. As Orencio, a guest worker who had traveled to Arkansas nine times, commented, “When there is only a day left . . . a few hours before leaving, I am trembling, I become very nervous. For me here [Guadalupe Victoria, Tamaulipas] is very beautiful, I would like to stay here.”

WORKING CONDITIONS OF H-2A FARM WORKERS IN THE UNITED STATES

The H-2A visa program has been criticized by growers for being too slow, complicated, costly, and time-consuming and for not meeting their labor needs, and by farm worker advocates for permitting employers to exploit foreign workers and providing few protections for U.S. workers (Bruno, 2008; Martin, 1996). Moreover, opponents of guest worker programs argue that the supply of unskilled temporary foreign workers during an economic recession will have a deleterious effect on the wages and working conditions of U.S. workers (Wasem, 2010).

Working conditions in U.S. agriculture are characterized by hard work, low pay, and long working days (Durand, 2007a, 2007b). H-2A program includes provisions that make migrant workers more expensive to hire than domestic labor in order to prevent adverse effects on the wages and working conditions of U.S. workers (Hill, 2008). However, by allowing growers to import workers from abroad to perform agricultural work that domestic workers are unable or unwilling to undertake, H-2A visas constitute a mechanism to recruit submissive, hard-working laborers and reduce production costs. Guest workers are captive laborers who are subject to the unilateral demands of employers because the visa program gives farmers the power to order guest workers to leave the country. H-2A workers must please their employers in order to remain legally employed in the United States; as a result, most of the provisions for the protection of foreign workers' wage rates and working conditions have been ignored, and previously existing low wage levels have been reduced (Briggs, 2004; Trigueros, 2008).

Employers are particularly stringent with guest workers because the visa program gives U.S. growers complete discretion over where and how to recruit workers (Izcara Palacios, 2010c). In order to maximize their profits, employers select only the best workers (those who work hardest and do not speak out). To find workers able to work 10 or more hours per day in tough working environments is not an easy task. Many workers go to the United States, but are not called back the next season. In some cases it is because they have caused some trouble; however, generally it is because they did not meet the productivity standards required. Prudencio, who was foreman on a farm in North Carolina, pointed out that “only half of those who go are recalled.”

Employers make a “black list” that contains the names of those who will not return the next season, and a “white list” that contains the names of the workers who will be recalled (Izcará Palacios, 2010a: 255). Nobody knows for sure if he will be included in the “white list.” As Jaime explained, “You are not sure; everything is like this. You have the hope of being recalled; if not, you are ruined.” During the days previous to the announcement of the names of those on the “white list” Tamaulipas’s farm workers become very anxious. As Hilario remarked, “Now there is a lot of competitiveness.” Normally, those who have participated for two or more years in the program are rehired; however, as they get older they are replaced by younger and more efficient employees. The requirements for employing illegal workers are lower because employers are free from the contractual requirements of the H-2A program; however, in the case of guest workers, who are more expensive, employers recruit only young, obedient, experienced, and hardworking people. As was pointed out by Arturo,

When you are 45 they don’t want you. They want young people, like 42 or younger. . . . If you are there, and you are illegal [*mojado*] they don’t care as long as you work hard. However, those who are recruited legally in Mexico must be young; that is a condition.

As a result, Nicanor, a 53-year-old farm worker who was employed for nine years in North Carolina, was fearful of not being employed any longer because of his age:

I think that they are not going to speak to me . . . local contractors say that employers only want workers 40 years old or younger, they don’t want older people.

H-2A workers are expected to work 10 or more hours per day, six or seven days per week. Some of the interviewees complained about being forced to work to the limits of human endurance. Basilio, who had participated in the program for the last 13 years, said: “I am working 14 or 15 hours per day, from Monday to Saturday.” Farm workers usually work from Monday to Saturday; however, occasionally they also work on Sundays. Ambrosio, who was employed in Washington, pointed out: “Sometimes we worked everyday; for example, we worked Saturdays and Sundays, 15 days in a row.” Therefore, when interviewees compared working conditions in the United States and in Tamaulipas, they always concluded that in the United States they had to work much harder. As Ignacio pointed out, “There [in the United States] you cannot work slowly like here [in Tamaulipas]; there you have to work very quickly, you have to work many hours, and they want you to work very rapidly.” However, the workers did not think that this was unfair. Wages in the United States were much higher than in Tamaulipas; in one day in the United States they could earn more than in a week at home, and because of this they thought they had to work much harder in the United States than in Mexico.

Workers from Tamaulipas do not complain about long working days; on the contrary, they usually look for doing overtime work to do. H-2A workers obtain most of their annual earnings from their work in the United States; therefore, they try to work as much as possible during the period they spend there (usually from two to six months per year).

The principal requirement for the employer to obtain workers on H-2A visas is that the employer must show that the use of foreign workers will not create an adverse effect on the wages or working conditions of similarly employed U.S. workers. Accordingly, employers must offer the same benefits and job requirements to both local and foreign workers. H-2A workers are covered by wage laws, and employers must provide them with an earnings statement detailing their total earnings and the hours actually worked. However, in the United States, employers of low-wage workers in industries in which immigrants are over-represented, like farming, are frequent violators of wage and hour laws (Smith & Ruckelshaus, 2007).

Farmers participating in the H-2A program are required to comply with all federal and state labor-related laws; but there is a contrast between law and practice because guest workers are too vulnerable to demand compliance with the law and there is no effective grievance system to enforce the terms of their work contracts. The problem is that the Department of Labor (DOL) is unwilling to protect the rights of guest workers (Izcara Palacios, 2010b; Pastor & Alva, 2004; Smith-Nonini, 2002). H-2A workers are routinely cheated out of wages, they are paid lower wages than U.S. workers, they are forced to work overtime without pay, and they receive phony earnings statements. Roberto, who worked on a farm in Georgia, reported that he was cheated of his pay by an unorthodox accounting system (he had to work 10 hours per day to compute seven hours in his employer's earnings statement). Growers are obliged to pay employees a wage equal to or higher than the AEW (Adverse Effect Wage Rate) for the state in which the work is being done. The average hourly wage rate for field and livestock workers in a region is published by the United States Department of Agriculture based on its quarterly wage survey (Whittaker, 2005). However, in order to reduce wage costs, wage statements usually do not register all the time worked. Usually, the employer sets a production standard, paying for a certain number of hours that are invariably fewer than the hours actually required to do the work, as a means of shortchanging employees while pretending to comply with the law. Pascual pointed out: "They tell you that you will be paid by the hour; but you are paid by the piece. They tell you a limit (how many boxes you have to fill), and if you do not pass that limit you do not return the next year."

The AEW system allows for manipulation by employers who pay by piece rate (Smith & Ruckelshaus, 2007). Although the H-2A program prohibits employers from imposing productivity requirements, it has been documented that the Department of Labor has approved, as satisfying the AEW, applications that required workers to harvest a certain amount of a particular crop according to

a piece rate (Guernsey, 2007: 295). Under the H-2A program, the employer must pay the prevailing hourly or piece rate, which must at least equal the AEW; however, paying a piece rate usually results in the lowering of wage rates (Read, 2006). In this connection, Guernsey (2007) has underlined that the failure of the DOL to develop an accurate methodology to convert hourly rates into piece rates has adversely affected farm workers' earnings. For example, in January 2008, Zirkle Fruit (a fruit company based in Washington State) was sued by nine former H-2A workers who had been fired for not meeting productivity standards. The case of Zirkle Fruits exemplifies how an inaccurate methodology to convert hourly rates into piece rates affects worker's earnings. In Washington State average hourly wage rate for farm workers increased 7.8% in 2007; however, Zirkle Fruits changed the methodology to convert hourly rates into piece rates; and as a result this company in 2007 paid wages only 0.2% higher than in 2006.² By attaching wages to productivity standards, growers reduce their production costs. As a result, U.S. growers are displacing U.S. employees and hiring H-2A workers. For example, in Arizona in March 2008 15 former U.S. employees, who were displaced by H-2A workers, sued Tanimura & Antle (a fresh vegetable company that farms over 30,000 acres) for not being recalled to work. Also, the United Farm Workers union (UFW) filed a complaint on behalf of the 15 workers with the Department of Labor ("H-2A, H-2B," 2008).

Domestic labor cannot compete with guest workers. The latter are carefully recruited, and only the best and brawniest of foreign workers are selected. In the farming sector, "minimum wages" are becoming "maximum wages" and if local workers do not meet the productivity standards that are met by foreign workers, they are not eligible for the jobs offered. By offering low wages and abnormal working conditions, growers discourage local workers from applying for these jobs (Guernsey, 2007). Smith and Ruckelshaus (2007: 597) pointed out that in areas where H-2A workers are employed, employers "require superhuman quantity and quality standards in order for workers to be considered qualified for jobs." As Laufer (2006: 245) explained about Joe Elliot, a Kentucky farmer that Laufer describes as a grower who works by the rules, he no longer employed U.S. workers because they did not want to work the necessary hours per week to complete the harvest; instead he employed H-2A workers.

One of our interviewees blamed guest workers for being too submissive and accustoming employers to high productivity standards. According to Rafael, Mexicans, who are eager to please their U.S. employers, work much harder than

²In 2006, Zirkle Fruit paid workers 1.99 times the AEW for a piece of work (a bin of apples). However, in 2007 the rate was reduced to 1.84 times the AEW for a piece of work. This is because in the year 2007, the AEW in Washington increased by 7.8%; as a result, Zirkle Fruit increased its productivity standards by 7.6%.

they do in their hometowns. However, employers, who see them working very hard, think it is normal for them to work so hard, and do not tolerate those who work more slowly:

What happens is that Americans get used to Mexicans' way of working; we have to blame ourselves because we work very hard. . . . One accustoms the employer to this, and sometimes when one cannot work so hard, the boss gets upset."

WORKPLACE RISKS

Agriculture is one of the most hazardous occupations in the United States (Hansen & Donohoe, 2003; Smith-Nonini, 2002). This sector employs less than 3% of the nation's workforce, but suffers 14% of work-related deaths (Martinez, 2003). Limited access of farm workers to health services (Kandel, 2008; Poss & Pierce, 2003) increases health problems among these workers (Ward & Atav, 2004). According to Feldman and colleagues (2009, p. 101), "farm workers are likely to ignore problems that do not affect their work"; as a result, they visit health centers only when problems are advanced and treatment is more complicated (Ward & Atav, 2004). H-2A workers' health problems are especially severe because they are employed in the riskiest activities (GAO, 1988; Quandt et al., 2006).

Guest workers are entitled to Workers' Compensation Insurance, which provides compensation and medical care for employees who are injured in the course of employment, and proof of insurance coverage must be provided to the National Processing Center before certification is granted to the employer (Kandel, 2008; Ward & Atav 2004; Wasem, 2007); also employers should provide workers with transportation to enable them to receive needed health care (Feldman et al., 2009, p. 99). However, many injured guest workers are not able to obtain benefits because workers' compensation is a state-by-state scheme, with varying rules. Accordingly, many of our interviewees got no information on what to do in case of workplace injuries, and they complained that they did not receive medical care or compensation for lost income. Moreover, some farm workers pointed out that employers forced them to sign resignations after becoming sick. This is because employers have the power to fire guest workers and deport them with impunity (Chang, 2009).

Interviewees complained about employers' lack of concern for their employees' safety. Mariano explained, "When you cut yourself you have to continue working; employers do not care. If you stop working because you do not feel all right, they do not pay you." Farm workers are forced to work in unsafe conditions. Interviewees pointed out that they worked "free," meaning without any protection, in dangerous environments. Bruno, who had been employed for 16 years in North Carolina, said, "They did not give us any protection, we were at free

hands [andábamos a manos libres]³; the chemicals were very strong and we had to work when the plants were sprayed.” Eduardo repeated the same complaint: “They did not give us any protection. . . . We didn’t use any protection.” Frequently, farm laborers work beside machines that douse the crops with chemicals. As Arturo pointed out, “After finishing the day the clothes were filled with rubber, it stank because of the chemicals.”

As a result of working in toxic environments, many farm workers become sick. However, they cannot afford to take time off from work to seek medical care. When farm workers suffer an accident or fall sick employers usually expect them to continue working. If guest workers take time off to rest, they run the risk of being dismissed and returned home. Aurelio described his experience:

Once I was ill; but, I had to cure myself because I was told, “You came here to work, otherwise I have to speak to the boss; so you decide whether to make the complaint.” So I was scared, and I said no, it is nothing, I am getting better.

Tamaulipas’s farm workers usually do not stop working even when they are injured. As was pointed out by Mariano, “Mexican workers do not get sick there [in the United States]; if you get sick, you have flu, you continue like that.” Also, they are denied medical benefits for on-the-job injuries. Ricardo explained that when he visited a doctor he had to pay for medical care and he did not receive any compensation for lost income:

I was for a week in pain; sometimes I couldn’t sleep. . . . The contract said that we had the right to a doctor and everything. In that case I was angry with the foreman, and I went to see the boss, and I spoke to him, and he told me that he was going to take me to the doctor but the expenses were going to be deducted from my salary.

Working with tobacco, a sector in which H-2A workers have been disproportionately employed, is one of the riskiest activities. Most of Tamaulipas’s guest workers employed in tobacco fields reported green tobacco sickness (GTS) or acute nicotine poisoning. GTS occurs when wet tobacco leaves come into contact with the skin; this is not a life-threatening sickness but causes headaches, dizziness, nausea, and vomiting, and the possible long-term consequences are unknown (Rao, Quandt, & Arcury, 2002). Basilio, who had been working in North Carolina tobacco fields since 1996, said, “Today I cannot stand the tobacco smell. I have it impregnated inside of me. I cannot stand it if somebody is smoking because I feel as if my nose is burning.”

In the opinion of Tamaulipas’s workers, GTS is caused by the chemicals that are applied to the plants, deficient nutrition, and high temperatures; no one among

³“Andábamos a manos libres” is an expression used by farm workers that does not make sense in formal Spanish language. In the context of the interview it means: “we did not have anything to protect ourselves against the agrochemicals sprayed in front of us.”

those interviewed knew that the problem was the chemicals produced by the plants themselves. The explanations the workers gave of GTS included the following: “When you do not eat well you feel dizziness and headache” (Ignacio); “After midday things get nasty; it is when you feel because of this you have to eat well” (Rafael); “We are told to eat well and to wash our hands after spraying chemicals” (Lorenzo); “If you do not eat well and the sun is strong you feel dizzy” (Hilario). Guest workers confuse the effect of GTS (lack of appetite) with its cause. Thus, a mistaken understanding of the etiology of GTS increases the risk of suffering this sickness. Some workers who are especially susceptible to GTS choose to return home; however, many farm workers from Tamaulipas suffer from GTS in silence because they are afraid of losing their jobs or not being eligible to return to their jobs in the following year.

GUEST WORKERS’ PARTICIPATION IN UNIONS

Immigrant rights activists have opposed the H-2A program because of the reduced legal protections of guest workers and unfair competition with domestic workers’ incomes (Pastor & Alva, 2004). Labor-union activists have argued that the importation of guest workers drives down the wages and lowers the workplace standards of local workers (Chang, 2009). Unions have seen guest workers as unorganizable workers, and have argued that labor shortages in agriculture should be addressed by improving wages and working conditions to attract workers already in the United States rather than importing others (Hill, 2008). However, in recent years the view among agricultural workers’ unions that guest workers are impossible to organize has changed (Hill, 2008). Unions have turned their efforts to representing H-2A workers because by contrast to local workers, who are dispersed geographically and difficult to reach, guest workers are brought to the United States in large numbers through growers’ associations like the North Carolina Growers Association (NCGA) or farm-labor contractors like Global Horizons (GH), which makes guest workers’ labor situation more analogous to that of workers in large centralized plants (Guernsey, 2007). In September 2004, the Farm Labor Organizing Committee (FLOC) won an agreement to represent the 8,500 guest workers employed by the NCGA, and in April 2006, the United Farm Workers (UFW) reached an agreement with GH, which employed one to three thousand guest workers in up to a dozen states (Hill, 2008). Under these agreements some H-2A workers are covered by union contracts, and in some places wage payments are above the pay required under the H-2A program (Smith & Ruckelshaus, 2007). However, as Guernsey (2007) has pointed out, these new partnerships between farm worker unions and labor-supply organizations could benefit growers at the expense of domestic labor.

In most places, employers have been successful in keeping H-2A workers out of the reach of unions by intimidation campaigns (Compa, 2006; Smith-Nonini, 2002). Seemingly, employers threaten undocumented farm workers with

deportation if they unionize (Guernsey, 2007). As interviewee Rafael pointed out, "Five years ago [in 2003] some people from the unions came; however, the foreman told us that it was not good for us to get unionized; well, that was our decision, but he told us not to participate. Therefore nobody joined the union." According to Compa (2000), H-2A workers have an acute fear of retaliation and deportation if they exercise the right to organize and bargain collectively. Lorenzo, who had been employed in North Carolina for the last 10 years, commented that he did not participate in unions because "one never knows, it can [adversely] affect or benefit you, who knows? Therefore in order to avoid problems, it is better like this; as we are, it is O.K."

Agricultural laborers are excluded from the right to organize and bargain collectively under federal law, although they have some protections under the laws of about 15 states (Izcarra Palacios, 2010c). The National Labor Relations Act (NLRA), which protects workers from retaliation for forming unions, excludes agricultural laborers from coverage: that is, if farm workers bargain with their employers they are not protected by the federal government (Guernsey, 2007). Accordingly, if H-2A workers try to form or join a union, their employer can cancel their work contract (Compa, 2000). As a result, most of the interviewees did not participate in unions. Many of them had a negative opinion about collective bargaining. As Manuel remarked, "There you only work; you do not have time to make trouble." Some of the interviewees thought that they could not participate in unions because they were temporary workers. Lucio said, "I have not heard about unions; probably it is because we stay just for a short period." Several interviewees thought that labor organizing and collective bargaining were related to factory labor but not to farming. Santiago said, "We just go to work; we know how that is and what to do; we do not do that [participate in unions]; those who work in factories or other kind of jobs participate in unions, but we don't." Other interviewees thought that they did not have the same rights that local workers had; and that as a result their employers would never allow them to participate in unions. Nicanor pointed out that by contrast with their home country, where they are free to participate in unions, in the United States, "If one speaks out [he] only stays for one season in the United States, and in the next year they do not want him." Other workers think that participating in unions is counterproductive because of the membership fees. As Abelardo pointed out, "The union cuts your check a bit, and with a particular boss you receive your check complete." In accordance with this, Guernsey (2007) noted that the UFW negotiated a 2% pay increase for its H-2A workers; however, the UFW dues represented 2% of the workers' pay. In general, Tamaulipas's farm workers think that they should not participate in unions because they have signed a written contract that specifies their rights, and the purpose of coming to the United States is to work, not to make trouble.

Four of the interviewees had participated in unions. In the nonrandom sample, the unionized workers who were interviewed were older than those who

had not participated in unions and had migrated to the United States more times than the latter; also workers who were engaged in off-farm activities in Tamaulipas were more inclined to unionize. On the other hand, peasants, the majority of the H-2A visa migrants were found to hold more negative views about collective bargaining. By contrast with nonunionized laborers, unionized workers reported better compliance with labor contracts, earned overtime pay, felt less stressed about being hired in the future, and had a better knowledge of their rights. Felipe pointed out, "I do not have any problem with the payments [the union dues], because the union helps us." Basilio, who had participated in the program for 13 years, remarked: "Before, we were like donkeys. Now we have the union and we have changed the conditions." Guest workers who are members of unions have higher self-esteem and are less submissive and less willing to tolerate exploitative and unsafe working conditions than their nonunion counterparts. Basilio went to Stokes county (North Carolina) for the first time in April 1996. He remembered that at the beginning he was very shy and quiet, and he did not complain when he was cheated of his pay. On one occasion, he witnessed a friend being forced to go back home without receiving any medical care after falling from a ladder, and on another occasion, he saw an older worker being fired after breaking his foot. Basilio described his attitudes before and after joining FLOC; before joining, he was afraid of not being recalled; however, after joining the union he became fearless. At the time of his interview with us, he was 38 years old and he knew from experience that growers do not accept workers over a certain age (as he said, "If you are useless [that is, if you are an older worker] they will send you to hell [*te mandaban a la fregada*]"); but he was not worried, because FLOC backed him up. Now his wage was higher and he pointed out that working conditions had improved: previously, farm workers were denied medical coverage if they were injured on the job; however, after joining FLOC, workers received a medical checkup at the beginning of the season and there was a doctor in the fields.

CONCLUSION

The H-2A program allows farm workers to remain in the United States until the completion of their employment contracts with sponsoring employers. After this time, they must return to their home country hoping to be recalled to work the following year.

U.S. wages are up to 10 times higher than in Tamaulipas, and earnings from the migrant workers' U.S. employment is the main source of income for their families. As a result, the objective of Tamaulipas's farm workers is to be rehired by a U.S. employer. However, being rehired usually depends on being submissive. Guest workers' ability to return to the United States in a subsequent season depends entirely on an employer's willingness to submit a request to the U.S. government. As a result, Tamaulipas's workforce is docile

and obedient, and workers rarely complain about any violation of their rights, because if they complain about abuses, they face deportation, blacklisting or other retaliation.

Under the existing immigration laws, employers are required to hire qualified U.S. workers over nonimmigrant temporary visa workers, although temporary workers are provided with some basic protections. However, government enforcement of immigration regulations is almost nonexistent. Many growers are hiring temporary agricultural workers on H-2A nonimmigrant visas because they are more vulnerable than American workers to employers' abuse. Their nonimmigrant status makes them very vulnerable to exploitation: H-2A workers cannot switch employers, must return to their home countries as soon as their jobs end, and have no bargaining power (unless they are unionized) for better wages and working conditions because they are dependent on the good will of their employer for future employment under the program. Once a farmer has employed guest workers, he will refuse to employ local labor because the former work harder and longer and do not complain about wages. Therefore, the H-2A program enables employers to circumvent the free market by paying foreign workers less than minimum wages rather than raising wages in order to attract U.S. citizens.

Workplace abuse includes contract manipulation to drive down costs, growers' lack of concern about the welfare of their workers, and intimidation to keep H-2A workers out of the reach of unions.

With regard to manipulation, the piece rate is a common method of payment in agriculture, and it allows many workers to earn more than the AEW. However, the piece rate system is frequently manipulated by employers. Therefore, in areas where this system is used, farm workers should be allowed to choose to be paid either by the prevailing piece rate or by the hourly rate; employers should not be able to impose one or the other system and should not be permitted to impose productivity requirements.

With regard to workers' welfare, it should be noted that work-related injuries are more frequent in farming than in other activities; however, many guest workers do not receive medical care and employers show a lack of concern about their safety. Therefore, the H-2A program should require agricultural employers to offer free on-site medical services. As can be seen from the example of the workers employed in tobacco fields, health problems could be reduced if guest workers were educated in the etiology of work-related injuries and in basic safety practices. Many workers wait to be treated in Tamaulipas for their injuries or illness because of fear of retaliation if they ask for medical care in the United States. Therefore, U.S. employers should be made accountable for the medical expenses that are incurred by guest workers in their home country but are related to the treatment of injuries and sickness that are caused by their work in the United States.

Finally, farm workers' unions should continue representing H-2A workers, because recent experience shows that unions can effectively enforce contract

improvements, and the example of Tamaulipas's guest workers shows that only those H-2A workers who participate in unions are able to enforce their rights and are sure to be paid the promised amount.

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