

BULLETINS OF CIEPAC

Mexican migrant workers in Canada:
the "unfree" worker program will soon
expand in the United States
(II/II)

MIGUEL PICKARD - 03-MARCH-2004 - NUM.398

CIEPAC, SAN CRISTOBAL DE LAS CASAS

Summary: This bulletin continues looking at a "guest worker" program for Mexican agricultural laborers in Canada, second of a two-part series. It posits that governments at all levels have protected the interests of farm owners, and companies, to the detriment of workers, both historically (the first "Bracero Program" in the US) and presently (Canada's present program, and a similar program due to be expanded in the US). In spite of their "unfree" status and the possibility of reprisals, workers are organizing to defend their interests and vindicate their important role in generating wealth and contributing to the economic well being of the host nation and their country of origin.

"In my mind slavery has not disappeared. And in this case we the Mexican workers are the slaves. I would like to say to all the bosses that we are not machines, and I would like them to realize, if only a little bit, that the money they have is thanks to the work of all the Mexican agricultural workers that come to Canada to work." (Manuel, Mexican worker in Canada)⁽¹⁾

They have trekked from one government office to another for years. They are workers, the kind that have the least rights, they are agricultural workers. And they are migrants, in this case exmigrants, some of the two million Mexicans who participated from 1942 to 1964 in the first Bracero Program in the United States.

A short while ago a scandal broke in Mexico regarding the millions of dollars that have been illegally denied to the Mexican braceros who worked in the United States during decades, money garnished from their salary for a savings fund that should have been returned to them once they returned to Mexico. But the scandal broke not because of the justice of their claim, but because, fed up with governmental foot dragging, a group of exbraceros took over land belonging to President Fox in his home state of Guanajuato.

It's calculated that from 1942 to 1949 alone, some 60 million dollars were discounted from some 400 thousand workers, funds that today, with accumulated interest, could surpass a billion dollars. Where is the money? Newspaper articles suggest that the money was transferred to the Mexican government, but a judge in the United States has accepted to hear a suit from the braceros against both governments, pointing out that the United States is responsible since "as a trustee it violated the trust fund's duties of protecting the savings of the braceros".⁽²⁾

The story of the braceros illustrates a continuous history of collusion between governments and companies, in support of the latter's interests, to the detriment of workers. The same collusion, and the same injustices, continue today in programs similar to the Bracero Program. In the first part of this bulletin (no. 387), we documented how the governments of Mexico and Canada (both federal and provincial), and the farm owners, continue to deny Mexican agricultural workers

(involved in the Mexican Seasonal Agricultural Workers Program, or MSAWP) their human, civil and labor rights. The MSAWP is a program negotiated between the Mexican and Canadian governments that supplies Mexican workers for agricultural jobs in Canada.

The labor rights denied to Mexican workers include benefits, that theoretically accrue to them, since they too, like Canadians, pay taxes. Mexican workers pay taxes for the following: medical insurance, retirement benefits, unemployment benefits and the value added tax charged on all their purchases. But they rarely see the benefits that these taxes supposedly bring.

For example, Mexican workers rarely claim medical benefits, since farm bosses pressure employees not to report medical matters to authorities. Research done on the matter documents how workers commonly prefer to continue working, even while ill or injured, rather than risk the boss' ire.

Retirement pensions too go uncollected, since neither the Canadian nor the Mexican government provides sufficient information to help workers claim benefits. Mexican workers never see unemployment insurance, since in Canada they are employed, but in Mexico, Canadian law doesn't foresee that workers might be unemployed. At the end of their maximum eight-month contract, the Mexicans in MSAWP cannot remain in Canada, seek residency nor citizenship, no matter how long they've worked in the country.

Although the law so requires, pay for official holidays is never given, and vacation pay, to which workers also have a right, is given at the whim of the employer.⁽³⁾

As for the Canadian VAT, similar to the value added tax in Mexico, and as opposed to Canadians, Mexican workers have a right to be reimbursed for it. But according to workers, since the procedure is handled by the Mexican consulate, it never is refunded.

Far from protecting Mexicans, the Mexican counselor services protect Canadian bosses. One migrant said,

"If we want to talk to [consular officials] on the phone, they say, 'I don't have time to see you, behave yourselves,' and that's it [...the consulate] comes and asks us, 'How are you?' And we say, 'Well,' because we know that they take the side of the patrón...I tell you that the minute one complains, the patrón does not ask for you. And then [the consulate] comes here, 'And why doesn't your patrón want you any more? Perhaps, you didn't work well.' And when we explain to them why, they don't believe you. It's better to put up with it."⁽⁴⁾

Canadian trade-union official Stan Roper of the UFCW (United Food and Commercial Workers) backs workers' allegations. Referring to Mexican workers, he says,

"When they make complaints about their housing, working conditions, an abusive employer they only have couple of options: one is to go to the employer who's causing the problem to begin with, the second is the Mexican consulate, and what we've found is that the consulate is there to protect the contract with the grower, and provides very little service to the individual worker. If there is a problem, they're usually on the next plane back."⁽⁵⁾

The UFCW recently denounced the case of the firing of a licensed applicator of pesticides, when he refused to spray toxic chemicals in a greenhouse in the town of Chatham, Ontario province, where there were workers laboring at the time. The applicator, Roger Goetheyn, explained to greenhouse owners that the substances that they had asked him to apply included the dangerous chemical Thiodan. Workers can experience convulsions and other serious symptoms if exposed to Thiodan. When Goetheyn saw workers in the greenhouse he refused to spray unless all workers were first cleared from the premises. He was fired on the spot by the Platinum

Produce greenhouse owners.

Ontario laws protect people who refuse to do work that is dangerous to them or their fellow workers. But as in other similar circumstances, laws don't apply to agricultural workers and therefore Goetheyn was "legally" fired for having refused to poison other human beings.⁽⁶⁾

Spread out over dozens of farms in six provinces of Canada⁽⁷⁾, with spineless consular services, Mexican workers know they have everything to lose if they raise their voice against abuses. Since it's the Canadian boss who decides who, among his employees will be hired next season, workers know that complaints put their presence in the Program at risk.

Mexican workers in Canada have been classified as "unfree" by several researchers, since, once contracted to a particular farm or enterprise, they are, by law, unable to seek alternative options in the wider labor market. As we have seen, their only option is to return home. Numerous factors, principally economic and social, keep workers from exercising their rights and risking being sent home by farm owners or, worse, being expelled from the Program.⁽⁸⁾

Fortunately, the situation is changing. In spite of probable reprisals workers have begun to organize and denounce the unjust, unhealthy and dangerous conditions they face, supported by organizations from Canadian civil society. Many workers have resolved to struggle on for improvements in their conditions and for greater dignity, not only for themselves, but also for those who will follow them.

Some Mexican workers have taken innovative steps to denounce their working conditions, by raising the profile of their struggle and going public. (See the denouncement below). For example, the Mexicans with the MSWAP in one town, Saint Thomas de Joliette, Quebec province, have elected fellow workers as spokespersons, and named permanent representatives in Montreal, who will promote their interests, even when workers are back in Mexico during the months of the Canadian winter. But they also resolved to carry their struggle for better conditions and greater dignity to the confines where the rules and guidelines for the Program are established.

Saint Thomas workers presented a formal request in September 2003 to the Mexican Embassy in Ottawa to be able to participate in the annual meeting between the Mexican and Canadian governments where the inner workings of the Program are reviewed. To no one's surprise, the Mexican Embassy's General Counsel Manuel Cosío, answered that "it is not possible to grant this request to participate...due to the administrative character of the meeting". Yet Cosío confirmed in his letter that the meeting is not just between governments.⁽⁹⁾ In fact, farm bosses' associations do participate, demonstrating once again the willingness of governments to hear arguments of capital, and exclude those of labor.

These efforts by Mexican workers are a first step in a long struggle for full recognition of the presence and involvement of Mexicans and other foreigners in Canada's economy. What is happening in Canada will have repercussions in the United States as well, since an expansion of a bracero-style program is on the docket for the near future. In early January 2004 President Bush announced reforms to immigration programs and laws in the US.

Yet substantive changes will not be coming in 2004. Migration is a sensitive issue in the US, provoking emotional and even racist responses. No congressperson will touch it before the November elections, much less the presidential candidates. Being an election year, however, Bush was unable to postpone at least a sketch of reforms to current migratory laws, given Bush's need to obtain an important percentage of Latinos' vote, now the largest minority in the US. For this reason Bush's immigration proposal is presently scarce in detail. But it foresees a future

expansion in the US of a temporary workers program, similar to Canada's.

Important aspects of the Canadian program are also present in the Bush proposal. For example it explicitly recognizes that there are jobs in the US for which there are no takers among Americans. As is the case in the Canadian program, the Bush proposal will help assure US firms obtain a constant and legal flow of "hands" for poorly-paid, dangerous and denigrating jobs, that no US citizen wants.

The cheap and "unfree" labor dilemma for American companies was revealed on October 23, 2003, when US Immigration agents raided 60 Wal-Mart stores in 21 states and detained 250 foreigners who were working without proper papers in janitorial duties (mainly cleaning, waxing and polishing floors, and similar duties, during the night). According to workers' declarations after their detention, Wal-Mart had never given them a day off, nor pay for overtime. Wal-Mart had also evaded taxes by failing to pay income, social security and unemployment-compensation taxes. By breaking the law, Wal-Mart was saving 40% on labor costs. ⁽¹⁰⁾

Yet the raids on the Wal-Marts took place because of workers' "illegal" immigration status, not because of labor or tax violations of their employer. Thus the Bush proposal can be seen for what it is, a way of facilitating legal access to a cheap reserve of labor that US companies, such as Wal-Mart, need. Bush's claim that his proposal shows "compassion" for migrant workers is laughable.

Bush will insist, for internal consumption, that no employment will be given to foreigners, unless it can be first shown that Americans can't be found to fill vacancies, but the fact is that today many industries have difficulties filling jobs. The need to feed these industries with an abundant (and cheap) labor force is what's behind the package of "reforms" in the US immigration laws.

Obviously, then, there is no intention to help foreign workers remain in the US, and much less to facilitate residency. The intention is to "encourage" workers to return to their home countries, after a maximum stay of six years, ⁽¹¹⁾ thus damaging workers' interests built up over that period. In today's pro-corporate-globalization and anti-labor environment, companies have declared an all-out war on anything remotely related to rights or benefits accrued due to accrued, so Bush's proposal will help assure that the labor force is "renewed" by law.

Campaigns have already begun against the most harmful aspects to workers of these proposals. For example, the Tepeyac Association of Mexicans in New York has stated it will launch a campaign in the US for a "gradual boycott" of Mexican products "unless the government of Mexico stops its public or secret lobbying for temporary residency only, and declares its support of permanent residence for immigrants who already live in the United States".

[See photos of Mexican workers in Canada, after arriving for the 2004 work season, at a welcoming mass and at the opening of a migrant support center in Leamington, Ontario:
<http://www.ciepac.org/photos/index.php?x=browse&category=14>]

What follows is a denouncement of a group of Mexican workers in Quebec, Canada, against the injustices of the Mexican Seasonal Agricultural Workers Program:

MANIFESTO

Arising from the meeting held by migrant agricultural workers
on the occasion of the commemoration
of the 193rd anniversary of
the independence of Mexico

ADDRESSED TO

**LE TRÈS HONORABLE
MONSIEUR JEAN CHRÉTIEN
PRIME MINISTER OF CANADA**

ET/AND

**MR. VICENTE FOX
PRESIDENT OF THE
UNITED MEXICAN STATES**

ON SEPTEMBER FOURTEENTH
TWO-THOUSAND THREE
IN THE TOWN OF SAINT-THOMAS DE JOLIETTE,
PROVINCE OF QUEBEC, CANADA

BACKGROUND

We understand that:

As conceived the Foreign Temporary Agricultural Workers Program (Commonwealth Caribbean and Mexican Season Workers Program-CCMSAWP) should guarantee the planting, care and harvesting of agricultural products of Canada, United States and Mexico.

The North American Free Trade Agreement (NAFTA) lays out that one of its principal objectives is the gradual integration of agricultural products in the North American market.

The North American Labor Cooperation Agreement (NALCA) is concerned with the protection of workers, especially the protection of migratory workers.

Nonetheless in spite of our compliance, consisting of rendering of our labor force for the completion of trade objectives, the guarantees within the contract signed with us, the Mexican Temporary Agricultural Workers of Canada, have NOT been respected.

CONSIDERING THAT:

1. We were not given work immediately, and thus no salary either, at our arrival at the farm we were assigned to.
2. El employer (farmer) did not fulfill the minimum work schedule of 40 hours per week, sending us as "loans" to other farms, in order to carry out tasks different from those agreed to in the contract, and without carrying out the official transfer paperwork.
3. We were assigned work different from the activities for which we were hired, without paying us the salary difference.
4. The safety and health guidelines were not respected at work, insofar as we were not given adequate clothes or equipment, nor were safety measures followed in the use of pesticides, which are dispersed over us while we are working.
5. We were not given immediate access to medical treatment, nor medical leave when the circumstances so warranted, nor was payment given for accidents or illness, either for work or natural causes, nor was reimbursement given for medical expenses (medicines) when needed. Even though in these cases the employer is required to pay for the first 10 (ten) days. And [even though] we pay for an insurance policy.
6. We were not given information on work guidelines, nor on deductions or benefits that affect our salary nor [benefits related to] our geographical location.
7. The employer (farmer) retained our migratory documents, work contract and even our passport and airline ticket.

8. The employer (farmer) did not provide us with a social security card (N.A.S.); nor a Ministry of Health Card (Carte Soleil); nor Quebec Acceptance Certification; nor the life insurance policy; nor the reimbursement forms for medical expenses covered under said policy.
9. We were not provided with transportation, whether it be land transportation for the purchase of groceries; nor air transportation due to the fact that the cost of these services are deducted from our salary by the employer.
10. We were not given decent housing.
11. We were not provided with drinking water nor hot water for personal hygiene.
12. Unjust practices exist such as: intimidation, coercion, harassment and interference, given that our employer and foreman prohibit us from talking during work hours, from getting in contact with the Mexican Consulate in case of doubts or complaints. In our free time we are also prohibited from receiving visitors on the farm, to talk or establish communication with people native to the place. When our employer provides transportation, we are only allowed to remain 2 (two) hours in purchasing our groceries in the closest city, even though we are on our free time.

Given the aforementioned, and fully aware of the fact that in being isolated we are running a high risk of vulnerability with respect to human rights and labor rights,

WE [THEREFORE] DEMAND:

- I. That the governments of Canada and Mexico intervene urgently so that migratory workers be provided with the same legal protection as nationals, in the territory of whichever of the countries, in accordance to the Laws and Statutes on Health and Security at Work.
- II. That the government of Canada instruct all employers (farmers) to respect our human rights in accordance to:
 - a. The Universal Declaration of the Rights of Man of the United Nations.
 - b. The Charter of Rights and Liberties of Canada
 - c. The Quebec Charter of the Rights and Liberties of People
- III. That the government of Canada
 - a. Grant us the right and full access to [un]employment insurance and retirement benefits or
 - b. These be eliminated (cancelled) from the deductions that are now being made from our salary as contributions to [un]employment insurance and retirement benefits.
- IV. That the governments of Canada and Quebec
 - a. Exempt all migratory workers from payment of the Work Permit (Federal Visa) and payment of the Quebec Acceptance Certificate or
 - b. Issue and charge for Worker Permit and Quebec Acceptance Certificate for the first and only occasion, to be valid on subsequent years.
- V. That the governments of Canada and Mexico guarantee the autonomy of the body or commission to be created, and that this body or commission participate as representative for workers in revisions and negotiations concerning the workers' contract.

NOTES

1. Quote taken from the video "El Contrato", directed by Min Sook Lee, produced by Karen King-Chigbo, sponsored by the National Film Board of Canada. After its debut in Canada in October 2003, the farm owners who appear in the video threatened to bring a libel suit. Until the matter is decided, the video cannot be distributed in Canada, but a copy is available in CIEPAC.
2. Martínez, Sanjuana, "Esto no va a parar", *Proceso*, Mexico City, No. 1424, February 15, 2004, p.16-23.
3. The problem of uncollected benefits has been documented by University of Windsor researcher

- Dr. Tanya Basok. See for example her book [Tortillas and Tomatoes: Transmigrant Mexican Harvesters in Canada](#), McGill-Queens University Press, Montreal & Kingston, 2003. See also "Human Rights and Citizenship: the Case of Mexican Migrants in Canada" Working Paper No. 72, del Center for Comparative Immigration Studies, University of California, San Diego, 2003, p.10-11.
4. Quoted in Basok, [Tortillas and Tomatoes](#), p.112.
 5. Quote from the "El Contrato" video, *ibid*.
 6. Press Bulletin, UFCW Canada, January 28, 2004.
 7. According to the Canadian government, the Mexicans are in the following provinces: Ontario (71% of the total), Quebec (24.2%), Manitoba (2.6%), Alberta (1.8%), New Brunswick (0.1%) and Prince Edward Island (0.2%). Information from October 3, 2003.
 8. See the previous CIEPAC bulletin on this topic (no. 387), and Basok, [Tortillas and Tomatoes](#) p.107. See also Basok's study "Free to be Unfree: Mexican Guest Workers in Canada", published in *Labour, Capital and Society*, Vol. 32 (2), 1999, p.192-221, that contains the following definition, "Restrictions placed on the workers' right to dispose of their labour power as a commodity in a host society have prompted researchers to brand them 'unfree'".(p.192).
 9. Copy of the letter in CIEPAC's possession.
 10. Greenhouse, Steven, "Illegally in U.S., and Never a Day Off at Wal-Mart", New York Times, November 5, 2003
<http://www.nytimes.com/2003/11/05/national/05WALM.html?ex=1069064518&ei=1&en=13313db5b1170389>
 11. Office of the Press Secretary, White House, "Background Briefing by Conference Call on Immigration Policy, January 6, 2004

There are no commentaries to this bulletin.

CIEPAC, A.C.

Centro de Investigaciones Económicas y Políticas de Acción Comunitaria
Calle de la Primavera No. 6
Barrio de la Merced
29240 San Cristóbal, Chiapas, Mexico
TELEFONO: en México: 01 967 674 5168 del exterior: +52 967 674 5168