

Eric Schlosser, Testimony before the Committee on Health, Education, Labor and Pensions, "Ending Abuses and Improving Working Conditions for Tomato Workers," April 15, 2008

I'd like to thank the Committee for inviting me to testify here today. I have been involved for more than a decade in the effort to improve the wages and working conditions of America's farmworkers. This committee deserves much praise for taking an interest in the plight of some of the poorest working men and women in the United States. What is happening right now in the tomato fields of Florida is so bad that it almost defies description, let alone belief.

This January Senator Bernie Sanders and I happened to be visiting Immokalee, Florida, the heart of the state's tomato-growing region, when the U.S. Justice Department released its indictments in the latest farmworker slavery case. The defendants in the case have been accused of threatening, slapping and kicking workers, beating workers, locking them inside trucks, chaining them to a pole, deliberately keeping them in debt and forcing them to work for free. The indictments read like something you might encounter in the year 1868, not 2008. The defendants have been charged, among other things, with violating the Thirteenth Amendment of the United States Constitution.

That is the amendment outlawing slavery and involuntary servitude.

I find it incredible that in the year 2008--the two hundredth anniversary of the abolition of the slave trade--there is still slavery in the United States. I find it even more incredible that the tomato growers of Florida and some of their largest customers continue to deny that such abuses exist. It was pure coincidence that the Department of Justice's slavery indictments were announced on the same day that Senator Sanders and I were talking to tomato pickers in Immokalee. But you do not need to be a rocket scientist or have an advanced degree in farm labor economics to see that the living conditions and the working conditions there are terrible. You need only spend a few hours talking to farmworkers, away from the prying eyes of their labor contractors and employers.

I think most Americans would agree that the practice of slavery in the United States is unacceptable. But that sense of outrage does not seem to extend to the tomato growers of Florida and some of their fast food customers. During the same week that three tomato pickers climbed through the ventilation hatch of the box truck where they were being held against their will and escaped to freedom, setting in motion the Justice Department's latest slavery case--during that very same week, representatives of the Florida Tomato Growers Exchange and the Burger King Corporation staged a press junket in nearby fields,

introducing reporters to happy farmworkers with "no complaints" and strongly denying that involuntary servitude or slavery was a problem. Perhaps the growers and some of their fast food customers are sincerely unaware that tomato pickers are being exploited. But such earnest pleas of ignorance bring to mind the scene in the film *Casablanca* when a French policeman, Captain Renault, is "shocked, shocked" to find out that gambling is occurring--at the casino where he regularly gambles.

The plight of tomato pickers in Florida needs to be understood in a broader historical context. Farmworkers are now, and have long been, among the poorest workers in the United States. The historian Cletus E. Daniel has described early twentieth century efforts to recruit farmworkers for California's fruit and vegetable harvest as "the search for a peasantry." In 1951 the President's Commission on Migratory Labor condemned the abysmal working conditions that farmworkers endured. "We depend on misfortune to build up our force of migratory workers," the commission concluded, "and when the supply is low because there is not enough misfortune at home, we rely on misfortune abroad to replenish the supply." During the 1970s, campaigns led by Cesar Chavez and the United Farm Workers union raised wages and greatly improved working conditions. But most of those gains were lost during the 1980s and 1990s. According to the U.S. Department of Labor, the typical farmworker earns roughly \$10,000 to \$12,000 a year. That figure may be

somewhat inflated, due to the inclusion of supervisory workers in the most recent wage survey. In 2001 the Department of Labor estimated that the typical farmworker earned about \$7,500 a year. It is hard to see how some of the most desperate workers in the United States gained a pay increase of 50 percent or more during the past seven years. Whatever the actual figure, there is little dispute that farmworkers rank near the very bottom of the American pay scale.

Farmworkers not only do hard manual labor for low wages, but they also suffer enormous stress and uncertainty about the prospects of employment. Almost all harvest work is considered "at will." There is no contract, no seniority, no obligation from the employer beyond the day-to-day. A farmer hires and fires workers as necessary, without need for explanation. It makes no difference whether the worker has been an employee for ten days or ten years. The terms of employment are laid down on a daily basis. A migrant usually does not know how long he or she will work on a given day--or even if work will be available. On a good day, the wages that can be earned may be high. But a good day may be followed by weeks without any work. This system gives an extraordinary amount of power to farmers and their labor contractors.

I spent a year investigating the poverty of farmworkers in California, the state with by far the largest number of migrants. I found that migrants were living in garages,

abandoned cars, labor camps unfit to be horse barns. Right now there are thousands of farmworkers living outdoors in the hillsides of northern San Diego County. At one of the hillside encampments I visited, migrants slept beneath plastic garbage bags at night and did their laundry each week in a neighboring stream. The farmworkers I met seemed to embody a great many of the virtues that we cherish in the United States. These migrants were hard-working, deeply religious, devoted to their families--and yet were being exploited. It seemed wrong to me, pure and simple. In this country, hard work should get you out of poverty, not keep you in it.

Bad as things are for the migrant workers in California, the migrants in Florida seem to have it even worse. Organizations like the United Farm Workers union and California Rural Legal Assistance provide some outlet for migrant grievances and some hope for a better future in that state. The primarily Latino workforce in Florida agriculture is much more isolated, with little institutional support. And the abuse of farmworkers in Florida has a uniquely dark history. Various systems of peonage, forced labor, and slavery thrived there long after the end of the Civil War. For decades, African-American men convicted of petty crimes were routinely leased to farmers and put to work in the fields. An excellent historical account of this sort of convict-leasing has a fitting title: Worse than Slavery. Florida was one of the last states in the south to

outlaw convict-leasing, finally prohibiting it in 1923. But Florida's vagrancy laws allowed sheriffs to arrest young African-American men, fine them, and force them to pay off the fine by working for local citrus and tomato growers. That practice continued well into the 1940s.

Today the living conditions among migrant workers in Immokalee, Florida, though deplorable, are not as bad as in some rural California communities. But the power that farmers wield in Florida seems much more complete. The early morning scene in Immokalee's town square--where crowds of migrants gather at dawn hoping to find work, and labor contractors pick workers like cattle an auction-- feels like a scene in a nineteenth century novel. "Harvest of Shame," the documentary about migrants made by Edward R. Murrow in 1960, opens with a similar scene, showing migrants being selected and packed into trucks. Much of "Harvest of Shame" was filmed in Florida. In the documentary, a Florida farmer describes his workforce in terms that remain unfortunately relevant today: "We used to own our slaves-- now we just rent them."

Tomato pickers in Immokalee now earn about 40 to 50 cents for each thirty-two pound bucket that they harvest. The wage rate has not changed significantly in thirty years. Adjusted for inflation, that means the wages in Immokalee's tomato fields have declined by as much as 75 percent. Tomato pickers are hired mainly by labor contractors, who try to shield farmers from legal responsibility. The labor

contractors often charge migrants for food, housing, and transportation, deducting the costs straight from the migrant's paycheck. Labor contractors often pay the smuggling fees of new migrants, then force them to work off the debt. This system is an invitation to abuse. Many of the recent slavery cases in Florida involve illegal immigrants being held in servitude by their labor contractors. But this is not primarily an immigration problem. It is a human rights problem. U.S. citizens have been enslaved lately in Florida, as well.

A Florida labor contractor named Michael Allen Lee recruited migrants at homeless shelters, charged them for room, board, transportation, and cigarettes, loaded them with debt, gave them as little as \$10 for a day's work in the fields, sometimes paid them in crack cocaine and alcohol instead of cash, and threatened to hurt anyone who ran off. Lee was later arrested, convicted in federal court, and given a four-year prison sentence in 2001. A Florida labor camp owner named Ronald Evans, Sr., also recruited migrants at homeless shelters, focusing on African-American drug addicts. Evans pushed his workers into debt, supplied them with alcohol and cocaine, housed them behind a fence topped with barbed wire, and paid them less than one-third of their full wages. Last year Evans was convicted in federal court and sentenced to thirty years in prison for a wide range of offenses. The seven major slavery cases prosecuted in Florida over the past decade have all been handled by the

Department of Justice. In keeping with the brutal history of farm labor in Florida, state officials have done little to prevent or punish cases of involuntary servitude.

Not a single Florida farmer has thus far been prosecuted in the seven federal slavery cases, which have involved hundreds of migrants. Perhaps the farmers who employed these migrants were entirely innocent--entirely unaware that some of their workers were being beaten and enslaved. If that is the case, then at the very least there is a problem with labor management at the highest levels of Florida agriculture. Ronald Evans, Sr., one of the labor contractors imprisoned for paying migrants with crack cocaine, worked as a labor recruiter for Frank Johns, a former chairman of the Florida Fruit and Vegetable Association. And the industry seems remarkably forgiving about violations of the Thirteenth Amendment. In 1999, a labor contractor named Abel Cuello was convicted in federal court for enslaving at least thirty migrants in Florida and South Carolina. After spending less than three years in prison, Cuello was released, eventually regained his license as a labor contractor and found work as a labor recruiter, along with his wife, at Ag-Mart Produce, one of Florida's largest tomato growers.

The Department of Justice has done a fine job pursuing slavery cases in Florida. But it can devote even more resources to the fight against trafficking and involuntary slavery. And a much stronger effort can be made to hold

farmers legally responsible for the enslavement of their workers. Farmers in Florida must be held accountable for what they suffer and permit to happen on their land. At the moment, a loophole in the Trafficking Victims Protection Act makes it difficult to prosecute farmers in slavery cases. That loophole should be closed, and those who "know or have reason to know" about involuntary servitude should face criminal charges. The Department of Labor should devote greater resources to enforcing the labor laws not only in Florida agriculture, but also in agriculture throughout the United States. And a significant increase in the federal minimum wage---which, adjusted for inflation, has declined by about 40 percent since the late 1960s---would greatly improve the lives of the nation's poorest workers.

The immediate solution to these problems, however, does not lie with the federal government or with state officials in Florida. The largest purchasers of Florida tomatoes must take responsibility for the labor conditions in which those tomatoes are produced. Fruit and vegetable farmers today are under enormous pressure to cut operating costs. They face increased competition from overseas suppliers and price reductions imposed by their largest customers. A few years ago, an article in The Packer, an industry journal, described the leading role that fast food chains have played in lowering the prices that Florida tomato farmers receive. "Forcing down the cost of tomatoes, a minor component on the fast food menu, does little to make the restaurant more

profitable" the article warned. "It will go a long way toward harming a loyal group of suppliers and growers and their workers."

Today the major fast food chains stand atop America's food chain. Their purchasing decisions can transform entire sectors of the nation's agricultural economy. The fast food chains issue strict product specifications to suppliers and insist that they be met. When McDonald's introduced the Chicken McNugget in the mid-1980s, it fundamentally changed how poultry are raised, bred, processed and sold in the United States. When McDonald's decided in 2000 not to purchase any genetically modified potatoes, it effectively eliminated the market for those potatoes. In recent years, the animal welfare demands of the leading chains have prompted huge changes in the industrial practices of the American meatpacking industry.

The Coalition of Immokalee Workers recognized years ago that the fast food industry has enormous influence over what happens in the tomato fields of Florida. The coalition is a non-profit group that works on behalf of migrants in Florida. It has led the campaign to increase the wages of tomato pickers by one penny per pound, thereby significantly raising their wages. And it has helped the Department of Justice investigate most of the slavery cases prosecuted since the mid-1990s. In recognition of this work, the coalition has received awards from the Robert F. Kennedy Memorial Foundation and Anti-Slavery International, the

world's oldest human rights group. The Coalition of Immokalee Workers has been one of the few brave and effective defenders of migrants in the state of Florida.

I have been a strong critic of the fast food industry for years. But I applaud Yum Brands Inc., the parent company of Taco Bell and Pizza Hut, for its commitment to ending the exploitation of tomato pickers in Florida. Its agreement with the Coalition of Immokalee Workers provides a model for how wages can be meaningfully increased and working conditions can be carefully monitored. The additional penny per pound that Yum has agreed to pay, given directly to the workers, imposes no hardship upon Florida tomato farmers and does not increase the consumer price of any Yum Brands product. The McDonalds Corporation deserves credit for agreeing to a similar arrangement.

The admirable behavior of these two industry giants makes the behavior of Burger King and its ally, the Florida Tomato Growers Exchange, seem completely unjustifiable. It is hard to see how the payment of an extra penny per pound for labor costs would violate U.S. antitrust laws, as the tomato growers claim. The Florida Tomato Growers Exchange has imposed various surcharges on its members for years, without running afoul of any federal law. If it can impose a mandatory surcharge for higher fuel costs (as was done in 2005), it can surely allow a voluntary surcharge to help eliminate the poverty of tomato pickers. Burger King, for its part, has argued that Florida tomato pickers are

actually well-paid--and at the same time has made a well-publicized donation to a charitable group devoted to the children of those workers. It is hard to see why the children of migrants who are being paid a decent wage would need any charity whatsoever. The tomato pickers in Florida are not asking for charity. They are seeking a fair wage for their hard work and an end to slavery.

Instead of making charitable donations, Burger King should be showing the same sort of concern for human rights that it recently demonstrated on behalf of animal rights. "Our corporate conscience drives our commitment to animal welfare," a Burger King executive said on March 27th. "For almost a decade we have used our purchasing power to encourage positive steps in animal agriculture. We are proud to set an example for the restaurant industry." If Burger King can partner with People for the Ethical Treatment of Animals to improve the lives of chickens, it can certainly work with the Coalition of Immokalee Workers, a far less controversial group, to improve the lives of migrant workers in Florida.

The head of the Florida Tomato Growers exchange has called the proposed one-penny surcharge for migrants "un-American." I think most Americans would strongly disagree. Slavery, indentured servitude, desperate workers living in fear---that's what most people would consider unacceptable and un-American. The exploitation of farmworkers should not be tolerated in Florida. It should not be tolerated

anywhere in the United States. There are many social problems that are extremely difficult to solve. This is not one of them. A few years ago I calculated how much it would cost the typical American household if the wages of every migrant farmworker was doubled. The answer was about \$50 a year--and even that amount is probably too high. By paying a few pennies extra, an enormous amount of misery can be ended. The large fast food chains and supermarket chains must insure that those pennies are paid, and that the money goes directly to farmworkers. A little bit of compassion will go an awfully long way.