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[Beck VdlaRok](#) on [Unsplash](#).

Although all people in the United States have fundamental human rights guaranteed by the United States Constitution and the [Universal Declaration of Human Rights \(UDHR\)](#), not everyone can enjoy them equally. Many people, such as employers, blatantly disregard these core human rights and exploit their migrant workers. However, despite migrant workers being disproportionately vulnerable to abuse, it is not uncommon for migrant workers to be reluctant to [report employers](#) because of their fear of retaliation and their relatively poor position. These workers often do not speak the language, are in remote and segregated areas and are exploited through their [immigration status](#). Employers are frequently in charge of their housing, transportation, pay, and ability to remain in the United States. As a result, these migrant workers are often at risk of deportation because their employers generally own and control their visa status.

The exploitation of migrant workers is not a thing of the past; it is still a prevalent issue in the United States. The farms of rural South Georgia provide a more recent example of forced labor, human trafficking, and degrading treatment and punishment.

The conspirators of a transnational criminal organization, the Patricio TCO, allegedly took advantage of and defrauded the federal [H-2A visa program for guest farmworkers](#). For years, [the Patricio TCO](#) enticed migrants to come to the United States under the guise of working as paid laborers on the farms in Georgia. Instead, the conspirators forced these migrant workers to perform physically demanding work and held them in filthy, confined living conditions with little access to food or water. According to the Department of Justice, the operation represented one of the country's largest human trafficking and visa [fraud investigations](#).

Human Smuggling and Forced Labor Akin to Modern-Day Slavery



[Callum](#)

[Skelton](#) on [Unsplash](#)

The multi-year government investigation, referred to as Operation Blooming Onion, cracked down on the illegal enterprise akin to [modern-day slavery](#). The United States Attorney for the Southern District of Georgia stated that over [100 workers were freed](#) from the shackles of the Patricio TCO. According to the newly unsealed indictment, the purpose of the Patricio TCO was to profit from illegal activities such as international forced labor trafficking, mail fraud, and money laundering. The conspirators allegedly profited over \$200,000,000 from this [illegal enterprise](#).

Since at least 2015, the Patricio TCO petitioned the United States government to issue over [71,000 H-2A work visas to foreign workers](#). The conspirators fraudulently used this program to smuggle foreign nationals from Latin America into the United States under the pretext of serving as “[guest](#)

[farmworkers](#).” The conspirators confiscated the farmworkers’ travel and identification documents and regularly threatened them with deportation and violence to keep them in line. They also expected workers to perform physically demanding work for minimal or no pay. For instance, the Patricio TCO forced workers to dig onions with their bare hands and only compensated them 20 cents per bucket. At least [two of the workers died](#) as a result of the horrendous workplace conditions. Additionally, the Patricio TCO held workers in crowded, unsanitary, and degrading living conditions, with little or no food.

A [grand jury indicted](#) the twenty-four defendants allegedly involved in the Patricio TCO in October 2021. The [54-count indictment in USA v. Patricio et al.](#) details the felony charges resulting from the transnational criminal organization.

H-2A Visas for Temporary Agricultural Workers: Is it a Loophole?

The [H-2A program](#) allows United States employers to sponsor foreign nationals and bring them to the United States to fill temporary agricultural jobs. To qualify for H-2A nonimmigrant classification, the employer must file [Form I-129](#) on a prospective worker’s behalf. [Under this program](#), the employer agrees to pay the foreign worker according to the terms of the contract and reimburse the worker for the costs associated with obtaining the H-2A visa. These costs include border crossing fees, reasonable transportation, lodging, food expenses, and the costs associated with returning to their home countries. The H-2A program also prohibits employers from holding or confiscating the immigration documents of their foreign workers or from seeking or receiving any payment for recruiting them.

In contrast to H-2A, the [H-1B Specialty Occupation visa program](#) requires employers to obtain Department of Labor certification of a Labor Condition Application (LCA), attesting they will adhere to the labor requirements. Further, H1-B also requires the employer to pay “the H-1B worker a wage which is no less than the wage paid to similarly qualified workers.” Any violations by H-1B employers can result in fines and other sanctions. However, the Department of Labor does not require these additional requirements for employers under H2-A. So, why are foreign nationals performing services in a specialty occupation afforded additional safeguards under H-1B, but not foreign nationals performing agricultural services under the H-2A program?



[MuiZur](#) on [Unsplash](#).

This is not simply about a few “bad apple” employers. Over the years, H-2A visas have become more susceptible to employer abuse. However, H-2A workers often do not report gross mistreatment because their employers own and control their visa status. But, as the H-2A program continues to expand, the program leaves more [guest workers vulnerable to retaliation and abuse](#). Last year, the Department of Labor found about [12,000 violations](#) under the program, with nearly 5,000 workers cheated out of their wages.

A report recently published by [Centro de los Derechos del Migrante](#) details the findings of in-depth interviews with 100 H-2A workers. These workers “reported discrimination, sexual harassment, wage theft, and health and safety violations by their employers—and a chilling lack of recourse.” Every H-2A worker interviewed experienced at least one serious legal violation of their rights, while 94% experienced three or more.

Thus, the rampant abuse of H-2A visas calls into question whether the H-2A temporary work visa program should exist at all without major reforms to protect migrant workers.

Protect Migrant Workers by Closing the H-2A Visa Loophole

Despite the passage of the Thirteenth Amendment banning involuntary servitude, badges and incidents of slavery are still widespread in the United States. As explained, migrant workers are frequently exploited, imprisoned, and treated inhumanely. However, these workers are entitled to

better. As the late [Dr. Martin Luther King Jr.](#) stated, “freedom is never given voluntarily by the oppressor; it must be demanded by the oppressed.”



[Tasha Jolley](#) on [Unsplash](#).

Every individual deserves peace, dignity, and equality. Will you do your part in ending human trafficking?

Call the National Human Trafficking Hotline at 1-888-373-7888 if you have information about possible human trafficking. Advocates on the Anti-Trafficking Hotline are available to take reports twenty-four hours a day, seven days a week. Additionally, you can report labor abuse of foreign workers directly to [U.S. Citizenship and Immigration Services](#). All reports are kept strictly confidential, and you have the option of remaining anonymous.

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Lizet is a 2L at Golden Gate University School of Law. She graduated Magna Cum Laude from San Jose State University with a Bachelor of Arts in Sociology and a minor in Justice Studies. Lizet is currently a Lexis Ambassador and an active member of the Public Interest Law Foundation and Latin American Law Student Association.