

# American Labor Laws Fall Short of American Values

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As Americans, we like to think of ourselves as a society that has transcended racism to elevate principles of fairness, equality and opportunity over skin color. Sure, we recognize racial implications in our government's mishandling of Hurricane Katrina and the rebuilding of the Gulf Coast. But overall, we see ourselves as a society that has moved beyond race.

This conviction of color-blindness is especially true in our attitude towards work: We have laws against race discrimination at work, so we think everyone has an equal chance to prosper. This view overlooks, however, an unfortunate reality: Our system of workplace protections is riddled with holes that have a decidedly harmful racial undertone. Through exclusions, exemptions and lax enforcement, our labor laws deny basic protections to millions of Latino and African-American immigrant workers.

Because we believe we have eschewed racism, we refuse to examine the reality of a 2.4 million strong mostly-Latino agricultural workforce, that is exempted from core labor protections like overtime pay and the right to collectively bargain. We are blissfully unaware that home health care workers, largely women of color, are not entitled to even the federal minimum wage. We don't see the immigrant dishwashers at our favorite restaurants whose employers may pay them as little as \$2.13 an hour under a sub-minimum wage that has been frozen since 1991. We don't even see the workers who clean our offices and hotel rooms, members of a burgeoning service sector where a majority of employers violate wage and hour laws. And while we do notice day laborers congregated on our street corners looking for work, few of us realize that about half of them will be cheated of their wages at the end of their workday.

We simply don't see the strands of racism that tear at our worker protection safety net. Most Americans would be shocked to know the unfortunate role that race has played throughout the history of our immigration and labor laws. How, not so long ago, official governmental policy was to build the United States as a "white nation." How the exclusions from core minimum wage and overtime protections of domestic workers and agricultural workers, jobs that largely employed African Americans in the 1930's, was a trade-off to get the votes of Southern "Dixiecrat" Congressmembers to support the minimum wage laws.

Many Americans might be shocked to know that many of the guestworkers who clean their hotel rooms at Mardi Gras in Louisiana have mortgaged their families' land to purchase a job in the US. Many arrive here to find they have been ripped off, their passports may have been confiscated by their employers, and further, that they are legally obligated to continue working for the same outfit that ripped them off, or face deportation -- a form of indentured servitude that would give rise to a huge public outcry, were it practiced against native-born workers.

This is not, we think, who we are as a country. Americans value hard work, and believe that hard work pays off.

Next week in Geneva, Americans have the opportunity to take a good look at ourselves, a chance to hold our government accountable for the policy failures that deny hardworking people a fair chance. Our government will face a review by the United Nations of its compliance with the Convention on Elimination of all Forms of Racial Discrimination. This treaty requires a biennial report of the US' attempts to remedy racial discrimination, including efforts to address the racial impact of policies that may be neutral on their face but in practice fall heavily on workers of color. The Bush administration submitted the most recent US report in 2007, but said not a word about denial of protection to workers of color in these industries, or its failure to enforce the labor rights of vulnerable immigrant workers. It did not talk about the nearly 2 million immigrant workers who are denied minimum wage every year, earning less than the paltry sum of \$11,700 yearly for a full time worker.

Since our government refused to talk about these issues, the communities affected by these policy failings are doing so. A "shadow report," assembled by the United States Human Rights Network and hundreds of organizations across the United States, was submitted to the UN in late 2008. Next week, restaurant workers, guestworkers and day laborers will travel to Geneva to tell the stories of those who work hard, but have no chance to get ahead.

If we really believe we are beyond racism -- or at least aspire to be -- then all Americans, as well as policymakers and political candidates, need to pull off our blinders and listen to the voices of these disenfranchised workers. It's time for America to live up to its promise of equal opportunity. It's time to pull all sectors of industry, and all workers, within the protection of basic labor rights. American labor laws and their enforcement should reflect American values and human rights principles. Anything less belies our commitment to equal rights and equal opportunity for all.

The United States CERD report may be found [here](#). and the full "shadow report" may be found [here](#).