

FAQ's on the Taco Bell Boycott

Q: Why Taco Bell?

A: First, Taco Bell directly profits from farmworkers' sub-poverty wages and substandard working conditions—including no right to overtime pay, no right to organize, and no benefits whatsoever. Taco Bell pays artificially low prices for the tomatoes Immokalee farmworkers pick, and the extreme exploitation of farm labor in the production chain keeps these prices low.

Second, Taco Bell and its parent company Yum! Brands actually have a hand in keeping those prices so low and therefore bear a significant degree of responsibility for the inhumane working conditions of the men and women who pick their tomatoes. Yum is the world's largest restaurant company – larger than McDonald's – and is made up of Taco Bell, Pizza Hut, KFC, Long John Silvers, and A&W Restaurants. Through the unparalleled impact of the Unified Foodservice Purchasing Co-op (UFPC), the corporation that pools the buying power of Yum's five major brands and leverages that power to obtain the lowest prices possible for its client chains, Taco Bell and Yum exert a strong downward pressure on their suppliers' prices. In agriculture, this translates directly into a downward pressure on the wages and working conditions for farmworkers.

You don't have to take our word for it. The UFPC's own website, a site designed for business-to-business communication, makes quite clear the mission and market power of the purchasing cooperative that manages Yum's supply chains:

Cooperation is catching on. Co-ops make businesses more profitable! United Foodservice Purchasing Co-op, LLC (UFPC) manages the supply chain for all corporate- and most franchise-owned A&W, KFC, Long John Silvers, Pizza Hut, and Taco Bell restaurant outlets in the US... **We obtain low prices by making volume purchase commitments...** The annual purchase volume for UFPC is approximately \$4.35 billion, **making it the largest purchasing cooperative of its kind** in the quick service restaurant industry. ("About UFPC," www.ufpc.com, emphasis added)

A study released by Oxfam America in March 2004, "*Like Machines in the Fields: Workers without Rights in American Agriculture*," goes into even more detail on the power that corporate giants like Yum hold over the agricultural industry (www.oxfamamerica.org/pdfs/labor_report_04.pdf). The study cites a significant shift in an important economic indicator, known as the "**Marketing Spread**" (the disparity between the price a consumer pays for a product and the price received by the grower), as concrete evidence of the growing power of major corporate buyers like Yum over prices at the farm level. "Whereas in 1990 grower-shippers received 41% of the retail price of tomatoes, by 2000 they were receiving barely one quarter (25%)" (page 35).

In short, major corporate buyers -- companies like WalMart, McDonald's, and Yum, whose

sheer economic muscle is unprecedented -- have increasingly used their buying power to drive down their costs, squeezing their suppliers for the deepest possible discounts on produce. In turn, growers have sought to maintain their margins by squeezing their suppliers, and in particular the one supplier with the least power to negotiate its price, labor. While growers cannot demand cheaper tractors from John Deere, cheaper chemicals from Monsanto, or a break on the interest rate from their bank, they can hold wages stagnant, or even cut the piece rate, and still obtain desperately poor workers to pick their crops. The Oxfam study concludes: **“Squeezed by the buyers of their produce, growers pass on the costs and risks imposed on them to those on the lowest rung of the supply chain: the farmworkers they employ”** (page 36).

Third, there is factual information linking Taco Bell directly with at least one large Florida-based tomato grower. In the agricultural industry, as in other industries where subcontracting is prevalent (such as the apparel industry), supplier information is regarded as confidential, competitive information. It is not readily available to the public. However, in an article on the emerging phenomenon of contract pricing in the produce industry, the industry journal "The Packer" confirmed the existence of a long-term contractual relationship between Taco Bell and the Six L's Packing Company, one of its Immokalee-based suppliers and one of the biggest producers of fresh tomatoes in the country ("Shipper takes non-conformist approach," Tracy Roselle, December, 1999).

Q: Are farmworkers really poor?

A: Yes. The US Department of Labor's National Agricultural Workers Survey (January, 2000) reported that farmworkers' median annual income is roughly \$7,500, an amount far below the national poverty level. That same report goes on to conclude that farmworkers' "low wages, sub-poverty annual earnings, significant periods of un-and underemployment... all add up to a labor force in significant economic distress."

In-depth investigations by two of Florida's leading newspapers -- the Miami Herald and the Palm Beach Post -- published during the past year confirm the DOL's findings, not only reporting widespread poverty, sub-standard housing, and inhumane working conditions, but actually uncovering new cases of involuntary servitude (Miami Herald, "Florida's Fields of Despair: Destitute Farmworkers Exploited," 9/03; Palm Beach Post, "Modern-day Slavery: Still Harvesting Shame," 12/03).

In light of the Department of Labor's findings and the abundance of credible press investigations into farmworker poverty, to question whether US farmworkers are indeed poor seems somewhat absurd. Yet Taco Bell does just that in its own defense. Taco Bell has repeatedly claimed that one of its suppliers in Immokalee says it pays its workers \$9 per hour (though Taco Bell admits that the supplier in question refuses to open its books -- even to Taco Bell -- to substantiate its claim).

To quote \$9 per hour as an average farmworker wage is -- at best -- disingenuous. The CIW has provided Taco Bell with ample information about the pay rate and pay system used in the tomato industry. In brief, farmworkers in the tomato harvest are paid by an antiquated piece rate system-- 40-50 cents for every 32-lb bucket of produce they pick. This rate has not changed significantly in over 25 years. Despite the legal requirement that pay by the piece rate must at least equal the minimum wage, there are generally no time clocks in the fields, and as a result farmworkers' hours frequently go unrecorded and unpaid (i.e., time spent traveling between fields and between harvests, time waiting for the fields to dry before picking, time waiting for crops to ripen during which a worker must make him/herself available every day regardless of whether or not there is work that day, work days missed due to weather, etc.). Further, wage fraud -- including the systematic falsification of hours to conceal minimum wage violations -- is well-documented in the agricultural industry and has been the subject of innumerable class action lawsuits across the country for years.

In short, there are so many variables that affect what any individual farmworker may earn at any given moment that an hourly, daily or weekly measure of pay is effectively meaningless. The only truly useful measure of farmworker earnings is the average yearly income (\$7,500/yr), as it is taken over a long enough period to obviate most of the factors that cause measures taken over a shorter time to vary so widely.

Companies like Taco Bell who purchase the produce and benefit from sub-poverty wages should not hide behind the lack of accountability and transparency in agriculture. Rather, as direct beneficiaries of the exploitative practices in agriculture, they need to take proactive steps in modernizing the industry.

To our knowledge, **Taco Bell has no system in place to investigate or verify compliance with any basic labor standards**, nor do they have any files or records of past investigations on labor conditions in their supply chain. They do have supply chain inspectors, but the issues covered in their inspections are food safety and quality standards, not labor conditions or human rights abuses. As far as we know, Taco Bell uses no independent auditors for the investigation of labor conditions in its supply chain.

Q: Does Taco Bell really have the power to make the kinds of changes the CIW is demanding?

A: Taco Bell claims that it purchases only a small percentage of Florida's overall tomato production, and therefore has only a limited influence over its suppliers.

By making this claim, Taco Bell is, intentionally or otherwise, obscuring the reality of its purchasing arrangements. In truth, the amount purchased specifically by Taco Bell is rendered immaterial by the fact that Taco Bell's relationship to its suppliers is mediated by Yum's

purchasing coop, the UFPC. Consequently, the price Taco Bell pays for its tomatoes is determined, through volume discounts, by the collective purchasing power of all five of Yum's major brands, not by the amount Taco Bell consumes on its own. That is precisely the reason for the UFPC's existence, or any purchasing cooperative, for that matter. As such, **the only figure of any real value is the collective demand of Yum's five brands for tomatoes purchased from Florida-based suppliers, a figure Taco Bell has yet to release.**

Yum Brands is the largest restaurant company in the world – bigger than McDonald's – and as such wields far more power over its suppliers than it will acknowledge publicly. In the words of the Honorable Mary Robinson, former United Nations Commissioner on Human Rights, "You can't pass the buck. You are profiting by exploitation and have the power to change what is happening in the fields. So, **pay this penny a pound more for workers rights, and assume your fair share of responsibility.**"

Q: Is there any precedent for this kind of campaign?

A: Yes. The notion that multi-billion dollar corporations that profit from substandard labor conditions in their suppliers' operations should be held accountable for those conditions is not new, nor unique to this boycott. But unlike Taco Bell, other industry leaders in similar situations have responded to revelations of abuse in their supply chains by taking positive measures to address those abuses.

Like Taco Bell, Starbucks has also been the target of consumer campaigns questioning unfair labor practices in its supply chain. Like Taco Bell, Starbucks initially defended itself by claiming it had neither the ability nor responsibility to address these problems. Starbucks, for example, does not grow coffee, nor does it directly employ workers who pick their coffee in plantations around the world. And, as Starbucks frequently asserted in its defense, the company is not a major player in the coffee market, accounting for less than 2% of overall world demand.

Yet through the actions of informed consumers, Starbucks has been obliged to recognize the principle of "Fair Trade Coffee" and to take the first steps toward providing the option to buy fairly traded coffee in their over 8,000 stores. Although much more progress is needed, Starbucks is now beginning to leverage its tremendous brand value and market presence to spread the concept of fairly traded coffee to consumers throughout the world. In this light, Starbucks CEO Howard Schultz had this to say in a recent *USA Today* interview:

"We're living in a time where the consumer is doing something they've never done before. They're performing their own audit, a cultural audit of what a company stands for. That cultural audit has to do with your culture, your values, how you take care of your people, are you giving back to the community, and how you're serving the greater good." (Sept. 9, 2003)

Similarly, when leaders of the US chocolate industry were faced with revelations of modern-day

slavery in the cocoa plantations where they purchase a percentage of their cocoa beans, president of the Chocolate Manufacturer's Association, Larry Graham, said, "We need to be permanently concerned where the cocoa beans come from, the impact of cocoa on the environment, and how the workers are treated... This is where the industry has changed forever," ("Chocolate industry accepts responsibility for child labor practices," Knight-Ridder newspapers, May 2002).

As a leader in the fast-food industry and a multi-billion dollar brand, Taco Bell's shadow falls on the companies with which it does business. Along with the benefits of being a household name come the costs of assuring that its business practices – and business partners – are beyond reproach.

In at least one aspect of their supply chain, Taco Bell and Yum! Brands have begun to recognize that reality. In Yum's own words, although they do not "own, raise, or transport animals... as a major purchaser of food products, we have the opportunity and responsibility to influence the way animals supplied to us are treated" ("Animal Welfare," www.yum.com). With this campaign, **we are only asking that Yum give the same consideration to farmworkers they already claim to give to farm animals.**

Q: What does the CIW mean when it uses the term "slavery"?

A: When the CIW uses the word slavery, we do not mean "slave-like" or "resembling slavery" --- rather, we are referring to conditions that meet the high standard of proof and definition of slavery under US federal laws.

Modern-day slavery is a violation of the 13th Amendment. The cases we have helped bring to justice have been prosecuted by the US Department of Justice Civil Rights Division either under laws forbidding peonage and indentured servitude passed just after the Civil War during Reconstruction (18 U.S.C. Sections 1581-9) or under the 2000 Victims of Trafficking and Violence Protection Act, which prohibits the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

In our latest case, three Florida-based agricultural employers convicted in federal court on slavery, extortion, and weapons charges were sentenced to a total of nearly 35 years in prison and the forfeiture of \$3 million in assets. The men, who employed over 700 farmworkers, threatened workers with death if they were to try to leave, and pistol-whipped and assaulted -- at gunpoint -- passenger van service drivers who gave rides to farmworkers leaving the area. The case was brought to trial by federal authorities from the Department of Justice (Civil Rights Division) after two years of investigation by the CIW.

Q: Should we boycott other companies that are a part of Yum Brands like Pizza Hut or KFC?

A: Yum Brands is Taco Bell's parent company, but Taco Bell is the sole focus of the boycott at this time. However, the Center for Reflection, Education and Action (CREA) and several other institutional shareholders filed a shareholder resolution calling on Yum to provide detailed reporting on environmental and labor rights impact in its supply chain. The resolution was first filed in 2003 and was taken up at the company's annual meeting on May 20, 2004 for the second year. The most recent numbers released by Yum indicate that 33% of Yum shareholders voted in favor of this resolution, well beyond the numbers needed to bring it back to a vote next year. For a full article on the details of the resolution see www.pcusa.org/boycott.

For some perspective, when socially responsible resolutions are introduced at a company's annual meeting for the first time, the hope is that they will achieve somewhere between 3% - 7% of the shareholder vote. By winning more than 30% of Yum shareholders' vote, the resolution has put Yum and the entire fast-food industry on notice that many shareholders have a concern about how the products a company sells are produced and wish corporations like Yum to take responsibility for its product from harvest to market.

Q: Is there a risk that growers who supply Taco Bell's tomatoes will begin to harvest by machine rather than by hand?

A: No. The tomatoes grown in Immokalee are fresh-picked tomatoes that are diced into chalupas or tossed into salads. It is important that the fruit be free from bruising and other imperfections. The only way to avoid bruising tomatoes is to hand pick them. Machine-picked tomatoes, which are principally grown in California, are used for pastes and sauces.

Q: Will Taco Bell respond by just not buying tomatoes from Florida any more?

A: No. Florida is the leading producer of tomatoes in the United States. According to the Florida Tomato Committee, Florida tomatoes account for 95% of all US grown tomatoes eaten by Americans from October to June, and 45% of all tomatoes consumed in the US year-round are Florida tomatoes. You simply can't do business on the scale Taco Bell and Yum do business and not purchase your tomatoes from Florida, particularly given the prohibitive transportation costs of bringing tomatoes from Florida's next biggest competitor, Mexico, to the major East Coast markets.

Q: Can I help workers by asking them to hold the tomatoes on my taco?

A: No. We are not asking Taco Bell to stop buying tomatoes. Rather, we are asking the company to use its influence as a fast-food leader to clean up the exploitative conditions under which farmworkers are laboring in its supply chain. There is no way Taco Bell President Emil Brolick will be able to tell whether you eat your taco with or without tomatoes. He surely doesn't care. He'll only know, and care, if you don't buy one and if you write and tell him why.

Q: Are farmworkers covered by the National Labor Relations Act?

A: No. Farmworkers are not covered by the National Labor Relations Act (NLRA). Farmworkers and domestic workers were specifically excluded from this legislation when it was passed in 1938. Unlike laborers in other industries, agricultural laborers are not covered by the NLRA so the growers who employ them are under no obligation to dialogue with worker representatives. And workers have no recourse to the National Labor Relations Board if they are fired or discriminated against for raising issues with their employers.

Q: Does Florida have any state labor laws that protect farm workers' ability to organize?

A: No, Florida does not. When people think about farmworkers organizing for their rights they often think of Cesar Chavez and the United Farm Workers (UFW) union in California. As a result of the UFW's efforts in California, the right of farmworkers to organize is now protected by a state collective bargaining law specific to agriculture.

Q: Are farm workers covered by the Fair Labor Standards Act (FLSA)?

A: Partially. Farmworkers are excluded from the overtime provisions of the FLSA. This means that unlike almost all other workers in this country, farmworkers do not have the right to overtime pay after working more than 40 hours in a week. The Fair Labor Standards Act does not limit either the number of hours in a day or the number of days in a week that an employer may require an employee to work, as long as the employee is at least 16 years old. While it requires that overtime be paid at time and a half to covered employees, all agricultural workers are explicitly exempt from coverage and therefore are not entitled to overtime pay. The DOL explains, "Employees who are employed in agriculture as that term is defined in the Act are exempt from the overtime pay provisions. They do not have to be paid time and one half their regular rates of pay for hours worked in excess of forty per week." (From DOL Fact Sheet #12: Agricultural Employers Under the Fair Labor Standards Act (FLSA))

Agricultural workers are covered under the minimum wage standards of the FLSA. According to wage and hour law, all covered workers' wages must equate to at least the statutory minimum

wage for all hours actually worked. The Department of Labor is responsible for ensuring employer compliance.

Enforcement of the minimum wage laws in the fields, however, is another issue, and as a result many workers never receive minimum wage. There are few resources to police such a huge industry, and as a result, workers complain regularly of receiving less than the minimum wage and large, class action lawsuits are filed year after year on behalf of farmworkers to collect unpaid minimum wages.

Q: Do farmworkers receive any benefits?

A: The vast majority of farmworkers receive absolutely no benefits whatsoever; no health insurance, no sick leave, no vacation, and no pension.

Q: What is a piece rate?

A: The piece rate is the amount that workers are paid for harvesting a particular amount of produce. In the tomato industry workers are paid per 32 pound bucket that they pick and haul. In other industries like citrus other measures and rates apply.

Q: Do all growers pay 40 cents a bucket?

A: No. One of Taco Bell's suppliers, the Six L's Packing Company, pays 40 cents for every 32 pound bucket. They are the lowest paying grower. The highest paying grower pays 50 cents per bucket. If the 40 cent piece rate had simply kept pace with inflation since 1980, farmworkers would be earning 92 cents a bucket today (Consumer Price Index, Inflation Calculator, <http://www.bls.gov/cpi/home.htm#data>).

Q: Do farmworkers pay taxes?

A: Yes, payroll taxes are deducted from workers paychecks in agriculture just as they are in any other industry.

Q: How many months out of the year do farmworkers harvest tomatoes?

A: Farmworkers who harvest tomatoes can work about 10 months of the year actually picking tomatoes. For seven months of the year (November - May), workers can pick in the Immokalee

area. During the summer months, which are approximately three, farmworkers can travel up to northern Florida and the East Coast states to continue picking during the summer season. For the rest of the year, when picking is not available locally, workers can find employment in the various tasks of cultivation in the tomato industry -- laying plastic, planting, pruning, tying, and pulling up plastic.

In many cases, workers pick for the same Florida-based company year-round, even while working in different states. One of Taco Bell's principal suppliers, for example, is based in Immokalee, but has operations in Georgia, South Carolina, North Carolina, Virginia, Maryland, and Pennsylvania, and its Immokalee-based crews work the fields in all those states.

Q: Are all the tomato fields in Immokalee?

A: No. The staging area where workers seek work daily from crew leaders and are transported by labor bus is in Immokalee. It's a big parking lot by a grocery store. Workers gather beginning at 4:30am. Some of the fields are as close as 20 miles away. But others are more than 100 miles away. Workers can spend 2 hours just riding to the fields.

Q: How many farmworkers pick tomatoes?

A: About 3,500 workers pick tomatoes in southwest Florida.

Q: Where do the farmworkers live?

A: Most farmworkers live in trailers - sometimes with as many as 12 men to a trailer. The going rental rate for a single wide trailer in Immokalee is roughly \$200-\$250 per week (about \$1,000 per month). Since that is more than the average farmworker earns in total wages, the rent structure effectively builds overcrowding in as workers are obliged to move in as many people to the trailer as is necessary to pay the rent. Other farm workers live in labor camps, often located in or around the fields where they work, on their employer's property. The labor camps are in remote areas and are generally guarded. Until June of 2002, one of Taco Bell's principal suppliers did not permit their workers to receive visitors on their labor camp at any time. A judge issued an injunction requiring the company to allow their workers to receive visitors after workers complained through the CIW.