

Harvest of Shame

March 12, 2007

*Children in Guatemala harvest and process vegetables and fruit
exported to school children in the U.S.*

Today, President George Bush will visit the rural province of Chimaltenango, where he will laud CAFTA for Guatemala's booming agro-industrial exports to the United States.

But in a less than ten-minute drive away from where President Bush is speaking, there are 13-year-old children and minors working under deplorable conditions at the Legumex factory. They are forced to work 11 to 14 hours a day, six and seven days a week, while being paid below the legal minimum wage and cheated of their overtime. They work under conditions where every single labor law in Guatemala is being violated.

A Joint Report
by
National Labor Committee
(NLC)

Center for Studies and Support for Local Development
(CEADEL)

Exploited Children

Generators of Wealth in Chimaltenango, Guatemala

By CEADEL

The department of Chimaltenango, inhabited by an ethnic Kachiquel Maya majority, has received large national and foreign investment in its textile and agro-export sectors, most of which enjoy tax advantages under Decree 29/89 for the promotion of export and maquila activity.

But the daily reality of these benefits is that they only help the business owners. The working class continues to be submerged in a poverty of poor wages that do not cover their basic necessities.

Within this dynamic of exploitation, there are some companies that behave with even greater impunity. This is the case with the processor and exporter of non-traditional agricultural products, LEGUMEX. Also known as Tierra Fria, Legumex is located in El Tejar, Chimaltenango, and contracts girls between 12 and 17 years of age under conditions of exploitation. Legumex violates the country's labor regulations which establish 14 years as the minimum age to work. Young workers between the ages of 14 and 17 must not work longer than seven hours a day, and may only work during the daytime. This is not the case at Legumex, which demands long hours, including 14-hour night shifts that stretch from 5:00 in the evening to 7:00 in the morning. Worse, Legumex employs 13 year-old girls who under normal conditions should be in school. But the company impedes that right, violating the constitution of the republic, the labor code, ILO conventions and the International Convention of the Rights of the Child to which Guatemala is signatory.

The girls (under 14 years old) and the adolescents (14 to 17 years old) who work in the company, in addition to being denied the right to an education—they are working from Monday to Sunday—are also exploited through long work shifts and are not paid for their overtime. They earn a wage—Q34.20 (\$4.44 a day, \$133 a month) according to pay stubs and in other cases paid a piece rate—which is below the legal minimum wage. The minimum wage is Q1,624 (\$212) including bonuses under Decree 37-2001. On top of all this, they are maltreated by male and female supervisors, degraded and compared to animals. As a consequence, many of these girls are timid, living with great stress and developing emotional problems.

What is behind these companies' hiring of minors when there is an excess of labor power in the country and in this area? Why not contract the parents?

- * Because the girls are not capable of organizing themselves into unions;
- * Because they work tirelessly,
- * They can be paid less than the minimum wage,
- * They don't know their rights,
- * Submissiveness at home is transferred to the factory, so they don't protest. They are supposed to respect the adult, or the boss,
- * They are blackmailed with the (invalid) argument that they have no rights,
- * They have little education.

What is a general profile of these exploited girls?

- * They suffer from some degree of malnutrition,
- * They have not finished primary school (first six years of studies),
- * They live in extreme poverty,
- * They are from large families with more than six members,
- * Some 95 percent are indigenous,
- * They have to support their families.

The consequences of child labor are:

- * Girls in an accelerated process of adultification,
- * Sexual harassment and abuse,
- * Severe damage to their physical development,
- * Continuing the cycle of poverty.

The exploitation of minors and adolescents is not exclusive to LEGUMEX. There are other companies, like ARLUSA and INPROCOSA that hire 14 to 17 year-old girls with long work shifts. They are denied the right to an education, they are not paid overtime, and in other cases contract them on a piece rate by which they are denied all legal benefits.

Just recently, on the 28th of February, the INPROCOSA company fired 90 workers, offering them only 90 percent of their severance pay. Among the fired were adolescents and pregnant women who according to law may not be fired.

For these reasons, CEADEL and the National Labor Committee focus on empowering workers to demand compliance with the labor laws—not on opposing or blocking investment, but, on the contrary, applauding efforts that create jobs, as long as the conditions created are not to the workers' disadvantage. That is to say, as long as there is respect for the minimum guarantees established by law and respect for the dignity of the person.

But, in the face economic globalization, which leaves in its wake an aftermath of unemployment, exploitation, loss of culture, and misery, the globalization of solidarity between peoples, workers, and their organizations is a valid weapon that allows workers voices to be raised and to be heard. On this point, it is fitting to mention that the joint and coordinated work between two organizations, the Labor Committee and CEADEL, contributed to improved labor conditions at the Korean apparel assembly company, Dong Bang. It is hoped that the same results may be obtained in other companies in Chimaltenango, which, sheltered by a lack of initiative at the government entities charged with protecting the workers, act with total impunity and circumvent their responsibilities as corporations.

Legumex Agro-industrial Factory (formerly Tierra Fría)

Carretera Panamericana, Km 52.5
El Tejar, Chimaltenango
GUATEMALA

Legal Representative: Juan Francisco Velazquez Solis

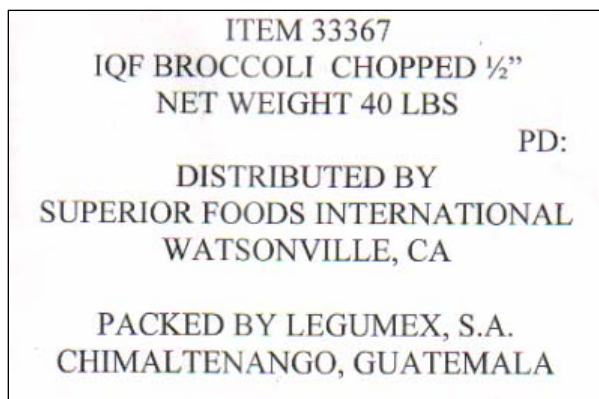
* Approximately 240 workers

* In 2006, the Legumex factory *shipped more than four million pounds of frozen vegetables and fruit to the United States* which entered through the ports of Los Angeles, Port Everglades (Florida), Houston, Texas and Charleston, South Carolina.

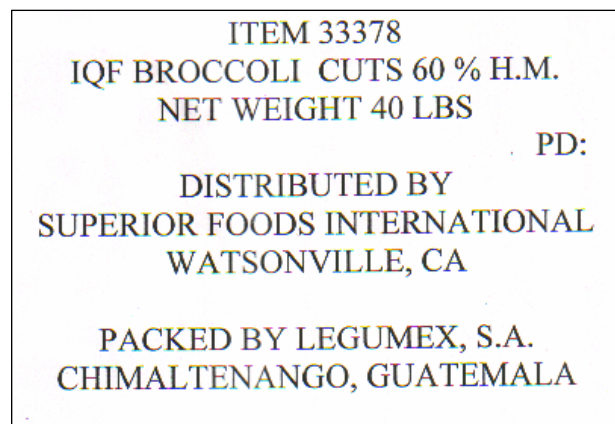


The vast majority of exports went to the **Superior Foods Company** in Watsonville, California which supplied several companies including **Sysco**, the largest food service marketer and distributor in North America, and **U.S. Food Service**, the second largest food distributor in the United States.

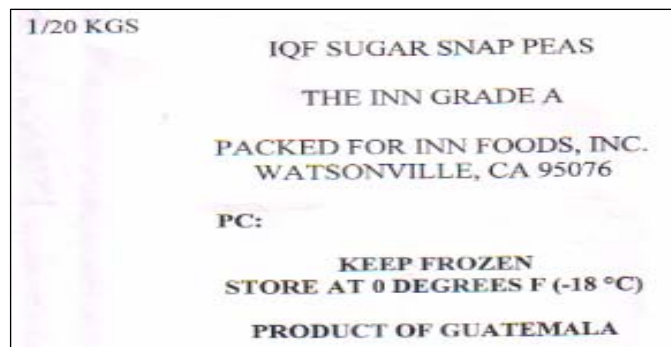
Both Sysco and U.S. Food Service supply schools, hospitals, the U.S. military and restaurants.



Legumex internal document, indicating
Superior Foods, smuggled out of the factory



Legumex internal document, indicating
Superior Foods, smuggled out of the factory



Legumex internal document, indicating
Inn Foods, smuggled out of the factory

Harvest of Shame

Children in the United States may be eating vegetables and fruits harvested and processed by children in Guatemala.

The Legumex agro-industrial plant in Chimaltenango, which shipped over four million pounds of frozen produce to the U.S. last year, resembles a high school in the U.S. in that the majority of its 240 workers are children and teenagers 13 to 17 years old. According to Sonia, a 16-year-old who started working at the Legumex factory when she was 11 or 12, there used to be *“twelve year olds, even ten-year-olds, but I think they fired them, because they are too little to work. Plus, the boss is always hiring minors to meet production goals.”* The younger children were fired in mid-November, 2006. Maria, herself a 13-year-old who was recently fired—(*“they said that I keep cutting myself...”*)—explained that the factory managers *“only take minors because they can take more advantage of the minors...”* In fact, when Maria applied for a job at Legumex: *“Those of us who were 13 said we were 13. They told us to come right on in. They gave us our knives...there were four girls that were older and they did not receive them like us because they were coming from another factory that did the same, but they weren’t as easy to exploit. Maybe that’s why they didn’t get the job.”*



We also asked Gladis, a 16-year-old worker, why she thought management preferred to hire so many minors. She told us, *“The boss has said it’s because we have nothing to do at home, we don’t ask to go see our children like the older women, we don’t have those preoccupations.”* Ingrid, a 15-year-old who had to quit the factory after suffering pain in her arm and ribs from the constant

repetitive motions, explained that when the manager fires a child worker, they use it as a threat to all the other children. *“One time they told a girl, they had fired two girls, so they said, ‘Look here, _____, if you leave, you won’t find work elsewhere, because only here will you find work.’ So they say that like a threat.”*

Every worker we spoke with, including during a rare chance meeting with 20 or so Legumex workers when a company bus they were riding on had stopped by the side of the road (it was a used school bus from the United States)—told us the same thing, that *“the majority...like, the majority...are 13, 14, 15, 16 years old.”* Three 13-year-olds came off the bus to stare at us and see what all the excitement was about.

Despite its appearance and so many young people entering the Legumex compound each morning, it is certainly no high school. It is a sweatshop, where the hours can be grueling. At the same chance meeting with Legumex workers on Saturday, February 24, they told us that “last week” they were required to work daily 14-hour shifts from “7:00 [a.m.] until 9:00 at night.”

Usually they work six days a week, but the previous Sunday, February 18, they had been forced to work.

Working a 14-hour shift from 7:00 a.m. to 9:00 p.m. Monday through Friday and two 9 ½ hour shifts on Saturday and Sunday (from 7:00 a.m. until 4:30 p.m.) would put the young workers at the factory 89 hours that week, while actually working 83 ¾ hours, after accounting for a 15-minute morning break and 30 minutes for lunch each day. It could even get worse, since sometimes the workers were told to report an hour earlier, at 6:00 a.m.

The norm is to work a 12-hour shift, from 7:00 a.m. to 7:00 p.m. Monday through Thursday, with an 11-hour shift, to 6:00 p.m., on Friday and getting out earlier, at 4:30 p.m., on Saturday. Even these lighter hours still put the workers at the factory for 68 ½ hours while actually working 64 hours.

It's a long day for the children and teenagers. When they get out at 7:00 p.m., most don't get home until 8:00 or 8:30 p.m., since it's a 45 minute bus ride to their neighborhoods, and then they still have to walk home. Almost all the workers told us they try to get to sleep by 10:30 p.m., since they have to be up at 4:30 a.m. to wash and prepare their food before walking out the door at 5:30 a.m. Most days, the children get up in the dark and return home in the dark, rarely seeing the light of day. The child workers are getting at most six hours of sleep. In interview after interview, the young workers told us they were routinely at the factory over 67.65 hours a week, 98 hours a week, 72 hours a week, 68 hours, 66 hours, 65 ½ hours...

The Legumex factory is not a nice place. Thirteen-year-old Maria described what it's like working there:

"They treat you badly: They don't let you leave early. You don't get permission to use the bathroom. If you want water, you have to bring it or drink from the tap. Another thing, if you get cut, they just give you some cotton. At times they tell you to keep working, that they can't do anything for you because they don't have a first aid kit, so keep working. If you get sick, you have to go to work. For example, if you



have a fever, you have to go to work because they don't let you be absent even one day or they will deduct the bonus from your pay. They don't give benefits like other factories. You only get a half hour for lunch, 15 minutes for a snack with the threat that if you don't fill eight boxes you can't have lunch or a snack.... They don't pay overtime hours... You cut yourself too much... It feels terrible, you have to be standing all day. You get very tired and when you stop for a bit because you're tired, that's when they tell you, 'You have to work harder, the work is for today and not for tomorrow,' they say, and 'That is why you get paid.' ...If all the trucks have not left from 6:30 [a.m.] to 12:30 p.m. they do not give you permission to go to the bathroom. 'No, not now. No permission until 12:00 p.m., until 9:00 at night.' If all four trucks have not left, you don't get permission."

During working hours, the child workers are not allowed to talk to each other, *“because they say, ‘You are not here to fool around, you are here to work, so you better hurry. Otherwise we will fire you.’ So you hurry with the threat of being fired.”*

“Besides being robbed of your fifteen days wage in front of you, they rob you more by not paying sick days. They always do that when someone gets sick. You have to be there, even if you are sick, the supervisor says ‘even if you have your intestines hanging out, you have to keep working because today we need to produce what we produce every day.’”



Sixteen-year-old Sonia concurs: *“They pressure a lot. They scream a lot. They ask for a quantity they are not able to meet.”* Gladis relates: *Yes, they scream at us. ‘Hurry up! If you want to leave at 5:00 or 5:30 you have to hurry. If not you’ll leave at 7:00 or 8:00.’* Ingrid had the same experience: *“They yelled at us, they said, ‘Hurry, girls!’ They never stopped screaming.”*

Chimaltenango, where the Legumex factory is located, is in the highlands, surrounded by towering volcanoes, and it is much colder than in much of Guatemala. In the mornings and evenings you definitely need a jacket.

“The factory is cold,” explains Maria. *“There is not any sunshine. It’s cold! There is one cold room [where they freeze the vegetables and fruit] here. There is another one behind. All that creates a lot of cold and while you do your work, you start feeling feverish.”* *“Really cold,”* says Ingrid. *“They don’t care that it’s cold. They take away our sweatshirts at 9:00 a.m. when we go out for a snack. They take it at 9:00 a.m. and they say if we don’t take it off, they will take them off and throw them out wherever. Or they say, ‘We will give them away.’ They say the sweatshirts make us sleepy, because of the sweatshirt. But it’s cold, and they [the supervisors] have sweatshirts, everything, but we have to, you have to go with nothing. ‘You are too heavily clothed, take off your sweatshirt. I don’t care,’ [they say]. But all day long, the supervisors walk around in sweatshirts.”*

Other workers also explained that although the factory is cold, *“they don’t let us in with any sweaters, because the supervisor says they make lint.”* Due to the cold temperatures they have to work in, the workers say, *“Just about everyone gets gripe, stomach aches and coughs...headaches.”*

The Legumex factory is divided into two departments. In the preparation section, which always operates on a day shift, the vegetables and fruit are cut, sorted and inspected. It is in the processing department that the produce is pre-cooked, frozen and put in sealed boxes for shipment. In processing, the workers alternate their shifts, working a day shift one week, from 7:00 a.m. to 5:00 p.m. Monday through Saturday, and then switching to a 14-hour night shift the

following week, from 5:00 p.m. to 7:00 a.m. During the day shift, they are at the factory at least 60 hours a week, while the night shift is at the factory 84 hours. Such a rapidly changing schedule does not allow the workers to adjust their eating or sleeping habits, leaving them tired, disoriented and often ill.

We were told that workers sometimes faint from exhaustion. Fifteen-year-old Ana, who works such a night shift along with two other minors, explained: *“Yes. Sometimes like when you have a headache, and you tell the supervisor...and they don’t say anything... A little while ago my throat hurt because of the cold, and every time I coughed bits of blood came up, and I said to her...well, since the supervisor*



wasn’t there, I walked over to see her, and called her, and she went nuts, and she told me that if I was absent, they would suspend me for another day.” “It’s cold,” Ana says. And you are “standing up all night... Those of us who are fast have to do it really fast. If not, then they chastise us... One feels really tired, wanting to sleep.” All night long, Ana stands next to a conveyer belt, in space enough to use just one arm, constantly spreading out the cut vegetables so they cook evenly.

Mandatory production goals at the Legumex factory can be wildly excessive. For example, Sonia explained that, *“There was one day when we had to produce 400 pounds [of broccoli] in one day, and by midday I only had 150 pounds, so they were asking for another 250 pounds from 2:00 p.m. to 7:00 p.m. and we ended up leaving around 8:30 p.m. That was the 17th of this month [February].* Working a 12 $\frac{3}{4}$ hour shift, she had to process 35 heads of broccoli every hour, one every 1.7 minutes. The pace is furious, typically requiring about 97 operations—34 cuts with the knife and another 63 operations with the fingers—to break each broccoli into bite-sized florets. In one day, this 16-year-old girl would repeat the same motions 43,630 times! To make matters worse, a month earlier management had lowered the piece rate from 0.15 quetzales (1.9 cents U.S.) per pound of processed broccoli to just 0.12 quetzales (1.6 cents). The workers are going backward at the Legumex plant. When you are processing 450 pounds of broccoli a day, this cut in the piece rate really matters. It dropped Sonia’s piece rate wages from \$8.77 for the day to \$7.01, which amounts to a loss of \$1.76 a day. This is a huge loss for these poor workers.

In a recent 13-day period, Sonia processed 1,228 pounds of broccoli and 7,766 pounds of melon.

At the end of the shift, *“You feel a lack of motivation,”* she explains, *“You get home and want to do nothing. You just want to go to bed because your hands hurt, your back...your feet, of course.”*

The girls say that processing melons is the worst. Again, Sonia explains: *“When we do melon, nobody goes in with a sweater... The water rises by an inch...and it’s even more damp because*

once the water gets in [into your sneakers] you have to walk around with wet shoes [for 12 hours]... Sometimes your feet start splitting and bleeding, getting infected from all the stuff you throw around. The ones that are not strong get infections."

Gladis agrees that melon is harder than anything else *"because you have to split it and clean out the inside very well, and then make balls and balls all day long with your hands."* The factory floor is *"damp, always soaked. It is never dry... because every so often they put disinfectant down. They pour it on... Your feet can't bear it, from standing all day. Also your back, sometimes your back hurts."* The small balls of melon that the girls scrape out all day long are frozen and sent to the U.S.

A former supervisor confirmed the harsh treatment the workers face. *"I worked there as an assistant supervisor, and the boss there used to chastise me because I didn't rush the girls... He warned me and said to me... 'Look, you have to demand it of the girls, and if they don't listen to you, pull their ears.' They only make demands there, but they don't want to comply with the requisites of the minimum wage..."*

The Legumex workers cannot speak, use the bathroom, or drink water without permission.

Ingrid explains: *"They don't give permission. You have to beg for permission [to use the bathroom]... Only during breaks and lunch are we free to do so."* Every worker we spoke with confirmed this, including the girls on the company bus who, when asked if they could freely use the bathroom shouted *"Nooo! No. Only at lunchtime and snack time."* Also, there is no toilet paper. Gladis told us, *"You have to bring your own toilet paper."* Often there is no soap and there are never towels to dry your hands.

Nor does the factory provide clean drinking water. The workers must either bring their own drinking water or drink from the tap in the factory, which is dangerous, as tap water in Guatemala is not potable.



"We can't talk," the girls told us. "We are not allowed to talk. If we talk, they scold us." "They'd scold you," Ana says, "if they catch you talking." Gladis agrees. "No you can't [speak]. They don't let you." Asked why, she says, "I don't know. If we talk, we won't hurry."

The more we spoke with the workers, the clearer it became that the Legumex factory is violating every single labor law in

Guatemala, not to mention a similar total disregard for the core internationally recognized worker rights standards.

Illegally, Legumex workers are not inscribed in the national Social Security Institute, which means they do not have health insurance. Sick days are not allowed, and wages are docked for

any time missed. Workers are denied their legal 15 days of annual paid vacation, and are routinely denied statutory national holidays off with pay.

Not a single worker at the Legumex factory is paid the legal minimum wage or anywhere near the proper overtime pay due them.

As a result, some workers are earning less than half of the wages owed them.



Fifteen year old **Ana** is among the best workers at the Legumex factory. She is serious, fast and attends to details. She also works long hours in the processing department alternating from a day shift one week to a night shift the following week. On average, she is at the factory six days and 72 hours a week, while working 67 ½ hours, or 11 ¼ hours a day. Ana should have earned \$11.38 a day—\$7.84 for the regular eight hours paid at the legal minimum wage of 98 cents an hour and \$3.54 for the 3 ¼ hours of overtime paid at the mandatory \$1.09-per-hour premium. Instead, she was paid at most \$8.49 to \$8.99 per day meaning she was being **shortchanged of 21 to 25 percent of the wages legally due her. For the typical 15 or 16-day period, this adds up to a loss of \$31.06 to \$37.56, which is an enormous amount of money for a worker being paid below even the very modest 98-cent-an-hour minimum wage.**

The workers are paid semi-monthly at the Legumex plant. Ana should have earned \$147.94 for the 13 or 14 days of work, but she received only \$110.39 to \$116.88.

Sonia, who is just 16 years old, works in the preparation department where she too is among the very best workers. She produces a lot and with real quality. It is not uncommon for Sonia and her coworkers to work a 12-hour shift, from 7:00 a.m. to 7:00 p.m., six days a week. Sometimes they are kept to 8:30 p.m. and also have to work on Sunday. This puts them at the factory 72 to 88 hours a week.

More common, however, is to put in an 11 ½-hour shift, from 7:00 a.m. to 6:30 p.m., six days a week. This puts the workers at the factory 69 hours a week while working 64 ½ hours, which includes 16 ½ hours of overtime on top of the regular 48 hours of work. Sonia should have been earning \$10.84 a day, \$65 a week and \$140.83 for the semi-monthly pay period. Instead, she earned as little as \$77.92 and a high of \$116.88 per pay period. Most often, she earned \$103.90, or \$7.99 a day, which is \$2.85 less than what she was legally owed.

Sonia, among the fastest workers, is, like Ana, being shortchanged of 26 percent of the wages legally due her. The \$2.85 she is being underpaid is for her, and the other poor workers, an enormous amount of money amounting to the loss of three hours of regular wages each day.

But Ana and Sonia represent the “good news.” It is all downhill from here.

Sixteen year old **Gladis** often works from 6:00 a.m. to 9:00, or even 10:00 p.m., 15 to 16 hours a day. More common is to work from 6:45 a.m. to 6:30 at night, while being let out “early” some evenings at 5:30 p.m. An easy week for Gladis would be to work four nights to 5:30 p.m. and just two to 6:30 p.m.; this puts her at the factory 68 hours a week while working 63 ½ hours. **She should be earning \$47.01 for the regular 48 hours and another \$16.90 for the 15 ½ hours of overtime, which must be paid at \$1.09 per hour. Instead, she was paid just \$66.62 to \$71.04 for the semi-monthly pay period, which would include 13 to 14 work days. This means Gladis is being underpaid of just about half of the legal wages due her.**

We had a long meeting with about a dozen Legumex workers who walked us through the hours they worked and what they were paid.

First, management defined the “regular” workday as being from 7:00 a.m. to 6:00 p.m., or a 10 ¼-hour shift after subtracting the half hour for lunch and the fifteen-minute morning break. Also, the daily base wage is set at just 34.20 quetzales, or \$4.44, which puts their minimum at just 43 cents an hour. Of course, this is all illegal. By law the regular workday is eight hours, and must be paid at the legal minimum wage of 98 cents per hour. All overtime—in this case the 2 ¼ hours improperly classified as regular time—must be paid at \$1.09 per hour. **Legally, for a 10 ¼-hour shift, the workers are owed \$7.84 for the right regular hours and \$2.45 for the 2 ¼ hours of overtime for a total of \$10.29—and not the \$4.44 paid by Legumex.**

Factory management also told the workers that for the three hours of overtime between 6:00 p.m. and 9:00 p.m. they would be paid just six quetzales, or 78 cents, which would come to an overtime rate of 26 cents an hour, which is less than one quarter of the legal overtime premium of \$1.09.

If workers want to climb above these illegally low wage rates, they would have to rely upon a piece rate tied to excessively high production goals.

The norm for this group of workers from the preparation department was to work an 11-hour shift, from 7:00 a.m. to 6:00 p.m., Monday through Friday, and a 10 ½ -hour shift on Saturday, to 5:30 p.m. This would put them at the factory 65 ½ hours a week while actually working 61 hours. The least hours they ever worked were from 7:00 a.m. to 5:30 p.m. five days and from 7:00 a.m. to 5:00 p.m. on Saturday. This schedule would put them at the factory 62 ½ hours a week while working 58 hours. Even with this light schedule, the workers should be earning \$57.91 a week—\$47.01 for the regular 48 hours and \$10.90 for the 10 hours of overtime. This comes to \$9.65 a day, or \$1.00 an hour for the 9.66 hours of work.

If the workers “killed” themselves to meet their high production goals, they could earn at most 50 to 60 quetzales a day (\$6.49 to \$7.79, or 67 cents to 81 cents) an hour. So even under the best case scenario, when the workers are racing and able to meeting their high production goals, they are still being underpaid by 19 to 33 percent of the wages legally due them. They should be earning at least \$1.00 an hour and not the 67 cents to 81 cents they earn on a good day.

Thirteen year old Maria said she was working from 6:30 a.m. to 8:30, 9:00 and 9:30 p.m., often seven days a week. This was in late September through November 2006, when she could be at the factory 98 to 105 hours a week. At the low end, she worked four 14-hour shifts from 6:30 a.m. to 8:30 p.m., two 11-hour shifts to 5:30 p.m. and one 10-hour shift ending at 4:30 p.m. Under this “light” schedule, Maria was at the factory 88 hours a week while actually working 82 $\frac{3}{4}$ hours, including 34 $\frac{3}{4}$ hours of overtime. For the week, she should have earned \$84.89, or \$12.13 a day, and \$1.03 an hour.

But for little Maria it did not work like this. **The most she ever earned was 450 Quetzales for a full month, or \$58.44, which is less than 70 percent of what she was legally owed for one week’s work. While Maria was legally owed \$12.13 a day, she was actually earning just \$2.16, or less than 20 percent of what she was due.**



Fifteen year old **Ingrid** did not fare much better. Typically she worked an 11 $\frac{1}{2}$ -hour shift from 7:00 a.m. to 6:30 p.m., six days a week. However, if she worked fast and was very lucky, she could get out at 5:30 p.m. on Friday and 4:30 p.m. on Saturday. Under this schedule she was at the factory 66 hours a week while actually working 61 $\frac{1}{2}$ hours. Including the 13 $\frac{1}{2}$ hours of mandatory overtime, Ingrid should have earned \$61.73 a week—\$47.01 for the regular 48 hours and \$14.72 for the overtime. For the day she should have earned \$10.29 or \$1.00 an hour.



Instead, for the semi-monthly pay periods all Ingrid earned was Q507, Q513, or at most 547.70 quetzales, or \$65.84, \$66.66, and \$71.06. **She was being paid just 49 cents to 53**

cents an hour and not the \$1.00-an-hour wage she was legally owed. Ingrid was earning just about half of her proper wages.

In many ways, the young workers at Legumex are going backwards. We already know that the plant manager, Elvis Barrios, recently cut the piece rate for cutting up broccoli. Management is also now deducting for the 15-minute morning break and the half-hour lunch. Fifteen-year-old Ana told us: *“Before, they didn’t deduct lunch, but now they deduct it. Before, they paid that half hour, but now no. They told us, now they were going to deduct lunch and the snack for those who agreed, and that those who disagreed could go.”*

And how is this for the Christmas spirit: Christmas Eve and Christmas Day are paid national holidays in Guatemala. Not so at the Legumex factory, where the workers were forced to toil on Christmas Eve. They did get Christmas Day off—unpaid! Ana also told us this: *“And when we had our [Christmas] party for the whole plant, and according to [what we thought] they wouldn’t deduct it, but they deducted that, too.”*

It is not that the workers do not know that they are being cheated of their proper wage. Again, Ana: *“Yes—because we companeras who are working days and nights, we’re working more hours than those who are working just days. They’d have to pay us 1,200 quetzales (\$155.84) or 1,100 quetzales (\$142.86), but that’s not how it is.”* We asked the young girls we met from the company bus what would happen if they asked the boss for their proper overtime wages? The girls shouted all at once: *“They don’t let us. They’d fire us!”* In fact, on Friday, February 23, a group of workers were fired for daring to ask that their wages be paid on time. Gladis explained it to us: *“Yes, they were fired because a girl was saying they weren’t going to pay the Friday and they got bothered—they were going to strike [demonstrate] and the boss arrived and fired them right away, some he suspended until this Thursday. He supposedly grabbed one girl by the hair because she answered him back.”* Sonia also knew what happened: *“Someone told them they weren’t going to get paid. They got angry and went out to demand their pay and all that, but when they left and re-entered to speak with the boss, he mistreated them, he treated them like men, the supervisors said some terrible things, that they were almost crying and because of them we also got scolded because they didn’t want us to do the same thing.”*

As 13-year-old Maria explained, *“the workers have no rights, that we have to lie and cover up all the abuse if we are questioned by anyone. ‘If you don’t want to do overtime,’ they told you, ‘you are going to be fired,’ and that everything they ask us we need to say, ‘Yes!’ That we have to right to go to the bathroom, and that we have the right to get water, everything a person asks, we have to say, ‘Yes!’ and, not to mention, they don’t pay us overtime and don’t do anything for us.”* Ana said the same: *“But what they do there is hide everything. They chastise us. On the day shift, they don’t let the workers go to the bathroom. Us, they scream at us. If what they [the North American companies] are saying is that there they treat you well—it’s not like that.”*

We asked the girls if the Guatemalan Ministry of Labor ever helped them, even one time, and the resounding response was *“No!”*



Why is it that the North American buyers—who imported more than four million pounds of frozen vegetables and fruit from the Legumex factory last year—could not find such serious violations and work with their contractor to bring the Legumex factory into compliance with Guatemalan law?

When we asked if North Americans ever come into the factory, the girls responded *“Yes, Uh huh.”* Do they talk to the workers? *“No, they just come look. Look at the production.”* How often, *“like every month.”*

These workers are in a trap, stripped of their rights, isolated and with no exit.

We asked 16-year-old Gladis if she had a bike. *“I don’t know how to ride a bike,”* she said. *“I don’t have one.”* Basically, the young teenage workers at Legumex get up in the dark each day and then return home after work in the dark. This goes on at least six days a week. When we asked 13-year-old Maria if she ever played, she said: *“No. There was no time, just work and work.”* When we said to Ana, *“So, you are fifteen years old. What do you do for fun?”* *“Right now,”* Ana responded, *“I can’t really fool around, or play,”* and she burst into tears.



It does not have to be this way. The young workers’ demands are so modest.

The girls from the bus said, *“They should pay us our overtime. They should let us out early...enter at 7:00 [a.m.] and leave at 5:00 [p.m.]..that they should pay us a good [the legal] wage...”*

Ana said that the U.S. companies... *“should talk with the factory because it’s too much what they make us do and they don’t pay us the wage. In Preparation a lot of boxes come in and they don’t pay us for them. And to fire people who treat us badly. And to allow us to study.”*



Ingrid appeals, *“They should pay the minimum wage, that girls like me leave earlier, on time, at 4:00 p.m., you’re tired and you can’t go on, so I say, that they leave at 4 or 5 p.m. and that they not allow them to leave at 11:00 p.m. because they are little girls. And I know that if I get tired, and I’m 15, and they are 13 or 14—they must be more tired than me.”*

After explaining that President Bush was visiting Chimaltenango to laud CAFTA and praise factory conditions and wages, two girls said they would love the opportunity to meet and speak with him. *“I would tell him,”* Sonia said, *“that it’s all a lie. Well at least I would tell how it’s all a lie, what they have told him is not true, they don’t give us benefits, paid vacations, sick days, that it’s all a lie because we are not paid well. I would love to meet him and speak to him and explain things.”*

Thirteen-year-old Maria said, *“I would like to tell him that everything people told him are lies, that the girls here in Guatemala are treated badly if we don’t get the job done, we would get hit if it was possible. They take away our wages, it is not truthful for him to come here and say we*

are treated well at the factories because that is not true. If he took one day to be like a Guatemalan and work in an export factory, he would see all that he has been told is like being in a rose garden and it's not like that in Guatemala."

There may be a way out of the trap. Maria may be just 13 years old, but she is definitely very smart. Maria may never have even heard the word 'union' before, but she knows what is going on and what will be needed to fix things.

Asked if it would help if young people in the U.S. stood up for the rights of the young workers at the Legumex factory, Maria responded, *"I think so. They would be giving their support to the young workers of Tierra Fria/Legumex because we do not have the confidence, the young people can help in some way, maybe we could get treated a little better, maybe five minutes of rest, but here we work all day and only get lunch and a snack. If they let us go to the bathroom, well we don't get permission because they say we will go talk in the bathroom or we will look in the mirror, though there is no mirror."*

It would help also, *"because, like they say, all of us together, it can be done. If ten people get up and the rest don't, then nobody will listen, but if everyone got up, if the whole factory stood up together, then they would have to listen, 'you told us we would get out at 5:30 p.m.,' but since only one complains, 'look, it's 8:30 p.m., you said we would leave at 5:30 p.m.,' then, of course, they don't listen to one. But if the whole group were to come, then yes."*

Maria and the other child and teenage workers at the Legumex factory are asking for the help of children and teenagers in the U.S. who eat the vegetables and fruits harvested and processed by the children of Guatemala.



U.S. School Children Eat Vegetables & Fruit Harvested & Processed by Children in Guatemala

Not only are children and minors illegally employed at the Legumex factory—where every single labor law in Guatemala is being violated—but according to the U.S. State Department, the very broccoli they are processing may have also been harvested by children.

Given that Legumex exports from Guatemala have been tracked to the **Sysco Corporation**, the largest food service marketer and distributor in North America, and to **U.S. Food Services**, the second largest food supplier—both of which service schools, hospitals, the U.S. military and restaurants—*it is very possible that children in the U.S. may be eating broccoli harvested and processed by children in Guatemala.*

Also, while the U.S. government is supposedly working with its counterparts in Guatemala to guarantee respect for local and internationally recognized worker rights standards under CAFTA, *other U.S. government agencies, such as the military, may also be purchasing frozen fruit and vegetables made by children under illegal sweatshop conditions at the Legumex factory.*

Large Mark-ups on the Retail Price of Imported Broccoli

Cost of production and transport marked up by 553 to 896 percent!

Clearly there is enough money to pay the young Legumex workers at least the legal minimum wage and their proper overtime pay.

Imported frozen broccoli from Guatemala appears to be in the same class as expensive Nike sneakers—at least in regard to the surprisingly large mark-up on their retail prices.

As you can see from the attached shipping document, the Legumex factory's processed frozen broccoli enters the U.S. with a landed Customs value of 30 cents per pound. (\$13,642 ÷ 45,500

= \$0.2998). The landed Customs value represents the total cost of production, including the produce, processing, shipping costs, and the Legumex factory's profit.

We purchased a pound of frozen broccoli—made in Guatemala—at a Massachusetts area Shaw's supermarket in for \$1.89. At a D'Agostino's in New York, we also purchased a pound of frozen Hanover brand broccoli, for \$2.99. The Hanover broccoli was produced in Guatemala and Mexico. Given that a pound of imported processed frozen broccoli enters the U.S. at a total cost of just 30 cents, this means that **retail prices are being marked up by 553 to 896 percent**. This is surprising, as such high mark-ups are usually associated a relatively high-end expensive label, like a \$160 pair of Nike sneakers.



Clearly there is enough money here to pay the factory workers at least the legal minimum wage and their proper overtime pay. There is no excuse for their exploitation. $[(\$1.99 \div \$0.30) - 1 = 5.53 \text{ i.e. } 553\%; (\$2.99 \div \$0.30) - 1 = 8.96 \text{ i.e. } 896\%]$

U.S. CUSTOMS SHIPPING RECORD			
AGROINDUSTRIA LEGUMEX TO			
SUPERIOR FOODS, NOVEMBER 16, 2006			
Shipper		Consignee	
AGROINDUSTRIA LEGUMEX, S.A. KM 52.5 CARRETERA INTERAMERICANA EL TEJAR, CHIMALTENANGO GUATEMALA, C.A. TEL 7849-0577 / 7849-0995		SUPERIOR FOODS 275 WESTGATE DRIVE WATSONVILLE, CALIFORNIA 95076-3797 U.S.A. TEL (831) 728-3691	
Packaging Information			
Weight:	21523 KG	Measurements:	47 CM
Quantity:	1300 CSES	TEU's:	2.00
Shipment Detail		Country of Origin:	
Carrier: AMPL - AMERICAN PRESIDENT LINES		GUATEMALA	
Vessel: INES		US Port: 2704	
Voyage: 00003		LOS ANGELES	
B/L: APLU901418594		For Port: 20506	
Estimated Value: \$13,642.00		QUETZAL	
		Arrival Date: 11/16/2006	
AMS Commodities			
Container	Qty	Description	
CRLU5150107	1300	FROZEN BROCCOLI (BROCOLI CONGELADO)	
		;	
		NET WEIGHT	
		45,500 LBS	
		20,639 KGS	

Excessively High Production Goals

A sixteen-year-old girl must complete one operation every seven-tenths of a second.

During a recent 15-day period (February 1-15, 2007), this 16-year-old girl processed **8,994 pounds** of fruit and vegetables over 13 working days. She averaged **692 pounds a day (4,151 pounds a week)**.

We filmed and timed her cutting up a head of broccoli [see video]. It took her a total of **64 seconds** to complete the task. She made **34 cuts** with a knife and another 63 operations with her fingers to break off the broccoli florets. Altogether, she used **97 operations** to process each head of broccoli, or one operation every **seven-tenths of a second**.



In 13 working days, she processed **1,228 pounds** of broccoli and **353 boxes** of cantaloupe and honey dew melon. Each box weighs 22 pounds, meaning that she processed 7,766 pounds of melons. Overall, she worked on approximately 3,177 melons.

She was paid about 1.2 cents per pound for her work.

The young workers complain of exhaustion and body aches.

Child Labor Laws

Factories cannot hire children of less than 14 years of age.

Minors aged 14 to 17 are prohibited from working more than seven hours a day, and cannot work overtime or evenings.

The Guatemalan Labor Code and Constitution both establish the minimum employment age at 14 years. The 1973 ILO Minimum Age Convention, which was ratified by Guatemala in 1990, sets the minimum age of employment at 15 years. However, a "member whose economy and education facilities are insufficiently developed, may, after consultation with the organization of employers and workers concerned, where such exist, initially specify a minimum age of 14 years."

Guatemala still has loopholes that allow children of less than 14 years of age to work. According to the U.S. State Department: "In some exceptional cases, the Labor Inspection agency can provide work permits to children under 14 provided that the work is related to an apprenticeship, is light work of short duration and intensity, is necessary due to the extreme poverty within the child's family, and enables the child to meet compulsory educational requirements."

By law, minors under 14 years of age cannot work more than six hours a day, while minors of ages 14 to 17 are prohibited from working more than seven hours a day and must not work overtime, evenings, or under dangerous or unsafe conditions.

In 2005, the U.S. State Department acknowledged that "child labor was a widespread and serious problem" in Guatemala and that "ineffective enforcement of labor laws, including child labor provisions" was rampant.

A U.S. Department of Labor report, also from 2005, documents that "children help harvest commercial crops such as coffee and broccoli."

Guatemalan Labor Law

The Legumex Factory Violates Every Single Labor Law in Guatemala

* **Regular workweek of 45 to 48 hours:** Article 116 of the Labor Code states that the ordinary weekly shift will be **45 hours** of effective work, equivalent to 48 hours for the exclusive effects of wage payment." Presumably this requires companies to pay for the daily half hour lunch break. However, the same Article 116 contradicts itself by also stating that "*The ordinary shift of work cannot...exceed a total of 48 hours a week.*"

* **Everyone must be paid the legal minimum wage.**

*** All overtime must be voluntary, paid at a +50 percent premium, and cannot exceed four hours a day.**

*** All workers have the right to Social Security health care.** Companies with more than three workers must register their workers in the state's Social Security Institute. In addition to providing health care, the Social Security Institute will also pay 70 percent of workers' wages for sick days after the 3rd day.

*** All workers have the right to 15 days of paid vacation.** After working 150 days with the same company, all workers are due an annual 15-day vacation with pay.

*** By law, workers must be paid for all statutory holidays.** There are 14 national holidays in Guatemala:

- New Year's Day: January 1
- Holy Week: Thursday, Friday, Saturday and Easter Sunday
- Labor Day: May 1
- June 30
- Independence Day: September 15
- October 20
- November 1
- Christmas: December 24 and 25
- New Year's Eve: December 31
- The local city's festival day

*** Workers have the right to freedom of association, to organize a union, and to bargain collectively.**

Failure of CAFTA

*Without enforceable laws backed up by sanctions,
worker rights language has little or no impact.*

Starting with the **Caribbean Basin Economic Recovery Act** of 1983—which was followed by the **Caribbean Basin Economic Recovery Expansion Act** in 1990, the **U.S.-Caribbean Trade Partnership Act** of 2000, and now the **U.S.-Central America Free Trade Agreement**—worker rights language has been attached to a series of U.S. trade benefit programs that have been extended to the Caribbean countries and Central America.

According to the terms of these documents, participating countries, including Guatemala, had to be taking steps “*to afford internationally recognized worker rights to workers in the country.*” Specifically, workers have the right to freedom of association, to organize and bargain collectively, to a minimum age of employment, to reasonable work hours, acceptable conditions of occupational health and safety, and to the prohibition of all forced labor and the worst forms of child labor.

Now in 2007, twenty-four years after the **Caribbean Basin Economic Recovery Act**, we still have worker rights language—but precious little to show for it.

In Guatemala, a labor leader told us that of the total 90,600 “maquila” garment export sector workers in the country, his union has been able to organize just 100 members in two factories. This is a unionization rate of one-tenth of one percent. Furthermore, despite its lack of unions, Guatemala’s garment export industry has lost 22,600 jobs since 2004—20 percent of its workforce—as the work has moved to China, Vietnam, Bangladesh and Cambodia.

However, Guatemala’s agro-industrial exports grew by **15.4** percent last year, reaching \$655 million. Tulio Garcia, an agri-business owner and President of AgExport, recently declared that the beneficial effects of the Free Trade Agreement with the U.S. are being felt. “*Now there is certainly a feeling among the big U.S. businesses that in Guatemala there are clear rules.*” Agro-industrial processing factories may be filling the void left by the fleeing garment jobs, but as we have seen in the case of the Legumex factory, the jobs being created may very well offer worse conditions, with fewer rights, lower wages, and fewer benefits than even those in the maquila industry.

**Minimum Wage in Guatemala is 98 cents an hour and \$47.01 a week.
All overtime must be paid at \$1.09 an hour.**

Legumex and other agro-industrial processing plants violate the minimum wage law with complete impunity.

Legal Minimum Wage

- 98 cents an hour
- \$7.84 a day (8 hours)
- \$47.01 a week (6 days; 48 hours)
- \$235.06 a month

The hourly minimum wage is composed of three elements: the base wage of 72 cents an hour, the Seventh Day's pay which adds 12 cents, and the mandatory monthly bonus of 250 quetzals (\$32.49) which adds another 14 cents for a total of 98 cents.

Minimum Agricultural Wage in Guatemala:

1.) 44.58 quetzals a day (Exchange rate: Q7.7 = \$1 U.S.)

Per Hour: Q 5.57 = **\$0.72 U.S.**
(Q44.58 divided by 8 hours/day = Q5.57/hour)

Per Day: Q 44.58 = **\$5.79**

Per week: Q267.48 = **\$34.74**
(Q44.58 x 6 = Q267.48)

Per month: Q1337.40 = **\$173.69**
(44.58 x 30 days = 1,337.40. Note: In Guatemala the legal "commercial month" is 30 days)

2.) 7th Day's Pay: As in the rest of Central America, it is traditional to also pay workers for the "seventh day" which is used by the companies as a sort of attendance bonus. If a worker is absent one day, they lose both the day they missed and the seventh day's pay.

Pay including 7th Day's pay:

Per hour: Q6.50 = **\$0.84 U.S.**
(312.06 divided by 48 hours = Q6.5)

Per Day: Q52 = **\$6.75**
(312.06 divided by six days = Q52.01)

Per Week: Q312.06 = **\$40.53**

$$(Q44.58 \times 7 = Q312.06)$$

$$\text{Per Month: } Q1560 = \text{\$202.64}$$

$$(Q52.01 \times 30 \text{ days} = Q1560.30)$$

3.) Mandatory Q250 monthly bonus raises the effective minimum wage with 7th Days pay to:

$$\text{Per Hour: } Q7.54 = \text{\$0.98}$$

$$(Q60.33 \text{ divided by } 8 \text{ hours})$$

$$\text{Per Day: } Q60.33 = \text{\$7.84}$$

$$(Q1810 \text{ divided by } 30 \text{ days})$$

$$\text{Per Week: } Q361.99 = \text{\$47.01}$$

$$(1810 \text{ divided by } 30 = 60.33; 60.33 \times 6 \text{ days} = 361.98)$$

$$\text{Per Month: } Q1810 = \text{\$235.06}$$

$$(Q1560 + Q250 = Q1810; Q1810 / 7.7 = \$235.06)$$

4.) Another way to look at the effective legal minimum hourly wage is like this:

$$\text{* Minimum hourly wage is } Q5.57 = \text{\$0.72}$$

* The 7th Day's Attendance bonus adds another \$0.12 an hour which raises the hourly wage to **\$0.84**.

The 250 Quetzals monthly bonus adds another **\$0.14** to the effective minimum hourly wage, bringing it to **\$0.98**

$$(Q250 \text{ divided by } 30 = 8.33; 8.33 \text{ divided by } 7.7 = \$1.08 \text{ per day; } \$1.08 \text{ divided by } 8 \text{ hours} = \$0.13528)$$

Workers at the Tierra Fria/Legumex factory in Chimaltenango should be earning a legal minimum wage of **\$0.98 per hour**.

5.) There is just one overtime premium in Guatemala: 150 percent of minimum wage, not including the Q250 bonus or 7th days pay. (All overtime must be voluntary and is to include any hours worked beyond the legal 48-hour work week.)

$$\text{Overtime wage: } \$1.09 \text{ per hour}$$

$$(Q5.57 \times 1.5 = Q8.355; Q8.355 \text{ divided by } 7.7 = \$1.085)$$

U.S. State Department Documents Widespread Violation of Labor Rights in Guatemala

U.S. Department of Labor Finds *“Children help harvest commercial crops such as coffee and broccoli”*

Section 6 Worker Rights

“....While the law provides for freedom of association and the right to form and join trade unions, in practice, enforcement remained weak and ineffective....less than 3 percent of the formal sector work force was unionized.

“....Enforcement of legal prohibitions on retribution for forming unions and for participating in trade union activities was weak.

“....Many employers routinely sought to circumvent legal provisions for union organizing by resisting union formation attempts or by ignoring judicial orders to enforce them. An ineffective legal system and inadequate penalties for violations continued to undermine enforcement of the right to form unions and participate in trade union activities. There were credible reports of retaliation by employers against workers who tried to exercise internationally recognized labor rights.

“.... In practice employers often failed to comply with reinstatement orders. Appeals by employers, along with legal recourse such as re-incorporation as a different entity, often prolonged reinstatement proceedings. The labor courts rarely dismissed frivolous appeals, and did not operate in a timely manner, or ensure enforcement of their decisions. According to labor ministry officials, employers rarely were disciplined for ignoring legally binding court orders.

“....problems relating to the shortcomings in the functioning of justice, and particularly the slowness of procedures and the failure to comply with court orders relating to acts of antiunion discrimination.”

“....During the year prosecutors secured no convictions for crimes against trade unionists and often claimed that they had minimal evidence to prosecute such cases.

“....In its annual report, the ILO Committee of Experts requested that the government "take measures to promote collective bargaining in the country and to ensure that effect is given in practice to concluded collective agreements."

“....Most workers, including those organized in trade unions, did not have collective contracts documenting their wages and working conditions, nor did they have individual contracts as required by law.

“....Workers have the right to strike, but due to the very low level of unionization and procedural hurdles, there were no legal strikes during the year.

“....number of workers in the maquiladora sector decreased to approximately 80 thousand, due to competition from apparel producers in Asian countries.

“....While only three enterprises in the maquiladora sector had legally registered unions, one of those enterprises declared bankruptcy on June 10, and closed.

“....Labor leaders and activists asserted that employer intimidation and pressure undermined organizing activities.

“....reports that employers sometimes forced workers to work overtime, often without the premium pay mandated by law.”

“...Although the law bars employment of minors under the age of 14 without written permission from parents or the Ministry of Labor, child labor was a widespread problem.”

“....Laws governing the employment of minors were not enforced effectively.”

“....in relation to the commercial sexual exploitation of children in the country, legislation was inadequate, cases involving sexually exploited children often were not investigated and prosecuted, and there were no effective rehabilitation programs available

Source: 2005 U.S. Country Reports on Human Rights Practices/Guatemala, March 8, 2006.

“Children help harvest commercial crops such as coffee and broccoli.”

“According to the U.S. Department of State, child labor laws are not well enforced because of ineffective labor inspections and labor courts.”

Source: U.S. Department of Labor’s 2005 Findings on the Worst Forms of Child Labor