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IMMIGRANT FEMALE FARMWORKERS IN CALIFORNIA NEED GREATER PROTECTIONS AGAINST SEXUAL HARASSMENT

BY ELISE WALLIS

Immigrant female farmworkers in California and across the United States are highly susceptible to sexual harassment and abuse. An intersectional framework provides insight into the unique vulnerabilities facing this population. Comprehensive immigration reform, an overhaul of the H-2A program, and the implementation of initiatives like the Fair Food Program are needed to ensure adequate protections for workers and to encourage better reporting and monitoring of sexual harassment.



A celery field near Los Alamos, California. Immigrant workers provide labor at such sites. Photograph by Carol M. Highsmith, Library of Congress, <https://www.loc.gov/item/2011634290/>

THE #METOO MOVEMENT shined a spotlight on the ubiquity of sexual harassment within Hollywood and propelled women in other sectors to voice their own stories of sexual abuse in the workplace. Among those who have come forward are immigrant female farmworkers, who remain extremely vulnerable to harassment of this kind.

In the United States, female farmworkers make up 28% of the agricultural workforce.¹ 80% of all farmworkers identify as Hispanic, with 68% of farmworkers hired in 2013–2014 born in Mexico.² Of the 2.5 million farmworkers, 47% did not have work authorization.³ California is the nation's largest supplier of produce and is home to a substantial portion of the country's farmworkers.⁴

The occupational risks of farmworkers are well-documented and wide-ranging. Farmworkers typically perform intensive, laborious work in high heat and often work overtime without overtime pay.⁵ Moreover, farmworkers earn meager salaries ranging from \$15,000 to \$17,499 per year, with female workers earning less than their male counterparts.⁶ They also endure acute and chronic pesticide exposure, which is associated with respiratory and skin conditions, myriad cancers, and other diseases.⁷ Despite the exceedingly high health risks, only 31% of farmworkers receive health insurance from their employer.⁸

On top of the occupational hazards,

the unequivocally male-dominated nature of agricultural work can have serious consequences for women. Supervisors and foremen, roles generally held by men, carry out important responsibilities, such as determining pay and the specific fields where farmworkers report—placing female workers in a subordinate and sometimes vulnerable position.⁹ This combination of poverty-level wages, scant workplace protections, language barriers, and isolated and seasonal work opportunities fosters an environment for sexual harassment to flourish, as research indicates. A 2010 study found that 80% of the 150 Mexican female farmworkers interviewed in California's Central Valley reported experiencing some

form of sexual harassment.¹⁰ Additionally, a 2012 Human Rights Watch (HRW) report indicated that nearly all female farmworkers interviewed said that they experienced sexual violence or harassment, or knew other workers who had.¹¹ The forms of sexual violence and harassment most commonly reported to HRW include unwanted touching, verbal abuse, and exhibitionism.¹²

An intersectional and feminist lens illuminates the complexity of addressing sexual harassment and abuse among immigrant female farmworkers. Intersectionality posits that social categories like gender, race, and class work together to create and exacerbate inequality.¹³ In the context of the agricultural sector, the identities of being female, Hispanic, and low-income operate synergistically to ultimately widen the power differential between immigrant female farmworkers and their superiors in the workplace. Moreover, the additional layers of being undocumented, experiencing language barriers, not being informed of their rights, and living in a geographically isolated area further heighten their susceptibility to sexual harassment and hinder their ability to report these incidences.¹⁴

CRITIQUE

Despite the fact that farmworkers are protected from workplace sexual harassment under Title VII of the Civil Rights Act of 1964, sexual harassment toward female farmworkers persists. Most notably, the existing immigration system augments the likelihood of sexual harassment and limits women from being fully protected. Specifically, the H-2A temporary guest worker program, which allows seasonal farmworkers to legally work in the United States, only autho-

rizes them to work for a single, specific employer.¹⁵ H-2A workers rely on their employer for food, housing, and the ability to legally remain in the United States. If faced with harassment, guest workers have limited protections from abuse and must decide whether to withstand the harassment, return to their country of origin, or voice their concerns and risk retaliation.¹⁶

An effort to change the H-2A program was announced in May 2018 after Congress attempted, but failed, to overhaul the program in recent years. Through a joint statement, the secretaries of Agriculture, Labor, State, and Homeland Security announced that their departments are working to propose “streamlining, simplifying, and improving the H-2A temporary agricultural visa program - reducing cumbersome bureaucracy and ensuring adequate protections for U.S. workers.”¹⁷ While agricultural industry groups have welcomed a more simplified approach to handling seasonal labor shortages, farmworker groups are concerned these changes could lead to increased exploitation of migrant workers.¹⁸

At the state level, recent legislation in California has attempted to curtail sexual harassment among farmworkers. Signed into law in 2014, SB 1087 required mandatory sexual harassment identification and prevention trainings for supervisory and non-supervisory employees as part of the farm labor contractor license renewal process. Going further, SB 295 was passed in 2017. It built upon SB 1087 by requiring that trainings are delivered to employees in a language they understand, along with instituting other training requirements.

Novel solutions, aside from legislation, have emerged in recent years. One of them is the Fair Food Program, a workplace-monitoring program created by

the Coalition of Immokalee Workers (CIW), a human rights organization established by farmworkers in southwest Florida. To take part in this program, major food retailers and buyers must agree to supplement farmworker wages by paying a premium for produce, and agree to purchase from growers who implement a code of conduct that bans sexual assault. The program also maintains a 24-hour bilingual worker complaint hotline, promptly investigates complaints, develops corrective action plans, and, if necessary, suspends a farm’s ability to sell to participating buyers. This system has demonstrated remarkable success with curbing sexual harassment and has been called “the best workplace-monitoring program” in the United States. by The New York Times.¹⁹

RECOMMENDATIONS

Comprehensive immigration reform is vital in order to reduce labor exploitation in its many forms, including sexual harassment and assault. More specifically, Congress should enact legislation that overhauls the H-2A temporary guest worker program to ensure stronger workplace protections and higher wages. Enacted legislation should also provide a grace period during which workers who have reported abuse can transfer their visas to another employer. Congress should also revamp the H-2A program to prohibit sexual harassment under the program and suspend employers that violate this policy for a designated period of time. Moreover, guest workers who have been in the United States for a certain length of time should be given the opportunity for permanent residence and be put on a path to citizenship. At the state and local level, more culturally-tailored safety net services are needed to connect immigrant female farmworkers with resources for pursuing justice.

Requiring farm labor contractors to complete sexual harassment prevention training is indeed a step in the right direction. But a two-hour annual training cannot remedy the fundamental power imbalance, inequities, and discrimination inherent in farm work in California. Programs and policies like the CIW's Fair Food Program that leverage market power and employ a systemic, intersectional approach should be viewed as a model for California and the nation.



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NOTES

1. U.S. Department of Labor, Findings from the National Agricultural Workers Survey (NAWS) 2013-2014, no. 12, December 2016, https://www.doleta.gov/agworker/pdf/NAWS_Research_Report_12_Final_508_Compliant.pdf.

2. U.S. Department of Labor, Findings from the National Agricultural Workers Survey.

3. U.S. Department of Labor, Findings from the National Agricultural Workers Survey.

4. Philip L. Martin et al., "Employment and Earnings of California Farmworkers in 2015," *California Agriculture* 72, no. 2 (2017): 107-113; Sarah O. Rodman et al., "Agricultural Exceptionalism at the State Level: Characterization of Wage and Hour Laws for U.S. Farmworkers," *Journal of Agriculture, Food Systems, and Community Development* 6, no. 2 (2016): 1-22.

5. Mary Baur and Mónica Ramírez, Injustice on Our Plates, Southern Poverty Law Center, November 7, 2010, <https://www.splcenter.org/20101107/injustice-our-plates>; Grace Meng, "Cultivating Fear: The Vulnerability of

Immigrant Farmworkers in the US to Sexual Violence and Sexual Harassment," *Human Rights Watch*, May 15, 2012, <https://www.hrw.org/report/2012/05/15/cultivating-fear/vulnerability-immigrant-farmworkers-us-sexual-violence-and-sexual#>; Rodman et al., "Agricultural Exceptionalism at the State Level."

6. Baur and Ramírez, Injustice on Our Plates; U.S. Department of Labor, Findings from the National Agricultural Workers Survey.

7. Thomas A. Arcury et al., "Pesticide Safety among Farmworkers: Perceived Risk and Perceived Control as Factors Reflecting Environmental Justice," *Environmental Health Perspectives* 110, no. s2, (2001): 233-240; Claire Fitch et al., Public Health, Immigration Reform and Food System Change (Johns Hopkins Center for a Livable Future, 2017); Rodman et al., "Agricultural Exceptionalism at the State Level"; Don Villarejo et al., "The Health of California's Immigrant Hired Farmworkers," *American Journal of Industrial Medicine* 53, no. 4 (2010): 387-397.

8. U.S. Department of Labor, Findings from the National Agricultural Workers Survey.

9. Meng, "Cultivating Fear: The Vulnerability of Immigrant Farmworkers."

10. Irma Morales Waugh, "Examining the Sexual Harassment Experiences of Mexican Immigrant Farmworking Women," *Violence Against Women* 16, no. 3 (2010): 237-261.

11. Meng, "Cultivating Fear: The Vulnerability of Immigrant Farmworkers."

12. Meng, "Cultivating Fear: The Vulnerability of Immigrant Farmworkers."

13. Elizabeth R. Cole, "Intersectionality and Research in Psychology," *American Psychologist* 64, no. 3 (2009): 170-180; Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," *Stanford Law Review* 43, no. 6 (1991): 1241; Leslie McCall, "The Complexity of Intersectionality," *Signs: Journal of Women in Culture and Society* 30, no. 3 (2005).

14. Christa Conry, "Forbidden Fruit: Sexual Victimization of Migrant Workers in America's Farmlands," *Hastings Women's Law Journal* 26, no. 1 (2015): 121-146.

15. Meng, "Cultivating Fear: The Vulnerability of Immigrant Farmworkers."

16. Meng, "Cultivating Fear: The Vulnerability of Immigrant Farmworkers."

17. U.S. Department of Agriculture, H-2A Agricultural Worker Visa Modernization Joint Cabinet Statement, May 24, 2018, <https://www.usda.gov/media/press-releases/2018/05/24/h-2a-agricultural-worker-visa-modernization-joint-cabinet-statement>.

18. Emily Cadei, "Trump Administration Pushes Changes to Farmworker Visas," *The Sacramento Bee* (June 15, 2018), <https://www.sacbee.com/latest-news/article213091154.html>.

19. Fair Food 2017 Annual Report (2018), <http://www.fairfoodprogram.org/wp-content/uploads/2018/06/Fair-Food-Program-2017-Annual-Report-Web.pdf>.