

New York Farmworkers Fight for Labor Rights

by Emma Kreyche and Antonio Valeriano

A Labor Organizer's Perspective

Emma Kreyche is Organizing and Advocacy Coordinator at the Worker Justice Center in Kingston, New York. This is an excerpt from her remarks in a public forum at Hofstra University, following a screening of the new film Cesar Chavez (10/8/2014).

I work for an organization called the Worker Justice Center of New York out of our office in the Hudson Valley. We're a human rights organization that fights for justice for agricultural workers and other low-wage workers through legal representation, community empowerment and advocacy for institutional change.

It's actually really difficult to provide accurate data about the farm worker population, because, depending on who you ask, "farm work" is defined differently. Some studies focus on crop workers, some exclude dairy workers, some include poultry workers. So there are all different kinds of definitions of farm work. It's also a very difficult population to study because of geographical isolation, because of immigration status, because of migration patterns, and because of language barriers. There is just a tremendous amount of variation in the numbers you see statistically.

But there are a few things that we do know. Nationally, there are several million – upwards of 3 million – agricultural workers in the U.S. The majority of those workers are male, around 80%. Most of those workers are foreign-born, the majority from Mexico, also increasingly from Central America and other parts of Latin America and the Caribbean. Many of those workers are undocumented workers – workers who have come without work authorization – so it's difficult to know exactly how many, because it's not exactly a group of people that's trying to be counted in any sort of official census or survey.

Another thing we know about farm workers is that many of them are recently arrived immigrants, so these tend to be people who have less familiarity with the legal system in the U.S., are less aware of their rights on the job and tend to be more vulnerable for that reason. We also know that the average level of education for farm worker, in terms of formal education, is pretty low, around an eighth-grade level of education on average.

So what all of this tells us is that not only are farm workers the backbone of a multi-billion-dollar agricultural industry in this

country, but they're incredibly vulnerable as a workforce. Because they're mostly immigrants, many recently arrived, many without legal work authorization, and because of low levels of formal education. And women are particularly vulnerable, because they are a minority among farm workers.

In New York State, again, the data is all over the place. I would estimate there are somewhere in the neighborhood of about 50,000 farm workers in the state. Here on Long Island, there's a large agricultural industry, but when you look at the data, the industry could have anywhere between 550 workers to up to 7,000 workers. So really there is a tremendous need for more data on the farm worker population.

But in terms of working conditions, I think there are certain things that we can say with some certainty. One is that agriculture is very difficult, demanding – physically demanding – work. One thing the new Cesar Chavez film shows well is just how taxing it is on the body. Farm workers are also among the most poorly compensated workers in the country. The work is precarious: field work, harvesting work, is seasonal. It's often very weather-dependent. Agricultural jobs are not only precarious, but then when there is work the hours are very long. So you may be working as a farm worker up to 60, 70, 80, 90 hours a week, and you're not entitled to overtime pay.

Nearly all Americans who work over 40 hours per week are paid overtime. It should be time and a half of your regular wage. That's not true for farm workers, no matter how many hours you work – at least not here in New York State. In California, because of the struggle of the United Farm Workers, there are some overtime provisions for farm workers. Here in New York State that is not the case.

So I think it's really important to understand that fight in California. It's a very inspiring story, because it shows us that change can be achieved, even when you have people who are struggling and who do not have a lot of economic or political power. It's a great example that change can be achieved, but at the same time, we have to understand that right now in this country, only about 2% of agricultural workers are represented by a union. So I appreciate all of that historical context, and I think it's really important to bear in mind.

Many workers on farms depend on their employers to provide them with housing, and that housing is often substandard. Farm work is amongst the most dangerous work you can be engaged in, and some of the types of workplace health and safety hazards include lack of adequate drinking water or toilet facilities, musculoskeletal injuries that result from stooping, lifting and cutting, these types of repetitive stress injuries and also accidents that occur as a result of operating heavy farm machinery and equipment, like tractors, falling off of ladders, using sharp tools.. These are all occupational hazards. Exposure to pesticides is a very important issue in terms of occupational hazards, and also exposure to extreme weather conditions.

And women are also especially vulnerable to these hazards, in addition to the hazards of sexual violence and harassment. Unfortunately, such harassment is endemic in the agricultural industry, partly because of the ratios of women to men in farm work, but more importantly because of their relative lack of power, as compared to their supervisors and farm owners.

There are certain legal protections that do pertain to farm workers. It's not accurate to say that farm workers have no legal protections at all. Here in New York State, farm workers are required to be paid the minimum wage, for example. On the federal level, there's a Migrant and Seasonal Agricultural Worker Protection Act that focuses on regulating farm labor recruitment, practices and farm worker housing conditions.

Farm workers are covered by federal and state antidiscrimination laws. In New York State, farm workers are entitled to workers' compensation benefits, which is not true for other states necessarily. And we have also, through years of struggle, won certain victories here in New York State, like having laws mandating basic field sanitation, requiring bathrooms and handwashing facilities and drinking water, for example.

But many legal exclusions remain. Overtime pay is one of those exclusions. Farm workers federally and in New York State are not entitled to a day of rest, so you can be required to work seven days a week for a month with no requirement that you be given a day off. Child labor protections are also much weaker in the agricultural sector.

And one of the most important issues is that there are no collective bargaining protections in New York State or under federal law. That was one of the major victories of the United Farm Workers out West, to gain the right to win recognition for their union.

What exactly are collective bargaining rights? Essentially it means that, say if you're a worker, you and your coworkers go to your employer and ask for some sort of a change in your working conditions. It can refer to unionization, but it doesn't necessarily involve the formation of a union. Basically, what it means is that you can't be fired for taking some sort of a collective action in your workplace. If you're a farm worker, that's not true.

So when Chavez and the UFW farm workers first decided to go on strike, instead of recognizing the farm workers' demands, the employers just brought in strikebreakers. In other industries there are protections against that sort of behavior, but not so in farm work. That is the reason that the workers had to look beyond the strike tactics to find allies for a boycott, and they had to basically impact the growers' bottom line, and they had to publicly humiliate and claim that moral high ground as part of their campaign strategy. It's really interesting to think about the types of strategies that farm workers have to employ in order to make changes when they don't have those basic labor protections that other workers enjoy, which support unionization and other types of collective activities in the workplace.

So, on the one hand you have inadequate worker protections for farm workers, and on the other hand you have poor enforcement of the protections that do exist. I mentioned, for example, that here in New York farmworkers are supposed to be provided bathrooms in the fields, handwashing facilities and clean water to drink. But that is very, very poorly enforced. Housing is supposed to be certified by the local health department, for example, also rarely enforced. At least from the perspective I'm coming from on the ground, we do not see very strong enforcement of the regulations that exist.

And then perhaps the biggest barrier to both the enforcement of existing protections and regulations and to a farm worker movement organizing to demand better legal protections is U.S. immigration policy. Here, in 2014, we've broken records under the



Antonio Valeriano and Emma Kreyche spoke at Hofstra Oct. 8, 2014

Obama Administration. Over 2 million people have been deported. This is more than any previous administration, so there is this generalized climate of fear around detention and deportation among immigrants.

I suspect the majority of farm workers, based on my experiences and the studies I've been involved with myself, are undocumented immigrants. And so if you're terrified of being deported or detained, you're very unlikely to speak up in your workplace. I think this is the most clear-cut, powerful method of labor control that we see in agriculture today. Overall, our anti-immigrant policies tend to keep the majority of agricultural workers living under this constant fear of the threat of detention and deportation, and the assumption that employers will retaliate by calling immigration officials should workers speak up.

Immigration status also really limits farm workers' mobility and their ability to find work offered by other employers or in other industries, because here in New York, undocumented people without a Social Security number are not able to get a driver's license. How are you supposed to go look for other work? There are all kinds of barriers to access that are related to geographical isolation and immigration status.

We still have agricultural guest workers in this country. The Bracero Program was dismantled in the early 1960s, and was notorious for all kinds of labor abuses. There are still bracero workers in Mexico waiting for wages that they are owed from 50 years ago, if you can imagine! But there are also still agricultural guest workers in New York State. There are around 4,000 right now, and most of those come from Mexico and Jamaica.

But their visas are tied to their employer, so they're only given a work permit to come to the U.S. on a seasonal basis to work for a particular employer. That means that they're not able to go look for work at another farm if that employer is not treating them properly.

And most guest workers, as far as I've seen, are really unwilling to put at risk their future employment by speaking up about violations of their contract or other types of workplace abuses. A lot of people think: "Well, this is a good solution to the immigration problem. Just create more guest worker programs." But, it's not really all that beneficial, because of the type of labor control that is structured into those types of programs.

In sum, I really think immigration policy is one of the biggest areas that we need to look at. In my experience, going out and asking farm workers what is their number-one issue of concern, people will usually say immigration. And that powerlessness, that relative lack of political and economic power is exacerbated by immigration concerns. So it's not simply enough to just pass better regulation. We also need to fix immigration law. But without farm workers really building their own power to hold employers and regulators and lawmakers accountable, then we are not going to really see systemic change.

An Immigrant Farmworker's Perspective

Antonio Valeriano is a farmworker in the Hudson Valley. This is an excerpt from his remarks in a public forum at Hofstra University (10/8/2014).

Fifteen years ago, I came to this country from Mexico chasing a dream, chasing an illusion. I was trying to give my children a dignified life, a better life, let's say. I came to this country suffering. I came as an undocumented immigrant and for the 15 years that I've been in this country, I've always been working on farms. With sadness, I look back on my experiences here over the past 15 years and I see that we as farm workers lack a lot of protections. There are many needs we have that aren't being met, and we are abused by employers.

So these experiences are what have motivated me to denounce the conditions that we're experiencing, and I want to demand that we see legislative changes so that we can have better conditions in agriculture. We as farm workers, we do very difficult, backbreaking labor, very important work, but we're not compensated adequately. We're not able to provide for our families at an adequate level. Really, we are living with only the most basic necessities. There aren't a lot of forms of help that exist for us.

Several years ago, in about 2010 or 2011, my son – my older son – he decided to return to Mexico because he'd gone to school here, and he wanted to go to university. But when we looked into it, there were really no types of scholarships available. We couldn't get the support. We couldn't get the help that we needed, and so he chose to return to Mexico to be able to continue his studies. And he didn't want to go. He kept saying, "I love the United States. This is where I want to be." But that was the decision he made in the end.

When I used to go talk to the teachers at his high school, they would tell me, "Please, please don't send your son back to Mexico. He has a lot of potential. He could really be successful. He should be studying in a university here." In the end, I had to accompany him to the airport, where he broke down crying, saying that he didn't want to go. And I had to tell him that I didn't want his potential to be lost, that he had to figure out a way to continue his studies. So now he's gone, and he's studying in Mexico. But he still has that dream to come back to this country. But I don't see how.

And I have another son. Upon finishing high school, he decided to stay here. He said, "Dad, I don't really know anything about Mexico. I want to stay. I want to study here." And I told him, "Son, I don't want the years to just keep passing by without you being able to study." And thankfully, he recently was able to benefit from the DREAM Act. But with the salary that I make, I don't know how I can pay for college. So what he's been doing for the last three years is working on the farm with me, and I've been telling him to save his money. Between the two of us, hopefully we can get

enough together to make this happen, because it's very sad for me to see how we work in the fields.

It pains me to see my son working alongside me, suffering the same conditions that I have to put up with. You know, we work in all kinds of weather, whether it's raining, whether it's extreme heat or extreme cold. We have to work in all kinds of conditions, and it really does pain me to see him having to suffer like that.

Right now, I have many friends who are living in unsanitary housing, because what happens is that the health inspectors from the government..., they come, they might take a glance at how things appear on the surface, but they never really dig deep and look at what the housing conditions really are.

Many of us have accidents at work while we're working, and many of my compañeros, many of my coworkers are afraid to say anything about it. They think, "If I say anything, if I report that I was injured on the job, the boss can take retaliation measures against me, and I could be deported."

I have spoken with the press on various occasions. I've done interviews in which I have talked about the conditions that we experience, where I've denounced these sorts of injustices. And I have spoken with my coworkers. I've said, "You know, get together. Let's unite." But they really are very fearful, and this is how it is that employers can take advantage of us, because of the fear people have of speaking up.

Also what I see happening is that when people have an accident at work, they go to the hospital or to the clinic, and the medical service that we get is really inadequate. And I don't know if it's because we're not paying for those services out of pocket or why it is, but the service is really poor.

Another thing I'd really like to see change is for farm workers to be granted overtime pay. For example, at the farm where I work, during the peak season, which is now, we work from six A.M. often until ten P.M. at night, and we don't receive any sort of overtime compensation. We just receive the minimum wage. And sometimes the boss, he puts these production quotas on us that are totally exaggerated, and really difficult to meet, not taking into account that we ever might need to rest. If we don't put in our 100% effort at all times, we'll be scolded by the boss. "What is it that you're doing here? Why aren't you meeting your quota?"

One time the manager spoke to us, and he said that he had just spoken with the boss, and that the boss was unhappy. The boss said that we weren't working hard enough. And I said to the manager, "Well, I feel like I'm working as hard as I can. I'm not resting. What is it that the boss wants from us?" And so he said that the boss was going to come talk to us about what it was that we weren't doing correctly.

So then one day we were out picking the apples, and I was with the manager, working. And so the boss came over, and he started yelling at us, "Move your hands. I need more production." And I was on the top of a ladder picking apples, and I got very upset. I came down from the tree, and I said to the manager, "I'm sorry. I don't know how to speak English very well." And I said, "What did the boss say?"

He said, "Well, he's telling us to work faster, to work harder." And I said to the manager, "Please tell the boss if he's paying me the minimum wage, I'm going to work the minimum I have to. He doesn't have any reason to demand more of me if he's just paying me the minimum wage." And when the boss heard that, he took his car and he just left, and he didn't say anything else.

I think if we all spoke up to him like that, then maybe things would change a little bit. But I also think we need better laws, because I think if we have better laws and they're applied, that that can be a good thing. That can help us. Because I know that this is a country of laws.

So this is what I come here asking you, for you to support us in winning better legal protections, because we've never been really taken into account by the laws of this country. Every time you sit down at the table to enjoy some sort of a food, any food that's come from a farm, just remember that if you bought that produce at a farmers' market or in a store, wherever, that there is suffering behind that product, the suffering of farm workers. I hope that someday there is justice for us and that there are better laws to protect us.

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NOTES:

- ¹ Note that the "DREAM Act" referred to here is in fact the Deferred Action for Childhood Arrivals (DACA), which grants young people who arrived in the country as children the right to stay and not be deported. While not permanent residency, it provides a guarantee that the government will not deport someone as long as they continue being a productive member of society and continue renewing their application. In contrast, the DREAM Act is a proposed bill to grant residency status to childhood arrivals. Though it has not yet been enacted, many people in immigrant communities mistakenly refer to DACA as the DREAM ACT.