

Migrants

Part I - Needs

Migrant farm workers are defined variously as people who travel over 75 miles from their home to do agricultural work¹ or people absent overnight from their permanent residence to perform agricultural labor.² Migrants comprise 42% of all farm workers, ninety-four percent are of Latino origin, and most are foreign born.

Migrant workers either come to a farm area from their home base, complete their job and then return home, or follow the crops from one area to another. Some migrants do both -- come from their home base, follow the crops, and return home until the next season.

The United States has a huge agricultural industry that relies heavily on migrant labor. Historically, some would say that farm labor has been imported from a variety of countries because there have never been enough workers to perform all the work needed to be done. Others would say that it's because foreign workers are easy to exploit and are a captive workforce. Much of the imported farm labor today comes from Central and South America.

Currently four main groups do farm labor:

1. U.S. born workers and Legal Permanent Residents who obtained residency in ways other than through the Special Agricultural Worker program (SAW).

Many of these farmworkers have been in the industry for quite some time and live in a certain area. They do seasonal farmwork when jobs are available. During the off-season, they piece together a living in a

¹ U.S. Department of Labor, *National Agricultural Worker Survey*

² Migrant Seasonal Agricultural Worker Protection Act (AWPA)

variety of ways, usually by obtaining non-farm employment.

2. Immigrants given Legal Permanent Residency status through the Special Agricultural Worker program (SAW) under the Immigration Reform and Control Act of 1986 (IRCA).

In order to ensure a constant, reliable population of agricultural workers, Congress enacted the SAW program. Twenty-nine percent of all farmworkers (49% of foreign born workers) are SAWs. The program granted temporary residence to those aliens who had worked 90 man-days in agricultural labor in specified crops between May 1985 and May 1986. After a period as a temporary resident alien, these people automatically adjusted to legal permanent residents.

3. Workers who come into the country through the Temporary Agricultural Worker program (H-2A Program) under the Immigration and Nationality Act.

These workers are brought into the country on temporary visas to perform certain work and then they return to their country of origin. All H-2A workers are considered migrant workers because they are absent overnight from their home to do agricultural work.

4. Workers who come into the country illegally.

This group constitutes about 17% of all farmworkers, most of them migrant workers. They have a median education level of sixth grade; 77% of them live below the poverty line.

As undocumented workers, they are not eligible for any government benefits or federally funded legal services assistance. Furthermore, the fear of being deported keeps them from seeking any sort of assistance. These workers are perhaps the most exploited because people play on their fear of deportation.

Farmworkers are, on average, poor and uneducated. Forty-six percent live below the

poverty threshold with the overall median eighth grade education. Farmworkers are predominantly male and over half are born in Mexico. About 40% of farmworkers are born in the United States. U.S. born workers have a median educational level of eleventh grade and one-third live in poverty. The number of U.S. born farmworkers is shrinking. Many migrants are monolingual, and increasingly the language is not Spanish but the native tongue spoken in their homeland.

Migrant workers tend to be younger than other farmworkers. As workers become more experienced, they can move to semi-skilled and higher paying jobs. Also, they begin to establish themselves in a particular area that leads often to a decline in migration levels.

1. Income

Wages

Most farm work doesn't pay enough to support a person, let alone a family. The federal minimum wage law does not allow farmworkers to collect overtime pay nor does it cover farm workers working on small farms. Many state minimum wage laws exempt certain classes of agricultural employers from coverage, while many state minimum wage laws do not apply at all to farming.

A significant number of employers illegally deduct money from farmworkers wages for items such as transportation and housing.

Most farmwork is sporadic. Farmworkers spend an average of 29 weeks per year in farm employment. During their 23 weeks of down time, farmworkers sustain themselves in a variety of ways. Some piece together a living doing farmwork and non-farm work. With few skills and low education levels, non-farmwork jobs are difficult to obtain.

When paid by the hour, as 66% of migrants are paid, migrants average \$4.47 per hour. When paid by the piece, they average \$6.94

per hour. Migrants work an average of only 29 weeks per year, 25 of them in farm work, yielding a median income of \$5,000 a year. 1993 National Agricultural Workers Survey report found that the personal annual income of farmworkers was \$6,500, while at the same time the average American family lived on an income of \$28,000.³

Unemployment Insurance Benefits (UIB)

Many small agricultural employers are not required to pay into the unemployment insurance system and thus their workers are excluded from unemployment benefits. Even when the work is covered by the unemployment insurance program, many employers don't pay in. Both low wages and intermittent employment make it difficult for migrant workers to meet minimum eligibility standards. Some migrants are able to sustain themselves through the off-season by collecting unemployment.

TANF, Food Stamps, Medicaid

Most adult farm workers are not eligible for TANF and Medicaid because they work. Those pregnant women farm workers and children of farm workers who are eligible for Medicaid often have difficulty receiving benefits because they frequently move and must reapply in each new state. Farmworkers are eligible for Food Stamps; emergency benefits are denied to workers who are eligible.

Social Security

Social security benefits are based on a worker's earnings that the employer reports to the Social Security Administration through the Internal Revenue Service. Some growers and many farm labor contractors, who are legally responsible for paying the social security tax and reporting a farm worker's earnings to the Social Security Administration (SSA), fail to do so. As a result, many farm workers receive small SSA checks because of

³ Association of Farmworker Opportunity Programs 611 North Kent Street, Suite 910 Arlington, VA 22209 afop@afop.org

inaccurate earnings records. Correcting SSA earnings records many years after a job has ended is a difficult task. Another difficulty is that many undocumented workers work under made-up social security numbers under which they never will collect benefits. Also, several migrants will work under one number, such as a family, and so the benefits are greatly reduced. Workers legalized through the Immigration Reform and Control Act of 1986 are allowed to correct their earnings records provided they have the requisite proof which for many workers is difficult to come by.

2. Health & Safety

Health Care

Migrants work in the nation's most dangerous occupation and in the industry that is least likely to provide health coverage. In fourteen states agricultural employers are not required by law to carry workers compensation insurance (worker's compensation covers job related injuries) for their agricultural laborers.

These health risks are further compounded by the lack of affordable health care for migrants. Only 15% of farm workers have access to migrant and community health clinics. Their children face heightened risk due to exposure to hazardous conditions, lack of food, and poor preventive care. Yet, because of the unique employment circumstances of farmworker families, and the historic abusive labor practices, they are left out of our health care system.

Musculo-skeletal Problems

Many farmworkers suffer from musculo-skeletal problems due to the arduous nature of their work.

Pesticides

Nearly 4 million farmworkers come in contact with deadly toxins contained in pesticides every year. Farmworkers often work with no protection in fields that recently have been sprayed. Their children are exposed by drift, living and playing near the fields, drinking the

water, and hugging their parents who may have residue on their clothes. Childhood cancer clusters have been identified in several California Central Valley farmworker towns, including McFarland and Earlimart. In California there are about one thousand acute occupational illnesses linked to agricultural pesticide exposure reported each year.⁴ Proving pesticide poisoning is difficult because many workers do not know which pesticides they are exposed to and the connection of poisoning with the medical conditions are difficult to prove. These proof problems tend to keep private attorneys from taking these types of cases.

Field Sanitation

Field sanitation includes the availability of toilets, handwashing facilities and drinking water to farmworkers out in the field. Only one third of all farms are required to provide facilities such as toilets and hand washing under federal law. Also it is difficult to enforce these requirements because of the short duration of many farm work operations, and the huge shortage of field sanitation inspectors.

Worker's Compensation

Farmworkers toil one of the most dangerous occupations. Farmworkers and their families face risks from accidents, pesticide-related illness, on the job injuries, respiratory conditions, reproductive health problems, climate-caused illnesses, and communicable diseases. There were over 22,000 work related disabling injuries to farmworkers in California alone in 1990; each year yearly an average of 40 California farmworkers die on the job. Yet, only fourteen states provide workers compensation insurance for farmworkers.

3. Housing

Migrant workers need housing at or near their work site. Employers provide worker only housing to 19% of the work force. They

⁴California Rural Legal Assistance, Annual Report 1999.

provide family housing to 3% of farmworkers even though over half the workers have families. Some employers deduct housing costs from worker's pay.

If workers do find housing, much of it is substandard. Fewer than half the states enforce farmworker housing protections. In many states a very few federal employees located in urban areas are charged with enforcing housing protections for a large agricultural labor force.

The lack of affordable housing is exacerbated because migrants stay in the community for short, sporadic periods. Many workers, especially the undocumented, live in caves, shacks and other make-shift "housing."

4. Transportation

Farm workers generally must pay the cost of their transportation from their homes to the job site. If another party such as a farm labor contractor provides the transportation, that other party may charge the farm worker. While vehicle safety used to transport farm workers has improved over the years due to strict federal regulations, terrible accidents still occur

5. Education

Migrant children have difficulty in obtaining an education. Mobility, cultural and language barriers, among other things, create problems for multi-cultural children's achievements in school. Some farmworker children also may work in the fields with their parents to supplement the wages, and then are unable to go to school.

6. Civil Rights

Farm workers are protected under federal civil rights laws that prohibit discrimination on the basis of race, sex and national origin. However, in individual cases these laws are sometimes difficult to enforce and discrimination against farm workers does occur in many situations.

Access to Labor Camps

Legal services workers often are denied access to migrant labor camps. Sometimes this denial is accompanied by physical threats of violence, some of which have been carried out.

Some growers retaliate against workers who bring legal claims. Laws that prohibit retaliation are difficult to enforce (and therefore not enforced) and often do not keep employers from physically threatening or harming workers and from refusing to hire them. Complaints to the state labor board are often ignored.

7. Child Labor

Many states permit farm employment at a younger age, for longer hours, or under otherwise less favorable conditions than those applicable to minors in nonagricultural occupations. Some children working in the fields are not covered by any child labor laws. Furthermore, the federal law contains broad loopholes allowing young children to work in both hazardous and non-hazardous agricultural jobs.

Migrants

Part II - Laws

General Protection

Migrant Seasonal Agricultural Worker Protection Act (AWPA)

[29 U.S.C Section 1801; 29 C.F.R. Part 500 et seq.]

AWPA provides substantive protection for migrant and seasonal agricultural workers. Agricultural employers, agricultural associations, and farm labor contractors are responsible for complying with the requirements of AWPA. These requirements concern advance disclosure of work terms and conditions, complete and accurate recordkeeping of pay statements,

transportation safety, housing, health and safety standards, and employer compliance with work agreements, which are all designed to protect the migrant and seasonal farmworkers.

The major requirements of AWPAs are:

farm labor contractors and each of their employees who will be performing farm labor contractor activities must obtain a certificate of registration from the U.S. Department of Labor before they can start farm labor contractor activities,

1. farm labor contractors, agricultural employers, and agricultural associations must disclose to migrant and seasonal agricultural workers information about wages, hours, and other working conditions, and about housing when provided,
2. workers must be provided with written statements of earnings and deductions,
3. if transportation is provided, vehicles used must be safe and properly insured, and
4. if housing is provided, it must meet safety and health standards.

AWPA is enforceable by the Department of Labor (DOL) as well as by aggrieved farmworkers. Both money damages and equitable relief are available. AWPAs cover only migrant and seasonal farmworkers working on large, non-family farms.

This Act contains an anti-retaliatory clause. A person may not discharge or discriminate against an employee because the employee has filed a complaint, participated in a proceeding or exercised any other right afforded by the Act. Any worker who has been subjected to retaliation may file a complaint with the DOL within 180 days after the violation.

One of the more significant cases litigated under AWPAs is Adams Fruit Co. v. Barrett, 110 S. Ct. 1384 (1990). The defendant claimed that the state's workers compensation law provided the exclusive remedy, and therefore, the plaintiff was barred from AWPAs litigation. The Supreme Court held that the federal private right of action under the AWPAs is superior to state law. Thus, state law can only supplement, not supplant the AWPAs's remedial statutory scheme.

For a discussion on how the AWPAs applies to agricultural employers and what legal arguments agricultural employers use to escape AWPAs violations, see Picking Produce and Employees: Recent Developments in Farmworker Injustice by Jeanne E. Varner, 38 Ariz. L. Rev. 433 (Spring 1996).

Immigration and Nationality Act (H-2A Worker Program)

[8 U.S.C. §§1101(a)(15)(H)(ii)(a) and 1186; 20 C.F.R. Part 655; 29 C.F.R. Part 501]

The H-2A program allows farmers to temporarily bring foreign workers into the U.S. to fill seasonal shortages. The H-2A program is also known as the guest or foreign worker program.

Any farming establishment seeking certification to employ temporary foreign agricultural labor under the H-2A program is required to circulate a formal job offer for U.S. workers starting at least 60 days before the work is expected to begin. If the employer's H-2A application is later approved, the U.S. and foreign workers hired by the employer pursuant to the job offer must receive a written work contract specifying the benefits and conditions of employment. Both the job offer and the work contract must contain certain minimum standard and guarantees, including requirements related to housing. When using federal funds, legal services programs are only allowed to represent H-2A workers on employment issues.

This Act contains an anti-retaliatory clause which says that a person may not discharge, discipline or discriminate against workers because the workers has consulted with an attorney, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

While farmers now have the H-2A program at their disposal, few use it. The program requires farmers to seek local employees first. If local workers are hired, but stay just a few days, the H-2A program is not flexible enough to bring other workers in quickly. California, the nation's largest user of agricultural labor, does not participate in the H-2A program. Florida doesn't either. However, several states in the east are now using the H-2A program for the first time due to labor shortages.

1. INCOME

Public Benefits

[See Section 7: Public Benefits]

In the case of food stamps, most migrant farmworkers are eligible for expedited service because they have little income when they apply for programs. Certain public benefits are not available to persons of certain immigration status.

Unemployment Insurance 26 U.S.C. §3301

[See Section 4, Unemployment]

UIB was expanded to include agricultural workers in 1976 but only applies to employers who meet specific requirements.

Unfortunately, some employers illegally fail to pay unemployment insurance tax. In such a case, the burden falls on the farmworker to prove that she or he is covered. There are also problems with eligibility requirements for many farmworkers due to the sporadic nature of their employment.

Food Stamps

Only U.S. citizens and certain categories of aliens are eligible for the Food Stamp Program. Spouses and children of aliens

legalized under the Immigration Reform and Control Act of 1986, who are present in the U.S. under the Family Unity Program, are also eligible for the program. Farm workers moving into any area are usually eligible for emergency food stamps if they have not already received food stamps in the month from a previous location. Because of their low income most farm worker families are eligible for food stamp benefits while they are working.

■ Wages

Fair Labor Standards Act of 1938 [29 U.S.C. § 201 et seq.; 29 C.F.R. Parts 778, 780, 531, 516]

This Act guarantees agricultural workers the same minimum wage and record-keeping as other workers. It only covers workers on large farms and **does not** guarantee a right to overtime pay to farmworkers as it does to other workers. Furthermore, there are exceptions for certain types of farm work and farmworkers.

This Act is administered and enforced by the U.S. Department of Labor (DOL). The DOL is authorized to investigate complaints and impose civil penalties. Furthermore, a private civil cause of action permits employees to file suit in federal court for back pay and related damages.

Migrant And Seasonal Agricultural Worker Protection Act [29 U.S.C. §§1801-1872; 29 C.F.R. Pt 500]

Administered by DOL, AWPA requires farm labor contractors, agricultural employers and agricultural associations to comply with certain prescribed wage payment procedures. For further discussion of AWPA see General Protection above.

Immigration and Nationality Act – H-2A program

[8 U.S.C. §§ 1101(a)(15)(H)(ii)(a), 1186; 20 C.F.R. Pt 655; 29 C.F.R. Pt 501]

Administered by DOL, this Act created special wage standards applicable to agricultural establishment that employ U.S. or

non-U.S. workers to perform services pursuant to a formal H-2A job offer. The Act also requires employers to observe procedural requirements in making wage payments. (For further discussion see General Protection above.

Even though migrant workers are theoretically protected under AWPA and the Fair Labor Standards Act, they are still being paid less than minimum wage and work under substandard conditions because the federal government does not strictly enforce these statutes. This problem of regulation and lack of immunity clause for the farmworker are discussed in an article by Elizabeth M. Dunne, The Embarrassing Secret of Immigration Policy: Understanding Why Congress Should Enact an Enforcement Statute for Undocumented Workers, 49 Emory L. J. 623 (Spring 2000).

2. HEALTH & SAFETY

■ Health Care

Medicaid

[See Section 4: Health]

Migrant workers don't generally earn enough to pay for health care, and they almost never have health insurance. They may also lack transportation to the clinic or, since they don't receive sick leave, be afraid of losing wages or even losing their jobs if they take time off to seek health care. The U.S. Public Health Service funds some migrant health centers to help provide care to farmworkers, but not nearly enough to meet the need.

Since the Migrant Health Act was passed in 1962, migrant health centers have struggled to serve the migrant and seasonal farmworkers and their families who make up the backbone of this country's agricultural work force. The on-going battle to improve the health status of farmworkers has not been easy, and is being lost. Current estimates show that migrant clinics are able to serve less than twenty percent of this nation's migrant farmworkers.

Pesticides

In regard to pesticides, both OSHA and the EPA have laws that apply to migrant and seasonal farmworkers. Because of possible jurisdictional difficulties, and because of the overlap in the regulations, OSHA deferred its standard to the EPA Worker Protection Standard.

Migrant farmworkers studied in northern California have reported many pesticide exposures that violate state and federal regulations. They had cholinesterase levels significantly lower than non-farmworkers, although only spraying pesticides was associated with very low levels. Half of the farmworkers studied reported being sprayed by pesticides and working in fields with an obvious 'chemical' smell. "Pesticide exposures, cholinesterase depression and symptoms among occupational exposure." Ciesielski, S.C., Loomis, D.P., et. al. American Journal of Public Health, 1994, 84:416-451. (Cited by Pesticide Action Network North America. www.igc.org/panna)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

[7 U.S.C. § 136 et seq.; 40 C.F.R. Pt 171]

This Act requires certification of commercial and private applicators of restricted-use pesticides, imposes recordkeeping duties on certified commercial applicators, establishes standards for the proper labeling of pesticide products, and forbids applicators from engaging in certain prohibited acts. This Act is administered on a state level. EPA administers a training verification program for assuring that applicators of toxic chemicals receive proper training. States may participate in the program on a voluntary basis (59 FR 29427-01, 1994 WL 241233 (F.R.))

EPA Worker Protection Regulations [57 Fed. Reg. 38102 (Aug. 21, 1991); 40 C.F.R. Part 171]

Under the authority of the FIFRA, the Environmental Protection Agency has adopted occupational safety standards for the protection of farmworkers performing hand

labor operations in the field following application of pesticides to the crop.

These regulations impose strict requirements designed to protect farmworkers from pesticide exposure. Some general requirements include: growers must post a chemical list in a central place stating the name of each pesticide applied within the past 30 days and the location of each application. Reentry intervals are extended to up to 72 hours depending on the pesticide. Growers are required to supply generic protective clothing depending on the toxicity of the chemical. Field workers are entitled to pesticide safety training. Early reentry work is generally prohibited unless the EPA establishes an exemption in a particular case. Although these regulations were a significant improvement, there are loopholes that affect implementation and compliance that may diminish the intended protection of farmworkers. Perhaps the most significant is the FIFRA (7 U.S.C. § 136v (1998)) pre-emption that restricts states from requiring labeling and packing of pesticides in excess of EPA-mandated restrictions.

Occupational Safety and Health Act of 1970 [29 U.S.C. §651-678; 29 C.F.R. Pt 1928]

Under this Act, DOL has adopted regulations which, among other things, require most employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job through the use of substance labeling, material safety data sheets, and employee information and training programs.

The Act is primarily administered and enforced by DOL, although a state may assume some administration and enforcement responsibilities. The Act authorizes the Secretary of DOL to establish and enforce mandatory occupational health and safety standards, applicable to employment performed in work places. Among other standards, OSHA regulations regulate migrant labor camps, field sanitation, storage and

handling of anhydrous ammonia, slow moving vehicles, roll-over protective structures, and other safety devices for agricultural equipment. There is no private right of action under the Act.

OSHA regulations require that agricultural employers of eleven or more workers provide drinking water, hand washing facilities, and toilets for their employees. Farms with ten or fewer employees are exempt from these requirements. The intention of this exemption was to avoid placing an undue financial burden on small farms. However, as a result, these very basic amenities are not required by law for many farmworkers, regardless of the conditions or hours required of them by their work in the fields.

1990 Farm Bill [Pub. L. No. 101-624, section 1491, 104 Stat. 3627 (1990); 7 CFR Part 110] (Effective August 1, 1995)

This law requires growers who are certified pesticide applicators to keep records of the restricted use pesticides that they apply. This substantially improves farmworkers' ability to prove causation in pesticide exposure cases.

Certified applicators are required to maintain pesticide application records for a two-year period, the contents of which are set by state law. Access to these records is limited. Health care personnel treating anyone who may have been exposed are explicitly allowed to review these documents.

The Bill additionally provides for an annual report of pesticide uses, provided by EPA and the National Agricultural Statistics Service.

■ **Field Safety and Sanitation**

The DOL has established field sanitation standards that require employers to provide farmworkers with toilets, hand washing facilities, and drinking water in the fields. In reality, these regulations apply to fewer than one third of the farms in this country. The standards are enforced either by DOL or state

agencies. One of the major difficulties in enforcing these standards is the short duration of many of these agricultural operations. It is difficult to process a complaint and inspect fields before the work in the fields is completed.

3. HOUSING

Occupational Safety & Health Act of 1970 (OSHA) [29 U.S.C. §§651 - 678; 29 C.F.R. Pt 1910.142]

OSHA requires agricultural employers operating a temporary labor camp to comply with specific standards covering the location and construction of such housing and the facilities provided therein. OSHA standards apply to all temporary labor camp housing built after April 3, 1980. Many farmworkers live in improvised camps, partly as the result of employers' efforts to evade OSHA requirements and lack of mandates for provision of seasonal employee housing.

Wagner-Peyser Act [29 U.S.C. §49; 20 C.F.R. Pt 654 et seq.]

This Act established a nationwide system of public employment offices and authorized the Secretary of Labor to adopt regulations necessary to assure the proper function of these offices. No agricultural employer may use this system to recruit employees outside the area of intended employment unless certain standards for housing are met. However, many employers do not recruit through this system and thus are not subject to its regulations.

AWPA (see General Protection above)

This Act contains explicit provisions regulating the safety and health of housing provided to migrant agricultural workers.

H-2A program (see General Protection above)

Contains requirements for housing for H-2A workers.

4. TRANSPORTATION

Federal Transportation Laws [49 USCS 31501-31504]

These laws authorize the U.S. Transportation Secretary to prescribe operating standards and equipment requirements for vehicles used to transport migrant agricultural workers. Furthermore, they authorize enforcement of the statutory and regulatory provisions governing migrant worker transportation and establish penalties for violations. These laws are administered and enforced by the Office of Motor Carriers. This office inspects vehicles, investigates complaints, conducts hearings, and may assess civil money penalties. Violators are also subject to criminal penalties.

Persons, businesses, associations and other entities that transport three or more migrant agricultural workers at a time to or from their employment on a trip of at least 75 miles and across state lines, in any motor vehicle other than a passenger car or station wagon, are required to comply with detailed regulatory requirements and restrictions.

AWPA (see General Protection above)

Any farm labor contractor, agricultural employer or agricultural association using any vehicle to transport a migrant or seasonal agricultural worker must comply with prescribed safety and insurance requirements. These requirements do not apply to transportation of any worker on a tractor or other similar machinery nor to carpooling arranged by the workers themselves.

H-2A (see General Protection above)

This Act contains certain minimum requirements relating to worker transportation, namely payment by the employer for costs incurred by the H-2A worker for transportation and meals between the place from which the worker has come to work for the employer and the place of employment. Furthermore, transportation to the worksite during the course of the contract is also required.

5. EDUCATION

Improving America's Schools Act of 1994 (IASA) [20 U.S.C. § 6301 et seq. Pub. L. 103-382, 103d Cong., 2d Sess. (Oct. 20, 1994)]

This omnibus statute includes re-authorization of the migrant education program.

■ Bilingual Education

Bilingual Education Act [20 U.S.C.S. 7401]

This Act authorizes money for instituting bilingual education programs across the country. It also sets out the standards that these programs must meet in order to qualify for funds. The Act has been liberally interpreted, with a court case supporting legitimacy of expenditure of bilingual education money by school districts that did not fully conform to requirements, but nevertheless received funding. The districts were required to pay back solely those funds which were expended in a manner clearly inconsistent with the Bilingual Education Act. (See Tangipahoa Parish School Bd. v. United States Dept. of Education 821 F2d 1022 (Fifth Circuit 1987))

See Section 2: Education Law on Proposition 227.

6. CIVIL RIGHTS

■ Discrimination

Civil Rights Act of 1964 (Title VII) [42 U.S.C. §2000e; 29 C.F.R. Pts 1620 and 1621]

This Act defines certain unlawful employment practices by employers, employment agencies, labor organizations and training programs, and establishes procedures for reporting and resolving employment discrimination complaints. It applies only to comparatively large agricultural employers.

Immigration and Nationality Act [8 U.S.C. §1324b; 28 C.F.R. Pt 44]

This Act outlaws certain forms of employment discrimination based on national origin or citizenship status. Undocumented workers are not covered under this Act. See

also, NAACP v. Brennan, 360 F.Supp. 1006 (1973).

7. CHILD LABOR

Fair Labor Standards Act of 1938 [29 U.S.C. §§201-219; 29 C.F.R. Pts 570, 575]

This Act prohibits children under the age of 16 from working during school hours.

Outside of school hours, generally, no one under the age of 14 can be employed in agriculture, except under certain conditions. This Act is administered and enforced by DOL. DOL is authorized to investigate complaints and impose civil penalties (For more information, see Wages above).

It is important to note that the child labor provisions of the Act apply to the agricultural employment of all children, migrant as well as local resident children. Other federal and state laws may have higher standards. When these apply, the more stringent standard must be observed. All states have child labor laws and compulsory school attendance laws.

RESOURCES - MIGRANTS

Migrant Legal Action Program, Inc. (MLAP)

<http://www.mlap.org/>

Connecticut Ave., NW, Suite 915,
Washington, DC 20036
202.775.7780 (voice); 202.775.7784 (fax)

MLAP publishes a biweekly newsletter, **The Field Memo**, and a variety of manuals including the **Farm worker Law Manual** and a pesticide manual.

California Rural Legal Services

631 Howard Street, Suite 300
San Francisco, CA 94105
415/777-2752 Voice
415/543-2752 Fax
www.crla.org

CRLA Foundation

www.crlaf.org

contains the National Clearinghouse on Guestworker Legislation.

Farmworkers Website

www.farmworkers.org

has great links to related resources for farmworkers.

Pesticide Action Network

www.panna.org/panna

contains information on pesticides, sustainable agriculture and biotechnology.

www.jsri.msu.edu

provides updated news as articles and legislation concerning Latinos, specifically in the agricultural sector.

National Center for Farmworker Health

www.ncfh.org

- plethora of information on migrant issues, such as health, insurance, welfare, and employment with links on migrant advocacy, health, education, labor, occupational health, housing, and government agencies.

Philip L. Martin, *Promises to Keep: Collective Bargaining in California Agriculture,*

<http://www.agecon.ucdavis.edu/Faculty/Phil.M/promises/promises1.htm>

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Maralyn Edid, *Farm Labor Organizing: Trends and Prospects.* New York: ILR Press, 1994.

Jacques E. Levy, *Caesar Chavez: Autobiography of La Causa.* New York: N.W. Norton & Company, Inc., 1975.