



WORKING IN FEAR

SEXUAL VIOLENCE AGAINST WOMEN FARMWORKERS
IN THE UNITED STATES: A LITERATURE REVIEW



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Working in Fear

Sexual violence against women farmworkers in the United States

A literature review

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EXECUTIVE SUMMARY

While working in the fields, Olivia Tamayo was raped at gunpoint by her supervisor who threatened to kill her husband if she told anyone about it. When she finally gained the courage to report him to her employer, one of the country's largest farming companies, management did not believe her, ignored her complaints and retaliated against her.¹

Similarly, Emitteria Cortes Bustos was raped with shears to her throat by her supervisor who threatened to fire her and kill her siblings if she reported the rapes. He forced her to perform sex in the fields several more times and when she refused, he fired her.²

These are just two examples of the sexual violence that women farmworkers in the United States must face on a regular basis. As in the military and on university campuses, the tremendous imbalance of power in the agricultural industry creates an atmosphere where sexual violence is common. A recent community study found approximately 80 percent of women farmworkers they spoke to claimed they experienced some form of sexual violence on the job.³ In comparison, roughly 25-50 percent of all women in the workforce have experienced at least one incident of sexual violence⁴ and approximately 1 in 5 women in the United States has been raped in her lifetime.⁵

While sexual violence in the workplace has been studied extensively, far less attention has been given to the issue as it applies to women farmworkers in the United States whose circumstances differ greatly from the white middle-class focus of most sexual violence literature. Few research studies of this population have been conducted and the literature that exists has not yet been consolidated. The purpose of this report is to provide a comprehensive review of the existing documentation of sexual violence against women farmworkers who harvest and pack agricultural goods, the factors in agriculture that heighten their risk and the challenges of finding effective solutions.

A significant challenge to addressing the issue is the difficulty in gathering data about this population because of the seasonal, migrant and temporary nature of agricultural work and the largely unauthorized worker population.⁶ The most current estimates gauge the number of workers employed in the agricultural industry at over 2.1 million⁷ and the number of crop workers at approximately 1.4 million.⁸ It is estimated that approximately 78 percent of farmworkers are foreign-born, of which 75 percent were born in Mexico.⁹ Fifteen percent of farmworkers reported being indigenous in a national study,¹⁰ and smaller studies have found 20-30 percent of a state's farmworker population belonged to a particular indigenous group.¹¹ While foreign-born workers may be authorized to work in the United States under various visa categories, the national study estimated that at least 53 percent of the hired crop labor force lacked such work authorization.¹² The numbers are likely much higher and other reports estimate 60-75 percent of the farmworker population is undocumented.¹³ Most farmworkers have little formal education, low literacy rates and do not speak English.

Women are far outnumbered by men in the agricultural industry and constitute an estimated 20-25 percent of the total farmworker population.¹⁴ Studies have found that in such a heavily male-dominated workforce, sexual violence of women is widespread. Reliable figures about its prevalence, however, are very difficult to acquire for several reasons. The first is that few women file reports. While approximately 41 percent of women industry-wide report abuse to their employers or the police,¹⁵ only 6.6 percent of Latinas who experienced sexual assault contacted police and only 21 percent sought any type of formal help such as medical care, police involvement, social services, restraining orders or criminal charges.¹⁶ In addition to low reporting rates, those incidences that are reported are seldom investigated or prosecuted.¹⁷

In one study, 80 percent of women farmworkers said they have experienced some form of sexual violence on the job.

Furthermore, one of the most significant challenges to addressing the issue is the difficulty in gathering data about the scope of the problem for this population. Women farmworkers face very different fears and obstacles to reporting and seeking support and remedies for abuse than do workers in other industries, making traditional research methods ineffective.

Several qualitative studies conducted from the late 1980s through today have recognized sexual violence against women farmworkers as a pervasive problem and discovered a wide range of severity, from verbal abuse to rape. A recent study found that 97 percent of women who reported sexual violence experienced gender harassment from supervisors and coworkers (which includes generalized sexist comments and behavior that convey insulting, degrading, and sexist attitudes), 53 percent experienced unwanted sexual attention (ranging from unwanted and offensive physical or verbal sexual advances to gross sexual imposition, assault, or rape) and 24 percent experienced sexual coercion (i.e., the solicitation or coercion of sexual activity by promise of reward or threat of punishment).¹⁸

The agricultural industry presents unique risks for women farmworkers that increase the likelihood of sexual violence. The physical environment of farm work is often remote, offering perpetrators opportunities to conceal their behavior. The nature of the work requires women to bend over and crouch, placing them in vulnerable physical positions as they work in close proximity to men. The workforce is commonly made up of family relations, friends and neighbors, blurring the line between work life and family life, which increases the risk of sexual violence and deters women from reporting abuse. For example, the perpetrator may be close friends with the woman's family members or she may work with his wife, creating a ripple effect of social impacts if she were to report his abuse.



Figure 1 Women farmworkers face particular conditions that make them vulnerable to sexual violence, including isolation, physical positions, and perpetrators with the power to hire and fire.

Mary Babic/Oxfam

Furthermore, the power dynamic between supervisors and low-wage immigrant women farmworkers drastically increases the likelihood of rampant sexual violence. Most perpetrators are in power positions with the authority to hire, fire or give benefits to workers such as better hours and task assignments.¹⁹ Supervisors usually speak English and therefore often act as the communication link between non-English speaking workers and authorities.²⁰ Harassers also often have lawful immigration status, giving them power over unauthorized workers to threaten calling immigration authorities for reporting sexual violence.²¹ Additionally, workers often depend on their employers for housing and transportation²² and some foremen are related to the growers or owners, making it even harder for women to stop the abuse.²³ Sexual violence in agricultural differs from that in other industries in the high level of violence that is involved as many supervisors and owners carry guns and a perpetrator may threaten to kill a woman's family members who live here or back in her home country through recruiters if she reports him.²⁴

Moreover, the agricultural industry is excluded from many of the major labor laws and those that do apply are regularly violated, leaving farmworkers without basic workplace protections.²⁵ Although Title VII of the Civil Rights Act of 1964 theoretically protects all workers, including unauthorized workers, from sexual violence,²⁶ it is often unable to provide women farmworkers with meaningful protections because it fails to address the combination of discrimination factors they face.²⁷

Women farmworkers face simultaneous sexist, racist, economic, and political discrimination, making them the most vulnerable, easily exploitable and dispensable workers in the United States.²⁸ Latino cultural beliefs about gender norms likely play a significant role in the prevalence of sexual violence in the agricultural industry. *Machismo* values define separate roles for men and women; however, "the need for economic stability has forced many Latinas in the US to work alongside men to support their families, which has in turn challenged traditional

gender norms.”²⁹ Immigrant women who were socialized in their home countries to be subservient to men are often reluctant or afraid to speak up against their male harassers and stay silent about the injustices committed against them.³⁰ Their economic instability further heightens their susceptibility for sexual violence as farmworkers in the United States are among the poorest of the working poor with over 60 percent of farmworker households living in poverty³¹ and women making significantly less than their male counterparts.³² A recent study found that the average personal yearly income of female crop workers was \$11,250, far less than male crop workers who averaged \$16,250.³³ Poverty and fear of job loss have been identified as key reasons why women farmworkers often do not report sexual violence at work.³⁴



Figure 2 Women farmworkers use a variety of coping strategies to prevent abuse, including bandanas to hide their faces and layers of clothing to hide their bodies.

Mary Babic/Oxfam

Immigrant-related discrimination and fear of deportation also severely deter women farmworkers from reporting sexual violence or seeking help from police, rape crisis shelters, counseling programs and the courts.³⁵ Unauthorized workers often feel virtually powerless to report abuse for fear they will lose their jobs, be deported and separated from their children and families.³⁶ Their distrust of police and fear of being deported after reporting sexual assault is well-founded as law enforcement personnel in many areas of the country collaborate directly with immigration authorities under federal programs such as 287(g)³⁷ and Secure Communities.³⁸ Language barriers also put these women at greater risk of exploitation and make them less likely to report abuse. Thus, many women farmworkers suffer in silence, viewing the sexual abuse as a burden they must bear to remain in the country.³⁹ The combination of the many problems women farmworkers face (being female in a male-dominated industry, living in poverty, language barriers, being an immigrant, being an indigenous immigrant and oftentimes lacking work authorization) heighten the risk of sexual violence and must all be taken into account as interrelated in defining the oppression faced by these workers and finding effective solutions.⁴⁰

Numerous studies have shown that sexual violence can cause physical and psychological damage such as post-traumatic stress disorder, depression, anxiety, flashbacks, fear of being raped in the future, being afraid to go to work because of fear of facing more harassment, anger, guilt, shame, self-blame, low self-esteem, eating disorders, substance abuse and suicidal attempts.⁴¹ Sexual violence not only impacts the survivor, but her family often suffers psychological and social effects as well as they may need to move to escape the violence and must witness the pain their mother or spouse experiences.⁴² Sexual violence in the workplace can also disrupt social dynamics and negatively impact women's support systems. Women who choose to report abuse or seek help from the justice system or social services may be socially ostracized, isolated and denied support from the very community they need most.⁴³ Widespread sexual violence also affects women farmworkers' attitudes towards their jobs as they perceive organizational tolerance for the abuse and feel dissatisfied with their jobs, coworkers and supervisors.⁴⁴ In addition, women who choose to report abuse often face retaliation from their employer, supervisors, family and community.

Women farmworkers use a myriad of strategies to try to prevent being targeted at work and to cope with the abuse they have suffered. For example, many wear baggy clothing and cover their faces with bandanas to look less feminine. Few women report the abuse to authorities and most rely on informal support systems before/if they seek any formal assistance. The decision of whether to report the abuse or not is based on several factors including fear of not being believed, fear of being blamed, fear of being ostracized at work and in her community for accusing the harasser of such terrible actions (especially if the harasser is a family friend), fear of losing her job, shame, lack of information about worker rights, lack of available support resources, language barriers and fear of deportation.⁴⁵ Despite continuous harassment, most women cope on their own by either putting up with the abuse or quitting their jobs.⁴⁶

Cultural attitudes about sexual violence and the role of the legal system may influence women farmworker's coping mechanisms. Immigrant women farmworkers may be skeptical that the United States legal system will provide her protection and instead view it as "an entity that will believe and protect the perpetrator."⁴⁷ This is particularly true if her experience in her country of origin involved a repressive government, institutionalized gender bias, participation of police and government officials in violence against women such as trafficking or rape, or "a legal system where, as a matter of law, a husband's sexual assault of his wife is not unlawful, where a woman's testimony is not considered valid evidence, or her word does not have the evidentiary weight of a man's."⁴⁸ Her skepticism is often further reinforced by her lack of access to and negative experiences with police and service providers in the United States who fail to investigate her report, discriminate against her or fail to address her cultural needs.⁴⁹

However, delays in reporting incidences of sexual violence to employers or law enforcement can have significant implications for a woman's ability to access timely medical, legal and mental health assistance.⁵⁰ While many social services exist for survivors of sexual assault, access may be limited for women farmworkers as few exist in rural areas and those that do often have language barriers to providing immigrant women the services they need.⁵¹

Women farmworkers also face numerous obstacles to accessing justice for the sexual violence they have experienced on the job. Sexual harassment policies and training are not required in the agricultural industry by federal law,⁵² resulting in most agricultural employers lacking adequate protections.⁵³ Additionally, low-income women farmworkers have limited access to legal assistance as legal service organizations that receive federal funding from the Legal Services Corporation (LSC) are generally prohibited from representing unauthorized immigrants.⁵⁴ Although some remedies are available through civil litigation, very few criminal charges have been prosecuted against perpetrators of sexual violence in the agricultural industry.⁵⁵ Thus, with few exceptions, perpetrators get off without many consequences.



Figure 3 Perpetrators of sexual violence against women farmworkers seldom face consequences for their actions. Employers and law enforcement agencies rarely investigate or prosecute. The women themselves have limited access to legal assistance, and often do not know or understand their rights.

Mary Babic/Oxfam

On the bright side, legislators, advocates, law enforcement, farmworker women themselves, community organizations, academic institutions and growers are creating new ways to combat sexual violence in the agricultural industry. At the federal level, legislators have created the Violence Against Women Act (VAWA), U visas and T visas to encourage unauthorized immigrants to report crimes such as sexual assault. Several states are also passing legislation that creates stronger legal protections against sexual harassment and exploitation of workers. A growing number of states and counties are also ending or limiting their cooperation with immigration authorities under the 287(g) and Secure Communities programs and some local law enforcement agencies are beginning to investigate farmworker sexual assault criminal charges. Additionally, numerous organizations around the country are working together to improve employer standards, increase and improve sexual harassment policies and training, raise awareness of sexual violence in agriculture and educate workers about their rights.

In conclusion, the studies reviewed in this report suggest that sexual violence is a longstanding and pervasive norm in the agricultural industry. The social and cultural dynamics of the farmworker population create unique obstacles for women farmworkers to report and seek support and remedies for sexual violence in the workplace. Researchers must develop

alternatives to traditional data collection methods in order to gather accurate data about workplace sexual violence of women farmworkers. Without reliable figures, determining the prevalence of sexual violence in agriculture is difficult. The lack of adequate data hides farmworkers from public attention and hampers efforts to raise awareness about the serious problems these women face.⁵⁶

ABBREVIATIONS

ALRA	California's Agricultural Labor Relations Act
Census	Census of Agriculture
CIW	Coalition of Immokalee Workers
CPS	Bureau of Labor Statistics Current Population Study
EEOC	Equal Employment Opportunity Commission
FFSC	Fair Foods Standards Council
FLSA	Fair Labor Standards Act
ICE	United States Immigration and Customs Enforcement
LPR	Lawful Permanent Residents
LSC	Legal Services Corporation
NAWS	National Agricultural Workers Survey
NLRA	National Labor Relations Act
NLRB	National Labor Relations Board
NSSS	National Agricultural Statistics Survey
OSHA	Occupational Health and Safety Administration
USDA	United States Department of Agriculture
VAWA	Violence Against Women Act

DEFINITIONS

Agriculture: In using the term “agriculture,” this report refers to crop production, which includes harvesting and packing industries.⁵⁷ The report also discusses meat packing plants because workers in these environments face similar sexual violence problems as those working in crop production.

Farmworker: The Bureau of Labor Statistics defines “farmworkers” as those who “manually plant, cultivate, and harvest vegetables, fruits, nuts, horticultural specialties, and field crops. Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, and knives. Duties may include tilling soil and applying fertilizers; transplanting, weeding, thinning, or pruning crops; applying pesticides; or cleaning, grading, sorting, packing, and loading harvested products. May construct trellises, repair fences and farm buildings, or participate in irrigation activities.”⁵⁸ This report uses an expansive definition of “farmworker” that also includes people who pack and process agricultural products in off-farm facilities.

Migrant Farmworker: “Migrant farmworkers” are those farmworkers who leave their permanent residence to work for months at a time in agriculture.⁵⁹

Seasonal Farmworker: “Seasonal farmworkers” are those farmworkers who work temporarily, or seasonally, but return to their permanent residence after work each day.⁶⁰

Immigrant: The term “immigrant” will be used in this report to include both documented and undocumented refugees, migrants and others present in the United States with or without temporary or permanent visas.⁶¹

Unauthorized Immigrant: The term “unauthorized” refers to people currently living in the United States without permission from the Department of Homeland Security (formerly the Immigration and Naturalization Service). Their unauthorized presence could result from a visa violation or from unlawful entry.⁶²

Indigenous Farmworker: “Indigenous farmworkers” are “farmworkers from pre-Columbian communities that are mostly self-governing and speak an indigenous language as their primary language.”⁶³

Sexual Violence and Sexual Harassment: As defined by the Centers for Disease Control and Prevention, “sexual violence” is “any sexual act that is perpetrated against someone’s will... including a completed non-consensual sex act (i.e., rape), an attempted non-consensual sex act, abusive sexual contact (i.e., unwanted touching), and non-contact sexual abuse (e.g., threatened sexual violence, exhibitionism, verbal sexual harassment).”⁶⁴

“Sexual harassment,” a violation of Title VII of the Civil Rights Act of 1964, is defined as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.”⁶⁵ The Equal Employment Opportunity Commission (EEOC), a federal agency charged with enforcing Title VII and other workplace anti-discrimination laws,

explains that “harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.”⁶⁶

As the Southern Poverty Law Center noted in *Representing Farmworker Women Who Have Been Sexually Harassed – A Best Practices Manual*, “[s]exual harassment in the workplace is a form of sexual violence.”⁶⁷ Like the World Health Organization, this report uses the term sexual violence to encompass “acts that range from verbal harassment to forced penetration, and an array of types of coercion, from social pressure and intimidation to physical force.”⁶⁸

INTRODUCTION

Olivia's Story

While working in the fields, Olivia Tamayo was raped at gunpoint by her supervisor who threatened to kill her husband if she told anyone about it. When she finally gained the courage to report him to her employer, one of the country's largest farming companies, management did not believe her, ignored her complaints and retaliated against her.*

* EEOC v. Harris Farms, 274 F. App'x 511 (9th Cir. 2008)

PURPOSE OF REPORT

While sexual violence against women farmworkers is recognized as a widespread problem, few research studies have been conducted on the issue, and the literature that exists has not yet been consolidated. The purpose of this report is to provide a comprehensive review of the existing documentation of sexual violence against women farmworkers who harvest and pack agricultural goods, the factors in agriculture that heighten their risk, and the challenges of finding effective solutions. Although men and transgender farmworkers also experience sexual violence, this report focuses on the impact on women, for whom the prevalence of abuse is reportedly higher.⁶⁹

METHODOLOGY AND MATERIALS

Included in this review of sexual violence in the United States agricultural industry are peer-reviewed published literature, organization reports, survey polls, videos, media, educational materials, litigation guides, landmark lawsuits, guidebooks for service providers and training materials, produced between 1989 and 2014 using the following sources: PubMed, LexisNexis and Oxfam's organizational and individual networks. Reports and materials meeting the following criteria were prioritized:

- Demonstrates the severity (physical, emotional, social, occupational) of the problem
- Describes the effects that sexual violence in agriculture has on the survivor, the perpetrator, the company and the industry
- Presents the methods used (if a research study)

BACKGROUND

The unique aspects of the agricultural industry as well as the social and cultural dynamics of the farmworker population must be examined in order to understand the scope of the sexual violence problem and how to develop effective solutions for these women. A significant challenge to addressing the issue, however, is the difficulty in gathering data about this population. Reliable figures are hard to determine because of the seasonal, migrant and temporary nature of agricultural work and the largely unauthorized worker population.⁷⁰

The main national surveys that collect data on agricultural farmworkers are the National Agricultural Workers Survey (NAWS), the United States Department of Agriculture's (USDA) Census of Agriculture (Census), the USDA's National Agricultural Statistics Survey (NASS) and the Bureau of Labor Statistics Current Population Study (CPS). Each survey has significant limitations such as the underestimation of farmworkers due to the exclusion of small farms, counting jobs instead of workers when two or three workers may fill one job, and the unlikely inclusion of the largely unauthorized worker population from official data. In addition, agricultural employers are dis-incentivized to report accurate labor information as they want to avoid bringing attention to illegal employment arrangements or unsafe workplace practices. Some federal agencies collect information on regulatory and enforcement practices; however this information is usually not easily accessed. States collect and publish information through their regulatory programs and departments, but the information is often specific to that state's unique regulations, reporting criteria and definitions, making it difficult to compare data between states. Farmworker organizations and academics have also contributed to the data collection; however these studies are often limited as well.⁷¹ Most importantly, no federal agency tracks the number of sexual harassment incidents in agriculture. "Aside from the estimates of female 'hired farmworkers' and the increase in the number of women coming to this country in search of work (without a corresponding increase in the number of women working in agriculture), there is no other information providing evidence of sex discrimination in agricultural labor."⁷²

The most current estimates gauge the number of workers employed in the agricultural industry at over 2.1 million⁷³ and the number of crop workers at approximately 1.4 million.⁷⁴ Other estimates of the national farmworker population range from approximately 1 million to over 3 million.⁷⁵ The six states with the largest farmworker populations are California, followed by Florida, Washington, Texas, Oregon and North Carolina.⁷⁶

Many agricultural companies actively target immigrant communities and recruit workers from outside of the United States.⁷⁷ The NAWS, last updated in 2010, reported that 78 percent of farmworkers were foreign-born, of which 75 percent were born in Mexico.⁷⁸ The percentage of indigenous farmworkers is particularly difficult to estimate as few studies have focused on this population and many farmworkers report Spanish as their native language on the NAWS, regardless of their actual mother tongue.⁷⁹ Fifteen percent of farmworkers reported being indigenous on the 2007-2009 NAWS,⁸⁰ and smaller studies have found 20-30 percent of a state's farmworker population belonged to a particular indigenous group.⁸¹ While foreign-born workers may be authorized to work in the United States under various visa categories, the report estimated that approximately 53 percent of the hired crop labor force lacked such work

authorization.⁸² The numbers are likely much higher and other reports estimate 60-75 percent of the farmworker population is undocumented.⁸³ However, this figure is likely higher as the NAWs relies only on employers who agree to be interviewed.⁸⁴

Most farmworkers have little formal education, low literacy rates and do not speak English. On average, foreign-born workers highest completed grade level is the sixth grade.⁸⁵ A California report found that only 15 percent of farmworkers in the state were

“considered more than ‘marginally literate,’ in terms of reading and writing in their own language.”⁸⁶ Spanish is the predominant language of over 80 percent of farmworkers.⁸⁷ Only 24 percent of farmworkers claim to speak English well and 44 percent report they cannot speak English at all.⁸⁸ Female farmworkers are much less likely than their male counterparts to speak English.⁸⁹

Women account for 20-25 percent of the farmworker population. In a male-dominated workforce, sexual violence against women is widespread.

Women are far outnumbered by men in the agricultural industry and constitute an estimated 20-25 percent of the total farmworker population.⁹⁰ In such a heavily male-dominated workforce, sexual violence against women is widespread. A recent community study found approximately 80 percent of women farmworkers they spoke to claimed they experienced some form of sexual violence on the job.⁹¹ In comparison, roughly 25-50 percent of all women in the workforce have experienced at least one incident of sexual violence⁹² and approximately 1 in 5 women in the United States has been raped in her lifetime.⁹³

Although it has been recognized that sexual violence is widespread in the agricultural industry, reliable figures about its prevalence are very difficult to acquire for several reasons. The first is that few women file reports. According to the Bureau of Justice Statistics, only 41 percent of women industry-wide who have been sexually assaulted or raped report it to the police.⁹⁴ Likewise, approximately 41 percent of women who have been sexual harassed report the incident to their employers.⁹⁵ Reporting rates are even lower in Latino communities where, according to a 2010 study, only 6.6 percent of Latinas who experienced sexual assault, attempted sexual assault or fondling/forced touching said they contacted police and only 21 percent said they sought any type of formal help such as medical care, police involvement, social services, restraining orders or criminal charges.⁹⁶ Several other studies have found similar low rates of reporting, particularly for low-income and immigrant women.⁹⁷ In addition to low reporting rates, those incidences that are reported are seldom investigated or prosecuted.⁹⁸

One of the most significant challenges to addressing the issue of sexual violence against women farmworkers is the dearth in research quantifying the problem. This population faces very different fears and obstacles to reporting and seeking support and remedies for abuse than do workers in other industries, making traditional research methods ineffective. For instance, researchers often gather data by looking at workers' compensation reports. This method would come up empty handed in the agricultural industry as most farmworkers do not have access to workers' compensation.⁹⁹ The lack of government regulation in the agricultural industry¹⁰⁰ impedes research on the issue. Additionally, the studies discussed in this report gathered data by interviewing women in their communities instead of the workplace because of the dangers of

retaliation and threats of deportation if sampling took place in the workplace. However, due to the seasonal and migrant nature of farm work, community studies are not necessarily representative of the worker population at the time data is collected. Researchers must address these limitations and examine alternatives to traditional methods in order to develop a rigorous research design to collect data about workplace sexual violence against women farmworkers.

In one study, 6.6 percent of Latinas who experienced sexual assault contacted the police; 21 percent sought some type of formal help (e.g., medical care, social services).

FORMS OF WORKPLACE SEXUAL VIOLENCE

SEXUAL VIOLENCE RANGES FROM VERBAL ABUSE TO RAPE

Sexual violence against women farmworkers has been recognized as a widespread problem by several studies conducted from the late 1980s through today. As part of her master's thesis in Psychology at California State University, Long Beach, Maria Elena Lopez-Trevino was one of the first to survey women farmworkers about the issues they face. Her survey revealed that in 1993, approximately 90 percent of the women interviewed reported sexual violence as a major problem in the workplace. Only 10 percent of the respondents, however, admitted they had been sexually harassed themselves at work by a foreman or coworker. Lopez-Trevino noted that the low 10 percent reporting rate reflected the "reluctance of women [farmworkers] to report less severe forms of sexual harassment."¹⁰¹ In more recent studies, researchers have inquired further into the various forms of violence these women face and discovered dramatically increased rates of women farmworkers claiming they have experienced sexual violence at work.

Irma Morales Waugh, of the Department of Psychology at the University of California, Santa Cruz, conducted a 2010 study of 150 Mexican women farmworkers on California farms that found 80 percent of the interviewees experienced some form of sexual violence on the job.¹⁰² Waugh used three categories of sexual violence defined by researchers Cortina¹⁰³ and Fitzgerald and her colleagues:¹⁰⁴ "(a) gender harassment, which includes generalized sexist comments and behavior that convey insulting, degrading, and sexist attitudes; (b) unwanted sexual attention ranging from unwanted, inappropriate and offensive physical or verbal sexual advances to gross sexual imposition, assault, or rape; and (c) sexual coercion (i.e., the solicitation or coercion of sexual activity by promise of reward or threat of punishment"¹⁰⁵ by a superior with power over a subordinate's employment. The study found that 97 percent of women who reported sexual violence experienced gender harassment from supervisors and coworkers, 53 percent experienced unwanted sexual attention and 24 percent experienced sexual coercion.¹⁰⁶

In 2012, Human Rights Watch produced a report, *Cultivating Fear*, after conducting 160 interviews with farmworkers, growers, law enforcement officials, attorneys, service providers and other agricultural workplace experts in 8 states.¹⁰⁷ The study categorized the various forms of sexual violence slightly differently than did Waugh, differentiating between (a) long-term harassment, ranging from repeated obscene comments and gestures to routine propositions for sex by supervisors, (b) unwanted touching, verbal abuse and exhibitionism, and (c) rape and other forms of coercive sexual conduct. The study found nearly all 52 farmworkers interviewed experienced one or more of these forms of sexual violence on the job or knew someone who did

and that unwanted touching, verbal abuse and exhibitionism was the category most commonly reported.¹⁰⁸

As part of her master's thesis in Public Health at University of Washington School of Public Health, Nicole Kim conducted a study in 2014 of 20 Spanish-speaking women agricultural workers in Yakima Valley, Washington. The study found that 75 percent shared personal or peers' stories of sexual violence at work. The most common form of sexual violence reported was unwanted verbal comments, followed by physical grabbing and then staring. Some women reported coercion by harassers who offered better hours in exchange for sexual favors or threatened termination if the women refused.¹⁰⁹

Sexual violence studies have also been conducted with women working in meatpacking plants. In 2009, the legal research and advocacy group ASISTA surveyed more than 100 women in Iowa meatpacking plants, finding that 84 percent reported experiencing one or more types of sexual violence at work. Fifty-six percent of the women said coworkers or bosses made comments about their bodies, 41 percent said they experienced unwanted physical contact at work, 30 percent said they were propositioned for sex at work and 26 percent said they were threatened with being fired or demoted if they resisted their bosses' or coworkers' advances.¹¹⁰

While investigating sexual violence against women farmworkers in California, EEOC staff discovered that “hundreds, if not thousands, of women had to have sex with supervisors to get or keep jobs and/or put up with a constant barrage of grabbing and touching and propositions for sex by supervisors. A worker from Salinas, California eventually told us that farmworkers referred to one company's field as the *field de calzon*, or ‘field of panties,’ because so many supervisors raped women there.”¹¹¹ Many of the cases that the EEOC has litigated on behalf of women farmworkers involve allegations of inappropriate sexual comments, propositions for sex, coercion by hiring officials offering job opportunities contingent upon engaging in sex, rape, repeated rapes, rapes involving weapons such as guns or sharp objects like gardening sheers held at the victim's throat, and threats to terminate the woman's job or kill her husband, children, or other family members if she refused.¹¹²

Farmworkers refer to a field in Salinas, CA as *the field de calzon* (field of panties) because so many supervisors take women there to rape them.

Although far fewer studies have examined the prevalence of sexual violence against women farmworkers than have focused on white middle-class women, the findings gathered suggest that sexual violence is a longstanding, pervasive and frequent norm in the agricultural industry.¹¹³

STRUCTURE OF THE AGRICULTURE INDUSTRY

FACTORS THAT HEIGHTEN THE RISK OF SEXUAL VIOLENCE IN THE FIELDS AND PROCESSING PLANTS

The agricultural industry presents unique risks for women farmworkers that increase the likelihood of sexual violence. The physical environment of farm work is often remote, offering harassers opportunities to conceal their behavior. The nature of the work requires women to bend over and crouch, placing them in vulnerable physical positions as they work in close proximity to men. The workforce is commonly made up of family relations, friends and neighbors, blurring the line between work life and family life, which increases the risk of sexual violence and deters women from reporting abuse. Furthermore, like the imbalance of power in the military and on university campuses, the power dynamic between supervisors and low-wage immigrant women farmworkers drastically increases the likelihood of rampant abuse.¹¹⁴ Sexual violence in agricultural also differs from that in other industries in the high level of violence that is involved.

In addition, the agricultural industry is excluded from many of the major labor laws and those that do apply are regularly violated, leaving farmworkers without basic workplace protections.¹¹⁵ Although Title VII of the Civil Rights Act of 1964 theoretically protects all workers, including unauthorized workers, from sexual violence,¹¹⁶ it is often unable to provide women farmworkers with meaningful protections because it fails to address the combination of discrimination factors they face.¹¹⁷

PHYSICAL ENVIRONMENT

The physical environment of agricultural work presents unique risks for women farmworkers, heightening their susceptibility for sexual abuse. Many women work in remote, isolated or concealing environments, hidden by leafy brushes and plants, where they may not be able to protect themselves from harassers or call for help.¹¹⁸ For example, in orchards, harassers can often grab and touch women farmworkers without anyone else seeing their behavior.¹¹⁹ In the fields, foremen often separate women workers from their husbands and coworkers, leaving them to work alone in isolated areas where the foreman can sexually harass or assault her.¹²⁰

Employee housing in the agricultural industry also increases the risk of sexual violence. Approximately 20 percent of farmworkers live in employer-provided housing¹²¹ which is frequently left in substandard conditions. Many farms do not provide separate sleeping or bath

facilities for women.¹²² “[S]ubstandard and overcrowded farmworker housing may force women to live with multiple strangers and in insecure places where they can be vulnerable to physical assaults.”¹²³ Furthermore, the lack of stable year round housing makes it difficult for legal advocates and social service providers to assist and stay in touch with migrant workers who move often in search of fieldwork.¹²⁴



Figure 4 Farmworker housing often crowds several people into a room, with little security or privacy. Communal bathrooms are rudimentary and rarely feature stalls or private showers.

Mary Babic/Oxfam

PHYSICAL REQUIREMENTS

The nature of working in the fields and on processing lines puts women at further risk of sexual violence by requiring exposing body positions to perform the work. Waugh’s study found that “stoop labor necessary to harvest crops such as strawberries, lettuce, and broccoli required women to bend over, rear end in the air and in male [supervisors’ and] coworkers’ plain view. These daily circumstances made respondents vulnerable to sexual stares, verbal comments, and unwanted grabbing.”¹²⁵ Additionally, the lack of bathroom facilities near the fields creates more risk as women must relieve themselves near work sites in public.¹²⁶

In the processing plants, women workers are stuck on the line, engaged in tasks that require high-speed handling of agricultural goods, knives and hooks on a conveyor belt where line leaders and supervisors can easily harass them.¹²⁷ “A male supervisor will just walk down the line and run his hand along their buttock, make sexual comments,”¹²⁸ or worse. Women workers cannot avoid or move away from a supervisor who sexually harasses them and often must share a locker room with their male coworkers.¹²⁹

Studies disagree on whether the way women farmworkers dress plays a factor in sexual violence. Kim’s study revealed that some women farmworkers “felt that other women wearing provocative or revealing clothing suggested the wrong idea. As a result, some women purposely wore baggier clothing to hide their bodies and deter any unwanted attention from the men.”¹³⁰

However, Waugh's study argues that women farmworker's clothing is not a factor because even when these women are covered from head to toe, men continue to sexually harass them.¹³¹

FAMILIAL RELATIONSHIPS

Another unique aspect of the agricultural industry that is dramatically different from typical middle-class employment is that the workforce is frequently made up of family members, friends and neighbors.¹³² "It is common for extended families to work at the same industrial farm, orchard, or field, and to live together in the same community with their coworkers. For many migrant farmworkers, the distinction between work life and family life is blurred because the underlying relationships are the same."¹³³ In fact, 69 percent of farmworkers found their job through friends or relatives.¹³⁴ However, the interwoven ties between work and home can increase the risk of sexual violence.¹³⁵ Family and family-like relationships may exist between supervisors and their subordinates or between coworkers that result in sexual abuse in the workplace.¹³⁶ The Bureau of Justice Statistics reports that 64 percent of violent crimes committed against women in 2010 were committed by an intimate partner, other relative, or friend or acquaintance.¹³⁷ Thus, sexual assault and domestic violence can occur frequently in the workplace because the relationships and power structures are similar to those in the home.¹³⁸ These close ties also complicate and deter the reporting of sexual violence. For example, the perpetrator may be close friends with the woman's family members or she may work with his wife, creating a ripple effect of social impacts if she were to report his abuse. "Due to the merging of work life and family life, a perpetrator of sexual assault in a migrant farmworker workplace has even more power with which to threaten to harm the victim if she tells anyone about the assault, including firing her, spreading rumors about her in their community, and taking action against her family members."¹³⁹

POWER DYNAMICS

Common perpetrators of sexual violence against women farmworkers are low-level supervisors such as foremen, high-level supervisors, farm labor contractors, company owners and coworkers. Most are in power positions with the authority to hire, fire, direct daily activities or give benefits to workers such as better hours and task assignments.¹⁴⁰ Coworkers may also be perpetrators, enabled by an environment that is tolerant of the sexual abuse of women farmworkers.¹⁴¹ However, of the 41 federal cases of sexual violence against agricultural industries filed by the EEOC between 1988 and 2012, 92 percent of the cases involved abuse by those in power positions such as supervisors, managers, owners or relatives of owners.¹⁴² Perpetrators may be related to the women they abuse or are frequently closely tied to their family and community as most sexual violence survivors were assaulted by

Common perpetrators of sexual violence are low-level supervisors such as foremen, high-level supervisors, farm labor contractors, company owners and coworkers. Most are in power positions with the authority to hire, fire, direct daily activities, or give benefits to workers such as better hours and task assignments.

someone they know such as a friend, coworker, employer, acquaintance or family member.¹⁴³

“Perhaps of all settings, the workplace exhibits the greatest imbalance of power especially for non-English speaking women, immigrants, those who work the fields, and those who are geographically, socially, and linguistically isolated.”¹⁴⁴ The power dynamics in the agricultural industry foster the exploitation of women farmworkers, drastically increasing the likelihood of rampant sexual violence.¹⁴⁵ Supervisors often have the power to dictate work assignments and to determine who can make enough money to feed their children and keep a roof over head.¹⁴⁶ Supervisors also usually speak English and therefore often act as the communication link between non-English speaking workers and authorities.¹⁴⁷ Harassers often have lawful immigration status, giving them power over unauthorized workers to threaten calling immigration authorities for reporting sexual violence.¹⁴⁸ Additionally, workers often depend on their employers for housing and transportation¹⁴⁹ and some foremen are related to the growers or owners, making it even harder for women to stop the abuse.¹⁵⁰ Sexual violence in agricultural differs from that in other industries in the high level of violence that is involved.¹⁵¹ Many supervisors and owners carry guns and a perpetrator may threaten to kill a woman’s family members who live here or back in her home country through recruiters if she reports him.¹⁵² The harasser often believes that his association with authority figures allows him to do want he wants without consequences and will tell new female workers that no one will believe them if they complain because he has worked on the farm for many years and is trusted by the employers.¹⁵³

Frightened and confused teenagers, workers with shaky immigration status, and single mothers desperate to feed their children are easy prey for a harasser.

Foremen and supervisors often take advantage of the vulnerabilities of women farmworkers, exploiting them, knowing that the women are unlikely to report the abuse.¹⁵⁴ “What is clear is that as the disparity in power increases the conditions for egregious, violent sexual harassment to occur also increase. Frightened and confused teenagers, workers with shaky immigration status, and the single mother desperate to feed her children are the easy prey for a harasser.”¹⁵⁵

LACK OF LABOR LAW PROTECTIONS AND OVERSIGHT

“Farmworkers are the least protected workers in America.”¹⁵⁶ Most workers in the agricultural industry work in a shadow economy that is excluded from major labor law protections.¹⁵⁷ They receive no sick leave or vacation time, meaning they could lose their job if they miss work because of an injury or illness.¹⁵⁸ They have no federal protection from retaliation by employers for labor organizing.¹⁵⁹ Employers can fire them at will without having to document employee misconduct and few if any sexual harassment policies exist in most agricultural businesses.¹⁶⁰ The few labor laws that do apply to farmworkers are regularly violated.¹⁶¹

Most workers in the agricultural industry work in a shadow economy that is excluded from major labor law protections.

EXEMPTIONS

When most major federal labor laws were passed during the New Deal era in the 1930s, powerful Southern states lobbied to exclude agricultural and domestic workers, who were mostly black, from labor protections.¹⁶² Farmworkers were specifically excluded “as part of a compromise between President Franklin D. Roosevelt and Southern lawmakers who wanted to preserve the social and racial order on which the South’s plantation system depended.”¹⁶³ Today, powerful economic interests of the agricultural industry continue to block many proposed changes to labor protections. California alone contributed \$27.3 billion of agricultural output in 2008, which was 17.3 percent of all agricultural output in the United States.¹⁶⁴ Texas is the second largest contributor, with an output of \$9.8 billion, which was 6.2 percent of the country’s agricultural output that year.¹⁶⁵ While some laws have been amended and workers have won concessions in a few states, farmworkers remain excluded from many federal labor protections.¹⁶⁶

Today, agricultural workers are excluded from collective bargaining rights under the National Labor Relations Act (NLRA)¹⁶⁷ and from several provisions of the Fair Labor Standards Act (FLSA). “While the minimum age to work in most industries is 16, the standard minimum age for agriculture is 14.”¹⁶⁸ However, small farms have no minimum age requirement for children to work outside of school hours with their parent’s permission,¹⁶⁹ resulting in more and more young girls working in the fields. Contributing to the poverty of women farmworkers is the fact that small farms are also exempt from paying minimum wage.¹⁷⁰ Larger farms often pay piece-rate instead of hourly wages in order to circumvent their minimum wage requirements.¹⁷¹ “Although agricultural work includes some of the most dangerous work in the country, the Occupational Health and Safety Administration (OSHA) does not enforce federal workplace health and safety standards on farms with fewer than 11 employees, effectively excluding a third of all farmworkers.”¹⁷²

LACK OF ENFORCEMENT OF APPLICABLE LAWS

The few labor protections that do exist for farmworkers are often violated and rarely enforced.¹⁷³ In fact, many growers attempt to insulate themselves from being legally responsible for workers by using farm labor contractors to act as intermediaries responsible for hiring farmworkers.¹⁷⁴ The use of contractors varies by state, but it is estimated that contractors and other third party employers supply 50-75 percent of the farmworkers for seasonal work in California.¹⁷⁵ Growers benefit from this arrangement because the contractor becomes the legal employer of the workers, allowing the grower to avoid record keeping requirements and legal obligations such as paying minimum wages and workers’ compensation.¹⁷⁶ Farm labor contractors, however, lack transparency as many are unregistered and operating illegally in the United States with little threat of interference as there is a severe shortage of regulatory oversight.¹⁷⁷ “In industries where flouting

No federal agency tracks sexual harassment incidents in agriculture. Lack of regulatory oversight and inadequate record keeping leaves employers unaccountable and farmworkers vulnerable to abuse.

the law has been common, where legislative exemptions from labor and employment laws is common – much like slavery – sexual assault of the workers can easily occur.”¹⁷⁸

No federal agency tracks the number of sexual harassment incidents in agriculture and the limited regulatory oversight of applicable labor laws and a lack of adequate record keeping of monitoring and enforcement in the industry leaves employers unaccountable and farmworkers vulnerable to abuse and invisible to public attention.¹⁷⁹ Typically, there is little record keeping of state and federal monitoring efforts and the data that exists does not help determine employer compliance or effectiveness of existing farmworker protections.¹⁸⁰ The majority of farms in the United States are small farms¹⁸¹ that are not included in official statistics, leaving approximately one-third of all crop farmworkers in the shadows.¹⁸² In addition, agricultural employers are disincentivized to report accurate labor information as they want to avoid bringing attention to illegal employment arrangements or unsafe workplace practices.¹⁸³ Limited regulatory agency resources and a lack of coordination among regulatory bodies charged with preventing and investigating farm labor abuses further contributes to ineffective monitoring and documenting of workplace violations.¹⁸⁴

INADEQUACIES OF ANTI-DISCRIMINATION LAWS

Theoretically, federal law protects all workers, including unauthorized workers, from sexual violence.¹⁸⁵ Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, national origin or sex and includes sexual harassment as a form of sex discrimination.¹⁸⁶ Title VII also prohibits retaliation, including threats to turn workers over to immigration authorities, against workers who report discrimination.¹⁸⁷ However, Title VII is often unable to provide women farmworkers with meaningful protections because it fails to address the combination of discrimination factors they face.¹⁸⁸ They are not targeted solely based on their sex, but based on their national origin and immigration status as well.¹⁸⁹ “Employment discrimination law, by focusing on protected classes separately, cannot adequately address the problems of those whose oppression is defined by more than one category, such as women of color... Even if the sex discrimination problems facing a female farmworker are corrected, she still must battle the problems facing her as a working class, undocumented Latina. Employment discrimination law also misses the unique problems caused by the intersection of more than one protected class.”¹⁹⁰

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Title VII provides an affirmative defense to employers if they can show that it “exercised reasonable care to prevent and promptly correct any sexually harassing behavior” and “the plaintiff employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.”¹⁹¹ This requirement that complainants immediately file a report using their employer’s procedures is unrealistic and particularly limits access to rights for women and minorities by ignoring the racial and cultural context of how sexual violence takes place in the agricultural industry.¹⁹² Moreover, there is a

lack of judicial understanding of cultural differences and language barriers that result in erroneous conclusions about the credibility of female immigrant complainants.¹⁹³ Robin R. Runge, Assistant Professor at University of North Dakota School of Law, notes that current laws intended to prevent workplace sexual violence “fail to effectively respond to the experiences of this group of minority, low-income women and thus perpetuate their poverty and exploitation.”¹⁹⁴

LANDMARK CASES

In 1986, the Supreme Court first recognized sexual harassment as an actionable claim under federal law in *Meritor Savings Bank v. Vinson*, 477 US 57 (1986). Since that time, according to an investigation by the Center for Investigative Reporting, workers have filed 1,106 sexual harassment civil complaints with the EEOC against agricultural-related industries between 1988 and 2012, of which the commission filed 41 federal lawsuits.¹⁹⁵ One of the first landmark cases was *EEOC v. Tanimura & Antle*,¹⁹⁶ where the EEOC, California Rural Legal Assistance and the Golden Gate Women's Employment Rights Clinic alleged that a class of women had been sexually harassed and that Blanca Alfaro was also forced to have sex with the hiring official on two occasions. She was fired after protesting further harassment, as was her coworker who spoke up for her. The case settled in 1999, awarding the women \$1.855 million. As the largest farmworker settlement reached to date and against one of the largest growers in the country, this case sent shockwaves through the agricultural industry.¹⁹⁷ The next big case, *EEOC v. Iowa AG, LLC dba DeCoster Farms*,¹⁹⁸ involved numerous Mexican women who had been trafficked into the United States to work in DeCoster's poultry plants. These women were repeatedly raped by coworkers and supervisors who threatened to fire and deport them if they complained. The case settled for \$1.525 million in 2002.¹⁹⁹

In 2004, *EEOC v. Harris Farms*²⁰⁰ became the first sexual harassment lawsuit against a grower to reach a federal jury trial. “The EEOC alleged that Olivia Tamayo had been raped in the fields at gunpoint by her supervisor who threatened to kill her husband if she reported the rapes.”²⁰¹ More than five years after she reported the rapes to her employer and law enforcement, a California jury awarded her nearly \$1 million.²⁰² Another significant case involving use of a weapon was *EEOC v. Willamette Tree Wholesale, Inc.*,²⁰³ where, in 2010, the EEOC and Oregon Law Center alleged that a supervisor raped a farmworker with shears to her throat and threatened to fire her and kill her siblings if she reported the rapes to anyone.²⁰⁴ Traumatized by the rapes and threats, she did not file a report with the EEOC until 62 days past the 300 day deadline to file a charge.²⁰⁵ The court, however, allowed the claim to proceed after finding that equitable tolling of the filing deadline was warranted in this case because the plaintiff was sexually harassed and repeatedly raped by her supervisor in the workplace, leaving her “so broken and damaged” that she was unable to protect her rights.”²⁰⁶

Sexual harassment policies and training are not required in the agricultural industry by federal law and many female farmworkers still fear standing up for their rights.

A second case finally made it to federal trial in 2010 after the EEOC and the Northwest Justice Project filed a lawsuit against one of the country's largest apple producers,

Evans Fruit Company,²⁰⁷ in Yakima Valley, Washington alleging that a class of women were sexually harassed and sexually assaulted by supervisors and faced threats and acts of retaliation for filing a complaint.²⁰⁸ Throughout the trial, Evans Fruit argued that it should not be responsible because none of the women filed sexual harassment complaints to the company, disregarding the obstacles to reporting and fears of retaliation the women faced.²⁰⁹ The jury decided that the stories of the 14 women farmworkers who testified were inconsistent and found for the company.²¹⁰ The most accused perpetrator, an orchard foreman, was fired after the suit was filed.²¹¹ However, his dismissal letter made no mention of the sexual harassment allegations.²¹² Although the women lost, this case brought much attention to the issue and has pressured some growers to institute sexual harassment policies.²¹³

While these cases and others have brought attention to the problem of sexual violence in the agricultural industry, very few criminal charges have been prosecuted against perpetrators²¹⁴ and the civil remedies available are generally limited to injunctive relief such as sexual harassment training for employees, termination of the harasser and reinstatement and back pay for the plaintiff if she was fired as a result of the harassment.²¹⁵ Sexual harassment policies and training are not required in the agricultural industry by federal law and many female farmworkers still fear standing up for their rights.²¹⁶ In addition to federal employment law remedies under Title VII, women farmworkers may also have a claim under state or local anti-discrimination employment statutes or state criminal statutes.²¹⁷ However, few state laws require sexual harassment policies or training in agricultural related industries.²¹⁸

With the lack of most labor law protections and the unique vulnerabilities and physical risks that women farmworkers face, their experiences of sexual violence differ greatly from those discussed in mainstream sexual violence literature. Waugh argues that these differences require broadening the theories of sexual violence to include experiences of diverse populations.²¹⁹

ECONOMIC, SOCIAL AND POLITICAL CONSIDERATIONS

Vulnerabilities of Women Farmworkers That Heighten the Risk of Sexual Violence

Women farmworkers face simultaneous sexist, racist, economic and political discrimination, making them the most vulnerable, easily exploitable and dispensable workers in the United States.²²⁰ As Maria L. Ontiveros, Professor of Law at University of San Francisco School of Law explains, the “issues of work, class, gender, race and immigration status are all inextricably intertwined.”²²¹ Thus, the guiding framework of Waugh’s 2010 study of Mexican women farmworkers in California was based on intersectionality theory, which examines how these discriminatory systems form layers of inequality that structure individuals’ positions in society.²²² The combination of the many problems women farmworkers face (being female in a male-dominated industry, living in poverty, language barriers, being an immigrant, being an indigenous immigrant and oftentimes lacking work authorization) heighten the risk of sexual violence and must all be taken into account as interrelated in defining the oppression faced by these workers and finding effective solutions.²²³

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SEX DISCRIMINATION

Literature shows that sexual violence against women is more common and more likely to be perceived as severe in male-dominant work environments.²²⁴ Women constitute only 20-25 percent of the total farmworker population²²⁵ and their workplace experience in the United States differs greatly from that in Mexico and other Central American countries where most worksites are gender segregated as opposed to men and women working side by side as they do here.²²⁶ Women farmworkers are “locked into low-wage, low-prestige jobs, [are] dependent on men for their employment, perform tasks that [are] evaluated by men, and work in crews and teams organized by men.”²²⁷ Girls and young women are especially vulnerable to sexual abuse in the agricultural industry²²⁸ where “[h]undreds of thousands of children under 18 work in agriculture in the United States, at far younger ages, for longer hours, and under more hazardous conditions than all other working children.”²²⁹ These youths are extremely susceptible to abuse and are the least likely to be able to defend themselves from sexual violence.²³⁰

Latino cultural beliefs about gender norms likely play a significant role in the prevalence of sexual violence in the agricultural industry. *Machismo* values define separate roles for men and

women; however, “the need for economic stability has forced many Latinas in the US to work alongside men to support their families, which has in turn challenged traditional gender norms.”²³¹ “In the largely Latino agriculture industry, male co-workers and foremen may target and sexually harass women workers to preserve *machismo* and *marianismo* cultural values.”²³² Immigrant women who were socialized in their home countries to be subservient to men are often reluctant or afraid to speak up against their male harassers and stay silent about the injustices committed against them.²³³ Reporting abuse is especially difficult for those who come from “immigrant communities where women are expected to have only limited, supervised contact with the opposite sex, are blamed for any sexual contact with men that occurs outside of marriage (consensual or otherwise), or if a female’s status as a virgin is viewed as central to her worth.”²³⁴ Thus, “[r]eporting the sexual assaults requires challenging male hierarchy in the workplace and the family while fearing economic, social, and family retaliation.”²³⁵

POVERTY

Women farmworker’s economic instability heightens their susceptibility for sexual violence. Farmworkers in the United States are among the poorest of the working poor as over 60 percent of farmworker households live in poverty.²³⁶ This is partly due to the fact that migrant farmworkers on average are employed only 28 weeks out of the year²³⁷ and women farmworkers are paid significantly less than their male counterparts.²³⁸ “Analysis of NAWS data from 2004-2006 by the Southern Poverty Law Center found that the average personal yearly income of female crop workers was \$11,250, significantly lower than the average income of \$16,250 for male crop workers.”²³⁹ Women farmworkers are generally assigned less favorable work assignments, have less opportunity to advance, are the first to be laid off, are assigned the lowest paying jobs, given fewer hours and paid less per hour than their male coworkers.²⁴⁰ With such low wages, these women have little if any bargaining power to demand improved work conditions.²⁴¹ Studies have identified single mothers as being particular targets of sexual violence because harassers know that they need to keep their job to feed their children and are less likely to complain about the abuse they encounter.²⁴²

Single mothers are particular targets because harassers know that the women need to keep their jobs to feed their children, and are less likely to complain about abuse.

Low education levels also play a role in keeping women farmworkers in poverty. Most of these women have little formal education and low literacy rates.²⁴³ On average, foreign-born workers highest completed grade level is the sixth grade.²⁴⁴ A California report found that only 15 percent of farmworkers in the state were “considered more than ‘marginally literate,’ in terms of reading and writing in their own language.”²⁴⁵ Poverty and fear of job loss have been identified as key reasons why women farmworkers often do not report sexual violence at work.²⁴⁶

IMMIGRATION STATUS

For many women farmworkers, the journey to the United States begins a cycle of violence that makes them more vulnerable to abuse in the future. Many women risk their lives to cross the border, trying to escape poverty and build a future for their children, believing they are coming to a land of opportunity for those who work hard.²⁴⁷ However, many become heavily indebted to the *coyotes*, or human smugglers, who guide them along the way.²⁴⁸ “Typically, undocumented immigrants will pay smugglers anywhere from \$1,500 to more than \$10,000 to guide them and their families across the border.”²⁴⁹ While making the extremely dangerous journey, many women are robbed, beaten and raped by *coyotes*, which may cause them persistent and severe trauma and begin a cycle of re-victimization.²⁵⁰ Although underreported and understudied, researchers believe sexual violence is rampant on the journey across the border.²⁵¹

Many of these unauthorized women “often end up on farms, doing some of the most dangerous work in the United States. According to the National Safety Council and the Department of Labor, farmwork consistently ranks among the top five industries for accidents and injuries. It's also among the lowest paying. And for immigrant women, it's rife with sexual harassment and abuse.”²⁵² Because of their heavy debts and the fact that they risked so much, many women who crossed the border stay silent about sexual assault instead of risking losing their livelihoods or being deported.²⁵³

Most farmworkers are foreign born²⁵⁴ and face discrimination and stigma based on their actual or perceived immigration status.²⁵⁵ The combination of their sex, national origin, class and immigration status results in harassers targeting women farmworkers. Based on these factors these women are treated as commodities to be utilized and exploited.²⁵⁶ “Labeling immigrants as ‘illegal’ or ‘aliens’ constructs them as a less-than-human other. Because of our socially held view of racial and gender hierarchies, certain types of exploitation and control are uniquely acceptable when applied to certain workers, especially women, immigrants, and workers of color.”²⁵⁷

Labeling immigrants as ‘illegal’ or ‘aliens’ constructs them as a less-than-human other.

Immigrant-related discrimination and fear of deportation severely deter women farmworkers from reporting sexual violence or seeking help from police, rape crisis shelters, counseling programs and the courts.²⁵⁸

Unauthorized workers often feel virtually powerless to report abuse for fear they will lose their job, be turned over to immigration officials, deported and separated from their children and families.²⁵⁹ Thus, many women farmworkers accept the sexual abuse as a burden they must bear to remain in the country.²⁶⁰

Their distrust of police and fear of being deported after reporting sexual assault is well-founded as law enforcement in many areas of the country collaborate directly with immigration authorities. Federal immigration programs, such as 287(g)²⁶¹ and Secure Communities,²⁶² allow local law enforcement officials to check the immigration status of arrested individuals, detain unauthorized immigrants and turn them over to federal immigration authorities.²⁶³ Although these programs were intended for criminals, they have been used by many localities as a tool to discriminate and root out otherwise law-abiding immigrants.²⁶⁴ Women farmworkers must be

cautious when reporting abuse to law enforcement, knowing that they could be deported instead of protected. This is especially true when many police officers are not trained on sexual violence and often arrest both parties when they consider the incident a domestic violence case.²⁶⁵ Because of the high risk of deportation, advocates debate over how to best advise women farmworkers about reporting abuse.

Even women farmworkers with legal immigration status fear losing their lawful status as a result of reporting. For instance, a woman's marriage may be the basis of her eligibility to reside lawfully in the United States, so fear of her husband ending the relationship if she reported a sexual assault could keep her silent.²⁶⁶ Likewise, if she or her family members have a temporary guestworker visa, such as an H-2A visa, she may put up with the abuse instead of quitting her job or risking being fired as the visa is dependent on that employer maintaining her legal status.²⁶⁷ Farmworkers who have these exclusive contracts with their employer are especially vulnerable to exploitation on the job.²⁶⁸ "For example, many trafficking victims are H-2A workers who arrive in the United States desperate for work. These workers may be faced with horrible working and living conditions, owe debt to their employers or to recruiters in their home countries ('debt peonage'), have had their passports confiscated by their employer or recruiter, and/or be working under threats of violence directed toward them and/or their families."²⁶⁹ Under these guestworker programs, workers are permitted to come to the United States to work for one specific employer. However, if the worker asserts her rights, the employer can fire her and terminate the visa.²⁷⁰ Although these programs theoretically have provisions to protect workers, the reality is that workers do not have access to the courts to enforce those provisions.²⁷¹

Women farmworkers are described as the "perfect victims" because of their tenuous immigration status, isolation, perceived lack of credibility and the fact that many do not know their rights.²⁷² Many immigrants believe that if they are unauthorized to work in the United States, the legal system does not provide any mechanism for them to seek remedies for crimes against them.²⁷³ Some do not know that sexual harassment is illegal and view it as another unpleasant aspect of the job that they must put up with.²⁷⁴ Many are unaware that they have a right to challenge sexual harassment and they do not know how to file a claim or where to seek guidance.²⁷⁵

Women farmworkers are described as the "perfect victims" because of their tenuous immigration status, isolation, and the fact that many don't know their rights.

LANGUAGE BARRIERS

Language barriers are another significant obstacle for immigrant women farmworkers, putting them more at risk of sexual violence and less likely to report abuse. Spanish is the predominant language of over 80 percent of farmworkers.²⁷⁶ Only 24 percent of farmworkers claim to speak English well and 44 percent report they cannot speak English at all.²⁷⁷ Female farmworkers are much less likely than their male counterparts to speak English, making them more vulnerable to exploitation.²⁷⁸ "Because of the language barrier, women farmworkers tend to be almost invisible in our society."²⁷⁹ Many managers and foremen, on the other hand, are bilingual and may take advantage of the fact that non-English speaking workers are dependent on their

language skills to communicate and keep their jobs.²⁸⁰ Thus, if a bilingual supervisor is the harasser, he is able to explain his side of the story to the farm owner in English but the woman cannot.²⁸¹ While other bilingual coworkers could help by translating for her, they are often afraid to get involved and put their own jobs in jeopardy.²⁸² Owners often do not want to lose their managers and decide to fire the complaining worker instead.²⁸³

Language barriers also limit access to legal and support services for many women farmworkers who have experienced workplace sexual violence. Police officers in need of interpreters often call Border Patrol or United States Immigration and Customs Enforcement (ICE) to translate when a sexual assault report is made.²⁸⁴ While some police departments use paid or volunteer interpreters, many do not.²⁸⁵ A sheriff in upstate NY noted, "[t]here are a lot of crimes in the Hispanic community that go unreported because of ICE or Border Patrol and the language issue. [But] we don't have the luxury of calling a paid interpreter."²⁸⁶ Furthermore, services such as "[r]ape crisis centers, shelters, victim service programs, legal service offices, police departments, prosecutors' offices and courts may not have employees who can speak a victim's native language or may lack qualified interpreters."²⁸⁷

Indigenous women farmworkers face even more barriers as they often do not speak English or Spanish, are less educated, more in poverty and are subjected to discrimination in their home countries and here. The additional layer of a language barrier creates further isolation and discrimination and can cause added stress to these women who may not be able to understand their surroundings or communicate with authorities. A 2010 study of indigenous farmworkers in California found 23 different languages among them.²⁸⁸ A study on indigenous farmworkers in Oregon found that 20-30 percent of the state's farmworker population during harvest season were Mixtecos, members of an indigenous group from various states in southwest Mexico.²⁸⁹ The study found that indigenous-speaking workers face even greater obstacles than Spanish-speaking farmworkers because of cultural and linguistic differences.²⁹⁰ "There are over 60 indigenous languages spoken in Mexico alone. Few agencies and organizations serving indigenous farmworkers have acquired the language skills or cultural competence necessary to assist these communities."²⁹¹ Even basic occupational safety information is often inaccessible because it is rarely provided in indigenous languages.²⁹² All focus groups in the study said that they felt as though they had no legal means of workplace protection.²⁹³

Indigenous women farmworkers face even more barriers as they often don't speak English or Spanish, are less educated, more in poverty, and subject to discrimination at home and here.

THE IMPACT OF SEXUAL VIOLENCE ON WOMEN FARMWORKERS

Numerous studies have shown that sexual violence can cause physical and psychological damage, disrupt social dynamics, negatively impact women's support systems and affect their attitudes towards their jobs. In addition, women who choose to report abuses often face retaliation from the employer and supervisors and negative responses from her family and community. However, delays in reporting can have significant implications for a woman's ability to access timely medical, legal and mental health assistance.²⁹⁴

PHYSICAL AND PSYCHOLOGICAL IMPACTS

In Waugh's study, common physical effects, regardless of the type of sexual violence women experienced, were trouble sleeping, shaking hands, headaches, sweaty hands, heart palpitations and chronic tiredness.²⁹⁵ Survivors of sexual violence may also suffer from physical pain, cuts, bruising, chronic pain, sexually-transmitted infections, unintended pregnancies, high-blood pressure, urinary tract infections, gastrointestinal disorders, gynecological and/or pregnancy complications, migraines, back pain, physical disabilities that could interfere with their ability to work and insomnia.²⁹⁶

The psychological impacts of sexual violence are pervasive and can negatively affect women's lives in a myriad of ways. Psychological symptoms may include post-traumatic stress disorder, depression, anxiety, panic, nervousness, flashbacks, fear of being raped in the future, being afraid to go to work because of fear of facing more harassment, grief, anger, hostility, shock, denial, guilt, shame, humiliation, self-blame, withdrawal, low self-esteem, personality changes, eating disorders, substance abuse, suicidal attempts and difficulty trusting others.²⁹⁷ Experts have noted that "[t]he level of trauma is not determined by whether penetration occurred, a weapon was used, or the number of times the victim was assaulted. Rather, trauma is related to the extent to which the victim experienced betrayal, extreme fear, blame (including self-blame), or invalidation."²⁹⁸ Cumulative experiences of trauma however, make an individual more vulnerable to future traumatization by eroding her ability to protect herself and cope with the abuse.²⁹⁹

Common physical effects are trouble sleeping, shaky hands, headaches, heart palpitations, along with pain from injuries, sexually transmitted infections, pregnancy. Psychological effects include PTSD, anxiety and fear, grief, guilt, eating disorders, substance abuse, suicidal thoughts.

Even before adding on these additional symptoms caused by sexual violence, farmworkers typically experience mental health problems such as stress, depression and anxiety more acutely than the general public.³⁰⁰ A 2008 study of Mexican-American farmworkers found that

almost 40 percent experienced depression, compared to 18 percent of the general public.³⁰¹ This high base-line of stress is caused by constant worries about job insecurity, living in poverty, worrying about being able to feed their children, social and geographic isolation, poor housing conditions, separation from family, health and safety occupational concerns, stress of adjusting to a new culture, facing racial and sex discrimination, language barriers, stigma related to immigration status and fears of deportation.³⁰² Sexual violence then adds yet another layer of stress for women farmworkers. Exposure to such chronic stressors results in wear and tear on the body, increasing the risk of negative health consequences.³⁰³

Sexual violence not only impacts the survivor, but her family often suffers psychological and social effects as well. Families may need to move to escape the violence, uprooting children from their homes, friends and school. Family members often experience feelings of anger or guilt as they witness the pain their loved one experiences and are unable to help her.³⁰⁴ They may suffer from her withdrawal from her family and community as a result of the sexual violence.³⁰⁵ Additionally, if the perpetrator threatens to kill the woman's family members, they may also experience fear, anxiety, anger and other psychological symptoms.³⁰⁶

SOCIAL IMPACTS

Sexual violence in the workplace disrupts social dynamics and can severely impact women's support systems. Women in Kim's study described how being sexually harassed is an emotionally and socially isolating experience as female coworkers often gossip and start rumors, blaming the woman for provoking the perpetrator.³⁰⁷ The stigma women face and the lack of cohesion and support among female workers makes it difficult for them to seek help and discourages women from reporting the abuse, further reinforcing sexual violence in the workplace.³⁰⁸

Reporting a sexual assault may expose an immigrant woman to ostracism or physical danger, particularly in small insular immigrant communities.³⁰⁹ The topic of sexual assault may be considered too taboo to talk about and community members may discourage her from taking action against the perpetrator or seeking help from outside of the community.³¹⁰ If she decides to seek help from the justice system or social services anyway, she may be socially ostracized, isolated and denied support from the very community she needs most.³¹¹

As rumors spread after a woman reports being sexually assaulted by a supervisor, her family and friends may shun her, blaming her for the harasser's behavior and accusing her of bringing shame to the family.³¹² The abuses can destroy intimate relationships and lead to marital separations and divorce.³¹³ The woman's husband may beat her; threaten to leave her and take away her children; or assault or kill the perpetrator and end up in prison, leaving her to raise and provide for her children as a single parent.³¹⁴ Her supervisor may threaten her at work and in her community and tell their mutual friends that she is lying.³¹⁵ Deborah Brake, Associate Professor of Law at University of

After a woman reports being assaulted, her family and friends may blame and shun her; her intimate relationships may fall apart; the accused may threaten her and challenge her credibility.

Pittsburgh School of Law, noted that women who challenge discrimination are often ostracized by members of their communities and perceived to be overly sensitive or troublemakers if they complain.³¹⁶ If the perpetrator ends up being fired or punished due to the accusations, the woman may be blamed and retaliated against by her family and community members for accusing him of doing something so terrible.³¹⁷ If the perpetrator or employer retaliates against her family, she will likely face increased harassment and ostracism by her family and community.³¹⁸ If she is able to take her claim to court, the case will likely take years to resolve, during which time she will continue to be punished by the perpetrator, her family and the community.³¹⁹

OCCUPATIONAL IMPACTS

Widespread sexual violence in the agricultural industry has led women farmworkers to perceive organizational tolerance for the abuse and feel dissatisfied with their jobs, coworkers and supervisors.³²⁰ A recent study of 49 indigenous and non-indigenous Mexican immigrant women farmworkers in Willamette Valley, Oregon found that women who experienced or witnessed sexual harassment commonly saw supervisors picking favorite women, giving lighter work to those who gave in to sexual advances and harder work to those who refused.³²¹ Consequently, workers felt resentment and anger toward the harassing supervisors and the women who went along with the behavior, creating conflicts and damaging the goodwill of the workplace community.³²² Women reported that sexual harassment made the workplace feel unsafe and unfair but that they felt discouraged from speaking up because they either did not know who to report the abuse to or thought they would not be believed.³²³ Women farmworkers commonly feel they are not acknowledged for their hard work but are instead sexually objectified and disrespected on the job.³²⁴

RETALIATION FOR REPORTING ABUSE

Women farmworkers commonly face retaliation for reporting sexual harassment to their employer. Of the 41 federal cases of sexual harassment against agricultural industries filed by the EEOC between 1988 and 2012, 80 percent included claims of retaliation.³²⁵ William R. Tamayo, the San Francisco District Regional Attorney for the EEOC, reports that “[n]early every harassment lawsuit filed by the EEOC includes a retaliation allegation. Often times the retaliatory behavior occurred right after sex was refused, a protest was made, or a formal complaint was made to management.”³²⁶

Many farmworkers work with family members. Retaliation for reporting abuse can involve firing the victim along with her family, resulting in loss of income for the whole household.

The types of retaliation women farmworkers face after reporting sexual harassment in the workplace include demotions, fewer work hours, more demanding work, more abusive treatment and job termination.³²⁷ “Because many farmworkers work with family members, retaliation can mean the victim is fired along with her family, resulting in loss of income to the entire

household.”³²⁸ Furthermore, these women may lose their employee housing, be blacklisted from jobs at other farms or deported from the country.³²⁹

CONSEQUENCES OF DELAYED REPORTING

For various reasons discussed below, women may not immediately report incidences of sexual harassment or assault to their employers or law enforcement. However, delays in reporting can have significant implications for a woman’s ability to access timely medical, legal and mental health assistance.³³⁰ For instance, a charge must be filed with the EEOC within 300 days of an incident. However, some courts have permitted such time limitations to be equitably tolled, allowing the claim to proceed, when the plaintiff is prevented from filing the claim on time because of the defendant’s wrongful conduct or extraordinary circumstances beyond the plaintiff’s control.³³¹ Equitable tolling has been found applicable when a plaintiff was sexually harassed and repeatedly raped by her supervisor in the workplace, leaving her “‘so broken and damaged’ that she was unable to protect her rights.”³³² Additionally, “a delay in reporting may contribute to a cloud of suspicion or distrust when the victim does report, undermine a victim’s ability to prosecute an assault, and lead to increased health risks.”³³³

HOW DO WOMEN FARMWORKERS RESPOND TO SEXUAL VIOLENCE?

Women farmworkers use a myriad of strategies to try to prevent being sexually harassed at work and to cope with the abuse they have suffered. Few women report the abuse to authorities and most rely on informal support systems before/if they seek any formal assistance. While many social services exist for survivors of sexual assault, access may be limited for women farmworkers.

COPING STRATEGIES

Attempting to prevent being targeted by supervisors and coworkers, women farmworkers have utilized creative preventative measures. A common strategy is to wear protective clothing. Even in the extreme heat of summer, women farmworkers wear long baggy pants, long sleeve shirts, wide brimmed hats, boots and bandanas that cover their faces. These clothes serve two purposes: to protect the women from the hot sun and pesticides and to make them look less feminine and attractive to male supervisors and coworkers.³³⁴ Some women in Kim's study tell men they are married when they are single or that they are a transvestite although they are heterosexual.³³⁵ They also try to avoid harassers; however, unlike the findings of sexual violence studies in non-agricultural settings, women farmworkers are generally unable to avoid their harassers because of the hierarchical nature of their work environment.³³⁶

Surveyed women also said that education on worker's rights helps protect against sexual violence.³³⁷ Women in Kim's study encouraged other participants to speak up about their rights and experiences to break the silence about abuse. "They discussed strategies for reporting [workplace sexual harassment] to authorities, such as bypassing the foreman and reporting directly to growers and owners. They saw themselves as agents for change."³³⁸

Even in extreme heat, women farmworkers wear long baggy pants, long sleeve shirts, wide brimmed hats, boots and bandanas that cover their faces. These clothes protect women from the hot sun and pesticides and make them look less feminine and attractive.

If preventative measures fail and a woman is sexually harassed or assaulted, she must then decide how to respond. Few women in Kim's study reported the abuse to authorities, despite continuous harassment, coping instead on their own by either putting up with the abuse or quitting their job.³³⁹ However, many of these women felt empowered to report the incident to authorities, yet they often lacked the tools to do so.³⁴⁰ Some women in the Willamette Valley, Oregon study confronted their harassers, but more frequently they left the worksite.³⁴¹ "In some cases, women workers left their jobs in search of better work environments, only to find that other fields and warehouses were no different. Women workers understood that sexual

harassment was wrong, but accepted that it came with working in the agriculture industry.”³⁴² Many women farmworkers view inappropriate comments, unwanted touching, leering and sometimes even rape by supervisors and coworkers as an ordinary part of working in the fields, as merely another burden to bear.³⁴³ “They believe this is what they have to go through to feed their families.”³⁴⁴ Some women in the Willamette Valley, Oregon study felt they had to go along with the harassment in order to keep their jobs after being threatened with termination for resisting and they identified poverty as a key reason for staying silent about the abuse.³⁴⁵



Figure 5 Women farmworkers usually wear bandanas, hats, and bulky clothing as protections against sun, pesticides, and scrutiny.

The decision of whether to report the abuse or not is based on several factors. Obstacles to reporting include fear of not being believed, fear of being blamed, fear of being ostracized at work and in her community for accusing the harasser of such terrible actions (especially if the harasser is a family friend), fear of losing her job, shame, lack of information about worker rights, lack of available support resources, language barriers and immigration status.³⁴⁶

Immigrant women farmworkers rarely file criminal charges because, as one woman put it, “[i]t’s a rule Mexicans have...never call police because they will call Immigration. If I get beaten and I call the police, then I’m beaten and deported.”³⁴⁷ Some women are afraid to tell their husbands for fear he will attack the harasser and then they both will be fired or deported.³⁴⁸ Many women farmworkers choose not to publicly report sexual violence based on a cost-benefit analysis and instead make strategic decisions in how to respond.³⁴⁹ Professor Runge notes that “[t]he decision not to report that a farmworker woman might make in this circumstance is legitimate, not the reflection of a weak woman, but a rational, reasonable decision in light of a rape culture that blames the victim. Reporting the sexual assaults requires challenging male hierarchy in the workplace and the family while fearing economic, social, and family retaliation.”³⁵⁰

Cultural attitudes about sexual assault and the role of the legal system may also have a strong influence on women farmworker’s coping mechanisms. “Many immigrants believe that certain issues (such as anything pertaining to sex) should be resolved within the household or community, and not in public through the involvement of law enforcement or the criminal justice system. Other victims feel unsafe disclosing an assault to anyone within the social fabric of their community.”³⁵¹ Immigrant women farmworkers may also be skeptical that the United States legal system will provide her protection and instead view it as “an entity that will believe and protect the perpetrator.”³⁵² This is particularly true if her experience in her country of origin involved a repressive government, institutionalized gender bias, participation of police and

government officials in violence against women such as trafficking or rape, or “a legal system where, as a matter of law, a husband’s sexual assault of his wife is not unlawful, where a woman’s testimony is not considered valid evidence, or her word does not have the evidentiary weight of a man’s.”³⁵³ If she does not have access to accurate information about her rights and resources because of language and cultural barriers, her view of the United States legal system may also be shaped by the perpetrator himself.³⁵⁴

A woman farmworker’s skepticism of seeking assistance through formal channels is often further reinforced by her lack of access to and negative experiences with police and service providers in the United States.³⁵⁵ Even when a woman farmworker does report sexual violence, she may face discrimination and a lack of respect from service providers and law enforcement who fail to investigate her report, discriminate against her or fail to address her cultural needs.³⁵⁶ Such systemic barriers severely impact the ways in which women farmworkers seek support.

Obstacles to reporting abuse include fear of: not being believed, being blamed, being ostracized at work and in the community for accusing the harasser (especially if a family friend), losing her job; along with shame, lack of information about worker rights, lack of available support resources, language barriers and immigration status.

SUPPORT SYSTEMS

Immigrant women farmworkers generally seek support from informal networks before turning to formal channels of social or legal assistance.³⁵⁷ This is especially true in the Latina population where strong family ties and extended networks may encourage women to turn to informal support systems first, particularly if she fears that reporting the abuse could harm her family or children because of job loss or deportation.³⁵⁸ Women farmworkers are most likely to confide in other women such as mothers, sisters and friends. However, often times the victim, the harasser, and the harasser’s wife and/or family all work in the same crew and are closely connected both at work and in the community, inhibiting the woman’s access to what would be her social support network.³⁵⁹ Additionally, more recent immigrants, who may not yet know many people they can trust, have a difficult time seeking support.³⁶⁰ Thus, “[u]nlike middle-class women, farmworking women may not receive the same protective factors of ‘social support’ because of economic and family responsibilities.”³⁶¹ This lack of a support system can have serious implications for a woman’s ability to access timely medical, legal and mental health assistance.³⁶²

LIMITED ACCESS TO COUNSELING AND SUPPORT SERVICES

Women may also seek formal assistance from rape and sexual violence crisis hotlines, support groups and community-based organizations.³⁶³ Women farmworkers, however, often have limited access to many of these support services as few exist in rural areas and those that do

often have language and cultural barriers to providing immigrant women the services they need.³⁶⁴ Many social service agencies serving sexual violence survivors are often not well-equipped to meet the diverse needs of immigrants, especially indigenous women, as they lack culturally and linguistically appropriate staff, materials, services and other resources.³⁶⁵ Those organizations that do have experience serving immigrant communities often lack training, experience or expertise in serving survivors of sexual assault.³⁶⁶ This limited access to formal support services contributes to women farmworkers' extremely low rates of reporting abuse.³⁶⁷

FEW CONSEQUENCES FOR PERPETRATORS

Obstacles Limiting Women Farmworkers' Access to Justice

Women farmworkers face numerous obstacles to accessing justice for the sexual violence they have experienced on the job. Sexual harassment policies and training are not required in the agricultural industry by federal law.³⁶⁸ While studies reveal that some agricultural employers have implemented sexual harassment policies and trainings, the majority of women interviewed said they did not know of any existing where they worked.³⁶⁹ Those workers who did receive training reported that they were often inadequate and that management ignored their complaints or retaliated against those who reported abuses.³⁷⁰ Women farmworkers also have limited access to the legal process and face resistance from the criminal system to investigate and prosecute sexual assault. While some remedies are available through civil litigation, very few criminal charges have been prosecuted against perpetrators of sexual violence in the agricultural industry.³⁷¹ Thus, with few exceptions, perpetrators get off without many consequences. Often, it is the employer company that must provide remedies or pay damages while the perpetrator may just lose his job.³⁷² However, as the former employer may not reveal the cause for termination, in many cases, perpetrators can quickly find a similar position at another farm.³⁷³

Very few criminal charges have been prosecuted against perpetrators of sexual violence in the agricultural industry. Even if the perpetrator loses his job, he can often quickly find a similar position at another farm.

FAILURE OF EMPLOYERS TO ADDRESS SEXUAL HARASSMENT

Many agricultural employers fall short of providing their workers with adequate protections against sexual violence as they lack official policies, trainings or reporting procedures and, in many cases, retaliate against workers who complain.³⁷⁴ Workers in Kim's study acknowledged the importance of having responsive foremen to help prevent sexual violence in the workplace.³⁷⁵ "Foremen who actively enforced dress codes, told harassers to stop, and partnered with workers, created a friendlier and more supportive work environment."³⁷⁶ However, companies that lacked commitment to worker safety and had unhealthy foreman-worker relationships enabled sexual violence to occur in the fields and warehouses.³⁷⁷

Warehouse workers were more likely than field laborers to mention existing sexual harassment policies.³⁷⁸ For those who did receive training, it was generally delivered in Spanish, not in indigenous languages.³⁷⁹ Employers frequently fail to translate materials and trainings into the various languages of their workers, preventing many women from learning their rights and how to report abuse.³⁸⁰ This is particularly poignant for indigenous workers who do not understand

English or Spanish. Women interviewed in an Oregon study of indigenous farmworkers noted that “[the employers] provide the information in Spanish and they think that all [workers] speak Spanish, and they don’t care if you speak another language.”³⁸¹ If the policy is only provided in writing, illiterate workers still cannot access the information even if it is written in their predominant language.³⁸²

Women interviewed said that even when policies were in place, management often ignored their complaints, failed to investigate, refused to confront or punish the perpetrator, refused to believe the complainant or accused her of lying.³⁸³ These responses by the employer put women at risk of more violence once the perpetrator learned he would not be punished.³⁸⁴ Others faced retaliation for reporting abuse as supervisors lessened their hours, demoted their positions, assigned them more demanding tasks, continued to sexually harass them, fired them, fired their family members, terminated their employee housing, blacklisted them from jobs at other farms and turned them over to immigration authorities.³⁸⁵ Such actions by employers contributed to a workplace culture that not only permits sexual violence, but encourages it.³⁸⁶ Faced with these obstacles, women felt discouraged from speaking up because they either did not know who to report the abuse to, thought they would not be believed or feared retaliation.³⁸⁷

Women say that even when policies are in place, management often ignores complaints, refuses to punish perpetrators, or accuses the women of lying. These responses by the employer put women even more at risk, once the perpetrator realizes he won’t be punished.

LIMITED ACCESS TO LEGAL REMEDIES

Women who chose to pursue formal remedies for the sexual violence they experienced can report the abuse to their employer or law enforcement and can file a complaint with a government workplace civil rights agency such as the EEOC or state agencies. However, women farmworkers often have limited access to the legal process to fight sexual violence and exploitation in the workplace. To file a sexual harassment complaint, workers must first know that sexual harassment is against the law and what the process is to report it.³⁸⁸ However, many women are prevented from doing so because of language barriers, cultural concerns, geographic isolation and a lack of education about their rights.³⁸⁹ Low-income women farmworkers who make it past those barriers often face limited access to legal assistance as legal service organizations that receive federal funding from the Legal Services Corporation (LSC) are generally prohibited from representing unauthorized immigrants.³⁹⁰ In many rural areas, these are the only legal service organizations that exist.³⁹¹ Those workers who are able to file a complaint with the EEOC may find the process cumbersome and inefficient as the agency has limited resources.³⁹²

Some states, such as California, have anti-discrimination statutes that give employees the right to hold perpetrators themselves individually liable for their commission of unlawful harassment, regardless of whether they are supervisors.³⁹³ However, this is not the case under federal law where liability claims are filed against the employer. If the perpetrator is a coworker instead of a supervisor, the courts require a tougher legal standard for the claim against the employer to

proceed to trial. In *Vance v. Ball State University*, the Supreme Court narrowly defined “supervisors” as those who can hire and fire employees, excluding many lower-level supervisors who direct daily activities.³⁹⁴ In cases where the perpetrator does not meet this definition, the plaintiff must meet an additional hurdle of proving that the employer was negligent in controlling working conditions and that the employer “knew or should have known about the conduct and failed to stop it.”³⁹⁵ The Court’s decision makes it even more difficult to seek remedies for harassment by forcing plaintiffs to meet the tougher coworker standard even for lower-level supervisors.³⁹⁶ A recent report by the National Women’s Law Center criticizes the decision as putting “a giant roadblock in the path of workers seeking a remedy for workplace harassment. It also weakens incentives for employers to prevent and quickly respond to workplace harassment by lower-level supervisors.”³⁹⁷ Another possible avenue for seeking justice is through private remedies under tort law such as those available under negligent hiring and negligent retention claims against the employer. These remedies can be useful for cases that do not fall under Title VII,

If a sexual harassment case makes it to court, some jurisdictions limit the remedies available for unauthorized workers.³⁹⁸ Although Title VII applies to unauthorized immigrants, the Supreme Court’s 2002 decision in *Hoffman Plastic v. National Labor Relations Board (NLRB)*³⁹⁹ raised questions about whether they are entitled to the same remedies for workplace abuses as authorized workers are.⁴⁰⁰ While the Court ruled unauthorized workers are not entitled to back pay remedies under the NLRA, several courts have declined to extend the ruling to remedies under Title VII.⁴⁰¹ Nevertheless, *Hoffman* has had a chilling effect on unauthorized women farmworker’s access to justice. First, the ruling encourages employers to retaliate against unauthorized workers who claim violations of workplace rights. Second, it gives employers incentives to claim that unauthorized workers are not entitled to certain remedies, deterring workers from enforcing their rights. Third, *Hoffman* undermines enforcement of immigration laws by encouraging employers to hire and exploit unauthorized workers.⁴⁰²

“Employers’ tendency to interpret the *Hoffman* ruling broadly to allow them to request work authorization and immigration documentation in response to sexual harassment claims leaves many employees feeling that they have no effective legal avenue to pursue sexual harassment claims.”⁴⁰³

A report found that survivors of sexual assault in the US face significant barriers to justice, including police departments that fail to investigate complaints adequately.

FAILURE TO INVESTIGATE AND PROSECUTE SEXUAL ASSAULT

While many women farmworkers do not report sexual assaults to law enforcement at all, those who do contact the police often face additional obstacles to seeking justice through the criminal system.⁴⁰⁴ A Human Rights Watch report found that “[s]urvivors of sexual assault in the US - regardless of ethnicity, occupation, or legal status - face significant barriers to justice, including police departments that fail to adequately investigate their complaints.”⁴⁰⁵ For example, Human Rights Watch documented the failure of Illinois and Los Angeles County authorities to test rape kits.⁴⁰⁶ Media investigations have also “uncovered serious and pervasive problems with [Philadelphia and] Baltimore police response to allegations

of sexual assault, including an unusually high rate of classification of such allegations as “unfounded” (meaning the police did not believe a crime had occurred) and aggressive and rude questioning of victims by police.”⁴⁰⁷ A woman interviewed in *Injustice On Our Plates*, a 2010 study of 150 immigrant women agricultural workers, remarked that sometimes “the officer who comes doesn’t have training in domestic violence or sexual violence. They view these women as disposable.”⁴⁰⁸ Some police officers take advantage of individuals’ vulnerabilities by extorting money from unauthorized immigrants.⁴⁰⁹

Even if the police do investigate allegations of sexual assault, state prosecutors may be reluctant to file criminal charges because of the difficulty in pursuing cases where there is often little evidence and few witnesses.⁴¹⁰ Rape and sexual assault cases often come down to “he-said-she-said,” which is difficult to prosecute,⁴¹¹ particularly in criminal court where the burden of proof is “beyond a reasonable doubt,” a much higher standard than what is needed in civil court.⁴¹²

WHAT IS BEING DONE TO PREVENT SEXUAL VIOLENCE AGAINST WOMEN FARMWORKERS?

Legislators, advocates, law enforcement, farmworker women themselves, community organizations, academic institutions and growers are creating new projects to combat sexual violence in the agricultural industry. At the federal level, legislators have created avenues for relief to encourage unauthorized immigrants to report crimes such as sexual assault and have proposed bills in Congress that would amend labor laws to better protect farmworkers. Several states are also strengthening labor rights for farmworkers by passing legislation that creates stronger legal protections against sexual harassment and exploitation of workers. Some local law enforcement agencies are beginning to investigate farmworker sexual assault criminal charges and are making efforts to improve relationships with immigrants. Additionally, numerous organizations around the country are working together to improve employer standards, increase and improve sexual harassment policies and training, raise awareness of sexual violence in agriculture and educate workers about their rights.

Many organizations are working together to improve employer standards, increase sexual harassment policies and training, raise awareness of sexual violence, and educate workers about their rights.

AT THE FEDERAL LEVEL

In an attempt to encourage unauthorized immigrants to report crimes such as sexual assault and rape, Congress enacted VAWA, which created U visas for victims of certain violent crimes,⁴¹³ and T visas for trafficking victims.⁴¹⁴ These mechanisms may allow women farmworkers who report such crimes against them to gain lawful immigration status in the United States.⁴¹⁵ VAWA also provides two forms of relief for unauthorized immigrant battered women whose abusive spouse is a United States citizen or Lawful Permanent Resident (LPR).⁴¹⁶ First, VAWA allows these women to apply for LPR status without needing sponsorship from their abusive spouse.⁴¹⁷ Alternatively, VAWA allows these women to apply to have a deportation order waived and be granted LPR status.⁴¹⁸

U visas and T visas may allow women farmworkers who report certain crimes against them to gain lawful immigration status in the US.

U visas are for victims of certain violent crimes including sexual assault, rape, domestic violence and sexual exploitation.⁴¹⁹ However, only 10,000 visas are available each year and that cap has repeatedly been met midway through the year, leaving many who are eligible without access to this form of relief and vulnerable to deportation as a result of reporting sexual crimes.⁴²⁰ Furthermore, to qualify for a U visa, an unauthorized immigrant must cooperate with law enforcement by assisting them with investigating or prosecuting the crime,⁴²¹ thus risking

deportation if the law enforcement official refuses to certify her cooperation.⁴²² “More importantly, very few victims of crimes are aware of this potential remedy. Instead, they often endure horrendous abuse, believing that they have little choice.”⁴²³ T visas may also be available for victims of sexual violence in the workplace when the abuse is used as a form of coercion resulting in a situation of indentured servitude.⁴²⁴

Legislators have also recently introduced bills in Congress proposing amendments to labor laws that would better protect farmworkers. For example, the Fair Employment Protection Act was introduced on March 13, 2014.⁴²⁵ If passed, this bill would restore protections stripped away by the 5-4 decision in *Vance v. Ball* by providing for employer vicarious liability in hostile and retaliatory hostile work environments when harassment is either by individuals with authority to (a) take tangible employment actions or (b) direct daily work activities.⁴²⁶ Another proposed bill is the Children's Act for Responsible Employment (Roybal-Allard bill) which was introduced in the House on June 12, 2013. Although family farms would still be exempt, this bill attempts to amend the FLSA to repeal agricultural exemptions for minimum age restrictions in the workforce.⁴²⁷

AT THE STATE LEVEL

Several states have enacted legislation to strengthen labor rights for farmworkers and create stronger legal protections against sexual harassment and exploitation of workers. For example, states such as California, Oregon and Washington include farmworkers in state wage and hour protections going beyond the minimal federal requirements.⁴²⁸ Iowa and Nebraska created state agencies to advocate for the rights of immigrant residents and enacted immigrant worker protection legislation to increase the responsibilities of meatpacking plants to provide workers with information about their legal rights and to increase workers' access to social services by employing bilingual individuals to refer workers to community services.⁴²⁹

Several states have enacted legislation to strengthen labor rights and create stronger legal protections against sexual harassment.

California, Connecticut and Maine have instituted laws requiring sexual harassment training for supervisors.⁴³⁰ California also requires employers to create anti-harassment policies and provide information on those policies to all employees.⁴³¹ Provisions of California's collective bargaining law, the Agricultural Labor Relations Act (ALRA), recognize the unique dynamics of the agricultural industry by allowing ALRA agents to talk to workers in the fields without the employer being present and by excluding farm labor contractors from the definition of “employers” so that the grower, and not the contractor, is responsible for unfair labor practices committed by a contractor.⁴³² Most recently, a California Assembly committee passed SB-1087 on June 30, 2014 to amend sections of the Labor Code relating to farm labor contractors.⁴³³ The proposed legislation increases accountability of farm labor contractors who supply workers to growers by revoking a contractor's license if he hires a supervisor who has been found guilty of sexual harassment or sexual assault at another workplace in the past 3 years.⁴³⁴ The bill also requires all employees

to take sexual harassment prevention training and adds questions to the California contractor licensing exam on sexual harassment regulations.⁴³⁵

Maryland also introduced a new bill in early 2014 called the Fair Employment Preservation Act.⁴³⁶ This bill would amend Maryland's nondiscrimination law, specifying employers' vicarious liability for harassment by individuals with authority to take tangible employment actions as well as those who direct daily work activities.⁴³⁷ Additionally, Illinois and Oregon passed legislation prohibiting discrimination against sexual assault victims.⁴³⁸

Significantly, a growing number of states and counties are also ending or limiting their cooperation with immigration authorities under the 287(g) and Secure Communities programs,⁴³⁹ which allow local law enforcement officials to check the immigration status of arrested individuals, detain unauthorized immigrants and turn them over to federal immigration authorities.⁴⁴⁰ Many of these decisions were in response to federal court cases finding that local law enforcement officials violated the Fourth Amendment rights of individuals by holding them in detention for immigration authorities without probable cause.⁴⁴¹ These programs created much distrust of police in immigrant communities and deterred women farmworkers from reporting sexual assaults.

EFFORTS BY LAW ENFORCEMENT

Some police departments are beginning to investigate farmworker sexual assault criminal charges, expanding the possible remedies for women farmworkers. The Monterey County, California Sheriff's Office investigated its first farmworker sexual assault case in 2013⁴⁴² and two recent California cases have resulted in criminal prosecutions against defendants who sexually assaulted farmworkers.⁴⁴³

Some local law enforcement agencies are also making efforts to improve relationships with immigrants. For example, the Monterey County district attorney's office in California is working with the sheriff's office to raise awareness of the U visa program and invited Lideres Campesinas, a women's farmworker organization, to join its task force on sexual harassment and domestic violence.⁴⁴⁴ In addition, while many police departments call Border Patrol or ICE when they need a translator, departments like Sheriff John York's in Livingston County in western New York rely instead on volunteer interpreters from the community and work with advocates to build trust in an attempt to encourage immigrants to report incidents of sexual assault.⁴⁴⁵

ACTION BY ORGANIZATIONS AND WOMEN FARMWORKERS THEMSELVES

Organizations around the country are working to combat sexual violence in the agricultural industry by improving employer standards, increasing and improving sexual harassment policies

and training, raising awareness of sexual violence in agriculture and educating workers about their rights. Farmworker women themselves created several of these organizations, such as *Lideres Campesinas*, and have used grassroots organizing to develop leadership among themselves and combat the widespread sexual violence they face.⁴⁴⁶ Recent landmark cases raised growers' awareness of the issue and increased their interest in accessing sexual harassment prevention training.⁴⁴⁷ The EEOC and legal service organizations have also negotiated with employers, as part of the settlement of their lawsuits, for improved sexual harassment policies and practices in their workplaces.

The Coalition of Immokalee Workers (CIW) Fair Foods Program in the Florida tomato industry has created an innovative nonlitigious approach to tackling sexual violence in the fields. The Fair Foods Standards Council (FFSC) implements and monitors CIW's Code of Conduct which requires Florida growers participating in the Fair Foods Program "to agree to a set of standards for their workers, including a right to work free from sexual harassment, and to earn a fair wage."⁴⁴⁸ Growers that join the program must provide sexual harassment training and undergo regular external audits.⁴⁴⁹ The program officially began in January 2011 after 90 percent of tomato growers in Florida had signed on.⁴⁵⁰ Whole Foods, Trader Joe's and most recently, Walmart, have joined.⁴⁵¹ Before Walmart joined, the Fair Foods Program covered less than 5 percent of farmworkers nationwide.⁴⁵² However, Walmart, which sells 20 percent of the nation's fresh tomatoes year-round, has pledged to expand the program's standards to its tomato suppliers in several other states beyond Florida and also hopes to apply the standards to its Michigan and Washington apple orchards and its strawberry fields in numerous states.⁴⁵³

FFSC hires monitors to conduct announced and unannounced audits of farms to monitor their compliance with the Fair Foods Program Code of Conduct.⁴⁵⁴ The audits involve intensive worker interviews, an assessment of whether the company has systems in place to comply with the Code of Conduct and whether they are being implemented.⁴⁵⁵ Violators are given an opportunity to correct violations and are suspended from the program if they fail to resolve them.⁴⁵⁶ Employees found by the council to have committed sexual harassment involving physical contact must be fired immediately and cannot work at any Fair Food farm for at least two seasons with a second offense resulting in a lifetime ban.⁴⁵⁷ While litigation continues to be a way for women farmworkers to stand up against employer misconduct, it can be a long and difficult process. The Fair Foods Program in Florida is an example of how nonlitigious workers' rights initiatives can lead to more immediate responses and attempt to systemically improve conditions for farmworkers.⁴⁵⁸

Other organizations have also focused on increasing and improving employer's sexual harassment policies and trainings for supervisors and employees. Some companies have made improvements after facing litigation. For example, after National Food Corporation settled with the EEOC in 2013, the company agreed to change its complaint procedures, institute sexual harassment training for management, apologize to the plaintiffs and not rehire the perpetrator.⁴⁵⁹ Farmworker organizations and regulatory agencies have collaborated to expand training programs and increase educational efforts on sexual violence in the agricultural industry.⁴⁶⁰ The EEOC, for instance, has made the harassment issues of immigrant and vulnerable workers, such as farmworkers, a top priority of its Strategic Enforcement Plan, which

was adopted in December 2012.⁴⁶¹ The agency provides trainings to workers and employers on sexual harassment issues and laws⁴⁶² and collaborates with migrant women farmworker organizations such as the Esperanza Project of the Southern Poverty Law Center, California Rural Legal Assistance and Lideres Campesinas to confront sexual violence in the workplace.⁴⁶³ Successful EEOC sexual harassment cases have resulted when the agency collaborates with community organizations, gains trust of the community, uses bilingual counselors, refuses to inquire about immigration status and undertakes training in how culture and gender affect credibility.⁴⁶⁴ The agency recognizes that although sexual harassment in agriculture involves sex discrimination, it is also based on race, national origin and immigration status and requires solutions that take all these factors into account.⁴⁶⁵

Another organizational strategy has been to increase public awareness of the issue and expand know-your-rights campaigns. Frontline aired the documentary *Rape in the Fields* in June 2013, shining a national spotlight on the issue of sexual violence in the agricultural industry.⁴⁶⁶ The documentary has also been used by the EEOC to train its investigators and agricultural employers on how sexual harassment could play out in agricultural settings.⁴⁶⁷ As part of this yearlong reporting collaboration with FRONTLINE, Univision and the Investigative Reporting Program at the UC Berkeley Graduate School of Journalism, the Center for Investigative Reporting created a database of the sexual harassment lawsuits filed in federal court by the EEOC, published numerous news articles about their findings and continued to highlight the issue in the media.⁴⁶⁸

Organizations conduct know-your-rights campaigns by sending advocates into the fields, labor camps and farmworker communities to educate farmworkers about sexual violence and their rights. A creative approach has been to include this information in Spanish *radionovela* soap operas to access a wider audience.⁴⁶⁹ Support service organizations for sexual assault and domestic violence survivors have worked with growers to allow their staff to visit women directly in the fields in order to train them on how to identify and report abuse.⁴⁷⁰ These organizations have also organized sexual violence prevention workshops at farm labor camps and farmworker housing to reach community members in an attempt to change social norms that tolerate sexual violence.⁴⁷¹ Additionally, numerous organizations have created training materials for regulating agencies, legal providers, law enforcement, social service providers and religious advisors on the complex issues facing women farmworkers who experience sexual violence in the workplace and how to best assist them.⁴⁷²

Organizations conduct know-your-rights campaigns by sending advocates into the fields, labor camps, and farmworker communities to educate women about sexual violence and their rights.

CONCLUSION

The studies reviewed in this report, dating from 1989 to 2014, demonstrate that sexual violence of women farmworkers is recognized as a widespread and longstanding problem in the agricultural industry that needs to be addressed. While sexual harassment in the workplace has been studied extensively, far less attention has been given to the issue as it applies to women farmworkers in the United States whose circumstances differ greatly from the white middle-class focus of most sexual harassment literature. The studies in this report examine the aspects of the agricultural industry and the social and cultural dynamics of the farmworker population that heighten the risk of sexual violence in the workplace and create unique obstacles for women farmworkers to report and seek support and remedies for abuse. However, a significant challenge to addressing the issue is the difficulty in gathering data about the scope of the problem as traditional research methods are ineffective for this population. Without reliable figures, determining the prevalence of sexual violence in agriculture is complex. The lack of adequate data hides farmworkers from public attention and makes it difficult to raise awareness about the serious workplace sexual violence problems these women face.⁴⁷³

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⁶ The main national surveys that collect data on agricultural farmworkers are the National Agricultural Workers Survey (NAWS), the United States Department of Agriculture's (USDA) Census of Agriculture (Census), the USDA's National Agricultural Statistics Survey (NASS) and the Bureau of Labor Statistics Current Population Study (CPS). Each survey has significant limitations such as the underestimation of farmworkers due to the exclusion of small farms, counting jobs instead of workers when two or three workers may fill one job, and the unlikely inclusion of the largely unauthorized worker population from official data. In addition, agricultural employers are disincentivized to report accurate labor information as they want to avoid bringing attention to illegal employment arrangements or unsafe workplace practices. Some federal agencies collect information on regulatory and enforcement practices, however this information is usually not easily accessed. States collect and publish information through their regulatory programs and departments, but the information is often specific to that state's unique regulations, reporting criteria and definitions, making it difficult to compare data between states. Farmworker organizations and academics have also contributed to the data collection, however these studies are often limited as well. Most importantly, no federal agency tracks the number of sexual harassment incidents in agriculture. For more information on the limitations of these surveys, see Bon Appetit Management Company Foundation and United Farm Workers, *Inventory of Farmworker Issues and Protections in the United States* (March 2011) available at http://www.ufw.org/pdf/farmworkerinventory_0401_2011.pdf; Maria M. Dominguez, "Sex Discrimination & Sexual Harassment In Agricultural Labor," *Journal of Gender & The Law* 6 (1997): 231-259.

⁷ Labor Force Statistics from the Current Population Study 2013, Bureau of Labor Statistics, available at <http://www.bls.gov/cps/cpsaat15.htm>. Updated February 26, 2014. Accessed July 18, 2014.

⁸ Human Rights Watch, *Cultivating Fear: The Vulnerability of Immigrant Farmworkers in the US to Sexual Violence and Sexual Harassment*, 15 (2012), available at http://www.hrw.org/sites/default/files/reports/us0512ForUpload_1.pdf (Citing Philip Martin, "California Hired Farm Labor 1960-2010: Change and Continuity," *Migration Dialogue*, University of California-Davis,

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⁹ The National Agricultural Workers Study 2001-2002, U.S. Department of Labor, available at <http://www.doleta.gov/agworker/report9/toc.cfm>. Updated January 11, 2010. Accessed July 18, 2014.

¹⁰ Human Rights Watch, *Cultivating Fear*, 17.

¹¹ Stephanie Farquhar et al., “Promoting the occupational health of indigenous Farmworkers,” *J Immigr Minor Health* 10(3) (2007): 270 (Citing Stephen L., “Globalization, the state, and the creation of flexible indigenous workers: Mixtec farmworkers in Oregon.” *Urban Anthropol Stud Cult Syst World Econ Dev* (2001) 30:189–214. “During harvest time, the population of Mixtecos, for example, is estimated at 20–30% of the total farmworker population in Oregon. Mixtecos are indigenous Native American peoples from various states in southwest Mexico.”); See also, Jeanne Murphy, Julie Samples, Mavel Morales and Nargess Shadbeh, “‘They Talk Like That, But We Keep Working’: Sexual Harassment and Sexual Assault Experiences Among Mexican Indigenous Farmworker Women In Oregon,” *J Immigrant Minority Health* (2014) available at <http://www.ncbi.nlm.nih.gov/pubmed/24514945> (Estimating that approximately 68,000 indigenous farmworkers from Mexico live in Oregon and noting that no reliable estimates exist on the number of female indigenous Mexican farmworkers); Richard Mines, Sandra Nichols, and David Runsten, and California Rural Legal Assistance, *California’s Indigenous Farmworkers*, January 2010, 40, http://indigenousfarmworkers.org/IFS%20Full%20Report%20_Jan2010.pdf (accessed August 14, 2014) (Reporting on the findings of a 2010 California study of indigenous farmworkers which identified 23 unique languages spoken).

¹² NAWS 2001-2002.

¹³ Southern Poverty Law Center, *Injustice On Our Plates* (2010), 22, available at http://www.splcenter.org/sites/default/files/downloads/publication/Injustice_on_Our_Plates.pdf (Estimating 60%. Citing Julia Preston, “Illegal Workers Swept from Jobs in ‘Silent Raids,’” *The New York Times*, July 9, 2010); Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 1 (Estimating 50-75%.)

¹⁴ CPS 2013; NAWS 2001-2002; U.S. Department of Agriculture (USDA), Farm Labor, available at <http://www.ers.usda.gov/topics/farm-economy/farm-labor/background.aspx#Numbers>. Updated February 14, 2013. Accessed July 18, 2014.

¹⁵ US Department of Justice, Bureau of Justice Statistics, *National Crime Victimization Survey 2008*, available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/cvus0805.pdf> (accessed July 21, 2014); Langer, “One in Four.”

¹⁶ Carlos A. Cuevas and Chiara Sabina, *Sexual Assault Among Latinas (SALAS) Study* (April 2010), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/230445.pdf> (accessed July 21, 2014).

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complaints filed by women farmworkers make it to federal court and even fewer get to trial. A handful of criminal prosecutions have been filed in state courts).

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¹⁹ Human Rights Watch, *Cultivating Fear*, 4.

²⁰ Nicole Kim, PNASH-Radio KDNA. "Women Agricultural Workers' Perceptions of Workplace Sexual Harassment in Yakima Valley," (Master thesis, University of Washington, 2014), 16.

²¹ Joseph Sorrentino, "Fear in the Fields," *The Investigative Fund*, February 27, 2013, accessed August 14, 2014, <http://www.theinvestigativefund.org/investigations/immigrationandlabor/1754/>.

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²³ Kim, et al. "Women Agricultural Workers' Perceptions," 16.

²⁴ See Southern Poverty Law Center, *Representing Farmworker Women Who Have Been Sexually Harassed – A Best Practices Manual* (2008), 10-11; see also *EEOC v. Willamette Tree Wholesale, Inc.*, 2011 WL 886402 (D. Or. March 14, 2011).

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²⁷ Maria L. Ontiveros, "Lessons from the Fields: Female Farmworkers and the Law," *Maine Law Review* 55(1) (2002), 178.

²⁸ Southern Poverty Law Center, *Injustice On Our Plates*, 4.

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³⁴ See Murphy et al., "They Talk Like That"; Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*; Dominguez, "Sex Discrimination & Sexual Harassment In Agricultural Labor"; Human Rights Watch, *Cultivating Fear*.

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³⁷ U.S. Immigration and Customs Enforcement, Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act, accessed July 29, 2014 <http://www.ice.gov/287g/>.

³⁸ U.S. Immigration and Customs Enforcement, Secure Communities, accessed on July 29, 2014 http://www.ice.gov/secure_communities/.

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⁴⁰ Ontiveros. "Lessons from the Fields," 159.

⁴¹ ASISTA, *Creative Strategies for Outreaching and Working Effectively with Immigrant Survivors of Sexual Violence in the Workplace* (2013), 23-26, available at http://www.asistahelp.org/en/access_the_clearinghouse/training_materials/; Kim et al., "The risks, protective factors, and consequences," 8; National Immigrant Women's Advocacy Project, "Dynamics of Sexual Assault," 9; See also, Waugh, "Examining the Sexual Harassment Experiences," 254; See also, Human Rights Watch, *Cultivating Fear*, 41-43.

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⁴³ National Immigrant Women's Advocacy Project, "Dynamics of Sexual Assault," 17.

⁴⁴ Kim et al., "The risks, protective factors, and consequences," 2.

⁴⁵ Association of Farmworker Opportunity Programs, *The Fields: The Hidden Faces*, 33-35; Yeung, "Female Workers Face Rape" (The Center for Investigative Reporting's analysis of ASISTA 2009 Survey of 100 Women in Iowa Meatpacking Plants); Amanda Clark, "A Hometown Dilemma: Addressing the Sexual Harassment of Undocumented Women in Meatpacking Plants in Iowa and Nebraska," *Hastings Women's Law Journal*, 16 (2004), 157; Robin R. Runge, "Failing to Address Sexual and Domestic Violence at Work: The Case of Migrant Farmworker Women," *Am. U. J. Gender Soc. Pol'y & L.* 20 (2012), 884.

⁴⁶ Kim et al., "Women Agricultural Workers' Perceptions," 23.

⁴⁷ National Immigrant Women's Advocacy Project, "Dynamics of Sexual Assault," 19.

⁴⁸ Ibid. at 20 (citing *Racial and Ethnic Tensions in American Communities: Poverty, Inequality and Discrimination – A Report of the United States Commission on Civil Rights*, 75 (January 1993) referencing Leslye E. Orloff's testimony before the Round Table Forum on Hispanics in the Courts, November 2, 1991); Leslye E. Orloff et. al., "With No Place to Turn: Improving Legal Advocacy

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⁴⁹ See Ruth E. Zambrana, Claudia Dorrington, and David Hayes-Bautista, "Family and Child Health: A Neglected Vision," *Understanding Latino Families: Scholarship, Policy, and Practice* (1995).

⁵⁰ National Immigrant Women's Advocacy Project, "Dynamics of Sexual Assault," 17.

⁵¹ Human Rights Watch, *Cultivating Fear*, 43-45.

⁵² Yeung, “Female Workers Face Rape.”

⁵³ Human Rights Watch, *Cultivating Fear*, 83-86.

⁵⁴ Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-134, Sec. 504 (11), 100 Stat. 1321.

⁵⁵ Yeung, “Female Workers Face Rape” (Noting that out of 41 federal cases filed between 1988 and 2012, not one of the perpetrators accused of sexual assault or rape was criminally charged. In March 2013, a berry farm supervisor who raped a farmworker was convicted in a California state criminal case and sentenced to prison).

⁵⁶ Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 1.

⁵⁷ Crop Production: NAICS 111. (“The crop production subsector is part of the agriculture, forestry, fishing and hunting sector... The subsector comprises establishments, such as farms, orchards, groves, greenhouses, and nurseries, primarily engaged in growing crops, plants, vines, or trees and their seeds.”)

⁵⁸ Standard Occupational Classification, 45-2092 Farmworkers and Laborers, Crop, Nursery, and Greenhouse, Bureau of Labor Statistics, available at <http://www.bls.gov/soc/2010/soc452092.htm>.

⁵⁹ Farquhar et al., “Promoting the occupational health of indigenous Farmworkers,” 269.

⁶⁰ Ibid.

⁶¹ National Immigrant Women’s Advocacy Project, “Dynamics of Sexual Assault,” 1.

⁶² Ibid.

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⁶⁴ US Department of Health and Human Services, Centers for Disease Control and Prevention, *Sexual Violence: Definitions*, updated January 2, 2014, <http://www.cdc.gov/violenceprevention/sexualviolence/definitions.html> (accessed July 22, 2014).

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⁶⁷ Southern Poverty Law Center, *Best Practices Manual* (2008), iv.

⁶⁸ World Health Organization, “Understanding and addressing violence against women: Sexual violence,” 1, 2012, available at http://apps.who.int/iris/bitstream/10665/77434/1/WHO_RHR_12.37_eng.pdf.

⁶⁹ One in 71 men has been raped in his lifetime, compared to 1 in 5 women. US Department of Health and Human Services, “National Intimate Partner and Sexual Violence Survey: 2010.”

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⁷² Dominguez, “Sex Discrimination & Sexual Harassment In Agricultural Labor,” 238.

⁷³ CPS 2013.

⁷⁴ Human Rights Watch, *Cultivating Fear*, 15 (Citing Philip Martin, “California Hired Farm Labor 1960-2010: Change and Continuity,” *Migration Dialogue*, University of California-Davis, April 30, 2011, <http://migration.ucdavis.edu/cf/files/2011-may/martin-california-hired-farm-labor.pdf> (accessed March 12, 2012) to explain how the number of crop workers is derived: “by dividing crop and livestock labor expenditures of farmers in each state by the average hourly earnings of farmworkers in that state, based on data from both the US Department of Agriculture National Agriculture Statistics Service (NASS) and the US Department of Labor National Agricultural Workers Survey (NAWS)).

⁷⁵ Human Rights Watch, *Cultivating Fear*, 15 (citing US Department of Agriculture Economic Research Service, “Rural labor and Education: Farm Labor,” updated July 11, 2011, <http://www.ers.usda.gov/Briefing/LaborAndEducation/FarmLabor.htm> (accessed March 5, 2012); National Center for Farmworker Health, “Migrant and Seasonal Farmworker Demographics,” 2009, <http://www.ncfh.org/docs/fs-Migrant%20Demographics.pdf> (accessed March 5, 2012).)

⁷⁶ Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 5.

⁷⁷ Clark, “A Hometown Dilemma,” 140.

⁷⁸ NAWS 2001-2002.

⁷⁹ Human Rights Watch, *Cultivating Fear*, 17.

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⁸¹ Farquhar, “Promoting the occupational health of indigenous Farmworkers,” 271 (“During harvest time, the population of Mixtecos, for example, is estimated at 20–30% of the total farmworker population in Oregon. Mixtecos are indigenous Native American peoples from various states in southwest Mexico.” Citing Stephen L. Globalization, the state, and the creation of flexible indigenous workers: Mixtec farmworkers in Oregon. *Urban Anthropol Stud Cult Syst World Econ Dev* 2001;30:189–214.); See also, Murphy et al., “They Talk Like That” (estimating that approximately 68,000 indigenous farmworkers from Mexico live in Oregon and noting that no reliable estimates exist on the number of female indigenous Mexican farmworkers); Mines et al., *California’s Indigenous Farmworkers*, (Reporting on the findings of a 2010 California study of indigenous farmworkers which identified 23 unique languages spoken).

⁸² NAWS 2001-2002.

⁸³ Southern Poverty Law Center, *Injustice On Our Plates*, 22 ([Estimating 60%](#). Citing Julia Preston, “Illegal Workers Swept from Jobs in ‘Silent Raids,’” *The New York Times*, July 9, 2010); Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 1 (Estimating 50-75%).

⁸⁴ Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 2.

⁸⁵ NAWS 2001-2002; See also Human Rights Watch, *Cultivating Fear*, 16 (Report found on average that most women farmworker’s highest completed education was through the 8th grade. Citing Carroll et al., “Changing Characteristics of US Farm Workers,” Immigration Reform and Agriculture Conference, May 12, 2011); Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 5

(Found 42% of hired and 70% of contract workers have completed 6 or fewer years of school, average is 8 years for hired and 6 years for contract. Citing NAWS 2005-2009); Farquhar, "Promoting the occupational health of indigenous Farmworkers," 275 (Study participants averaged approximately 4.5 years of completed education).

⁸⁶ Ontiveros, "Lessons from the Fields," 160 (Citing California Agricultural Labor Relations Board, The Agricultural Labor Relations Board in the 21st Century – A Needs Assessment of the ALRB'S Ability to Meet its Statutory Obligations 8 (2001)).

⁸⁷ NAWS 2001-2002.

⁸⁸ Ibid.

⁸⁹ Ontiveros, "Lessons from the Fields," 160.

⁹⁰ CPS 2013; NAWS 2001-2002; USDA, Farm Labor.

⁹¹ Waugh, "Examining the Sexual Harassment Experiences," 241; See also Southern Poverty Law Center, *Injustice On Our Plates* (The majority of interviewees from this 2010 study of 150 immigrant women from Latin-American countries working in fields, packing houses and processing plants in several States reported experiencing sexual violence, ranging from inappropriate comments to sexual assault, while at work); Human Rights Watch, *Cultivating Fear* (A 2011 study found nearly all 52 farmworkers interviewed experienced sexual harassment on the job or knew someone who did); Kim, et al., "The risks, protective factors, and consequences" (A 2014 study of 20 Spanish-speaking women agricultural workers in Yakima Valley, Washington found 75% shared personal or peers' stories of sexual harassment at work); Farquhar, "Promoting the occupational health of indigenous Farmworkers" (A 2005 study of 52 indigenous farmworkers in Oregon, two out of three women-only focus groups repeatedly mentioned being victims of sexual harassment by coworkers and supervisors.); Yeung, "Female Workers Face Rape" (In a 2009 anonymous survey of over 100 women working in Iowa meatpacking plants, 84% reported experiencing one or more types of sexual harassment at work. 56% of those who experienced sexual harassment said coworkers or bosses made comments about their bodies, 41% said they experienced unwanted physical contact at work, 30% said they were propositioned for sex at work and 26% said they were threatened with being fired or demoted if they resisted their boss's or coworker's advances. ASISTA 2009 Survey of 100 Women in Iowa Meatpacking Plants, analyzed by the Center for Investigative Reporting); Dominguez, "Sex Discrimination & Sexual Harassment In Agricultural Labor" (Discussing one of the first studies on women farmworker issues where Maria Elena Lopez-Trevino discovered that in 1993, approximately 90% of women farmworkers reported that sexual harassment was a major problem in the workplace. Maria Elena Lopez-Trevino, "The Needs and Problems Confronting Mexican American and Latin Women Farmworkers: A Socioeconomic and Human's Right Issue," 7 (1995). (unpublished document on file with the author)).

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⁹⁶ Cuevas and Sabina, *Sexual Assault Among Latinas (SALAS) Study*, 12.

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⁹⁹ Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 34.

¹⁰⁰ Bernice Yeung, "5 ways to combat sexual abuse of female farmworkers," *The Center for Investigative Reporting*, September 23, 2013, accessed August 14, 2014, <http://cironline.org/blog/post/5-ways-combat-sexual-abuse-female-farmworkers-5235>.

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¹⁰⁷ Human Rights Watch, *Cultivating Fear*.

¹⁰⁸ Human Rights Watch, *Cultivating Fear*, 23-31.

¹⁰⁹ Kim et al., "The risks, protective factors, and consequences," 5.

¹¹⁰ Yeung, "Female Workers Face Rape" (ASISTA 2009 Survey of 100 Women in Iowa Meatpacking Plants, analyzed by the Center for Investigative Reporting).

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¹¹⁴ Human Rights Watch, *Cultivating Fear*, 3.

¹¹⁵ Southern Poverty Law Center, *Injustice On Our Plates*, 29; See also Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*.

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¹²⁷ Clark, "A Hometown Dilemma," 143-44.

¹²⁸ Sorrentino, "Fear in the Fields."

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¹³⁰ Kim et al., "Women Agricultural Workers' Perceptions," 17.

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- ¹³⁷ Jennifer L. Truman, Bureau of Justice Statistics, National Crime Victimization Survey: Criminal Victimization 2010, 9 (September 2011), available at <http://www.bjs.gov/content/pub/pdf/cv10.pdf>.
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- ¹⁴⁰ Human Rights Watch, *Cultivating Fear*, 4.
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¹⁵⁹ Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 28.

¹⁶⁰ Human Rights Watch, *Cultivating Fear*, 84.

¹⁶¹ Southern Poverty Law Center, *Injustice On Our Plates*, 25; See also Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*.

¹⁶² Sarah Childress, "Courting Foodies: The Modern 'Fair Food' Movement," *Frontline*, June 25, 2013, available at <http://www.pbs.org/wgbh/pages/frontline/social-issues/rape-in-the-fields/courting-foodies-the-modern-fair-food-movement/>.

¹⁶³ Southern Poverty Law Center, *Injustice On Our Plates*, 29 (Citing Marc Linder, "Farm Workers and the Fair Labor Standards Act: Racial Discrimination in the New Deal," *The National Agricultural Law Center*, University of Arkansas; originally published in Texas Law Review: 65 *Tex. L. Rev.* 1335 (1987)).

¹⁶⁴ EconPost, "Agriculture sector top 10 states by GDP," January 9, 2010, available at <http://econpost.com/industry/agriculture-sector-top-10-states-gdp>.

¹⁶⁵ Ibid.

¹⁶⁶ Southern Poverty Law Center, *Injustice On Our Plates*, 29; Childress, "Courting Foodies."

¹⁶⁷ National Labor Relations Act (NLRA) § 2(3), 29 U.S.C. § 152(3).

¹⁶⁸ Human Rights Watch, *Cultivating Fear*, 58-59 (Citing Fair Labor Standards Act (FLSA); See also US Department of Labor, Wage and Hour Division, "Fact Sheet #40: Federal Youth Employment Laws in Farm Jobs," revised July 2008, <http://www.dol.gov/whd/regs/compliance/whdfs40.htm> (accessed July 27, 2014)).

¹⁶⁹ FLSA. See also US Department of Labor, "Fact Sheet #40."

¹⁷⁰ FLSA, 29 U.S.C. §§ 201 et seq; See also US Department of Labor, Wage and Hour Division, "Fact Sheet #12: Agricultural Employers Under the Fair Labor Standards Act (FLSA)," revised July 2008, accessed July 27, 2014, <http://www.dol.gov/whd/regs/compliance/whdfs12.htm>.

¹⁷¹ Ontiveros. "Lessons from the Fields," 167; Southern Poverty Law Center, *Injustice On Our Plates*, 25; Human Rights Watch, *Cultivating Fear*, 18.

¹⁷² Human Rights Watch, *Cultivating Fear*, 59 (Citing Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*).

¹⁷³ Southern Poverty Law Center, *Injustice On Our Plates*, 25; See also Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*.

¹⁷⁴ Ontiveros. "Lessons from the Fields," 163.

¹⁷⁵ Philip Martin, "Farm Labor in California: Then and Now, Working Paper 37," Center for Comparative

Immigration Studies: University of California, San Diego, (April 2001), accessed July 28, 2014, <http://ccis.ucsd.edu/wp-content/uploads/2012/08/wrkg37.pdf>.

¹⁷⁶ Ontiveros. “Lessons from the Fields,” 163.

¹⁷⁷ Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 20.

¹⁷⁸ Tamayo, “Retaliation in Sexual Harassment Cases,” 5.

¹⁷⁹ Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 48.

¹⁸⁰ *Ibid.* at 1.

¹⁸¹ The FLSA defines “small” farm as any farm that did not use more than 500 “man-days” of agricultural labor in any calendar quarter (3-month period) during the preceding calendar year. “Man-day” means any day during which an employee works at least one hour. Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201 et seq; See also US Department of Labor, “Fact Sheet #12.”

¹⁸² Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 2.

¹⁸³ *Ibid.* at 46.

¹⁸⁴ *Ibid.* at 48; Human Rights Watch, *Cultivating Fear*, 67-71.

¹⁸⁵ Human Rights Watch, *Cultivating Fear*, 58.

¹⁸⁶ Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352), § 701 et seq., 42 U.S.C. 2000e et seq., amended by the Civil Rights Act of 1991 (Pub. L. 102-166) and the Lily Ledbetter Fair Pay Act of 2009 (Pub. L. 111-2); See also *Contreras v. Corinthian Vigor Ins. Co.*, 25 F. Supp. 2d 1053 (N.D. Cal. 1998); *Singh v. Jutla & C.D. & R.’s Oil, Inc.*, 214 F. Supp. 2d 1056 (N.D. Cal. 2002).

¹⁸⁷ Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352), Section 701 et seq., 42 US Code, 2000e et seq., amended by the Civil Rights Act of 1991 (Pub. L. 102-166) and the Lily Ledbetter Fair Pay Act of 2009 (Pub. L. 111-2); See also *Contreras v. Corinthian Vigor Ins. Co.*, 25 F. Supp. 2d 1053 (N.D. Cal. 1998); *Singh v. Jutla & C.D. & R.’s Oil, Inc.*, 214 F. Supp. 2d 1056 (N.D. Cal. 2002).

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¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.* at 187.

¹⁹¹ Runge, “Failing to Address Sexual and Domestic Violence at Work,” 882 (Citing *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742, 765 (1998)).

¹⁹² Runge, “Failing to Address Sexual and Domestic Violence at Work,” 882-83.

¹⁹³ Ontiveros. “Lessons from the Fields,” 179.

¹⁹⁴ Runge, “Failing to Address Sexual and Domestic Violence at Work,” 886.

¹⁹⁵ Yeung, “Female Workers Face Rape.”

¹⁹⁶ *EEOC v. Tanimura & Antle*, C99-20088 JW (N.D. Cal. 1999).

¹⁹⁷ *EEOC v. Tanimura & Antle*, C99-20088 JW (N.D. Cal. 1999); See also Tamayo, “The Role of the EEOC,” 1081-82; see also Tamayo, “Retaliation in Sexual Harassment Cases,” 6; Ontiveros. “Lessons from the Fields,” 180.

¹⁹⁸ *EEOC v. Iowa AG, LLC dba DeCoster Farms*, No. 01-CV-3077 (N.D. Iowa).

¹⁹⁹ *EEOC v. Iowa AG, LLC dba DeCoster Farms*, No. 01-CV-3077 (N.D. Iowa); see also Tamayo, “Retaliation in Sexual Harassment Cases,” 6.

²⁰⁰ *EEOC v. Harris Farms*, 274 F. App’x 511 (9th Cir. 2008); *EEOC v. Harris Farms*, 2006 WL 1881236

(E.D. Cal. 2006) (Order denying Defendant’s Rule 62 (c) motion; *EEOC v. Harris Farms*, 2005 WL 2071741 (E.D. Cal. 2005)(Order denying renewed Motion for Judgment as a Matter of Law).

²⁰¹ Tamayo, “Retaliation in Sexual Harassment Cases,” 6.

²⁰² *Ibid.*

²⁰³ *EEOC v. Willamette Tree Wholesale, Inc.*, 2011 WL 886402 (D. Or. March 14, 2011).

²⁰⁴ *Ibid.*; see also Tamayo, “Retaliation in Sexual Harassment Cases,” 8.

²⁰⁵ *EEOC v. Willamette Tree Wholesale, Inc.*, 2011 WL 886402 (D. Or. March 14, 2011); see also Tamayo, “Retaliation in Sexual Harassment Cases,” 8.

²⁰⁶ *EEOC v. Willamette Tree Wholesale, Inc.*, 2011 WL 886402, 7 (D. Or. March 14, 2011).

²⁰⁷ *EEOC v. Evans Fruit Company*, CV 10-3033-LRS (E.D. WA).

²⁰⁸ *EEOC v. Evans Fruit Company*, CV 10-3033-LRS (E.D. WA).

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²¹⁰ *EEOC v. Evans Fruit Company*, CV 10-3033-LRS (E.D. WA).

²¹¹ Yeung, “Female Workers Face Rape.”

²¹² *Ibid.*

²¹³ *Ibid.*

²¹⁴ *Ibid* (Noting that out of 41 federal cases filed between 1988 and 2012, not one of the perpetrators accused of sexual assault or rape was criminally charged. In March 2013, a berry farm supervisor who raped a farmworker was convicted in a California state criminal case and sentenced to prison.)

²¹⁵ Runge, “Failing to Address Sexual and Domestic Violence at Work,” 882.

²¹⁶ Yeung, “Female Workers Face Rape.”

²¹⁷ Runge, “Failing to Address Sexual and Domestic Violence at Work,” 880.

²¹⁸ Yeung, “Female Workers Face Rape.”

²¹⁹ Waugh, “Examining the Sexual Harassment Experiences,” 255.

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- ²²⁰ Ibid. at 237; Southern Poverty Law Center, *Injustice On Our Plates*, 4.
- ²²¹ Ontiveros. “Lessons from the Fields,” 158.
- ²²² Waugh, “Examining the Sexual Harassment Experiences,” 238.
- ²²³ Ontiveros. “Lessons from the Fields,” 158.
- ²²⁴ Kim et al., “Women Agricultural Workers’ Perceptions,” 8 (Citing McLaughlin H, Uggen C, Blackstone A., “Sexual Harassment, Workplace Authority, and The Paradox Of Power,” *Am Sociol Rev.* 77(4) (2012): 625-647.)
- ²²⁵ CPS 2013; NAWS 2001-2002; USDA, Farm Labor.
- ²²⁶ Association of Farmworker Opportunity Programs, *The Fields: The Hidden Faces*, 33.
- ²²⁷ Waugh, “Examining the Sexual Harassment Experiences,” 245.
- ²²⁸ Human Rights Watch, *Cultivating Fear*, 4-5.
- ²²⁹ Human Rights Watch, *Fields of Peril: Child Labor in US Agriculture*, May 5, 2010, <http://www.hrw.org/reports/2010/05/05/fields-peril-0>; See also, Human Rights Watch, *Fingers to the Bone: United States Failure to Protect Child Farmworkers*, June 2000 (estimating 300,000 – 800,000 children age 18 or under work in the agricultural industry); Ontiveros. “Lessons from the Fields,” 170-71.
- ²³⁰ Human Rights Watch, *Cultivating Fear*, 34.
- ²³¹ Kim et al., “The risks, protective factors, and consequences,” 7.
- ²³² Kim et al., “The risks, protective factors, and consequences,” 6-7.
- ²³³ Association of Farmworker Opportunity Programs, *The Fields: The Hidden Faces*, 34.
- ²³⁴ National Immigrant Women’s Advocacy Project, “Dynamics of Sexual Assault,” 11.
- ²³⁵ Runge, “Failing to Address Sexual and Domestic Violence at Work,” 886.
- ²³⁶ Kamm, “Extending the Progress of the Feminist Movement,” 768 (Citing Richard Mines et al., U.S. Dep’t of Labor, *A Profile of U.S. Farm Workers: Demographics, Household Composition, Income and Use of Services* 38 (1997)).
- ²³⁷ Ibid.
- ²³⁸ Ontiveros. “Lessons from the Fields,” 168.
- ²³⁹ Human Rights Watch, *Cultivating Fear*, 17.
- ²⁴⁰ Southern Poverty Law Center, *Injustice On Our Plates*, 29; Dominguez, “Sex Discrimination & Sexual Harassment In Agricultural Labor,” 234.
- ²⁴¹ See Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*.
- ²⁴² Murphy et al., “They Talk Like That,” 4.

²⁴³ Southern Poverty Law Center, *Injustice On Our Plates*, 22; Dominguez, “Sex Discrimination & Sexual Harassment In Agricultural Labor,” 256.

²⁴⁴ NAWS 2001-2002; See also Human Rights Watch, *Cultivating Fear*, 16 (Report found on average that most women farmworker’s highest completed education was through the 8th grade. Citing Carroll et al., “Changing Characteristics of US Farm Workers,” Immigration Reform and Agriculture Conference, May 12, 2011); Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*, 5 (Found 42% of hired and 70% of contract workers have completed 6 or fewer years of school, average is 8 years for hired and 6 years for contract. Citing NAWS 2005-2009); Farquhar, “Promoting the occupational health of indigenous Farmworkers,” 275 (Study participants averaged approximately 4.5 years of completed education).

²⁴⁵ Ontiveros, “Lessons from the Fields,” 160 (Citing California Agricultural Labor Relations Board, The Agricultural Labor Relations Board in the 21st Century – A Needs Assessment of the ALRB’S Ability to Meet its Statutory Obligations 8 (2001)).

²⁴⁶ See Murphy et al., “They Talk Like That”; Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*; Dominguez, “Sex Discrimination & Sexual Harassment In Agricultural Labor”; Runge, “Failing to Address Sexual and Domestic Violence at Work; Human Rights Watch, *Cultivating Fear*.

²⁴⁷ Southern Poverty Law Center, *Injustice On Our Plates*, 4.

²⁴⁸ Yeung, “Female Workers Face Rape.”

²⁴⁹ Southern Poverty Law Center, *Injustice On Our Plates*, 14.

²⁵⁰ Association of Farmworker Opportunity Programs, *The Fields: The Hidden Faces*, 20; Ontiveros. “Lessons from the Fields,” 165; Clark, “A Hometown Dilemma,” 149; see also Southern Poverty Law Center, *Injustice On Our Plates*.

²⁵¹ Southern Poverty Law Center, *Injustice On Our Plates*, 11.

²⁵² Sorrentino, “Fear in the Fields.”

²⁵³ Yeung, “Female Workers Face Rape.”

²⁵⁴ NAWS 2001-2002. (Last updated in 2010, reporting that 78% of farmworkers were foreign-born, of which 75% were born in Mexico.)

²⁵⁵ Runge, “Failing to Address Sexual and Domestic Violence at Work,” 876.

²⁵⁶ Ontiveros. “Lessons from the Fields,” 169.

²⁵⁷ Ibid.

²⁵⁸ See Southern Poverty Law Center, *Injustice On Our Plates*; Kamm, “Extending the Progress of the Feminist Movement; National Immigrant Women’s Advocacy Project, “Dynamics of Sexual Assault.”

²⁵⁹ Association of Farmworker Opportunity Programs, *The Fields: The Hidden Faces*, 34; Human Rights Watch, *Cultivating Fear*, 19.

²⁶⁰ Association of Farmworker Opportunity Programs, *The Fields: The Hidden Faces*, 34; Dominguez, “Sex Discrimination & Sexual Harassment In Agricultural Labor,” 257.

²⁶¹ US Immigration and Customs Enforcement, Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act.

²⁶² U.S. Immigration and Customs Enforcement, Secure Communities.

²⁶³ Southern Poverty Law Center, *Injustice On Our Plates*, 50; Human Rights Watch, *Cultivating Fear*, 73.

²⁶⁴ Southern Poverty Law Center, *Injustice On Our Plates*, 50.

²⁶⁵ Ibid. at 51.

²⁶⁶ National Immigrant Women's Advocacy Project, "Dynamics of Sexual Assault," 21.

²⁶⁷ Human Rights Watch, *Cultivating Fear*, 6; Ontiveros. "Lessons from the Fields," 162.

²⁶⁸ Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*; Ontiveros. "Lessons from the Fields,"

²⁶⁹ Bon Appetit and United Farm Workers, *Inventory of Farmworker Issues and Protections*

²⁷⁰ Ontiveros. "Lessons from the Fields," 168.

²⁷¹ Ibid. (Citing Michael Holley, *Disadvantaged by Design: How the Law Inhibits Agricultural Guest Workers from Enforcing their Rights*, 18 HOFSTRA LAB. & EMP. L.I. 575, 597-616 (2001)).

²⁷² Southern Poverty Law Center, *Injustice On Our Plates*, 42.

²⁷³ Dominguez, "Sex Discrimination & Sexual Harassment In Agricultural Labor," 257.

²⁷⁴ Southern Poverty Law Center, *Injustice On Our Plates*, 44.

²⁷⁵ Dominguez, "Sex Discrimination & Sexual Harassment In Agricultural Labor," 256-57; Clark, "A Hometown Dilemma," 149-51.

²⁷⁶ NAWS 2001-2002.

²⁷⁷ Ibid.

²⁷⁸ Ontiveros, "Lessons from the Fields," 160; Kamm, "Extending the Progress of the Feminist Movement," 769.

²⁷⁹ Dominguez, "Sex Discrimination & Sexual Harassment In Agricultural Labor," 256.

²⁸⁰ Kim et al., "Women Agricultural Workers' Perceptions," 16.

²⁸¹ Sorrentino, "Fear in the Fields."

²⁸² Ibid.

²⁸³ Ibid.

²⁸⁴ Ibid.

²⁸⁵ Ibid.

²⁸⁶ Ibid.

²⁸⁷ National Immigrant Women's Advocacy Project, "Dynamics of Sexual Assault," 17.

²⁸⁸ Mines et al., *California's Indigenous Farmworkers*, 40.

²⁸⁹ Farquhar et al., "Promoting the occupational health of indigenous Farmworkers," 270.

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²⁹¹ Ibid. at 271.

²⁹² Ibid. at 269.

²⁹³ Ibid.

²⁹⁴ National Immigrant Women's Advocacy Project, "Dynamics of Sexual Assault," 17.

²⁹⁵ Waugh, "Examining the Sexual Harassment Experiences," 254 ("In this study, women field laborers experienced headaches (49%), trouble sleeping (52%), shaking hands (51%), perspiring or sweaty hands (49%), heart palpitations (48%), and chronic tiredness (48%) as a result of sexual harassment.").

²⁹⁶ et al., "The risks, protective factors, and consequences," 2; National Immigrant Women's Advocacy Project, "Dynamics of Sexual Assault," 9.

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- ³¹⁹ Runge, "Failing to Address Sexual and Domestic Violence at Work," 885.
- ³²⁰ Kim et al., "The risks, protective factors, and consequences," 2.
- ³²¹ Murphy et al., "They Talk Like That," 4.
- ³²² *Ibid.*
- ³²³ *Ibid.* at 5.
- ³²⁴ Kim et al., "The risks, protective factors, and consequences," 5.
- ³²⁵ Bernice Yeung, "Settlement Brings Prevalence of Farmworker Abuse to Light," *The Center for Investigative Reporting* (July 6, 2013), available at <http://seattletimes.com/avantgo/2021344699.html>.
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³⁵⁷ Ibid. at 16.

³⁵⁸ Kim et al., "Women Agricultural Workers' Perceptions," 9.

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³⁶³ Frontline, "Resources for Agricultural Workers," June 25, 2013, available at <http://www.pbs.org/wgbh/pages/frontline/social-issues/rape-in-the-fields/resources-for-agricultural-workers/>.

³⁶⁴ Human Rights Watch, *Cultivating Fear*, 43-45.

³⁶⁵ National Immigrant Women's Advocacy Project, "Dynamics of Sexual Assault," 2.

³⁶⁶ Ibid.

³⁶⁷ Cuevas and Sabina, *Sexual Assault Among Latinas (SALAS) Study*, 12 (According to this 2010 study, only 6.6% of Latinas who experienced sexual assault, attempted sexual assault or fondling/forced touching said they contacted police and only 21% said they sought any type of formal help such as medical care, police involvement, social services, restraining orders or criminal charges.)

³⁶⁸ Yeung, "Female Workers Face Rape."

³⁶⁹ Human Rights Watch, *Cultivating Fear*, 83-86; Murphy et al., "They Talk Like That," 4.

³⁷⁰ Human Rights Watch, *Cultivating Fear*, 83-86; Farquhar et al., "Promoting the occupational health of indigenous Farmworkers," 276; Sorrentino, "Fear in the Fields."

³⁷¹ Yeung, "Female Workers Face Rape" (Noting that out of 41 federal cases filed between 1988 and 2012, not one of the perpetrators accused of sexual assault or rape was criminally charged. In March 2013, a berry farm supervisor who raped a farmworker was convicted in a California state criminal case and sentenced to prison).

³⁷² Yeung, "Female Workers Face Rape" (Describing the results of the DeCoster Farms case. DeCoster Farms and Iowa Ag denied all allegations but paid \$1.5 million to settle the federal civil lawsuit. "But for the three men accused of serially raping DeCoster workers, life goes on.")

³⁷³ For example, although the accused orchard foreman from the *Evans Fruit* case was fired, his dismissal letter made no mention of the sexual harassment allegations made against him. *EEOC v. Evans Fruit Company*, CV 10-3033-LRS (E.D. WA).

³⁷⁴ Human Rights Watch, *Cultivating Fear*, 80-86.

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- ³⁸² Clark, “A Hometown Dilemma,” 151.
- ³⁸³ Runge, “Failing to Address Sexual and Domestic Violence at Work,” 885.
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- ³⁹⁰ Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-134, Sec. 504 (11), 100 Stat. 1321.
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- ³⁹² Ibid. at 67-71.
- ³⁹³ Southern Poverty Law Center, *Best Practices Manual* (2008), 149 (citing Cal. Gov’t Code. § 12940(j)(3)).
- ³⁹⁴ *Vance v. Ball State University*, 133 S. Ct. 2434 (2013).
- ³⁹⁵ National Women’s Law Center, *Reality Check: Seventeen Million Reasons Low-Wage Workers Need Strong Protections From Harassment*, 10 (2014), available at http://www.nwlc.org/sites/default/files/pdfs/final_nwlc_vancereport2014.pdf (Citing *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742, 759 (1998)).
- ³⁹⁶ National Women’s Law Center, *Reality Check*, 1-2.
- ³⁹⁷ Ibid. at 15.

³⁹⁸ Human Rights Watch, *Cultivating Fear*, 66.

³⁹⁹ *Hoffman Plastic Compounds v. NLRB*, 535 U.S. 137, 122 S.Ct. 1275, 152 L.Ed.2d 271 (2002).

⁴⁰⁰ Human Rights Watch, *Cultivating Fear*, 66.

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