



**California Fair Employment and Housing Council Convening**  
**Friday, April 20, 2018**  
**Fresno, CA**

**INTRODUCTION**

Hello, my name is Marichel and I am a Civic Participation and Policy Coordinator with the UFW Foundation. I want to thank the California Fair Employment and Housing Council for giving me the opportunity to be here today.

Founded by Cesar Chavez, the UFW Foundation is the non-profit sister organization to the United Farm Workers labor union and focuses on community organizing, immigration and labor advocacy and providing immigration legal services, as we are accredited by the Department of Justice. We have 5 offices in rural farm worker communities throughout California, including two Central Valley offices located in Fresno and Bakersfield, and serve over 60,000 immigrants annually.

I am here today to speak on the discrimination issues impacting Central Valley farm workers, to highlight the laws that currently protect them, and to make suggestions for future policy initiatives.

**DISCRIMINATION AGAINST FARM WORKERS**

The lack of labor protections for farm workers is rooted in discrimination. In the 1930s Congress passed the National Labor Relations Act and the Fair Labor Standards Act, which was federal legislation granting all American workers the right to form unions, receive minimum wage and overtime pay, and prohibited abusive child labor.<sup>1</sup> However, two classifications of workers were excluded from this landmark legislation- farm workers and domestic workers. This is because at the time of the bills' passage African Americans performed the majority of farm and domestic work, and Southern members of congress were unwilling to support New Deal legislation if it threatened Jim Crow.<sup>2</sup> As a result, farm workers and domestic workers were excluded from basic federal labor protections. This racially-motivated exclusion was wrong then, and it continues to be wrong now.

A history of discrimination and exclusion means that farm workers continue to endure harsh working conditions, harmful pesticide exposure, inadequate housing, and low wages. Moreover, it is estimated that over 70% of California's 560,000 farm workers are undocumented<sup>3</sup>, and weak labor protections make them vulnerable to employer abuse. The issue of workplace discrimination in particular affects

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<sup>1</sup> National Labor Relations Act of 1935  
Fair Labor Standards Act of 1938

<sup>2</sup> Perea, Juan F. "The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act." *Ohio State Law Journal* 72 (1). 2011

<sup>3</sup> Caitlin Dickerson & Jennifer Medina. (2017, Feb 9). California Farmers Backed Trump, But Now Fear Losing Field Workers, *New York Times*, Retrieved from [NewYorkTimes.com](http://NewYorkTimes.com)

some of the most marginalized members of our Central Valley community- including indigenous and women farm workers.

## **ETHNIC ORIGIN**

In California, it is estimated that over 128,000 farm workers are indigenous.<sup>4</sup> The majority come from rural villages in the Mexican states of Oaxaca and Guerrero, speaking the indigenous languages of Mixteco, Zapoteco or Triqui.<sup>5</sup> Although they represent roughly 20% of the agricultural workforce, indigenous farm workers continue to be heavily discriminated against and exploited at the workplace.

In the grape fields of the San Joaquin Valley, indigenous farm workers tell us that they have been called derogatory names like Oxaquita, made fun of for their inability to speak Spanish or English, or are condescendingly told to bring a chair to work because they might be too short to reach the grape vines. In the citrus orchards, many of the indigenous workers are instructed to bring their own tools to work even though this is supposed to be provided by their employer.

Because of language barriers and racial biases, indigenous farm workers are rarely promoted to higher positions at companies, despite the number of years they have worked there. In fact, a community survey of 225 farm workers found that after working 9 or more years in the United States, the indigenous farmworker still earns on average only \$8.25 an hour.<sup>6</sup> A separate study found that 28.8% of indigenous farm workers were underpaid or unpaid, and 25.4% felt discriminated against and unable to complain due to language barriers.<sup>7</sup> In the citrus and tomato fields, we've received reports of indigenous farm workers getting paid piece-rate wages that do not amount to meeting the minimum wage.

## **GENDER**

In Central Valley mandarin, orange and lemon orchards it is rare to see farm worker women engaged in the "poda," which is the branch trimming of the fruit trees. It is also very rare to see farm worker women employed as tractor drivers, forklift operators or irrigators, which is higher paying year-round agricultural work. The issue is not that women cannot perform this type of work; it is that they are simply not given the training or opportunity to have access to these types of jobs. A recent study showed that the average personal yearly income of women farm workers was \$11,250, approximately \$5,000 less than their male counterparts.<sup>8</sup>

Prevailing cultural norms coupled with workplace power dynamics can also result in the sexual harassment and sexual assault of farm worker women. In the Central Valley we have received reports of male foremen and supervisors deliberating splitting married couples into separate crews or isolating single women onto the edge of crop fields so that they can be more easily accosted. Sandra, a farm

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<sup>4</sup> California Office of Binational Border Health, California-Mexico Health Initiative, California Program on Access to Care, & the U.S. Environmental Protection Agency Region 9. (2005). The California Farm Labor Force Overview and Trends from the National Agricultural Workers Survey. Burlingame, California: Aguirre International

<sup>5</sup> Mines, R., Nichols, S. & Runsten, D. (2010). California's Indigenous Farmworkers. Retrieved from [http://www.indigenousfarmworkers.org/IFS%20Full%20Report%20\\_Jan2010.pdf](http://www.indigenousfarmworkers.org/IFS%20Full%20Report%20_Jan2010.pdf)

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Komoners, Sara. (2015). Working in Fear: Sexual Violence Against Women Farmworkers in the United States. Retrieved from

[https://www.oxfamamerica.org/static/media/files/Sexual\\_violence\\_against\\_women\\_farmworkers\\_full\\_doc.pdf](https://www.oxfamamerica.org/static/media/files/Sexual_violence_against_women_farmworkers_full_doc.pdf)

worker from Delano, tells us she has been working in the fields since she was 15 years old. As a young woman her supervisor made demeaning remarks about her intelligence and work capabilities, and only offered to properly train her if she would go out with him for the night. Now approaching age 30, Sandra says that she and her mother have experienced sexual harassment at nearly every farm she's worked at over the years. A 2010 study found that 80% of farm worker women they spoke to claimed they had experienced some form of sexual violence on the job<sup>9</sup>, and there are several documented cases of rape happening in the fields.

## **PROTECTIONS FOR WORKERS**

In spite of these alarming statistics, California has some of the strongest labor protections for farm workers in the country. After the United Farm Workers successfully organized and passed the Agricultural Labor Relations Act in 1975, California became the first state in the nation to grant farm workers the right to collectively bargain and form unions to advocate for their rights, resulting in improved wages and working conditions. The ALRA protects farm workers from employer retaliation if two or more of them engage in exercising their rights, and employers cannot use immigration status as a means to threaten employees.<sup>10</sup>

Recently in 2016, thanks to the organizing efforts of the UFW and UFW Foundation, California also became the only state in the nation to give farm workers the right to overtime pay after a 40-hour work week. Federally, we are now advocating for this same right to be extended to all farm workers across the country.

In California, piece-rate farm workers also have the right to be paid for all “non-productive” time, such as when they are receiving on the job trainings or taking mandatory rest breaks. In 2015, the UFW and UFW Foundation launched a statewide campaign to get citrus piece-rate farm workers over \$200 million in back pay they were owed because employers failed to follow the law. It is estimated that the workers, many of whom are indigenous, are due to receive back pay amounting to nearly \$50 or more per week.<sup>11</sup>

While excluded from key federal labor legislation, farm workers do have the right to protections enforced by the Equal Employment Opportunity Commission. In 2010 when a supervisor fired an entire indigenous farm worker family for asking that he stop sexually harassing and intimidating their 17-year-old daughter, the UFW alongside CRLA and the EEOC aided the family in suing the prominent Central Valley grape company he worked for.<sup>12</sup>

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<sup>9</sup> Ibid.

<sup>10</sup> Agricultural Labor Relations Act of 1975

<sup>11</sup> UFW Improving Farm Worker Lives Through Proactive Union Work. (2016, May 19). Retrieved from <http://ufw.org/UFW-improving-farm-worker-lives-through-proactive-union-work/>

<sup>12</sup> Family of Indigenous Farmworkers Charges Guimarra Vineyards with Illegal Sexual Harassment and Racial Discrimination. (2010, February 12). Retrieved from <http://ufw.org/FAMILY-OF-INDIGENOUS-FARMWORKERS-CHARGES-GIUMARRA-VINEYARDS-WITH-ILLEGAL-SEXUAL-HARASSMENT-AND-RACIAL-DISCRIMINATION/>

Together the UFW and UFW Foundation continue to advocate and organize for strengthened labor and immigrant rights policies protecting farm worker families throughout the state and the country.

### **POLICY RECOMMENDATIONS**

While these cases represent successes, we know that oftentimes the laws in the books are not the laws in the fields. As previously stated, the majority of California farm workers are undocumented, and many workers refrain from reporting cases like heat violations, pesticide exposure or sexual harassment for fear of deportation.<sup>13</sup> Recognizing that most farm workers are either Spanish or indigenous speaking and undocumented, state agencies must implement policies in a way that is both transparent and culturally relevant to these issues. The UFW and UFW Foundation stand in support of policies that protect California's immigrant workers, especially in light of recent ICE activity which has terrorized farm worker communities. We stand in support of laws like the California Values Act and the Immigrant Worker Protection Act, which strengthen protections for immigrant workers, and in opposition to bills such as AB 1885, which leaves the fate of undocumented farm workers in the hands of the Trump administration.

State and county regulatory agencies have to meet a higher level of tracking, monitoring and enforcement of the current rules that are in place. There should also be greater accountability and harsher penalties for Farm Labor Contractors and Growers who fail to abide by the law. We stand in support of bills such as AB 2751, which eliminates delays and expedites the implementation of collective bargaining agreements for farm workers. We are opposed to AB 3092, AB 3093 & AB 3094, which all seek to strip away collective bargaining rights for farm workers, and AB 2484 which eliminates overtime pay for piece-rate workers. We are also opposed to bills such as AB 2887, which allows for employers to not only dictate farm workers' wages and working conditions, but also their housing. At the county, state and federal level, we continue to push for the banishment of harmful pesticides such as Chlorpyrifos, which has been known to cause brain damage in farm worker children.<sup>14</sup>

Regardless of gender, national origin or immigration status, all workers have rights. We are committed to making sure that this stays true for all of California's farm workers. Si Se Puede.

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<sup>13</sup> Ibid.

<sup>14</sup> Raanan et al. (2015). Early Life Exposure to Organophosphate Pesticides and Pediatric Respiratory Symptoms in the CHAMACOS Cohort. *Environmental Health Perspectives*, 123(2)