

FARMWORKER JUSTICE NEWS



www.farmworkerjustice.org

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SPRING 2013

IMMIGRATION REFORM:

FIGHTING FOR OUR NATION'S FARMWORKERS TO EARN IMMIGRATION STATUS

Once again, the public is pressuring Congress to fix our broken immigration system. Agriculture is a major component that must be addressed to achieve legislation. Farmworker Justice is assisting the United Farm Workers and other groups in the fight for legislation that grants undocumented farmworkers the opportunity to earn immigration status and citizenship as a first step toward improving their wages and working conditions.

The human cost of our dysfunctional immigration system is obvious in agriculture. Farmworkers work extremely hard, often in hazardous conditions, for very low wages, and perform an essential role in bringing food to our tables. Of the approximately 2 million seasonal workers on U.S. farms and ranches, at least 77% are foreign-born. More than half of all farmworkers lack authorized immigration status. The preponderance of undocumented workers in agriculture contributes to farmworkers' difficulty demanding better job terms and reporting illegal employment practices.

Farmworker Justice opposes legislative proposals for anachronistic guestworker programs that are inconsistent with America's economic and democratic freedoms. We support the concept of granting future workers a portable visa that enables them to switch employers in agriculture, unlike the current H-2A program, which ties guestworkers to a particular employer. There must be a cap on the number of such visas tied to actual market needs to prevent recruitment of an oversupply of labor that drives down job standards. There should be an immediate end to longstanding exclusion of temporary foreign workers from the principal employment law in agriculture, the Migrant and Seasonal Agricultural Worker Protection Act. And, even with such mobility, there will be a need for special labor protections to prevent U.S. farmworkers from losing jobs and suffering wage depression and to prevent exploitation of vulnerable foreign workers. Ultimately, those farmworkers who choose to settle in the U.S. should be given the opportunity to become



Farmworker Justice's number one priority for immigration reform is a road map to citizenship for the 11 million aspiring Americans, including farmworkers and their families.

Farmworker Justice also seeks immigration status and an opportunity for citizenship for farmworkers who may be needed in the future to fill labor shortages.

immigrants and citizens so that they may exercise the rights and responsibilities accorded to citizens in our democracy.

Immigration policy, done in the right way, can benefit farmworkers, employers and the nation by helping to ensure a law-abiding, productive, profitable agricultural sector. Farmworker Justice — through policy monitoring and analysis, public education and advocacy — will continue to serve farmworker organizations to achieve a fair immigration system that helps farmworkers and their families improve their wages and other job terms, living conditions, and communities.

LITIGATION UPDATE

LAWSUITS REMEDY SYSTEMIC MISTREATMENT OF FARMWORKERS

We use litigation as a strategy to remedy and discourage illegal conduct by employers and government agencies. We co-counsel cases in which positive outcomes will impact large numbers of farmworkers or make changes in law. Here are recent developments in two of our cases:

Ruiz v. Max Fernandez and Western Range Association

No. 2:11-cv-3088-RMP (Eastern District of Washington)

Western Range Association is a membership organization made up of sheep ranchers and is one of the biggest users of the H-2A temporary farmworker visa program. In this case, WRA recruited and hired three Chilean workers to work as open-range shepherders for one of its rancher members in eastern Washington State. Federal law allows employers to pay range shepherders a flat rate of \$750 per month. However, the rancher instead put them to work primarily as general ranch hands. This, the workers argued, entitled them to a much higher hourly wage. In March 2013, the court agreed, declaring that the workers should have received the higher wage. The court also found that Western Range—not just the rancher—employed the workers, and that Western Range is thus jointly responsible for its members' wage law violations. The court has yet to address the workers' federal labor trafficking claims. Trial is set for this summer.



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Smith v. Bulls-Hit Ranch & Farm

No. 3:12-cv-449-MMH-TEM (Middle District of Florida)

A Florida potato grower and a farm labor contractor employed destitute, drug-dependent workers recruited from inner-city homeless shelters and made them work under conditions of forced labor. This case sought to recover lost wages and damages owed to the workers for violations of federal and state minimum wage laws, federal migrant labor laws, and federal labor trafficking laws. The workers reached a settlement agreement with the potato grower in 2012 and with the contractor in February 2013. The settlements will fully compensate the workers for the wages and other violations they suffered, and require both the grower and contractor to reform their employment practices. The parties are awaiting the court's final approval of the settlements. This case sends an important message to growers that they will be held responsible for the illegal labor practices of their labor contractors.

FARMWORKER WOMEN ADVOCATE FOR POLICY CHANGES

Earlier this Spring, Farmworker Justice served as a host to *Alianza*, a new organization focused on empowering farmworker women, during the organization's first visit to Washington, DC. Fifty farmworker women traveled from farmworker communities in California, Arizona, Florida, New Mexico, New York, Oregon, and Texas and came together to discuss issues of concern and meet with national organizations and policy makers.

They began their meeting with a series of workshops and discussions about such issues as access to healthcare, sexual harassment and discrimination, immigration reform, and exposure to pesticides. The following day included a trip to Capitol Hill to meet with their Congressional representatives. In all, the *Alianza* members met with 48 House and Senate offices to discuss how they are affected by current immigration laws, exposure to pesticides, and violence against women, and to urge the officials to enact meaningful reforms to improve the lives of farmworkers and their families. They also met with representatives from the White House and several federal agencies, including the EPA, and the Departments of Agriculture, Labor, and Homeland Security, among others. During their time in Washington, the women also met with allies from academia, organized labor, and environmental and civil rights organizations.

A working group comprised of staff from Farmworker Justice, Georgetown Law School, the USDA, Centro de los Derechos del Migrante, and the Rural Coalition helped *Alianza* members to plan and organize this convening. This was a unique opportunity for policy makers to speak directly with farmworkers and to hear how the policies created in DC affect the lives of these women and their families. Farmworker Justice is proud to have worked so closely with this growing organization to help empower farmworker women and to lift up their voices.

PLEASE JOIN US AT OUR ANNUAL AWARD RECEPTION

On Wednesday, May 8, 2013, **Farmworker Justice** will present awards to important contributors in the quest for farmworker justice:

Farmworker Justice Award: to **Rep. Raúl Grijalva**, who represents Arizona's Third Congressional District, which includes the important agricultural areas around San Luis, Somerton, and Yuma. The son of a farmworker who labored under the Bracero program, Rep. Grijalva has been a strong supporter of farmworkers' rights and immigration reform throughout his time in Congress.

The Shelley Davis Award*: to **Nelson Carrasquillo**, the General Coordinator of Comité de Apoyo para los Trabajadores Agrícolas (Farmworker Support Committee), known as CATA, headquartered in Glassboro, New Jersey. Farmworker Justice has worked with CATA over many years on a range of issues, including the H-2A guestworker program, immigrants' rights, and occupational safety and health. CATA has been a very effective organization, one that Shelley Davis, our late Deputy Director, collaborated with for years.

*The Shelley Davis Memorial Fund provides support to help Farmworker Justice carry on Shelley's work, especially on occupational safety and health.

Please support this event and our work on behalf of farmworkers. Farmworker Justice's mission is to empower farmworkers to **improve their immigration status, wages, working conditions, and health status for farmworkers and their families.**

Now is the time to help farmworkers have a voice and **shape the debate about immigration reform in this country.** Lack of immigration status in the farmworker community is a major factor contributing to the poor wages, working conditions, housing, and health of the people who work on our ranches and farms. Our immigration system needs reform and the potential exists in the next few months for major legislation that would dramatically affect more than one million farmworkers and their family members.

Please join us! Tickets for the event are \$90 per person. Sponsorships are still available beginning at \$250. For more information about buying tickets or becoming a sponsor, visit our website www.farmworkerjustice.org or contact Lynn Bock at 202-800-2527 or lbock@farmworkerjustice.org.

The reception will be held from 6 pm to 8:30 pm on May 8 and will be hosted by the National Education Association, located at 1201 16th Street, NW, between M & N Streets.



TOGETHER WE CAN MAKE A DIFFERENCE!

VICTORY

FOR FARMWORKER WOMEN

REAUTHORIZATION OF THE VIOLENCE AGAINST WOMEN ACT

In early March, the Violence Against Women Act (VAWA) passed the House. The bill, which has been awaiting reauthorization since last year, is on its way to President Obama's desk and will shortly be signed into law. The reauthorization of VAWA is a victory for farmworker women. It reaffirms and, in some cases strengthens, the protections afforded to immigrant women who apply for a U-visa — a temporary legal status that also includes work eligibility.

Farmworker women, especially indigenous women, are at high risk for sexual violence. At home and in the fields, farmworker women are vulnerable to attack. In the fields, unscrupulous supervisors and contractors use their power to subject women to rape, coercive sexual conduct, groping, and verbal harassment.

At home, farmworker women are more likely to experience intimate partner violence. In one North Carolina study, approximately three-quarters of the women had experienced some type of violence at home.

According to a report by Human Rights Watch, nearly all of the 160 interviewed farmworkers from across the United States had either experienced sexual violence or harassment or knew others who had experienced it. Sexual violence can increase women's risk of contracting HIV and other Sexually Transmitted Infections (STIs).

Unfortunately, few farmworker women report these abuses. While reporting is difficult for any survivor of violence, farmworker women face systemic barriers that impact their ability to report these abuses. These barriers include: low wages, culture, discrimination, limited English proficiency, isolation, and their documentation status or status of their family members.

The reauthorization of VAWA is an important step to protecting immigrant women but more can be done. Unfortunately, a provision in last year's Senate bill to increase the number of U-visas was not included in the final reauthorization. A path to citizenship is necessary to empower farmworker women to report violence in the fields and at home. We must also continue to educate farmworker women about HIV risks and the importance of getting tested, especially if they have suffered sexual abuse.

Farmworker women endure hazardous working and living conditions to harvest the fruits and vegetables we eat; they deserve a workplace free of violence and abuse. They should not have to suffer in silence.



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Photo Credit: David Bacon



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As part of our Act Against AIDS Leadership Initiative *Alidados* project, Farmworker Justice recognized National Women and Girls HIV/AIDS Awareness Day in the Month of March. We provided farmworker organizations and allies with HIV/AIDS prevention materials and the California-based farmworker organization *Lideres Campesinos* shared the following story with us. The story illustrates the sexual violence many women suffer while working in the fields picking fruits and vegetables. Many women are scared to report the abuse, but Luisa (name changed to protect identity) is making her voice heard.

Luisa's Story

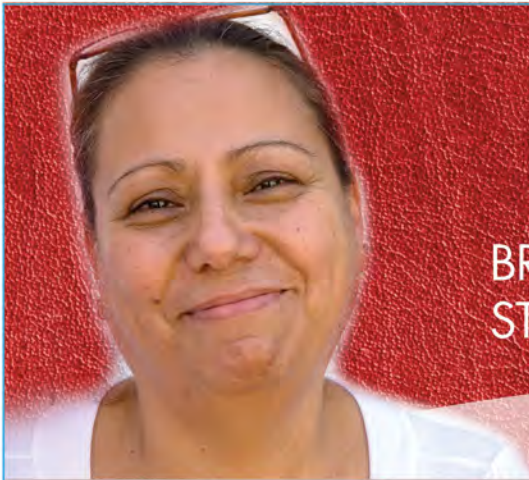
Luisa had just started working for a new company when the harassment started. She was hired by a labor contractor to pack grapes. Right from the start, the crew leader was a bit too personal. He would ask her questions about her marital status, whether she had a boyfriend, and other inappropriate questions. She constantly tried to ignore him and avoid the questions but he was so persistent. He started isolating her and segregating her from the other harvesters and packers, so she was often alone with him. He'd make her pack grapes at the table that was furthest away from the harvesters and would send all the other workers out to harvest grapes so she was left alone at the table. He'd then start asking her more questions and telling her he would improve her working conditions if she met up with him outside of work. He wouldn't let up. No matter how many times she said no or said she was just here to work, he never left her alone. At the time, her boyfriend was harvesting grapes for the same company and he would try to be at the table with her, but the crew leader would make sure he was sent to harvest grapes far away.

One day he sent everyone out to harvest grapes and had them go to the very far side of the field. She was again left alone at the table. The crew leader approached her and started groping her butt. He then said that the next time he'd go for her breasts. Luisa was in shock. She couldn't believe what was happening. When her boyfriend returned with the grapes to pack she said she wanted to go home and that she didn't want to return. She didn't want to tell her boyfriend because she was afraid of his reaction.

She eventually got the courage to report the incidence to the labor contractor but he wasn't very helpful. He didn't believe her and kept asking if there were witnesses, someone who could corroborate her story. Luisa then decided to tell her supervisor, who was a woman. The supervisor ended up moving her and her boyfriend to another crew so she didn't have to work under the previous crew leader, but this didn't completely stop the harassment. Since she still worked for the same company, she still crossed paths with the old crew leader. He'd still say inappropriate things to her and pass her notes with his number, still trying to convince her to meet up with him.

Her last option was to report him to the company. Unfortunately the company was very public about the entire investigation and would question her in front of the other workers. Pretty soon everyone knew what had happened. Even when Luisa found a new labor contractor and switched jobs, people at the new job had already heard about what had happened. Luisa felt like she couldn't escape. She wanted to file a claim against the crew leader so that no one else had to suffer what she did, but it was scary. She was undocumented and had a daughter who was undocumented as well. They were both afraid of being deported.

Eventually, Luisa sought help from the Equal Employment Opportunity Commission (EEOC) and is seeking to bring a lawsuit against the company. Luisa knows she wasn't the only woman this crew leader has harassed and until he is stopped, many other women will suffer in silence.



Ramona Felix, *promotora* from Lideres Campesinas in California

Promotorés:

BRINGING INNOVATIVE HEALTH EDUCATION STRATEGIES TO FARMWORKER COMMUNITIES

Juana's Story

"When I was young," says Juana, a *promotora* (lay health outreach worker) with Alianza de Mujeres Activas (AMA) in Volusia County, Florida, "I didn't have the opportunity to go to school very long at all. My family was very poor and I had to stay at home to help with chores. Once I came to Florida and started to work in the ferneries, it was just too late." Juana grew up in Jalisco, Mexico, and like many farmworkers received few opportunities for higher level education in her native country. According to the National Agricultural Workers' Survey (NAWS), the highest grade of completion for farmworkers is seventh grade, a statistic that forebodes continued difficulties in accessing educational opportunities as farmworkers relocate.

Juana describes her experience as a *promotora* over the last three years. "When I began I was so shy, and I thought to myself what kind of value do I have to be teaching those around me? I didn't go to school for too long, and I only have my own experience to try to help show others the way. Will that be worth something to someone outside my own family?" This was Juana's starting point and the beginning of her own empowerment as she became more and more involved in conducting outreach in her community. "The answer to that question I asked myself is yes. I do have so much to teach others, and becoming a *promotora* is something you can do at any point in your life. It doesn't matter if you graduate from school or not."

Farmworker Justice participates in an innovative approach focused on offering farmworkers non-traditional educational opportunities in topic areas that can personally affect their health and well-being. Using the *promotor de salud* model, we partner with farmworker serving community-based organizations, train a cadre of local *promotores* (community health workers), and support the *promotores* as they conduct outreach among farmworker families and peers in their local communities. We are currently working with *promotores* to conduct outreach on issues such as pesticide safety, heat stress prevention, and workers' rights.

Farmworker Justice uses the *promotor* model for a variety of reasons. The National Agricultural Workers Survey estimates that 75% of farmworkers are born in Mexico. The *promotor* model is used throughout Latin America and many farmworkers have already participated in this learning style in their home countries. So when *promotores* engage in outreach encounters there is often already a level of trust and common understanding. This is particularly important when talking in-depth about personal issues or sensitive topics. *Promotores* typically share the same language and cultural background as the population they are serving, again opening up avenues for conversations that could be more challenging without a prior collective format for communication.

Another advantage of the *promotores* model is that *promotores* are often trained using non-traditional educational approaches that make the information come alive for the participants. Trainers use skits, stories, and interactive dialogues to teach key points. This encourages participants to draw from their personal experiences, making the material relevant and the learning experience long-lasting.

It is critical that farmworkers are offered the opportunity to participate in the educational experience — both as teachers and learners.

Through our Poder Sano Health Project, we provide support and guidance to community agencies that are interested in starting or enhancing their *promotores de salud* programs. We will soon be releasing an extensive training curriculum for HIV Prevention in Rural Latino Communities.

In addition, we are pleased to announce our new staff for the Poder Sano—HIV Community Mobilization Project. Ann Watson is the new project director and Valentina Stackl is the new project coordinator.

One of the *promotores* we work with recently shared her story with us during National Farmworker Awareness Week which is held annually during the last week in March.

ADVOCATING FOR ACCESS TO **HEALTHCARE** FOR FARMWORKERS THROUGH THE **AFFORDABLE CARE ACT**



Starting in January 2014, millions of Americans will be newly insured either through Medicaid or private health insurance through the Affordable Care Act (ACA). But what about our nation's farmworkers and their families? Medicaid expansion, tax credits available to low-income individuals in the marketplaces, and opportunities for employer-provided coverage will allow some currently uninsured farmworkers access to health insurance.

Medicaid expansion will extend benefits to a small population of newly eligible single and childless farmworkers. So far, 16 states and DC have opted to expand Medicaid to all eligible individuals up to 138% of the federal poverty level. Farmworkers who are not eligible for Medicaid may be eligible to purchase low-cost health insurance in the marketplace using tax-credits or other forms of income assistance. Additionally, small growers may be encouraged to offer health insurance to their farmworkers through the small business health options program, which provides tax credits to small employers.

Despite these opportunities, a significant number of farmworkers will remain uninsured. It is estimated that 50% of farmworkers are undocumented. Undocumented individuals are completely excluded from the ACA. They remain ineligible for Medicaid and are not allowed to purchase health insurance in the marketplace, even if they want to pay the full cost of health insurance coverage. Individuals who receive Deferred Action for Childhood Arrivals (DACA) status are also excluded from the ACA because the ACA definition for lawful presence does not apply to the current DACA status.

Also, some farmworkers who work for large growers may not be offered health insurance by their employers because some growers may use a seasonal worker exemption that releases them from the requirement that large employers offer health insurance coverage to their full-time employees.

Farmworker Justice has been working with advocacy organizations across the country to ensure that farmworker concerns are considered as the ACA moves towards full implementation. Recently, Farmworker Justice submitted comments to the Department of Health and Human Services (HHS) on the single streamlined application process that will be used for enrollment in Medicaid and other health insurance programs. In our comments, we recommended ways that the application can be more immigrant-friendly and suggested improvements to the application's income section to better reflect farmworker wages.

We also submitted comments to the Department of Treasury expressing our concerns over their treatment of seasonal workers under the employer shared responsibility provision, which is the ACA regulation that mandates that large employers offer health insurance to their full-time employees.

In 2014 and beyond, community and migrant health centers will continue to be the best way for many farmworkers and their families to access primary healthcare. A path to citizenship, a central tenant of comprehensive immigration reform, is an important first step towards ensuring full access to healthcare for our nation's farmworkers and their families. But more needs to be done to ensure that farmworkers' unique barriers to healthcare are addressed by the ACA.

Farmworkers and their families deserve access to affordable health insurance. Policymakers need to ensure that all aspects of the ACA, from the application process to access to healthcare, are responsive to the needs of farmworkers and their families. As the country gets ready for full implementation, Farmworker Justice will make sure that farmworker communities are knowledgeable and ready for the changes that take place just less than nine months from now.

FARMWORKER JUSTICE

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COMING SOON...

**EXPOSED AND IGNORED:
How Pesticides Are Endangering
Our Nation's Farmworkers**



Our new report describes the huge
negative impact of agricultural pesticides
on farmworkers and their families and recommends

approaches to reduce the unacceptably high rate of
pesticide-related injuries, illnesses, and deaths.
These recommendations focus on steps the EPA
and the federal government can take to ensure that
farmworkers and their families understand the
dangers they are exposed to and how to avoid injury.

Many of the hundreds of thousands of farmworkers
in this country cannot avoid regular exposure to the
estimated 5.1 billion pounds of pesticides applied to
crops each year in this country. Every year, thou-
sands of farmworkers experience the effects of
acute pesticide poisoning.

**Sign up online to receive email updates from
Farmworker Justice and we will notify you when
this report is released.**