40 Years of Migrant Health

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Agricultural labor demands are, by their nature, dependant the timing of the harvest. Traditionally, these labor demands met by the yeoman farmer, his family, and if necessary, hired hands from the surrounding community. Crops were diverse, multiple harvests were common, and small, permanent labor force adequately supplemented the labor of th farmer and his family. However as the traditic of the yeoman farmer gave way to large-scale agribusiness, and as crop diversity gave way to crop specialization, multiple harvests gave way to singular harvests. N(labor demands typically peak for the singl harvest of singl crop in single region. A permanent labor force is longer necessary Rather United States agriculture depends largely migratory, seasonal labor force—and has since before the turn of the 20th century

Despite this primary role in the production of food—the source of health—migrant farmworkers have been consistently relegated to secondary status. Inadequate protecti against wage and child labor exploitation, hazardous working conditions, and poor access to education, elfare, and health care have contributed to this secondary status. and have had detrimental effect their health. However, programs emerged in the late 950s and early 960s that began to address the health and educational needs of migrant farmworkers. This paper examines the nature of migratory farm labor, the health status of migrant farmworkers, and their demographic makeup. It presents history of migrant farm labor in th United States, Federal public health responses, and, specifically, the development of the Migrant Health Program. Following review of current Federal legislative protections for migran farmworkers, argues that th inadequacy of these protections undermines the progress of th Migrant Health Program.

Presently, temporary farmworkers are used to meet the seasonal harvest needs of agriculture in the United States. These farmworkers are divided into two basic categories, seasonal and migratory. As the name implies, migratory farmworkers are those that must travel to gain employment. They usually begin in southern home base areas, and follow the harvest season as it moves North. Tracking their migration patterns, three distinct "migrant streams" emerge: one each in the West, the Midwest and along the Eastern seaboard. on the On the other hand, seasonal farmworkers do not travel, though their employment is dependent on seasonal harvests. Migrant and seasonal farmworkers can further be categorized by their resident status and authorization to work in the United States. Many are legal residents, i.e., domestic, but the vast majority have long been illegal and unauthorized to work in the United States. Relatively few are and have been legally imported through foreign temporary worker programs. Most farmworkers are chronically underemployed, and most are poor.

Given the travel that is characteristic to migrant farm labor, the size and demographic composition of the migrant farmworker population is difficult to estimate. Few nationwide studies on farmworkers exist. One study, the *Migrant Enumeration Project*, offers population estimates for migrant and seasonal farmworkers and their dependents by county, state, and crop. The Department of Labor's *National Agricultural Workers Survey* (NAWS) offers demographic data relevant to all farmworkers, yet offers little data exclusive to migrants. Another nationwide study, the *Profile of Hired Farmworkers*, was conducted by the Economic Research Service (ERS) of the Department of Agriculture. Like the NAWS, it discusses demographics relevant to all hired farmworkers, and offers little data specific to migrants.

The size of the migrant population has been difficult to estimate. The 1993 *Migrant Enumeration Project* estimates a total of 3,038,644 migrant and seasonal farmworkers, including dependents (11). Migrants were defined as "anyone who, while employed in seasonal agriculture...cannot return to his or her normal residence at night" (2). The NAWS, while not offering a total of hired or migrant farmworkers, estimates that 56% of all hired farmworkers had to migrate—travel more than 75 miles—to stay employed (19). The ERS *Profile* estimates that about 12 percent of the hired farm labor force—105,000—are migrants (1). In light of the NAWS and Enumeration studies, however, this figure would seem a little low. One 1958 estimate, stating that there were "1 ¼ million migrant laborers employed in agriculture in the United States," supports this idea (Robinson, 851). Unlike the Enumeration Project, which bases its estimates on migrants and their families, the NAWS and ERS studies neglect to account for child labor. The Human Rights Watch cites a United Farm Workers (UFW) estimate of 800,000 children working in agriculture (10).

Unauthorized or undocumented farmworkers represent another significant segment of the hired farmworker population. The United States General Accounting Office (GAO) estimated in 1997 that there were 600,000 illegal immigrants working in agriculture (5). While the ERS *Profile* admitted that such an estimate is "nearly impossible," it did guess that, depending on the region, they may constitute 34 to 70% of hired farmworkers (1). The NAWS estimated that 52% of all hired farmworkers lacked authorization. As illegal immigrants, they flood the labor market and are often willing to work for less under worse conditions than documented, authorized, and domestic laborers. Their presence in the farm labor market gives farm employers little incentive to raise wages and improve working conditions.

While the demographic data they offer is relevant to all hired farmworkers—including migrants—neither study offers data specific to migrants. Despite this, as migrants make up a significant portion of all hired farmworkers, it is reasonable to assert that data relevant to all hired farmworkers is also relevant to migrant farmworkers. Unlike their population estimates, the NAWS and ERS *Profile* generally agree on the demographic composition of hired farmworkers. The majority of the hired farm labor force is male (80%), and younger than 35 (69%) (NAWS, 9). 81% of all farmworkers are foreign born, with 77% having been born in Mexico (NAWS, 5). Considering this, it's not surprising that 84% of all farmworkers spoke Spanish as their native language. Only 10% of foreign-born farmworkers were able to read or speak English fluently while most hired farmworkers (85%) had less than 12 years of education (NAWS 13).

Compared to all U.S. labor, hired farmworkers are poorly paid, and most live below the poverty level (NAWS 39). 12% did not earn the minimum wage, and real wages—adjusted for inflation—have dropped by 80 cents over the last 10 years (NAWS, 33-34). Despite this, relatively few hired farmworkers receive federal assistance. According to NAWS, in 1997-1998, only 13% of all farmworkers used Medicaid, while only 10% of farmworker families used WIC or food stamps (41).

Migrant farmworkers suffer from respiratory infections, infectious diseases, poisoning, traumatic injuries, and malnutrition far more often than the rest of the United States, and consequently, have a much poorer health status. Although migrant farmworkers face a variety of health threats, among the more pressing are HIV, tuberculosis, dental health,

mental health, and the variety of health conditions related to occupational health. Preventive care is rare for migrants, and the myriad barriers to care only worsen their health status.

The risk of HIV infection for farmworkers is rising (NCFH Basic Health). This is due to a variety of causes, occupational and cultural. Migrant farmworkers may have a rather poor understanding of HIV, its effect on health, and how it is transmitted. In a recent paper, Edgar Leon cited a Georgia survey that found 25% of participants were not aware that HIV could be transmitted through heterosexual intercourse. The same survey found that over a third of those surveyed were not aware that AIDS is fatal.

Although not typically a health concern for most of the United States, tuberculosis is an all-too-common threat to migrant farmworkers' health. According to the National Center for Farmworker Health, the CDC recently conducted a study wherein 44% of the farmworkers screened tested showed positive for tuberculosis. The results from another CDC study "suggest[ed] a six-fold greater risk of TB in farmworkers than in the general population" (Villarejo, 627). Other estimates place the relative risk much higher, claiming farmworkers are 20 times more likely to be infected than the general population. This enhanced risk is partially due to the poor, damp, and crowded housing many migrants are subject to (Leon, 5).

Dental care is often overlooked as an important health issue for migrant farmworkers. The Dever study revealed dental disease to be the number one health problem for migrant farmworkers aged ten to fourteen, and for males aged 15 to 19 (2). Migrant farmworkers are twice as likely as the general population to suffer from dental problems, typically due to lack of care. While migrant farmworkers typically practice adequate oral hygiene, access to care

is lacking. This lack of access is largely due to costs and the scarcity of dentists practicing in rural areas.

Another commonly overlooked area of health for migrant farmworkers is mental health. Depression and anxiety are often a result of separation from family and culture, long work hours, and the stress of travel. Additional contributing factors include poverty, poor housing, geographic, social and emotional isolation, and the unpredictable nature of migrant life (Hovey, 19). To cope with these problems, migrants may turn to drug and alcohol abuse. In addition to ultimately making the depression or anxiety worse, this behavior also contributes to a dangerous workplace (Hovey, 21-22).

Agriculture is one of the most dangerous occupations in the country, and many of the common health problems affecting migrant farmworkers can be attributed to their employment in the fields. Agricultural labor typically requires heavy lifting and repetitive movements, which often lead to back pain and other musculoskeletal complaints. However, migrants face a variety of dangers that are not inherent to agricultural labor and pose a significant risk to their health. In addition to insufficient, crowded and unsanitary housing, toilet facilities and clean water are often not available in the field or at home. According to the NAWS, “sixteen percent reported not having water with which to wash and 13 percent reported that toilets were not available while at work” (37). This may contribute to the relatively high rate of urinary tract infections amongst farmworkers—three to five times more often than the general population (NCFH, Basic Health). And, despite legislative protections, farmworkers are still commonly exposed to pesticides. According to the NCFH, “farmworkers suffer from the highest rate of toxic chemical injuries of any group of workers in the United States” (Basic Health).

Migrant farmworkers face multiple barriers preventing them from accessing adequate health care. Language, culture and migrant lifestyle, and geographic isolation all collude to make accessing health care a difficult task (Leon 2, Lukes 135). As most farmworkers are foreign-born and very few are able to speak English, they experience social isolation from nearby communities, and often have difficulty relating to and communicating with staff at health facilities (Villarejo 614, Slesinger, 1). However, these barriers are only an issue if the migrant is able to reach the clinic. Most migrants work in rural areas, often far removed from health services. This distance makes obtaining care difficult. Additionally, health services are often only available during the hours when most migrants are working. Few are willing or able to leave work to seek out medical care.

Of course, cost is an issue. The high cost of services prevents many migrants from seeking medical care (Leon 3). Although the income of most farmworkers is low enough to qualify for Medicaid and other social services, strict state residency requirements preclude them from eligibility (GAO, 1)). Each state possesses its own Medicaid bureaucracy—its own billing procedures, eligibility requirements, and budget limitations. Consequently, Medicaid benefits are not transferable between states. Only one state, Wisconsin, accepts out-of-state Medicaid cards from migrant farmworkers (Arendale, 16). Relatively few states require workers' compensation insurance for farmworkers, and only a minor percentage of farmworkers have health insurance (Villarejo, 619; GAO, 11).

Early in our nation's history, agriculture and the small family farmer were considered essential components of democracy. This ideal is illustrated in the notion of the Jeffersonian yeoman farmer—the independent farmer, working his own land, free from the "taint" of slavery.[1] This ideal was also reflected in the debates surrounding the passage of the

Homestead Act of 1862. As agricultural economist Philip Martin cites, its intent was to create in the family farm "a new republic within the old, and adding a new and strong pillar to the edifice of the state."[2]

Small farmers—except in the slave-dependent South—relied on family, locally hired hands, or neighbors to meet the seasonal labor demands of agriculture. As these farming enterprises were usually small and diversified, there was little need to look elsewhere for additional labor sources.[3] Hired labor often only worked long enough to purchase land and gain economic independence. These farmworkers typically came from similar backgrounds as their employers, and as such, held similar values regarding the farming economy—low wages and high prices.[4] However, as crop production grew larger and more specialized, labor was required on a much more seasonal basis.[5] This had long been the case in the South. The seasonal need there was met by slaves, and after the Civil War, by former slaves, Native Americans and poor Anglos.[6]

As farming productions grew larger and larger, they absorbed the smaller farms that were once the economic backbone for rural communities. Small rural communities died out, migration from rural to urban areas increased, and the labor supply needed for these large and specialized farming productions was no longer locally available. On the one hand, the need for seasonal labor was extenuated by the introduction of new machinery, farming methods, and herbicides. On the other, however, these advances increased the cost of farming, which necessitated even larger productions, which, in turn, led to an increased dependence on seasonal, manual labor. Advancements in transportation only exacerbated the situation. Better roads and refrigeration in transportation allowed farming productions to operate in

even greater isolation from domestic labor supplies, thus increasing the demand for a temporary and migratory seasonal labor force.[7]

Immigrants were particularly desired to meet these demands. Even in the 1850s, employment agencies were sending Finnish immigrants to Massachusetts, and "padrones brought gangs of Italians to replace the local farm families and millhands."[8] From wherever they originated, immigrants, especially those with large families, were considered better suited for agricultural labor than native-born Americans. Along the East Coast, former slaves and poor Anglos joined immigrants as part of the seasonal migrant labor force.[9] In contrast, farmers in California preferred immigrants from China, Japan, and Mexico to those from Europe, arguing, as Martin cites, "crouching and bending operations must be performed in climatic conditions in which the Orientals and the Mexicans are adapted."[10] These immigrants were hired without any particular guidance or supervision, and "were brought in without adequate guarantees as to employment, housing, sanitary conditions, and wages."[11]

Clearly, this increasing dependence on migratory labor was contradictory to the ideal of the yeoman farmer.[12] However, as our nation's cities grew and our industrial base expanded, large-scale commercial agriculture became an economic necessity, and with it, a labor force suited to its needs.[13] Out of concern for the state of agriculture, Theodore Roosevelt appointed the Country Life Commission in 1908.[14] Its report, issued the following year, made recommendations that sought to increase commercial production while establishing a permanent, native-born labor force.[15] These recommendations were not well received, however, and did little to address the rural-to-urban migration that made the migratory labor force an economic necessity.[16] With the United States' entrance into World

War I, commercial agriculture developed an even greater dependence on seasonal migratory labor.[17]

The United States entered World War I on April 6, 1917, responding to German submarine attacks and breaking its long-held position of neutrality.[18] The war effort diverted domestic labor supplies to the military and industrial production, while declining wages and underemployment made agricultural jobs less than desirable.[19] War time food demands led to a need for increased agricultural production, yet there was not enough labor to meet production demands. Arguing that food production was essential to the war effort, farmers in the United States called on the Federal government to alleviate their labor woes.[20] In response, a wartime labor importation program was instituted by the Immigration and Nationality Act of 1917 (INA). Its passage established the legal basis for the importation of Mexican laborers.[21] In May 1917, the Department of Labor lifted the restrictions imposed by the INA—like the head tax and literacy requirement—provided the imported labor would be used for agricultural work.[22] This program continued until well after the War's end in 1918, and by the program's end in 1921, roughly 73,000 Mexican laborers had been imported.[23] An additional labor source sprung from Puerto Rico, whose residents were made United States citizens in 1917. In addition to their contribution to the war effort, many Puerto Ricans became seasonal migrants working in local sugar beet fields in the winter, then migrating to mainland farms during the summer.[24]

Following the war, agriculture continued production at wartime levels. However, absent the wartime demand, crop prices plummeted, and the need for cheap labor intensified.[25] Mexican laborers were thus highly desirable, and immigration from Mexico increased.[26] While farmers, "local chambers of commerce, economic development associations, and state

farm bureaus" worked to ease Mexican immigration quotas, other organizations—such as the American Federation of Labor—sought to restrict them.[27] In the meantime, supplies of domestic agricultural labor in the South dropped as African American and White sharecroppers and tenant farmers migrated elsewhere.[28]

The dreary agricultural economy grew even worse with the onset of the Great Depression.[29] Foreign demand for U.S. agricultural exports plummeted, and prices dropped even further than they had in the 1920s.[30] Although the decline in industrial, non-farm job opportunities freed up domestic labor supplies for agriculture,[31] few domestic laborers would work for the low wages agriculture offered. Consequently, farmers continued to rely on Mexican migrant labor.[32]

Despite this, the Depression gave those wishing to limit Mexican immigration the political ammunition they needed. In an effort to open up jobs to native-born citizens, the Immigration and Naturalization Service cooperated with local authorities to deport Mexican immigrants and Mexican-American citizens by the thousands. In all, over 400,000 "repatriados" were deported. For those not deported, "the threat of unemployment, deportation, and loss of relief payments" compelled many Mexican Americans to leave voluntarily.[33] In response, the Mexican Government passed the Mexican Federal Labor Law in 1931 and established "regulations governing the migration of Mexican workers…[and] outlined these workers rights, including compensation for injuries or illnesses and the guarantee of return transportation for workers given contracts for employment outside the country."[34]

If domestic agricultural labor was initially reluctant to fill the migratory labor niche, they were left with little choice following droughts in 1930 and 1934-1936. Over-farming and

poor soil management combined with the drought conditions to create vast dust storms that devastated the lower Great Plains.[35] The region hit with these conditions came to be called the Dust Bowl, and it included Oklahoma, Kansas, Nebraska, Colorado, New Mexico and Texas.[36] Farmers in these areas were soon displaced, giving way to the tough economy, dusty conditions and land foreclosures. They became the new migrants, traveling to California and other regions in search of work and sustenance.[37] Government programs designed to take land out of production, and thus raise crop prices, contributed to this migration. Tenant farmers and share croppers found themselves without land to work, and they followed those hit by the Dust Bowl on the journey westward.[38] The policies hit African American share-croppers and tenant farmers particularly hard, displacing over 100,000 in 1933 and 1934.[39] While the Dust Bowl forced many Anglo farmers into the migrant labor force, Mexican and other "non-white" laborers were still present in significant numbers.[40]

The strains of the Depression pitted laborers of all kinds against their employers. As laborers sought to protect their right to unionize and collectively bargain for wages, employers often responded with violence. As Teamsters, employers and police violently clashed,[41] so did farmworkers and growers associations.[42] In 1940, the U.S. Senate Committee on Education and Labor—the LaFollette Commission—was formed to investigate these disputes .[43] The Commission published its results in 1942, and recognized the existence of farm and bank controlled organizations created to control the labor market, ensure an oversupply of labor, interfere with attempts to unionize, and exert political pressure to exclude farmworkers from the National Labor Relations Act of 1935.[44]

This Act, also known as the Wagner Act, granted workers the right to organize unions and collectively bargain for wages. It also protected the right to abstain from union activity.

To enforce its provisions the National Labor Relations Board was subsequently created. While it covered most industries involved in interstate commerce, farmworkers were conspicuously left unprotected.[45] So, while the general labor force found security in this act and other New Deal provisions, migrant farmworkers were denied the right to unionize, Social Security benefits, and workers' compensation protection.[46] As historian Charles Wollenberg writes, "The New Deal was primarily a political response to the Depression, and unlike farm employers, the migrants had little political clout."[47]

While migrant farmworkers were excluded from the bulk of New Deal relief programs, they were not wholly forgotten. Several relief efforts initially directed towards farmers eventually led to migrant-specific programs. As part of the general relief effort, federal funds were distributed to states to provide financial and work relief to their citizens. All such relief was directed by the Federal Emergency Relief Administration, created in 1933. A portion of these funds were directed towards rural relief, to be administered by individual State Rural Rehabilitation Corporations.[48] The Resettlement Administration took over the rural rehabilitation program in 1936, changing its name to the Farm Security Administration the following year.[49] For simplicity's sake, these relief agencies will hereinafter be referred to as the Farm Security Administration (FSA).

As part of its relief efforts, the FSA provided carefully planned loans for the purchase of land and equipment, and encouraged participation in cooperative buying associations "to help smaller and poorer producers compete in the agricultural marketplace."[50] However farmers were often unable to repay these loans, and defaults were usually attributed to poor health.[51] To protect its loans, the FSA developed a health program modeled after their cooperative buying associations.[52]

The health cooperatives, established in 1936, were budgeted from portions of participants' FSA loans. Local participating physicians withdrew their service fees from the cooperatives, and, when the cooperatives were overdrawn, service fees were paid on a prorated basis.[53] Participation by loan recipients was voluntary, and those that did were free to choose from among the participating physicians.[54] The cooperatives were managed by a member-elected committee, while a committee of participating physicians deliberated on medical issues.[55] By June of 1936 eight cooperatives had been established, expanding three years later to include dental services. By this time, cooperatives were operating in 519 counties in 25 states. By 1942, cooperatives had been established in 1,141 counties, in 41 states, with over 615,000 members.[56] While this program adequately served the health needs of family farmers, it did little to address those of migrant workers. A pre-paid, cooperative program would be difficult, if not impossible, to administer to such a mobile population.[57] To meet the needs of migrants, the FSA devised a plan to provide health services centered around their labor camps.[58]

In 1935, the FSA took over two migrant farm labor camps originally constructed by California's state rural relief administration[59]. These camps were constructed as "complete communities, not merely...temporary housing and sanitary facilities."[60] Small health clinics were built into each of the FSA labor camps, with "an outreach nurse...at each camp to hold daily sick call and to teach people how to improve and maintain their health."[61] Local physicians, recruited into the program by FSA camp managers, received patients on a referral basis while holding a regular schedule of on-site hours during the night.[62] In addition, provisions were made for hospitalization, prescription drugs, and limited dental services.[63]

To pay for these services, the FSA developed in 1938 what former Migrant Health Program director Helen Johnston called, "The best integrated nationwide health effort ever undertaken on behalf of migrants."[64] This effort was the Agricultural Workers Health and Medical Associations (AWHA), a group of non-profit corporations entirely funded by the FSA. Much like the health cooperatives for FSA loan recipients, physicians' fees were drawn from AWHA treasuries. Unlike the cooperatives, however, AWHA funds were paid directly by the FSA, not from FSA loans.[65]

Ultimately, six associations were established, headquartered in Philadelphia, Atlanta, Chicago, College Station (Texas), Portland, and Berkeley. They were expanded to include foreign-born imported workers in 1943, and services continued through the duration of World War II.[66] In 1944, the War Food Administration's Office of Labor assumed control of FSA's labor camps, and its program for the provision of medical services to migrant farmworkers. Subsequently, medical staff from the Public Health Service were assigned to "administer the health aspects of the program."[67] The programs received continued funding until the passage of P.L. 731 in 1946, which mandated the closure of the camps "within six months of the end of hostilities." By 1947, any remaining camps were sold. Meanwhile, the FSA's name changed to the Farm Home Administration, and its "activities in the health field were almost completely eliminated."[68]

When the United States entered World War II industrial and agricultural production increased, and much of the nation's human resources were diverted to the military. While this resulted in a labor shortage on the home front, it paved the way for new segments of the population, namely women and minorities, to join the work force. Despite this, agriculture suffered a labor shortage as better wages and benefits were found in military and industrial

employment. Similar to their experiences World War commercial farmers faced high demand for their products, and they without sufficient labor to produce them' T alleviate this shortage, the United States looked to Mexico and elsewhere to fill the labor void[70]

T- programs initiated to meet the agricultural labor shortage. One program imported farm laborers from the Bahamas, Jamaica, Barbados and other islands in the British West Indies Not surprisingly. this program was named the British West Indies (BWI) program, and authorized 943. Another, much larger program imported laborers from Mexico. This the Bracero Program, the result of cooperati agreement finalized in 943 between the United States and Mexi

Initially, the Mexican Government reluctant to participate the program. Memories of discriminati and deportations were still fresh, and the Mexican Government had littl political incentive, at least domestically to participate. The government' hand pushed, however by the large number of Mexican laborers illegally entering the United States. In attempt to control this unchecked immigration, the Mexican Government relented to the United States pressure for agreement. In ts provision of farm labor Mexi saw itself "as part of democratic alliance to keep the world free from authoritarianism.

Although originally devised to meet World W II shortages, the Bracero Program itinued until 964 under variety of legislative authorities, ultimately employing million Mexican laborers. The initial "Bracero Agreement" was signed in July 942, with subsequent in August 942 and April 943 [76] Following its expiration 946, Mexican laborers were imported under the auspices of the Immigration and Nationality Act (INA)—originally established to meet Worl W shortages. In 95 the Bracero

Program was renewed under P.L. 78, this time to meet expected shortages resulting from the Korean War.[78] In 1952, the H-2 program was established via a revision to the INA. This program paralleled the Bracero Program, though farm employers were required to certify a labor shortage with the Department of Labor before they could import workers. Following the termination of the Bracero Program in 1964, farm employers turned to the H-2 program for their labor needs. This program—now the H-2A program—continues today.[79]

In writing the original agreement, Mexico used what political leverage it had to guarantee that its workers would be well taken care of. The provisions of this agreement included a guaranteed minimum wage with an unemployment stipend, a guarantee of free, clean and adequate housing, and access to the same medical services made available to domestic laborers. It also prohibited labor by those under 14, while guaranteeing the provision of educational opportunities equal to those made available to domestic farm laborers. Additional provisions of the agreement included guaranteed transportation of the laborer and personal belongings to and from the worksite, and paid living expenses while in-transit. The tenets of this provision were to be guaranteed by the Employer, at this time the federal government of the United States. By 1948, however, the U.S. abandoned its role as the employer, passing the responsibility to the Bracero importer.[80] While this agreement was written explicitly to govern the importation and employment of Mexican farm laborers, the "fundamental principles" of this agreement were to apply to all Mexican laborers working in the United States.[81]

During the original wartime agreement, if Braceros were provided health services, it was under the aegis of the Agricultural Workers Health Association.[82] Beyond this, official provision of medical services was limited to the inspections at the Mexico

City selection center.[83] After 1944, this migratory center was moved to Irapuato, while additional centers were set up at various points in the Mexican interior. The Mexican government made it a point to establish these centers far from the border, in hopes of promoting legal immigration from its interior and limiting illegal immigration at the border[84]

Following the passage of the P.L. 78 in 1951, the importation of Mexican laborers grew substantially, and subsequently, the screening process changed. The "selection" centers were now "migratory" centers, while the United States established "reception" centers at various points along the border. "Each migratory center recruits the laborers in accordance with requests received from the reception centers."[85] The examination in the Mexican migratory centers was primarily a screening process, designed to save the worker the hassle of traveling to the border only to be rejected by the PHS officials there. Those diagnosed with tuberculosis or venereal disease were rejected while those that passed were vaccinated against smallpox at the expense of the United States Labor Program. Those that pass this initial screening are sent by bus or rail to the reception centers at the border. At these reception centers, PHS personnel conduct their examination, which at this time included a chest X-ray and an inspection "for other physical conditions which would be contagious or make the laborer unfit for agricultural work."[86] Those workers infected with venereal disease were treated, if possible, and allowed to work. Those infected with tuberculosis were sent back to the reception centers via the local Mexican consulate. Additionally, potential laborers were dusted or sprayed with a variety of insecticides including DDT, pyrethrum and lindane. This procedure was intended to control pediculosis, or

lice infestation, a potential source of typhus.[87] Emergency medical care was provided free of cost to laborers who had become ill while en route to the reception centers, including, if necessary, hospitalization costs.[88] However, "after the Mexican laborer has been contracted and leaves the reception center, the employer is responsible for providing medical care."[89] Of course, inspection efforts were frustrated by illegal immigrants, and illegal immigrants had no guaranteed provision for health care.[90]

Towards the end of World War II, illegal immigration into the United States exploded, even as the U.S. government increased the number of contracts available[91]. In 1944, 29,000 Mexicans entered the United States illegally. Only six years later, the number skyrocketed to 565,000.[92] Between 1947 and 1949, 142,000 illegal immigrants were granted legal working status in the United States, effectively encouraging illegal immigration and making any protections guaranteed under the Bracero Agreement worthless[93]. This flow of illegal immigration, at times facilitated and even encouraged by the United States, undermined any attempts by the Mexican Government to protect their workers.

Incidents in 1948 and 1954 illustrate the United States' inconsistent and somewhat duplicitous enforcement of the border. Those Mexican workers not able to obtain an official Bracero contract often congregated at the border, waiting for an opportunity, legal or illegal, to immigrate. In 1948, at the behest of United States growers, thousands of Mexican laborers were illegally herded across the border by the United States Border Patrol and immediately offered legal contracts to work. For Mexico, this meant an unregulated loss of its own manpower, and reflected its inability to protects its workers. The Mexican Government denounced this as a violation of the agreement, and the United States eventually apologized[94]. A similar incident occurred in 1954, however, this time with the explicit

consent of the Departments of Labor, Justice, and State. They issued a joint statement offering legal work contracts for immigrants crossing the border.[95] As thousands of Mexican laborers congregated at the border, the Mexican government deployed troops to prevent the exodus. Riots ensued as the U.S. Border Patrol opened the gates. Mexican laborers rushed the border at the encouragement of the Border Patrol while Mexican troops attempted to beat them back. Adding to the chaos were immigrants who had already illegally immigrated, but under the advisement of the Border Patrol, briefly stepped over the border and back to legalize their working status under the new provision.[96] Despite this apparent approval of illegal immigration, the Immigration and Naturalization Service (INS) and the United States Border Patrol initiated a program to stop illegal immigration in July of that same year.

Reminiscent of the deportations of the early 1930s, "Operation Wetback" was a coordinated effort between the INS, the U.S. Border Patrol, and local authorities.[97] Although the operation was ostensibly directed at illegal immigrants, "Mexican-looking" citizens were commonly targeted. In any case, children born of illegal immigrants in the United States—thus citizens—were deported along with their parents.[98] By the fall, limited INS funds ended the program, and the INS claimed to have deported more than 1 million illegal immigrants.[99]

The Bracero Program has long been controversial. Recent controversy has arisen regarding missing pension funds. While employed under the original Bracero Agreement, 10% of the Bracero's wages were set aside in a savings account, to be accessed upon the laborer's return to Mexico. The United States assumed responsibility for ensuring the funds were transferred to Mexican banks, while the Mexican banks were to ensure the money was returned to the Braceros. In an attempt to recover these lost funds, several Braceros have

filed a class action lawsuit "against the United States, Mexico, Wells Fargo bank, and three Mexican-government-owned banks."[100]

An additional issue surrounds the veracity of a labor shortage at all. Little evidence is available to support the claim of an agricultural labor shortage. Rather, there was an absence of the labor surplus that ensured low wages and poor working conditions.[101] In fact, even at the peak of the wartime Bracero program (1944), fewer than 63,000 workers were imported, constituting less than 3% of the overall farm labor force.[102] However, the number of imported workers jumped considerably after the war. Following a brief lull in 1947 and 1948, 107,000 Braceros were imported in 1949.[103]

During the 1950s, two Committees were established to investigate various aspects of domestic and foreign migratory labor. The first one was established on June 30, 1950 by Truman's Executive Order 10129. Primarily an investigative Committee, it disbanded sixty days following the publication of its report in March, 1951.[104] The second Committee was established by Eisenhower in 1954 and, although "the exact date that activity ceased...has not been ascertained," it appears to have lasted until 1962.[105]

Truman's Committee was created just as the United States prepared for military action in Korea. It was composed of citizens from the private sector, including several professors, an economist from Washington, D.C., and an Archbishop from San Antonio.[106] It examined agriculture's reliance on foreign farmworkers, their effect on domestic wages, and, in light of the Korean War, future demand. In addition, it was specifically directed to investigate "social, economic, health, and educational conditions among migratory farmworkers."[107]

The Committee concluded that the introduction of foreign farmworkers depressed domestic wages. Foreign workers created an oversupply of labor, undermining the power of

the domestic laborer to ask for increased wages and improved working conditions. Should the domestic laborer withdraw its services, the resulting void was easily filled with legal and illegal foreign workers.[108] The Committee condemned U.S. agriculture's dependence on migratory labor, writing:

> We have used the institutions of government to procure alien labor willing to work under obsolete and backward conditions and thus to perpetuate those very conditions. This not only entrenches a bad system, it expands it. We have not only undermined the standards of employment for migratory farm workers, we have impaired the economic and social position of the family farm operator[109]

As the Committee's report continued, it recognized a social isolation specific to migrants. Migrants are at once needed desperately by a farmer ready for harvest and despised by the community whose economy depends on their labor. As the Committee wrote, "As the crops ripen, farmers anxiously await their coming; as the harvest closes, the community, with equal anxiety, awaits their going."[110] This isolation from the community created social barriers inhibiting migrants' access to social, health, and educational services.[111] This isolation, the Committee concluded, is commonly heightened by the introduction of the labor contractor. When a contractor arranges employment, the migrants are made invisible to the farm employers eyes and their needs easily ignored. This arrangement also leads to lower wages for the migrant. The farmer pays the contractor, who then pays the migrants. The contractor then charges the migrants for room, board, and travel expenses.[112]

The Committee expressed doubts on the need for foreign workers, and recommended that no additional provisions be made for their importation.[113] Perhaps most significantly to migrants, it recommended the extension of Social Security benefits, a minimum wage and unemployment insurance, and that "no person be denied medical care because of the lack of legal residence status."[114] To oversee the implementation of these recommendations, the

Committee suggested the creation of a permanent "Federal Committee on Migratory Farm Labor."[115] The Committee's recommendations, however, were largely ignored. In 1951, Congress passed P.L. 78 and in 1952, amended it to increase the number of foreign workers imported and extend their contracts for up to three years.[116]

Eisenhower's Committee was much more successful. This Committee originally consisted of five members, the Secretaries of Labor, Agriculture, Interior, and Health, Education and Welfare, and the Administrator of the Housing and Home Finance Agency.[117] Additionally, a Working Group of about 28 assistants provided support as its "planning, coordinating, and reviewing body."[118] Its purpose was to determine the needs of migrant farmworkers and aid federal, state and local agencies in providing those needs.[119] While the idea of a comprehensive migrant health insurance program had been suggested, it was deemed impracticable in light of financing and employment stability issues.[120] The committee was, however, responsible for some rather significant improvements for migrants. In 1955, it extended Social Security to all farm labor, including migrants, and coordinated the passage of federal farmworker transportation regulations two years later. In addition, it worked for a more efficient utilization of the domestic labor supply by promoting the Farm Placement Services "Annual Worker Plan."[121]

While both Presidents' Committees were indicative of an increased interest in migrant welfare, so were the activities of the Public Health Service (PHS).[122] Outside of its participation in the relatively short-lived Agricultural Workers' Health Associations, the PHS's activities on behalf of migrant farmworkers had been limited to the inspection and inoculation of foreign workers from the Bracero and BWI programs. [123]

Traditionally, the PHS provided services and preventative care on a community basis, and considered the health of the private individual outside its realm of responsibilities.[124] Little was done to address the primary care needs of individual migrant farmworkers. During the late 1940s and into the early 1950s, PHS activities relevant to migrants were largely program-specific. In addition to the inspection and inoculation of foreign workers, disease control programs focused on all migrant laborers as a "high risk" group, and "encouraged health departments to conduct tuberculosis and venereal disease casefinding on a regular basis."[125] Other activities included suggested labor camp and housing standards, and studies examining the health status of migrants. While the block grants the PHS provided States could have been used to address the primary care needs of migrants, very few States used these funds to provide such services.[126]

In the early 1950s, however, the Public Health Service began to expand its migrant-specific services. This trend would eventually result in the creation of the Migrant Health Unit, the pre-cursor to today's Migrant Health Program. The first step came in April 1952, when the Surgeon General created the Inter-Bureau Committee on Migrants. Its creation was, to some extent, a response to recommendations made by the 1951 President's Committee on Migratory Labor. However, recommendations by the Association of State and Territorial Health Officers (ASTHO) in the same year provided an additional "source of the general policy and framework" for the new Committee.[127]

The Committee's purpose was to investigate the health status and needs of migrant farmworkers, and clearly establish the PHS's role in meeting those needs.[128] It acknowledged the significance of social and economic factors in the health of agricultural migrants and considered their health problems similar to the problems of permanent rural residents.[129] To

that effect, the Committee established a goal to improve services in rural communities while improving migrant's access to those services, ultimately giving them "roots in a community." However, as this goal was not immediately achievable, the Committee suggested that existing services be adapted to the unique needs of migrants.[130] After 1952, the Committee expanded its membership to include more divisions of the PHS while expanding its duties. It became the PHS's voice on migrant health, the center for information collection and dissemination, and facilitated cooperation between organizations, including the ASTHO.[131] Out of this cooperation, the ASTHO and the Inter-Bureau Committee organized the East Cost Migrant Conference in 1954.[132]

This early conference brought together 200 representatives from public and private agencies serving the ten States of the East Coast migrant stream.[133] Its goal was to "develop ways to extend health, education, and welfare services to…migrants and their families through interstate and inter-agency cooperation."[134] Some general proposals arising out of the conference included calls to improve the exchange of information and resources amongst agencies and develop educational opportunities for adults and children. Additionally, the conference sought to insure equal access to all social services, including welfare, health, and education opportunities, regardless of residency status.[135] More specific proposals included the development of "long-range" patient education programs for adult migrants and their families; "in-service training" of those who work with migrants so they may understand the agricultural migrant's culture and lifestyle; adapted curriculum for migrant children, including school transfer cards similar to the portable health record also recommended; and the development of minimum housing standards.[136] In general, the Conference advocated the

notion that "Migrants should be included in expanding existing services rather than in separate services developed specifically for migrants."[137]

Shortly following the Conference, the Surgeon General dissolved the Inter-Bureau Committee on Migrants and assigned its duties to the PHS's Division of General Services. The Division developed a program to address the proposals and recommendations that arose from the conference, and worked with other Divisions of the PHS to address specific health issues.[138] To administer this new program, a Migrant Health Unit was created within the Division.[139] Its early work continued the work of the Inter-Bureau Committee that preceded it, collecting and disseminated information, and coordinating activities between organizations.[140]

One of the Migrant Health Unit's earliest accomplishments was its migrant-density map. At this time, most public health services were administered by individual counties. This map provided peak migrant population estimates for each county in the United States, drawing its data from estimates created by the Department of Labor's Farm Placement Service. By organizing the population data in this manner, the Migrant Health Unit was able to illustrate areas in greatest need of aid. "However, it should be noted that the map fails to show some of the important home areas of migrants—for example, areas of the Rio Grande Valley and Puerto Rico—to which migrants habitually return when farm work is not available."[141]

Another significant effort undertaken by the new Migrant Health Unit was the "Texas-Michigan Public Health Service Migrant Health Project."[142] The project was intended to demonstrate the Unit's ability to coordinate the efforts of two autonomous State agencies—in this case, the Michigan and Texas State Departments of Health—as they attempted to meet the health needs of migrant farmworkers. Begun in 1957, it was hoped that this project would

serve as a model for a larger and broader health delivery program to be coordinated by the Migrant Health Unit.[143]

The project centered on a study proposing to follow migrants from Laredo, Texas (a key home-base for migrants) to various points in Michigan. The goal was to identify the barriers to care they faced as they migrated, and to test the utility of permanent, portable health records. Over a series of clinic sessions in the spring of 1958, 29 families—141 participants in all—were ultimately selected to be monitored as they migrated to Michigan and sought out health services.[144] A clinic was established in Laredo to collect baseline health data for the workers. Each participant was examined, immunized if necessary, and given an individual, portable health record to take with them as they traveled.[145] Workers were notified of health services in Michigan, and through the Michigan State Department of Health, local public health officials there were advised to expect card-carrying migrants. Upon their return to Laredo, study participants were interviewed by a University of Texas sociologist.[146]

Interviews revealed an overall acceptance of the program by participating migrants. 25 of the 29 participating families were interviewed, and among these, 32 individuals "experienced some type of illness or accident during the 1958 migration cycle."[147] Some of these illnesses were cared for by physicians, while others—"folk illnesses" like "susto" or "ojo" were cured by the family matriarch.[148] In general, migrants were able to obtain necessary health care at a reasonable cost, and found the portable health records helpful.[149] Two-thirds of the records had been retained through the course of the cycle. Many migrants viewed the records as a health "passport" or simply as another form of identification similar to other forms necessary to life on the border.[150] While health care was reasonably accessible, many migrants complained of a lack of over-night rest camps and poor housing.[151]

While the Migrant Health Unit published its results from the Texas-Michigan Migrant Health Project, the Senate Sub-Committee on Migratory Labor had been working on a comprehensive omnibus bill to address a variety of migrant labor concerns. However, the bill generated a great deal of debate, and was not likely to become law. Rather than push the omnibus, the Sub-Committee planned to draft and present distinct aspects of the omnibus as individual bills.[152]

In early 1960, Chairman of the Sub-Committee Sen. Harrison Williams (D-NJ) met with members of the Western Governor's Conference to discuss potential aspects of a migrant health bill.[153] The group emphasized the need for a simple and flexible program, adapted to the needs of migrant workers, and focused on the provision of health services. The Conference recommended the Public Health Service be given authority to make grants available to health projects serving the domestic migrant population. This would allow funds to be pinpointed in areas of the greatest need while avoiding making migrants wards of the Federal Government.[154]

The bill passed both houses of Congress and was signed into law by President Kennedy in September 1962 as the Migrant Health Act. It amended the Public Health Service Act and authorized the Surgeon General to provide grants that pay the partial costs of establishing and maintaining migrant health clinics. Additionally, grants could be used to train clinic staff, and fund "special projects to improve health conditions for and the health conditions of domestic agricultural migrant workers and their families."[155] Each grant recipient was given a "reporting kit" which guided their annual progress report and became part of their application for the next year.[156]

Shortly after the bill's passage, the Migrant Health Unit became the Migrant Health Branch, and was charged with administering the new program.[157] The program had been authorized for three years, upon which its performance would be reviewed and additional funding levels would be considered. Its responsibilities were to allocate funds, facilitate inter-agency cooperation, disseminate information, and monitor the health status of migrant farmworkers.[158] Although Congress authorized $3 million each year for Fiscal Years ending June 1963, 1964, and 1965, only $750,000 was appropriated by May 1963. [159] By April 1963, the Program had already received 77 grant applications, 52 of which were approved. Grants were typically under $25,000 and directed towards high-impact counties serving more than 3,000 migrants during their peak.[160] Due to this rather minimal authorization of funds, the early migrant health projects were somewhat limited in scope.

In general, inpatient care was not possible, and most clinics depended on donated or borrowed space to provide their services.[161] Early efforts operated family clinics, providing an outpatient program of "early detection and care of illness or injury."[162] These clinics usually operated in the evening, outside of typical working hours and near large labor camps. They treated a variety of illnesses, including respiratory and ear infections, tuberculosis, nutritional problems, and prenatal care.[163] Migrants and ex-migrants were recruited to help the clinics build trust amongst the migrant population. Additionally, the clinics served as a conduit through which other local charities could provide services. "The Lions Club provided glasses for migrant children, the United Church Women recruited volunteers to help in night clinics, and migrants joined local people in preparing temporary clinic quarters."[164] Despite these early successes, the progress of many migrant health projects was hampered by the mobility of the migrants, cultural differences between clinic providers and patients, and the

poor housing and sanitation conditions at the labor camps themselves.[165] Initially, services were limited to domestic migrants. However, with the termination of the Bracero program in 1964, the term "domestic" was removed from the legislation and the program was made available to "all people coming to get care regardless of their point of origin." (Overview, 13-14).

Following a review and testimony by the American Public Health Association, funding for the Migrant Health Program was extended another 3 years.[166] Congress appropriated $7 million to the program for Fiscal Year 1966, with a one million dollar increase each year for the following two years. Additionally, hospitalization was added to the scope of services projects were authorized to provide. By 1969, 118 projects were in operation, serving 317 counties in 36 states and Puerto Rico (Memo Draft Report). Services further expanded in 1970, when seasonal farmworkers were made eligible for grant-assisted services.[167] Funding has increased each year as services continue to expand. In 1975, grants were authorized for the "acquisition and modernization of buildings," while the following appropriations bill (effective November, 1978) allowed for funding of "education and social services."[168]

Shortly after the Migrant Health Program began delivering grant and technical assistance to migrant health centers, two similar programs were developed to address other needs of the migrant community. By providing grant-based assistance to local and State agencies, the Migrant Education Program (MEP) and Migrant Head Start combine to ensure migrant children receive the same educational opportunities as those of non-migrants. Each was organized in 1965 under the Elementary and Secondary Education Act, but is run by different government agencies.[169]

The Migrant Education Program operates under the Office of Migrant Education, in the Department of Education. Its goal is to level the educational playing field by removing the barriers presented by the isolation, poverty, language and culture often associated with migrant farm labor.[170] It achieves this goal by providing grants to State Education Agencies (SEAs), who in turn design an educational program tailored to fit the unique needs of the migrant child. Working in tandem with the MEP, the High School Equivalency Program (HEP) and the College Assistance Migrant Program (CAMP) ensure that migrant children are able to pursue their education as far as they are willing. Each program provides grants to nonprofit agencies and educational institutions so they may design programs specifically suited for migrant students. While the HEP helps migrant students finish high school, the CAMP program follows up by paying for their first year of undergraduate study.[171]

While the programs of the Migrant Education Program provide for the elementary through post-secondary educational needs of migrant children, Migrant Head Start provides care for infants, toddlers, and pre-school children. Migrant Head Start operates under the Administration for Children and Families, and issues grants to nonprofit organizations and school systems to provide an early education program adapted for migrant children. Two types of centers are funded, those in the home base regions and those upstream in harvest areas. In addition to its educational program, Migrant Head Start provides a variety of health services, including "immunization, medical, dental and mental health and nutritional services." It provides services to over 30,000 children in 33 states.[172]

By the time these programs were established, migrant farmworkers had been an essential feature of United States agriculture for over 100 years. As the 1951 President' Committee on Migratory Labor recognizes, many committees were created, but little was actually

accomplished. The programs established in the early 1960s represented the first concrete efforts to improve the condition of migrant farmworkers, and were the result of an increased public awareness of migrant farmworkers and the conditions associated with their employment.

This awareness began with Edward R. Murrow's documentary, "Harvest of Shame." Aired on Thanksgiving Day, 1960, the documentary detailed the exploitation of migrant farmworkers by large agribusiness and highlighted their poor living and working conditions.[173] While this documentary may have awakened the nation's conscience to the existence of migrant farmworkers, it was the work of the farm labor movement that initiated change.

Although there had been several farm labor organizing efforts since the 1930s—including notable efforts Ernesto Galarza and the National Farm Labor Union—none had been able forge much progress against the powerful growers.[174] Things began to change, however, with the organizing efforts in the early 1960s. Two organizations, the Agricultural Workers Organizing Committee (AWOC) and the National Farm Workers Association (NFWA), led a series of successful strikes against growers in California and ultimately caught the attention of the Nation with their successful strike and boycott against California's grape growers.

AWOC had been created in 1959 by the AFL-CIO, and as such was relatively well-funded. They led two strikes, one each in 1961 and 1962, that were ultimately broken by workers from the Bracero program.[175] Consequently, much of their work in the early 1960s would be directed towards ending the Bracero program. Although the Bracero program was terminated in 1964, there were other programs—such as the H-2 program—that facilitated the importation of farmworkers from Mexico.[176] These programs, however, required that

imported farmworkers be paid an "adverse effect wage rate," or AWER. The AWER is the minimum wage necessary to protect the wages of domestic workers.[177] At that time, the AWER for imported workers was $1.40 an hour. Despite this, grape growers in California's Coachella Valley were only paying domestic workers $1.20 an hour. In the Spring of 1965, the AWOC led hundreds of farmworkers in a strike against the grape growers, demanding, along with union recognition, to be paid the adverse effect wage rate. As the harvest hung on the vines, waiting to be ruined, the growers relented. Although they refused to sign a union contract, they did agree to pay the workers the wage they demanded[178].

Meanwhile, the NFWA, founded by Cesar Chavez in 1962, had lead a strike of its own. In 1965, the NFWA led 85 farmworkers in a strike against a rose farm. They, too, demanded union recognition and to be paid the AWER, and, although they were unsuccessful in getting union recognition, they, too, won out on their wage demands[179].

The two unions, enjoying a taste of success, would collaborate later that year against grape growers in Delano, California. As the grape harvest moved northward, so did the farmworkers. Unlike the growers in the south, these growers refused to pay the AWER. Again, AWOC led a strike against 9 farms, demanding increased wages. After five days, the growers brought in Chicano scabs to break the strike. In response, the largely Filipino AWOC turns to the larger, Chicano-dominated NFWA to help with the strike. Taking the lead, the NFWA had encouraged strikes on additional farms, and by the end of the month, "several thousand workers" had walked out of more than 30 farms. Despite their increased organizing strength, the two unions had to rotate picket lines to cover the great distance that separated the farms. Still, the pickets were somewhat successful in persuading scabs to join the strike. The growers agreed to the increased wage rates, but, as before, refused to

recognize the unions. The unions, however, refused to drop the strike until all of their demands were met[180].

They turned up the pressure, and called for a national boycott of grapes not bearing the union's sticker. The boycott gained popular support from the civil rights movement, and began to threaten the profits of the larger grape producers. Eventually, the growers submitted, and the unions received official recognition from the largest grape growers in the area. However, the strike continued against the smaller farms in the area[181].

In the summer of 1966, the two unions merged into the United Farm Workers Organizing Committee (UFWOC), obtaining a charter from the AFL-CIO. The merger strengthens the strike, and "by 1970, the UFW got grape growers to accept union contracts and effectively organized most of that industry, claiming 50,000 dues paying members."[182]

While the UFW's efforts were concentrated in the West, another union emerged in the late 1960s to protect the farmworkers of the Midwest. The Farm Labor Organizing Committee was founded by Baldemar Velasquez in 1967, and was formally organized as a union in 1979.[183] In 1978, the organization led 2,300 farmworkers in Ohio in a strike against the Campbell Soup Company. A year later, they called for a national boycott of Campbell Soup products.[184] Efforts were organized in the home-base areas of Texas and Florida and continued northward in the harvest areas of Michigan and Ohio. In 1983, FLOC expanded the strike to include a subsidiary of Campbell's, Vlasic pickles.[185] Later that year, FLOC organized a 500-plus mile walk from Toledo, OH to Campbell's headquarters in Camden, NJ. In 1985, FLOC won a union contract at nine Vlasic pickle farms, incorporating an additional 3,100 workers into the FLOC. Finally, in 1988, he FLOC won their strike against the Campbell Soup Company.[186] The agreement brought together the food processor, the

grower, and the farmworker in a three-year contract that covered 800 workers. It set wages, provided a paid holiday, and included an experimental health insurance program.[187]

While the farm labor movement represented farmworkers' ability to protect themselves, several Federal laws have been passed to protect the health and welfare of migrant farmworkers. These provisions are largely concerned with protecting the migrant and seasonal farmworker from occupational hazards, poor housing, and exploitive work practices. The Fair Labor Standards Act (1938) and its subsequent revisions guarantee a minimum wage for agricultural farmworkers, while the Occupational Safety and Health Act (OSHA) of 1970 and the Environmental Protection Agency's (EPA) Worker Protection Standard (WPS) of 1992 ensure a safe working environment for migrant farmworkers. Finally, the Migrant and Seasonal Agricultural Worker Protection Act of 1983 (MSAP) establishes the rights of migrant farmworkers and the guidelines labor contractors must follow to respect those rights.

While the Fair Labor Standards Act (FLSA) was enacted in 1938, its minimum-wage provisions were not extended to farmworkers until 1966.[188] Even then, farmworkers were paid at a much lower rate—one dollar per hour—than their non-farm counterparts, whose minimum wage was set at $1.40. Only in 1978 were all workers paid the same rate—excepting subminimum provisions, which are still in effect. The current subminimum applies to workers under the age of 20 during their first 90 days of employment. The current minimum wage is at $5.15, and the current subminimum wage is at $4.25.[189] However, while these provisions would appear to protect migrant and seasonal farmworkers, the loop-holes and exemptions under the provisions all but nullify these protections.

While the 1966 amendment to the FLSA extended the minimum wage to farm labor, migrant and seasonal farmworkers—including those under the H-2A program—are currently limited to the subminimum wage of $4.25 per hour. Furthermore, if the agricultural employer employs fewer than 6 workers each day of the week for thirteen weeks, they are not required to pay the minimum wage. As of 1997, 79 percent of farms with hired labor expenditures met this exemption.[190] Also exempted from the minimum wage are employees engaged in hand-harvesting or are paid on a piece-rate basis[191] The child labor protections under the FLSA are equally toothless. Under the Act, all labor—farm and non-farm—is restricted to those 16 years of age or older. However, provided with written parental consent, exemptions under the FLSA allow for workers under the age of 12 to be employed in the fields. It would appear then, that no minimum age exists for farm labor.[192]

The Occupational Safety and Health Act's provisions are written to ensure a safe workplace for all workers, including migrant and seasonal farmworkers. Those provisions affecting farmworkers provide for safe housing, setting specific standards for all structures used to house all farmworkers, regardless of their status and regardless of the location of the facility.[193] These standards monitor not only the structure, but the "water supply, toilet facilities, lighting, refuse disposal…dining and feeding facilities, insect and rodent control, first aid, and reporting of communicable disease violations."[194] OSHA also contains field sanitation guidelines, which require the provision of potable drinking water, toilet and hand-washing facilities in the fields. Additionally, employers are required to educate employees about specific hygiene practices, and make these provisions accessible without any cost to the employee.[195] OSHA also requires farm employers to adequately communicate information about hazardous chemicals, excepting pesticides, which are regulated by the

EPA.[196] However, just as in the FLSA, many farm employers are exempt from these guidelines if they have employed ten or fewer workers within the previous 12 months. Thankfully, in areas where temporary labor camps have been maintained, these provisions still apply. Still, as of 1997, 9 percent of the farms in the United States were exempt from these provisions, affecting about half of all hired farmworkers.[197]

Whereas OSHA was designed to ensure safe work places, the EPA's Worker Protection Standard (WPS) of 1992 works to protect farmworkers against pesticide exposure. Under its provisions, farmworkers are required to prohibit farmworker access to treated areas, and pesticide handlers must not expose farmworkers during application. Furthermore, farm employers are required to notify farmworkers about pesticide applications, and educate them regarding pesticide dangers, and provide "decontamination supplies and emergency assistance." Its provisions apply to farm employers and contractors, and affecting nearly 11 percent of farms in the United States.[198]

The Migrant and Seasonal Agricultural Workers Protection Act of 1983 contains protections similar to those of the FLSA and OSHA. Its provisions regulate the working relationship between the farmworker and the farm employer, farm contractor or farm associations, and provide for enforcement of standards violations by the U.S. Department of Labor (DOL). Under these provisions, all those performing farm labor contracting must be certified by the DOL, and all employers providing housing and transportation are required to provide proof of standards compliance to the DOL. Furthermore, during recruiting, labor contractors "must provide written information to their workers on wages, hours, State workers' compensation…and housing." Employers must also maintain payroll records and provide complete earnings statements to their employees.[199] While the DOL is responsible

for investigation for possible violations of these provisions, suits may be brought by individuals—regardless of citizenship status—against violators in any Federal District Court. Attorneys may be appointed to the plaintiff by the court, and damages recovered can be as high as $10,000.[200]

Immigration Reform and Control Act of 1986 and the H-2A Program

Passed in 1986, the Immigration Reform and Control Act contained a variety of provisions designed to control illegal immigration. While prohibiting discrimination based on "citizenship status," it instituted penalties against employers that knowingly employed illegal workers.[201] In addition, it provided two avenues for illegal immigrants to obtain legal status. The first offered legalization to immigrants who had illegally resided in the United States before 1982, and had not received any public assistance. The second program, the Special Agricultural Worker (SAW) program, allowed illegal farmworkers legal immigrant status if they had worked at least "90 man-days" between May 1985 and May 1986.[202]

It was expected that this program would stabilize the farm labor market and significantly reduce the flow of illegal immigrants. It failed to meet these expectations, as more farmworkers than expected were legalized under the program. The farm labor market became saturated, and the flow of illegal immigrants continued unabated.[203] The result was a decrease in real wages, and a decline in working conditions for farmworkers. As the Commission on Agricultural Workers reported, "Because most employers have had no difficulty attracting and retaining workers, there has been little incentive for them to increase benefits or generally improve working conditions for farmworkers."[204] However, the most enduring provision of the IRCA is its revision of the H-2 program.[205]

The H-2A program has its origins in the H-2 program authorized by the 1952 Immigration and Nationality Act. This program mirrored the Bracero program, and authorized the U.S. Attorney General to import foreign agricultural workers.[206] These workers were primarily used in the East, supplying labor for Florida's sugar cane harvest and apple harvests in a variety of eastern states.[207] The current program is authorized under the 1986 Immigration Reform and Control Act, and is designed to ensure a stable agricultural labor supply through the importation of temporary, nonimmigrant foreign workers while protecting the domestic agricultural laborer. Currently, tobacco companies in North Carolina, Virginia, Kentucky, and Tennessee are the largest users of the H-2A program.

The use of the H-2A program has been the subject of a great deal of controversy, and the piles of litigation attests to that fact. According to Philip, "There is as much litigation over the H-2A program as all other temporary foreign worker programs combined.[208]" The program is problematic for a variety of reasons, among them the multi-agency cooperation required for its operation. Before a farm employer can request workers through the program, its state employment agency must confirm the existence of a labor shortage, and the employer must prove to the Department of Labor it has actively recruited the domestic labor supply. Furthermore, the Department of Labor must guarantee that the wages and working conditions of domestic workers will not be adversely affected. Once this "certification" is complete, the Immigration and Naturalization Service authorizes the request, and the State Department issues nonimmigrant visas to the temporary workers.[209]

In writing, the program seems to offer these guestworkers better protections than those offered to domestic workers. Wages are guaranteed by the Adverse Effect Wage Rate (AEWR), the necessary minimum wage calculated by the Department of Agriculture to avoid

adversely affecting domestic labor.[210] If this proves to be less than either the federal minimum wage or the prevailing wage for that labor market, workers are to be paid the highest of the three.[211] Furthermore, employers are required to provide free housing, which must be certified to meet specific standards for health and sanitation.[212] Additionally, if employees under the H-2A program finish at least half of their contract period, they are to be reimbursed for transportation costs between their home and the work site. Those that complete the contract period are guaranteed wages for at least three-fourths of their contract, regardless of many hours they actually work, and are reimbursed for travel expenses between the work site and their home.[213] Despite these provisions, farmworkers under the H-2A program are left very vulnerable to abuses.

The very structure of the H-2A program leaves open the possibility for exploitation. Once contracted to an employer, the farmworker is entirely beholden to that employer. Like most employer-employee relationships, the employer has the right to fire the employee. However, in the context of the H-2A program, being fired equates being deported. This threat undermines farmworkers' ability to protect themselves.[214] A 1997 General Accounting Office (GAO) report on the H-2A program acknowledged that guestworkers were "unlikely to complain about worker protection violations." While the GAO is confident that some workers were not paid their guaranteed wages, the Department of Labor received no complaints in 1996.[215] This same report cited the Department of Labor's admitted inability to "identify and enforce" violations of the law. In particular, the GAO reports, "These enforcement difficulties create an incentive for less scrupulous employers to request contract periods longer than necessary: If workers leave the worksite before the contract period ends, the employer is not obligated…to pay for the workers' transportation home."[216]

The H-2A program imports foreign labor under the presumption of a domestic labor shortage. However, both the DOL and the GAO question the existence of such a shortage. In fact, the DOL asserts the existence of a labor surplus in agriculture, a claim the GAO supports.[217] This surplus is the result of a variety of factors, primarily the number of illegal immigrants working in agriculture. In its 1997 Report, the GAO estimated that there were 600,000 such illegal immigrants.[218] This represented 37% of the hired farm labor force. [219] According to the most recent National Agricultural Workers Survey (NAWS), however, 52% of the current farm labor force is working illegally[220] And given the Immigration and Naturalization Service's admitted lax enforcement on farms, this is a situation unlikely to change.[221]

Further attesting to a labor surplus are the high unemployment rates in agricultural counties. According to a GAO analysis of "20 large agricultural counties," 19 had higher unemployment rates than the national average. 13 of these counties had unemployment rates in the double digits. Additionally, the NAWS found underemployment to be endemic to farmworkers. According to its survey farmworkers spent 19% of their time unemployed, finding farm employment only 47% of years 1997-1998.[222] For Fiscal Years 1996-1998, the average number of weeks spent in farmwork was 24.4.[223]

Farm employers might have more success recruiting domestic farm laborers if they raised wages. Although 1998 saw an increase in "real wages" to $6.18 per hour, this average is $0.80 below the rate paid in 1989.[224] According to the NAWS report, "Three out of five farmworker families had incomes below the poverty level."[225] While it is impossible to determine the real relationship between the H-2A program and low wages, it seems clear that the importation of foreign workers would interfere with the supply and demand dynamics of

the labor market. Typically, one would assume that as the supply of labor dropped, demand, along with wages, would rise accordingly Howev the presence of imported labor combined with the abundant availability of illegal labor, disrupts this process by creating labor surplus, and effectively lowering the wage rate. Under this dynamic, all farmworkers imported, illegal, and domestic are unable unwilling to protect themselves and their rights under the law. As agricultural economist Jack Runyan writes, "When large percentage of the work force has limited employment alternatives and there appears to be ready supply of undocumented workers to fill vacancies...employers have little incentive to increase wages.

Unfortunately the H-2A program continues to grow In 996, the DOL certified 17,557 foreign workers for employment in the United States. For Fiscal Ye 999 the DOL certified 41,827 Even considering this growth, those workers imported under the H-2A program constitute minority of the total farmworkers in the United States. Given the potential for abuses and the apparent surplus in labor, it seems pointless for the program to continue.

Despite the limited protections under Federal legislation, and the increased of the H-2A program, recent improvements have been made in the provision of health services to migrants. Two bills, the Health Centers Consolidation Act of 1996, and the Health Care Safety Amendments of 2002 improve the Public Health Service' ability to fund migrant health clinics while significantly expanding the number of clinics and the services they provide.

The Health Centers Consolidation Act of 1996 and the President's Initiative to Expand Health Centers

The Health Centers Consolidation Act was signed into law in October, 1996. It amended the Public Health Service Act to consolidate the four Federal health center programs—the migrant health centers, the healthcare for the homeless, health services for residents of public housing, and the community health center programs—into one. While each program retained its primary function, "grant applications and reporting requirements" were now streamlined.[228] In general, the Act expanded the services health centers are required to provide, and provided for the development of prepaid health plans and managed care networks while lifting some of the restrictions regarding the use of nongrant funds.[229] Also, the new law required that grantees defining themselves as community health centers provide mental health and substance abuse referrals, as well as help patients access other local, State and Federal programs.[230] Other provisions of the act affecting all centers were the new regulations regarding the expenditure of funds. While these regulations restricted the use of grant funds to exclude the construction of new buildings, they lifted previous restrictions on the use of nongrant funds.[231] In addition to specific uses like the "acquiring and leasing of buildings and equipment," the new provision allowed the use of nongrant funds "for such purposes as are not specifically prohibited…if such use furthers the objectives of the project."[232]

There were a few changes in the law specific to migrant health centers. Under the "additional health services" provision, migrant health centers may use grant funds to address infectious and parasitic diseases as well as "injury prevention programs, including prevention of exposure to…pesticides."[233] Also, the new law removed the phrase "high impact areas" as regards to prioritizing the provisions of grants. Previously, these areas were defined as those with more than 4,000 migrant or seasonal agricultural workers for more than 2 months of the

year. These areas were given priority to the awarding of grants. The new law doesn't necessarily preclude such preferential treatment, but rather, it does not prescribe it.[234]

Receiving regular primary and preventive health care is becoming increasingly difficult for a rising number of Americans. Access to care remains a problem for rural and inner-city communities, and, with the number of uninsured now over 44 million, this challenge is only getting tougher. The health centers supported by the Bureau of Primary Health Care's Consolidated Health Centers Program are meeting this challenge by providing these needed services at a reduced cost, sometimes for free.[235] In early 2002, the Program was supporting 750 health centers and serving over 10 million people.[236] However, there remains a great deal of work to be done.

In March 2001, President Bush addressed this problem by introducing his Initiative to Expand Health Centers in the FY 2002 Budget. This aggressive five-year plan sought to double the number of those served; reaching an additional six million people by 2006.[237] To accomplish this enormous task, Bush proposed a $124 million increase in funding for the Health Centers Program, the creation of 630 new health centers, and the expansion of 570 more.[238] An additional 30,000 people and 4,500 primary care providers will be needed.[239] In October 2002, Bush signed into law the Health Care Safety Net Amendments, supporting the Initiative and its bold goals. It reauthorizes the Health Centers Program through FY 2006, seeks to expand services to rural communities, and authorizes the Community Access Program (CAP).

In 2000, the clinics supported by the Migrant Health Program served approximately 625,000 farmworkers. 400 of these clinics operate in 42 states and Puerto Rico. Services include "primary and preventive health care, transportation, outreach, dental, pharmaceutical,

occupational health and safety, and environmental health...They also provide prevention oriented and pediatric services such as immunizations, well baby care, and developmental screenings."[240]

Conclusions

United States agriculture was not deliberately designed to depend on migrant labor. Rather, this dependence on migratory labor can thus be perceived as a natural outcome of history. Our large-scale economy and growing population demanded agricultural operations to match, which in turn required seasonal, migratory labor. Chronic underemployment is merely an unfortunate consequence of seasonal labor. Labor demands naturally peak during the harvest seasons, and absent the demand for labor, agricultural employment becomes scarce.

However, the poverty, poor health and dangerous working conditions endemic to migratory farm labor are not mere consequences of agriculture's seasonal nature. Rather, these consequences are the result of efforts to limit production costs. Consumers demand cheap produce, and to maintain profits and lower costs, farmers work to insure low wages and minimal protections for their employees. This has largely been accomplished through the maintenance of a labor surplus.

During most of the 20th century, growers associations and farming operations of all sizes have continually declared the existence of a labor shortage. Despite the conclusions of various government committees and agencies to the contrary, farm employers have, since World War I, claimed that there is not enough domestic labor available to meet the voracious appetite of our nation. To alleviate this supposed shortage, farmers have relied upon

imported, temporary foreign guestworkers, all the while continuing to employ unauthorized alien aborers.

Rather than labor shortage, temporary foreign guestworkers and unauthorized alien laborers hav been employed to create labor surplus. This has been encouraged by the Immigrati and Naturalization Servi confused approach to border enforcement, and their admitted inability to prevent the employment of illegal immigrants agriculture. This manufactured surplus any motivati farm employers may have to improve wages and working conditions, and likewise, undermines farmworkers ability to protect themselves through unions As consequence, all farmworkers. legal and illegal, foreign domestic, suffer

Legislative protections designed to insure equitable work arrangements, protect wages, and keep working conditions safe clearly inadequate, and admittedly unenforceable. These protections only pay lip servi to the ideals that inform them, and in doing only to harm those they intended to protect. Furthermore, the cumbersome state bureaucracies that manage welfare and Medicaid prevent migrant farmworkers from receiving the benefits they deserve. Contrasting these inadequacies the Migrant Health and Education Programs, representing sincere Federal efforts behalf of migrant and seasonal farmworkers With recent egislation, its health and education services will be tended to an even greater proportion of the migrant population. It appears, then, that the ederal government is caugh in dichotomy torn between protecting agribusiness and protecting the labor that makes agribusiness possible. However, these interests need not be mutually exclusive.

Legislative protections like the Migrant and Seasonal Protection Act, the EPA's Worker Protection Standards, and the Fair Labor Standards Act can be actively enforced and extended to cover all farm employers. Furthermore, the minimum age provisions of the FLSA need to be expanded to include farm labor. These rather minimal changes would ensure that farmworkers are provided safe and sanitary working environments, wages to match their labor, and eliminate the use of children in the fields. Furthermore, the Immigration and Naturalization Service must be compelled to actively enforce immigration and labor laws, and the H-2A program terminated. By limiting the number of unauthorized and temporary foreign workers in agriculture, the labor market will correct itself. Wages will naturally increase, and working conditions will naturally improve as farmworker unions are allowed to grow stronger.

To be sure, these changes will increase production costs and thus raise the price of the food we eat. Furthermore, by improving access to Medicaid and welfare, our tax burden is likely to increase. But without these changes the need for services such as the Migrant Health Program, Medicaid and the Migrant Education Program will only grow. This in turn, will increase our tax burden even further. However, by instituting these changes, the health and socioeconomic status of migrant farmworkers will improve, and the work of such programs like the Migrant Health Program can progress unabated. Eventually, as the health and socioeconomic status of migrant farmworkers improve, programs like the Migrant Health Program may no longer be necessary.

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