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## **During the COVID-19 pandemic, migrant farmworkers in the United States are in high demand - yet are offered little protections**

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### **Abstract**

Migrant farmworkers in the United States were deemed *essential* during the COVID-19 pandemic, meaning that they would continue to work in spite of outbreak. However, these internationally and seasonally mobile workers were disproportionately at risk, and often not given adequate protections.

### **Keywords**

United States; pandemic; mobile labor; migrant workers; agriculture

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Migrant farmworkers – those who have immigrated to the US and pursued agricultural work, including both those with documentation and those without – were among the categories of *essential workers*<sup>2</sup> who continued to work during the pandemic. Migrant farmworkers are internationally mobile and seasonally mobile, and were deemed to be a part of the mobile *essential* workforce in all states across the US.<sup>3</sup>

There are 2.5 million farmworkers in the US<sup>4</sup> one in 10 farmworkers is on a H-2A seasonal agricultural visa, and 50% of migrant agricultural workers in the country are undocumented.<sup>5</sup> Over the past few years, roughly 70% have been Mexican, 24% native-born US citizens, and 6% Central American.<sup>6</sup> Regardless of status, migrant workers are typically housed in tight living quarters – packed dorms, barracks, or doubled-up hotel rooms – and many lack access to transportation or healthcare.<sup>7</sup> Thus, migrant workers’ health, well-being, and access to services is precarious under normal circumstances. These factors enhanced the risks that these workers faced during the COVID-19 pandemic.

## Recruitment

Before portraying the impacts of the pandemic on this category of worker, it is first important to understand the recruitment and mobility structure of the agricultural sector. H-2A workers are recruited in their countries of origin, often through recruitment agencies that charge high fees, placing workers in debt when they arrive in the US.<sup>8</sup> Upon arrival, workers are then tied to a single employer; as a report outlining abuses against H-2A workers highlights, “When H-2A workers lose their jobs, they typically also lose their housing, their right to remain in the U.S. and the opportunity to be recruited in future seasons. Because workers are legally tied to the petitioning employer, they often have little choice but to remain in abusive working conditions.”<sup>9</sup>

While undocumented workers are hired once they are already present in the US, the mobility of undocumented agricultural workers is also limited by “tremendous fear of detention by police or border patrol agents in the heavily patrolled border region(s)” and they frequently “remain, for the most part, on the farm where they are constantly available for long shifts for low pay, and vulnerable to wage theft

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<sup>2</sup> For context on “essential labor” in the United States, see entry on “*Essential Workers*” in the *United States During the COVID-19 Pandemic*.

<sup>3</sup> CDC. 2020. *Agriculture Workers and Employees: Interim Guidance from CDC and the U.S. Department of Labor*. Available online at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-agricultural-workers.html>. Last accessed 10 December 2020.

<sup>4</sup> Galvin, Gabby. 2020. Rural Counties Seeing Faster Growth in Covid-19 Cases, Deaths. *U.S. News and World Report*. 30 April 2020. Available online at: <https://www.usnews.com/news/healthiest-communities/articles/2020-04-30/coronavirus-cases-deaths-growing-at-faster-rates-in-rural-areas>. Last accessed 10 December 2020.

<sup>5</sup> Hackman, Michelle and Jesse Newman. 2020. White House Seeks to Cut Farmworker Wages, Ease Hiring Constraints. *The Wall Street Journal*. 17 April 2020. Available online at: <https://www.wsj.com/articles/white-house-seeks-to-cut-wages-smooth-migrant-labor-hiring-for-farms-squeezed-by-coronavirus-11587123000>. Last accessed 10 December 2020.

<sup>6</sup> Hernandez, Trish and Susan Gabbard. 2018. Findings from the National Agricultural Workers Survey (NAWS) 2015-2016: A Demographic and Employment Profile of United States Farmworkers. *JBS International*. Available online at: [https://www.dol.gov/sites/dolgov/files/ETA/naws/pdfs/NAWS\\_Research\\_Report\\_13.pdf](https://www.dol.gov/sites/dolgov/files/ETA/naws/pdfs/NAWS_Research_Report_13.pdf). Last accessed 10 December 2020.

<sup>7</sup> National Conference of State Legislators (NCSL). 2020. *COVID-19: Essential Workers in the States*. Available online at: <https://www.ncsl.org/research/labor-and-employment/covid-19-essential-workers-in-the-states.aspx>. Last accessed 10 December 2020.

<sup>8</sup> Centro de los Derechos del Migrante, Inc. 2020. Ripe for Reform: Abuses of Agricultural Workers in the H-2A Visa Program. Available online at: <https://cdmigrante.org/wp-content/uploads/2020/04/Ripe-for-Reform.pdf>. Last accessed 10 December 2020.

<sup>9</sup> Ibid.

and hazardous working conditions.”<sup>10</sup> In other words, even under non-pandemic circumstances, H-2A mobility is strictly controlled at every point in the process, from recruitment to leaving the farm.

## Uneven Outbreaks

Since March, major outbreaks have taken place on farms across the country.<sup>11</sup> At a New York greenhouse that produces strawberries and tomatoes, 169 out of 340 workers tested positive for the virus in May, and much of the exposure was attributed to living accommodations.<sup>12</sup> By June, 1,910 people in Immokalee, Florida were diagnosed with COVID-19 – the vast majority of whom were agricultural workers.<sup>13</sup> In the state of Washington, the counties of Yakima and Franklin – which are major sources of apples and cherries – had nearly double the positive COVID-19 cases than other counties in the region, stemming from outbreaks at farms.<sup>14</sup> Notably, these figures may be undercounted: as the National Center for Farmworker Health reports, “Many workers fear testing for COVID since a positive test may mean a permanent job loss.”<sup>15</sup>

An article in the *New England Journal of Medicine* depicted how, for many undocumented workers, “transmission was fueled by poverty and economic necessity.”<sup>16</sup> The majority “don’t qualify for federally guaranteed emergency leave, and if they are undocumented, they do not qualify for unemployment,”<sup>17</sup> and furthermore, “[many] undocumented immigrants [can’t] afford to stay home, even if their jobs [entail] traveling in vans with sick people or working without masks in crowded settings.”<sup>18</sup> Additionally, reports of outbreaks on farms have found that certain employers try to cover up the number of cases they have, which puts the families of farmworkers in danger since many live in households with a large number of people.<sup>19</sup>

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<sup>10</sup> Fox, Carly, Rebecca Fuentes, Fabiola Ortiz Valdez, Gretchen Purser, Kathleen Sexsmith. 2017. *Milked: Immigrant Dairy Farmworkers in New York State*. *Workers’ Center of Central New York and the Worker Justice Center of New York*. Available online at: [https://nmcnd.io/e186d21f8c7946a19faed23c3da2f0da/a29f2f1c37e543079c60fb7823277a44/files/resources/milked-immigrant-dairy-farmworkers-in-new-york-state/milked\\_053017.pdf](https://nmcnd.io/e186d21f8c7946a19faed23c3da2f0da/a29f2f1c37e543079c60fb7823277a44/files/resources/milked-immigrant-dairy-farmworkers-in-new-york-state/milked_053017.pdf). Last accessed 10 December 2020.

<sup>11</sup> Knight, Victoria. 2020. Without Federal Protections, Farm Workers Risk Coronavirus Infection to Harvest Crops. *NPR*. 8 August 2020. Available online at: <https://www.npr.org/sections/health-shots/2020/08/08/900220260/without-federal-protections-farm-workers-risk-coronavirus-infection-to-harvest-c>. Last accessed 10 December 2020.

<sup>12</sup> Eisenstadt, Marnie. 2020. Inside Green Empire Farm: Upstate NY’s biggest coronavirus outbreak slams migrant workers. *Syracuse*. 8 May 2020. Available online at: <https://www.syracuse.com/coronavirus/2020/05/inside-green-empire-farm-upstate-nys-biggest-coronavirus-outbreak-slams-migrant-workers.html>. Last accessed 10 December 2020

<sup>13</sup> Kerwin, Donald and Robert Warren. 2020. US Foreign-Born Workers in the Global Pandemic: Essential and Marginalized. *Journal on Migration and Human Security*, 8(3), 282–300. Available online at: <https://doi.org/10.1177/2331502420952752>.

<sup>14</sup> Bottemiller Evich, Helena, Ximena Bustillo and Liz Crampton. 2020. Harvest of shame: Farmworkers face coronavirus disaster. *Politico*. 9 August 2020. Available online at: <https://www.politico.com/news/2020/09/08/farmworkers-coronavirus-disaster-409339>. Last accessed 10 December 2020.

<sup>15</sup> National Center for Farmworker Health. 2020. *COVID-19 in Rural America: Impact on Farms and Agricultural Workers*. Available online at: [http://www.ncfh.org/uploads/3/8/6/8/38685499/msaws\\_and\\_covid-19\\_fact\\_sheet\\_10.19.2020.pdf](http://www.ncfh.org/uploads/3/8/6/8/38685499/msaws_and_covid-19_fact_sheet_10.19.2020.pdf). Last accessed 10 December 2020.

<sup>16</sup> Page, Kathleen and Alejandra Flores-Miller. 2020. Lessons We’ve Learned – Covid-19 and the Undocumented Latinx Community. *The New England Journal of Medicine*. Available online at: <https://www.nejm.org/doi/full/10.1056/NEJMp2024897>. Last accessed 10 December 2020.

<sup>17</sup> Ho, Vivian. 2020. ‘Everyone tested positive’: Covid devastates agricultural workers in California’s heartland. *The Guardian*. 8 August 2020. Available online at: <https://www.theguardian.com/us-news/2020/aug/08/california-covid-19-central-valley-essential-workers>. Last accessed 10 December 2020.

<sup>18</sup> Page, Kathleen and Alejandra Flores-Miller. 2020.

<sup>19</sup> Ho, Vivian. 2020.

## Mobility Mandates, and Special Exemptions for Farmworkers

The types of “stay-at-home” policies and definitions of *essential workers* as defined by both federal and state governments also played into the mobility – and, therefore, risk – of migrant farmworkers. Many stay-at-home orders in states across the country – which included combinations of curfews, business closures, and mandatory quarantines<sup>20</sup> – did not apply to this category of workers. For example, in New Jersey, a state that hosts 22,000 seasonal agricultural workers, farmworkers were exempt. Furthermore, those who were migrating from other states to work on a different crop were exempt from 14-day quarantine periods that many states required for those arriving from out-of-state.<sup>21</sup> Back in March, lockdown orders in California were in place, and many exempted “any form of agricultural production and processing.”<sup>22</sup> However, that did not necessarily mean that workers were offered extra protections. Such policies led advocacy groups, like the National Day Laborer Organizing Network (NDLON), to call for adequate protections and access to emergency aid programs, among other demands.<sup>23</sup>

When the federal government passed the CARES Act (Coronavirus Aid, Relief, and Economic Security), which provided stimulus checks to American families, 6.2 million *essential workers* were not eligible for pandemic relief payments based on their immigration status or the immigration status of someone in their family.<sup>24</sup> There was strong irony in this act: funds were being mobilized to provide support to working families, but millions of those families who were in the mobile workforce did not benefit from such support. To the contrary, California, whose workforce is 10% undocumented, established its own policies to provide financial assistance to undocumented workers, offering \$500 per adult, with a cap of \$1,000 per household.<sup>25</sup> California also established an emergency housing program for those workers who needed to quarantine.<sup>26</sup>

Adequate payment is not only important for daily living in the US, but also for the money sent home to family in other countries. According to a report by Pew Research, remittances to Latin American countries were 17% lower in April 2020 than in April 2019. However, these remittances bounced back in the months following the April drop – as certain interviews expressed, “supporting their families back

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<sup>20</sup> Mervosh, Sarah, Denise Lu and Vanessa Swales. 2020. See Which States and Cities Have Told Residents to Stay at Home. *The New York Times*. 20 April 2020. Available online at: <https://www.nytimes.com/interactive/2020/us/coronavirus-stay-at-home-order.html>. Last accessed 10 December 2020.

<sup>21</sup> Tully, Tracey. 2020. How You Get Your Berries: Migrant Workers Who Fear Virus, but Toil On. *The New York Times*. 5 July 2020. Available online at: <https://www.nytimes.com/2020/07/05/nyregion/nj-migrant-workers-covid-19.html>. Last accessed 10 December 2020.

<sup>22</sup> De Loera-Brust, Antonio. 2020. Immigrant farmworkers feed us despite the coronavirus pandemic. They deserve better. *The Fresno Bee*. 21 March 2020. Available online at: <https://www.fresnobee.com/opinion/article241341626.html?fbclid=IwAR3LNfUwwmplArUyjnivH1-KNP4BPRQyvAKf1g4SVO0rFYw9nO5OYvi3NeM>. Last accessed 10 December 2020.

<sup>23</sup> NDLON. 2020. *Worker and Migrant Justice Response to the Coronavirus*. Available online at: <https://ndlon.org/worker-migrant-justice-response-to-the-coronavirus/>. Last accessed 10 December 2020.

<sup>24</sup> Kerwin, Donald and Robert Warren. 2020.

<sup>25</sup> Holcombe, Madeline and Catherine Shoichet. 2020. California is giving its own stimulus checks to undocumented immigrants. *CNN*. 16 April 2020. Available online at: <https://www.cnn.com/2020/04/16/us/california-stimulus-undocumented-immigrants/index.html>. Last accessed 10 December 2020.

<sup>26</sup> California for All. 2020. *Housing for Agricultural Workers*. Available online at: <https://covid19.ca.gov/housing-for-agricultural-workers/>. Last accessed 10 December 2020.

home is the fundamental reason they came here in the first place,” and the situation in some home countries was worse than in the US.<sup>27</sup>

By September, eleven states had mandated special protections for agricultural workers in regards to COVID-19, which included “providing PPE and requiring physical distancing, workplace disinfection and worker testing.”<sup>28</sup> Twenty issued “non-enforceable” guidance, and nineteen did not issue any recommendations. Notably, many of those states that established mandates only did so as a reaction to major outbreaks that occurred – not as an initial preemptive measure.<sup>29</sup>

In pandemic and non-pandemic times, food is an indispensable resource, meaning that farms and all of their workers are equally as indispensable. The structure of labor in the US is such that those migrant workers who are most vital to the food security of the entire country are also often some of those living in working in the most vulnerable conditions. The spread of COVID-19 across the country, its supply chains, and its workers made many in the American public more cognizant of how starkly lacking workplace protections can be for the US migrant labor force, as well as how imperative their health is to the broader health of communities across the nation.

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<sup>27</sup> Jordan, Miriam. 2020. Even When They Lost Their Jobs, Immigrants Sent Money Home. *The New York Times*. 24 September 2020. Available online at: <https://www.nytimes.com/2020/09/24/us/coronavirus-immigrants-remittances.html>. Last accessed 10 December 2020.

<sup>28</sup> National Center for Farmworker Health. 2020.

<sup>29</sup> Ibid.