

A LEVEL PLAYING FIELD FOR FARMWORKERS IN THE U.S.

March 28, 2000

THE ISSUE:

Farmworkers suffer the effects of being relegated to a second-class labor force within the American workforce. By excluding farmworkers from basic labor protections and human rights when Congress passed the Fair Labor Standards Act of 1937, they created this classism. Lawmakers at all levels of government have perpetuated this double standard ever since. Today, farmworkers want and need the same labor protections and benefits that all other American workers take for granted. Agriculture is a multi-billion dollar industry in America, yet it continues to be exempt from the rules of the labor market that govern all other employers and protect their workers. Congress and government at all levels must not be allowed to subsidize one group of employers, forcing those workers to be among the poorest of the working poor, laboring in one of the most dangerous occupations with the fewest protective measures of any labor force in America.

***Examples of Labor Benefits and Protections That Farmworkers Are Excluded From:**

- Overtime Pay
- Youth Employment
- Sanitary Facilities
- Unemployment Insurance
- Minimum Wage
- Workers' Compensation
- Collective Bargaining

*These examples are summarized in the attached position paper

ROI POSITION ON LEGISLATION:

It is the goal of ROI to see that farmworkers receive the same treatment, benefits, and protections as all other American workers under the law. ROI encourages members of Congress to take action and reform all laws that exempt agricultural employers from having the same responsibilities and costs that all other industries must bear in order to field a safe, healthy, and economically viable workforce.

A. Background

Farmworkers suffer the effects of being relegated to a second-class labor force within the American workforce. By excluding farmworkers from basic labor protections and human rights when Congress passed the Fair Labor Standards Act of 1937, they created this classism. Lawmakers at all levels of government have perpetuated this double standard ever since. Today, farmworkers want and need the same labor protections and benefits that all other American workers take for granted. Agriculture is a multi-billion dollar industry in America, yet it continues to be exempt from the rules of the labor market that govern all other employers and protect their workers. Congress and government at all levels must not be allowed to subsidize one group of employers, forcing those workers to be among the poorest of the working poor, laboring in one of the most dangerous occupations with the fewest protective measures of any labor force in America.

Examples of Labor Benefits and Protections That Farmworkers Are Excluded From:

Overtime Pay: Under federal law this protection does not apply to migrant and seasonal farmworkers. They deserve the time and a half compensation after 40 hours a week in the fields. California has passed a law that allows farmworkers who work over 10 hours a day or 6 days a week, to receive overtime compensation.

Youth Employment: Federal Law allows children as young as age twelve to work in the fields. These children often work in hazardous activities and around dangerous pesticides. In no other industry can children begin work at such a young age or work in such a dangerous environment.

Sanitary Facilities: Access to sanitary facilities in the work place is a right that most Americans take for granted. However, this basic human dignity is not available to all farmworkers. In fact, federal law states that sanitary facilities do not have to be provided in areas where farmworkers number less than eleven (11). Hand washing facilities and clean, cool drinking water provide basic health benefits and should not be limited. OSHA, the watchdog of American workers' health and safety is prohibited by an annual appropriations rider from protecting employee groups of farmworkers less than eleven (11) under the field sanitation standard.

Unemployment Insurance: Unemployment Insurance Compensation is not available to many migrant and seasonal farmworkers. Under the current Federal Unemployment Tax Act, the law exempts large numbers of agricultural employers from paying and providing coverage for their employees. The National Unemployment Advisory Council has recommended that Congress eliminate this exception.

Minimum Wage: Many farmworkers are excluded from the federal minimum wage of \$5.15 an hour through the use of legislated exemptions for agriculture. The federal wage and hour laws exclude those employers who have a payroll totaling less than 500 man days in any calendar quarter.

Workers' Compensation: Workers' compensation is an exclusion for most migrant and seasonal farmworkers under the individual laws of the majority of the 50 states. In light of this fact, federal labor laws should be amended to remove the opportunity for this exemption.

Collective bargaining: Current federal law does not protect farmworkers from retaliation from employers if they are interested in labor organizing and union membership. Farmworkers are thus left in the position of having no recourse from unfair labor practices and no real ability to organize in efforts to create change .¹

B. Legislation Related to Issue:

Summary of Federal Laws That Must Change

Subject Category	Specific Regulatory Topic / Protection	Coverage Code	Short Title of Provision
Child Labor	Age, Hour, and Related Standards	~	Fair Labor Standards Act of 1938
Civil Rights	Fair Employment Practices	#	Civil Rights Act of 1964
	Wage Discrimination	#	Equal Pay Act of 1963
Labor Contractors & Worker Recruitment	Farm Labor Contractor Registration	~	Migrant & Seasonal Agricultural Worker Protection Act
Labor Relations & Collective Bargaining	General Labor Relations	+	National Labor Relations Act
Wage & Hours	Minimum Wage	~	Fair Labor Standards Act of 1938
	Hour Standards & Overtime Pay	+	Fair Labor Standards Act 1938
	Wage Payment & Collection	#	Migrant & Seasonal Agricultural Worker Protection Act
			Immigration & Nationality Act

A general labor law or employment standard that applies to all US workers equally or to all farmworkers

~ A general law whose agricultural coverage is substantially narrower than its non-agricultural coverage or applies to only certain classes of farmworkers.

+ A provision that is not applicable to agricultural employment BUT SHOULD BE.

C. ROI Position On Legislation:

It is the goal of ROI to see that farmworkers receive the same treatment, benefits, and protections as all other American workers under the law. ROI encourages members of Congress to take action and reform all laws that exempt agricultural employers from having the same responsibilities and costs that all other industries must bear in order to field a safe, healthy, and economically viable workforce.

Governor George Pataki (R), of New York recently signed state legislation that raised the minimum wage for farmworkers to the Federal level and linked future increases to increases in the Federal Minimum Wage. Senator Charles Schumer (D-NY) recently stated “ I believe everyone in America should have the right to organize including farmworkers.”²

¹ Farmworker Justice Fund Inc. Website,

² NY Daily News, December 5, 1999, pg. 1A