



MILKED

**Immigrant Dairy Farmworkers
in New York State**



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“The state of New York is one of the states that produces dairy products—for example, cream, cheese, yogurt, milk—as well as fruit and vegetables, for the whole family, around the world. We, as farmworkers, feed everyone’s families, [but] the employers treat us like slaves: they don’t give us the necessary training, they intimidate us with the police, there are injuries at work that do not receive medical attention, physical assaults by supervisors, and people have even died. It’s not fair. The housing where we live in is in very bad condition, there are even cockroaches and bugs. Some of the employers pay the minimum wage and others do not. We work 6 days per week, 12 to 14 hours per day, and they don’t pay overtime. We don’t have the same rights as other workers, that is why we’re fighting for our right to organize. All of these injustices we are seeing today, it’s not fair. We are all human beings and we deserve respect and dignity. The time has come for all of this injustice to change.”

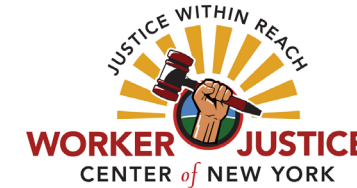
Crispin Hernandez, member of the Workers’ Center of Central New York and plaintiff seeking the right to organize for New York farmworkers, *Hernandez v. New York State*

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About WJCNY and WCCNY



The Worker Justice Center of New York (WJCNY) pursues justice for those denied human rights with a focus on agricultural and other low-wage workers, through legal representation, community empowerment and advocacy for institutional change.

For more information, see our website: <http://www.wjcny.org/>

The Workers' Center of Central New York (WCCNY) is a grassroots organization focused upon workplace and economic justice. Through community organizing, leadership development, popular education and policy advocacy, the Workers' Center of Central New York empowers low-wage workers to combat workplace abuses and improve wages and working conditions.



For more information, see our website: <https://workerscny.org/en/home/>

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Methodology

The findings in this report are based on face-to-face, semi-structured interviews conducted in 2014 and 2015 with 88 immigrant dairy farmworkers on 53 different dairy farms in New York State. We used a combination of snowball sampling and direct worker outreach, sometimes arriving on farms where we had no prior knowledge of, or relationship to, the workers. We made a deliberate effort to survey workers on farms across New York State's Central (13 farms), Eastern (3 farms), Western (30 farms), and Northern (7 farms) dairy-producing regions. The interviews consisted of 225 questions covering participants' demographic backgrounds, work histories, wages and working conditions, housing conditions, social integration, encounters with immigration enforcement agents, and interests in organizing for change. We also conducted five focus groups with dairy farmworkers who lead local organizing efforts. All interviews and focus groups were conducted in Spanish. The report is also informed by primary documents, academic articles, and other published literature on dairy farm labor. Most of the workers are identified by pseudonyms. All quotes that appear without other citation are from our interviews.

Immigrant dairy farmworkers are a hidden population that is difficult to access because of their vulnerable immigration status, work schedules, and geographic isolation on rural farms. There is no database of the population of dairy farmworkers in New York from which our sample could be drawn, making it difficult to determine with precision their total numbers and socio-demographic profile. This study was realized through the time-consuming and labor-intensive process of direct worker outreach, without employer mediation. As a community-based, participatory action research project, farmworkers were actively involved in the study itself, helping to develop the interview questions, lead focus groups, and transcribe and analyze the data. They also contributed some of the photographs used in this report.

Participant Socio-demographics

GENDER:	90% men, 10% women
COUNTRY OF ORIGIN:	61% Mexico, 34% Guatemala, 2% Honduras, 2% Puerto Rico
IMMIGRATION STATUS:	93% undocumented
LANGUAGE:	73% speak little to no English, 27% speak some English.
AGE:	20% less than 25, 41% between 25 and 34, 26% between 35 and 44, 11% 45 and older
RELATIONSHIP STATUS:	62% married, 30% single, 8% divorced or widowed.
PARENTAL STATUS:	70% have children, 30% do not have children

The size of the farm plays an important role in shaping farmworkers' living and working conditions. Of our respondents:

- 20% work on small farms (fewer than 499 cows)
- 42% work on large farms (500-1000 cows)
- 38% work on very large farms (more than 1,000 cows)

Thus approximately 80% of the sample works on a large or very large farm. While it is impossible to know exactly how undocumented workers are distributed across small and large dairy farms in New York, they tend to be concentrated on larger farms, where the need for milking labor is greater and family labor tends not to be available in sufficient numbers.¹

Executive Summary



Producing milk is a fully modern business, unrecognizable in comparison to the dairying of even a few decades ago. Today's dairy farmers strive for growth, consolidation, efficiency, and automation to stay competitive in a globalized sector increasingly controlled by multinational corporations. Yet, as the technology and science revolutionizing the dairy industry accelerate at a breakneck pace, a race to the bottom is occurring in the treatment and working conditions of the immigrant laborers who toil in milking parlors and barns.

New York's dairy production and processing industry generates \$14 billion a year and is the star sector of the state's agricultural economy. The industry today is propelled by New York's yogurt boom. The state's rise to the number one Greek yogurt producer in the nation has been driven by several major multinational investments, not to mention significant direct financial support and regulatory easing by the administration of Governor Andrew Cuomo.

Milked: Immigrant Dairy Farmworkers in New York State presents the results of a 2014-15 survey of 88 mostly undocumented Mexican and Central American farmworkers who live and work on 53 different dairy farms in Upstate New York. This report finds that this spectacular growth of the dairy industry has been achieved at the cost of basic labor rights for the immigrant farmworkers who keep modern milking parlors running.

A changed industry, a new workforce

Changes in the milk production process and the consolidation of dairy farming created significant new demand for immigrant labor on New York dairy farms in the early 1990s. Farms consolidated and became fewer, larger, and more efficient. In response, farmers turned to Latino immigrants to fill positions in their 24-hour milking parlors as milking work became semi-automated, fast-paced, stressful, and exhausting. Dairy farmworkers in the state are almost all undocumented and live in tremendous fear of detention by police or border patrol agents in the heavily patrolled border region between the U.S. and Canada. The Trump administration's aggressive plans to detain and deport undocumented immigrants have only exacerbated workers' fears. Thus, they remain, for the most part, on the farm where they are constantly available for long shifts for low pay, and vulnerable to wage theft and hazardous working conditions. Moreover, they suffer isolation from the broader community that could offer them support.

Summary of Findings

Milking Cows, Milking Workers

- › Sixty-two percent report that American workers are treated better than the Latino immigrant workers on the farm, particularly because they are perceived to do easier work for better pay.
- › Forty-eight percent report that they have suffered bullying or discrimination in the workplace. One fifth report that their boss, manager or other workers have made explicit reference to their ethnicity or citizenship status in a demeaning or intimidating manner.
- › Twenty-eight percent of workers surveyed report aggressive, disrespectful, or inconsistent behavior on the part of their boss.
- › Eighty-eight percent of workers surveyed believe their employers care more about the cows than about workers' well-being.

Long Hours for Low Pay

- › Immigrant dairy farmworkers' earnings hover just above the minimum wage. Workers surveyed most typically earned \$9/hour (at a time when the minimum wage was \$8.00/hour in 2014 and \$8.75/hour in 2015).
- › On average, they work 12 hours per day. Like all agricultural workers in New York, they are excluded from the right to a day of rest and the right to overtime pay.
- › Forty-five percent feel rushed on the job. Breaks are sometimes as short as five minutes long in a 12-hour workday.
- › Twenty-eight percent of immigrant dairy farmworkers have knowingly experienced at least one instance of wage theft; still others suspect it, but have difficulty interpreting their pay stubs and do not know for certain. Wage theft experiences include denial of a final paycheck, being paid for scheduled hours and not for extra hours worked, unpaid "training," or non-reimbursement for personal protective equipment.

Dangerous Dairies

- › Two-thirds of dairy farmworkers surveyed have experienced one or more injuries while on the job. Sixty-eight percent of those injured said the damage was serious enough to require medical attention. Most reported the injury to their boss, but some were too afraid or were not confident enough in their English skills to tell their boss what had happened.
- › One-third of workers received no job training of any kind. Of those who were trained, that training was often insufficient either because it was brief (as little as ten minutes), offered in English, or conducted by immigrant co-workers who were not trained to educate others thoroughly.
- › Farmworkers' principal safety concerns are: aggressive cows and bulls (as reported by 71% of interviewees), operating heavy machinery (35%), using chemicals (18%), and slippery or insecure conditions of farm working environments (11%). These dangers are exacerbated by the lack of job and safety training.
- › More than 80% of dairy farmworkers in New York are estimated to live and work on farms with too few workers to fall under OSHA jurisdiction for inspection and sanctioning. Even though 80% of our sample works on a farm with at least 500 cows, many of these farms still do not have a sufficiently large non-family workforce to fall under OSHA's ambit for inspections. In fact, the Occupational Safety and Health Administration is prohibited from regulating small farms, even when someone dies on the job.

Stuck in Place

- › Ninety-seven percent of workers live in on-farm housing provided by their employers. These accommodations are usually old farm houses or trailers, but sometimes they are makeshift rooms off the barn or milking parlor.
- › Dairy farmworkers often live in substandard housing: 58% report bug or insect infestations in their homes, 48% have no locks on their doors, 32% have holes in their walls or floors, and 32% have insufficient ventilation.
- › Due to their fear of immigration enforcement, inability to obtain a NY driver's license, and/or long work hours, immigrant dairy farmworkers leave the farm premises, on average, as infrequently as once every eleven days. Some leave only for medical emergencies, resulting in almost total immobility and the widespread feeling of being "locked up" [*encerrado*]
- › Fifty-seven percent say they do not feel any sense of belonging to the local community. Sixty-two percent report feeling isolated and 80% report feeling depressed.

Summary of Recommendations

We can improve the conditions of this vital, yet vulnerable, workforce. And farmworkers themselves, through their organizing, are leading the way with the rallying call: "milk cows, not workers." It's now time for the state, industry, and consumers to take action.

Governor Andrew Cuomo, the New York State Legislature, and the New York State Attorney General need to do more to protect the rights and improve the working conditions of immigrant farmworkers. They must eliminate the exemption of farmworkers from basic labor rights—including the right to organize, the right to a day off, and the right to overtime pay—allow undocumented immigrants to obtain driver's licenses, provide oversight of workplace health and safety for dairies, and ensure that all farmworkers live in safe and dignified housing with the right to receive visitors.

Dairy companies should implement and enforce worker-led codes of conduct for ethical labor practices for their fresh milk suppliers, purchasing only from those farms that participate in rigorous labor rights monitoring conducted independent of the dairy purchaser or supplier. Several model programs already exist that could be adapted to, and put into place in, the New York dairy industry.

Finally, consumers of milk and milk products must use their voices to push for change, holding prominent dairy companies accountable for working conditions throughout the supply chain.

Fighting for the Right to Organize



Crispin Hernandez followed in the footsteps of his brothers who had come to work on dairy farms in New York. As he was preparing to leave, the body of a young man named Genaro was shipped back to his home town. Genaro had been a dairy worker in NY and was killed in a work-related accident. “It felt very sad,” Crispin recalls. “I felt very nervous about going to the same place where Genaro had been.” Despite feeling scared and anxious about the hazards ahead, Crispin left to work in the New York dairy industry, determined to improve life for his family.

Crispin worked in the dairy industry for three years. He is one of the thousands of workers who have experienced the hardships of living and working on a dairy farm. Crispin describes the work as dangerous, strenuous, relentless, and fast-paced, all performed while under constant surveillance. At Marks Farms, one of the biggest farms in the state and a member of the national cooperative Dairy Farmers of America, which supplies large food companies like Chobani, he and his coworkers worked twelve hours a day, six days per week. He describes what it’s like to work on a farm with roughly 4,500 milking cows: “Sometimes you cannot take your half hour break to eat lunch. If you take a break to drink water or go to the bathroom, you can fall behind.”

Consecutive 12-hour work shifts left him exhausted, which exacerbated the significant dangers he already faced on the job. "There are many accidents in dairies and many workers have died," Crispin explains. "Many aren't trained. When I started working there, a cow stepped on my hand. The owner and her daughter were there and they saw that my hand was bleeding and they didn't care. They didn't tell me to go to the hospital and they didn't give me a day off." Crispin, along with his co-workers, felt frustrated with the farm owners and supervisors who did nothing to minimize the health and safety hazards on the farm. "Working with cows is very dangerous, and the owners don't care. They even charge us for the gloves that we need to work with! That is not fair."

Like all workers at the farm, Crispin lived in employer-provided housing located just a few hundred yards away from the milking parlor. It was challenging for Crispin to share such a small space with four other workers, especially because the farm owner refused to perform basic maintenance of the property. Living in worker housing and lacking access to a car, Crispin felt a suffocating level of social isolation. A quick ride from a local person who charges for rides (a *raitero*) to the grocery store, to the doctor, or to a nearby restaurant was expensive compared to his wages. Crispin and his co-workers were even charged for rides to the hospital when a medical emergency, or when other emergencies arose. Leaving for social outings was thus a luxury that he and his coworkers could hardly afford. "Honestly, you feel locked up not being able to leave."

Crispin and his co-workers suffered routine verbal abuse and occasional physical violence in the workplace. "They treated us like slaves," Crispin declares. "They yelled at us and threatened to fire us if we didn't work exactly like they said." In March 2015, a worker was physically assaulted by a manager on the farm. Crispin was one of the workers willing to make public what happened. He was glad when the Workers' Center of Central New York (WCCNY) and the Worker Justice Center of New York (WJCNY) organized a well-publicized protest against worker mistreatment and violence on the farm. "I want people to know that these things happen," Crispin explained. "We all have rights, but because we are farmworkers, they treat us like that."

Crispin and a co-worker tried to organize a workers' committee to address health and safety issues in the workplace with assistance from WCCNY. But one of the workers' meeting was interrupted when the son of the farm owner called the police in an effort to banish the WCCNY organizer from the farm, and to stifle the workers' attempt at collective organizing. Although intimidated, the workers carried through with their meeting.

One week later, Crispin and his co-organizer were summarily fired.

Crispin's firing was a brazen act of employer retaliation. But so too was it a reflection of a Jim Crow-era law that denies farmworkers the right to organize without fear of retaliation.



In May 2016, Crispin, the WCCNY and the WJCNY, represented by the New York Civil Liberties Union (NYCLU), sued the state of New York, claiming that the State Employment Relations Act unconstitutionally excludes farmworkers (as well as domestic workers) from collective bargaining rights - rights that would protect workers from employer retaliation for organizing in their workplaces. Just hours after the lawsuit was filed, Governor Andrew Cuomo announced that his administration would not fight the lawsuit in court. "I agree with the NYCLU that the exclusion of farm workers from the labor relations act is inconsistent with our constitutional principles" he said. "We will not tolerate the abuse or exploitation of workers in any industry. This clear and undeniable injustice must be corrected."² The New York Farm Bureau, a powerful agricultural industry lobby organization, has intervened in the case as a defendant, determined to maintain the status quo of an excluded and disempowered farm workforce.³ If a favorable decision is reached by the New York State Supreme Court, *Hernandez v. New York State* would extend rights to collective bargaining to the more than 60,000 farmworkers across New York State.

"Honestly, all of us deserve justice and dignity, all human beings," Crispin explains. "Because of those injustices that happen and keep happening, I decided to organize. Thanks to everybody's support, we are here now... little by little, we are making the road to justice... We will win the protected right to organize for all agricultural workers and we will continue to fight for dignity and respect."

Crispin remains an active leader in WCCNY and a tireless advocate for worker and immigrant rights, participating in rallies and talking with media outlets about the living and working conditions on dairy farms across New York State. "We don't have the same rights as other workers, that is why we're fighting for our right to organize. All of these injustices we are seeing today, and it's not fair. We are all human beings and we deserve respect and dignity. The time has come for all of this injustice to change and to live in peace and a better country for everyone."

New York's Dairy Industry and its New Immigrant Workforce



New York is a major dairy state. In 2015, it ranked fourth nationally in terms of milk production (at 14.1 billion lbs of fluid milk)^{4,5} and third nationally in terms of the number of dairy farms (5,427 milk cow farm operations).⁶ Dairy farming holds great economic importance to the Upstate New York region, with milk sales representing 50% of total agricultural sales. In fact, New York is more economically dependent on dairy farming than its major competitor states.⁷

Yet, the state has lost nearly half of its dairy farms since 1997, reflecting national trends towards the concentration of milk production on to fewer and larger farms.⁸ As the remaining farms have gotten larger⁹, dairy cattle have also become more productive.¹⁰ This reflects changes to the production process designed to maximize milk production efficiency, including the introduction of high protein cattle feed and production-boosting hormone injections, the automation of milking parlors, and the milking of the entire herd three (up from two) times per day. These transformations have altered the labor process in fundamental ways. Milking work under these conditions is more monotonous, impersonal, fast-paced, and tiring. Moreover, it must be performed around the clock.

New York farmers claim it is nearly impossible to find a local labor source to milk cows.¹¹ Their difficulties recruiting and retaining local residents as a labor source are likely due to the above mentioned changes in the work process, to the declining interest of younger generations in farming, and to the arrival of industries to the rural Upstate region that offer more competitive compensation and benefits than dairy farms, such as prisons.¹²

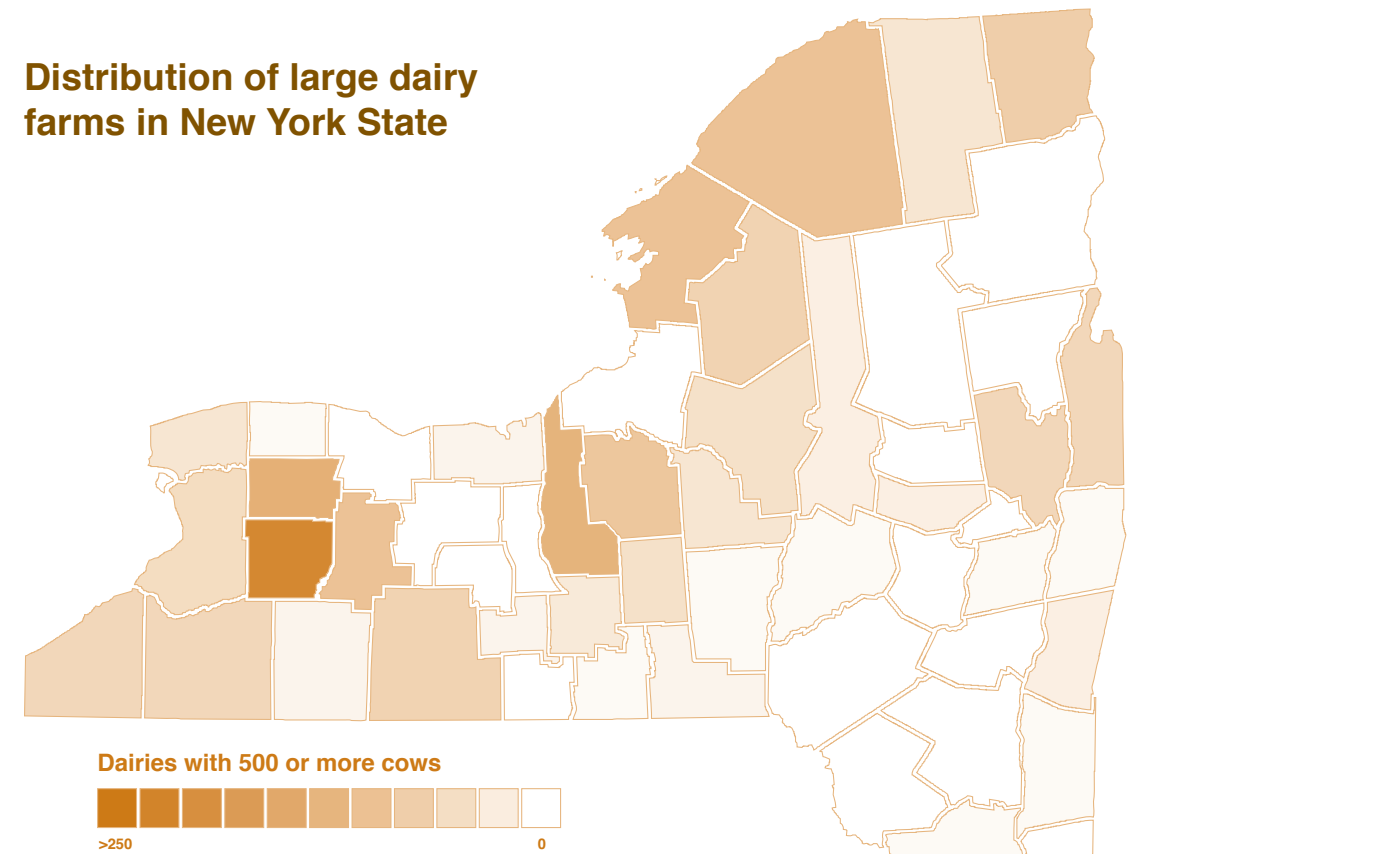
In the mid 1990s New York dairy farmers began hiring an immigrant labor force, primarily from Mexico and Guatemala, for their milking parlors.¹³ They followed a national trend whereby immigrant labor accounts for an estimated minimum 51% of all U.S. dairy labor.¹⁴ While the exact number of immigrant farmworkers on New York dairies is unknown, another 2016 study conducted on primarily large, New York dairy farms (over 500 milking cattle) found that, in the majority of cases, Latino immigrants are a larger share of their workforce than U.S. citizens.¹⁵ While some immigrant workers hold work authorization, the majority are undocumented.¹⁶

The dairy industry has now become utterly dependant on immigrant labor to spur on local economies and keep milk cheap.¹⁷ In fact, if all immigrant dairy workers in the U.S. were to suddenly disappear, the dairy industry as a whole would collapse, the national economy would lose more than 200,000 jobs, and milk prices would rise by 90%.¹⁸ It is for these reasons that more than three quarters of dairy farmers report medium or high concern about the possibility of an Immigration and Customs Enforcement raid on their farm.¹⁹ These fears have only grown in the wake of the Trump administration's immigration enforcement activities.²⁰

New York's Consolidated and Globalized Dairy Supply Chain

New York dairy farming has undergone significant consolidation in recent decades. New York has at least 103 very large dairy farms (1,000 or more milking cows); but just 15 years earlier, in 1997, there were only 21.²¹ Large farms are clustered in the Western (Wyoming, Genesee, and Livingston, and Ontario Counties), Central (Cayuga and Onondaga Counties), and Northern (Jefferson, St. Lawrence, and Clinton Counties) regions. Several very large dairies in the state have revenues estimated up to \$2.5 million, and the largest is estimated to have sales of \$5 million per year.²²

Distribution of large dairy farms in New York State



Large farms are the most efficient in milk production: dairies with 500 or more milking cows account for only 10% of the farms in the state (246 farms), but represent approximately 50% of milk sales.²³ Meanwhile, the smallest farms (those under 100 milking cows) account for around three-quarters of all dairy farms, but only about a quarter of milk sales.²⁴ Despite this stark imbalance, the New York dairy sector is relatively less consolidated than those of several other states.²⁵

New York farmers belong to several of the largest cooperatives in the nation

Most dairy farmers are members of dairy cooperatives, which purchase milk from farmers to either process it themselves, or sell it on to a dairy manufacturer. The largest cooperatives with membership in New York State and their major brands are shown in the accompanying table. In addition to their own-brand products, several cooperatives have made major deals to supply fresh milk to the corporate dairy manufacturers that have made New York the heartland of Greek yogurt production in the last decade.²⁶

Major Dairy Farmer Cooperatives Operating in New York State

Cooperative	Headquarters	Total members	Major brands
Dairy Farmers of America	MO	14,000 (national)	Hiland Dairy, Dean Foods, Borden (cheese), Cache Valley (cheese), Keller's Creamery (butter), Plugra (butter), Kemps (various), California Gold (milk), Sport Shake (sports beverage), La Vaquita (cheese), Guida's Dairy (various), Dairy maid (various)
Upstate Niagara	Buffalo, NY	Approx. 400 (New York)	Upstate Farms (various), Valley Farms (milk, cream), Intense Milk (flavored milk), Bison Foods (sour cream, dips),
Agri-Mark	MA	1,200 (New England and New York)	McCadam (cheese), Cabot (cheese), Agri-Mark
Organic Valley	WI	1,800 (national)	Organic Valley (yogurt, milk, butter, cheese, protein drinks, cream, cream cheese)
Lowville Producers	Lowville, NY	165 (New York)	McCadam (cheese), own brand cheese curd

New York Dairy Processing Helps Globalize the Dairy Industry

Despite the decline in national milk consumption,²⁷ value-added products like cheese, cottage cheese, yogurt, and frozen desserts have allowed the U.S. dairy processing sector to develop into a mega-industry. New York has played a significant role in the rise of manufactured dairy products. The state became the number one yogurt producer in the country in 2012, having tripled its production from 2007 levels.²⁸ New York also produces more sour cream, cream cheese, and cottage cheese than any other state.²⁹ It is a major dairy exporting state, ranking third in the country with \$375.1 million in dairy exports in 2015.³⁰ Accordingly, the dairy processing sector has expanded its number of manufacturing facilities by approximately 80% between 2008 and 2014, to 368 facilities.³¹

Top global dairy manufacturers have operations in New York

The vast majority of New York's dairy processors are small companies with annual sales of less than \$1 million.³² However, seven of the top 100 dairy processors in North America are headquartered in New York State: Danone Co., Chobani, Upstate Niagara Cooperative, Fage USA, Byrne Dairy, Fieldbrook Foods Corp, and Stewart's Ice Cream.³³ Additionally, three top global dairy processors, Dean Foods, Dairy Farmers of America, and Kraft have processing plants in New York State.³⁴

Government's Role in Shaping New York's Dairy Industry

A protected industry—for farmers

The cultural and historical importance of dairy farming in the U.S., combined with a powerful national milk lobby, ensure that significant federal support continues to be funneled to dairy farmers. In 2014, in the face of rising feed costs to dairy farms, the federal dairy support program was revamped with the creation of the Dairy Margin Protection Program, a voluntary insurance program that is novel in that payments are triggered by a declining margin between milk and grain prices rather than a falling farm milk price alone.³⁵ This Program replaced the Milk Income Loss Contract (MILC) Payment Program, and offers a substantially better deal for farms: whereas MILC paid out \$1.6 billion 2009-2014, the MPP would have paid out \$2.5 billion, had it already been in place.³⁶ Given that these subsidies disproportionately accrue to larger milk producers, such programs help big farms get bigger, intensifying consolidation pressures in the sector.

New York receives a major share of federal dairy subsidies. Between 1995 and 2014 the state received the second highest number of subsidies after Wisconsin, a total of more than \$500 million, or 9.1% of federal dairy subsidies over this period.³⁷ Wyoming County, which has the highest number of large farms, received the most subsidies over this period, at more than \$29 million.³⁸ State and national farm lobbies fight to keep this public funding, even though they are strongly opposed to strengthening regulations for labor and workplace safety rights.

Dairy is the cornerstone of Upstate New York rural economic development plans

The dairy industry is worth a total \$14.1 billion to the New York economy, and the administration of Governor Andrew Cuomo has worked hard to support this industry and the jobs it provides for struggling rural and rust belt communities.

At the farm level, economic supports and the easing of environmental burdens have helped some farmers to modernize and grow their businesses. For example, the state government announced plans in 2012 to invest hundreds of thousands of dollars in a Dairy Acceleration Program that “provides business assistance to farmers looking to expand their operations”.³⁹ A now closed New York State Energy Research and Development Authority program provided a total of \$20 million to the state’s largest dairies to install anaerobic digesters that convert farm wastes into energy. The government has also eased environmental regulations for some farmers through a controversial move waiving CAFO (Concentrated Animal Feeding Operation) permit requirements for farms in the 200-299 milking herd range, which has raised concerns over environmental runoff into local waterways and its impacts on human health.^{40, 41}

The state government has also encouraged the industry’s growth through generous financial incentives. Millions of dollars in tax credits to large national and multinational corporations and direct financial interventions and grants to local companies demonstrate the sector’s significant political importance.⁴²

Perhaps most illustrative of the state’s approach is the creation in 2014 of the Strategic Interagency Task Force on Lessening Obstacles to Agriculture (also known as SILO), which bring farmers and the state agencies that regulate agriculture together to develop recommendations to make the overall regulatory framework more streamlined. The naming of this Task Force explicitly frames industry regulations, including protections for workers’ rights, as hurdles to be overcome.

The power of New York’s dairy lobby

Despite the trend towards consolidation, dairy farmers remain united in their demands at the state and federal political levels. Within New York, a group of 18 associations representing the state’s 35,500 dairy, fruit, vegetable, and crop farms, including the New York Farm Bureau, quickly joined forces to criticize the Governor’s decision to support the constitutional right of farmworkers to collective bargaining.⁴³ They also argue that measures to provide for equal rights for farmworkers—to a weekly day of rest and overtime pay, primarily—would deny farming its exceptional qualities as an industry determined by a “Mother Nature” who “doesn’t work by a time clock,” negating the basic and equal rights of their employees. As Dean Norton, the former president of the Farm Bureau, declared, “There is only one person who has a say in the length of our workday, and that is the good lord above.”⁴⁴

Why a Guestworker Program is Not a Solution for the Dairy Industry

Worried about the stability of their workforce, the Farm Bureau and other dairy farmer associations are eager to expand the current seasonal agricultural H-2A guestworker program to the year-round dairy industry.⁴⁵ The current H-2A program allows agricultural employers to hire foreign guestworkers on temporary work visas to fill seasonal jobs. To participate in the program, employers must be able to document that they are facing a shortage of U.S. workers, and that hiring foreign workers will not have an adverse impact on the wages of U.S. workers.⁴⁶ In January 2017, Representatives Elise Stefanik (R-New York, 21st) and Chris Collins (R-New York, 27th) introduced a bill to Congress called The Family Farm Relief Act of 2017, which would establish a process for the year-round dairy industry to use H-2A visas for a maximum three-year period of admission that can be renewed every three months after the end of each period.⁴⁷

However, a guestworker program would do little to improve the living and working conditions of dairy farmworkers, as documented in this report. H-2A programs fail to consistently protect labor rights. A guestworker program would render most existing undocumented farmworkers ineligible for visas, encouraging farmers to replace them with visa-holders and putting them out of a job and a home. It would not offer guestworkers a path to citizenship, and would make it impossible for workers to bring their families to settle longer term in the U.S. Finally, a guestworker program would tie workers’ legal right to work and reside in the U.S. to their job with a single employer.⁴⁸ Leaving the job they were offered with the visa obliges H-2A workers to leave the U.S. Therefore, under such a program, workers risk both being blacklisted from future agricultural jobs, as well as losing their U.S. work visa if they speak up about poor working conditions. This denies them one of their greatest expressions of agency: the freedom to quit when facing abusive or indecent working conditions and to seek employment elsewhere.

Milking Cows, Milking Workers



Most immigrant farmworkers begin and stay in milking parlor jobs with little hope for a promotion. Larger farms have a more specialized division of labor, sometimes creating opportunities for promotion to milking parlor supervisor, herdsman, assistant herdsman, or calf feeder. However, legal status, language barriers, and farmers' fear of putting their workers out on public roads create a glass ceiling that usually impedes promotion to higher-paid and higher-status positions, such as outdoors crop work or managerial roles.

The New Division of Labor on New York's Large Dairy Farms

The jobs that immigrant dairy farmworkers typically perform are:

Milker: Milkers typically work in groups of 2 to 4. Coordination is key because the process moves extremely fast, and involves several steps that must be performed with great precision to ensure no bacteria enter the milk supply. In the following order, the process involves herding cows into place on platforms, “dipping” (cleaning teats with a germicide solution), drying teats off, “stripping” (squirting a bit of milk by hand to check for clots suggestive of an infection), massaging teets to stimulate milk production, attaching suction equipment (which automatically comes off when the udders run dry), and herding cows out from the parlor. Milkers also thoroughly hose down the parlor after their shift. Milkers have told us that their job is the most physically demanding on the farm—and also the most essential for generating farm income—yet, they feel they are the lowest paid and least valued workers.

Farm income depends directly on the flow of fresh milk and therefore milking is a time-sensitive, often stressful process. In a perfectly “efficient” parlor, milking machines or “sides” are changed five times per hour, meaning that, ideally, in a typical “double-12” parlor (two sides of 12 milking machines), 120 cows are milked per hour.⁴⁹

Every step from when cows are loaded into the parlor until they exit is timed to the second, and farmers often monitor the speed of work to maximize their milk productivity per worker per hour. In these conditions, farmers often prefer a younger, more agile workforce. New workers who cannot keep up with the pace see their jobs quickly disappear.

Cow pusher: Often, immigrant workers are assigned alternating “pushing” and milking shifts throughout the work week. Pushing involves bringing cows from the barn to a holding stall just outside the milking parlor so they can be quickly herded into place for milking. Pushing requires special attention to keeping the different groups of cows separated (cows are divided according to how recently they have begun to produce milk, and thus how much milk they are expected to produce), and is not usually an entry-level task. Pushers work alone, including overnight, but must keep in communication with the milking team to ensure there is no delay in the milking process.



Caring for calves: This task is sometimes offered to female workers as it is associated with feminized traits of gentility, patience, and care. Calves typically are tethered to tiny individual huts in rows in the fields near the main barn(s). Caring for them entails providing sufficient water, milk (and, for older calves, grain feed), and monitoring for any symptoms of illness in an effort to minimize mortality rates. Often, but not always, a small motorized cart is provided so that workers do not have to carry heavy buckets to huts. Workers also clean the calf stalls and other equipment using bleach.

Cow feeder: There are few farms left in Upstate New York where cattle graze on green pastures. In modern dairying, cows are fed a scientifically-composed high-protein diet to maximize their milk production—even though their stomachs are not designed to digest it. Usually, formulas for feed are provided by a cow nutritionist and harvested, chopped, purchased, and mixed by farm employees and farm management (who are almost always local workers). Diets must be carefully managed separately for lactating and dry cows. A small tractor called a skidsteer is used to clear away unconsumed grains and spread new feed in wide trenches in front of cow pens inside barns. This job is sometimes held by immigrant workers, and is considered a promotion because it does not require much work outdoors or long hours on one's feet.

Herdsman/Assistant Herdsman: Sometimes, particularly on large farms, immigrant workers with an affinity for cow work are promoted to herdsman or assistant herdsman. The herdsman is the care manager for the milking herd and other cattle on the farm. His or her duties involve overseeing the health of cattle, administering injections such as medication or growth hormones, breeding or overseeing breeding, and managing other aspects of the herd's wellbeing related to cow comfort, barn cleanliness, and the milking process. This job is often paid as a weekly salary rather than per hour, because herdsman are called at all hours to check on sick cattle or attend to urgent needs. Immigrant farmworkers are sometimes promoted to this role, although farmers are reluctant to do so because of the risk of a worker being deported following a significant investment in training.

Foot bather and trimmer: Trimming “feet” is a challenging and high-status job given to workers considered skilled with handling difficult cows. Cows become lame when their hooves are infected with bacterial growth, or suffer rotting or abscesses. The trimming process usually involves a handheld power tool that grinds or trims hooves, while the cow is restrained in an apparatus called a hoof trimming crush.

Other duties: Particularly on small farms, workers are often expected to perform a wider range of chores which may include feeding calves, cleaning stalls and barns, cleaning and adding material to cow beds, bunker silo packing, and others.

Unequal Treatment on the Farm

The overwhelming majority of farmworkers surveyed have American supervisors, although a few work under the supervision of those with Mexican, Guatemalan, or other nationalities. These supervisors are often the farm owner, one of the farmer's adult children, or hired local managers (on larger farms). Seventy-two percent of all surveyed feel that their supervisor treats them well, but the remainder (28%) report aggressive, disrespectful, or inconsistent behavior on the part of their boss.

As agricultural employees, citizen and immigrant workers alike are exempt from basic labor protections. But most respondents (62%) report that American workers are nevertheless treated better than Latino immigrant workers on the farm. The most common observation, when asked for examples, was that Americans do easier work for better pay. As one worker reported, "They always make the undocumented worker do the heaviest work. The American workers do the easiest work and they do it at their own pace." They also noted that American workers have "all the rights," including days off and an hour for lunch, and that they are treated more respectfully. Some highlighted how American workers can rest and goof around while on the job, whereas immigrant workers are scolded for doing the same. Saul, a 35 year-old worker from Mexico, said: "You can see that when they (American white workers) are just sitting or resting, nobody says anything to them. But if we do it, they always say something. Also, American workers always have a higher pay than us."

About a quarter of those surveyed (27%) report that American and immigrant workers are treated equally. Only 4% believe that the immigrant workers are treated better than the American workers. As one worker explained, "They treat the Mexicans better—we're the ones who make them the most money."

Bullying and discrimination

Nearly half (48%) of all respondents report that they have suffered bullying or discrimination in the workplace. "One time," a worker explained, "I got to work and the boss told me leave. When I was leaving the barn, the boss grabbed me and pushed me out." Another worker recounted how his boss constantly surveils workers: "What happens is that the owner meddles in our personal lives. He is just monitoring everybody. He even counts your time when we go to the bathroom." Maria talked about suffering gender discrimination and sexual harassment: "Nobody wants to hire a woman unless she is a veterinarian or formally trained in something." She continued, "as a woman, it is very hard to get this kind of work. They won't give us full time work and the men are very *machista*."

A fifth of our respondents reported that their boss, managers or other workers have made explicit reference to their ethnicity or citizenship status in a demeaning or intimidating manner. "Sometimes they've said that we're illegal, that this is not our land, and that we should go back," one worker reported. Another said that when his boss gets mad he calls them "stupid Mexicans." Another said that on his last day at a farm, the boss told him to "go back to the border." Norma said that "One time, a supervisor told me that since I was an 'illegal' immigrant, I had to learn how to speak English if I wanted to keep my job." Federico explained, "Even though we don't know English, we know when the boss talks to us in a rude way. We might not know the language and the words, but our hearts know it and feel it."

Valuing cows over workers

Nearly all (88%) respondents reported that their boss cares more about the cows than the workers. The predominant reason workers offered for feeling this way related to the fact that cows are the source of profit for the farm owner. As one worker put it: "They produce milk and that's where the profit is." Another said, "you can get another worker for less than it costs to replace a cow." Similarly, a worker reported that a supervisor explicitly told her "that a cow is worth more than a worker and that a worker is easier to replace."

Another common sentiment among interviewees was that their boss was more concerned with providing for the well-being and comfort of cows than in meeting their own needs (as comfortable conditions for temperature and sleeping are associated with higher levels of milk production). One worker said, "The cows are what gives him business. They buy cows sawdust and other things. They [the cows] sleep better than we do sometimes." Similarly, respondents report that their boss appears to care more about the cows than about workers' health and safety. One said, "If a worker gets hurt, it matters to him less than a sick cow." Another reported that, "One time at work, a cow hit me hard, and the owner came and only asked how the cow was. He did not ask about me. He did not care about me."

Long Hours for Low Pay



Farmworkers are excluded from many of the basic labor rights and protections that workers in most other sectors of the labor market take for granted. Excluded from the National Labor Relations Act of 1935, they do not have the right to organize or engage in collective bargaining. They are also excluded from the overtime provisions of the Fair Labor Standards Act. In addition, the New York State Employee Relations Act specifically exempts farmworkers from the right to collectively bargain, while the New York State Labor Law excludes farmworkers from overtime pay and the right to a day off.⁵⁰

This means that dairy farmworkers depend on the generosity of farm owners for a full day of rest. The vast majority work 6 days per week, but they have no legal guarantee of a day off from work. Ten percent of workers surveyed report working seven days a week with no day off.

Alvaro, a 25 year-old worker from Mexico, works 85 hours per week. He considers the work both difficult and monotonous. Despite his extraordinarily long hours, his boss will not give him a break, even when he finishes his work early. And when he and coworkers complained, they were threatened with being fired. "When we couldn't take it any longer," he said, "they would say you can leave if you want to."

Workers reported working anywhere from 6 to 15 hours each day, though they typically work 12 hours a day. Scheduling practices tend to be different depending on the size of the farm. On larger farms with fast-paced milking parlors, shifts are usually 12 consecutive hours per day. On smaller farms, shifts might be shorter but more frequent (for example, 8 hours on, 8 hours off, 8 hours on, etc.), never allowing more than a few hours to rest at any point in the day or night. One worker described the temporal disorientation caused by this kind of around the clock scheduling practice: “For me, the night is day, and the day is night.”

Ninety percent of workers reported that they get a break to rest or eat during their shift. These breaks usually last between 30 minutes and one hour. Unfortunately, breaks are sometimes as brief as a few minutes. For example, Diego, a 24 year-old dairy worker from Mexico, works between 76 and 78 hours per week, averaging 12 hours each day. Although Diego is supposed to have a daily 30-minute break, on many occasions he finds himself having to work straight through:

“I start working at 4:00 am and work until 12:00 pm, then I work from 12:30 pm until 4:00 pm or 4:30 pm. There is very little time to rest, and sometimes there is no time to have a break...sometimes we just have to work like that.”

Of the 88 workers we interviewed, 45% report that they feel rushed and/or hurried on the job. Some report that they are timed while they work so they always have to work fast. Still others report that they feel rushed because they’re under constant surveillance—via video cameras in the barns—or because they can fall behind if a machine breaks down or something out of the ordinary occurs. Bertha, a worker from Mexico, said: “Here you get no extra time. If they (supervisors) see you resting, they will give you more work to do.”

One worker described the relentless pace of milk production in these terms:

“The first group of workers finishes milking at 9:00 am. By noon, the milk has to be ready for pick up. There is only one person who milks in each shift. The cow pusher used to help but not anymore. Now I have to: bring in the cows, clean, give them food and do whatever comes up, and then I have to hurry and milk all the cows in 4 hours. That is very hard to do. And sometimes there are cows who are in labor and I have to go and help them, but even then, they (supervisors) are rushing me. I feel very rushed all the time and that makes the work very dangerous. I can have an accident if I am too tired and if I am not careful. Also, I haven’t had vacations or a day off per week in 3 years.”



Certainly, some workers want to work as many hours as possible, given their relatively low rate of hourly pay and their need to send remittances to their families and pay back migration debts. This is certainly true of Ernesto, a 46 year-old dairy worker from Guatemala. He works a daily 15-hour shift, from 5:00 am to 8:00 pm, with a one-hour unpaid break. As he explained, working such long hours hardly feels like a choice:

“We work a little more, and we get a little more money... (the money) still might not be enough, but we have no options, there are no options... Some days we don’t sleep enough, some Mondays we only sleep 4 or 5 hours... but our body gets used to it.”

Low and Stagnant Wages

Most workers on dairies earn an hourly wage that places them near or, depending on how many people in the U.S. they support, below the poverty line. However, they are comparing these wages to the dramatically lower incomes that they would be earning back home. Poverty in their home countries, then, is in large part what make immigrants such an ideal workforce from the perspective of U.S. employers, as it is what drives immigrants to willingly put up with wages and working conditions that few, if any, American workers would accept.

The workers we interviewed reported earnings of, on average, \$9.32/hour.⁵¹ Since the median and mode for hourly pay were both \$9.00/hour, it is clear that a few higher-paid outliers slightly pull up the average.⁵² Full time employment with a 40-hour work week at \$9.00/hour amounts to \$18,000 a year. Working 72 hours per week (the most common number of hours worked per week by workers surveyed), their average pre-tax earnings would be \$33,696 per year.

Workers whose families reside in New York shared stories of economic hardship and disillusionment with their economic reality in “el Norte.” Jose and his wife Elsa, dairy workers from Mexico, have struggled to support their four children on their two incomes. Unable to afford to rent a place of their own, they have lived for over a decade in overcrowded farm housing, sharing the space with at least four other dairy workers.

They experienced extreme financial hardship in 2015 when Jose required an emergency operation on his brain. For weeks, he was incapacitated and unable to work. Elsa’s wages were not enough to support their family and cover the bills. The family got through those troubled times thanks to the financial donations of friends and supportive community members.

Moreover, workers receive infrequent raises. With the exception of a few outliers, wages uncovered during our research tend to hover at \$9.00/hour—at a time when the New York State minimum wage was \$8.00/hour (2014) and \$8.75/hour (2015)—regardless of how long workers have been on the farm. Two-thirds reported that they have had a pay increase at one point, but typically by no more than 25 cents. Often, these increases were merely reflecting increases in the New York minimum wage. As one worker explained, “One time they increased my pay by 10 cents. That’s an insult to me.”

Forty-four percent of workers get no vacation days. Of those who do get vacation time, 68% report that it is paid. A slight majority of the dairy workers we surveyed have at one time or another received a gift or bonus from their employer, typically for Christmas or for exceptional milk quality. However, most workers state that these “bonuses” are not always consistent and that the policies around them are unclear, particularly regarding the quality of milk.⁵³

When bonuses are withdrawn without explanation, workers feel uninformed about their job performance and may lose out on an income supplement they had relied upon.

All the workers surveyed for this project have had deductions from their pay, specifically local and federal taxes. Social security is almost always deducted from workers’ pay, even though they are generally in no position to collect social security in the future, or any government aid for that matter. Other examples of paycheck deductions include housing (rent), Medicaid, retirement savings contributions, utilities (telephone, cable, gas), and housing-related repairs (broken down appliances, pest control, etc.). Understanding what these deductions are and why they are in place can be challenging for workers. On occasion, workers don’t understand why they have deductions such as Medicaid—considering they or their employers usually pay directly for their healthcare—or why their employer marks those deductions by hand on their pay stubs. Given that deductions appear in English, some workers simply cannot decipher their pay stubs.

Wage Theft Prevention Act

In 2011, New York State enacted the Wage Theft Prevention Act to assist with the recovery of unpaid or underpaid wages and to increase penalties for employers who fail to follow labor laws in all industries. The only legal pay deductions are those required by law, such as social security, income tax, and court-ordered garnishments, and those that are considered benefits and that the worker has authorized in writing, such as insurance premiums, savings, or allowances for meals and lodging (if permitted by law).

Wage theft

An important finding of this study is that 28% of the workers surveyed have knowingly received less pay than what they were owed while working on a New York dairy farm. Given the number of farmworkers who admit to not understanding their pay stubs, the actual rate of wage theft may be higher.

Wage theft takes several forms. Most of the wage theft cases occurred because workers' checks didn't account for all the hours they had worked. Twenty-five percent of workers reported that when they work fewer hours than normal, their checks reflect the difference, but when they work more hours than normal, the additional hours are not paid. Some workers said their employers still did not pay even after they pointed out the discrepancy.

Francisco, a 30 year-old worker from Mexico, shared his experience with wage theft:

"During the winter, there is no heat and everything in the barns freezes. Sometimes it takes us a long time to unfreeze the machines, and he (the owner) doesn't pay us the hours we spend unfreezing the machines... I worked at another farm and the same thing happened to me like 5 or 6 times in 15 months. ... I don't think I can recuperate the money, the owner is going to ask me for proof. They owed me \$600, so like a week's pay..."

Sometimes long periods of work are unpaid. In some of the cases, getting the last paycheck owed when leaving a job was especially difficult. In the case of Armando, a 35 year-old worker from Mexico, the farm owner owed him his last two week's pay, around \$900. When he confronted the owner, she said that Armando would not be paid because he didn't give two week's notice. Daniel, a 35 year-old worker from Mexico, had a similar experience. As he explained: "They still owe me the last [check], like 30 hours... I told the farm owner, but he said that I didn't work fast enough, so I was fired and wasn't going to get paid."

Others were never paid for their first week of employment. Rather, they were told that it was unpaid "training." Still others had their pay illegally docked when they made mistakes, like mixing up cows at different stages of milk production freshening, or after getting injured.

Finally, wage theft occurs when farmers require workers to pay for their own protective equipment—gloves, glasses, masks, boots, etc.—as was the case for one quarter of our respondents. As Crispin explained: "They (the farm) gave us short gloves to handle the chemicals, but they know that it wasn't enough for us to avoid touching the chemicals and to do the cleaning; they gave us the option of buying larger gloves from a different box, or we could buy our own at the store. That was not fair."

Demanding Stolen Wages



When Alberto (right), a dairy worker from Mexico, realized that he was not getting paid for the number of hours he was working, he decided to quit. After giving notice, he spoke to a few of his co-workers to educate them about the wage theft that they, too, were experiencing. One of them tipped off the owner that he had spoken out and when Alberto went to retrieve his final paycheck, the owner ripped it up in his face.

Alberto left the farm and soon thereafter sought help retrieving his stolen pay from WJCN. He wrote a demand letter and delivered it himself to the manager. Eventually Alberto filed a wage theft complaint with the New York State Department of Labor. After a year, Alberto was finally paid the wages he was owed.

Dangerous Dairies



On Sunday, November 9, 2014, Marco Antonio was working alone, covering another worker's job duties on his day off and gathering feed for the cows. When he failed to start milking the cows at the usual hour, his coworkers went looking for him.

Originally from Huehuetenango, Guatemala, Marco had come to New York to support his wife and children back home. He had been working at the same farm for three years. As a dedicated worker, husband, and father, his tardiness that day was out of character.

Concerned with his whereabouts, his coworkers went looking for him at the family-owned organic dairy farm in Penn Yan, NY. Shortly after 5:00pm, they found him: dead and alone. He was only 31 years old.

Marco had been in the grain silo cleaning an auger, a task for which he had never received training. When his co-workers found him, his body lay limp and lifeless, mangled in the still-rotating machinery.

The details of Marco's tragic death serve as an apt metaphor for an industry that churns out workers in its never-ending quest to churn out more and more milk.



Neither an Isolated nor Inevitable Case

Marco's death was not an isolated incident. In fact, on February 5, 2013, just a year earlier, another immigrant farmworker was killed under similar circumstances. Francisco Ortiz, originally from Veracruz, Mexico, was crushed to death by a skid steer loader while working on a small dairy farm in Ithaca, NY. His wife, Mayra, laments that her husband had long complained about the dangers of working with the ill-functioning machine that eventually took his life.

The toll of workplace fatalities in New York's dairy industry is striking: 69 farmworker fatalities have been reported in the decade between 2006 and 2016, according to the New York State Department of Health.⁵⁴

These deaths were preventable. Changes in both governmental policies and workplace practices would greatly minimize the dangers farmworkers face on dairies.

Only a small minority of farms are subject to any kind of governmental oversight, meaning that farm owners can essentially choose whether or not to comply with existing safety standards. Indeed, Congressional riders to OSHA's funding prevents OSHA, the federal agency charged with oversight of workplace health and safety, from inspecting or enforcing compliance with its standards on small farms. Farms that employ fewer than 11 non-family workers, like the ones where both Marco and Francisco were killed, are entirely unregulated.⁵⁵ Even deaths on small farms do not trigger an OSHA inspection; of the

34 deaths that occurred on dairy farms in New York between 2007 and 2012, OSHA did a follow-up inspection for a mere four.⁵⁶ It is estimated only 18% of New York dairy farmworkers are employed on farms eligible for OSHA inspection and enforcement activities.⁵⁷

An important finding of this study is the number of workers who believe that they themselves must bear the sole burden of ensuring their personal safety on the job. In response to the question "What steps do you take to protect yourself from workplace accidents?," workers more or less unanimously indicated that they have to take safety into their own hands: "We have to look after ourselves when we work," "We have to be alert," "Be aware," and "Pay attention." These answers indicate that they do not have sufficient recourse to means for preventing accidents and injuries on the farm.

Workplace Injuries

Part of the challenge of reporting on dairy worker health and safety is that there is no official tracking, or statewide database, of injuries sustained on farms. As a result, we have little overall sense of the gravity of workplace danger in this industry.

Yet, our interviews with dairy farmworkers were revelatory. Two-thirds of workers surveyed report having been injured at least once, if not multiple times, while working on a dairy farm. Of those workers, more than two-thirds (68%) sustained an injury so severe that they required medical attention, even though not all (89%) successfully received it. The most commonly reported injuries include kicks to the head, crushed limbs, eye injuries due to chemical exposure, cuts, and broken and fractured bones.

Most of those injured (83%) reported the workplace accident to their boss. The others lamented that they didn't report their injuries because, for instance, "we want to be seen as good workers," "we came here to work, not to complain," or "we don't speak English."

Workers reported that they face difficulty getting needed support when injuries unfortunately occur. More than a third of those injured (39%) reported that they needed workers' compensation. But only a third of those who needed it actually applied, either because they didn't know it was an option given their undocumented status, or because they feared employer reprisal. Several workers reported that they weren't even permitted days off to recuperate from their injuries. One worker even said that the manager and farm owner told him that he did not have the right to compensation, and another worker reported that his manager tried to minimize his injury and told him that workers' compensation wasn't necessary.

“We came here to make a life for ourselves... not to lose it.”

Roberto, 36 year-old worker from Mexico



Lazaro: "I was lucky I didn't lose my eye."

After his company eliminated his office job in 2013, Lazaro, 55 years old, decided to leave his home in Mexico City to seek work in New York so that he could support his elderly parents, his wife, and the university studies of his two children.

Lazaro worked on a small dairy farm in Central New York. As the only Latino employee, he was responsible for milking cows in the parlor, cleaning out the stables, and caring for the calves. He worked between 9 and 12 hours a day, 7 days per week. He was paid a weekly flat rate of \$500, which meant that some weeks, his compensation was well below the legal minimum wage. Yet, fear of losing his job made him reluctant to complain to his employer.

One day, Lazaro was performing his usual routine of pushing cows. Although there were two bulls in the mix, he had received no warning from his employer and no guidance as to how to behave around the bulls to keep them calm. The only training he had received was in a language he did not understand (English) and it failed to cover all of the tasks for which he was given responsibility. One of the bulls charged him. Lazaro ducked behind the metal protectors around the cow beds, but the bull approached him from behind and flung him face-forward.

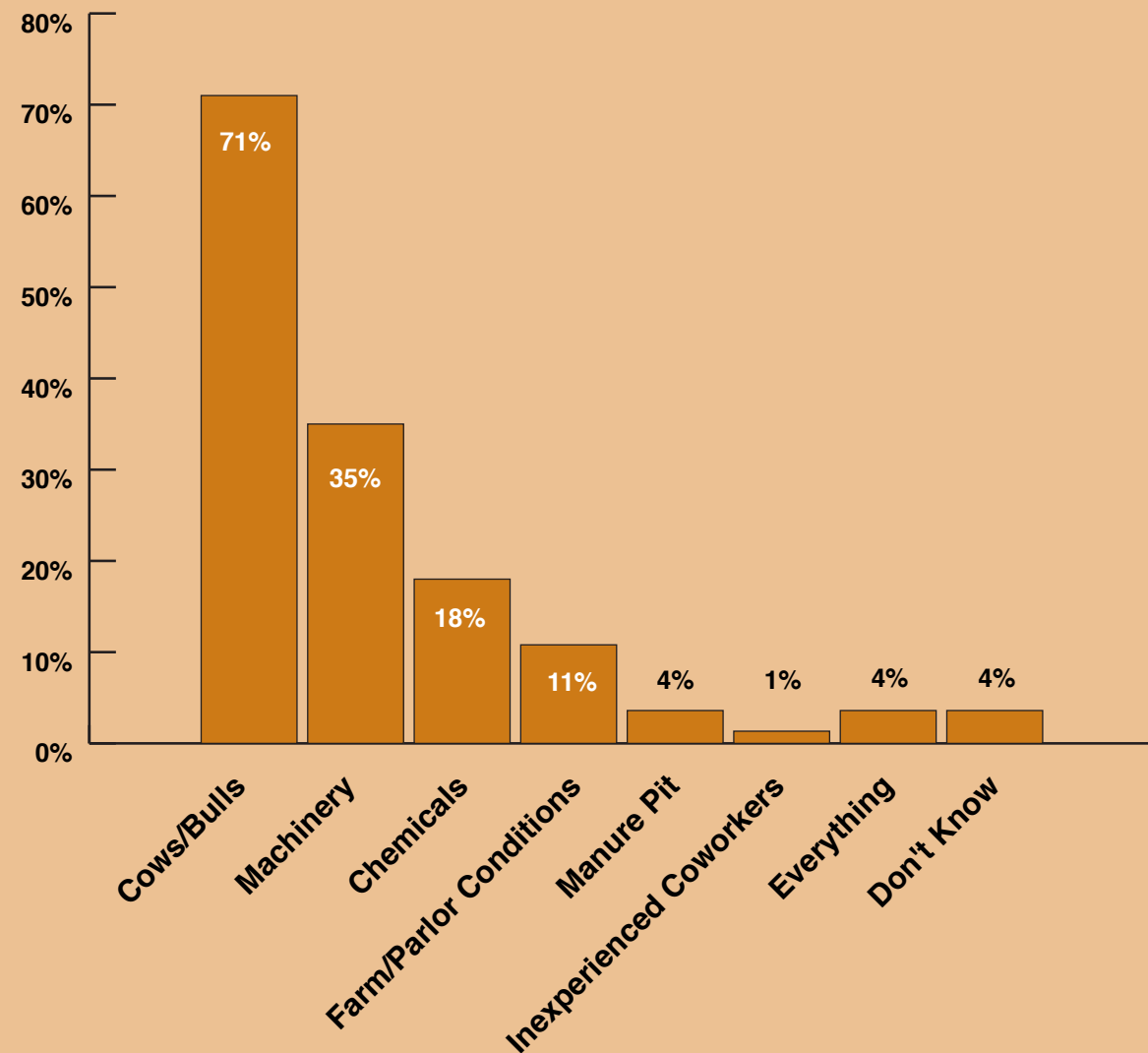
Lying on the ground, Lazaro felt his face burning. He was bleeding profusely. His employer helped him up, but instructed him to wait in a chair near the milk tank while he finished the remaining three hours of Lazaro's shift milking cows. During those hours, Lazaro did not have the opportunity to inspect his face in a mirror. But he suspected that his facial injury was serious. While he waited, he grabbed one of the cloths that is normally applied to cow udders and applied iodine to his injury.

Eventually, seeing the significant amount of blood, Lazaro's employer called one of his family members to take Lazaro to the hospital. He received five stitches for a long cut extending from his eye to his cheek. Though he needed a sixth stitch, the doctors opted not to provide it, as it would have risked damage to his eyeball. He had two broken teeth and two fractured ribs. The doctor told Lazaro that he was lucky that these were his only injuries; given the serious nature of the incident, he could have lost his eye or even his life.

Following the accident, Lazaro received no compensation for the days he was unable to work. His employer fired him within a week, claiming that he was no longer physically capable of performing the duties required by his job. For a few days, Lazaro survived on backpay for work performed prior to the accident. But he had no family locally to support him and he was unaware that he could apply for Workers' Compensation. Lazaro moved in with a friend and spent over a month recovering. He was told that he needed to see an eye specialist as well as a bone specialist for his injuries. He has not had the financial means to do so.

Lazaro joined the Workers' Center of Central New York to fight for greater OSHA oversight of what he considers the 'deplorable' conditions workers face on dairy farms. As he wrote in a letter to the Syracuse Post Standard, "We ask that the politicians that are looking out for the farmers and their interests become more conscientious about those of us who work in the dairies. We are not asking for anything special, just that our right to workplace health and safety is valued."⁵⁸

What are the most significant sources of danger on the farm?



Sources of danger on dairy farms

As indicated in the graph below, respondents identified four primary sources of danger on dairy farms: cows, machinery, chemicals, and farm/parlor conditions. It should be noted that because of the length and timing of shifts, the dangers listed below are exacerbated when workers are exhausted.

Cows and Bulls

By far the most significant source of danger, according to the workers surveyed, are the cows themselves. Workers highlighted cows' propensity to kick and push as the most serious causes for concern. One worker exclaimed, "it's an animal!," one that while generally peaceful, weighs 1,000 to 1,500 pounds and can be unpredictable. Another worker explained the greatest risk in these terms: "Proximity to aggressive animals, without there being any indication of which animals are aggressive." Thus many workers—though they express affection for the cows and may enjoy working with them—have learned that they have to be cautious at all times. As one worker put it, "Cows kick. I don't have much trust in them."

To dairy farmworkers, cows getting milked for the first time ("*vacas frescas*") are particularly dangerous because they are nervous and therefore even more unpredictable. They also face considerable danger from bulls if they are left in the pens intermingling with the dairy cows. This, for instance, was what befell Lazaro, whose attack by a bull left him with broken ribs and a serious facial injury.⁵⁹



- Pinned
- Crushed
- Kicked
- Charged
- Mounted
- Bitten
- Stepped On
- Trampled
- Gored



Workers also face the ever-present danger of getting trapped between a cow or bull and a fence or gate. “Herding the cows to the milking parlor,” as one worker explained, always comes with “the risk of being crushed.”

Machinery

The second most commonly cited source of danger, according to the workers we surveyed, is using machinery without adequate training. As one worker put it, the greatest danger comes from having to work with “machines that we don’t know how to use.” The risk of injury is exacerbated when these machines are old and insufficiently maintained. Often, when the machines break down, workers feel they have little choice but to fix them, even when they haven’t been trained to do so.

Workers also face risks when working with the machinery in the milking parlor. They highlighted the possibility of getting hit by a tube or pipe when cleaning the milking equipment. They also mentioned exposed cables and the possibility of slipping on the rods of the machinery. Similarly, exposed wires and PTO (power take off) from tractors and other machines put workers at risk.

Chemicals

Chemicals are the third most commonly reported source of danger on dairy farms. Dairy workers are regularly exposed to hazardous chemicals—including iodine, acid, chlorine, bleach, peroxide, copper sulfate, and formaldehyde—when applying teat dips, caring for cows’ hooves, cleaning the milk tank, and cleaning parlor equipment. Without proper training in the uses of such chemicals, workers are at risk of skin, eye, and lung irritation or inflammation. This risk is exacerbated when farms lack accessible eyewash stations. Working with chemicals without proper training can also have long term health consequences, such as cancer and permanent damage to the nervous system.⁶⁰

Farm Conditions

The fourth most commonly cited source of danger is conditions on the farms and in the parlors. Workers highlighted a wide range of concerns related to the physical workplace. Several noted the tight quarters of the milking parlor, which made their job more difficult and dangerous. Many brought up slippery floors, particularly when it is snowing, but also as a result of cow urine and feces. Holes, cracks and unevenness in floors or staircases can lead to tripping or falling. One worker noted that the farm where he worked—and the equipment within—is very old and is therefore more likely to bring about a fatal accident.

Several workers highlighted their exposure to difficult climatic conditions throughout the long Upstate winter or during summer storms, particularly when performing outdoor tasks like caring for calves. Manure pits, when lacking appropriate safety stops or warning signs, present the risk of drowning or of fatal inhalation of noxious gases, as well as oxygen deficiency. And confined spaces such as grain storage bins, hoppers, manure storage units, and milk storage units can lead to asphyxiation and entrapment. Finally, noise from farm equipment can lead to hearing loss, especially when protective equipment is not provided.

Worker Training

One third of the immigrant dairy workers we surveyed reported having received no job training of any kind. This is concerning, especially when one considers that the agricultural sector is one of the most dangerous sectors of the labor market and that immigrant workers tend to be employed in roles that are the most hazardous.⁶¹

Two thirds of interviewees did indicate that they received training. However, that training was not always sufficient. For some, training focused exclusively on ensuring the production of high quality milk; matters of workplace health and safety were not even mentioned. As one worker explained, “I barely had training, like one minute. I figured it out after some time. One just simply has to learn as they go.” For still others, the training was rudimentary and carried out in a language (English) they could barely understand. Several thus reported that training involved an awkward display of pantomime, rather than a thorough explanation of the requirements and precautions of the job.

Workers thus usually learn the ropes, and how to identify dangers, from each other or on their own. Mary, a worker from Mexico, is a case in point. As the only female worker on her farm, she suffers considerable harassment. She explained how the lack of training combined with these gendered dynamics led to several work-related accidents. “The only training I got lasted five minutes. The men would laugh behind my back and they wouldn’t tell me how to be careful and about the dangers of the farm.”

Edgar, too, spoke about the dangers that stem from the lack of training. “Yesterday,” he began, “I washed with the red acid. ‘No, Edgar,’” a supervisor told him. “‘That red liquid is dangerous.’ ‘Why didn’t you tell me?’ And it’s like that, things just slip by. I washed myself but I was hurting here and little pieces [of skin] were falling off me. When someone doesn’t know something, they don’t train them. Sometimes, someone grabs something without knowing what it’s for. Sometimes, there are gallons of liquid spray without labels. So that’s bad, too, because we don’t know what they contain.”

While 82% of our respondents reported that they work with machinery (including tractors, Bobcats, skid steers, augers, and milking machines), only 66% of those workers had received training on how to properly operate that machinery. Similarly, while 90% of respondents reported that they work with chemicals, only 58% of those workers had been trained on how to use those chemicals safely. Even fewer—51%—were instructed on what they should do in the event of a chemical accident. As Alvaro, a young Guatemalan man who has worked on four different dairy farms since 2010, explained: “No one trained me on how to use chemicals safely. There’s no emergency training about what to do. We just have to figure it out. But many don’t know how to figure it out, [because they] can’t read.”

Access to Protective Equipment

Seventy-three percent of respondents judge the personal protective equipment they receive as adequate for protecting them against workplace injuries. Slightly more than one-fourth of all respondents judge the equipment to be inadequate. Moreover, since a majority of our respondents did not receive sufficient training, they might not have knowledge of the protective equipment that is needed. Alvaro, for instance, quoted above, reported that he has no other protective equipment than plastic overalls. Many others reported having nothing other than gloves: “They don’t give anything for work with machines, just plastic gloves, the type used to milk cows or lift manure.” Still others reported receiving literally nothing: “Not one—nothing, nothing, there was nothing, not even sleeves to cover my arms, or gloves, none of that.” Of those who do have personal protective equipment, 25% were illegally required to pay for it out of pocket.

Why there is no OSHA oversight of 90+% of New York dairy farms?

The Occupational Safety and Health Act was passed in 1970 to ensure that every worker had the right to health and safety in the workplace. The Occupational Safety and Health Administration (OSHA) is the agency charged with enforcing this federal law. Since 1976, however, Congress has limited OSHA’s oversight of farms that employ fewer than 11 non-family workers. Every year, the Labor, Health and Human Services, and Education Appropriations Bill—which funds OSHA—has included a “rider” to the Act. This addition specifies that OSHA cannot inspect small farms and low-hazard operations, if it wants funding. This means that small farms are entirely unregulated when it comes to workplace health and safety.

How did this come to be?

Farmer coalitions and industry representatives consistently fight against regulation. They promote their interests by propagating romanticized and antiquated narratives of farm labor: of small family farms representing the traditional American way of life that would be damaged by government oversight. Members of Congress echo these narratives in an effort to keep farm owners happy by keeping OSHA off of “family farms.” However, even the largest farms are usually family-owned, and they employ tens of thousands of workers who deserve basic safety and health protections like those in any other industry.

What are the effects of the rider?

The rider means that working conditions on small farms depend on farm owners’ voluntary compliance with health and safety regulations. It also means that there is no enforcement mechanism, should those conditions be lacking: OSHA cannot conduct inspections or impose fines, which otherwise would incentivize farmers to take steps towards injury prevention. OSHA also cannot collect information about health and safety standards on small farms. That data is vital to demonstrate safety and health problems on small farms and thereby bring them under OSHA’s jurisdiction.

In 2013, given the high number of hazards, accidents, and fatalities on dairy farms, WJCN and WCCNY launched a campaign to push OSHA to implement a Local Emphasis Program (LEP) for the New York dairy industry, modeled after a successful effort in Wisconsin. The LEP would permit the agency to conduct unannounced inspections at dairies across the state.

After organizing a delegation of injured workers to present to the press and to OSHA, WJCN and WCCNY secured the launch of an LEP on New York State dairy farms. Workers had the opportunity to train OSHA inspectors about what to expect, and toured the state educating the public and workers about dairy farm conditions.

The agricultural business industry, however, lobbied seven congressional representatives to advocate for an indefinite delay of the program. WJCN and WCCNY organized a counter-response and the LEP moved forward.

While not a complete solution to the dangers workers face, the LEP is nevertheless a step in the right direction. It has been renewed two years in a row and is still in place today. It is improving the safety conditions of farms with more than 10 non-family workers, as employers have made efforts to bring their farms into compliance with OSHA standards. And workers are more aware of their rights with respect to safety protections.

Stuck in Place



For immigrant farmworkers, the dairy farm provides the whole context of their New York-based lives: job, home, and community. This is because workers live in employer-provided housing on the farm itself, and are often fearful to leave the farm property because of intensive immigration enforcement activity by Border Patrol agents and even local law enforcement agents. Without access to New York driver's licenses, they feel poorly integrated into the community. They are caught in a transnational limbo far away from their home countries, but feeling not much closer to the New York communities where they live and work.

Farmworker Housing

Most dairy farmworkers are dependent on their farm employers even for a place to live. In our survey, 97% of respondents live in employer-provided housing, which is usually offered to them with the job. Only three percent of respondents rented an apartment off the farm. Thus, for the vast majority of farmworkers, the boss is the landlord and the landlord is the boss. Loss of one's job goes hand in hand with loss of one's home.

On-farm housing is almost always a trailer that has been erected for workers, or an old farmhouse. Sometimes, on large farms, farmers construct dormitories for workers. Two percent of our respondents described living in a dormitory. One worker reported living in a "concrete square," and another even reported living in a makeshift apartment constructed off of the milking parlor, getting no reprieve from dangerous methane gases, foul odors, and noise from the animals.

Living on the farm presents some conveniences for farmworkers who do not have to pay for rides to work or travel overnight for graveyard shifts. A significant majority (80%) do not pay rent. Of the remaining 20%, several reported that they do not know how much they pay in rent, in part because it's deducted from their paychecks.

Meanwhile, having workers living right on the farm property helps farmers ensure that workers are constantly available for work. In fact, most live less than 5 minutes by foot from the milking parlor—literally just steps away. Only 6 respondents (7%) reported living at a distance from the farm that would

require transportation (anywhere between one mile, and 25 minutes by car). Two workers described having to walk 45 minutes to the farm, sometimes at 4:00am, usually alone, and including in winter conditions.

The decency and safety of housing conditions is up to the farmer. Even though county public health departments and local code enforcement have jurisdiction to inspect dairy farmworker housing, in practice we have never encountered a farm where such inspections are conducted on a routine basis. Moreover, because year-round dairy farmworkers are not considered "migrant and seasonal", they are excluded from provisions for housing standards and inspection of migrant labor camps under the federal Migrant and Seasonal Agricultural Worker Protection Act—which, although inadequate, do at least assign state or federal governmental responsibility for inspecting farmworker housing. Sixty-two percent of our interviewees report that no one ever inspects their housing. Thirty-eight percent report that inspections are conducted by someone who works on the farm, either routinely or in response to a request from workers.



By and large, farmworker housing is in great need of improvement. Respondents were asked if they had experienced a number of different housing-related problems. A majority (58%) of farmworkers interviewed face problems with bug or pest infestations in their homes. Nearly half report having no locks on their doors, leaving many to feel that there is insufficient security in their house, mostly because anyone can enter at any time. Additionally, nearly a third of respondents report a lack of potable water.



Overcrowding of housing is also a concern with workers reporting having only one bathroom or one stove for upwards of 12 people. We have observed bed-sharing between workers who alternate day and night shifts, and even one worker who slept in the bathtub when there was insufficient space in the living quarters.⁶²

These issues persist even though 88% of those with a housing complaint informed the owner about the problem(s). More than half felt that the owner did not respond adequately to the complaint, either doing nothing or dragging his or her feet in resolving the problem. As one worker explained, "They say they're going to fix it, but sometimes they take a long time. They always say there's no money. They're all like that." Workers sometimes try to take matters into their own hands when owners are unwilling to address their concerns. One worker explained how he and his co-workers had bought treatments for cockroaches, but that their efforts proved insufficient and the problem was never resolved. The few who did not report their housing complaints to the farm owner acknowledged that their decision was due to fear, lack of confidence, and/or disillusionment that anything would really change.

Living in Isolation

Exactly half (50%) of the respondents live with at least one family member, including a significant other, and the other 50% live with no family members. In such situations, visits from family members or friends working on farms nearby are critical to reducing workers' sense of loneliness and isolation. However, 20% of respondents said that the farm owner has a rule prohibiting them from having visitors in their house. Many of these workers report that the farm owner has specifically banned women from coming over, presuming that they would be sex workers. Several reported that their boss requires workers to obtain permission before having any visitors.

Access to farm housing by advocates and service providers is limited not only because of geographical isolation, but because neither state nor

federal law protects the right of visitors to access farm housing. The New York State Attorney General has issued an opinion stating that farmworkers should have the right to visitors: "In our view, migrant farmworkers living in labor camps are tenants within the meaning of New York State's Real Property Law. As tenants, migrant farmworkers have the common law right to receive guests of their choice [such as] doctors, lawyers, labor union representatives, the clergy or other persons during non-working hours without interference by their employers or owners of the labor camps."⁶³

Nevertheless, unless this opinion is supported by legislation that clearly establishes the legal right of workers in employer-provided housing to be visited in their living quarters, employers can continue to screen visitors and even deny their access to farmworkers' housing.

The Ever-Present Threat of Deportation

Many farmworkers feel trapped on the farms due to their round-the-clock work schedules, lack of access to transportation, and fear of immigration enforcement officials.



Farmworkers have good reason to fear leaving the farm. This is because a large proportion of the rural Upstate region falls within 100 miles of the international border, a zone where Border Patrol has the right to set up immigration checkpoints, and to pull over and search vehicles when they have "reasonable suspicion" that an immigration violation has been committed.⁶⁴ In practice, Border Patrol agents have frequently overstepped these powers: they "routinely ignore or misunderstand the limits of their legal authority in the course of individual stops."⁶⁵ Moreover, it is not uncommon for law enforcement, particularly in the rural areas where dairy farms are located, to collaborate with Border Patrol and ICE agents to detain undocumented workers. For example, in March 2017—while putting the finishing touches on this report—two members of a dairy farmworker family were pulled over by local police on their way to church for speeding. Local police called Border Patrol and the women and their five children and younger brother were taken to the local Border Patrol station. That night one of the mothers was forcibly separated from her three U.S. citizen children, including an infant, until the next day.

Forty-one percent of our respondents reported having been detained at least once by law enforcement officials. Of these, 33% had been detained by local police, 24% by the sheriff, 21% by a state trooper, and 21% by a Border Patrol agent.

Many of these workers report having been stopped for speeding, broken headlights, or suspicion regarding their immigration status. This was the case for Ignacio, who explained, "The police have stopped me three times...[once] they called immigration. It was a checkpoint and I didn't have normal headlights, only high beams."

Similarly, Edgar, a 40 year-old worker from Guatemala, was walking to the store one night when local police, looking for a man who had committed a robbery, stopped him. Even when they realized that Edgar was not the person for whom they were looking, they asked for his ID. When Edgar showed them his Guatemalan passport, they told him that his ID was "garbage" and reported him to immigration officials, who subsequently put him in deportation proceedings. A startling 37% of our respondents have experienced the deportation of a family member or other close person upon whom they rely for support.

Immobility

Seventy eight percent of our respondents reported that they do not have a car. For some, this is because their boss explicitly restricts their mobility: over a fifth of our respondents (22%) reported that their boss prohibits them from having their own cars. Most reported that they do not have a car because they lack the requisite documents to drive.

“I would like to have a legal immigration status for one reason only: so I can drive. That is very difficult for everybody, not just for me. We need to be able to drive to the clinic, to go out and buy food...”

Gerardo, 27 year-old from Guatemala

New York State is one of the thirty-eight states in the country that restricts immigrants' access to driver's licenses.⁶⁶ Under current regulations, the New York Department of Motor Vehicles requires that license applicants provide a valid social security number. As a result, most undocumented immigrant workers are unable to obtain driver's licenses and are consequently unable to secure car insurance. Immigrant dairy farmworkers are thus entirely dependent on their bosses, managers, co-workers, and—most commonly—*raiteros* for rides off of the farm.

A *raitero* or *raitera*⁶⁷ is someone who charges immigrants a fee in exchange for a ride. Because this kind of work is under the table and therefore unregulated, *raiteros* can prey on immigrants' lack of alternatives by charging any amount they please. According to our data, the fees charged by *raiteros* can vary from \$10 for a fifteen minute car ride to \$50 for a thirty minute car ride. Simply leaving the farm—to access basic services, run errands, attend church, or visit with friends and family—can cost workers dearly.

As David, a 23 year-old worker from Mexico, explained: “I don't have a car because I don't have a license. There are people who bring us to the store, the *raiteros*. I try to go only when I need something, only every 8 or 15 days. The *raiteros* are Americans and they charge me between \$40 and \$50 every time.”

Omar, a 30 year-old worker from Mexico, said: “I can't have [a car] because I don't have a license. I use *raiteros* to go and buy food. There are two people who we can call. They charge me about \$40. There are only six of us here, so we all have to take turns to go out once a week.”

Of course, some farm owners are quite sympathetic to the workers' plight and do what they can to help by offering rides. Gerardo, for instance, said of his boss: “He helps me when I need it,” driving him to the hospital, to buy food, or to send money home. Jorge, another worker from Guatemala, said his boss “takes [him] to the store and to buy medicine.”

Feeling Isolated and Alone

Because of these difficulties accessing transportation, workers often go long periods of time without ever leaving the farm. The average length of time they go without leaving the farm is a little more than 11 days. Six percent of workers surveyed reported leaving the farm as infrequently as once a month. A couple of workers in the Northern border area, where immigration enforcement activities are most intense, resolutely declared that they only leave the farms for medical emergencies, sometimes staying within the confines of the farm property for years on end.

Even when workers have access to a car or to a *raitero*, the fear of immigration agents can prevent them from taking the risk.⁶⁸ Indeed, 50% of our respondents report that they fear leaving the farm. Of these workers, the vast majority (75%) report that the fear is so strong that it impedes them from venturing out.

“You feel isolated when you don't go out,” Juan, a 25 year-old worker from Mexico, explained “If I felt safe going out, I could get a *raitero* to bring me to the city so I can distract myself. But, like I said, I can't. If I go to the city, people will see that I am Mexican.” Gerardo, a 27 year-old from Guatemala, feels the same way. At the time of our interview, he was residing with his then-pregnant wife. He felt tremendous pressure and anxiety about being able to get rides to the clinic for appointments and in case of an emergency. At the same time, he felt increasingly fearful when leaving the farm. “When I was alone,” he explained, “I was not really afraid. But now that I have my wife and daughter here with me, I feel it more.”

Mary shares this fear. Even though she owns a car and her children are U.S. citizens, she does not feel safe leaving the farm for fear of being detained. And Mary's employer reinforces that fear: “He (farm owner) tells us that he knows the county police, so we are safe here, but that we shouldn't leave the county because something can happen to us.”

Community Exclusion

More than half (57%) of the workers we interviewed declared that they do not feel like they are members of the community in which they live. These workers painted a striking picture of social exclusion and isolation from the broader community, captured in Norberto's claim, “They don't know of my existence.” Or, as Gerardo put it, “I've lived here for years and I don't know anybody.” One worker insightfully linked this issue of isolation to the group's political disempowerment: “If we are far away from society, we are without benefits, licenses, without things that we could benefit from... we can't have rights like voting... we do not feel part of the community.”

Juan, a 25 year-old worker from Mexico, has no car, no license, and leaves the farm only once every 2 weeks. "I would like to be part of the community where I live," he explained. "I would like to be able to study." Alfredo is another worker in his late twenties from Mexico. Like Juan, he does not have a car. Even if he could secure a license, he realizes that he would scarcely be able to afford a car. He leaves the farm once a week on average, and has not been able to develop relationships with other members of the community. "It's like we are locked up!"

Other workers' feelings of isolation stem from perceived discrimination, or ostracization, by the broader community. For these workers, it's less their invisibility and more their hypervisibility (as "Latinos" or "foreigners") that they find to be the basis of their social isolation. As Fernando, a 26 year-old from Mexico, explained: "I would like to be able to meet new people, and not have to hide from them." Or, as David put it, "I don't feel like a member of the town where I live. I feel like people look at me funny. I think it's because they don't like Latinos. Certain people look at us in a very bad way."

Workers were asked if and how often they experienced feelings of isolation and depression. The data shows that an overwhelming majority of respondents feel isolated (62%) and/or depressed (80%).

Some workers feel depressed and isolated every day, such as Martin, a 28 year-old worker from Mexico: "I get depressed every day, every day. But I try to not to think about it and to do other stuff." As Luis, a 21 year-old worker from Mexico, explained: "I feel depressed every time that I think about family. That feeling does not leave you...I try to remind myself that it is worth being here." Other workers such as 26 year-old Manuel and 34 year-old Esteban, stated that the main reason why they feel isolated is because of language barriers. As Manuel put it: "I can't connect to people around me because I can't communicate with them."

Some workers with family close by had these feelings less often than others. As Cesar, a 28 year-old from Mexico, explained: "We don't really leave the farm...I don't feel very isolated because I have family here, but I do feel depressed for not being able to see my family back home. I feel depressed at least once a month, I would like to have papers to go and see them...I try to do whatever I can to forget."

Perhaps as a result of these feelings of isolation, workers develop kinship and solidarity among themselves. Even though they have their conflicts and disagreements, 68% of respondents reported that workers on their farm support one another, particularly when it comes to covering work shifts and helping each other on the job. "If somebody has a commitment," one worker reported, "we cover his shifts." Ana said she has trouble lifting heavy machinery, but that "I have support from my co-workers while I work, for example with the machines that freeze during the winter and are very heavy for me to move." This support can be received from American workers as well: "Sometimes I have a problem with a cow and they (American workers) help me." Immigrant farmworker solidarity also goes beyond the workplace: "We support each other lending money, like when a worker died, we all donated." Another said, "When someone gets sick, we help each other."

By not leaving the farm as often as they might want to, some workers organize musical groups and make use of the farms' fields during the summer to organize and attend soccer tournaments as well as church gatherings. Ramona, a 35 year-old worker from Mexico, said: "I used to be totally depressed every day...but I was able to adapt to the isolation, and I started to pray." Others reported that they throw themselves into their work so as to cope with their feelings of depression and isolation. As one worker explained, "I work seven days a week just so I don't feel this way [depressed]."

Conclusions and Recommendations

Organizing Challenges

The challenges of organizing immigrant dairy farmworkers are significant. These challenges are reflected in the fact that just shy of half of our respondents (48%) confided that, despite their numerous job-related concerns, they have never raised a complaint to the boss.

First and foremost is the fear of **employer reprisal**—intricately linked to the **fear of deportation**—in response to collective efforts to obtain a raise or better conditions. Workers cited “fear of confronting the boss,” “lack of confidence,” “feelings of distrust and disillusion,” and “fear of being fired for being the person who tries to organize” as reasons why they have not raised complaints. As one worker explained: “Regarding salary, I always say [to coworkers], ‘let’s ask for more,’ but they all say ‘no, because we’re going to get fired.’” Another worker admitted, “whenever there are problems, I vote with my feet. It’s better to just quit.” Still another said that the workers on his farm have not organized because, despite their complaints about pay and working conditions, “we don’t want to rock the boat because it could get much, much worse.” This palpable fear of job loss and consequent eviction underscores the importance of the lawsuit before the NY State Supreme Court, which, if successful, would have the impact of protecting farmworkers from employer retaliation (referenced earlier in this report).

Respondents also lamented **language barriers** in their efforts to hold employers accountable for labor violations. As a worker named Federico explained, “Not knowing English is a big barrier for me to defend myself from my boss.” Ernesto recounted the difficulty he faced trying to negotiate with his employer. “I’ve had communication problems with my employer because I don’t know English. I was owed two weeks’ pay when I left that farm.” It was a full three years later by the time Ernesto had learned enough English to “go back to the farm and tell the employer to pay me.”

Workers also noted their staggered and unrelenting **work schedules** as key impediments to organizing. As one worker explained, “We almost never see each other because we have different schedules.” Yet another matter-of-factly stated—referring to the long hours most farmworkers work—that “there’s no time for anything.”

Finally, workers pointed to **workforce differences and inequalities** as impediments to the collective solidarity necessary for organizing. A third of our respondents (32%) reported that the workers on their farm do not support one another and nearly half (45%) reported having been mistreated by a Latino coworker at some point on a dairy farm. Various reasons were given for the lack of mutual support. Some highlighted cultural differences between Mexicans and Guatemalans. Others noted how envy and inequality in the labor force can undermine group solidarity. One worker explained that “the ones who are paid well, they don’t say anything when it comes to claiming our rights.” Other workers noted that those who have more English skills receive preferential treatment from employers. “The ones that know English,” a worker reported, “humiliate those who don’t know how to speak it. And the ones who have been here longer feel superior to the rest.” These internal divisions in the labor force can undermine efforts to achieve higher wages or improved conditions of life and work on the farm.

Organizing Priorities

Despite these formidable challenges, immigrant dairy farmworkers in New York are organizing both on and across farms, pushing back against workplace violence and harassment, recuperating stolen wages, and lobbying for improvements to farm housing and working conditions.

WCCNY and WJCNV have taken on distinct but complementary roles in leading this work. Both provide tools for worker empowerment and leadership development. WCCNY also crafts organizing campaigns and helps workers develop strategies (legislative or otherwise) to solve workplace problems. WJCNV provides the legal support for workers’ efforts to fight injustice. These organizations have helped workers connect, mobilize, and achieve a number of campaign victories concerning dairy farm working conditions.



Carrying out this study has been instrumental to WJCNV and WCCNY outreach efforts, as the survey proved a useful tool for making contact with new workers when visiting farms, and involving them in organizing efforts. WCCNY and WJCNV began to facilitate weekly conference calls with workers to collectively strategize around the issues of wage theft, workplace violence, and health and safety on dairies. These workers' networks were key in building the leadership and solidarity that undergirded several subsequent actions, including the well-publicized protest against worker abuse at Mark's Farm, and the campaign for the implementation of the OSHA Local Emphasis Program for the New York dairy industry.

While these victories are encouraging, much work remains to be done to improve the living and working conditions of dairy farmworkers. Asked to select the most important issues for improving work and life on dairies, the workers surveyed most commonly identified higher wages (including the right to overtime pay), improvements to housing, improvements to workplace safety, immigration reform, and greater opportunities to participate in the community.

Recommendations

Clearly, the federal government has a significant role to play in putting policies into place to eliminate once and for all the exclusion of farmworkers from basic labor protections, to create a path to legalization for undocumented immigrants, and to bring about better regulation of the dairy industry. First and foremost would be the passage of a comprehensive immigration reform bill that includes a feasible path to citizenship for dairy workers and other immigrants without legal immigration status currently in the country. Moreover, U.S. Congress should not re-authorize the small farming operations exception from the OSHA Appropriations Act.⁶⁹ Finally, U.S. Congress needs to bring to an end the racist legacy of farmworkers' exclusion from the rights and protections afforded to most other workers, including the right to organize and engage in collective bargaining and the right to overtime pay.

But such policy changes at the federal level will be slow to occur, if at all—particularly under the Trump administration. Therefore, direct action must be taken by the State of New York, the dairy industry, and consumers to help mitigate the precarious conditions in which immigrant dairy farmworkers live and work.

RECOMMENDATIONS FOR THE NEW YORK STATE GOVERNMENT AND ITS AGENCIES

The government of New York has played a major role supporting the development and growth of the dairy industry. Now it is time for the government to focus on guaranteeing the basic labor and human rights of the thousands of immigrant workers who propel the growth of this industry.

In 2015, Governor Cuomo announced the creation of the first-of-its kind multi-agency Exploited Workers Task Force, whose mandate is to identify and eliminate worker exploitation throughout New York State. The Task Force's website declares that "everyone deserves the full protection of the law regardless of immigration status. We will not tolerate worker exploitation, period."⁷⁰ This is an exciting and laudable development and a clear reflection of the state's support for immigrant workers' rights. However, ending worker exploitation will require changing the law, in addition to ensuring workers its full protection. Towards that end, and with workers' stated priorities in mind, we recommend the following:

The right to fair and decent work and the right to organize

- › The New York State Legislature should finally pass the Farmworker Fair Labor Practices Act, to provide New York farmworkers with the basic labor rights that all other New York workers enjoy, including a day of rest, overtime pay, disability pay, and the protected right to organize.

The ability to participate in the community

- › New York State should restore equal driver’s licenses by passing Assembly Bill 4050 and companion legislation in the State Senate. This legislation would establish a New York ID exclusively for driving purposes (not for traveling or voting), regardless of immigration status.
- › New York State should ensure that English language classes are available to all farmworkers regardless of their age or the duration of time they have been employed on a particular farm, by creating new programs beyond the existing Migrant Education program, which has significant eligibility constraints.

The right to safe and dignified housing

- › The New York Departments of Labor and Health should be charged with ensuring safe and dignified housing conditions to dairy and other non-seasonal agricultural workers. The assigned agency should safeguard workers living quarters by establishing basic maintenance codes, conducting annual inspections of all employer-provided farmworker housing, and holding farm owners accountable for inadequate housing through fines and other penalties. The New York Department of Health sanitary code should be updated to ensure non-migrant housing, such as that occupied by dairy farmworkers, is also covered by its Sanitary Code Title 10.
- › The New York Attorney General’s office should update Formal Opinion No. 91-F7 (1991) concerning the common law right of visitor access to migrant farmworker labor camps to extend to dairy farmworker housing. The Attorney General should work with the New York State Department of Labor and the various associations of law enforcement agencies in New York to educate farmers and law enforcement officers about the updated policy.

The right to a safe and healthy workplace

- › The New York State Department of Labor should take responsibility for health and safety oversight for dairies with less than 11 non-family workers, which are excluded from federal OSHA jurisdiction. This should include creating an inspection protocol and assuming responsibility to inspect smaller dairy farms for violations of industry-accepted health and safety standards and practices that apply to all other farms. These inspections should occur when a complaint, accident or fatality has been reported, and fines should be imposed on farms found not to be in compliance with accepted or prescribed standards.

RECOMMENDATIONS FOR DAIRY PROCESSING COMPANIES AND CONSUMERS

Dairy companies also have a key role to play in mitigating the precarious conditions described in this report and consumers must push these companies to coordinate actions along their supply chains that improve labor and human rights protections on dairy farms. Several worker-led codes of ethics for agricultural production have been implemented successfully on U.S. farms and can be adopted in the New York dairy industry.

Creation of a worker-driven and independently monitored social responsibility program for New York dairy farms

Purchasers of dairy products should ensure that their entire dairy supply chains comply with workers’ human rights by fulfilling the elements of one or more of the Coalition of Immokalee Workers’ Fair Food Program, Migrant Justice’s Milk with Dignity Program, and the Food Chain Workers’ Alliance’s Good Food Purchasing Program. Purchasers should do so by making legally binding commitments to source dairy products only from farms that participate in rigorous labor rights monitoring conducted independent of the dairy purchaser or supplier. This third-party monitoring should enforce standards for working and housing conditions that are set by worker-led organizations, and should include a mechanism for the monitoring body to enforce the resolution of complaints raised by workers.



WORKERS' VOICES: if you could say one thing to the public, what would it be?

"To support our organizing, and for them to organize as well, no matter the kind of job people do."

"To value the work of us Latinos, particularly because we do the jobs that Americans don't want to do."

"I want people to know about our situation, what it costs us to be here, and how hard is to do our job."

"We have to explain to the public that Hispanic workers are treated very badly."

"This milk comes from the cows, but people need to know that immigrants are the ones who milk the cows."

"We came here to work, but not like slaves."

"People should know that the milk they drink takes a lot of work."

"People should know who we are, that we are the basis of agricultural products like milk. People need to know who works hard and that it is not the farm owners who are working hard."

"I would say to the public to value the work that Latinos do so that they can consume milk. I would tell them all the effort that is behind it, that the work wears on workers and on the cows."

"We immigrants do the dirty, heavy, and low paid work behind the gallons of milk that you and your family consume."

"That they should support us because we produce this milk."

"Behind a glass of milk there is a worker who always works hard."

"We are here to produce good quality milk."

"I would tell people to get to know a worker so they can know how we fight for our lives with strength and sweat."

"I just want them to know about us."

"It is because of me that you are drinking milk."

"To appreciate the work that we do, that we suffer a lot of humiliation, that we make a great effort and we are not paid enough."

"To be more informed about agricultural production. This is hard work and it is mostly Latinos doing it."

"Wherever there are Latinos, there is growth. We help companies and industries get bigger."

"To keep drinking milk!"

"To the people in Mexico: 'el Norte' is not what they say it is."

"Don't discriminate or judge us, because thanks to us you can drink milk."

"I want the government to know that we didn't come here to cause trouble. We came here to work hard. I want them to acknowledge that."

Endnotes

- 1 As suggested by other surveys of New York dairy farmworkers. See Maloney, Thomas R., Libby Eiholzer, and Brooke Ryan. 2016. *Survey of Hispanic Dairy Workers in New York State 2016*. Charles H. Dyson School of Applied Economics and Management College of Agriculture and Life Sciences, Cornell University; and, Maloney, Thomas R. and Nelson L. Bills, *Survey of New York Dairy Farm Employers 2011*. Charles H. Dyson School of Applied Economics and Management College of Agriculture and Life Sciences. Cornell University.
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- 26 For example, Dairy Farmers of America is the sole supplier of milk to the Chobani yogurt facility in Upstate New York. Alpina Foods committed to only purchasing milk from within 30 miles of their Batavia, NY facility, including from Upstate Niagara Cooperative. See: Hamilton, Emily and Mary Jo Dudley. 2013. "The 'Yogurt Boom,' Job Creation, and the Role of Dairy Farmworkers in the Finger Lakes Regional Economy." PathStone Corporation, Cornell Farmworker Program, and Cornell Cooperative Extension.
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- 41 A New York State Energy Research and Development Authority program to install anaerobic digesters, which convert agricultural waste, including cow manure, into electricity, lowering energy costs particularly for larger dairies, but at the time of writing has been closed.
- 42 As just two examples, the Alpina Foods plant in Batavia received tax incentives worth 25% of their \$15 million investment in a yogurt facility near the town of Batavia from New York State. Muller Quaker received \$15.3 million in tax credits from the State and another \$12 million from Genesee County in tax savings for their own plant in the same area (from sources cited in: Hamilton, Emily and Mary Jo Dudley. 2013. "The 'Yogurt Boom,' Job Creation, and the Role of Dairy Farmworkers in the Finger Lakes Regional Economy." PathStone Corporation, Cornell Farmworker Program, and Cornell Cooperative Extension.) When Kraft-Heinz threatened to close several dairy products processing facilities throughout the Upstate region, the Governor committed to providing \$20 million over 5 years to keep the plans open and to modernize the facilities. (<https://www.governor.ny.gov/news/governor-cuomo-and-senator-schumer-announce-agreement>

- kraft-heinz-save-nearly-1000-risk-jobs) The state government also supported the dairy processing sector in 2015 by awarding a \$2.5 million grant, plus \$1.5 million in tax credits, to Cayuga Marketing LLC for creating local jobs and reducing foreign dairy imports. <https://www.governor.ny.gov/news/governor-cuomo-announces-181-million-fund-projects-generating-economic-opportunity-throughout>
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- 51 The minimum wage in New York was increased during the course of our research. For 2014, the minimum wage was \$8.00/hour; on December 31, 2014 it was increased to \$8.75. It was then increased again to \$9.00/hour on December 31, 2015, but our interviews were completed by that point. In 2017, the minimum has been raised to \$9.70.
- 52 This figure excludes those who never answered this question and those who reported weekly as opposed to hourly earnings.
- 53 In an effort to understand this process better, two workers who participated in this research and organizers from the WCCNY requested a meeting with one of the cooperatives that buys the milk. The main reason for meeting with DFA was to inform the cooperative about labor practices at Marks Farm, in particular the recent firing of two workers and farm's practices around bonuses. The workers at the meeting posed the question of why they sometimes do, and sometimes do not, get bonuses even when the milk is of the same high quality. The coop representative said that the distribution of bonuses was a decision made solely by the farm owners.
- 54 Personal communication with New York State Department of Health representative, Feb 26, 2016.
- 55 Technically, all farms are supposed to comply with OSHA agricultural standards. However, OSHA is only permitted to do health and safety inspections and to impose sanctions on farms with 11 or more non-familial, hired laborers. The only exception to this is for farms with temporary labor camps. However, given the year-round schedule of milk production, virtually no dairy farms have temporary labor camps.
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- 66 Currently only twelve states offer driver's licenses to undocumented immigrants: California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, New Mexico, Nevada, Utah, Vermont, Washington, and the District of Columbia. See National Conference of State Legislatures. 2015. *States Offering Driver's Licenses to Immigrants*. <http://www.ncsl.org/research/immigration/states-offering-driver-s-licenses-to-immigrants.aspx>
- 67 The word *raitero* or *raitera* is a play on the word *ride*, as in car ride.
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