

**FIELDS OF PERIL:
CHILD LABOR
IN US AGRICULTURE**
SUMMARY AND KEY RECOMMENDATIONS

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PHOTOGRAPHS BY
U ROBERTO ROMANO



Michigan
Workers harvest cucumbers in Michigan.

SUMMARY

Hundreds of thousands of children under age 18 are working in agriculture in the United States. But under a double standard in US federal law, children can toil in the fields at far younger ages, for far longer hours, and under far more hazardous conditions than all other working children. For too many of these children, farmwork means an early end to childhood, long hours at exploitative wages, and risk to their health and sometimes their lives. Although their families’ financial need helps push children into the fields—poverty among farmworkers is more than double that of all wage and salary employees—the long hours and demands of farmwork result in high drop-out rates from school. Without a diploma, child workers are left with few options besides a lifetime of farmwork and the poverty that accompanies it.

In 2000, Human Rights Watch published the report “Fingers to the Bone: United States Failure to Protect Child Farmworkers.” This study documented the exploitative, dangerous conditions under which children worked in agriculture and the damage inflicted upon their health and education. Highlighting weak protections in US law, it found that even these provisions were rarely enforced. Nearly 10 years later, Human Rights Watch returned to the fields to assess conditions for working children. We conducted research in the states of Florida, Michigan, North Carolina and Texas, interviewing dozens of child farmworkers who had altogether worked in 14 states across the country. Shockingly, we found that conditions for child farmworkers in the United States remain virtually as they were a decade ago. This report details those conditions and the failure of the US government to take effective steps needed to remedy them. Most notably, the government has failed to address the unequal treatment of working children in the Fair Labor Standards Act (FLSA), which provides fewer protections to children working in agriculture compared with all other working children.

In agriculture, children typically start working adult hours during the summers, weekends, or after school at age 11 or 12. Many children work part time much earlier, and Human Rights Watch interviewed child farmworkers as young as seven. Seventeen-year-old Jose M., who described the shock he felt going to work at age 11, said that when he looks around the field and sees 12-year-olds, “I know how they feel. I used to feel like that. They have a face that says they don’t want to be here.” He added, “Teachers at school know when kids turn 12. They see the cuts on their hands. They know a child at 12 goes to work. No if’s, and’s, or but’s.”

Parents told us they took their children to work because they did not have childcare and because they needed the money to meet basic expenses and buy school supplies. The fact that the work is legal also presents it as a legitimate choice for parents, children, and employers. But several mothers later expressed regret over the choices they had made. One mother in Texas said she believed she had already stolen her 11-year-old daughter’s childhood. Another said when she saw what work did to her two oldest children, she decided not to take her two youngest children to work.



***“When I did strawberry roots, you have to bend down all day. It would kill your back.”
– Seventeen-year-old Marcos S.***

Florida
A 17-year-old boy sells strawberries in a migrant worker camp.

Current US law provides no minimum age for children working on small farms so long as they have their parent’s permission. Children ages 12 and up may work for hire on any farm with their parent’s consent, or if they work with their parents on the same farm. Once children reach age 14, they can work on any farm even without their parents’ permission. Outside of agriculture, children must be at least 16 years old to work, with a few exceptions: 14- and 15-year-olds can work in specified jobs such as cashiers, grocery baggers, and car washers, subject to very restricted conditions.



Florida
A young worker holds an orange in a migrant worker camp in Florida.

EXPLOITATION: LONG HOURS, LOW WAGES

Children often work 10 or more hours a day: at the peak of the harvest they may work daylight to dusk, with few breaks. Children described working five to seven days a week, weather permitting. For example, 14-year-old Olivia A. said she worked from 6 a.m. to 6 or 7 p.m. picking blueberries in Michigan, seven days a week. Felix D., age 15, said he worked the same hours deflowering tobacco in North Carolina, six days a week.

For school children, work is often confined to weekends and summers, and before and after school. Children who have dropped out of school, including “unaccompanied children” who have come without their families from Mexico and Central America, work these hours whenever work is available. Under US law, there are no limits on the hours children can work in agriculture outside of school hours. In non-agricultural settings, 14- and 15-year-olds cannot work more than three hours on a school day and eight hours on a non-school day.

Children working in agriculture typically make less than the minimum wage. Their pay is often further cut because employers underreport hours, and they are forced to spend their own money on tools, gloves, and drinking water that their employers should provide by law. For example, in the Texas panhandle region, children told us they made \$45 to \$50 a day for 10 or more hours of hoeing cotton, or at best \$4.50 to \$5.00 an hour, compared with the federal hourly minimum wage of \$7.25. Where the pay is based on a piece rate, meaning workers are paid by the quantity they pick, it is usually much worse. Antonio M., age 12, said that picking blueberries on piece rate in North Carolina, he made at most \$3.60 an hour.

With some notable exceptions, farmworkers are legally entitled to minimum wage but not overtime, and rarely receive job-related benefits that much of the rest of America’s workforce takes for granted. They receive no paid sick days, no health insurance, no paid vacation leave, and have no job security. They only get paid for the hours they work. Laws that deny farmworkers overtime, and in some instances minimum wage, combined with poor enforcement of existing wage laws, contribute to farmworkers’ poverty and financial desperation that compel children to work and make farmworkers even more vulnerable to exploitation.



Florida
Housing for migrant workers in Florida.
Farmworkers are overwhelmingly poor:
poverty among farmworkers is more than
double that of all wage and salary employees
in the United States.

FARMWORKER CHILDREN’S EDUCATION

Farmworker youth drop out from school at four times the national drop-out rate, according to government estimates. Human Rights Watch interviewed many children who had been forced to repeat a grade one or more times and who had never had anyone in their families graduate from high school. Several factors explain this. Around 40 percent of hired cropworkers migrate each year to or within the United States for work. Children whose families migrate within the United States often leave school early—in April or May—and return weeks or even months after school has already started. Fifteen-year-old Ana Z. in Texas said: “I don’t remember the last time I got to school registered on time. . . . I’m afraid it’s going to hold me back on my education. . . . I got out of math because I was a disaster. I would tell the teacher, ‘I don’t even know how to divide and I’m going to be a sophomore.’ I’m going from place to place. It scrambles things in my head and I can’t keep up.”

Children who try to combine working and going to school often find that school pays the price, in part because there are no limits on how many hours children can work in agriculture outside of school hours. Jaime D., who told us he dropped out of school at age 16 after he started picking tomatoes, explained, “I wanted to work and still go to school, but I couldn’t concentrate on both. I didn’t know how to do both.”

HAZARDOUS WORK: CHILDREN’S HEALTH AND SAFETY

Agriculture is the most dangerous industry for young workers, according to the Centers for Disease Control’s National Institute for Occupational Safety and Health (NIOSH). Working with sharp tools and heavy machinery, exposed to chemicals, climbing up tall ladders, lugging heavy buckets and sacks, children get hurt and sometimes they die. From 2005 to 2008, at least 43 children under age 18 died from work-related injuries in crop production—27 percent of all children who were fatally injured at work. The risk of fatal injuries for agricultural workers ages 15 to 17 is more than 4 times that of other young workers.

Under current US law, children can do agricultural work that the US Department of Labor deems “particularly hazardous” for children at age 16 (and at any age on farms owned or operated by their parents). In non-agricultural sectors, no one under age 18 can do such jobs. Incongruously, some of the same jobs that are considered too dangerous for teenagers in non-agricultural settings are perfectly legal in agriculture: a 16-year-old who is barred from driving a forklift in a store warehouse, for example, may do so without restriction on a farm.

Children routinely described small injuries, and some more serious in interviews with Human Rights Watch. Rarely did they say they sought medical care. Jose M. said he was 12 when “they gave me my first knife. Week after week I was cutting myself. Every week I had a new scar. My hands have a lot of stories. There are scars all over.” Another boy described being hurt when the truck carrying him out to the field rear-ended another. Nevertheless, he said, he and his family returned to work the next day: working sick, injured, and without taking breaks was a common theme among our interviewees who needed the money and were afraid of getting fired if they missed a day.



“They gave me my first knife. Week after week I was cutting myself. Every week I had a new scar. My hands have a lot of stories. There are scars all over.”
– *Seventeen-year-old Jose M.*

Texas
Children often work with sharp tools and heavy machinery. Agriculture is the most dangerous work open to children. Child farmworkers suffer fatalities at more than four times the rate of children working in other jobs.

Human Rights Watch saw children working without gloves and even barefoot. Most said no one required them to wear protective gear; if anyone, it was their parents who urged them to wear it, not their employers.

Children often work performing the same motions—kneeling, stooping, or raising their arms for hours a day. Youth described pain in their backs, knees, hands, and feet, even at very young ages. Children whose bodies are still developing are especially vulnerable to repetitive-motion injury.

Children work in extreme temperatures, heat and cold, from over 110 degrees in the Texas summer to snow in Michigan. In some climates the day starts cold and wet, then turns unbearably hot. Elias N., age 16, said the bad days for him were the “real hot ones, the field is full of weeds, you can’t even take a step. When you’re surrounded by corn, there’s no air.” Working long hours in high temperatures places children at risk of heat stroke and dehydration, particularly if there is not enough drinking water. Heat illnesses can lead to brain damage and death, and children are significantly more susceptible to heat stress than adults. A 17-year-old girl in California died in May 2008 after working nine hours pruning grape vines. Her supervisor delayed her seeking medical care, and when she finally reached the hospital she had a core body temperature of 108 degrees.

Many children said that their employers did not provide drinking water, handwashing facilities, or toilets. Children described bringing their own water and sometimes running out. In some places workers said they had to buy water with their meager wages because the quality of the water in migrant housing was too poor to drink. The federal Occupational Safety and Health Administration (OSHA) requires agricultural employers to provide drinking water, water for hand washing, and toilet facilities. Congress, however, exempts farms with fewer than 11 employees from these regulations, essentially exempting them from having to protect their workers’ dignity and most basic health requirements.

Children are exposed to pesticides. Some children told Human Rights Watch they were sprayed directly; many more said that the fields next to them were sprayed while they were working, and they smelled and had reactions to the drift. “Here there are a lot of chemicals in the field,” said 18-year-old Hector H., who worked alongside children. “You can smell them. [Recently] the plane sprayed, sprayed the cotton. . . . I felt dizzy. I covered my face and kept working. No one told us to get out of the field.” Many children described seeing residue on the plants or even going back into fields wet with spray. Almost none of the children we spoke with had received training on pesticide safety.

Exposure to pesticides is a hazard for all farmworkers but may be especially dangerous for children whose bodies are still developing. Children are uniquely vulnerable to chemicals and may absorb pesticides more easily than adults. Children working in agriculture have far greater incidence rates of acute occupational pesticide-related illnesses than children working in other jobs. Exposures to pesticides can produce rash, dizziness, nausea and vomiting, headaches, and burning eyes, as well as brain damage and death. Long-term pesticide exposure in adults is associated with chronic health problems such as cancer, neurologic problems, and reproductive problems.

US Environmental Protection Agency (EPA) regulations prohibit the spraying of pesticides when any unprotected worker is in the field or may be exposed through drift. The agency sets restricted-entry intervals (REIs) specifying the amount of time after pesticide application workers should not be in treated areas and requires basic pesticide safety training for all workers. However, EPA regulations make no special consideration for children. They do not prohibit children mixing,

*“I tell my daughter, ‘I’m so sorry I stole your childhood from you’”
– Mother whose 11-year-old daughter worked hoeing cotton
and caring for her younger brothers*

Texas

A 15-year-old girl hoes cotton in Texas. Farmworker women and girls are exceptionally vulnerable to sexual abuse. Geographic isolation, language barriers, fear of deportation, and the desperate need for work make it very difficult for them to report abuse, much less get help.



handling, or applying pesticides (although regulations on hazardous work prohibit children under age 16 from using the most dangerous categories of pesticides). Pesticide risk assessments do not take children’s special vulnerabilities into account. REIs are set using a 154-pound adult male as a model—they are not adapted for children, pregnant women, or others who differ from this model.

Farmworker women and girls are exceptionally vulnerable to sexual abuse, ranging from inappropriate or threatening comments to groping, sexual assault, and rape. Geographic isolation, language barriers, fear of deportation, and the desperate need for work make it very difficult for farmworkers to report abuse, much less get help. Girls may be especially targeted because they are young and because of a greater power imbalance that makes it even less likely they will complain.



A farmworker returns home after a day working in the fields. Some children work without even the most basic protective gear, including shoes or gloves. Many told Human Rights Watch that their employers did not provide drinking water, hand-washing facilities, or toilets.

THE US GOVERNMENT’S FAILURE TO PROTECT CHILD FARMWORKERS

Under the Fair Labor Standards Act, which regulates child labor, children in agricultural occupations receive much less protection than children working in all other jobs. As put by the General Accounting Office, “children can legally work in agriculture under conditions that would be illegal in other work settings.”

Under the law, on small farms with parental permission, outside of school hours, there is no minimum age for workers. Children ages 12 and 13 can work for any size farm with their parents’ consent outside of school hours; children 14 and 15 can work on any size farm without parental consent outside of school hours; there are no restrictions on employing children ages 16 and older, including in hazardous agricultural occupations. By comparison, in nonagricultural settings, employment of children under age 14 is prohibited, and children ages 14 and 15 may work only in certain jobs designated by the Secretary of labor and for only limited hours outside of school. Children in other nonagricultural jobs are also prohibited from performing hazardous work before age 18.

Even the weak protections in US law are rarely enforced. Indeed, in the 10 years following the publication of our first report, enforcement of child labor laws overall by the Department of Labor’s Wage and Hour division declined dramatically. In 2009 the division found only 36 cases of child labor violations in agriculture, constituting only 4 percent of all child labor violations, compared with 104 cases in 1998. In 2008 Congress raised the maximum civil money penalties for violations of child labor provisions resulting in death or serious injury, and in 2009 the Department of Labor added several hundred new labor inspectors and promised more robust enforcement of labor laws. It remained to be seen at the time of writing whether these efforts would result in better protection for child farmworkers.

Although each has recently undertaken positive steps in this direction, neither the US Department of Labor nor the EPA has made regulatory changes to better protect child farmworkers from dangerous work and pesticides. Many of the regulations specifying “particularly hazardous” jobs are out of date and fail to address the serious safety and health hazards that children face in the workplace. In 2002 NIOSH recommended in a lengthy report that the Department of Labor update many of the so-called “hazardous order” regulations. By early 2010, the department had taken steps towards updating some of the regulations for non-agricultural jobs but had not placed amending the list for agriculture on its published regulatory agenda, despite the particularly dangerous nature of agricultural labor and younger age at which children are permitted to do hazardous jobs. Nor has the Wage and Hour Division enforced existing prohibitions on hazardous work: in 2009 it cited only two violations of agricultural hazardous orders in two cases, or 0.14 percent of the 1,432 hazardous order violations it found that year.

In December 2009, the EPA announced plans to strengthen its assessment of pesticide health risks for children, farmworkers and others, with a strong emphasis on risks for children in the fields. A process to amend the Worker Protection Standard, which regulates practices related to workers’ exposure to pesticides, has been ongoing for more than a decade.

Lax enforcement of labor laws and health and safety standards is exacerbated by workers’ fears of reporting violations to authorities because they fear deportation for themselves or for their family members. While many child farmworkers are US citizens, the entire family may fear deportation if the parents are undocumented or hold short-term agricultural visas. Labor standards and their enforcement apply to all workers, irrespective of their immigration status. However, enforcement of workplace protection laws often relies upon workers to self-report abuse. They are very unlikely to do so when their employers can threaten to call the US Immigration and Customs Enforcement agency (ICE). Workers are also unlikely to report abuses to local police or law enforcement, since these agencies are increasingly involved in enforcing immigration laws.

The United States spent over \$26 million in 2009 to eliminate child labor around the world—more than all other countries combined—yet the country’s law and practice concerning child farmworkers are in violation of or are inconsistent with international conventions on the rights of children. International Labor Organization Convention No. 182 on the Worst Forms of Child Labor, ratified by the United States in 1999, prohibits children from engaging in dangerous or harmful work. The Convention on the Rights of the Child, to which the United States is a signatory but not a party, seeks to protect children from economic exploitation, and also from work that is hazardous or otherwise harmful. Additionally, because farmworker children are overwhelmingly ethnically Hispanic, the disparity in legal protections provided to agricultural workers compared to other workers in the United States has a disparate impact that is discriminatory under international law. The failure of the United States to enforce existing laws and regulations that purport to protect children working in agriculture further violate the United States’ international legal obligations.

THE WAY FORWARD: CLOSING THE LEGAL LOOPHOLE

For the last decade, members of Congress have repeatedly introduced draft legislation into both the Senate and House of Representatives that would eliminate the double-standard in US child labor laws, and apply the same age and hour restrictions to children working in agriculture that already apply to other industries. However, none of the bills have ever reached a vote. As this report goes to press, a House bill, the Children’s Act for Responsible Employment (CARE Act, HR 3564), co-sponsored by over 80 members of Congress, is still pending.

KEY RECOMMENDATIONS

THE US CONGRESS SHOULD:

- Amend the Fair Labor Standards Act (FLSA) to apply the same age and hour requirements to children working for hire in agriculture as already apply to all other working children. Congress should also raise the minimum age for particularly hazardous work in agriculture to 18, in line with existing standards in all other industries.
- Halt its yearly approval of a rider exempting almost all farms with 10 or fewer employees from the jurisdiction of the Occupational Safety and Health Administration (OSHA).
- Provide sufficient support to programs, such as those administered by the Department of Education’s Office of Migrant Education, to remove barriers to the school enrollment, attendance, and achievement of child farmworkers and ensure that child farmworkers have access to and benefit from the same appropriate public education, including public preschool education, provided to other children.

THE US DEPARTMENT OF LABOR SHOULD:

- Dramatically increase agricultural workplace inspections targeting child labor and minimum wage violations through its Wage and Hour Division. Significantly increase civil money and criminal penalties within the limits allowed by law to improve compliance with the law.
- Propose and press for much-needed amendments to the list of jobs in agriculture that deemed to be “particularly hazardous” for children, as recommended by the Centers for Disease Control’s National Institute for Occupational Safety and Health (NIOSH) in 2002.

THE ENVIRONMENTAL PROTECTION AGENCY SHOULD:

- Amend the Worker Protection Standard to impose a minimum age of 18 for all pesticide handlers.
- Revise the restricted-entry intervals (REIs), which prohibit entry into an area treated by pesticides for a specified period of time following the application of the chemicals, to distinguish between adults and children and impose more stringent REIs for children. Incorporate an additional safety margin on top of what is determined necessary to ensure short and long-term safety, and take into account the combined effect of both occupational and non-occupational exposures.
- Monitor states’ enforcement of the Worker Protection Standard and related pesticide regulations to ensure that such enforcement is vigorous and meaningful.

ALL STATES SHOULD:

- Set or raise the minimum age for agricultural work to at least 14, with the exception of children working on farms owned and operated by their parents.

Detailed recommendations may be found in the full report.

Texas

A woman and her 15-year-old daughter hoe cotton in Texas, where children often work for 10 or more hours a day. Under US law, are no limits on the hours children can work in agriculture outside of school hours. In non-agricultural settings, 14- and 15-year-olds cannot work more than three hours on a school day and eight hours on a non-school day.



Hundreds of thousands of children under age 18 are working in agriculture in the United States. Under a double standard in US federal law, children can toil in the fields at far younger ages, for far longer hours, and under far more hazardous conditions than all other working children. Worse, even the weak protections in US law are rarely enforced.

Fields of Peril is based on more than 140 interviews, including 70 current and former child workers who worked in 14 states across the United States.

For too many children, farmwork means an early end to childhood, long hours at exploitative wages, and risks to their health and sometimes their lives. Agriculture is one of the most dangerous occupations in the United States; child farmworkers suffer work-related fatalities at over four times the rate of other young workers. Yet children can do hazardous work in agriculture from which they would be banned in any other industry. The long hours and demands of farmwork result in shocking drop-out rates from school. Without a diploma, child workers are left with few options besides a lifetime of farmwork and the poverty that accompanies it.

Human Rights Watch calls on the US Congress to amend the Fair Labor Standards Act to apply the same protections for children working in agriculture as already apply to all other working children.

Cover : A 12-year-old girl picks cucumbers on a Michigan farm. Children often work performing the same motions—kneeling, stooping, or raising their arms for hours a day. Children whose bodies are still developing are especially vulnerable to repetitive-motion injury.
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