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COMMENTARY



## A Human Rights-Based Approach to Farmworker Health: An Overarching Framework to Address the Social Determinants of Health

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### ABSTRACT

Migrant and seasonal workers have a right to the highest attainable standard of health. Unfortunately, these farmworkers face a multitude of challenges. They are employed in one of the most dangerous industries and face serious occupational health risks, while positioned at the bottom of the social hierarchy. They often lack formal education and training, English language proficiency, legal status, access to information, and equitable opportunities to health and healthcare. This article will explore the international human rights conventions that support farmworkers' right to health and healthcare in the United States. International human rights may provide a valuable legal framework that could be used to advocate on behalf of farmworkers and address the social determinants of health. Therefore, a Human Rights-Based Approach to Farmworker health will be presented along with recommendations for how to advance health and access to healthcare among this population. Fostering the health and well-being of migrant and seasonal farmworkers is critical to advancing equity, social justice, and maintaining the workforce required to meet production needs and safeguard the economic competitiveness of the industry.

### KEYWORDS

HRBA; health disparities; healthcare access; international human rights; right to health



### Introduction

Agriculture in the United States is dependent upon an immigrant labor force. Many of those working in the agricultural industry are migrant and seasonal farmworkers, both documented and undocumented individuals, who help plant, tend, and harvest fruits, vegetables, and other field crops. They are one of the most economically, socially, and legally disadvantaged groups in the United States.<sup>1,2</sup> Each year, there are about three million migrant and seasonal farmworkers in the U.S.<sup>3,4</sup> Most of these workers are from Mexico or Central America,<sup>5,6</sup> are undocumented,<sup>4,5</sup> and live below established federal poverty levels.<sup>5,7</sup>

Agriculture is one of the most dangerous industries in the United States, and immigrants working in agriculture are particularly at risk.<sup>8</sup> Injury rates among migrant and seasonal farmworkers are estimated to be as high as 12.5 per 100 farmworkers,<sup>9</sup> and workers may under-report injuries for such reasons as fear of losing their job, being undocumented, not being able to provide for their family

if they cannot work, or due to cultural norms around the notion of “hard work”.<sup>10–12</sup> Often times, appropriate personal protective equipment (PPE) is not accessible,<sup>9</sup> and health and safety information is not available in languages other than English.<sup>13</sup>

Migrant and seasonal farmworkers face disparate rates of illness.<sup>4,14,15</sup> They are often exposed to harsh weather conditions and pesticides. Many of the farms lack adequate sanitation facilities such as bathrooms and hand-washing stations. Farmworkers may be unable to seek preventative care to reduce risks from occupational exposures due to cost, language, lack of transportation or appropriate services, and disrespectful treatment including previous negative experiences with the healthcare system.<sup>1,16</sup> Past research has documented high rates of depression, anxiety, obesity, diabetes, skin disorders, and sexually transmitted diseases among this population.<sup>1,4,8,17</sup> The purpose of this article is to highlight how human rights can be operationalized through improvements to the

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social determinants of health to promote farmworker well-being.

### **Social determinants of health**

The social determinants of health are the conditions in which “people live, learn, work, and play”.<sup>18</sup> They are powerful forces, such as healthcare access and social policies, that impact the health of individuals and communities. Addressing the social determinants of health is vital to improving the health and well-being of farmworkers and farmworker families across the United States.

### **Healthcare access**

Migrant and seasonal farmworkers “suffer the poorest health status within the agricultural industry”.<sup>19</sup> Lack of access to healthcare is a serious concern. Because of the nature of the job, migrant and seasonal farmworkers are transient and often do not stay long in a specific community or state making accessing healthcare even more challenging.<sup>10,20,21</sup> Although there are federally qualified health centers across the country that serve migrant farmworkers and their families, they are not always physically accessible.<sup>20</sup> In fact, it is estimated that these centers only serve around 900,000 farmworkers and their families per year,<sup>22</sup> and they have a low penetration rate of approximately 20%.<sup>20,23</sup> Nationally, only about 35% of farmworkers have health insurance.<sup>5</sup> From a study in Nebraska, fewer than 20% of migrant farmworkers had any type of health insurance coverage, and over 83% did not have a regular doctor or source of care.<sup>24</sup> Additionally, there is also a lack of culturally and linguistically competent providers and health services in rural areas, and services may be financially out of reach of many farmworkers.<sup>9,15,25</sup>

### **Policies**

Policies create the systems that influence people’s lives and livelihoods. For example, immigration legal status can determine the types of jobs available, tasks a worker will be assigned, and whether or not an individual will be able to access health insurance.<sup>4</sup> Immigration legal status is a social

determinant of health,<sup>26</sup> and immigration policy is important to agriculture because of its dependence on both documented and undocumented immigrant labor.

Because of “agricultural exceptionalism”, not all farmworkers have the same protections as other workers such as workers’ compensation, minimum wage requirements, and unemployment insurance.<sup>21,27</sup> Indeed, only 14 states require full workers’ compensation coverage.<sup>28</sup> Farmworkers may be unaware of such provisions even if they are available because the majority are immigrants and unfamiliar with how the U.S. system is structured.<sup>4</sup> Certain farms, such as those employing 10 or fewer workers or those without a temporary labor camp, may also be exempt from Occupational Safety and Health Administration (OSHA) regulations, thereby putting some farmworkers at an even greater risk without minimum safety standards or legal recourse. Although some laws, such as the Migrant and Seasonal Agricultural Worker Protection Act and the OSHA Field Sanitation Standards, were intended to protect farmworkers, sparse enforcement may still leave them unprotected.<sup>8</sup>

Unfortunately, there are few national data sources for information on migrant and seasonal farmworkers. The injury supplement of the only national surveillance system, the National Agricultural Workers Survey, was discontinued after 2015.<sup>29</sup> Without appropriate investment in data, it is difficult to develop evidence-based solutions.

### **An international human rights perspective**

Social determinants may be remedied through a unique perspective – that of international human rights. Human rights are universal, indivisible, inalienable, and interdependent rights that apply to every individual. They represent international laws and norms that are progressively realized at a national level.

### **Right to health**

The right to health is fundamental and is enshrined in various international legal documents including the Universal Declaration of Human Rights (UDHR) and International Covenant on

Economic, Social and Cultural Rights (ICESCR). UDHR, Article 25 states:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.<sup>30</sup>

The ICESCR, Article 12, recognizes “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.<sup>31</sup> The right to health is based on four elements: (1) availability, (2) accessibility, (3) acceptability, and (4) quality of services.<sup>32</sup> Furthermore, the declaration of Alma-Ata affirms the crucial role of primary healthcare and stresses that addressing the social determinants is key to attaining a level of health necessary to lead a socially and economically productive life.<sup>33</sup> Table 1 identifies key questions to assess the fulfillment of the right to health for farmworkers.

Although principles support health equity so that all people can reach their “full health potential”,<sup>15</sup> the practice and policy reality is much different. For example, undocumented and documented settled immigrants are barred for the first 5 years from accessing any type of social protections including Medicaid or purchasing health insurance through the exchanges; however, there are a few state-based exceptions for emergency Medicaid and pregnancy.<sup>11,21,25</sup> Farmworkers with a H-2A visa must purchase health insurance during their first 60 days in the United States.<sup>35</sup> Documentation requirements for health and social service programs such as proof of residence or income may pose a significant barrier for farmworkers even if they qualify.<sup>25</sup> Because of the nature of migrant farm work, moving from place to place, health insurance plans may not transfer appropriately leaving workers uninsured. Furthermore, limited English proficiency decreases access to information and use of these types of programs.<sup>21</sup>

### Right to employment

Safe working conditions, living wages, unemployment compensation, and other employment protections are the key to ensuring the health and

well-being of all farmworkers, regardless of their national origin or migratory status.<sup>15</sup> The UDHR, Article 23, clearly recognizes these work-related rights:

Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.<sup>30</sup>

By many measures, farmworkers have been denied their rights to fair and equal employment<sup>36</sup> and deprived of an existence worthy of dignity and social protections.<sup>37</sup>

### Right to information

Farmworkers have a right to information per the International Covenant on Civil and Political Rights (ICCPR), Article 19.

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.<sup>38</sup>

All too often, though, farmworkers’ right to information has been violated. For example, H-2A farmworkers may not know they need to have health insurance or that they could be fined for not having coverage, but some farms may not allow outreach workers to talk with their workers about this issue.<sup>36</sup> It is impossible to follow the law if one does not know the law, and farmworkers may face consequences from their lack of information.

Farmworkers have a right to be informed and consulted specifically on health and safety issues. For example, farmworkers have a right to know about the chemicals used in pesticides, how to appropriately use PPE, what to do in case of emergency, and what benefits are available to them as employees including whether or not they are covered by workers’ compensation. The International Labour Organization’s (ILO) Safety

**Table 1.** Framework for assessing the right to health for farmworkers.

Availability	<ul style="list-style-type: none"> <li>• Are healthcare services sufficiently available?</li> </ul>
Accessibility, which includes four elements:	
1. Physical accessibility	<ul style="list-style-type: none"> <li>• Are facilities and services physically accessible? How long does it take to get to services? Are hours of service convenient for farmworkers? Is transportation assistance available?</li> </ul>
2. Economic accessibility	<ul style="list-style-type: none"> <li>• Are services affordable? Are fees assessed on sliding scale? Are free services or waivers available for farmworkers who cannot pay?</li> </ul>
3. Information accessibility	<ul style="list-style-type: none"> <li>• Is appropriate health information available to farmworkers? Is the information in a format that is understandable? Are language access services available?</li> </ul>
4. Non-discrimination	<ul style="list-style-type: none"> <li>• Are services provided free from discrimination, both in policy and in practice? Are services available to all including undocumented farmworkers?</li> </ul>
Acceptability	<ul style="list-style-type: none"> <li>• Are services provided in a respectful manner?</li> <li>• Do services adhere to medical ethics?</li> <li>• Are services culturally and linguistically appropriate?</li> </ul>
Quality	<ul style="list-style-type: none"> <li>• Are good quality services provided?</li> <li>• Do providers have the appropriate skills to work with farmworkers?</li> <li>• Are appropriate health monitoring and evaluation strategies in place?</li> </ul>

Based on the World Health Organization's Right to Health Standards<sup>34</sup>

and Health in Agriculture Convention (C-184), Articles 7 and 8 articulate these rights.

C-184, Article 7, Section B:

National laws and regulations or the competent authority shall provide...that the employer shall...ensure that adequate and appropriate training and comprehensible instructions on safety and health and any necessary guidance or supervision are provided to workers in agriculture, including information on the hazards and risks associated with their work and the action to be taken for their protection, taking into account their level of education and differences in language.<sup>39</sup>

C-184, Article 8, Sections A and B:

Workers in agriculture shall have the right: (a) to be informed and consulted on safety and health matters including risks from new technologies; (b) to participate in the application and review of safety and health measures and, in accordance with national law and practice, to select safety and health representatives and representatives in safety and health committees.<sup>39</sup>

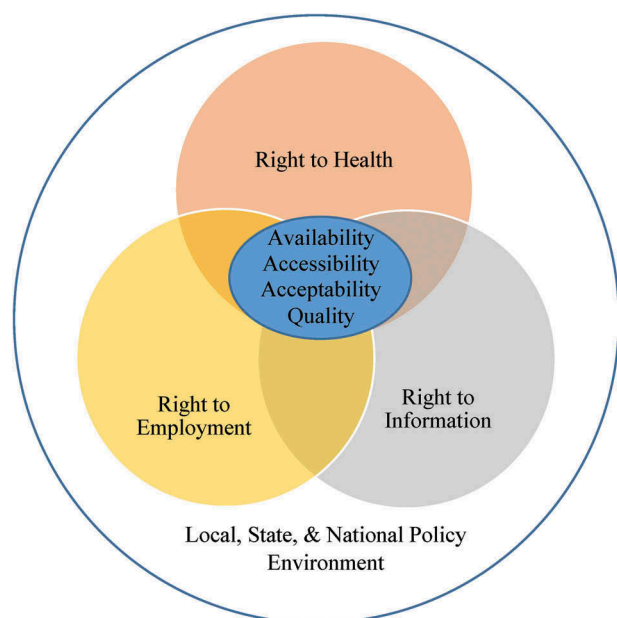
Even though the United States is not a signatory on this convention,<sup>40</sup> it sets forth aspirational human rights and international norms for production agriculture.

### Human rights-based approach (HRBA) to farmworker health

An HRBA to Farmworker Health integrates the rights to health, employment, and information, and may be a helpful tool for developing interventions at multiple levels to improve living and working conditions for farmworkers. Within this model, farmworkers' human rights are realized through advocacy and collaboration with employers, workers, and local, state, and national policy structures (Figure 1).

Undoubtedly, there must be a shared "pragmatic solidarity" for farmworkers that accounts for human rights and where farmworkers' basic needs, such as healthcare, are able to be met.<sup>41</sup> Policy has the power to change social norms and improve health equity. Good social policy is good health policy. Therefore, the following recommendations are put forth:

- (1) Local, state, and federal governments should adopt a "health in all policies" approach that integrates health considerations into a policy dialogues across sectors.<sup>42</sup>
- (2) Health insurance coverage and social protection programs such as Medicaid, unemployment insurance, and workers' compensation should be expanded to cover all farmworkers.
- (3) Stronger oversight and enforcement of applicable laws and regulations of the H-2A visa program, including rights to workers' compensation, housing, transportation, and meals, are necessary.<sup>43</sup>
- (4) Comprehensive immigration reform (CIR) should be pursued at the national level,<sup>27,43</sup> thereby expanding options for individuals to enter the country legally for work or to reunite with family, promoting integration, and creating a path to citizenship for individuals already present in the United States.
- (5) Access to health information and preventative healthcare services should be improved



**Figure 1.** Human rights-based approach to farmworker health.

by expanding culturally and linguistically appropriate health and social service outreach and tailored communication strategies, developing mobile clinics routes, and increasing funding for migrant and community health centers.<sup>43</sup>

- (6) Farmworkers should know their rights, and written contracts describing the payment structure, hours, benefits, and expectations of employment should be provided. They should be instructed on occupational health and safety procedures and provided with appropriate job-related PPE.
- (7) National- and state-level migrant and seasonal farmworker public health surveillance data should be funded and collected.

## Conclusion

Farmworkers are a vulnerable population, which based on international human rights conventions, should have access to healthcare and a decent standard of living for themselves and for their families. The HRBA to Farmworker Health weaves together the human rights to health, employment, and information, and provides a legal framework that can be operationalized through addressing the social determinants of health, thereby improving

not only outcomes, but also processes at a local, state, and national level. Fostering the health and well-being of migrant and seasonal farmworkers is critical to advancing equity, social justice, and maintaining the workforce required to meet production needs and safeguard the economic competitiveness of the industry.

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