

ALWR Sample Paper Fall 04

**The Coalition of Immokalee Workers
and Other Developments in Worker Centers**

by

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I. Introduction to Worker Centers

Across the United States, migrant and low income workers are coming together to assert their legal rights¹ and improve their lives² on the job through the use of worker centers. These centers are low cost, community based organizations aimed at improving the working and living conditions of particular labor sectors.³ Worker centers, much like labor unions,³ often strive to negotiate terms of employment above those set by the markets.⁴ A major distinction, however, between worker centers and unions is that traditional unions depend on winning an election in

¹ Julie Yates Rivchin, *Building Power Among Low-Wage Immigrant Workers: Some Legal Considerations for Organizing Structures and Strategies*, 28 N.Y.U. Rev. L. & Soc. Change 397 at 404 (2004) (describing The Workplace Project in Long Island, NY holding weekly meetings on labor and employment law).

² Janice Fine, *Worker Centers: Organizing Communities at the Edge of the Dream*, 50 N.Y.L. Sch. L. Rev. 417, 424 (describing English classes offered by the Los Angeles based Restaurant Workers Association of Koreatown)

³ *Id.* at 417.

⁴ Jonn Godard, *Unions Work Practices and Wages Under Different Institutional Environments: The Case of Canada and England*, 60 INDLRR 457 at 457.

order to continue representing the workers.⁵ Worker centers, in contrast, attempt to maintain a continuous role in the community.⁶

According to research conducted by organizations like the Economic Policy Institute and the Neighborhood Funders Group, the number of worker centers has increased as labor union activity has declined.⁷ Union membership in the United States has experienced an overall decline since its peak over fifty years ago when roughly 32% of the total workforce belonged to unions.⁸ By 1983, union membership was at 20% and declined to 12% as of the 2006 data from the Bureau of Labor and Statistics (BLS)⁹. The BLS research further notes that the average worker with union membership in 2006 earned roughly \$800.00 per week compared to the non-union worker, who earned about \$640.00 per week.¹⁰

Unions have had inconsistent success in organizing undocumented workers¹¹, which has contributed to the creation of new, more flexible organizations such as worker centers.¹² At times, the United States labor establishment has considered Mexican immigrants, whether documented or undocumented, to be “so tractable and supine as to be virtually unorganizable.”¹³ Competition from undocumented workers has also been a source of concern for the labor unions.¹⁴ A study during the 1980s revealed that 72% of union leaders believed that undocumented workers “take Americans’ jobs.”¹⁵ Worker centers have addressed the lack of

⁵ 29 U.S.C. § 157 (2007).

⁶ See Rivchin, *supra* note 1, at 426.

⁷ See Fine, *supra* note 2, at 421.

⁸ Adrian McDonald, *Through the Looking Glass: Runaway Productions and “Hollywood Economics”*, 9 UPALJEL 879, 936.

⁹ U.S. Bureau of Labor and Statistics, <http://www.bls.gov/opub/ted/2007/jand/wk4/art05.htm> (last visited Dec. 13, 2007).

¹⁰ U.S. Bureau of Labor and Statistics, <http://www.bls.gov/news.release/union2.t02.htm> (last visited Dec. 13, 2007).

¹¹ Jose A. Bracamonte, *The National Labor Relations Act and Undocumented Workers: The De-Alienation of American Labor*, 21 San Diego L. Rev. 29 at 33 (1983).

¹² See Rivchin *supra* note 1, at 397-400.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Hous. Chron., Nov. 17, 1982 at 4, col. 1. (cited in Bracamonte, *supra* note 11, at 33).

traditional representation with a do it yourself approach that has steadily picked up momentum over the past decade.¹⁶ There were fewer than five worker centers in the United States in 1992, however by 2005, there were more than 139 centers in over eighty cities and towns across the United States.¹⁷ Worker centers can be found representing workers in various sectors of the market from taxi drivers in New York City to garment workers in Los Angeles and meatpackers in Omaha.¹⁸

One of the earliest worker centers was the Coalition of Immokalee Workers (CIW), which was created in 1993.¹⁹ The CIW endeavors to promote the social and economic interests of the farm worker community, especially tomato pickers, in Immokalee, Florida, which is in the rural, sparsely populated southwest portion of the state.²⁰ Florida's tomato picking season runs from mid-October to mid-June and during the 2006 season yielded 1.2 billion pounds of tomatoes.²¹ Ninety-five percent of all U.S. grown tomatoes come from Florida.²² Of tomatoes consumed in the United States., Florida tomatoes make up forty-five percent.²³ According to the Florida Tomato Committee, growers hire approximately 33,000 workers during peak period each year.²⁴ Recent estimates suggest that approximately eighty percent of the workers are undocumented immigrants.²⁵

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See Fine *supra* note 2, at 425-426

¹⁹ Coalition of Immokalee Workers, <http://ciw-online.org/about.html> (last visited Dec. 13, 2007).

²⁰ *Id.*

²¹ Florida Tomato Growers Exchange, <http://www.floridatomatoes.org/facts.html> (last visited Dec. 13, 2007).

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Eric Schlosser, *Penny Foolish*, N.Y. Times, Nov. 29, 2007, Op-ed at A27 (Westlaw cite: 11/29/07 NYT A31)

The workers who actually harvest the tomatoes are called pickers.²⁶ The average day for a picker in Immokalee, Florida starts at around 4:30 am.²⁷ Pickers often live together in cramped apartments or trailers.²⁸ Sometimes the growers provide housing and sometimes the pickers rent from private landlords.²⁹ Rent for a single wide trailer with two bedrooms can be as high as \$1,200.00 per month.³⁰ Pickers often share these small spaces with ten to twelve other people in order to afford the rent.³¹ The early morning routine continues as they make their way from the living quarters to a large parking lot to wait for the busses that will take them to the fields.³² The wait can sometimes last three hours.³³

The work in the fields involves picking the tomatoes and placing them into a large bucket carried by the worker.³⁴ A full bucket weighs approximately thirty-two pounds.³⁵ The bucket is then tossed up to another worker in the back of a flat bed truck.³⁶ Pickers receive a token worth forty to fifty cents for each full bucket they bring to the truck, which means they are paid approximately 1.5 cents per pound.³⁷ The per-bucket compensation is known as the piece rate.³⁸ When the CIW discusses an increase in the piece rate, this means an increase in the value of a

²⁶ “Facts and Figures on Farmworkers’ Poverty”, a PDF available on the main page of the Coalition of Immokalee Workers <http://www.ciw-online.org/> (last visited Dec. 13, 2007).

²⁷ Coalition of Immokalee Workers, <http://www.ciw-online.org/images/images-Pages/Image0.html> (last visited Dec. 13, 2007).

²⁸ Coalition of Immokalee Workers, <http://www.ciw-online.org/images/images-Pages/Image27.html> (last visited Dec. 13, 2007).

²⁹ *Id.*

³⁰ Coalition of Immokalee Workers, <http://www.ciw-online.org/images/images-Pages/Image26.html> (last visited Dec. 13, 2007).

³¹ *Id.*

³² *Id. supra* note 27.

³³ Coalition of Immokalee Workers, <http://www.ciw-online.org/images/images-Pages/Image2.html> (last visited Dec. 13, 2007).

³⁴ Coalition of Immokalee Workers, <http://www.ciw-online.org/images/images-Pages/Image10.html> (last visited Dec. 13, 2007).

³⁵ *Id.*

³⁶ Coalition of Immokalee Workers, <http://www.ciw-online.org/images/images-Pages/Image16.html> (last visited Dec. 13, 2007).

³⁷ “Facts and Figures on Farmworkers’ Poverty”, *supra* note 26.

³⁸ *Id.*

single thirty two pound bucket of tomatoes, by increasing the 1.5 cents per pound rate.³⁹ The piece rate has averaged forty-five cents since 1978.⁴⁰ This means that the pickers now have to work twice as hard as they did in 1978 to earn a minimum wage.⁴¹ Proper adjustment for inflation, as of 2007, means that the piece rate should really be about \$1.44 per bucket instead of forty to fifty cents.⁴²

The minimum wage law in Florida is \$6.67 per hour.⁴³ An eight hour workday at Florida's minimum wage results in \$54.42, before taxes. When comparing the numbers, it seems that, financially, the pickers are not in crisis. Tomato picking is clearly hard work but it is not impossible for the workers to come close to earning a minimum wage. When looking at the totality of the circumstances, however, like the lack of overtime pay⁴⁴ and no right to unionize⁴⁵, it becomes clear that tomato pickers are an unusually disadvantaged segment of America's workforce.⁴⁶

The difficult life as a tomato picker, begs the question of why they continue living in Immokalee and working in the fields. The daily income for a minimum wage job in Mexico is the equivalent of approximately \$4.65 (USD).⁴⁷ When comparing a job in Mexico that yields \$4.65 per day, to picking tomatoes in Florida and potentially earning \$50.00 per day, the cost

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² U.S. Bureau of Labor and Statistics, <http://data.bls.gov/cgi-bin/cpicalc.pl> (last visited Dec. 13, 2007).

⁴³ Fla. Const. art. X §24; *see also* Florida Agency for Workforce Innovation, http://www.floridajobs.org/resources/fl_min_wage.html (last visited Dec. 13, 2007).

⁴⁴ 29 USCA § 213(b)(12) (2007).

⁴⁵ 29 USCA § 152(3) (2007) (stating that the word "employee" does not include any individual employed as an agricultural laborer).

⁴⁶ "Facts and Figures on Farmworkers' Poverty" *supra* note 26.

⁴⁷ Ranko Oliver, In the Twelve Years of NAFTA, The Treaty Gave Me... What, Exactly?: An Assessment of Economic, Social, and Political Developments Since 1994 and their Impact on Mexican Immigration Into the United States, 10 Harv. Lat. Law Rev. 53, 94 (2007)

benefit analysis clearly weighs in favor of making the trip to work in Immokalee's tomato fields.⁴⁸

Tomato picking is a rather unique agricultural industry. Tomatoes are vulnerable to damage when picked by machine, but little skill is required for a person to actually pick the tomatoes, unlike other farm work such as pruning grape vines, or thinning peach trees.⁴⁹ Unlike oranges, which are another common crop in Florida, it is difficult for a machine to pick fragile tomatoes without bruising the tomato.⁵⁰

Some progress was made in the 1960's to find a way to pick tomatoes with machines.⁵¹ Entrepreneur-minded engineers at the University of California at Davis began developing tomato picking machines in the 1960s.⁵² By 1970, the tomato harvest jobs had been reduced by two thirds, in part because of the popularity of the picking machines.⁵³ In 1979 California Rural Legal Assistance and United Farm Workers settled a lawsuit against University of California, Davis. The allegations were essentially that a taking had occurred through the university's use of public money to create a private benefit for the growers in the form of reduced costs.⁵⁴

II. Overview of Farm Labor History and Regulation in the United States

The United States has a long history of using migrant workers in its fields.⁵⁵ In the 1870s, farmers in California employed Chinese immigrants who eventually organized to demand

⁴⁸ "Facts and Figures on Farmworkers' Poverty", *supra* note 26.

⁴⁹ Howard Rosenberg, *Many Fewer Steps for Pickers*, Choices Magazine, May 2004. available at: <http://www.choicesmagazine.org/2004-1/2004-1-02.htm>

⁵⁰ Carroll W. Pursell, *The Machine in America: A Social History of Technology* 291 (Johns Hopkins 2007).

⁵¹ *Id.*

⁵² *Id.*

⁵³ Richard Delgado and Jean Stefancic, *California's Racial History and Constitutional Rationales for Race Conscious Decision making in Higher Education*, 47 UCLA Law Review 1521, 1605 (2000).

⁵⁴ *Id.*; see also *California Agrarian Action Project, Inc. v. Regents of the Univ. of Cal.*, 210 Cal. App. 3d 1245 (Cal. App. 1st Dist. 1989); see also Delgado and Stefancic, *supra* note 53, at 1605.

⁵⁵ Lauren Gilbert, *Fields of Hope, Fields of Despair: Legisprudential and Historic Perspectives on the AGJOBS Bill of 2003*, 42 Harv. J. on Legis 417, 425 (2005).

better conditions in the 1890s.⁵⁶ The California farmers responded by switching to Japanese migrant workers from the 1890s to 1910.⁵⁷ The Japanese, in turn, began organizing as well and even purchased land of their own.⁵⁸ The farmers continued to search for the cheapest labor possible, eventually hiring large numbers of Mexican immigrants to work in the fields.⁵⁹ By 1913, in order to prevent Mexican immigrants from gaining power through land ownership, California passed the Alien Land Law⁶⁰ which prohibited immigrants who were ineligible for citizenship from owning land or from leasing land for longer than a three-year period.⁶¹

The continued ambivalence towards the interests of farm workers is evidenced by their exclusion from most of the major federal labor regulations such as the National Labor Relations Act (NRLA)⁶² and the Fair Labor Standards Act (FLSA).⁶³ The Fair Labor Standards Act establishes guidelines for minimum wage, time and a half overtime and child labor regulations.⁶⁴ The National Labor Relations Act is the landmark 1935 legislation establishing guidelines on labor unions, collective bargaining and strike activity.⁶⁵ One might presume that the motivation for excluding farm workers from these provisions was their lack of cohesiveness and capacity to vote, which made them powerless in the political arena. Some observers suggest that the legislative history reveals that the motivation was more closely related to the civil rights struggles of African Americans.⁶⁶

⁵⁶ Gilbert, *supra* note 55, at 425.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.* at 426

⁶¹ *Id.*

⁶² 29 USC §152(3) (2007).

⁶³ Fair Labor Standards Act 29 USCA § 213(b)(12) (2007) (exempting agricultural employees from overtime payment coverage); *see also*, Deborah F. Buckman, *Who is "Employee Employed in Agriculture"*, 162 ALR Fed. 575 §2 (2000).

⁶⁴ Fair Labor Standards Act, *supra* note 63. Minimum wage at § 206; Overtime at § 207; Child labor at § 212.

⁶⁵ 29 USC §157 (Formation of unions, collective bargaining); 29 U.S.C § 163 (right to strike).

⁶⁶ John A. Powell, *The Race and Class Nexus: An Intersectional Perspective*, 25 LAWINEQ 355, 384 (2007)

According to Professor John Powell, the NLRA and FLSA were passed “by means of a trade of the votes of Southern [Congressmen and Senators] for the exclusion of farm workers and maids--occupational categories open to African Americans in a racially restrictive labor market--from protection.”⁶⁷ Professor Powell goes on to argue that the Democrats made these racially motivated exclusions so that they could secure the Republican support needed to pass these bills.⁶⁸ Powell also notes that the precursor to the aforementioned legislation, the National Industrial Recovery Act, actually contained no exclusions of farm workers in the plain language of its pages but that exclusions were read into the document by the agency in charge of its execution, the National Recovery Administration.⁶⁹

Politicians had little incentive to respond to the needs of black farm workers in the South during the heyday of labor reform, because blacks could not vote in primaries and were faced with poll taxes and literacy tests.⁷⁰ Professor Marc Linder sees a clear connection between the decisions that politicians made over seventy years ago and the current uneven playing field that today’s farm workers must deal with: “The Jim Crow origin of the 1930s disparate treatment [under the New Deal] underlies each of the preferences growers now enjoy and requires reconsideration of all forms of discrimination against farm workers.”⁷¹ The problem is perpetuated today by the fact that few, if any, of the farm workers in Immokalee are registered to vote and are therefore unlikely to receive attention from politicians. Their status as immigrants is a massive impediment to their ability to win the ear of any politicians at the local or state level.

⁶⁷ *Id.* at 384

⁶⁸ *Id.*

⁶⁹ *Id.* at 385

⁷⁰ *Id.*

⁷¹ Laurence E. Norton II and Marc Linder, *Down and Out in Weslaco, Texas and Washington D.C.: Race Based Discrimination Against Farm Workers Under Federal Unemployment Insurance*, 29 UMIJLR 177, 179 (Fall 1995 and Winter 1996).

III. Attempts at Relief Through the Courts

The exclusion of farm workers from major federal labor regulation has prompted litigation challenging the constitutionality of these exemptions on equal protection grounds.⁷² The Supreme Court held that: “The Equal Protection Clause of the Fourteenth Amendment commands that no State shall ‘deny to any person within its jurisdiction the equal protection of the laws,’ which means that all persons similarly situated should be treated alike.”⁷³ Can the government argue that the classification created by the exclusion of farm workers from the FLSA is rationally related to a legitimate state interest?⁷⁴ The short answer is yes. The threshold question, of course, is whether legislation like the FLSA even applies to illegal immigrants. The federal courts, including the 11th Circuit Court of Appeals, which has jurisdiction over Immokalee, have already answered in the affirmative.⁷⁵ The federal courts, however, have consistently upheld the exclusion of farm workers from many labor laws going back as far as 90 years ago.⁷⁶

A 1917 equal protection challenge of New York’s exclusion of agricultural workers from state worker’s compensation plans was swiftly dismissed by the Supreme Court in New York Central Rail Co. v. White.⁷⁷ In the two sentences of the opinion that address the issue, the Court stated that the exclusion of agricultural workers “cannot be judicially declared to be an arbitrary classification, since it reasonably may be considered that the risks inherent in these occupations

⁷² See, e.g. Romero v. Hodgson, 403 U.S. 901 (1971).

⁷³ City of Cleburne, Tex. v. Cleburne Living Center, 473 U.S. 432, 439 (1985).

⁷⁴ Id. at 440

⁷⁵ Patel v. Quality Inn South 846 F. 2d 700, 704 (Ala. 1988) see also, Liu v. Donna Karan Int.’l, Inc. 207 F. Supp. 2d 191, 192 (S.D.N.Y. 2002)

⁷⁶ New York Cent. R. Co. v. White 243 U.S. 188, 37 (1917).

⁷⁷ Id. at 208.

are exceptionally patent, simple and familiar.”⁷⁸ The Court provided no further elaboration of what it meant by “patent simple and familiar.”⁷⁹

Later in 1970, the United States Supreme Court issued a two sentence opinion affirming the Northern District of California’s ruling in Romero v. Hodgson that upheld the exclusion of farm workers from unemployment benefits.⁸⁰ Romero unsuccessfully challenged the holding of a 1937 Supreme Court case, Carmichael v. Southern Coal.⁸¹ Carmichael was one of the first cases to examine the uneven application of unemployment insurance taxes amongst various industries in the New Deal era.⁸² Interestingly, the claimants in Carmichael were not workers that were being deprived of unemployment benefits but were rather a coal and paper company challenging being compelled to pay into the state’s unemployment insurance fund while smaller companies with less than eight employees were exempt.⁸³

In ruling against the coal and paper companies, Carmichael gave a lengthy analysis of previous equal protection based challenges to tax exemptions.⁸⁴ Two tax exemption rationales cited in Carmichael are especially useful in understanding why many farm worker exclusions from labor regulations are still considered constitutional.⁸⁵ First, Carmichael states that a rational basis for excluding certain entities from a tax burden is if they are considered a beneficent enterprise, such as a charitable institution.⁸⁶ Second, the Court found that a rational basis for exemption may be founded on “administrative considerations”, which the court put this way: “Relatively great expense and inconvenience of collection may justify the exemption from

⁷⁸ Id.

⁷⁹ Id.

⁸⁰ Romero v. Hodgson, 403 U.S. 901 (1971) *affirming*, Romero v. Hodgson, 319 F. Supp 1201 (D.C. Cal. 1970).

⁸¹ Carmichael v. Southern Coal & Coke Co., 301 U.S. 495 (1937).

⁸² Id.

⁸³ Id. at 510.

⁸⁴ Id. at 512.

⁸⁵ Id.

⁸⁶ Id.

taxation of domestic employers, farmers, and family businesses, not likely to maintain adequate employment records...”⁸⁷ While each of these arguments are flawed, they were followed in various District Courts and the Supreme Court’s rulings against farm workers bringing equal protection challenges in the 1970s.⁸⁸

The first argument is flawed because the “beneficent enterprise” language in Carmichael clearly refers to charitable organizations, not to a description of government social welfare programs like unemployment benefits.⁸⁹ The Northern California District Court in Romero misunderstood the “beneficent enterprise” language in Carmichael as somehow referring to welfare initiatives instead of charitable organizations.⁹⁰ The second argument is flawed because while it may have been true that the agricultural industry of the 1937 Carmichael era was relatively unsophisticated with regard to bookkeeping and administration, today’s large farms are not only sophisticated enough to wade through any burden imposed by regulations like the FLSA, they often avail themselves of less burdensome guidelines the use loopholes that allow them to be treated the same as a small family farm.⁹¹

Carmichael and Romero, provided the hollow justification for defeating what has been the most ambitious case attacking the exclusion of farm workers, Doe v. Hodgson⁹². Doe was a 1972 effort by the New York Civil Liberties Union on behalf of nine farm workers who sued various federal and state labor officials including United States Secretary of Labor James D.

⁸⁷ *Id.* at 513

⁸⁸ Romero *supra* note 80, at 1202 *see also*, Doe v. Hodgson, 344 F. Supp. 964 (D.C.N.Y., 1972)

⁸⁹ Carmichael, *supra* note 81, at 512.

⁹⁰ Romero, *supra* note 80, at 1202.

⁹¹ Norton, *supra* note 71, at 181 (describing how large farms can avoid paying into the Federal Unemployment Tax Act by indirectly managing their workforce through crew leaders, as governed by 26 U.S.C. §§ 3121(o), 3306(0) (2006))

⁹² Doe v. Hodgson, 344 F. Supp. 964 (S.D.N.Y. 1972), *aff’d*, 478 F.2d 537 (2d Cir.), *cert. denied*, 414 U.S. 1096 (1973).

Hodgson.⁹³ The plaintiffs in Doe alleged that their 14th Amendment Equal Protection Rights were violated by the farm worker exclusions in the Federal Unemployment Tax Act,⁹⁴ the Fair Labor Standards Act,⁹⁵ the Social Security Act⁹⁶ and various New York state labor laws.⁹⁷ As mentioned above, however, the flawed reasoning found in Carmichael and Romero was cited as the means for disposing of all of the claims in Doe.⁹⁸

Unless the District Courts begin rejecting the long-held belief that modern farms cannot bear the burden of paying the same minimum wage that the majority of other businesses pay, it appears that the rational basis review will uphold the propriety of only earning \$50.00 for picking four thousand pounds of tomatoes. The District Courts should be mindful of the common sense notion that a classification that was reasonable when originally created can become arbitrary as time passes and circumstances change.⁹⁹ It simply does not make any sense why those that perform some of the hardest work literally receive the least amount of compensation and protection.

Professor Marc Linder proposes that advocates for farm workers could avoid the rational basis test currently in use by arguing that the real motivation for the farm worker exclusions was racial discrimination.¹⁰⁰ The exclusions of farm workers from the FLSA are not racially discriminatory on their face, but Professor Linder argues that there are ways to show that they were motivated by a discriminatory purpose, which would then subject the statutes to

⁹³ *Id.* at 968

⁹⁴ 26 U.S.C. § 3306(c)(1)(k) (2007).

⁹⁵ 29 U.S.C. § 206(a)(5) (2007).

⁹⁶ 42 U.S.C. § 409(h)(2) (2007).

⁹⁷ Doe v. Hodgson, *supra* note 92, at 966.

⁹⁸ *Id.* 968.

⁹⁹ Chastleton, etc. et. al. v. Sinclair, 264 U.S. 543 (1924).

¹⁰⁰ Marc Linder, *Farm Workers and the Fair Labor Standards Act: Racial Discrimination in the New Deal*, 65 Tex. L. Rev. 1335, 1337 (1987).

“impermissible purpose review”, a much stricter standard that would likely result in the classification being eliminated.¹⁰¹

Professor Linder points to comments made by southern politicians during debates before the passage of the FLSA as evidence that there was, in fact, a racially motivated discriminatory purpose behind the exclusion of farm workers from the FLSA.¹⁰² One need only look at the comments of politicians like Rep. E.E. Cox of Georgia:

“The organized negro groups of the country are supporting [the FLSA] because it will, in destroying State sovereignty and local self-determination, render easier the elimination...of racial and social distinctions...I say to you that these local problems cannot be so administered. It is...dangerous beyond conception to try to so adjust all of these intimate questions of daily life and associations by a political power sitting in Washington.”¹⁰³

Senator Byron “Pat” Harrison resorted to using more coarse language: “The nigra is satisfied down there from a political standpoint. In my state, the nigra has played no part in politics for forty years and has no desire to do so. We are all content to leave the situation as it is.”¹⁰⁴ Comments like these show that, at least in the South, racial discrimination was an enormous motivation to exclude certain occupations from the benefits of the New Deal.

IV. Legislation Tailored for Undocumented Farm Workers

Undocumented farm workers are not completely powerless when it comes to using the legal system to recover damages and better their situation. Legal aid attorneys often make claims under the Migrant and Seasonal Agricultural Worker Protection Act (MSAWP).¹⁰⁵ MSAWP, which was created in 1983, provides:

¹⁰¹ Id.

¹⁰² Id. at 1374.

¹⁰³ Id. at 1375 *citing* 82 Cong. Rec. 1404 (1937).

¹⁰⁴ Norton and Linder *supra* note 71, at 204.

¹⁰⁵ 29 U.S.C.A. § 1854 (2007)

Any person aggrieved by a violation of this chapter or any regulation under this chapter by a farm labor contractor, agricultural employer, agricultural association, or other person may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.¹⁰⁶

Unfortunately, awards per claimant are essentially limited to \$500.00 and class action awards cannot exceed \$500,00.00.¹⁰⁷ In Immokalee, it appears that the best one could hope for would be to get \$500.00 for 1,000 of the 33,000 workers. Successful lawsuits, however, would not address the problem of insufficiently low wages. The groundswell leading to the passage of MSAWP in 1983 should be revived to bring about greater improvements in conditions in the fields.

Three years after MSAWP's creation, further efforts were made in 1986 to protect the interests of migrant workers with the passage of the Immigration Control and Reform Act (IRCA).¹⁰⁸ The IRCA was essentially an amnesty program extended to migrant workers for a limited period of time.¹⁰⁹ It allowed for the legalization of aliens who entered prior to January 1, 1982 and maintained continuous residency in the United States.¹¹⁰ Legalization was also extended to those who worked at least ninety days of farm labor in the twelve months preceding the passage of the act.¹¹¹ According to Professor Lauren Gilbert, the IRCA's two main goals were to provide a solution to the plight of growers and workers in the United States and to close the border to further undocumented migration.¹¹² Critics have said that IRCA failed to achieve either of these objectives because once the workers obtained citizenship, they left the agricultural

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Gilbert, *supra* note 55, at 432.

¹⁰⁹ Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, 100 Stat. 3359 (1986).

¹¹⁰ *Id.* at §201(a)(2)(A)

¹¹¹ *Id.* at §302

¹¹² Gilbert, *supra* note 55, at 432.

sector for better paying jobs.¹¹³ The IRCA's goal of curbing illegal immigration appears to have failed because of the increase from approximately 2.2 million illegal immigrants present in 1988 to approximately 9.3 million in 2002.¹¹⁴

The federal government's most recent attempt to protect the interests of migrant workers was the failed Agricultural Jobs, Opportunities and Benefits Act (AgJobs) which was part of the Comprehensive Immigration and Reform Act of 2007.¹¹⁵ The AgJobs name has been applied to many different pieces of legislation dating back to 2003.¹¹⁶ The most recent iteration, however, which was debated by the Senate in June 2007, provides scarcely the same protections for workers as the original 2003 proposal. The 2007 AgJobs bill is comprised of so many tough regulations on preventing illegal immigration¹¹⁷ that there is hardly any reason for the word "agricultural" to be included in the title. When comparing the current version of the bill with the original drafts, it is clear that much has been whittled away in the areas of migrant worker's interests¹¹⁸ and replaced with tougher restrictions on illegal border crossing.¹¹⁹ In light of the general ineffectiveness of the legislative process, undocumented workers' basic interests may be best protected by the workers themselves through community based groups like worker centers.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ Agricultural Jobs, Opportunities, Benefits and Security Act of 2007, S. 1639 110th Cong. (2007) [hereinafter AgJobs]; *see also* GovTrack, <http://www.govtrack.us/congress/bill.xpd?tab=summary&bill=s110-1639> (providing overview and history)

¹¹⁶ Agricultural Job Opportunity, Benefits and Security Act of 2003, S. 1645, 108th Cong. (2003); *see also* Gilbert *supra* note # at 441-442. *see also* GovTrack, <http://www.govtrack.us/congress/bill.xpd?bill=s108-1645> (providing overview and history)

¹¹⁷ AgJobs of 2007, *supra* note 115, at § 103 (mandating the construction of 14 miles of fencing along the border near San Diego)

¹¹⁸ *Id.* at § 101(b) (providing guidelines that would allow certain undocumented to workers to be treated the same as legal aliens)

¹¹⁹ 2007 AgJobs Act, *supra* note 115, at § 124 (allocating \$450 million for unmanned aircraft to patrol the border with Mexico).

V. *Labor Unions and Farm Workers*

Farm workers have recently received some attention from unions, but unionized farm workers often perform work that requires a certain level of skill, which then gives them some leverage in negotiations. For example, unionized cucumber pickers in North Carolina reached a major milestone in 2004 when the Mt. Olive pickle company agreed to increase its pay to farmers.¹²⁰ The bargaining was organized by a branch of the American Federation of Labor and Congress of Industrial Organization (AFL-CIO) that specializes in agriculture issues, known as the Farm Labor Organizing Committee (FLOC).¹²¹ FLOC was formed in 1967 and focuses mostly on the Midwest and North Carolina.¹²²

In 1997 FLOC attempted to negotiate with Mt. Olive, the nation's second largest pickle company, to attempt to improve the conditions of the cucumber pickers.¹²³ FLOC attorneys also secured a \$110,000.00 settlement for the family of a man who died after his overexposure to pesticides was ignored and treatment was not made available to him.¹²⁴ In 1999, after making little progress through negotiations, FLOC organized a boycott of the Mt. Olive pickle company that lasted until September of 2004.¹²⁵

The agreement that resulted from the boycott was significant because it was the first time in United States history that guest workers¹²⁶ obtained formal union representation and were able to negotiate a contract with their employers.¹²⁷ The North Carolina agreement covered more

¹²⁰ Allison Kidd, *Union Access to Migrant Farmworkers: The Mt. Olive Pickle Company, Cucumber Farmers, and Farmworkers*, 20 *Lablaw* 339, 342 (2005).

¹²¹ FLOC website, <http://www.floc.com/floc%20timeline.htm> (last visited Dec. 13, 2007).

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ Kidd, *supra* note 120, at 342.

¹²⁶ *Id.* (describing how the workers were in the United States pursuant to the H-2A agricultural visa program)

¹²⁷ *Id.*

than 8,000 workers at 1,000 different farms.¹²⁸ Greg Schell is a Florida migrant labor attorney who has represented farm workers for over twenty years and has frequently worked with the United Farm Workers.¹²⁹ Schell says that the Unions typically have the best results when attempting to organize farm workers in a sector that requires some type of skill, one of these areas is cucumber picking. Tomato picking, on the other hand, is a fairly straightforward task, so the workers can easily be replaced by new employees who have no experience.

Schell's view is supported by studies conducted by the Economic Policy Institute, which found that: "The unskilled nature of their work creates an oversupply of labor and while employers and labor systems vary enormously from one another, they all present formidable challenges, albeit for different reasons, to union or other forms of traditional organizing."¹³⁰ In contrast to the workers in North Carolina, the majority of Immokalee workers are not guest workers¹³¹ and therefore have less leverage than individuals with formal papers establishing their right to be in the United States. Unions are a valuable tool for promoting and protecting workers' interests, however, worker centers like the CIW show that a true grassroots approach can also lead to substantial developments in conditions and oversight.

VI. Worker Centers Filling the Void

There is some precedent in United States labor history for the organizing of workers outside of scope of unions. An interesting comparison can be made between modern worker centers and the employers in Ohio's tire factories in the 1920s.¹³² Like tomato pickers, the tire workers were paid on a per tire "piece rate" basis that they felt was insufficient to provide a

¹²⁸ *Id.*

¹²⁹ Telephone Interview with Gregory S. Schell, Esq., Managing Attorney of Migrant Farmworker Justice Project at Florida Legal Services, Inc. (Nov. 20, 2007).

¹³⁰ See Fine, *supra* note, 2 at 442.

¹³¹ Schlosser, *supra* note 25.

¹³² Jim Pope, *Worker Lawmaking, Sit-Down Strikes, and the Shaping of American Industrial Relations, 1935-1958*, 24 LHISTR 45, 50 (2006).

living.¹³³ The tire workers had unwritten agreements among themselves about underworking, in order to avoid exceeding the maximum production quota, which would bring about a reduction in the piece rate.¹³⁴

This strategies of the tire workers are an example of what labor scholar John Commons called the “common law of labor.”¹³⁵ He describes these arrangements as form of common law “springing from the customs of wage earners” and rooted “in those practices by which laborers endeavor to achieve their ideals through protection against the economic power of employers.”¹³⁶ The CIW arguably ascribes to this same philosophy but they are using more modern means to achieve those ends. For example, the internet has allowed the CIW to bring the issue to the public, through their website and email lists to better highlight the disparity between the economic power of the fast food corporations at one extreme and that of the farm workers at the other end of the spectrum.

Some observers recognize what the CIW has known all along; that public opinion can be a powerful tool for reforming labor standards.¹³⁷ Campaigns that stir up public awareness are not just intended to evoke sympathy for the plight of the workers but can, in some circumstances evoke a pro-active, “not in my backyard” reaction. A recent editorial in the St. Petersburg Times closed with the following advice regarding the CIW’s call for a boycott of Burger King: “Okay consumers, sic ‘em.”¹³⁸ The suggestion was made even more enticing because the columnist had

¹³³ *Id.*

¹³⁴ *Id.* at 50

¹³⁵ John R. Commons, *Legal Foundations of Capitalism* 301-305 (1923; Madison, University of Wisconsin Press, 1968) (quoted in Jim Pope, *supra*, note 131, at 51).

¹³⁶ *Id.* at 5

¹³⁷ Cynthia Estlund, *Something Old, Something New: Governing the Workplace by Contract Again*, 28 *CLLPJ* 351, 357 (2007)

¹³⁸ Robyn Blumner, *At a Penny per Pound, A Little Adds Up to a Lot*, November 25, 2007, available at http://www.sptimes.com/2007/11/25/Opinion/At_a_penny_per_pound_.shtml

just noted that Burger King pays its CEO approximately \$2.35 million per year, while a penny-per-pound increase for Burger King's tomatoes would only cost \$250,000.00 per year.¹³⁹

Professor Cynthia Estlund argues that some customers may be “willing to pay higher prices for goods and services that are produced domestically under decent labor conditions.”¹⁴⁰ The rapid success of American Apparel, Inc. with its sweatshop free clothing factory in downtown Los Angeles is one example.¹⁴¹ Consumerism with a conscience and the attendant marketing strategies are not limited to goods that are produced domestically, as it seems impossible to go into a major coffee retailer or Mom and Pop café that does not have a Fair Trade option for its coffee and tea. When goods are produced domestically by well-paid workers, Professor Estlund argues that there are compelling community-wide economic benefits such as a strengthened tax base and consumer economy and less crime.¹⁴² Franklin Roosevelt made these same arguments when trying to promote his New Deal reforms in the poorer regions of the south.¹⁴³

The CIW's use of public opinion differs somewhat from its predecessors like the United Farm Workers. Unlike the United Farm Worker's grape boycotts in California in the 1960s,¹⁴⁴ the CIW's famous Taco Bell boycott did not ask consumers to stop buying tomatoes altogether. The CIW did not take issue with the public buying tomatoes from supermarkets, but they did ask consumers to stop going to Taco Bell.¹⁴⁵ Taco Bell's eventual agreement to only do business

¹³⁹ *Id.*

¹⁴⁰ Estlund, *supra* note 137, at 356.

¹⁴¹ Rosemary J. Coombe, Steven Shnoor & Mohsen Ahmed, *Bearing Cultural Distinction: Informational Capitalism and New Expectations for Intellectual Property*, 40 UCCLR 891, 904 (2007) (discussing American Apparel's “sweatshop free” tagline and rapid rise with its jump from \$80 million in sales in 2003 and then nearly doubling that with \$150 million in sales in 2005).

¹⁴² Estlund, *supra* note 137, at 356-357.

¹⁴³ Powell, *supra* note 66, at 355, 385.

¹⁴⁴ See Rivchin *supra* note 1 at 419.

¹⁴⁵ N. Renuka Uthapa, Florida Farmworkers Stage Ten-Day Hunger Strike at Taco Bell Headquarters, Lab. Notes No. 289, Apr. 2003 at 5.

with growers that increased the piece rate did not result in all of the growers changing their rates, though, and that is why the CIW is currently focused on reaching a similar agreement with Burger King.¹⁴⁶

Steve Grover, one of Burger King's vice presidents, told the Associated Press that the main stumbling block to agreeing to the penny per pound increase is not the \$250,000.00 that it would cost to comply with the CIW's requests.¹⁴⁷ Grover says that Burger King is concerned about how the agreement might affect the relationship between the company and the pickers.¹⁴⁸ "We just can't figure out how to do this legally...How do we pay workers and not have that worker be our employee? I don't think we want to be in the position of paying workers we have no control over."¹⁴⁹

Despite comments like Grover's, Burger King has made it clear that it is interested in having some level of control over non-employees when it is convenient for the company's public image and requires no obligation its part. The hesitancy with regard to standing up for the compensation of farm workers is at odds with other rhetoric from Grover about concerns for the humane treatment of the workers and how it is "...our pledge, our duty, to root out unscrupulous suppliers..."¹⁵⁰ How can Burger King be so willing to try and influence how independent growers treat their own workers but then argue that the company would be overstepping its bounds to make sure that the grower's give their pickers an extra penny per pound that would come from Burger King's wallet?

¹⁴⁶ Laura Wides-Munoz, *Landmark fast-food tomato accords in danger of collapse*, Florida Times-Union, Nov. 24, 2007, at B-3, available in 11/23/07 APALERTAGRIC 18:28:11 (Westlaw citation).

¹⁴⁷ Elaine Walker, *Tomato companies, workers and fast-food firms square off*, Miami Herald, Nov. 20, 2007 also available at <http://www.floridatomatogrowers.org/newsdetails.aspx?id=15>

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ Steve Grover, *Burger King Screens Suppliers of its Tomatoes in it's Own Way*, Palm Beach Post, Sept. 17, 2007, opinion at 7A (available on Lexis-Nexis)

The confidentiality of some portions of the CIW's successful agreements with Taco Bell and McDonald's has been another source of criticism from Burger King representatives like Steve Grover.¹⁵¹ Grover wrote in a letter to the editor of the Palm Beach Post that he is skeptical about whether the penny-per-pound agreements between the CIW and other fast food companies actually exist.¹⁵² The confidentiality of the agreements has also been a source of concern for those who are sympathetic to the mission of the CIW.¹⁵³ Labor attorney Greg Schell, says that greater transparency regarding the negotiations and agreements, like those found in contracts involving labor unions, would lend greater credibility to the CIW's efforts.¹⁵⁴

Upon further investigation of the background of the agreements, it seems that Taco Bell and McDonalds may have conditioned their assent to the proposals on the grounds that the documents are kept confidential to protect information regarding their supply chain strategies.¹⁵⁵ According to Tom Crick of The Carter Center, who served as the principal facilitator of the Taco Bell and McDonald's agreements¹⁵⁶, the entirety of the documents are probably being withheld to protect any proprietary information found therein.¹⁵⁷ Crick approved of the accuracy of the public excerpts of the agreement regarding working conditions and the penny-pass-through and also stated that both the CIW and the fast food companies were represented by attorneys at each negotiation.¹⁵⁸

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ Telephone Interview with Gregory S. Schell, Esq., *supra* note 129.

¹⁵⁴ *Id.*

¹⁵⁵ Telephone Interview with Tom Crick, Assistant Director of Conflict Resolution Program at The Carter Center (December 6, 2007); *see also* Tom Crick, *Burger King's Denial on Tomato Accord Harmful*, Palm Beach Post, October 4, 2007, opinion at 15A (available on Lexis-Nexis, Mr. Crick's letter to the editor is a direct response to Mr. Grover of Burger King's letter cited *supra* note 149)

¹⁵⁶ Crick's letter to the editor, *supra* note 155.

¹⁵⁷ Interview with Crick, *supra* note 155.

¹⁵⁸ *Id.*

The CIW has inspired the organization of several grassroots organizations with similar goals.¹⁵⁹ The Alliance for Fair Food (AFF) and the Student/Farmworker Alliance (SFA) were both created with the goal of improving the conditions for farm workers in fields that do business with major fast food companies. The AFF is a self described “network of human rights, religious, student, labor and grassroots organizations who work in partnership with the CIW.”¹⁶⁰ The Student Farmworker Alliance, organized in 2000, is comprised primarily of university students with its mission being to “organize with farm workers to eliminate sweatshop conditions and modern day slavery in the fields.”¹⁶¹ What the members of these groups may lack in day to day interactions with the workers, they make up for in their ability to spread information and generate interest in enthusiastic and motivated groups like churchgoers and students in high school and college.

VII. Final Thoughts

The CIW is not without its critics, even among those within the farm worker advocacy community. Farm worker attorneys like Gregory Schell have concerns that the Coalition of Immokalee Workers may be independent minded to a fault.¹⁶² Schell has represented farm workers in Maryland, Delaware, Virginia and most recently South Florida.¹⁶³ As of 2007 he was representing approximately seventy five Immokalee tomato pickers in a class action against several growers in federal court alleging violations Migrant and Seasonal Agricultural Worker Protection Act and the Fair Labor Standards Act.¹⁶⁴

¹⁵⁹ Alliance for Fair Food, <http://www.allianceforfairfood.org>; Student/Farmworker Alliance, <http://www.sfalliance.org>

¹⁶⁰ Alliance website, *supra* note 159.

¹⁶¹ Student/Farmworker website, *supra* note 159.

¹⁶² Telephone Interview with Schell, *supra* note 129.

¹⁶³ *Id.*

¹⁶⁴ *Id.*; *see also*, S.D. Fla., Case No. 07-80487.

Schell is impressed with the media attention and publicity that the CIW has brought to the issues in Immokalee but he thinks that greater substantive change could be brought about if the CIW would make a greater effort to supplement its efforts with proven, traditional avenues such as labor attorneys, sympathetic politicians and labor unions like the United Farm Workers.¹⁶⁵ Florida's right to work law¹⁶⁶ makes it difficult to make progress with unions, and litigation is often a slow and difficult process especially when your only options for representation may be legal services attorneys with a limited budget, but Schell argues that the CIW's approach may be too dismissive of these valuable resources.¹⁶⁷ Schell also has concerns about the conditions for pickers that might not benefit from the CIW's efforts because they work in fields that do not do business with the fast food companies, but that sell their tomatoes to supermarkets and Wal-Mart.¹⁶⁸

As of December 2007, the CIW continues to attempt to convince Burger King to agree to the penny-per-pound tomato increase.¹⁶⁹ Reggie Brown, the leader of the trade group for Florida's tomato growers, has threatened the group's members with fines and brought up the possibility of antitrust and racketeering lawsuits.¹⁷⁰ However, the author of the law school text *Principles of Antitrust Law*¹⁷¹, Professor Stephen F. Ross of Pennsylvania State University Law School, disagrees with Brown's assertion that there is a risk of anti-trust litigation.¹⁷² Ross, who is "one of the nation's leading antitrust scholars",¹⁷³ notes that the threats of fines from Brown's

¹⁶⁵ Telephone interview with Schell, *supra* note 129.

¹⁶⁶ Fla. Const. Art. 1 § 6. "The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged."

¹⁶⁷ Telephone interview with Schell, *supra* note 129.

¹⁶⁸ *Id.*

¹⁶⁹ Schlosser, *supra* note 25.

¹⁷⁰ *Id.*

¹⁷¹ Stephen F. Ross, *Principles of Antitrust Law*, (West 1992).

¹⁷² Wides-Munoz, *supra* note 146.

¹⁷³ Penn. State Dickinson School of Law, <http://www.dsl.psu.edu/faculty/ross.cfm> (last visited December 13, 2007).

organization are “limiting one way in which [the] growers can compete for the business of these major fast food contracts...The only antitrust violation I see is the growers’ response.”¹⁷⁴

The “growers’ response” that Ross is referring to is the recent development that many growers are not participating in the penny-pass-through from McDonald’s and Taco Bell, in light of the threats of \$100,000.00 fines and lawsuits from Reggie Brown’s Florida Tomato Growers Exchange (Growers Exchange).¹⁷⁵ Brown has also called the proposed agreement “pretty much near un-American.”¹⁷⁶ Meanwhile, Burger King’s Steve Grover suggested that the workers try to get jobs in Burger King to better their situation.¹⁷⁷ Former President Jimmy Carter responded to the Growers Exchange threats of fines and lawsuits with a letter¹⁷⁸ to Brown stating that Burger King and groups like the Growers Exchange “continu[e] to support a market system that keeps workers in sub-poverty conditions and stand silently as modest gains are deliberately rolled back.”¹⁷⁹ Carter urges that cooperation from the growers, consumers and workers and workers will be necessary for progress.¹⁸⁰ This call for unity echoes Edward R. Murrow’s closing comments in the 1960 investigate report *Harvest of Shame*¹⁸¹, much of which was filmed in Immokalee and the surrounding towns.¹⁸² “The [farm workers] have the strength to harvest your fruit and vegetables. They do not have the strength to influence legislation, maybe we do.”¹⁸³

¹⁷⁴ Wides-Munoz, *supra* note 146.

¹⁷⁵ *Id.*

¹⁷⁶ Schlosser, *supra* note 25.

¹⁷⁷ Schlosser, *supra* note 25; *see also*, Carl-John X. Veraja, *Local Worker’s Movement Targets Burger King*, Florida Weekly, October 11, 2007, *available* http://www.florida-weekly.com/news/2007/1011/Top_News/002.html

¹⁷⁸ Letter from Former President Jimmy Carter to Reggie Brown (Nov. 30, 2007), http://www.ciw-online.org/2007_BK_March/images/carter%20letter.pdf

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *CBS Reports: Harvest of Shame* (CBS television broadcast Nov. 26 1960); *see also*, *Harvest of Shame* (New Video Group, 2005).

¹⁸² *Id.* See opening and closing footage.

¹⁸³ *Id.*

In keeping with the spirit of progress and innovation commonly found in groups working for social change, worker centers are a unique model that should be viewed as a supplement to the efforts of unions, labor attorneys¹⁸⁴ and politicians as one of the many groups concerned with improving the conditions of farm workers in the United States. Worker centers like the CIW dispel the perception that the undocumented immigrants are not particularly hard working, or if they are working, it is in sectors that are unimportant. For example, the CIW highlights the importance of the Immokalee workers by making a connection to the fast food industry, which is a form of commerce that millions of Americans engage in everyday. Not everybody can afford to have a housekeeper or gardener, which in some parts of the country are jobs commonly held by Hispanic immigrants, but they likely go to fast food restaurants. The CIW puts a face on the struggles faced by immigrant workers.

The CIW also publicizes the numbers showing that not only are the pickers hardworking, but they must be incredibly diligent and motivated to earn a daily wage picking tomatoes in the fields, while an employee in Taco Bell could make in a day taking orders at the drive-thru window. Time Magazine contributor Mark Kinsley put the issue in perspective in a recent article where he notes that the aspirations of illegal immigrants are no different than those of legal immigrants, which in turn are no different from those of the ancestors of most Americans.¹⁸⁵ Kinsley points out that not only do illegal immigrants often do “our dirty work” but they toil under the “constant fear of eviction [often] getting thrown out and returning again and again.”¹⁸⁶

¹⁸⁴ Note that, since 1980, attorneys receiving money from the Legal Services Corporation are not allowed to use federal funds to represent undocumented workers. See, Laura K. Abel & Risa E. Kaufman *Preserving Aliens' and Migrant Farmworkers' Access to Civil Legal Services: Constitutional and Policy Considerations* 5 UPAJCL 491 at 496 (2003) (citing Act of Sept. 24, 1979, Pub. L. No. 96-9868, 93 Stat. 416 (1979)).

¹⁸⁵ Mark Kinsley, *Kidding Ourselves About Immigration*, Time Magazine, December 17, 2007, at 10.

¹⁸⁶ Id.

There is no silver bullet for the myriad of problems faced by low income and migrant workers, but worker centers like the CIW are useful because they frame the issue in terms that are within the grasp of the average American and then work extremely hard to disseminate that information by way of the internet and news media so that others with the power to make change, like activists, politicians, attorneys and journalists are better equipped to reverse injustice.

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