

# FAIR FOOD PROGRAM CHANGES THE NORM

## Confronting Sexual Violence and Harassment in the Fields

*“It happens so much it’s kind of normal.”*

—Former female farmworker<sup>1</sup>

### THE PERVERSIVE NATURE OF THE PROBLEM

Sexual violence and harassment of women in the workplace violate federal and state laws as well as fundamental principles of human rights, including the prohibition of discrimination based on sex, the duty to provide safe and healthy conditions at work, and the basic human dignity of all. Yet sexual harassment persists as a constant concern for women worldwide due in part to the difficulty — and in many cases impossibility — of enforcing whatever legal protections exist.

Female agricultural workers in the U.S. have long served as a glaring example of this reality, as they face a constant barrage of verbal abuse and sexual violence from supervisors and co-workers in an industry in which any attempt to report the abusers immediately endangers a worker’s precarious livelihood. A 2010 study among farmworker women found that 80% had experienced sexual harassment at work and described the confluence of factors — among them, extreme poverty, racial discrimination, language barriers, isolated work sites, and often complete dependence on individual men for their continued employment—that make them particularly vulnerable to

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sexual harassment and violence.<sup>2</sup> Human Rights Watch in a recent report concludes that sexual harassment experienced by farmworkers in the United States is so common that some farmworker women see these abuses as an



unavoidable condition of agricultural work.<sup>3</sup> In another study of the “constant menace” of sexual harassment and violence in the fields conducted by the Southern Poverty Law Center, a female farmworker described the norm in the fields succinctly: “You allow it or they fire you.”<sup>4</sup>

While such retaliation for reporting harassment is illegal, few women possess the resources to file a legal action, and dealing with the lengthy loss of employment during litigation often results, at best, in a Pyrrhic victory. As importantly, the few lawsuits against individual employers that are filed cannot begin to address the pervasive nature of the problem throughout the industry. The cases that are pursued, however, provide a glimpse of the harassment faced daily by farmworkers across the nation. For example, a recent EEOC lawsuit charged DiMare Ruskin, Inc., a Florida-based tomato grower and produce provider, with subjecting its female employees to physical and verbal harassment by their supervisors—including unwanted touching and sexual comments—and with retaliation for assigning them to more physically demanding work and ultimately firing them after they complained. The company settled the case in July 2012 by agreeing to pay \$150,000 to two female farmworkers and establish new anti-harassment

policies and trainings at its facilities nationwide. However, innumerable other cases of harassment and violence go unreported due to the vulnerability of the women farmworkers, whose families depend on their income and on the continued goodwill of employers, who often wield immense power over their lives, including their access to housing and income for other family members.

Incidents of sexual harassment reported by female

farmworkers to the Coalition of Immokalee Workers (CIW) exemplify the “allow it or you’re fired” norm women have faced when they have tried to complain of harassment through company channels. For example, one woman worker was fired along with her husband and son, and lost their company housing, after complaining to the company’s human resources office of a crewleader’s uninvited visits to her trailer in the early morning after her husband had left for work, during which the crew-

## THE CIW’S FAIR FOOD PROGRAM

Background: The Fair Food Program emerged from the Coalition of Immokalee Workers’ (CIW) successful Campaign for Fair Food, a campaign to affirm the human rights of tomato workers and improve the conditions under which they labor.

The high degree of consolidation in the food industry today means that multi-billion dollar brands on the retail end of the industry are able to leverage their volume purchasing power to demand ever-lower prices, which has resulted in downward pressure on farmworker wages. The Fair Food Program reverses that process, enlisting the resources of participating retail food corporations to improve farmworker wages and harnessing their demand to reward growers who respect their workers’ rights.

The Fair Food Program provides an opportunity for those corporations to bring their own considerable resources to the table—their funds and market influence—to help forge a structural, sustainable solution to a human rights crisis that has persisted on U.S. soil for far too long. In the process, the Fair Food Program will help build the foundation for a stronger Florida tomato industry that can differentiate its product in produce aisles and restaurants on the basis of a credible claim to social responsibility and so better weather the challenges of an increasingly competitive marketplace.

Under the Fair Food Program, participating growers have:

- **Adopted the Fair Food Code of Conduct as their own;**
- **Agreed to a worker education program conducted by the CIW on company premises and company time;**
- **Agreed to have compliance with the program independently monitored;**
- **Agreed to an independent and verifiable complaint investigation and remediation mechanism in which they may participate equally with the CIW and the Fair Food Standards Council (FFSC);**
- **Agreed to pass on the “penny-per-pound” price premium to their workers; and**
- **Agreed to implement a system of health and safety volunteers which affords workers regular and structured input into the safety of their work environment.**

The FFSC oversees implementation of the Fair Food Code of Conduct. The FFSC is based in Sarasota, Florida, and has statewide responsibility for implementing, monitoring, and enforcing the Fair Food Program.

leader would make sexually suggestive comments to her and to her children. Later, when she was invited back to work because of difficulties filling her position, she was promised that she would not have to deal with that crewleader. In fact, the harassment escalated to include groping and an attempt to change her job so she would be under his direct supervision in the fields without the protection of others. When she rejected that change, she was fired again. Throughout both periods of employment, the harassing crewleader was responsible for, and often withheld, payment of her wages. There are also accounts of supervisors who attempt to pressure young women workers into sexual relations by offering them easier jobs, and then fire them when they refuse.

### CHANGING THE NORM

These reports underscore the reality that, in order to provide female farmworkers meaningful protection, the norm in the fields must be changed from impunity to accountability. There must be immediate consequences for harassers as well as for companies that allow harassment to continue unchecked. Women reporting harassment must be protected from retaliation. Only a system creating such accountability can address sexual harassment effectively when it occurs, while providing an incentive for employers to prevent such harassment in the first place, creating a safer and more dignified workplace for women.

How can the necessary structures of accountability for sexual harassment be created in an industry in which the power imbalance between workers and employers has allowed such a pernicious, abusive culture to persist? The answer lies in addressing pervasive sexual harassment as a product of the severe disempowerment and marginalization of all farmworkers and creating new structures that reflect and institutionalize farmworker empowerment throughout the industry.

The CIW's Fair Food Program (see textbox above) is creating such new structures of accountability in the tomato industry in Florida. Along with a wage increase supported by a price premium paid by corporate purchasers of Florida tomatoes, the Fair Food Program is enforcing a human rights based Code of Conduct throughout the industry. The Fair Food Code of Conduct provides a new model for accountability in the agricultural industry

generally and a new approach to sexual harassment and violence in the fields that has already proven effective.

The Code of Conduct addresses sexual harassment directly, making sexual harassment that involves physical

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contact an event that automatically triggers market consequences for the employer – the curtailment of purchases from participating buyers for at least a three-month period – unless the harasser is fired and other necessary corrective action is taken immediately once the incident is confirmed. Sexual harassment not involving physical contact triggers a requirement that the employer develop and implement a corrective action plan that is satisfactory to the CIW and to the participating Buyer. If the time frame set forth for full compliance is not met, purchases are curtailed until the situation is remedied.

Other provisions of the Code not directly addressing sexual harassment, such as the requirement that all workers be employed and paid by the company, not by individual crewleaders, make farmworkers less vulnerable to their supervisors and therefore better able to report abuses. The participatory health and safety committees required under the Code create a space for workers to address sexual harassment and violence as important health and safety issues in a collaborative process with their employers. Employers must also allow the CIW to provide education to their employees on their rights under the law and under the Code, in worker-to-worker sessions conducted on the employers' premises and on company time. These trainings directly address protection against sexual harassment as an important set of rights under the Code. A section of the Know Your Rights and Responsibilities booklet given to the workers focuses specifically on sexual harassment, and the video shown to workers includes a sexual harassment scenario. The entire education program is worker-to-worker: The education sessions are led by CIW members, the rights



booklet was written by CIW members, and the educational video was scripted and acted by CIW members.

Importantly, employers participating in the Fair Food Program must commit to participating in a detailed complaint resolution mechanism that allows complaints to be made and investigated without fear of retribution to the complaining worker. The efficacy of this procedure—and of the Program generally—to address sexual harassment has already been proven. When one participating grower failed to respond appropriately to a complaint of sexual harassment, it was removed from the Program. Determined to continue its participation in the Program, and thereby regain its lost sales, the grower chose to engage in corrective action, including firing the crewleader, formulating a sexual harassment policy and conducting trainings. On another occasion, the grower involved didn't wait to be removed from the program. Rather it took quick action to fire the crewleader responsible for the violation and instituted changes designed to avoid similar problems in the future.

Already, the Code's strict requirements of action by

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employers and consequences for failure to act have created an immediate incentive for the curtailment and prevention of abuse. But the Fair Food Program seeks to create an industry-wide race toward the top, not an atmosphere of minimum compliance. It therefore strongly encourages participating buyers to purchase from employers who work to exceed the specific requirements of the Code by developing systems to prevent violations, not just address them after the fact.

Moving forward, the Fair Food Program has committed to making sexual harassment a point of emphasis in its implementation of the Fair Food Code of Conduct.

In collaboration with some of the industry's leading growers through the Fair Food Program's Working Group, guidelines and benchmarks for the industry-wide implementation of the Program's Code of Conduct are being developed and constantly refined. These guide-



Photo by JankyPic at flickr.com.

lines and benchmarks, along with the structure of the Program itself, provide models for changing the norm of sexual harassment in other parts of the agricultural industry, as well as other industries where women face similarly widespread harassment and violence.

For more information on the Fair Food Program, visit [fairfoodstandards.org](http://fairfoodstandards.org).

- 1 Rebecca Clarren, "Plowing Under the Fields of Shame," *High Country News* (April 4, 2008).
- 2 Irma Morales Waugh, "Examining the Sexual Harassment Experiences of Mexican Immigrant Farmworking Women," *Violence Against Women*, January 2010, p. 11.
- 3 Human Rights Watch, *Cultivating Fear: The Vulnerability of Immigrant Farmworkers in the US to Sexual Violence and Sexual Harassment*, 2012, p. 23.
- 4 Southern Poverty Law Center, *Injustice on Our Plates: Immigrant Women in the U.S. Food*