



Migrant Justice  
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To the members of the Agricultural Worker Labor and Employment Laws Study Committee:

It was our pleasure to provide the committee with testimony during your meeting last Friday. Migrant Justice is a Vermont-based human rights organization founded and led by immigrant farmworkers. For the past 15 years, Migrant Justice has advocated for expanded rights and improved conditions for the immigrant farmworker community. In 2018, Migrant Justice created the Milk with Dignity Program, a worker-driven human rights initiative that supports farms and farmworkers through supply chain agreements with dairy corporations.

### 1. Labor conditions in the dairy industry

Our initial testimony to the committee focused on “the tale of two dairy industries” in Vermont. Outside the Milk with Dignity Program, farmworkers labor long hours for low pay, often in unsafe and discriminatory working conditions, and live in inadequate and sometimes inhumane housing.

With the support of the University of Massachusetts Amherst Labor Center, Migrant Justice developed a comprehensive questionnaire covering wages, hours, health and safety, housing, and treatment on the farm. Over the spring and summer of 2024, current and former farmworkers fanned out across Vermont, conducting hour-long surveys with 212 workers in their homes, on the farm, and at community assemblies. We have released preliminary results from the survey:

- **Wages:** 87% of workers make below the minimum wage, with the median wage of \$11.67 a full \$2/hour below Vermont’s state minimum. Approximately 20% have had pay illegally withheld, while one-third of workers do not receive pay stubs.
- **Hours and Leave:** More than half of respondents work at least 12 hours per day, with more than one-quarter working seven days per week. 76% lack paid holidays, 61% lack paid vacations, and 53% don’t receive paid sick leave. One in four workers don’t have 8 consecutive hours of rest in a day, and one in five can’t take time off if injured or sick.
- **Discrimination:** 53% of workers report experiencing discrimination in the workplace, with most reporting discrimination based on language and country of origin. 15% report being insulted or verbally abused by an employer or supervisor. While not statistically significant, reports of physical violence against workers are pervasive throughout the industry.
- **Housing:** 82% of workers report issues with employer-provided housing. Common issues include housing safety concerns, pest infestations and mold, broken appliances and fixtures,

insufficient heating and insulation, and workers sharing beds or sleeping in common spaces due to overcrowding.

- **Health and safety:** 77% of respondents have suffered work-related injury or illness. Common dangers include being struck or crushed by cows, falling on slippery floors, and exposure to chemicals, resulting in broken bones, sprains, rashes, nosebleeds, and more. Two-thirds of workers did not receive training from an employer or supervisor, over half do not have access to a first-aid kit, and majorities lack access to personal protective equipment such as masks, goggles, and eye wash stations.

While shocking, these conditions are not new. The results show continuity with a 2014 survey across most metrics, demonstrating the critical role of Milk with Dignity. Without the Program's essential elements, the dairy industry as a whole remains unable to provide the dignified working and living conditions that farmworkers deserve.

## **2. Milk with Dignity**

Inside the Milk with Dignity Program, a new story is being written. To create the Program, farmworkers developed a Code of Conduct that set standards for wages, scheduling, health and safety, and housing, as well as protections against discrimination, harassment, violence, and unjust firings. Workers also created the Milk with Dignity Standards Council (MDSC), a nonprofit third-party auditor, to objectively monitor farms' compliance with the standards in the Code.

Companies join Milk with Dignity by signing contracts committing to source from dairy farms enrolled in the Program. They also commit to pay those participating farms a premium to incentivize their participation in the Program and subsidize the costs of compliance with the Code of Conduct.

When a farm enrolls in Milk with Dignity, it agrees to change labor and housing conditions as needed to meet the Code's standards. Employers and employees on participating farms attend regular education sessions conducted by Migrant Justice on the rights guaranteed by the Program and how workers can enforce those rights.

Workers have access to a 24/7 support line, with strong protections against retaliation. MDSC promptly investigates complaints and collaborates with farmers and workers to achieve speedy resolutions to Code violations. MDSC also conducts regular farm audits by inspecting worksites and housing units, and interviewing workers and managers, to create a holistic assessment of the farm's Code compliance, resulting in individualized "Corrective Action Plans."

These mutually reinforcing mechanisms allow MDSC to both understand the complex realities that workers and farms experience and craft appropriate corrective measures for participating farms. As full compliance is the ultimate goal of the Program, MDSC works collaboratively with farms to create plans and timelines that reflect each farm's unique circumstances. However, if farms are

consistently unwilling to make the necessary adjustments to meet Code standards, they will face suspension from the Program and the resulting market consequences. While suspended, farms lose purchase preference and the Premium paid by participating buyers.

Workers on Milk with Dignity-enrolled farms have seen life-changing improvements to their labor conditions, wages, and benefits, as well as health and safety protections found nowhere else in the nation's dairy industry. Through partnerships with state and local governments and nonprofit organizations, farms have been able to build new housing units for workers long denied dignified living conditions. By calling the 24-hour support line, workers have been able to prevent or remediate instances of physical violence commonly unaddressed on farms outside the Milk with Dignity Program. Farmers who joined this program seven years ago are familiar with their responsibilities to workers and reach out to preempt violations of labor rights before they happen. And Milk with Dignity is tackling the pernicious issue of child labor in agriculture by working with farmers and supporting farmworker families to keep young people out of prohibited employment.

Additional indicators of the impact of the Milk with Dignity Program include:

- 256 qualifying workers on 54 participating farms
- 20% of Vermont's total dairy production covered by the Program
- \$5.35 million invested in workers' wages and bonuses and in improvements to labor and housing conditions
- 1,611 inquiries from workers and farmers on the 24/7 Worker Support Line
- 611 violations of the farmworker-authored Code of Conduct resolved following worker complaints
- 212 farm audits, including 941 farmworker interviews, 315 management interviews, 268 worksite inspections, and 218 housing unit inspections
- 2,281 audit findings addressed through Corrective Action Plans agreed to by farmers
- 247 Program education sessions, with 1,291 worker and manager participants

More information on the Milk with Dignity Program can be found on the Migrant Justice website at <https://migrantjustice.net/milk-with-dignity-reports-0>.

### **3. Recommendations to the committee**

The conditions prevalent in the dairy industry demonstrate the urgent need for change. The successes of the Milk with Dignity Program show that change is possible and already underway. Migrant Justice requests that the committee explore the following issues:

#### **a. Minimum wage**

Agricultural workers are currently excluded from Vermont's minimum wage. The median wage for immigrant dairy workers in the state is \$11.67, a full \$2/hr below the state minimum wage of

\$13.67. Endemically low wages compel farmworkers to endure chronically long hours and unsafe conditions.

It has been suggested that employer-provided housing be considered non-monetary compensation for farmworkers. Given the conditions of much farmworker housing, however, the market rate of these units would be zero. On many farms, if the housing were not occupied by farmworkers, it would not be otherwise occupied. Furthermore, housing under the H2A visa program is not counted as non-monetary compensation. Currently in Vermont, H2A workers are guaranteed a minimum wage of \$17.80, with no deductions allowed for housing.

Recommendation: *Include agricultural workers in Vermont's minimum wage law.*

### **b. Support for Milk with Dignity**

Milk with Dignity has been a proven success for the dairy industry, bringing millions of dollars in investments to dairy farms in the state and dramatically improving labor and housing conditions for dairy workers. Opportunities exist for the state government to support the expansion of this Program.

- i. **Procurement:** The Vermont state government can use its power as a direct buyer of dairy products to incentivize farm enrollment in Milk with Dignity. Procurement contracts for dairy products could be amended to include purchase preference for suppliers participating in the Program. Furthermore, the state could incentivize procurement of dairy products from Milk with Dignity farms by K-12 schools, through a process similar to the Local Food Purchasing Incentive (2021's Act 67).
- ii. **State subsidies:** A 2021 report by the State Auditor found that from FY 2010 to 2019, "Vermont spent more than \$285 million on programs and policies that support the dairy industry and/or address detrimental environmental impacts of dairy farming. In FY19, the most recent year of our analysis, spending totaled \$35 million." Unfortunately, these subsidies support many farms engaged in substandard employment practices. The committee could explore mechanisms for the state to use taxpayer money to improve labor conditions; for example, the legislature could condition receipt of certain subsidies on a farm's participation in Milk with Dignity and/or could incentivize Program enrollment by provision of additional premiums to participating farms.

Recommendation: *Explore opportunities for state government support for expansion of Milk with Dignity through the procurement of dairy products and the provision of agricultural subsidies.*

### **c. Collective bargaining rights**

Migrant Justice is not a labor union and has no intention of operating as one. Were the state to change its laws allowing agricultural workers to unionize, we would continue to promote the Milk

with Dignity Program as a means of improving labor conditions and securing workers' rights through supply chain agreements. However, we strongly believe that access to collective bargaining is a fundamental labor right.

The exclusion of agricultural workers from the National Labor Relations Act in 1935 was an explicitly racist act intended to disempower the descendants of enslaved Africans. This is well-documented in the legislative history. As a basic matter of equity and fairness, Vermont should close this heinous statutory loophole and extend collective bargaining rights to farmworkers.

We encourage the committee to develop a proposal to amend the Vermont State Labor Relations Act (21 V.S.A. § 1502) to include agricultural workers within the definition of "employee." In doing so, the committee should consider the following:

- i. **Right to strike:** Strikes are a basic labor right and one of the principal means whereby workers exercise their collective voice. Of the fourteen states that protect farmworker unionization, eleven allow for workers to strike.
- ii. **Size of bargaining unit:** Many workers are employed on farms with fewer than five workers. Maintaining the current employer definition in VSLRA of "any person employing five or more employees" would unduly exclude many farmworkers. Multiple states allow for bargaining units of fewer than five employees.
- iii. **Sectoral bargaining:** Allowing employees of multiple employers within a sector (i.e., the dairy industry) to form one bargaining unit could provide a more streamlined process for collective bargaining that would be less burdensome for both workers and employers. Sectoral bargaining occurs in many contexts in the United States. The definition of a bargaining unit should be constructed in a way to allow for sectoral bargaining in agriculture.

*Recommendation: Develop a proposal for farmworker collective bargaining that includes the right to strike and an expansive definition of bargaining unit to include small farms and sectoral bargaining.*

Sincerely,



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