

Amending the United States' Federal Laws on Child Labor in Agriculture: Is a Bushel of Wheat Worth One's Childhood?

Introduction

Before the mid-twentieth century, children were sometimes viewed as assets rather than as family. Thus, children of farmers began “weeding, digging, and carrying when very little” as they provided valuable help on the farm (Davis 267). When I came across this mindset in William Davis’ “Chapter XVI: The Life of the Peasant,” from *Life on a Medieval Barony*, I wondered whether this attitude still exists on farms today. After research, I discovered that it does – even in developed countries such as the United States.

In fact, according to the Human Rights Watch, in 2012 not only were two-thirds of the children who died from occupational injuries in the US working on farms, but farming also caused more than 1,800 nonfatal injuries across the country (“US: Child...”). Although the Department of Labor’s (DOL) *Child Labor Provisions for Agricultural Occupations Under the Fair Labor Standards* (CLPAO) aims to protect these children by setting restrictions on their tasks and employment hours, these constraints are very lenient, especially in comparison to the *Child Labor Provisions for Nonagricultural Occupations Under the Fair Labor Standards* (CLPNO). Thus, these restrictions fail to have the desired effect.

However, according to a Press Release from the DOL, even in 2011 when Secretary of Labor Hilda Solis proposed to toughen the CLPAO, her amendment was met with anger. When Solis proposed to prohibit farm workers under 16 from working on tobacco farms, operating most power-driven tools and performing dangerous tasks like working in grain elevators and livestock exchanges (U.S. Department), groups like the Farm Bureau protested. They pointed out that the urbanized government had no place intervening in rural culture. One opponent even stated, “the federal government is out of touch with farmers and farm life” (Heiberger 352). As a result, the USDOL withdrew the amendment in April 2012 (Jamieson).

This controversy over the United States' youth agricultural laws informed this paper's research question: whether the CLPAO should be amended to put tighter restrictions on children working on agricultural farms in the United States. Specifically, this paper focuses on two aspects of the issue: the implications of the age restrictions and the working hour restrictions currently stipulated by the CLPAO. Ultimately, after exploring both the benefits and limitations of amending the CLPAO, this paper argues that these sections should be amended to be similar to the *Child Labor Provisions for Nonagricultural Occupations*.

Out of the scope of the paper, however, are children working on farms owned by their parents. Since participating in family businesses is the norm in many other industries, it is also appropriate for children born into farming families.

Age Restrictions: The Health Implications of Being Too Young

Currently on farms in the US, if a child has a waiver from the Secretary of Labor they can work from age 10; if they have parental consent they can work from age 12, and from age 14 they can work without any restrictions (United States...*Agricultural*). Allowing children to work on farms from such a young age, however, severely harms their health.

First, young children are disproportionately affected by the use of pesticides. According to a report prepared for the World Health Organization, *Childhood Pesticide Poisoning*, this is due to their "smaller size; greater rates of exposure to food, soil, water, and air; differing metabolism; and rapidly growing and developing organ systems" (Goldmann). Second, since adolescent children are still developing physically, their bodies are more vulnerable to the harsh conditions of farming that include bending over for extended periods of time and carrying very heavy items. A 2007 report published by the Association of Farmworker Opportunity Programs (AFOP), a group that seeks equality for farmworkers, points out that growth spurts in adolescents "may decrease flexibility and increase their susceptibility to a

variety of musculoskeletal injuries, such as bursitis, tendonitis, sprains, and carpal tunnel syndrome” (Hess 14). As a result, an adolescent working on a farm may permanently damage their body, making it harder for them to get a job in the future. Both of these sources imply that younger children are more likely to suffer from health issues when working on a farm.

Another aspect of the physical hazards that young children are susceptible to is the use of dangerous tools. The CLPAO currently allows 16 year olds (and certified 14 and 15 year olds) to use hazardous tools (United States...Nonagricultural). This, however, often results in severe injuries. In a 2007 study published in American Journal of Public Health, Barbara Marlenga, a research scientist for the National Farm Medicine Center, analyzed 1193 farm injuries among children from the United States and Canada and found that out of all the injured children studied, 33% of those younger than 16 years and 36% of those between 16 or 17 years were performing activities deemed “hazardous” by the CLPAO (Marlenga 276). This shows that contrary to what government officials might think, children of 16 and 17 years old are not mature enough to be using hazardous tools.

However, opponents of this argument, even those who have been a victim of farming’s health hazards, claim that children need to work on farms from a young age because it allows for the culture of farming to be passed down. Debbie Nolt, a lady who lost both her husband and her two sons in a Pennsylvania farming accident, maintains that doing farmwork “is the most preferable way for... young men to learn work ethic... safety and responsibility” (Strauss 26). Others believe that the loss of this culture will result in a reduction in the number of farmers. For example, in response to the amendment proposed in 2011, “[a]gricultural groups, including many farm bureaus, said they were worried that the restrictions would discourage youths from getting into the farming business” (Jamieson). While these arguments are valid, practically, it would be more productive to have fewer, healthier workers rather than many unhealthy ones. This is due to the fact that if a farm-owner employs a farmer, the healthy farmer

would be able to get more work done than an unhealthy farmer. Thus, even economically speaking, young children should not be working on farms.

In summary, since agricultural employment is risky for young children, as seen through their increased susceptibility to pesticides and likelihood of being injured from heavy tools, the CLPAO should not allow young children to work on farms, even at the cost of losing agricultural culture.

Working Hours Restrictions: The Implications of Working Too Long

Currently, the CLPAO does not “limit the number of hours... (other than outside of school hours) that young farm workers may legally work” (United States...*Agricultural*). Thus, as American lawyer Hillary Kistenbroker points out, this implies that children working on farms can legally “work more than 100 hours per week” (Kistenbroker 938). Unfortunately however, long working hours negatively impacts the quality of the child’s education and their personality.

Working on a farm is physically exhausting and consequently decreases the energy a child has for school. David Bills, a holder of a Ph.D. in Sociology, and his colleagues point out that as the hours of employment increase, adolescents may experience difficulties in juggling the demands of work and school (National 115). In fact, when Mark Schoenhals, a holder of B.A. in Mathematical Economic Analysis and Statistics, and his associates found quantitative evidence to support this assertion. After analyzing data from the National Education Longitudinal Survey, Schoenhals found that the number of hours a child works was positively correlated to the number of absences in the 10th grade, especially among those who worked more than 30 hours per week (National 129-30). Although this study is not specific to agricultural occupations, it is still relevant because it shows a direct relationship between the hours a child works and their ability to perform in school. Furthermore, it is important because it implies that restricting students to working out-of-school hours doesn’t ensure they get a good education.

Not only does working long hours affect a child's education, it also affects their personal development. The National Research Council's peer-reviewed report "Protecting Youth at Work," written by select scientific and medical experts, found that students who work more than 20 hours per week are usually more likely to show problem behavior (such as substance abuse), get insufficient sleep and exercise, and spend less time with their family" (National 3-4). This is significant because it shows that long working hours not only harm individual children, but also society, by jeopardizing familial relationships and the safety of the community.

Opponents of this argument, however, may point out that many less privileged children need to work for long hours in order to support their family economically. For example, an article published by *The Nation* points out that three sisters, Neftali (12), Kimberly (13) and Yesenia (14), worked on a tobacco farm for over 60 hours a week in order to help their single mother earning minimum wage as doing so would quadruple the family's earnings (Thompson). Although some children may have to forgo an education due to its cost, for those that can afford it – even if just barely – evidence shows that the long term benefits of an education outweigh the short term gains from a minimum wage job. Alan Krueger, an economics professor at Princeton, points out that, up to a point, an additional year of schooling is likely to raise an individual's earnings in the future by about 10 percent (Bernasek). This shows that getting educated is a better long-term investment than working on a farm.

Solutions & Limitations

Moving forward, how should the CLPAO be amended? The CLPAO should follow the precedent of the *Child Labor Provisions for Non-Agricultural Occupations*, the strict law that governs child labor in jobs apart from agriculture. Thus, with regards to the age and time a child can work, youths below 14 years old would not be allowed to work, and youths between 14 and 15 years old would only be allowed to work for less than 3 hours a day during the school year (United States...*Nonagricultural*). Furthermore,

children below 18 years old would not be allowed to operate hazardous tools (United States...*Nonagricultural*). These changes would reduce some of the health, personality and education hazards that young children toiling fields are susceptible to.

While the CLPAO needs to be changed, it is important to propose the change in a way that limits backlash in order to avoid a rerun of the failed 2011 amendment. Thus, proposers of this amendment should abide by the following advice given by Scott Heiberger, a Communications Specialist at the National Farm Medicine Center, when proposing the amendment to the Federal Government. First, the safety and health officials arguing for this amendment should act as a unified coalition, “identify[ing] what they agree on [and] speaking as one” (Heiberger 353). This would emphasize the number of people supporting the change. Second, those writing the law should be explicit in their wording. Since Heiberger points out that many of the farmers were opposed to the amendment in 2011 as they were “concerned about unintended consequences of the proposed rules,” being explicit would add clarity and garner support from some farmers (Heiberger 353).

Indeed, a limitation in this argument as a whole is that some states in the United States, such as Massachusetts and New York, have already imposed stricter in-state legislation to account for the deficiencies in the federal law (“State...”). Nonetheless, while this does reduce the scope of this paper, it is still important to change the Federal Law for two reasons. First, it would ensure that no state falls through the cracks. For example, many other major agricultural states like Illinois and Indiana currently do not have these additional state laws (“State...”). Second, it would send a clear message to society that the federal government is against child labor in all industries. Thus, while this amendment may not affect the states that already have strict in-state laws about child labor in agriculture, it should still be passed.

Now more than ever, with over 70% of the United States’ child workforce working in agriculture (“Farm...”), we must tackle this problem with urgency and efficiency. We must amend the CLPAO in order to protect minors working on farms in the United States.

Work Cited

- Davis, William Stearns. "Chapter XVI: The Life of the Peasant." *Life on a Medieval Barony*. N.p.: n.p., 1923. 253-74. Print.
- "Farm Worker Issues: Children in the Fields." *Nfwm.org*. Youth & Young Adult Network of the National Farm Worker Ministry, n.d. Web. 16 Mar. 2016.
- Goldmann, Lynn. "Childhood Pesticide Poisoning: Information for Advocacy and Action." *WHO*. Chemicals Programme of the United Nations Environment Programme, May 2004. 1-29. Web. 09 Apr. 2016.
- Heiberger, Scott. "Lessons Learned From the Child Agricultural Labor Law Debate." *Journal of Agromedicine* 17.4 (2012): 351-53. *Researchgate*. Web. 8 Apr. 2016.
- Hess, Benjamin. "Working Conditions: Musculoskeletal Injuries." *Children in the Fields: An American Problem*. N.p.: Children in the Fields Campaign, 2007. 14. Racine Dominican Mission Fund, 2007. Web. 24 Mar. 2016.
- Jamieson, Dave. "Child Labor Farm Rules Scrapped By White House Under Political Pressure." *Huffpost Politics*. The Huffington Post, 27 Apr. 2012. Web. 16 Mar. 2016.
- Kistenbroker, Hillary V. "Implementing Article 32 Of The Convention On The Rights Of The Child As A Domestic Statute: Protecting Children From Abusive Labor Practices." *Case Western Reserve Journal Of International Law* 44.3 (2012): 921-954. *Academic Search Complete*. Web. 16 Mar. 2016.
- Marlenga, Barbara, et al. "Changing The Child Labor Laws For Agriculture: Impact On Injury." *American Journal Of Public Health* 97.2 (2007): 276-282. *Academic Search Complete*. Web. 16 Mar. 2016.
- National Research Council and Institute of Medicine et al. *Protecting Youth at Work: Health, Safety, and Development of Working Children and Adolescents in the United States*. Washington, DC: The

- National Academies Press. 1998. 1-140. Web. 16 Mar. 2016.
- Schoenhals, Mark, Marta Tienda, and Barbara Schneider. "The Educational and Personal Consequences of Adolescent Employment". *Social Forces* 77.2 (1998): 723–761. Web. 16 Mar. 2016.
- "State Child Labor Laws Applicable to Agricultural Employment." *U.S. Department of Labor*. Wage and Hour Division (WHD), 1 Jan. 2016. Web. 16 Mar. 2016.
- Strauss, Mariya. "Dying On The Farm. (Cover Story)." *Nation* 297.22 (2013): 21-26. Academic Search Complete. Web. 29 Mar. 2016.
- Thompson, Gabriel. "Why Are Children Working in American Tobacco Fields?" *The Nation*. N.p., 12 Nov. 2013. Web. 09 Apr. 2016.
- United States. Department of Labor. Wage and Hour Division. *Child Labor Provisions for Nonagricultural Occupations Under the Fair Labor Standards Act*. N.p., Feb. 2013. Web. 16 Mar. 2016.
- "US: Child Workers in Danger on Tobacco Farms." Human Rights Watch. N.p., 14 May 2014. Web. 29 Mar. 2016.
- U.S. Department of Labor. US Labor Department Proposes Updates to Child Labor Regulations. *Dol.gov*. N.p., 31 Aug. 2011. Web. 29 Mar. 2016.