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# Research Project: Children in Agriculture

by Rachel Milliron

## Introduction

The concept of the “American dream” lures many immigrants to the U.S. each year. Patterns of immigration to the U.S. throughout history may be categorized into waves, including major waves from Asia, Europe, and Latin America (Nelli 1987: 200–01). American industries have welcomed and capitalized from the influx of cheap labor in the workforce. The agricultural industry employs many immigrants, and, more specifically, child immigrants or children of immigrants (Human Rights Watch 2014a). The Fair Labor Standards Act of 1938 exempts minors in agricultural jobs from the maximum-hour and the minimum-age requirements that apply to other working minors (Human Rights Watch 2014a: 642–54). This means children work upwards of ten hours a day in dangerous conditions on farms. These dangers include the risk of exposure to pesticide, heat illness, injuries, life-long disabilities, nicotine poisoning (in the case of children working on tobacco farms), and death. These dangers apply not only to immigrants but also to citizen minors. Human Rights Watch reports that 75 percent of the deaths from work-related injuries of children under the age of sixteen occurred in the agricultural industry in 2012 (2014a). In the time leading up to the passing of the Fair Labor Standards Act, the debate centered on the manufacturing and mining industries, though President Franklin D. Roosevelt and other advocates often mentioned the “ancient atrocity” that was child labor (Roosevelt 1938, 2: 275).

These factors pose the question of why the agricultural industry has not undergone as extensive a child labor reform as other areas of industry that have reformed and offer a wider variety of protections to minors. Also, some states have more robust protections for agricultural workers than other states despite being in the same coun-

try. I argue that the lack of rhetoric on and the exclusion of agriculture in the child labor debate was a result of the traditional norm that agriculture represented in American culture in the first half of the twentieth century. I further argue that the current lack of reform in this sector is due to the continued need for unskilled labor in the agricultural sector and the partisan divide in ideological views surrounding farming.

The paper will begin with a literature view, analyzing existing theories on the topic, and then will discuss the current significance and need of child labor reform in agriculture. The paper will then examine the evidence relating to my argument. First, I will examine the historical factors that surrounded the passing of the Fair Labor Standards Act (FLSA) and identify why agriculture was largely excluded from reform. Second, I will discuss the differences between family and corporate farms. Third, I will compare current child labor laws and analyze why some states observe heavier restrictions on agricultural labor than others. The paper will conclude with an analysis of the limitations of my argument and suggestions for further research.

## **Current Significance and Literature Review**

### *Current Significance*

The labor that children perform in the agricultural sector is hazardous. In 2013, Human Rights Watch published a report on children working on tobacco fields in the United States. They interviewed 141 child workers, ranging in age from seven to seventeen (Human Rights Watch 2014b). They reported that nearly three-quarters of the children told HRW about serious symptoms they experience while working. The symptoms included vomiting, nausea, headaches, dizziness, loss of appetite, difficulty breathing, skin rashes, and eye and mouth irritation. One thirteen-year-old girl said, "I would barely eat anything because I wouldn't get hungry. . . . Sometimes I felt like I need to throw up. . . . I felt like I was going to faint. I would stop and just hold myself up with the tobacco plant" (Human Rights Watch 2014b, 3). The United States Department of Agriculture reported that in 2009 youth under the age of ten incurred 4,111 injuries, while youth ages 10–15 incurred 6,912 injuries (Child Labor in Agriculture: 2–3). Agriculture has an average of 21.3 deaths per 100,000 full-time youth workers in the U.S., meaning it is the industry with the second highest fatality rate for youth workers (3). All industries combined have an average of 3.6 deaths per 100,000 youth workers.

The National Institute for Occupational Safety and Health reports that machinery-related injuries, motor-vehicle injuries, and job-related homicides are the leading cause of adolescent job deaths (Blosser 2000). Between 1998 and 2007, 178 transportation-related deaths among workers ages 15–17 occurred, as well as 34 fall-related deaths, 45 assault-related deaths, and 70 equipment-related deaths (Centers for Disease Control and Prevention 2010). Along with agriculture, mining and construction reported the highest deaths per 100,000 full-time employees for young workers (36.5 and 10.9, respectively). PBS reported on a statistic from the Association of Farmworker Opportunity Programs concerning youth farmworkers. Half of the youth that regularly

engage in farm work do not graduate from high school (PBS 2004). These numbers highlight some of the issues related not only to child labor in agriculture but child labor in generally hazardous industries.

The lack of protection to children performing dangerous agricultural jobs is an important and significant topic to explore. It is a question for which human-rights activists are currently demanding answers. The implications of the problem represent social and physical consequences. Understanding the answer to this question will help to properly address possible failures in federal and state law to protect children in the agricultural industry. Specifically, understanding the contributing factors to this difference of restrictions between industries may hold many policy implications. Legislators will better understand how to provide policy reforms on children's role in agriculture if they understand the variables that influence the different industries.

#### *Literature Review*

Carolyn M. Moehling (1999) examines the effect of state restrictions and the withdrawal of children from the labor market. She uses data from three federal censuses of the late-nineteenth and early-twentieth century to perform a test of the effect of minimum-age limits in the manufacturing industry on children's occupational choices (72). Overall, she finds that the imposition of age restrictions had little statistical effect on the decline of child labor in the first half of the twentieth century, and state labor laws regarding children were a consequence of social change rather than an initiator. Her tests exclude agricultural households because she identifies agriculture as an untargeted area of the child labor movement in the early 1900s (84). The lack of incorporation of children from agricultural households and similar variables means her conclusions cannot be inferred onto the agricultural labor sector. However, her results are fascinating when considering the direction of the causal relationships between variables in the analysis of my hypotheses.

A 1989 health-screening project of over 90 percent of children in a Californian farming town revealed that more than two-thirds of children needed a medical referral (Villarejo 2003: 186). This was found to be positively associated with the level of poverty in the town. Villarejo discusses the age distribution of hired farm workers and finds most of them are between the ages of eighteen and forty-four. He used this to explain the larger number of children and women in farming communities (177). From his finding, we discover a basis for the idea that children are a viable source of labor in agriculture due to their sheer number. Similarly, we find that the amount of illness in children who are farm workers is a serious cause of concern that deserves attention.

Daniel T. Lichter and David L. Brown (2011) found that interdependence between rural and urban areas helps rural areas move ahead and advance in a way similar to their urban counterparts. They also noted studies that found that there is a declining share of all rural employment in the agricultural sector. Lichter and Brown examined the notion that rural America is regarded as "backwater" society. This backwater view is a misconstrued attempt to explain the cultural conservatism that may be found

more commonly in rural communities. However, this view declines as the level of interdependence between rural and urban areas increases. It is this type of explanation that gives credence to the idea of a partisan divide in agricultural policy. Lichter and Brown find the legitimacy of such explanations decreases with interdependence, which may mean a decrease in the possible partisan divide regarding agricultural policy. With the acknowledgement that rural areas, at least in a cultural perceptible, are usually associated with right-wing, conservative attitudes, the partisan argument will be explored later on in this paper.

Anne B.W. Effland (2005) wrote about how traditional ideals concerning agriculture affected child-labor reform. She identifies the root of the American agrarian ideal as resting in the beliefs of Thomas Jefferson (285). Jefferson believed agriculture was the best basis for democratic citizenship, because men who worked their own land had independence and virtue. Effland argues that this historic ideology is what drove public perception of agriculture and agricultural workers in the early half of the twentieth century. Effland identifies three ideas that stem from this ideological system that are still prevalent in the American public conception of agriculture today: economic, political, and social fundamentalism.

Economic fundamentalism asserts that agricultural production is the basis of all wealth, making its wellbeing critical to the wellbeing of the entire economy. Social fundamentalism asserts that farming is an occupation that naturally fosters a moral life, making the protection of a viable farm economy important to the moral state of the nation. Political fundamentalism asserts that farming produces self-sufficient, therefore independent, citizens capable of participating in true democratic government, making the preservation of a family farm system important to the maintenance of American democracy. (85)

These three ideas will be important when considering the current state of agricultural reform in the U.S. in regards to child labor in agriculture. They are important when considering the exclusion of agriculture from labor reform, because they imply there was no perceived necessity of such labor reform for agricultural child workers at the time of the development and passing of the FLSA.

### **Theoretical Arguments**

I hypothesize that the traditional values associated with rural communities and the continued need for unskilled human labor in agriculture are the main causal effects of why the agricultural industry does not have stricter labor laws regarding children. Rural communities that rely on agriculture will more naturally accept child labor, especially in communities where family-owned farms are still prominent and/or numerous. Children will be viewed as contributing to the community effort of producing agricultural goods and, therefore, will be required to work harder in comparison to children living in suburban or urban communities. This will be done to help their family make ends meet and to help produce their community's livelihood. The

demand on financially stable farms increases as imports from foreign farms increase, putting weaker American farms out of business and putting the strain of demand on still-existing farms. However, with the advancement of society and the growth of the population in the U.S., farmers are using more pesticides and working longer hours in order to produce enough products to meet the demand. This adversely affects children farmworkers, because it exposes them to pesticides and longer working hours, both of which negatively affect their health and well-being.

American society has seen much technological advancement that has revolutionized industries. Jobs that required cheap labor in the past and that were ideal for children are now run by machines or facilitated by an assembly line and machine combination. The agricultural industry did not benefit from these technological advancements in the same way and still depends heavily on human labor. Much of the labor on farms does not require particular skill, making children good candidates for the job; and as immigration to the U.S. continues, especially from Latin American countries, immigrants and their children prove to be a commodity in the form of cheap labor.

### **Evidence**

This part of the paper will focus on historical process tracing, examining evidence relating to the exclusion of child agricultural labor from the regulations imposed by the FLSA. Overall, I find evidence supporting the three pervasive ideas of fundamentalism identified by Effland as contributing to the lack of rhetoric and consideration of labor reform in agriculture. The large amount of children working drew national attention. The National Child Labor Committee (NCLC) conducted field investigations and studied legal statutes related to child labor and published their findings. This raised public consciousness, especially among religious organizations, college groups, and women's organizations (Stadum 1995: 34). Public awareness led to pressure on the government, which was blocked in its reform attempts by the Supreme Court, who declared restrictions on child labor "unconstitutional" (Grossman 1978). Eventually, President Roosevelt managed to bypass Congress and the Supreme Court when he signed the FLSA. Largely exempt from the FLSA were children working in agriculture, because agriculture was seen as a necessary way of life.

#### *The Fair Labor Standards Act*

The Progressive Movement at the end of the nineteenth century and the beginning of the twentieth century served as a catalyst to the events leading to the FLSA (United States Department of Labor). Rapid industrialization in the late-nineteenth and early-twentieth century introduced many social and economic problems to the U.S. (The Eleanor Roosevelt Papers Project). The Progressive Movement began as a social movement but later developed into a political movement. Adherents to the movement were generally educated, lived in cities, and shared a belief that the government could be used as a tool for change. During this time period, there was a massive influx of immigrants who flooded the industrial market and the school system (United States

Department of Labor). Officials desired to instill upon these immigrant children traditional American values and beliefs to avoid foreign radical ideas prominent in Europe (Bodnar 1985: 190). However, this was met with opposition by the immigrant parents, because they depended on their children's wages to make ends meet. This led to a war of ideologies and ultimately led to legislation mandating schooling. Children, when possible, chose work outside of school or left school when they could, because they understood their greater duty to contribute to their family structure (193).

The 1900 census showed that two million children worked in mines, mills, fields, stores, factories, and on city streets (The National Archives and Records Administration). It was this statistic that ultimately sparked the American child-labor reform movement. In 1904, a group of men and women concerned with the state of child labor formed the National Child Labor Committee (NCLC) in New York (The National Child Labor Committee). In 1907, an Act of Congress chartered the group, making it possible to push ahead with advocacy. The NCLC hired Lewis Hine in 1908 to travel and photograph working children. The photographs were used to "awaken the consciousness of the nation."

The record of the sixth annual conference of the NCLC shows the dialogue of the committee focused on education as the only harmed aspect of the lives of child farm workers. In discussing the situation of child migrant workers in Baltimore, Miss Anna Herkner, assistant chief of the Maryland Bureau of Statistics and Information, stated that the children of Polish immigrants "work in canneries and on farms. . . . The child labor law in Maryland permits them to work . . . until the middle of October. It is usually November . . . [when] they begin going south. . . . We have now children—many cases I know—who have never been to school" (Johnson 1910: 236). The chairman of the Committee on Child Labor in Home Industries and Street Trades, Edward N. Clopper, said in his committee's discussion (while describing the ineffectiveness of Kentucky's mandatory education law), "The rural schools are open for six months, and as most roads are in very bad condition in the spring, the session begins in July and ends some time in January." He continued, "Farmers who raise tobacco and other crops need the children, who are consequently deprived of schooling. . . . We are going to try at this session of the legislature to improve the compulsory education law with respect to rural districts" (Johnson 1910: 236–37).

The focus on the lack of education among child laborers over health concerns was due to the fact that the American public and the advocates for child-labor reform did not believe farm work was detrimental to a child's health but was to the child's education. In fact, later on at the conference, while discussing children laboring in tobacco fields, it was stated that children laboring in tobacco fields did not experience labor that was "detrimental to their health, but the great wrong is that during the period of childhood, they are practically deprived of an opportunity for education" (Johnson 1910: 237).

**Photo 1. Photograph of Bibb Mill No. 1, Macon, GA, by Lewis Hine for the National Child Labor Committee, 19 January 1909**



Source: [www.ourdocuments.gov](http://www.ourdocuments.gov). Keating-Owen Child Labor Act of 1916 (1916). Accessed 15 December 2014. <http://www.ourdocuments.gov/doc.php?doc=59>

These discussions at the sixth conference highlight the three ideological fundamentalisms discussed by Effland. Clopper's comment about how farmers needed child labor shows the idea that child labor was necessary for economic survival for farms and agricultural. The focus on education and the lack of belief that farm work is detrimental to children's health highlights the political and social ideological aspects of society at the time. It was only due to the possibility of the child not being educated that agricultural labor was even called into question. As previously discussed, education was viewed as necessary to producing contributing American citizens.

The conference proceedings and discussions provide ample evidence in favor of John Bodnar's assertion that the distillation of American values and beliefs was public officials and advocates' primary focus (1985: 190). Many of the child laborers are described by nationality, especially with regard to families' tendencies to pull their children from school. When discussing the Kentucky tobacco example, the unidentified moderator states, "A great many children do not go to school at all. These children in Kentucky are pure American stock; they are not foreigners . . . and these little boys and girls are growing up in ignorance" (Johnson 1910: 237). With this mindset—the Americanization of foreign immigrant children and the salvation from ignorance of American and foreign children alike—the NCLC pushed forward with its agenda, and in 1912, the Children's Bureau was established. The bureau "investigated and reported on matters related to the health and welfare of children" (United States Department of Labor Chapter 1). With the Children's Bureau now in play, the NCLC pushed for child labor reform and compulsory education 1910–20 (The National Child Labor Committee).

The 1918 Supreme Court Ruling in *Hammer v. Dagenhart* proved to be a large legal blow to reformists when the court ruled that any federal restrictions banning child labor were unconstitutional (The National Child Labor Committee). The case was the result of the Keating-Owen Child Labor Act (Kelly 1968: 320). This act was passed in 1916 after a long effort from the NCLC and banned articles from being sold in interstate commerce that were made by child labor (The National Archives and Records Administration). More specifically, the law banned selling products from any shop, cannery, or factory that had child employees under the age of fourteen, “from any mine that employed children under the age of 16,” and from any sort of facility where children under the age of sixteen worked for over eight hours a day or overnight. The legal basis for the law was the ability of the federal government to govern interstate commerce with the purpose of regulating child labor. The court held the law unconstitutional on the grounds that it overstepped the government’s power. The ruling was a close vote with four of the nine justices voting the law constitutional (Oyez Scholars, IIT Chicago-Kent College of Law 2014a).

The court’s opposition to regulating child labor marked the beginning of a two-decade struggle to pass restrictions on child labor. In the aftermath of *Hammer v. Dagenhart*, Congress proposed a constitutional amendment to allow it the power to restrict and regulate child labor (NARA). This amendment carried the name of “The Child Labor Amendment.” Opponents of the amendment used multiple lines of reasoning to oppose its passage. Opponents’ charges ranged from traditional states’ rights arguments against increases in the power of the federal government to accusations that the amendment was a communist-inspired plot to subvert the Constitution (NARA). However, *Hammer v. Dagenhart* had to do with the manufacturing industry, as the defendant was the owner of mill, trying to defend his perceived right to employ his fourteen-year-old son despite the restriction laid down by the Keating-Owen Child Labor Act (Oyez Scholars, IIT Chicago-Kent College of Law 2014a). The case makes no reference to agricultural laborers; in fact, the Keating-Owen Child Labor Act also does not make reference to agricultural child laborers. The wording in the bill prohibiting child laborers under the age of sixteen is: “any mill, cannery, workshop, factory, or manufacturing establishment, situated in the United States” (NARA). Here we see that agricultural work was largely left out of the reform debate (other than terms of education) and left out of landmark legislation to the child-labor reform movement.

The dissenting opinion of Justice Holmes in *Hammer v. Dagenhart* bears some consideration. In it, he states that the question is not really whether or not Congress has, or should have, the power to regulate commerce. He states that child labor is “evil.” He also states:

But I had thought that the propriety of the exercise of a power admitted to exist in some cases was for the consideration of Congress alone, and that this Court always had disavowed the right to intrude its judgment upon questions of policy

or morals. It is not for this Court to pronounce when prohibition is necessary to regulation—if it ever may be necessary—to say that it is permissible as against strong drink, but not as against the product of ruined lives. (Legal Information Institute, Cornell University Law School)

The rhetoric surrounding child labor changed somewhere between the sixth conference of the NCLC in 1910 and the dissenting opinion of Justice Holmes in 1918. The descriptions of child labor had tended toward the side of describing the practice as evil. They use the word “evil” in the minutes of the sixth conference of the NCLC, but by 1918, the wording had gone from a group of activists promoting their cause to entering the very dialogue of the Supreme Court. Despite the influence of activists in labor reform, there was still a lack of perceived need for reform in agriculture beyond mandatory school attendance laws.

Despite the setback of the loss of *Hammer v. Dagenhart*, labor reform advocates pushed forward. A decade after, the U.S. economy fell and the Great Depression hit. In 1933, President Roosevelt came into office and with him the promise of the New Deal. President Roosevelt developed the National Industrial Recovery Act (NIRA), which united businesses in an effort to create stability (Grossman 1978). Part of the agreement was that businesses would not hire youth under the age of sixteen, with some exceptions. It was expected that “patriotic Americans” would only buy from participating businesses. President Roosevelt, in his notes to a speech given before Congress, wrote that if child labor could be eliminated, then more Americans could have employment (Roosevelt 1938: vol. 2, p. 205). Again, agricultural child laborers were left out of the dialogue.

The public papers of President Roosevelt reflect the ongoing battle regarding child labor in the beginning of his presidency. In agreement with the public perception of child labor, on 9 July 1933, Roosevelt hailed the abolishment of child labor in the cotton industry, saying, “This ancient atrocity went out in a day” (Roosevelt 1938: vol. 2, p. 275). In a nod to the educational concerns of labor reform activists, the president addressed Vassar College in August 1933 and told the students about the children he had met who were just “little bits and things,” and how they had told him that employment kept them out of school (Roosevelt 1938: vol. 2, p. 341).

President Roosevelt’s stance on child labor remained consistent throughout his presidency despite the Supreme Court’s decision to repeal the NIRA in 1935 (Grossman 1978). *Schechter Poultry Corp. v. United States* challenged the provision in the NIRA that the president could approve “fair codes of competition” for industries; the court ruled in favor of *Schechter Poultry Corp.*, 9-0 (Oyez Scholars, IIT Chicago-Kent College of Law 2014b). In addition to this ruling, the state invalidated federal and state labor laws (Grossman 1978).

Change occurred in 1937 when Justice Owen Roberts voted with the four man liberal minority of the court in favor of *Elsie Parrish in West Coast Hotel Company v. Parrish* (Grossman 1978). She was suing for back wages as the hotel had paid her

less than the state of Washington's minimum wage. This ruling helped to stem the tide of change that President Roosevelt threatened on the court for its uncooperativeness in Depression-era reform. Grossman identifies this switch as a turning point in American legal history and American social history because "it marked a new legal attitude toward labor standards." This decision encouraged labor reform advocates to develop something that the Supreme Court would not throw out.

President Roosevelt's Secretary of Labor Frances Perkins began developing such a bill in 1933 upon her apportionment (Grossman 1978). When the Supreme Court shot down the NIRA in 1935, Secretary Perkins had Department of Labor lawyers write two wage-hour and child-labor bills that had a chance of withstanding Supreme Court review. One of the bills was a general fair-labor standards act. The bill took nearly four years to complete. The bill got lost for a while in Congress by opponents to labor reform, but President Roosevelt grew angry. Child labor, he said, "has a serious effect on buying power" (Grossman 1978). The bill, after revisions, went before Congress again in 1938 and, with a significant struggle, passed through and on to the president to be signed.

The FLSA prohibited child labor in manufacturing and mining industries for children under the age of sixteen (United States Department of Labor, Chapter 2, p. 4). Children aged fourteen and fifteen were allowed employment in occupations in industries other than manufacturing or mining if the Secretary of Labor deemed that the employment did not interfere with schooling. If the child was working on the family farm, then there was no age restriction set. "Children working on farms owned or operated by a parent are completely exempt from Federal agricultural child labor provisions" (4).

Agriculture was almost entirely excluded from the debate on child labor reform. As previously discussed, the educational concerns of American and immigrant children drove restrictions to ensure the children received schooling. However, the restrictions set in the FLSA with regard to child labor in agriculture are the same restrictions that apply at the federal level (with later amendments).

#### *Contemporary Child Labor Reform*

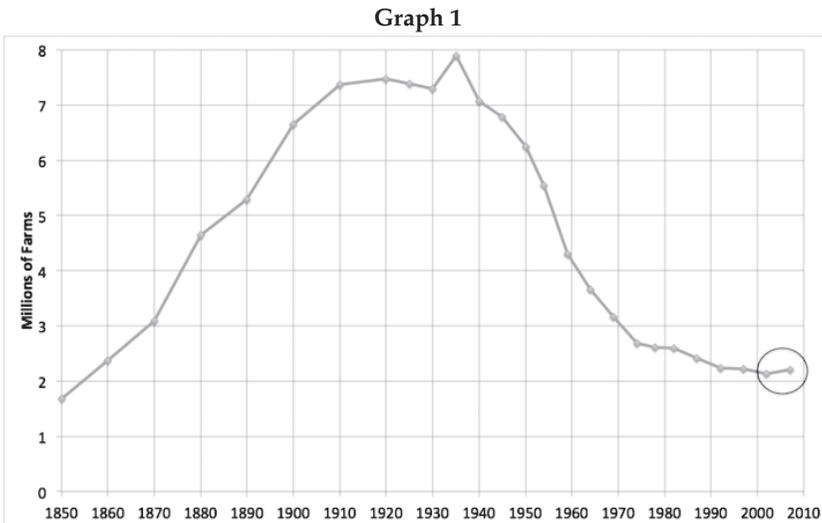
The United States Department of Labor web site states that farms are a commonly accepted ideal setting to raise children: "Growing up on the family farm, learning the value of hard work in the fresh air, is still viewed by many as the perfect childhood. Federal and State child labor laws . . . reflect this benefit" (United States Department of Labor). This statement provides the justification for why minors who work in agriculture are exempt from restrictions that apply to minors working in other industries: romanticized American agriculture.

Despite this traditional justification for agricultural exemptions, only 10 percent of migrant farm workers graduate high school (National Farm Worker Ministry). The United States Department of Labor reports similarly alarming statistics. Of minor teens who work in agriculture, "fewer than half [47 percent] were attending school at a grade level corresponding to their age, 15 percent were in school but

behind in grade [levels], and 37 percent were drop-outs who did not have a high school diploma” (United States Department of Labor, Chapter 5, p. 54).

In 2011, the Department of Labor proposed changes to the agricultural labor laws that would restrict minors under that age of sixteen and eighteen; these changes were withdrawn in 2012, a move widely criticized as an attempt to gain favor and votes for the Obama administration from farmers and Republicans during the 2012 reelection (American Horse Council 2012). The American Horse Council, an agricultural interest group in Washington, opposed the change, citing the prevention of “young people from becoming involved in agriculture, and would negatively impact family farms and ranches.” Perhaps the biggest voice against the change came in the form of the American Farm Bureau Federation (AFBF), which is a large lobbyist group dedicated to preserving the rights of large, corporate farms down to small, family farms (Shearn 2012). The AFBF opposed the Department of Labor’s proposed changes, stating that the decision to withdraw the proposed changes was a “positive step” and any changes going forward must “not infringe on the traditional rights of family farms and not unnecessarily restrict the ability of young people to work in agriculture. As DOL’s proposed rule stands currently, that is not the case” (American Farm Bureau Federation 2012). The voices against child labor reform in agriculture on Capitol Hill often have large resources to push their agenda (Fang 2012), as seen with the withdrawal of the proposed changes in 2012.

Any attempts at reform always exempt family farms from the legal restrictions proposed. In the 1930s, when the FLSA was passed, the number of farms in the U.S.



Source: Plumer, Brad. 2012. After a seventy-year drop, small farms make a (small) comeback. Washington Post, October 2. Accessed 16 December 2014. <http://www.washingtonpost.com/blogs/wonkblog/wp/2012/10/02/after-a-70-year-drop-farming-makes-a-small-comeback/>.

had experienced a small growth, moving from the lower half of 7 million total farms to nearly 8 million farms (Plumer 2012).

The 1930s increase in farms, combined with traditional American ideology, may well have contributed to the exclusion of stricter laws regarding minors working in agriculture in the FLSA. As families during the Great Depression worked hard to make ends meet, children may have been seen as a necessary part contributing to their family's livelihood.

This line of reasoning leads to the question of whether or not the rise of corporations and commercial farming in the agricultural sector has grown significantly enough in prevalence to warrant a massive reform of child-labor laws. To answer this question, I will turn to numbers provided by the United States Department of Agriculture (USDA). The Economic Research Service for the USDA reports that in 2011, family farms represented 97.6 percent of all U.S. farms (MacDonald 2014). These family farms output 85 percent of all U.S. farm production.

Family-owned farms make up the majority of farming in the U.S., but the question remains of how many are working under corporations, and how many employ minors that are not related to them. "Another 11.5 percent of U.S. farms, with 38.4 percent of production, are owned and operated by a family, but rely extensively on labor provided by hired workers, contract workers, and other operators and their families" (MacDonald 2014). The USDA's web site identifies that nonfamily farms represent 2.4 percent of the total number of farms in the U.S., making a number of fifty-three thousand.

Though all of these statistics suggest that the number of children adversely affected by the lack of stricter restrictions in child labor in the agricultural sector is minimal, lack of reform may come down to the partisan divide in American politics and the continued need for unskilled labor in farming. The USDA's web site states:

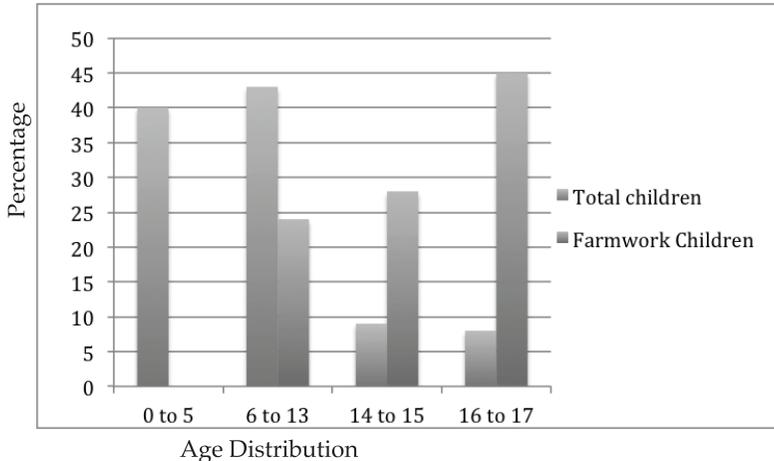
Agricultural production also usually requires localized knowledge, flexibility, and the ability to quickly adapt to changes in the production environment . . . families have been able to adjust their labor to the seasonality of farm production and to reallocate their labor to other tasks on and off the farm to accommodate unexpected variability in agricultural production needs. (MacDonald 2014)

The localized knowledge mentioned and the flexibility and adaptability all indicate the need for human labor. This is why family-owned farms are so prevalent in agriculture. The USDA also acknowledged nonfamily farm corporations and businesses are often formed on a model that closely resembles the family-farm model.

This information could imply the reason child labor reform in agriculture has not been achieved is because the issue is not a prevalent one, as most farms are family operated. The National Center for Farmworker Health, Inc. cites that there is no official data compiled that documents the number of children under the age of twelve working on farms. Overall, the lack of statistics regarding children in agriculture is frustrating at best. Human Rights Watch reports, "No one knows exactly how many

children under the age of 18 are working in US agriculture” (Human Rights Watch 2010: 16). Of the numbers available, the United States Department of Labor does provide the following statistics, recreated in Table 1. The table details the percentage of children of farmworkers and the percentage of those children who also participate in farm work.

**Table 1: Children of Farmworkers**



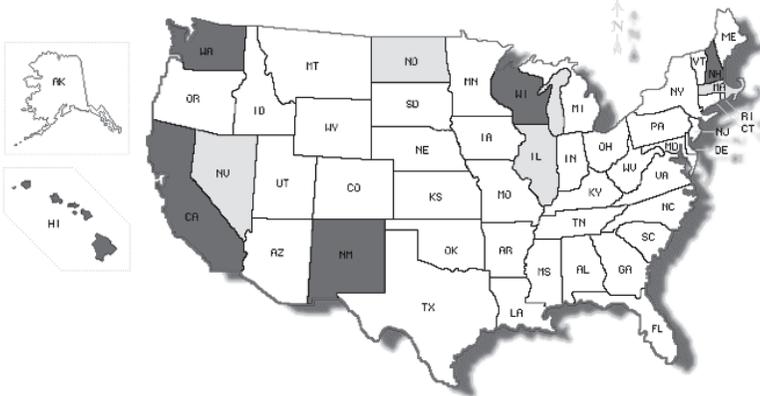
Source: United States Department of Labor. 2000b. Chapter 5. Youth Employment in Agriculture. 2000. United States Department of Labor. Accessed 14 November 2014. <http://www.bls.gov/opub/rylf/pdf/chapter5.pdf>.

A source of information more readily available is that of state child-labor laws. Using the Department of Labor’s web site, I compiled a map (See Table 2) detailing which states had laws higher than federal restrictions regarding the minimum age for employment during school hours. These states are filled in as blue on the map. The federal age during school hours is sixteen. The states with laws lower than the federal restriction for employment during school hours are filled in as yellow on the map. Of the blue states, New Mexico is the only state that has not imposed a maximum on the number of days a minor may work in agriculture in a week (United States Department of Labor 2013).

I compared this map to the Electoral College results of the 2012 presidential election. Interestingly, the states that have imposed restriction higher than the federal levels were all Democratic-majorities or undecided. The states that have standards lower than the federal voted republican or were undecided. The notable exceptions here are Illinois (President Obama’s home state) and Massachusetts. Massachusetts allows fourteen-year-olds to complete farm work with small hand tools and small tractors if they have completed a required vocational training and can provide certification.

Nevada and North Dakota require no such vocational training for fourteen-year-olds (United States Department of Labor 2013).

**Table 2: Child Labor Laws in Agriculture**



Source: United States Department of Labor. 2013. Wage and Hour Division (WHD). December. Accessed 14 November 2014. <http://www.dol.gov/whd/state/agriemp2.htm#>. Map created at <http://diymaps.net/>

This result provides a little basis for the partisan argument. Turning to the language used by republicans versus democrats in congressional debates sheds further light on the issue. Two notable examples are Representative Tom Lantos (a democrat from California) and Senator John Thune (a republican from South Dakota). In 1999, Lantos argued against child fieldwork and raised the issue of reform in connection to his bill the Young American Workers’ Bill of Rights Act. Some notable extracts from his remarks are:

Children who work in agriculture often do so at the expense of their education . . . children working in agriculture receive less protection than children working in other industries because of many outdated and outmoded exceptions included in our laws . . . As many as 800,000 children work in agriculture in this country, picking the fruits and vegetables that end up in our grocery stores, either as fresh or processed fruits and vegetables. (Cong. Rec. 1999: p. 145, pt. 20: 29066)

Here, the same sorts of concerns that were raised during the Progressive Movement are brought to light again, namely education, the sheer number of workers, and the hazard of the labor.

In contrast, Thune uses different language to illustrate his point. Some notable extracts from his remarks are follows:

There seems to be a parallel universe to think that all of these various regulations and restrictions they would impose on young people working in agricul-

ture wouldn't undermine the very fabric, the very nature, the very foundation of American agriculture . . . Farming and ranching is inherently a family enterprise. Young people have contributed for generations in helping that family farm or ranch operation survive and prosper . . . It is amazing to me, and incomprehensible, to think that bureaucrats in Washington, DC, could tell family farmers and ranchers how to run their operations with the kind of detail and the incredible prescription of these regulations and the very activities they would curtail for young people. (Cong. Rec. 2012: p. 158, pt. 27: S895-S898)

The language used by Thune is reminiscent of the language that opponents to "The Child Labor Amendment" used when they argued that the amendment promoted big government and even communist ideology. Though he does not make any reference to communism or Marxist ideals, Thune does imply that imposing further restrictions on child labor in agriculture would be overstepping the bounds of the government, as well as undermining American traditional values.

### **Strengths and Limitations**

Defendants of continued child labor in the agrarian sector cite traditional childhood values as their main defense. Despite officials naming this argument, it may not be true in terms of majority public opinion today. Instead, it may just serve as a political argument federal politicians perpetuate on to the public. One further area of exploration with regard to this topic should be a public opinion survey of a random sample that attempts to measure the public view of child labor in the agricultural sector. Another further area of study should be whether the model that family-owned farms use and perpetuate in commercial and corporate farming is the main reason for poor treatment of child wage laborers who come from outside the owner's family.

One of the benefits of a qualitative analysis is the ability to examine substantive details. However, in this case, a quantitative analysis would be beneficial to measure the effect of the factors identified through qualitative analysis and their significance on labor policy. In order to test these hypotheses, I originally planned to perform a cross-county analysis of two farming communities within the United States. However, I found the numbers needed to measure the dependent variable (the number of children working in agriculture) do not exist. There are estimates but no definitive numbers of how many children are employed on farms. Instead, I turned to a qualitative analysis of the historical factors affecting the child labor reform in other industries and in federal law.

The evidence for the exclusion of agriculture at the time of the FLSA is stronger than the evidence regarding the continued lack of reform in contemporary society. This is due in part to the need of more in-depth research of congressional debates surrounding proposed changes. This, combined with a cross-analysis of the speaker's ties to agricultural interests in their home state, would provide a better picture of whether there are partisan ties or whether there is more support for reform from states with smaller agricultural outputs.

An alternative explanation not explored in this paper is the idea that the issue is “out of sight” and, therefore, “out of mind.” Farming occurs on private property and receives relatively little press. The public does not see the conditions youth workers face, and other topics take the spotlight of media attention. For example, a perceived influx in unaccompanied minors crossing the U.S.–Mexico border is a much more discussed issue in Washington than a small number of youth worker deaths, even though those deaths could be those of such minors. Because the problem occurs in remote areas, it may be considered more of an abstract issue in a system with more pressing problems.

## Conclusion

This research helps us to understand why agriculture has not experienced the extensive labor reform that other industries experienced earlier in the twentieth century. Human Rights Watch interviewed over a hundred minors working on tobacco farms (Human Rights Watch, *Tobacco’s Hidden Children*, 2014). These interviews serve as evidence that the children in agriculture are exposed to working conditions that possibly violate the Convention on the Rights of the Child (UN General Assembly 1989). However, the U.S. has not ratified this treaty, meaning there is no clear venue to internationally pressure the conditions under which children work in agriculture in the United States. Understanding the variables that have affected the lack of restriction of children in agriculture will provide a better pathway to understanding how to reform legislation. Though there are numerous limitations to my analysis, including weak evidence for both of my arguments, the evidence provided in this paper serves as a building block toward a better understanding of the important elements and aspects of child labor reform in the United States.

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