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Immokalee Farm Workers and their Social Crisis in Education and Health

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UNIVERSITY OF MIAMI

IMMOKALEE FARM WORKERS
AND THEIR SOCIAL CRISIS IN EDUCATION AND HEALTH

By

Mary Cano

A THESIS

Submitted to the Faculty
of the University of Miami
In partial fulfillment of the requirements for the degree
Masters of Arts

Coral Gables, Fl

August 2014

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A thesis submitted in partial fulfillment of
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Master of Arts

IMMOKALEE FARMWORKERS
AND THEIR SOCIAL CRISIS IN EDUCATION AND HEALTH

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on Health and Education

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In this thesis I propose to gain greater knowledge on the factors that have shaped the current human right violations on adequate health care and proper education occurring in Immokalee, Florida. Contrary to popular belief, this is not only a legal right that should be given to U.S. citizens, but also a human right that should be granted to all regardless of immigration status. According to the Universal Declaration of the United Nations all persons are entitled to basic human rights including health care and education. By using such terminology as “adequate” and “proper”, it will emphasize the gravity of their crisis by showing how not enough is being done to implement the Declaration and address this problem.

This thesis conveys and tries to show the value of an undocumented person as a subject and not merely as an object. I intend to show the disparity of the treatment of undocumented workers throughout history and focus on Immokalee, Florida and the barriers they face due to their social crisis with respect to health and education there. In particular, I explore how the role of the anti-immigrant sentiment has enabled an environment for human right violations.

“Por lo menos una vez en la vida vas a necesitar un médico, un abogado, un arquitecto,
pero todos los días tres veces al día vas a necesitar un agricultor.”

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My sincere thanks go to all my interviewers, without them this research would not have been possible. I want to thank Elena Reyes from the FSU Health Site, Megan McCarthy from the Guadalupe Center and Dr. Olveen Carrasquillo from the University of Miami Hospital for taking time to speak to me and answer any inquiries I had. The wonderful farmworkers of Immokalee, their humbleness and their strive for social justice motivated me to develop a passion for their cause.

I want to thank all my professors at the University of Miami for their dedication and passion to teaching and for helping me develop my own ideas and creativity throughout this educational experience. I would also like to thank all my friends and family members for their support and encouragement. I would like to thank my mom for encouraging me to be the best that I can be. Lastly, I would like to thank Frank Marrero for always believing in me and for being such a great support and motivation and standing by me through my good and bad moments.

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LIST OF ABBREVIATIONS

The following describes the meaning of various abbreviations and acronyms used throughout this thesis.

Abbreviation	Meaning
ACA	Affordable Care Act
ACT	American College Testing
ADHD	Attention Deficit Hyperactivity Disorder
CIW	Coalition of Immokalee Workers
FCAT	Florida Comprehensive Assessment Test
FSLA	Florida Standard Labor Act
FSU	Florida State University
ICERD	International Convention of the Elimination of Racial Discrimination
IIRIRA	Immigration Reform and Immigrant Responsibility Act
ILO	International Labor Organization
INS	Immigration and Naturalization Service
IRCA	Immigration Reform and Control Act
NCLB	No Child Left Behind Act
PTA	Parent Teacher Association
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996
RAW	Replenishment Agricultural Worker
SAT	Scholastic Assessment Test
SAW	Special Agricultural Worker
UN	United Nations

CHAPTER 1 INTRODUCTION

OBJECTIVES

A recent article, published by the New York Times portrayed Immokalee as follows: "... a town of taco joints and backyard chicken coops where many farmworkers still live in rotting shacks or dilapidated, rat-infested trailers. A series of prosecutions has highlighted modern-day slavery in the area — one 2008 case involved traffickers convicted of beating workers, stealing their wages and locking them in trucks." This is not a coincidence. Immokalee also has a continuing problem of health and education. The goal of this paper is to explore the factors that have led to these events. The purpose of this study is to gain greater knowledge on the factors that have shaped this situation. I focus on labor market changes, political aspects and also review the role of the media and the anti-immigrant sentiment amongst others. In particular, I explore how the role of the anti-immigrant sentiment has enabled an environment for human right violations, with particular consequences for issues such as education and health. In in this work I adhere to the United Nations Universal Declaration of Human Rights according to which, access to both health and education are considered to be fundamental human rights. According to the Articles stated in this Declaration,

"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of

wedlock, shall enjoy the same social protection. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages”.

By adhering to this definition, I employ a viewpoint on the migrant workers and social conditions that are not common in debated on this issue. In this work I offer a historical overview on immigration legislation, with emphasis on the 1942 Bracero Program, 1986 Immigration Reform and Control Act (IRCA), 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and how the most recent legislations and factors have shaped the social conditions on the Immokalee farm workers.

METHODOLOGY

Methodologically, this work combines a historical perspective on immigration policy influencing immigrants with field observations research and the use of a wide range of sources of current analysis and data. The fieldwork did not start with this thesis. It started much earlier when I took a course at the university during my undergraduate years that led to two different visits prior to this study. This led to the curiosity of the pertinent issues occurring in Immokalee. I conducted on-site observation and in-depth interviews in Immokalee during different periods in 2010, 2011, and 2014. These research strategies included visits to Guadalupe Center, an early childhood educational center; The Coalition of Immokalee Workers (CIW), a worker-based human rights organization representing farm workers; the Immokalee Fellowship House, which shelters homeless farmworkers of Immokalee; Redlands Christian Migrant Association (RCMA), an education center for migrant children; Immokalee High, the only high school in the city; and Immokalee Health Education Site, a clinic offering services to the

underprivileged. I became intrigued by the injustices occurring and followed up on research by reading articles and extended readings pertaining to subjects in Immokalee.

During my 2014 visit, I conducted the following interviews on February 24th and 25th, at the Immokalee Health Education Site with Regional Director Elena Reyes; with Vice President of Programs Megan McCarthy of Guadalupe Educational Center; and Vice Principle of Curriculum and Instruction, Clara Calderon of Immokalee High School and with Director of Health Services Research and Policy, Dr. Olveen Carrasquillo from the University of Miami Hospital. These persons were able to meet with me and give me information that has been of great aid in this thesis research.

By using a historical perspective on migration law, it allowed me to understand the presence of the role of legislation and different aspects the anti-immigrant sentiment has on legislations and how throughout time undocumented migrant workers have always been treated as the underclass, regardless of their positive efforts and contributions to the nation. The use of a wide range of data including, but not limited to, the U.S. Census, United Nations statistics and the United States Homeland Security data and articles and books have also contributed to the strengthening of my knowledge of the research subject.

DEMOGRAPHICS AND SOCIO-ECONOMIC CHARACTERISTICS OF IMMOKALEE

Immokalee, which means “my home” in the Seminole tribe language,¹ is a small city in Southwest Florida located just thirty minutes away from Naples and about two hours away from Miami and where thousands of farmworkers who pick our food live. It is bordered by the Big Cypress Swamp, citrus groves and tomato fields. Immokalee is an important city, because it contributes to the supply of over 90% of all winter tomatoes that are produced in Florida and sold in the U.S.² In 2010, the population was 24,154.³ However, changes in population may increase during the peak season between the months of November and May. The city is mostly comprised of undocumented migrant workers, 86% of whom are of Mexican origin.⁴ Most migrant workers in Immokalee obtain jobs in the agricultural sector. This income often includes earnings of children who illegally work on the field. Labor rights are not the only rights being violated; this is only a fragment of the drudgery occurring in Immokalee. Toxic pesticides, sexual harassment, verbal and physical abuse are all social issues that can be seen in Immokalee. Jobs are mostly seasonal and inconsistent and are not granted any employee benefits. Due to various factors, including their undocumented status, many migrant families do not receive any social, economic or health services. Receiving social services in Immokalee is limited due to the fact that Collier county pays zero dollars to social service agencies. Schools and clinics are usually funded through private donors or grants given by the state. Table 1 details key demographics and socio-economic factors in Immokalee over the years.

Table 1
Demographics and Socio-Economic Characteristics of the Population in
Immokalee and Florida

	Immokalee					Florida					
	2000	Percent of each group (%)	2010	Percent of each group (%)	Percent of growth (%)		2000	Percent of each group (%)	2010	Percent of each group (%)	Percent of growth (%)
Total Population 1	21,615	100.0	24,154	100.0	11.7%	Total Population *	15,982,349	100.0	18,801,310	100.0	17.6%
American Indian*	232		243		4.7%	American Indian*	53,541		71,458		33.4%
Black/African American *	3,592		4,563		27.0%	Black/African American *	2,335,494		2,999,862		28.4%
White*	8,614		10,423		21.0%	White*	12,465,012		14,109,162		13.1%
Hispanic*	15,541	71.8%	18,267	75.6%	17.5%	Hispanic *	2,682,713	16.8%	4,223,806	22.4%	57.4%
Mexican*	11,354	73.0%	15,743	86.1%	38.6%	Mexican*	363,925	2.3%	629,713	14.9%	73.0%
Central American *	930	5.9%	1,573	8.6%	69.1%	Central American *	--	--	432,665	10.2%	--
South American *	23	0.1%	24	0.1%	4.3%	South American *	643,015	4.2%	674,542	15.9%	4.9%
Gender						Gender					
Male ***	12,161	56.2%	13,352	55.2%	9.7%	Male ***	7,797,693	48.8%	9,189,355	48.8%	17.8%
Female ***	9,454	43.7%	10,802	44.7%	14.2%	Female ***	8,184,656	51.2%	9,611,955	51.1%	17.4%
Average Income **	24,098		24,098		0.0%	Average Income **	\$31,041		\$42,871		38.1%

Sources:

*The United States Census 2000, 2010. [Online]. Retrieved from:

<http://www.census.gov/prod/2002pubs/c2kprof00-fl.pdf>

<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?sr>

c=bkmc <http://quickfacts.census.gov/qfd/states/12/1233250.html>

**Data according to the Bureau of Business and Economic Research 2000, 2010. [Online]. Retrieved from:

<https://bber.unm.edu/econ/us-wage.htm>

***USA .com [Online]. Immokalee, FL Population and Races Retrieved from:

<http://www.usa.com/immokalee-fl-population-and-races.htm>

Notes:

1. In combination with one or more of the other races listed. The seven numbers may add to more than the total population and the seven percentages may add to more than 100 percent because individuals may report more than one race.

The following demographic and socio-economic characteristics are based on the USA.com report and data collected from the United States Census. The period examined were the recent years of 2000-2012. According to Table 1, there has been an increase in population within Florida and the city of Immokalee. In terms of population density, Immokalee has 1,038.2 residents per square mile compared to the state average of 285.2 square miles. Poverty levels in Immokalee are much higher than the state average. The consequences of such population density will be discussed later on in this study. The graph also details how the number of woman has slightly increased in Immokalee. Between the years 2000 and 2010, women have gained 1% in population while men have lost 1% in population; however, they still remain the most numerous. By contrast, the male population in Florida has only seen a slight increase, while women have had an overall slight decrease.

Household incomes as well as size show major differences in Immokalee, in comparison to Florida. On average, family size in Immokalee consists of 4.1 people, compared to Florida's average of 3.1. Family size has a great impact on poverty levels and household incomes. According to Table 1, Immokalee's average income is \$24, 098, an amount much lower to Florida's average income of \$42,871. While Floridians on average earn more than those living in Immokalee, their family size is also smaller , allowing them to have a better lifestyle versus the migrant families in Immokalee whose incomes are far lower and have a larger family. The fact that their incomes have not increased puts them more at risk of living in poverty levels. Currently, 47.7% of families in Immokalee are living below poverty levels, compared to Florida's overall 11.3%.

In both Immokalee and Florida, every ethnic group has increased in population. Overall, Hispanics have been the group to have the most population increase. The total population increase over the last ten years for Mexicans alone in Florida has been 265,793. In Immokalee, the Mexican population over the last ten years has increased to 15,714, making Immokalee the third largest city in Florida where Mexican reside. Statistics have barely changed for South American migrants. There has been less than a 1% increase from them in both Immokalee and Florida. Central Americans have seen a 4.3% growth in Immokalee. African Americans have seen a 27.0% increase in Immokalee, fairly close to the Florida average of 28.4%. In total, 35.5% in Immokalee are foreign born without U.S. citizenship, compared to a 9.5% on Florida's foreign born without U.S. citizenship population. Those born in Latin America and currently residing in Immokalee consist of 42.5% of the population compared to Florida's state average of 14.4%. These statistics confirms a heavy weight of immigration is in Immokalee. This city also has the lowest English speaking rates in the household at only 15.2%. In contrast, 73.0% of Florida's population speaks English at home. This creates an incorporation problem, impacting educational attainment on migrant children.

Many migrant children in Immokalee depend on public school for their education. A total of 98.7% preschoolers attend public school in Immokalee, 69.8% attend Elementary school and 99.1% attend public high school, and 74.0% of those attending college do so in a public university. In comparison, 66.4% of preschoolers attend public school in Florida, 88.4% attend public elementary school, 89.6% attend public high schools and 78.2% attend public universities. Concerning the education of the 25 and over population, 67.3% of Immokalee's population has less than a high school education,

compared to Florida's average of 14.1%. High school graduate levels are much more slim, with only 17.9% as opposed to Florida's average of 29.8%. Those in Immokalee advancing to college but not graduating consists of 10.8% of the population, those obtaining a bachelor's degree drops to 2.4% of the population and those with Professional degrees consists of less than 2% of the population. Florida data shows that 28.9% of the total population has some college education and those graduating with a bachelor's degree consist of 17.8%. Overall, Florida has 10.6% of its population obtaining a professional degree. The disparity of education levels between Immokalee and Florida show that there is a discrepancy in education levels occurring in Immokalee.

This analysis of the socio-economic indicators of Immokalee compares a clear idea of the social, economic and educational disadvantage of Immokalee versus Florida. This study will further go into detail about the effects and consequences of such disadvantages and its importance of addressing pertaining issues occurring in Immokalee according to these findings.

CHAPTER 2

A HISTORICAL OVERVIEW ON IMMIGRATION

Every year, hundreds of thousands of migrants leave their homes in pursuit of better educational and economic opportunities for their families. According to the New York Times, there are currently 11.7 million undocumented people living in the United States.⁵ Seen as a country of immigrants, it is no surprise that due to these rates, public concerns about pertinent immigration issues have reached a peak. This high rate of immigration has influenced economic, social and political aspects of the country, which have determined attitudes and treatments towards undocumented migrants. These factors have all raised the question of whether or not immigration is beneficial to the country. In contrast to migration waves in the past, the United States has not received so many immigrants from various countries with such different social and economic backgrounds.⁶ Over time, migration trends such as migrant demographics, employment trends and reasons for migration have undergone significant changes.

For the purpose of this thesis, I will discuss three key legislations –the Bracero Program, the 1986 Immigration Reform and Control Act (IRCA), and the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) –all of which have had significant impacts on immigration. I chose these legislations because they have all had economic, social, political and cultural impacts, as I will discuss later in this chapter.

There are many questions raised by the implications of immigration. Why do they stay? Are they really taking away American jobs? And why should we help them live in this country? These questions may be debated for times on end. Aside from these questions, human right violations present another factor unknown to many that raises

ethical questions regarding immigration policies and treatment towards undocumented migrant workers. American citizens are not the only ones that feel affected by the happenings due to immigration, but migrants find themselves affected by laws and lack of fair treatment.

The relevance of migration can be understood through a historical viewpoint. In the early 1800s Europeans began to settle in the U.S. Since the beginning of the European wave, an anti-immigrant sentiment emerged. The availability of jobs gave way to lenient migration policies and open frontier made it feasible for them to enter the U.S., however they were discriminated against. Many natives felt they were overwhelmed by the flow of European migrants', including Italians, Greeks, Poles and Russians.

Eventually, immigrants from South of the border also began to enter the country to fulfill jobs in the gold mines and other economic activities related to the expansion of the West in 1849. Moreover, policies established to allow various migrant groups to enter the country caused an increase in migration. In due course, over 27 million immigrants came to the U.S between 1880 and 1930, with legislation only restricting those with criminal records, mental/physical impairments and prostitutes.⁷ Mexican migrants found jobs in various sectors such as factories, domestic work, mining, and agriculture. They were mostly concentrated in the Southwest, often living in immigrant communities.

Due to the unfamiliar cultures of these groups, Americans were starting to feel threatened and uncomfortable and prejudice was more apparent. This was the start of the anti-immigrant sentiment. Many Americans were expressing their discontent and pressured the government into passing immigration laws to stop the increase of

immigrants entering the country. Legislations against the Japanese were passed, and immigrants were now required to read in at least one language.⁸

The anti-immigrant sentiment decreased once the United States entered World War I. Many migrants and their children had entered the army and given up their lives to fight for the U.S. Increase in productivity labor was occurring in order to supply war materials. Thus, many migrants filled these positions to aid in the war efforts. Nonetheless, in 1924 new legislation was passed to limit the amount of immigrants entering the country. Congress succeeded in passing the 1924 National Origins Act, which drastically reduced immigration from Southern and Eastern Europe, which lowered the immigration quota by half and deterred most European migration.⁹

Migration rates further decreased in the 1930s due to the Great Depression. This occurred due to structural changes. During this time, the attitudes on immigration changed negatively and Mexicans were the next group to be targeted. Job availability was practically nonexistent and the jobs that were available were given priority to Americans. Immigrants were seen as competition and became a scapegoat to society. Laws were passed forbidding the hiring of undocumented workers, and employers were even encouraged not to hire anyone suspected of being Mexican descent.¹⁰ Employers wanting to get rid of them without having to pay unemployment would call the government in order to implement deportation sanctions on them. The U.S. government took it upon themselves to organize mass campaigns and deportation raids. Whether they were legal or illegal, about one to two million people of Mexican origin were deported and another 400,000 were forced to leave the country between the years 1929 and 1944.¹¹ Sixty percent of those deported were either U.S. citizens or children of Mexican immigrants.¹²

This period of history made clear that their status and rights were acceptable during the boom times, feeble during tough times, and politically criticized all the time. Once World War II started, the sentiment and need towards immigrants changed once again. The agricultural and machinery sector saw themselves affected by the scarcity of labor, it was then that the U.S. welcomed an open door migration policy.

Bracero Program

One of the most significant contributions to the growth of the agricultural economy was the Bracero program. During World War II, the need for agricultural labor was high and in 1942, both the American and Mexican government instituted the Bracero Program. It was a binational program that operated for 22 years before its termination in 1964, and whose effects were still felt even after the program had ended. In total, it brought over 4.5 million Mexican temporary workers to work in U.S. agricultural farms.¹³ During this time, migrants were recruited, processed, transported, and housed. All the Bracero contracts had various provisions, which included shelter, humane treatment, fair wage, health screenings, and food. However, many workers faced difficulties due to the violation of these provisions.

Farmer associations controlled the contracts Braceros would sign. Contractors took advantage of migrant workers by having them sign contracts in English. Because these contracts were not translated into Spanish, Braceros were not properly informed of their rights, which included terms of employment. Braceros would only be able to return to Mexico with the permission of their contractors and only in cases of emergencies. In order to protect the American population, medical exams were conducted before entering

the country. The examinations were done *en masse*, which often included large groups of 20 men being examined at the same time. During these medical examinations Braceros were stripped from their clothing and sprayed with DDT, a white powdery substance that was used to kill germs and insects that they were assumed to carry.¹⁴ Living conditions were also less than tolerable, housing included transformed barns and crowded facilities, and many illnesses were blamed on overcrowding. Because the Department of Labor was able to exercise its power without having to visit a housing facility, contractors were given the benefit of the doubt that their housing facilities were in compliance with department standards. Food supply was also in control of the contractors; the Braceros had a poor diet due to the quality of food provided, which in some cases made Braceros very ill. Wages were also a concern in the Bracero era, as the wage provision in their contracts was being violated. Many contractors were not paying the Braceros their fair wage and many were working at-a-piece rate instead of an hourly wage.

The Braceros were always expected to comply with their part of the agreement; however, the employers hardly received sanctions for violations. Workers feared speaking out due to the possibility of deportation, even though it was in their right to do so through the Mexican government. While both farm workers and contractors were under federal authority, when it came time to enforce regulations, most authorities were reluctant to take action towards contractors. Inspectors believed that many agencies were unfit to thoroughly execute regulations and did not bother to start what could not be effectively enforced.¹⁵

Despite the establishment of the Bracero Program, many Mexican workers were not able to obtain permits. It was estimated that illegal Mexican border crossing was

occurring and had grown to about one million.¹⁶ This illegal workforce had an overwhelming influence on the salaries of American workers. In 1954, while the Bracero Program was at its peak, many immigrants were entering the country both legally and illegally. The commissioner of the Immigration and Nationalization Service, Joseph Swing, created Operation Wetback, this was an immense deportation program that was aimed to target undocumented Mexicans or anyone suspected of being Mexican in the country. Police enforcement would enter neighborhoods often asking for documentation of anyone who looked foreign. Many grew scared of this militarized operation and as many as 1.3 million people were deported or voluntarily returned to Mexico,¹⁷ in fear of violence in their neighborhoods.

The Bracero program came under scrutiny in the early 1960s. By 1964, various states had received several million Braceros.¹⁸ Decelerating the upward mobility of Mexican Americans, criticism of the program by unions and churches persuaded the Department of Labor to put stricter restrictions on wage and housing standards. Adversaries claimed that Mexicans were subject to exploitation and its elimination would lead to employment creation for native workers.¹⁹ Contractors claimed that Braceros were needed because American workers would not work in the agricultural sector, and by hiring Braceros food prices would remain low. Even though contractors tried to persuade the government to continue the program, their efforts failed, and in 1964 the program was effectively terminated.

The end of the program had caused illegal immigration to increase. Contractors did not hire native workers, as opponents thought they would, instead they continued to employ Mexican workers. This caused a shift from a *de jure* policy of active labor

recruitment to a *de facto* policy of passive labor approval, combining modest legal immigration with massive undocumented entry.²⁰ Apprehension rates of undocumented migrants rose dramatically, reaching over half a million by 1972.²¹ Many natives began to worry, and in 1978 the Select Commission on Immigration and Refugee Policy was established. The purpose of the Commission was to study existing laws, immigration trends, and government procedures allowing admission to all migrants. According to their findings, they aided in giving legislative recommendations to the President and Congress. The Commission encouraged federal legislation to allow states to deny any public assistance to undocumented migrants, they also recommended removing migrants from the United States.

Immigration Reform and Control Act

Many years following the end of the Bracero Program, the U.S. continued to struggle with the issue of unauthorized immigration and workers were continuing to cross the border to fill the low-skill jobs at the bottom of the labor market hourglass. Thus, in 1986 the Immigration Reform and Control Act (IRCA) was passed. It became the most comprehensive immigration legislation by addressing both legal and illegal aspects of immigration, its main objective was to reduce and discourage illegal immigration from occurring. IRCA would accomplish this through provisions established in the law, such as legalizing undocumented immigrants already in the country, and implementing stronger enforcement on border control in order to prevent new entries. The bill contained major elements such as employer sanctions, border enforcement and the new creation of programs specifically geared towards seasonal agricultural workers.

The Immigration and Naturalization Service (INS) was made responsible to carry out this law. The INS created various structures of local offices, facilities and staff specifically to aid in the different stages of legalization. The INS also sought aid from various religious and private organizations in order to process the high amount of applications. Due to the unexpectedly heavy volume of applications, these programs were important in the implementation of IRCA, as they aided migrants through the application process.

Employer Sanctions

Creating a law that prevented employers from hiring undocumented migrant workers was believed to be key in deterring future unauthorized migration; therefore, employer sanctions were to become the “keystone of the bill”.²²In addition to further enforcing existing policies against the hiring and continued employment of unauthorized immigrants, it also made illegal the hiring of any new employee without correctly verifying their credentials. Employers who continued to hire undocumented workers would face sanctions and fees, leading to criminal penalties.²³The law reserved the largest penalties for those contractors knowing they were violating the law, versus technical violations. These sanctions created a risk that employers might discriminate against any US citizen or resident of foreign origin due to the fear of inadvertently hiring an unauthorized immigrant. Thus, in order to deter discrimination, the bill protected workers by implementing penalties on employers. They also faced penalties for conducting overly aggressive employment verification on the basis of nationality or national origin. These sanctions, however, were not enforced and criminal prosecution rarely took place.

Border Enforcement

While one provision allowed amnesty for many undocumented migrants, another was aimed to exclude future immigration from the country, by increasing border enforcement.²⁴ IRCA allowed a fifty percent increase in Border Patrol agents.²⁵ Funding was also used for deportation costs. This contributed to a surge in apprehensions along the U.S-Mexican border. However, this was a small monetary increase in Border Patrol compared to future funding. Because the executive branch did not request appropriation funds that were authorized under IRCA, the Border Patrol vision IRCA had created was not fully implemented until the early 1990s.

Legalization of Unauthorized Immigrants

IRCA formed various criteria in which many unauthorized migrants became eligible for legalization. In order to accommodate the needs of both grower and farm worker the government had created special legalization programs specifically geared towards agricultural workers such as the Special Agricultural Worker (SAW), the Replenishment Agricultural Worker (RAW) and the revised H-2A visa.

IRCA created an amnesty program that would legalize all undocumented persons who had been in the country before January 1, 1982. Those maintaining status for eighteen months would be eligible for permanent residency. Applicants were still responsible for meeting the same criteria for naturalization, requiring them to know English and learn American history. About 1.75 million applied for legalization and 94 percent were approved.²⁶

The SAW program was specifically geared toward those agricultural workers that had worked in the fields for at least sixty days between the years of 1985 and 1986.²⁷ It was funded through tax dollars as well as application fees. Those granted temporary status would be able to obtain permanent residency without having to meet criteria for naturalization. Workers were required to show proof of employment by showing documentation from an employer attesting that they had indeed worked for them during the required time period. However, because no verification of employment could be confirmed, workers would often present false documents attesting such information. Employers did not have a reliable system to verify the authenticity of the documents that were presented to them. The government required employers to maintain an I-9 form confirming they had asked for proper documentation. Employers were not the only ones facing this issue; the INS also had little investigative capacity to disprove all the false employment affidavits that were being turned in by migrants.²⁸

The RAW program was created as a secondary plan that would take effect if many newly legalized workers left the agriculture industry, thus causing a shortage of labor. Under RAW, employment benefits were more lenient. They would be required to work in seasonal agriculture for three years and would not be limited to a specific crop. In order to avoid deportation, they must have worked for at least ninety days a year for three years. This temporary status would have allowed them to travel and live outside the U.S. After their three years were up, RAWs would have been allowed to become permanent residents. Once they worked for an additional ninety days under their permanent resident status, they would have been eligible to apply for citizenship. However, the RAW program was never implemented by the government.

Through IRCA family reunification was also established. This brought about even greater migration rates. Since men were the ones being recruited for labor into the states, family members such as their wives and children would soon enter the country under the H2-A visa IRCA had created. The process and requirements from both employee and employer were very similar to the Bracero sanctions. The H2-A visa required the worker to remain working for the employer or face deportation. This was a way to remedy illegal migrant status in the agricultural sector. Its main objective was to ensure that the agricultural sector had enough labor force and to protect the jobs and wages of U.S. workers. Employers had to file all the paperwork and guarantee rights such as free and approved housing, three meals a day, along with transportation, compensation insurance, and work tool supplies.²⁹The H2-A program was not without controversy, and many sanctions were violated. Free housing was usually overcrowded and filthy, and transportation reimbursements were often never given to the farm workers. Employers would violate wage and overtime pay requirements or even withhold a percentage of wages from the workers.

The government believed that the creation of IRCA would be successful in part due to employer sanctions, lack of jobs for unauthorized workers and their legalization programs. However, the end result was not as planned, employers failed to comply with the IRCA required and continued to hire undocumented workers. Their main reason for doing so was due to cheap labor and expensive time consuming paperwork-processing fees. Hence, IRCA did not bring the results it wanted. This law was aimed to reflect the concern that the problem of illegal immigration and employment required greater control and stronger enforcement by the federal government. However, the latter goal, of

detering immigration rates, was intangible. IRCA made it easier to cross the border, and obtain legalization without verification. However, the former goal was achieved; IRCA was able to legalize 3.1 million immigrants.³⁰ More important, the 1986 law did nothing to address the future flow of immigrants, which eventually increased drastically in the upcoming decade's economic boom. The number of illegal migrants had increased from 4 million in 1995 to 6 million in 1998 and 8 to 10 million by 2003.³¹ IRCA legalization programs also caused mixed family status. Those family members that had come into the country between 1982 and 1987 were ineligible. IRCA did not create a qualifying system for those ineligible. These went on to become the unauthorized population.³²

The establishment of the H-visa system for temporary employment in the country was thought to be effective in controlling immigration rates and knowing who is entering and exiting the U.S. Many migrants entered the U.S. alone or were the sole providers in their homes. Due to their immigration status, employers took advantage of them by not paying them, knowing that they would not complain in fear of being deported. Due to provisions under IRCA, migrants had to keep their jobs, despite the abuses. Employers knew migrants were vulnerable to the law and took advantage of this. Thus, dependency and vulnerability took form as exploitation that led to migrant rights being violated or not granted at all. The U.S., had somewhat exacerbated the bureaucratic immigration challenges and tightened border control. The end result, however, had failed. While many did enter the country legally, long waits and expensive fees made many more enter the country illegally.

Illegal Immigrant Reform and Immigrant Responsibility Act of 1996

Another significant legislation called The Illegal Immigrant Reform and Immigrant Responsibility Act of 1996 (IIRIRA) was signed on September 30, 1996 by former President Bill Clinton. This new law was aimed to address aspects of both legal and illegal immigration. One of IIRIRA's major focus was on reforming the entire processing system of undocumented migrants, focusing on exclusion and deportation. Before IIRIRA was enacted, immigration judges were allowed to grant relief by canceling deportation sanctions on those migrants living in the country for seven years without any criminal offenses and whose deportation would cause major hardship on a US citizen or resident. After the passage of IIRIRA, this relief became challenging to acquire, only granting four thousand cancellations of deportations a year.³³ The bill would determine a sentencing time depending on the amount of time migrants were unlawfully present in the country. For example, those that had been in the country illegally for over a year would be barred from obtaining legal status for ten years. This did not apply for those seeking asylum or women and children escaping physical abuse. IIRIRA made it clear that the new provisions gave way to various forms of exclusion. For example, INS officers were given the right to deny any migrant entering the country deemed to be inadmissible, due to lack of requirements or if deemed as a potential public charge and remove them without any judicial oversight. It prevented people from suing the government or appealing the INS or court decisions.

Through the implementation of IIRIRA, the new reform established further improvements on border control. A fourteen mile fence was approved to be built on the border between San Diego and Mexico³⁴ with a budget of twelve million dollars.³⁵ Once

again, the INS would be allowed to hire more border patrol agents. An estimated five thousand agents would be added in the course of five years.³⁶ Along with additional patrol agents, the INS would obtain state-of-the-art equipment to aid in apprehending migrants crossing the border. Equipment such as night vision goggles, helicopters and various aircrafts were allocated to Border Enforcement patrols. For those caught crossing the border, IIRIRA increased their fines with the possibility of facing imprisonment. An additional three-hundred personnel staff was hired in order to investigate visa overstayers, unlawful employment, and alien smuggling.³⁷

IIRIRA also sought to improve the document fraud that had occurred during the implementation of IRCA. Many new offenses were added such as the reproduction of naturalization papers and the sale of false documents. It also granted justification for government wiretapping, and penalties would increase for those convicted of smuggling undocumented migrants into the country.

While IIRIRA was heavily focused on illegal immigration, legal immigration also underwent significant changes. New rules were established for the employment eligibility verification, refugee, asylum, and student programs. This law required sponsors to have an income higher than the poverty level. They were obligated to sign an affidavit of support for the immigrants until they become U.S. citizens or have worked a certain period of time. The impact of wage requirements and support obligations could be seen as a form of deterring the poorest immigrants from entering the country.

IIRIRA implemented a new rule only allowing one thousand claims a year for those seeking asylum. The rules for applying for asylum became more difficult. It

included requirements such as applying within the first year of entry, aliens cannot reapply if they were already denied, required to submit photos and fingerprint and the implementation of application fees. The new provisions for those seeking asylum did include a faster processing of applications. Hearings were to occur within forty-five days of filing and final decisions must be made within six months. This all would occur with the hiring of additional asylum officers. Amongst provisions affecting students, anyone who applied with the intent of enrolling in a *public* elementary or adult school would be denied. Schools and Universities were required to collect information about students applying through any of the categorical student visas (F-1, M-1 and J-1). Institutions had to report their information to the INS. The institutions that failed to do so would be barred from sponsoring any students under these visa programs.³⁸

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)

During the passage of IIRCA the 1996 Personal Responsibility and Work Opportunity Reconciliation Act also helped combat immigration issues the country was facing. PRWORA was signed into law on August 22, 1996 which drastically changed the welfare program by promoting personal responsibility and encouraging people to become self-sufficient. The legislation would accomplish this in two ways, one, it eliminated the Aid to Families with Dependent Children program and replaced it with the Temporary Assistance for Needy Families;³⁹ two, it required people to work in exchange for federal assistance and terminate the entitlement status people once had.

PRWORA barred legal immigrants who entered the country after August 22, 1996 from receiving federally funded assistance for their first five years in the U.S. Certain

groups were excluded from this provision including political asylums and refugees, victims of domestic violence, non-citizen veterans of the U.S., and other selected groups. The aid they became unqualified for were Temporary Assistance for Needy Families (TANF), Medicaid, Supplemental Security Income, and Food Stamps and SSI programs. Even if these legal immigrants have been living in the U.S. for more than five years, they were still not eligible for benefits until they became citizens. Illegal immigrants were barred from benefits, except for assistance for medical emergencies. PRWORA allowed states to set up separate, state-funded programs for legal immigrants. Another important provision of PRWORA was the mandatory information employers had to declare to the state on all their newly hired employees. This allowed not only accountability for legal employers, but helped the court system find parents in order to sanction child support court orders.

In sum, PWRORA combined with IIRIRA complimented each other and caused migrants to raise their awareness on their uncertainty towards their future in the U.S. due to all the measures the laws had implemented. Both combined created the legal framework that today shapes the incorporations of immigrants including those in Immokalee. They were indeed stricter comprehensive laws. It reduced access to government benefits, with the hopes that legal immigrants might naturalize. It created an intricate set of admissibility rules for different categories of migrants, which often caused confusion. It allowed an increase in state power to determine eligibility for government benefits and redefined the requirement and obligations of sponsorships.

When migrant labor was needed, positive legislation for migrants was passed, hence the Bracero program. However, when a high number of migrants became apparent

in communities, natives became hesitant and legislations passed afterward were to enforce, control, and deter migration rates, hence, IRCA and IIRIRA. The transformation of migration patterns gave way to the anti-immigrant sentiment as a way of expressing frustrations due to changing demographics and had caused anyone who didn't look "American" to be targeted.⁴⁰

The policies discussed have either excluded migrants or have provided opportunities for them to make U.S. their home. However, on few instances have these legislations succeeded in their goals. This is due to many factors, including the propensity to exploit those migrants entering the country. There are common patterns in the legislations discussed. Both the Bracero program and IRCA had major flaws, in terms of implementation. Both included terms of employment, housing, wages and fair treatment. However, these terms of employment were breached on behalf of employers. Living conditions were not up to code, wages were not being paid in full and fear of deportation was constantly instilled on workers. Regardless if migrant workers had rights under these legislations, they were still treated as criminals or characterized as "illegals". They were made scapegoats for the failing U.S. economy and lacked access to government services. In the next chapter, I will detail how violations did not end with these programs, but constitutional and human rights have continued to be violated in the 21st century.

The attitudes towards American immigration have changed over the years making the life of undocumented migrants strenuous due to impetuous legislations. Public policy pertaining to illegal immigration is and will continue to be under discussion in the U.S. government. Expressions of approval or disapproval towards immigration have manifested themselves through the legislations. Often xenophobia and hatred towards

migrants has have been reflected in the country's legislation and has functioned to deny non-citizen rights which are guaranteed to them through international law. Rights are considered an entitlement and only granted through membership (i.e. citizenship). The existence of international law against xenophobia and discrimination has indeed affected U.S. domestic policy where origin quotas on legislative policies and other functions leading to migration in the U.S. are still propelling the immigration process.

Immigration policies implicate social and economic issues while providing social and economic benefits to both home and host country. Nonetheless, an anti-immigrant sentiment can be reflected through policy, and is also exacerbated through factors such as the economy, labor market, media and politics. These factors, which will be detailed below, will shed light on their positive or negative perceptions and how it influences opinions pertaining to immigration, which in turn enables civil and human right violations to occur if perceptions and opinions are geared negatively.

CHAPTER 3

CURRENT OVERVIEW OF THE GENERAL SOCIAL CONTEXT AFFECTING IMMIGRATION IN IMMOKALEE

As explained in chapter 2, the legislations previously discussed have introduced significant changes on immigration in the U.S. I also explained how these legislations and several of its implications were not positive. Unfortunately, some of the implications have been instrumental on the immigration population, particularly with the undocumented population. With this overall legal framework, other factors should be considered for the understanding of farmworkers in Immokalee. In this chapter I discuss the combined effects of the laws and other aspects that also have an impact in the current context of the incorporation of immigrants in general and with specificity on the immigrants in Immokalee.

Economy and Labor Market

Not many subjects can evoke as much sentiment as the impact immigration is having on the U.S. economy. In recent debates, immigration reform has been extensively debated due to the economic impacts it has on the country. These economic impacts, whether positive or negative, are followed by perceptions that shape opinions towards immigration. If the economy is flourishing, migration is welcomed. However, in a weaker economy migrants are not welcomed. Wage immobility and low job opportunities during tough economic times are always linked to high immigration rates. They are blamed for the economic downturn and low job opportunities and natives start to generate an anti-immigrant sentiment.

On one side are those who support the legalization of immigrants, claiming legalization would improve the U.S. economy.⁴¹ On the other side are those that are against a reform or amnesty. They argue that legalization would encourage more illegal immigration, thus becoming a burden to the ailing U.S. economy. The ones that would see themselves most affected would be the low-skilled, low-wage workers. It has been shown that wages for low-skilled workers do decrease. Many have argued that this can be seen as a positive occurrence for the rest of Americans that benefit by paying lower prices for agricultural produce. Moreover, those against reform argue that if undocumented migrants were to leave the country, U.S. employers would be required to increase wages to entice American workers. However, if this were to be the case, in order not to offset costs, employers would then be forced to hire fewer workers than before.

Many believe that the cost of immigration outweighs benefits provided for the American economy. Since undocumented workers generally do not pay taxes but do use schools and other government services, they are seen as a drain on government expenditure. However, many overlook the fact that economic progress, especially in the early years, in the U.S., has mostly been due to immigration and migrant labor. The presence of migrants in the country, in itself, creates a demand to generate more jobs due to their consumer demands. Important pull factors that may influence many to migrate and permanently stay in the U.S. are ties with family and friends already in the U.S. This makes it easier to migrate and assimilate, thus forming “daughter communities”.⁴² These daughter communities ultimately strengthen networks and provide social relationships that create a safe haven where migrants can adjust adequately.

While designing an effective immigration policy in the 21st century has been challenging, the government might do well if immigration is treated as a vital factor of economic globalization. Low birth rates amongst Americans and low educational attainment in math and science have left many gaps in the bottom as well as the top of the labor market. It is a necessity that the U.S. has both highly and unskilled labor. Without immigration, the science and agriculture industry would not be internationally competitive. The economy has become a main concern in immigration due to the perception of increased labor market competition.

During the last few years, obtaining the American dream has seemed unattainable for many. This idealism of the American dream has come under scrutiny due to an uprising surge in immigration rates and its effects on the U.S. labor market. As evidenced by statements such as “immigrants take jobs from US citizens” and “they lower American wages due to cheap labor”, many natives have felt threatened due to the growing presence of immigrants in the labor market and have been blamed for crowding labor markets and increasing income disparity.⁴³ Most economists have agreed that immigrants create just as many jobs as the “take away”, as consumers they aid in creating more jobs.⁴⁴

Migrant labor flows have been occurring at both the top and bottom ends of the labor market. Economic globalization has increased structural changes by providing cheap low-skilled labor supply in the U.S. This low-skilled labor includes jobs that Americans themselves won't do. Migrants arriving to the U.S. have no expectations that would prevent them from taking such unfavored labor and they are most definitely not use to welfare benefits that would entice them not to work in such labor.⁴⁵ The need for

low-skill labor has caused a growth in unauthorized migration. Moreover, high-skilled immigration has stood to be favorable by encouraging innovation and entrepreneurship in the technology and science sector.

In terms of class, upper, middle and lower class are all affected differently by the economic and labor impacts of immigration. It is mostly the middle and lower working class that are on defense and tend to be more hostile towards migration; fearing that their way of life and their control of political and economic power will be lost.⁴⁶ It is in this level that an anti-immigrant is mostly manifested. They are prone to be unsympathetic towards immigrants and support restrictionist legislative policies.⁴⁷ They claim that lenient immigration policies have been the cause of increasing wage disparities.⁴⁸

However, not all those who partake in the labor market feel such hostility towards immigrant workers. The elite or upper middle class are not negatively affected by migration.⁴⁹ Because their employment positions are not in competition with migrant workers, they are less likely to develop an anti-immigrant sentiment. On the contrary, they benefit from immigrant labor at their enterprises and homes due to their cheap labor, benefiting in cost efficiency. This working class see themselves dreading anti-immigrant policies.

Those unsympathetic towards migrants seem to overlook the positive impacts immigrants, both authorized and unauthorized, are having on the economy and the labor market. Prejudice towards immigrants, whether legal or illegal, often hazes positive effects of immigration and its influence in the labor market. Florida alone would lose

\$43.9 billion in economic activity and about 262,436 jobs would be lost if unauthorized immigrants were removed.⁵⁰

“Tax Burden”

Concerns about the consequences of immigration on the economy and the equilibrium concerning taxes paid versus services rendered are the query of much investigation that is referenced on a frequent basis in the immigration debate. A misconception that feeds into the anti-immigrant sentiment is the belief that undocumented immigrants do not pay taxes and are a tax burden on U.S. citizens because of their use of public government services. While the anti-immigrant sentiment may be intensified by this belief, many have recognized that immigrants, no matter their documentation status, contribute to the economy by paying some form of taxes.

Many migrants pay taxes in various ways. Unauthorized immigrants, just as everyone else in this country, pay sale tax and at least half of unauthorized immigrants pay income tax deducted from their paychecks.⁵¹ In some cases, their rent often goes towards paying property taxes. There are also those workers using false social security numbers and have taxes deducted as well. These workers are most likely to pay more in taxes since they are least likely to claim any money that could be owed to them.⁵² Florida is one of the highest states receiving the most tax revenue from households headed by unauthorized immigrants with a total of \$806.8 million.⁵³ A 2007 study from Florida International University reported that non-immigrants use more public services than immigrants.⁵⁴ The report estimated the Average Annual Public Assistance Benefits Received from non-immigrants was \$2,217.96 versus immigrants that only received

\$1,619.32.⁵⁵ This figure includes Supplemental Security Income, Social Security, veterans benefits, unemployment assistance, food stamps, energy assistance, housing subsidy and welfare. These figures do not include Medicaid or Medicare. When adding the figures of both Medicaid and Medicare, the outcome does not change. Non-Immigrants will receive a total of \$3,873.42 in government assistance versus immigrants that will receive a slightly lower amount of \$3,258.95.⁵⁶ In 2010, undocumented immigrants contributed \$706 million in Florida state and local taxes. If they were to obtain a legal status, this figure would increase to \$747.4 million.⁵⁷

The data above is important as politicians and commentators continue with the seemingly endless debate over what to do with unauthorized immigrants already living in the United States. Governors of several states have sued the federal government for the costs of providing services to refugees and illegal immigrants. Negative assessments of the impacts of immigration on the costs or availability of government benefits will end support for immigration. Thus, in states where high concentration of immigration and high taxes are prevalent, people are more likely to support anti-immigrant legislations. However, the media is also an important influence that often times may lead in support towards anti-immigrant legislations.

Media Influence and Politics

Various expressions of discontent or approval towards immigration has made its way towards media exposure. It has been such an influential tool that it can ultimately control what people think about pertaining issues. Media influence manages to turn opinion into facts, ultimately altering public view. Negative public views perceive

migration as a problem due to a lack of border enforcement that has caused migrants to cross our borders and settle in the U.S.

Due to this media influence an explanation for the anti-immigrant sentiment could possibly be due to the attention the media conveys upon immigrant issues, ultimately leading to culminating and widespread reporting on partisan campaigns taking place nation-wide. If the news reports many stories pertaining to immigration, uses a certain connotation, and frames the issues in a certain way, then people will not only echo the media's opinion, but will also start to believe that immigration is a critical issue that needs to be resolved. Because the media cannot cover all aspects of the immigration issue, under-reporting will occur and the media will focus on certain aspects and not others, thus reporting to the public an incomplete perception of immigration. Because of this underreporting, the viewer's understanding of what is important and what is not important can be skewed.

Four polls were released in the year 2006 all by national news stations including CBS News and the New York Times. They have reported that 59% of Americans said immigration was a "very serious" problem. USA Today stated that 81% of Americans believe that immigration is "out of control". The Los Angeles Times found that 58% of Americans supported a combined legislation that included stricter enforcement of immigration laws and a guest worker program for illegal migrants.⁵⁸

The language used toward the issue of immigration should be given some attention, as it portrays the American sentiment towards immigration. The language used to describe immigration can also lead the public to adopt a specific viewpoint. Using

hostile statements such as “out of control”, “invaders” or “illegals” in media reporting, conceptualizes a range of opinions often leading to a negative opinion and an anti-immigrant sentiment. Newspapers and TV images play an important role in this effect as well. Subsequently the media controls what we think and what we watch. However, while challenging this thinking appears hopeless, by refusing the use of such terms, one begins to reconceptualize migration that falls outside of easy classification. By doing so, inaccurate classifications are avoided and enable a separation of immigrants from a class of individuals perceived as sub-human. While many politicians may disagree, this allows effective and positive reinforcement of state exercised power.

Another factor heavily influencing and impacting immigration is politics. Many native politicians have expressed their discontent on the growing immigration population. Pat Buchanan, presidential candidate in 1992 and 1996 said that: “[a] non-white majority is envisioned if today’s immigration continues.”⁵⁹

Such remark expresses the restrictionist political attitude that many politicians still have today. These political attitudes shape and define legislations in our nation’s capital. Politicians embody these attitudes, not because of individual biases and judgments aimed towards partisan convenience, but as uncomfortable realities that they are required to address. Progressively nationalistic and prejudiced immigration policies are thought to embody popular opinion, leading to a pattern of immigration reform geared to remove incentives that attract undocumented migrants into the country.

When considering approaches about immigrants, researchers have found that whites tend to be more anti-immigrant than non-whites due to an inconvenient “lose” of

traditional supremacy in society.⁶⁰ This statement is a reflection of political actions taken towards migrants. The political realm has become very hostile towards immigrants in the last decades. Politics have played both the devil's advocate while trying to help them at the same time. The reason why politicians can't give in to the "popular opinion" is due to the many legal immigrants residing in their district. Taking action against the wishes of represented districts would affect voting trends in the United States. Politicians have to ensure that the legalized Hispanic Americans in the country find legislations beneficial for them and any undocumented person they might know in order to stay in office. This is what makes politics of immigration so complicated, while the government is trying to find ways to exclude them from society, the government must also include them. It is estimated that every presidential election the number of Hispanic voters increase by 1-3%. By the presidential elections of 2016, an estimated 12% of Hispanics will comprise of the total voting pool, compared to 6% in 2000.⁶¹

Summary

In the last few decades much legislation has been deemed to be against minorities or foreigners, often containing intransigent nativist attitudes. The aim of these policies are to stop all or majority of immigration. However, these legislations often result in discrimination and restriction.⁶² The anti-immigrant sentiment seeks to separate those who *do* belong in the country versus those who do *not*. This is done by defining what real Americans are while rejecting those who seem to be a threat to American values. The social and political factors mentioned earlier in this chapter have all had influences on immigration trends and opinions. This anti-immigrant sentiment has led to legislations

focusing on exclusion from public services and unfair treatment, making it difficult to live and work in the country of opportunity.

It is not ironic that different portrayals of immigration take place and are either celebrated or shunned during different periods of time. As explained in the previous sections of this chapter, migration has become acceptable when needed and gives the perception that the country is allowed to dispose of migrants as it pleases and when it pleases. This creates a process where migrants are both included and excluded from American society and creates a mode of thinking that migrants can be purchased and sold like a commodity.

Fears that resemble those of the past are part of the reason why an anti-immigrant sentiment has developed. This sentiment is rooted in concerns that the arrival of foreigners leads to social, economic, political and cultural threats that exist in national, regional and local communities. The anti-immigrant sentiment does not advocate for racial supremacy but racial preservation.⁶³ While the government might think they are doing their duties, the depreciation of migrants is shown through legislation and other social factors. The government eventually sets the tone to see them as objects instead of subjects with complete disregard for their lives and their families. While the US tries to gain its self-identity or “Americanism” by establishing and controlling all of which has been stated, it undermines the consequences in human rights. While the government focuses on implementing legislation to enforce our borders, little consideration is done to pass domestic legislations on ethical, human right violations that occur to migrant farm workers while in the U.S.

CHAPTER 4 HUMAN RIGHTS

It is generally acknowledged that out of all social process, migration is the most impactful of all processes linking people across borders. It's economic, cultural, and political implications have long-term effects on both the host and home country. Today, there are nearly 191 million people living outside their home country⁶⁴, which represents about 3% of the world's population.⁶⁵ The International Labor Organization (ILO) estimates that 40 million of these people are migrant workers.⁶⁶ Almost all countries are impacted due to immigration. Growing migration in the context of globalization has led to greater concerns about human rights in relation to migrant workers.

According to the United Nations:

"human rights are rights inherent to *all* human beings, whatever our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status."⁶⁷

Everyone is entitled to these rights without any form of discrimination. The architecture of international human rights is built on the principle that all individuals, by the essential of being human, ought to enjoy all human rights. Various are the characteristics that expose migrants to the violation of these human right violations. Vulnerability of being in a foreign country leads migrants to become outsiders in society as well as the lack of respect towards labor rights have led to violations. This chapter will detail information on various conventions pertaining to human rights on migrant workers. The Conventions discussed will be the UN Declaration of Human Rights, International Conventions on the Elimination of Racial Discrimination and the Migrant Workers Convention (Supplementary Provisions) Convention No.143. These conventions have all

set standards in terms of access to human rights and have adopted the same notion that human rights are the rights of everyone, including migrant workers. This and proceeding chapters will document how migrants remain forgotten or exploited in terms of their rights.

Migrant workers are perhaps one of the most exploited groups. Migrants face vulnerability the moment they start their journey intending to reach their destination country. Mexicans and other Latin American migrants are no strangers to this vulnerability. Every day at least one person dies at the Mexico-U.S. border.⁶⁸ Once arriving at the host country, migrants are prone to accept harsh living and working conditions that favor exploitation and discrimination. Another reason favoring this exploitation is the absence of government implementation. Destination states, such as the U.S., are mostly preoccupied with border surveillance than the protection and implementation of migrant human rights. By ratifying and implementing the Conventions that will be discussed, policies as well as practices will shift differently in a more positive direction.

The concern for migrant rights started with the initiatives of the ILO. In its original 1919 constitution, the ILO mentioned the “protection of the interest of workers when employed in countries other than their own.”⁶⁹ It was in the twentieth century that human right protections towards migrants was finally being accepted. This acceptance allowed human rights to take shape by definition and principle. It established equal treatment regardless of status and anti-discrimination objections. In order for human rights to be enacted, government must decide to sign and ratify treaties, which then become international law. Ratifying treaties means the government agrees to implement

domestic actions and legislation compatible with their treaty obligation and duties. The 1993 Vienna World Conference on Human Rights noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems.⁷⁰ The Economic and Social Covenant states that countries should guard the rights of all persons, including the undocumented. They are to have adequate working conditions and living, good health and education and other economic, social and cultural rights.⁷¹ Through various conventions and actions geared towards human rights, an individual becomes the subject of rights, thus, embodying rights that now an individual holds by virtue of being human.

The Universal Declaration of Human Rights

The most important human right treaty is the 1948 UN Universal Declaration of Human Rights. This declaration states the basic human rights that cover the cultural, economic and social rights. The countries have pledged to promote all the Articles pertaining to human rights created into this single document. It is a declaration that majority of conventions were modeled after and has impacted nations by serving as a basis for their constitution.

The Universal Declaration initiates by identifying that ‘the inherent dignity of all members of the human family is the foundation of freedom, justice and peace in the world’.⁷² It asserts that human rights are universal rights to be granted to all no matter who they are or where they live. It also includes economic, social and cultural rights, such as the right to health and education, which will be the focus of the proceeding chapters. Because the Declaration covers most issues pertaining to human rights, many

of its Articles are pertinent towards the rights of migrant workers as well, which will be addressed next.

- Article One perhaps containing one of the most important statements in the Declaration goes follows: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”⁷³
- Article Two: we are all free and we should all be treated the same.
- Article Three: emphasizes the right to life, freedom and safety.
- Article Four: no one should be treated or made a slave.
- Article Five: further aids Article Four by implementing the human right against torture.
- Article Six: everyone is to be treated equally by the law.
- Article Eight: everyone has the right to ask for legal advice.
- Article Fifteen: everyone is entitled to belong to a country and no one can prevent one from belonging to a different country.
- Article Twenty-two: the right to develop ones skill.
- Article Twenty-three: the right to a safe work environment and fair wage.
- Article Twenty-five: everyone has the right to adequate living standards and medical help when needed.
- Article Twenty-six: the right of everyone to attend school.
- Article Thirty: no one can take away the rights stated in the Declaration.

Human right laws are created on the premise that every person should enjoy their human rights and requires the equal treatment whether citizen or non-citizen.⁷⁴ To recognize this principle, the Universal Declaration of the United Nations states that “it is

a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the people of Member States themselves and among the peoples of territories under their jurisdiction.”⁷⁵ The Declaration has been the most impactful treaty to be created by the UN. It has been ratified by all countries and many governments have used it as an example to create their own constitution. It has also influenced other conventions such as the International Convention on the Elimination of Racial Discrimination and the Migrant Workers (Supplementary Provisions) Convention No.143, which will be discussed next.

International Convention on the Elimination of Racial Discrimination (ICERD)

The United Nations adopted the International Convention on the Elimination of Racial Discrimination (ICERD) in 1965. It is one out of six major human right treaties by the UN. It is the most comprehensive legal document that addresses racial discrimination. As of 2000, ICERD has been signed by 156 state parties. The U.S. was one of the later countries to ratify ICERD, entering the convention in 1994. This Convention is important because it addresses fundamental rights pertaining to both citizens and non-citizens of a country. Prior to the U.S. government ratifying ICERD, the government underwent an investigation of the requirements of the Convention and studied them closely with current domestic laws and policies. The U.S. came to a conclusion that ICERD and U.S. law share the same common principle against discrimination. They determined that the legal system in place was in accordance with the appropriate measures that had to be made

once the Convention was ratified. The Convention addresses the applicability of human rights to non-citizens, by stating that even though various rights are limited to citizens, human rights are to be enjoyed by everyone. It further addresses differential treatment due to immigration status as a form of discrimination.

The Convention shadows the configuration of the Universal Declaration of Human Rights with a preamble and three sections that comprise a total of twenty-five articles. Section One obligates parties to the eradication of all practices of racial discrimination by examining their laws and policies to guarantee no discrimination on the basis of race. Section Two establishes the Committee on the Elimination of Racial Discrimination, and authorizes them to offer recommendations to the UN General Assembly. It established a dispute-resolution mechanism between parties and enables parties to listen to grievances from individuals about violations of the rights protected by the Convention. Section Three implements ratifications and amendments to the Convention. ICERD contains rights pertaining to migrant workers such as:

- Article 2: The right to prohibit state parties to end, by legislation racial discrimination of any person or group. State Parties should certify the suitable advancement and protection of certain racial groups or individuals in order to guarantee them full and equal gratification of human rights and essential freedoms.
- Article 4: The right to deem illegal any propaganda or organizations that promote racial discrimination.
- Article 5: The freedom of opinion, expression, and peaceful assembly. The right to economic, social, cultural, work, free choice of employment, just and favorable conditions of work, to equal pay for equal work, housing,

public health, medical care, social security and social services and the right to education and training.

- Article 6: The right to ensure judicial remedies for acts of racial discrimination.
- Article 7: The right to education, culture and information, with the ability to combat prejudices that lead to racial discrimination and promote understanding and tolerance amongst nations, racial and ethnical groups.⁷⁶

Advocates can use ICERD to establish human rights standards in order to address racism and racial discrimination at the local level. However, eliminating all forms of discrimination is not only granted through this Convention. The next Convention not only aids in the reasoning and implementation of ICERD but enforces human right to be granted to migrant undocumented workers as well.

The Migrant Workers (Supplementary Provisions) Convention No.143

The Migrant Workers Convention was created to reinforce the security of migrant workers because many countries were worried about unemployment, migration, and human trafficking. The convention was a form of establishing respect towards migrant workers, and to specify what their rights were as well as their families' right were. In this Convention a clear distinction is made in reference to “regular” migrant workers and “irregular” workers, meaning the undocumented. It addresses that migrant workers are often undocumented and recognizes that international cooperation must occur in order to resolve irregular or undocumented migration. While the convention states the need to control migratory flows, it also addresses the need to refine social policies aimed at migrant workers to obtain social services such as health care.

Convention No. 143 challenged international migration law further by instituting norms to decrease exploitation and trafficking of migrants and implement the protection of irregular migrants. Thus, it obligated states to respect fundamental rights pertaining to migrant workers. The Convention was not accepted by many States at first. Mexico was hesitant on engaging in the reduction of migration. The U.S. did not show its support either because irregular migration was beneficial in the agricultural sector. Eventually, Convention No.143 was ratified by 23 countries.

The Convention also formats similarly to the Universal Declaration of Human Rights. It contains a preamble and three sections that comprise a total of twenty-four articles. The first section of this Convention is titled “Migrants in abusive conditions”. It is comprised by the first nine provisions and it advises countries to establish regulations for illegal employment. It mentions the prevention and elimination of abuses and the prevention of members from giving undocumented migrants the right to stay or accept legal employment. The second section of this Convention is titled “Equality of Opportunity and Treatment”. This section is focused on promoting appropriate methods, conditions and practices to equal opportunity and treatment of employment.⁷⁷ The third section is titled to “Final Provision” and it refers mostly to ratification and denunciation. This section allows countries to exclude provisions in this Convention. Major Provisions of this Convention include:

- Article 1: The respect the basic human rights of all migrant workers.
- Article Eleven: The term migrant worker means a person who migrates or who has migrated from one country to another with a view to being employed.
- Article Twelve: Mandates that countries should take measures to establish educational programs geared to informing migrant workers of their rights

and to provide assistance in order for them to exercise their rights and protections.⁷⁸ Repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy.

- Article Sixteen: Any Member which ratifies this Convention may, by a declaration appended to its ratification, exclude either Part I or Part II from its acceptance of the Convention.⁷⁹

Moreover, additional articles in Convention No.143 state the implementation of an equal opportunity in collaboration with employers, organizations, legislations and educational programs.⁸⁰ The importance of this Convention is to detail the provisions that are geared towards legal migrants without failing to include those currently undocumented. The Convention elaborates in the first section that regardless of their status, even undocumented workers are entitled to equality of treatment.⁸¹

If human rights are the rights of all, then migrant workers are most definitely under the protection of these human right laws. And as we can see, in theory, they possess most rights that natives do. However, under close examination, one can see that undocumented migrants have less access to those rights. While this Convention is currently international law, many times migrant workers are not granted any of their entitled rights. In this next section, I will detail how various articles of these conventions are being violated in Immokalee, Fl. While the granting of precise human rights for migrant workers is possibly the best way to ensure they are being granted, there is still a gap between migrant workers and human rights. Now that basic human right laws are granted through legislation, the challenge now is its implementation, which makes way for much political movement and change.

Nationally, the United States has done little to enforce these laws, especially when they are aimed towards undocumented migrants. It is often due because insufficient awareness is paid to this reality, due to the sole focus on implementing domestic laws against them. Over the last couple of year's resistance to recognize their human rights have led many to protest against the government demanding the end of exploitation. Due to a lack of undocumented migrants, migrants are treated as a reserve of flexible labor.⁸² However, rights such as safe work conditions, health, education, and fair pay are not granted. And many don't speak up due to the instilled fear of deportation.

The strong opposition, abuse and violence towards undocumented migrants have become more apparent in the U.S. despite the treaties mentioned above. The protection of migrants and their human rights are becoming increasingly difficult to fortify. Many governments including the U.S. government have passed strict legislation to control, deter, or eliminate foreign unauthorized migration. Human right violations against migrants, including denial of access to fundamental economic and social rights such as the right to education or the right to health, are often closely linked to discriminatory laws and practice. Although countries have a sovereign right to determine conditions of entry and stay in their territories, they also have an obligation to respect, protect and fulfill the human rights of all individuals under their jurisdiction, regardless of their nationality, origin or immigration status.

The purpose of the Conventions is to alleviate human suffering where individuals have or may be denied protection from their human rights. However, implementing Conventions not ratified by the U.S. is extremely difficult. In terms of ratification, the U.S. has signed and ratified all the Conventions mentioned, with the exception of the

Migrant Workers (Supplementary Provisions) Convention No.143. This Convention is perhaps one of the most pertinent conventions necessary for the protection of both documented and undocumented migrant workers. In terms of ICERD, it was ratified by the U.S. not in its entirety. The U.S. had its reservations and did not agree with various Articles in ICERD. It reserved the right not to change the country's legislation in order to comply with certain articles. The U.S. believed it provided enough protection against discrimination and additional laws were not necessary. Also, it did not ratify Article Four which asks to criminalize any hate speech, due to it being an infringement on the U.S. First Amendment right.

Undocumented migrants are subject to many harsh realities once entering and living in the U.S. These are the group of people that have no way to effectively challenge the violations of their human rights. Due to this, many will live in substandard conditions, fear of being raided and deported at their homes or employment place, be subjected to inhumane treatment by employers and law enforcement, and often look for employment in the informal economy.⁸³ In the informal economy employers may implant fear of deportations and subject them to an environment resembling that of slavery. An infringement of human rights is occurring within the migrant population in the U.S. and the lack of implementation has been exacerbated into an issue that has become far more complicated over the years.

CHAPTER 5

THE CASE OF THE IMMOKALEE FARMWORKERS

The area of Immokalee once belonged to the swamp lands of the Everglades. However, in the most recent years the area has been drained in order to build homes and used as agricultural land. The lowlands of Immokalee are located just 40 miles from Fort Myers and Sanibel Island. It is bordered by the Big Cypress Swamp and citrus and tomato fields. Outside of the city many beautiful sceneries of Spanish moss, flamingoes, lakes and many birds can be viewed.

Immokalee has been home to many for decades and is considered the largest town of migrant workers.⁸⁴ Most people living in Immokalee work in the agricultural sector. In some families, this arduous labor has become a generational occupation. The city's population is roughly 24,154.⁸⁵ However, this number usually doubles between the growing season months of November through May. The average migrant life expectancy is 49 years old,⁸⁶ compared to the national average of 75.⁸⁷ About 52% of farm workers are undocumented and are not able to work legally in the United States,⁸⁸ this is a reflection of the current wave of migration. About forty years ago this city consisted of mostly poor whites and African Americans. Years later, Haitians arrived and in the most recently, Central Americans began to trickle in, mostly Mexicans which consist of majority of the population.

Immokalee, geographically can be unknown to many, however, its impact on agricultural produce is significant. Over Ninety percent of winter tomatoes come from Immokalee.⁸⁹ The agriculture industry heavily relies on cheap labor from undocumented

migrant workers. With such a large undocumented population and dependency on agriculture, deportations are almost non-existent in Immokalee.

The Collier County Sheriff's Department has a cross-training program with U.S. Immigration and Customs Enforcement (ICE). The program, which is acceptable under section 287(g) of the U.S. Immigration and Nationality Act, permits trained Collier deputies to act as immigration agents. The objective of this program is to remove and dangerous criminals from the county, which includes the city of Immokalee.⁹⁰ The program began after research found that many inmates were there just for admitting they were undocumented which was costing more than nine million dollars to maintain. Many feared that this program would lead to racial profiling; however, the Sheriff's office has been explicitly clear to only target the "worst of the worst". Immokalee does not fall into this category. That is because Immokalee's crime rate is far below the state average, not making this city a target for deportation raids. Collier deputies do not conduct immigration sweeps searching for immigration violators. They abide by the notion that illegal immigrants are hard-working, law abiding people committed to doing the jobs Americans won't do.⁹¹ However, this doesn't necessarily make Immokalee a safe haven for all undocumented migrants.

Their lack of status has forced them into the agriculture sector, earning less money and facing dangerous work conditions. The hard physical labor and exposure to various kinds of pesticides make agriculture a very dangerous occupation. The working conditions of the Immokalee farm workers have been documented for many years mostly focusing on the unacceptable sanitary conditions, inadequate housing, health deficiencies and abuses on the work site. Health issues often caused by exposures to pesticides and

limited health care access make it difficult for older workers, usually past the age of 40, to perform well on the fields. Due to a lack of legal documentation and fear of deportation, farm workers have a difficult time asking for improved work conditions, better wages and labor rights.

In Immokalee, many have been the violations against labor rights. Due to their undocumented status, they have become vulnerable to exploitation and abuse of their rights. However, Immokalee has progressively been able to break out of the barriers, due to the efforts of the Coalition of Immokalee Workers (CIW). Through the CIW, many undocumented workers have been able to have justice served through the legal system and other grass root movements. These abuses would have gone unnoticed if it was not for the help of the Coalition of Immokalee Workers (CIW).

Working Conditions

Finding work can be just as demanding as picking crop itself. Workers wake up at 5am to prepare their breakfast and lunches for the day. They must then walk to the local grocery store located on First Avenue. It is here, where all the contractors come in school buses to hire the workers for the day. Work is not guaranteed out on the field. One day a farm worker might get picked for labor, however, the next day there is no guarantee the same employer will hire you once again. If one does not wake up early and get to the lot on time, chances of getting picked to work are slim to none.

Being prepared to pick the crop is important. Crops needing special tools to be picked are not provided by the employer. If the worker does not have the tools necessary

for the crop, then they will not get hired in that field. If chosen to work on the fields, workers may have a quick fifteen minute commute or even a long commute of two hours.

During the growing season farmers get paid an average of forty-five cents per bucket of tomatoes. In order for them to earn a merely fifty dollars in a single day, a farm worker must pick nearly two tons of tomatoes, an equivalent of one hundred and twenty-five buckets and each of these buckets weighing an average of thirty-five pounds. What makes this task even more grueling is the way in which the tomatoes are picked. A thirty-two pound bucket might include about fifty tomatoes on average. What makes this job even more grueling is the way in which the tomatoes are picked. The farm worker must fill up the entire bucket then set it up on his/her shoulder and take it all the way to the truck where the central bin is located. Once they have reached the truck and throw up in the air the thirty-two pound bucket, the bin is returned to them with a token representing their days' pay thus far.

Once out on the field, workers quickly pick the best harvest areas, each gradient of productivity is worth another quarter, another dollar. After work, they return to the lot around four or five in the afternoon and some as late as seven at night. Some are fortunate enough to live within a ten block radius of the pickup lot.

Living Conditions

Migrant workers often live in unsatisfactory conditions. Many migrant workers live in deplorable conditions that are unsatisfactory and not up to city code. Trailer homes are visible between 1st and 9th Street of Immokalee. These trailer homes are old and technically inhabitable. They are in unlivable conditions and what would seem

violating many city codes. These trailer homes are marked with rust and mildew stains and contain no air conditioning or insulation. These mobile homes are owned solely by the Blocker family. Monthly rent on a two-bedroom trailer can be as high as \$3,200 per month or \$800 per week. To offset the high cost of these rentals, twelve to sixteen workers will decide to rent a single trailer home. In these cramped, rusted and dilapidated housing units, is where farm workers call home.

Modern Day Slavery

In the 21st century, it is hard to believe that slavery is still occurring. In Florida alone, there have been nine modern day slavery cases. These modern day slavery cases were discovered with the help of the Coalition of Immokalee Workers (CIW). These cases of involuntary servitude had been occurring since 1997 with the most recent one being discovered in 2008. Many of the cases led to sentences of twelve or fifteen years in federal prison. Farm workers frequent the Coalition to voice their complaints about abuses on the fields. The CIW endeavors to promote the social and economic interest of the farm worker community. While the Coalition has won many battles bringing justice to the farm workers, the inadequate health care and lack of education for these migrants still linger due to their undocumented status.

Since the discovery of these cases, the CIW has started an Anti-Slavery Campaign. Their movement has played a vital role in the national fight against slavery. They have aided with the passage of the 2000 Trafficking Victims Protection Act, which was appointed by the Florida legislature to the Statewide Human Trafficking Task Force,

and co-founding the national Freedom Network USA and the Freedom Network Training Institute.⁹²

As seen above, human right violations, as detailed previously in this chapter, is prevalent in the city of Immokalee. Social and cultural human right violations are occurring on a daily basis. Contractors employing this very vulnerable group of workers do not assume any responsibility of these issues. Due to the hardship of working out on the fields, migrants find themselves affected health wise because of the agricultural work. These health conditions usually go untreated due to the fear of being deported or lack of funds to pay. Free medical attention and preventative care is hard to obtain. Children also find themselves affected by the social factors in Immokalee. Families tend to live below the poverty level making money scarce at times. Often times, parents have no choice but to have their children miss school in order for them to work in the fields. What starts off as a one-time-occurrence soon ends up being the everyday reality when a child decides to drop out of school. The blame however, is not on the parents for wanting to earn extra income, but on local legislations that make it perfectly legal for minors to work out on the fields. The next chapters will further detail these human right violations, why they are occurring and what is being done to deter them.

CHAPTER 6

MIGRANT CHILDREN EDUCATION

Education is considered to be a universal right to all children, both legal and illegal, residing in the U.S. This is due to the belief that educated citizens and non-citizens alike, create skilled workers and taxpayers. However, in the U.S. migrant children are amongst the educationally underprivileged. Migrant children are those that migrate from state-to-state with their families, work in the fields themselves, or have at least one parent in the household that work on the fields. After Texas and California, Florida has the largest amount of migrant children in the country⁹³ and Collier County alone has a total enrollment of 4,992 migrant children,⁹⁴ even though it is quite difficult to obtain an exact figure for a certain period of time. The education of migrant students continues to pose a social, political and educational issue in society. Their disruption increases their chances on educational failure and poverty.⁹⁵ Their conditions due to their migratory lifestyle create obstacles in order to succeed educationally.

Migrant children in Immokalee are consistently under achieving educationally than non-migrant children. There are currently five elementary schools, one middle school and one high school in Immokalee. About 67.30% of Immokalee's twenty-five and under population are not high school graduates⁹⁶ and only 3.9% have earned a bachelor's degree.⁹⁷ The anti-immigrant fears are fueled on by allegations that undocumented immigrants increase the cost of social services, including education.⁹⁸

In this chapter I will analyze factors that hinder educational prospects amongst migrant children in Immokalee and strategies that are being done to improve education in this city. Factors such as poverty, parent involvement and state legislation will be further

analyzed to show the disparity in education in respects to the Universal Declaration of Human Rights by showing that this human right is being violated. It will portray that regardless of documentation, children are entitled to receive equal education. My research in the Immokalee schools of Guadalupe Center and Immokalee High will be incorporated in this chapter for further support.

The Guadalupe center is an early childhood and elementary school program with a total enrollment of about 270 students and a waiting list surpassing that of 300 children. Early childhood programs in Immokalee are slim, Guadalupe Center is one of the few schools that offer early childhood education programs, however those schools do not have enrollment capacities as large as the Guadalupe Center's. The Guadalupe Center ensures that some of the children not registered in Pre-K enter their afterschool care program in order not to be left behind. This school has various programs geared towards educational detainment and higher education, all of which have been successful tools for students, teachers and parents.

Immokalee High School is currently the only high school in Immokalee. The school is focused on helping the students graduate in four years and enter college. Its current student enrollment is 1,334.⁹⁹ I chose to conduct a field interview at this site due to their various programs to help migrant children. Immokalee High aims to continue improving the schools academics as well as graduation rates. Through programs such as the Migrant Center, which helps migrant students with social, economic and educational needs, and the College Assistance Migrant Programs which assists migrant students with college transition, many students have been able to graduate high school. I chose to conduct field interviews at this school because of its large migrant population, which is

considered to be the second highest in Collier County, as well as, the schools dropout rates, which are above state and national average, with some improvement occurring over the years.

Through education, oppressed populations can be transformed socially and economically. The government has created legislations enabling this transformation to occur and by supporting the belief that allows all children equal access to education. The government has acknowledged that poverty, language barriers and parent involvement are all factors that can hinder a child's education. A special legislation was taken into effect in order to improve these factors that have damaging effects for child, families and communities all together. The federal law No Child Left Behind has aided on addressing several of these factors pertaining to migrant children education. The No Child Left Behind Act was a mandate to improve education outcomes amongst low income communities. Under this policy, a special provision was created called Title 1. Title 1 would enable additional funding to low-income schools including schools with migrant children. Through Title 1 Part (c) over \$20 million are allocated to the State of Florida alone.¹⁰⁰ Through its funds, additional programs, resources and personnel have been established in order to improve education and help them with their social, economic, psychological and health needs. All these are benefits that Immokalee schools including the Guadalupe Center and Immokalee High are benefiting from.

Poverty

Research has shown that socioeconomic status is a strong indicator of a student's academic attainment and students living in high poverty regions are at higher risk to fall

beneath basic performance levels, thus creating an achievement gap in comparison to non-migrant children.¹⁰¹ Families working in the agriculture industry are considered to be living under the poverty level. In Immokalee over 40% of the population is considered to live below poverty level.¹⁰² Their average household consists of five people with an overall income of \$24,098.¹⁰³ Children often feel compelled to work in the fields due to economic necessities.¹⁰⁴ This causes many dropout rates between their middle and high school years.

The International Labor Organization (ILO) defines child labor as work that deprives children of their childhood, potential, dignity and that is harmful to physical and mental development.¹⁰⁵ This is referencing work that is mentally, physically, socially, or morally dangerous, harmful and interferes with their schooling by depriving them of either the opportunity to leave school or requiring them to attempt to combine school attendance with excessively long and heavy work.¹⁰⁶

It has been estimated that hundreds of thousands of children under the age of 18 work in farms that support the multi-billion dollar agriculture industry of the U.S.¹⁰⁷ Children have been reported to be working in agriculture at a much younger age, often between the ages of five and seven.¹⁰⁸ Due to their work conditions, the nature of agricultural work exposes child laborers to risk and danger.

During agricultural season, migrant children are most likely to abandon their studies and follow their parents and chase the crop from state to state, causing a disruption in the continuation of their education. Moving from state to state makes it complicated to attend school on a regular basis, learn at their grade level and qualify for

graduation. These children are then faced with various challenges such as educational disruption, poor school record keeping, cultural barriers and social separation. Many preschool migrant children are not prepared for kindergarten in comparison to non-migrant students.¹⁰⁹ The Guadalupe Center has seen the difference in educational attainment between non-migrant children and migrant children. It has been noted that occasionally a non-migrant three-year old pre-school child is more advanced than a kindergarten migrant child. This shows a two-year delay in education. This fact may differ from school to school depending on their curriculum. At the Guadalupe Center, kindergarten is not learning how to read or write, these are skills taught in the beginning years of their pre-kindergarten years.

Migrant summer programs are established to help migrant children make up for lost time in the classroom. However, sometimes, not enough credits can be made up by the student in order to stay in the same grade as their peers. Adjusting to frequent moves, social conditions, late starts and early leaves from school are all educational issues that contribute to low academic achievements ultimately causing these migrant children to drop out.

In Immokalee High, where only 22% of the student body has scored a 3 or better in their reading FCAT scores,¹¹⁰ students having difficulty in school due to their absence are able to take online course in order to recover or catch up on any credits missed. The online credit recovery program is geared toward a whole school year class or a half credit class. The teacher does have the ability to tweak the course in session in order to allow the student to focus on specific subjects, including their weakest. This program is not by choice, the student must qualify in order to enroll in this program. Student grades are

primary criteria for a student to be able to enroll in this program. This allows the student to do their school work online from wherever they are. Online programs and other alternative paths to high school graduation have slightly decreased the dropout rate of migrant children. However, the student may not always complete the alternative programs, thus, making them unqualified to graduate high school. In cases such as these, students are offered alternate routes, offering other resources of education.

Parent Involvement

Within educational understanding, parent involvement is perceived in terms of particular practices such as PTA meetings, parent/teacher conferences, and other volunteering opportunities. However, parent involvement goes beyond those understandings. Parent involvement also refers to parent performance at home in their child's education. It encompasses activities such as homework, reading time or tutoring. In order to be involved in a child's education, parents must have prior knowledge to these particular activities or subjects, knowing them create a willingness to be involved in order to effectively perform these functions. Parent involvement is not only important, but a necessary key for the student to succeed.

Undocumented immigrants are less likely to have obtained a high school diploma.¹¹¹ Migrant parents don't often have such a strong parent involvement in comparison to non-migrant parents. This is often difficult because many parents themselves have low educational attainment or have a language barrier and thus are unable to help their child with school projects or homework. If the child and/or parent do

not seek help, the child is much more likely to drop out of school and help the family economically.

Studies show that the earlier a child starts their education the less likely they are to drop out of school. The Guadalupe Center heavily believes in Pre-K education. The problem with early childhood education is that not many children receive it. Not because of the lack of schools available, but also because of their migratory situation. In the case of Immokalee, it is often both. There are only 3 schools with early education programs that accept a large number of children. About 1,500 to 2,000 children do not receive early childhood education, this transforms into greater problems on their education later on. The constant migration from state to state doesn't allow parents to put their child in early childhood program or because of the language barriers and feelings of inferiority a parent doesn't see the value of early childhood education.

Educators as well as the policy makers of the No Child Left Behind Law recognized that education does not exist only in classrooms, but that parental involvement in education was critical in educational success.¹¹² Funding from Title I has helped with the continuous progress of achieving a higher level of both student and parental involvement.

It is estimated that about 90% of migrant children come from a home where English is not spoken at home.¹¹³ Migrant children often face the difficulties of education due to language barriers as well. They are entering a new environment trying to learn new information while learning a new language at the same time. In both the Guadalupe

Center and Immokalee High, these language barriers are a struggle for many students as well as parents, in which many of them struggle to help their children in their education.

The No Child Left Behind Act aimed to ensure that migrant children become proficient in the English language. In Immokalee High, thanks to Title 1 funds, the school has been able to invest in language learning tools and thus allows both parents and children to use the school computers to learn the English language.¹¹⁴ This allows and encourages parents to become part of their child's education, but it does not guarantee that they will. It is imperative that schools integrate parents into their child's education because parent involvement and support is significant for a child's performance. Through these learning programs the channels of communication between the child-and-parent and parent-and-teacher as well as child-and-teacher will not only help in the learning developmental stages of the child, it will also help understand the life of migrant children. While class is in session, many classrooms have tutors that help them with the language.

The Guadalupe Center believes that the more a parent is invested in their child's education the more valuable the parent will believe education is and the less likely they are to take their child out of school. Parents have a major responsibility when enrolling their children in this school. They must be willing to invest in their children's education by attending parent teacher conferences, amongst other things. Parents whose children attend the Guadalupe Center often inform teachers that they need further help with the learning materials. Every month, all parents are required to attend parent-meeting conferences. These meetings are designed to help educate parents. Often teachers prepare lessons that teach parents how to turn everyday tasks into learning opportunities. They

also incorporate classes geared for financial education, safety education just to name a few. This is done in order to improve family life.

State Legislation

Because Collier County does not provide monetary assistance, many school programs, staff and resources must rely on state money, federal grants or donations. This is the case for both Immokalee High and the Guadalupe Center.

Title 1 Grant has been a great distribution of funds to many schools in Florida, especially in Immokalee High and the Guadalupe Center. Both of these schools allocate their money differently in terms of needs. Because the Guadalupe Center is not considered a full public school, their allocated funds from Title 1 are limited. They use this money towards the breakfast, lunch and snack of the students. In Immokalee High as Clara Calderon explains, many of the improvements in the students' studies have all been due, in part, to Title 1 funds. The school currently has 93.1% of students qualifying for free or reduced lunch.¹¹⁵ Only 75-80% of the students receiving free or reduced lunch is needed to qualify for Title 1 grants.¹¹⁶ The school has used its Title 1 funds to hire additional personnel, give students fee waivers for their ACT and SAT exams, supplies and college tours. It also pays for guidance counseling, especially for migrant children and allows the school to have workshops geared towards positive enforcements in the household. Title 1 funds have also allowed the Migrant Center to operate in order to help migrant children and their families. The Migrant Center provides medical checkups, eye sight examinations, free reduced lunch and contacts to homeless shelters, if a student and/or their family ever needs to go to one.

In the Guadalupe Center, funds are allocated through donations and grants. Child enrollment might see itself affected depending on the amount of funding they receive. When asking for this sort of information, the school does not ask for proof of citizenship. Parents are required to pay a small fee according to their income; however, the school is not contingent on parent fees. If the parent sees him or herself unable to pay, the Guadalupe Center will not expel the child. They make education affordable by sometimes lowering the cost to \$5 a week, or often times parents will volunteer their time by doing community service within the school. They'd rather have a parent helping around the school than take education away from a child. The amount gathered from parent fees a year equates to only about \$400,000 compared to the two million dollars needed to run the program.¹¹⁷

With their budget from money raised from private donors the Guadalupe Center also helps fund programs such as the College Prep program. College prep starts at 9th grade. They tutor the younger kids at the center. Once a student is in the program, they mentor them until entering college. They must possess a 3.0 GPA and submit application and pass a panel interview in order to be accepted. What makes this program rewarding is that the kid that enter this program are all first generation college students. Mentors help guide them and their parents through the college process. Some of these students come back after college to give back to the community.

While much is being done to ensure that migrant children get a good head start and graduate high school, state laws have not been in conjunction with these efforts. When compared to other working youths, there are different protections and guidelines that apply to those children working in agriculture.¹¹⁸ Often times, children do not want

to work on the fields and prefer to stay in school. However, due to the desperate need for more income, parents take their children to work with them in the fields. Many employers are aware that children below the legal age limit are working on their fields. However, the need for cheap labor, picked crop and pressures from corporations to gather large amounts of harvest, all seem to be creating a “don’t ask don’t tell” situation on the fields.

The practice of children working on the fields is known to be happening for decades. The United States Department of Labor has created the Fair Labor Standards Act (FLSA). This law applies to children working in the agricultural sector regardless of farm size or number of labor days worked on the farm. The State of Florida has its own State Child Labor Laws for Agricultural Employment which differs from that of the federal law. They differ by setting different age limits and working hours and conditions.

The FLSA sets no minimum age for employment during school hours for agricultural employment. However, outside of school hours, the minimum employment age is fourteen years old. The maximum daily and weekly hours and days per week for minors under sixteen are allotted to work up to eight hours on a school day and forty hours a week on a school week. If sixteen and seventeen then migrant children actually work less hours per week, only working thirty hours a week.

While the FLSA barely has any limitations on child labor in the agricultural sector, Florida has set its own limitation in terms of child labor. According to Florida law, minors of the age of sixteen and seventeen may not work during regular school hours and

minors under the age of fourteen may not work at all. Florida law still does not require work permits for minors.

In cases such as these, where federal laws differ from state laws, the law that will always be superior is the federal law; this is due to the Supremacy Clause. The supremacy clause comprises what's known as the doctrine of pre-emption, which says that the federal government triumphs in a case of conflicting legislation. Basically, if a federal and state law contradicts, then when you're in the state you can follow the state law, unless the federal law states otherwise. When a conflict between a state law and federal law arises, the federal law prevails, thus, making child labor in the agriculture sector legal and admissible at almost any age.

Summary

According to the UN Universal Declaration of Human Rights, all children are entitled to public education regardless of their status. Due to their mobility and low-income economic status, migrant children are still at a disadvantage educationally. Unlike American families, migrant families cannot mobilize to fight this systemic deprivation caused by legislations and wages. In 1982, these educational rights were debated and upheld in the *Plyer v. Doc.* Supreme Court case. The Supreme Court overturned a Texas law from denying school funding for undocumented students.¹¹⁹ However, the U.S. believed that educational funding for undocumented students ends at the high school level. Section 505 of IIRIRA barred states from granting reduced tuition to those undocumented in the country. However, ten states, including most recently Florida, have passed laws allowing undocumented students to attend *public* universities. Many

measures have been taken to ensure the children of Immokalee receive a proper and adequate education. Educators in Immokalee have acknowledged the educational crisis and have created school environments, in which, all students have benefitted by implementing programs aiding both students and parent to deter children from leaving their studies. Immokalee High has been an excellent example of this. Over the past few years the school has been able to raise its overall grade from an F to most recently a B.

In 2011, the Florida Advisory Committee reported that additional resources may not be the sole solution to help migrant children succeed academically.¹²⁰ Legislative laws pertaining to child agricultural labor should have the same provisions as non-agricultural labor. The effects of exclusion from favoring legislations are having negative effects on the role of education in migrant children's lives. If both federal and state legislations prevail over education, the infringement and violation of education continues. Programs geared to help children educationally, economically and socially will not be as effective to their full potential if legislations continue to exist allowing children to work during school hours. This hinders a development of productful citizens allowing low educational levels to persist at the expense of cheap commodities.

The restrictionist might label education as a "burden" for the federal government that these immigrant families take advantage of and accumulate educational costs. Clara Calderon's belief towards education is very similar. She agrees that education is a human right. If we're going to have them here we might as well educate them, make them productive citizens so that they can stay here and make a living and continue to be taxpaying citizens.

CHAPTER 7 MIGRANT HEALTH

Undocumented farm workers in Immokalee do labor intensive work that allows us to have plenty of low-cost food. These farm workers have a significant role in the agricultural industry, an industry that is considered to be one of the most dangerous and low paying jobs. These are the same workers that suffer disproportionately from various diseases and health complications due to their exposures out on the field. Yearly, about twenty-thousand farmworkers will need medical treatment for acute pesticide poisoning.¹²¹ Others are associated with symptoms and illnesses such as headaches, dehydration, heat stress, skin conditions, tuberculosis, gastroenteritis and intestinal parasites. The fields become more dangerous when women are pregnant. They often do not seek prenatal attention during their pregnancy, and may expose their unborn child to illnesses caused by pesticide intoxication. Health problems do not only occur due to their labor conditions, illnesses may arise due to poor nutrition, poor sanitation and overcrowding living areas. They are amongst the highest group of people without health care coverage, making many of these health complications go unreported and untreated.

The difficult and hostile system for health care creates difficulty on obtaining health care services. Immokalee has nearby clinics; however the closes hospital is located in Naples, a thirty minute drive from Immokalee. The anti-immigrant sentiment is fueled by the belief that immigrants enter the country to receive federal health benefits, a 1996 welfare-reform legislation restricted immigrants from such access, shifting most health care responsibility to state and local governments.¹²² These legislations create barriers for migrant workers by making them ineligible for health care benefits due to their

immigration status or lack of affordability. This poses a serious question, who really deserves medical care? Should health care be just a citizen right? If not, why is it treated as such? According to the UN Declaration of Human Rights, access to health care is a right to *all*, however, migrant workers find themselves limited to this service for various reasons. Factors that cause migrants not to seek medical attention such as poverty and government legislations all limit farm workers from obtaining medical attention until absolutely needed. In this chapter, I will analyze the factors and disparities leading to this violation of human right.

In this chapter I include field interviews from the Florida State University Immokalee Health Site and the University of Miami Health System. At the FSU site, I conducted a field interview with Elena Reyes, PhD, and Regional Director. The FSU health site has been opened since 2007, thanks to the donation of the Naples Community Hospital Healthcare system. It provides not only medical attention to the underserved population of Immokalee, but also permits medical resident students the opportunity to gain medical experience. My next field interview took place with an Associate Professor of Medicine and Chief of Internal Medicine, Dr. Olveen Carrasquillo. I became acquainted with Dr. Carrasquillo's research through a course presentation. He has served on many governmental and foundation sponsored research in minority health, health disparities and community research.

Poverty

Agricultural workers are premeditated to certain illnesses that are caused by poor diet, lack of resources, poor sanitation, pesticide exposure and chemical injuries. These

kinds of exposures can lead to health complications such as skin disorders, asthma, tuberculosis, hepatitis B, intestinal parasites, dehydration, heat stress or stroke and arthritis. Children of farm workers are also exposed to these health issues when they work on the fields along with their parents. They also have higher rates of malnutrition and dental disease and are less likely to be immunized against certain diseases.¹²³

Due to their low income, many migrants will not seek medical attention or preventative care for that matter. In Immokalee, where the average household income falls way below the poverty level, many won't seek care because they don't have the means to transport themselves to their doctor's appointments or they cannot simply pay the high costs of medical attention. These farm workers are most likely not to have insurance due to their unsteady job situation or simply work for small business that cannot afford to give their employees any health benefits. This creates a dependence on free or very low cost clinics.

The Florida State Health Site pediatrics department attends to one hundred children a day, making the clinic always full at any point in time. Numerous children and family members are exposed to pesticides in and out of the agricultural environment. This leads complications in pregnancy, mild learning disabilities, ADHD and chronic asthma, which often happens due to environmental conditions such as toxins in their homes. Obesity is a big problem in Immokalee, both within children and entire families. Many children will come see a doctor due to high levels of anxiety disorders. Symptoms such as chronic tummy aches, headaches and not wanting to go to school are all caused by anxiety. It usually has a correlation with their or family members immigration status. The anxiety of not knowing if their parents will come home often proves too much to handle.

The FSU site ensures that many obstacles faced by migrant workers in Immokalee are taken care of in order for them to receive the proper care. The clinic does have many preventative programs such as maternity care, by teaching women how to take care of themselves while working in the fields. Maternal programs include doing outreach at home after birth. If mothers present any symptoms of post-partum depression, they are offered to attend psychology sessions.

Multidisciplinary programs are created to combat obesity. If a child is referred to the clinic they register the child and the entire family into an 18 week program. They are taught about proper food preparation and behavioral management. These programs include exercise sessions and follow up sessions.

As one can see, due to the hard labor of the agricultural fields in Immokalee, many farm workers are often in need of medical attention, yet they do not or cannot access it. Because they do not qualify for federal health care coverage and do not receive health insurance coverage through their employers, undocumented farm workers tend to not receive any preventative care or services for major health conditions or chronic illnesses. Fatality rates in the agricultural industry are ten times higher than the national average.¹²⁴ Agricultural employers who participate in the H-2A visa program are not required to provide health insurance to their workers¹²⁵, let alone undocumented workers.

Receiving preventative care is important to farm workers since they are more receptive to developing chronic illnesses due to their labor out on the field. If an injury or illness is severe, farm workers can lose their jobs and if participating in the H-2A visa program, they can lose their legal status to work in the U.S. as well. The cost for

receiving medical attention is high, not just monetary wise, but as noted above, seeking health care can cost you your legal status in the U.S.

State Legislation

Nothing enables inequality, amongst the underserved population, more than laws and state legislations restricting the underclass. Legislations emphasizing on access and who can obtain coverage for medical expenses represent characterized inequality. Legislations have deterred immigrants from seeking or believing that they are not eligible for any medical attention or medical assistance, due to the opposition that immigrant access to health care will become costly to the American taxpayer. In 2010, President Obama passed the Affordable Care Act (ACA). This law openly excludes undocumented immigrants from obtaining health care insurance through any provider. ACA creates state-based health care through which individuals and small businesses can purchase coverage through subsidies. While this law greatly expands health care coverage, undocumented immigrants continue to be ineligible for private insurance or state expansions of Medicaid or private insurance.¹²⁶ ACA prohibits undocumented immigrants from purchasing coverage at full cost.¹²⁷

In the state of Florida, undocumented pregnant women are not covered under any federal or state Medicaid assistance program. Meaning, undocumented women that do seek medical attention while pregnant must do so under free or private clinics. For example, in the year 2009, the private organization Farm worker Community Support Foundation granted \$30,000 to Collier Health Services to fund dental care for more than 500 pregnant women.¹²⁸ After birth, these children will most likely be uninsured. They

will often be excluded from Medicaid programs due to their or their parents' immigration status.

Other barriers such as low economic status, taking time off from work, lack of transportation and even language barrier may deter undocumented immigrants from seeking medical attention. In order for these factors not to become an obstacle, The Florida State University Health Site (FSU) in Immokalee, tries to diminish these barriers. Between the months of October through April the clinic will have extended hours during the weekday and are open on Saturday mornings for those patients that cannot afford to lose a days' worth of work. If transportation is an issue, the clinic also has a free bus that drives through the city of Immokalee picking up patients. Because the city of Immokalee is underpoverished, only about 85% of all patients are Spanish speakers.¹²⁹ Upon entering the clinic they can opt to receive medical treatment in the Spanish language. By taking measures such as these, it makes it easier for farm workers to seek medical attention if needed and makes them more comfortable doing so.

Since the lack of insurance, amongst other factors, prevents them from receiving early medical attention, undocumented immigrants will usually wait until their health problem becomes severe. Health care providers can choose whether or not they want to provide their health services to the uninsured. By federal law, however, they can receive medical attention through the ER only if their condition is life threatening. Moreover, if they decide to return for follow-up care, they can be turned away for their inability to pay. My field interview with Dr. Oliver Carrasquillo proved this to be correct. At Jackson Hospital, undocumented immigrants are only attended on emergency cases only. However, follow-up care is not granted.

Many migrants buy into the belief that due to their undocumented status, they are not entitled to various health care services. What health care physicians fail to tell undocumented patients is that many *may* be entitled to health care services including follow up care. Federal law requires hospitals to treat and stabilize undocumented workers in health emergencies, regardless of their ability to pay hospital fees. This is usually done through Medicaid. The law does not prevent hospitals from billing these undocumented workers after their stay at the hospital. They are, nonetheless, prohibited from aggressively threatening them to pay. However, hospitals will spend more money doing this. If migrant workers could receive preventable care, especially care that will prevent diseases due to their labor in the fields, then hospitals would have less responsibility to pay for these treatments through federal funding.

States create different outcomes in deliverance of health care access. In the State of Florida, an internal memo from the Department of Children and Family (DCF) allows undocumented patients to qualify for twelve months of Emergency Medicaid for ongoing treatments needed to stay alive. Emergency Medicaid may be granted to undocumented immigrants often suffering from ailments due to their exposure on the fields. This policy is basically unknown to many hospital staff, outpatient clinics and even the DCF.¹³⁰ While the services are able to be granted, the process for obtaining this Emergency Medicaid almost makes it impossible for patients to obtain all the information needed. Discouragement, confusion and lack of information and guidance may deter or deny a patient from receiving such service.

The lack of knowledge of health policies has serious repercussions on migrant health. Instead of informing patients of this information, hospitals will often times deport

patients in dire need of medical attention back to their home country at no cost to the patient. These sorts of actions are clear indicators of human right violations occurring. Denying health care is a form of highlighting immigrants' obedient position. While society and the economy benefit from the hard and cheap labor of agricultural workers, whether legal or illegal, the immigrant is not entitled to the health care system, regardless if they are putting their health at risk due to environmental exposures.

Summary

Excluding undocumented immigrants, especially farm workers, is not only a human right violation but a humanitarian problem as well. Many health facilities may exclude them by not providing specific services critical to immigrant families. Eventually unsystematically the health care sector begins to create a group of needy people. In Immokalee, various health disparities are different from that of other communities due to environmental exposures and occupations. Their continuation of care becomes an issue, not because they don't have access to it in Immokalee, but due to financial responsibilities of not being able to lose a day of work. This not only stems from an economical problem but a legislative as well. This creates a humanitarian and logistical problem of not receiving primary care when they are feeling sick and instead will show up in emergency rooms demanding care which will become more costly for the hospital.

Restrictionist politicians *believe* that undocumented immigrants are a burden to our health care system and that they only cross the border to receive good medical attention. Contrary to this anti-immigrant sentiment, undocumented immigrants use less health care services than U.S. citizens, including emergency department services.¹³¹

Researchers from the RAND Corporation estimated that undocumented immigrants account for only 1.5% of U.S. medical costs.¹³²

These sentiments often misinform the public about the health care aspect of the current immigration debate. This misconception leads to believe that the reason why the health care system is at a downfall is due to immigrants, when in fact, immigrants are avoiding health care services even if given freely. This is due to disorientation on bureaucratic requirements, fear of deportation, bills and cultural home remedies. With such misconceptions health care legislations become less tolerable towards the undocumented. In 2005, the Deficit Reduction Act made it a requirement to show proof of citizenship for all those applying for Medicaid. The law was implemented in order to prevent both immigrant adults and children (legal and illegal) from obtaining Medicaid.¹³³

According to the Universal Declaration of Human Rights everyone is entitled to health services. Even if an undocumented migrant can afford to pay for full health care coverage, insurance is still denied. In the place of regulating new legislations, the regulation of ideas should occur where health is seen as a right and not a privilege. If the government would be willing to allocate federal money to prevention screenings and medications for farm workers, especially to those in Immokalee, then hospitals would not be spending large amounts of tax dollars on emergency room costs and specialty care.

There are individuals and private for profit and non- profit organizations are the ones that run free clinics. Private hospitals often times generate enough money make a decision to subsidies free clinics from their own money. Non-economic factors do play a

large part in the ability to obtain medical attention. An interchangeable idea is whether one thinks of health as a right or a commodity? The answer an institution and/or state government may have to this question will determine the access of care it allows undocumented migrants to have. The problem is that health care and the power of interest on the system are dominated by the profit motive.¹³⁴ Many believe that if immigrants were restricted to health care access, U.S. citizens would not have a heavy tax burden inflicted upon them. In the long run, if migrant workers were to be provided with preventative care, especially for illnesses most affecting this group, health care costs would dramatically decrease. Additionally, in order to relieve economic tensions between health care and the government expenditure could be by creating a partnership with neighboring countries, especially Mexico, in order to sustain them and improve health care for their citizens.

A different approach to change would be through a different perspective and view that health care is a human right. As Elena Reyes states, “providing health care for anybody once they are in your territory is a basic human right you have to provide to someone who is sick”. Those denied treatments are the ones to be afflicted with judgment for being unauthorized immigrants. Under the health care system, they are thought to be undeserving. Access to medical treatment, preventative or follow-ups, should be entitled to everyone regardless of any moral judgment that have caused their affliction in the first place.

CHAPTER 8 CONCLUSION

This study situates the social and economic conditions in which the Immokalee farmworkers live. It exposes in larger context the systematic violations of human and labor rights towards the most vulnerable segment of the population and the strong waves of anti-immigrant sentiments. It also shows the dramatic changes that occurred in immigration law between the years of 1942 and 1996 and how these legislations have made the situation much more difficult, especially in Immokalee. Since early history an anti-immigrant sentiment has been visible when both immigration has and has not been tolerable. A combination of factors that have been studied also show the recurring anti-immigrant sentiment in immigration policy that has affected the farm workers in Immokalee.

Throughout history, many instances have been documented where immigrants (legal and illegal) are discriminated. This often takes social and political forms. Politically, while legislation was needed in order to encourage migrant workers to work in the U.S. legally, many of their rights and freedoms were taken away. Many were the contradictions between government actions and policies made towards migrants. Even in cases in which legislation was implemented to “protect”, sometimes it has also been the implementation to deter future migration.

Unfortunately, racism and xenophobia that fuel anti-immigrant sentiment not only affects migrants, but also generations of their offspring. Discrimination was usually always combined with exploitation. In early history, and even in Immokalee today, human right violations have occurred due to both of these actions. In theory, everyone

has the right to just and favorable work conditions that provide protection in treatment and conditions at work regardless of citizenship or status. In practice, however, such rights are not feasible in political or economic terms. The anti-immigrant sentiment has perceived them as object and not subjects. It has influenced an idealism that immigrants are an underclass of the country and due to their nationalities or lack of citizenship; natives can make them feel inferior. Perceptions as well as growing deportation mechanisms have made migrants fearful of the American government.

Human rights are universal and natural in the human person. Today's rights are associated with citizenship. However, it is clear through UN Declarations and Conventions, that rights are also associated with the fact of just being human. Human right violations will keep occurring if a person is seen as an object instead of a subject. Granting human rights is a humanitarian act. It's an act done, regardless of a person's contribution, or lack thereof, in the economy and other social aspects of the host country. While human rights respect the sovereignty of every individual country, it often makes states' rights universal. The United States has not recognized its own citizen rights as human rights. The lack of ratification for international treaties shows that protecting the rights of migrant workers is not in the best interest of the U.S. government. Many can be the factors associated with this; however, a main factor would be simple economics. Immigrants are not seen as subjects, but as economical commodities that without exploitation, no economic gains would occur.

In Immokalee, the absence of legal rights has made this undocumented population exposed to exploitation, crime and social problems including those relating to health and education. These issues have seen themselves compromised according to the Articles

stated in the UN Declaration of Human Rights. However, society neglects and the media doesn't shed enough light on human right and ethical issues pertaining to the undocumented and violations such as the ones mentioned throughout this study tend to slip beneath the cracks of society. When human rights are denied, especially in health care and education, structural violence begins to occur due to policies within a system. Policies such as those limiting access to rights all have repercussions that affect each aspect of society. Structural violence designates the method in which organizations deter persons from realizing their full potential.¹³⁵ The anti-immigrant sentiment has shaped this nation socially, politically and culturally.

These issues discussed not only present a human right problem but also a social justice problem as well. In the case of the Immokalee farmworkers, their contribution to society is not only fundamental to our economy, but needed in society as well. Through international law, they are entitled to social services, including health care and education. Many actions can be taken at the legislative level as well as the community level to ensure that these sorts of violations do not continue. It is pertinent to eliminate hurdles that prevent the enjoyment of rights by non-citizens, especially in areas such as education and health. States should avoid different standards of treatment in regards to citizens and non-citizens which eventually leads to racial segregation and the inadequate fulfillment of economic and social rights. Governments should take advanced action to spread obtainable resources to guard the rights of everyone-regardless of citizenship status.

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