

Global Workplace Law & Policy

Addressing America's Migrant Child Labor Crisis

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A Crisis Hiding in Plain Sight

When 14-year-old Cristian should be in a classroom learning, he's swinging a hammer on a construction site. Fifteen-year-old Carolina spends her nights in a factory, stuffing Cheerios into yellow cartons in ten-second intervals. Thirteen-year-old Wander searches for day-labor jobs before dawn breaks. These are not isolated stories from America's industrial past—they are happening right now, across the country, as detailed in a [series of articles](#) by investigative journalist Hannah Drier of the New York Times.

Approximately 200,000 unaccompanied migrant children work in extremely harmful and hazardous conditions in the United States in clear violation of federal and state laws. These children come to America, alone, fleeing countries riddled with political destabilization, gang violence, extreme poverty, and climate change impacts. Once here, they must support themselves, and send remittances back to desperate families they left behind in their countries of origin.

Migrant child workers—many as young as twelve—operate heavy machinery, scale dangerous rooftops, and work overnight shifts in food-processing factories that supply major American brands like Walmart, Target, and Ben & Jerry's. The scope is staggering. Children scrub dishes at restaurants, run milking machines at dairy operations, wash sheets for hotels, deliver meals in major cities, and process chicken that ends up at grocery stores like Whole Foods. Some work twelve-hour shifts, six days a week, their young arms shaking under the weight of heavy materials. The most dangerous job they perform is roofing in America's booming construction industry where one slip can be fatal.

This post describes America's migrant child labor crisis and, by centering on migrant child workers' experiences, depicts the failures of existing legal solutions, as well as proposes policy changes aimed at improving migrant children's on-the-ground reality.

The Failures of America's Child Labor Laws

An historical view reveals why current child labor laws fail migrant children. The Fair Labor Standards Act of 1938 ("FLSA") was the first federal law to regulate child labor and it continues to be the foundation of America's current child labor laws. The FLSA's child labor provisions, however, were motivated by a desire to protect white, non-immigrant children from the "evils" of industrial work, which emerged from a racialized fear that poor, white children working in factories would threaten America's racial hierarchy and imperial ambitions. Thus, the FLSA was never intended to protect migrant child workers, and it certainly did not contemplate addressing the specific needs of today's unaccompanied minors or the conditions that make them especially vulnerable to labor exploitation.

Moreover, the FLSA contains significant exemptions that exclude protections for economic sectors that rely heavily on migrant labor including agriculture, where an estimated seventy percent of children labored at the time of the law's passage. These exemptions were not accidental oversights, but deliberate compromises to secure political support from Southern states that opposed the FLSA's protections for workers of color.

Adding to the FLSA's shortcomings is lack of enforcement of the law. Even prior to the current administration, which has drastically cut the federal workforce, the federal agency tasked with enforcing child labor laws, the Department of Labor ("DOL"), had only 750 investigators to oversee approximately 11 million workplaces nationwide. This includes around 3,000 slaughterhouses, where many recent child labor violations have occurred. At this rate, it would take 190 years for the DOL to inspect every covered workplace just once for unlawful child labor.

Compounding enforcement challenges is what labor economist David Weil calls the "fissured workplace"—a complex web of contractors and subcontractors that allows major corporations to benefit from cheap, migrant child labor while avoiding legal responsibility for child labor violations. For instance, companies like Tyson Foods do not directly hire children; instead, they contract with smaller janitorial companies that employ unaccompanied minors to clean Tyson's

facilities.

This system has long insulated America's largest industries from immigration consequences of hiring undocumented workers. Now, the same machinery shields businesses from child labor violations. When enforcement actions occur, powerful corporations simply pressure their contractors to terminate child workers, then look the other way when children are re-hired months later.

When “Protection” Becomes Harm

[Traditional calls for child labor law reform](#), which seek to abolish child labor, focus on increasing enforcement and penalties for employers who violate child labor laws. While well-intentioned, this approach fundamentally misunderstands the reality of unaccompanied minors' lives and risks making things worse for these children.

When enforcement actions result in termination of child workers, what happens to unaccompanied minors? They cannot go home to loving parents and comfortable homes. They cannot apply for unemployment benefits or welfare programs. Instead, they are driven deeper into the shadow economy, finding even more dangerous work that is less likely to be regulated.

Consider [Marcos](#), a fourteen-year-old who nearly lost his arm while cleaning machinery for a contractor at a Tyson Foods facility. After his horrific injury, which required multiple surgeries and left him permanently disabled, Marcos was fired and could not be rehired due to child labor laws. Desperate for work to support his family in Guatemala, Marcos found a new job: sifting through chicken carcasses at family farms, pulling out dead birds while wearing two masks to guard against overpowering noxious chemicals. His new job is not subject to the FLSA's child labor regulations and pays less than his previous job, but it allows him to send \$100 home to his parents every few weeks.

The Reality of Work Primacy

Contemporary child labor laws, such as those embodied in the FLSA, do not consider unaccompanied minors' unique situation. Central to these children's lives is “[work primacy](#),” a concept that emerges from the work of sociologist Stephanie Canizales based on dozens of interviews with former unaccompanied minors. This theory explains why migrant children are under intense pressure to earn the highest wages possible, which leads them to work in exploitative and dangerous jobs.

Unaccompanied minors must pay their own way in the United States, including expenses for basics like food, clothing, and rent, as well as provide support for their families back home. Most of these children also arrive in the United States [carrying debt](#) between \$3,000 and \$11,000 owed to smugglers that accumulates daily interest.

Work primacy does not mean unaccompanied minors are solely defined by their labor. Instead, it reveals their deep sense of familial connection and obligation. When asked about his dream job for a school assignment, Marcos wrote “to help my family.” When asked what made him happy, he responded simply: “my parents.” It also means that although most migrant children want to attend school and obtain an education that might help them and their families escape poverty, they often must choose between work and school. As thirteen-year-old [José](#) explained to reporters: “I'd like to go to school, but then how would I pay rent?”

Beyond Traditional Solutions

Addressing America's migrant child labor crisis requires thinking outside the traditional reform playbook and centering migrant children's actual experiences and needs. The international child labor movement offers guidance in this regard.

When Bangladesh faced threats of U.S. import bans on products made with child labor in the 1990s, [50,000 child garment workers lost their jobs overnight](#). As a result, many took on more dangerous work like stone crushing and prostitution. The unintended consequences were devastating. This has led experts and advocates to conclude that instant eradication of all child labor is not only unfeasible but can work against children's best interests when it removes their only means of supporting themselves and their families. Instead, they suggest focusing on harm reduction such as improving working conditions, ensuring access to education, and addressing root causes like poverty.

These international lessons highlight the need for the United States to reconsider deploying limited enforcement resources on policies that, like an endless game of whack-a-mole, target a few companies that predictably resume unlawful child labor practices as soon as inspectors leave. Below are several potential alternatives to this ineffective and inefficient strategy that could better address America's migrant child labor crisis.

Worker Rights Education

Given that dangerous child labor is likely to continue due to lack of enforcement, exemptions, and unaccompanied minors' need for income, it is imperative that migrant child workers understand their worker rights, especially to workplace safety and health. Indeed, a panoply of federal, state, and local employment and labor laws provide worker rights to all workers irrespective of their immigration status or age.

Public schools are sites where unaccompanied minors can learn about their worker rights. California has led the way by mandating industry-specific safety information in all state high schools through its "Workplace Readiness Week" under a [recently passed law](#). For migrant children working on roofs, for example, knowing they have the right to demand safety harnesses could be the difference between life and death.

Workers' Compensation Access

States should ensure that migrant child workers can easily file workers' compensation claims if they suffer on-the-job injuries. Unlike unemployment benefits, workers' compensation laws do not require work authorization, which unaccompanied minors lack. Additionally, nearly half of all states increase workers' compensation awards for children who are hurt while working in violation of child labor laws. If migrant children can access workers' compensation benefits, they are more likely to receive crucial medical care and income when they are injured.

Vocational Training Programs

Rather than forcing children into dangerous underground work, federal, state, and/or local governments should provide vocational training in sectors experiencing labor shortages such as healthcare, hospitality, and long-term care. This could create a win-win situation where migrant children can work reasonable hours in safer, legal jobs while filling genuine economic needs. This

reform would require specialized or limited work authorization for unaccompanied minors.

Immigration Law Changes

The most impactful long-term solution involves family reunification because when migrant children have custodial parents in the United States, they are far less likely to engage in dangerous work and much more likely to attend school. One way to pursue this solution is to expand [Labor Trafficking Visa](#) coverage to all children engaged in oppressive labor, which would allow child workers to petition for parents to legally join them in America. Alternatively, creating pathways for adult family members to obtain lawful work in the United States would dramatically reduce the migrant child labor crisis.

State and Local Programs

State and local governments can help prevent unaccompanied minors from seeking hazardous work by offering benefits, such as food and housing subsidies, that the federal government does not provide. They could also ensure that migrant child workers have access to legal information and justice through competent legal counsel.

The federal [Trafficking Victims Protection Reauthorization Act](#) (“TVPRA”) requires that, “to the greatest extent practicable,” the Department of Health and Human Services (“DHHS”) provide each unaccompanied minor with an attorney “to represent them in legal proceedings . . . and to protect them from mistreatment, exploitation, and trafficking.” The current Trump administration, however, has cancelled contracts with legal services organizations that provide unaccompanied minors with legal representation. Although a lawsuit challenging this action as being in violation of the TVPRA has resulted in a [federal court order](#) reversing the administration’s actions, DHHS has yet to restart the programs it halted.

As a result, tens of thousands of children are at risk of losing access to legal information and advice. This, in turn, increases the likelihood that migrant children will experience dangerous work because they will not have a trusted, legal representative to help them avoid child labor violations. State and local governments can step in to fill this access to justice gap by funding pro bono legal services for unaccompanied minors, especially those at risk for labor exploitation.

The Moral Imperative and a Path Forward

The contemporary migrant child labor crisis forces confrontation with uncomfortable truths about American society. The U.S. economy depends on the exploitation of vulnerable children while its laws and enforcement strategies often make their situations worse rather than better. Traditional approaches that might protect native-born American children with family support systems will not work for unaccompanied minors who must work to survive.

This does not require accepting migrant children’s exploitation or abandoning efforts to protect these young workers. Instead, it points to the need for more sophisticated, compassionate responses that acknowledge the complex realities these children face. The United States must move beyond the simplistic goal of abolishing child labor and toward the nuanced objective of protecting children while recognizing their agency and meeting their actual needs.

The solutions proposed above will not be easy to implement. They require bipartisan cooperation, significant resources, and a willingness to challenge existing immigration and labor systems. But

they are worth pursuing because migrant child workers deserve more than outrage at their exploitation—they deserve policies that recognize their humanity and their right to both safety and survival.

This entry was posted on Thursday, June 26th, 2025 at 6:00 am and is filed under [Child Labor](#), [Labor Law](#), [Migrants](#), [USA](#)

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