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WORKERS IN THE FIELD AND LAWYERS IN THE COURT: THE CRLA,  
POVERTY LAW, AND ENVIRONMENTAL JUSTICE IN MODERN CALIFORNIA

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WORKERS IN THE FIELD AND LAWYERS IN THE COURT: THE CRLA,  
POVERTY LAW, AND ENVIRONMENTAL JUSTICE IN MODERN CALIFORNIA

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## ABSTRACT

As part of the War on Poverty in the mid-1960s, the federal government under President Lyndon Johnson began funding dozens of legal service agencies throughout the nation. The largest of these agencies was the California Rural Legal Assistance (CRLA), which mainly served impoverished Mexican American farmworkers. Despite Governor Ronald Reagan's support of traditional agribusiness, the CRLA helped farmworkers change many agricultural policies and practices that reinforced their poverty. To name just a few victories, CRLA litigation led to the end of the Bracero Program, the defeat of the short-handled hoe, free lunch milk and mandatory bilingual education for farmworker children, safer pesticide practices, and sanitation stations for workers in the fields. One of the agency's most innovative endeavors was environmental poverty law, which used traditional poverty law to tackle environmental hazards. Through environmental poverty law, the CRLA helped ban or regulate numerous pesticides, and it helped farmworkers create agricultural environments that were far less dangerous to their physical health. The CRLA's practice of environmental poverty law laid the legal groundwork for the environmental justice movement in rural California. For over fifty years now, CRLA litigation, including environmental poverty law, has helped lead the fight for greater civil rights and environmental justice for farmworker families.

As a preface to his 1939 *Factories in the Field*, Carey McWilliams included Marie de L. Welch's poem "The Nomad Harvesters." In these three stanzas, Welch captured the irony of men who worked the land but had no ties to it. "Ours is the land of nomad harvesters," she wrote, "Men of no root, no ground, no house, no rest; / They follow the ripening, gather the ripeness, / Rest never, ripen never, / Move and pause and move on."<sup>1</sup> In her list of farmworker privations, Welch could have added that the nomad harvesters were men—and later families—of no legal protection. Indeed, in the early 1900s, one journalist lamented, "California has passed laws for the protection of migratory birds, but it can not [*sic*] pass laws for the protection of migratory workers."<sup>2</sup> The lack of legal protection had characterized California farmworkers for centuries. From Native American workers on Spanish missions, to Chinese and Japanese immigrants, to Anglo-American transients (or "bindlemen"), to Mexican American families, farmworkers were migrants, foreigners, minorities, or all of the above. Consequently, they lacked the benefits of citizenship and were often treated, in historian Richard Street's words, as "beasts of the field."<sup>3</sup>

In the mid-1960s, the federal government under President Lyndon Johnson began prioritizing the needs of migrant workers. As part of its War on Poverty, the Johnson administration created the Office of Economic Opportunity (OEO) to oversee new federal programs for the poor and, from the outset, migrant workers received special attention. As the OEO later reported, "Cognizant of a situation wherein more federal money was being allocated for the feeding and care of migratory birds than for migratory humans in the United States,

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<sup>1</sup> Carey McWilliams, *Factories in the Field: The Story of Migratory Farm Labor in California* (Boston: Little, Brown, and Company, 1939), Preface; Marie de L. Welch, *This is Our Own* (New York: MacMillan, 1940), 56.

<sup>2</sup> *San Francisco Bulletin*, Quoted in Richard Steven Street, *Beasts of the Field: A Narrative History of California Farmworkers, 1769-1913* (Stanford: Stanford University, 2004), 526.

<sup>3</sup> See Street, *Beasts of the Field*, xv-xxv.

Congress specified in the EOA [Equal Opportunity Amendment] of 1964 that OEO was to implement programs for them.”<sup>4</sup>

One of the most significant federal programs set up legal service agencies for the poor. In California, the OEO established the largest of these agencies: the California Rural Legal Assistance (CRLA). The CRLA became one of farmworkers’ surest advocates and, as the state’s large-scale growers would later say, “agriculture’s oldest antagonist.”<sup>5</sup> While historians and popular society have paid far more attention to Cesar Chavez and the public protest of the United Farm Workers Union, the CRLA helped Mexican American communities wage a legal war on poverty that not only improved farmworkers’ lives and working conditions, but also made California politics and society more inclusive of their voices. Moreover, the CRLA’s emphasis on agricultural practices and on the civil rights of Mexican Americans helped lay the legal groundwork for the environmental justice movement of later decades, which addressed minority communities’ exposure to environmental hazards.<sup>6</sup>

In May of 1966, the CRLA received its first annual federal grant of \$1.27 million, and, over the next six months, it began operating in eight field offices in El Centro, Santa Maria, McFarland, Salinas, Madera, Modesto, Gilroy, and Santa Rosa.<sup>7</sup> Soon thereafter, the agency

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<sup>4</sup> Report, “The Office of Economic Opportunity During the Administration of President Lyndon B. Johnson, November 1963-January 1969,” 1969, 390-391; Box 1: Administrative History of the OEO, Volume 1; Folder: “Part 1: Narrative History,” LBJ Library, Austin, TX.

<sup>5</sup> Don Razeo, “Agricultural Work is Unfit, CRLA Contends,” *California Farmer*, May 18, 1968. Box 65, Folder 6, CRLA Records (M0750). Dept. of Special Collections and University Archives, Stanford University Libraries, Stanford, CA

<sup>6</sup> The Environmental Protection Agency defines environmental justice as: “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. This goal will be achieved when everyone enjoys: the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.” See “Environmental Justice,” U.S. EPA, <https://www.epa.gov/environmentaljustice> (Mar. 13, 2020).

<sup>7</sup> For a list of over 120 legal service agencies across the nation and their grant amounts, see “Justice: Report of the Legal Services Program of the Office of Economic Opportunity to the American Bar Association, Aug. 8-11, 1966,” p. 25-31; Box 41: Judicial-Legal Matters, Gen JL 6 12/6/67-1/20/69; Folder: “JL7 Lawyers-Legal Aid,” LBJ Library.

added an office in Marysville and established a central office in San Francisco. Field offices corresponded to the highly productive agricultural valleys that were home to large numbers of rural poor: San Joaquin, Imperial, Sacramento, Salinas, Sonoma-Napa, and Santa Maria. To staff each office, CRLA directors recruited young lawyers who, in general, lacked experience but possessed talent and enthusiasm. In late 1966, the average age of a CRLA attorney was 30.5, and the average workday lasted more than fourteen hours. Additionally, the CRLA hired bilingual community workers for each office, many of whom were former field workers. As CRLA directors explained, these individuals “were well acquainted with the problems and politics of rural California,” and they could help the attorneys work with client communities. In its first six months, the CRLA handled 1223 cases on behalf of approximately 1650 clients. Many cases simply required legal advice and document preparation. Others involved court appearances.<sup>8</sup> As the agency became more widely known, demand for its services increased. In 1968, the central office lamented, “Every CRLA regional office has found that it is physically impossible to offer adequate legal services to all, or even a majority, of those who seek and are eligible for its services.” This same year, the agency reported a potential clientele of some 577,000 people.<sup>9</sup>

While the CRLA served all sectors of the rural poor, approximately fifty percent of its clients were Mexican American farmworkers, many of whom were migrants. CRLA attorneys recognized that farmworkers were the “largest and most cohesive group” of California’s rural poor, and they quickly became specialists in problems involving housing contracts, immigration status, agricultural employers, and welfare. Given the vast number of individual cases, however,

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<sup>8</sup> “Report to the Office of Economic Opportunity and CRLA Board of Trustees on Operations of California Rural Legal Assistance, May 24, 1966-Nov. 23, 1966,” 1966, Box 7, Folder 1, CRLA Records, Stanford; “A CRLA Casebook: Selected Clippings and Summaries of 1968 Cases,” Box 28, Folder 1, CRLA Records, Stanford.

<sup>9</sup> “Report to the Office of Economic Opportunity and CRLA Board of Trustees on Operations of CRLA, Dec., 1967-Sep., 1968, in Support of Application for Refunding,” 1968. Box 45, Folder 1. CRLA Records Stanford.



CRLA directors soon instructed community workers to handle these matters whenever possible. Attorneys, they stated, should “strive to take cases which affect a large number of people, will result in an important change in the law, or will prevent or rectify a great hardship or injustice.”<sup>10</sup> As the lawyers followed these directions, they became, as one journalist observed, “ombudsmen for the poor,” not only representing “individual indigents in minor court actions,” but also “sue[ing] state and local governments on behalf of ... large groups of [farmworkers].”<sup>11</sup>

The CRLA’s early history underscores the attorneys’ role as ombudsmen. In 1966, the lawyers of the McFarland field office addressed unsanitary drinking water in the nearby town Wasco. As they explained, the Mexican American and African American section of Wasco received water from an independent utility, while the rest of the community received water from the municipal company. The water from the independent utility was cloudy and noticeably less purified than that of the municipal company, and chemical tests confirmed that the cloudy water was unsafe for human consumption. “The city has to date shown no interest in dealing with the problem,” the attorneys reported. Thus, the office filed formal complaints with both water providers, city officials, and the California Board of Health and Safety. If these administrative procedures do not yield results, they lawyers warned, “we will consider equity actions against the city of Wasco and damage actions ... against the independent utility and the city.”<sup>12</sup>

Legal action did not stop with local governments. In 1967, the CRLA used a lawsuit to prevent the U.S. Department of Labor from authorizing the temporary entry of Braceros, guest

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<sup>10</sup> “Report to the Office of Economic Opportunity,” 1966.

<sup>11</sup> “Poverty Law: Threat to the Ombudsmen,” *Time Magazine*, Chicago, Illinois, Nov. 7, 1969. Box 65, Folder 6. CRLA Records, Stanford.

<sup>12</sup> “Report on Operations,” 1966, Box 7, Folder 1. CRLA Records, Stanford. Notably, while farmworkers received much of the CRLA’s attention, the agency also helped other minority groups. In 1966 and 1967, the Santa Rosa office worked on cases for the Pomo Indian tribe involving job training and land rights.

workers from Mexico, to help with the California harvest.<sup>13</sup> This same year, it prevented Governor Ronald Reagan from removing nearly 1.5 million people from California's medical-assistance program.<sup>14</sup> Moreover, from 1968 through 1970, it won several "hunger suits," which forced the California Department of Agriculture to distribute surplus commodities to needy families and, in particular, free milk for low-income school children.<sup>15</sup> Although this litigation was aggressive, the OEO under Johnson encouraged it. In 1968, the OEO required all legal service agencies in the nation to demonstrate, as a condition for refunding, a history of not only "routine legal services," but also of "law reform," which it defined as any "innovative [legal work] designed to make a substantial impact on more than an individual client and the cycle of poverty."<sup>16</sup>

The CRLA continued leading the way in this kind of law reform. In 1969, it participated in lawsuits against the U.S. Department of Agriculture regarding the widespread use of the pesticide DDT and its effects on poor farmworkers.<sup>17</sup> This same year, it also sued the California Board of Education for its practice of placing farmworker children in classes for the "mentally retarded" because they did not understand English. This lawsuit forced the board to administer IQ tests in Spanish, move thousands of farmworker children into regular classes, and begin bilingual education programs.<sup>18</sup> As a final example, in 1973 the agency sued the California

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<sup>13</sup> See Letter from Congressman Bernie Sisk to President Lyndon Johnson, Sep. 22, 1967, Box 19: Labor, Gen LA 5 8/27/65; Folder: LA 5 6/11/67-1/31/68; LBJ Library.

<sup>14</sup> "See "Poverty Law: Threat to the Ombudsmen."

<sup>15</sup> See Ron Taylor, "CRLA Creates Shock Waves in Hunger-Fighting Lawsuits," *Fresno Bee*, May 24, 1970. Box 65, Folder 6, CRLA Records, Stanford; see also, "Suit Settled: More Free Milk for State's Kids," *San Francisco Chronicle*, March 17, 1970. Box 65, Folder 3, CRLA Records, Stanford.

<sup>16</sup> Memo from Burt W. Griffin, [OEO National Director of Legal Services Program], "Priorities and Policies on Refunding," Oct. 1, 1968. Carton 75, Folder 8. CRLA Records. Stanford.

<sup>17</sup> See Luke W. Cole and Sheila R. Foster, *From the Ground Up: Environmental Racism and the Rise of the Environmental Justice Movement* (New York: New York University, 2001), 221, footnote 32; see also, Julie Sze, "Denormalizing Embodied Toxicity: The Case of Kettleman City," in *Racial Ecologies*, ed. Leilani Nshime and Kim D. Hester Williams (Seattle: University of Washington, 2018), 111.

<sup>18</sup> See Mary Ellen Leary, "Children Who Are Tested in an Alien Language: Mentally Retarded?" *The New Republic*, May 30, 1970. Box 65, Folder 6, CRLA Records, Stanford.

Division of Industrial Safety for allowing growers to require the short-handled hoe, a tool that forced workers to stoop at a ninety-degree angle in order to thin and weed row crops. By banning the tool, the CRLA helped farmworkers stand a little taller literally and symbolically in California society.<sup>19</sup> In all these cases and others, CRLA litigation challenged injustices that stemmed from poverty, and it forced officials to take the needs of farmworker families seriously.

Naturally, suing the government on behalf of farmworkers guaranteed the agency a host of powerful political enemies. In the late 1960s, neither growers nor state or local officials were in the habit of acquiescing to farmworker needs. As the chairman of the San Joaquin Valley School Board stated in 1970 regarding education reform for farmworker children: “We’ve built this Valley to what it is and we’ve gotten to where we are because there’s cheap labor around. When you come in talking about raising the educational vista of the Mexican-American ... you’re talking about jeopardizing our economic survival.” He added, “What do you expect, that we’ll just lie down and let you reformers come in here and wreck everything for us?”<sup>20</sup> Even those who may have wanted to help the poor questioned the logic of a government entity that paid attorneys to sue other government entities. As Fred Marler Jr. of the California Senate wrote in 1970, “There is certainly a need for legal services for those who cannot afford them but ... CRLA’s activities have resulted in the taxpayer financing lawsuits against himself, a situation which I don’t believe should be allowed to continue.”<sup>21</sup>

Understandably, the work the CRLA seemed financially counterproductive, at least from the perspective of government officials and many taxpayers. For farmworkers, however, CRLA

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<sup>19</sup> See author, “Defeating the Devil’s Arm: The Victory over the Short-Handled Hoe in California Agriculture,” *Agricultural History*, 89, no. 4 (Fall 2015).

<sup>20</sup> Fundraising letter from Alberto Saldamando to California communities, 1982. Box 279, Folder 1, CRLA Records, Stanford.

<sup>21</sup> Letter from Fred W. Marler Jr. to Governor Ronald Reagan, Dec. 18, 1970. Carton 29, Folder 16. CRLA Records, Stanford.

lawsuits represented the first time they had ever had a voice in shaping the policy that, in large measure, determined the kind of lives that they lived. To use Pierre Bourdieu's theory of social distinctions, the CRLA endowed farmworkers with social and cultural capital by allying them with credentialed, no-cost attorneys. The agency's Spanish-speaking community workers who reduced linguistic barriers catalyzed this attorney-farmworker relationship. Thus, in the legal realm, the CRLA removed the social and economic distinctions that had historically kept farmworkers from weighing in on policy.<sup>22</sup> In this way, LBJ's vision of a Great Society that beckoned its people toward "an end to poverty and racial injustice" came close to fruition.<sup>23</sup>

The vehement opposition of conservative California politicians, such as Senator George Murphy and Governor Ronald Reagan, helps illuminate the political and social transformation that was taking place. Try as they might to weaken, discredit, defund, and destroy the CRLA and other War on Poverty programs, they could not return their state to the good old days of the Braceros. In Bracero California, the use of guest workers had kept wages low for all, and it had contributed to a society in which farmworkers appeared when needed, harvested the crops, then largely disappeared.<sup>24</sup> The Great Society envisioned something else. The Johnson administration first ended the Bracero program in order to raise wages and create jobs. Then it set up agencies such as the CRLA to assist domestic workers. The CRLA did its job so well that Governor Reagan's administration criticized it of giving farmworkers "economic leverage equal to that existing in large corporations."<sup>25</sup> Though hardly intended as a complement, the comment

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<sup>22</sup> Pierre Bourdieu, *Distinction: A Social Critique of the Judgement of Taste*, translated by Richard Nice (Cambridge: Harvard University, 1984), 12-13, 114-115.

<sup>23</sup> Lyndon B. Johnson, "Remarks at the University of Michigan," May 22, 1964, in Bruce J. Schulman, *Lyndon B. Johnson and American Liberalism: A Brief Biography with Documents* (Boston: Bedford/St. Martin's, 2007), 193 (192-196).

<sup>24</sup> For more on the Bracero Program, see Deborah Cohen, *Braceros: Migrant Citizens and Transnational Subjects in Postwar United States and Mexico* (Chapel Hill: University of North Carolina, 2011).

<sup>25</sup> See quotation from Lewis K. Uhler in Fundraising letter from Alberto Saldamando to California communities, 1982. Box 279, Folder 1, CRLA Records, Stanford.

correctly reflected the way that the agency had leveled the playing field between farmworkers and grower organizations, which often functioned as large corporations. In many ways, this shift in the power dynamics of California's agriculture marked the beginning of a new era.

The CRLA not only helped change the system to include farmworkers, but it also encouraged farmworkers to use the system. During the late 1960s, as disillusioned minority groups around the nation turned to riots and other forms of violent protest, the presence of the CRLA in ten (and later seventeen) offices across the state of California encouraged farmworkers to trust in the law and not resort to violence.<sup>26</sup> As Mario Obledo, general counsel of the Mexican American Legal Defense Fund, declared in 1971, "For many years, the migrant was without legal services. [He] had disrespect for the law and [he] didn't have faith in the judicial system. . . . The only way he knew the courts . . . and the lawyers was when he was a defendant in a criminal case." Then, Obledo continued, "the CRLA came along and [migrants] found out that they could . . . resort to the courts and not to the streets."<sup>27</sup> CRLA Director Cruz Reynoso echoed this sentiment: "The poor whom we have represented have seen that the law can be a friend . . . [and] that the powerful, too, can be accountable."<sup>28</sup> Notably, Reynoso later served as the first Chicano justice of the California Supreme Court.

More generally, the CRLA gave farmworkers, especially youth, a new perspective of the legal system. In 1968, two University of California-Berkeley law students conducted a survey on how knowledge of the CRLA influenced farmworkers' attitude toward lawyers, courts, and

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<sup>26</sup> In succeeding years, the CRLA opened offices in Arvin, Coachella, Delano, Fresno, Oxnard, San Luis Obispo, Stockton, Vista, and Watsonville. The Gilroy and McFarland offices were closed. See "Office Listing," California Rural Legal Assistance, Inc., <https://www.crla.org/office-listing> (accessed Jan. 20, 2020).

<sup>27</sup> "The CRLA Commission Hearings," Carton 21, Folder 49, CRLA Records, Stanford.

<sup>28</sup> Fundraising letter from Alberto Saldamando to California communities, 1982. Box 279, Folder 1, CRLA Records, Stanford.

judges. In Santa Clara, San Benito, and Monterey counties, 76 percent of the Mexican American youth said that because of the CRLA, their attitude toward the legal system had improved.<sup>29</sup>

Through its legal work, the CRLA contributed significantly to the farmworker branch of the Chicano movement, which, as historian Mario T. Garcia writes, promoted the “civil rights, renewed identity, and empowerment” of Mexican Americans.<sup>30</sup> These contributions, however, are often swallowed up in the scholarship on Cesar Chavez and the United Farm Workers Union.<sup>31</sup> Understandably, the vicissitudes of the union and the authentic, albeit imperfect, leadership of Chavez, have captured scholars’ attention.<sup>32</sup> Through fasts, strikes, boycotts, and marches, Chavez and the union awoke the nation to farmworkers’ plight, and, for a time, they won favorable contracts from some growers. They were not, however, farmworkers’ only advocate, nor were they the protagonists in the legal battles over farmworkers’ civil rights.

In some ways, the role of the CRLA was similar to that of Thurgood Marshall and the attorneys of the NAACP in the early civil rights movement. Although both legal campaigns occurred in the shadows of marches, speeches, and other public protest, they won crucial victories for the movements. In his analysis of the NAACP’s fight against segregation, legal scholar Mark Tushnet argues that “litigation is a social process” that “begins well before a

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<sup>29</sup> See study by Albert F. Moreno and Philip J. Jimenez, “Do Mexican-Americans Get a ‘Fair Shake,’” Box 65, Folder 1, CRLA Records, Stanford.

<sup>30</sup> Mario T. García, *The Chicano Generation: Testimonios of the Movement* (Oakland: University of California, 2015), 2. See also, Ignacio M. García, *Chicanismo: The Forging of a Militant Ethos among Mexican Americans* (Tucson: University of Arizona, 1997), 3-18.

<sup>31</sup> Numerous historians have studied Chavez and the UFW, including: Jacques Levy, Richard Jensen, John Hammerback, Miriam Pawal, Frank Bardacke, Matt García, and Randy Shaw. In fact, Shaw goes so far as to argue that the legacy of Chavez and the UFW set the course for virtually all social justice projects that followed. Randy Shaw, *Beyond the Fields: Cesar Chavez, the UFW, and the Struggle for Justice in the 21<sup>st</sup> Century* (Berkeley: University of California, 2008), Preface and Introduction.

<sup>32</sup> For a look at Chavez’s authentic leadership, see Frank del Olmo, “Cesar Chavez Suffers for and Revives the Cause of Farm Workers’ Contracts,” *Los Angeles Times*, August 26, 1988. For a discussion of his weaknesses, including his desire for total control over the union and his growing detachment from farmworkers, see Matt García, *From the Jaws of Victory: The Triumph and Tragedy of Cesar Chavez and the Farm Worker Movement* (Berkeley: University of California, 2012) and Miriam Pawal, *The Union and Their Dreams: Power, Hope, and Struggle in Cesar Chavez’s Farm Worker Movement* (New York: Bloomsbury, 2009).

lawsuit is filed and ends well after a judgment is entered.”<sup>33</sup> Specifically, the process begins when a group of individuals agrees that a situation is unjust, and it continues throughout legal proceedings and into the future as officials grapple with implementation of court rulings. In California, CRLA litigation represented crucial steps in the process of social change in which Mexican American farmworkers won more equitable treatment from their employers and from state institutions.

One of the most significant, long-term legal campaigns of the CRLA was the fight for environmental justice. Although the agency did not use the term in the 1960s, its efforts to protect farmworker communities from environmental hazards, such as dirty drinking water or toxic pesticides, certainly fit the future definition of environmental justice. Early litigation on these matters prepared the CRLA to bring the nationwide environmental justice movement to rural California in the early 1990s through what attorney Luke W. Cole called “environmental poverty law.” This legal approach, he explained, combined traditional poverty law with environmental law to create “a new, empowering type of legal advocacy” for low-income communities. Specifically, Cole argued, agencies like the CRLA could champion “social change and social justice” by defending low-income communities from environmental hazards.<sup>34</sup> From the drinking water in Wasco onward, the CRLA developed the practice of environmental poverty law, which expanded the Chicano movement and, later, the environmental justice movement.

In this limited study, Chapter 1 will examine the federal government’s efforts to reform migrant labor in the United States, especially in California, by ending the Bracero Program and creating the CRLA. It will also look at political opposition to the CRLA and the War on Poverty

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<sup>33</sup> Mark V. Tushnet, *The NAACP’s Legal Strategy against Segregated Education, 1925-1950* (Chapel Hill: University of North Carolina, 1987), 138, 143-144.

<sup>34</sup> Luke W. Cole, “Empowerment as the Key to Environmental Protection: The Need for Environmental Poverty Law,” *Ecology Law Quarterly* 19, no. 4 (1992), 620-621, 635-636, 641.

as evidence of the political and social transformation that was taking place. Chapter 2 will address the work of the CRLA from the 1960s to the 1980s in protecting farmworkers from pesticides and other environmental hazards. Chapter 3 will look at environmental poverty law once the environmental justice movement had officially begun, and it will bring the study of the CRLA into the twenty-first century. The agency exists to this day, and its history of bold litigation, farmworker advocacy, and environmental justice stands as an unexpected legacy of the War on Poverty.



## Chapter 1

### LBJ, Governor Reagan, and the CRLA: Politics, Power, and the Poor

On June 11, 1963, in the wake of massive civil rights demonstrations and police brutality in Alabama and other southern states, President John F. Kennedy addressed the nation and called on Congress to enact legislation that would help put an end to racial inequality in the United States. “Now the time has come for this nation to fulfill its promise,” Kennedy declared. “The events in Birmingham and elsewhere have so increased the cries for equality that no city or state or legislative body can prudently choose to ignore them. The fires of frustration and discord are burning in every city, North and South, where legal remedies are not at hand.”<sup>1</sup> Although Kennedy’s call to action mainly concerned African Americans, his successor, Lyndon B. Johnson, took special interest in Mexican Americans, particularly migrant farmworkers, and he helped extend the promise of civil rights to these communities. Two of his administration’s most significant efforts in this regard involved ending the Bracero Program and creating legal service agencies, such as the CRLA in California.

A Gramscian interpretation of these reforms could label them a compromise between the State and poor rural farmworkers. Amid social unrest, Gramsci argued, the government must make small sacrifices in order to maintain the consent of the governed.<sup>2</sup> In a related analysis of agrarian reform, sociologist Jeffrey Paige argues that revolutionary change has often failed because the “upper classes have been willing to deploy their considerable economic power to

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<sup>1</sup> “John F. Kennedy, Speech on Civil Rights, 1963,” in Eric Foner, *Voices of Freedom: A Documentary History*, Vol. 2, 6<sup>th</sup> ed. (New York: W.W. Norton, 2020), 266.

<sup>2</sup> See Antonio Gramsci, *Selections from the Prison Notebooks*, edited and translated by Quintin Hoare and Geoffrey Nowell Smith (New York: International Publishers, 1971), 161 (161-168); see also, James Martin: *Gramsci’s Political Analysis: A Critical Introduction* (New York: St. Martin’s, 1998), 65-88.

subvert radical leadership and to divert revolutionary movements into reformist channels.”<sup>3</sup> To apply these perspectives to the War on Poverty, the billions of dollars that the federal government spent on poverty-reduction programs served only to subvert radical leadership and sustain a fundamentally unequal system. Though intriguing, this argument leaves no room for the possibility of true reform through the existing political and judicial system. In this case, it would underestimate the Johnson administration’s significant efforts to aid Mexican American communities, as well as the historic reforms that OEO organizations such as the CRLA enacted.

The significance of these reforms is evident in the fierce political opposition that they met with from growers, municipal authorities, state political representatives, and Governor Ronald Reagan of California. If Johnson had merely wanted to subvert the social movements of the 1960s, there certainly must have been ways to do so without estranging the political and economic leaders of the nation’s most populous state. A specific look at California’s opposition to the termination of the Bracero Program and to the CRLA is one way to appreciate the magnitude of the Johnson administration’s reforms in U.S. history. In the case of the Bracero Program, giving rights to domestic farmworkers required taking power from growers. Therefore, examining what growers and their allies lost during the War on Poverty helps illuminate what farmworkers gained. It also helps historians heed the advice of Historian David Vaught to understand growers on their own terms, rather than simply vilifying them.<sup>4</sup>

Moreover, the experience of growers helps explain the 1967 election of Governor Ronald Reagan, who tried to roll back federal reforms. Most notably, once LBJ left office, the governor

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<sup>3</sup> Jeffery M. Paige, *Agrarian Revolution: Social Movement and Export Agriculture in the Underdeveloped World* (New York: The Free Press, 1975), 49. Paige adds that, in this way, Marx “underestimated the political acumen and economic power of the upper class.”

<sup>4</sup> David Vaught, *Cultivating California: Growers, Specialty Crops, and Labor, 1875-1920* (Baltimore: Johns Hopkins University, 1999), 2. In Vaught’s words, “We have neglected to analyze the growers’ worldview with the same rigor and subtlety that has characterized many studies of farmworkers.”

tried intensely to defund and destroy the CRLA. The agency's fight for survival represents the climax of the federal-state conflict over reform in California. The Nixon administration's final decision to continue funding the CRLA preserved the legal service program in rural California and ensured that farmworkers would continue asserting their voices through the courts regarding the policy that shaped their lives. Admittedly, federal programs did not completely revolutionize agriculture in California; nevertheless, they did challenge over two centuries of farm labor tradition, and they significantly improved the lives hundreds of thousands of farmworkers.

At first blush, Lyndon Johnson's interest in Mexican American farmworkers is surprising. As numerous biographies make clear, Johnson was a secretive, insecure, prevaricating man who loved power and wealth, and, certainly, impoverished farmworkers could help him very little in the pursuit of these interests. As Robert C. Caro's work indicates, Johnson rose to power—and personal wealth—thanks to the support of the oil barons of the southwest, whom he rewarded with handsome government contracts. “Johnson,” Caro concludes, “displayed a willingness to do whatever was necessary to win: a willingness so complete that even in the generous terms of political morality, it amounted to amorality.”<sup>5</sup>

Despite this amorality, however, Johnson tried to use the high office of the president to help the poor. As he later stated, “Some men want power simply to strut around the world and to hear the tune of ‘Hail to the Chief.’ Others want it simply to build prestige.... Well, I wanted power to give things to people—all sorts of things to all sorts of people, especially the poor.” Historian Robert Dallek argues that giving to the poor assuaged Johnson's personal insecurities and satisfied his “yearning for recognition.”<sup>6</sup> At the same time, however, LBJ's desire to help the

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<sup>5</sup> Robert A. Caro, *The Years of Lyndon Johnson: The Path to Power* (New York: Knopf, 1982), xx (xiii-xxiii).

<sup>6</sup> Robert Dallek, *Flawed Giant: Lyndon Johnson and His Times, 1961-1973* (New York: Oxford University, 1998), 6.

poor reflected his own experiences. Although he was one of the richest men ever to enter the Oval Office, he had grown up as one of the poorest, in the Hill Country of central Texas. At the age of 20, he had worked as a teacher and principal in the “Mexican school” of Cotulla in the southern part of the state. Later, as an administrative aid to Congressman Richard Kleberg during the Great Depression, he witnessed the way that government aid could lift poor, rural communities to new levels of prosperity.<sup>7</sup> These experiences, combined with a desire for recognition, shaped his approach to the presidency following Kennedy’s assassination.

After assuming office, Johnson sought to expand the ideas of his predecessor or, in his words, “pull them out of the ditch.” He told his assistants, “We’ve got to use the Kennedy program as a springboard to take on the Congress, summon the states to new heights, and create a Johnson program, different in tone, fighting and aggressive.” The Great Society, as Johnson’s plan came to be known, with its accompanying War on Poverty, was a national experiment of Congressional action and aggressive government spending on programs for the poor.<sup>8</sup> Among the recipients of such federal action were Mexican Americans, whom Johnson had not forgotten since his early years in rural Texas.

As the work of Historian Julie Leininger Pycior makes clear, the relationship between LBJ and Mexican American communities was sometimes contentious, but it was a close relationship nonetheless. Throughout the 1960s, Mexican Americans formed a central part of Johnson’s political thinking.<sup>9</sup> In 1964, one of the most pressing government matters involved Public Law 78, the latest iteration of the Bracero Program. Through this bilateral agreement

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<sup>7</sup> Caro, *Path to Power*, 166-173, 241-260.

<sup>8</sup> See Irving Bernstein, *Guns or Butter: The Presidency of Lyndon Johnson* (New York: Oxford University, 1996), 131-132.

<sup>9</sup> Julie Leininger Pycior, *LBJ and Mexican Americans: The Paradox of Power* (Austin: University of Texas, 1997), xiii-xvi.

between the U.S. and Mexican governments, temporary Mexican laborers crossed the border to work in U.S. industries. In 1963, Kennedy had responded favorably to the call from the Catholic Church and labor unions to end to the program, but by that point it had become entrenched.<sup>10</sup> The program began in 1942 when U.S. businesses needed Mexican workers to fill the jobs left by military recruits. However, as Miriam Pawal writes, “the agricultural industry found this new workforce so cheap and malleable that growers successfully lobbied to extend the program long after the veterans returned home.”<sup>11</sup> The term *bracero* was derived from *brazo*, the Spanish word for arm. Bracero laborers were, in other words, nothing more than extra hands for the agricultural industry. After being fumigated with DDT at the Mexican border, they became the ideal stoop laborers, for they lacked legal recourse, they accepted low wages, they lived wherever their employers directed, and they came and went based on their employers’ needs.

Despite these deplorable conditions, hundreds of thousands of impoverished Mexican men signed up for the program year after year, enabling its longevity.<sup>12</sup> Historian Deborah Cohen argues that the program continued because of “a general convergence of economic goals” and a general vision of modernity that each party embraced.<sup>13</sup> For poor Mexican men, work in the United States, even stoop labor, meant increased earnings and a more “modern” lifestyle. In many cases, as Historian Timothy Henderson explains, these men had been landless agricultural wageworkers or small, struggling farmers in Mexico. Throughout the mid-20<sup>th</sup> century, the agricultural policies of the single-party Mexican State, including its application of Green

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<sup>10</sup> See, Alexandra Délano, *Mexico and its Diaspora in the United States: Policies of Emigration since 1848* (New York: Cambridge, 2011), 98.

<sup>11</sup> Miriam Pawal, *The Crusades of Cesar Chavez: A Biography* (New York: Bloomsbury, 2014), 54-55.

<sup>12</sup> Historian Timothy Henderson writes that “The number of *bracero* contracts granted grew from 201,280 in 1953 to 447,535 in 1959.” Henderson, *Beyond Borders: A History of Mexican Migration to the United States* (Malden, MA: Wiley-Blackwell, 2011), 90. See also Hiroshi Motomura, *Immigration Outside the Law* (New York: Oxford, 2014), 42.

<sup>13</sup> Cohen, *Braceros*, 11.

Revolution technology, favored a select number of large-scale growers.<sup>14</sup> The millions of other farmers and field workers found themselves increasingly marginalized. One obvious solution to their plight was immigration northward.<sup>15</sup> To the Mexican government, this solution had great appeal. As scholar Alexandra Délano adds, the Bracero Program represented a “safety valve ... to muffle problems related to unemployment and social tension in the country, and guarantee the entry of dollars through remittances,” which totaled \$200 million between 1954 and 1959.<sup>16</sup>

While poor Mexican citizens and the Mexican government could benefit from the Bracero Program, California growers had even more to gain. In Henderson’s words, “Undoubtedly the greatest beneficiaries of the program were precisely those individuals that the program was intended to benefit, namely large agribusiness interests, who represented only about 2 percent of all farmers in the United States.”<sup>17</sup> To these large-scale growers and their allies in government, Public Law 78 meant an abundant supply of cheap, seasonal labor that would help California agriculture modernize through farm expansion and increased production. Thus, the convergence of economic goals for Mexican workers, California growers, and government officials on both sides of the border allowed California agriculture to grow steadily in the post-war decades. By 1990, the state produced over half of the United States’ fresh produce, nuts, and

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<sup>14</sup> In the Green Revolution, the U.S. government and the Rockefeller Foundation during the mid-twentieth century sought to prevent famine, as well as communism, in strategically important nations, such as Mexico and India, by providing new farming technologies that would increase crop yield. Recent scholarship has highlighted the decisive role of local actors in this transnational endeavor. For a U.S.-centric approach, see John H. Perkins, *Geopolitics and the Green Revolution: Wheat, Genes, and the Cold War* (New York: Oxford University, 1997). For a look at more recent scholarship, see Prakash Kumar, et al, “Roundtable: New Narratives of the Green Revolution,” *Agricultural History*, 91, no. 3 (Summer 2017), 397-422.

<sup>15</sup> See Henderson, *Beyond Borders*, 61 (59-63). For example, Henderson notes that, “Six states in the north-central region of the country—not coincidentally, the states that sent the largest numbers of migrants to the United States—which contained more than a quarter of Mexico’s total population, got only 15 percent of irrigation investment.”

<sup>16</sup> Délano, *Mexico and its Diaspora*, 95.

<sup>17</sup> Henderson, *Beyond Borders*, 88. Henderson adds, “The heyday of the Bracero Program coincided with a drastic decrease in the number of family farms. The total number of farms in California declined from 137,000 to 99,000 between 1950 and 1960, while total acreage under cultivation decreased by some 313,000 acres, most of the loss being sustained by farms under 500 acres.”

processing vegetables, including some 30 million tons of fruits and vegetables each year.

Moreover, the state's agricultural industry employed approximately 881,000 seasonal workers each year, a figure that had grown steadily since the 1940s.<sup>18</sup>

The War on Poverty marked an era of federal intervention in California's leading industry. This intervention focused on domestic farmworkers, who for years had been excluded from the economic goals that united growers, officials, and temporary Bracero laborers. In California, most of these workers were Mexican Americans who had lived all or much of their lives in the United States. For them, the Bracero Program had reduced employment opportunities, kept wages low, and undercut their efforts to organize.<sup>19</sup> Throughout the 1950s, growers had used Bracero workers to break the strikes of organizations such as the National Farm Labor Union.<sup>20</sup> As the work of Miriam Pawal illustrates, grower associations in collusion with state officials perfected the practice of hiring Braceros over domestic workers. The practice was illegal, but growers found loopholes, and officials condoned it. In the late 1950s, Cesar Chavez emerged as a gifted labor leader in an Oxnard campaign to expose officials for the illegal use of Bracero laborers, and he won notable victories against some growers.<sup>21</sup> These victories foreshadowed a new wave of organized farmworker protest—one that the Johnson administration would largely support through legislation and federal programs.

Indeed, perhaps more than any president in U.S. history, Johnson and his administration took the lead in improving the situation of migrant workers. His vision of a Great Society

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<sup>18</sup> Don Villarejo, California Institute of Rural Studies, "Farm Worker Needs in California: A Report Prepared for the CRLA," Nov. 12, 1992. Carton 271, Folder 3, CRLA Records, Stanford; see also Linda Nash, *Inescapable Ecologies: A History of Environment, Disease, and Knowledge* (Berkeley: University of California, 2006), 131.

<sup>19</sup> For more on the conflict between Braceros and Mexican American field laborers, see Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University, 2004), 158-159.

<sup>20</sup> See Ernesto Galarza, *Spiders in the House and Workers in the Field* (South Bend: University of Notre Dame, 1970); see also Dionicio Nodín Valdés, *Organized Agriculture and the Labor Movement Before the UFW: Puerto Rico, Hawaii, California* (Austin: University of Texas, 2014).

<sup>21</sup> Pawal, *Crusades*, 61 (52-62).

fundamentally clashed with agribusiness's model of "modern" labor use and recruitment. As Secretary of Agriculture Orville L. Freeman wrote in 1965, "Farm labor is the most underpaid and exploited group of workers in the country.... Almost all [farmworkers] live below the poverty line, and they cannot rise out of poverty unless wages are raised."<sup>22</sup> To raise wages, the Johnson administration first urged Congress to end the Bracero Program, but this step was only the beginning. The Johnson administration also promised groups such as the Council of Mexican-American Affairs that it would create programs and do everything possible to alleviate the problems faced by citizens of Spanish surname.<sup>23</sup>

Action was forthcoming. In December of 1964, Congress decided not to renew the Bracero Program in an effort to curb the trend of exploitative farm labor and to provide better jobs for domestic farmworkers. Secretary of Labor Willard Wirtz announced the move as one of several significant victories. "The 88<sup>th</sup> Congress was a humanitarian Congress," he declared. "It passed the Civil Rights Act, ending a century of racial discrimination. It passed the Anti-Poverty Bill, declaring war on mankind's oldest enemy.... It also decided to stop the 'Mexican bracero program,' ending ... a system that had too often disregarded human values."<sup>24</sup>

While Congress had full authority to terminate Public Law 78, the Bracero Program died hard in agricultural states such as Florida, Texas, Arizona, and, especially, California.<sup>25</sup> As Congress's decision took effect, dozens of town and county boards of supervisors throughout

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<sup>22</sup> Memo from Orville L. Freeman to Lyndon B. Johnson, Apr. 21, 1965. Box 17: Labor (GEN LA 3 4/9/66); Folder: LA 5 Migratory-Seasonal Labor 11/22/63-6/2/65. LBJ Library.

<sup>23</sup> See, Letter from Hobart Taylor, Jr. to Carlos F. Borja, Jr., July 23, 1964. Box 29: Human Relations; Folder: HU2/ST5 11/22/63-8/19/65. LBJ Library.

<sup>24</sup> "Press Release by Willard Wirtz on the Termination of Public Law No. 78, Dec. 19, 1964," Box 18: Labor (GEN LA 5 10/1/64; Folder: LA 5 Migratory Labor—Seasonal Labor, 10/1/64-12/25/64; LBJ Library.

<sup>25</sup> While scholars such as Richard B. Craig, Henry P. Anderson, Ana Elizabeth Rosas, and Deborah Cohen have studied various aspects of the Bracero Program, including foreign policy, transnational families, worker agency, and the promise of modernity, the contentious end of the program has not received significant attention in recent scholarship, yet it is a crucial component of the War on Poverty for Mexican American communities.



California issued resolutions that asserted the necessity of foreign laborers for local economies.<sup>26</sup>

At all levels, growers and their many allies protested the end of Public Law 78. The closeness between agribusiness and politics is evident in their letters. “Dear Wayne,” wrote the owners of the Pinnacle Packing Company of Medford, Oregon, to Senator Wayne Morse, “if the [vegetable] producers [of the United States] do not have some assurance regarding harvest labor, they will not plant the crops.”<sup>27</sup> With similar closeness, the growers of Santa Maria Berry Farms wrote to California Assemblyman Winfield Shoemaker in 1965: “Dear Win ... No other industry we have ever heard of [has] been forced to go through what we have this year, and this situation was forced on us by our officials in Washington and the State.”<sup>28</sup>

Not only were growers on a first-name basis with their officials, but these officials, in many cases, forwarded growers’ letters to the president himself. “Dear President Johnson,” wrote Shoemaker, “Enclosed is a letter from one of my constituents. I hope that you can help me answer the questions which he raises.”<sup>29</sup> Other officials did the same.<sup>30</sup> Furthermore, many officials wrote the president of their own accord to defend the Bracero Program. In late 1964 Congressman George Mahon of Texas wrote, “The boys in the Department of Labor have made it pretty hard on farmers by requiring some rather burdensome restrictions on the importation of bracero labor.... I do not mean to be unkind, but the Department of Labor, as you know, works for labor and is not too concerned about farmers.” A better solution, Mahon reasoned, would be

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<sup>26</sup> See, for example, the resolutions of the Boards of Supervisors from Yuba, Riverside, Madera, Solano, Monterey, San Bernardino, Santa Cruz, Santa Barbara, and San Diego Counties; see also the resolutions from the city councils of Woodland, Coachella, and others. Box 18: Labor (GEN LA 5, 10/1/1964); Folder: LA 5 Migratory Labor-Seasonal Labor 10/1/64-12/25/64. LBJ Library.

<sup>27</sup> Letter from H.B. Murphey to Senator Wayne Morse, July 6, 1964. Box: 429 Gen FG 818; Folder: FG 999 Proposed Depts., Agencies, Boards, Commissions 8/16/64-10/31/64. LBJ Library.

<sup>28</sup> Letter from Robert P. Sheehy to Winfield Shoemaker, Nov. 1, 1965. Box 19: Labor, GEN LA 5, 8/27/65; Folder: LA 5 Migratory Labor-Seasonal Labor, 8/27/65-3/28/66. LBJ Library.

<sup>29</sup> Letter from Winfield A. Shoemaker to Lyndon B. Johnson, Nov. 3, 1965. Box 19: Labor (GEN LA 5, 8/27/65); Folder: LA 5 Migratory Labor-Seasonal Labor, 8/27/65-3/28/66. LBJ Library.

<sup>30</sup> In the archival folders, the letters to the president accompany the growers’ original letters to their officials.

to simply raise wages for all farmworkers.<sup>31</sup> Such a solution would have fit Gramsci's notion of a government concession to the working classes in order to preserve the existing system. Yet the Johnson administration had more drastic changes in mind. It wanted to fundamentally reform the existing labor system, even if doing so meant angering the nation's leading food producers.

Ironically, as growers painted themselves as victims of harsh federal policy, the barrage of letters in their favor that reached the Oval Office illuminated one of the very problems that the federal government was trying to address, namely the voicelessness of domestic farmworkers. Far fewer letters arrived in favor of workers, for these individuals, in contrast to their employers, had few friends in high places. Some of their only advocates were religious groups, many of which had long protested the Bracero Program.<sup>32</sup> Upon termination of the program, Reverend James Vizzard, director of the National Catholic Rural Life Conference, wrote the president to express support. "The *most* voiceless and voteless citizens in this land are migratory farm workers," he declared. "It is no wonder, then, that until recently their many urgent needs have been legislatively ignored. But the record of the 88<sup>th</sup> Congress proves that they are being ignored no longer."<sup>33</sup> Besides religious groups, labor unions had also protested the Bracero Program because it lowered wages and glutted the labor market. Andrew Biemiller of the AFL-CIO called it "imported colonialism."<sup>34</sup> Similarly, when the program ended, Walter P. Reuther of the AFL-CIO wrote the president to express thanks, arguing that the program had resulted in "utilization of poor Mexicans to still further impoverish poor Americans."<sup>35</sup>

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<sup>31</sup> Letter from George Mahon to Lyndon B. Johnson, Nov. 6, 1964. Box 18 Labor (GEN LA 5 10/1/64); Folder LA 5 Migratory Labor-Seasonal Labor, 10/1/64-12/25/64. LBJ Library.

<sup>32</sup> See, Pawal, *Crusades*, 55.

<sup>33</sup> Rev. James L. Vizzard, "Meeting the Needs of Migrant Workers," Nov. 17, 1964. Box 18: Labor, Gen LA 5, 10/1/1964; Folder: LA 5 Migratory Labor—Seasonal Labor 10/1/64-12/25/64. LBJ Library; emphasis in original.

<sup>34</sup> Andrew Biemiller, quoted in Ngai, *Impossible Subjects*, 166.

<sup>35</sup> Letter from Walter P. Reuther to President Lyndon Johnson, Oct. 27, 1964. Box 18: Labor (GEN LA 5, 10/1/1964; Folder: LA 5 Migratory Labor-Seasonal Labor 10/1/64-12/25/64. LBJ Library.

While fewer voices spoke out in defense of farmworkers, LBJ and his cabinet made it clear that these were the voices they agreed with. “One of the goals of the Great Society,” Johnson explained, “is to guarantee all Americans the dignity and economic security that flow from the full use of their talents. The termination on December 31, 1964, of Public Law 78 marked an important milestone in our efforts to find jobs for more Americans. It also signaled the end of a system that all too often ignored basic human values.”<sup>36</sup> As growers and their allies protested the end of the Bracero Program, the Johnson administration, especially Secretary Wirtz, repeatedly reiterated this perspective.<sup>37</sup>

Growers, however, did have one legitimate question: who now would bring in the crops? After more than two decades of a foreign labor program that operated under the aegis of the federal government, many farms in California and other states had become dependent on Bracero labor.<sup>38</sup> Now, the government was not providing these workers and referring rather vaguely to Americans who needed work. As harvest seasons arrived in 1965, Secretary Wirtz became the point man for grower frustration. Charles B. Shuman, president of the America Farm Bureau Federation, charged that fruit and vegetable “prices are being forced up by a government-created labor shortage which has increased farm costs and made it impossible to harvest a normal crop.” In his brief statement, Shuman accused Wirtz five times of causing the problems. “Secretary Wirtz,” he stated, “not only is injuring consumers, but also is doing irreparable harm to farmers

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<sup>36</sup> Letter from Lyndon B. Johnson to Reverend Cameron P. Hall, Apr. 17, 1965. Box 17: Labor (GEN LA 3 4/9/66); Folder: LA 5 Migratory-Seasonal Labor 11/22/63-6/2/65. LBJ Library.

<sup>37</sup> See, for example, Letter from Elmer B. Staats to Wayne Morse, Oct. 27, 1964. Box 429 Gen FG 818; Folder: FG 999 Proposed Depts., Agencies, Boards, Commissions, 8/16/64-10/31/64. LBJ Library.

<sup>38</sup> Historian Mae M. Ngai argues that the Bracero Program was fizzling out on its own, thanks to mechanization of cotton and tomato harvests in the 1960s. In her words, “American agribusiness found itself far less dependent upon imported contract labor.” This claim does not take into account growers’ intense lobbying for the reinstatement of the program throughout 1965, nor does it acknowledge growers’ continued dependence on foreign labor to harvest celery, cantaloupe, citrus fruit, berry, and many other crops. See Ngai, *Impossible Subjects*, 165-166.

[who are] being forced to plow up crops which consumers want.”<sup>39</sup> In a similar vein, Congressman John F. Baldwin of California forwarded LBJ a letter from a constituent and argued that “instead of the U.S. Secretary of Labor encouraging domestic employment, he is literally encouraging the destruction of markets for domestically-produced row crops such as tomatoes, strawberries, asparagus, lettuce, etc.”<sup>40</sup> In an even more vitriolic tone, a San Francisco growers association wrote the president to complain of “an agricultural crisis that is being [compounded] by idiotic handling by the Department of Labor.”<sup>41</sup>

Senator George Murphy was one of Wirtz’s most outspoken critics. “Substantial losses will result from the shortage of field labor to harvest California crops this year,” he wrote in 1965. “Secretary Wirtz[’s] failure to understand the situation and therefore make a proper decision will result in a great loss to the country.”<sup>42</sup> Murphy also stated, “It is time to stop theoretical experiments and institute practical solutions; otherwise California specialty crop industry will be destroyed.”<sup>43</sup> In less scripted statements, Murphy said that Wirtz should be fired.<sup>44</sup> Other members of Congress, such as Representative James B. Utt of Orange County, California, echoed this sentiment.<sup>45</sup>

Through it all, Wirtz remained committed to the Johnson administration’s vision for a different farm labor system, and he responded to critics with polite firmness. Often, he took issue

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<sup>39</sup> Press Release, Charles B. Shuman, President of the American Farm Bureau Federation, May 30, 1965. Box 17: Labor (GEN LA 3 4/9/66); Folder: LA 5 Migratory-Seasonal Labor 11/22/63-6/2/65. LBJ Library.

<sup>40</sup> Letter from John F. Baldwin to Lyndon B. Johnson, June 15, 1965. Box 18: Labor (GEN LA 5, 10/1/1964); Folder: LA 5 6/24/65-8/26/65. LBJ Library.

<sup>41</sup> Telegram from Mendelson Zeller Co. Inc. to Lyndon B. Johnson, May 29, 1965. Box 18: Labor (GEN LA 5, 10/1/1964); Folder: LA 5 5/21/65-6/4/65. LBJ Library.

<sup>42</sup> Telegram from Senator George Murphey to the Johnson Administration, Aug. 31, 1965. Box 19: Labor (GEN LA 5 8/27/65); Folder: LA Migratory Labor-Seasonal Labor 8/27/65-3/28/66. LBJ Library.

<sup>43</sup> Telegram from Senator George Murphy to the Secretary of Agriculture, Aug. 23, 1965. Box 19: Labor (GEN LA 5 8/27/65); Folder: LA Migratory Labor-Seasonal Labor 8/27/65-3/28/66. LBJ Library.

<sup>44</sup> Letter from Larry O’Brien to Lyndon B. Johnson, May 11, 1965, Box 17: Labor (GEN LA 3 4/9/66); Folder: LA 5 Migratory-Seasonal Labor 11/22/63-6/2/65. LBJ Library.

<sup>45</sup> See “Wirtz Attack Stirs Hot Debate,” *Woodland Daily Democrat*, May 1965; the exact date of the article is not visible. Box 18: Labor (GEN LA 5 10/1/64); Folder: LA 5 5/21/65-6/4/65. LBJ Library.

with their dramatic claims. While some harvests did indeed suffer from labor shortages, many reports of fruit rotting in the field were exaggerated. In response to Congressman Utt's claim that there was absolutely no domestic labor, Wirtz provided examples of such workers and tersely stated, "I hope you will feel that the developments of the past two months warrant a somewhat different assessment of this situation."<sup>46</sup> To other critics, Wirtz explained that his department, working with the California Department of Employment, was "conducting an intensive domestic recruitment program," and that he had appointed a California Farm Labor Panel to investigate ... the present situation and make recommendations."<sup>47</sup>

Despite his many critics, Wirtz proved quite reasonable in his approach to actual labor shortages. As Secretary of Labor, he had the prerogative to authorize the entry of temporary workers on a case-by-case basis, and he used this authority several times from 1965 through 1967.<sup>48</sup> After touring Florida's citrus industry in the spring of 1965, he approved temporary offshore workers from the Caribbean, but he made the workers' food, housing, and medical insurance a point of emphasis.<sup>49</sup> In California, he approved workers from Mexico for several harvests. While Wirtz made it clear that the Bracero Program was finished, these exceptions were designed to help growers shift from foreign to domestic labor.

Such a transition proved difficult, however, because the Johnson administration's domestic recruitment plan largely failed. While Mexican Americans continued working in the

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<sup>46</sup> Letter from W. Willard Wirtz to James B. Utt, July 12, 1965. Box 18: Labor (GEN LA 5 10/1/1964); Folder: LA 5 6/24/65-8/26/65. LBJ Library.

<sup>47</sup> See Letter from W. Willard Wirtz to Monterey County Board of Supervisors, Apr. 27, 1965. Box 18: Labor (GEN LA 5, 10/1/1964); Folder: LA 5 4/7/65-4/30/65. LBJ Library; for Wirtz's letters to his many critics, see all the folders in Box 18.

<sup>48</sup> Memorandum from Arthur M. Okun, to Lyndon B. Johnson, May 27, 1966. Box 17: Labor (GEN LA 3 4/9/66); Folder: LA 5 1/22/66-. LBJ Library.

<sup>49</sup> See "Bouquet for Labor Secretary Wirtz," *Orlando Sentinel*, Apr. 17, 1965; see also, Letter from Benjamin H. Oehlert, Jr., president of Minute Maid Company, to Lee C. White, Apr. 20, 1965. Box 18: Labor (GEN LA 5 10/1/1964); Folder: LA 5 4/7/65-4/30/65. LBJ Library.

fields, other domestic workers did not fill jobs left by Braceros as Johnson and Wirtz had predicted. Perhaps the greatest weakness in Johnson's vision for reformed migratory labor was an underestimation of the actual difficulty and stigma of field work—something that growers understood, even if they did not regularly engage in the work. Throughout the debates over Public Law 78, supporters of the Great Society had argued that if growers would only raise wages and improve working conditions, they would have plenty of willing domestic workers. As Walter Reuther of the AFL-CIO said, “let the agricultural employers pay a living wage and there will be no labor deficit.”<sup>50</sup> Such predictions proved naïve. Those who were familiar with field work—the bugs, heat, sweat, dirt, aches, itches, and fatigue—had a less pleasant but ultimately more realistic prediction of agriculture without Braceros. As one elderly California resident had written to Johnson in 1964, “Never forbid the Mexicans from coming across the border to do farm labor. Natives aren't going to do this work, believe me.”<sup>51</sup> Similarly, Congressman Mahan had reported that “farmers just cannot get native citizens to do [field work].”<sup>52</sup>

Growers' experiences, in large measure, confirmed these statements. In Florida, citrus growers pointed out that for years they had tried to recruit domestic workers instead of bringing in foreigners, but domestic laborers lacked spunk and often walked off the job. In one grower's experience, of 758 domestic workers recruited one season, only 561 (74%) remained after the first week. After three weeks, only 405 (53%) remained, and after eight weeks, only 206 (27%) remained.<sup>53</sup> These statistics ignored the fact that domestic workers enjoyed greater freedom of movement than foreign workers. In other words, walking off the job was easier for domestic

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<sup>50</sup> Letter from Walter P. Reuther to President Lyndon Johnson, Oct. 27, 1964. Box 18: Labor (GEN LA 5, 10/1/1964; Folder: LA 5 Migratory Labor-Seasonal Labor 10/1/64-12/25/64. LBJ Library.

<sup>51</sup> Telegram from Andrew Jackson Covington to Lyndon B. Johnson, Apr. 12, 1964. Box 17: Labor (GEN LA 3 4/9/66); Folder LA 5 Migratory-Seasonal Labor 11/23/63-8/10/64. LBJ Library.

<sup>52</sup> Letter from George Mahon to Lyndon B. Johnson, Nov. 6, 1964.

<sup>53</sup> See “A Case History of Failure and Losses to Florida Agriculture,” 1965. Box 18: Labor (GEN LA 5, 10/1/1964); Folder LA 5 (4/3/65-6/6/65). LBJ Library.

workers than for foreign workers. Nevertheless, it became increasingly clear that domestic workers simply did not want to do field work, with or without wage increases. In California in late 1965, Robert Sheehy, Vice President of Santa Maria Berry Farms, declared, “We have tried the housewives, the school dropouts, the juvenile delinquents, and the Puerto Ricans and have managed to get through the year.”<sup>54</sup> The following year, the Stockton Growers Group reported, “We have already found ... that a substantial increase in wages, an exceptionally high yielding season, and numerous concessions to the worker in the way of food, management, living conditions, and various ways of computing units ... is not enough to induce [white Americans] to do the job. The growers, at this point, have no additional inducements to offer.”<sup>55</sup>

Anglo-Americans’ lack of interest in field work should have come as no surprise, especially in California. Since the era of the Spanish missions, the agricultural industry had been hierarchical, and individuals of an inferior racial or social status had performed the stoop labor. In some cases, racist descriptions of workers’ physical traits were used to justify their recruitment for the back-breaking wage-work. In the latter half of the 1800s, as Richard Street has noted, Chinese workers “were repeatedly said to be ‘naturally well-suited’ to . . . stoop labor.” The *San Francisco Wine Merchant* wrote, “the little Chinaman . . . grows close to the ground, so does not have to bend his back like a large white man.” With “supple” fingers and “stolid industry and genius for plodding,” “little brown men” were able to “squirm,” “slither,” “squat on their haunches,” and “bend . . . to a painful angle.”<sup>56</sup> A century later, politicians such as George Murphy parroted the sentiment with regard to Mexican American workers. “You have

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<sup>54</sup> Letter from Robert P. Sheehy to California Assemblyman Winfield Shoemaker, Nov. 1, 1965. Box 19: Labor, GEN LA 5, 8/27/65; Folder: LA 5 Migratory Labor-Seasonal Labor, 8/27/65-3/28/66. LBJ Library.

<sup>55</sup> Letter from Stockton Growers Group, Inc. to Senator George Murphy, Apr. 24, 1966. Box 19: Labor (GEN LA 5 8/27/65); Folder: LA Migratory Labor-Seasonal Labor 3/29/66-9/12/66. LBJ Library.

<sup>56</sup> *San Francisco Wine Merchant* 17 (June 10, 1887), 53; quoted in Street, *Beasts of the Field*, 316.

to remember that Americans can't do [field work]," he declared, "It's too hard. Mexicans are really good at that. They are built low to the ground, you see, so it is easier for them to stoop."<sup>57</sup>

While certainly not all white Americans accepted Murphy's racist perspective on agricultural labor, most did seem to find field work anathema. Indeed, despite its efforts to recruit domestic workers, the Johnson administration could not change the two-hundred-year history of racialized agricultural labor in California. Ultimately, this shortcoming in Johnson's vision contributed to increased immigration of undocumented workers. As Historian Ana Raquel Minian points out, "between 1970 and 1977, the number of Mexicans apprehended by the INS [Immigration and Naturalization Service] more than tripled, rising from 277,377 in 1970 to almost 1 million in 1977."<sup>58</sup> Notably, undocumented immigration of field workers had always paralleled the Bracero Program. As Ronald Mize and Alicia Swords explain, growers near the border often preferred to "recruit Mexican laborers directly and avoid the bureaucratic channels of the Bracero Program."<sup>59</sup> Workers evidently liked to dodge the bureaucracy as well. The end of the Public Law 78 simply eliminated the main authorized channel for Mexican immigrant laborers and forced them into the unauthorized channels, catalyzing a flow of undocumented workers that neither Johnson nor any succeeding president could control.

For their part, growers throughout the mid-1960s grew increasingly frustrated with the War on Poverty. After one year without Bracero laborers, agribusiness corporations and their political allies tried to transfer the authority to import foreign labor from the Department of Labor to the Department of Agriculture in hopes that the latter department would be more

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<sup>57</sup> See, Ruben Salazar, "Murphy Statement," in *Border Correspondent: Selected Writings, 1955–1970* (Berkeley: University of California, 1995), 153.

<sup>58</sup> Ana Raquel Minian, *Undocumented Lives: The Untold Story of Mexican Migration* (Cambridge: Harvard University, 2018), 30-31; see also, Délano, *Mexico and its Diaspora*, 99-100; and Ngai, *Impossible Subjects*, 257.

<sup>59</sup> Ronald L. Mize and Alicia C.S. Swords, *Consuming Mexican Labor: From the Bracero Program to NAFTA* (North York: University of Toronto, 2011), 40; see also Motomura, *Immigration*, 38-40.



sympathetic to grower interests. The effort was defeated by one vote in the Senate.<sup>60</sup> In California, grower frustration manifested itself in waning support for Governor Edmund (“Pat”) Brown. While Brown had done little of his own accord to help migrant farmworkers, he by and large supported the Johnson administration’s policies.<sup>61</sup> In hindsight, it appears that Brown tried to walk a fine line between keeping growers happy and supporting the Great Society, but, in the end, he failed to straddle the fence and came down on Johnson’s side. In late 1965, Brown wrote the president to thank him for the funding from the Economic Opportunity Act, which had allowed the California government to provide migrant farmworkers with temporary housing, day care services, compensatory education, health care, and improved field sanitation. “I particularly appreciate the efforts you have made in behalf of these remarkable people,” he wrote. “You have already brought about an improvement in their opportunity to find work and have made their migration more dignified and comfortable.”<sup>62</sup>

Governor Brown’s acceptance of Johnson’s programs did not sit well with growers or their allies. This same year, the Santa Maria Valley Farmers Association wrote their Chamber of Commerce regarding the governor: “Dear Bob ... It appears that Gov. Brown and his advisors are determined to force all the mis-fits, the social problem people on the Growers before he will consent to the importation of any qualified workers.”<sup>63</sup> Several California politicians shared this sentiment. In May 1965, before the House of Representatives, Congressman James Utt accused

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<sup>60</sup> See Letter from Thos. L. Pitts (Secretary-Treasurer, AFL-CIO) to President Lyndon Johnson, Sep. 22, 1965. Box 19: Labor (GEN LA 5, 8/27/65); Folder: LA 5 Migratory Labor-Seasonal Labor 8/27/65-3/28/66. LBJ Library.

<sup>61</sup> In the spring of 1966, Cesar Chavez and the UFW had marched 300 miles from Delano to Sacramento with the end goal of meeting with Governor Brown. The governor snubbed them. See Miriam Pawal, *The Browns of California: The Family Dynasty that Transformed a State and Shaped a Nation* (New York: Bloomsbury, 2018), 237; Lou Cannon, *Governor Reagan: His Rise to Power* (New York: Public Affairs, 2003), 8-9, 159.

<sup>62</sup> Letter from Edmund G. Brown to Lyndon Johnson, Dec. 21, 1965. Box 19: Labor (GEN LA 5 8/27/65); Folder: LA 5 Migratory Labor-Seasonal Labor 8/27/65-3/28/66. LBJ Library.

<sup>63</sup> Letter from Santa Maria Valley Farmers Association to Bob Seavers, Feb. 18, 1965. Box 18: Labor (GEN LA 5 10/1/64); Folder: LA 5 3/10/65-4/2/65. LBJ Library.

Brown of “criminal waste and neglect” and called for impeachment of the governor.<sup>64</sup> In response to such action, Congressman Robert Leggett observed that “Governor Brown could be the real casualty [of federal policy] in spite of his effort to protect the growers.”<sup>65</sup>

So he was. In the gubernatorial elections of November 1966, Ronald Reagan defeated Pat Brown by a wide margin. Of course, agricultural labor was not the only topic at hand. As journalist Lou Cannon notes, after two terms in office, Governor Brown had suffered the usual eroding of his support base. Moreover, his tax-and-spend policies had led to a budget deficit, and for months he had appeared hapless before the increasingly militant conflict known as the Berkeley Free Speech Movement. He also lost political capital during the Watts riots.<sup>66</sup> Amid these challenges, Ronald Reagan emerged as a skilled, intelligent politician who not only offered solutions to the state’s problems, but also capitalized on conservative backlash to civil rights reforms. As a 1966 political survey indicated, Californians’ chief concern was welfare. Reagan, therefore, pointedly criticized incumbent Brown for doing “more and more for those who desire to do less and less.”<sup>67</sup> He further articulated an anti-welfare response to the liberalism of LBJ’s War on Poverty. “We represent the forgotten American,” he wrote, “—that simple soul who goes to work, bucks for a raise, takes out insurance, pays for his kids’ schooling, contributes to his church and charity and knows that there just *‘ain’t no such thing as a free lunch.*”<sup>68</sup>

With respect to farmworkers, Reagan’s argument that government aid was supporting do-nothings could not have been more absurd. Regardless of any government aid that farmworkers

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<sup>64</sup> See, “Wirtz Attack Stirs Hot Debate,” *Woodland Daily Democrat*, May 1965; the exact date of the article is not visible. Box 18: Labor (GEN LA 5 10/1/64); Folder: LA 5 (5/21/65-6/4/65). LBJ Library.

<sup>65</sup> Letter from Robert L. Leggett to Lawrence F. O’Brien, May 20, 1965. Box 18: Labor (GEN LA 5 10/1/64); Folder: LA 5 (5/21/65-6/4/65). LBJ Library.

<sup>66</sup> Cannon, *Governor Reagan*, 3-9, 160-161.

<sup>67</sup> See, Report by Marianne Means, Oct. 15, 1966. Box: 33 EX PL-ST 5 (6/15/64-9/30/64); Folder: PL/ST 5 (9/8/66-4/8/67). LBJ Library.

<sup>68</sup> “The Republican Party and the Conservative Movement,” *National Review*, Dec. 1, 1964; emphasis in original, quoted in, Cannon, *Governor Reagan*, 132.

may have received, if the end of the Bracero Program had proven one thing it was that field workers engaged in some of the most difficult work in the nation—so difficult, in fact, that white Americans, whom Reagan touted for their work ethic, would not do it. George Murphy himself had said that field work was too difficult for Anglo-Americans. The inconsistency in the conservative stance on farmworkers and welfare perpetuated one of oldest strains of hypocrisy in U.S. history: established citizens had no qualms about accepting large numbers of immigrants and their children to do the nation's most difficult work, but, at the same time, they had no compunction about accusing and resenting the immigrants who came to do it.<sup>69</sup> Despite the inconsistency, Reagan's general stance on government spending resonated with a majority of California residents. As Governor Brown insightfully observed in a letter to Johnson just before leaving office, "A large percentage of the population doesn't relate to the national government's effort [to build a Great Society].... They seem to think this is being done only for *other* people at *their* expense."<sup>70</sup> This perception, which arguably increased as the decade wore on, helped explain why Reagan had swept the gubernatorial election.

While Johnson largely failed to change the racialized labor hierarchy in U.S. agriculture and to convince mainstream America that the War on Poverty was for all, he continued seeking ways to improve the lives of Mexican American citizens. In June of 1967, he created the Inter-Agency Committee on Mexican American Affairs and named as chairman Vicente Ximenes, a civil rights leader from southern Texas. To the new committee, Johnson prescribed a mandate to

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<sup>69</sup> One notorious example of such inconsistency in U.S. history involves Chinese immigrants who, even as they built the transcontinental railroad and made California agriculture into an empire, were treated with intense bigotry and eventually excluded from immigration altogether. See, Beth Lew-Williams, *The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America* (Cambridge: Harvard University, 2018). Another example involves Dust Bowl refugees in California agriculture. In the words of one migrant, as recorded by John Steinbeck, "When they need us they call us migrants, and when we've picked their crop, we're bums and we got to get out." See Steinbeck, *The Harvest Gypsies* (1936), In Foner, *Voices of Freedom*, 165 (163-165).

<sup>70</sup> Letter from Edmund Brown to Lyndon Johnson, Dec. 30, 1966; emphasis in original. Box: 33 EX PL-ST 5 (6/15/64-9/30/64); Folder PL/ST 5 (9/8/66-4/8/67). LBJ Library.

“assure that Federal programs are reaching the Mexican Americans and providing the assistance they need” and to “seek out new programs that may be necessary to handle problems that are unique to the Mexican American community.”<sup>71</sup> That fall, the Committee held hearings in El Paso, Texas, at which thousands of Mexican Americans made their interests known to the federal government. In his speech, Johnson praised this group for its perseverance and spoke hopefully of the future.<sup>72</sup> With regard to farmworkers, the hearings revealed several steps to improve their situation, among them requiring farm employers who received government assistance to “pay a living wage,” setting a minimum wage for sugar beet workers, and phasing out the Bracero program entirely.<sup>73</sup> Scholar Michelle Hall Kells writes that these hearings “offered a valuable and effective model for negotiating national policy making within U.S. political structures.” As such, they merit “inclusion in the historical record of major U.S. civil rights achievements.”<sup>74</sup>

As the hearings revealed, however, the Bracero Program was still hanging on three years after its official termination. Given the shortage of field workers season after season, the Department of Labor had been obligated to continue authorizing entry of foreign laborers in limited numbers. The real nail in the coffin for the program came in an unexpected form: a lawsuit against the federal government from a legal services agency that the federal government had just created, namely the California Rural Legal Assistance. With this surprising but effective action, the agency made its national debut in the civil rights movement for Mexican American and Latino citizens.

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<sup>71</sup> See Letter from Vicente T. Ximenes to Joseph Califano, Dec. 17, 1967. Box: 386 (Ex FG 686A); Folder FG 687 Interagency Committee on Mexican American Affairs (11/22/63-12/31/67). LBJ Library.

<sup>72</sup> See Memo from Julia T. Cellini to Will Sparks, Dec. 19, 1967. Box: 386 (Ex FG 686A); Folder FG 687 Interagency Committee on Mexican American Affairs (11/22/63-12/31/67). LBJ Library.

<sup>73</sup> Memo from Vicente T. Ximenes to Lyndon B. Johnson, 1968. Box: 386 (Ex FG 686A); Folder: RG 687 Interagency Committee on Mexican American Affairs 1/1/68-. LBJ Library.

<sup>74</sup> Michelle Hall Kells, *Vicente Ximenes, LBJ's Great Society, and Mexican American Civil Rights Rhetoric* (Carbondale: Southern Illinois University, 2018). 214 (180-214).

Specifically, in the fall of 1967, the CRLA sued the Department of Labor in federal court for authorizing the entry of 8100 Mexican workers. As CRLA attorneys charged, growers had not only overlooked these attorneys' Mexican American clients, but they had actively discouraged these domestic workers by refusing to offer them minimum wages and written contracts and by "excluding [them] from local housing in order to retain such housing for braceros." CRLA lawyers further charged that growers' blanket requirement that all employees be able to lift sixty pounds discriminated against domestic female workers, who, according to state law at the time, could only be required to lift twenty-five pounds. By the late 1960s, approximately one-third of all field workers were female, but many growers preferred the all-male ranks of the Braceros.<sup>75</sup> At first blush, a lawsuit against specific growers may have seemed more logical than a lawsuit against the Department of Labor, which, in general, was a fellow ally of farmworkers. On many matters, however, the CRLA demonstrated a proclivity for suing the entity in the highest position of authority. More importantly, in this case, the agency surely foresaw less resistance from the Department of Labor than from any sector of California's agricultural industry. Indeed, in response to the CRLA's suit, Secretary Wirtz quickly rescinded the authorization for more Braceros and told California growers to hire the domestic workers.

The frustration of California's agribusiness sector with the federal government, which had already reached a historic high, rose even more. In an effort to subvert Wirtz's instructions, the Madera Union School District postponed the first day of school so that high school students could work in the fields. The CRLA nipped the plan in the bud by suing the school board and

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<sup>75</sup> "Braceros in California: Summary of the CRLA Brief to the Department of Labor," Sep. 19, 1967. Carton 174, Folder 4, CRLA Records, Stanford. Since the Bracero Program was only available to Mexican men, it contributed to the male-oriented nature of California farm labor. The litigation of the CRLA in this and other cases helped protect the rights of Mexican and Mexican American women who wished to work in the fields.

several employers.<sup>76</sup> These growers and their allies were irate. Congressman B.F. Sisk of California wrote to the president and threatened to “take this matter to the Congress unless the intractable positions of the Department of Labor and OEO are reversed.” In an equally threatening tone, he added, “I cannot stand idly by while the Federal Government kicks my farmers around.”<sup>77</sup> In the same vein, Governor Reagan argued that the CRLA needed to be defunded. Yet despite such opposition, the Johnson administration remained resolute. In some ways, Secretary Wirtz appeared grateful that the agency had given him a reason to end the Bracero Program completely.

The CRLA’s bold action garnered significant support from California society. In telegrams to the president from dozens of civil servants, private organizations, and Latino organizations, citizens argued that congressional attacks on the CRLA constituted “attempted political interference with the legal representation of indigent persons,” and ending such representation would “encourage [the poor] to resort to other, non-legal means.”<sup>78</sup> As one supporter wrote in a letter to president Johnson, “Whatever CRLA does it is doing in the courts. If they are wrong, they will lose in the courts.” If the agency were defunded, he continued, “the only alternative for the farm workers, it would seem, is similar to that which slum dwellers in the cities have resorted to.”<sup>79</sup> The CRLA’s suit over Bracero laborers illuminated the potential of the federal government’s legal service program to achieve significant reforms through the existing political structure.

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<sup>76</sup> See Letter from Congressman Bernie Sisk to Lyndon Johnson, Sep. 22, 1967. Box 19: Labor (GEN LA 5 8/27/65); Folder: LA 5 6/11/67-1/31/68. LBJ Library.

<sup>77</sup> Ibid.

<sup>78</sup> See telegrams to the president from groups in Los Angeles, California, Sep. 22, 1967. Box 19: Labor (GEN LA 5 8/27/65); Folder: LA 5 (6/11/67-1/31/68). LBJ Library.

<sup>79</sup> Letter from Richard Michaels to President Lyndon Johnson, Sep. 26, 1967. Box 43: General Welfare; Folder: WE 9 (9-21-67 to 10-17-67). LBJ Library.

At the same time, the suit immediately earned the CRLA a host of political enemies, especially Governor Ronald Reagan. But the agency did not back down. This same year, it prevented Reagan from removing nearly 1.5 million people from California’s medical-assistance program.<sup>80</sup> The following year, it forced the governor to accept that there *was* such a thing as a free lunch—and it would be provided by his administration. Through its “hunger suits” from 1968 to 1970, the CRLA forced the California Department of Agriculture to distribute surplus commodities to needy families and to low-income school children.<sup>81</sup> Speaking of these cases against the state government, conservative journalist Amity Shlaes writes, “These were not mere thorns in the governor’s side. They were body blows.”<sup>82</sup> Understandably, Governor Reagan hit back, but, as the CRLA found out, he played dirty. In the political and legal battle that ensued between the Reagan administration and the CRLA, legal aid to tens of thousands of poor rural farmworkers hung in the balance, as did the legacy of the War on Poverty in California.<sup>83</sup>

By the late 1960s, gubernatorial opposition to federally mandated civil rights reform was nothing new. In 1957, Governor Orval Faubus of Arkansas tried to defy President Dwight D. Eisenhower’s executive order to desegregate Little Rock Central High School.<sup>84</sup> Six years later, Governor George Wallace notoriously blocked the Foster Auditorium of the University of

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<sup>80</sup> “See “Poverty Law: Threat to the Ombudsmen,” *Time Magazine*, Chicago, Illinois, Nov. 7, 1969. Box 65, Folder 6, CRLA Records, Stanford.

<sup>81</sup> See Ron Taylor, “CRLA Creates Shock Waves in Hunger-Fighting Lawsuits,” *Fresno Bee*, May 24, 1970. Box 65, Folder 6, CRLA Records, Stanford; see also, “Suit Settled: More Free Milk for State’s Kids,” *San Francisco Chronicle*, March 17, 1970. Box 65, Folder 3, CRLA Records, Stanford.

<sup>82</sup> Amity Shlaes, *Great Society: A New History* (New York: Harper Collins, 2019), 358.

<sup>83</sup> Reagan’s battle with the CRLA received limited scholarly attention from attorneys in the 1970s and 1980s. In more recent scholarship, journalist Amity Shlaes’ 2019 work, *Great Society*, provides the most complete treatment of the conflict. Aside from these works, historians have not emphasized the political and legal battle. For the earlier publications, see: Angela F. Turner, “President Reagan and the Legal Services Corporation,” *Creighton Law Review*, 15 (1982): 711-732; Jerome B. Falk and Stuart R. Pollak, “Political Interference with Publicly Funded Lawyers: The CRLA Controversy and the Future of Legal Services,” *Hastings Law Journal*, 24, no. 4 (1973): 599-646; Michael Bennett and Cruz Reynoso, “California Rural Legal Assistance (CRLA): Survival of a Poverty Law Practice,” *Chicana/o Latina/o Law Review*, 1, no. 1 (1972): 1-79.

<sup>84</sup> See Karen Anderson, *Little Rock: Race and Resistance at Central High School* (Princeton: Princeton University, 2010).

Alabama in resistance to the Kennedy Administration's court-ordered desegregation.<sup>85</sup> It would certainly be unfair to lump Reagan into the same category as these incorrigibly racist and confrontational governors. His opposition to the War on Poverty appears mainly ideological and political, rather than racial. With regard to California's Mexican American communities, however, Reagan nonetheless resisted federal initiatives that sought to grant greater civil rights to these communities. His attack on the CRLA had the potential to stifle true social change. As in the southern states, Reagan's ultimate failure before the federal government signified another step in the United States' long process of civil rights reform.

From the early 1960s onward, one of the federal government's goals was to move the fight for civil rights into the courts. In the summer of 1963, President Kennedy created the Lawyers' Committee for Civil Rights and invited 244 attorneys to the White House for an inauguration meeting. At the meeting, Vice President Johnson and Attorney General Robert Kennedy called on these lawyers to use the legal system to help American society put civil rights law into practice.<sup>86</sup> The government's emphasis on litigation in the civil rights movement marked important step in the process of social change. Following Kennedy's assassination, Johnson maintained this emphasis. In a 1964 letter to committee leaders, he wrote, "I hope you will convey to all of the members ... my personal interest in the work you are undertaking. Lawyers are uniquely qualified to play a leadership role in their communities in [the fight for civil rights] and I believe their active participation should be encouraged."<sup>87</sup>

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<sup>85</sup> See E. Culpepper Clark, *The Schoolhouse Door: Segregation's Last Stand at the University of Alabama* (New York: Oxford University, 1993).

<sup>86</sup> See Michelle D. Bernard, *Moving America toward Justice: The Lawyers' Committee for Civil Rights under Law, 1963-2013* (Virginia Beach: Donning, 2013); Ann Garity Connell, *The Lawyers' Committee for Civil Rights under Law: The Making of a Public Interest Law Group* (Washington D.C.: Lawyers' Committee for Civil Rights Under Law, 2003).

<sup>87</sup> Letter from Lyndon Johnson to Mr. Bernard Segal and Mr. Harrison Tweed, Jan. 21, 1964. Box 41: Judicial-Legal Matters (Gen JL 6 12/6/67-1/20/69; Folder: JL 7 Lawyers-Legal Aid. LBJ Library).



Beyond this one committee, the Johnson administration wanted the poor throughout the nation to have access to attorneys. In 1965, the Department of Justice and the OEO organized a Law and Poverty Conference at which members of the American Bar Association discussed this need. “Equal justice for every man is one of the great ideals of our society,” declared future Supreme Court Justice Lewis F. Powell. “We also accept as fundamental that the law should be the same for the rich and for the poor. But we have long known that the attainment of this ideal is not easy.” The challenge, Powell continued, is that “our system of justice is based in large part on advocacy—on battle, if you will, in which lawyers have replaced warriors. When there is no one to do battle for an individual, his chances of obtaining justice are lessened.”<sup>88</sup> By the mid-1960s, the concept of legal services was not new, but existing agencies were few in number, understaffed, and underfunded. As Howard Westwood, an experienced poverty lawyer, argued in 1966, “no single step could be more effective in securing competent, hard-hitting representation [for the poor] than to get away from the pauper level of compensation for legal aid staffs.”<sup>89</sup> The OEO under Johnson responded to this need by investing millions of dollars in new or revitalized legal service agencies that began waging battles for the civil rights of poor individuals and groups. The program quickly became, in the words of one journalist, “at once the most successful and controversial of the OEO operations.”<sup>90</sup>

Legal service agencies were designed not only to protect the civil rights of impoverished Americans but also to help these individuals trust in the U.S. promise of justice for all. As the American Bar Association wrote in 1966, “It will be impossible to accomplish the goal of the

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<sup>88</sup> Lewis F. Powell, “The Response of the Bar,” *American Bar Association Journal*, 51 (August, 1965), 751.

<sup>89</sup> Howard C. Westwood, “Legal Aid’s Economic Opportunity,” *American Bar Association Journal*, 52, no. 2 (1966), 129 (127-130).

<sup>90</sup> Ridgeway M. Hall, Jr. “Advocates for the Poor: Legal Services, Inc.” *The New Republic*, May 29, 1971. Box 45, Folder 8, CRLA Records, Stanford.

War on Poverty—to completely eradicate poverty wherever it is found in this country—if the poor man does not have a lawyer to speak for him.” Furthermore, having access to an attorney will restore indigent individuals’ “belief in the existence in justice,” and, in turn, their “ambition that [they] may have lost in early childhood.”<sup>91</sup> While politicians like Reagan argued that government spending on the poor undermined the traditional value of work, the Johnson administration believed that government-sponsored attorneys could restore the faith of hitherto forgotten Americans in the U.S. judicial system in a way that would help them work even harder. In California, farmworkers already worked hard, but the CRLA did help them trust in the existing system.

The rift between Governor Reagan and the CRLA became almost personal. In fact, many California politicians resented the agency for the way it unabashedly sued growers and government organizations in defense of Spanish-speaking farmworkers—and won. Thus, from the outset, many officials sought to strangle the baby in its crib. In 1967, Reagan urged George Murphy to add a regulation in Congress that would prevent OEO legal agencies from suing government entities. Murphy tried to do so but the regulation did not pass.<sup>92</sup> The following year, under pressure from conservative politicians in Congress, the OEO prohibited legal agencies from accepting criminal cases.<sup>93</sup> Also in 1968, the California Office of Economic Opportunity, with support from the regional OEO office, mandated that the CRLA could not provide legal aid

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<sup>91</sup> Joint Statement of the American Bar Association, June 24, 1966, 5-6. Box 41: Judicial-Legal Matters (Gen JL 6 12/6/67-1/20/69; Folder: JL 7 Lawyers-Legal Aid. LBJ Library.

<sup>92</sup> See, Hall, “Advocates for the Poor.”

<sup>93</sup> See CRLA Memo from M. Michael Bennett to all directing attorneys, Dec. 31, 1968. Box 45, Folder 2, CRLA Records, Stanford.

to the United Farm Workers Union.<sup>94</sup> With this restriction, the state OEO prevented the formation of a powerful farmworker coalition.<sup>95</sup>

The election of former California senator Richard Nixon to the presidency in November of 1968 augured well for politicians who wished to do away with Johnson-era federal programs. In 1969, George Murphy tried another attack on the agency in the Senate. Under the existing federal regulations, state governors had authority to veto funding packages for OEO programs, but the federal OEO director had authority to override this veto. Murphy and other senators tried to remove this override power, a move which would give Governor Reagan the upper hand. On the Senate floor, Edward Gurney of Florida accused OEO attorneys of “agitation,” and Barry Goldwater of Arizona stated that they were “inciting trouble.” Building on such sentiments, Murphy added an amendment to a poverty-law bill that gave governors absolute veto power.<sup>96</sup> The Murphy amendment, as it became known, passed in the Senate, but, fortunately for the CRLA and other agencies, it was defeated in the House.

The battle was only beginning. For years, Governor Reagan had wanted to cut the CRLA’s funding, but this move was not possible during the Johnson administration.<sup>97</sup> The election of Nixon, however, presented a promising political climate for dismantling War on Poverty programs. If the Murphy amendment had passed, a Reagan veto would have created a perfect storm for the CRLA. Since it had not, however, the governor had to hope that the OEO under Nixon would take his side. To make a convincing case for a veto, the governor enlisted the

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<sup>94</sup> Ibid. See also, Letter from Joe P. Maldonado (acting regional OEO Director) to James Lorenz (CRLA Director), Nov. 2, 1968. Box 45, Folder 2, CRLA Records, Stanford.

<sup>95</sup> After all, Cesar Chavez and the UFW spent tremendous amounts of time and energy defending themselves in court from grower coalitions. CRLA attorneys could have helped them immensely.

<sup>96</sup> “Poverty Law: Threat to the Ombudsmen.” See also Hall, “Advocates for the Poor.”

<sup>97</sup> See CRLA Press Release, Jan. 17, 1967. Box 65, Folder 1, CRLA Records, Stanford; see also Hall, “Advocates for the poor.”

aid of Lewis Uhler, the ultra-conservative director of the California Office of Economic Opportunity, to discredit the CRLA and, by extension, the entire OEO legal services program. Uhler was happy to oblige. In the fall of 1970, he distributed a “CRLA Questionnaire” to multiple California communities with the explanation that the state OEO was evaluating the agency and wanted to be “as thorough as possible.” Far from thorough, however, the questionnaire had a mere eight questions, each of which seemed designed to dig up dirt. Question 5 asked: “Are CRLA members in your community involved, on behalf of CRLA, in community activities of an activist or political nature? If yes, please explain or give details.” Question 7 asked if the CRLA had represented individuals in criminal court or individuals whose income passed the poverty line.<sup>98</sup> While such questions bespoke a smear campaign more than a professional evaluation, they helped Uhler write a 283-page report that catalogued four years and 127 cases of alleged misconduct by CRLA attorneys.

On Christmas Eve, 1970, Uhler shared the report with Governor Ronald Reagan, who, two days later, used the information to veto the CRLA’s annual grant from the federal OEO.<sup>99</sup> As far as both men were concerned, the agency now was finished. “The failure of the CRLA has been so dramatically brought to this administration’s attention,” Uhler declared, “that there is no choice but to recommend the disapproval of CRLA funding.”<sup>100</sup> Neither Reagan nor Uhler gave the CRLA an opportunity to see and respond to the cases of alleged misconduct before the veto was issued.<sup>101</sup> Given the lack of transparency, CRLA director (and future California Supreme

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<sup>98</sup> “California Office of Economic Opportunity: Evaluation of the California Rural Legal Assistance Program,” Carton 29, Folder 14, CRLA Records, Stanford.

<sup>99</sup> “Reagan, CRLA In Test: Governor Vetoes Legal Aid Funds, Charges Violations.” *Long Beach Independent*. Dec. 27, 1970. Box 67, Folder 2. CRLA Records, Stanford.

<sup>100</sup> “Lack of Direction was Reason for CRLA Veto.” *Antioch Ledger*, Jan. 5, 1971. Box 67, Folder 2, CRLA Records.

<sup>101</sup> See, Cruz Reynoso et. al, “In United States Office of Economic Opportunity: Memorandum of Fact and Law in Support of Immediate Refunding of California Rural Legal Assistance, Inc.” Box 45, Folder 6, CRLA Records.

Court Justice) Cruz Reynoso called the veto a “deliberate scheme on the part of the governor to sabotage CRLA.”<sup>102</sup>

The following month, with confidence that the Nixon administration would support the veto, Reagan and Uhler smugly released the report to the public.<sup>103</sup> The 127 incidents ranged from petty to potentially dangerous. CRLA lawyers, Uhler charged, had been supplying inmates of the San Quentin State Prison with “subversive literature.” Moreover, they had worked on criminal cases, which violated their 1968 grant restrictions. As another flagrant violation, they had provided legal counsel to the United Farm Workers Union. More trivially, the report alleged that in a visit to a local high school, a CRLA attorney had used the F-word in front of students, while, in another instance, an attorney had appeared barefoot in court. As a wild example, the report charged that, in an effort to defend juvenile delinquents, the CRLA had “spirited away” a fifteen-year-old girl to Tijuana, Mexico so she could marry without parental consent.<sup>104</sup> To borrow Uhler’s own words, “these represent only a few of the alarming examples of CRLA’s failure to accomplish its mission, comply with its grant conditions, or control the sometimes outrageous and irresponsible conduct of its employees.”<sup>105</sup>

Any serious reader, however, would notice the inflated tone of the report and would wonder if there were another side to the story. Indeed, CRLA typewriters did not rest until the agency had provided its own version of the events—and 3000 pages of evidence. According to the CRLA, 119 of the charges were false, four were slanderous lies, and six discussed attorney

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<sup>102</sup> “Uhler Denies Reagan ‘Out to Get’ CRLA.” *Berkeley Gazette*. Dec. 29, 1970. Box 67. Folder 2. CRLA Records. Ironically, Reynoso and Uhler had been classmates at UC-Berkeley Law School.

<sup>103</sup> See Tom Goff, “Reagan sure Nixon Backs CRLA Veto: Says Any Other Reaction Would be “Dishonest.” *Los Angeles Times*, Jan. 29, 1971. Box 67, Folder 2, CRLA Records.

<sup>104</sup> See, Lewis K. Uhler, “A Study and Evaluation of California Rural Legal Assistance, Inc, 1971,” Carton 78, Folder 24, CRLA Records. Stanford.

<sup>105</sup> “Lack of Direction.”

misconduct that the CRLA had already corrected.<sup>106</sup> In light of the opposing accounts, the federal government in March appointed a high commission to investigate the activities of the CRLA. Its findings consistently matched the agency's report. As it turned out, CRLA attorneys had visited inmates, but they had not distributed literature, nor had an attorney ever appeared barefoot in court. While the CRLA had accepted criminal cases, it had done so prior to the 1968 grant conditions which established this limitation. In the case of the F-word, a CRLA attorney had been giving a lecture on free speech, and, as an example, he had written "F\*ck Vietnam" on the chalkboard (asterisk and all). Additionally, the commission found that the CRLA was keeping itself separate from the UFW, and regarding the fifteen-year-old, she was already married when she came to the CRLA for legal aid.<sup>107</sup> In every case, it appeared that Uhler had omitted details or fabricated accusations in what CRLA attorneys called a baseless "hatchet job."<sup>108</sup>

In his deferential biography of Reagan, Lou Cannon suggests that the governor simply responded to a report that he had been given. Cannon points out that Uhler, a former member of the John Birch Society, had more extreme political views than the governor and that the two men were not close. In fact, Uhler had only joined the Reagan administration earlier in 1970.<sup>109</sup> While Reagan may not have known Uhler well, the idea that he did not realize the false and inflammatory nature of the report ignores his crescendoing conflict with the CRLA. In a way, too, it underestimates his intelligence. If the governor had even just glanced at the report (it was Christmas, after all) he would have known that it was concocted. The fact that the report came out right when the OEO was renewing federal grants, and that Reagan seized on it immediately,

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<sup>106</sup> "CRLA's Answer to Uhler Report," Carton 27, Folder 7, CRLA Records; see also, "Report on California State Economic Opportunity Office, Mar. 8, 1971," Carton 75, Folder 6, CRLA Records. Stanford.

<sup>107</sup> "Report on California State Economic Opportunity Office, Prepared by CRLA, Mar. 8, 1971." Carton 75, Folder 6, CRLA Records. Stanford.

<sup>108</sup> "CRLA Report to Office of Economic Opportunity, Jan. 13, 1971," Carton 75, Folder 18. CRLA Records. Stanford.

<sup>109</sup> See Cannon, *Governor Reagan*, 369-370.

suggests that the governor had planned a way to get rid of the CRLA. In fact, the CRLA later charged that Reagan had brought Uhler into his administration for the precise purpose of helping him take down the CRLA.<sup>110</sup>

The Uhler Report, the Reagan Veto, and the federal investigation prompted numerous California residents to speak out in favor or against the CRLA and, by extension, the entire OEO legal services program in a debate that lasted for several months. Growers, understandably, attacked the agency. In the high commission's hearings, the California Farm Bureau testified against the CRLA, declaring that Uhler's accusations were correct.<sup>111</sup> Likewise, many residents wrote to express support for the governor's veto. "A vast majority of taxpayer-supported CRLA employees are carpet-baggers," charged one resident, and they are "coming here from other parts of the country in order to stir up trouble."<sup>112</sup> This accusation, along with the Farm Bureau's testimony, were inaccurate and almost as absurd as the hate mail that arrived on the desk of CRLA director Cruz Reynoso: "Hello Comrad [*sic*], You are doing a good job. I am sure Comrad [*sic*] Mao is happy that you lawyers have started trouble in Soledad. And for tax money too."<sup>113</sup>

Only slightly more legitimate were voices of opposition from city and county officials who, in response to an inquiry from Uhler, sent letters and passed resolutions urging the governor and the federal OEO to dismantle the CRLA. The Stanislaus Board of Supervisors described the CRLA as a case of "wasted money and manpower and duplication of efforts of

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<sup>110</sup> See Fundraising letter from Alberto Saldamando to California communities, 1982. Box 279, Folder 1, CRLA Records, Stanford.

<sup>111</sup> See "Scathing Farm Bureau Charges Against CRLA," *Berkeley California Gazette*, June 18, 1971; see also the articles from Farm Bureau magazine. Box 45, Folder 6, CRLA Records, Stanford.

<sup>112</sup> Editorial: "Carpetbaggers," *Peninsula Herald*, Sep. 15, 1971. Box 45, Folder 6, CRLA Records, Stanford.

<sup>113</sup> Anonymous letter to Mr. Cruz Reynoso, Apr. 10, 1971. Box 75, Folder 25, CRLA Records, Stanford.

existing governmental agencies.”<sup>114</sup> The City of Madera accused the agency of “wantonly and viciously [using] its authority, money and ability to attack governmental administration of schools, welfare and health, thus devoting taxpayer’s money to ... harass local government[s].”<sup>115</sup> Other officials voiced similar opinions.<sup>116</sup> In many cases, it seemed that local authorities accepted legal service agencies in theory. They did not, however, accept the CRLA’s lawsuits against government entities, and their criticism was often exaggerated.

Supporters, however, liked the agency because its bold lawsuits led to concrete reforms that benefited the poor. In the debates surrounding the Reagan veto, hundreds of individuals and organizations wrote the governor to express their support, including churches, unions, clubs, businesses, teachers, and other residents.<sup>117</sup> “In the past, poor people had little opportunity to use the courts to enforce [their] rights,” wrote one resident. “They lacked money or organization to engage attorneys. Under the Rural Legal Assistant program they now enjoy the same opportunity that affluent citizens and powerful corporations or associations have always enjoyed.”<sup>118</sup> The most telling of all support letters came from Spanish speaking residents themselves, who were likely farmworkers. In the debate over the Bracero Program a few years earlier, the White House had received dozens of letters from growers and their allies but not one letter from domestic farmworkers. The administration did receive a letter from a poor man in Mexico asking for a chance to come to the United States to work.<sup>119</sup> Johnson also received a letter from three

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<sup>114</sup> Resolution of the Board of Supervisors of Stanislaus County, Dec. 1, 1970. Carton 29, Folder 16, CRLA Records, Stanford.

<sup>115</sup> See Letter and Resolution of City of Madera to Lewis Uhler, Dec. 17, 1970. Carton 29, Folder 16, CRLA Records, Stanford.

<sup>116</sup> See, for example, letters from the District Attorneys of Monterey and Madera Counties and from the Mayor of Delano to Governor Reagan, Dec., 1970. Carton 29, Folder 16, CRLA Records, Stanford.

<sup>117</sup> See the letters of support in Box 25, Carton 23, and Carton 24. CRLA Records, Stanford.

<sup>118</sup> See “Improve Legal Aid, Don’t Ban It,” *Santa Barbara News Press*, Dec. 15, 1970. Carton 23, Folder 25, CRLA Records, Stanford.

<sup>119</sup> See Letter from Mr. Herrera Gil to Yolanda García, Nov. 16, 1966. Box 19: Labor (GEN LA 5 8/27/65); Folder: LA 5 (9/11/66-12/31/66). LBJ Library.



undocumented brick masons in Texas who, after doing a job on his ranch, asked the president for employment authorization.<sup>120</sup> While these letters were significant, the silence from domestic farmworkers, the very people Johnson was trying to help, indicates that perhaps the Johnson administration did not do an adequate job of reaching on-the-ground farmworkers.

The debate over the CRLA was different. Among the hundreds of support letters that arrived on the desk of Governor Reagan, some were from workers. “To Governor Reagan,” wrote Mariana Romero in handwritten Spanish, “As a poor person I write to respectfully ask that you do not take away the lawyers because they are the people who help us with our problems, and since we don’t have money to pay another lawyer [in] any problem that may arise, we plead with you to not take them away.”<sup>121</sup> In a similar tone, Guadalupe Serna wrote the governor (also in Spanish): “I am one of the low-income people who have received benefits through the CRLA program. They have helped me a lot when I have needed it.”<sup>122</sup> Through the CRLA, the Johnson administration had achieved, at least to an extent, its goal of helping rural farmworkers assert their voice in California society. The letters from these individuals, and from all the other sectors of society in favor of the agency, underscored the argument made by Cruz Reynoso in defense of the agency: “The CRLA has proven that a degree of social and economic change is possible within the system [and] that the system is available and open to the powerless.”<sup>123</sup>

By the summer of 1971, the high commission, much to Reagan’s chagrin, was more than ready to side with Reynoso and the CRLA. Although Uhler was an attorney by trade, he wrote the smear report with the hope that the federal OEO would deliver the coup de grâce regardless

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<sup>120</sup> See Letter from Jesus Tapia Montelongo, Raul Flores Piña, and Blas Tapia Montelongo to Lyndon Johnson, Oct. 1, 1966. Box 19: Labor (GEN LA 5 8/27/65); Folder: LA 5 (9/11/66-12/31/66). LBJ Library.

<sup>121</sup> Letter from Mariana Romero to Ronald Reagan, Carton 23, Folder 25. CRLA Records, Stanford; translation by author.

<sup>122</sup> See Letter from Guadalupe Serna to Ronald Reagan. Carton 23, Folder 25. CRLA Records, Stanford; translation by author.

<sup>123</sup> CRLA Press Release, Dec. 27, 1970, Carton 29, Folder 54, CRLA Records, Stanford.

of the facts. Reagan appears to have hoped the same. They were mistaken. When the investigators of the high commission—all of whom were republicans—requested evidence to substantiate the charges, Uhler had none. Similarly, when they carried out hearings to ascertain the truth, the governor’s office refused to participate.<sup>124</sup> As one writer put it, “Mr. Uhler is in the position of a prosecuting attorney who insists on a conviction but refuses to present his case.”<sup>125</sup> A political cartoon in May, 1971 depicted a muscular CRLA boxer and a battered California OEO boxer in opposite corners of a ring. During a timeout, the slick-haired governor had stepped into the ring to scold the referee, the federal investigation commission. “Under my rules,” Reagan contended, “you’re supposed to fight the [CRLA] instead of playing referee.”<sup>126</sup>

Reagan and Uhler lost. In July 1971, the high commission prepared its final report, noting that “No evidence whatsoever has been produced to support any claim of misconduct by the CRLA.” Furthermore, “[our] evidence has overwhelmingly demonstrated that CRLA has operated effectively within the terms of its grant provisions to provide legal services to California’s rural poor.”<sup>127</sup> Thus, the federal OEO overrode the governor’s veto and renewed the funding of the CRLA. In her work, Amity Shlaes argues that President Nixon supported the override for the sole purpose of asserting his authority. “This was not about ideas,” she writes. “A governor was attacking a part of Nixon’s budget. Nixon was defending himself. For the Nixon Administration, CRLA was a simple turf war.”<sup>128</sup> Perhaps for Nixon, the conflict was just a turf war, but for hundreds of thousands of California farmworkers it was much more; it was a fight over legal representation, civil rights, and the conditions that they lived and worked with.

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<sup>124</sup> See “The CRLA Commission Hearings.” Carton 21, Folder 49. CRLA Records. Stanford.

<sup>125</sup> “Editorial: U.S. Says ‘Prove it,’ Reagan’s Team Can’t,” *San Luis Obispo Telegram Tribune*, May 7, 1971. Carton 29, Folder 2, CRLA Records. Stanford.

<sup>126</sup> See Political Cartoon, *Modesto Bee*, May 4, 1971. Carton 29, Folder 3, CRLA Records, Stanford.

<sup>127</sup> “The CRLA Commission Hearings.”

<sup>128</sup> Shlaes, *Great Society*, 373.

Ultimately, Reagan's underhanded effort to destroy the CRLA attracted more support for the agency and its clients than opposition. "The next time the Reagan administration starts making such charges," wrote one observer, "it should get itself a better attorney. There are a lot of good ones in CRLA."<sup>129</sup>

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<sup>129</sup> "Editorial: U.S. Says 'Prove it,' Reagan's Team Can't."

## Chapter 2

### The CRLA and Environmental Poverty Law, 1966-1990

On July 23, 1969, the CRLA attorneys released an urgent report that “dangerous levels of DDT are being found in mother’s milk.” According to laboratory tests at the University of California-Berkeley, the report explained, DDT levels in several women had tested four times higher than the acceptable amount. “If this much DDT was found in cow’s milk,” said scientist Jeffrey Davis, the milk “would have to be confiscated.” The confiscation of breast milk, of course, was not an option. Humans had been contaminated, and the life-giving act of maternal nursing had become the means of transferring toxic agrochemicals to the bodies of newborn babies. As the report further explained, DDT deposits gather in breast milk and then move to children “in an unusually concentrated form.”<sup>1</sup> In many ways, these findings underscored the warnings of Rachel Carson’s 1962 *Silent Spring*. “If we are going to live so intimately with these chemicals,” she had argued, “—eating and drinking them, taking them into the very marrow of our bones—we had better know something about their nature and their power.”<sup>2</sup> By the late 1960s, the dangerous nature of DDT was no secret, but the Berkeley study revealed the chemical’s frightening ability to threaten the nation’s infants.

Naturally, many mothers were upset. As the press release further indicated, the CRLA was representing a group of fifteen pregnant and nursing mothers who wished to protest the widespread use of DDT. In a meeting at the San Francisco Mission Neighborhood Health Center, Kathaleen Radke declared, “Either I have to stop nursing my three-week-old baby, or I run the

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<sup>1</sup> “CRLA Press Release: July 27, 1969,” Box 65, Folder 1, CRLA Records (M0750). Dept. of Special Collections and University Archives, Stanford University Libraries, Stanford, CA.

<sup>2</sup> Rachel L. Carson, *Silent Spring* (New York: Houghton Mifflin, 1962), 17.

risk of feeding him dangerous amounts of poisons.” Similarly, Carol Zola demanded that the State Agricultural Director “immediately release information as to what agricultural producers are using DDT and which aren’t” so that mothers would know which produce to avoid. “We are told this information is a trade secret,” she stated. “Meanwhile, our babies are ingesting ... DDT. The secrecy which the farmers, the supermarkets, and the State Agriculture Department have drawn over the extensive use of DDT must end.” As another response to the Berkeley study, Arlene Steinberg stated, “if the politicians in Sacramento don’t have sense enough to ban all DDT immediately, then we pray that its use will be quarantined as much as possible.”<sup>3</sup> Unfortunately, banning or quarantining pesticides proved difficult. Given the central role of California agribusiness in the nation’s produce industry, the legal and political fight against pesticides quickly became, to borrow the words of scholar Julie Sze, “a never-ending quagmire.”<sup>4</sup>

Nevertheless, the CRLA waded in and waged a persistent battle against pesticide practices. The agency’s fight against environmental hazards had begun immediately after its creation in 1966. This year, the attorneys of the McFarland field office challenged the unsanitary drinking water in the Mexican American and African American sections of the town of Wasco. In a parallel case, the same attorneys protested the location of a feed lot for beef cattle next to a Mexican American community near McFarland. The Spanish-speaking residents specifically complained that “large swarms of flies [had] ... infested their neighborhood and their homes,” and “neither the cattle company nor the city have taken any steps to abate the nuisance.” When

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<sup>3</sup> “CRLA Press Release: July 27, 1969,” Box 65, Folder 1, CRLA Records. The spelling of the name *Kathaleen* reflects the spelling in the source.

<sup>4</sup> Julie Sze, *Noxious New York: The Racial Politics of Urban Health and Environmental Justice* (Cambridge, MA: MIT Press, 2007), 6. Sze applies this description to the battle for environmental justice in New York City, but it can apply to rural California as well.

formal complaints yielded no results, the agency prepared to file suit against the county.<sup>5</sup> Local cases like these prepared the agency to take on statewide environmental hazards, such as DDT and other agrochemicals. Another widespread hazard involved field sanitation, namely the lack of portable toilets, handwashing facilities, and potable water. From the late 1960s onward, the CRLA sought to use litigation to reduce such hazards, arguing that farmworkers' disproportionate exposure to chemicals and germs constituted a violation of their civil rights.

In the early 1990s, CRLA attorney Luke W. Cole described the agency's past and present litigation on these matters as "environmental poverty law." This legal approach, he explained, combined traditional poverty law with environmental law to create "a new, empowering type of legal advocacy" for low-income communities. Specifically, Cole argued, environmental law, such as the Clean Air Act and Clean Water Act, did not provide adequate protection for the nation's poor. Poverty lawyers, therefore, could champion "social change and social justice" by stepping in to defend low-income communities from environmental hazards.<sup>6</sup> From the Wasco case onward, the CRLA developed the practice of environmental poverty law. This litigation not only contributed to the farmworker movement of the 1960s and 1970s but also laid the legal groundwork for the environmental justice movement of later decades, which sought the "fair treatment and meaningful participation" of people of all races in addressing environmental hazards.<sup>7</sup> Although CRLA attorneys during these decades did not use the term *environmental*

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<sup>5</sup> See "Report on Operations," 1966, Box 7, Folder 1. CRLA Records, Stanford.

<sup>6</sup> Luke W. Cole, "Empowerment as the Key to Environmental Protection: The Need for Environmental Poverty Law," *Ecology Law Quarterly* 19, no. 4 (1992), 620-621, 635-636, 641.

<sup>7</sup> The Environmental Protection Agency defines environmental justice as: "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. This goal will be achieved when everyone enjoys: the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work. See "Environmental Justice," U.S. EPA, <https://www.epa.gov/environmentaljustice> (Mar. 14, 2019).

*justice*, their work helped pioneer the legal battle against minority communities' disproportionate exposure to environmental hazards.

For rural farmworkers, CRLA litigation was significant because it helped them reshape their relationship with the natural environment and, by extension, their role in society. Historian John Perkins writes that farmers—or farmworkers, in this case—live “at the interface between humans and nature.”<sup>8</sup> Similarly, Richard White has argued that humans' most significant relationship with their environment is developed through work.<sup>9</sup> In California history, countless migrant farmworkers, usually racial minorities, have known their natural world through a labor system and a society that has rarely taken into account their physical health. Indeed, geographer Don Mitchell argues that in California, “the struggle against the structure of social relations ... is also necessarily a struggle against [a] landscape” that objectifies workers.<sup>10</sup> From the 1960s onward, the CRLA participated in this struggle. Through environmental poverty law, it helped farmworkers become subjects in California agriculture, rather than objects or production inputs, and it gave them legal clout to help shape the policy that decided, in large measure, the hazards they would face as they worked in the California fields and lived in rural agricultural communities.

Since the era of the Spanish missions, California agriculture had relied on large numbers of low-paid and largely voiceless farmworkers, including Native Americans, Chinese and Japanese immigrants, Anglo-American transients, and Dust Bowl refugees. During World War

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<sup>8</sup> John Perkins, *Geopolitics and the Green Revolution: Wheat, Genes, and the Cold War* (New York: Oxford, 1997), viii.

<sup>9</sup> Richard White, ““Are You an Environmentalist or Do You Work for a Living?": Work and Nature,” in *Uncommon Ground: Rethinking the Human Place in Nature*, edited by William Cronon (New York: W.W. Norton, 1996), 134.

<sup>10</sup> Don Mitchell, *The Lie of the Land: Migrant Workers and the California Landscape* (Minneapolis: University of Minnesota, 1996), 11.

II, Mexican guest workers through the Bracero Program, as well as Mexican-Americans became the main source of cheap, seasonal labor. Scholar Joon Kim argues that Mexicans gradually replaced other groups, particularly the Chinese, because the California Farm Bureau Federation and the American Farm Bureau Federation recognized that Mexican laborers were easier to deport once harvest season ended.<sup>11</sup> The influx of workers from south of the border continued for decades, even after the Bracero program ended in the 1960s. By 1990, a CRLA report indicated, “95% of California crop workers report[ed] that they were born in Mexico, Central America, or elsewhere other than the U.S.”<sup>12</sup> Meanwhile, during the 1950s, rising costs and federal subsidies for large growers drove smaller farmers off the land. The remaining large-scale enterprises became, to use Carey McWilliams’ description, monopolistic corporations.<sup>13</sup>

In addition to a large supply of migrant workers from abroad, California agribusiness came to depend on another resource: pesticides. While growers had experimented with chemical pest controls, such as sulfur dust and boiled eucalyptus leaves, since the late 1800s, agricultural demand and expansion during World War II and the early Cold War prompted government officials to find modern, scientific solutions to problems that hindered agricultural production, including pests.<sup>14</sup> Consequently, the use of pesticides rose dramatically, and Latino farmworkers began to face exposure to new environmental hazards. The year 1949 saw one of the first reported mass poisonings when over a dozen farmworkers in a Sacramento Valley pear field began sweating uncontrollably, vomiting, and convulsing. Studies later indicated that they had absorbed residues of parathion, which had been applied twelve days earlier. Parathion was one of

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<sup>11</sup> See Joon Kim, “California’s Agribusiness and the Farm Labor Question: The Transition from Asian to Mexican Labor, 1919-1939” *Aztlan*, 37, no. 2 (2012), 47-72.

<sup>12</sup> Don Villarejo, “Farm Worker Needs in California: A Report Prepared for California Rural Legal Assistance,” 22. Nov. 12, 1992. Carton 271, Folder 3. CRLA Records.

<sup>13</sup> Carey McWilliams, *Factories in the Field: The Story of Migratory Farm Labor in California* (Boston: Little, Brown, and Company, 1944), 266.

<sup>14</sup> For more on early pesticides, see, Street, *Beasts of the Field*, 334-335, 512-514.



the new organophosphate pesticides and was extremely toxic.<sup>15</sup> Despite such risks, growers continued to use these and many other chemicals, including DDT and various defoliants, such as 2,4-dichlorophenoxyacetic acid (2,4-D), which was later used in the Vietnam War.

The problem with these chemicals, as historian Linda Nash points out, was that growers could not control the environments in which they were applied. They could manicure enormous, neatly ordered, factory-like fields, but they could not control pesticide residues, drift, or runoff, nor could they prevent human poisoning through respiration or skin exposure. In other words, the danger that pesticides posed depended on a combination of environmental factors that were difficult, if not impossible, to control, including wind, heat, and the type of crop. Fruit trees, for example, were problematic because of their foliage. As one crop inspector reported in the 1960s: “[Fruits] do not grow at the tips of branches. In order to cut a cluster of grapes, or pick an orange or a peach, it is ... necessary to penetrate a leaf curtain. In the course of only an hour or two, the worker is drenched with whatever liquids may be clinging to these leaves.” As the inspector continued, the worker has also “inhaled quantities of whatever dusts the picking process has rendered airborne, [and] he has gotten these substances up his shirt sleeves, down the front of his shirt ... in his eyes and ears ... mouth and throat.”<sup>16</sup>

Farmworkers quickly realized that the physical hazards of chemical exposure. As one Bracero worker recalled in 1958, “While I was here last September, I got sick as a consequence of my work. I was picking tomatoes near Oxnard. My fingernails became infected as a result of poison that was on the tomato plants. Some of my fingernails fell off. It was very painful to work.” Another worker explained, “Many [braceros] are in worse health when they return to [my

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<sup>15</sup> See Linda Nash, *Inescapable Ecologies, A History of Environment, Disease, and Knowledge* (Berkeley: University of California, 2006), 128.

<sup>16</sup> *Ibid*, 148 (141-148).

home town] than they were when they left. The reason for this, I believe, is that they have to breathe in too many chemicals that have been sprayed on the plants where they work.”<sup>17</sup> As these accounts indicate, farmworkers could easily absorb pesticides through the skin or through the respiratory system, and neither growers nor the state government took great pains to avoid such exposure. Moreover, the relationship between farmworkers and their employers was often so asymmetrical that workers had no choice but to accept the health risks as part of the job.

From the 1960s onward, two organizations that sought to help workers assert their voice in California agriculture were the United Farm Workers Union and the CRLA.<sup>18</sup> Of the two, the union received more publicity and is better known in popular memory and in historical scholarship.<sup>19</sup> In the late 1960s, its successful grape boycott awoke the nation to the problems that workers faced in California agriculture. Furthermore, the rhetoric and commitment of union leader Cesar Chavez attracted support for the union.<sup>20</sup> “We are not beast of burden, agricultural implements or rented slaves,” Chavez boldly declared; “we are men.”<sup>21</sup> In 1968, the nation witnessed Chavez’s twenty-five day fast for the farmworker movement, which he concluded by

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<sup>17</sup> See the interviews in Henry P. Anderson, *The Bracero Program in California* (New York: Arno Press, 1976), 213, 215.

<sup>18</sup> These were by no means the first farmworker advocates in California. During the previous two decades, for example, Ernesto Galarza and the National Farm Labor Union fought for better treatment of workers. In their case, however, growers and government leaders repeatedly used the Braceros to break their strikes. See Galarza, *Spiders in the House and Workers in the Field* (Notre Dame: University of Notre Dame, 1970); see also Dionicio Nodín Valdés, *Organized Agriculture and the Labor Movement Before the UFW: Puerto Rico, Hawaii, California* (Austin: University of Texas, 2014).

<sup>19</sup> Numerous historians have researched and written about the UFW, including: Jacques Levy, Richard Jensen, John Hammerback, Miriam Pawal, Frank Bardacke, Matt García, and Randy Shaw.

<sup>20</sup> Notably, Chavez was directly inspired by the works of Carey McWilliams, such as *Factories in the Field* and *North from Mexico*. In his words, “Although I had been a farm worker traveling the migrant streams for many years and knew through bitter experience what prejudice and discrimination were, [McWilliams’] books gave me new insights into the forces that create wealth and poverty. They provided a link to the past and helped me focus my determination to improve the lives of the farm workers into ... a plan for action.” See Peter Richardson, *American Prophet: The Life and Work of Carey McWilliams* (Oakland: University of California, 2019), 156-158.

<sup>21</sup> César Chavez, “Letter from Delano, 1969,” in *Voices of Freedom: A Documentary History*, Vol. 2, 5<sup>th</sup> Ed., ed. Eric Foner (New York: W.W. Norton, 2017), 302.

attending mass alongside Senator Robert Kennedy.<sup>22</sup> It likewise witnessed union members' dedicated strikes and long marches. *Time Magazine* named Chavez Man of the Year in 1969.

Although the United Farm Workers Union and the CRLA were both advocates of rural farmworkers, federal regulations prevented the CRLA from aiding the union directly. Moreover, the two organizations used different strategies, as evident in a case from 1967. As historian Lori Flores explains, when Martin Produce Company of Salinas fired nine carrot harvesters for being members of the UFW, the CRLA sued on their behalf. In spite of the CRLA's able handling of the case, Chavez wanted it to proceed differently. As union leader, he felt he should participate in the negotiations between the workers and their former employers. Moreover, he wanted the nine workers to attract public attention by picketing in front of the grower's headquarters. In both cases, CRLA lawyers advised otherwise. Their strategy did not involve street protest or letting Chavez step into the negotiations. In a letter to Chavez, Jim Lorenz of the CRLA wrote, "I have the feeling that there have been a number of problems which are likely to persist between you and ourselves, unless we bring them out on the table . . . we are not representing you in negotiations with growers, and we are not bringing lawsuits on the Union's behalf."<sup>23</sup> Given the federal regulations and the different nature of each organization, the CRLA and the UFW largely kept out of each other's way, fighting, as one CRLA lawyer put it, "separate but parallel" battles.<sup>24</sup>

Regarding pesticides, Chavez and the union called on growers to be more transparent in their use of agrochemicals so that farmworkers could avoid exposure. In 1968, UFW lawyer

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<sup>22</sup> See, Shaw, *Beyond the Fields*, 89-91.

<sup>23</sup> Lori Flores, *Grounds for Dreaming: Mexican Americans, Mexican Immigrants, and the California Farmworker Movement* (New Haven: Yale University, 2016), 172-184. See also Harry Bernstein, "Nine Fired Farm Workers Win Lifetime Jobs," *Los Angeles Times*, Jan. 30, 1968. Box 65, Folder 6, CRLA Records, Stanford.

<sup>24</sup> Maurice Jourdane, Interview with author, Oct. 25, 2014, San Diego, California.

Jerry Cohen asked agricultural commissioner C. Sheldon Morley for reports of pesticides used on grapes. Growers avoided revealing this information until Chavez, to their chagrin, adopted a different strategy and publicized the dangers that consumers faced because of growers' lack of transparency.<sup>25</sup> Appealing to consumers worked: more people joined the grape boycott, which placed additional pressure on growers. In early 1969, Chavez sent a letter to the Southern Central Farmers Commission, the California Grape and Tree Fruit League, and the Desert Grape League. "We will not tolerate the systematic poisoning of our people," he wrote. "Even if we cannot get together on other problems, we will be damned—and we should be—if we will permit human beings to sustain permanent damage to their health from economic poisons."<sup>26</sup> Although the growers did not respond to his letter, they eventually had no choice but to negotiate. The contracts they signed included some controls on pesticide use.<sup>27</sup>

At the same time, the CRLA was playing a crucial, albeit less public, role in the fight against pesticides. Its first battle took on the insecticide DDT.<sup>28</sup> As the work of historian David Kinkela illustrates, the U.S. government embraced DDT as a scientific miracle during World War II because it significantly reduced mosquito-borne illnesses, such as malaria and yellow fever. By 1944, the U.S. Army was spraying entire islands in the Pacific with the chemical, which reduced disease among soldiers by as much as 80 percent. Following the war, the U.S. government promoted the pesticide as an essential ingredient in the Green Revolution, its plan to strengthen strategically important nations of the Global South by increasing their agricultural

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<sup>25</sup> See Matt García, *From the Jaws of Victory: The Triumph and Tragedy of Cesar Chavez and the Farm Worker Movement* (Berkeley: University of California, 2012) 78-79.

<sup>26</sup> "El Malcriado: 'Growers Spurn Negotiations on Poisons,' 1969" in *Environmental Justice in Postwar America: A Documentary Reader*, ed. Christopher W. Wells (Seattle: University of Washington, 2018), 97-98.

<sup>27</sup> See, Miriam Pawal, *The Crusades of Cesar Chavez: A Biography* (New York: Bloomsbury, 2014), 191, 200.

<sup>28</sup> The Swiss chemical company Geigy A.G. first tested dichlorodiphenyltrichloroethane (DDT) as an insecticide in 1939. The chemical was ideal because it not only killed insects, but it also lingered for several days without losing its effectiveness. See, David Kinkela, *DDT and the American Century: Global Health, Environmental Politics, and the Pesticide that Changed the World* (Chapel Hill: University of North Carolina, 2011), 15-18.

productivity. In Kinkela's words, the pesticide became "one of the critical technologies of American postwar expansionism."<sup>29</sup> In California, the Department of Agriculture promoted the use of DDT and many other pesticides in the name of modernization. As Nash points out, "By 1955, 7.1 million acres, or two-thirds of California's cropland, was being treated with chemicals. By the mid-1960s more than sixteen thousand pesticides had been registered in California, and farmers increasingly relied on multiple applications of multiple chemicals."<sup>30</sup>

The CRLA's effort to ban DDT challenged the pesticide trend and, by extension, the postwar notion of American power and modernity. The flaw in this notion, as the agency's litigation suggested, was that neither manufacturers nor growers could prevent pesticides from coming into contact with people, and in California farmworkers certainly suffered the most exposure and the highest risk of disease.<sup>31</sup> The CRLA first published the report on DDT deposits in mother's milk. Soon thereafter, it filed a case with the federal government on behalf of six farmworkers, five of whom were nursing mothers, and on behalf of the Environmental Defense Fund. Debates over DDT lasted for nearly three years, but in June of 1972, the Environmental Protection Agency outlawed the pesticide domestically. The CRLA lawsuit had been instrumental in beginning the legal debate.<sup>32</sup> In the 1990s, CRLA attorneys Ralph Abascal and Luke W. Cole called the battle over DDT "the first environmental justice case within legal

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<sup>29</sup> Ibid, 30-32, 60-66, quote on 137-138.

<sup>30</sup> Nash, *Inescapable Ecologies*, 130-133.

<sup>31</sup> In time, scientific study revealed that, in humans, DDT caused increased risk of pancreatic and breast cancer, non-Hodgkin's lymphoma, hypertension, impaired neural functions, liver disease, reduced psychomotor functions, obesity, elevated cholesterol, reduced fecundity, and other reproductive problems. See, Dorceta E. Taylor, *Toxic Communities: Environmental Racism, Industrial Pollution, and Residential Mobility* (New York: New York University, 2014), 7-8.

<sup>32</sup> See Luke W. Cole and Sheila R. Foster, *From the Ground Up: Environmental Racism and the Rise of the Environmental Justice Movement* (New York: New York University, 2001), 221, footnote 32; see also, Julie Sze, "Denormalizing Embodied Toxicity: The Case of Kettleman City," in *Racial Ecologies*, ed. Leilani Nshime and Kim D. Hester Williams (Seattle: University of Washington, 2018), 111.

services,” and they argued that the “CRLA’s 25-year history of environmental poverty law advocacy stem[med] from that suit.”<sup>33</sup>

Unfortunately, chemical manufacturers replaced DDT with other pesticides that were also harmful. As a journalist observed in 1970, “Fewer and fewer farmers are using DDT but some of the chemicals replacing it may pose a far greater direct hazard to man. . . . Causing primary concern are the organophosphate pesticides which the California Rural Legal Assistance believes are contributing to a high injury rate among farm workers.”<sup>34</sup> As the work of historian Edmund Russell demonstrates, German chemists originally developed organophosphates as nerve gas in the late 1930s. As such, in their later use as a pesticide, they were extremely dangerous to humans. Notably, these toxins were just one of many chemical weapons that became agricultural pesticides. Chloropicrin, the World War I tear gas, was later used as an insecticide. Similarly, the U.S. Department of Agriculture helped market paradichlorobenzene (PDB), an explosives byproduct, as a remedy for peach tree borers and clothes moths.<sup>35</sup> For farmworkers, the transition of wartime chemical weapons to peacetime pesticides meant that their natural environment was no safer in some respects than that of soldiers in armed conflict.

The probability of poisoning in the fields increased dramatically with the use of another wartime development: the spray plane. Many growers preferred aerial spraying for its efficiency. The challenge, however, was the environment. The wind could easily carry the chemicals to unintended places, which, in turn, could harm plants, animals, and people. Moreover, on more than one occasion, careless sprayers doused farmworkers in the fields with pesticides from

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<sup>33</sup> Ralph Santiago Abascal and Luke W. Cole, “The Struggle for Environmental Justice: Legal Services Advocates Tackle Environmental Poverty Law,” *Clearinghouse Review: Journal of Poverty Law* 29, no. 4 (1995), 459.

<sup>34</sup> Jerry Henry, “Pesticides Subbed for DDT Hazard,” *Bakersfield Californian*, April 20, 1970. Box 65, Folder 6. CRLA Records, Stanford.

<sup>35</sup> Edmund Russell, *War and Nature: Fighting Humans and Insects with Chemicals from World War I to Silent Spring* (Cambridge: Cambridge University, 2001), 83, 87-88.

above. On June 22, 1969, for example, Miguel and Hermelinda Ybarra were picking strawberries with forty-eight other workers in a field near Santa Maria when “they were sprayed without warning by a blackish liquid from an airplane about 12 to 15 feet above the ground.” Many workers began vomiting. Hermelinda reported temporary blindness. Soon thereafter, the CRLA filed a complaint on behalf of the Ybarras and won a temporary ban on all aerial spraying for this particular grower. The agency also won a court ruling that required the director of the California Department of Agriculture, the county agricultural commissioner, and the grower to “give one hour’s notice to field workers that such aerial activity is scheduled.”<sup>36</sup> The fact that it took mass poisoning and legal action to establish such a basic regulation indicates just how slowly policy makers came to understand pesticide hazards and how little consideration was often given to workers’ health in traditional California agribusiness.

Jesús Lopez, a CRLA Community Worker who spent nearly twenty years (1971 to 1989) in the fields before joining the agency, explained that pesticide poisoning usually occurs not because growers are malicious. Rather, it occurs because they do not communicate with the crews that work their fields. As California agriculture became more specialized, growers usually hired third parties to spray their fields. Thus, information about pesticide application—which chemicals, which field, what time, etc.—had to go from the sprayer to the grower to the labor contractor to the foreman to the crew.<sup>37</sup> Lack of communication was common, especially since growers had monetary incentives to produce quickly and since different languages were involved. Consequently, workers rarely knew when fields had pesticide residue or when sprayers

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<sup>36</sup> “Court Order Halts Aerial Crop Sprays,” *Santa Barbara News Press*, Aug. 5, 1969. Box 65, Folder 6, CRLA Records, Stanford.

<sup>37</sup> Jesús Lopez, Interview with author, March 18, 2019, Salinas, California.

would be working. The legal work of the CRLA obligated growers and other officials to begin communicating with workers about pesticide hazards.

Communication and transparency arguably provided greater protection than outlawing specific pesticides. As the DDT case indicated, the inherent frustration in seeking bans on individual pesticides was that, even if CRLA litigation led to a ban on a certain chemical, growers could turn to an equally toxic but legal pesticide. Furthermore, manufacturers could make a similar product with just enough technical differences to sidestep the ban. These strategies worked exceptionally well for both chemical manufacturers and growers and ensured that the fight against pesticides would be never-ending. Although it accepted this reality, the CRLA continued challenging specific pesticides, and it succeeded in banning many. In many ways, the process of anti-pesticide litigation was more significant than the final product. Ultimately, the CRLA could not rid California agribusiness of dangerous pesticides, nor did it ever seek to. What it did do, year after year, was help workers assert their voice in the industry.

Pesticides were by no means the only problem that the CRLA helped farmworker families address. Parallel cases involved hunger, nutrition, education opportunities, and working conditions.<sup>38</sup> While pesticide exposure was the most obvious environmental hazard, all these cases reflected structural injustices that stemmed in large measure from farmworkers' relationship with the land. In her work on incarceration camps during World War II, historian Connie Chiang argues that Japanese-Americans' restriction to particular environments "reinforced their racial status." Furthermore, "the inequalities and injustices that they endured

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<sup>38</sup> See "Suit Settled: More Free Milk for State's Kids," *San Francisco Chronicle*, March 17, 1970. Box 65, Folder 3, CRLA Records, Stanford; Mary Ellen Leary, "Children Who Are Tested in an Alien Language: Mentally Retarded?" *The New Republic*, May 30, 1970. Box 65, Folder 6, CRLA Records, Stanford; author, "Defeating the Devil's Arm: The Victory over the Short-Handled Hoe in California Agriculture," *Agricultural History*, 89, no. 4 (Fall 2015).



were inextricably linked to the environment.”<sup>39</sup> In a similar way, language, lack of education, and poverty restricted many Latino families to farm work, and this restriction reinforced their racial status in society at large. Thus, all CRLA cases to improve working or living conditions challenged structural racism in one way or another. The fight against pesticides, however, was significant because it pioneered the legal battle against Latino communities’ disproportionate exposure to environmental hazards.

Another significant but less studied environmental hazard involved the lack of field sanitation. While problems such as the lack of potable water, portable toilets, and handwashing facilities presented different health risks than those associated with pesticide exposure, they nonetheless represented environmental hazards that reinforced farmworkers’ racial status. Through the CRLA, workers began fighting for more control over interactions with their environment involving hydration and hygiene. At the heart of the debate was the idea that workers deserved water and sanitary facilities simply because they were human beings (and not just beasts of the field). By the 1960s, some regulations existed, but enforcement did not. In 1968, the CRLA interviewed hundreds of workers and concluded that 101 of 173 employers in Sutter, Yuba, Butte, and Colusa counties did not provide drinking water for their employees, which was contrary to California labor code. Furthermore, of the seventy-two that did provide water, forty-three only provided one cup, which workers had to share, and twelve others provided water that was dirty or open to the air. A similar survey regarding portable toilets revealed that 125 of 139 growers provided no toilets, which again was contrary to California labor code. Of the few growers that did provide toilets, workers reported that the facilities were not private or had no toilet paper. As a final example, California Health and Safety Code

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<sup>39</sup> Connie Y. Chiang, *Nature Behind Barbed Wire: An Environmental History of the Japanese American Incarceration*. (New York: Oxford: 2018), 10-11.

required employers to provide handwashing stations for their crews. Of 139 growers surveyed, 132 did not provide these facilities.<sup>40</sup> The following year, a different source found that growers violated state sanitation laws some 600,000 times.<sup>41</sup>

Not only did these violations unnecessarily expose farmworkers (and fresh food) to germs, but it also humiliated workers on a daily basis. Female farmworkers, who, by the late 1960s, made up approximately one third of the domestic agricultural labor force, faced additional challenges. As journalist John Gregory Dunne reported in the late 1960s, the lack of portable toilets forced women workers “to squat down several rows over from where they were picking” in order to relieve themselves. When they did so, they reported that on some occasions “their foreman [would] sneak after them and watch them.”<sup>42</sup>

To end such abuses and improve field sanitation, the CRLA had to find a way to make growers provide facilities that they preferred not to pay for. As attorney Ralph Lightstone recalled, county health departments had the responsibility of enforcing sanitation regulations, so the CRLA first reported the problems to these officials. At the local level, however, grower influence was usually so strong that health departments did very little. Consequently, in the 1970s the CRLA began arguing for state-wide regulation of field sanitation through Cal/OSHA.<sup>43</sup> Several years would pass before the agency’s efforts bore fruit. In the meantime, the fight for field sanitation continued at the local level.

In contrast, the legal battle over pesticide registration and regulation moved from the state government to the Environmental Protection Agency, which the federal government created in

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<sup>40</sup> Don Razez, “Agricultural Work in Unfit, CRLA Contends,” *California Farmer*, May 18, 1968. Box 65, Folder 6, CRLA Records, Stanford.

<sup>41</sup> Harry Bernstein, “Enforce Farm Health Laws, State Urged,” *Los Angeles Times*, Mar. 27, 1970. Box 65, Folder 3, CRLA Records, Stanford.

<sup>42</sup> John Gregory Dunne, quoted in John C. Hammerback and Richard J. Jensen, *The Rhetorical Career of César Chávez* (College Station: Texas A&M University, 1998), 67.

<sup>43</sup> Ralph Lightstone, in conversation with author, Oct. 22, 2019.

1970.<sup>44</sup> From this decade onward, the CRLA filed dozens of petitions and complaints with the EPA that sought to reduce farmworkers' exposure to toxins in the fields. These efforts yielded some results. By the late 1970s, the EPA was in the process of banning ten percent of all pesticides because there was a strong correlation between these agrochemicals and health problems such as cancer, birth defects, irreversible nerve damage, or mutations. California farmworkers, of course, suffered the greatest health risks. By the 1970s, the state was responsible for approximately ten percent of all pesticide use in the world, and approximately 400,000 California farmworkers were exposed to pesticides each year. Additionally, these farmworkers had a life expectancy of just forty-nine years, twenty years lower than the national average, and studies indicated that only a tiny percentage of pesticide poisonings in California were even reported.<sup>45</sup> CRLA litigation on behalf of farmworkers helped address these problems.

During the late 1970s, one battle involved a ban on the pesticide 1,2-Dibromo-3-chloropropane (DBCP). In 1977, scientific study linked DBCP to infertility in males, and laboratory tests on animals indicated that low doses of the chemical could cause cancer. Given these risks, OSHA banned domestic production of DBCP to protect factory workers, but the EPA did not ban all DBCP in California agriculture. To obtain the chemical, growers simply began importing it from factories just south of the U.S.-Mexican border.<sup>46</sup> The irony of a pesticide that was too dangerous for U.S. factory workers but not too dangerous for California farmworkers underscores one of Don Mitchell's fundamental critiques of California agriculture: workers who

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<sup>44</sup> For more on the creation of the EPA, see Richard N. L. Andrews, *Managing the Environment, Managing Ourselves: A History of American Environmental Policy* (New Haven: Yale University, 1999).

<sup>45</sup> Sonoma County People for Economic Opportunity, "Narrative Description of Pesticide Intervention and Health Advocacy Project," July 1979. Carton 286, Folder 10. CRLA Records, Stanford.

<sup>46</sup> "Before the U.S. Environmental Protection Agency, Washington D.C.: Petition for Hearing," 1978, Carton 286, Folder 8, CRLA Records, Stanford.

were American citizens received an “American standard,” whereas workers who were not citizens or who were ethnic minorities received no such consideration.<sup>47</sup>

In 1978, the CRLA petitioned the EPA on behalf of several organizations and several farmworkers, including Carlos Amaya (18), Juan Carreon (22), and Paul Gusman (34) of Stanislaus County and Jesus Gusman and Maria Acosta (25) of Ventura County. In the petition, the CRLA noted that some of the workers regularly mixed and loaded DBCP in their work with grape, peach, and apricot crops, while others suffered exposure to chemical dusts when they picked lemons and oranges. In the case of Ms. Acosta, the petition noted that she was a consumer of agricultural products that had DBCP residues. The petition argued that dangerous exposure to the chemical could easily occur through respiration, skin contact, or ingestion, and that, according to OSHA, “standard rubber and neoprene protection clothing do not provide adequate protection.” Furthermore, it pointed out the hazards of contaminated irrigation runoff to agricultural communities. As a solution, the CRLA called on the EPA to “immediately cancel registration of DBCP for use on all crops” and to hold a hearing “to consider further evidence of the unavoidable risks to human health from DBCP use.”<sup>48</sup>

When the EPA accepted the petition and scheduled a pre-hearing, California growers were irate. The California Grape and Tree Fruit League declared that the petitioners “have no right to demand, and the Administrative Law Judge has no authority to grant a hearing.” It added that its growers would be “adversely affected” if DBCP restrictions were considered, and it argued that the experiences of Carlos Amaya and the other workers were “of highly questionable validity.” The growers even cited studies from the California Department of Food and

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<sup>47</sup> See Mitchell, *Lie of the Land*, 179.

<sup>48</sup> “Before the U.S. Environmental Protection Agency, Washington D.C.: Petition for Hearing,” 1978, Carton 286, Folder 8, CRLA Records, Stanford.

Agriculture, which supported their interests.<sup>49</sup> Such solidarity with the state government was not surprising. While Governor Jerry Brown had offered significant support to the farmworker movement since his election in 1975, the Department of Agriculture had, in large measure, maintained the pro-business stance of the administration of Governor Ronald Reagan (1967-1975).<sup>50</sup> As a Sonoma County Community Action Agency charged in 1979, “After three years of considering problems in the regulation of pesticides, California’s Dept. of Food and Agriculture has proposed only one half page of new regulations and 40 pages of justification for not changing regulations”<sup>51</sup> Despite the California Department of Agriculture’s support for growers, the EPA went through with the hearing and, in 1979, it outlawed DBCP in the United States.

CRLA petitions to the EPA contributed to growing state and national debates over pesticides. In 1979, the agency extended a local lawsuit to the EPA in an effort to attract greater support for pesticide regulation. The previous year, the company Onstott Dusters of Sutter County had sprayed three workers—Higinio Martinez, Santiago Reyes, and Baudelio Vela—from an airplane as these workers pruned trees in a local orchard. Following the spraying, the CRLA sued the company in municipal court on behalf of the workers. According to the summons, the workers had suffered “itching, scratching, and tingling skin and were affected on their faces, eyes, neck, arms, wrists and legs.” These symptoms persisted for several weeks. In addition to this lawsuit, which sought monetary reparations for medical costs, Martin Flam, the directing attorney of the CRLA’s Marysville office, filed a complaint with the EPA in which he requested the “imposition of the severest appropriate penalties” against Onstott Dusters for

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<sup>49</sup> Letter from California Grape and Tree Fruit League to U.S. Environmental Protection Agency, Dec. 9, 1978, Carton 286, Folder 8, CRLA Records, Stanford.

<sup>50</sup> For more on Governor Brown’s support for the farmworker movement, see, Miriam Pawal, *The Browns of California: The Family Dynasty that Transformed a State and Shaped a Nation* (New York: Bloomsbury, 2018). For more on Governor Reagan’s opposition to the farmworker movement, see “Reagan Raps CRLA, Union at Ranch,” *The Madera Tribune*, Oct. 2, 1970. Box 65, Folder 6, CRLA Records, Stanford.

<sup>51</sup> Sonoma County People for Economic Opportunity, “Narrative Description.”

violating federal pesticide law.<sup>52</sup> Beyond seeking penalties, this petition was significant because it contributed to the national debate about pesticide practices and farmworker exposure.

Moreover, this case highlighted the related problem of limited field sanitation. As a CRLA press release explained, “State and federal law require toilets, soap and water in the fields for farmworkers to reduce pesticide accidents, but . . . the law is ignored by some growers and is not enforced vigorously.” In other words, if soap and water had been available, the three workers in the Sutter county orchard could have washed immediately after the spraying and likely reduced some of the effects of chemical exposure. However, no washing facilities were available. According to attorney Martin Flam, this problem was widespread. In the press release, he stated that he knew of “no case in which the local agricultural commissioners, health departments, district attorneys or judges have imposed penalties for failure to comply with [field sanitation] health laws.”<sup>53</sup> The problem of poor field sanitation persisted for several more years.

In the Salinas valley, the world’s lettuce bowl, the CRLA found a creative solution to local officials’ unresponsiveness. Following the UFW’s example, CRLA employee and former field worker Hector de la Rosa decided to appeal to consumers. After all, he reasoned, consumers might appreciate knowing where workers had to relieve themselves, since growers did not provide toilets. One morning, de la Rosa took a professional photographer and some workers to a nearby field. There, he asked a worker to purposely defecate on a head of lettuce. Once he had done so, the photographer took a close-up picture of the lettuce beneath a pile of excrement.

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<sup>52</sup> “Before the United States Environmental Protection Agency: Administrative Petition,” Jan. 15, 1979. Carton 286, Folder 9, CRLA Records, Stanford. The law that this case referred to was the 1947 Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

<sup>53</sup> “News Release: Three Sutter County Farmworkers Sprayed from the Air with Pesticides, Sue Onstott Dusters and Bring in U.S. Environmental Protection Agency,” Jan. 16, 1979. Carton 286, Folder 9, CRLA Records, Stanford.

When growers learned of the photo, they summarily rented portable toilets for their workers.<sup>54</sup> Public shame and diminished sales—or the potential for them—made all the difference.

While de la Rosa’s strategy was efficient, it did not address the core matter of workers’ physical health. Using Upton Sinclair’s *The Jungle* as an example, historian Matt García explains that changes in production practices that focused exclusively on consumer concerns could, at best, result in partial victory.<sup>55</sup> The real battle involved giving workers a say in environmental policies. The CRLA understood this, but appealing to consumers proved to be an efficient way to effect change. CRLA attorney Ralph Lightstone explained the problem of sanitation with a theory of deterrence. If growers want to cut costs by eliminating field sanitation facilities, one of the only ways to consistently prevent them from doing so is through regulation. For the regulation to work, however, two factors must exist: one, a plausible chance that they will be caught; and two, a fine that hurts enough to make them comply. In many areas, neither factor existed. In the Central Valley during the 1980s, for example, local health departments levied a fine of only fifty dollars for failure to provide portable toilets. Most growers preferred to pay the fine rather than rent port-a-johns.<sup>56</sup> To address this problem, the CRLA continued arguing for statewide regulation, as well as higher penalties.

In 1990, their efforts yielded results. Senate Bill 1341 changed California Labor Code so that Cal/OSHA assumed the responsibility of overseeing field sanitation through programmed and unprogrammed inspections of agricultural workspaces. As the labor code now stipulated, inspectors would issue fines of \$750 for employers’ failure to provide “potable drinking water, suitably cool and in sufficient amounts,” and “one toilet and handwashing facility for each 20

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<sup>54</sup> Hector de la Rosa, Interview with author, March 18, 2019.

<sup>55</sup> García, *Jaws of Victory*, 2.

<sup>56</sup> Ralph Lightstone, in conversation with author, Oct. 22, 2019.

employees.”<sup>57</sup> Of growers’ reaction to the fine increase, Lightstone noted, “they were apoplectic” because, for years, paying the fine had been significantly easier than actually providing sanitary facilities.<sup>58</sup> Moreover, when they did start providing the necessary facilities, it was only to satisfy the minimum requirement. Lightstone described his experience inspecting portable toilets near Sacramento in the early 1990s. They were “unbelievably disgusting and horrible,” he said. “I still remember the smell.”<sup>59</sup> Evidently, growers often rented the port-a-johns on the first day of harvest and left them in the one-hundred-degree weather until the end of the harvest. The lack of service made them virtually unusable. In 1994, Lightstone took the problem to California Senator Gary Hart, who used Senate Bill 1689 to tighten the requirements for compliance.

The fight against pesticides moved even more slowly. In July of 1980, twenty-two workers in a Salinas valley cauliflower field suffered pesticide poisoning because they did not know the field had dangerous chemical residues. The following April, another mass poisoning occurred nearby at the Cal Coastal Farms for similar reasons. In response to the two incidents, the CRLA field office in Salinas filed suit and represented the affected workers at hearings before the California Occupational Safety and Health Division (Cal/OSHA). In June of 1981, the CRLA attorneys and their clients won “emergency field posting regulation” for all Monterey County that required growers to post warning signs after spraying toxic pesticides. This regulation was the first of its kind for row crops in California.<sup>60</sup>

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<sup>57</sup> “Field Sanitation Fact Sheet,” California Department of Industrial Relations, Revised, July 1995, [https://www.dir.ca.gov/dosh/dosh\\_publications/sanitation.html](https://www.dir.ca.gov/dosh/dosh_publications/sanitation.html) (accessed Oct. 25, 2019); see also, “Field Sanitation and Agricultural Safety and Health,” California Labor Code 6712, and Title 8, California Code of Regulations, Section 3457. Issued Aug. 17, 1992. <https://www.dir.ca.gov/DOSHPol/P&PC-46.htm> (accessed Oct. 24, 2019).

<sup>58</sup> Ralph Lightstone, in conversation with author, Oct. 22, 2019.

<sup>59</sup> *Ibid.*

<sup>60</sup> See “Mass Poisoning Case Continues,” *Noticiero* (Publication of the California Rural Legal Assistance), Fall 1981. Box 279, Folder 3, CRLA Records, Stanford.



As part of the gradual movement toward greater transparency, in 1980 the state of California began requiring chemical manufacturers to publish information on their product labels that indicated health risks.<sup>61</sup> Two years later, the U.S. House of Representatives provided mild support for regulation. As the *Washington Post* creatively explained, “Chemical manufacturers took an unexpected dousing yesterday as the House defeated a series of pro-industry amendments and then approved a two-year extension of the basic federal pesticide law.”<sup>62</sup> These state and federal regulations provided some control over pesticide use. Nevertheless, the problem of chemical exposure persisted.

Meanwhile, the CRLA employed another strategy to reduce pesticide exposure: worker education. In a 1984 booklet *¡La Amenaza de los Pesticidas! (The Pesticide Threat!)*, CRLA authors used a comic-strip narrative in Spanish to warn workers. They dedicated the booklet to “all agricultural workers who have suffered illness and even death because of the irrational use of pesticides.” The thirty-seven page narrative begins with the Cuerda family—father, mother, and son—thinning a crop. As they work, the family sees a sprayer plane on the horizon, and, before they know it, the wind has carried the toxic spray into the field where they are working. They leave, but at home, their son, Pepito, begins to feel faint. His eyes water, and his skin breaks out in boils. His mother takes him to the doctor, who explains that if pesticides are strong enough to kill insects and rodents, they are certainly strong enough to harm humans, especially children. They specifically affect eyes, skin, lungs, and the nervous system. Other effects of pesticide exposure, the doctor explains, appear later, such as cancer, blindness, damage to

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<sup>61</sup> See Larry Parsons, “Insecticide Linked to Birth Defects,” *Salinas Californian*, March 16, 1984. Carton 167, Folder 4, CRLA Records, Stanford.

<sup>62</sup> Ward Sinclair, “House Passes Tough Pesticide Control Bill,” *The Washington Post*, August 12, 1982. Box 27, Folder 1, CRLA Records, Stanford.

internal organs, and birth defects. The doctor then shows the mother how to read and understand pesticide labels.

At home, the Cuerda family shares Pepito's experience with friends who each have memories of their own. "Do you remember what happened to Felipe?" one friend asks. "Felipe and his *compañeros* were having lunch in a field, and some pesticide from a nearby sprayer fell on their food. An hour later all of them felt pains in their chest and had to be rushed to the hospital." Because of this poisoning, the friend concludes, "Felipe still suffers headaches and chest pains, and at night he cannot sleep because of difficulty breathing." After others tell their stories, the Cuerdas and their friends decide to teach other workers about the dangers of pesticides.<sup>63</sup> As the narrative indicated, many farmworkers did not fully understand the health risks associated with pesticides. Through this didactic story, the agency suggested that since growers could not be counted on to protect their workers, workers had to protect themselves.

Throughout the 1980s, the CRLA highlighted the effects of pesticide poisoning on pregnant women and fetuses. In 1984, scientific study demonstrated that the insecticide Metasystox-R was associated with birth defects.<sup>64</sup> That same year, California officials found that the EPA's test results of 96 pesticides were invalid, and the CRLA participated in a lawsuit to force officials to retest. This discovery called to mind the 1978 investigation of Industrial Bio-Test Laboratories of Illinois, which found that "thousands of [EPA-approved] tests used to register pesticides and other chemicals had been deliberately falsified."<sup>65</sup> Such discoveries increased public concern, especially in California, whose agricultural industry now used

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<sup>63</sup> "¡La Amenaza de los Pesticidas!" Carton 270, Folder 7, CRLA Records, Stanford.

<sup>64</sup> Larry Parsons, "Insecticide Linked to Birth Defects."

<sup>65</sup> "State retests 96 Pesticides that EPA had OK'd on basis of invalid data," Santa Clara County *Mercury News*, March 11, 1984. Carton 167, Folder 4, CRLA Records, Stanford.

approximately 11 pounds of pesticide per acre, as opposed to the national average of 2.3 pounds per acre.<sup>66</sup>

In light of these realities, the CRLA prepared a report on the “reproductive hazards of pesticide exposure” and challenged the “evolving governmental policy which would ban the worker, not the hazard.” Aside from challenging the discriminatory idea of banning pregnant women from fieldwork, the CRLA argued that 60-70 percent of pesticides in use had not been tested for their effects on fetuses, and it criticized the “glacial pace” of the EPA in doing so. To emphasize the need for such research, the CRLA summarized three classes of herbicides and their impact on human health. Dipyridyls were associated with tissue damage, including damage to mucosal lining in the lungs. Chlorophenoxy herbicides (like 2,4-D, i.e. Agent Orange) were associated with skin irritation, nervous system disorders, and respiratory irritation. Finally, Nitrophenolic chemicals were associated with brain damage, cataracts, liver damage, and death. In the words of the report, “the herbicide TOK [of the Nitrophenol family] was widely used for two decades before its potential to cause birth defects became widely known. CRLA was instrumental in efforts to remove it from the market.”<sup>67</sup> As the report indicated, California growers still used extremely toxic agrochemicals, and protection for farmworkers remained inadequate.

The work of the CRLA contributed to a growing national debate regarding the need to more rigorously test pesticides before release. On one hand, pro-industry politicians complained that pesticide manufacturers already experienced delays in registering their products for use.<sup>68</sup> Clare Berryhill, director of the California Department of Agriculture, stated that he did not “want

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<sup>66</sup> See, “Report V: Pesticides,” Carton 271, Folder 1, CRLA Records, Stanford.

<sup>67</sup> “Report V: Pesticides.” Carton 271, Folder 1, CRLA Records, Stanford.

<sup>68</sup> See, “Attack on Pesticide Controls,” *The Sacramento Bee*, July 24, 1982. Box 27, Folder 1, CRLA Records, Stanford.

to put our growers at a competitive disadvantage.” With such support, growers and chemical manufactures defended pesticide practices. “We haven’t killed anybody,” said one manufacturer defiantly. In contrast, some officials called for greater controls on pesticides for the sake of public health. “This shouldn’t be looked at as an ag issue,” said Assemblyman Bruce Bronzan, “it’s a human issue.”<sup>69</sup>

The CRLA’s legal battle on behalf of pregnant farmworkers and fetuses paralleled the efforts of the UFW to publicize some of the most tragic consequences of pesticide exposure: “cancer clusters” in cities such as McFarland, Fairchild, Rosamond, and Earlimart.<sup>70</sup> In these towns, an unusually high number of babies and children suffered cancer or birth defects. In many cases, the mothers had worked in the fields while pregnant. As just one example from the 1980s, Felipe Franco, son of farmworkers in McFarland, was born without arms or legs. During her first trimester, Felipe’s mother, Ramona, worked as a grape picker in fields that had been sprayed with various pesticides. The growers told me the chemicals were harmless, she recalled, just “medicine” for the plants.<sup>71</sup> As pesticide defenders pointed out, proving direct causation was difficult, even with the identification of clusters. After all, countless factors and conditions can lead to cancer, and in any given individual it is virtually impossible to trace all such factors. Nevertheless, the existence of cancer clusters provided evidence that something was amiss in farmworkers’ environment, and pesticide exposure was the most obvious problem.

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<sup>69</sup> Rick Rodriguez, “Pesticides: A Growing Public Awareness,” *Fresno Bee*, March 29, 1984; *Sacramento Bee*, April 29, 1984. Carton 167, Folder 4, CRLA, Stanford.

<sup>70</sup> See Nash, *Inescapable Ecologies*, 185-195.

<sup>71</sup> See Pat Hoffman, “UFW Fights Harvest of Poison,” *The Witness*, July/August 1988.

<https://libraries.ucsd.edu/farmworkermovement/essays/> (accessed June 26, 2019); Richard Steven Street, *Everyone Had Cameras: Photography and Farmworkers in California, 1850-2000* (Minneapolis: University of Minnesota, 2008), 523-527; Susan Ferriss and Ricardo Sandoval, *The Fight in the Fields: Cesar Chavez and the Farmworkers Movement* (New York: Harcourt Brace, 1997), 235-239.

Although the UFW successfully publicized the existence of cancer clusters, its anti-pesticide campaign of the 1980s struggled to achieve results. In general, by 1980 the union had lost many of its hard-won contracts, membership was in decline, and Chavez was arguably growing out of touch with workers.<sup>72</sup> Regarding pesticides, Chavez announced in 1984 a boycott that would, among other things, “protest excessive and negligent use of dangerous pesticides by growers.”<sup>73</sup> As part of this campaign, several union photographers and writers publicized the stories of pesticide victims, many of whom were children, in the UFW publication *Food and Justice*, in the Los Angeles weekly *Vida Nuevo*, and in the union video *The Wrath of Grapes*. One of these photographers, Victor Alemán, took several pictures of Felipe Franco and, with the permission of Felipe’s mother, included one of the photos in *Food and Justice*. Later, however, union supporters in Canada and on the east coast made posters from the photo and used it in boycotting activities. Since she had not given permission for such use of her son’s photo, Felipe’s mother was offended and sued the union. As a result, a judge prohibited the union from using the photo as well as its video *The Wrath of Grapes*, which informed the public about pesticides. The latter restriction weakened the union’s anti-pesticide campaign considerably.<sup>74</sup>

Thus, by the late 1980s, the CRLA, which had expanded into seventeen field offices, carried the baton in the battle against pesticides. According to Julie Sze, the agency eventually succeeded in banning some 85 percent of all the pesticides in California.<sup>75</sup> Moreover, as the environmental justice movement began in urban communities of color throughout the nation, the CRLA used the rhetoric and ideas of the movement to enhance its practice of poverty law. The

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<sup>72</sup> See Hammerback and Jenson, *Rhetorical Career*, 156-157; For a look at Chavez’s leadership in the 1980s, see Frank del Olmo, “Cesar Chavez Suffers for and Revives the Cause of Farm Workers’ Contracts,” *Los Angeles Times*, August 26, 1988. For a discussion of his weaknesses, see, Miriam Pawal, *The Union and Their Dreams: Power, Hope, and Struggle in Cesar Chavez’s Farm Worker Movement* (New York: Bloomsbury, 2009).

<sup>73</sup> Jenson and Hammerback, *Rhetorical Career*, 157.

<sup>74</sup> Street, *Everyone Had Cameras*, 523-527.

<sup>75</sup> See Sze, “Denormalizing,” 111.

culmination of pesticide protest and poverty law would come in the late 1990s. While the CRLA did not rid California agriculture of all environmental hazards, its practice of environmental poverty law from the 1960s onward did lead to concrete regulations that protected the physical health of farmworkers and their families. This steady control that Latino workers gained over pesticide practices and over hydration and hygiene were fundamental steps in the civil rights and environmental justice movements in California.

## Chapter 3

### Toxins in the Field: The CRLA, Farmworker Families, and Environmental Justice in Contemporary California

In August 2018, a San Francisco jury ordered the giant agrochemical company Monsanto to pay \$289 million to California groundskeeper Dewayne Johnson because his diagnosis of non-Hodgkin's lymphoma was "at least partly due to using glyphosate, the primary ingredient in [the herbicide] Roundup."<sup>1</sup> Though a judge later reduced the reparations to \$78 million, the jury's acceptance of partial causation set a significant precedent. In March 2019, a federal jury ordered Monsanto to pay \$80 million to California resident Edwin Hardeman, who likewise claimed that using Roundup had led to his non-Hodgkin's lymphoma.<sup>2</sup> Furthermore, in May 2019, a California jury ordered the company Bayer, which had recently acquired Monsanto, to pay a record \$2 billion to Alva and Alberta Pilliod, who suffered the same type of cancer and who also blamed Roundup.<sup>3</sup> Since June 2019, other cases have gone to trial, and still others are on the docket.

Throughout the Roundup debates, the U.S. Environmental Protection Agency has maintained that, if used according to manufacturer's instructions, the herbicide presents no

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<sup>1</sup> Mike James and Jorge L. Ortiz, "Jury Ordered to Pay \$289 Million to Cancer Patient in Roundup Lawsuit," *USA Today*, Aug. 10, 2018, <https://www.usatoday.com/story/news/2018/08/10/jury-orders-monsanto-pay-289-million-cancer-patient-roundup-lawsuit/962297002/> (accessed June 25, 2019); see also, Emily Sullivan, "Groundskeeper Accepts Reduced \$78 Million Award in Monsanto Cancer Suit," *NPR*, Nov. 1, 2018, <https://www.npr.org/2018/11/01/662812333/groundskeeper-accepts-reduced-78-million-in-monsanto-cancer-suit> (accessed June 26, 2019).

<sup>2</sup> Julia Jacobs, "Monsanto Order to Pay \$80 Million in Roundup Cancer Case," *New York Times*, Mar. 27, 2019, <https://www.nytimes.com/2019/03/27/us/monstanto-roundup-california-verdict.html> (accessed June 25, 2019).

<sup>3</sup> Rachel Siegel, "Roundup is Embroiled in Cancer Cases. Now its Maker is Putting \$5.6 Billion toward a New Kind of Weedkiller," *Washington Post*, June 14, 2019, <https://www.washingtonpost.com/business/2019/06/14/roundup-is-embroiled-cancer-cases-now-its-maker-is-putting-billion-toward-new-kind-weed-killer/> (accessed June 24, 2019); Tina Bellon, "California Jury Hits Bayer with \$2 Billion Award in Roundup Cancer Trial," *Reuters*, May 13, 2019, <https://www.reuters.com/article/us-bayer-glyphosate-lawsuit/california-jury-hits-bayer-with-2-billion-award-in-roundup-cancer-trial-idUSKCN1SJ29F> (accessed June 25, 2019).

significant health risks, and the controversial ingredient glyphosate is not a carcinogen. However, the juries' consistent ruling against Roundup, even when the plaintiffs could only establish partial causation of their illnesses, indicates that many citizens and policy makers may take a harder line against pesticides in the twenty-first century. Indeed, more and more voices may follow the example of the nonprofit Environmental Working Group and call for "a fundamentally new paradigm for pesticides."<sup>4</sup> Near the end of the twentieth century, scholar Christopher Bosso observed that the entrenched "pesticides paradigm" in the United States embraced agrochemicals as necessary, safe, and effective.<sup>5</sup> The Roundup verdicts challenge such assumptions more boldly than ever.

At the same time, this series of cancer cases and court victories raises the question of the incalculable number of individuals in California who have received no such reparations for their exposure to pesticides, namely Latino farmworkers. For decades, California has led the nation in agricultural production. In the twenty-first century, it provides half of the United States' produce, and it generates some \$38 billion in annual sales of famously unblemished fruits, vegetables, and nuts.<sup>6</sup> Such success, however, depends on massive amounts of agrochemicals, as well as a vast supply of Latino laborers who spend their days working around such chemicals.

At the beginning of this century, historian Patricia Limerick emphasized the need for scholars of the American West to see the region as a place of convergence of diverse peoples. She also argued for the relevance of history in understanding current dilemmas.<sup>7</sup> In the spirit of

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<sup>4</sup> Siegel, "Roundup is Embroiled."

<sup>5</sup> Christopher Bosso, *Pesticides and Politics: The Life Cycle of a Public Issue* (Pittsburgh: University of Pittsburgh, 1987), 28, 32-33, 237.

<sup>6</sup> See Jill Lindsey Harrison, *Pesticide Drift and the Pursuit of Environmental Justice* (Cambridge: MIT, 2011), 25; for more on California's historic quest to create perfect fruit, see Douglas Cazaux Sackman, *Orange Empire: California and the Fruits of Eden* (Berkeley: University of California, 2005).

<sup>7</sup> Patricia Limerick, *Something in the Soil: Legacies and Reckonings in the New West* (New York: W.W. Norton, 2000), 13-27.



Limerick's approach, a look at farmworkers' recent protest of agrochemicals and other environmental hazards helps put the Roundup cases into perspective. In the lawsuits, Hardeman and the Pilliods (who are white) simply used Roundup in their yards; Johnson (African American) used the herbicide as part of his job. Future debate should take into account the experiences of Latino families who work in fields bathed with industrial chemicals and whose communities often face pesticide drift and contamination from waste facilities.

To understand farmworkers' stake in contemporary pesticide debates, no history is more important than that of two organizations: The United Farm Workers Union and the California Rural Legal Assistance. Beginning in the 1960s, both advocates employed a variety of strategies to protect workers from pesticide exposure. In the 1990s, however, UFW influence waned, whereas the CRLA found new avenues of protest in the nationwide environmental justice movement, which addressed minority communities' disproportionate exposure to environmental hazards.<sup>8</sup> The CRLA helped bring this movement to California farmworkers and their families, using civil rights legislation to protest both farmworkers' proximity to waste facilities and their exposure to pesticides.

Unfortunately, the agency's fight for environmental justice has always run into more quagmire than other cases. While CRLA litigation could lead to a ban on the short-handled hoe, an end to the Bracero Program, and other results that achieved a measure of closure on specific injustices, pesticides and waste facilities posed long-term battles usually focused on reducing exposure rather than eliminating contact with the dangerous chemicals. In all cases, CRLA

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<sup>8</sup> The Environmental Protection Agency defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. This goal will be achieved when everyone enjoys: the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work. See, "Environmental Justice," U.S. EPA, <https://www.epa.gov/environmentaljustice> (accessed Apr. 2, 2019).

attorneys faced the widely accepted assumption that these chemicals, whether pesticides or toxic waste, were inevitable parts of American life. Consequently, litigation, at best, could only curb flagrant cases of environmental racism. The beginning of the twenty-first century saw a continuation and escalation of these efforts as the CRLA worked with other environmental justice advocates on behalf of farmworkers and their families. Although their efforts did not meet with the same level of success as the recent Roundup cases, they did lead—finally—to several significant reforms, and they began the century with bold arguments that will be continue to be relevant.

Since the 1800s California's vast crops and orchards have depended on cheap manual labor, often of racial minority groups. To growers, just as crucial as finding field workers has been fighting environmental challenges, including pests. As historian Richard Street writes, in the mid-1800s, California growers organized Native American laborers "into huge bug-killing crews. Armed with little more than paddles, branches, burlap bags, sulfured rags, smoky torches, and carts full of flaming dung," these workers would "burn, scare, smoke, smash, or otherwise drive away insect infestations." During the 1870s and 1880s, growers similarly employed Chinese farmworkers as human pest control. By the 1890s, however, they began experimenting with homemade pesticides, including black tobacco leaf, boiled eucalyptus leaves, sulfur dust, and mixtures of shark oil, whale oil, and kerosene. By 1912, as Street notes, citrus growers had discovered lead arsenate, a more toxic pesticide which Japanese, Mexican, and Anglo-American workers would spray from platforms with pressure-filled hoses. During this time, growers and

specialized companies also developed the practice of fumigating citrus trees by covering them with a tent and then pumping poisonous gases underneath the tent's side.<sup>9</sup>

During World War II, scientists developed chemical compounds such as DDT and organophosphates to help control mosquito-borne illness. Following the war, as California agribusiness expanded, growers began spraying such chemicals on their crops.<sup>10</sup> As historian Linda Nash points out, in the transition to larger, monoculture farms, the California Department of Agriculture promoted a “modern” agricultural system, based not only on “mechanization, irrigation technology, advances in plant hybridization, and the recruitment of a vast labor supply ... but also on massive amounts of the new agricultural chemicals.” By the mid-1950s, she continued, California farmland was “awash in chemicals.”<sup>11</sup>

During this same period of post-war growth, Mexican immigrants and Mexican-Americans entered the industry in unprecedented numbers to satisfy the need for cheap, seasonal labor.<sup>12</sup> In many cases, the entire family worked in the fields.<sup>13</sup> Though these farmworkers were crucial to the industry, their migratory status and the government's pro-business attitude relegated them to merely another production input. Language barriers further limited their voice. Since its inception in 1966, the CRLA had won numerous cases on behalf of farmworkers, which reduced pesticide use and gave workers more of a say in pesticide practices. Nevertheless, exposure to agrochemicals continued to threaten field workers, and the agency continued using the courts to control pesticide practices.

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<sup>9</sup> Street, *Beasts of the Field*, 155, 334-335, 512-514.

<sup>10</sup> See, Editors, “California Agriculture Time Line,” 22; Bosso, *Pesticides and Politics*, 28-31.

<sup>11</sup> Nash, *Inescapable Ecologies*, 130-133.

<sup>12</sup> Joon Kim argues that Mexicans gradually replaced other groups, like the Chinese, because the California Farm Bureau Federation and the American Farm Bureau Federation recognized that Mexican laborers were easier to deport once harvest season ended. See, Kim, “California's Agribusiness.”

<sup>13</sup> An important exception to family labor was the Bracero Program (1942-1964), in which Mexican men immigrated as temporary field laborers.

In this legal endeavor, the CRLA's work is unique because many of its cases focused on children.<sup>14</sup> In the fight against DDT, the CRLA focused on pregnant women and fetuses.<sup>15</sup> Parallel cases, such as the fight for free milk or fair education, also focused on children. Throughout the 1980s, the agency engaged in pesticide debates by arguing particularly for greater protection for pregnant women and fetuses. As the agency brought the fight for environmental justice into the twenty-first century, it maintained this emphasis.

In 1991, *The Sacramento Bee* released a special issue titled "Fields of Pain," which highlighted the situation of farmworker families. "My co-workers have their fingers all rotten because of the pesticides and the pulling of roots by hand," reported Teresa Sandoval. Similarly, Leticia Maravilla shared her story of pesticide poisoning. In 1990, as she worked in lettuce fields in Fresno County, Maravilla sat on the ground to have lunch and, in so doing, absorbed a liquid pesticide. "I began to feel terrible," she recalled. "My skin began to swell up and I began to break into a rash. I tried to keep working but I couldn't. I felt a sense of desperation. My skin was on fire." She continued, "My eyes had swollen shut. And when I went to the clinic my body had welts all over. I felt so weak. I always felt like vomiting."<sup>16</sup> Other articles focused on children, including the problems of hunger, poverty, lack of education, and pesticide exposure. The issue underscored the fact that, looking ahead to the twenty-first century, much work remained in the fight to improve farmworker conditions.

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<sup>14</sup> For example, CRLA lawsuits prevented welfare officials from obligating children to work in the fields, they provided free milk for low-income schoolchildren, and they halted the state's practice of placing farmworker children in classes for the "mentally retarded" because they did not speak English. See, Gene Blake, "Children on Welfare Forced to Pick Grapes, Suit Charges," *Los Angeles Times*, June 27, 1968. Box 28, Folder 1, CRLA, Stanford; "Suit Settled: More Free Milk for State's Kids," *San Francisco Chronicle*, March 17, 1970. Box 65, Folder 3, CRLA, Stanford; Mary Ellen Leary, "Children Who Are Tested in an Alien Language: Mentally Retarded?" *The New Republic*, May 30, 1970. Box 65, Folder 6, CRLA, Stanford.

<sup>15</sup> "CRLA Press Release: July 27, 1969," Box 65, Folder 1, CRLA, Stanford.

<sup>16</sup> "Special Edition: Fields of Pain," *The Sacramento Bee*, Dec. 8-11, 1991. Carton 271, Folder 2. CRLA, Stanford.

While the CRLA had succeeded in outlawing hundreds of pesticides and in regulating spraying practices, the problem of exposure persisted because, as Julie Sze argues, “environmental abuse of the most vulnerable populations” had become “normalized.”<sup>17</sup> Perhaps such normalization explains why four users of a household herbicide like Roundup can win billions in reparations, whereas the thousands of Latino workers exposed regularly to industrial agrochemicals receive no such attention. To summarize the ideas of sociologist Jill Harrison, California agriculture had come to rest squarely on “social exploitation” of Latino workers who appeared and disappeared when needed, and on “environmental exploitation” from chemicals that contaminated air and water and forced agricultural ecosystems to produce quickly. These two forms of exploitation reinforced each other: the cheap, seasonal farmworkers suffered disproportionate pesticide exposure and illness, and their low-income, migratory status made them disproportionately unable to challenge pesticide practices.<sup>18</sup> To address such structural problems, Sze argues that activists must expose them “in ways that trigger attention from the state.”<sup>19</sup> In the 1990s, the environmental justice movement provided such an opportunity for CRLA attorneys and the farmworkers they served.

Scholars often trace the environmental justice movement back to the Love Canal community in Niagara Falls, New York and its protest in the late 1970s of hidden toxic waste.<sup>20</sup> They also emphasize the 1982 incident in Warren County, North Carolina when residents and activists lay down in the road to prevent garbage trucks from entering the state’s first toxic waste landfill. They protested because 75 percent of the residents that would have to live next to the

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<sup>17</sup> Sze, “Denormalizing,” 108.

<sup>18</sup> Harrison, *Pesticide Drift*, 26-30.

<sup>19</sup> Sze, “Denormalizing,” 109.

<sup>20</sup> See Elizabeth D. Blum, *Love Canal Revisited: Race, Class, and Gender in Environmental Activism* (Lawrence: University of Kansas, 2008),

landfill were African American.<sup>21</sup> Both events publicized the fact that across the nation waste sites were disproportionately located in minority communities. In 1987, the United Church of Christ used census data to examine the demographics of waste sites in 25 states and 50 metropolitan areas. It concluded that three in five blacks and Hispanics lived in neighborhoods with abandoned toxic waste sites. Furthermore, “communities with commercial hazardous waste facilities had twice the number of minority residents as did areas without these plants.”<sup>22</sup> In light of such realities, African American leaders and activists in 1991 held the first People of Color Environmental Leadership Summit in Washington D.C, at which they presented 17 Principles of Environmental Justice. Principle 1 affirmed the “sacredness of Mother Earth.” Principle 2 stated: “Environmental justice demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.”<sup>23</sup> Essentially, the movement tackled both social and environmental exploitation, and its focal point was the intersection of the two.

As the work of Ellen Spears illustrates, environmental justice activists tapped into the networks of organizers and political power that civil rights activists had developed in previous decades.<sup>24</sup> In this way, the movement stemmed more directly from civil rights activism than from traditional environmentalism. Indeed, as CRLA lawyer Luke Cole explained, environmental organizations had historically prioritized flora and fauna. In 1971, for example, the Sierra Club asked its national membership, “Should the Club concern itself with the conservation problems of such special groups as the urban poor and ethnic minorities?” In response, “58 percent of all

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<sup>21</sup> Christopher W. Wells, “Introduction,” *Environmental Justice in Postwar America: A Documentary Reader* (Seattle: University of Washington, 2018), 3-7.

<sup>22</sup> Michael Satchell, “A Whiff of Discrimination? ‘Racism’ is the new ecological buzzword. But that is a mistake,” *U.S. News and World Report*, May 4, 1992. Carton 270, Folder 2, CRLA, Stanford.

<sup>23</sup> “Principles of Environmental Justice,” The First National People of Color Environmental Leadership Summit, Washington D.C., Adopted October 27, 1991. Carton 270, Folder 2, CRLA, Stanford.

<sup>24</sup> See, Ellen Griffith Spears, *Baptized in PCBs: Race, Pollution, and Justice in an All-American Town* (Chapel Hill: University of North Carolina, 2014), 118.

members either strongly or somewhat opposed” the idea.<sup>25</sup> By contrast, the environmental justice movement prioritized the urban poor.<sup>26</sup> As one journalist observed, local activists who challenged discriminatory contamination often “had little interest in saving Barton Springs, the golden-cheeked warbler or the blue whale,” but they did care about their communities.<sup>27</sup> Grassroots movements caught the attention of politicians of all levels. In 1994, President Bill Clinton signed Executive Order 12898, which required each federal agency to “make achieving environmental justice part of its mission by identifying and addressing ... disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations.”<sup>28</sup>

In California, Luke Cole was instrumental in bringing the movement to farmworkers. Just days after graduating from Harvard Law School in the early 1990s, Cole joined the CRLA and began helping farmworkers in Kettleman City challenge the construction of a toxic waste incinerator at a large landfill in their community.<sup>29</sup> The case, *El Pueblo Para el Aire y Agua Limpio v. County of Kings*, revealed one of the fundamental challenges of environmental poverty law, namely proving discriminatory intent. As a journalist pointed out, minorities and their advocates charged that the siting of waste facilities in their communities constituted

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<sup>25</sup> Luke W. Cole, “Empowerment as the Key to Environmental Protection: The Need for Environmental Poverty Law,” *Ecological Law Quarterly* 19, no. 4 (1992), 620, footnote 1.

<sup>26</sup> While the EJ movement’s focus on cities and people did differ from environmentalism’s focus on national parks and nature, Martin Melosi argues that environmentalism of the Progressive Era and of the 1960s and 1970s also included care for the urban poor. However, like Spears, Melosi sees a strong connection between the environmental justice and Civil Rights movements. See, Martin V. Melosi, “Environmental Justice, Political Agenda Setting, and the Myths of History,” *Journal of Policy History* 12, no. 1 (2000), 46-47.

<sup>27</sup> Mike Ward, “‘Greening’ closes gap in Austin: Environment Fuses East, West,” *Austin American-Statesman*, March 8, 1992. Carton 270, Folder 2, CRLA, Stanford. While many urban residents became activists only when contamination threatened their communities, Melosi challenges the stereotypes that “minorities have little ... concern for the full range of environmental issues” and that traditional environmentalism was “a white thing.” Melosi, “Environmental Justice,” 47-48.

<sup>28</sup> “Presidential Documents: Executive Order 12898 of February 11, 1994,” National Archives, Feb. 16, 1994, <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf> (accessed Apr. 19, 2019).

<sup>29</sup> Marcia Coyle, “Lawyers Try to Devise New Strategy,” *National Law Journal*, Sep. 21, 1992. Carton 270, Folder 2, CRLA, Stanford.

discrimination, but many officials, including the EPA, claimed that it was “poverty, low property values, and lack of political power—not overt racism—that attracted polluters.” After all, there was also “strong evidence that whites, too, [were] widely victimized” in the siting of “landfills, incinerators, petrochemical plants and sewage treatment facilities.”<sup>30</sup>

In California, however, all three of the toxic waste dumps—Kettleman City, Buttonwillow, and Westmorland—were located in minority communities, and such siting did not appear to be happenstance. In 1984, the government had commissioned a study to learn which groups were least likely to resist the construction of waste facilities. The results identified people who were poor, rural, Catholic, of limited education, and involved in resource extraction jobs. In California, farmworkers matched that description perfectly.<sup>31</sup> When county officials denied charges of discrimination and approved the construction of the incinerator, the CRLA appealed with the argument that the landfill owner, Chemical Waste Management, discriminated by only translating five of the nearly 1000-page Environmental Impact Report into Spanish for local residents.<sup>32</sup> A judge upheld this latter charge, agreeing that “failure to translate materials had unlawfully precluded residents from meaningful involvement.” Eventually, the company cancelled its plan to build the incinerator.<sup>33</sup>

In the wake of this victory, Cole and other CRLA lawyers began considering how environmental justice also included protection from pesticide exposure, a problem that the mainstream EJ movement had not yet taken up. As scholar Angus Wright charged in 1990, “For all our concern with toxic waste dumps and irresponsible disposal of hazardous materials,

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<sup>30</sup> Satchell, “Whiff of Discrimination?”

<sup>31</sup> Cerrell Associates, Inc., “Political Difficulties Facing Waste-to-Energy Conversion Plant Siting.” Report prepared for California Waste Management Board. <https://www.ejnet.org/ej/cerrell.pdf> (accessed Apr. 10, 2019).

<sup>32</sup> See Cole and Foster, *From the Ground Up*, Preface.

<sup>33</sup> See Report, “El Pueblo Para El Aire y Agua Limpio; Kids Protecting Our Planet, Complainants v. Board of Supervisors of Kings County, Respondents,” 2010. [https://www.epa.gov/sites/production/files/2014-06/documents/16r-10-r9\\_complaint\\_redacted.pdf](https://www.epa.gov/sites/production/files/2014-06/documents/16r-10-r9_complaint_redacted.pdf) (accessed July 2, 2019).



corporations, governments, and international agencies encourage the deliberate dispersal of [a] fantastic quantity of biocides into the environment” each year. These biocides, he added, endanger all those who are exposed.<sup>34</sup> In California, the CRLA addressed this concern by tying its past and present pesticide litigation into the environmental justice movement. While many scholars marked Love Canal and Warren County as the beginning of the official movement, Cole argued that lawsuits to protect farmworkers from pesticides, such as the 1969 case against DDT, could also be considered the beginning.<sup>35</sup> In other words, pesticide exposure clearly fell within the purview of the environmental justice movement.<sup>36</sup>

One new option that Cole considered was using Title VI of the Civil Rights Act to file administrative complaints with the EPA. In his words, Title VI, which “prohibits discrimination on the basis of race, color or national origin,” is “a potentially powerful tool for community groups engaged in local environmental justice struggles because, under EPA regulations, it bars disproportionate impact in the administration of environmental programs.” Moreover, Cole argued, administrative complaints could work more effectively than traditional litigation because the EPA handled them directly, and they did not involve expensive court proceedings.<sup>37</sup> Significantly, Title VI moved beyond intentional discrimination. As the U.S. Department of Justice explains, “Title VI itself prohibits intentional discrimination. However, most funding

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<sup>34</sup> Angus Wright, *The Death of Ramón González: The Modern Agricultural Dilemma* (Austin: University of Texas, 1990), viii.

<sup>35</sup> Luke W. Cole, “Environmental Justice Litigation: Another Stone in David’s Sling,” *Fordham Urban Law Journal* 21, no. 3 (1994): 527.

<sup>36</sup> In his recent work, Josiah Rector makes a related argument, pointing out that union protest of environmental hazards throughout the mid-twentieth century can also be considered the beginning of environmental justice. In his view, important union activity includes the UFW’s fight against pesticides and the United Automobile Workers (UAW’s) fight to end African Americans’ disproportionate exposure to dusts, fumes, oils, and other hazards in auto plants. See Rector, “Environmental Justice at Work.”

<sup>37</sup> Luke W. Cole, “Civil Rights, Environmental Justice, and the EPA: A Brief History of Administrative Complaints under Title VI.” Carton 270, Folder 4. CRLA, Stanford.

agencies have regulations implementing Title VI that prohibit recipient practices that have the *effect* of discrimination.”<sup>38</sup>

Throughout the 1990s, CRLA lawyers followed Title VI complaints around the nation.<sup>39</sup> In 1999, they were ready to test the strategy on pesticides. Not surprisingly, they prepared a case that focused on children. With the help of community workers, CRLA lawyers contacted parents in Monterey, Ventura, and Santa Cruz counties and selected six schools that were surrounded by produce fields.<sup>40</sup> Then, working with the Center on Race, Poverty, and the Environment, CRLA lawyers prepared a Title VI complaint on behalf of children who attended these schools, including Thalia, who attended Ohlone Elementary School in Pajaro, and David, who attended Rio Mesa High School in Oxnard. The complaint was titled *Angelita C. et al v. California Department of Pesticide Regulation* for Thalia’s mother, Angelita.

In this complaint, the CRLA charged that given the location of public schools, farmworker children faced a “disparate impact” of pesticide use.<sup>41</sup> Specifically, the schools in question were surrounded by strawberry fields that were treated with a toxic fumigant called methyl bromide. Growers usually pump fumigants of this kind into the ground to prepare the soil for planting. As Harrison notes, the chemicals are designed to vaporize and then “permeate and sterilize the soil structure.”<sup>42</sup> Put differently, they kill virtually everything and are extremely dangerous. As the EPA later indicated, methyl bromide is an effective acaricide (for ticks and

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<sup>38</sup> “Title VI of the Civil Rights Act of 1964,” The United States Department of Justice, <https://www.justice.gov/crt/fcs/TitleVI> (accessed Apr. 22, 2019); emphasis added.

<sup>39</sup> Cole, “Civil Rights, Environmental Justice, and the EPA.”

<sup>40</sup> See, Talia Buford, “In California, An Unsatisfying Settlement on Pesticide-Spraying,” The Center for Public Integrity, August 11, 2015. <https://publicintegrity.org/environment/in-california-an-unsatisfying-settlement-on-pesticide-spraying/> (accessed May 18, 2019).

<sup>41</sup> The Center on Race, Poverty, & the Environment, “A Right Without a Remedy: How the EPA Failed to Protect the Civil Rights of Latino Schoolchildren,” CRPE Publications, 2016. <https://crpe-ej.org/resources/publications/> (accessed Mar. 18, 2019), 5.

<sup>42</sup> Harrison, *Pesticide Drift*, 31.

mites), antimicrobial, fungicide, herbicide, insecticide, nematicide (for nematode worms), and vertebrate control agent.<sup>43</sup> The gas is so toxic that growers are required to stretch thick plastic tarps over each strawberry row; the strawberry stem grows through a tiny hole in the plastic.<sup>44</sup>

Despite such precautionary measures, fumigant vapors can drift.<sup>45</sup> In a 2012 case of mass poisoning, lettuce workers in Salinas smelled an acid odor that reminded them of paint, cilantro, and diesel fuel. They then began to suffer eye-irritation, nausea, headache, dizziness and shortness of breath. In total, 43 people fell ill. Investigation revealed that on the previous day, to prepare a nearby field for strawberries, growers had fumigated the soil with a mixture of chemicals, including 1,3-dichloropropene (brand name Telone) and chloropicrin. In the morning sun on the day of the poisoning, the fumigant mixture had re-vaporized and traveled nearly half a mile through the air to the lettuce field. Because the growers had not violated any regulations, the Monterey County Agricultural Commissioner issued no fines. As this case indicates, fumigants are designed to vaporize and permeate the soil, but on hot, breezy days, growers cannot make the vapors stay in the soil. When the toxins drift, authorities commonly treat any damage as an uncontrollable accident. As CRLA lawyer Pearl Kan noted after the incident, California law regarding fumigant drift simply “doesn’t protect farmworkers or community members from exposure.”<sup>46</sup>

In 1999, with the health of their children in mind, farmworkers proposed a real solution: simply stop using the dangerous pesticides. In the Title VI complaint, the CRLA called for a complete ban on methyl bromide and the use of less toxic alternatives in its place, as well as a

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<sup>43</sup> U.S. Environmental Protection Agency. “Title VI Complaint 16R-99-R9: Fact Sheet.” <https://19january2017snapshot.epa.gov/sites/production/files/2016-04/documents/title6-c-factsheet.pdf> (accessed Mar. 19, 2019).

<sup>44</sup> Jesús Lopez, discussion; U.S. EPA, “Title VI Complaint 16R-99-R9: Fact Sheet.”

<sup>45</sup> See, Harrison, *Pesticide Drift*, 31.

<sup>46</sup> See, Lily Dayton, “Dangerous Drift,” California Health Report, Sep. 2, 2015, <http://www.calhealthreport.org/2015/09/02/dangerous-drift> (accessed Apr. 22, 2019).

ban on all toxic pesticides within five miles of schools.<sup>47</sup> In making their argument, CRLA lawyers first pointed out that pesticides like methyl bromide could easily drift onto school property. Second, they established that most of the students who attended schools in these high-risk areas were minorities. As attorney Michael Meuter noted, of “twenty-one public schools within 1.5 miles of the state’s most heavily fumigated areas, eighty-two percent of [the] students were non-white,” and most were Latino.<sup>48</sup> Thus, fumigation practices had a discriminatory impact. In the words of the complainants, “Imagine [these] children running track, practicing football, playing at recess, or just studying in an area where long term and short term pesticide exposures threaten their health and well-being.”<sup>49</sup>

In many ways, this Title VI complaint broadened the debate over pesticides. It was not a reaction to a specific poisoning incident, nor did it involve workers, though the parents of the schoolchildren were farmworkers.<sup>50</sup> Rather, it preemptively addressed schoolchildren’s proximity to pesticides, and it challenged the accepted idea that fumigants like methyl bromide were agricultural necessities. On the threshold of the twenty-first century, it was an ambitious test case for farmworker justice and pesticide control. It also symbolized parents’ efforts to free their children from some of the injustices that they faced in the fields.

The CRLA’s 1980’s critique of the EPA’s “glacial pace” in carrying out investigations proved worthy of repetition in 1999. The federal agency took two years to accept the complaint for investigation, and it was not until 2011 that it released its preliminary ruling. Such delay made a joke of its 180-day deadline for issuing preliminary findings.<sup>51</sup> Indeed, from experiences

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<sup>47</sup> CRPE, “A Right Without a Remedy,” 5.

<sup>48</sup> Sara Rubin, “Latino Families Sue EPA, Seeking Environmental Justice for Exposure to Pesticides,” *Monterey County Weekly*, Sep. 19, 2013.

<sup>49</sup> CRPE, “A Right without a Remedy,” 1.

<sup>50</sup> CRPE, “A Right Without a Remedy,” 4.

<sup>51</sup> CRPE, “A Right Without a Remedy,” 6. See also, U.S. EPA, “Title VI Complaint 16R-99-R9: Fact Sheet.”

such as this, Luke Cole concluded that complaints at the EPA just “sat on a shelf.”<sup>52</sup> The fact that the subjects of the case were children made the delay all the more significant. By the time the EPA responded, children like Thalia and David were grown. They had not seen justice served.

In 2009, however, the EPA received a censure from the U.S. Court of Appeals when, in relation to a different case, the Court noted a “consistent pattern of delay.” Following the reprimand, EPA Administrator Lisa P. Jackson announced that, “Environmental justice . . . is an area that calls for innovation and bold thinking.... The protection of vulnerable subpopulations is a top priority, especially with regard to children.”<sup>53</sup> Two years later, the EPA declared that, in relation to the 1999 complaint, it had found a *prima facie* violation of Title VI. In a letter from the EPA’s Office of Civil Rights to the California Department of Pesticide Regulation (CDPR), EPA officials explained the results of their investigation of daily methyl bromide concentrations and exposure scenarios. Specifically, they found: “exceedances, to a limited extent, for short term exposures”; “exceedances, to a wider extent, for chronic exposure”; and “an adverse disparate impact upon Latino schoolchildren with respect to the application of methyl bromide between 1995 and 2001.”<sup>54</sup> In other words, current fumigation practices did appear to violate schoolchildren’s civil rights. The EPA then directed the CDPR to address the situation.

Although these findings were promising, the case fell short of a victory because the CDPR engaged in private negotiations with EPA and came to an agreement. Completely excluding the CRLA and the complainants, the resulting consent decree required nothing more than greater monitoring of “methyl bromide air concentrations by adding a monitor at or near

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<sup>52</sup> Michael Meuter (CRLA Attorney), in discussion with author, Mar. 18, 2019.

<sup>53</sup> CRPE, “A Right Without a Remedy,” 7.

<sup>54</sup> U.S. Environmental Protection Agency, “Title VI Complaint 16R-99-R9.” Letter from Rafael DeLeon to Christopher Reardon, Apr. 22, 2011. <https://www.epa.gov/sites/production/files/2016-04/documents/title6-c42211-preliminary-finding.pdf> (accessed Mar. 19, 2019).

one of the schools named in the original complaint” and “community outreach and education efforts to schools that are in high methyl bromide usage areas.”<sup>55</sup> Essentially, the EPA told the CDPR, “Just try to help people stay out of the way.” Neither organization cared enough to require more than one token air monitor, which left the other high-risk areas virtually unchanged. In the wake of this resolution, the CRLA appealed the EPA’s decision to reach an agreement behind the backs of the complainants. The appeal was denied and the case closed.

In a press release, the EPA spoke of the decision as an environmental justice victory. “EPA is committed to ensuring that all Americans receive equal environmental and health protections,” said Rafael DeLeon, director of the Office of Civil Rights. “Environmental protection is public health protection, and everyone, especially children, deserve the opportunity to live, play, and learn in healthy communities.”<sup>56</sup> By contrast, Latino parents and CRLA lawyers felt that the “wimpy” new requirements failed to restrict the real problem of methyl bromide use.<sup>57</sup> Indeed, the fact that the EPA and the CDPR did not include the complainants in the agreement, though such exclusivity was within their prerogative, indicated only the most limited interest in making changes. Adding insult to injury was the EPA’s eleven-year delay. The *prima facie* finding of a Title VI violation was significant because it was the first of its kind; nevertheless, the result was frustratingly devoid of real action. In the words of one journalist, “the case is both EPA’s biggest success and one of its most notorious failures.”<sup>58</sup>

While the Angelita C. case fell short of a full victory, the Title VI complaint posited ideas that will be relevant throughout the twenty-first century. Chief among them is the argument that the civil rights of farmworker children—indeed, of all children—should protect them from

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<sup>55</sup> U.S. EPA, “Title VI Complaint 16R-99-R9: Fact Sheet.”

<sup>56</sup> Buford, “In California, An Unsatisfying Settlement.”

<sup>57</sup> Michael Meuter, discussion.

<sup>58</sup> Buford, “In California, An Unsatisfying Settlement.”

exposure to agrochemicals; therefore, certain pesticides should not be used near schools. More broadly, the case questioned the need for dangerous agrochemicals at all and emphasized the need to find alternatives. These arguments should inform ongoing debates.

Equally relevant in the twenty-first century will be farmworkers' arguments regarding additional environmental hazards. For farmworkers in Kettleman City, for instance, exposure to chemicals is not limited to pesticides; rather a second hazard is air and water contamination from Waste Management's Kettleman Hills landfill. Using the reasoning of the environmental justice movement, Kettleman City residents began the twenty-first century charging that the expansion of this landfill constituted a violation of their civil rights. While, as with the Angelita C. case, their initial protest did not lead to many concrete changes, their experience will be crucial in twenty-first century debates regarding environmental justice.

Kettleman City is located in Kings County, California and has approximately 1500 residents. Ninety-three percent are Latino, around sixty-two percent are foreign-born and monolingual Spanish-speakers, and many are employed as farmworkers.<sup>59</sup> Although these residents and the CRLA halted Waste Management's construction of an incinerator in the early 1990s, their battle for environmental justice never ended. After all, they still lived next to the largest hazardous-waste facility west of the Mississippi—a facility that, since its creation in 1979, had a record of environmental violations, including mismanagement of toxic substances like polychlorinated biphenyls (PCBs).<sup>60</sup> Moreover, as the work of anthropologist Yalda Asmatey demonstrates, the facility constantly received new contracts and constantly sought to expand. In 1997, for example, CRLA lawyers again helped residents oppose the landfill's

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<sup>59</sup> Report, "El Pueblo Para El Aire y Agua Limpio."

<sup>60</sup> Report, "El Pueblo Para El Aire y Agua Limpio"; see also Yalda Asmatey, "Corporation, People, and Government: A Look at the Rise of the Waste Management Corporation from Rural California to the Rest of the World," (PhD diss., University of California, Berkeley, 2013), 7, 19.

expansion. This time, however, they had less success. The company won the right to expand, quid pro quo a yearly donation of \$70,000 to the Latino community, in addition to 25 cents for every ton of waste and one dollar for every ton of PCB waste.<sup>61</sup> Though the neglected community needed the funds, the victory for Waste Management was an ominous harbinger for the twenty-first century.

Indeed, expansion efforts never ceased. In order to expand, the company must receive permits from Kings County and from the California Department of Toxic Substance Control (DTSC), a branch of the state EPA (Cal EPA). As part of the permit approval process, officials often hold open meetings at which different parties, including Latino residents, can share their opinions. Some of most important debates over expansion took place at the beginning of the twenty-first century. In 2005, Waste Management requested a thirty-two year renewal of its permit from Kings County officials, as well as permission to add 221.5 acres to their existing property. This expanded landfill, as community members pointed out, “would accept approximately 2,900 tons of hazardous waste daily, including ... materials containing PCBs, cyanides, asbestos, solvents, corrosives, lead, metals, and halogenated organics.”<sup>62</sup> In 2008, Waste Management requested an additional permit for expansion.<sup>63</sup>

In these cases and others, numerous community groups, including a youth organization named Kids Protecting Our Planet, argued that such expansion would violate their civil rights. In 2008, opposition became even more impassioned when investigation revealed a tragedy: Of the twenty babies born in Kettleman City during the past fourteen months, five had been born with cleft palates, and three of those babies had passed away. During the next two years, six more

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<sup>61</sup> Asmatey, “Corporation,” 95.

<sup>62</sup> Report, “El Pueblo.”

<sup>63</sup> See, Asmatey, “Corporation,” 95-97; Report, “El Pueblo”; “Settlement Agreement.”



babies were born with the similar defects. Studies also revealed that nearly one-fourth of all the town's children suffered asthma.<sup>64</sup> The most obvious cause of the crisis was contamination from the nearby landfill. Of specific concern were the PCBs, which scientific study had linked to cleft palates in the 1980s.<sup>65</sup> Congress had banned these toxins in 1976, and the Kettleman Hills landfill remained the only facility in California authorized to receive PCB waste.<sup>66</sup>

Despite the birth defects, Waste Management lobbied successfully for expansion. At a crucial public hearing in October 2009, Kettleman City parents hoped their personal experience would convince the Kings County Planning Commission that babies' lives were at stake. Waste Management, however, bused in scores of employees and their family members. With their green company t-shirts and hats, this sea of supporters filled the auditorium and vastly outnumbered Latino attendees. As another obstacle, Waste Management had provided for consecutive interpreters to help monolingual Spanish speakers, but county officials applied a strict five-minute limit to each participant's comments. This meant that those who needed consecutive interpretation could only speak for two-and-a-half minutes.<sup>67</sup> Outnumbered and cut short, Latino residents were unable to change officials' opinion.

In December 2009, Waste Management received approval to expand, which sparked additional protest from the community. As debate continued, company officials described their facility as a "critical resource for the state of California." After all, they said, "it is because of the Kettleman Hills landfill that sites like PacBell (now AT&T) Park in San Francisco can be built, all of the lead paint from Golden Gate Bridge could be cleaned up and the Archie Crippen Tire

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<sup>64</sup> See Asmatey, "Corporation," 53, 100-101, 110; Sze, "Denormalizing," 109.

<sup>65</sup> See Masao Watanabe and Toshio Sugahara, "Experimental Formation of Cleft Palate in Mice with Polychlorinated Biphenyls (PCB)" *Toxicology* 19 (1981), 49-53.

<sup>66</sup> See Asmatey, "Corporation," 95.

<sup>67</sup> Asmatey, "Corporation," 101-102.

Fire site in Fresno could be cleaned up.” Latino residents, on the other hand, pointed to the contamination and birth defects. Maria, who had lost a baby, declared, “It is [not] a coincidence that my daughter was born unhealthy, that other babies were born unhealthy, that infants have died, and that more are being born with defects.” Similarly, Magdalena Romera, whose baby passed away in 2007, told a reporter: “My daughter America was the first of the babies born with a cleft and other problems.... She was four-and-a half months old when she died. At first, I thought it was an act of God. Then I started hearing about the others.”<sup>68</sup> To explain the problems, farmworker Adrian Alatorre said simply, “It’s the toxic waste. It’s got to affect you.” Alatorre’s son Emmanuel was born with a cleft lip and underdeveloped brain.<sup>69</sup>

To many farmworker families who resided in Kettleman City, contamination from the landfill was not a separate problem from pesticide exposure. Rather, each problem was a manifestation of the same injustice. Many residents spoke of the problems in the same breath. Romera stated, “I may not know much, but I do know one thing.... Living next to the largest toxic landfill is no good. I know that can’t be good and I know it’s not good to work in the fields, to be exposed to those chemicals they put on the fruit and vegetables.” She added, “I see the water coming from the tap. It’s disgusting.” Other residents compared the two environmental hazards, concluding that the waste company’s expansion constituted the greater injustice. While some farmworkers accepted pesticide risks as part of their job, they did not accept the landfill in their backyard and the harm it had caused. “We don’t blame the farmers,” said one worker, “because we depend on the fields as much as the fields depend on us.” Another resident declared

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<sup>68</sup> Asmatey, “Corporation,” 104, 112-113. It is a tragic irony that Romera named her baby America when, in the United States of America, she had been unjustly exposed to chemicals that took the life of her infant daughter.

<sup>69</sup> Jesse McKinley, “In a California Town, Birth Defects, Deaths, and Questions,” *New York Times*, Feb. 6, 2010 <https://www.nytimes.com/2010/02/07/us/07kettleman.html> (accessed July 8, 2019).

that while “pesticides should be banned,” she and other activists had “turned [their] attention to Chem Waste,” as the greatest threat to their health.<sup>70</sup>

While county officials approved the landfill’s expansion, they also, under pressure from the community, requested a state investigation into the birth defects. Initially, the California Department of Public Health denied the request, asserting that an investigation would not be fruitful.<sup>71</sup> Immediately thereafter, however, Governor Arnold Schwarzenegger directed Cal EPA and the Department of Public Health to investigate. To do so, Cal EPA created a list of chemicals and pesticides known to cause birth defects and searched for such substances in Kettleman City. As a report later indicated, the study “did not find any source of exposure that could likely be associated with birth defects.” Similarly, the Department of Public Health looked for “genetic, medical or pregnancy-related risk factors,” lifestyle risk factors, and occupational exposure that could be related to the birth defects. Again, the results “did not find a specific cause of environmental exposure that would explain the increase in the number of children born with birth defects in Kettleman City.” Given the results of the study, the DTSC declared, “[our department] does not agree that approval of [Waste Management’s] permit modification violates Title VI.”<sup>72</sup>

In addition to the work of state agencies, U.S. EPA officials inspected the landfill in 2010, and in 2011 they collected samples of agricultural pesticides from Kettleman City homes to determine community members’ level of exposure at home. The results, they said, indicated that people were exposed in their homes but “at levels that are too low to present a significant health risk.”<sup>73</sup> In all studies and at all levels, officials concluded that neither pollution nor

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<sup>70</sup> Asmatey, “Corporation,” 107-109.

<sup>71</sup> Asmatey, “Corporation,” 105.

<sup>72</sup> Report, California Department of Toxic Substance Control, “Part III: DTSC Response to Comments on Chemical Waste Management Request for Class 3 Permit Modification Expansion of Hazardous Waste Landfill,” May 2014 (in author’s possession), 8-9.

<sup>73</sup> Report, California Department of Toxic Substance Control, Part III, 89; see also, McKinley, “In California.”

pesticides had directly caused the birth defects and sicknesses of Kettleman City babies, and the case was closed. Unlike the Roundup cases, which occurred just a few years later, partial connections between the toxins and the diseases were not considered.

However, the California DTSC did acknowledge “the multiple environmental pollution burdens born by the Kettleman City community, and the presence of poverty, language barriers and other factors which tend to make people vulnerable to the impacts of pollution.”<sup>74</sup> As with Angelita C. case, state officials recognized environmental injustice with unprecedented honesty, but they stopped short of real action. All Kettleman City residents received was a promise that, beginning in 2018, the DTSC would require all dump trucks that entered the landfill each day to have post-2007 engines, which would reduce air emissions. DTSC also pledged to help bring clean drinking water to Kettleman City residents.<sup>75</sup> These measures were something, but the landfill still expanded.

While neither the Angelita C. nor the Kettleman City cases achieved the changes that farmworkers hoped for, they presented bold, convincing arguments that should inform twenty-first century debate regarding environmental justice. Moreover, in this century, these cases represent the beginning of the battle, rather than the end. In the last few years, the CRLA has helped farmworker families win several incremental victories in the fight for environmental justice. In 2017, CRLA lawyers successfully established a “medical-legal partnership,” which allows the attorneys to work directly with doctors who treat injured farmworkers. Among other advantages, this partnership permits attorneys to make use of medical reports that deal with pesticide exposure. Additionally, the CRLA in recent years has successfully included pregnant

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<sup>74</sup> Report, California Department of Toxic Substance Control, Part III, 89.

<sup>75</sup> Report, California Department of Toxic Substance Control, Part III, 89, 91, 99.

farmworkers in the State Disability Insurance Program.<sup>76</sup> Disability payments remove the economic pressure for pregnant women to work in the fields, thus reducing significantly the risk of pesticide poisoning to fetuses. As a final success, in 2018, partially because of the Angelita C. case, the CDPR released new regulations regarding pesticide use near schools. These regulations required a quarter-mile safe zone around all schools during school hours, as well as notifications sent from growers to schools when pesticides are applied.<sup>77</sup> Although the dangerous pesticides remain, the regulations will help.

The CRLA has also continued to work with Kettleman City. In 2014, Waste Management requested another permit to expand, which DTSC immediately approved. Again, community members objected on the grounds that the expansion would violate their civil rights by exposing them disproportionately to contamination. Representing the community, the CRLA filed a Petition for Review of the permit decision. When the DTSC denied the petition, the CRLA moved to the U.S. EPA, which accepted the complaint for review. In 2016, the EPA held six mediation sessions between state officials and community members.<sup>78</sup> With the town's medical history and the state's empty investigations on everyone's mind, the meetings led to a favorable settlement. CRLA lawyer Mariah Thompson recalled that, ideally, officials would close the landfill, but the settlement was perhaps the next best option because it began to address the need for concrete change.<sup>79</sup> Specifically, DTSC committed to monitor Waste Management's compliance with regulations more closely and to consider such compliance before granting permit approvals—something it had not previously done.<sup>80</sup> Moreover, Cal EPA and DTSC

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<sup>76</sup> Aaron Voit (CRLA Attorney), in discussion with author, Feb. 14, 2019.

<sup>77</sup> "California Code of Regulations, Division 6, Article 5: Pesticide Use Near Schoolsites," California Department of Pesticide Regulation. <https://www.cdpr.ca.gov/docs/legbills/calcode/030205.htm> (accessed Apr. 29, 2019).

<sup>78</sup> See, "Settlement Agreement," 1-3.

<sup>79</sup> Mariah Thompson and Marison Aguilar (CRLA attorneys), in discussion with author, March 4, 2019.

<sup>80</sup> See, "Settlement Agreement," 4.

agreed to provide “immediate support to the residents of Kettleman City,” including “public health programs, asthma intervention activities, clean water and air monitoring, and a commitment to providing information in Spanish.” The settlement also enlisted the aid of researchers from the University of California.<sup>81</sup>

Notably, the language-access plan applies to waste facility discussions across the state, not just Kettleman City. The settlement, in other words, set a new standard for state authorities, which will require them to pay more attention to the voices of Spanish-speakers in all debates over environmental justice. As CRLA lawyer Ilene Jacobs declared, the agreement confirmed “the importance of meaningful public participation, language access and protection of civil rights, regardless of race or national origin.” Public participation and language access are crucial, she reiterated, because “the impact of [environmental] decisions falls so disproportionately on lower income residents in racially and ethnically concentrated areas who have few choices about where to live or work.”<sup>82</sup> Though this reality persists in the twenty-first century, the experiences of Latino farmworkers and the CRLA can help communities move continually closer to achieving environmental justice.

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<sup>81</sup> CRLA, “CRLA Wins Precedent Setting Environmental Justice Victory.” Press Release. Aug. 16, 2016. <http://www.crla.org/crla-wins-precedents-setting-environmental-justice-victory> (accessed July 8, 2019).

<sup>82</sup> CRLA, “CRLA Wins.”

## Conclusion

### The Legacy of the CRLA

Since the 1960s, scholars, government officials, and citizens have debated the effectiveness of the War on Poverty. In recent years, the debate has resurged as liberal presidential candidates propose new federal programs to address persistent economic inequalities in American society. In response, conservatives often use the 1960s as proof that federal programs, especially those that resemble welfare, are folly. Conservative journalist Amity Shlaes argues that the War on Poverty failed just like the New Deal failed, and the second failure occurred only because starry-eyed politicians did not learn from the first. In her words, the War on Poverty is a story of “lovable people who, despite themselves, hurt those they loved.” Instead of preventing poverty, the Johnson administration “established a new kind of poverty, a permanent sense of downtroddenness.” Regarding migrant workers, she adds, government programs “washed away hope. They destroyed migrants’ dream of progress in the North and gave them benefits payments instead of property.”<sup>1</sup>

The history of the CRLA debunks such arguments. While current ideas for federal programs deserve their own debate, the idea that the War on Poverty sank the nation’s poor into greater misery is false, at least in rural California. True, Johnson did not give migrant farmworkers property; such a socialist measure was not part of his agenda. (Shlaes, despite herself, almost seems to advocate land reform.) What the Johnson administration did do, however, was much more than a matter of benefits payments. Through the OEO legal services program in California, it empowered farmworker communities to challenge policies and

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<sup>1</sup> Amity Shlaes, *Great Society: A New History* (New York: Harper Collins, 2019), 11, 17.

practices that kept them poor and downtrodden. To return to Bourdieu's theory of distinction, the CRLA removed the social and economic barriers that had historically kept farmworkers from weighing in on the policies that determined, in large measure, the kind of lives that they lived.<sup>2</sup>

Through its litigation, the CRLA contributed significantly to government reform. As the new agency began helping farmworkers address problems they faced in rural California, it became clear that one of the greatest bastions of injustice was the government itself, especially the administration of Governor Ronald Reagan. The CRLA was effective because it traced injustices back to state policy and aggressively pursued litigation that would change the policy to at least partially reflect the interests of farmworkers. To name just a few victories, CRLA litigation led to the end of the Bracero Program, the defeat of the short-handled hoe, free lunch milk and mandatory bilingual education for farmworker children, safer pesticide practices, and sanitation stations for workers in the fields. While the Johnson administration may not have fully anticipated the agency's aggressive lawsuits against government entities, it supported these suits as cases of "law reform." By 1968, it was requiring all legal service agencies in the nation to demonstrate, as a condition for refunding, a history of "innovative [legal work] designed to make a substantial impact on more than an individual client and the cycle of poverty."<sup>3</sup>

The CRLA led the way in this endeavor, waging, in essence, a legal war on poverty that made a tremendous difference to rural farmworkers. In this legal war, victory for workers often meant defeat for growers and their allies in government. Thus, the CRLA's impact is further evident in the vehement opposition that it faced from grower organizations and from conservative politicians, such as Governor Reagan and Senator George Murphy. The agency did

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<sup>2</sup> Pierre Bourdieu, *Distinction: A Social Critique of the Judgement of Taste*, translated by Richard Nice (Cambridge: Harvard University, 1984), 12-13, 114-115.

<sup>3</sup> Memo from Burt W. Griffin, [OEO National Director of Legal Services Program], "Priorities and Policies on Refunding," Oct. 1, 1968. Carton 75, Folder 8. CRLA Records. Stanford.



its job so well that Governor Reagan's attempt to destroy it once Johnson left office backfired, bringing national attention to the many ways the CRLA was helping farmworkers resolve problems through the existing legal system.

In addition to the many cases that the agency fought and won at the state level, CRLA attorneys and community workers provided legal aid to thousands of individual farmworkers each year, and it helped these workers address problems involving landlords, local authorities, and agricultural employers. By offering such legal aid in more than a dozen offices throughout California's agricultural valleys, the federal government showed farmworkers that it really did want to protect their civil rights and, in turn, help them rise out of poverty. As Mariana Romero wrote to Governor Reagan in 1971, "As a poor person I write to ask that you do not take away the lawyers because they are the people who help us with our problems."<sup>4</sup> By helping California's rural poor, the CRLA encouraged these individuals to trust in the existing system and in the United States' promise of justice for all, rather than resorting to violent protest.

The success of the CRLA in fighting racial injustice is perhaps most evident in its fifty-year battle against pesticide exposure and other environmental hazards. While Johnson did not have environmental justice in mind when he signed the Civil Rights Act or began the War on Poverty, the CRLA's innovative practice of environmental poverty law expanded Johnson's vision of a society free of *all* forms of racial discrimination. The agency's use of Title VI of the Civil Rights Act in the Angelita C. pesticide case of 1999 exemplified the expansion of civil rights litigation to include cases of environmental racism. It also underscored the crucial role that the CRLA had played since the 1960s in protecting Latino farmworkers—especially mothers, babies, children, and fetuses—from exposure to toxic agrochemicals. From 1966 onward, the

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<sup>4</sup> Letter from Mariana Romero to Ronald Reagan, Carton 23, Folder 25. CRLA Records, Stanford; translation by author.

agency helped ban or control numerous pesticides that caused cancer, birth defects, and other health problems, including DDT, DBCP, and methyl bromide. It likewise helped regulate pesticide practices, such as use of spray planes, and CRLA litigation forced growers to communicate with their workers about pesticide application. Decade after decade, the agency helped draw national attention to the lack of pesticide regulation and the consequences that farmworkers bore. In so doing, it helped keep pesticide practices in check, and it helped farmworkers assert their rights in debates on agricultural policy.

The CRLA's legacy of civil rights litigation and environmental poverty law undercuts any attempt to write off the War on Poverty as a failed experiment of government spending. Conservatives today may try to echo President Ronald Reagan's argument that the War on Poverty actually impoverished people by increasing their dependence on the government and that, in short, "poverty won the war."<sup>5</sup> If they are honest, however, they must recognize that this was certainly not the case with the CRLA in California—and Reagan knew it. As California governor, he might not have liked the agency, but, no matter how hard he tried, he never could prove that it was doing anything other than helping farmworkers defend their civil rights. Indeed, conservatives who like to recall failures of the War on Poverty should also remember Governor Reagan's spectacular failure to discredit the CRLA before the Nixon administration.

More generally, in any debate about welfare, government programs, or immigration, policy makers would be wise to remember that Mexican Americans, like other immigrant groups before them, do some of the more difficult, dirty, and dangerous work in the nation. As the Johnson administration discovered in the mid-1960s, white Americans simply would not accept

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<sup>5</sup> Eleanor Clift, "Reagan Condemns Welfare System, Says It's Made Poverty Worse Instead of Better," *Los Angeles Times*, Feb. 16, 1986, <https://www.latimes.com/archives/la-xpm-1986-02-16-mn-8585-story.html> (accessed Apr. 25, 2020).

the jobs that had previously belonged to the Braceros. Today, policy makers should recognize the full economic contribution of farmworkers then and now—a contribution which is rarely reflected in wages.

At the same time, scholars of modern U.S. history, teachers, and text-book collaborators should remember that Cesar Chavez and the UFW were not the only protagonists in the farmworker movement. While Chavez certainly played a crucial and public role, the CRLA was behind many of the victories of the movement, at least in California. Sometimes scholars mistakenly attribute CRLA victories to Chavez and the union. For example, in Emigdio Vasquez's 1997 mural *The Legacy of Cesar Chavez*, the artist depicts a weathered farmworker holding a short-handled hoe, as if Chavez had banned the tool. Chavez did speak out against the short hoe, but in the legal battle over harmful hand tools, he stayed on the sidelines. It was the CRLA that researched California Labor Code, sued the Division of Industrial Safety, organized witnesses, and eventually defeated growers and state officials in the California Supreme Court. Unfortunately, Vasquez's misleading painting is now the cover image of the 2020 edition of Eric Foner's widely-used documentary reader *Voices of Freedom*. For thousands of history students, this image will perpetuate misconceptions about the farmworker movement.<sup>6</sup>

Of course, the CRLA did not solve all of farmworkers' problems, nor did it end the two-hundred-year tradition of minorities' performing agricultural labor in California. As anthropologist Seth Holmes' recent study of immigrant workers in California demonstrates, farm labor remains "segregated according to an ethnicity-citizenship hierarchy," which makes it easy for society to continue to accept farmworkers' physical suffering and social inequality as

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<sup>6</sup> Eric Foner, *Voices of Freedom: A Documentary History*, Vol. 2, 6<sup>th</sup> Edition (New York: W.W. Norton, 2020).

normal.<sup>7</sup> Regarding agrochemicals, the CRLA did not remove all risk of exposure in the California fields, nor did it eliminate all cases of environmental racism. However, motorists today who drive alongside the vast lettuce or asparagus fields of the Salinas Valley (or other farming regions) will observe crews of Latino workers who do not have to stoop with the short-handled hoe, who are (usually) told when pesticides have been sprayed, and who keep a pickup truck and flatbed trailer close by with port-o-johns, washing stations, and kegs of drinking water with plenty of disposable cups. Such a scene reflects only a small portion of policy changes that stemmed from CRLA litigation.

The fight for farmworker civil rights and environmental justice remains unfinished. Speaking of the classic civil rights movement, specifically *Brown v. Board of Education*, historian James T. Patterson offers a “cautiously positive appraisal.”<sup>8</sup> This interpretation may also apply to civil rights and environmental justice in rural California. As the fight continues, the CRLA will continue to be at the vanguard, embodying one of the most unexpected yet significant legacies of the War on Poverty.

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<sup>7</sup> Seth Holmes, *Fresh Fruit: Broken Bodies: Migrant Farmworkers in the United States* (Berkeley: University of California, 2013), 30-31.

<sup>8</sup> James T. Patterson, *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy* (New York: Oxford University, 2001), 222-223.

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