

“We have to have hope that things will change:” Interview with Rocío Madrigal

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INTRODUCTION

On July 27, 2023, I traveled to Fresno to meet Rocío Madrigal, the community outreach coordinator for the Central California Environmental Justice Network. This organization works to empower our communities and secure our children’s future by eliminating negative environmental impacts in low income and communities of color in the Central Valley. Ms. Madrigal is a former paralegal who is certified and licensed in social and behavioral research as well as public health.¹ She has spent the last four years helping the low-income and largely Latinx Central Valley community combat the dangers of pesticides.² She sat with me for several hours in Fresno’s Di Ciccio Sunnyside restaurant and answered my questions about the ways immigration law, climate change, extreme heat, police harassment, and other factors maintain severe inequality among farmworkers in California’s Central Valley.

This oral history is part of an ongoing project that seeks to understand “community legal thought.”³ My undertaking is inspired by the people who agree to speak to me, as well as legal scholars who do outreach,⁴ study social

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Home, Central California Environmental Justice Network, <https://ccejn.org/> [<https://perma.cc/L7DZ-6ZXY>] (last visited Aug. 30, 2023).

1. Rocío Madrigal, *LinkedIn*, <https://www.linkedin.com/in/rocio-madrigal-5940721a4/> (last visited Jan. 18, 2024).
2. *Staff*, Central California Environmental Justice Network, <https://ccejn.org/about/staff/> (last visited Jan. 18, 2024).
3. See, e.g., Yxta Maya Murray, *The Takings Clause of Boyle Heights*, 43 N.Y.U. REV. L. & SOC. CHANGE 109 (2019); Yxta Maya Murray, *Blights Out and Property Rights in New Orleans Post-Katrina*, 68 BUFFALO L. REV. 1 (2020); Yxta Maya Murray, “*FEMA Has Been a Nightmare: Epistemic Injustice in Puerto Rico*,” 55 WILLAMETTE L. REV. 321 (2019).
4. See Veena Dubal, *The New Racial Wage Code*, 15, HARV. L. & POL’Y REV. 511 (2021); Sameer M. Ashar, Edalina M. Burciaga, Jennifer M. Chacón, Susan Bibler Coutin, Alma Garza & Stephen Lee, *Navigating Liminal Legalities Along Pathways To Citizenship: Immigrant Vulnerability and the Role of Mediating Institutions*, No. 2016-05 UNIV. OF CAL. IRVINE SCH. OF L., LEGAL STUD. RSCH. PAPER SERIES 1, (2015); Jennifer M. Chacón, *Citizenship Matters:*

movements,⁵ and document how non-lawyers build and change legal knowledge and structures.⁶ Legal writers engage in such participant-led practices to achieve several aims: They work to introduce marginalized perspectives into jurisprudence; unearth facts about oppression and discrimination that have been overlooked by lawyers, law enforcement officers, and other social monitors; and reduce the hierarchy that can exist between legal actors and vulnerable communities by respecting community members as experts in legal rights and anti-subordination strategies. When working together, these scholars and participants embody the knowledge expressed by Dorothy E. Roberts, who has explained that “we, the people” possess the wherewithal to create alternative legal interpretations.⁷ They also embrace the wisdom of Reva Siegel, who has noted in the 14th Amendment context that “the Constitution emanates from the people

Conceptualizing Belonging in an Era of Fragile Inclusions, 52 U.C. DAVIS L. REV. 1, 2 (2018) (“Using information gathered in original interviews conducted in Southern California over a four-year period ending in January 2018, this article describes how harsh and uncertain immigration laws, significant swings in executive policies toward immigrant communities, and blocked access to citizenship have generated new understandings of citizenship and belonging in those communities.”); Camila Bustos, Bruni Pizarro & Tabitha Sookdeo, *Climate Migration and Displacement: A Case Study of Puerto Rican Women in Connecticut*, 55 CONN. L. REV. 781 (2023); Sara L. Friedman & Chao-ju Chen, *Same-Sex Marriage Legalization and the Stigmas of LGBT Co-Parenting in Taiwan*, 48 L. & SOC. INQUIRY 660, 664 (2023) (“In addition to reviewing existing laws, adoption evaluation policies, and court adoption decisions involving heterosexual and LGBT families, we derive our findings from participant observation and ethnographic interviews with LGBT parents, LGBT rights activists, social workers, and government officials.”); Janine Prantl, *Community Sponsorships for Refugees and Other Forced Migrants: Learning from Outside and Inside the United States*, 37 GEO. IMMIGR. L.J. 401, 446 (2023) (“Two case studies were conducted with volunteers from Seattle to complement this Article with insights on how the Sponsor Circles initiative worked out in practice. They were based on qualitative interviews with open-ended questions. The interviews took place virtually between September and December 2022.”); Thalia González & Rebecca Epstein, *Critical Race Feminism, Health, and Restorative Practices in Schools: Centering the Experiences of Black and Latina Girls*, 29 MICH. J. GENDER & L. 409, 426 (2022) (“To gather in-depth perceptions of RP, we conducted nine semi-structured focus groups across the country, representing a diverse array of demographics. Sixty-seven students between the ages of thirteen and eighteen years old participated in the study.”); Kimberlé W. Crenshaw, Priscilla Ocen & Jyoti Nanda, *Black Girls Matter: Pushed Out, Overpoliced and Underprotected*, COLUM. L. SCH. FACULTY SCHOLARSHIP 1 (2015).

5. See Dorothy E. Roberts, “Foreword: Abolition Constitutionalism,” 133 HARV. L. REV. 1 (2019); Jack M. Balkin, “Wrong the Day It Was Decided”: *Lochner* and Constitutional Historicism, 85 B.U. L. REV. 677, 679 (2005); Reva B. Siegel, *Memory Games: Dobbs’s Originalism As Anti-Democratic Living Constitutionalism—and Some Pathways for Resistance*, 101 TEX. L. REV. 1127 (2020); Douglas NeJaime, *Winning Through Losing*, 96 IOWA L. REV. 941, 943 (2011); Serena Mayeri, *Constitutional Choices: Legal Feminism and the Historical Dynamics of Change*, 92 CALIF. L. REV. 755 (2004); Lani Guinier & Gerald Torres, *Changing the Wind: Notes Toward a Demosprudence of Law and Social Movements*, 123 YALE L. J. 2740 (2014). See also LARRY D. KRAMER, THE PEOPLE THEMSELVES: POPULAR CONSTITUTIONALISM AND JUDICIAL REVIEW 156 (2004) (tracing the history of the “popular aspect of ordinary law”). For an excellent analysis of these and other scholarly efforts, see Amna A. Akbar, Sameer M. Ashar & Jocelyn Simonson, *Movement Law*, 73 STAN. L. REV. 821, 863 (2021).
6. See, e.g., JOCELYN SIMONSON, RADICAL ACTS OF JUSTICE: HOW ORDINARY PEOPLE ARE DISMANTLING MASS INCARCERATION (2023).
7. Roberts, *supra* note 5, at 54 (“Recent research has illuminated an alternative public meaning of the Constitution residing in ‘largely forgotten books, pamphlets, articles, resolutions, and legal briefs,’ rather than on the pages of Supreme Court decisions.”).

themselves.”⁸ Participatory scholars⁹ also share the values of Kimberlé W. Crenshaw, Priscilla Ocen, and Jyoti Nanda, who, when studying the school-to-prison pipeline, have assessed that “much of the existing research literature excludes [Black girls and other girls of color] from [its] analysis”¹⁰ and call for the kind of “critical dialogue”¹¹ that emerges from outreach efforts. Jointly-engaged scholarship additionally builds on the work of social movement scholars such as Lani Guinier and Gerald Torres, who have sought to “better understand and recognize the important roles played by ordinary people who succeed in challenging unfair laws through the sounds and determination of their marching feet.”¹²

Increasingly, I depend on face-to-face interviews to engage in this process: in order to best fathom how vulnerable populations experience domination on the ground, I interview community members with expertise in the state’s use of mal-power¹³ on communities of color. I ask them what is needed to affect social, statutory, and constitutional change. Through this work, my interviewees and I not only strive to communicate law’s real-world effects on communities of color; we also seek to imagine additional or replacement readings of constitutional, statutory, and other laws that would protect and support those communities’ flourishing, not to mention baseline human capability.¹⁴

Ms. Madrigal’s answers to my questions offer invaluable insight into the variety of traumas afflicting the people of the California Central Valley and give a heady glimpse of the political and legal work that will be required to undo the damage which white supremacy, colonialism, and capitalism inflict on the region’s farmworker populations. Her commentary suggests which federal and state constitutional rights must be recognized for farmworkers to obtain guarantees to their essential needs.¹⁵ She also makes observations that strengthen the case for

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8. Siegel, *supra* note 5, at 1203–04 (“But struggles to democratize constitutional memory are still worth waging as they begin the process of taking back the Constitution from the Court. Doing that requires us to begin to reconstruct and to relocate our own understanding of our history and traditions—to remember the many ways that the Constitution emanates from the people themselves.”).
 9. “Participatory legal scholarship” was coined by Rachel López, who has added immeasurably to this discipline. Rachel López, *Participatory Law Scholarship*, 123 COLUM. L. REV. 1795 (2023).
 10. Crenshaw, Ocen & Nanda, *supra* note 5, at 5.
 11. *Id.*
 12. Guinier, *supra* note 5, at 2743.
 13. “Mal power” is power used toward oppressive and destructive ends. From the term mal (bad, undesirable, not good), derived from the Latin for “bad, badly, ill, poorly, wrong, wrongly.” See *mal-*, THE ONLINE ETYMOLOGY DICTIONARY, <https://www.etymonline.com/search?q=mal+> [https://perma.cc/X8WC-XSXV] (last visited Jan. 18, 2024). I did not invent this term, but I cannot find references to it in my research.
 14. Amartya Sen identifies the quality of life with human capabilities that are states of “doing and being,” and notes that these states require a certain level of “functioning”—that is, possessing the abilities to be well nourished, be in good health, take part in the community, be happy, have mobility, etc. Amartya Sen, *Capability and Well-Being*, in THE QUALITY OF LIFE 30, 31 (Martha C. Nussbaum & Amartya Sen eds., 1993).
 15. See, e.g., *infra* notes 25 and 29.

certain progressive bills¹⁶ and could give rise to other fruitful state and federal legislation.¹⁷ In addition, she relates how current state and federal statutes that should protect workers are not enforced¹⁸ and the seizure of property and harassment in violation of undocumented workers' constitutional rights.¹⁹ Last but not least, she reflects on farmworker resiliency and experiences of joy.²⁰ Ms. Madrigal's words connect not only with legal doctrine but also legal theory.²¹ In the footnotes, I set forth these resonances and make notes on the legal vacuums that Ms. Madrigal identifies in the hopes they will spark legal reform. This interview has been edited for clarity.

INTERVIEW

There's such a joy in the morning. If you're not familiar with farm workers you'd think, "Why are they happy? They have a terrible day ahead of them. Awful work, with terrible working conditions." But with farmworkers, they say, "I need to rise. I need to do what I can today."

They are a great inspiration for me. Their resiliency. The whole San Joaquin Valley is agriculture.²² We have billions of pesticides here.²³ The poverty and the medical hardships the farmworkers endure with miscarriages, with birth defects, with learning disabilities, it is terrible.²⁴ Still, they are resilient. They don't take

16. See, e.g., *infra* note 28.

17. See, e.g., *infra* note 74 (making a suggestion that could give rise to a prohibition on irrigating agriculture with oil field wastewater).

18. See *infra* notes 66-67.

19. See *infra* note 78.

20. She begins and ends with an emphasis on joy.

21. See *infra* note 68.

22. Alvar Escriva-Bou, Ellen Hanak, Spencer Cole, Josué Medellín-Azuara, POLICY BRIEF: THE FUTURE OF AGRICULTURE IN THE SAN JOAQUIN VALLEY, PPIC (Feb. 2022), <https://www.ppic.org/publication/policy-brief-the-future-of-agriculture-in-the-san-joaquin-valley/> [<https://perma.cc/27MQ-BSWR>] ("The San Joaquin Valley produces more than half of the state's agricultural output, and it is an important contributor to the nation's food supply. In terms of revenues, Fresno, Kern, and Tulare Counties are the nation's top three agricultural counties.").

23. Jane Sellen, *Pesticide Use in California Remains at Record High, New Data Show*, INSTITUTE FOR PESTICIDE REFORM (Jan. 21, 2021), <https://www.pesticidereform.org/pesticide-use-in-california-remains-at-record-high-new-data-show/#:~:text=The%20greatest%20burden%20continues%20to,every%20person%20in%20hose%20counties> [<https://perma.cc/DH7L-Z4YW>] ("The greatest burden continues to be borne by the San Joaquin Valley, with well over half (108 million pounds) used in just five counties – Fresno, Kern, Tulare, San Joaquin and Madera. That equates to 33 pounds of pesticides for every person in those counties.").

24. Mona A. H. El-Baz, Ahmet F. Amin & Khalik M. Mohany, *Exposure to Pesticide Components Cause Recurrent Pregnancy Loss by Increasing Placental Oxidative Stress and Apoptosis: a Case-Control Study*, 13 SCI. REPORTS 9147 (2023); *New Scientific Paper: Broad Class of Pesticides Puts Children at Risk for Reduced IQ, Learning Disabilities*, NRDC (Oct. 24, 2018), <https://www.nrdc.org/press-releases/new-scientific-paper-broad-class-pesticides-puts-children-risk-reduced-iq-learning#:~:text=The%20authors%20found%20that%20exposure,increase%20risk%20of%20learning%20disabilities> [<https://perma.cc/P7ZJ-YLKB>]; Yonit A. Addissie, Paul Kruszka, Angela Troia, Zoe C. Wong, Joshua L. Everson, Beth A. Kozel, Robert J. Lipinski, Kristen M.

on the attitude of “poor me.”

I believe in justice. In my soul and heart, I know that this can change, that this can be better.

In response to a question about the meaning of justice in the Central Valley

What would that look like? Access to livable housing. Access to the great food that the farmworkers toil for, food that they could feed their own families. Access to good education for their children. Access to good food prices in the rural communities that we work.²⁵

During COVID, the prices were so high for meat and milk.²⁶ Also, there was all of the price gouging that you can imagine, even for masks. It happened all over our state, but certainly it happened in our counties.²⁷ And that was sad to see. When you think of farmworkers, they receive abuse and injustice, and they live in unlivable housing. Not in a mobile home. Not in a trailer park. They live in camping trailers that are made for you to stay for two days, five days. And you have whole families living out there permanently and paying nine hundred dollars a month for unpaved roads, for polluted water. One big trash can for thirty families. You have children running and playing in dirt, in rocks. Not a beautiful park, which is what anyone would want for their children.²⁸

C. Malecki & Maximilian Muenke, *Prenatal Exposure to Pesticides and Risk for Holoprosencephaly: a Case-Control Study*, ENVIRON. HEALTH 19, 65 (2020).

25. There is no federal constitutional right to food, healthy or otherwise; currently, only the state of Maine recognizes such a fundamental right via a recent amendment to its constitution. Alice Bannon, *The Constitutional Right to Food*, THE BRENNAN Center (Aug. 14, 2023), <https://www.brennancenter.org/our-work/analysis-opinion/constitutional-right-food> [https://perma.cc/ALA2-NRCQ] (“In 2021, Maine voters enshrined a right to food in their state constitution.”).
26. Dave Mead, Karen Ransom, Stephen B. Reed, Scott Sager, *The Impact of the COVID-19 Pandemic on Food Price Indexes and Data Collection*, BUREAU OF LAB. STAT. (Aug. 2020), <https://www.bls.gov/opub/mlr/2020/article/the-impact-of-the-covid-19-pandemic-on-food-price-indexes-and-data-collection.htm#:~:text=Demand%20shocks%20and%20problems%20with,brought%20on%20by%20the%20pandemic> (“Demand shocks and problems with supply chains contributed to increased volatility in import, export, producer, and consumer prices in the months following the onset of the COVID-19 pandemic in the United States. Meat, fish, dairy, and eggs were especially affected by the shifting economy brought on by the pandemic.”).
27. Stockton Police Department, *Information on Price Gouging*, FACEBOOK.COM (Mar. 19, 2020), <https://www.facebook.com/stocktonpolicedepartment/posts/information-on-price-gouging-anyone-who-suspects-price-gouging-is-occurring-in-ou/2768611826568057/> (“In general, price gouging occurs when prices increase more than 10% than the price charged before the emergency declaration. These goods and services can include a wide variety of essentials, from hand sanitizer, masks, water, food, gasoline, to infant formula, diapers, batteries . . . anything on which residents of San Joaquin County would need to depend in the event of a prolonged emergency.”).
28. See, e.g., Anna Kaplan, *Illegal Farm Workers to Get Limited Help*, RECORDNET.COM (May 30, 2006), <https://www.recordnet.com/story/entertainment/human-interest/2006/05/31/illegal-farm-workers-to-get/53024321007/> [https://perma.cc/LYH8-8AVQ] (“San Joaquin County agencies rushed to help Roberts Island farm workers who were uprooted from their illegal trailer park last week, but the workers will be eligible for only limited public assistance, since most of them are in the country illegally. More than 70 people were left homeless Thursday after the county Environmental Health Department visited

All of this affects their health. Their mental health, their physical health. During COVID, people were living in these small trailers. Twelve people in a small two-bedroom apartment with one restroom. Three generations in one place.²⁹ Even without COVID, it was bad, but with COVID, their income was all of a sudden fifty percent of what it used to be.³⁰ The mom now had to stay home for the children because of Zoom. People got depressed—more depressed.³¹ There was more domestic violence.³²

In reply to a question about the welfare of local youth

Yes, the children are getting educated. They go to the local public school system. It's gotten better over the last thirty-one years. Schools were so bad, one of the superintendents was stealing so much money that the state had to take it over.³³

Abbate Farms to follow up on a complaint about mobile homes and trailers being used as permanent housing for farm-worker families.”).

For the U.S. law on federal constitutional housing rights, see *Lindsey v. Normet*, 405 U.S. 56, 74 (1972); Kathryn Ramsey Mason, *Housing Injustice and the Summary Eviction Process: Beyond Lindsey v. Normet*, 74 OKLA. L. REV. 391, 411–12 (2022) (considering “the holding for which the *Lindsey* case is most frequently cited—that the Constitution does not provide a fundamental right to decent housing.”). In June of 2023, a proposed California constitutional amendment that would declare a fundamental right to housing “passed its first vote 6-2 in the state Assembly Housing Committee on June 7.” Seth Sandronsky, *Assembly Committee Okays Amending State Constitution to Add Housing as a Right*, THE CENTER SQUARE (June 8, 2023), https://www.thecentersquare.com/california/article_3d998d74-0631-11ee-8041-b3c9267bbb70.html [https://perma.cc/P96E-V3RR] (“California Gov. Gavin Newsom vetoed AB 2405 (Autumn Burke D-LA) in 2020. The bill would have established a policy that all Californians have a right to safe, decent, and affordable housing across the state, the most populous in the U.S., home to about 12% of all Americans.”). This amendment would appear to cover undocumented immigrants. See ACA, Fundamental Right to Housing (June 7, 2023), https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202320240ACA10 [https://perma.cc/R9WB-7N4X].

29. David Bacon, *In Rural California, Farmworkers Fend for Themselves for Health Care: ‘We Have a Right to Survive,’* VISALIA TIMES DELTA (Dec. 8, 2022), <https://www.visaliatimesdelta.com/story/news/local/california/2022/12/08/rural-california-san-joaquin-valley-central-valley-farmworkers-fend-for-themselves-health-care/69713358007/> [https://perma.cc/4FC7-EE3A] (“When the pandemic started, several residents died. ‘Often three generations live in small houses or trailers where there’s no space to quarantine’”) (internal citation omitted).
30. *Id.* (“Our harvest season used to last nine months, and now, with growers bringing in more H-2A workers, people living here get only four months of work. Local farmworkers feared not having enough work to feed their families, so they went to work even when they were sick.”) (internal quotation marks and citation omitted).
31. *I’m Worried About my or my Loved One’s Mental Health*, STOCKTON STRONG, <https://www.stocktonstrong.org/mental-health/> (last visited Jan. 18, 2024) (“COVID-19 is having an effect on our community’s mental well-being. With physical distancing, job, housing, and food insecurity, illness, and losses in our community, it is common to have feelings of anxiety and depression.”).
32. Carmen George, *Fresno Domestic Violence Rises with Coronavirus*, FRESNO BEE (Mar. 26, 2020), <https://www.fresnobee.com/news/coronavirus/article241472571.html> [https://perma.cc/T9N8-QM8N].
33. *Former Parlier Unified Superintendent Arrested for Embezzlement*, GVVIRE (Jan. 4, 2019), <https://gvwire.com/2019/01/04/former-parlier-unified-superintendent-arrested-for-embezzlement/> [https://perma.cc/TE6S-2Y7U].

I mean, I have an education. I have a car, I have a resume, and with that I could find a better job. My last job wasn't so great. I guess I had courage to move out of that place.

What I've learned in this job is that people's wells go dry.³⁴ Last week, I did three referrals. The people said, "We need help, our well is dry, we haven't had water for a week." We try to help, send outreach. But people don't know where to go. They see us as an organization that helps when we can. Or we can send them to someone.³⁵

Last Wednesday, someone came to us for help—not for a well going dry, but for the pesticides that were making her sick. On Friday, we sent her to a workshop at U.C. Davis, where she learned to make a Rosenthal box fan. It has four filters, and it works like a purifier. It purifies the room, and it's only fifty dollars. It's better than a swamp cooler, which allows the pesticides inside the home.³⁶

The studies about pesticides? The studies only assume that farmworkers are getting exposed eight hours a day. They're not! They get exposed at work, and then they go home and are exposed for ten more hours. Maybe the whole twenty-four hours of the day? At 10 pm, the sprayers spread half a mile this way, and at 3 am, they spray another way. It's all the time. It's constantly. The studies don't show what's really happening to the people.³⁷

We battled chlorpyrifos, the pesticide that causes brain damage.³⁸ That got

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34. Alastair Bland, *State Rejects Local Plans for Protecting San Joaquin Valley Groundwater*, CALMATTERS (Mar. 3, 2023), <https://calmatters.org/environment/2023/03/california-groundwater-valley-wells/#:~:text=Even%20in%20February%2C%20after%20record,reported%20dry%20in%20the%20region> [<https://perma.cc/EQQ2-5QKK>] ("Even in February, after record rain and flooding, state water officials received reports of 19 wells running dry in the San Joaquin Valley, ground zero of California's groundwater crisis. In the past year, about 400 wells were reported dry in the region.").
35. In its constitution, California codifies the inalienable right to safety. CAL. CONST. art. I, §. 1 ("All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy."). The state also provides a statutory right to safe and clean water. CAL. WATER CODE § 106.3(a) (West 2013). Yet these guarantees appear meaningless for the people of the Central Valley. See Salvador Segura, *Exploring an Unenumerated California Constitutional Right to Safe and Clean Water Through A Hypothetical Decision*, 23 VT. J. ENVTL. L. 209, 209–10 (2022) ("Throughout the state, one million Californians lack such access. Many of these Californians are Hispanic farmworkers residing in disadvantaged unincorporated communities (DUCs) throughout the Central and Salinas Valleys. These communities must rely on contaminated aquifers.").
36. Richard L. Corsi, *Science in Action: How to Build a Corsi-Rosenthal Box*, UC DAVIS COLL. OF ENG'G (Apr. 14, 2022), <https://engineering.ucdavis.edu/news/science-action-how-build-corsi-rosenthal-box> [<https://perma.cc/S9FC-RR82>] ("The device was created to provide significant reduction in the amount of virus-laden, aerosol particles that are in the air.").
37. See, e.g., *Paradichlorobenzene Fact Sheet*, NATIONAL PESTICIDE INFORMATION CENTER, <http://npic.orst.edu/factsheets/archive/PDBtech.html> (last visited Jan. 18, 2024) ("Male and female rabbits, rats, and guinea pigs were exposed to 798 ppm paradichlorobenzene vapor for eight hours a day, five days a week for up to 69 days of exposure.").
38. Erin Fitzgerald, *EPA Ignores Evidence Chlorpyrifos Causes Permanent Damage To Children's Brains*, EARTHJUSTICE (Sept. 22, 2020), <https://earthjustice.org/press/2020/epa-ignores-evidence-chlorpyrifos-causes-permanent-damage-to-childrens->

banned in 2019,³⁹ though a study last year showed that the chlorpyrifos levels were higher than they should be.⁴⁰ But that isn't our only problem. There are still dangerous chemicals that are being used. Have you heard of Telone? It's a fumigant—it's banned in thirty-four countries.⁴¹ It's also called 1,3-D. It gets injected in the earth and kills everything—the good and the bad. It causes cancer.⁴² It was flagged here as a cancer-causer from 1990 to 1995, but then Dow Chemical did enough lobbying and filling pockets and playing games with the name of the chemical that the risk assessment got downgraded.⁴³ Some of the highest levels of Telone are in Arvin and a town called Parlier.⁴⁴

It's incredible, because these farmers, who own the groves, they do live on

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- brains#:~:text=Chlorpyrifos%20is%20just%20one%20of,regulatory%20limits%20%E2%80%94%94%20harms%20babies%20permanently [https://perma.cc/JB7N-KML6].
39. *Chlorpyrifos Cancellation*, CAL. DEP'T OF PESTICIDE REG., <https://www.cdpr.ca.gov/docs/chlorpyrifos/index.htm> [https://perma.cc/2VK3-S642] (last visited Jan. 18, 2024) (decision made in 2019, enforced in 2020).
 40. Kimberly Hazard, Abbey Alkon, Robert B. Gunier, Rosemary Castorina, David Camann, Shraddha Quaderer & Asa Bradman, *Predictors of Pesticide Levels in Carpet Dust Collected from Child Care Centers in Northern California, USA*, J. EXPOSURE SCI. & ENV'T EPIDEMIOLOGY Jan. 2023 (“SwRI measured concentrations and loadings of 14 pesticides in the dust: bifenthrin, chlorfenapyr, chlorpyrifos, cyfluthrin, cypermethrin, dacthal, deltamethrin, diazinon, esfenvalerate, fipronil, lambda-cyhalothrin, permethrin (cis- and trans-), and piperonyl butoxide.”)
 41. Registered in California as a fungicide, herbicide, insecticide, and nematocide, Telone is a restricted material, that is, a material deemed dangerous to “public health, farm workers, domestic animals, honeybees, the environment, wildlife, or other crops compared to other pesticides”; it can nevertheless be used under the guidance of certified commercial or private applicators under a permit issued by the County Agricultural Commissioner. *See Active Ingredient: 1,3-Dichloropropene (Telone) Human Health Risk Assessment and Mitigation Documents and Activities*, CAL. DEP'T OF PESTICIDE REG., https://www.cdpr.ca.gov/docs/whs/active_ingredient/1_3-d.htm [https://perma.cc/X587-RTAJ] (last visited Jan. 18, 2024); *see also Restricted Materials Use Requirements*, CAL. DEP'T OF PESTICIDE REG., <https://www.cdpr.ca.gov/docs/enforce/permitting.htm> [https://perma.cc/FG5Y-AE27] (last visited Jan. 18, 2024); *see also California Must Ban or Severely Restrict Cancer-Causing 1,3-Dichloropropene (Telone)*, CALIFORNIANS FOR PESTICIDE REFORM, <https://www.pesticidereform.org/safe/> [https://perma.cc/9PLK-DSGL] (hereinafter *California Must Ban*) (last visited Jan. 18, 2024) (“It is banned in 34 countries, but in California is the third most heavily used pesticide in agriculture – an astonishing 12 million pounds in 2019.”).
 42. *See California Must Ban*, *supra* note 41.
 43. Sharon Lerner, *Environmental Group Charges EPA with Ignoring Evidence of Cancer*, THE INTERCEPT (Feb. 25, 2021), <https://theintercept.com/2021/02/25/epa-cancer-pesticide-telone/> [https://perma.cc/KFL2-G4X9] (explaining that “the recent draft assessment characterized Telone as less dangerous. Although the number of studies linking the pesticide to cancer has grown during the intervening years, this time the agency deemed the chemical as having only ‘suggestive evidence of carcinogenic potential.’ According to the [Public Employees for Environmental Responsibility] complaint, the EPA reached this conclusion in part because it omitted the full name of the chemical from a search of the medical literature”); Union of Concerned Scientists, *EPA Downgrades Severity of Cancer-Causing Pesticide*, USCUSA (Feb. 15, 2022), <https://www.ucusa.org/resources/attacks-on-science/epa-downgrades-severity-pesticide> [https://perma.cc/X3QW-X67L].
 44. *See, e.g.*, John Cox, *State Considers New Restrictions on Use of Toxic Pesticide Widely Used in Kern*, THE BAKERSFIELD CALIFORNIAN (Oct. 16, 2019), https://www.bakersfield.com/news/state-considers-new-restrictions-on-use-of-toxic-pesticide-widely-used-in-kern/article_0c0f669a-f053-11e9-99a4-7b10879c5467.html [https://perma.cc/HP8A-T3BM] (mentioning the towns of Shafter and Parlier).

their land. They don't breathe in a bubble. They breathe the same contaminated pesticide-filled air that we do. But there's no will to change what's happening. I went to the Fresno fair and saw this chart that they have with the names of all the crops and the billions of dollars earned by each crop in Fresno County.⁴⁵ And that's the only answer. That's why people don't matter, why children don't matter, why long-term health effects don't matter. Just the bottom line.

I know one person who moved here from San Jose. She used to let her son play outside, and he loved to watch the helicopters fly over and spray the crops. It can be a beautiful sight. But later the mom found out what the airplane was spraying. All of a sudden, this woman's bunnies and cats died because of the air drift. The pesticides had gone into the dog and rabbit food. If the animals eat it, they die.⁴⁶ But at least the animals die immediately, and you can see what is happening. But us humans? Our bodies are so resilient that it happens slowly, and it's almost worse. If we all died like flies, maybe somebody would do something.⁴⁷

When workers grow older, they finally get sick, they're no longer strong. They can't do the work anymore. They're undocumented and they don't have social security,⁴⁸ no income, no medical.⁴⁹ They have to live with somebody from

45. See, e.g., Todd Fitchette, *Oranges are Tulare County's New Billion-Dollar Crop*, FARM PROGRESS (Oct. 5, 2021), <https://www.farmprogress.com/fruit/oranges-are-tulare-county-s-new-billion-dollar-crop> [<https://perma.cc/DPY5-2EYE>].

46. See, e.g., *Pests and Pesticides: Keeping Our Companions Safe*, BEYOND PESTICIDES, <https://www.beyondpesticides.org/resources/pets#:~:text=In%20addition%20to%20having%20immediate,cause%20of%20death%20for%20pets> [<https://perma.cc/2CM3-6LCP>] (last visited Jan. 18, 2024) (“In addition to having immediate poisoning risks, many toxic pesticides are linked to cancer, which is a leading cause of death for pets.”).

47. There is no right to live in an environment free of deadly pesticides. When the EPA considers whether to register a pesticide, it must determine that the chemical will “not generally cause unreasonable adverse effects on the environment.” 7 U.S.C. § 136a(c)(5)(D) (1988). “Unreasonable adverse effects on the environment” means unreasonably adverse effects on *either* human beings *or* the environment, “taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.” 7 U.S.C. § 136(bb) (1988). This is a cost-benefit analysis. See Arlene Yang, *Standards and Uncertainty in Risk Assessment*, 3 N.Y.U. ENVTL. L.J. 523, 531 (1995). Regarding Ms. Madrigal's observation that maybe something would happen if farmworkers died more rapidly, see Stephen Lee, *Family Separation As Slow Death*, 119 COLUM. L. REV. 2319, 2327 (2019) (“The paradigm of slow death or violence captures the kinds of harms that happen slowly and over time, which can often go overlooked or unnoticed.”).

48. See, e.g., Francine J. Lipman, *The Taxation of Undocumented Immigrants: Separate, Unequal, and Without Representation*, 9 HARV. LATINO L. REV. 1, 48 (2006) (“Notably, workers who are authorized to work in the United States will probably qualify for Social Security retirement benefits, but undocumented workers will never qualify for any benefits with respect to the contributions they make to the Social Security retirement system.”).

49. No U.S. constitutional or federal statutory right to medical care exists, though California extended its Medi-Cal program to low-income undocumented people in 2024. Kendra Simpson, *The Racial Tension Between Underprescription and Overprescription of Pain Medication Amid the Opioid Epidemic*, 45 N.Y.U. REV. L. & SOC. CHANGE 129, 149 (2021) (“The Supreme Court has generally refused to find a fundamental right to medical care.”); Vinita Andrapalliyal, “Healthcare for All”? *The Gap Between Rhetoric and Reality in the Affordable Care Act*, 61 UCLA L. REV. DISCOURSE 58, 63-64 (2013) (“One aspect of our healthcare system the ACA does not change was the noncitizen eligibility requirements for the Medicaid program. . . While recently arrived LPRs [Legal Permanent Residents], nonimmigrants, and undocumented immigrants may avail themselves of the federal emergency Medicaid program for immediate and severe medical emergencies, they are unable to access

their family, if they have one. They don't have money for medicines. I hope they don't become homeless, but we do have a growing problem that's alarming.⁵⁰

But it's not just pesticides poisoning the workers. We have leaking oil wells. No one checks them, not PG&E, not the agencies. If we can't trust the agencies, who can we trust? There was a pregnant woman I knew, and she got so sick from the fumes.⁵¹

Also, we have two Amazon warehouse locations in Fresno. So hundreds of trucks drive back and forth from them. We have an Alta distribution center. Those are just the massive ones. We have a FedEx center. And all the big semis that transport the food. The trucks spread pollution through the valley.⁵²

Then there are the recycling centers. The recycling centers that are supposed to make everything cleaner. Well, they're a dump site. It smells, the trash affects the small community. And the recycling trucks come here, too, along with all the other trucks. They recycle batteries that drain into the dirt, drain into the water, and then pollute everything.⁵³

preventative and nonemergency care under this program.”); Shirin Ali, *California Will Offer Health Insurance to all Undocumented Immigrants*, THE HILL (June 29, 2022), <https://thehill.com/changing-america/well-being/prevention-cures/3541196-california-will-offer-health-insurance-to-all-undocumented-immigrants/> [https://perma.cc/GWS7-YHCJ] (“California will become the first state to offer all undocumented immigrants, regardless of age, state-subsidized health insurance. It’s expected to take effect in 2024 and it will make California the first state to achieve universal access to health coverage.”); Miranda Dietz, Laurel Lucia, Krikanth Kadiyala, Tynan Channelor, Annie Rak, Yupeng Chen, Menebere Haile, Dylan H. Roby & Gerald F. Kominski, *California’s Uninsured in 2024: Medi-Cal Expands to all Low-Income Adults, but Half a Million Undocumented Californians Lack Affordable Coverage Options*, UC BERKELEY LAB. CENTER (Mar. 22, 2023), <https://laborcenter.berkeley.edu/californias-uninsured-in-2024/> [https://perma.cc/W7QQ-TBUJ] (“[U]ndocumented Californians will continue to be categorically excluded from Covered California under federal policy.”).

50. Dennis Wyatt, *Homeless: \$130M Burden on SJ County Economy*, MANTECA/RIPON BULLETIN (Apr. 15, 2023), <https://www.mantecabulletin.com/news/local-news/homeless-130m-burden-sj-county-economy/> [https://perma.cc/RET6-TEYD] (finding that there are “2,319 homeless [people] living throughout San Joaquin County, as identified in a 2022 point-in-time count”); *Study: Fresno Has Worst Homelessness Problem in the Nation*, FOX 26 NEWS, Dec. 27, 2023, <https://kmpn.com/news/local/study-fresno-has-worst-homeless-problem-in-nation> (“The personal finance company Wallet Hub says Fresno has the highest homeless rate in the nation.”)
51. See, e.g., John Cox, *Refinery Near Bakersfield Agrees to Pay \$500,000 to Settle Alleged Environmental Violations*, THE BAKERSFIELD CALIFORNIAN (Dec. 10, 2019), https://www.bakersfield.com/news/refinery-near-bakersfield-agrees-to-pay-500-000-to-settle-alleged-environmental-violations/article_4ceb9858-1b84-11ea-8fae-0f8d5ce441dd.html [https://perma.cc/TAE9-KA7T] (“A refinery in the Lamont area has agreed to pay half a million dollars to settle federal allegations it failed to properly monitor sulfur dioxide emissions from its main flare and neglected to report toxic chemicals leaking from its valves and other equipment.”).
52. Cf. Sam Levin, *Amazon’s Warehouse Boom Linked to Health Hazards in America’s Most Polluted Region*, THE GUARDIAN (Apr. 15, 2021), <https://www.theguardian.com/technology/2021/apr/15/amazon-warehouse-boom-inland-empire-pollution> [https://perma.cc/BH3G-4QHT] (analyzing effects of Amazon pollution on the Inland Empire).
53. See cf., “*It’s as if they’re Poisoning Us*”: *The Health Impacts of Plastic Recycling in Turkey*, HUMAN RIGHTS WATCH (Sept. 21, 2022), <https://www.hrw.org/report/2022/09/21/its-if-theyre-poisoning-us/health-impacts-plastic-recycling-turkey> [https://perma.cc/6YZV-T5HC] (“Scientific studies have found that localized air pollution and the release of toxins during

The pesticides and pollution go down but they have to come up again. We grow our food in this soil.

There's a town not far from here, called Mendota. Fifty miles west. Chevron wanted to build a plant there to do carbon capture and sequestration. It's supposed to help with climate change. It's where they take waste and make it liquid, and then they pour it through a pipeline and send it to someone else. People buy it, it's an energy source.⁵⁴ There's a huge subsidy for it.⁵⁵ But carbon capture has been shown to increase pollution locally.⁵⁶ Sequestration has unknown dangers.⁵⁷ The

plastic shredding and melting pose risks to human health. These include exposure to fine particles, dioxins, volatile organic compounds, and other harmful chemical additives in plastics, and have been linked to asthma, respiratory illnesses, cancer, and reproductive system harms.”).

Under federal law, Title VI prohibits federally-funded programs from discriminating on the basis of race, national origin, or color. This suggests that People of Color in the Central Valley could pursue an action to challenge their unequal exposure to pollutants if nearby warehouses and recycling facilities receive federal assistance. However, no private cause of action exists to enforce the prohibition on programs with discriminatory impacts. *See* Alexander v. Sandoval, 532 U.S. 275 (2001) (holding no private cause of action to enforce for disparate-impact regulations exists); *but see id.* at 294 (Stevens, J., dissenting) (“Relying both on this presumption and on independent analysis of Title VI, this Court has repeatedly and consistently affirmed the right of private individuals to bring civil suits to enforce rights guaranteed by Title VI. A fair reading of those cases, and coherent implementation of the statutory scheme, requires the same result under Title VI’s implementing regulations.”). This creates a significant obstacle to dismantling environmental racism as it is now experienced in the Central Valley. *See generally* Rachel Calvert, *Reviving the Environmental Justice Potential of Title VI Through Heightened Judicial Review*, 90 U. COLO. L. REV. 867, 882 (2019) (discussing challenges in which disparate environmental impacts could not be litigated directly); Matthew Snyder, *Environmental Justice and Public Company Disclosures: Mandatory Reporting for Polluting Facilities Located in Minority and Low-Income Communities*, 100 U. DET. MERCY L. REV. 373, 385 (2023) (discussing challenges associated with environmental claims under Title VII).

54. *See Understanding carbon capture and storage*, BRITISH GEOLOGICAL SURVEY, <https://www.bgs.ac.uk/discovering-geology/climate-change/carbon-capture-and-storage> [<https://perma.cc/J99A-FRQV>] (hereinafter *British Geological Survey*) (“There are 5800 km of CO2 pipelines in the United States transporting CO2 to oil production fields, where the CO2 is injected to help produce more oil. This process is called enhanced oil recovery or EOR”).
55. *Carbon Capture and Storage in the United States*, CONGRESSIONAL BUDGET OFFICE (Dec. 2023), <https://www.cbo.gov/publication/59832> [<https://perma.cc/G42N-K9MU>] (“The federal government mainly subsidizes carbon capture and storage through funding for the Department of Energy (DOE) and tax credits available to companies using CCS technology. Both the amount of funding for CCS programs and the size of the tax credits have increased in recent years”); *British Geological Survey* (“There are 5800 km of CO2 pipelines in the United States transporting CO2 to oil production fields, where the CO2 is injected to help produce more oil. This process is called enhanced oil recovery or EOR.”); *Carbon Capture and Storage in the United States*, CONGRESSIONAL BUDGET OFFICE, Dec. 2023, <https://www.cbo.gov/publication/59832> (“The federal government mainly subsidizes carbon capture and storage through funding for the Department of Energy (DOE) and tax credits available to companies using CCS technology. Both the amount of funding for CCS programs and the size of the tax credits have increased in recent years.”).
56. *See* Taylor Kubota, *Stanford Study Casts Doubt on Carbon*, STANFORD (Oct. 25, 2019), <https://news.stanford.edu/2019/10/25/study-casts-doubt-carbon-capture/> [<https://perma.cc/RZS9-C75F>] (reporting that carbon capture can increase air pollution).
57. Jacob D. McDonald, Dean Kracko, Melanie Doyle-Eisele, C Edwin Garner, Chris Wegerski, Al Senft, Eladio Knipping, Stephanie Shaw & Annette Rohr, *Carbon Capture and Sequestration: an Exploratory Inhalation Toxicity Assessment of Amine-Trapping Solvents and their Degradation Products*, 48 ENV’T SCI. & TECH., 10821, 10821 (2014) (“Amine

Mendota city council approved the plant, but no one in town knew about it—not lay people, not pastors. Not people who handled local food distribution. When I asked one of their city council people, who was a very bright person, “Why do you approve this? Why are you on board?” he said, “We have a bad rap of our town being one of the worst cities in the nation, and so we should be the best at doing something new.” But we (the Central California Environmental Justice Network) and our allies fought it. There had been no community input. And now the project’s been withdrawn.⁵⁸

The problem with the sequestration wasn’t just toxins. Because, do you know what that plant would cost? Mendota only has one ambulance, and the hospital is a long drive away.⁵⁹ The money is better spent getting medical care for the local people.

But the workers don’t call for help when they’re injured or sick, anyway. It can cost them their jobs. And they don’t have insurance, or they don’t have the necessary information. If someone has, say, a severe tooth ache, they just bear it. Some of them don’t even know that in California, undocumented people over fifty years old have been given the ability to apply for medical insurance.⁶⁰ Even if they know, they don’t feel like they can trust it. People who do not have legal status, like permanent residency, they fear that if they get anything from the government, even insurance or food stamps, then they won’t get immigration status when it’s reviewed. So they go without food. They go without medical attention. Some of them have injuries and are not even provided workers’ compensation information from their bosses. I know one man, he had an injured eye, and he lost sight in that eye. We told him that he qualified for insurance. Now he’s gotten surgery on that one eye and he’s going to get surgery on the other eye. He has a wife and a daughter and he’s the breadwinner.⁶¹

scrubbing . . . is the most well-developed of technologies for CO2 capture and sequestration (CCS); however, it has not yet been applied at full scale to coal-fired power plant flue gases . . . Amine scrubbing has been employed in a number of industrial applications, but the environmental releases of the amines and potential degradation products are not generally well-characterized”).

58. Liz Hampton & Sabrina Valle, *Chevron, Schlumberger Withdraw Request for California Carbon-Capture Permit*, REUTERS (May 18, 2022), <https://www.reuters.com/article/chevron-schlumberger-carboncapture-idAFL2N2XA27V> [<https://perma.cc/672K-XZLR>] (“Top U.S. energy companies Chevron and Schlumberger have withdrawn an application to capture carbon dioxide emissions and store them deep underground in central California, spokespeople said on Wednesday, putting the clean-energy project on hold after U.S. environmental regulators questioned it.”).
59. *Hospitals Near Mendota, CA*, HEALTHGRADES, <https://www.healthgrades.com/hospital-directory/ca-california/mendota> [<https://perma.cc/TQQ9-PHBT>] (last visited Jan. 18, 2024) (showing that the closest hospital to Mendota is in Fresno, 33 miles away).
60. *Older Adult Expansion*, CAL. DEP’T OF HEALTH CARE SERVICES (2022), <https://www.dhcs.ca.gov/services/medi-cal/eligibility/Pages/OlderAdultExpansion.aspx> [<https://perma.cc/57DZ-BLQ6>] (“Beginning May 1, 2022, a new law in California will give full scope Medi-Cal to adults 50 years of age or older and immigration status does not matter.”).
61. *See* Cal. Lab. Code § 1171.5 (West 2018); *Farmer Bros. Coffee v. Workers’ Comp. Appeals Bd.*, 133 Cal. App. 4th 533, 541 (2005) (stating that in enacting § 1171.5, the California legislature “provid[ed] that an employee’s immigration status was irrelevant to his or her workers’ compensation claim, as provided under existing law, except with regard to the issue

The workers, they get abused. We say in Spanish that the contractors and growers ‘gain on their ribs.’ *Acostillas de otros*.

Who abuses them? The grower owns the farm. The contractor runs it. The contractor decides how many farmworkers to hire and how much to pay them. The farmworkers are contracted to the contractor.

Farmworker salaries just don’t go up.⁶² Plus, in recent years, we’ve also seen a lot of ghost-worker contractors. The farm will do a contract with a bid saying that they’ll get the job done with fifty-nine farmworkers, say, in three weeks. But then they only have thirty-four workers, so the salaries that were supposed to go to the workers go into the bosses’ pockets. These are known as ‘ghost workers,’ because they don’t exist, they’re ghosts.⁶³

There’s a law that says there’s supposed to be water for each worker.⁶⁴ But the contractor just fills bottles up from the hose, and they don’t keep it cool. I just read something on Facebook about a worker who died last week in Arizona from heat exposure and dehydration.⁶⁵ And there’s a right to clean restrooms, but the restrooms aren’t clean.⁶⁶ Once, a lady worker became so upset that she started a petition about the restrooms, but then her car was vandalized. The people who broke into her car took the signature pages, and they took her phone. Retaliation is against the law, but the law—the workers are not protected.⁶⁷

of reinstatement, since the employer would be committing a federal crime by reinstating the undocumented employee.”); see also John A. Castro, *Second-Class Citizens: The Schism Between Immigration Policy and Children’s Health Care*, 37 HASTINGS CONST. L.Q. 199, 214 (2009) (“Undocumented immigrants experience an underlying fear that they will be reported to authorities if they utilize institutionalized services such as hospitals.”).

62. See, e.g., Douglas S. Massey & Julia Gelatt, *What Happened to the Wages of Mexican Immigrants? Trends and Interpretations*, 8 LAT STUD. 328 (2010) (stating that for those born in Mexico, earnings did not simply stagnate, they deteriorated. “[T]he wages earned by native whites fell between 1970 and 1980 and then slowly rose back toward their 1970 level between 1980 and 1990. The wages of Mexican American natives managed to increase during both decades, probably owing to expanded civil rights enforcement, though at a much slower rate than before. In contrast, the wages earned by Mexican immigrants fell steadily from 1970 to 1990.”).
63. The term “ghost worker” has been given a variety of meanings in legal literature. For example, it has been used to identify undocumented workers generally, or those who work under a different name. Ruben J. Garcia, *Ghost Workers in an Interconnected World: Going Beyond the Dichotomies of Domestic Immigration and Labor Laws*, 36 U. MICH. J.L. REFORM 737, 738–39, 748 (2003).
64. CAL. CODE REGS. tit. 8, § 3457(c)(1)(A) (2020), (“Potable water shall be provided during working hours and placed in locations readily accessible to all employees. Access to such drinking water shall be permitted at all times.”).
65. David Gonzalez, *Yuma Farmworker and Father of 2 Dies Amid Record Heat Wave*, AZ CENTRAL (July 24, 2023), <https://www.azcentral.com/story/news/local/arizona/c/07/24/yuma-farmworker-dies-arizona-heat-wave/70457694007/> [<https://perma.cc/XPX6-ZRB4>]. The problem has recently visited Ms. Madrigal’s own county: In August of 2023, a 59-year old Fresno farmworker named Elidio Hernández Gomez died while working in extreme heat. See Melissa Montalvo, *Farmworker Who Labored in Extreme California Heat Died. Family, Advocates, Seeking Answers*, THE FRESNO BEE (Nov. 8, 2023), <https://www.fresnobee.com/news/local/article278374474.html> [<https://perma.cc/GDU8-KVW7>].
66. See *supra* note 64, at § 3457(c)(2)(B)(1) (“Toilet facilities shall be appropriately screened to keep flies and other vermin away from the excreta.”).
67. 29 U.S.C. § 1855(a) (“No person shall intimidate, threaten, restrain, coerce, blacklist,

It's like the laws don't exist.⁶⁸ If there's no enforcement, the laws aren't worth the paper they're printed on. We've regressed.

The contractors are supposed to teach the farmworkers about heat and illness, and how to prevent heat sickness.⁶⁹ There's a lot of symptoms that if you did the training well, you would know that instead of working harder you should stop and rest. Because you could lose your life. It is clear that above eighty-five degrees they're supposed to have a break every two hours.⁷⁰ It gets so hot, it breaks my heart.

These people have families, mothers, and, when they die, now they're gone for all the people who love them. And because of why? Because of greed. Because the contractor does not care to remind the workers to check on their co-workers, to look for signs of heat exhaustion in each other. It's not that hard. It's not rocket science. It's very simple. If someone is dizzy, stop. Call 911, and don't wait until the organs start shutting down. It's serious, because we have extreme heat here. Extreme, extreme heat. Maximum heat of 111, 113 [*This is up to 45 in degrees Celsius*], it's almost inhuman what we expect these farmworkers to do.⁷¹ They are pushed to the limit. And they're verbally harassed to do more work. "Don't work like a girl," the contractor says. The older people will lose their jobs to sixteen- and seventeen-year-olds, who become their rivals.

Even if you don't die, it can impair you forever. People become sick and dizzy, and then afterwards are fragile. They can no longer work in farm labor. And for some of them it's the only thing they can do, and their life becomes a greater hardship.

discharge, or in any manner discriminate against any migrant or seasonal agricultural worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this chapter, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this chapter.”)

68. Cf. Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STANFORD. L. REV. 1241, 1250 (1991) (“attempts to respond to certain problems can be ineffective when the intersectional location of women of color is not considered in fashioning the remedy.”). I cite Crenshaw here because her landmark article, *Mapping the Margins*, addressed how Congressional attempts to fashion legal relief and remedies for battered immigrant women did not address those women's needs because the lawmakers failed to understand the lived experience of this population, who experienced language, monetary, and cultural barriers that prevented them from taking advantage of legal rights. Crenshaw's article, published in 1991, has been a crucial addition to legal scholarship because it describes laws that exist on paper but that are useless for vulnerable populations. In that way, it's as if the laws “don't exist.”
69. 5 CAL. CODE REGS. tit. 8 § 3395(h) (2020).
70. *Staying safe in the heat and humidity*, HENNEPIN COUNTY CLIMATE ACTION, <https://www.hennepin.us/climate-action/what-we-can-do/staying-safe-heat-humidity> [<https://perma.cc/SZK7-RGA7>] (“During moderate values between 83 and 85 degrees F, limit duration of outdoor activities to two hours or less and take a 30-minute break in the shade after each hour of work or exercise outdoors.”) Reader, note that this source comes from Hennepin County, Minnesota and that this source does not deal with California's particular climate issues, which are even more severe.
71. *Central and South San Joaquin Valley Climate Graphs*, NATIONAL WEATHER SERVICE, <https://www.weather.gov/hnx/Cliplot> [<https://perma.cc/Y6LM-KEBD>] (reporting highs of 107 in 2021 and 112 in 2017).

I met a woman at a market selling perfumes, like Mary Kay stuff, and she shared with us that she'd had a heatstroke and cannot physically do the work anymore. And she's a single mom.⁷²

Then there's the asthma. Kids have a fifty percent higher chance of having asthma since birth if they live here. Even if you weren't born with it, if you live here long enough you can get it.⁷³ My daughter has it. She's had severe incidents. She was at school and she collapsed. The teachers can't let the kids run around with this air quality. She was having trouble breathing. Later, the principal said I'd threatened the teacher.

I don't know, the pollution, the toxins, they're everywhere. It's in the water. You know those sweet little fruits, like the oranges called Cuties and the pomegranates? They're irrigated with water from Chevron. The muggy oil-filtered water is reused on the crops.⁷⁴

The problems here are so huge. We have a lot of drug use and abuse⁷⁵ and domestic violence.⁷⁶ I think that it's a way that people start coping—with their depression, with the temperatures. Alcohol and drinks and drugs. Whenever there's poverty, and this feeling like you can't get out, if there's despair, there's more chance of youths or adults going to crime or substance abuse and then everything goes downhill.

The kids get into gangs. In the town of Mendota, a gang from El Salvador called Mara Salvatrucha showed up. Before you knew it, there were over twenty

72. Aryn Baker, *How Heat Waves Could Have Long-Term Impacts on Your Health*, TIME (July 13, 2022), <https://time.com/6196564/climate-change-obesity-long-term-health-impacts/> [<https://perma.cc/3TDD-DP29>].

73. California Asthma Dashboard, California Department of Public Health, <https://www.cdph.ca.gov/Programs/CCDC/DEOD/CEH/CEH/Pages/CaliforniaBreathingCountyAsthmaProfiles.aspx> [<https://perma.cc/27KJ-PXPN>] (noting asthma prevalence in California). See also cf. Ying-Ying Meng, Rudolph P. Rull, Michelle Wilhelm, Christina Lombardi, John Balmes & Beate Ritz, *Outdoor Air Pollution and Uncontrolled Asthma in the San Joaquin Valley, California*, 64 J. EPIDEMIOLOGY & CMTY. HEALTH, 142 (2010).

74. Liza Gross, *A California Water Board Assures the Public that Oil Wastewater is Safe for Irrigation, But Experts Say the Evidence is Scant*, INSIDE CLIMATE NEWS (Feb. 6, 2022), <https://insideclimatenews.org/news/06022022/a-california-water-board-assures-the-public-that-oil-wastewater-is-safe-for-irrigation-but-experts-say-the-evidence-is-scant/> [<https://perma.cc/W6FP-ZQJW>].

75. *San Joaquin County 2016 Community Health Needs Assessment*, SAN JOAQUIN COUNCIL OF GOVERNMENTS, <https://www.healthiersanjoaquin.org/pdfs/2016/substance%20use.pdf> [<https://perma.cc/JY5V-EWF7>] (last visited Jan. 18, 2024) (“San Joaquin County’s rate of drug-induced deaths is 56% higher than average rate across California.”) (hereinafter *Community Health Needs Assessment*).

76. Kay Recede, *Reported Domestic Violence Abuse Cases in San Joaquin County Decreased in 2020*, KCRA (Feb. 26, 2021), <https://www.kcra.com/article/domestic-violence-abuse-cases-san-joaquin-county-2020/35654391#> [<https://perma.cc/X8BZ-KJUA>] (“The district attorney’s office shared with KCRA 3 that 5,034 domestic violence cases and 977 child abuse/sexual assault cases were reviewed in 2020, compared to a review of 5,717 domestic violence cases in 2019, and 909 child abuse/sexual assault cases.”); *Nearly Half of Domestic Violence Goes Unreported*, THE CRIME REPORT (May 3, 2017), <https://thecrimereport.org/2017/05/03/report-nearly-half-of-domestic-violence-goes-unreported/> [<https://perma.cc/KWD4-3P85>]; *Community Health Needs Assessment*, (. . . “The number of domestic violence calls is 37% higher in San Joaquin County than in California as a whole.”).

members of that gang recruited and bodies started coming up beheaded. Finally, after there were enough missing people and decapitations, the FBI came and cleaned up house.⁷⁷

But law enforcement is no real help. There's police harassment here. In Parlier, which is a town about an hour away from Mendota, county sheriffs like to show up at a certain part of a big avenue, which is right off the fields. They arrive there when they know it's time for farmworkers to go home. In Parlier, there's one big avenue, and you have to go down it to get to other parts of town. One night, the sheriffs were waiting, kind of targeting the farmworkers' cars, which are used, small, dirty, because they've been in the fields. The sheriffs took the farmworkers' vehicles if they didn't have a license or insurance. They take the vehicles for thirty days, and then the farmworkers have to struggle to keep them. Usually, the county keeps the cars and auctions them.⁷⁸

In response to a question about self-care

How do we keep up our strength? How do we resist? Most women, if they know they're pregnant, they stop working. Or they learn to mitigate, like taking off their clothes before coming into the house. They bathe themselves or have their partners bathe them, to clean off the toxins.⁷⁹

And otherwise, I don't know. I know this all sounds dark.

What I do is, I work with like-minded people. I find joy. Anytime I go to a college or high school graduation, I remember that generations are thriving, they are learning. The hope is that they'll come back and make a difference in the community.

We have to have hope that things will change. Last week, I went as a chaperone in a program that exposes young teens to camping. I've lived in this area for so long and I've never been camping. And when you're out in nature, you realize that the universe, the earth, the local problems, it's bigger than that. We are one people, one earth. And it can change. It's going to take a lot of change, and I think to myself, if I give up, who is going to do the work? If people like me give up, who is going to do what it takes to create that change?

77. *U.S. Attorney: MS-13 Gang Terrorized Central California Farm Town*, CBS NEWS (Aug. 31, 2018), <https://www.cbsnews.com/sacramento/news/ms-13-mendota-terrorized/> [<https://perma.cc/7K3C-B4ZV>] (this source does not mention decapitations).

78. For a discussion of the thirty-day impound and whether it violates the Fourth Amendment, see *Brewster v. Beck*, 859 F.3d 1194, 1197 (9th Cir. 2017) (“A seizure is justified under the Fourth Amendment only to the extent that the government’s justification holds force. Thereafter, the government must cease the seizure or secure a new justification. Appellees have provided no justification here.”). See also Byrhonda Lyons, *CHP Sidesteps Feds to Continue 30-Day Tows*, CAL MATTERS (Sept. 16, 2021), <https://calmatters.org/justice/2021/09/chp-car-impounds-unlicensed-drivers/> [<https://perma.cc/6USA-R43V>] (reporting that thirty-day impounds are still happening despite *Brewster* decision).

79. Cf. George Lipsitz, “*In an Avalanche Every Snowflake Pleads Not Guilty*”: *The Collateral Consequences of Mass Incarceration and Impediments to Women’s Fair Housing Rights*, 59 UCLA L. REV. 1746, 1770 (2012) (“women generally play important roles in local networks of social control and self-help.”).

My hope was, when we took the young people camping, that we were giving a new generation a new insight. We have to wake up their awareness of the natural beauty of Earth. You go up there to Yosemite, it takes your breath away. That is the natural earth. We need to inspire these children to preserve this. We need them to ask, “How did it turn into this?” In my program, we went to the sequoias for a while and then we went back home. As our van was coming down from the mountains, we passed beautiful green trees, and then we went down further and saw a little bit of logging. We keep going further, more logging. It started to look like the desert. As we continued, the trees were changing color, becoming brown, and so did the color of the sky. When we got closer to Fresno County, the air was gray from pollution. And there were no more trees, just highways and buildings.

But in my organization, one of our projects is to plant trees. We take dozens of trees to different communities—a high school, an elementary school, just different areas. Some people may think, “What’s one tree?” It’s a lot. When I plant a tree we are undoing a little bit of the bad stuff that we’re doing to our environment.⁸⁰

And it’s a joy. In those hours when you feel that joy, that’s when you can dream of a different way of life.⁸¹

POSTSCRIPT

After my meeting with Ms. Madrigal, we continued talking and decided to work together on a project about farmworkers. As of this writing, January of 2024, we have brought the artist and filmmaker Paulina Sierra into our discussions, with the object of shooting a short documentary in the Fresno area in March of 2024. We are now in our preproduction phase and are talking to undocumented farmworkers from Parlier, Mendota, and Fresno. Ms. Madrigal has been responsible for bringing these interviewees into the project. During one of these conversations, which took place on January 16, 2024 on Zoom, a farmworker named Adela told us “Life here is sad. We are essential for this country. I would like people in the U.S. to recognize us. I live with the fear that they are going to catch me one day and deport me. People don’t know about the sacrifices that we make for the fruit and vegetables that they eat. Farmworkers work with depression. Sometimes they are sad because they have to harvest when someone is sick and you can’t see them, or when someone has died and you can’t go to their funeral. There are tears on the fruits and vegetables that arrive on Americans’ tables.”

80. *1,700 New Trees Coming to South Central Fresno under New Clean Air Program*, SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DIST. (Mar. 31, 2023), <https://ww2.valleyair.org/news-outreach-and-education/news/1-700-new-trees-coming-to-south-central-fresno-under-new-clean-air-program> [https://perma.cc/YY3M-X4FK] (describing the “Adopt-A-Tree program, led by Central California Environmental Justice Network (CCEJN),” which will provide 1,200 trees to residents and business owners in Fresno).

81. See, e.g., Alexis Yeboah-Kodie, *Meditations on Joy Full Leadership and Black Liberation*, 37 HARV. BLACKLETTER L. J. 65, 116 (2021) (“[L]et me get into the activism that cultivates joy because Black people deserve to be joyous.”).

When Adela began to cry, the group went quiet. The silence was broken by Ms. Madrigal's gentle voice. "Adela, I want to thank you so much," she said. "Thank you for sharing your stories."