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*Feature Article*  
**Tobacco's Other Downside: Child Labor  
in American Tobacco Fields**

Katherine Colburn

Ten-year-old Marta W. works on a tobacco farm in Tennessee where she harvests tobacco plants with her father and brother.<sup>1</sup> She's experienced nausea and headaches while in the tobacco fields and barns.<sup>2</sup> Her 9-year-old brother, Patrick, reported coughing and vomiting while cutting tobacco plants and has had to leave the fields because of it.<sup>3</sup> Their father is paid based on how many tobacco plants he harvests and hangs to dry, so having his children working with him increases his earnings, but hurts his children's quality of life.<sup>4</sup> This delicate balance between providing for their family but subjecting their children to the dangers of the tobacco field is one juggled by many rural families.

Children who witness their parent's hardships go to work in the tobacco fields—some times because they want to, but most times because they need to. In the agriculture industry, children as young as 12 can legally work for unlimited hours outside of school on a tobacco farm of any size with parental permission and children under the age of 12 can work on small farms owned and operated by family members.<sup>5</sup> While there is no comprehensive number of child tobacco workers, the National Institute for Occupational Safety and Health (NIOSH) estimates that hundreds of thousands of children under age 18 work in US agriculture each year.<sup>6</sup> The lack of a comprehensive number is because those who are hired by contractors or work in multiple crops are not specifically counted.<sup>7</sup> In May 2014, Human Rights Watch (HRW) published a report—"Tobacco's Hidden Children"—detailing the children who work in tobacco and highlighting their reasons for working and the health and safety risks. The report exposed a largely overlooked portion of the population, and

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<sup>1</sup> Margaret Wurth, *Tobacco's Hidden Children: Hazardous Child Labor in United States Tobacco Farming*, HUMAN RIGHTS WATCH, available at [http://www.hrw.org/sites/default/files/reports/us0514\\_UploadNew.pdf](http://www.hrw.org/sites/default/files/reports/us0514_UploadNew.pdf).

<sup>2</sup> Wurth, *supra* note 1.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> 29 C.F.R. § 570.2(b) (2010).

<sup>6</sup> Wurth, *supra*. note 1.

<sup>7</sup> *Id.*

showed the hardships encountered by working in tobacco, especially the dangerous and unhealthy effects it has on young children.

#### POVERTY AND THE CHILD TOBACCO WORKER

Eighteen-year-old Natalie G. was twelve when she started working in tobacco.<sup>8</sup> She had witnessed the physical and financial hardships her single mother had experienced, and wanted to help her out, while providing for her younger siblings as well.<sup>9</sup> Natalie's 12-year-old sister, Elena, also works in the fields.<sup>10</sup> While most children Elena's age are using their allowance on toys, Elena's earnings go toward the family's bills, food, and items for her younger brother.<sup>11</sup> Most children build memories by spending summer days playing with friends or enjoying school activities. Instead, their memories of childhood will include long days harvesting and hanging tobacco, and long nights nursing the illnesses that result.

According to the HRW report, most child tobacco workers reported their reason for working in the fields was to help support their household.<sup>12</sup> In 2009, the average individual farmworker income ranged from \$12,500 to \$14,999 and the total family income ranged from \$17,500 to \$19,999.<sup>13</sup> These statistics place twenty-three percent of farmworker families below the poverty line.<sup>14</sup> A 2008 U.S. Department of Agriculture study found poverty among farmworkers is more than double that of all wage and salary employees in the United States.<sup>15</sup> With this level of poverty, it is easy to see how another stream of income—even that of a child—could help buy necessary food and clothing for the family, or go toward the rent to allow the family to remain in their home. For the children that contribute to the family income, it's not about the dangers of tobacco, but helping to provide their family with the necessities of life.

In addition to helping support their families, many children work in the tobacco fields because of a lack of alternate employment opportunities.<sup>16</sup>

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Farmworker Health Fact Sheet*, NATIONAL CENTER FOR FARMWORKER HEALTH, INC., Sept., 2012, available at <http://www.ncfh.org/docs/fs-Migrant%20Demographics.pdf>.

<sup>14</sup> *Id.*

<sup>15</sup> Wurth, *supra*. note 1.

<sup>16</sup> *Id.*

Often living in rural and poor communities, children have fewer options for employment because of age or location.<sup>17</sup> While other jobs in construction or maintenance may be more appealing because of safer work environments and more workers' rights laws, children choose to work in tobacco because of the lower age requirements.<sup>18</sup> Other children find that working in tobacco is their only choice because of legal status.<sup>19</sup> Those children whose immigration status keeps them from seeking work elsewhere are able to find work in the tobacco fields because of the relaxed regulations.<sup>20</sup> Many undocumented children believe working in the tobacco fields and subjecting themselves to the dangers of tobacco farming is the only job available to them.<sup>21</sup>

#### “JUST KEEP CUTTING”

Danielle S.,<sup>16</sup> was hired to work on a tobacco farm outside of Lexington, Kentucky and got sick while harvesting tobacco: “It happens when you’re out in the sun. You want to throw up. And you drink water because you’re so thirsty, but the water makes you feel worse. You throw up right there when you’re cutting, but you just keep cutting.”<sup>22</sup> Stories of illness and poor working conditions in the tobacco fields are common.<sup>23</sup> Children often report vomiting, loss of appetite, headaches, skin rashes, sleeplessness, and irritation to their eyes and mouths while working.<sup>24</sup> While many of these illnesses result from the extreme temperatures and rigorous activity required, exposure to pesticides is another culprit.<sup>25</sup>

Pesticides are commonly used in tobacco farming, and the children who work on the farms are often exposed to them.<sup>26</sup> Pesticide exposure is associated with nausea, dizziness, vomiting, abdominal pain and other skin and eye problems.<sup>27</sup> It can cause long-term health effects including problems with childbirth, loss of consciousness, coma, and death.<sup>28</sup> Respiratory problems, cancer, depression and neurological issues are also problems associated with

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

prolonged exposure to pesticides.<sup>29</sup> Sixteen-year-old Theo D. was given a wearable device that sprayed pesticides.<sup>30</sup> This heavy exposure caused him to become dizzy and vomit.<sup>31</sup> Several employers also do not provide any health training so children are not aware of the dangers they are exposed to, and just work through their illnesses unaware of what it is doing to their bodies in the long-term.<sup>32</sup>

In addition to a lack of health training and heavy exposure to the elements, employers give very few children protective equipment and most have to make their own.<sup>33</sup> This is no usual art project for these children, as some found their homemade raincoats didn't protect them completely and they overheated in the sun, so many children have taken to wearing garbage bags.<sup>34</sup> Some children don't wear garbage bags and instead work in their wet clothes causing rashes and irritation.<sup>35</sup> There is also a lack of gloves and protective footwear provided to the children.<sup>36</sup> For many, their hands are too small for generic plastic gloves so they go without which leads to skin rashes, cuts, sores, and blisters.<sup>37</sup> In addition to bare hands, many children are also working with bare feet as most do not have boots that are able to withstand the thick mud of the field.<sup>38</sup>

#### PROTECTIONS OF THE LAW

Children who are employed in the United States are regulated and assisted under The Fair Labor Standards Act. In an attempt to protect small family-owned farms, agricultural employers are exempt from many of the provisions of the law, leaving adult and child farmworkers without the same protections provided to workers in other industries.<sup>39</sup> These exemptions provide child farmworkers less protection than all other working children by establishing that there is no minimum age at which employers may hire children to work unlimited hours outside of school, and allowing children, fourteen years or

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

older, to work unlimited hours on a farm of any size without parental consent.<sup>40</sup> The Department of Labor also regulates workplace activities in relation to the age of the laborer, and they currently remain very relaxed. Regulations have not been updated since 1970 for agricultural activities (they were updated for all non-agricultural activities in 2010).<sup>41</sup> In 2011, a proposal for new restrictions on child labor was introduced by the Department of Labor to prohibit all children under age 16 from working in various tobacco harvesting and drying situations, but the proposal was withdrawn because of opposition from several agricultural groups.<sup>42</sup> While it is important to protect the existence of family farms, there must also be deference in the law for the true protection of child workers. Rod Kuegel, President of the Council for Burley Tobacco, understands this need for the protection of family farms and children as a fourth generation farmer himself, and stated, “The Council for Burley Tobacco supports the family farm, but they do not support the practice of having children work in dangerous jobs on the farm.”<sup>43</sup>

International law also provides protections for children who are employed. The International Labor Organization’s Convention No. 182 Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labor, which was ratified by the United States, prohibits several forms of child exploitation and “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.”<sup>44</sup> As a signatory since 1999, the United States is obligated to take immediate steps to determine if child labor in tobacco farming violates this convention and eliminate them. To this date, however, no investigation has been initiated by the United States. Another avenue for challenging child labor issues is the United Nations Convention on the Rights of the Child. This convention provides that children have a “right to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the

<sup>40</sup> 29 C.F.R. § 570.2(b) (2010).

<sup>41</sup> Gabriel Thompson, *Why Are Children Working in American Tobacco Fields*, THE NATION, Nov. 12, 2013, available at <http://www.thenation.com/article/177136/why-are-children-working-american-tobacco-fields>.

<sup>42</sup> *Id.*

<sup>43</sup> Telephone Interview with Rod Kuegel, President, Council for Burley Tobacco (December 2, 2014)

<sup>44</sup> *Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*, INTERNATIONAL LABOUR ORGANIZATION, available at <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/com-chic.htm>.

child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development."<sup>45</sup>

Children are often a marginalized population. Even though they are often afforded special protections because of their age and inability to meet their own needs, they cannot always represent themselves and rely greatly on adults to provide for them and ensure that their needs, including legal protections, are met. Regulations must be changed to afford children working in tobacco greater protections, and to lessen the need for children to be exposed to hazardous chemicals and situations. Tobacco companies and farms are opposed to these regulations because of the economic impact it could have on their companies, but certain things, like ensuring that children remain safe, healthy, and protected should take precedence. In this regard, the role of children in the tobacco industry must be revised and their wellbeing must be a top priority.

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<sup>45</sup> *Convention on the Rights of the Child*, UNITED NATIONS HUMAN RIGHTS- OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, available at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.