

Female farmworkers often harassed

By KELLY HEINRICH and LISEL HOLDENRIED
 Guest commentary

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Glancing at the fields while driving down most rural roads in the Salinas Valley, you will see farmworkers harvesting lettuce and strawberries, their heads and faces covered with bandanas and their bodies covered with baggy sweatshirts and loose-fitting pants.

Have you ever asked yourself why? While some of the covering is to protect from the sun and other elements, many farmworker women strive to make their gender invisible from their male co-workers and supervisors to avoid lewd comments, unwanted touching and sexual assault.

Agricultural work is the third most-dangerous job in the United States, but for farmworker women, the dangers extend beyond traditional occupational safety and health challenges.

For a farmworker woman, sexual harassment and violence is typically suffered in silence.

She may experience deep fears of losing her job, or fear law enforcement, immigration officials or retaliation against her or her family.

She may not know her legal rights. She may have no one to reach out to in an unfamiliar community, isolated by language, distance, culture and lack of transportation. She may experience deep shame if the community and family learn what happened to her.

Some employers and supervisors use the fears and conditions to exert power and control over farmworker women. This means that farmworker women are not only one of the most vulnerable populations to sexual violence, but they are the least likely to report it.

Many of the sexual harassment cases that we see at California Rural Legal Assistance Inc. involve sexual violence accompanied by retaliation after a complaint.

Such was the case of Olivia Tamayo, who was repeatedly raped by a supervisor, threatened with a knife and then fired. CRLA filed her complaint with the EEOC, which took her case and won a \$1 million jury award upheld by the 9th Circuit.

Even if the employer does not go as far as termination, we often see clients' complaints ignored, denied, deemed trivial or blamed on the client.

There are far too many cases where employers fail to take their obligations seriously. When an employee reports harassment, the employer has a duty to investigate and take immediate and appropriate corrective action.

All employees should be trained regarding sexual harassment. Too often we hear of five-minute meetings where several company policies and procedures, including harassment, are covered at once.

Employees are required to sign a statement that they have been trained about harassment.

Supervisors are required to complete two hours of training every two years if they work for a company with 50 or more employees, but many companies ignore the requirement.

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Another employer requirement is to have an effective anti-sexual harassment policy available in a language that the employees understand.

On at least one occasion, an employer used a computer program to translate its sexual harassment policy into Spanish and assumed it was correct. It said, however, that if an employee reported harassment, she or he would be retaliated against!

Policies that go beyond mere perfunctory mandates and uphold women's dignity are the key to combating this scourge of the agricultural industry. Employers must provide meaningful training. They must conduct adequate investigations, take corrective action, keep complainants informed and protect a complainant's privacy as practicable when conducting the investigation.

The next time you are driving next to a field or orchard, take a closer look at just how many bandanas you see. You will then witness firsthand the scope and pervasiveness of the problem and why employers must better perform their duties under the law.

Kelly Heinrich directs a national project on sexual violence against farmworkers for CRLA. She is an attorney who has worked on behalf of immigrants and victims of violence for more than a decade.

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