

Why do I work for the Virginia Justice Center for Farm and Immigrant Workers?

This paper represents the substance of Ms. Bauer's remarks to the Congregation and City Workgroup, and is based upon a speech that was originally given on June 15, 2001, when the Virginia State Bar named her Legal Aid Lawyer of the Year.

Let me begin by describing the organization for which I work. The Virginia Justice Center for Farm and Immigrant Workers (VJC) is a program of the Legal Aid Justice Center that supports low-wage immigrant workers throughout the Commonwealth in their efforts to be treated fairly in the workplace. The Virginia Justice Center was created in 1998 and has offices in Charlottesville and Northern Virginia. To date the VJC has helped migrant farm workers, day laborers, and other low-wage immigrant workers win judgments and settlements representing approximately \$700,000.00 in unpaid wages. The VJC supports workers in their efforts to find justice and fair treatment in the workplace. Sadly, many unscrupulous contractors try to target immigrant workers, and exploit them because of their immigration status. We believe that workers deserve to be paid for their work.

VJC's statewide team of lawyers and advocates:

- represents clients in court and in administrative matters;
- visits labor camps and areas where workers gather to provide advice and informational support;
- writes and distributes educational materials;
- advocates for sound public policies on behalf of our clients; and
- counsels workers on United States law and the rights of seasonal workers and immigrants laborers.

The VJC was established with help from the Legal Services Corporation of Virginia, a statewide organization committed to ensuring equal access to the legal system by collecting resources and raising funds for Virginia's legal aid societies, providing training and technical assistance, coordinating and monitoring the activities of Virginia's legal aid providers with other

committed individuals and groups, and by sponsoring, funding and encouraging related activities in order to preserve and expand the quality and quantity of civil legal services for low-income people throughout Virginia. Although originally funded by the LSCV, recently the LSCV was pressured to terminate this funding due to political pressure from agribusiness interests and other corporate employers.

So why do I work for the Virginia Justice Center? I do so because it has been a privilege and an honor to represent my clients over the past three years that I have been at the VJC. Over and over, I have had the opportunity to watch men and women with so very much to lose stand up with dignity and fight for their rights. It has been an inspiration to me, and I consider that I have been lucky to have the opportunity to do this work. My clients have been, and are, truly extraordinary people. They are in an unfamiliar country with virtually no money, thousands of miles from home, they do not speak the language, they are fearful of retaliation by an employer who is often also their landlord. Farm workers have the very reasonable fear that the result of their asserting their rights will be not only losing their jobs, their income, and being blacklisted from future employment, but also facing eviction and, oftentimes, deportation.

The suffering my clients endure merely to get to this country to work is hard for those of us in this room to imagine. Those who enter lawfully, contracted to work for an employer, pay money, sometimes thousands of dollars, simply for the right to be chosen to come to this country. Since they are poor, they have to borrow that money, often mortgaging their homes or family farms to get the money. If they do not comply with the terms of their contract or earn that money back, they risk losing their homes. Those who enter the country illegally pay thousands of dollars to be smuggled in and to risk death in the desert. They too arrive desperately in debt—all of this to do a job.

Low-wage immigrant workers have no powerful political advocates, and by definition they themselves cannot vote. In this context, the decision to stand up for one's rights and even go to court is an extraordinary and selfless choice. My clients have not gotten rich from the cases they have been involved with - they generally only recovered the wages that they were entitled to all along. But they have stood up for something more important to them than money - the right to be taken seriously as a human being, and the right to be treated with dignity. These clients have chosen justice over fear, and each has repeated in his or her own way the famous refrain that Cesar Chavez, the great farm worker union leader, would continually say under the

most trying circumstances, “Si Se Puede” - Yes it can be done. That choice enriches us all, and being able to play a small part in that choice has enriched my life immeasurably.

Recently, I had the opportunity to take depositions of about a dozen men in Mexico in a case on behalf of tree planters who did not receive the minimum wage or overtime for their work in the U.S. Each of our clients, some of whom traveled a dozen hours on a bus to appear for the depositions, was asked a basically identical list of questions by opposing counsel. I was struck by the fact that in answering one of the questions, virtually all of the men answered almost identically, even though they did not know one another and had not consulted with each other about their answers. The question was “What do you hope to get out this lawsuit?” And each, almost to a word, answered thus: “Justice for other workers, so that no one else gets treated the way I was treated.” Not one of them said money, and I believe that each of my clients was telling the truth that he was deeply concerned for his co-workers and wanted the situation to be better for others. It is an honor to represent people who truly believe in the idea of justice for all.

From time to time, I have been interviewed about the work I do, and I am consistently asked one question: why is it that I have chosen to sacrifice myself by doing this legal aid work? Now I know that this is a flawed question. It is not a sacrifice to do this work that gives one’s life a sense of meaning and purpose. I look around at lawyers doing other kinds of law work, who are, it’s fair to say, not always completely fulfilled and satisfied with their work, and I feel lucky. I look at my clients, who perform grueling and dangerous work for little money, and I know that I am lucky. The average annual income of a migrant farm worker family of four is \$6500. Even on the Legal Aid salary plan, I am lucky. It is a joy to do the work I do.

Now, lest you all start to think that I am going to leave you just feeling warm and fuzzy, there are one or two more things that I need to say. Not every state funds unrestricted legal services for farm workers and immigrant workers. But we have a special circumstance here in Virginia. Because LSCV did make the choice to fund the Virginia Justice Center for some time, we know in Virginia, without a shadow of a doubt, that farm workers and other immigrant workers are subject to extreme exploitation. We have a record of it. And so I believe that the legal community cannot turn their backs on these vulnerable people. We cannot turn our backs on the workers who are living in housing in which open containers of deadly pesticides are stored. We cannot turn our backs on the workers that perform a week or more of labor and who are abandoned and not paid at all. We cannot turn our backs on the workers who are routinely

paid less than the minimum wage. We cannot turn our backs on the workers who are required to work 90 or 100 hours a week without required overtime pay. The truth is that in many parts of Virginia immigrant workers are subjected to conditions that call to mind indentured servitude. Too many employers choose to hire immigrants *because* immigrants are vulnerable. We know these things, and that means that we have a responsibility.

The quote I have chosen to describe why I do what I do, to describe why the work of the VJC is important and needs to be done, is from Leviticus and reads as follows: “And if a stranger shall sojourn with thee in your land, ye shall not oppress him. But the stranger that dwelleth with you shall be to you as one born among you, and thou shalt love him as thyself; for you were strangers in the land of Egypt.” As this ancient injunction instructs us, it is wrong to have a system of legal services that turns people away based on their immigration status. Furthermore, a system that creates a class of worker who may be abused and underpaid with impunity degrades wages and working conditions for everyone. Federally funded legal services program are required by federal law to turn away many immigrants - even many legal immigrants, based on their immigration status. Since that is so, it is incumbent upon the legal community to develop a response to those restrictions, and to make the full range of legal services available to all poor people. The federal restrictions on legal services are not an abstraction to my clients - they result in whole categories of very poor people who are simply turned away at the legal aid door. I believe that the legal community should not tolerate this. Immigrants are a part of the fabric of every community in this state, increasingly doing the hard work of life - harvesting the crops, washing the dishes, building our houses, working our factories. Every day, each one of us accepts the benefits of their labor. We should also accept the simple responsibility to make sure that people are treated lawfully while in Virginia.

For example, the government allows for the widespread importation of temporary unskilled labor from Mexico and Central America under the H-2B program. Thousands of legal H-2B workers enter the Commonwealth every year, at the request of Virginia employers who certify under oath that there are not workers here willing to do the jobs. Those workers enter the U.S. with visas that permit them to work for only the employer who petitioned on their behalf. If the employment situation is less than ideal, the worker’s sole recourse is to return to his or her country. Because most workers take out significant loans to travel to the U.S. as contract

workers, as a practical matter they are forced to remain and work for employers even when they are subjected to shameful abuse.

Federal law prohibits LSC-funded programs from representing these workers. It is simply wrong to allow Virginia employers to go to other countries to bring in workers, as they do under this system, and then for us not to provide those workers access to justice if they are wronged. And, sadly, we know with certainty that these workers are wronged.

We must ensure, despite the politics, that *all* people have basic access to justice, regardless of immigration status, national origin, or ability to speak English. That is the challenge to those of us who are lawyers, especially now that our support from the LSCV has been severed. And these things can be done. Funding for services for immigrants, particularly immigrant workers, is essential, and it can be done. This will require the support of many groups in this community, and in particular, the Bar, which has a special responsibility to ensure that justice is available to all. But, with a commitment to the idea of justice for all people, it can be done. As has been said in circumstances more daunting than these, Si Se Puede. Yes, it can be done.