

# Hotlines, Private Regulation, and Farm Migrant Labor Rights: Effective Grievance Mechanisms and the Role of Accessibility

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*In the growing world of private regulatory initiatives (PRI) around the globe, the vast majority feature complaint mechanisms, commonly in the form of a hotline. Existing research finds that most PRI hotlines are largely unused by workers, consistent with other findings that many PRIs' entire monitoring and enforcement structures are ineffective. However, little research exists on the effectiveness of hotlines run by worker-centered PRIs, which studies suggest may be more effective than other types. In this paper, we ask, can worker-led PRIs create effective complaint hotlines? If so, under what conditions are they successful? To answer these questions, we conduct an analysis of call records made to a worker-led PRI operating in the Northeastern U.S. dairy sector, the Milk with Dignity (MD) Program. We consider how the Program's hotline, which unlike other PRI hotlines is well-utilized, overcomes common barriers to 'accessibility.' Accessibility here refers to several challenges that studies have identified in other, seldom-used hotlines, related to hours of operation, language, and mechanisms for reporting complaints. Our research finds that the MD program recognized important technical challenges to hotline usage and addressed access-related roadblocks by (1) improving worker engagement and (2) building a better hotline infrastructure. These findings suggest that future research should further investigate whether worker-led programs effectively address other kinds of commonly-occurring challenges with PRI grievance mechanisms.*

**Keywords:** *Grievance Mechanisms, Private Regulation, Migration, Hotlines, Labor Governance, Supply Chains, Labor Rights*

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The rise of ‘private regulation’ regimes – regulation by non-state actors – is largely understood as a direct response to a growing wave of criticism targeting multinational firms and the control that they exercise in the global economy (Bartley, 2018; Locke, 2013). In response to criticism, firms have (often vehemently) argued against an enhanced public regulatory approach to eliminate abuses, instead turning to private regulation. However, many studies suggest that private governance mechanisms fall short of their promises to provide labor and human rights protections (e.g. LeBaron, 2020; Bair, Anner & Blasi, 2020; Lim & Tsutsui, 2012), particularly when they lack enforcement measures or an engagement with “the socio-political context” in which workers labor (Bartley and Kinkaid, 2015; see also Locke et al., 2013).

Other research suggests that private regulatory models which feature input from workers may be able to improve labor rights monitoring and enforcement. Many have found that the degree to which workers are enlisted as active participants in private governance institutions matters when trying to understand why some interventions are effective and some are not (Amengual and Chirot, 2016; Mayer and Gereffi, 2010; Rodriguez-Garavito, 2005). Furthermore, worker centers and other non-union organizations have become important supporters of labor rights, helping to funnel complaints, particularly for structurally vulnerable workers (Lesniewski & Gleeson, 2022), and bolster labor standards enforcement (Fine and Bartley, 2018). In some cases, workers’ groups have created their own certification programs as an alternative to corporate-led initiatives (Sellers, 2021).

Both worker-centered and other kinds of private regulatory initiatives (PRI) feature complaint mechanisms,<sup>1</sup> commonly in the form of a hotline. Companies have long used employee hotlines as a means of channeling worker voice and identifying grievances among the workforce, as well as addressing those complaints. Research finds that most worker hotlines are exceptionally under-used by employees, especially when examining workers in the midst of complex supply chains (e.g. Yang, 2020). However, little research exists on the effectiveness of hotlines run by worker-centered PRIs, even as other scholarship (discussed above) documents workers groups’ effective engagement in the claims-making processes on behalf of complainants. We aim to fill this gap by asking: Can worker-led PRIs create effective complaint hotlines? If so, under what conditions are they successful?

In this article, we use new data from hotline call records from the enforcement arm of a private, worker-driven supply chain agreement, the Milk with Dignity (MD) Program, to answer these questions. Using a mixed methods approach, we use hotline call records to evaluate trends in the MD hotline’s usage and supplement our findings with stakeholder interview data. We find that the MD Program was able to overcome many common ‘accessibility’ barriers to effective grievance mechanisms, primarily via the inclusion of worker voice in the creation of the hotline structure.

This article proceeds as follows: First, we begin with a relevant background section on the American dairy industry, focusing specifically on the Northeastern region. We then outline our theoretical framework, defining ‘accessibility’ barriers

and outlining their significant contribution to the (in)effectiveness of PRI grievance mechanisms. Next, we provide an in-depth discussion of the methods and findings of our analysis of interview data and hotline call records, including identifying how we operationalize accessibility in our study. Finally, we provide some discussion of the findings and offer some concluding thoughts. In the final section, we also consider some of the key limitations of our study and areas for future research.

## **MIGRANT LABOR IN AMERICAN DAIRY**

While migrant labor has been a major feature of U.S. agriculture since the 19<sup>th</sup> century, migrant workers in the dairy sector are a more recent phenomenon. Workers in the dairy industry defy the traditional structure of U.S. migrant agricultural work, in which travelling crews of laborers work on farms across a broad geographic expanse over the course of the year (e.g. Hahamovitch, 1997). In contrast to this labor arrangement – characterized by widespread subcontracting, large crews, and short-term employment – dairy farms require year-round labor from a small number of workers, with most staff living on-site to accommodate a 24-hour milking schedule. Dairy farm owners also largely eschew the common national practice of sub-contracting agricultural labor, particularly in the Northeastern United States (Gray, 2013). Thus, workers in dairy are not a *migrating* workforce, in which cyclical migration forms a key rhythm of their year. Nevertheless, they are a workforce *comprised of migrants*: Migrants from Mexico, and Central America began to displace a largely domestic and local (US citizen) workforce in the 1990s, and today these migrants provide the majority of labor for the dairy industry (Gray, 2013; Mares, 2019).

The widespread adoption of migrant labor in American dairy coincided with a pronounced shift in the industry itself, as the political economy of dairy production transformed the prospects of farmers. As Mares (2019) and others note, the industry has experienced “[u]nprecedented scaling up of dairy production” (p. 6) since the 1990s, in large part due to neoliberal economic policies and new trade agreements (particularly the North American Free Trade Agreement – NAFTA – that came into force in 1994) that lowered and de-stabilized milk prices. Combined with high input costs (including feed), many dairy farmers have failed to weather the market storm; in places like Vermont, the focus of our study, 90% of small-scale farms have closed, with many of those farms being consolidated into larger operations.<sup>2</sup>

Such shifts are also the product of a 20<sup>th</sup> century project, in which a confluence of academic and state forces gradually pushed dairy farmers to consolidate and invest in high-input, high-output dairy farming, including the introduction of hormones, medications, and highly mechanized milking parlors (DuPuis, 2002). Given all these changes, the family dairy farm, long the primary method of American milk production, is largely an artifact of the past, with fewer dairy farmers owning more

cows and producing more milk than ever before. This reality, more than anything else, drove farmers to hire a largely migrant labor force, one that (unlike the local workforce) was willing to work round-the-clock milking shifts and accommodate the rapid pace of technologically advanced, industrial parlors (Sexsmith, 2017). Nevertheless, even surviving farms face continued precarity and exceptionally thin margins: As Mares (2019) notes, “Vermont’s dairy farmers...as of early 2018, earned roughly the same amount for fluid milk as they did in the late 1970s, even as the costs of production have multiplied” (p. 13).

Despite the increasing vulnerability of dairy as an industry, it remains remarkably prominent in the economic landscape of Northeastern U.S. agriculture, especially considering the region’s steadily declining share of national milk production.<sup>3</sup> For example, an industry report finds that dairy accounts for 70% of the Vermont’s agricultural sales, and 80% of the state’s farmland is devoted to dairy (including growing crops for dairy feed), bringing a total of \$2.2 billion in revenue to the state (Vermont Dairy Promotion Council, 2015).<sup>4</sup>

Migrant laborers in any kind of agriculture are vulnerable to a wide range of labor-related abuses (Brennan, 2014; Smith-Nonini, 2009; Weise, 2015), and dairy is no exception (e.g. Mares, 2019; Gray, 2013, Sexsmith, 2017). Farm work in general is a highly dangerous occupation: According to the National Institute for Occupational Safety and Health, 18 out of 100,000 farm workers died due to a workplace incident and 11,800 serious injuries occurred in 2020. The agricultural industry writ large ranks third in number of fatalities, despite its relatively small workforce.<sup>5</sup>

In dairy specifically, the structure of work differs in meaningful ways from other kinds of farm labor, heightening the risks of certain kinds of abuse while mitigating others. While forced labor or heat-related illness might be top issues for farmworkers in other agricultural workplaces, the dangers of accident and injury are top of mind for workers in the dairy industry: Workplace accidents are frequent,<sup>6</sup> along with complaints of wage theft, concerns over farm-provided housing (most workers live at the farm where they work), and a high incidence of sexual harassment and assault (Mares, 2019).<sup>7</sup> Furthermore, the likelihood of injury intensified when the industry moved to 24-hour milking schedules and overnight shifts; the volume of cows in larger milking parlors also heightens risk, as do potentially dangerous work tasks like separating calves from mothers (Sexsmith, 2017).

Federal and state health and safety regulations provide extensive *de jure* protections for workers in the dairy sector, but the *de facto* application of such regulations is limited in many cases. Public enforcement structures are limited in both capacity (i.e. too few inspectors) and investigative authority. For example, one of the organizations that we study here, Migrant Justice, was founded in the wake of a horrific (and preventable) workplace accident resulting in a worker’s death, which was not investigated by federal or state regulators. In this case, inspectors lacked the investigative authority to visit and tour the farm where the worker

lost his life: Under U.S. policy, Occupational Safety and Health Administration (OSHA) offices cannot use their resources to investigate workplace injuries, even those resulting in death, on farms with fewer than 10 non-family employees—an exemption which applies to the vast majority of dairy farms in the Northeast United States.<sup>8</sup> Furthermore, while agricultural workers are protected by state and federal housing regulations, non-compliance is common, leaving many workers in unsafe living conditions – including, for example, limited or no heating and insulation in the middle of extreme winter temperatures.<sup>9</sup>

While gaps in the application of workplace safety law occur, dairy workers also lack a number of *de jure* protections that American workers in other industries enjoy. Dairy labor, like all agricultural labor, is not covered under the U.S. National Labor Relations Act, a law which mandates federal protections for workers who choose to organize or participate in a union. Many agricultural workers are excluded from federal and state overtime pay requirements, as well as state minimum wage requirements; in Vermont, farmers only need pay their workers the federal minimum wage (\$7.25/hour) rather than the state minimum wage (\$12.55/hour) required for other industries.<sup>10</sup>

Finally, undocumented workers in the Northeast – especially those within 100 miles of the U.S. – Canada border – face heightened scrutiny from U.S. border and immigration enforcement officials, who have exceptionally broad authorities to detain and question individuals suspected of being in these zones without documentation of legal entry (Mares, 2019; Baker et al., 2021). Thus, while human trafficking is not a common concern in dairy (unlike in other areas of agriculture – see for example Brennan, 2014), farm owners can use fears of immigration enforcement to exert excessive control over workers, taking advantage of the presence of Border Patrol agents to discourage trips off the farm or to search for other work opportunities (e.g. Goldbaum, 2019).

### ***The Rise of the Hotline and its Role in Private Regulation***

Significant changes in the global economic system – specifically, the emergence of global value chains – have altered the relationship between firms and states, such that the power to control the structure of supply chains and outcomes for workers increasingly lies with private actors (Mayer & Gereffi, 2010; Danielsen, 2019), primarily large multinational companies. While this era of multinational-led value chains generated massive profits and (in many cases) cheaper and more readily available goods,<sup>11</sup> firms have also confronted a growing backlash – led by workers and consumers – to the human and environmental fallout of new production arrangements (e.g. Bartley, 2018; Soule, 2009).<sup>12</sup> In response to such criticism and in light of continued limitations of public regulators' oversight capacity, a wide group of 'private regulatory' initiatives (PRIs) arose in an attempt to address worker and consumer accusations of exploitation and abuse by large multinationals and their subcontractors (Locke, 2013; Coslovsky & Locke, 2013).<sup>13</sup> Examples of PRIs

include company-drafted codes of conduct, a wide umbrella of policies now known as corporate social responsibility (CSR), third-party certification programs (e.g. Brown, 2013; Jaffee 2012), and worker-led initiatives (Mieres & McGrath, 2021).

While initially regarded by some as promising, recent scholarship has raised serious doubts about the effectiveness of private regulatory initiatives (PRIs), many of which depend on voluntary firm participation and compliance (e.g. Koenig-Archibugi, 2017). Some have found that many private regulatory initiatives function more as public relations programs rather than serious efforts to improve firms' environmental and social performance (Hertz & Lieber, 2017), exemplified by the increasing use of critical terms like 'greenwashing' (e.g. Pizzetti et al., 2021) and 'blue-washing' (Berliner & Prakash, 2015). Other critiques have argued that regardless of intention, many PRIs are simply 'not fit for purpose' (MSI Integrity, 2020); that is, they lack the structure necessary to effectively regulate corporate activity, especially as it moves around the globe to a shifting set of national and regional contexts.<sup>14</sup> PRIs, therefore, are destined to fail, or at least fall short of their promises for reform and improvement (see also LeBaron, 2020; Distelhorst et. al., 2015).

Among this second line of work, research is beginning to diagnose *why* PRIs are often ill-suited to solve the problems for which they were created. Some work finds that PRIs often fail to meaningfully incorporate feedback and perspectives from stakeholders, like workers or affected communities, despite being ostensibly aimed at improving outcomes for these groups (e.g. Daria, 2022). Furthermore, when perspectives from these stakeholders – especially workers – are included in the structure of PRIs, preliminary evidence suggests that the results are much more robust. Rodriguez-Garavito (2005) finds that PRIs that institute 'enabling rights' can strengthen the support and efficacy of workers' voices within apparel factories, helping to achieve material improvements for workers (see also 'enabling conditions' from Haines & MacDonald, 2020). In their work on co-enforcement, Amengual and Fine (2017) discover that worker organizations can even strengthen public enforcement structures (labor inspections) through partnerships with labor inspectors (see also Amengual & Chirot, 2016; Fine & Bartley, 2018; Fine & Gordon, 2010).

Regardless of the structure of the industry targeted, virtually every PRI in existence includes some kind of grievance mechanism. While they existed prior to the 2011 endorsement of the United Nations Guiding Principles of Business and Human Rights (UN GPs), these mechanisms have become a ubiquitous feature of PRIs in the past decade, concurrent with the growing emphasis on non-judicial mechanisms to remedy irresponsible corporate conduct. According to the UNGPs, non-state-based grievance mechanisms comprise an important component of a holistic approach to remedy for human rights violations committed by corporations:

“One category of non-State-based grievance mechanisms encompasses those administered by a business enterprise alone or with stakeholders, by an industry association or a multi-stakeholder group. They are non-judicial, but may use adjudicative, dialogue-based or other culturally appropriate and

rights-compatible processes. These mechanisms may offer particular benefits such as speed of access and remediation, reduced costs and/or transnational reach.” – *UN Guiding Principles of Human Rights, Commentary on Principle 28*

In the context of PRIs focused on labor conditions, hotlines that workers can either call or text are one of the most common non-state-based grievance mechanisms.

Despite their ubiquity, grievance mechanisms have also come in many cases to symbolize the failure of PRIs. Research indicates that they are largely ineffective, with low utilization rates and minimal ability to achieve their main purpose: To successfully collect and resolve grievances (Yu, 2008; Yang, 2020; Kaufman & McDonnell, 2016). Recent scholarship, including more detailed investigations of hotlines and the barriers that prevent their effective function (Calderón-Cuadrado et. al., 2009), has identified four main types of failures: Accessibility, deterrence, rights awareness, and burden transfers.

*Accessibility:* Hotlines need to be accessible to the population being targeted (usually workers), and those populations need to be aware of the line’s existence (Churchet.al, 2007). Yet, there are often components of hotline structure that can make calling the line challenging for employees (Calderón-Cuadrado et. al., 2009), and awareness of the purposes and availability of the line can be low. For instance, hotlines are often not advertised regularly to workers,<sup>15</sup> and many complaint services are not offered in workers’ native languages. They are often staffed during hours that are inconvenient for workers, and by employees that are not particularly familiar with the specific workplaces of callers. For populations like migrant farmworkers that are already under-served and often struggle to identify and access resources available to them (Thompson, 2021), these challenges can be insurmountable and render hotlines largely useless.

*Deterrence:* Often, underutilization of worker complaint lines is a consequence of power dynamics in the workplace, as structurally vulnerable workers face greater barriers to speaking out and bear greater costs for doing so (Lesniewski & Gleeson, 2022; Keller et.al, 2017). This is especially true when complaints are made about management, and retaliation in the form of wage theft, suspension, verbal and physical harassment, and firing is a genuine concern. In the undocumented, migrant worker population, the fear of immigration enforcement by retaliating employers is extremely common (Sexsmith, 2017); undocumented workers are extremely unlikely to contact their company’s upper management<sup>16</sup> – much less local, state or federal authorities – in order to complain about retaliation, for fear of reprisal by those same authorities.<sup>17</sup>

*Rights Awareness:* Research has also demonstrated that workers often do not interpret workplace concerns through the frames of rights violations (Yang, 2020; Calderón-Cuadrado et. al., 2009; Alamgir, 2020). While the complaint process is already burdensome for workers, gaps in knowledge on protections may be the biggest challenge to effective grievance mechanisms. Without a

clear understanding of the rights afforded by public regulations, as well as the rules and codes of a particular PRI, workers may never realize that they have experienced a violation of their rights, and that they have the right to complain about the violation.

*Transfer of Burden:* Worker hotlines innately place significant responsibility for monitoring conduct in the workplace on the employees themselves, a structural challenge for any grievance-based labor enforcement framework. However, some of the burden placed on workers is not inherent (i.e. unavoidable) to the hotline structure. For example, complaint processes through PRIs and state-based mechanisms are often lengthy, taking months or years with little reward.<sup>18</sup> In one instance, the Department of Labor has found thousands of wage-related labor violations on behalf of complaining workers throughout the United States and ultimately recovered millions in backpay; but, in part due to the length of the investigative process, a large portion of these funds remain in an escrow account and have not been returned to complainants, as the workers owed these wages were no longer employed by the violating company by the time the investigation was concluded.<sup>19</sup> Within the world of private regulation, many hotlines connected to PRIs have improved timelines, taking months rather than years to address complaints and calls. Nevertheless, the timelines are still slow and create burdens, especially for vulnerable workers.<sup>20</sup> Specifically, workers must not only file an initial complaint, but also continue to follow-up to ensure that the issue is resolved, all of which uses precious time and can exact a significant emotional toll. Lesniewski and Gleeson (2022), for example, find that workers are not only required to complain to get issues addressed, but also must actively participate in the investigation and claims-making process until resolution. Furthermore, in the case of sensitive grievances that involve supervisors, workers can be placed at greater risk through a lengthy process, especially one that requires them to continuously raise the alarm.

Given this context, our study aims to assess whether a ‘worker-led’ grievance mechanism – one in which workers from the target population participate in the design of the mechanism, as well as ongoing complaint investigation and enforcement – can avoid these common pitfalls. While we consider a variety of metrics to measure effectiveness, in this paper we are primarily interested in the utilization rate of hotlines as a primary indicator of effectiveness (i.e. the number of calls per worker that the complaint line receives). While we acknowledge that other factors could drive hotline utilization, our review of the extant literature suggests that high hotline utilization is primarily driven by trust and belief in the effectiveness of a hotline. In other words, if workers believe the line to be an effective way to resolve workplace issues, they will call, and utilization rates will increase. Thus, through our study of the call records of one worker-led PRI hotline, as well as interviews with participants in the PRI (especially the staff who receive and investigate hotline calls),



we begin to answer the following questions: Can worker-led hotlines overcome the barriers to effectiveness identified in the extant literature? If so, how? To do so, we focus primarily here on the issue of access, one of the four common hotline failures.

## **CASE BACKGROUND AND RESEARCH METHODS**

Our analysis is based on the call records from one worker-led hotline that receives complaints from a migrant workforce in the Northeastern dairy industry. The Milk with Dignity (MD) program was developed in 2017 by a grassroots migrant worker organization, Migrant Justice. The MD program, like its parent organization Migrant Justice, was formed on the premise of centering worker voice. The group initially came together to raise funds to repatriate the body of a dairy worker, José Obeth Santiz Cruz, who had been killed in a preventable workplace accident, and to create a forum for community-wide discussions of issues facing migrant farmworkers, including predatory immigration enforcement, limited healthcare access, and systemically poor working conditions. Building on this initial catalyst, Migrant Justice sought to publicize and address the struggles of the largely invisible Vermont dairy workforce (Mares 2019).<sup>21</sup> In addition to advocacy for legislative and public policy changes, which continue to constitute an important part of the group's work, Migrant Justice created the MD Program as the first worker-led PRI in the dairy supply chain.<sup>22</sup>

Based in Vermont, MD monitors 64 different farms throughout the Northeast, representing approximately 20% of Vermont's total dairy production. The participating buyers in the program are the brands who sit at the top of the dairy supply chain, making purchases of butter fat, liquid milk, and heavy cream from local farmers. Migrant Justice brought its first buyer, Ben & Jerry's, to the table in 2017, executing the agreement that made the MD program a reality.<sup>23</sup> Under the MD framework, farms are required to comply with a series of worker-drafted labor protections in order to receive a premium from buyers who participate in the program. Part of this premium is also passed down to workers, who receive a monthly 'Milk with Dignity premium payment' in their regular paychecks. The agreement is monitored by a third-party monitoring organization, the Milk with Dignity Standards Council (MDSC), which conducts annual audits of participating farms, monitors premium payments, and staffs a bilingual 24-hour worker complaint hotline.

The MD Program is an exemplar of an emerging group of PRIs that attempt to harness the structure of global supply chains to drive improvements in standards for vulnerable workers, known as worker-driven social responsibility (WSR). As the name suggests, these programs deliberately differentiate themselves from the more widely known corporate social responsibility (CSR) model, which they argue has become synonymous with minimal accountability and ineffective, industry-driven

initiatives (Asbed & Hitov, 2017). According to the creators of the WSR model, it differs from CSR primarily because it centers worker voice and integrates insights from workers into a supply chain analysis. Specifically, the WSR initiative structure is grounded in long-term engagement with the workers within these supply chains, while building community organizing power (Sellers & Asbed, 2011). The best known U.S. example of the WSR model is the Coalition of Immokalee Workers' Fair Food Program, created in 2011 and operational in nine states across the United States, concentrated primarily on the East Coast (see Asbed & Sellers, 2013; Angelini & Curphey, 2022). One critical feature of all WSR initiatives is the creation and operation of a hotline built on a worker-centered approach (Sellers, 2021).

Thus, a study of the MD Program's hotline – one that is part of a *worker-led* PRI – provides an ideal setting to address our research questions. Our analysis is based on 461 calls made to the MDSC worker complaint line, beginning when it first went live in April 2018 and ending December 2020. Of those 461 calls, 372 (81%) of those calls include at least one complaint (defined as an alleged violation by the complainant's employer – an MD Program participating farm – of the MD Code of Conduct provisions); other calls are informational, or otherwise 'non-code related' (i.e. not pertaining to an alleged violation of the Milk with Dignity Program's Code of Conduct provisions).<sup>24</sup> Calls were coded and analyzed along a number of different dimensions, including the category of the complaint, days of investigation and resolution, complaint outcome, and whether the complaint constitutes a violation of the organization's Code of Conduct, as well as U.S. and Vermont state labor law.<sup>25</sup> In addition to data analysis, we also conducted semi-structured interviews with 14 stakeholders from the MD program from July 2019 to July 2021.<sup>26</sup>

## FINDINGS

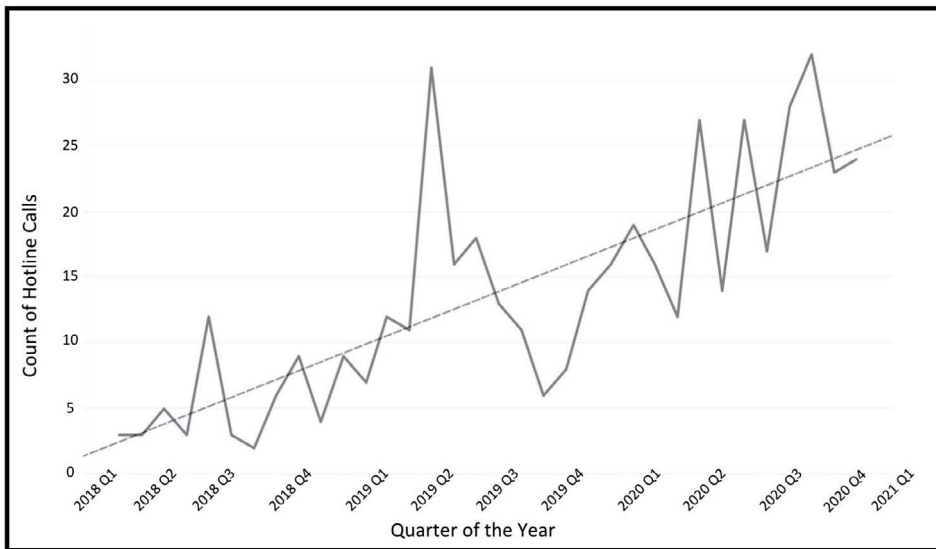
While the extant literature outlined four common barriers to effectiveness among worker-led PRIs, we focus this analysis on just one of these barriers: Accessibility. Thus, our analysis investigates whether the MDSC hotline is (1) well utilized and (2) successfully addresses the challenges to accessibility outlined in previous studies of PRI grievance mechanisms. To do so, we proceed by analyzing data on three key accessibility factors: Awareness, mediums of grievance reporting, and timeline of complaint reports. We then offer some reflections on and discussion of these findings.

### *Awareness-Driven Utilization*

Initial utilization data suggests that the Northeastern dairy workforce has high levels of awareness of the MD hotline, as evidenced by the high frequency of calls they place to it. Over the period we study, the MD program hotline fielded over 460 calls from a population of approximately 260 workers across all farms in its

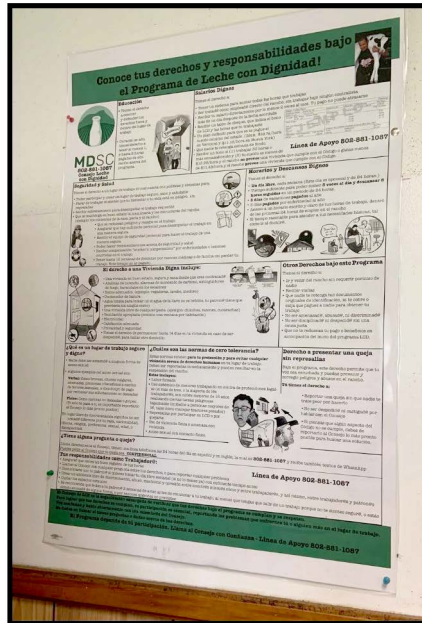
coverage, an average of approximately 1.8 calls per worker.<sup>27</sup> Since its formation in 2017, connections to the hotline have generally increased over time (Figure 1). By comparison, the Fair Labor Association, a PRI covering at least 500,000 workers and widely considered to have established one of the more robust grievance mechanism processes (MSI Integrity 2020), received and investigated two complaints in 2022.<sup>28</sup> These findings are particularly interesting in light of the industry and geographic context in which MD workers call the hotline; although a stable population (with limited movement throughout the year) in comparison to those in other agricultural industries, farmworkers in dairy are especially isolated, with small numbers laboring at sites that are spread out from one another: Factors that are likely to limit, rather than facilitate, hotline utilization.

**Figure 1:** Hotline Connections Over Time



Our findings suggest that this utilization is driven in part by an intentional and multi-faceted awareness campaign. Farmworkers were made aware of the hotline during annual training sessions and through other bilingual materials, such as handbooks and posters in housing and worksites (see Figure 2). As of 2021, this outreach has led to over 200 education sessions that have reached approximately 1,100 dairy farm workers. Workers hired to a farm that has already had its annual education session have access to a video developed by the education team, as well as the aforementioned written materials.

**Figure 2:** Poster up on the wall of a Milk with Dignity Program participating farm, with the hotline information listed in the bottom right-hand corner



\* Photo taken by authors.

### *Mediums for Grievance Reporting*

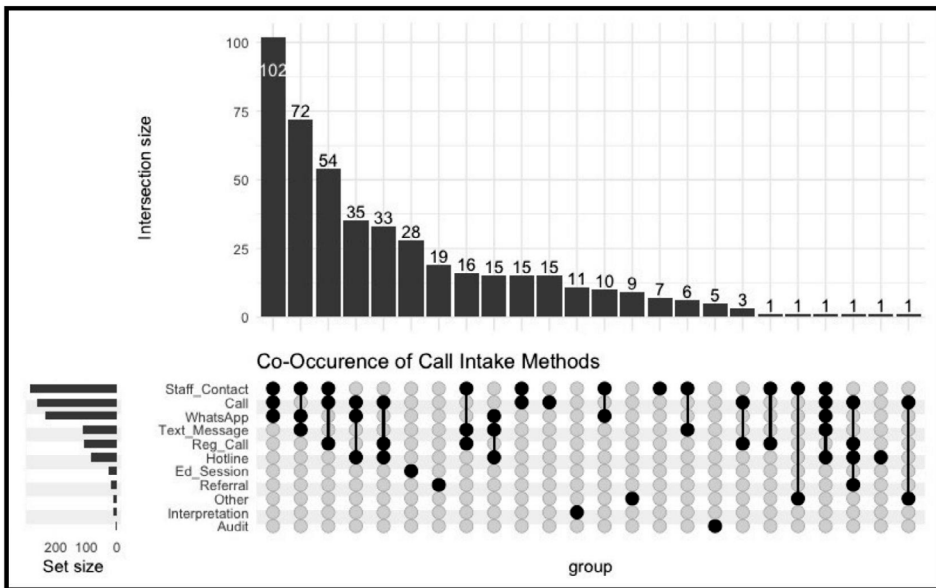
Rather than exclusively calling the hotline, our findings also show that workers used multiple mediums to make a complaint, which likely also supports the MD program complaint system’s high utilization rate.<sup>29</sup> Records show at least eight different methods through which workers reported a grievance:

1. Calling or texting the MWD 24/7 hotline number
2. Contacting a MDSC staff member’s individual phone number (via call, text, or WhatsApp)
3. Calling or texting the MWD 24/7 hotline number via WhatsApp
4. Reporting complaints at an education session
5. Referral from another worker who spoke with the MDSC<sup>30</sup>
6. Reporting a complaint during an audit
7. Complaint revealed during the course of interpretation by MDSC staff member<sup>31</sup>
8. Other

Figure 3 shows the distribution of intake methods for hotline calls and their co-occurrence. WhatsApp, a call and messaging application available on many devices, is widely popular among the Vermont farmworker population and also appears to be strongly-preferred by workers who want to connect to the MD hotline. While

there are likely a number of reasons for this preference, interviews with MDSC staff indicate that workers often run out of data on their cellphones, and purchasing a new plan or minutes can be logistically complicated (as discussed above, travel off the farm is extremely limited and potentially perilous for most workers). Workers are also often located in areas with limited cell reception, a phenomenon we also experienced while travelling to farms in rural Vermont for field research. Reporting complaints through WhatsApp, therefore, is an important option for workers, who can then use Wi-Fi (which is widely available at farmworker housing and dairy production sites) to call or text the MD Program hotline.

**Figure 3:** Complaint Intake Methods



\* The top bar chart represents the total number of complaints recorded using the marked combination of methods. The horizontal bar chart represents the total number of complaints made using the method next to each bar.

\*\* Reg\_Call implies that the phone call was *not* made via WhatsApp.

Furthermore, as Figure 3 demonstrates, many workers use multiple methods to report a complaint. For instance, a worker may first contact an individual staff member via a phone call and text message, then call the regular complaint line using *WhatsApp*, thereby using three or more methods to report the same complaint. Data from our interviews indicates that these kinds of multi-method reporting instances are a feature, not a bug, of the system; workers often prefer, for example, to report complaints to a staff member that they might have personally met when the MDSC visited their farm for an annual audit. However, if that preferred staff member is unavailable (i.e. on the weekends or during non-working hours), workers will then

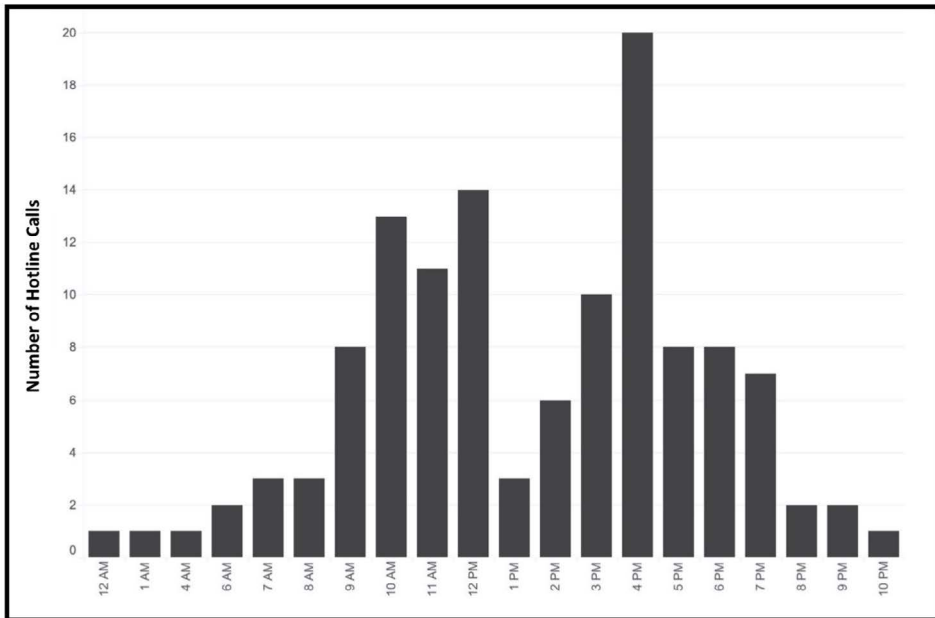
call the regular 24/7 complaint line, where they have assurance of immediately reaching someone who can help. This pattern shows the trust the workers develop over time in various MDSC employees, as well as their willingness to engage with multiple components of the MD hotline. Our review of records of complaint investigation and resolution demonstrate that the MD staff handle these replicate complaints rather smoothly, with good internal communication and consistent logging of complaint timelines.

### ***Timing and Language of Complaint Reports***

The hotline is run 24/7 by staff that are bilingual in English and Spanish, an important feature since 452 (98%) calls were conducted in Spanish. Apart from the high volume of calls in Spanish, our research suggests that language accessibility is a critical driver of hotline utilization for workers. Indeed, interviewees confirmed that workers often work on farms where no one in management speaks their language.<sup>32</sup> This means that common questions and concerns about payroll issues, workplace safety, or other concerns often cannot be answered by anyone at a given worker's place of employment. It also means that a complaint line with only English-speaking staff would be virtually useless to the workforce it is designed to serve.

Despite a limited number of staff (up to 5 full-time auditors), the MD Program is also committed to ensuring that workers have access to the complaint line at any time they might have the ability and inclination to contact the hotline. Interviews with MDSC staff and employers indicate that dairy worker schedules differentiate by farm, but often take the form of either two or three shifts per day. Many of these shifts begin late at night or early in the morning.<sup>33</sup> Given the variety of shift schedules and their ability to change daily, we were unable to determine whether workers were calling on or off shift, unless indicated in the complaint notes. However, our analysis did extract connection times when noted in complaint descriptions; 176 (38% of calls) had a discernable call time. Most of these calls with a reported time were calls and texts to MDSC staff and the complaint line itself (not complaints filed during an audit or education session).

From this subset of records with a documented call time, we were able to determine that workers report complaints at a variety of times throughout the day; in other words, the 24/7 hotline staffing arrangement is likely an important component of the high utilization rate of the MD Program hotline. Figure 4 shows the time distribution of call times; importantly, the figure only shows the times of calls that reported a complaint and does not differentiate significantly from the distribution of all hotline connections. Importantly, we see a spike of connections at times in the morning and afternoon that typically correspond to a shift change; in other words, it is plausible that workers are contacting the hotline right before or right after finishing a shift.

**Figure 4:** Hotline Complaint Connection Times

\* Note: Hours that received no connections are not represented on the X-axis.

## DISCUSSION

This study seeks to begin examining worker-led PRI grievance mechanisms, and specifically to assess whether they function differently than those of other kinds of PRIs. Traditional hotlines have been criticized for their inability to effectively receive, identify, investigate, and resolve complaints about a workplace. Based on our review of the literature, the problems identified by hotline studies can be summarized under four categories: Access, deterrence, rights awareness, and transfer of burden. Thus, we explore whether worker-led grievance mechanisms may be able to remove any of these commonly criticized barriers to complaint reporting, focusing here on the barrier of access. The Milk with Dignity program provides an excellent opportunity to evaluate a complaint hotline that is part of a worker-driven PRI in the U.S. northeastern dairy industry, and to identify the factors that make it effective (i.e. well-utilized by the target population).

Our research finds that the MD program recognized important challenges to hotline usage and addressed access-related roadblocks by improving worker engagement and building a better hotline infrastructure. Our interview and field research data show that the MDSC created an ongoing worker engagement structure, based on the understanding that no hotline will be utilized if the workers do not know about it. This engagement, however, moves far beyond simple publicity

measures to advertise the hotline. Instead, the MDSC approach raises awareness, but also incorporates insights from workers to build trust in the complaint process. As one interviewee commented when discussing the program's approach to sexual harassment cases:

“That’s where I think it’s important that the worker education sessions really emphasize this matter...and continue working and build trust [with workers] because it’s very easy to see how scary it could be” (MDSC 3, July 2019).

Therefore, *how* information about hotline access and dairy workers’ legal rights is presented, and *who* presents it, is highly important to the MD Program. Education sessions, which always cover the hotline and its components, are led by fellow dairy farm employees, and a MDSC staff member was usually present during these sessions.<sup>34</sup>

In light of this context, we do not interpret the upward trend in hotline connections – evident in the hotline call record data – as indicating an increase in rights violations, but rather as an increase of trust in the hotline and its effectiveness. Dairy farm workers are physically isolated, often working in small groups on farms in far-flung rural locations, with limited opportunities to travel off the property where they live and work. Nevertheless, our field research shows that over the course of multiple positive interactions with MDSC auditors, as well as the constant community presence of MJ (even on isolated farms), workers begin to trust the hotline over time. Workers’ preference to directly contact MDSC staff, as opposed to calling the distinct hotline number, is also an indication of a preference to speak with specific individuals known to the workers and suggests that opportunities created by MDSC staff to establish personal contact drive utilization of the complaint mechanism.

Another strategic component applied by MJ & MDSC was to build the structure of the worker grievance mechanism particularly for the targeted community. In other words, each element of the hotline was built with dairy farm workers in mind. As the dairy farm community that MD protects is primarily of Hispanic origin, the hotline was fully operational in English or Spanish, including the materials that informed employees of the hotline’s existence. Furthermore, workers could use multiple mediums to reach the support line. MDSC was aware of the popularity of WhatsApp among dairy farm workers, and thus integrated its usage into their communication with farm workers and managers. Our call record analysis shows that, by far, most connections to the hotline came via WhatsApp calls to an MDSC staff member, followed by using WhatsApp to text an MDSC staff member. The “nontraditional” method of reporting a complaint via WhatsApp in this worker community has several advantages: (1) it expands employee options for reporting a complaint; (2) it does not impose an unfamiliar or inaccessible system upon employees; and (3) it integrates more naturally into the preestablished worker culture.



Additionally, the informality of some complaint reporting within the MD program is advantageous to encouraging workers to use the grievance mechanism. Options such as texting a staff member or conversing with a staff member after an education session allow employees to report grievances through mediums that may feel more personal and comfortable to workers. Further, our review of call records (including descriptions of conversations) indicates that interactions are often informal, beginning with a conversation about a general question and then progressing to the report of a complaint. Interactions are facilitated by the bilingual MDSC staff, whose members are trained and encouraged to develop and maintain strong relationships with workers on participating farms, as well as employers. Such conversations happen at all hours, but almost always when complainants are not actually working. Given a worker's potential discomfort with making a complaint call during a work shift, with co-workers (and especially managers) potentially overhearing the conversation, the ability to access the hotline at any point of the day increases the likelihood that workers will utilize it.

## **LIMITATIONS AND FURTHER RESEARCH**

In this paper, we have begun to discover how *worker-led* PRIs might develop grievance mechanisms that are well-utilized, and therefore much more effective than myriad PRI hotlines and other complaint mechanisms currently in operation. Nevertheless, there are limitations to this study and much more research to be done in this area. While we outline a number of findings above that we believe may be generalizable to other workplace settings, this study assesses one hotline with a relatively small number of calls, in an industry with far fewer workers than many others. Furthermore, the dairy industry, and the Northeastern dairy industry in particular, is situated in an economic and political context (Gray, 2013) that undoubtedly influences the effectiveness of the complaint line. Whether this context influences hotline utilization favorably or unfavorably is not a question we can answer here, but one that could be answered with additional studies (especially comparative studies) of call records for worker-led hotlines in other industries, countries, and localities.

The Covid-19 pandemic hit the United States near the end of our study. Due to this, we are unable to fully assess the consequences that the Covid-19 pandemic may have caused on the MWD program, dairy farm workers, and hotline utilization. From the data we do have in 2020 and early 2021, the gradual increase in hotline connections observed throughout the entirety of the hotline's timespan continues. The main observed difference is an upward jump in the number of hotline calls related to health and safety concerns, which was to be expected given the nature of the pandemic.<sup>35</sup> It also suggests that the hotline was a source of support for Northeastern dairy workers during the pandemic, who were among the groups of

'essential workers' that enjoyed far fewer state and federal health protections than other sectors.<sup>36</sup> This study does not directly assess the impacts of the Covid-19 pandemic on dairy farm worker communities, but future research may want to look in more detail at how the lifestyles and workplaces of these communities was impacted during and after the main part of the pandemic in the United States.

Furthermore, this study has only considered one of the four hotline utilization barriers that commonly appear in the extant literature on PRI grievance mechanisms. More research is needed, therefore, to investigate the other three barriers: Deterrence, rights awareness, and transfer of burden. Employer deterrence is likely to have a particularly significant impact on hotline utilization, especially for vulnerable workers over whom employers often exercise higher degrees of control. It may be possible, however, that worker-led PRIs can improve the structure of the grievance mechanism to prevent deterrence, or at least limit its effect.

Our review of call records also uncovered many instances of informal complaint resolution (e.g. auditors messaging with complainants through WhatsApp to receive and investigate complaints), backed by a stringent enforcement mechanism. Taken together, these two findings mean that complaints *must* be solved, and auditors have authority to determine what constitutes 'solving' a case. That does not mean, however, that complaint intake and resolution processes are rigid; they are instead quite flexible and adaptable to the context of the complaint, as well as workers' needs. As a result, it may be that the informal elements of the complaint process actually support a more protective environment for workers – a counter-intuitive finding, particularly as the labor literature primarily focuses on the ways that labor informalization and deregulation suppresses worker protections (e.g. Weil, 2014; Milkman, 2020).

Finally, it is worth noting that the MD Program hotline exists within a broader monitoring and enforcement structure on participating farms, with regular farm visits and direct engagement between workers, MDSC auditors, and employers. Our interviews, as well as other analyses of WSR programs (e.g. Mieres & McGrath, 2021; Fine & Bartley, 2018), suggest that a number of other components of the MD Program – outside of the structure of the hotline itself - likely contribute to the high utilization rates we observe. For example, the MDSC staff we interviewed indicated that their yearly, on-site audits provide long-term, continuous information about all participating farms, including issues identified during past visits that may be the topic of subsequent hotline calls by the farm's workers (e.g. problematic supervisors or dangerous milking conditions). This information, in turn, helps the auditors answering the complaint line to quickly respond to complaints and determine the best way forward. It also allows auditors to form personal relationships with workers they interview; given that hotline call records show a strong preference for calling an individual auditor that the worker knows, such interactions are likely an important driver of hotline utilization. Similarly, worker education sessions – which we discuss in previous sections – are a requirement of the MD program and are held with

workers at regular intervals on farms, provide further opportunities for workers to familiarize themselves with the staff of Migrant Justice and the MDSC (along with important information regarding their rights and entitled protections under state and federal law, as well as the MD program). It is likely that these components of the program meaningfully support the effectiveness of the hotline; further research, therefore, should explore whether hotlines can only be truly effective when they exist within a broader, robust monitoring and enforcement structure.

## NOTES

- 1 For example, in a recent report by the MSI Integrity project assessing the structure of multi-stakeholder initiative (MSI) certification programs, a particularly common type of certification program, approximately 90% of MSIs have some kind of grievance mechanism requirement (MSI Integrity, 2020, p. 162).
- 2 Mares (2019) notes that 90% of small-scale dairy farms in Vermont have closed in the last 75 years (p. 13).
- 3 Figures from the United States Department of Agriculture show that the Northeastern United States went from producing approximately 21% of the country's dairy in 1970 to approximately 14% in 2021. Total milk production for the region, however, has increased during this time. For more information, see: <https://www.ers.usda.gov/data-products/dairy-data.aspx>.
- 4 There are approximately 7,000 workers laboring in the Vermont dairy sector (approximately 2.5% of the state's workforce).
- 5 According to data from the National Institute for Occupational Safety and Health (NIOSH), the farming industry has a fatality rate of 18 deaths per 100,000 workers (data available here: <https://www.cdc.gov/niosh/topics/aginjury/default.html>). Many fatalities result from transportation-related accidents from unsafe equipment; NIOSH notes that tractor overturns without rollover bars are a leading cause of death for farmers. Industry comparison of total fatalities is available through the Bureau of Labor Statistics.
- 6 Mares (2019) notes, "The dairy industry is particularly unsafe given the size of milk cows and the hazardous working conditions produced by high levels of animal waste and mechanized equipment" (p. 18).
- 7 In a 2014 survey of farmworkers conducted by Migrant Justice, a farmworker advocacy organization based in Vermont, 28% of workers reported that their top issue of concern was low pay. When asked what aspects of their workplace they would change, about the same percentage reported that changes in hours and scheduling would improve their workplace. 30% reported being involved in a workplace accident since arriving in Vermont. Furthermore, a recent study by the Food Chain Workers Alliance (2012) found that 92.9% of all workers

in the food industry who experience wage theft are Latinx farmworkers. Nevertheless, other kinds of issues, including human trafficking – a major issue in other sectors of U.S. agriculture – have not been found in high levels in the dairy industry (Mares, 2019).

- 8 Sexsmith (2017) finds that between 2007-2014, only five of the over 36 fatal accidents that took place on dairy farms in New York were investigated by OSHA, primarily due to limitations on OSHA's jurisdiction on small farms.
- 9 One survey of dairy workers in Vermont, conducted by Migrant Justice, found that one in four workers reported having insufficient heating in housing, despite the fact that the region experiences consistently dangerously freezing temperatures throughout the winter months. For more information, see: <https://migrantjustice.net/sites/default/files/FinalSurveyMay2015.pdf>
- 10 For more information, see the Vermont state statute: 21 V.S.A. § 383
- 11 For example, Gereffi (2019) discusses the linkages between the shifting consumer market in the United States apparel sector and the globalization of garment industry production. One result of this new production network has been the rise of large discount retailers (like Walmart), who offer goods at far cheaper prices to consumers than in the previous era of consumerism, which was dominated by large department stores (see p. 53-55).
- 12 In the case of dairy, for example, the rise of the 24-hour milking structure, which has been documented to lead to increased worker fatigue and injury rates, was a product of the response of small-scale producers to the demands of large buyers within agricultural supply chains.
- 13 It's important to note that new kinds of labor regulatory initiatives have also arisen in the public sphere, particularly at the local level in the United States, as federal labor protections grow weaker or are habitually unenforced. Some have labeled this development 'the new labor federalism' (Fine & Piore, 2021).
- 14 Bartley (2018) refers to the inability of PRIs to engage with the political and economic realities of a given local context as the failure of the 'hope of transcendence.'
- 15 A 2013 report on Thai migrant workers from the International Labor Organisation, for example, found that there was a general lack of awareness of complaint mechanisms among workers, making them unlikely to utilize them.
- 16 Furthermore, Northeastern dairy farms have a small staff that is typically managed by the farm's owner. As a result, there is rarely upper management to which workers can submit a complaint.
- 17 In many instances, federal and state authorities have instituted immigration protections for undocumented workers who come forward regarding labor rights abuses. In other words, many workers may not actually be in danger of being deported for complaining about workplace abuse. Nevertheless, many undocumented workers fear of any interaction with U.S. authorities (Sexsmith, 2017; Spickard, 2007; Goldbaum, 2019).

- 18 For example, a factsheet from the Occupational Safety and Health Administration (OSHA) notes the agency will respond to most serious complaints by scheduling an inspection within 30 days, but workers are encouraged to call about any delays if OSHA staff don't follow up. Once an inspection does take place, any citations are 'generally' issued within six months of the investigation. For more information, see: [https://www.osha.gov/sites/default/files/2018-12/fy10\\_sh-20853-10\\_osh\\_inspections.pdf](https://www.osha.gov/sites/default/files/2018-12/fy10_sh-20853-10_osh_inspections.pdf)
- 19 For more information, see the Department of Labor's "Workers Owed Wages" website: <https://www.dol.gov/agencies/whd/wow>
- 20 For example, according to MSI Integrity (2020), the Fair Labor Association is one of only a handful of PRIs that actually publishes information about grievances it receives and how they are investigated. Of the two complaints the company received in 2022, its website indicates that both took approximately 3 months for investigations to be completed. More information is available here: <https://www.fairlabor.org/accountability/fair-labor-investigations/tpc-tracking-chart/>
- 21 More information about Migrant Justice is available at: <https://migrantjustice.net>
- 22 Other supply chain agreements in apparel and row agriculture were already in place at the time of the founding of the MD Program and inspired many of the components of the program (discussed further below).
- 23 Currently, the only participating buyer in the MD Program is Ben & Jerry's, though there are current campaigns for the northeastern grocery chain, Hannaford, to sign onto the program as well. For example: <https://mainebeacon.com/dairy-workers-demand-hannaford-improve-working-conditions-on-maine-farms/>
- 24 The Code of Conduct covers a wide range of worker issues, including requirements for safe housing, wage and worker premium payments, and workplace safety. For more information on the MD Code of Conduct and the specific protections, see: <https://milkwithdignity.org>.
- 25 Vermont state labor law was included in the analysis because the MD Program is based in Vermont. Furthermore, while the Program monitors conditions on a handful of participating farms in other Northeastern states, most participating farms are in Vermont.
- 26 Interviews were conducted with: Milk with Dignity Standards Council Auditors, Migrant Justice Staff, Farm Owner participants in the program, and Vermont state and U.S. federal officials. The vast majority of interviews were conducted in person during two research trips to Burlington, Vermont and surrounding areas, during July 2019 and July 2021. When participants were unavailable or preferred to speak remotely, interviews were conducted over phone or via zoom. Interview quotations are labeled throughout this paper with an acronym, which corresponds to their group/organizational affiliation, and a number, which corresponds in our records to the specific individual

from the organization that provided the quote we use. The following interview groups and/or organizational affiliations are used: Migrant Justice (MJ), Milk with Dignity Standards Council (MDSC), buyer firms (Buyer), supplier dairy farms (Farm), and government officials (Govt).

- 27 Since end of data collection, total number of workers in the MD program has decreased to approximately 200.
- 28 Worker estimates are based on the 2020-2021 Fair Labor Association Annual Report.
- 29 It should be noted that MDSC encourages farmworkers to come forward with complaints and questions at any time and through any convenient mechanism, not only the hotline. Many questions and complaints are reported by workers to MDSC staff on-site, during staff visits to farms, and are subsequently logged into the complaint tracking system.
- 30 In these instances, MD Program hotline staffers reach out to workers proactively in order to collect complaints, based on referrals from other workers who call into the line. For example, workers may call the line to report a complaint, and mention that a co-worker is having a similar issue and would like to speak to someone about it. Rather than waiting for the co-worker to contact the hotline, hotline staffers often collect the individual's contact information over the phone and then reach out to the co-worker for more information.
- 31 In these cases, workers may call the MD Program hotline to get Spanish-English translation assistance (for example, a worker needs to translate to their boss that they need time off for a medical appointment). During the course of helping the worker to translate their needs, the hotline staffer may hear the worker inadvertently report a violation (e.g. the medical appointment is related to a workplace accident that was not reported to the MD Program). The hotline staffer will then alert the worker on the phone that the situation they are describing includes a violation of the MD Code of Conduct, and the worker has a right to make a complaint.
- 32 For example, one respondent noted in 2019, "There are no farms [within the MD Program] for better or worse at this point where the management also speak Spanish [in addition to English]" (MDSC 3). Based on ongoing conversations with MDSC staff, this has not changed, despite the fact that the vast majority of dairy workers report limited proficiency in English (During the same interview, MDSC 3 estimates that "at least  $\frac{3}{4}$  of participating farms have at least one Spanish-speaking QW [qualifying worker under the MD program].")
- 33 Farms are typically on a 12-hour milking shift, where cows are milked at 4:00 or 4:30 AM, and then again at 4:00 or 4:30 PM. Other farms milk cows three times daily, and the milking parlour runs 24 hours a day. These three-times daily farms also have workers on 12-hour shifts, usually beginning sometime between 3-7 AM (for the day shift) or 3-7 PM (for the night shift).

- 34 While the Milk with Dignity education sessions are led by staff from Migrant Justice, MDSC staff play a number of important roles, primarily code interpretation and translation. As one interviewee explained: “MDSC’s role at the education session has been that we introduce ourselves at the very beginning and note that we are part of a different organization, and the Migrant Justice education team will explain what specifically the role of the standards council is within the program... Sometimes there are also questions that workers ask that actually Migrant Justice will defer to us, either because it involves a relatively technical question that involves a certain application of the code or standards, and we are the experts on that. Another role is that we have done simultaneous interpretation for farm owners and management... MJ [primarily] does education sessions in Spanish, and MJ got a headphone set and one person has a microphone. And so we will stand off to the side and do simultaneous translation into English, so the English speakers can hear what’s happening. If we did consecutive interpretation, we could only cover half as much material...” (MDSC 3, July 2019). Migrant Justice also confirmed the education sessions are “A very collaborative process” (MJ 2).
- 35 In 2018, 11 complaints were made related to health and safety; 32 complaints were made in 2019, and 71 in 2020, a marked increase in the pandemic era.
- 36 There is some work on the impact of Covid-19 on dairy workers in the Northeast, including a small study (Babineau & Bair, n.d.) that compared the health and safety protections available to workers on farms monitored by MDSC to those on farms that did not participate in the MD Program. Study results are available here: <https://items.ssrc.org/covid-19-and-the-social-sciences/covid-19-fieldnotes/keeping-essential-workers-safe-migrant-farmworkers-and-covid-19-in-the-dairy-industry/>.

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