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Emerging Issues in Agricultural Labor Relations*

by

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Emerging Issues in Agricultural Labor Relations

Labor relations in agriculture have been characterized by the absence of formal agreements negotiated by employer and labor representatives. Historically, labor law has assured agriculture a "special and exempt" status, a condition which obviated any legal responsibility for employers to respond to employee demands, making organizing efforts more difficult. The hired farm work force, dominated by youth working less than three months in agriculture, found self-organization nearly impossible. Despite periodic resurgences of interest in the agricultural labor problem, associated with the periodic "rediscovery" of migrant farm laborers (U.S. Congress, Senate); the extension of minimum wages and, more recently, unemployment insurance to farmworkers (U.S. Congress, House); and the proper role of alien labor in American agriculture (Galarza); agricultural labor relations within a defined legal framework are a product of the mid-1970's.^{1/} The 1975 passage of the Agricultural Labor Relations Act (ALRA) in California, the state with the largest hired work force, marks a new era in agricultural labor relations.

A system of labor relations (or industrial relations, reflecting the origin and concentration of organized employee-employer interaction) is usually defined by the actors or participants in the process (e.g., employers, workers, and government); a context or framework within which the participants interact; and a body of rules which govern participant behavior in the course of negotiating and interpreting labor agreements.^{2/} The identification of participants, frameworks, and rules implies a sense of formality and continuity, attributes not characteristic of past labor-management interactions in agriculture. The fact that a system of labor relations is just emerging in agriculture forces an analysis of two related

issues, those factors which give rise to unionism and bargaining, i.e., the existence of unionism and the share of the agricultural labor force which is organized, and those factors shaping the direction and content of labor relations, i.e., the type of labor legislation which evolves.

Three (sets of) interdependent factors account for the emergence and type of labor relationship likely to characterize agriculture. The structure of the agricultural industry influences the type and concentration of employees, the extent to which agriculture is perceived as a sector deserving "special and exempt" status, and the degree of uniformity of interest among farmers. The composition of the farm labor force affects the ease or difficulty of achieving and maintaining union organization as well as determining the type of instruments used by the union to maintain control over the labor supply, e.g., replacing labor contractors with hiring halls. Grower labor demands combine with available labor supplies to determine the structure and functioning of the agricultural labor market. Public policy manifests its influences both directly and indirectly. In addition to specifying (or failing to specify) duties and permissible activities within a defined legal framework, it also affects farm labor demand and supply indirectly through social welfare policies, trade policies, agricultural research policies, and immigration policy.

Industrial relations are marked by increasingly sophisticated labor forces and unions bargaining with employers under an ever more watchful government.^{3/} Public intervention in labor-management relations intensified with the growing concern for the outcomes of the bargaining process in times of inflation as well as the increasing concern for the rules erected to govern hiring, promotion, seniority, and firing in the post-Civil Rights era. Rather than the evolutionary growth of public intervention in the process and outcome of industrial relations, agricultural labor relations

have been conspicuous for the high degree of public input from the outset. Public intervention in agriculture reflects, in part, the increased acceptance of intervention in industrial relations, but it also illustrates problems characteristic of a complex and diverse agriculture, viz., the need to define bargaining units, to determine voter eligibility in a fluid labor force, and to define rights of access and property rights when residences and businesses merge. The ability of competing participants to affect public policy, and thus determine the rules under which interaction occurs, will be crucial for understanding the future shape of labor relations in agriculture.

The paper explores salient aspects of current labor relations in agriculture and erects a framework for predicting the course of future labor-management interactions. After exploring the impacts of agricultural structure and labor force composition on the functioning of the agricultural labor market, we describe the evolution of public policy which culminated in California's ALRA. Predictions about the existence and shape of agricultural labor relations are made within the framework of structural, composition, and public policy influences, and it is suggested that the ability of the competing employers and unions to secure favorable public intervention will be as important as raw economic power in securing gains.

2. The Agricultural Labor Market

Estimates of the number of hired farm workers vary, from 2.9 million (U.S. Department of Labor, Employment and Earnings, 1976) to 2.7 million (U.S. Department of Agriculture, Hired Farm Working Force, 1976) in 1975.^{4/} The hired farm work force, about three percent of the civilian labor force, is distributed unevenly across crops and, given their spatial concentration, across geographic areas. Although man-hour distributions may not indicate

the allocation of farm laborers because of variance in hours worked, only man-hour labor breakdowns are available for crop groupings. In 1975, 2.9 billion man-hours of labor were required for the production of crops in the United States, nearly 55 percent of all hours used in agriculture.^{5/} Three labor-intensive crop groupings, tobacco, vegetables, and fruits and nuts, accounted for 38.8 percent of all crop hours in 1975, even though their sales value was only 12.4 percent of all crop sales (USDA, ERS, September 1976). Concentrations of hired farm labor are found primarily in the three crop groupings due to the labor intensiveness of operations. The feed grains and hay crops have fewer workers per operation due to labor saving technology. Since labor relations are defined by the interaction of groups of workers and management, most union activity occurs in the three labor-intensive crops which bring together groups of workers for periods of seasonal labor demand (Jamieson).

The nature of agricultural production concentrates hired farm labor on particular types of farms at specific times of the year. The distribution of crops are in turn consolidated in particular geographic areas, permitting us to identify potentials for labor relations merely by examining the spatial distribution of crop types. In the Pacific region, 78.4 percent of all man-hours necessary for crop production in 1975 were used by growers of vegetables, fruits, and nuts, while tobacco production in Appalachia accounted for 58.1 percent of all crop man-hours in that region (USDA, ERS, September 1976). Thus, the nature of labor demands and the concentration of labor-intensive crops ensures that pressures for labor relations will be limited geographically and that actual employer-employee interaction will be of limited duration in any growing season.

The nature of labor-intensive crop production and the characteristics of agricultural products combine to define some well-known aspects of agricultural

labor markets (Fisher, 1953). The temporal and spatial concentration of the demand for labor assures the need for a hired labor force, but the fact that labor demands peak for a harvest typically lasting less than two months forces either (1) the availability of a reserve labor pool for agriculture, e.g., housewives or students not normally in the (agricultural) labor force and/or (2) a harvest labor force which can migrate from one crop activity to another. The multiplicity of different types of growers permits a variety of economic and institutional factors to influence labor demands, from individual recruitment efforts to reliance on public employment services or simply utilizing farm labor contractors or union hiring halls.

Methods of recruiting and employing seasonal harvest labor vary across crops and growers. Wages, however, are more uniform. Traditionally, grower groups recommended piecework rates in their annual winter meetings, rates which became standard for a particular crop in the following year. Since a relatively large fraction of the seasonal work force is new each year, wage bonuses are not typically paid to returning harvest workers; indeed, veteran farmworkers are not even assured priority in hiring. The "impersonality and insecurity" inherent in the hiring-wage payment system were recognized as early as 1939 with the Congressional hearings of the La Follette Committee and repeated in the Report of the President's Commission on Migratory Labor (1951). With piecework wage rates shifting the efficiency burden to harvest workers and because relatively little skill is necessary for most harvest jobs, employers had few incentives to foster the creation of a stable recruitment and hiring system.

The hired farm work force is composed of a diverse lot of individuals in terms of age, race, and dependence on agriculture. The annual hired farm work estimates, prepared by the USDA from supplementary questions on the December Current Population Survey, show a work force which declined from

3.3 to 2.5 million between 1963-65 and 1970, but has since stabilized at the 2.5 to 2.7 million level (USDA, Hired Farm Work Force). Demographically, most hired farmworkers (1975) are white (72 percent); male (75 percent); have nonfarm residences (79 percent); and are nonmigratory (93 percent).^{6/} Until Spanish-surnamed persons were separated from whites, the hired farm work force was becoming whiter, as Black laborers exited agriculture in the South. Contrary to the popular notion, only 13 percent of the people employed as hired farmworkers are of Spanish origin; but, these workers are generally employed in agriculture for longer periods during the year than other farmworker groups. For a large majority of Spanish origin farmworkers there are few viable alternatives to farmwork (Smith). An interesting anomaly is that a substantial fraction of the nation's farm work is done by persons who are not normally counted as being occupied in agriculture. Noted by Fuller and Mason, "These include farm residents whose chief activity is nonfarm work and numerous nonfarm residents who mainly are students, housewives, unemployed, retired, or otherwise not usually seeking work, and nonfarm workers who do some incidental farm work" (1977:66). Males with nonfarm residences have long comprised more than 70 percent of the labor force, but the importance of youth has been increasing--today, nearly two of every three hired farm workers is under 25.

The hired farm work force also exhibits both demographic and participation heterogeneity. Most hired farmworkers (65 percent) work less than three months in agriculture, while fewer than one in six work "full-time", i.e., more than 250 days per year. Agricultural labor relations are largely confined to the seasonal hired farm work force. Regular or full-time workers are spatially dispersed (even a large farm rarely has more than three or four full-time workers) while the extremely casual labor force, in farmwork less than 25 days per year, has few incentives to pay union initiation and

membership fees. If seasonal farmworkers are defined as those working between 25 and 150 days in agriculture, this seasonal component comprised 34 percent (911,880) of the 1973-75 average work force (USDA, Hired Farm Work Force).

The limited duration of participation in the farm work force, the youthfulness and turnover of the labor force, and the (large) number of individual employers has fostered the establishment of unique institutions to match farm labor supplies and demands. A farm labor contractor often assumes the role of intermediary, recruiting labor, providing housing, and distributing wages to labor crews which move from grower to grower. Abuses of these labor crews were common; leading to the passage of stringent contractor regulations, perhaps limiting the expansion of contractor services. Alternatives to the farm labor contractor include the union hiring hall, grower or public employment exchanges, or individual search behavior by laborers seeking work.

Despite changes in the structure of agriculture, the composition of the hired farm work force has remained remarkably stable over the last decade (Fuller and Mason, 1977:66). Ever larger farms and increased mechanization have reduced the migratory component of the farm work force, but peak harvest labor demands persist, demands which are increasingly filled by local workers. The dominance of youth over time reflects the fact that much farmwork is done by those desiring supplementary incomes during summer holidays; this short-term interest in farmwork inhibits organization efforts. However, the longer-term seasonal component of the labor force has been successful in initiating unionism and bargaining, and has succeeded in establishing a public policy toward farm labor in California.

3. Public Policy and Labor Relations

Agriculture, the dominant sector in every society during the initial stages of economic development, has always experienced government intervention. In the 1920's and 1930's, public intervention in output markets and nonlabor input markets occurred, the former setting target or minimum prices and the latter assuring credit, electricity, and cooperative opportunities. The special status conferred on and imposed by farmworkers, that the hired laborer position was only a transitory way station to farm ownership,^{7/} permitted agricultural labor to be excluded from much of the social welfare legislation initiated at the same time. Despite public intervention at other junctures, agricultural labor was excluded from legislation because of its "peculiar features", including the seasonality of employment, labor migrancy, the perishability of agricultural crops, and the competitive output markets faced by farmers (Lewin).

Efforts to promote the integration of agricultural labor into the larger social fabric were not absent. McWilliams (1935, 1971) documented the extent to which California farms were merely "factories in the field", while Jamieson (1946) identified hundreds of attempts to organize the hired farm work and the national media witnessed the demise of Galarza's National Agricultural Workers Union (Galarza, 1970). These organizing efforts, often spearheaded by nonfarm groups, failed to secure stable agricultural labor relations.

The early 1960's witnessed the end of the Bracero program and the rise of ethnic-based unionism among Filipino and Mexican farmworkers in California. Cesar Chavez was able to combine the AFL-CIO's Agricultural Workers Organizing Committee with his own National Farmworkers Association to form the United Farm Workers Organizing Committee (UFWOC) in 1967. The events surrounding the passage of

Civil Rights legislation in 1964 heightened awareness of ethnicity and equality, permitting the UFWOC to integrate both economic and socio-political concerns into its organizing drives (Barbash, 1975).

California's agricultural labor relations during the 1965-75 decade were marked by the instability characteristic of the past. This time, however, the farmworkers succeeded in securing enough outside assistance to establish their crusade for collective bargaining (London and Anderson, Taylor). Continued pressures forced legislative hearings on agricultural labor problems, with the growing realization that some type of farm labor legislation was inevitable (U.S. Congress, Senate, 1970). Initially, employer antagonism and a lack of legal redress were primary union concerns; later, inter-union rivalry between the (renamed) United Farm Workers Union (UFW) and the Teamsters, who attempted to organize fieldworkers to complement their cannery and transportation membership, increased public awareness of the farm labor issue. The Teamsters signed numerous so-called "sweet-heart" contracts with growers while the UFW engaged strategies and tactics common in pre-1935 industrial relations, including secondary boycotts of businesses selling nonunion and rival union products, the elicitation of public sympathy, and attempts to channel demands through political channels.

In 1975, California passed its Agricultural Labor Relations Act (ALRA), 40 years after the National Labor Relations Act and after 10 years of harsh conflict and turmoil (Pocan). Commenting on the decade just prior to this legislation, Fuller observed that

farmworkers were being forced into one union or the other without the exercise of self-determination; farm employers were being forced to choose one of three options: to resist unionization, to capitulate to coercion, to engage in collusion. None of these choices brought tranquility to the parties involved or to the community at large. To the contrary, the numerous frictions involved were regularly disruptive and occasionally bloody (Fuller, 1976:72).

The ALRA, modeled after the National Labor Relations Act, created an Agricultural Labor Relations Board (ALRB) to supervise and certify farmworker elections. Certification petitions, filed by employees or labor organizations, are the basis for ALRB ordered elections. To maximize the participation of seasonal and migratory workers, elections can be held within 48 hours, although the normal lag between petition and election is one week. To ensure participation, elections must be held when the number of employees is at least one-half the employer's peak agricultural employment in the current calendar year.

Under national labor statutes, the National Labor Relations Board (NLRB) is given some license in determining appropriate bargaining units. A labor organization selected by the majority of employees in the defined bargaining unit is entitled to exclusive recognition as the unit's labor representative. The ALRA defines the appropriate bargaining unit to include "... all agricultural employees of an employer",^{8/} precluding the formation of separate units based on craft or departmental community-of-interest considerations or distinctions between seasonal, migrant, and full-time workers.

Determining eligibility to vote is a major issue in the face of the casual labor force which dominates agriculture. Since a majority of all hired workers do less than 25 days of farmwork each year, an equal weighting of votes would give those with only a casual attachment to farmwork the same voice as those more dependent on farmwork. The ALRA declares that "all agricultural employees of the employer whose names appear on the payroll applicable to the payroll period immediately preceding the filing of the petition ... for an election should be eligible to vote" (Labor Code Sec. 1157, cited in Grodin, 1976, p. 283). Problems arise because of (1) differing modes of payment, e.g., daily, weekly, and bi-weekly payrolls; (2) the eligibility of strikers, especially when the striker is only a

casual worker; (3) the eligibility of workers in second or runoff elections, especially after they have already moved on to a new employer; and (4) the eligibility of those on temporary layoff, because of, e.g., bad weather or slow crop ripening. These issues, illustrating the administrative complexity inherent in any agricultural labor relations statute, have yet to be resolved in California (Grodin, 1976).

When disputes arise, the ALRA has attempted to limit the range of recognition and impasse resolution instruments. The UFW successfully used the boycott to gain recognition and force settlements at its inception, and the ALRA is cognizant of the importance of boycotts, permitting the union to picket and discourage purchases from those handling nonunion products if the union has been certified as bargaining representative for the primary employer's labor force or if the union is attempting to organize a group of unorganized workers. If bargaining fails to produce a settlement, conciliation is available but not required. Harvest strikes, always a contentious issue, are not restricted by statute.

The ALRA had an uneven beginning. After only six months, funds were exhausted, and ALRA opponents succeeded in denying funding from February 1976 until July 1976. After the defeat of Proposition 14 on the November 1976 California ballot, which would have made funding for the ALRB a constitutional mandate and given organizers easier access to farmworkers on grower property,^{9/} the ALRB began "normal" operations with the opening of field offices in December 1976. In February 1977, the Teamsters agreed to halt their fieldworker organization drives, leaving harvest labor's representation to the UFW (Rochin).

4. Public Policy and Agricultural Labor

Continuing labor relations in agriculture are a result of the erection of a labor relations framework which provides a forum for dispute settlement and a mechanism for redress (Lewin). In light of the severe contractions in UFW membership during the period prior to the ALRA, the union's survival has been remarkable. As the dominant union active among agricultural field-workers, UFW strategies and successes will shape the future of agricultural labor relations in both California and in other states.

Several sets of issues remain unresolved. The immediate problem is the formulation of labor relations policy for a heterogeneous agriculture, viz., the definition of bargaining units, the determination of voter eligibility, the timing of elections, the timely resolution of objections and union access. Until precedents are established, adversaries will have incentives to litigate, since the outcome before the ALRB remains in doubt. The ALRB itself, hampered by personnel turnover as well as a need to hire and train personnel, requires time to gain consistency and self-confidence.

Longer-term issues center on the impacts of a changing agricultural structure and social welfare policies on the structure and functioning of the agricultural labor market. The structure of labor-intensive agriculture in the West could be quickly altered if persistent water shortages led to "full-pricing" of state and federal irrigation waters, since fruits and vegetables are both water-intensive and time-intensive, requiring labor to nurture and harvest. Enforcement of the 160-acre limitation on farms receiving Federal water, on the other hand, could encourage a shift toward labor-intensive fruits and vegetables, since large acreages capable of using capital-intensive equipment would no longer be as profitable.

Trade and immigration policies affect the agricultural labor market by altering demands for labor. As Mexican illegal immigration expands, the

prospects for the decasualization of farm labor diminish as well as the likelihood of improving farm labor relations. Further, as the real cost of transporting agricultural commodities between the U.S. and Mexico and the Orient declines, the production of labor-intensive products may shift to countries with lower labor costs. Such moves are accentuated or impaired by tariff and quota policies with respect to agricultural products. If barriers to importing agricultural products are erected and farm wages rise, the incentive to (illegally) enter the U.S. increases, making immigration and trade policies mutually dependent and imparting another source of instability to agricultural labor relations.

Just as trade and immigration can affect the number and focus of farm labor jobs, so do continued prospects for mechanization and labor displacement in agriculture. Agricultural mechanization efforts, concentrated in labor-intensive sectors, are less predictable than changes in trade or immigration policies, allowing growers to use mechanization as a threat in bargaining. Unless unions extract negotiation or compensation rights to govern the introduction of labor-saving technology (Martin and Johnson), possible mechanization will inject another element of uncertainty into the agricultural relations system.

Trade and immigration policies, water prices and acreage limitations, and innovation development and diffusion are directly or indirectly influenced by public policies, affecting the structure and processes within agriculture and thus the operation of agricultural labor markets and labor relations. Manpower policies and public employment programs directly affect the size and composition of the labor force as well as the mode of labor relations. In addition to labor relations law, public policies toward minimum wages in agriculture, workmen's compensation, and the extension of unemployment insurance to farm labor affect the type of worker likely to be hired and the

need for union-management bargaining over these labor issues. To the extent that agricultural labor is treated as industrial labor and record-keeping burdens are increased, employers will have incentives to hire more native males and fewer aliens, youth, and females. As income security and fringe benefits are extended, the size of the hired farm labor force may decrease, leaving fewer casual workers with low labor force and, perhaps, union attachments.^{10/} Pesticide and environmental policies affect agricultural labor relations by transforming one aspect of bargaining from private to public forums, although this translation often produces employer-union solidarity, as in the automobile industry. Thus, labor and social policies will affect future agricultural labor relations by directly erecting and altering the bargaining framework and by indirectly affecting the issues to be negotiated as well as the size and composition of the labor force to be bargained for.

Labor relations in any industry are a product of both general trends and policies and the unique characteristics and individuals in each industry. Agriculture is a complex, heterogeneous industry imbued with anti-labor traditions. The "lateness" of the advent of labor relations in agriculture has reserved a much larger role for public policy in the formation and direction of labor-management interaction. Public policy, of course, results from the resolution of conflicting claims in public rather than private forums. Farmworkers, experiencing only limited successes privately, have now secured legal frameworks for initiating labor relations in several states. As in most situations where a dominant party must yield to one traditionally excluded, initial experiences have lacked stability and predictability. But, after the resolution of short-term initiation problems, agricultural labor relations promise to achieve a degree of stability at least congruent with the stability of agriculture.

Footnotes

1/ Hawaii's labor relations statutes have covered agricultural labor since 1945 (Johanssen) and Wisconsin's labor legislation was construed to include agricultural laborers in 1967-68 (Martin, 1977). Four states, Idaho (1972), Arizona (1972), Kansas (1972), and California (1975), currently have agricultural labor relations statutes. For a comparative analysis of the legislation in these four states, see Koziara (1977).

2/ This definition is adapted from Dunlop (1958). It neglects a fourth parameter, ideology (which can be construed as an incentive to reach agreement), precluding, therefore, revolutionary trade unions bent on the elimination of employers.

3/ In part, the growing role of government is only a reflection of the rising importance of public sector employment. Even in "private" bargaining, however, public policies have altered the framework within which management and unions bargain (over seniority, minority hiring, etc.) as well as the outcomes of the bargaining process. See, e.g., J. Barbash, The Changing Structure of Collective Bargaining (New York: American Management Association, forthcoming).

4/ Agricultural labor force estimation problems are apparent in these discrepancies. For detailed discussion on the problems of measuring the labor supply see: Holt, Hecht and Gingrich, 1970; and Holt, Emerson, Fuller, Fritsch and Garrett, 1977.

5/ In 1975, a total of 5.3 billion man-hours of labor were used in the production of crops and livestock. If every person in agriculture had worked "full-time" (40 hours per week for 50 weeks), a total of 2.6 million workers would have been required. The 2.7 and 2.9 million estimates reflect only hired workers; a further 2.2 million persons self-employed in agriculture

were aided by 423,000 unpaid family workers in 1974 (U.S. Department of Commerce, Statistical Abstract, p. 632).

6/ The Census Bureau defines migrants as "those who (1) left their home temporarily overnight to do hired farmwork in a different county within the same state or in a different state with expectation of eventually returning home, or (2) had no usual place of residence, and did hired farmwork in two or more counties during the year" (USDA, Hired Farm Work Force, 1976, p. 30). Rather than viewing migration as household relocation, migrant farmworkers are defined as inter-county commuters. In 1975, 188,000 migratory farmworkers were identified; 143,000 (76 percent) did more than 25 days of farmwork. Of these noncasual migrants, nearly three-fifths (58 percent) were under 24 and 74 percent were male (USDA, Hired Farm Work Force).

7/ Morin (1952) found that the agricultural labor force was (prior to the fifties) very farmer oriented.

8/ The ALRB is permitted to exercise its discretion in defining bargaining units when "the agricultural employees of the employer are employed in two or more noncontiguous geographic areas" (Labor Code Sec. 1156.2).

9/ The access issue is among the most intractable in agriculture. The NLRB and the ALRB recognize the need for union organizers to communicate with workers, but access in agriculture is complicated by long hours of peak season work and the fact that many workers live in grower-owned housing. To avoid confrontations, the ALRB guaranteed access for organizers before work, during the lunch hour, and after work, as long as the number of organizers per labor crew was two or less and organizing did not interfere with work activities. Grower challenges to the constitutionality of the access rule were unsuccessful, and the issue became a central feature in the Proposition 14

campaign. Grower victory in defeating Proposition 14 led to a rewriting of the access rule, which had the effect of reducing continuous access to assuring access for only four months per year (Rochin, pp. 19-20).

10/ Even if the changes suggested do occur, unionization and bargaining may not follow. One commentator believes that "collective determination in agricultural employment will apparently continue to be more exceptional than dominant," although it is acknowledged that even a few unionized farm laborers could "become politically influential in respect to laws and programs affecting all farmworkers" (Fuller and Mason, 1977, pp. 79-80).

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