

## THE REGULATORY EXCLUSION OF AGRICULTURAL WORKERS IN ALBERTA

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### ABSTRACT

The opportunity structure facing waged agricultural workers seeking basic statutory employment rights in the Canadian province of Alberta is hostile, reflecting the intertwined political and economic interests of farmers, the provincial government, and agribusiness. This article outlines the contours of the political opportunities and constraints facing labour groups and agricultural workers seeking legislative change. Analysis suggests there is little opportunity at present to alter this legislative exclusion.

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### INTRODUCTION

**W**aged agricultural workers in Alberta face hazardous working conditions and below-average wages. They are also almost entirely excluded from the statutory framework regulating employment relationships—a framework that many labour advocates assert could improve their wages and working conditions. This degree of exclusion is exceptional, even among Canadian agricultural workers. These long-term economic and legal inequities have yet to spark significant collective resistance among these workers. Labour groups have also been unable to achieve even modest gains for these workers.

The development of social movements as a vehicle of collective worker resistance is typically understood in the sociological literature via analysis of the political opportunities, mobilization structures and framing processes available to aggrieved individuals and groups. This study seeks to identify the political opportunities and constraints facing those seeking the basic statutory employment rights for waged agricultural workers. The findings suggest that long-term hostility in the structure of political opportunities is a significant barrier to legislative change.

While explicating the opportunity structure provides only a partial understanding of the potential for worker resistance, the political opportunities and constraints appear to significantly affect the way in (and degree to) which social movements develop and construct meaning. Consequently, this study provides a useful basis for further research into the mobilization structures and framing processes of waged agricultural workers in Alberta. It also serves as a starting point for subsequent inter-jurisdictional differences and similarities in the awarding of statutory employment rights to farm workers.

## WAGED AGRICULTURAL WORK IN ALBERTA

In 2006, the majority of Alberta's 49,431 farms were family-operated sole proprietorships or partnerships (Canada, 2006a). Only 697 farms were classified as non-family corporations, although over half of all "family farms" had capital valued over \$500,000, 40% had capital of over \$1 million, and nearly 20% had capital over \$2 million. Thirty-five percent of farms reported paid labour, with 18% reporting year-round paid labour and 22% reporting seasonal or temporary paid labour (Alberta, 2007a). These aggregate statistics obscure the level of paid agricultural work because the data does not distinguish family wage earners from non-family wage earners. Overall, the trend appears to be towards fewer paid workers, perhaps suggesting some combination of capital substitution, shifts towards less labour-intensive commodities, and work intensification. Again, these aggregate statistics may mask divergent trends between large and small operations.

The wage structure of agricultural employment in Alberta is largely unstudied, but general farm workers earned an average of \$13.13 per hour with a 46.6-hour work week in 2007, significantly below the average Alberta wage rate of \$23.90 per hour (Alberta, 2008a). Agricultural work remains a hazardous occupation, with 3170 injuries reported in Alberta during 2006 (Alberta, 2007b, see also Picket, Hartling, Brison, and Guernset, 1999; Canadian Agricultural Injury Surveillance Program, 2003). It is not possible to disentangle worker versus operator injuries within Alberta and different agricultural profiles also confound inter-provincial comparisons that might shed light on the effect of occupational health and safety legislation. The federal agriculture census (i.e., self-reports) found almost double the number of injuries as provincial government monitoring of hospital admissions, likely reflecting definitional and monitoring system differences (Alberta, 2007b).

The Alberta Federation of Labour (AFL) calculates there are approximately 12,000 waged agricultural workers in Alberta, with 2600 working in a temporary or seasonal capacity (Alberta Federation of Labour, 2008). Waged workers represent approximately 23% of agricultural and horticultural workers in Alberta (Alberta, 2008b). The number of foreign migratory labourers is small.

For example, 563 general farm workers and 263 workers in food, beverage and tobacco processing entered the Alberta labour market through the Seasonal Agricultural Worker (SAW) program in 2005 (Canada, 2006b). As discussed below, the use of temporary foreign workers may in fact mean there is a much larger pool of foreign workers.

Agricultural workers perform work on both farms and ranches as well as in mushroom factories, greenhouses, nurseries and sod farms. The exact distribution of workers among firms is unknown, although the majority of workers are involved in animal production, such as hog barns and ranches. The government predicts the surplus of agricultural and horticultural workers to grow from 2,250 in 2006 to approximately 6,400 by 2016 (Alberta, 2008b). More migrant workers could significantly increase this surplus, a strategy Alberta's government is aggressively pursuing in other sectors.

Waged agricultural workers comprise one (albeit heterogeneous) element of the structure of Canadian agriculture. John Shields (1992) asserts this structure has three distinct tiers: agribusiness (i.e., the suppliers of machinery and chemicals, and purchasers of products) is on the top, waged agricultural workers are on the bottom, and farmers are in the middle. Within this structure, individual producers compete among themselves as they purchase supplies and sell commodities to quasi-monopolies that set prices and limit farmers' market power. In this dynamic, farmers often seek to maximize profitability by minimizing labour costs (see also Skogstad, 1987, 2007; Kelly, 1982).

## **STATUTORY EXCLUSION OF FARM WORKERS**

The study is premised upon the view that capitalist states are subject to antagonisms between capital and labour. These are often seen in the workplace as contests over wages and control of work, but they operate more broadly in society as a tension between the imperatives of production and legitimacy. The state has developed, in part to manage this tension and ensure the capital accumulation process operates with minimal impediment (Mandel, 1992). The state's policy options are limited by its need to maintain its political legitimacy among citizens (most of whom are workers). Among state strategies for conflict management has been the enactment of labour and social policies and programs that assist with social reproduction by sustaining the general standard of living, education and health – thus ensuring an adequate labour force (Picchio, 1992).

The state has legislated minimum labour and health and safety standards as well as injury compensation schemes and a framework regulating unionization and collective bargaining. Both domestically and internationally, these rights most often attach to workers in a standard employment relationships. Consequently, the statutory rights as well as social benefits granted

under this policy have gendered and racialized aspects, typically advantaging white males. (Vosko, 2006, 2008).

These basic statutory employment rights are not available to waged agricultural workers in Alberta. Human rights is an exception because it applies to “persons”, not “employees” or “workers” and thus has wider applicability than employment legislation. Instead, farm workers enter into common law employment contracts that impose differential rights and obligations on employers and employees that most scholars suggest significantly advantage employers (England, 2008). In Alberta, the exclusion of agricultural workers from statutory rights includes:

- **Employment Standards:** Farm and ranch employees are not subject to minimum wage, hour of work, overtime, vacation pay, general holiday pay, rest periods and child labour provisions. Provisions regarding minimum termination notice and maternity and parental leave do operate (Alberta, 2007c). These exceptions affect employees employed on a farm or ranch whose employment is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, game-production animals, poultry, bees or cultured fish. Alberta, Saskatchewan, Ontario, and Prince Edward Island exempt these workers from most standards. Other jurisdictions have exclusions, some of which operate only for small farms (Commission on Labour Cooperation, n.d.).
- **Labour Relations:** Farm and ranch workers are excluded from labour legislation that regulates unionization and collective bargaining, thereby effectively precluding these activities by workers (Alberta, 2002). This exclusion mirrors that found in the Employment Standards Code, thereby excluding farms and ranches (including greenhouses producing vegetables and mushroom farms) but not other plant and flower growing operations. Alberta’s exclusion is broadly similar to Quebec’s (on farms ordinarily employing 3 or fewer workers) and New Brunswick (on farms with fewer than 5 employees). Following the Supreme Court’s Dunmore decision, Ontario’s Agricultural Worker Protection Act, 2002 provided workers with basic associational rights, but continued to exclude them from statutory access to collective bargaining (Tucker, 2006). In *Fraser v. Ontario (Attorney General)*, this law was struck down by the Ontario Court of Appeal and the province given a year to determine the manner in which it wishes to statutorily protect the collective bargaining rights of agricultural workers.
- **Occupational Health and Safety:** Farm and ranch workers are exempted from health and safety legislation by regulation (Alberta, 1995). Workers

involved in the production of crops, including fruits and vegetables, through the cultivation of land, the raising and maintenance of animals or birds, or the keeping of bees are excluded from occupational health and safety legislation. Workers in greenhouses, mushroom farms, nurseries, or sod farms are covered by the Act. Ontario brought farm workers under the ambit of its OHS legislation in 2006.

- **Workers' Compensation:** Workers' compensation coverage is not mandatory for farm workers, although employers can purchase optional coverage (Alberta, 2007d). Workers whose employers do not voluntarily purchase workers' compensation insurance are left to pursue recourse for injuries through the courts or private insurance schemes, routes employees have traditionally had difficulty accessing.

While many provinces have similar exclusions for agricultural workers, few are as comprehensive in their exclusions as Alberta. Proponents of statutory inclusion typically assert that minimum standards and access to collective bargaining would improve the working conditions of farm workers. Three labour groups have campaigned for such inclusion over the past five years:

The Farm Workers' Union has made representations to the Alberta government and media comment, but comprises a single volunteer organizer, few members and has no representational capacity.

The Alberta Federation of Labour (AFL) started a campaign for the legislative inclusion of farm workers in 2005. To date, this has entailed press releases, letters to the Minister, and advocacy during government consultations (Jason Foster, personal communication, 25 April 2008). The AFL has recently devoted significant efforts to the issue of temporary foreign workers (Alberta Federation of Labour, 2009), reflecting there are approximately 50,000 temporary foreign workers in Alberta versus only 12,000 farm workers.

The United Food and Commercial Workers (UFCW) have gained modest associational rights and health and safety coverage in Ontario as well as employment standards coverage in Manitoba, but have no Alberta-specific organizing efforts underway (Stan Raper, personal communication, 22 April 2008). Raper notes that an employer-friendly government, the geographical dispersion of workers, and lack of a farm workers' organization in Alberta are significant impediments to any sort of effective organizational efforts.

There has also been sporadic demand for better protection from agricultural workers and their families, often following a fatality.

## SOCIAL MOVEMENT THEORY

This study seeks to identify the political opportunities and constraints facing those seeking basic statutory employment rights for waged agricultural workers. The opportunity structure facing social movements is one of three sets of factors typically of interest to scholars examining social movements, the other two factors being mobilizing structures (i.e., informal and formal means by which individuals act collectively) and the framing process by which groups develop shared meanings and definitions, including a sense of cognitive liberation (i.e., that inequitable circumstances are susceptible to change). Focusing on the political opportunities for change reflects that political opportunities are a pre-requisite to change as well as influence the extent and form of that action (McAdams, McCarthy and Zaid, 1996; Buechler, 2000).

Establishing the contours of the opportunity structure in Alberta is a useful precursor to studying the mobilization structures and framing processes that are at work. It also is a starting point for examining inter-jurisdictional differences and similarities as they affect the ability of marginalized workers to access statutory protections. Finally, outlining the intertwined political and economic relations that exist among key players in Alberta's policy community informs discussion among labour and worker advocates about the potential effectiveness of different approaches.

The literature suggests that four dimensions of the opportunity structure system warrant scrutiny:

1. The degree of openness of the political system to the demands of agricultural workers.
2. The (in)stability of the economic and political relationships among powerful actors in the policy community.
3. The presence or absence of powerful allies.
4. The state's ability and willingness to repress dissent (McAdam, 1996; Jenkins, 1985; Jenkins and Perrow, 1977; Jenkins and Klandermas, 1995; Kriesi, 1995).

The interaction of these variables is posited to at least partially explain the timing and outcome of social movement activity, as well as the form of the movement. Relatively unexplored in the literature is the possibility that movements can also affect the opportunity structure (Gamson and Meyer, 1996).

To understand the present opportunity structure in Alberta requires examining the management and regulation of agricultural labour and the development of agricultural production over time. It also requires identifying the key actors in the agricultural policy community and the nature of their political and economic relationships. Shields (1992) identifies agricultural workers,

farmers and agribusiness as key players. In addition, the federal and provincial governments affect agricultural employment through immigration and trade policy, agricultural subsidies and regulating the employment relationship. Labour groups represent both agricultural and other workers and seek to alter the legislative framework of employment. Finally, non-agricultural workers and employers may have an interest in the affect of employment regulation in agriculture because it may affect food prices.

When discussing statutory employment rights, it is important to be mindful that, while these rights provide workers with benefits they do not have under the common law, these rights also reinforce the capital accumulation process and legitimize the existing social structure. They do this in part by channeling conflict into dispute-resolution mechanisms that are highly legalistic and where outcomes are highly individualized, thereby absorbing workers' energy and resources while retarding their ability to resist systemic inequity and disadvantage (Hyman, 1989; Webber, 1991; Glasbeek and Drache, 1992). In this way, rule making is a strategy of power designed to perpetuate the subordination of labour to capital. This suggests that the relationship(s) between government and capital warrant careful consideration. It also suggests that access to statutory employment rights will not necessarily eliminate or remedy poor working conditions.

## **AGRICULTURE EMPLOYMENT BEFORE THE SECOND WAR**

Agriculture played an important part in the settlement of the area that became the province of Alberta in 1905. In southern Alberta, ranching predominated, with many operations being large and commercial in nature. Grain farming increased in importance towards the beginning of the 20th century and was more often the preserve of smaller, family-based producers (Leadbeater, 1984; Monod, 1985). Paid labour, much of it migratory, was necessary for early agriculture in Alberta (and indeed Canada). Indeed, migratory workers received subsidized fares from railroads so that farmers could bring in the harvest that the railroads then freighted.

Between 1890 and 1929, waged labour comprised up to 30% of Alberta's agricultural workforce at harvest time and, in 1921, included nearly 17,000 workers (Thompson, 1978; Haythorne, 1933; Macpherson, 1953). During the 1920s, waged labour was the single greatest expenditure of Alberta farmers, requiring 8-19% of the value of agricultural products produced each year. By 1931, approximately 5% of the 93,316 waged agricultural workers were year-round employees (McGinnis, 1977). Thereafter, reduced demand for labour due to crop failures and the increased availability of local labour during the Depression negated the need for migratory labour until after the Second World

War, although local waged labour continued (Haythorne, 1933; Thompson and Seager, 1978).

The peculiarities of agricultural production coloured labour-capital relationships on the farm. Workers were typically isolated from one another, living with and working alongside their employers. Further, the boundary between employer and employee was permeable (at least sometimes) with many workers being or expecting to become landowners themselves (Danysk, 1995, Parr, 1985; MacPherson and Thompson, 1989). The notion that waged agricultural workers might become farmers and the effect this had on how they viewed their employment relationship is intriguingly similar to the views of industrial workers before the nine-hour movement (Battye, 1978). Farmers and their hired hands may also have viewed farming as a lifestyle and calling, an affective orientation uncommon in industrial employment (Masson and Blaikie, 1979). Further obscuring the differences between farmers and waged workers may have been the workers adoption of farm values, such as dissatisfaction with the effects of eastern financial interests and the capitalist system.

Agricultural employment relationships were also affected by settlement policies. Small land allotments at a low price were attractive to under-capitalized farmers and resulted in significant immigration. This had several outcomes (that changed over time) that served the legitimization goals of (mainly) the federal government. It created opportunities for the children of central and eastern Canadian farmers (where land was become harder to acquire), it created a market for manufacturers' goods, it enhanced Canada's claim to these lands in light of American expansion, and it provided a place to send surplus British agriculturalists to (Fowke, 1946). The rapid expansion of small land holdings drove up the cost of labour but lured labourers seeking eventual landownership. The grain-based economy also created seasonal demands for workers (i.e., planting and harvesting). This allowed workers to homestead during non-peak periods, thereby reinforcing the dual identity of petite-bourgeois and labourer among some waged agricultural workers.

One outcome of this arrangement was that agricultural labourers managed the conflicts of capitalist employment in different ways than did labour in industrial settings. Until after the First World War, the agricultural labour market was characterized by multiple employers, highly localized labour markets, short-term work, and significant time pressures generated by weather and the crop cycle. Workers generally advanced their interests individually, often by switching employers frequently to maximize earnings (Danysk, 1995). In this way, waged agricultural workers acted in a manner similar to workers in the resource extraction and construction industries.

Farmers responded in various ways. Individual farmers might withhold some or all of a worker's wages until the end of a contract or season (Danysk, 1995). Collectively, farmers lobbied government to exclude farm workers from



employment statutes such as workers' compensation (on the basis of the cost it would entail to farmers) and for wage regulation and a larger worker pool during the First World War (Thompson, 1978). Farm workers were excluded from the ambit of Alberta's 1917 Factory Act and the 1922 Minimum Wage Board Act (Leadbeater, 1984). Farmers also colluded with one another (including one effort in 1920 under the auspices of the United Farmers of Alberta) and with provincial labour offices to set wages (Thompson, 1978). Thompson (1978) also notes that farmers were provided government manuals that encouraged farmers to withhold wage payments until the end of the harvest while the railways provided translations of stall tactics into eight languages. This allowed the farmer to alter the wage-rate bargain after the work had been completed. The time pressure of the harvest gave workers significant (if transitory) bargaining power that mitigated the success of these employer tactics. That said, the overall working and living conditions of wages labourers remained poor.

The differing interests of farmers and labour were clear in the early political debates leading to the formation of the United Farmers of Alberta (UFA). Rennie (1998) documents a 1907 meeting between the more radically inclined Society of Equity (a farm organization) and the Trades and Labour Congress of Canada in which Henry Wise Wood (a prosperous farmer) argued that a convergence was not possible as farmers were both capitalists and employers. This more traditionally liberal view came to dominate the farm movement in Alberta. This view is also consistent with the master-and-servant tradition in employment relationships (Skogstad, 1979; Stirling and Conway, 1992).

Despite a strong community focus, UFA members frequently had an entrepreneurial outlook and this permeated the employment policies of the UFA government after 1921. For example, before taking office, the UFA voted down member demands for a minimum farm wage and creditor priority for worker wages. While in office, the UFA sought to establish a maximum farm wage rate in 1921. Yet the UFA should not be considered monolithic in its ideological outlook; as a product of several amalgamations, there were clear tensions within it. For example, more radical elements sought a labour-farm alliance to agitate for a redistribution of wealth and state involvement in industry (Rennie, 1998). Common interests between the liberal and radical wings of the party proved to be more important, though. UFA Premier Greenfield, for example, cited labour costs as a significant threat to farmers and the UFA typically avoided legislation and policy that entailed cost increases for farmers (Leadbeater, 1984), mirroring the pattern found in Ontario by Tucker (2006).

While there were instances of consultation between organized labour and the UFA, cooperation was elusive. For example, the UFA declined to join the Alberta Federation of Labour and sought the continued exclusion of farmers from workers' compensation legislation and from fortnightly wage payments to

workers. Yet, cooperation existed, including coordinated provincial and federal voting in Calgary, Drumheller and Medicine Hat (Finkel, 1985). As time went on, the UFA government demonstrated little sympathy with the concerns of labour in general, sanctioning enthusiastic police intervention in a 1932 hunger march in Edmonton and banning demonstrations in the Crow's Nest Pass to dampen union activity among coal miners (Caragata, 1982).

There was little evidence of sustained or widespread collective action among waged agricultural workers during this time. Unionization among beet workers was suppressed and a 1928 move to collective action (caused by the over-importation of British miners as agricultural workers) resulted in an immediate government response and deportation (Thompson and Seager, 1978; Thompson, 1978). Structural issues affected farm worker unionization in Canada. Migratory agricultural workers only assembled in large groups on trains, where the presence of railway police, poor conditions and the RCMP limited the potential for agitation. Workers were subsequently scattered in small groups to farms. The poor conditions were transitory (lasting only as long as the harvest) and workers could always leave and seek work from other farmers. Large farms (with larger groups of men) often had better than average wages and living conditions, thus reducing the likelihood of organization. Danysk (1995) notes that provincial and federal government also made significant efforts to disrupt union organization and used vagrancy laws to limit the willingness of workers to hold out for higher wages. The lack of interest in agricultural workers by more mainstream trade unions may reflect the difficulties existing unions faced in representing their own members in the face of employer and state resistance (Caragata, 1979).

In summary, prior to the Second War, the federal government worked in conjunction with railways and farmers to ensure adequate waged agricultural workers were available to bring in the harvest. Federal settlement policies contributed to this goal and also met other political and legitimation objectives of the government. The provincial government did not include waged agricultural workers in the first statutory employment rights it enacted, partly in response to pressure from farmers. In this arrangement, we can see the seeds of two long-term confluences of interest. First, farmers sought the assistance of the state to ensure adequate labour was available at minimal cost, with federal action addressing numerical adequacy and provincial (in)action addressing minimal cost. Second, capital cooperated with the state (via transporting workers) in order to profit from the food production process as well as ensure adequate supplies of food for industrial workers. We also see the absence of significant collective action among waged agricultural workers and repression (both by the state and employers) when it did occur.

## **AGRICULTURAL EMPLOYMENT AFTER THE SECOND WAR**

The exclusion of agricultural workers from coverage under employment law continued in the lead-up to and after the Second World War. Although the Social Credit government of William Aberhart (1935-1943) enacted statutes addressing male minimum wages, hours of work, collective bargaining rights and (for coal miners) wage security acts, it excluded farm workers from their operation (Caragata, 1979). This exclusion continued under the governments of Ernest Manning and Harry Strom (1943-1971). Farm workers continued to be excluded from statutory employment rights under subsequent Progressive Conservative governments.

The reason for the continued exclusion of agricultural workers by Social Credit governments is unclear. One possibility is that Manning's political and religious views disposed him against limiting the power of capital in the labour market. This reflected Manning's view of industrial unrest as part of a conspiracy to advance socialism as well as his belief that government intervention in the economy undermined individual's pursuit of biblical salvation (Finkel, 1989). The outcome of this perspective included modification of labour laws to limit the ability of unions to organize, collectively bargain and strike as well as disinterest in the pro-employer bias of the Board of Industrial Relations (Finkel, 1988). When Manning's pro-capitalist policies in pursuit of investment, something trade unionists often contend included a promise of labour peace to oil companies, was combined with the conservatism of the Industrial Federations of Labour of Alberta and the Alberta Federation of Labour during the late '40s and early '50s, there would seem to be no advocate of or rationale for statutory inclusion of waged agricultural workers (Caragata, 1979).

During and immediately after the Second World War, farmers were not intensely politically active, in part because of internal divisions, rising incomes and the establishment of the Canadian Wheat Board (Skogstad, 1979 but see Monod, 1985 for one incident of collective protest). Farmers during the 1950s and 1960s sporadically pressured government during times of economic stress but, in Alberta, typically had friendly relations with the provincial government and gained access to policy making (Skogstad, 1979). Post-war government agricultural policies sought to improve the competitiveness of individual producers, including state intervention in the market and the provision of financial aid (e.g., loans to increase the mechanization of farms) (Skogstad, 2007).

In Alberta, the 1971 election of Peter Lougheed's Progressive Conservative government saw significant agricultural policy changes, including a slow but deliberate erosion of the cooperative marketing structures for crops (Larsen, 2005). This process created additional opportunities for capital, while placing more financial pressure on farmers. Capital has also created quasi-monopolies that supply producers with inputs and purchase their products,

thereby making farmers price takers. During the 1970s, meaningful policy access appears to be restricted to more conservative farm groups, such as Unifarm, which quietly advocated for farmers within the state's market-driven policy framework. Since the 1980s, market-oriented strategies have been the main thrust of state policy (Skogstad, 1979, 2007).

In the fields, the substitution of capital for labour (e.g., replacing the threshing machine with the combine) was a drawn-out process, spanning more than 30 years. Greater mechanization occurred during the same time as a transition towards fewer and larger farms and the development of non-family owned producer and processing facilities. McGinnis (1977) notes that the causality of this transition is unclear: was labour displaced by machines or was mechanization a response to a dwindling labour pool, or indeed some other set of pressures? Monod (1985) suggests that high wage costs and greater efficiency offered to larger farmer by mechanization made marginal farms uncompetitive given government policy emphasizing on low food prices during and after the second war. Those remaining farmers were drawn into the industrial economy as their capitalization increased. Skogstad (2007) asserts that that Agriculture Canada has historically argued for the national interest is best met (in part) by ensuring low-cost food is available.

These changes are often cited as evidence that the "family farm" has given away to large "commercial farms". These terms are difficult to define and it is more useful to note the broad trend on farms towards increased mechanization, size and specialization as a strategy to maintain farm viability. For example, since 1941 there has been a continuous decline in the number of farms and the continuous increase in the size of farms. Similarly, the percentage of Canadian farms reporting greater than \$250,000 in farm receipts increased from 3% in 1981 to 17% in 2006, and this group of farms is responsible for 75% of all farm receipts (Canada, 2007a).

These changes can be differentiated from the use of significant amount of waged labour managed by the farmer because the latter change alters the social relations of the undertaking. Typically the presence of five person years of waged labour is the threshold where past labour is likely to be more than just family members and the role of the farmer changes from performing to directing work (Ghorayshi, 1987; Winson, 1996). The use of waged labour may be negatively affected by mechanization and price pressure (Wall, 1994). This is not always the case, though. For example, some products are not amenable to mechanization. Historically, fruit and vegetable and poultry producers have been the most likely to hire significant waged labour, in part reflecting labour intensive (and often seasonal) operating patterns, while wheat, small grain and dairy farming operations have been much less likely to employ significant amounts of waged labour (Ghorayshi, 1987). It should also be noted that this pattern reflects historical contingencies and does not hold true throughout North

America. Yet reduced demand for labor combined with increasing land prices and start-up costs, has meant many potential farmers (who undertook waged labour in hopes of becoming farmers) sought employment in other industries (MacPherson and Thompson, 1989; Parr, 1985). Consequently, there have been shortages of labour.

The federal government has taken a variety of steps to ensure an adequate supply of labour is available. This included making interned citizens and prisoners of war available as workers during the second war, and seeking European immigration after the war as well as encouraging mechanization. This pattern is evident, for example, Alberta's sugar beet industry. The federal government facilitated the use of southern European immigrants in the 1920s and '30s, Japanese Canadians, German prisoners of war and conscientious objectors during the second war and European immigrant after the second war. When these sources proved inadequate, federal departments supplied (sometimes using financial coercion) aboriginal labour (Laliberte, 2006). Mechanization has reduced (but not eliminated) the need for manual labour. The three-tier system Shields posits for Canadian agriculture is evident in the sugar beet industry as is the pattern of producers maintaining profitability through low wages via the exclusion of workers from statutory rights (Laliberte and Satzewich, 1999). The wages and working conditions of field workers (who fall outside the ambit of employment legislation) have historically been poor while local sugar plant workers (unionized by UFCW) fall within the ambit of Alberta's employment legislation.

During the late 1960s, the federal government began facilitating the use of temporary foreign workers (normally from Mexico and the Caribbean) to address the shortage of Canadian farm workers. The government also developed (unsuccessful) manpower placement services for Canadian agricultural workers (Neilson and Innis, 1975). These programs primarily operate in Ontario but a small number of such workers can be found in Alberta. This suggests high-level continuity in the objectives of federal and provincial policies on waged agricultural labour after the second war, with federal policy adjusting both labour supply and demand to ensure numerical adequacy and provincial policy minimizing cost via continued statutory exclusion.

The interaction of these agendas provides some explanation for the statutory exclusion of waged agricultural workers. The Government of Alberta has repeatedly justified not applying employment statutes to waged agricultural workers due to the expected cost associated with this change (Cardinal, 2006a, 2006b; Horner, 2006; Stelmach, 2007). Then-Minister of Revenue Shirley McClellan (herself a farmer) explained refusing to extend health and safety regulations and mandatory workers' compensation coverage to farm workers this way:

I know that if the producers, in their wisdom not ours, were to come forward in a majority view to the minister of agriculture, he would bring that forward to this table. He represents them extraordinarily well. But I must inform the hon. member, being a part of the agricultural community myself, that they are very independent thinkers, and they like to make their decisions and ask us to carry out policy they believe is in their best interest (McClellan, 2006).

It is interesting to note that Alberta politicians identify farmers (instead of agribusiness) as the key source of pressure to exclude workers from statutory protection. This requires some consideration of how the interests of farmers, government and agribusiness are politically and economically intertwined in a way that results in the subordination of agricultural workers' interests. At the core of this seems to be federal and provincial policy designed to ensure adequate and cheap food supplies exist, via the exclusion of waged agricultural workers from statutory employment rights and maintaining the availability of migrant workers. For example, in 2005, Canadian's spent 9.3% of their disposable income on food and beverages, much less than in other western countries and down from 19.1% in 1961 (Shields, 1992; Canada, 2009). This policy requires farmers to adopt a low-wage strategy to manage the cost-price squeeze created by capital determining input and product prices. In this way, the state subsidizes the capital accumulation process by transferring part of the cost of social reproduction (i.e., food) to agricultural workers (Basran and Hay, 1988; Skogstad, 1979).

Farmers' support places political pressure on the government to maintain the statutory exclusion by claiming they cannot afford the costs associated with the statutory floor of rights. The veracity of this claim is difficult to establish, but by making the claim, farmers create a political rationale for governments to maintain the status quo. For example, Alberta's Premier sought to distinguish family and corporate farm when speaking on this topic, thereby appealing to the agrarian myth (see below) (Stelmach, 2007). In this way, concerns about the working conditions are displaced by concerns about farm bankruptcy. Farm bankruptcy is of concern to both farmers and residents of rural communities that are threatened by population loss due to urbanization. Farm bankruptcy has significant political poignancy in Alberta. Rural constituencies almost always elect Progressive Conservative candidates to the provincial legislature (Elections Alberta, 1997, 2001, 2004, 2008) and Conservative governments have ensured electoral boundaries are drawn so there are a disproportionately high number of rural ridings (Archer, 1993; Thomson, 2008).

## OPPORTUNITY STRUCTURE

This analysis suggests that the statutory exclusion of agricultural workers is one outcome of the interlocking economic and political interests of the state,

agribusiness and farmers. The key axes of interests appear to be the “cheap food” interest shared by capital and the state and the “farm viability” interest shared by the state and farmers. There appears little room in these relationships to advance an agenda of statutory inclusion because it runs contrary to both sets of interests and would disrupt a long-established “solution”: transferring costs to farm workers via low wages and poor working conditions facilitated by statutory exclusion.

One potential line of fracture within the key actors in the policy community is between farmers, based on their degree of mechanization, size and specialization. The growing size of “average” farms mask diversity in the organization and size of farms. Larger farmers may operate in a more commercial and highly capitalized manner or, in some cases, operate farms as part of an integrated food production enterprise. Consequently, there may well be differing interests depending on the relative degree of (dis)advantage that various policies have. Within either of these groups is likely to be significant heterogeneity of views that may limit the value of farmers as allies to capital or labour. And the political power of less capitalistic farmers and their willingness to make common cause with waged agricultural workers is unknown (Stirling and Conway, 1988).

The absence of powerful allies further limits the room for workers or labour groups to advance statutory inclusion. The government is capable of labour repression as evidenced by recent legislative moves against the interests of teachers (Reshef, 2007), health care (Fuller and Hughes-Fuller, 2005) and construction workers (Gilbert, 2007), but has not yet shown any interest in doing so to agricultural workers. This may be because the challenges mounted by agricultural workers have been too weak to merit any response beyond substituting the issue of farm bankruptcy.

## **MOBILIZING STRUCTURES AND FRAMING PROCESSES**

While no significant study of mobilizing structures or framing processes has been undertaken, some observations may be useful in guiding future work in this area. The absence of collective resistance among farm workers is striking and worthy of research. It may be their mobilization potential is mediated by their (in)ability to identify and articulate common interests, see the existing system as amenable to change, and attract and deploy resources to pursue a change. A hostile opportunity structure and traditional barriers to collective action by agricultural workers also warrant consideration.

Waged agricultural workers also face precarious employment conditions (making them vulnerable to employer pressure) and may lack the dense social network found where agricultural workers share a common cultural identity. For example, successful organizing campaigns among agricultural workers in British

Columbia and California have tapped into existing social networks based on pre-existing and shared cultural identities (Bush, 1995; Jenkins, 1985). The only Alberta-specific study on social networks among agricultural workers is Smart (1998) and it does not provide much guidance.

There is no data available about the composition of Alberta's waged agricultural workforce. Anecdotal evidence suggests that there are identifiable subgroups. These include aboriginal, non-aboriginal, and Mexican Mennonite workers with Canadian citizenship as well as Mexican and Caribbean seasonal workers and temporary foreign workers from elsewhere. The 2006 agricultural census provides no directly or indirectly applicable data (Canada, 2006a). The different citizenship status, cultural backgrounds and languages of each group may create barriers to mobilizing. Yet, within each group, existing social networks may be available for mobilization purposes.

The aforementioned Farm Workers Union (FWU) is the only visible grassroots worker organization. As might be expected of a small and relatively new group, it has demonstrated limited policy capacity and saliency. For example, producer groups were able to thwart efforts by the Farm Workers' Union and the Alberta Federation of Labour to get Employment Standards Code coverage for waged agricultural workers during a 2005 review (Canadian Federation of Independent Business, 2005). Whether the FWU can change to become more effective and representative is uncertain. The two other visible advocates for statutory inclusion are both labour groups (the AFL and the UFCW), neither of which has significant connections to Alberta agricultural workers or sway with the provincial government. It may well be that using traditional labour groups as a mobilizing structure or framing the issue as the absence of statutory rights are wrongheaded approaches to improving the working conditions of agricultural workers. Further, Butovsky and Smith (2007) argue that extending protective legislation and trade union rights has historically been an ineffective strategy to improve working conditions of exploited groups.

Among the challenges facing farm workers is the use of the agrarian myth by the provincial government to justify continued statutory exclusion by, for example, substituting the issue of farm solvency for farm safety. This myth centres on the belief that farming is a virtuous activity that often entails personal sacrifice. Consequently, society is seen as owing farmers a social debt (Kelsey, 1994; Rennie, 1998). This framing complements the more direct political power of over-represented rural voters by casting farmers as warranting special treatment. Similarly, many Albertans (including rural Albertans) consistently support governments that evince the neoliberal belief that government ought not involve itself in the operation of private businesses. That the exclusion of waged agricultural workers from statutory protection is a form of negative state subsidy to those agricultural producers who hire workers (i.e., larger producers) is either unclear or swamped by concerns about the financial viability of farms.



Further, the cheap food policy (including trade harmonization agreements) is actually a source of the financial pressure on farms and the government provides significant subsidies to the agricultural industry to maintain this policy. Consider, for example, the \$460 million in federal and provincial financial assistance provided to ranchers during the Bovine Spongiform Encephalopathy (BSE) outbreak of 2003. This event was triggered by producers engaging in feed practices known to transmit the disease in order to minimize their costs (and failing to insure themselves against this outcome), behaviour encouraged by market pressures exacerbated by a cheap food policy, including trade harmonization agreements.

### **PROSPECTS FOR CHANGE**

Despite the hostile opportunity structure suggested by this initial examination, there are some trends auguring in favour of statutory inclusion. Following Ontario's 2006 inclusion of agricultural workers under occupational health and safety legislation, Alberta is now the sole province to deny agricultural workers basic statutory rights such as being informed of work-related dangers and the able to refuse unsafe work. This inequity may be useful as a rallying point for farm worker advocates. A 2008 judicial inquiry (Alberta, 2008c) into the death of farm worker Kevan Chandler saw the judge in the case recommended the application of occupational health and safety legislation to waged agricultural workers, noting that no party adduced evidence that provided a "...logical explanation... as to why paid employees on a farm are not covered by the same workplace legislation as non-farm employees" (p.6). The government has yet to outline any changes it is considering.

The value of health and safety as a opportunity to lever change may be reduced by careful issues management. This topic is the subject of a separate study, but it is worth noting that Alberta's government has tended to focus on education instead of enforcement as the (unsuccessful) remedy to the dangers of agricultural work. This approach is more palatable to farmers and assumes ignorance, not an economic incentive (or imperative), is the explanation for why farmers organize work in a hazardous manner. Another constellation of forces pressuring for OHS inclusion might be consumers and waged agricultural workers finding common ground around the issue of chemical use in food production.

Recent Charter decisions may also influence agricultural workers' statutory rights. The Supreme Court's decisions in *Dunmore* and, subsequently, *BC Health Services and Support* decision have created an opportunity to challenge legislative exclusions that effectively preclude entire categories of workers from exercising their rights under s.2(d) of the Charter. In 2008, UFCW was successful at the Ontario Court of Appeal in having the Agricultural

Employees Protection Act struck down as unconstitutional. Whether the statutory exclusion of agricultural workers from labour law in Alberta so hinders these workers' ability to engage in meaningful negotiations with their employer is unclear, but *Fraser v. Ontario (Attorney General)* seems to clearly point in this direction. Unionization (or its potential) may cause employers to alter working conditions to head off organizing efforts. Yet the historical challenges of organizing farm workers remain.

Alternately, farmers may react by increasing their use of migrant foreign workers, who are easier to control and have fewer rights than domestic workers. This may include altering the structure of work with an eye to making it undesirable to Canadian workers and then hiring migrant labourers through existing government programs. Although wheat farming on the prairies and vegetable farming in Ontario are very different forms of agriculture, the case of Ontario producers is instructive. Seeking a compliant workforce, these producers lobbied for and are now are structurally dependent upon migrant labour (Basok, 2002). Assuming an adequate supply of appropriately skilled migrant workers was available, there would be few impediments to the adoption of a similar model in Alberta.

The Alberta government has been highly supportive of the use of temporary foreign workers. In 2008, there were some 57,000 temporary foreign workers, a four-fold increase in five years. This is a usage rate 20 times higher than US averages and 46.6% went to rural areas in 2007. Growing domestic unemployment in 2009 has resulted in a reduction in the number of high-skilled temporary foreign workers. Interestingly, the number of low-skill temporary foreign workers has not declined, suggesting the beginning of a permanent guest-worker underclass (Alberta Federation of Labour, 2009).

The political power of rural voters may also be waning as population shifts require a redistribution of legislative seats. Careful boundary crafting may mitigate the speed at which rural power is reduced, but urban MLAs may be less individually susceptible to constituency pressure to maintain the exclusion and may be more susceptible to moral arguments about the inequity. That said, the continued importance of the Progressive Conservative party's rural supporters make such a change difficult to move through caucus and cabinet. It is worth also worth noting that statutory rights are still only as effective as government enforcement and the willingness of farm workers to file complaints.

A narrative that could be developed is one that links the low cost of food to exploitative working conditions for Canadians. Such narratives exist regarding "fair trade" coffee and the exploitation of agricultural workers in the developing world. Yet there are significant barriers to developing such a consciousness about food, which is not a luxury item: consumers may be simply unwilling to accept higher food prices on moral grounds. And, explaining the nature of the agribusiness (wherein farmers and waged agricultural workers are both subject

to exploitation by agribusiness) may obscure the role farmers play (as the employer) in this dynamic and even unintentionally bolstering the agrarian myth.

## CONCLUSION

Analysis of the exclusion of waged agricultural workers from Alberta's statutory framework governing employment relationships identifies the intertwining interests of government, farmers and capital as barriers to altering this arrangement. The interplay of these interests creates a dynamic that makes continued statutory exclusion a desirable policy for these stakeholders. Agricultural workers have historically had no meaningful access to provincial policy making and also lack powerful allies who might assist them in seeking statutory inclusion. Further, agricultural workers face a provincial government known for repressing labour groups and that routinely dismisses demands for statutory protection via issue substitution.

It is unclear the degree to which external events can alter this opportunity structure. Trade unions may be able to use the government's own emphasis on health and safety or the Supreme Court's recent Charter decisions on collective bargaining to alter the rules. If agricultural workers were allowed to unionize (and unions sought to and were successful in unionizing them), this might alter the mobilization potential of the group. This was apparent in Ontario when the unionization of Cuddy Chicks and the Rae government's agricultural collective bargaining legislation gave the United Food and Commercial Workers (UFCW) a toehold in the industry and thus reason to fight for these workers.

While UFCW has made significant effort on behalf of farm workers, particularly in Ontario, it is not clear whether there is broad interest among Alberta unions in social unionism, particularly given the barriers facing unionization drives even in established industries, the high servicing costs, and the limited potential farm units have to generate dues. This would be a useful line of inquiry in an examination of agricultural workers' mobilizing structures. Whether that would create a meaningful opening in the opportunity structure or simply drive the existing policy actors closer together to defend their interests is unclear. The increasingly industrial organization of work in some segments of agriculture may also create conditions more amenable to traditional union organizing tactics.

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