Constraints on California Farm Worker Unionization

The California Agricultural Labor Relations Act of 1975 (ALRA) provides the basis for a positive impact on the unionization of the state’s farm workers. Immediately following the effective date of this legislation, union activity reached an impressive magnitude, causing many to expect that most of the state’s agricultural labor force would soon be unionized.

It can be argued, however, that total unionization depends not only on significant outlays of time, money, and leadership, but also requires that certain economic and other constraints inherent to organizations be surmounted. After a brief discussion of the ALRA, this article focuses on possible and prospective constraints affecting the unionization of farm workers, and seeks to determine to what extent they are likely to be overcome. An analytical model is presented in which unions seeking to organize farm laborers are likened to commercial agencies supplying services, thus making unionization subject to an income/outlay calculus. Although we recognize that unionization is frequently considered more of a “social movement” than a commercial enterprise, we argue that in general, the income/outlay calculus is inevitable regardless of how lofty the ideals of the organizing agency or its leadership. And given the heterogeneities and elusiveness of the “market” for unionization of farm labor, this calculus is exceptionally binding. Our analysis leads us to conclude that the unionization of California’s farm laborers will reach a plateau at less than total saturation.

*The authors are, respectively, Professor Emeritus, Agricultural Economics, and Economist, Cooperative Extension, University of California, Berkeley.

1This paper will also be available as Giannini Foundation Research Paper #492.
California's Labor Relations Act

The 1975 legislation protects workers' rights to organize and to bargain collectively; it authorizes procedures to determine representation and to engage in bargaining; and it establishes an administrative board which is specifically committed to implementing the policies and purposes of the Act. Although the ALRA is structurally similar to the National Labor Relations Act of 1935 (which excluded farm workers), there are two specific differences which are relevant to our discussion.2

Elections and certification of bargaining agency. In contrast to the NLRA, employers are not permitted to recognize a bargaining representative voluntarily; nor are unions permitted to request or coerce recognition by employers. Representation, bargaining, and contracting must all be preceded by a successful election and certification by the Agricultural Labor Relations Board (ALRB). Strikes, boycotts, or other coercive tactics may not be employed except by unions holding certified representation with respect to the employment unit involved; elections must be held within seven days of the receipt of a valid petition, and election units are restricted to the farm workers of the individual employer.

Bargaining and contracting. Only a certified union may enter into a legally valid bargaining agreement, but once certification for a specific employment unit is obtained, the union's bargaining rights are strongly protected (although decertification can occur). In contrast to the Taft-Hartley and Landrum-Griffin prohibitions of secondary coercive weapons, the certified California farm workers' union holds explicitly prescribed secondary coercion rights for use in obtaining and maintaining collective agreements.

Unionization activity under the ALRA. The first four weeks of the Labor Relations Board's life (September, 1975) brought a flood of election petitions, and it rushed through 182 elections. By February 7, 1976 (when depleted funds shut down the Board's operations), a total of 429 elections had been conducted, involving 50,000 farm workers. The bulk of the early petitioning was to challenge or to protect already existing union recognitions. Within this category, United Farm Workers (UFW) was the most active, for it was seeking to regain the bargaining units it had lost to the Teamsters

---


3Further details on this initial period, some of which are the basis for comments to follow, are contained in W. H. Segur and Varden Fuller, "California's Farm Labor Elections: An Analysis of Initial Results," *Monthly Labor Review*, IC (December, 1976), 25-30.
by collusive agreement between Teamsters and employers during 1973. The conflicts over prior recognitions and the formal elections needed for certification of recognitions not contested first dominated the scene. Thereafter came a considerable volume of petitioning to establish new unionization; this phase was dominated by the UFW, which attained an election success rate of 82.5 per cent.

After July 1, 1976, when the Board's funding was reinstated, election activity was greatly diminished (only 188 elections were held during the next 12 months). The Christian Labor Association (unaffiliated), for many years active in dairies in the Los Angeles area, sought certifications of existing bargaining relationships in Southern California dairies. Approximately four-fifths of the 147 certifications issued during the year ending June 30, 1977 were to the Association, while the UFW obtained only 15 (10 per cent). The Teamsters initiated no elections through petitions, but did intervene without success in a few elections during that year.

Attributes of California Farm Employment

Efforts to unionize agricultural labor must contend with the fact that farm labor typically occurs in small, scattered employment units that are dominantly seasonal in their activities. According to U.S. Census estimates, there are about 50,000 California farms on which some labor is directly hired. Some of these and thousands of others also hire labor indirectly—through labor contractors, contracted machine hire, or custom work. In 1974, farmers' expenditures for directly hired labor were approximately $1 billion and for indirectly hired labor, $350 million. Slightly more than 8,000 farms had per farm expenditures for hired labor of $20,000 or more; 3,630 of these farms had expenditures for hired labor of $50,000 or more.

Although only a minor fraction of all farmers are significant employers, they are still numerous as compared with plant sites of other major industries. That they are small in terms of annual wage expenditures reflects brief seasonality as well as fwness of workers. Of course, there are exceptions—the "giants" that hire workers in the hundreds and with considerable continuity throughout the year. But these are likely to be units in which farm production is integrated with processing or marketing, and farming is typically only a small fraction of the total enterprise.

---

4 The UFW had only a handful of recognitions left to protect, for which it filed election petitions. Its more numerous filings were challenges against units currently under Teamster recognition and as interventionist when the Teamsters filed petitions to protect its current recognitions.

5 Information for the year ending June 30, 1977 was compiled and supplied to us by Dr. Sue Hayes, Economist, Cooperative Extension, University of California, Berkeley.
The estimated number of individuals in California employed in agricultural labor ranges from a seasonal low of 160,000 in January, to a high of 290,000 in October. However, the number of individuals who do some farm work during the course of a year is much larger than the number in any particular week, including the peak season. This is because farm work is done by numerous individuals who are not full-time labor force participants, including housewives and students, and by persons who do farm work temporarily while not otherwise employed, or as a supplement to a regular nonfarm job. Past estimates of the number of persons who do some farm work during a year in California suggest that the actual total figure is approximately double the number at the peak. Thus, employment and payroll data do not fully reflect the potential for unionization; but the casual, temporary employment pattern and the fractional labor force and occupational commitment characteristics imply difficulties for the unionization effort.

As in the nation at large, California’s farming has witnessed revolutionary changes in technology and financial structure of which declining numbers of farms, greater acreages per farm, and labor-saving machinery are prominent components. However, these changes appear to have come to at least a temporary plateau; numbers of farms and farm employment have stood fairly stable during the seventies, and with the exception of improvements in lettuce harvest mechanization or radical changes inspired by the unexpected depletion of natural resources, the immediate future of technological change should be one of small, less noticeable increments.

Geographic dispersion is an important constraint on prospective unionization. California’s agriculture has several areas of compact, intensive employment—notably in the Salinas, San Joaquin, and Imperial valleys; smaller compact, but isolated, areas occur along the coast and in other valleys. These areas are interspersed with heterogeneous crop and animal specializations and general farming that span over 150,000 square miles.

“Facts” about the industrial structure and employment patterns of California agriculture—even if adduced in far greater detail—do not in themselves tell us much about the likely course of unionization. They suggest difficulty, but they provide no means of assessing the power of constraints inherent in the industrial structure. Therefore, we constructed a model of “rational action” as an aid in analyzing likely unionization behavior, making such correlative assumptions as were necessary.

An Analytical Model

The model we employ in this analysis is based on the assump-
tion that unionization of farm labor will be accomplished by externally supplied initiative, i.e., that it will be brought to employees of individual farms by an already established union. Conceivably, workers could self-organize; the California law clearly provides for this. If it were to occur, indigenous organization would be a way to avoid some of the high overhead costs and diseconomies of organization and administration that are imposed by the structural characteristics of farming. But there is nothing in California's agricultural labor relations history to suggest that self-unionization by individual employee units is a likelihood.

Our model assumes that a union which seeks to organize farm workers is offering an economic service for which it must receive compensation. The demand for the service lies in the workers' expectations of future benefits to be obtained in collectively bargained contracts; whether the demand for unionization service is brisk or slack depends upon workers' level of net expectations, i.e., the improvements they can hope for in wages and working conditions minus the costs of supporting the union. For its service, the unionizing organization must receive compensation (an income flow). We are assuming that union members in total will be the major source of this income flow—that external gifts, subsidies, contributions in money, goods, or personnel will not be a significant fraction of the income needs of the unionizing organization. Under these assumptions, the agency supplying the unionizing service becomes subject to an income/outlay calculus in much the same manner as is applicable to other commercial service supplying organizations. This means that in the typical increment of prospective unionization, expected income to the unionizer would have to equal or exceed anticipated costs; otherwise, the project would not likely be undertaken.

Unionization Costs and Uncertainties

The ALRA has numerous economic implications for both unionization and collective bargaining. Not the least of these is a great reduction in uncertainty of outcome. Strikes and boycotts to coerce recognition, which were expensive and uncertain, are no longer permitted. Since elections are now mandatory, the unionizing agency must incur costs of campaigning sufficient to win. The campaigning costs of an election can surely be more readily estimated than were those of strikes and boycotts, and the outcome less uncertain. Of course, the mandatory election eliminates the cheapest and most certain form of unionization—voluntary recognition by the employer without any elections. But, on the other hand, the certification that follows success in an election is a guarantee against losing representation to collusive action between the employer and a rival union.
The unionizing agency must advance (invest) outlays of time, money, and organizing skills sufficient to carry the project through election and certification; it must also bear the risk of losing. But with certification obtained, the unionizer then has an estimable and fairly reliable flow of income from newly organized members. The California law sanctions a number of tactics for the certified union to aid it in obtaining and retaining a collective bargaining agreement that are not available to unions under the jurisdiction of NLRA; the potentiality of these tactics should reduce the uncertainties of engaging in collective bargaining.

It would seem that the initial outlays necessary to success in elections would be the largest "investment" or "risk" to be incurred by the unionizing organization. But if multiple union rivalry were to develop or if anti-unionism were to become pervasive, the costs of defending and retaining the certified units could become high, for there would be decertification and recertification elections to face. As matters now stand, the prospects of multiple union rivalry are not apparent, and we assume that the UFW will not be seriously challenged by an established union. Employer inspired anti-unionism is another matter, however, and one that relates to both original elections and subsequent defense requirements.

If, as our model assumes, there is a "market" among workers for unionization, then it is no less logical that there is one among employers for anti-unionism. That there is such a market is attested by the existence of numerous individuals and organizations offering counseling on the choice and implementation of effective anti-union tactics. But since these tactics must include improvements in wages and conditions equal to or approaching the union's terms, the employer's prospect of advantage has to lie mainly in being relieved of what it considers infringements on management prerogatives.

In the original election and in any decertification challenges that may follow, the level of costs to be incurred by the unionizing agency will depend in large part on how readily voters perceive the advantages of being unionized. Once the unionizer has established itself by winning some elections and procuring some contracts, but while nonunion conditions still generally prevail, campaigning costs to develop favorable perceptions among voters may be modest. But as unionization proceeds and prevailing wages and conditions more nearly approach those of the union's contracts, perceiving the advantage of being unionized is not so readily accomplished. Then, campaigning costs will rise; outlays on initial and decertification elections will become larger and the uncertainty of winning greater. At that point, if not previously, the unionizer can scarcely avoid a rational economic evaluation of prospective costs and income as each project comes under consideration.
Economic Constraints

We return now to the proposition stated earlier that there is an inevitability of economic determinism in the extent of unionization, regardless of how zealous and idealistic the unionizer's leadership. The fact of success will in itself generate constraints against rationally uneconomic behavior. These constraints originate both within the union structure and external to it.

Internal constraints. Internally, the main factor to be considered is that as membership increases so also does the magnitude of members' rights and the obligations of the union to serve them. As the organization grows and ages, new and younger members will increasingly outnumber older ones; they will be less bound by the philosophies and goals of the initial leadership. Membership will grow more conservative—in the sense of being more interested in what the union is doing for them as against its own institutional goals. As membership grows, so does the potential of rival leadership, thereby giving political effect to conservative interests.

Serving membership interests obviously involves negotiation and enforcement of collective bargaining agreements. And, if the traditions of general trade unionism are followed in farm labor, seniority rights, work guarantees, and employment procedures will be prominent features of the union contract. Not only do these provisions create a structure of rights and obligations between worker and employer, they also create a system of preference and privilege among members. The union will acquire administrative obligations to ameliorate frictions among members as well as between workers and employer.

External constraints. External to its own structure and functioning, the unionizing organization faces numerous possibilities of assault that relate to prestige and survival—perhaps not always that of the organization itself but of its leadership. Appeals for, or interest in, unionization outside of California are a strong possibility. There will be concern about getting the counterpart of the California law in other states—at least in those that have similar areas of compacted farm employment. Requests for aid will arrive; whether for assistance on legislation or in actual unionization, they will be challenges to prestige and solidarity. How much investment should be made in these "external" projects? Unless the organizer were somehow to be supplied with abundant funds and capable personnel—not a likelihood—it inevitably will find itself implicitly if not explicitly in a tradeoff situation with respect to the frontier of unionization within California.

Another external factor likely to be confronted is control over the aggregate supply of labor available to all farm employers. In recent decades, the supply of labor available to California farmers—scarce or abundant—has
been generally correlated with magnitudes of movement over the Mexican border, both legal and illegal. Given its own dominantly Mexican-American ethnic character, the UFW has not yet taken a strong or consistent position against inflows of Mexican nationals, even though they have been significant competitors in the labor market. Yet, again thinking in terms of the seniority and employment rights to be acquired in greater magnitude by union members and the prospect of demand upon union leadership for protection of them, one can anticipate the prospect of responses that will entail diversion of unionization resources.

The possibilities of having to defend or to try to improve the ALRA in the legislature or its functioning in the courts and the costs of doing so in terms of diverted leadership energy are also quite real.

No claim is made that the foregoing exhaust the possible diverse assaults from either internal or external sources; on the contrary, the lives of organizations historically have been altered by wholly unexpected events and the succession of different philosophies in leadership, and there is no reason to expect otherwise in organizations of farm labor.

Some Imperatives of Growth

We can now combine the preceding observations on forces toward conservatism—whether internal or external—into an inclusive proposition that reflects organizational life in general.

As an organization passes beyond its beginning phases and achieves some or all of the goals that motivated its origin, its own maintenance and survival come to assume increasing importance; its leadership becomes more inclined to conservatism. Maintenance of membership is the organization's foremost need. In trade union parlance, this is "union security." Various devices have been invented to tie members to organizations. Some are cohesion-promoting features such as insurance, credit unions, travel clubs, wholesale buying arrangements—none of which has a direct relation to the organization's primary goals or purposes. Trades and professions that are able to tie their membership to government licensing procedures—doctors, lawyers, beauticians, termite exterminators, to mention a few—are able to neatly shift most or all burdens of maintaining membership to the general public. Labor unions typically seek to impose much of the burden of membership maintenance on their employers by negotiating membership requirements as a condition of employment. If they are able also to get a check-off of union dues from the payroll, their total burden is further reduced. In large, stable units of employment, the union that has a membership requirement and check-off has little to worry about, and even less if it has a hiring hall. However,
such arrangements diminish contact between officers and members which may create the necessity of extraordinary monitoring against the potentials of dissenting minorities and challenge of leadership. At the other extreme, where employment units are numerous, dispersed, seasonal, and subject to high turnover, maintaining membership comes at a high cost that seldom can be fully shifted to the employer. The result may be fractional unionization. One notes, for example, that the building trades are likely to be fully organized in major cities, but nonmetropolitan contractors often have an option as to whether to operate "union" or not.

In the farm labor situation, maintaining membership can scarcely escape being a burdensome obligation, except for the few large, stable employment units. Even if tactics were invented to moderate the maintenance costs, the income/outlay calculus must still be considered in deciding whether to attempt unionization of small, seasonal employment units. This constraint becomes all the more restrictive if the organization is being assaulted and its energies diverted by any of the several types of external possibilities mentioned above.

Other Constraining Factors

*Ethnic composition.* An additional aspect of agricultural unionization that merits attention is the ethnic composition of the farm labor force in comparison to the ethnic orientation of the UFW. An Assembly Committee on Agriculture study found that in 1965 the Mexican ethnic group was 46 per cent of the total and the Anglo group was 44 per cent, while smaller percentages were Black, Filipino, Oriental, and American Indian. In contrast, the orientation of the UFW is dominantly Mexican, in both leadership and ethos. This contrast implies an impending paradox for the UFW. To retain and sustain the cohesion of its founding members, UFW leaders will be motivated to preserve the "La Causa" ethos. But on the other hand, to make its unionization service attractive to non-Mexican ethnics, the UFW may need to shift toward a more general appeal and a more traditional trade union approach. Either alternative inevitably poses the prospect of some degree of constraint upon the pace and extent of unionization.

*Primitive employment practices.* Another dimension of constraint upon unionization that is a correlate of the industrial structure of agriculture is the generally primitive state of employment management, labor relations, and personnel practices. Farmers historically have not been affirmative labor recruiters. For labor supply, they have been able to depend mainly on...

---

*The California Farm Labor Force: A Profile, report prepared for the Assembly Committee on Agriculture, April 1969, p. 23.*
external negative recruitment—foreign poverty, domestic unemployment—and on worker self-recruitment. When these sources seemed unlikely to be sufficient, they have been able to persuade the federal government to import temporary alien contract workers, as in World War II and subsequent years until 1965. Farm employers have been able to avoid both recruitment and employment management—especially in the fruit and vegetable harvests—by using labor contractors. Labor economists characterize the farm market as unstructured: employer-worker relations have seldom had much personal content or formality; job classifications and payroll slots have been more the exception than the rule.

Clearly, employment units do not now generally offer a satisfactory base upon which to build orderly collective bargaining. Loose ends need to be gathered up; orderliness and decasualization need somehow to be injected into the employment relationship. These ends could be accomplished either by tightening the relationship between employer and worker or by the union developing and maintaining job entry control and a tight relationship between itself and its members. The first approach would emphasize seniority of employment, re-employment rights, minimum employment guarantees, and fringe benefits—it would amount to a set of imposed relationships between employers and identified workers to be fulfilled under union surveillance. The second alternative would resemble the longshore model; it would center job control and members’ rights and benefits in the union; recruitment and allocation of work would be done by a hiring hall. Either of these alternatives involves a heavy drain on the union’s resources.

Hiring halls. It has been a tenet of pro-labor thought for many years that unionization of farm labor could displace the labor contractor and institute some sort of pooling or joint hiring arrangement to decasualize hiring practices. But results of none of the experiences to date support the general use of hiring halls in farming. For a hiring hall to succeed discipline is obviously required of employers; less obviously but more importantly, it requires complete discipline of union members. Conditions favorable to the success of a hiring hall do not generally prevail in farming, although it may be satisfactory in exceptional instances where the employment base is adequate and the mentality of shared interest among workers is present or can be developed.

Employer organization. But in the more general case, it would appear that the union’s only feasible approach to attaining structure and decasualization is by tightening relations between worker and employer, reserving for itself the tasks of surveillance. Under duress, farmers have demonstrated that they can adapt to a degree of organization and concerted action in their
hiring. Because the government required it, they did so during World War II and the subsequent Bracero programs. Many farms were not able to accommodate individually to the specified standards and employment guarantees for contracted workers, but they found they could meet the imposed conditions if they formed joint hiring associations.7

Under the California farm labor relations law, the union may not promote the development of multi-employer bargaining units, except as they involve individual certified election units. But following certification, the union might encourage farm employers to form associations with which it would then attempt to secure collective bargaining contracts. Members of these associations, as some currently operate, transfer to the association management the functions of recruiting, selecting, keeping records, supervising, and paying workers—as well as administering fringe benefit programs.8 Abroad such associations are known as Farm-Relief Cooperatives. In the Netherlands, where their development has been extensive, all employees of the cooperatives work under collective bargaining contracts. A contract with a cooperative enables the union to extend its contract terms to hundreds of farms very economically.

If the union were to perform some or all of the functions of the labor contractor or the farm labor cooperative, it would involve itself in a substantially heavier administrative commitment to structuring the seasonal farm labor market than that performed in traditional union approaches. However, in the seasonal farm labor market the peculiarities of the prevailing patterns of labor utilization would seem to make it possible for a union that succeeds in this type of effort to offer both seasonal farm worker and employer substantial economic benefits. Even if such an arrangement made available crews at substantially higher per unit labor costs but offered farm employers greater certainty of availability of competent crews, many farm employers would no doubt find such an outcome an economic improvement over the current situation.

Recruitment and crew coordination programs initiated with respect to seasonal work would not necessarily be restricted to supplying crews for seasonal tasks. It would be quite logical to extend the labor supply activities to include the whole hierarchy of skills that exist on the farm. If such organizations were extended to the more skilled work, it would be possible

---

7 There was considerable expectation that many of these associations would survive the termination of the contract alien program and be used for domestic workers, but few did. See Franz Dolp, Decasualization of Seasonal Farm Labor (Berkeley, Ca.: University of California, Ciannini Foundation Information Series No. 68-1, 1968). One that did has developed into a highly systematic employment organization. See Donald Rosedale and John Mamer, Labor Management for Seasonal Farm Workers (Berkeley, Ca.: University of California, Division of Agricultural Sciences, Leaflet 2985, 1976).
8 Rosedale and Mamer, op. cit.
to incorporate in this effort an apprenticeship program, which could give form and structure to the variety of skills that exist on farms and expand career opportunities.

Future possibilities. The development of a job structure poses complex problems and opportunities for a farm labor union. On one hand, there is the problem of developing a wage structure that takes appropriate account of the hierarchy of skills. On the other hand, the existence of a job structure provides the union with an opportunity to play a role in facilitating the upward mobility of seasonal farm workers.

The concept of a career in hired farm work is becoming increasingly recognized. Although the levels of skills and the categories of jobs need to be identified and defined in terms that facilitate more formal and uniform farm-to-farm acceptance, it is evident that a hierarchy of jobs based on knowledge, skills, experience, and proficiency is emerging. Surveys of the tasks performed on California farms indicate a rather broad basis exists for a well developed job structure.⁹

Conclusions

Our analysis brings us to the conclusion that constraining forces, in whatever number and combination, will be sufficient to bring the California farm labor unionization effort to a plateau far below total saturation. Small, remote, briefly seasonal employment units will be the least likely to be unionized. Larger but still seasonal units, having perhaps 20 to 50 workers at peak, would be stronger unionization possibilities, if not scattered and remote. Being in an area of compacted employment is likely to be the strongest factor in favor of unionization efforts.

The 1974 census data indicate that there are about 68,000 farms in California. Slightly more than 8,000 had payrolls of $20,000 or more; another 4,300 had payrolls of $10,000 to $20,000. If one were to assume unionization plateaus for these two categories at two-thirds and one-third respectively, the total would be under 7,000. Including a few smaller units, 7,000 farms would be a passably rough, but probably high, guess for the plateau of unionization. Such a plateau would include approximately one-tenth of California's farms and somewhat less than half the workers who have anything approaching a systematic attachment to farm employment. Even so modest a plateau will take many years to evolve.

These guesses do not include the elusive forms of employment that occur

⁹O. E. Thompson, Functions and Activities of Agricultural Jobs in California (Davis, Ca.: University of California, Department of Applied Behavioral Sciences, 1972).
through labor contractors, custom work, and machine hire. Unionization may have an impact on these magnitudes, both to increase and diminish them. On the one hand, the California farm labor relations law as it now stands denies recognition of a labor contractor as employer. This should have a diminishing effect on the amount of employment occurring through labor contractors. But on the other hand, the California law permits “…any harvesting association, hiring association, land management group, any association of persons or cooperatives engaged in agriculture…” to be recognized as an employer. It is often speculated that some of these group arrangements may come into greater prominence as means of sharing overhead costs of employment, especially if unionization presses stridently against open and casual hiring practices.

Even if unionization does not come to half of the individuals who regularly work at farm labor, this does not mean that radically disparate union vs. nonunion conditions will prevail. Movements toward the conditions established by union contract will proliferate, both as a matter of labor recruitment and as a thrust to thwart further unionization. Consequently, there will be substantial “umbrella” benefits for nonunionized workers, for which the burdens carried by the union will be less than fully recognized.