

**Rigged Elections: The Failure of Mexico's New Labor
Model to Protect Farmworker Rights****Elecciones amañadas: el fracaso del nuevo modelo laboral en la protección
de los derechos de los trabajadores agrícolas**James Daria¹

ABSTRACT

Due to recent labor reforms and the United States-Mexico-Canada Agreement (USMCA) negotiation, Mexico ratified freedom of association and collective bargaining rights. This new labor model promises the end of employer protection unions that thwart labor organizing and drive down wages. Through an ethnographic case study of farm labor organizing in the agro-export industry in San Quintín, Baja California, Mexico, this article argues that recent labor reforms are not sufficient to democratize labor relations in rural industries as they fail to overcome regional and transnational power structures. Although limited to one case, this article fills a gap in the literature on the impact of recent labor reforms on farmworkers. Mexico's salaried agricultural workers offer critical insights into the promises and failures of current efforts to reform labor laws and remediate the adverse effects of economic integration.

Keywords: 1. farmworkers, 2. labor reforms, 3. unions, 4. USMCA, 5. San Quintín.

RESUMEN

Debido a las recientes reformas laborales y a la negociación del T-MEC, México ratificó la libertad sindical y los derechos de negociación colectiva. Este nuevo modelo promete poner fin a los sindicatos de protección patronal que obstaculizan la organización laboral y reducen los salarios. A través de un estudio de caso etnográfico de la lucha de jornaleros en la industria agroexportadora en San Quintín, Baja California, México, se argumenta que estas reformas no son suficientes para democratizar las relaciones laborales en las industrias rurales, pues no superan las estructuras del poder regional y transnacional. Aunque limitado a un caso, este artículo llena un vacío en la literatura sobre el impacto de las reformas laborales recientes sobre los jornaleros. Los trabajadores agrícolas asalariados de México ofrecen información clave sobre las promesas y los fracasos de los esfuerzos para reformar las leyes laborales y remediar los efectos adversos de la integración económica.

Palabras clave: 1. jornaleros agrícolas, 2. reformas laborales, 3. sindicatos, 4. T-MEC, 5. San Quintín.

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INTRODUCTION

Economic integration across North America has resulted in an agricultural trade deficit for the United States as it now imports more fruits and vegetables than it exports. Almost a quarter of the U.S. farm imports (47 billion USD annually) and nearly ninety percent of fruits and vegetables originate from Mexico. In 2020 alone, the U.S. imported 14 billion USD of fresh fruits and vegetables from Mexico (Migration Dialogue, 2022). North America's horticultural industry is integrated similarly to the auto industry, where the U.S. distributors supply capital and technology to Mexican producers. Grocery retailers and food service firms are other key players that dominate fresh produce commodity chains (Escobar Latapí et al., 2019).

Two of Mexico's comparative advantages include low wages and an authoritarian labor system. Given the negative effects of economic integration on industrial workers in the U.S. and Canada, organized labor conditioned the ratification of the U.S.-Mexico-Canada Agreement (USMCA) on Mexico's reform of its legislation to protect workers' freedom of association and collective bargaining rights. In the crosshairs of said reform were the country's notorious employer protection unions that negotiated sweetheart agreements with businesses to deter the full implementation of the country's labor code. Although initiated under the administration of Enrique Peña Nieto of the Partido Revolucionario Institucional (PRI), the application of the USMCA's labor provisions largely fell to current president Andrés Manuel López Obrador, the leader of the Movimiento de Regeneración Nacional (MORENA) party. Under the "new labor model" advanced by President López Obrador, the labor reforms implemented by his administration offered the potential to democratize the workplace while furthering economic integration with its northern neighbors. With these reforms, the possibilities for rank-and-file democracy at the workplace seemed within reach.

This ethnographic case study demonstrates the failure of Mexico's new labor model to democratize a deeply entrenched authoritarian labor system in the rural agro-export enclave of San Quintín, Baja California. Here it is argued that regional, political and economic power configurations thwart reforms implemented at the federal level as they fail to eliminate protection unions. Even in the transnational circulation of commodities, production is local, and state actors can tip the balance in workplace struggles between labor and capital. By highlighting a failed organizing campaign of indigenous farmworkers (*jornaleros*) to overturn the abusive control of employer protection unions from the fields where they work under extreme precarity conditions, the weaknesses of the contract legitimization process essential to recent reforms, and the limited potential of organized farmworkers in such a context stand out. Farmworkers in Mexico are at the bottom of North American commodity chains, producing essential horticultural products under extremely denigrating conditions outside the regulations of Mexican labor law. While the USMCA prioritized specific industries (such as automotive and aerospace) to comply with the current trade agreement, other vital sectors of the Mexican economy (like the booming agro-export industry) were overlooked. As this research demonstrates, neither the new trade agreement nor the new labor model guarantees the rights of the men, women, and children in Mexico's rural industries.

This research results from long-term, sustained ethnographic research in San Quintín, including a year of fieldwork between 2016 and 2017. Subsequent research visits were conducted yearly (except in 2019 due to COVID-19). This research includes over 200 semi-structured interviews with workers, labor and Indigenous rights activists, union officials, and some agriculturalists. The information in this article was collected in the spring and summer of 2022 with roughly 20 workers from Rancho Nuevo. In this article, in-depth testimonies by a few workers of one commercial ranch are exposed to detail the failed contract legitimation process through farmworkers' voices. While these voices are exceptional for their critical insight, their experiences are commonplace and representative of other farmworkers at their job and industry. Thus, despite the importance of the narratives of specific anonymous individuals, systematic research proved their cases as accurate representations of other workers' experiences.

Given that all contract legitimations conducted by incumbent unions in San Quintín were successfully ratified despite instances of labor resistance, the case of Rancho Nuevo is a representative example of the process throughout this agro-export enclave. Despite the study's limitations, this is the first case study of the impact of the new labor reform on Mexico's booming agro-industrial economy and the only study to analyze its effects on farmworkers. While attention has been paid to a few examples of successful independent unions overturning protection contracts in the industrial sector of northern Mexico, there is a gap in the literature on the impact of recent labor reforms on rural workers. Further research will be necessary to know whether these conclusions are valid throughout Mexico's agro-export industry.

REFORMING MEXICO'S AUTHORITARIAN LABOR SYSTEM

In Mexico there are over 500 000 collective bargaining agreements; however, an overwhelming majority (80-90%) represent employer protection contracts arbitrarily signed between employers and employer protection unions behind the backs of workers (Nolan García et al., 2021). The primary function of protection contracts is suppressing labor costs by lowering salaries and avoiding the fulfillment of labor protections and social security benefits. Protection contracts prevent workers from bargaining collectively with their employer, as the protection unions don't represent workers seeking remediation of their grievances. Under these secretive agreements, the employer pays the union's salary to represent its interests. Workers pay no dues and receive little to no representation (Escobar Toledo, 2021; Bensusán, 2007).

Company protection contracts are a legacy of Mexico's post-revolutionary labor model that sought to promote development under an authoritarian path to modernization. State regulation of labor in the aftermath of the Mexican Revolution (1910-1917) favored a highly inflexible arrangement whereby the single-party state system exerted tight control over organized labor. Through Article 123 of the Mexican Constitution and the subsequent Federal Labor Law, the Mexican government sought a "labor peace" to mediate the conflicts between capital and labor. This effectively decreased Mexican labor's independence and bargaining power, undermining internal democracy and transparency (Bensusán, 2020). However, by the 1980s, Mexico's

authoritarian labor system underwent drastic changes with the country's shift to economic liberalization, ushering in an era of global economic integration, free trade agreements, and economic development dependent on export.

Without a concurrent process of substantial democratization, the country's labor model shifted from political control of unions by the state for the explicit interests of the ruling party to the weakening of regulations and the management of labor by business interests. At the same time as establishing the conditions for continued economic profits for businesses by lowering wages and conditions, trade union officials benefitted economically and politically through negotiations with business leaders. By setting employer protection contracts, the collusion of union officials and business interests detrimentally damaged the livelihood of the Mexican workforce. These protection contracts were facilitated by the labor's limited autonomy from the state, the absence of a regulated collective bargaining process, and a lack of internal democracy within unions that enable transparency and accountability (Bensusán, 2020). During this phase, employer protection unions expanded throughout Mexico's maquila export industry and, more recently, into the growing agro-export sector to prevent worker organizing (Velasco Ortiz et al., 2014).

Given further economic integration, however, Mexican authoritarian labor model suffered initial reforms beginning in the Enrique Peña Nieto administration as Mexico negotiated entry into the Trans-Pacific Partnership trade agreement. Facing pressure from the U.S. government and cross-border labor solidarity, Peña Nieto reformed Article 123 of the Mexican constitution to guarantee freedom of association and collective bargaining rights and strengthen union democracy. In 2018, Mexican Congress ratified International Labour Organization (ILO) Convention 98, protecting collective bargaining rights. These reforms were the first "nail in the coffin" for the country's old labor model of employer protection contracts (Bensusán & Middlebrook, 2020). In a run-up to the negotiation of NAFTA's successor, the U.S.-Mexico-Canada Agreement (USMCA), Mexico's northern neighbors pressured their southern partner to reform its authoritarian labor system. The United States and Canada argued that Mexico violated principles of free trade and market competition, given that the country's main competitive advantage is an antiquated system of labor control operated by company protection unions (Ocampo Merlo, 2022). With the election of current president Andrés Manuel López Obrador in 2018, a political opening occurred that, in the context of the negotiations of the USMCA, created the possibilities of significant change unseen in decades.

With the signing of the U.S.-Mexico-Canada Agreement (USMCA), new mechanisms to tackle worker rights violations were implemented to address Mexico's unfair advantages of labor repression and low wages. Chapter 31 of the USMCA forces the creation of a General Labor Panel to punish labor rights violations. The Rapid Response Labor Mechanism (RRLM) emanates from Chapter 23 of the USMCA and aims to resolve labor disputes that potentially violate the labor clauses of the new free trade agreement. Annex 31-A and 31-B establish the RRLM to sanction employers or several employers in the commodity chain for labor violations. However, the RRLM was set only for the "priority" sector and subsectors, including aerospace, automobile, plastic,

ceramic, cement, electronics, steel, and aluminum (Saldaña Pérez, 2021). Although industrial baked goods are included in the priority sector, agricultural products are not. This renders the violation of other workers' rights (farmworkers, for example) outside the scope of the RRLM.

In 2019, the López Obrador administration undertook reforms of the Federal Labor Law that promised to democratize labor relations further. Among other changes, the legal reform established a process in which all existing unions must legitimate their contracts by May 1, 2023 (recently extended to July 31, 2023) (Ocampo Merlo, 2022). The process of legitimation has two primary goals: first, that the workers are informed of the contents of the collective bargaining agreement that governs labor conditions at their workplace, and second, that most workers approve of the content of said agreement through a free, direct, and secret vote (Encinas Nájera, Ceballos Gaystardo et al., 2021). The legitimation of collective bargaining agreements is seen as the “key to the new labor model” proposed by current president AMLO as it aims to create a “new labor culture based on dialogue and legitimate collective negotiation” (Encinas Nájera, Martínez Mejía et al., 2021, p. 3). This process will supposedly guarantee that all workers under contract support their respective collective bargaining agreements by eliminating the simulation of collective negotiation imposed by employer protection contracts.

The case of GM-Silao shows the potential of the country's labor reform, the robust mechanisms in the USMCA to guarantee worker rights, and the role of cross-border union solidarity. In this case, the Miguel Trujillo López Union (SMTL) lost its hold on power at the General Motors (GM) plant in Silao, Guanajuato, when a worker movement contested the union legitimation process after destroyed ballots were found in the office of the incumbent union. The Rapid Response Mechanism was used for the first time to remediate the accusations of rights violations (Nolan García et al., 2021). The labor panel decided that FOA and CB rights violations occurred, and the legitimation vote was repeated with a negative outcome for the protection union. Shortly after that, GM Silao workers voted to be represented by the new independent SINTTIA union. This success is due to many important factors besides a changing legislative context. First, the workers at the plant were organized due to some previous labor disputes that led to the formation of an independent union. Also, this labor organizing extended transnationally through GM's commodity chain with significant backing from the American Federation of Labor–Congress of Industrial Organizations (AFL-CIO). As well, the fact that the automotive industry is one of the USMCA's priority sectors meant that the case was under the RRLM scope, and there was enough visibility and oversight by politicians, labor unions, and legal experts to guarantee transparency and adherence to the law (Ocampo Merlo, 2022).

Unfortunately, the rules and procedures of legitimation elections favor employer protection unions. The Maquila Solidarity Network argues three significant flaws with the CBA legitimation process. First, the legitimation process is entirely conducted by the existing association. Second, there is a lack of effective oversight by state and federal labor institutions. And finally, there is a lack of public access to results (Nolan García et al., 2021). MSN argues that the CBA legitimation process may ultimately function to eliminate contracts with non-existent (“ghost”) unions but is

unlikely to overturn the power of protection unions even when they operate without accurate representation of the rank and file. The main reason is that these illegitimate unions are tasked with legitimizing their existence through an election process in which they alone are solely responsible (Nolan García et al., 2021, p. 21).

Freedom of Association and Collective Bargaining Rights in Mexico's Agro-Export Industry: The Case of San Quintín, Baja California, Mexico

San Quintín, Baja California, is one of Mexico's foremost producers of fresh fruits and vegetables for national and international markets (Zloliniski, 2019). Since the 1980s, the region has grown due to neoliberal economic policies that spurred integration with North American and international markets as part of a worldwide neoliberal food regime (Pechlaner & Otero, 2010). As a global agricultural enclave, production in San Quintín is export-oriented. It employs technological innovation, high productivity, and an intensified use of labor that tends toward seasonal discontinuity, extreme flexibility, and increased responsiveness to market changes (Moraes et al., 2012). In San Quintín, this model is an expansion of the California model of agriculture into northwestern Mexico and is dominated by U.S.-based transnational corporations and their global commodity chains (Garrapa, 2019). Despite high capital investments and rapid technological modernization, agro-export enclaves rely on the ready availability of cheap labor in weak regulatory contexts. Agricultural workers in these zones suffer rampant exploitation and widespread precarity. This paradox can only be understood as a business strategy to lower labor costs and increase global market competitiveness (Moraes et al., 2012).

There are over ninety thousand inhabitants in San Quintín, most of whom are seasonal or settled farmworkers from the states of Oaxaca, Chiapas, and Guerrero and speak an Indigenous language (Zloliniski, 2019). An expanding labor market in agro-export industries creates incentives for rural-to-rural migration from southern to northern Mexico as neoliberal deregulation exacerbates the preexisting asymmetry between highly technological agro-exporting industries and the rural sector based on traditional technologies for subsistence (Rojas Rangel, 2009). Migrant settlement and community construction in the region have been widely studied, drawing direct ties between the economic production imposed on the valley and the ways of social reproduction among the farmworker community (Velasco Ortiz et al., 2014). Local production practices are organized around repressive forms of labor control (including employer protection unions) and the near inexistence of public infrastructure and social services (Velasco Ortiz et al., 2014; Zloliniski, 2019). Despite this exploitation, San Quintín's agricultural workers have been active agents of change over their labor conditions. The region's farmworkers went on strike in 2015, halting agrarian production. After months of negotiations, the federal government facilitated an agreement to raise wages and grant the federal registration of the National Independent Democratic Union of Agricultural Workers (Sindicato Independiente Nacional Democrático de Jornaleros Agrícolas, or SINDJA) union (Lóyzaga Mendoza, 2022).

In her analysis of the California strawberry industry, Wells (1996) analyzed the local organization of production to understand how regional power structures create the political

influences that determine workplace conflicts. Here distinctive classes, production relations, labor markets, and state policies facilitate or constrain worker organizing at the point of production to defend their class interests. Studies on labor movements in the border maquila zone also demonstrate that production is localized despite the internationalization of trade relations and labor standards. Thus, labor conditions and the political opportunities of independent union movements are subordinated to regional political configurations (Quintero Ramírez, 2006). As in rural agro-export zones, the alliance between protection unions, employers, and politicians in the maquila sector is the main structural impediment to labor democracy (Hathaway, 2002).

Although the U.S.-based distributors and retailers dominate transnational agricultural networks in Mexico's northwest, local growers and their associations control regional politics. The Unión Agrícola de Baja California is the largest grower association in the region, covering Maneadero and San Quintín. The Consejo Agrícola of San Quintín is relatively recent and comprises export-oriented local growers. While each group has its political persuasions and connections, the Partido Revolucionario Institucional (PRI) in the case of the former and the Partido de Acción Nacional (PAN) in the latter, most local growers belong to both associations and impose protection contracts to their workers (Zlolniski, 2010). The largest company-controlled union in San Quintín is the Sindicato Nacional de Trabajadores, Obreros de Industria y Asalariados del Campo (SINTOAIAC), of the Confederación de Trabajadores de México (CTM), associated with the corporatist structures of Mexico's long-ruling PRI, with monopoly rights over collective bargaining agreements with the Unión Agrícola. The second most powerful is the Sindicato de Obreros y Campesinos, Cargadores, Operadores de Maquinaria en General, Similares y Conexos del Valle de San Quintín of the Confederación Regional de Obreros Mexicanos (CROM), which holds contracts with Berrymex and others. The Reiter family owns Berrymex, and they also partially own Driscolls. Although less critical, the Sindicato Mexico-Moderno de Trabajadores de la Baja California of the Confederación Revolucionaria de Obreros y Campesinos (CROC) holds protective agreements with a few local growers with meaningful transnational connections, for example, Andrew & Williamson Fresh Produce's leading associate Milagro de Baja (Bensusán Areous & Jaloma Cruz, 2019; Zlolniski, 2010).

Despite globalization, the state has an overwhelming influence on the balance of forces between workers, growers, and protection unions. Zlolniski (2010) argues that the state's role in global agricultural production has not necessarily diminished. On the contrary, the state structures the particular political and economic dynamics in an agro-export regime such as San Quintín. The López Obrador administration has a mixed record concerning farmworkers. The administration ended the Agricultural Workers Assistance Program (PAJA) and increased monetary transfers without changing the structural conditions that generate rural poverty (Barrón, 2019). At the state level, the political transition has meant the continuity of class power for growers. Marina del Pilar Ávila Olmeda, the current governor of Baja California of MORENA, is a close ally of the Consejo Agrícola. Secretary of Labor Alejandro Arregui Ibarra is a political "chapulín" (grasshopper) as he jumped from the PRI to MORENA. Understaffed and underfunded, state and local labor departments fail to intervene in workplace struggles, eradicate systemic labor rights violations, or

monitor contract legitimization elections. Despite potentially transformative labor reforms at the federal level and the changing electoral landscape, the economic and political structures that shape class conflict between growers and workers in San Quintín remain remarkably unchanged.

The main reason for this is profitability. Agro-export products such as berries are extremely labor intensive, and labor is the most significant production cost, especially during the harvest and when paid by piece rate. To facilitate the stability of capital accumulation, control over labor is necessary to reduce labor costs (Wells, 1996). Protection unions ensure low wages, limited labor rights, and high profits, as grower control over labor is unchallenged. Mexico's new labor model promised to disrupt the unequal relationship between labor and capital by creating more significant space for worker organization through an authentic collective bargaining process. The Mexican state's failure to intervene on behalf of the legitimate demands of farmworkers for more workplace democracy signals support for the preservation of capital accumulation by the dominant economic class in the agro-export industry. In San Quintín, regional power structures thwart most possibilities of real reform.

This does not mean workplace struggle is nonexistent, as the general strike in 2015 demonstrates. An analysis of farmworker resistance highlights the excellent capacity for mobilization and opposition (Zlolniski, 2019). Given workplace organization and the isolation of agro-export enclaves in rural areas, however, farmworker demands are most often contained and relegated to the point of production. Farmworkers' power to demand higher wages and fulfillment of Mexican labor law is weakened, given the labor surplus due to migration from southern to northern Mexico. Employer protection unions in agro-export enclaves are arguably the primary mechanism to prevent the formation of independent labor unions among farmworkers. Their success in securing a "labor peace" in the valley is evident in the case of the Central Independiente de Obreros Agrícolas y Campesinos (CIOAC) that unsuccessfully sought to organize farmworkers in San Quintín for decades (Zlolniski, 2010). After the 2015 farmworker strike, the SINDJA union challenged the monopoly of control over collective bargaining agreements exercised by employer protection unions. However, it has not succeeded in establishing a collective bargaining agreement.

One essential means for urban industrial worker movements to defend their rights is cross-border solidarity with unions and civil society organizations (De la O & Zlolniski, 2020; Domínguez & Quintero Ramírez, 2008; Rubio Campos, 2017). The few cases in which the recent labor reforms have tilted power to workers through overturning protection unions developed in the context of cross-border labor solidarity utilizing the mechanisms of the USMCA's labor chapters. Indeed, research points to the possibilities of cross-border, rank-and-file, social movement unionism to strengthen workers' capacity to organize and defend their rights supposedly guaranteed under Mexican law (Daria, 2019; Zlolniski, 2010). This was demonstrated in the "Pacific Coast Farmworker Rebellion" of 2015, connecting Indigenous migrant farmworkers from Baja California, Mexico, to Washington, United States (Bacon, 2015). Instead of broader solidarity, however, mainstream farmworker organizations in the United States like the United Farm Workers (UFW) have joined forces with transnational grower-shipper companies like Driscoll's and Andrew &

Williamson Fresh Produce to promote private labor regulatory initiatives Fair Trade USA (FTUSA) and the Equitable Food Initiative (EFI). These certification schemes function as another company union-like structure designed to repress independent unionism and market their products as “fair” and “equitable”—a process elsewhere described as fairwashing and union busting—(Daria, 2022).

Table 1. Major Agricultural Distributors, Producers, Labels, Certificates, and Unions in San Quintín, Baja California, Mexico

Grower	Company Protection Union	Union Federation	Ethical Certification	Labels	Distributor	Retailer
Rancho Nuevo Produce	Sindicato Nacional de Trabajadores, Obreros de Industria y Asalariados del Campo, Similares y Conexos (SINTOAIAC)	Confederación de Trabadores de México (CTM)	Equitable Food Initiative (EFI); Fair Trade USA (FTUSA)	Good Farms; HEB	Andrew & Williamson Fresh Produce	COSTCO; Whole Foods; etc.
Rancho Agrícola Santa Mónica	Sindicato de Obreros y Campesinos, Cargadores, Operadores de Maquinaria en General, Similares y Conexos del Valle de San Quintín	Confederación Regional Obrera Mexicana (CROM)	Equitable Food Initiative (EFI); Fair Trade USA (FTUSA)	Good Farms; HEB	Andrew & Williamson Fresh Produce	COSTCO; Whole Foods; etc.
Milagro de Baja	Sindicato México-Moderno de Trabajadores de la Baja California	Confederación Revolucionaria de Obreros y Campesinos (CROC)	Equitable Food Initiative (EFI); Fair Trade USA (FTUSA) Expired	Good Farms	Andrew & Williamson Fresh Produce	COSTCO; Whole Foods, etc.
Berrymex	Sindicato de Obreros y Campesinos, Cargadores, Operadores de Maquinaria en General, Similares y Conexos del Valle de San Quintín	Confederación Regional Obrera Mexicana (CROM)	Fair Trade USA (FTUSA)	Driscoll's	Driscoll's	Kroger; Fred Meyer, etc.

Source: Author's compilation based on data collected through fieldwork.

Rigged Elections: Challenging Employer Protection Unions in San Quintín's Agro-Export Industry

Rancho Nuevo Produce is a local grower in Vicente Guerrero, San Quintín. Founded in 1997 by Sabino Becerra Rivera, originally from Michoacán, Rancho Nuevo Produce is a family-run business operating as an affiliate grower for Andrew & Williamson Fresh Produce of San Diego, California, United States. Originally growing chilies and tomatoes, the company now dedicates most of its 170 hectares to strawberries and raspberries, although it maintains a small production

of saladette and cherry tomatoes. Rancho Nuevo produces for the Good Farms and Limited Edition labels certified by the Equitable Food Initiative (EFI) and Fair Trade USA. In peak harvest time, Rancho Nuevo Produce employs roughly six hundred workers (Rojas, 2017). Unbeknownst to most workers, Rancho Nuevo Produce uses the SINTIOAC as its protection union.

Lucinda (a pseudonym) is a female farmworker who migrated from Oaxaca decades ago and has been employed at Rancho Nuevo Produce most of the time. Lucinda asked for little to be said about her, as she fears retaliation from her employer and blacklisting throughout the region due to denouncing abuses. Lucinda describes how at Rancho Nuevo, “no union defends us. There is a union that is the CTM, but we have always known it is on the boss’s side” (Lucinda, personal communication, May 3, 2022). Lucinda relates how, given the presence of the repressive union on the ranch and the ineffectiveness of the EFI program, the workers must risk their jobs to bring about justice by demanding a raise or getting off work at a decent hour, for example.

They [the company protection union representatives] never come to work. They never show up to defend our rights or ask how we are treated. They are never around. We have to talk with the boss ourselves, therefore [given worker efforts at organizing alone] sometimes they increase wages by two pesos, and sometimes they don’t. Like right now, they always take us out of the fields at five thirty or six, but before we spoke up, they always took us out when it got dark. They kept telling us: “While there is light, while there is sun, you have to work” (Lucinda, personal communication, May 3, 2022).

Here Lucinda highlights wage and hour violations, including forced overtime that the employer protection union leaves unchallenged.

Ñuu Saví farmworker (a pseudonym), is a Mixteco *jornalero* at Rancho Nuevo Produce who migrated from Oaxaca approximately ten years ago. Fearing retaliation, he also asked to be represented by the pseudonym Ñuu Saví as this is the name for the Mixteco people, literally meaning “the people of the rain.” Many of Rancho Nuevo’s fieldworkers are Indigenous migrants from southern Mexican states like Oaxaca, Guerrero, and Chiapas who have settled permanently or semi-permanently in San Quintín or are the children of those who settled in the valley. Ñuu Saví rejects the forced representation of the company protection union and argues that it is complicit in this repression. “Because the CTM union is unknown on the ranch. We’ve just seen them, who they are, but we don’t know their name,” he argued (Ñuu Saví, personal communication, May 2, 2022). This farmworker described the role of the SINTIOAC union of the CTM as follows.

Well, I think that the CTM, instead of being a union that protects the interests of the farmworkers, is more a union that protects the boss and not the farmworkers. If it belonged to the farmworkers, we ourselves would pay our union representatives. In this case, in our envelope, on our check stub, it doesn’t say we are paying the union. And I can say that the union belongs to the boss, not the workers, because the payroll doesn’t show us paying them. So, who pays the CTM union? It is the boss (Ñuu Saví, personal communication, May 2, 2022).

Discontent at Rancho Nuevo erupted into an outright revolt on Friday, April 8, 2022. Due to national labor law reforms, the company-imposed union was obligated to legitimize the collective bargaining agreement with the SINTIOAC of the CTM at Rancho Nuevo Produce through

consultation with the workers. The National Labor Department established legal precedents to regulate the union legitimization process (Protocol of 2019). Under these regulations, a union with a CBA that predates the new labor reform must notify the STPS that it will undergo the legitimization process. This legitimization process is undertaken through a majority approval of the current CBA through free elections with a secret ballot vote. If most workers disapprove, the contract is terminated, although the benefits remain in place until it is renegotiated. If two or more unions dispute the CBA by applying for the certificate after rejection, an election establishes the majority right to negotiate a new CBA. If the legitimization is never held, the contract is annulled invalid, and the CBA is eliminated from the federal registry (Nolan García et al., 2021).

To ensure transparency and legality, the legitimization process must be observed. In the legitimization process, the incumbent union submits documents and obtains the necessary forms, procedures, and official ballots for the election. The union can decide whether a public notary or labor authority, such as a federal labor inspector, verifies the election. While this process is free, the association may employ a public notary whose employer covers the cost. One of the main weaknesses of the labor reform and legitimization process is allowing union representatives (many of whom are employer protection unions) the freedom to choose between federal labor inspectors and public notary, a private individual paid for by the employer. The Maquila Solidarity Network questions whether the lack of government oversight and the employment of a public notary create a conflict of interest and whether any real oversight with sufficient legal knowledge is possible (Nolan García et al., 2021). Given the remoteness of many agro-export enclaves, the state is almost non-existent, and local and federal labor representatives are often overworked and underfunded if present. Farmworkers routinely accuse local and state labor departments of complicity with growers, company unions, and transnational corporations, as most labor violations go unpunished.

The employer is responsible for notifying employees of the date, time, and place of the legitimization at least 10 days before the elections. Employers must also provide a printed copy of the current CBA at least three days before. The incumbent union is responsible for guaranteeing that the polling place is accessible to most workers and free of coercion. While holding the vote at the workplace facilitates worker participation, it is also a possible violation of neutrality (Nolan García et al., 2021). According to regulations, all employees under a current CBA are eligible to vote—except for “trusted employees” (management, for example) and those hired after the notification date. To ensure that only qualified workers vote, the current union must create a list of employees covered under the contract. Workers must also present official identification to appear on the list to emit their vote during the election process. Regulations encourage this list to be signed by workers upon reception of necessary documents, and this, in turn, is supplied to the corresponding labor authorities to document strict adherence to the legitimization process.

However, a few days before the legitimization, the workers at Rancho Nuevo Produce found out about a list of eligible voters circulating at the workplace. Most workers were unaware of the legalities surrounding the legitimization process, nor were they aware that a union existed on the ranch. Nor did the employer or employer protection union notify workers of the vote. Workers

began to mobilize against the possibilities of an illegitimate legitimation process. At Rancho Nuevo, there is a small but strong base of SINDJA members, and they contacted SINDJA organizers and explained that, for a reason they did not understand, the SINTOAC convoked an election, and they were not on the list. The SINDJA union organized a clandestine meeting with their members at Rancho Nuevo Produce. It explained the legitimation process underway at the federal level and distributed pamphlets developed by the National Labor Department about the legalities of the legitimation process. They also hatched a plan. The days before the vote, the independent SINDJA union and worker members undertook an informational campaign surrounding the vote. Spreading word undercover in the fields and on social media platforms like Facebook, the union members informed workers and the general public about the legitimation process and the rights of the workers to vote their conscience.

Only certain workers appeared on the list on the day of the legitimation. Although there are over five hundred workers on the ranch, a selected group of roughly 200 workers were on the list even though regulations state all workers covered by the current CBA are authorized to vote, excluding temporary workers or those recently hired. However, many of the workers on the list were new, having only been on the job for a few months. Some workers with seniority, having worked for two, three, five, or even 20 years, were left off the list. The list produced outrage as workers saw it as an apparent attempt to “acarrear” the workers with the least experience and who know little about the problems that historically have existed on the ranch.² It was evident to the workers that the SINTOAC union put together a list of workers permitted to vote so the crony union could easily win the voting process. The workers at Rancho Nuevo were incensed. As Ñuu Saví farmworker related:

On April 8, there was an injustice at Rancho Nuevo because there was a vote for the approval of the collective bargaining agreement. But what happened? A couple of days before the vote, they put up lists of around two hundred workers to show up to vote on the ranch. Only the persons listed were to vote. They didn't call everyone. These people that went to vote, were only people that appeared on the list, they were people that don't know how to read, that don't know how to write, there were very few that did know how. And the rest of us were not included. I say we were not permitted because, having worked here for five years, they didn't include me (Ñuu Saví, personal communication, May 2, 2022).

Other workers described the same experience. Lucinda, for example, related the following:

Now they would make us vote, who knows what for, or in favor of them. And they didn't even explain anything! They just gave us a collective bargaining agreement that you can't even read because the letters are so small and fuzzy that you can't see them. But they didn't give everyone a copy, just a few people, a few people, and not to the rest (Lucinda, personal communication, May 3, 2022).

² The verb “acarrear” literally means to haul, carry, or transport; however, it has a long history of use in Mexican politics to describe illegal voting practices where a politician, political party, or union transports groups of people to the voting booth to pressure them to vote for a particular candidate.

Many workers were indifferent to the legitimation vote—their voices were never heard on the farm, so what did it matter if they participated?—. The long histories of injustice meant that workers were generally apathetic and disengaged as they struggled to get by. “Why should I go? Why should I vote? Nothing is going to change anyway,” was the general feeling many workers relayed in interviews. The SINDJA union and its members urged the workers to overcome their apathy and demand the right to vote their conscience.

Interestingly, workers from all levels of the farm labor hierarchy contacted the union—field workers, checkers, foremen, and bus drivers—. Usually, the interests of the supervisors and the fieldworkers are distinct as foremen push workers to their limits, and fieldworkers resent their often abusive treatment. This time, however, the feelings across the ranch changed from apathy and indifference to indignation, and divisions among the workers were temporarily overcome as they united in their rejection of the employer protection union. Foremen told their crewmembers to vote against the bogus SINTOAC union. Bus drivers told the workers they transported to do the same. The workers at Rancho Nuevo lost their fear.

During the legitimation vote, SINDJA organizers rallied outside the grounds of Rancho Nuevo Produce with bullhorns urging the workers to vote “no.” Inside, Lucinda described how the employer protection SINTOAC union pressured the workers to vote to legitimate the collective bargaining agreement they had never seen before.

When the bus arrived, we went to vote without any explanation and without knowing. Many people didn’t know how to read and didn’t know the alphabet. A lady said to them:

—I don’t know to sign [my name].

—Let’s say that here it says “no,” and here it says “yes,” a square says “yes,” and a square says “no.”

—I don’t know how I will vote —the lady said.

—No? —then they said— Here, aim here, vote here.

In other words, they [SINTOAC union delegates] told her to vote where it said ‘yes’ because she didn’t know how to read. So, they told her. It is [supposedly] the decision of the individual. But in other words, they [the employer protection union] voted themselves because they told her ‘here’ (Lucinda, personal communication, May 3, 2022).

According to those interviewed, the workers chosen by the employer to vote were the most trusted workers or workers close to the grower (*allegados al patrón*). They were on the list to create a positive outcome for the company-imposed union. Workers complained that they were given no information on what to vote for; instead, they were instructed to vote in favor. Nor did they need to present official documentation to vote. Some workers decried that it was a rigged election (*una elección amañada*).

The workers left off of the list protested. Workers rallied in the fields while organizers with the SINDJA union rallied outside the company’s property to protest the illegitimate legitimization process. Work crew after work crew, sometimes supported by their foreman and sometimes going against their foreman, demanded their right to vote. A few foremen took their workers out of the

fields to participate in the election process, and bus drivers drove workers to the election site even if workers did not appear on the official list. As it turned out, hundreds of workers voted in the legitimation process to defy the SINTOIAC and its list of manufactured voters. Overwhelmed, the SINTOIAC could only allow all the workers to vote. According to Ñuu Saví farmworker:

Thanks to the SINDJA union, all of us workers voted, although we didn't appear on the list. Some coworkers didn't vote, and a whole work crew in the strawberry fields didn't show up; they didn't vote. Why didn't they vote? Because we don't know the contents of the collective bargaining agreement (Ñuu Saví, personal communication, May. 2, 2022).

Although the manufactured list of voters was technically illegal as it was not representative of the total workforce under contract, neither was it legal to allow all the workers to vote if ineligible under the legitimation regulations. To make things worse, federal law stipulates that the legitimation process needs to be witnessed by a labor representative or at least a public notary. If a labor official or public notary was present, it was unbeknownst to the workers. Only the workers and the SINTOIAC union were there to witness if the election took place according to the law.

The voting finished around midday. The ranch was abuzz with excitement. SINDJA members received calls from workers and foremen declaring that most workers voted “no” and thus claimed the current CBA as illegitimate. The workers resoundingly voted against legitimizing the SINTOIAC union's employer protection contract with Rancho Nuevo Produce. Yet, there was a significant problem - no public counting of the votes! The SINTOIAC union closed up the voting booth and left with the ballots. Only SINTOIAC knows how many people voted or who won.³ The workers feel the result was a clear “no,” but there is no evidence to support their claim as there was no transparency. Despite the efforts to revoke the SINTOIAC's company protection contract, Ñuu Saví farmworker describes how the crony union undertook various illegal actions in legitimation.

I see it as something illegal because the labor secretary wasn't present during the consultation. Nor was there a public notary present. And even worse, it was a foul that the CTM union didn't count the votes in front of those that went to vote. They just said, “Vote yes or no,” “Do this; it doesn't cost you anything.” And that was what they did. And after the voting was over, we went back to our work crews (Ñuu Saví, personal communication, May 2, 2022).

According to Abelina Ramírez Ruiz, Secretary General of the SINDJA union, the legal requirements for the legitimation process were not met:

The law demands that it be a free, individual, direct, and secret vote, that the booths and urns must be installed, and that the Labor Department must be present. In the case of Rancho Nuevo, (...) this did not happen. The Labor Department was absent, and the workers allowed to vote were selected (Abelina Ramírez Ruiz, personal communication, May 5, 2022).

³ Various attempts were made to interview SINTOIAC leader Jesús Espinoza without success. On this occasion, various visits to his office to corroborate these accounts were made without reply.

The SINDJA union denounced the legitimation as fraud; they charged that the SINTOAIAC union stole the ballots. Lorenzo Rodríguez Jiménez, Secretary of Organization for SINDJA, argued the case:

We asked ourselves how many irregularities occurred because the workers who were not on the list couldn't vote. In other words, if you have an official list, you must stick to it (...) The obvious solution was to invalidate the whole process and convoke a new election to be genuinely transparent so that the necessary conditions exist. Hence, the workers vote to see whether the union wins. But there were numerous tricks (Lorenzo Rodríguez Jiménez, personal communication, May 9, 2022).

By regulations, workers have five days to denounce the legitimation process. The CBA is considered legitimated if federal labor authorities do not undertake any intervention or intermediation within 20 business days. The only way was to make an official complaint with the Centro de Conciliación y Arbitraje, the new labor board instituted by President López Obrador's reforms. To do so, however, the workers had to give their details to the federal government, which in turn could come to the grower's attention and possibly lead to reprisals and retaliation. According to Rodríguez Jiménez,

We tried to aid them in making a complaint. There was much public condemnation, but they asked for much data upon making an official complaint that you could do on the Centro page. They ask for your name; they require your CURP; they even ask for your employee number, if I am correct. They ask you for personal information, making the workers avoid complaining. They were afraid that these people would have all of their [the workers'] information and that they [the labor authorities] were colluding with the company or the union, which would bring retaliation upon them (Lorenzo Rodríguez Jiménez, personal communication, May 9, 2022).

The collective euphoria of victory quickly changed to fear once again. Given the lack of anonymity and the workers' belief that the government, the growers, and the crony unions collude to repress worker rights, why would they trust the process? Rodríguez Jiménez lamented, "We were unable to proceed with the legal complaint" (Lorenzo Rodríguez Jiménez, personal communication, May 9, 2022). Five days passed without a worker willing to denounce the process officially. Fear won once again.

Weeks passed without an official pronouncement of the election results. No results were published, no evidence was brought forth, and no action was taken by the grower, the EFI Leadership Team, the FTUSA Fair Trade Committee, or the federal government to validate the election or declare its illegitimacy. Everything went back to normal at Rancho Nuevo with the SINTOAIAC in charge. In other words, the SINTOAIAC won the vote through their illegal and illegitimate legitimation process. Ñuu Saví laughed cynically and related the following:

What was heard was disapproval. The disapproval was louder than the approval of the union. Because of such a high level of disapproval, in my perspective, the collective bargaining agreement was not approved in the consultation. So, this was a fraud. It was a fraud because the votes were not counted in front of the farmworkers. As I said, the Labor Department wasn't

there, the Conciliación wasn't there, and the public notary wasn't there. Because of this, what the CTM did was a fraud (Ñuu Saví, personal communication, May 2, 2022).

Corruption reigned at Rancho Nuevo Produce, and the employer-protection unions' power over the farmworkers in San Quintín remained untouched.

Instead of cross-border solidarity, there was only silence. Fair Trade USA and the Equitable Food Initiative standards claim to protect freedom of association and collective bargaining rights. Yet, neither program prevented the fraud or served as a mechanism to remediate the legal violations of farmworker rights. Ñuu Saví farmworker emphasized the commonalities between fair trade programs like EFI and FTUSA and company protection unions like the CTM. “[The growers] have two groups: they have the EFI committee [i.e., the Leadership Team], and they have the CTM committee. Both groups are supposedly there to protect the worker and make sure the law is fulfilled. Neither of them does so” (Ñuu Saví, personal communication, May 2, 2022). The U.S.-based farmworker organizations, backing these “ethical” certifications, fail to offer the solidarity needed to oust the CTM.

If neither private labor standards under “ethical” certification schemes nor the Labor Department could guarantee farmworkers' rights under Mexican law, Ñuu Saví says this could be an alternative to rectify the problems on the ranch:

The solution to all of the problems, in my perspective, is the union of all the farmworkers and say no to the CTM, to demand the company Rancho Nuevo, or whatever company here in the San Quintín valley, the freedom to elect the union that the farmworkers themselves choose. This would be a solution. And with what we saw that day, it is what my coworkers demand: that we, the workers, elect the union to which we want to belong (Ñuu Saví, personal communication, May 2, 2022).

Ñuu Saví knows that for this to happen, there has to be a fight, but the goal of a union is to benefit both the employer and the worker to create a just workplace where everyone can benefit. He described his version of “labor peace” as a just peace.

If a collective bargaining agreement with SINDJA is established, it would have to be in favor of both the company and the workers; it would be for both. It would not hurt the company, but also not harm the workers. It would be even to work in harmony so that the Federal Labor Law is respected above all because it is owed to us as workers. Why is it owed to us? Because without us farmworkers you would not have food on the table. Without farm labor, without farmworkers, the big cities would be left without food. This is what I believe (Ñuu Saví, personal communication, May 2, 2022).

CONCLUSION

Beginning in the 1980s, the Mexican political system underwent drastic changes as import substitution gave way to neoliberalism, and the country experienced its first steps toward political democratization. Despite these changes, the preexisting authoritarian labor system failed to democratize fully. Although state corporatism declined, employer protection unions arose in their place. With the adverse effects of economic liberalization and corporate control of labor, the wages and livelihoods of Mexican workers decreased significantly. As the U.S. and Canadian working classes suffered the offshoring of manufacturing jobs to their southern neighbor, organized labor in the north sought to remediate the most extreme adverse effects of economic integration by challenging one of Mexico's main economic "advantages"—cheap labor given the lack of effective freedom of association and collective bargaining rights.

After decades of stagnation, rapid labor reform ensued with the negotiation of the United States-Mexico-Canada Agreement (USMCA) and the election of Andrés Manuel López Obrador in 2018. The changes to Mexico's Federal Labor Law and the ratification of fundamental International Labor Organization conventions offered hope that the country's authoritarian labor system was reformed to allow full participation of working people in their labor conditions. The USMCA's Rapid Response Labor Mechanism and the collective bargaining legitimation process were vital to improving an entrenched and highly unequal labor system. May 1, 2023 was the official deadline to register for the legitimation process, and only a few examples of worker organizing exist to oust incumbent employer protection unions. No employer protection union has been overturned in the Mexican agro-export enclave of San Quintín, Baja California. The case of worker organizing at Rancho Nuevo Produce demonstrates the significant weaknesses of Mexico's new labor model. Through comparative analysis, ethnographic insight, and the workers' voices, it is possible to explain why the country's labor reforms are ineffective at improving labor relations in Mexico's agro-export industry.

First, as the Maquila Solidarity Network argued, Mexico's new labor model was not designed to completely eradicate employer protection unions or the power of central labor organizations. At best, the result of the contract legitimation process will eliminate "ghost unions" from the federal registry. At worst, workers cannot oust employer protection unions, given severe design flaws in the legislation. The empowerment of incumbent unions to legitimate their bargaining agreements with little to no federal labor oversight renders the recent labor reforms ineffective, short-sighted, and overly conservative (Nolan García et al., 2021).

For disadvantaged and precarious workers in Mexico's rural sector, the failures of the new labor model are even more flagrant. First, salaried labor in Mexico's countryside (even its economically dynamic agro-export industry) lacks essential labor and social security protections. Given the power of the regional agricultural class, local and state labor officials broadly look the other way or collude with growers when agricultural workers' rights are violated. Second, Mexico's rural workforce is mainly poor, migrant, Indigenous, and female, thus rendering them outside the bounds of full citizenship afforded to urban workers in the country's industrial centers. Poverty,

illiteracy, lack of education, and seasonal or temporary residence subject rural workers to extreme exploitation, given the lack of labor organizations capable of defending the class interests of rural workers. While these conditions are not new, they make recent labor reforms ineffective in the Mexican countryside.

Mexico's rural workforce remains unseen, unorganized, and unprotected regarding economic integration and cross-border alliances. Unlike the specific economic sectors defined by the USMCA, Mexico's agro-export sector exists outside the Rapid Response Labor Mechanism. One way to remediate this situation is to implement further reforms to the USMCA to include agricultural industries in the RRLM protections. This would allow the intermediation of officials from the U.S. and Canada in suspected abuses or violations in agricultural commodity chains. This is unlikely, however, given the lack of ties between organized agricultural labor in Mexico, the U.S., and Canada. Unlike the crucial relationships and cross-border organizing undertaken by the United Steelworkers and the AFL-CIO with labor movements in the Mexican manufacturing and mining sectors, the U.S.-based farmworker unions and organizations have opted to unite with transnational agricultural corporations and produce retailers to implement ineffective private labor standards (Daria, 2022). Mexican agricultural workers and organizations (like the SINDJA union) are isolated and alone. Without the organizing, advocacy, and policy support of farmworker organizations in the United States, the success of cross-border organizing seen in the GM Silao case will be impossible in Mexico's agro-export industries.

One of the challenges for independent farmworker unionism in Mexico is the globalization of the agricultural industry. While local growers are immersed in transnational networks, labor and indigenous rights organizations are primarily confined to local or regional arenas where their demands remain unheard by a broader, more global public. Zolniski (2010) argues that just as growers have organized into transnational associations, so, too, workers and independent union organizations need to forge collaborative links with their counterparts in the United States to leverage power to negotiate with local employers and their commercial partners. Labor unions representing farmworkers in California and elsewhere in the United States must create alliances with independent organizations south of the border to avoid losing ground as more American agribusiness relocates to Mexico, where organized labor has a weak presence. Only by establishing coalitions that connect workers and consumers of the fresh-produce industry on both sides of the border will labor unions that represent farm laborers in Mexico and the United States be able to overcome their current disadvantaged power position.

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