

Obreros Unidos in Wisconsin



**Existing legal machinery
in some States**

**enables farm workers
to overcome**

**cultural and economic
barriers to unionization**

MARK ERENBURG*

THE AMERICAN MIGRANT FARM WORKER has long been considered unorganizable. But unionization efforts have been increasingly successful during the past 2 years. With financial and technical assistance from organized labor, church groups, student organizations, and the public, the migrant farm worker groups, notably the year-old United Farm Workers Organizing Committee, AFL-CIO, are bringing economic pressure in the form of strikes and consumer boycotts to bear upon agricultural employers.

Leading from a general discussion about the plight of migrant farm workers, this article discusses one new organizing effort, the organization of migrant farm workers in Wisconsin. The success of the Wisconsin unionization drive is due to a set of special and fortuitous circumstances. The

migrant farm labor movement in Wisconsin is led by an energetic and dedicated young man; legal inequities provided a stimulus for action to workers breaking away from a traditional fear of collective effort; and the employer grossly underestimated the strength and direction of the organizing drive. But most significantly, legal machinery provided the means for overcoming the pervasive barriers to migrant worker organization.

Unbridgeable Disparities

The immediate need for migrant farm worker unionization would not be so apparent if the disparity between migrant farm labor conditions and those found in industry were not so significant and long standing. Federal and State legislation to date has not been effective in mitigating these disparities.

*Lecturer, Department of Economics, Indiana University.

At the Federal level the termination of the foreign worker (*bracero*) program at the end of 1964 and the extension of minimum wage coverage to some agricultural workers in 1966 resulted in immediate increases, both in the number of jobs open to American migrant farm workers and in wages. The increase in the number of jobs was short lived, however. In 1964, there were about 386,000 migrant farm workers. This figure jumped dramatically to 466,000 in 1965, the first year when the full effects of the termination of the *bracero* program were noticeable. But in 1966, there were only 351,000 migrants, reflecting, in part, an employer rush to modernize operations and cut costs with the introduction of automatic and laborsaving devices and a switch to less labor-intensive crops. Therefore, while the termination of the *bracero* program and the adoption of the minimum wage resulted in immediate benefits to the migrant, the longer run trend will be to depress the overall demand for farm labor.¹ Nor is a narrowing of the income differential gap to be expected in the immediate future. In 1965, manufacturing employees had an average annual income of over \$5,000;² migrant farm workers followed far behind with only \$802.³ This differential has remained relatively stable since the end of World War II.⁴

The 1966 amendments to the Fair Labor Standards Act will do little to reduce the difference between migrant farm worker and industrial worker conditions. Because of stringent qualification criteria, the 1966 amendments bring minimum wage coverage to about only a third of the farm labor force, including migrant farm workers.⁵ If the Wisconsin experience is indicative, the ability of the Federal minimum wage law to raise the relative earnings of migrant farm workers is further dissipated by enforcement problems and the large proportion of covered workers receiving more than the prevailing and projected minimums but less than the average industrial wage.⁶

Protection under the Social Security Act is provided for migrant farm workers if they meet a minimum earnings requirement of \$150 a calendar year from an employer for piece-rate work or if they work 20 days for an employer on a time basis.⁷ Because of the nature of migratory farm work, the low wages received, difficulties in determining employer-employee relationships, and the corrup-

tion associated with deduction of social security taxes by some employers and crew leaders, many migrant farm workers are denied even a minimum level of social protection which industrial workers take for granted.⁸

Programs have been devised to raise migrant farm labor conditions. One such program, the Department of Labor Annual Worker Plan (AWP), is designed to eliminate inefficiency in migrant farm labor employment by decreasing the time lost by migratory workers in looking for work through work scheduling procedures. At the same time AWP helps to assure farm employers of a dependable supply of labor.⁹ Experimental advanced job scheduling programs designed to

¹ Agricultural productivity is increasing at 5.5 percent per year. Agricultural labor requirements have dropped 54 percent in the period 1947 to 1965. Between 1960 and 1980, farm man-hour inputs are projected to decline 48 percent. See "Today's Farm Jobs and Farm Workers," *Monthly Labor Review*, April 1967, p. 1, and G. S. Tolley and B. M. Farmer, "Labor Force Adjustments to Changing Technology," in C. E. Bishop, ed., *Farm Labor in the United States* (New York, Columbia University Press, 1967), p. 41.

² Manufacturing employees averaged \$107.53 per week for approximately 50 weeks in 1965. *Monthly Labor Review*, March 1968 "Current Labor Statistics," table C-1.

³ Public Law No. 78 (82d Cong. 1st sess., July 12, 1951) and 29 U.S.C. sec. 206(a)(6) (1966 supp.). Also see *Year of Transition: Seasonal Farm Labor, 1965: A Report of the Secretary of Labor* (U.S. Department of Labor, 1966), pp. 18-19. The agricultural unemployment rate decreased from 6.5 percent to 4.8 percent between August 1964 and August 1965. Annual earnings of migrant farm workers increased from \$782 to \$802, 1964 to 1965. See *The Hired Farm Working Force of 1964* (U.S. Department of Agriculture, 1965), *Agricultural Economic Report 82* and *The Hired Farm Working Force of 1965* (U.S. Department of Agriculture, 1966), *Agricultural Economic Report 98*.

⁴ *Manpower Report of the President*, (U.S. Department of Labor, 1966), p. 124.

⁵ *Minimum Wage Hearings*, (U.S. House of Representatives, Committee on Rules, 89th Cong., 2d sess., 1966), p. 29.

⁶ See "The Agricultural Minimum Wage: A Preliminary Look," *Monthly Labor Review*, September 1967, pp. 26-29, for a discussion and evaluation of the 1966 amendments to the Fair Labor Standards Act.

⁷ 42 U.S.C. sec. 409(h)(2) (1964 ed.).

⁸ A 1962 Social Security Administration survey found gross discrepancies between earnings reported by migrant workers and social security credit received by these workers. A 1964 study of migrant workers in Wisconsin found 81 percent of workers interviewed had no social security contribution withheld and matched by employers in a cucumber harvest operation. Workers were divided on the question of who their employer was. In addition, 69 percent of another group of workers earned less than the minimum \$150 in the cucumber harvest and received no social security credit. *Migrant Farm Workers Under the Federal OASDI Program* (U.S. Social Security Administration, 1962), and Elizabeth Brandeis Raushenbush, *A Study of Migratory Workers in Cucumber Harvesting, Waushara County, Wis., 1964* (Madison, University of Wisconsin, 1966), p. 27.

⁹ "The Agricultural Minimum Wage: A Preliminary Look" op. cit., p. 27.

extend the duration of seasonal employment are also under study.¹⁰ The effect of these policies has not been measured, but they apparently have not significantly changed employment conditions.¹¹

Only six States and Puerto Rico provide minimum wage protection for migrant farm workers.¹² Few States offer workmen's compensation insurance for agricultural workers.¹³ Only those States which extend public assistance to nonresidents provide minimum welfare standards for migrant workers during the course of their interstate migration.

As migrant farm workers move interstate to harvest crops and engage in other forms of seasonal farm employment, they must live in housing provided by employers or in some instances by the States in which they work. Until only recently, this housing was subject only to State housing and sanitation regulations, if any. Because of the relatively short duration of employment and the relatively large investment for building and maintaining the dwellings, these standards were almost always set at minimum State health and sanitation requirements. As of July 1, 1967, more stringent Federal housing standards were adopted, but their effects on migrant housing conditions will not be felt immediately.¹⁴ It does not matter which standards are applied to migrant housing, because there will still be a significant difference between the living conditions of migrant farm workers and permanent farm workers.

The migrant farm worker faces still another problem which degrades both his current and fu-

ture situation. The migrant farm worker's employment yields detrimental second-generation effects. Many migrants bring children to work in the fields to supplement their meager earnings, interrupting and often eliminating basic education. In 1967, the median years of school completed for migrants was 7.9 years compared with 12.2 for the labor force as a whole.¹⁵ Local school systems are not set up to minister to children who have no facility with the English language or who are in the area for only a short time. As long as migrant farm workers use child labor to increase their family incomes, the future level of migrant education will remain low and the possibility for upward social and occupational mobility will remain small.

Current legislative attempts to improve the migrant's living and working conditions are few and their overall effect is questionable. While some gains have been made in the conditions of migrant farm workers, there is still a significant gap between these conditions and conditions of work in other segments of the economy. Unionization and collective bargaining offer an avenue for improvement of migrant labor conditions less subject to conflict, delay, and inefficiency experienced in the political process.

Problems of Organization

Farm workers do not have the legally protected right granted to most industrial workers under the National Labor Relations Act (NLRA) to join labor organizations and to bargain collectively with their employers.¹⁶ The right to organize, the principle of majority rule for selection of employee bargaining representatives, and the prohibition of unfair labor practices, which were necessary for the development of industrial unions during the past 30 years, are denied farm workers. Although varying degrees of protection are offered to migrant workers by State statutes, the vast majority of them receive no legal support for union activity.

Aside from the exclusion of farm workers from NLRA coverage, the very nature of migratory work acts as a deterrent to unionization. Workers travel long distances during the harvest season, making a number of brief stops. Migrant farm workers travel from lower California to the Pacific Northwest, from Texas to the Rocky Mountain and

¹⁰ For a description of advanced scheduling programs, see *Seasonal Labor in California Agriculture* (Berkeley, University of California, 1963), pp. 26-27. Also see *Farm Labor Developments* (U.S. Department of Labor, Bureau of Employment Security, April 1967), pp. 22-24 for current evaluation of the Annual Worker Plan.

¹¹ The Annual Worker Plan has been used since 1954, but the gap in labor standards between farm and industrial employment has remained stable during the period. References cited in footnotes 4 and 10.

¹² These States are Hawaii, New Jersey, Michigan, Wisconsin, New Mexico, and Massachusetts.

¹³ There are 17 such States plus Puerto Rico.

¹⁴ Minimum regulations were developed by the President's Committee on Migratory Labor and were first issued in 1956. 20 C.F.R. 602.9(d) (1958 supp.). The development of enforcement procedures and the availability of compliance waivers will postpone immediate impact of the regulations.

¹⁵ James D. Cowhig, *Education and Earnings of the Hired Farm Working Force of 1960* (U.S. Department of Agriculture, 1962), Agricultural Information Bulletin 262 and "Educational Attainment of Workers, March 1966," *Monthly Labor Review*, June 1967, p. 46.

¹⁶ 29 U.S.C. sec. 141 (1964 ed.).

North Central States, and from Florida to New England. Along any one of these migrant streams they average about 80 days of farm work a year.¹⁷ There are few concentrations of workers extending over a time period long enough for union representatives to effectively carry out an organizing campaign. Benefits of unionization are hard to conceive for workers continually moving to geographically separated and unrelated employments. To organize scattered groups of mobile workers is an extremely expensive task, and low pay makes formation of self-supporting unions highly improbable.

A high degree of mobility and short job tenure destroy the community of interest which draws workers toward unionization. The heterogeneous composition of migrant farm labor also prevents common interests from emerging. Migrant farm workers come from diversified cultural backgrounds. Americans of Mexican ancestry, for example, have different culture traits, values, and goals than do those of Filipino, Indian, Chinese, Japanese, Negro, southern white, or Puerto Rican ancestry, or British West Indian or Canadian migrant farm workers.

Not only must differing cultural values be reconciled, but in some cases a cultural block toward unionization must be overcome. While true to some extent for all subgroups of migrant farm workers, the strongest block to unionization is found among Mexican Americans—the predominant group among Western and Middle Western migrant workers. Mexican Americans share common culture traits—heritage, language, and religion—summarized in the term *La Raza*, the Mexican people or race. Many workers migrate from rural areas where this cultural heritage has not been dissipated by assimilation of dominant culture traits. *La Raza* still prevails, eschewing competitive behavior and promoting a fear and distrust of organizations and nonfamily alliances

such as unions. Organized labor must overcome similar cultural blocks of other subgroups of migrants to be successful.¹⁸

The Wisconsin Experience

The successful organization of 650 migrant farm workers in Wisconsin, despite strong barriers to unionization, during the summer of 1967 offers an opportunity to explore organizational techniques and to comment upon the likelihood of future successes.

Migrant farm workers have been traveling to Wisconsin to participate in vegetable harvesting and processing activities since the manpower shortage created by World War II significantly reduced the number of State residents who participated in these operations.¹⁹ During the 1960's, Wisconsin employed an average of 10,000 migrant farm workers annually, over 90 percent of whom are Mexican Americans who have their home base in southern Texas.²⁰ They are employed in the harvest and processing of many crops including peas, corn, beans, potatoes, cherries, and cucumbers. About 50 percent of the workers participate in the cucumber harvest, 20 percent in the cherry harvest, and the remainder work in canneries, other vegetable harvesting, and sundry agricultural jobs.²¹ Their stay in Wisconsin varies from less than 4 weeks for the cherry harvest to over 3 months for cannery and small vegetable harvesting jobs. The cucumber harvest lasts approximately 6 weeks.²²

Effective union activity among Wisconsin's migrant farm workers began during the late summer of 1966 in the central, cucumber-growing region of the State. Jesus Salas, a 22-year-old former migrant worker, organized a peaceful 80-mile march of cucumber pickers to the State capital at Madison. The purpose of the march was "... to dramatize the plight of migrant workers to the people of the State and to call upon the social conscience of progressive Wisconsin and upon its Governor to meet [the workers'] just demands."²³

State Remedies. Mr. Salas' demands included migrant representation on the Governor's Committee on Migratory Labor, and provision of public sanitary facilities for migrant workers and their families. He also asked the Governor for better enforcement of the State Minimum Wage Law (applicable to women and children agricultural employees), the State Migrant Housing Code, and

¹⁷ U.S. Department of Agriculture, Agricultural Economic Report 98, op. cit.

¹⁸ As an example see, E. L. Koos, *They Follow the Sun* (Jacksonville, Florida State Board of Health, 1957), Monograph 1, for a description of Negro migrant workers' culture traits.

¹⁹ Elizabeth Brandeis Raushenbush, *The Migrant Labor Problem in Wisconsin* (Madison, Governor's Commission on Human Rights, 1962), p. 11.

²⁰ *Migratory Workers in Wisconsin: Fact Sheet* (Madison, Wisconsin State Employment Service, relevant years).

²¹ Ibid.

²² Elizabeth Brandeis Raushenbush, *A Study of Migratory Workers in Cucumber Harvesting*, op. cit., appendix A.

²³ Speech at Wautoma, Wis., August 14, 1966.

the State Workmen's Compensation Insurance Law (applicable to most agricultural employees).²⁴ In the course of the following year, two migrant representatives were appointed to the Governor's Committee and public sanitary facilities were constructed in central Wisconsin. A study of migrant wages in the cucumber industry was undertaken,²⁵ and administrative difficulties in enforcing the minimum wage law were reviewed. Enforcement of the migrant housing code was improved and a proposal for extra funds to continue this improvement was made. Discussions with the State Workmen's Compensation Insurance Office were begun, but little improvement in enforcement was made.²⁶

In October 1966, Mr. Salas attempted to organize 100 migrant workers employed in a potato processing operation. An independent union, *Obreros Unidos* (United Workers), was formed, and a demand for recognition was made. The company ignored the request and an 8-day strike ensued with 80 percent of the workers leaving their jobs. Contributions from the national AFL-CIO, the State AFL-CIO, individual unions, and from the public provided some strike benefits. The strike ended when the cost of supporting the workers and more than 500 of their dependents with a relatively meager strike fund became unbearable.

Although the employer suffered substantial losses, he refused to recognize the union. He hired a few local workers and was able to continue some processing during the strike, but many potatoes rotted in his warehouse. Most workers refused to return to their jobs even after they had voted to end the strike. Some sought full-time employment in Milwaukee. The rest returned to Texas.

²⁴ Minimum Wage: Wis. Stats. sec. 104 (1965); Housing Code: Wis. Admin. Code, Ch. H76; Workmen's Compensation Insurance: Wis. Stats. sec. 102 (1965). This statute covers all agricultural employers employing 6 workers or more for 20 days or more.

²⁵ Limited spot checking of migrant earnings was conducted during late summer 1966 by the Labor Standards Division of the Wisconsin Industrial Commission. No results were published. The same agency with a new name conducted a more comprehensive survey during 1967. See *Cucumber Survey 1967: Hours and Earnings of Migrant Cucumber Pickers* (Madison, Wisconsin Department of Industry, Labor and Human Relations, 1967).

²⁶ Currently, the State is considering proposals for adjusting the minimum wage law to improve enforcement, planning enforcement of the new Federal Housing Regulations, and pursuing past policies with respect to Workmen's Compensation Insurance. (See footnote 14.)

²⁷ *Obreros Unidos v. James Burns & Sons Farms, Inc.*, WERC Case I, No. 11,141, Decision No. 7842.

Working through the Wisconsin Employment Relations Commission (WERC), the State labor board, *Obreros Unidos* was able to obtain financial and personal satisfaction for its remaining migrant workers following the strike. The union filed charges against the potato processor and the case went to hearing. The processor was found guilty of certain unfair labor practices, was given a cease-and-desist order, and was required to provide back pay for discriminatorily laying off union members in anticipation of the strike.²⁷

During the remainder of 1966 and through the summer of 1967, Mr. Salas worked toward organizing the migrant field workers employed to harvest cucumbers in central Wisconsin. His efforts included several trips to Texas during the winter to talk with workers and their families. He spoke at union meetings, local labor councils, and actively participated in civic, union, and university sponsored forums. He met regularly with State officials to present worker problems and to suggest new methods for improving and enforcing Wisconsin's labor legislation.

Winning A Victory. Having amassed statewide public and labor support, *Obreros Unidos* began an active organizational campaign in June 1967 as cucumber workers arrived in the State. A small union staff published a weekly, bilingual newspaper, continually called violations of migrants' legal rights to the attention of the appropriate State and local authorities, and arranged for volunteer legal aid for migrant workers. Mr. Salas and his staff met daily with workers to explain the goals of the organization and to solicit union membership. No dues were assessed.

The union's efforts were directed toward field employees of Libby, McNeill & Libby, Inc., a vertically integrated vegetable processor that contracts cucumber acreage from individual farmers in central Wisconsin and has processing operations in Chicago. Because of the distance between the fields and the processing plant, Libby's unionized production workers had no influence on the migrant workers' efforts at organizing. However, because local harvesting management failed to properly assess the union's strength, they did not apprise the Chicago regional office of the union's activities. The company took no steps to make the union seem less attractive to its migrant employees.

After signing a majority of Libby field workers, the union asked for recognition on August 18, 1967. The company refused to acknowledge the majority status of *Obreros Unidos*, and on August 23, 80 percent of all Libby field workers walked out of the fields in a half-day demonstration of union strength.

At the same time, the union filed a representation petition with WERC. Under a special section of the Wisconsin statutes designed to avoid emergency labor situations, WERC ordered an immediate hearing which resulted in the definition of an appropriate bargaining unit.²⁸ An election was ordered for August 31, 1967. Although many had already left the State for other jobs and for Texas by then, two-thirds of the original 650 workers voted. The outcome was decisive: 405 voted for the union, 8 voted against. WERC immediately certified *Obreros Unidos* as the exclusive bargaining representative for the company's fieldworkers and Libby, McNeill & Libby, Inc., recognized *Obreros Unidos*. Contract negotiations are still in progress.

The Size of the Job

The success of *Obreros Unidos* is exceptional in the field of migrant farm labor unionization. At first glance, the barriers to unionization of migrant workers in the diverse midcontinent migrant stream appear to be particularly strong. Cucumber workers are employed for only 6 weeks, severely limiting an effective organizing drive. Generally they migrate from rural Texas where life is similar to that of Mexico and the concept of *La Raza* actively opposes union affiliation. Earnings are so meager that it is difficult to provide money to support a union.²⁹ Organizational support is minimal because funds are heavily committed by organized labor to the California effort.³⁰ Aid from the State labor movement is necessarily small and its timing is sporadic.

Wisconsin has one of the most stringent migrant housing codes in the country, a workmen's compensation insurance law and a State minimum wage law applicable to agricultural employees, a Governor's Committee on Migratory Labor, and a public welfare system which provides 30 days' general relief to needy nonresidents.³¹ These measures would seem to belie the need for a union.

Lack of enforcement of this legislation, however, gave *Obreros Unidos* a foothold in the organizing of migrant farm workers and brought statewide support. In 1966, Mr. Salas demanded the treatment to which migrant workers were entitled by law. To this demand the public listened. Migrant workers in central Wisconsin listened too. Through the union newspaper and in discussion, Mr. Salas and his staff aroused the workers to the point of action by explaining the laws, emphasizing the social and economic benefits which could be gained under them, and by providing a channel—a social service organization—through which migrant workers could obtain the benefits legally due them. The union and organized union activity came to be known as the means to this end.

Since Wisconsin migrant farm workers are predominantly Mexican American, union organizing activity could be directed specifically to this one cultural group. In addition, culture traits which once isolated Mexican Americans from Anglo society and which dictated avoidance of group action are disappearing. The first signs are evident in Texas politics. Mexican Americans living in such rural areas as Crystal City, where the 10-percent Anglo population has always controlled the government, have assumed political control. At State and national levels, Mexican-American names are becoming familiar. The Mexican Americans of Texas are learning what group action can accomplish.

A large number of Wisconsin migrant workers live in Crystal City and similar Texas communities. These people formed the core of *Obreros Unidos*. They could appreciate the course of action unionization offered and could sway the thinking of others. Because Mr. Salas visited these workers in their homes, appreciation of the merits of union activity had more than a 6-week harvest season to mature and spread. Prior to the Wisconsin

²⁸ Emergency provision at Wis. Stats. sec. 11.05(4) (1965). Decision at Wisconsin Employment Relations Commission, Case X, No. 11,644, E-2486, Decision No. 8163, August 29, 1967.

²⁹ A 1964 report indicated that cucumber workers in Wisconsin averaged \$3.96 per day or \$116.40 per season. Elizabeth Brandeis Raushenbush, *A Study of Migratory Workers in Cucumber Harvesting*, op. cit., p. 1.

³⁰ "La Huelga! Delano and After," this issue, pp. 13-16.

³¹ Wis. Stats. sec. 49.01(7) (1965). Although the State minimum wage law applies only to women and minors, until 1966 the law was tenuously extended to men in agriculture through the State's Fair Employment Practices Law prohibiting discrimination on the basis of sex. Wis. Stats. sec. 111.32 (1965).

in harvest, the prospect of union action was presented to people who were already freeing themselves from the restriction of their culture, learning from politics and from previous association with Mr. Salas. They were still bound together by the concept of *La Raza*, but had overcome the fear of group activity.

The key to the success of *Obreros Unidos* did not lie solely with the mobilization of migrant worker unrest, with cultural change, or with company inaction. The existence of the union depended upon the Wisconsin Employment Peace Act and its enforcing agency, WERC.³² In 1939, the Wisconsin legislature passed the Peace Act which combined the labor relations protections of the Wagner Act (1935) and the amendments which were to follow in the Taft-Hartley Act (1947).

Most important, the Peace Act did not exclude agricultural employees.

The prompt action of WERC provided the peaceful means for establishing recognition for *Obreros Unidos* and the company's obligation to bargain collectively in good faith. Without the Commission and the Peace Act, a strike, costly to the company and to the workers, might have been the only avenue available through which the union could have realized its demands, and with no guarantee that the final outcome would have been favorable. Labor relations machinery was the real basis for the union success with a minimum of hard feelings and expense.

Based on observation of the Wisconsin experience, the protections offered by a comprehensive labor relations law can promote the effective, widespread unionization of migrant farm workers to raise wages and improve employment conditions in the immediate short run.

³² Wis. Stats. sec. 111 (1965).

What the employer of migratory farm labor hires is usually not a man to fill a job, but rather labor service. The employment relationship is highly impersonal. Often the employer maintains no payroll and he does not know the names of his employees nor how many on any given day are working for him. When the work is ready, such matters as experience, prior employment, or residence in the area count for little or nothing. Hiring is on a day-to-day basis. Labor turnover in a harvest crew may be 100 percent within a week or less. . . . The insecurity and obscurity of the employment relationship are aggravated when labor contractors are used.

—President's Commission on Migratory Labor, 1951.