

## **A Marxist Analysis of Migrant Workers in the Central Valley**

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The labor law does not protect migrant workers in the way that it protects other sectors of workers. Farm workers do not have access to: health insurance, pension plans, unemployment insurance or workers' compensation (Benton Rhoades *et al* 2000). Small family farms are not required to pay a minimum wage to laborers they employ (Benton Rhoades, *et al*, 2000). Larger farms are supposed to pay laborers at least a minimum wage and adhere to basic health and safety standards. Corporate run farms and major land owners do not always adhere to health and safety standards and often times rely on labor contractors and give them the job of overseeing the workers in the fields. The labor contractors, in turn sometimes abuse the power given to them and violate the rights of the farm laborers – like not paying the workers for all the hours they worked, or forcing them to pay for transportation to and from work, sometimes prohibiting them from bringing their own lunch and then forcing them to buy lunches provided by the labor contractor. There are constant violations to farm laborer's rights, in the Central Valley: they sometimes do not have access to bathrooms, they are sometimes not given a lunch break, they sometimes do not have access to fresh water or individual cups to drink out of, they are sometimes sprayed with pesticides while working in the fields. At times a question arises as to whether corporate farmers and major landowners see their laborers as equal in the eyes of the law. The labor violations found in the fields by field inspectors and the complaints filed with the California State Occupational Safety and Health Administration are a significant indicator that the rights of farm laborers are not always respected.

Ideally, farm laborers should be aware that there are governing boards and institutions that handle working

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violations, but realistically a lot are not aware that such institutions exist. The farm laborers do not play the same role that the general population does in the economy; they remain a disenfranchised segment of the population, unaware of their rights. Even when horrible things happen to them on the job, they remain silent or do not know how to get in contact with public service institutions that can help them, if they are even aware that such institutions exist. When laborers are approached by public service organizations, they sometimes are afraid to speak up because they are not used to dealing with legal institutions and are afraid of losing their jobs. The farm laborers are on the lowest end of the labor hierarchy and as a disenfranchised segment of the population, do not always speak up against the abuses committed against them. Then there are those that come to this country illegally and work in farm labor who are a more vulnerable and exploitable work force and are even more reluctant to speak up against labor violations.

Now that I have introduced some of the problems facing immigrant farm laborers in the Central Valley, I will analyze how it ties into my observations while interning at California Rural Legal Assistance from a legal perspective. I will analyze some of the problems faced by a public service institution, like California Rural Legal Assistance, from Deborah L. Rhodes perspective. I will then analyze how Karl Marx's economic theory applies to immigrant labor conditions by applying the theory to a case that California Rural Legal Assistance is currently litigating. The main focus will be how the distinction between rich and the poor leads to an exploitable work force.

Observing the law in action was exciting while interning at California Rural Legal Assistance especially because it deals with public interest and is part of the 1% that represents indigent people. Working in a non-profit setting was interesting because the people represented by California Rural Legal Assistance (hereafter: CRLA) were indigent farm laborers. I observed many of the problems that Deborah L. Rhodes mentions in her book *In the Interest of Justice: Reforming the Legal Profession* (2000), such as how sometimes zealous advocacy can cross the line and lead to misconduct or abuse of the judicial system by lawyers (2000, p. 81).

Another problem is that CRLA sometimes finds itself overburdened and understaffed, and cases arise that cannot be taken by the office and must be sent to other offices for referral because they are cases the office cannot handle because they had nothing to do with farm labor. CRLA sometimes tries to get attorneys to take on pro bono cases but a lot of times private attorneys decline the offer. Seeing how the topics covered by Rhodes were applied in a legal setting gave me a better insight into the complexity of the legal field. I will start out by first discussing how one case that the office is currently dealing with displays the issues brought up by Rhodes in terms of potential abuse of the judicial system, in reference to sporting theory of justice, and how over-litigation benefits the party with the most money. I will then apply Karl Marx's economic theory, how a capitalist system creates a clear distinction between the rich and the poor, and how the quest for surplus leads to the exploitation of working class.

There is a case that the CRLA has been working on for about 5 years. Company X has cheated over 25 workers of their hard earned money over the years. After having gone over the pay check stubs and calculated the timetables, it was found that Company X was not paying the workers overtime, time-and a half, or the double time that was due to them. The discrepancy in wages was found when the timetables clearly demonstrated that the pay periods were inconsistent and that there was one day, usually the 15 of every month, that was not accounted for in the wages paid – which usually fell on the day that would be considered time and a half or double time. It was frustrating that opposing counsel continued to use maneuvering tactics to delay or stall the case from being resolved. I found out that the reason the case was taking so long was because of appeals and because the opposing party, from here on referred to as “defendants,” had substituted counsel four times and kept asking for extensions to produce evidence, and each office that substituted in refused to cooperate with CRLA, did not return phone calls, or stalled in producing the information requested in the interrogatories. The first office that represented the defendants waited until the last day to turn in discovery, was late and did not turn in all the information requested—he said that the rest of the information was being

photocopied and that his secretary was out sick, so he had to bring in someone to help him and that the rest of the information would be delivered the next day. Once the discovery was produced by opposing counsel, it was found that information given was not in any particular order of distinction that gave an indication as to what interrogatory questions were being answered by the material produced—there were four boxes of papers with records of check stubs and time cards and 3 sections labeled A, B, and C in each box. Then, when we were bay stamping the discovery, it was found that a lot of the information was duplicated and incomplete. Another problem was that CRLA had been working on the case for so long, that the first two attorneys that worked on the case had moved on to other jobs, and that the attorney working on it now had two very different takes on the case because the previous two attorneys had a different approach to the timetable situation. She therefore decided to compare the two and then created her own spread sheet after analyzing the information anew. It was also interesting how every time that the defendants substituted in a new attorney, their records and the pay periods on the time sheets also changed. There was another issue with the company other than the timetables issue: the company did not provide adequate protection against harsh chemicals for its workers. The workers were constantly exposed to harsh chemicals on a daily basis but protection gear was not always available to the workers and when it was, it usually did not adequately fit and the exposure to harsh chemicals caused burns and scarring the workers hands and arms.

The above case reminded me about the Rhodes chapter dealing with America's Sporting Theory of Justice. She mentions how sometimes one might think that adversarial system might produce justice when attorneys zealously represent their clients, and how the public might believe that the outcome lays in the hands of the 12 jurors and how the attorney that puts forth the best representation sways the jurors to give an outcome in his/her favor, but might find that in reality it is the client that has the most money and can afford more representation that is the victor in most cases (Rhodes 2000, p. 81). The defendants in the case have been stalling the case for years now. They could just have settled

with the plaintiffs out of court, but they have decided to not pay the workers for the overtime, time and a half, and double time pay that is owed to them. The defendants have the money to keep the case in court longer, and the plaintiffs continue to wait to receive the money that is owed to them. The defendants could have accepted that they made a mistake and paid the workers but instead they choose, via their attorneys' over-zealous advocacy, to tie up the legal system with a case that could be easily resolved instead of stalled. Another example on how the case has been stalled has been via the uncooperative attitude of defendants' counsel; instead of working with CRLA they have avoided even returning telephone calls. Even in between hearings defendants' counsel tries to intimidate plaintiffs counsel by giving plaintiffs counsel intimidating looks or not acknowledging her presence at all when she says good morning or good afternoon. The attitude of defendants' counsel clearly reflects the incivility mentioned by Rhodes (2000, p. 82). The defendants counsel has not been cooperative in providing the information requested, has stalled, and when it did provide information they waited until the deadline and then did not provide accurate or complete information. Defendants' counsel also did not properly delineate the information given in terms of what interrogatory question were answered in each set of exhibits, which made it seem as though they were "coding data in [a] defective or misleading fashion" (Rhodes 2000, p. 84). The strategy that defendants' counsel seems to be employing, in delaying and stalling the case, is to set an example of the workers filing this law suit so that other workers that work for Company X will be discouraged from filing law suits in the future (Rhodes 2000, p. 84). The strategies being employed by defendant's counsel are not new, according to Rhodes, in the Fison case it was brought to the surface—how lawyers use delay tactics and that lawyers and judges alike have "known for decades that discovery rules were being systematically frustrated by disingenuous responses to discovery demands" (2000, p. 88). It makes it more difficult to achieve justice when one or both parties do not play by the rules.

Now that I have discussed the CRLA case and how it fits into Rhodes's book, I will now discuss how the case fits into

Marx's economic theory. Marx argues that the capitalist system creates a clear distinction between the bourgeois, the rich, and the proletarian, the poor (Marx 1906). What gives the rich an advantage over the poor is the access the rich have to private property and the control they have over the means of production or the direct access they have to commodities (LaBossiere). The working class is forced to work for the capitalist in order to survive and is thus dependent on the capitalist system (LaBossiere). Marx argues that the capitalist inadvertently ends up exploiting the working class because of his constant quest to generate more surplus (LaBossiere). He contends that the worker works because he has to work and not because he wants to work—his very survival is contingent on the fact that he must sell his labor to the capitalist, in order to generate a wage that he will use to pay for his subsistence (LaBossiere). The capitalist in turn only pays the worker just enough in wages for the worker to subsist and to keep him coming back to generate the capitalist more surplus (LaBossiere). The more the worker produces for the capitalist the more he alienates himself from the products he produces, from his labor, and ultimately from himself as an intellectual and productive being and from other people as well (LaBossiere).

The case against Company X reminded me of the distinction between those that have the money to exploit others and those that do not have money to defend their rights against those that choose to exploit them. Company X could have chosen to recognize their mistake and paid the money it owed to its workers, but instead it chose to drag on the case so that it does not have to pay the workers what they have rightfully earned. The fact that they have been uncooperative and bullies, illustrates the drive of the capitalist to keep generating and controlling its surplus. The bullying and delay tactics are employed by the defendants to ensure that other workers will not step out of line and try to bring up more lawsuits in the future. The workers put up with the poor working conditions because they rely on the capitalist to provide them with their means of survival. The case in question also illustrates the alienation the worker goes through by working in a monotonous job—their intellect and creativity is stifled by the manual labor they endured for many years, working for Company X—they

have worked for Company X for years trusting that they would be treated fairly. They worked for Company X because it provided them with the wages they needed in order to survive. The abuse experienced by the workers also relates to Marx theory because he argued that the capitalist would get to a point where generating more surplus was more important than the rights or working conditions of the worker (LaBossiere). The conditions that workers from Company X are exposed to, such as not having adequate protection gear, further illustrates the drive for the capitalist to cut costs, exploit the worker, and the quest to generate more money. Some of the conditions that farm laborers endure are horrendous: not having adequate protection gear, not having access to portable restrooms, not having access to drinking water, being forced to work for hours without a break, and sometimes not even getting a lunch break, and then to have the capitalist on top of that not pay the workers the wages that they are owed. This clearly illustrates the exploitive nature of the capitalist system and how some capitalists are driven more by their quest to generate more money than to have to worry about the rights of the working class and whether or not they are being fairly treated.

There is more of a push to exploit the workers that do not know their rights or those have to deal with a language barrier or immigrant status issue. Those that come here illegally are more at a disadvantage than those that come here legally because they tend to become a more easily exploitable class. It is easier to push those that do not have direct access to the means of production and to generate more surplus than it is to treat them fairly—the more money the capitalist has, the more he can drag on a case by paying a lawyer to over-zealously represent him in court. With the help of the lawyer, the defendants can delay a case for years in the courts and thereby avoid having to pay the workers the wages that were not paid because their shady timetable maneuvering. The worker is not only exploited by the capitalist by the work he does so that he may accumulate more surplus, but that same generation of surplus is then used against him (worker) because the capitalist has an upper hand in finding the best legal representation that money can buy. Because the capitalist has more money to spend in finding a lawyer that will do what it takes to

zealously, or what I deem as over-zealously, representing his client, the lawyer and his client can drag the case on for years in hopes that the other side will give up or run out of money and drop the case; and thereby giving the capitalist the free reign he needs to continue exploiting his workers. The capitalist system creates a gap between the rich and the poor, and with that comes inequality in representation in the legal system as well. Until the rights of the immigrant farm laborers are upheld and they are recognized as equal in the eyes of law, and the Farmers and the labor and economic work force in general recognize those rights, there will continue to be a need for public service institutions that defend the rights of the indigent and disenfranchised people found in the Central Valley.

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