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# Agriculture, Rural Workers and Free Trade

GUADALUPE T. LUNA\*

## I. INTRODUCTION

The North American Free Trade Agreement ("NAFTA" or "the Agreement") joins the governments of the United States, Mexico and Canada in a new global order.<sup>1</sup> As a change in structure for this country's agricultural sector, the Agreement eliminates or lowers trade barriers by facilitating the export and import of agricultural commodities. In recognizing open borders specific to the free flow of goods and capital, NAFTA purportedly promotes an open marketplace and increase in production efficiency through economies of scale. NAFTA adds to an impressive array of legal programs benefitting the agricultural sector directly. To name a few, offsets from income tax obligations, extensive subsidies, and exemptions from labor and immigration laws have benefitted the agricultural sector immeasurably. Moreover, an extensive system of institutionalized infrastructures such as land grant institutions have expedited the economic standing of the agricultural industry through the development of innovative agricultural equipment and hardware. In consequence, however, these programs raise critical questions as to how land and other assets should be owned and distributed, and of critical import, who should be permitted to farm in this country.

Another aspect of this dilemma is the role of labor in the global market place. Notwithstanding the ongoing mechanization of agricultural commodities, much of the harvesting of fruits, nuts, and vegetables continues to require manual labor.<sup>2</sup> Comprised in large measure of Mexican-American

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\* Assistant Professor of Law, Northern Illinois University, 1994. © Many points in this concept memorandum require development. All rights reserved; please do not reproduce, quote, or cite without the author's permission. I thank Professor Rodolphe J.A. de Seife for his comments and suggestions.

1. North American Free Trade Agreement, Pub. L. No. 103-182, 107 Stat. 2057 (1993) (codified at 19 U.S.C. § 3301 (1994)) [hereinafter NAFTA]. The focus in this memorandum is on United States-Mexico relations; Canada, also a signatory to the Agreement, is omitted from this discussion.

2. See generally ANNE CHADWICK, REPORT TO THE COMMISSION ON AGRICULTURAL

and Mexican nationals, agricultural farmworkers have historically contributed to the agricultural sector's economic standing in the harvesting and processing of this country's food supply.<sup>3</sup> Equal access to federally derived agricultural economic benefits,<sup>4</sup> however, has escaped this class of workers.

The contributions farm workers make in the planting, cultivating, and harvesting of this country's commodities are achieved under difficult and unequal circumstances. Yet these circumstances remain largely ignored from economic programs afforded others within the agricultural sector.<sup>5</sup> For example, low wages are not uncommon.<sup>6</sup> In addition, other factors such as occupational hazards,<sup>7</sup> health and safety dangers,<sup>8</sup> and numerous physical and emotional difficulties are common occurrences. Children, moreover, accompany their families in the fields not as rough accommodations, but to supplement family income. For their efforts, children are exposed to pesticides and other occupational hazards.<sup>9</sup> Additionally, because much of this workforce is underemployed, exclusion from most worker's compensation and unemployment insurance plans signify traditional

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WORKERS, THE CHADWICK COMPANY (1991); Dennis N. Valdes, *Machine Politics in California Agriculture, 1945-1990s*, 53 PAC. HIST. REV. 203 (1994).

3. See generally DENNIS N. VALDES, *AL NORTE, AGRICULTURAL WORKERS IN THE GREAT LAKES REGION, 1917-1970* (1991).

4. For example, income support measures, deficiency payments, and extensive loans, *inter alia*, have benefitted many in the agricultural sector immeasurably. In some instances where loans are provided repayments are deemed not collectable. Over the last five years the federal agency and lender FmHA has written off as uncollectible \$11.5 billion in loans while also carrying at the present time a minimum of \$5 billion in bad loans. See generally Sharon LaFraniere, *Though They Owe, Still They Reap*, WASH. POST WKLY., Feb. 28 - Mar. 6, 1994 (FmHA seen as a welfare agency for wealthy debtor-farmers).

5. *Id.*

6. See, e.g., *Aviles v. Kunkel*, 765 F. Supp. 358 (S.D.Tex. 1991), *vacated*, 978 F.2d 201 (5th Cir. 1991). Wage and hour salary levels are difficult to discern due to inadequate reporting and haphazard application of wage and hour laws. The use of slavery, moreover, is not limited to isolated instances. Author's interviews with farm labor attorneys and clients.

7. G. Rust, *Health Status of Migrant Farmworkers: A Literature Review and Commentary*, 80 AM. J. PUB. HEALTH 1213 (1990) (recognizing injuries as a leading cause of morbidity and mortality).

8. EPA estimates agricultural employees annually suffer 20,000-30,000 acute illness and injuries from exposure to pesticides. *Special Report: A Farmworker Perspective on Pesticides, Farmworker Justice Fund*, FARMWORKER JUST. NEWS, (Summer 1990).

9. See, e.g., U.S. GEN. ACCOUNTING OFFICE GAO/T-HRD-91-40; FARMWORKERS FACE GAPS IN PROTECTION AND BARRIERS TO BENEFITS: HEARINGS BEFORE THE SELECT COMM. ON AGING OF THE HOUSE OF REPRESENTATIVES (1991) (statement of Joseph F. Delfico) (discussing child labor study which revealed that in 1990 in New York over 40% of the children studied were working in fields "still wet from pesticide exposure and over 40% had been sprayed while in the fields").

norms in their legal treatment.

In contrast to the legislation which addresses other issues in the agricultural sector, the few legislative measures directed toward the agricultural workforce fail to provide sufficient structural and economic reform. Typical legislative statutes are limited to instances of recovering lost wages, protecting from abusive labor contractors, or seeking basic housing. Contemporary jurisprudence, nonetheless, has succeeded in creating distinctions and exceptions to statutes so as to deny farmworkers even these limited remedies.<sup>10</sup> This is not a new phenomenon. Critics have long charged that state and federal agencies generally fail to adequately enforce laws which protect the health and working conditions of farmworkers.<sup>11</sup> In sum, while remedial statutory legislation affords some measure of relief, farmworkers are widely excluded from the economic democracy principles granted to the remainder of the agricultural sector. This exclusion from basic democratic principles constitutes a *de facto* subsidy providing a means of privileging the agricultural sector.

The drafters of NAFTA, responding to criticism and fearing its potential defeat, ultimately compromised in permitting side accord agreements specific to labor issues.<sup>12</sup> Referencing migrant workers within its general framework, the Supplemental North American Agreement on Labor Cooperation permits any of the three countries covered under the agreement to file complaints based on health and safety,<sup>13</sup> child labor, and minimum wage concerns.<sup>14</sup> The provisions thus convey images, impressions and perceptions that rural workers are now accommodated--their well-being ensured. The provisions, however, are deficient within their construct in light of their silence on questions of beneficial working conditions and access to economic incentives otherwise afforded to the agricultural sector.

Specifically, various violations are not covered under the side agreements. For example, violations of workers' rights whether domestic, international or unintentional are not subject to direct punitive actions. This

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10. See, e.g., *Gonzalez v. Puente*, 705 F. Supp. 331 (W.D. Tex. 1988) (shielding buyer by not being defined as an "employer" of workers within meaning of Fair Labor Standards Act and within meaning of MSAWPA).

11. See, e.g., Jason DeParle, *New Rows to Hoe in the 'Harvest of Shame'*, N.Y. TIMES, Jul. 28, 1991, § 4 at 3; *Job Safety, Migrant Workers Lack Protection of Federal Safety Programs*, BUREAU OF NAT'L AFF., DAILY REP. FOR EXECUTIVES Feb. 26, 1992, at A5.

12. NAFTA, *supra* note 1, at 775. NAFTA culminated during the 1992 U.S. Presidential campaign. The side agreements were initially made to address concerns relative to wage differentials and alleged environmental hazards in Mexico. Training funds authorized under the Agreement also fall to the criticism enumerated above.

13. *Id.* art. 4 (Private Action).

14. *Id.* art. 49.

is not an uncommon theme, but rather a common element of the Agreement and as recognized in the Agreement's reference to domestic law, perhaps its most troubling provision.<sup>15</sup> The side agreement purports "to promote, to the maximum extent possible," certain "labor principles."<sup>16</sup> Its provisions, however, only apply with the imposed qualification that they "not establish common minimum standards for [the] domestic law" of the countries involved.<sup>17</sup> Meaningful standards and functional definitions are common themes lacking throughout the provision, and where provided, contradict the stated purpose of the Agreement's goals. Rather than provide set labor standards, the Agreement recommends "guiding principles," but the Act's unclear and imprecise wording fails to delineate exactly what comprises "guiding principles."<sup>18</sup> As a result, the side agreements reference to domestic standards together with carefully placed restraints assure harmful conditions continue to exist for the agricultural workforce.

NAFTA's adjudicatory procedures reinforce these deficient standards. Under the Agreement, commissions are established to review complaints.<sup>19</sup> This process grants a complainant access to "impartial and independent tribunals."<sup>20</sup> Proponents of informal dispute mechanisms appear to support this declaration because they assert that alternatives to traditional and formal methods of resolving disputes are beneficial to the disadvantaged.<sup>21</sup> The evidence, however, proves contrary. The use of informal adjudicatory procedures has not resulted in fair and objective hearings for minority status disputants. Critics of non-traditional alternatives maintain that the move to "deformalization" may actually increase the risk of class-based prejudice.<sup>22</sup> Consequently, long-established decisional law and distinctions in statutory construction and application<sup>23</sup> place agricultural workers (whether intentionally or unintentionally) outside the realm of traditional legal jurisprudence. Thus, the Agreement's drafters facilitate the neglect of this workforce and accommodate longstanding federal trends.<sup>24</sup>

Recently, legal commentators examining issues implicating race and class have demonstrated the role of law in perpetuating harm to certain

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15. *Id.* art. 2.

16. *Id.* art. 1(b).

17. *Id.* Annex 1.

18. *Id.*

19. *Id.* art. 5.

20. *Id.* art. 5.

21. See generally Richard Delgado et al., *Fairness and Formality: Minimizing the Risk of Prejudice in Alternative Dispute Resolution*, 1985 WISC. L. REV. 1359 (1985).

22. *Id.*

23. See, e.g., *Farmer v. Employment Sec. Comm'n*, 4 F.3d 1274 (4th Cir. 1993).

24. See *supra* text accompanying note 11.

groups comprised largely of people of color.<sup>25</sup> They assert that the exclusion of race and class considerations from contemporary jurisprudence perpetuates distortions and fails to permit objective legal choices.<sup>26</sup> In the instant case, with the exclusion of agricultural workers from NAFTA-driven economic incentives, the drafters of NAFTA have effectively set the stage for the agricultural laborer's indeterminate legal status into the realm of the new global legal order. The indeterminate status of agricultural workers stands in stark contrast to the agricultural industry's privileged legal status.

Despite these inherent structural weaknesses, integration goals of NAFTA should continue. The intent here is not to further fuel the debate either for or against NAFTA. The immediate goal is to afford the agricultural worker equal treatment and equal access to social mobility and economic incentives under the Agreement. To accomplish this, a more productive debate concerning the relationships between agricultural workers, their employers and agricultural resources is required. Answers to this complex dilemma, as set forth below, may be found within the framework of NAFTA itself.

## II. PROPOSED REMEDIES

A growing body of evidence indicates that NAFTA's implementation regulations will further the demise of small and moderate-sized farm operations.<sup>27</sup> Those situated outside the protective sphere of the Agreement--specifically, owners of small and moderate-sized holdings--will face

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25. See Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 328 (1987) (arguing the importance of understanding how legal indeterminacy works in specific contexts); see also Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2414 (1989) (recommending counterstories "shatter complacency and challenge the status quo"); Cf., Daniel A. Farber & Suzanna Sherry, *Telling Stories Out of School: An Essay on Legal Narratives*, 45 STAN. L. REV. 807 (1993) (containing a critical analysis specific to the use of counter stories); but see Richard Delgado, *On Telling Stories in School: A Reply to Farber and Sherry*, 46 Vand. L. Rev. 665 (1993).

26. See generally Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 561 (1984). For an interpretation of legal indeterminacy analysis see DAVID KAIRYS, *THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE* 140, 160-61 (1992).

27. See, e.g., Keith Rosenblum, *Mexican Farm Co-Op Adds Crop: Land Development Joint Venture Plans Industrial Park, City Near Yuma*, ARIZ. REPUB., Feb. 1, 1993, at A1; Suzanne Steel, *Goods Produced, Grown in Ohio Could Find New Markets in Mexico*, COL. DISPATCH, Aug. 29, 1993, at 2G. Functional definitions of what constitutes farming is subject to extensive debate.

increased financial challenges from larger agricultural holdings in the form of aggressive competition as these holdings pursue economies of scale. This industrialization accelerates<sup>28</sup> increased reliance on commodity imports into this country. Moreover, it shifts agricultural production into the hands of large corporations<sup>29</sup> and outside foreign interests and ultimately imposes further difficulties for those hoping to remain in farming as well as those seeking entry into the farm sector.

Concern for the country's eroding cropland base and changing agricultural structures has generated extensive farmland preservation discourse,<sup>30</sup> advanced congressional promulgation of the Farmland Protection Policy Act of 1981<sup>31</sup> and promoted innovative remedial measures.<sup>32</sup> Commonly omitted from legal commentary and debate, however, is the extensive region adjoining the international border between the United States and Mexico. The area affords a unique opportunity to advance farmland

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28. Agricultural industrialization involves the concentration, increased technical advancement and ongoing integration with input and marketing sectors of larger sized agricultural interests. Neil D. Hamilton, *Who Owns Dinner: Evolving Legal Mechanisms for Ownership of Plant Genetic Resources*, 28 TULSA L.J. 587, 643 (1993). Another author describes an industrial agribusiness system as one producing an "industrially organized farm, that [is] financed for growth, large scale, concentrated, specialized, management centered, capital-intensive, at an advantage in controlled markets, standardized in [its] production processes, resource consumptive, and farmed as a business." MARTY STRANGE, *FAMILY FARMING: A NEW ECONOMIC VISION* 32-39 (1988).

29. This is not a new trend. See JOSEPH N. BELDEN, *DIRT RICH, DIRT POOR, AMERICA'S FOOD AND FARM CRISIS* (1986); JIM HIGHTOWER, *EAT YOUR HEART OUT* (1976) (criticizing consolidation of smaller or moderate-sized farm holding into larger units and accompanying myth that "bigger is better").

30. See, e.g., WILLIAM M. TABB & LINDA A. MALONE, *ENVIRONMENTAL LAW, CASES AND MATERIALS* 825-53 (1992). These fears took structural form when the U. S. Department of Agriculture and the Council on Environmental Quality made its immediate task the identification and enumeration of the factors which are rapidly eroding our domestic agricultural base. See generally U.S. DEP'T OF AGRIC.; NATIONAL AGRICULTURAL LANDS STUDY, FINAL REPORT (1981). Critics charged the NALS findings as misleading, pointing to inadequacies in the data studied and methodology applied and others assailed the findings as "romantic and misguided" public perceptions of losing the "family farm" to "factories in the fields."

31. See 7 U.S.C. § 4201-09. (1992). The Act, however, failed to fulfill its public mandate. Corwin W. Johnson & Valerie M. Fogleman, *The Farmland Protection Policy Act: Stillbirth of a Policy?*, 1986 U. ILL. L. REV. 563 (1986). Other legislation seeks the same policies and goals. See generally The Farms for the Future Act of 1990, 7 U.S.C.A. § 4201 (1994).

32. For example, property tax relief, zoning mechanisms, land trusts, anti-corporate farming statutes, impact fees conservation easements, development rights programs, agricultural districting, differential assessments, and right-to-farm laws seek to effectuate farmland preservation.

preservation as well as assist this country's agricultural workforce. Changes in these areas are necessary because competing urbanization pressures are causing the conversion of former cropland into rural slums, a key homebase of much of this country's agricultural workforce.

Encompassing over two thousand square miles, the Border exemplifies the legacy of conquest and colonialization of residents.<sup>33</sup> Long before this country existed in its present form, Mexicans lived in rural communities adjoining the U.S.-Mexico border.<sup>34</sup> In contrast to other regions, it is an economically segregated zone, assured in large measure by existing farm labor laws controlling its rural residents. Opportunities for economic advancement through the ownership of small farms or ranches remain largely non-existent for this region's agricultural workforce.<sup>35</sup> Instead, in major border areas competing urban pressures are forcing area residents into converted agricultural, ranch and fragile desert floor areas, thereby ensuring depletion of the region's agricultural base.<sup>36</sup> This is of tremendous consequence to potential entrants into the farming sector.<sup>37</sup> As urbanization continues, irregular subdivisions known as "colonias" are replacing large areas of previously irrigated land. Colonias are characterized as squatter-like unincorporated settlements legally and physically segregated from nearby

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33. *See generally* RODOLFO ACUÑA, *OCCUPIED AMERICA* (3d ed. 1988).

34. *See generally* ADALAIDA R. DEL CASTILLO, *BETWEEN BORDERS: ESSAYS ON MEXICANA/CHICANA HISTORY* (1990).

35. *See generally* FARMERS HOMES ADMINISTRATION, *DISTRIBUTION OF LOANS MADE BY SIX SPECIFIED TYPES BY RACE OR ETHNIC GROUP, FISCAL YEAR 1993* (1993) (on file with author). Notwithstanding such efforts, rigid qualifications and subjective review of applications disallow assistance for many minorities seeking land ownership and fail to induce Latinos into the farming sector.

36. A key homebase of agricultural workers is the El Paso County, Texas - Ciudad Juarez, Mexico border region. *See generally* Guadalupe T. Luna, *Mexicans, Agriculture at the Border and Free Trade* (1994) (unpublished manuscript, on file with the author); *see also* Jane Larson, *Free Markets Deep In The Heart of Texas* (unpublished manuscript, on file with the author). The region holds distinct agricultural advantages because of favorable growing seasons and uniquely prime agricultural soils. The area is important for the production of cotton, hay, sorghum, wheat, lettuce, chiles, onions, cabbage and pecans. Between 1962-1987, area of land farms lost encompassed about one-third of their total acreage. *CITY OF EL PASO MASTER PLAN, GUIDE TO THE YEAR 2010* (1988). The State as a whole continues to lose its agricultural sector with statistics demonstrating consistently declining figures. Between 1984 and 1992 the land in farms fell from 138,800 to 130,000. For the same period, the number of dislocated farms dropped from 187,000 to 183,000. *See generally* U.S. DEP'T AGRIC. STATISTICS (1985-92).

37. Physical constraints impact the area's ability to restrain rapid land conversion and accelerated open space loss. For example, state and international boundaries preclude growth of the county into the north and south. The Rio Grande, the Franklin Mountains and military reservations impose additional growth barriers.



cities.<sup>38</sup> Absent from these rural slums is urban infrastructure. Residents, many of whom are farmworkers, are living in these rural slums without electricity, plumbing, water and sewage, often occupying houses constructed from discarded lumber remnants, cereal boxes, plywood and other inferior materials.<sup>39</sup> The living and health conditions of these rural residents demonstrate protracted outrages to humanity.<sup>40</sup> In the instant case, NAFTA-driven economic goals will further promote impermanence syndrome<sup>41</sup> on existing cropland and intensify land dislocation pressures.<sup>42</sup>

### III. FARMWORKERS AND FARMLAND PRESERVATION

The agricultural workforce in this country has long experienced unequal treatment. Options providing for their improved economic conditions may fall within NAFTA's reservation for future activity, as enumerated within Annex II. As a future action, the Annex reserves to the United States the right to "adopt or maintain any measure according rights or preferences to

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38. See, e.g., JORGE CHAPA & JORGE DEL PINAL, ENUMERATION, HOUSING CHARACTERISTICS AND SAMPLING RATES IN THE COLONIAS OF THE TEXAS BORDER AREA: A PERSPECTIVE ON CENSUS DATA, 1993 RESEARCH CONFERENCE ON UNDERCOUNTED ETHNIC POPULATIONS (1993); TEXAS DEP'T OF HUMAN SERVS., THE COLONIAS FACTBOOK: A SURVEY OF LIVING CONDITIONS IN RURAL AREAS OF SOUTH TEXAS AND WEST TEXAS BORDER COUNTIES, 1-3 (1988).

39. Recent subdivision regulations have responded to builder/developer violations. Additional forms of relief have also come from the county attorney. The county attorney has employed the use of state consumer fraud and public nuisance laws to compel developers to provide some aspects of basic infrastructure. Interview with Viviana Patiño, El Paso County Attorney's Office, in El Paso, Tex. (July 6, 1993). The Texas Attorney General, notably under the direction of Special Assistant Javier P. Guajardo, has also forced developers into providing water and some required improvements for some colonia residents.

40. The health conditions of Colonia residents suggests "third world" diseases. For example, dysentery, increase of birth defects, Cholera (commonly transmitted when victims ingest food or water contaminated with fecal bacteria), Hepatitis A, tuberculosis, and high rates of diarrheal illnesses are maintained at the border. See generally PAN AMERICAN HEALTH ORGANIZATION, U.S. - MEXICO BORDER HEALTH STATISTICS (1991).

41. NAFTA increases impermanence syndrome as landowners await NAFTA-directed economic activity believing property values will increase. Impermanence syndrome, in large measure, accelerates the deterioration of landholding as landowners expecting development suspend farm operations. Development often draws in greater prices for property as opposed to maintaining existing cropland.

42. This occurs in both countries. For example, on Jan. 1, 1994, the day the agreement entered into effect, the Zapista National Liberation Army allegedly shocked this country in its protest of NAFTA. Critics of NAFTA assert the uprising in Chiapas, Mexico was not unexpected, charging that innumerable human rights violations, the privatization of Mexico's communal land tenure system, and intense competition from the U.S. corn industry are all impacting Mexico's small farmers.

socially or economically disadvantaged minorities . . . ."<sup>43</sup> Limiting this reservation to future action, however, imposes harmful delays on the acute circumstances presently faced by the agricultural workforce. Notwithstanding its participatory and democratic ideals, affirmative action critics directly question its value. This is reflected in current law by the difficult intent requirements needed for a plaintiff to sustain its burden of proof in a discrimination cause of action.

In 1990, however, the United States Supreme Court upheld a minority set-aside program, awarding minorities enhanced opportunities for ownership through proceedings for new licenses.<sup>44</sup> The set-aside program also encourages the transfer of some stations to minority-controlled firms. As applied to NAFTA, set-aside programs designed specifically for rural residents would permit the establishment of small or moderate-sized farm operations and would assist farmworkers within the agricultural community. A showing of economic disadvantage would permit qualification for ownership status. Such incentives would permit farmworkers to enter the agricultural sector, ultimately protecting existing cropland and improving the farmworker's economic standing.

Farmland preservation is critical to this country not only to ensure domestic production of food but also to facilitate the export of agricultural commodities. Preservation programs protect smaller and moderate-sized agricultural businesses from disenfranchisement pressures. As an attendant consequence, set-aside programs that induce new entrants into the agricultural sector discourage "oligopsonistic ownership."<sup>45</sup> In sum, the significant and notable absence of people of color in the class of agricultural owners presents distressing problems. Affording agricultural ownership for agricultural workers would facilitate their equal treatment.

#### IV. CONCLUSION

If a primary NAFTA goal is to benefit this country's agricultural sector, the Agreement cannot ignore the role of rural workers. Agricultural workers have contributed significantly to the economic success of the agricultural sector.<sup>46</sup> Its planting, cultivating, and harvesting of non-perishable commodities has in large measure advanced this country's "cheap food

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43. NAFTA, *supra* note 1, at 681.

44. Metro Broadcasting, Inc. v. Astroline Comm'n, 497 U.S. 547 (1990).

45. See, e.g., Nat'l Broiler Marketing Ass'n v. United States, 436 U.S. 816, 843 (1978) (White, J., dissenting.)

46. Guadalupe T. Luna, Mexican Rural Workers and Free Trade (1994) (unpublished manuscript, on file with the author).

policy." Agricultural workers have, nonetheless, remained excluded from economic incentives encouraging farm ownership. In contrast, economic subsidies and agricultural exemptions from various legal measures have afforded the agricultural sector tremendous economic advantages permitting greater industrialization and consolidation of smaller operations.<sup>47</sup> The elimination of trade barriers permitting the free flow and export of agricultural commodities provides yet another means of continuing this beneficial treatment.

NAFTA thus facilitates a basic rule of the ongoing unequal treatment of this country's agricultural workforce. Rather than permit substantive structural changes, providing for the equal treatment of agricultural workers, the Agreement maintains and facilitates their unequal treatment and effectively ensures their economic segregation. Absent reform measures by way of the Agreement's reservation clause, the agricultural sector, consistent with federal policy, reaps yet another public benefit further advancing its nobility-driven status.<sup>48</sup>

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47. See, e.g., Sharon LaFraniere, *Though They Owe, Still They Reap*, WASH. POST NAT'L WKLY ED., Feb. 28 - Mar. 6, 1994, at 10 (discussing the Farmers Home Administration and its failure to demand repayments of loans to the agricultural sector "is seen as a welfare agency for wealthy debtor-farmers").

48. See generally Richard Delgado, *Inequality "From the Top": Applying An Ancient Prohibition to An Emerging Distributive Justice*, 32 UCLA L. REV. 100 (1984) (critically examining the issue of the federal sector seeking to confer an "unconditional, substantial and enduring benefit on a few favorites" and its "impact on matters of equality relative to distributional purposes").