

**THE LABYRINTH OF SOLIDARITY:
A DIARY OF A UNION ORGANIZING DRIVE AND
A FIRST CONTRACT NEGOTIATION**

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ABSTRACT

This is a study of an ultimately successful attempt to form a union among mushroom workers at a large Pennsylvania mushroom processing operation. After laying out background material on the work, the industry, and the workforce, the article traces the history of the organizing attempt from a strike that occurred in 1993 through the execution of a collective bargaining agreement in 2002. In the course of describing the organizing drive, we offer our insights into issues that affect union organizing, contract negotiation, and legal factors that have implications far beyond what happened on this specific mushroom farm in southeastern Pennsylvania. We include aspects of management-labor relations that are, at least in part, shaped by the migrant and immigrant status of the workers and their cultural background. The article is based largely upon the authors' observations of the events and their interviews with the workers and their supporters. The perspectives of the other players emerge primarily from the materials produced during the organizing drive and from legal documents and newspaper articles. The authors call the readers' attention to the fact that we have spent much more time with the workers and their leaders than we have with management and its agents. Both of us have served as members of the union's Advisory Board, participated in the organizing drive, conducted workshops for the workers and their leaders, and sat on the union side of the table during contract negotiations. While we have tried to be fair to both sides, we are much closer to the workers than we are to management, and we must admit to the possibility of an unconscious bias.

Kaolin Mushroom Farm Inc. in Chester County, Pennsylvania, about 20 miles southwest of Philadelphia, is the scene of the union organizing drive and subsequent negotiations that led to this article. Kaolin is the largest mushroom producer in Chester County and the second largest producer in the State. Chester County provides more than half of the fresh mushrooms consumed in the United States.

On January 3, 2002, the Kaolin Mushroom Workers Union and the company signed a three-year collective bargaining agreement. This contract concluded a unionizing initiative that began in the early 1990s and offers a rare example of a victory by low wage earners with scant resources to sustain a long-term union organizing campaign [1]. It was a sizable victory as well because the contract covered some 400 workers who had overcome a variety of cultural, economic, and legal problems and a power deficit to win union recognition and successfully negotiate a collective bargaining agreement. This article traces the history of this organizing drive and the subsequent contract negotiations, while exploring factors that we believe were key in shaping the outcome of this long struggle.

THE MUSHROOM INDUSTRY

The Pennsylvania mushroom industry is concentrated in Chester County, with Kennett Square being dubbed “The Mushroom Capital of the World.” Its location near major markets on the East Coast helped make this area, 30 miles southeast of Philadelphia, ideal for the transportation and delivery of this highly perishable product. According to the National Agricultural Statistics Service of the United States Department of Agriculture, the average price in the United States is about \$1.10 per pound for common mushrooms, and mushroom sales today account for more than \$200,000,000 for Chester County. Berks County, which ranks second in the state, has more than \$75,000,000 in mushroom sales. Kaolin Mushroom farms, the largest in Chester County, produces more than 730,000 pounds of mushrooms per week [2].

The larger Pennsylvania mushroom producers dominate production and sales in the state. Georgi, Phillips, Kaolin, Modern, Blue Mountain, Creekside, and Elite Mushroom are the major players and the most politically and economically influential. Seeking to regain access to the canned mushroom market, growers have been especially active in lobbying through the American Mushroom Institute (AMI) for tariffs on imported mushrooms, for importing assured sources of labor, and for relief from government regulations affecting the industry.

Unlike typical agricultural production, mushrooms can be harvested and shipped year round. Though mushroom production is labor intensive, with labor accounting for an estimated 25% of production costs, yields have increased, and America’s appetite for mushrooms continues to grow. However, serious pressures exist on grower profit margins. Growers have been confronted with a relatively stable price structure at a time when the costs associated with energy, chemicals, government regulation, and environmental standards have risen. Growers have

responded by steadily increasing yields and the number of harvests per year, aided by a more targeted and efficient use of pesticides and fungicides. The U.S. Department of Agriculture reports that yields per square foot have more than doubled since the 1960s, though they have leveled off in recent years [2].

Most mushroom companies are privately owned. It is impossible to know precisely what profit margins are, and these margins are likely to vary greatly from company to company. Large companies also increase their profits by buying fresh mushrooms from small neighboring growers at low prices and reselling them along with their own produce. These small growers generally pay much lower wages to their employees, partly because these workers are often undocumented and have even less economic leverage [3].

MAKING MUSHROOMS

Mushrooms are grown under controlled conditions, and the crop is continuous rather than seasonal. Furthermore, mushroom workers, like those in an industrial plant, do many different tasks: they not only pick mushrooms, but cut off their stems, sort them, and put them in different types of packages. This study focuses on mushroom pickers whose job is to harvest mushrooms. These employees are piece workers whose labor includes cutting mushrooms at the stem with a small knife. They work within narrow beds of manure, which are stacked horizontally indoors within structures called mushroom sheds. Approximately 400 “pickers” are involved in this case. These workers not only pick mushrooms, but they are also asked to clean the beds of manure, irrigate the soil, and treat it with pesticides, which often poses dangers to their health. Pickers, who are paid on the basis of boxes they are able to fill with mushrooms, dislike the additional maintenance jobs that they feel should be performed by hourly employees.

Legally, the pickers are considered to be “horticultural workers” under the Pennsylvania Labor Relations Act (PLRA). The other employees at the Kaolin farm, such as the truck drivers, the maintenance workers, and the warehouse workers known as packers, do not pick mushrooms and are not unionized. Unlike the pickers, they come under the jurisdiction of the National Labor Relations Act. The fact that the pickers are considered horticultural workers under the PLRA helped greatly in their subsequent organizing campaign.

Mushrooms are grown inside long, bunker-like buildings called “doubles,” which are commonly constructed of cinder block or concrete. The buildings are windowless, sealed, and the climate is kept at 60 degrees with high humidity. The buildings are dark, damp, and have a rank odor that comes from the growing substrate (based on horse or synthetic manure and compost). The work itself, especially the harvesting, is often described as “grueling.” Harvesting usually begins well before dawn and requires workers to “bend and stretch, fingers and knives flying in a well-practiced frenzy over the broad beds, harvesting the white nubs from the compost” [4].

Mushrooms are grown in large flat beds that are usually stacked five to seven stories high, separated by narrow alleys and catwalks. Workers walk along the high planks, bending over to harvest the mushrooms off the beds, cut off the stems with a knife, and then place them into boxes, sorting them as they go on the basis of predetermined qualities (e.g., size, color, and those suitable for the fresh market as opposed to soup). The mushrooms must be clean and free of any nicks or marks that might mar their appearance on the grocer's shelf. Boxes must be well-filled, and any deviation from these requirements may result in disciplinary action. Employees are paid on a piece rate based on the number of boxes filled, with adjustments for different kinds of mushrooms and different kinds of boxes.

Harvested mushrooms are shipped out and delivered two or three times a day, and the year-round harvests are staggered to proceed on a continuous basis. Larger farms package on site and distribute directly to the end user. Smaller farms usually sell through wholesalers and distribution firms or to large growers.

Through the use of air conditioners and advanced technology, a company can produce four or five harvests before yields decline and the beds need to be refertilized with fresh compost. Newer pesticides and fungicides enable the beds to produce more harvests per year along with increased yields and improved quality. Kaolin Mushroom Farms recently built one of the nation's first indoor composting operations employing new technology imported from Europe. This new procedure has reduced the composting cycle time by more than half and may eventually increase both the total crop and yield per square foot.

THE MUSHROOM WORKERS OF CHESTER COUNTY

Conditions at Kaolin Farms, Inc. reflect the historic patterns of farm labor employment. In the 1920s, the farms were primarily owned by Quakers, and Italian immigrants performed the work. In the 1930s and 1940s, Italian immigrants, including Kaolin's first owner, Michael Pia, Sr., began to purchase farms and employ local youths. When these workers left for better opportunities, the mushroom owners turned successively to southern whites and African-Americans, then to Puerto Ricans, and today, to Mexicans. Since the late 1970s, Mexican workers have dominated the mushroom workforce in Pennsylvania and currently make up 90% to 95% of the workers [5]. Many of the mushroom workers in Pennsylvania's Chester and Berks counties are natives of the Mexican state of Guanajuato, with a sizable number coming from the town of Moroleon [5]. At least one grower thought that Mexicans were particularly desirable because they "would not make union trouble and would work without complaint [6, p. 109].

As production became year-round, the workforce became more stable. This movement toward stability was heightened when the Immigration Reform and Control Act of 1986 (IRCA) helped undocumented workers establish legal status [7]. Some employers encouraged workers to seek permanent status in an

attempt to assure a stable labor supply for expanded production. Of the estimated 3,000 to 4,000 Pennsylvania farm workers who applied for legal status, Kaolin was successful in assisting 400 of its own employees to receive documentation papers [8]. By the time of the strike in 1993, the majority of Kaolin workers were documented [3].

However, the majority were still migrant workers. Their goal was to earn money by picking mushrooms for a nine-month season in order to return to Mexico to be with their families for the winter. Thinking primarily of going home, they often silently endured disrespect, harassment, poor living conditions, and unsafe, poorly paid work. Those who knew something about unions had little faith in them because in Mexico, unions had often been allied with the government and the companies. Union leaders in Mexico were frequently paid off to ensure labor peace—or were “disappeared” [9].

Coming from that political climate, mushroom workers had little faith in the American labor movement. They were familiar with the violent response of bosses to protest and resistance. A reasonable fear of losing their jobs, and with that, their paychecks and the hopes for their families, could easily prevail over their desire for improved working conditions, better health, and dignity. One must add to this the isolation created by segregated living quarters, lack of fluency in English, and class and cultural differences. All of these factors kept the workers in ignorance of their legal rights, of any benefits of unionism, and of available resources.

THE CONTEXT OF THE KAOLIN ORGANIZING DRIVE

The Pennsylvania Labor Relations Act

An important legal consideration provides a backdrop for the Kaolin organizing drive. In contrast to most other farm workers in the United States, the mushroom workers at Kaolin had a distinct legal advantage. The workers gained union recognition under a unique section in the Pennsylvania Labor Relations Act (PLRA), which defines mushroom workers as “horticultural workers” and gives them the legal right to organize and to bargain collectively over terms and conditions of employment. In contrast, the National Labor Relations Act defines mushroom workers as “agricultural laborers” and excludes them, along with all other agricultural workers, from any of the protections and guarantees granted in sections 7 and 8 of the NLRA. Thus, while most other farm workers do not enjoy the right to elect a representative to bargain for them collectively over terms and conditions of employment, the mushroom workers in Pennsylvania do possess that right. The Pennsylvania Labor Relations Board (PLRB) has stated that mushroom workers are not farm workers because the crop is not grown under the sun, rain, and sky, subject to the risks of the weather [10]. In addition, because so many Kaolin workers were documented, they had legal standing under the Pennsylvania Labor Relations Act.

Historical Considerations

The union movement nationally has had a difficult time organizing workers over the last several decades. Union membership as a percentage of the workforce has declined steadily since the late 1950s, and the number of agricultural workers organized has never been very high. But there were factors within the Kaolin organization that helped to encourage unionization. The large size of the company created the potential for a potent and effective bargaining unit. Deteriorating working conditions inspired resentment and, we will see later, the external support of sympathetic organizations offered the means and structure for helping employees to channel their anger into effective action.

In the 1980s and early 1990s there was little union activism in southeastern Pennsylvania. Mushroom workers in the Kennett Square area held occasional work stoppages to voice their complaints about pay or safety conditions, but these were short-lived and usually had no positive effect [11]. For example, the Kaolin workers walked out one day in 1985 when the company changed the pay from an hourly basis with bonuses to piece rate, but they returned to work the same day without winning any concessions. Known as *paros* in Latin American countries, these work stoppages were spontaneous and did not initially ascribe to the legalities and conventions of United States labor rules.

Two years later, a one-and-one-half-day walkout led to a raise of 10 cents (from \$1.00 to \$1.10) for packing a 10-pound box of mushrooms. In 1991, about 80 Kaolin workers walked out when the company stopped paying a crew to clean out mushroom beds and insisted that the piece-rate mushroom pickers do the maintenance in their stead (with no additional compensation). The workers returned to work without winning their demand, although one of the strike leaders was promoted into supervision. Illustrating the ineffectiveness of their walkouts, in 1987 their pay for harvesting and packing a box of mushrooms was \$1.10. Over the next six years this pay grew by only a nickel a box, and each year the workers were assigned more work while confronting continuing health and safety problems.

FEBRUARY 1993: LEADING UP TO THE STRIKE

Then, in February 1993, the workers employed to pick the mushrooms were told that they would have to place mushrooms in packing boxes cap up, a procedure that would slow down the picking. That slowdown meant financial cuts because these “pickers” are paid not by the hour but by a piece rate. As one of these workers, Miguel Cerrato, explained, “Every year I was working harder and my pay check was getting smaller.” It was the final straw for many of the pickers, and a small group began to plan a response.

At the same time, the mushroom packers were experiencing a different set of problems. A packer, Luz Delia Rodriguez, interviewed in 1993, stated, “We

would normally start to work at 7:00 A.M. and would leave as late as 9:00 P.M. during the heavy season. We were never given overtime, and the bosses expected us to run around when we did our work. I had never been treated this way before” [12, p. 42]. Then in February 1993, according to Ms. Rodriguez, “The head supervisor [told] us that our hourly rate had been cut from \$5 to \$4.50. I said, this can’t be possible!” Supposedly, this pay cut was an exchange for giving workers overtime pay (their right under the Fair Labor Standards Act!). However, with the slow season coming, they would have little overtime, and this was tantamount to a pay cut. Ms. Rodriguez explained that when a group of packers protested, they were told that the boss could do whatever he wanted.

Ms. Rodriguez suggested to both pickers and packers that they call for assistance from a farm worker support organization, known as CATA or *Comite Apoyar a los Trabajadores Agricolas* (Committee for Support of Agricultural Workers), which had opened an office in Kennett Square. Ms. Rodriguez suggested CATA because she knew CATA had helped to organize a strike at her previous employer. After gaining the agreement of her fellow workers, she made the call.

Enter CATA

CATA was at that time a service and action organization formed in 1979 to help the Puerto Rican farm workers in Pennsylvania and New Jersey. CATA had been established with financial assistance from the United Farmworkers Union, the California-based affiliate of the AFL-CIO. In early February 1993, the new director of CATA, Nelson Carrisquillo, was determined to increase its organizing emphasis. In a 1999 interview he expressed the ethic of CATA as an initiative to “empower workers to feel they can control their own lives” [3]. Thus the requests from the Kaolin workers fit well into CATA’s focus on educating farm workers about their legal rights and in assisting them with organizing efforts. In fact, Carrisquillo had just hired a professional organizer to create a better worker outreach program in Kennett Square. When the workers sought CATA’s aid, this organizer, Ventura Gutierrez, was sent to investigate.

Gutierrez sought to play the role of a public figure with a prophetic vision and with goals beyond the local arena. Carlos Marentes, president of the Agricultural Workers Union in El Paso, Texas, described Gutierrez as envisioning “a giant network of Mexican farm workers along the southern border over to California and up the East Coast. To organize these people effectively . . . you have to go where the workers are” [13]. Marentes attributed to Gutierrez a worldview to which CATA had clearly ascribed, “Since the workers live on both sides of the border, we’ve started working on both sides of the border . . .” [14]. Retaining Gutierrez was a step toward uniting the Kaolin workers around their strategic traditions of collective action and connecting them with larger efforts to gain bargaining power for exploited farm workers.

Enter the Friends of Farmworkers

Friends of Farmworkers (FOF) is a legal service organization that has provided counsel to farmworkers and mushroom workers in Pennsylvania since 1975. Additionally, FOF acts as legal representative to CATA in Pennsylvania. Thus, when the workers' leadership group at Kaolin asked that an attorney come to meet with them to explain their legal protections in case of a walkout, FOF attorney Bill Suares was invited. At this meeting, CATA director Nelson Carrasquillo and Suares explained the concept of forming a union at Kaolin.

In remembering this meeting, Nelson Carrasquillo recalled, "Our role was to place decisions before the workers. If they asked about rights, we recommended avenues to gaining knowledge on laws. If they wanted to know about unions, we saw the need to provide them with the challenges and possibilities. The decisions were theirs. Once they formed those decisions, they owned the process. After extensive dialogue, the workers made it clear that they wanted union representation [3]."

Attack and Counterattack

In March 1993, Michael Pia, who was both co-owner of Kaolin and the head of production, began having meetings with workers. According to one of the workers, Miguel Cerrato, "Pia heard there was worker unrest, and he knew he had to do something. He asked us about problems and so we told him." Among the complaints they listed were pressure to overfill the mushroom boxes, the rejection of Workers' Compensation requests after accidents, supervisor abuse and favoritism, the lack of medical benefits and paid vacations, and most importantly, "fair pay for the extra work the company makes us do" [such as cleaning mushroom beds and arranging mushrooms with their caps up]. "So we were asking for a raise of 10 cents per 10 pound box. Pia said he would think about it, but he needed time. He promised us he would consider a wage increase. He said he would let us know by April 1" [15].

Gutierrez went on the attack. He passed out fliers saying, "The bosses want you to wait three weeks (til April 1st)" but "did you know that in the United States April First is the day of deceit?" [16]. Pia responded by handing out fliers attacking CATA, its reputation, and its past failures. He pointed out that it was he who paid them, not CATA. And he threatened to oppose CATA's interference in any legal way. He also warned workers that with a union, they would have to pay dues, fines, and initiation fees and follow certain rules. "Before you sign any paper for CATA, be ready to accept the consequences. Being part of CATA includes striking, and being subject to being replaced, paying initiation charges, dues or whatever other legal expenses which you can be forced to assume [3]."

The workers pressed on with their organizing. The organizing drive was a provocative one, polarizing the sides, personalizing the issues, and emphasizing

momentum and surprise. Gutierrez' tactics reinforced the company belief that the problems were not internal but were associated with the outside troublemakers. However, his aggressive style allowed him to become the target, serving as a shield for the workers. No one was discharged for organizing during this period. Instead, the company confined itself to threats and offers.

On March 31, Pia held a meeting with the workers, offering them a five-cent increase for a 10-pound basket and some benefits. There was no mention of the problem of unpaid work, capping mushrooms, and the union. Late that night the leadership group met and decided to stage a walkout the next morning. Although there was no plan for a strike, this walkout would differ significantly from all previous ones. This time the workers would ask for a union.

THE STRIKE

The leadership did not know how many workers would follow them, but walkouts were accepted strategies among the workers. The call for a union was secondary to the walkout for most workers because they had only a vague concept about what union was. Few expected that the action would last more than a couple of days.

CATA probably "regarded the workers' decision with skepticism. With so many workers committed to sending money to their families in Mexico and lacking outside resources, it reasoned that the strike might be yet another abortive farm worker response to managerial abuse" [17]. Cesar Chavez was similarly skeptical when grape workers struck in Delano in 1965 and his fledgling National Farm Workers Association was asked to support the walkout.

CATA also had a number of other concerns. Separation of workers by time (day crew versus night crew) and by space (three different work sites and different living spaces) meant that the Kaolin central-site, day-shift workers had minimal contact with other workers. Furthermore, at this time more workers were returning from their winter break in Mexico and they were uninformed and unprepared to risk their jobs and livelihood. However, momentum dominated caution and the strike began.

The reader may wonder why the Kaolin Union leadership decided to strike rather than adopt the more common strategy of calling for a union election. This decision was attributed to the organizer [11]. There were several reasons. Walkouts were a practice familiar to workers, while unions and representation elections were unfamiliar and suspect within Mexican cultural traditions and history. Furthermore, from past experience, the organizer had found that companies often defeated a union in an election by threatening and bribing workers. And even if the union won the election, legal appeals could lead to endless delays. Ventura believed that the economic pressure and publicity stemming from the strike would expedite the process and would be more effective than reliance on legal processes generally slanted toward industry [14].

The Strike Begins

When strike leader, Luis Tlaseca, put down his picking tools on April 1, 1993, and walked out the door, nearly 140 workers followed him out of the main mushroom plant at Kaolin. They gathered at an adjacent park, signed union cards, and elected union officials. However, their celebration of solidarity was soon interrupted by strategic considerations. They knew that this walkout would not be effective unless it stopped the harvesting of mushrooms *completely*. They had to bring out the remaining workers. They marched back, entered the mushroom houses and began shouting at the few remaining workers to leave. They repeated the same process later that day with the night crew, and harvesting work ground to a halt.

By the second day the company had hired Cambodian and Vietnamese replacement workers from Philadelphia through an independent labor contractor. Their picking was slow and the quality was less reliable, but mushrooms were being harvested. The striking workers were dismayed and tried several times to stop the picking, but they were prevented by newly hired security guards (sometimes disguised as pickers) and court injunctions. Over the next few days, angry and frustrated, they staged confrontations. Thirty-three strikers were discharged, but the harvest went on.

Outside Assistance

The union leadership pursued many strategies under the guidance of Gutierrez. Striking workers picketed and staged rallies, marches, and other demonstrations that attracted the press and gained the support of a number of local political figures and of the opposition party candidate for the presidency of Mexico. Contacts were also made with the large labor unions, and the union received offers of help and support from the Philadelphia's City Workers Professional Employees' Union (AFSCME District Council 47), District 1199C of the Hospital Workers Union, and the AFL-CIO Central Labor Council of Chester County showed interest in developing a boycott strategy to counter the company's success in continuing the harvest.

The support of these and other outside groups, including church groups, university students, faculty, and Latino associations, and the continued interest of the press astonished most of the strikers because they had long been isolated from the surrounding communities. Evidence of outside support helped to hold them together and strengthen their resolve despite the tedium of the picket lines, the cold, the fear, and the exhaustion.

However, the Kaolin workers realized that they would need more funding than the occasional generous donations from supporters to sustain their strike and began to explore an organizational partnership with one of the affiliated labor unions of the AFL-CIO. CATA leadership was concerned that an AFL-CIO union would fail to represent the workers adequately and cause the loss of their

independence and the deterioration of their uniquely democratic style of organizing and decision making. There was the fear that union bureaucratic considerations would prevail over the interests of the workers. Nonetheless, the Kaolin Workers Union (KWU), despite its pride in independence, decided to form a pact with an affiliate of the AFL-CIO in order to obtain strike benefits and other support. The Retail and Wholesale Department Store Union (RWDSU) Local 1034 came forward with the best offer—to provide strike benefits from the RWDSU International Strike Fund and to charter a new local to enable the KWU to retain its organizational independence [11].

Meanwhile, the company dug in its heels. The management felt besieged. The company was losing money because of diminished production, the grounds were surrounded by shouting supporters of the union, and the company's leaders were feeling betrayed [18]. Nonetheless, they proclaimed from the start that there would be no discussion, no negotiation, and no union recognition. The owner declared that he would recognize a union only if it won a PLRB-certified vote [19]. The intransigence of the owner, Mike Pia, surprised everyone.

The Strike Collapses

After four weeks, the workers voted to return to work unconditionally. The hoped-for boycott effort, initially supported by the national union leadership (AFL-CIO, United Steelworkers of America) failed, as the legal and organizational problems proved overwhelming [20]. With no boycott likely, the harvest continuing, and the workers exhausted and impoverished, they chose to return to work and seek a union election. The company refused to rehire the strikers who had been discharged, but it accepted the other workers back and offered them new benefits. As workers returned, the union leadership (mostly workers who had been discharged) began preparing for the election.

MOVEMENT TOWARD AN ELECTION

On May 6, 1993, the union attorney, Art Read of Friends of Farmworkers, petitioned for an expedited election (20 days), hoping to minimize the time the company would have to campaign. The company got off the mark rapidly. Workers were welcomed back warmly, and supervisors treated them with more respect and exerted less pressure on them to work faster. Toilets were repaired, a new cafeteria built, and wages raised. The company held meetings, inviting workers to voice their concerns while it attacked unions and CATA.

In the face of the company's "new look" and the lack of basic understanding about the union on the part of many of the workers [16, 21], KWU leaders did not feel that victory was secure. The union employed many tactics to maintain the momentum and spirit of the workers. For example, to support new legislation to include farm workers under the PLRA, the discharged workers marched for three

days from Philadelphia to Harrisburg. The march was dedicated to Cesar Chavez, to “all our mothers,” and to the Virgin Mary, and its symbols integrated the fight for justice, farm worker history, and religious sentiment. This and other actions provided publicity and reinvigorated supporters, while CATA and the Friends of Farmworkers offered training to workers about the voting process and the benefits of unions.

The Union Wins the Election

The election was held on May 27, 1993. Over 400 people voted, but the results were not announced because both sides challenged a large number of ballots. One delay followed another, until the union convened a press conference and threatened to go to the state capitol “and picket around the PLRB if they didn’t make a quick decision. That worked. We went to Harrisburg to stand outside while they were making their decision [21].”

The union won the election, with 130 votes for union representation and 102 against. Twenty-one votes were challenged, of which 19 came from discharged strikers. In addition, a large number of votes were declared ineligible. You may recall that we mentioned earlier the interest of the packers in unionization. The packers voted in this election, but their votes were not counted because the PLRB concluded that they were covered under the National Labor Relations Act. The board also disqualified the votes of truck drivers, mechanics, supervisors, managers, clerical workers, and professional employees, declaring that none were eligible for membership in the bargaining unit. The final bargaining unit consisted of mushroom harvesters and those whose work directly assisted the growing and harvesting process.

FIVE AND ONE-HALF YEARS OF LEGAL MANEUVERS

The company contested the election. It contested the votes of discharged workers and claimed that many of the remaining workers failed to understand the ballot because the translator sent by the PLRB was incompetent [22]. The company also suggested that the PLRB could not review the performance of its own representative and complained about many of the election procedures. The company raised further charges of unfair labor practices, claiming that CATA engaged in acts of trespass, violence, and threats and destruction of private property intended to coerce the employees to select the union as their bargaining representative. Using these as a basis for appeal, Kaolin refused to recognize the results of the election. The union responded by charging the company with unfair labor practices by offering new benefits after the workers returned from their strike [23], intimidation, and with its discharge of the union’s leaders.

But the union's light dimmed as the PLRB moved slowly toward its decision. The hard-fought and costly victory had yielded little to the strike leaders who had lost their jobs. The RWDSU refused to continue paying strike benefits, nearby employers refused to hire them, and the KWU executive leaders refused to compensate them from the union's small treasury. Union president Luis Tlaseca reported this as the hardest time he had faced: "Workers were accusing us of stealing the money, but it was too little to help 33 families, and legally I could not give it out to them. My wife and I had spent much of our savings, bringing food to the picket lines. It was painful to be attacked like that, but I knew they were desperate" [16].

Although CATA and Friends of Farmworkers stood firm, the alliance with the RWDSU fell apart. There were attitudinal differences between the Kaolin union and the RWDSU, but at the heart of the conflict was the refusal of the union to continue paying strike benefits to discharged workers after the strike had ended. The RWDSU claimed it would continue to make contributions to paying the mushroom workers' legal battles, but stated it could no longer pay strike benefits because the strike was officially over. However, the terminated strikers and their supporters were outraged at the RWDSU's abandonment of its commitment. The Kaolin Workers Union ended the affiliation with RWDSU and continued on its own, possibly the smallest and poorest independent union in the United States.

April 11, 1995: A PLRB Decision

Almost two years passed before the PLRB hearing examiner held that, notwithstanding the fact that the union won the election "by a comfortable margin" and that 11 challenged votes of now-reinstated, dismissed employees would be added to the union election count, the problems of inadequate Spanish translation led to the determination that a new election would have to be held. Both parties appealed. With the PLRB decision to force a new election came a concurrent determination not to reinstate 22 workers. Many union members turned away disheartened and disillusioned. The company, meanwhile, continued to offer new benefits to workers. It offered transportation to work and a retirement plan and, in response to government inspection requirements, fixed up dangerous conditions in the processing operations (the Doubles). The company continued to weed out union supporters. When pro-union workers returned from winter vacations with their families, the company often refused to rehire them. Although some were rehired after unfair labor practice charges were leveled against the company, workers continued to fear reprisals. The number of workers who had participated in the strike or who knew of the workers' efforts steadily diminished and few would speak of the union.

However, the discharged strike leader, Luis Tlaseca, was hired by CATA to help organizing efforts in Kennett Square and to develop farm worker support programs. He repeatedly tried to rally the workers, telling them, "Sooner or later

you will see that the company's promises mean nothing. We will have nothing until we have the promises in writing—until we have a contract" [16]. He would say, "Being silent is accepting abuses. Stand up for yourself" [16]. With help from CATA and Friends of Farmworkers, the few remaining union leaders continued to espouse a union and engage in other forms of organizing. For example, they worked to form a tenants' association in apartment complexes predominantly occupied by mushroom workers.

Court Cases from 1995 to December 1998

Almost three years after the election, the full PLRB ruled on the appeals from the trial examiner's earlier decision. The board agreed with all of the decisions of the PLRB examiner, except for his decision to order a new election. After three years, the board recognized the results of the 1993 election and certified the union. Kaolin appealed in the Pennsylvania Commonwealth Court, claiming that the PLRB did not have the right to review either its own decision concerning the validity of the election or the conduct of its agent. Twenty months later (November 1997), the commonwealth court upheld the decision of the PLRB, and Kaolin appealed to Pennsylvania Supreme Court. In December 1998, five-and-one-half years after the original representation election, the supreme court ruled that the election of the union would stand and that collective bargaining rights would be recognized.

THE CONTEXT FOR CONTRACT NEGOTIATIONS

Prevailing Attitudes

Both sides recognized that the supreme court decision would mean little if no contract were signed. CATA and the union president, Luis Tlaseca, attempted to re-organize the workers into a unified body that would be directly involved in contract negotiations. This was difficult because the union had lost many of its strongest supporters. Very few members of the current workforce were involved in the strike or the subsequent legal maneuvers, and this new generation of workers was uninvolved and uninformed. Consequently, organizing efforts had to begin anew, and this time there was no the drama of the strike, no professional organizers, no team of cheering supporters, and little involvement of other unions. Many workers were confused about unions, others distrusted the union's leadership, and some had been won over to the company side. Still, a core group of workers wanted to have their voices heard and their lives improved and were ready to do something about it.

Union leaders also had to combat the company's attempts to exploit the workers' suspicions and fears. Some workers accepted the company's statements that CATA was simply out to make money and that union leaders would get

rich on the workers' dues. Supervisors reportedly spread rumors that unionizing would mean going on strike and losing jobs. The union's leaders realized that they had to counter this information and instill confidence. Without the workers' open support, it would be difficult to win concessions from the company, and the union would be a meaningless entity.

The Legal Context

In 1997, two Pennsylvania mushroom companies, Vlastic (a spinoff of Campbell's Soup) and Blue Mountain Mushroom in nearby Berks County, both held PLRB-supervised elections for union representation. The union eventually won in each of these companies with such substantial margins that the companies decided to fight the union not by appealing the elections but by attacking the workers' primary right to union recognition. The management attorneys for Vlastic and Blue Mountain decided to challenge the inclusion of mushroom workers within the jurisdiction of the PLRA. The companies were to attack the basic right to organize by claiming that mushroom workers were farm workers rather than horticultural employees as defined and protected for their union activities by the PLRA.

Thus, while the Kaolin workers' were negotiating, the Pennsylvania Supreme Court had accepted the challenge to the workers' right to be organized for purposes of collective bargaining. Were the growers to win this court battle, Kaolin management might simply halt the process, dashing all hopes for a contract. Thus, bargaining continued on the shaky premise that, at any point, the entire endeavor might be ruled moot and ineffectual. On July 25, 2001, the Pennsylvania Supreme Court refused the mushroom growers' request to redefine mushroom workers as agricultural workers and change the PLRA [24]. Six months later the Kaolin contract was signed.

Relations with Other Unions

Given their vulnerabilities and financial strains, CATA and Friends of Farmworkers began to seek the help of the large international unions. The goal was to gain financial backing not only for the KWU, but also for a large-scale program of organizing migrant and immigrant workers. On August 18, 1999, CATA director Nelson Carrasquillo, Friends of Farmworkers attorney Arthur Read, and John Lavin (co-author of this article) met with Kirk Adams, then director of organizing of the National AFL-CIO. Adams was encouraging. He described the process whereby the mushroom workers could apply to establish an independent charter within the AFL-CIO or merge with a major affiliate such as the United Farm Workers or the United Food and Commercial Workers. He encouraged the workers' advocates to work with the unions at the local level, sharing resources and planning strategies.

The local unions in the Philadelphia area subsequently endorsed the cause of the KWU, and a resolution passed by five county AFL-CIO councils enunciated support for KWU and called upon legislators to reform labor laws. In addition, AFL-CIO unions provided assistance with mailings and offered some research facilities and personnel. In Reading, Pennsylvania, the mushroom workers from Vlasic Farms and Blue Mountain joined the Berks County Labor Council as honorary members and contributed to and received support from the council.

But tensions grew. The Kaolin union was reluctant to affiliate with either the California-based and California-oriented United Farm Workers or with one of the AFL-CIO's service sector unions. The KWU workers were reluctant to lose their independence and fall under the sway of what they conceived to be a bureaucratic and hierarchically organized institution. They felt that they and their cause would be marginalized, their participatory methodology undermined, and their ability to recruit members impeded.

However, the KWU members also recognized that alone they had few resources and little leverage in negotiations. They were ready to try to build a relationship but they wanted a trial marriage before racing into a full membership commitment. Financial support, research information useful for negotiations, and other resources that the large unions could provide would demonstrate to them the suitability of an affiliation. When such aid did not materialize, they felt confirmed in their earlier reticence. It appeared to some of the KWU leaders that the AFL-CIO would reenact the role that the RWDSU had played several years before: withhold significant support while trying to dictate union policy.

In late 1999, CATA helped create a new organization called UTAH, to which all local mushroom worker unions could affiliate. This superstructure was essentially a council composed of the representatives of mushroom workers' unions in Berks and Chester counties and staff members from CATA's offices in New Jersey and Pennsylvania. The goal was to integrate the efforts of each group of workers, encourage cooperation, and stimulate future growth of a large-scale union. However, this new structure lessened the local autonomy of the union leaders without gaining new resources for them. In fact, the new structure competed with the individual member unions for limited funds. For example, when the two mushroom workers' unions came together for events and solicited contributions from participants, UTAH, rather than the individual unions, maintained control of administration and resources.

The mushroom workers and mainstream AFL-CIO affiliates were not able to establish a substantive system of support. Wendell W. Young, III, president of the United Food and Commercial Workers Local 1776, had been active in seeking connections between the Kaolin Workers Union and his local, which represented 23,000 workers in the eastern half of Pennsylvania. Young, who had also been commissioner on the PLRB during the period of the Kaolin strike, noted: "While differences in language and culture may play a role in the inhibiting North American unionists from realizing solidarity with the Mexican mushroom

workers' union, it should be remembered that the mainstream unions tend to be understaffed and overwhelmed by their respective challenges to bargain, grieve, and organize within their own jurisdictions. I had to persist with the other commissioners on the PLRB to get them conscious of the injustices facing the people whose work provides our food. The Kaolin Workers were a perfect example" [25].

THE NEGOTIATIONS BEGIN

As the negotiations grew closer, the union's leaders surveyed workers to discover their wants and needs, and some of the workers began to think in grandiose terms. Many of those who turned out for the union meetings were attracted by the opportunity to talk directly to the company's owner, Michael Pia. Several workers said that, "If the boss is going to sit down across a table and listen to us, well, I'll come for that." The prospect of this coming empowerment erased fear, just as it had during the strike. Workers began pouring forth their complaints, their demands, and their work-related concerns. Encouraged by supporters from Friends of Farmworkers and CATA, they began to equate desires with goals and goals with results.

The company resisted having negotiations at the work place, claiming that it would be too disruptive, and the parties took advantage of the hospitality offered by Kennett Square Friends Meeting House. The first negotiation session was held on March 12, 1999. Negotiating for the company were the owner, his attorney, and his personnel director. The union countered not only with its own attorney and two worker negotiators, but also with an audience of about 20 workers. The union, attempting to carry out a participatory philosophy, insisted on member attendance at the sessions.

The union's basic approach was to draw up and present a series of demands that were derived from a survey of the Kaolin workers. Stylistically, the emphasis was on a courteous, professional approach rather than the polarizing, aggressive style that marked the 1993 strike. The initial demands focused on noneconomic issues that attorney Art Read hoped would be less contentious. They included establishment of disciplinary procedures, dealing with supervisor abuse and pressure, safety and health issues, housing, leave of absence problems, and failure to be compensated for extra work. Later the union would address the purely economic issues. In response to workers' proposals, the owner and his attorney nodded, took notes and promised to check into things. Although workers were intimidated by the presence of the company's personnel director, they were encouraged by the apparently concerned tone in the owner's voice. Several workers voiced the view that the boss was a good person who had been misled by his supervisors. But their early optimism was soon dispelled.

Establishing a pattern that marked the entire period of negotiations, the company rejected all union proposals except for the most basic, such as the need

for grievance procedures. Their counterproposals were an essential reiteration of company policy with the addition of a broad management rights clause and a no-strike provision. The company refused to consider dues check-off and demanded that the union cut down its demands significantly before further communication took place.

New Strategies

With the rejection of its original proposals, the union attorney began to focus on three main strategies: 1) He attempted to pressure the company by filing “failure to bargain in good faith” charges with the PLRB. 2) He focused on demands based on equity. 3) He encouraged fuller participation of workers. The filing of unfair labor practice charges in August/September 1999 had several effects. Most importantly, in the settlement of charges the company agreed to extend the time period during which the union certification would remain valid beyond the original first year of bargaining. It also created pressure that forced management to provide requested information and to bargain more seriously. Second, in order to develop proposals that were based on objective standards of equity, the union attorney acquired reams of data on such topics as pay rates and production. This approach was successful in part when the company agreed to recalculate those wages, which were shown to be lower for commensurate work.

The attorney also rallied workers’ interest by supporting their active participation in the negotiations, especially during the first year. Not only did a small group of workers prepare and present proposals at the table, but the workers who chose to attend were invited to discuss issues at meetings and describe problems during the bargaining sessions. In this way, a larger number of workers became active participants in the process. A small team prepared proposals and presented them at the sessions, and the workers who chose to attend bargaining sessions were invited to discuss issues and strategies. In this way, they became participants in the effort. Although the number of worker participants fell off after the first year of negotiations, except when their specific issues were being discussed, the negotiating sessions served as a channel of communication between boss and individual workers in a presumably safe environment.

The Use of Grievances as a Springboard

The union attorney also attempted to use individual grievances to illustrate key problems at the work site. For example, one of the most frequent complaints among workers was that disciplinary actions often appeared to be arbitrary or based on supervisor favoritism. One case took center stage. A work crew of nine men was discharged for drinking on company grounds after work. This was a clear violation of company policy, but the workers protested that everyone sat and drank a little beer after work while waiting for rides and that even supervisors participated in this activity. Since these workers had been seen signing union

cards, some of them thought that the discharge was retaliatory. The nine workers discussed their case in one of the negotiations sessions. The owner listened, asked a few questions, and promised to investigate. However, he ultimately denied the workers' request for reinstatement.

Failed Attempts at Problem Solving

The union also had limited success in its attempt to engage management in a problem-solving form of negotiations, even in areas where common concern was evident, such as safety. From the authors' perspective, the company seemed to be more interested in asserting control than resolving issues. For example, the union raised the issue of worker participation on safety matters, and the company proposed that all issues be referred to the already established health and safety committee. Although workers were eligible to participate, the committee operated only in English, thereby eliminating the participation of most workers.

The difficulty in applying a mutual problem-solving approach was revealed more clearly in another case regarding leaves of absences. The workers were accustomed to taking off for two to three months each winter to visit their families in Mexico. This practice left the company bereft of workers at a time when mushroom harvesting and consumer demand often peaked. In fall of 1998, the company instituted a rule prohibiting any winter leaves of absence, stating that the workers who left would be rehired at the company's discretion and would begin as new probationary employees with a lower rate of pay for three months.

In the negotiations, the union attorney attempted to explain the workers' perspective by pointing out that the current policy was "arbitrary and capricious" when placed in the context of workers' migratory life styles. Although extended leaves were not a common practice in the United States, neither was the mushroom harvesting work pattern. Many workers put in a seven-day work week, often beginning at 4:30 A.M. to 5:00 A.M. and ending when all of the ripe mushrooms had been picked, which might be extremely late or extremely early. A three-hour workday might deprive workers of income, and a 12-hour workday might exhaust them. As migrant workers, they alternated between long intensive periods of work with long periods of home visitation. Art Read, as union counsel, argued that such long-time employees should have the right to be rehired at regular pay scales recognizing their seniority and that they should not be penalized for following a pattern which in most respects best suited the company and the industry.

The owners argued that such workers had proven themselves disloyal by abandoning the company when they were needed. From the company's perspective, the workers departing for Mexico had voluntarily terminated their employment and possessed no rights. It was also revealed, furthermore, that

the lower probationary pay annually forced upon returning employees was economically advantageous to the company.

From this conflict, the union attempted to construct a mutually beneficial solution. The union proposed that workers be given an opportunity to go home for Christmas for two to three weeks only, on a seniority basis, but that they would also have clearance to visit home with a bonus equaling the price of an air ticket to Mexico for a longer period during the slower seasons. The company agreed, minus the bonus. However, few workers were willing to curtail their winter break with no compensatory incentive. While few workers took advantage of this agreement, those who departed simply chose to leave without permission from the company. In the final agreement signed in January 2002, the company agreed to allow workers to take their winter vacations to Mexico as long as those workers requested permission and received a letter from their supervisor stating that their status as employee was in "good standing."

Company Housing

Although the mushroom industry is run on a 12-month basis and grows its crops indoors under controlled conditions employing specialized work and processing, it does retain certain features more commonly found in the field of agriculture. Besides the migratory work pattern, another common feature is government-regulated, employer-provided housing. Most companies provide such housing in recognition of the difficulty for workers in obtaining living space, given problems of discrimination and the high cost of rentals.

To attract a more stable and controllable work force, Kaolin had been seeking worker-housing facilities for some time. In the winter of 2000, the company purchased a large, deteriorated apartment complex in which many of the company's workers lived. The plan, explained to the union at the negotiation table, was to evict all nonemployees from the complex and assign employees to specific apartments, with a waiting list for new employees. However, employees who took the customary leave of absence without permission would lose both their jobs and their residences. Discharged workers would also be evicted.

Although many workers were enthusiastic about the repairs being made to their apartments, they were concerned about the unstated raise in rent and their tenuous hold on their place of residence under company ownership. The company announced these plans without consultation, even though it was arguably a mandatory topic for negotiation. The company's statements, such as "This is how it will be" or "We will determine this soon," demonstrated a failure to bargain and opened the door for more unfair labor charges. What was the result? After months of debating the union and dealing with the department of labor, which oversees company-owned housing, Kaolin gave up and sold the building to a private owner. The length of time devoted to this problem and the inability of

Kaolin to surmount governmental and union objections did not bode well for cooperative negotiations on other topics in the months to come.

Closing the Negotiations

As the union and company continued to pore slowly through the myriad of issues at stake, it became increasingly clear that the union did not have sufficient leverage to win most of its demands. In fact, the union had two significant fears: 1) that the company would attempt to set a decertification election in motion; and 2) that the pending court action involving the Blue Mountain and Vlastic farms discussed above [24] threatened the existence of the union.

In the fall of 2001, however, the company submitted its final proposal, announcing it as a take-it or leave-it offer and refusing further meetings. The union reviewed its position. The leadership recognized that the company offer gave its members significant protections through grievance and arbitration rights, yearly raises of 2% each year for three years, an increase in vacation pay, adjustment in pay rate for certain classes of mushrooms, and protections against layoffs. It did not include a system for collection of union dues, and it included a no-strike clause. However, without a credible strike or boycott threat, the workers realized that they were unlikely to gain more. The attorney recommended acceptance, and workers voted to accept the contract.

When the workers gathered to sign the contract on January 3, 2002, the press watched eagerly for an outburst of applause. The signing, however, was a somber affair, rife with uncertainty about how they would be able to survive with no dues and how they would be able to enforce the protections given to them by the contract. Yet there was also a sense of accomplishment.

“This has been a long, hard struggle, but more than anything we wanted respect,” said Salvador Lopez, the newly elected union president, as quoted by the *Philadelphia Inquirer*. “Now we will feel more secure about our jobs.” Other workers explained to reporters that the right to file grievances was the contract’s most significant gain. “In the past, if we had complaints about working conditions, nobody listened to us,” said Rufino Diaz, 50, a long-time union supporter and negotiating team member. “People are still scared of the supervisors, but we’re hopeful things will change” [26].

The *Philadelphia Inquirer* also interviewed Michael Pia and several other mushroom growers. Pia explained, “We are very pleased with the contract. We feel the contract is a good one for the employees and the company. We don’t see it as a defeat in any way.” However, Jim Angelucci, general manager of Philips Mushrooms (also in Kennett Square) was quoted as saying that the agreement is not exactly good news for owners. Adding to that sentiment, Chris Alonzo, vice president of Pietro Industries, added, “I’ve had the same families of employees working for me for years. I just don’t want to have that being intruded upon” [26].

DISCUSSION: LESSONS FROM THE KAOLIN EXPERIENCE

Although Mexican farm workers may enjoy improved conditions when they migrate to the United States, they have been and remain in a second-class status. Their marginal position cannot be ascribed to a deficient work ethic or a willingness to accept abuse. Their record is one of hard work, and they have shown themselves able to organize work stoppages to protest such problems as exposure to pesticides, irregular and uncertain hours of work, low wages, and poor or nonexistent benefits. However, prior to Kaolin, very few of their protests led to any significant gains.

This second-class status has begun to produce unfortunate societal results. According to Victor Garcia, an anthropologist who has studied Chester County's Mexican population, "These immigrants . . . have a strong work ethic, aspire to improve their plight and better the opportunities of their children, and have a strong will to build stable families and communities." However, "Latino immigrants in Pennsylvania are beginning to exhibit signs of problems often associated with an underclass. Some of them are starting to draw on public aid and their children are not completing high school" [27].

Collective Action

The information conveyed in this article suggests that collective action at the work place is one possible means of making a dent in the fabric of abuse. However, the article also suggests that collective action will be effective only if the gains promised by management in the face of worker protest are formalized in collective bargaining agreements and enforced by a mobilized workforce. The Kaolin experience suggests, however, that such gains will be secured only with great difficulty. If one were to tally the results, the company won far more battles than it lost. Very few of the original 140 strikers were around to celebrate the modest victories that the union later achieved.

On the other hand, in many ways the KWU's gains were astonishing. The workers overcame many profound disadvantages: their limited English proficiency, their social isolation, their unfamiliarity with unions and with collective bargaining, and a cultural memory of Mexico's corrupt unions and workplaces devoid of worker representation. Coming from a setting where hierarchy and patriarchy are explicit, they recognized and anticipated the difficulties of their struggle before they committed to it. Once decided, they were remarkably strong in their dedication and perseverance, partially because they were motivated by an overall sense of justice more than personal benefit. And of utmost importance, they were open to working with other groups, other workers, support groups, and advisors, but cautiously.

The KWU also learned, and thereby taught others, that a wide variety of groups and individuals were ready to take its side in the struggle. Furthermore, its victory,

however modest, set a precedent for Mexican mushroom workers throughout Pennsylvania and offers an example of how a small independent union can survive if it has dedicated leaders, adequate support networks, and at least some recourse to protective labor laws. A study of this organizing campaign raises a number of provocative questions.

Parity in Labor Law

The Pennsylvania Labor Relations Act provided a potent weapon in assisting these workers in their efforts to unionize. However, the company was able to use the legal system to create debilitating delays that threatened to wipe out the union. Even though the workers won their battles before the PLRB and the Pennsylvania courts, their victories came at high cost. The union could not have sustained the battle were it not for foundation-donated services. And although the company lost every legal battle, its costs were relatively modest.

It is our understanding that the American Mushroom Institute underwrote much of the company's legal costs. The workers who received back pay under the PLRB ruling received that pay from the time they were illegally discharged only to the time at which they were able to obtain another job. Thus, the back-pay penalty cost the company relatively little money. And the payoff for these modest expenditures was almost a decade of either union-free or contract-free existence. A review of the facts in this case suggests that organized labor should renew its drive for legislation that provides stronger disincentives for unfair labor practices.

Problems with Problem-Solving Approaches

The union engaged in a failing attempt to turn the negotiations into a problem-solving exercise. The difficulty in applying mutual-interest problem solving to these negotiation sessions appeared to reflect the cultural expectations of each side and the prevailing atmosphere at the company. This was a company in which management had been in complete control. Supervisors were expected to pressure workers to work as fast as possible, without concern for their personal needs, safety, or health. Mistakes were greeted with disciplinary action rather than instruction or support. Workers were not consulted about changes in job rules but were told of them. They were not treated as partners in the venture, but rather like irresponsible schoolchildren. A former company management consultant, Rafael Ramos, explained in an interview that the company could not hire supervisors who were easygoing because workers would take advantage. "Would all workers take advantage?" he was asked, and he replied, "No. But even if it's only one in a hundred, you can't let them get away with it" [18]. Management possessed such power, felt that it needed to possess such powers, and simply did not want to surrender them through the collective bargaining process.

This experience suggests that problem-solving approaches to collective bargaining work only when two conditions are met: 1) where each party respects the

power of the other; and 2) where each party has a common perception of problems and a common desire to see them solved. At Kaolin Farms, we believe that the company learned from past experience that the union could not sustain a long-term work stoppage and, therefore, had little power. And we believe that what the workers voiced as problems, the company perceived as challenges to its authority.

SUMMARY AND CONCLUSIONS

We have now completed our examination of the union organizing campaign of the Kaolin mushroom workers and the negotiation of their first collective bargaining agreement. The process took nine years. The originating strike occurred in 1993, and the contract was finally signed and ratified in 2002. Much of the time was spent before the Pennsylvania Labor Relations Board and the Pennsylvania courts. In the end, a small, independent union of some 400 Mexican workers was recognized, and a collective agreement was signed. We have shown that this study of these events provides a number of insights into the impact of “second-class status” on an immigrant workforce; the value of collective action in such situations; the importance of the support of other groups; some of the problems in the law that governs labor-management relations in the United States; and some of the conditions that are necessary to make problem-solving approaches to collective bargaining work.

The dilemma of the Kaolin workforce in many ways personifies the struggle of the powerless in America with poverty, transience, and legal, as well as political, disenfranchisement. The workers faced fierce resistance from their employer and its allies. The company had the ability to influence the legal and political systems that maintain its standing and its control over the workers. Yet, these workers did achieve a victory against the odds. Their victory was not total, but they persisted, survived, and secured at least some semblance of a voice in the management of the workforce and some control over the conditions under which they work.

In our opinion, the 1993 strike was a critical event, even though the workers surrendered after a month. In numerous interviews about the strike, none of the workers questioned, in hindsight, its necessity. They may have regretted the, perhaps, inadequate preparations that preceded it, but not their unified defiance of the company’s control. The strike created the foundation for worker unity. It mobilized the workers in a way that a traditional but unfamiliar union-organizing drive would not have done, and it taught the workers that they could withstand the company if they were unified. Furthermore, the strike brought in outside support that probably would not have been produced by a simple organizing drive. These new allies brought not only material resources, but the new relationships also helped to break down the isolation previously experienced by the Mexican workers. Before the strike, they were marginalized and disaffected. By the end of the strike they were connected to a wide range of allies that openly admired their courage and persistence.

Although management would claim that the strike was incited by outsiders, it arose from a long-term polarization of interests and a communication failure based on cultural, social, and economic obstacles peculiar to the industry. That communications failure was not only one caused by differences in language and culture but one that had been exacerbated, in our view, by the company's focus on maintaining control and on short-term economic goals. Neither side recognized nor respected areas of common interest. Although the problem was mutual, we believe that the Kaolin experience has shown that it is unrealistic to expect the subordinate party to begin the process for creating cooperative structures. However, this company played the role of a dominant party fearing loss of control and disruption of the status quo.

The legal processes that followed the union election replaced and disabled collective action and gave a great deal of play to the company's legal and economic power. Ironically, American labor relations laws were enacted to end the need for strikes and the commercial disruptions they entailed. In this case, the company was able to frustrate the operation of the law, causing years of delay and, even after losing its case, paying only minimal penalties. The passive waiting for legal decisions further undermined actions to improve conditions at the company over that nine-year period. "The law's protections made us forget how to protect ourselves," declared one worker. "And when those protections did not come through, what did we have but to just go on with the way things were?"

Although the legal process ultimately was key to the workers' victory, it did not help to transform the conflict that gave birth to the problem. The legal system with its adversarial structure not only maintained the communication gap, but widened it. It was not equipped to direct workers and management to focus on resolving their underlying problems and their long-term interests. By the time the union and the company reached the negotiation table, the potential for restructuring their relationship had evaporated.

However, this case is more than a history of delays in the process of labor law. It is a human, lived reality. This group of migrant and immigrant workers secured a collective bargaining agreement because of their unity, their persistence, and the help of a uniquely dedicated support system. Their activism, so constantly jeopardized by reversals and delays, made possible the small but significant gains they achieved. The collective bargaining agreement they won is, however, probably only one more step in a continuing series of conflicts that they must pursue if they are to achieve the recognition of their human rights promised by American and Pennsylvania labor law.

ENDNOTES

1. Hector Delgado, *New Immigrants, Old Unions: Organizing undocumented workers in Los Angeles*, Temple University Press, Philadelphia, Penna., 1993. We note that the events in this case took place prior to the 1995 election of John Sweeney to leadership

- of the National AFL-CIO and the subsequent increase in emphasis upon organizing and political action.
2. National Agricultural Statistics Service, USDA Released August 16, 2002. Washington, D.C.
<http://jan.mannlib.cornell.edu/reports/nassr/other/zmu-bb/mush0802.txt>
 3. N. Carrasquillo (CATA) interview, February 1999.
 4. T. Barrientos, "Pickers' Work is Fast, Grueling and Dirty," *Philadelphia Inquirer* p. q, Section B, April 19, 1993.
 5. Victor Garcia, "Mexican Enclaves in the U.S. Northeast: Immigrant and Migrant Mushroom Workers in Southern Chester County, Pennsylvania," JSRI Research Report #27, The Julian Samora Research Institute, Michigan State University, 1997.
 6. Robert C. Smith, "Case Study 1: The Mushroom Industry in Chester County, Pennsylvania." In M. L. Heppel and S. Amendola (eds.), *Immigration Reform and Perishable Crop Agriculture: Compliance or Circumvention?* Lanham: University Press of America, 1992, pp. 103-117.
 7. Under the Immigration Control Reform Act (IRCA) (1986) 8 USC sect 1324a, the Special Agricultural Workers Program allowed farm workers who could demonstrate that they had been employed for at least 90 days in one of the three-year periods preceding IRCA to become documented as legal employees in the United States and to apply for permanent status.
 8. Cindy Anders, "Kaolin Mushroom Union Gains 55% of the Vote," *Philadelphia Inquirer*, July 14, 1993, p. B4.
 9. David Bacon, "Unions Without Borders," *The Nation*, 272:3, Jan. 22, 2001, p. 20.
 10. See 43 P.S. Sect 211.1 et seq. In the Matter of the Employees of Grocery Store Products Company (PLRB, Case #22, 1956). When Grocery Store Products Company challenged this practice of defining mushroom workers as horticultural workers in 1956, the PLRB sided with the mushroom workers.
 11. Arthur Read, (Friends of Farmworkers) interview, March 1999.
 12. M. Gonzales, "The Kaolin Workers Strike: Discourses of Necessidades," Senior Thesis, Bryn Mawr College, 1994.
 13. *Philadelphia Inquirer*, April 19, 1993, p. B2.
 14. Generally Gutierrez followed confrontational tactics. On April 13th the *Daily Local* noted that Gutierrez has rendered himself so obnoxious that he would have to withdraw for negotiations to proceed. Gutierrez did not appear interested in making friends but rather in creating powerful pressure for change.
 15. M. Cerrato, (Kaolin Workers Union) interview, January 1999.
 16. L. Tlaseca, (Kaolin Workers Union) interview, March 2001.
 17. R. Bussell and J. Lavin, "Justice Denied: Pennsylvania Mushroom Workers and Their Quest for Unionization," University & College Labor Education Association. Annual Convention, Atlanta, Georgia, Presentation, April 10, 1999.
 18. R. Ramos, (Management Consultant) interview. January 2001.
 19. Lori Hill, "Crusader, Agitator or both?" *Daily Local Times*, April 23, 1993, p. B6.
 20. Several problems made a boycott difficult. For example, Kaolin did not sell its mushrooms locally but in other parts of the country, purposively kept secret by the company. And some unions were reluctant to test the courts on an issue of a secondary boycott.

21. Standing on the picket line during the strike, union president Luis Tlaseca spoke with workers who often professed uncertainty about what a union was. They were determined to stand up against abuse, but had not yet grasped the realities of a unionized labor force.
22. *Kaolin Mushroom Farms, Inc. v. Pennsylvania Labor Relations Board Commonwealth Court of Pennsylvania* No. 1762 C.D., 1996, argued May 5, 1997. On May 5, 1997 when union attorney Arthur Read examined one of the witnesses for the company who claimed to have been confused, the attorney showed that the worker was confused no matter how good the translator was. Most workers had a clear idea of how to vote.
23. Among the improvements the workers received upon their return to work were regular pay raises, health benefits, vacation and holiday pay, a cafeteria, hot and cold running water in bathrooms, and better treatment by supervisors.
24. *Vlasic Farms, Inc. v. PLRB*, Supreme Court of Pennsylvania, No. 59, Appeals Docket 1999, argued October 16, 2000, decided July 25, 2001.
25. Wendell Young, III (United Food & Commercial Workers Local 1776) interview, May 2002.
26. Sergio Bustos, "Chester County, Penna. Farm's Workers Sign Contract," *Philadelphia Inquirer*, January 4, 2002, p. B1.
27. V. Garcia, "The Transformation of Rural America: New Latino Communities in Agricultural Regions," Agricultural Outlook Forum, United States Department of Agriculture, Feb. 24, 2000.

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