

Human Rights Summer Fellowship, Final Report

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Introduction

I envisioned spending the summer of 2002 trudging through southern Oregon's forest under-story, valiantly avoiding patches of poison-oak while walking and working in solidarity with Latino laborers. I hoped to learn more about the concerns of this community, what their visions of nature and the environment were, and how these might possibly inform decisions about natural resource management. Indeed, it struck me as particularly shocking that the people who manually manage a good part of Oregon's public forests (constituting over half the labor force in forestry service-work, landscaping and, most recently, fire-fighting) have little or no say in how the woods should be accessed or used. And while the link between workers' undocumented status and lack of participation in resource management cannot be denied, to simply mute concerns of the Latino community- as unheard because unwelcome- seems to violate a more general human right: that of people's meaningful participation in decision-making about the use and management of natural resources upon which community livelihoods depend. Must the right to struggle for and sustain a decent livelihood be solely dependent on citizenship?

I attempted to broach such issues in alliance with the Jefferson Center, a small non-profit that uses popular education to build democratic networks among different cultural and ethnic groups working in natural resources. The Center's fundamental commitment to participatory research, moreover, means establishing long-standing and trustworthy relationships in and between communities that have not usually come together in the past. This process takes both time and patience and tangible "results" may not be visible at first. My interest in the Latino community, therefore, was also part of a larger effort to establish ties between these groups and the Jefferson Center. With no particular program in hand, I set about trying to make various in-roads into Latino groups in the Medford area. My initial visions of working in the forests soon faded, however. In fact, my experience in southern Oregon this summer was far broader than I had originally envisioned.

Rather than doing participatory research with any one group (i.e. Latino tree-planters), I had exposure to several different communities, all generally concerned with participation (or lack thereof) in decision-making around natural resources. I have outlined some of the issues and challenges to doing participatory research with each community and their very different concerns. Ultimately, my experience in the field, while limited, highlights of the complexities of negotiating people's rights to natural resources and how their location in particular societal, economic and power-relation contexts influences the

ability to take more or less effective action for change.

Broad historical context

This report speaks to the larger issue of people's basic rights to participate in decision-making about their resource-based livelihoods, and how these rights are hindered by the way various peoples in the U.S. have been differentially racialized and categorized along the spectrum of citizenship (which includes non-citizen legal immigrants and "illegal aliens"-undocumented workers).

Very briefly, citizenship in the US was historically premised on one's belonging to the category of white, propertied, men. Such "Americans", thus created a constitutive outside (of Native peoples, people of color, slaves and women) who were non-citizens and non-Americans. Citizenship status also defined access to and ownership of land, and helped reinforce naturalized notions of territory: "who belongs and who doesn't".

The idea of Manifest Destiny, for example, envisioned a white and "free" West whose abundant land and resources were at the disposal of Americans. In this land, stolen from indigenous peoples, Black people/ ex-slaves were kept out because they were seen to degrade free white labor, both ideologically and economically. Hispanos had their lands stolen through fraudulent contracts all through the Southwest, subsequent to the Treaty of Guadeloupe Hidalgo in 1848. Chinese workers were denied citizenship, could not own land in California and were eventually barred from immigrating altogether in 1882.

These are just some of the historical sediments in the "legacy of conquest", which underlie current struggles over "who belongs- who doesn't", who has access to land and resources, and subsequently who may legitimately participate in decision making about natural resources. This history is important because it renders a starkly uneven playing field where the question of various groups' meaningful participation is compromised almost from the get-go. How then, may we talk about achieving equitable human rights (i.e. the right to work, Article 23), in such a context? What, moreover, was the particular economic and geographic context of Jackson and Josephine counties, southern Oregon, where I was working?

The Rogue Valley, southern Oregon

During the latter half of the 20th century, this area thrived on an economy based on logging, pear production and millwork. Over the last decade, however, various conjunctures (environmental policies banning old-growth logging and clear-cuts, outsourcing timber services, an increasingly competitive global market in pear production) have resulted in a dramatic loss of jobs and livelihoods. In addition to these economic shifts, the Oregon state budget was slashed dramatically, with education, health and social services the first to suffer cuts. It is in this already economically and socially challenging context that members of the Latino community, many of whom are undocumented, try and make a living.

While the official state census (2000) notes that there are 5841 Hispanics in Medford, this number is likely grossly underreported. I spoke with an employee of the Department of Employment, who is also a member of the Latino community. He noted that while the census figures for the Hispanic population in Jackson County may be around 16,000, there were likely 20,000 plus people in the area. Naturally, issues around legal status (many people are undocumented) and a mobile population are bound to bar any accurate

census polls. Undocumented status is, in fact, central to understanding why most Latino forest workers are not involved in community-based forestry (a discourse which implicitly assumes one's citizenship status and ability to negotiate the playing field of politics/ policy).

The Medford area is, in fact, a critical hub for Latino labor recruitment. At the same time labor violations are rampant and range from not paying wages to substandard housing and on-site safety. The long-term effects of pesticide exposure, over-work, under or irregular pay, and lack of proper training also threaten basic human rights. Many of these violations, of course, relate directly to peoples' undocumented status and their reluctance to report poor working conditions. In forestry work, moreover, many workers feel obliged to their contractor (likely a family relation or friend). This is especially since reforestation/ tree planting is the most sought after work (\$10-12/hr compared to field/farm work which pays \$6.50/hr). Even if/ when labor violations are reported, enforcement is impeded by an outright lack of agency capacity. For the *entire* state of Oregon, there are only 3-4 labor compliance officers! And these officers are also responsible for all licensing of farm and reforestation labor contractors. A similar lack of capacity is reflected in other state agencies. Oregon OSHA (Occupational Safety and Health Agency), for example, has only 2 qualified compliance officers for pesticide regulations/ violations. The cuts to the state budget mentioned earlier only compound this lack of capacity and make for paper laws without any meaningful enforcement. The potential for human rights violations should be evident under such circumstances. Given labor violations on public lands, which ostensibly have federal contracting/ inspection officers, one can only guess that the situation on private lands (which don't have any inspectors) is even worse.

Various community concerns

Latino communities and contingent work

The economic and geographic scenarios that I have glossed above relate specifically to the concerns of Latino tree-planter or *pinero* communities. One of the broader issues that the Jefferson Center was involved with, however, is the question of contingent labor. According to Ruckelshaus, "contingent or non-standard work takes several forms and includes the overlapping categories of: contract workers, misclassified independent contractors, temp workers and part-timers. While each category of contingent workers presents its own particular challenges for the worker, all share the problem that workers in these jobs are disproportionately paid less, receive fewer benefits, and enjoy less job security than their permanent, full-time counterparts"¹.

In this vein, the Jefferson Center is also working with Latino *salal* or brush harvesters up in Washington. It is unclear where contingent workers fall in terms of labor law. With

¹ Ruckelshaus, C. 2000. *The Legal Landscape for Contingent Workers in the U.S.* National Employment Law Project & Bruce Goldstein, Farmworker Justice Fund, Inc.

regard to *salal* harvesters, it is debatable whether brush sheds or permitting agencies (i.e. USFS) should/ would assume joint-employer responsibility for workers. Essentially, are harvesters independent contractors or “employees” of *salal* sheds/ buyers? The Jefferson Center is currently bringing together Mexican and Guatemalan harvester communities in Washington to discuss these issues and establish leadership networks. This might also be an opportunity to establish a forum in which participatory research might take root.

While the situation in southern Oregon differs (tree-planting work, not *salal* harvesting prevails), the issue of contingent labor is still relevant. Given that Medford is a key hub for recruiting labor going to Idaho, Washington and California, contractors come to this area and hire seasonal workers for a variety of tasks (including circuit fruit picking, landscaping and tree-planting). Both US Forest Service and private companies contract out tree-planting work and regard licensed contractors as ultimately responsible for their crews. Again, the question of contingent worker status arises with issues of remuneration. Labor violations are rampant in the *pinero* community, largely due to workers’ undocumented status and feelings of being beholden to their contractor. If contractors do not pay their tree-planters, should the USFS be considered a joint-employer and take on this responsibility? At present, these are open questions. Unfortunately, I did not have the opportunity to speak with any *pineros* this summer. It was very difficult to get access to this community, largely because I was seen as an outsider. I left messages with numerous contractors as well, but never received word back. It seems necessary to establish connections within Medford and stay for a time-period longer than 2 months to gain legitimacy or access to these populations.

While I did try and meet community members through the local clinic (La Clinica del Valle), I was seen as a clinic volunteer and not necessarily a community member. LCDV also had a somewhat strained relationship with some community advocates. Part of this may stem from LCDV’s recent expansion and access to state funds, which other less-resourced groups don’t have. Again, I was unclear as to some of the deeper political issues and would have needed to stay in Medford for a longer time-period.

Issues/ challenges dealing with participatory research

Like the population of *salal* gatherers in Washington, tree-planters in Medford are primarily undocumented workers. I was unable to speak with any community members or contractors directly, although I constantly attempted to contact various people. Here, it was not simply an issue of worker mobility at play (although this is a challenge to working on a consistent basis with any one group), but the amount of time necessary to make connections and gain community trust. For the most part, I was regarded as an

outsider. Latinos did not always recognize the Jefferson Center, even though the Center had made some preliminary inroads into their community. Indeed, the nature of JC work- to establish networks between different ethnic and cultural communities and use popular education for participatory research- demands much groundwork and long-term investment. The limited capacity of the JC, in terms of human resources and bilingual skills, also contribute to little extended involvement with the Latino community thus far.

'Anglo' forestry and ecosystem restoration management

About 3 weeks into my summer work, I went to a meeting in Roseburg, OR, to discuss a possible Bill concept for Oregon Quality Jobs in Natural Resources. This group was formed by labor and environmental leaders along with various community representatives, working together to promote innovations in contracting by state natural resources agencies. The goal of this cooperative effort was to increase the number of year-round, family-wage job opportunities in the emerging fields of forest and watershed restoration, and to improve the quality of work on the ground. The group's aim was to make the Quality Jobs Proposal a reality through state legislation in 2003.

Ironically, ecosystem restoration constitutes tasks currently being done by many Latino crews (clearing brush, cutting trails, prescribed thinning) and categorized as manual labor or low-skilled work. The bill concept essentially seeks to professionalize this labor-force and make it skilled work. What is surprising is that the Latino community has been excluded from any of these discussions. In effect, once manual labor becomes upgraded, Latinos in the field are likely to be displaced. Moreover, given that ecosystem restoration is largely seasonal work (you can only thin, prescribe burn, etc. during certain parts of the year), the economic feasibility of full-time, year-round or high-paid work in this sector is questionable. As the conversation at the Roseburg meeting started to build around visions for community forestry and ecosystem restoration, I raised the issue of Latino labor and immigration. I was promptly thanked for my input and identified as a representative of the Latino community! What does a conversation on community-forestry or inclusion in decision-making mean in such a context? Indeed, while the Anglo community is justifiably concerned with participation in decision-making about natural resources, how does their privilege as citizens work to improve their situation at the cost of another group's economic survival, that of undocumented Latino workers? These questions need to be further explored.

Issues/ challenges dealing with participatory research

Working with the Anglo group seemed far more conducive to participatory research for a number of reasons. I was welcomed to the meeting with some air of legitimacy, perhaps due to my "professional" status as a graduate. This group has come together to voice its demands for a bill concept on quality jobs in Oregon. The community thus was working to voice its own interests and seek outside help (that of lobbyists, professional environmentalists, financial resources, etc.) to attain certain ends. Of course, such

actions are largely possible because all group members are US citizens who have no need to fear deportation or illegal employment. As citizens, they feel entitled and comfortable to make claims on the state for improved jobs and wages, even if this might displace another labor force of primarily undocumented workers. In fact, most members of this community did not even realize that Latino workers were a significant part of the workforce that might be displaced. Indeed, Anglo members consider themselves as a 'natural' part of the community, claiming a long-standing history of belonging in the area (often related to mill-work or timber felling) and may be considered somewhat less mobile (in terms of returning to the same geographic area).

Mushroom harvesters and the Forest Service

The Jefferson Center is also working with mushroom harvesters up in Crescent Lake, OR. In this situation, many Southeast Asian mushroom harvesters, who constitute a minority population with a significant presence in non-timber forest products, are being excluded from consultation around the management of public lands. More specifically, the US Forest Service failed to conduct proper NEPA (National Environmental Protection Act) procedures when carrying out an Environmental Impact Assessment on the effects of prescribed thinning for forest health in the Crescent Lake area. In effect, the ecological impacts of thinning for *matsutake* mushroom productivity and the socio-economic impacts of reduced harvests for collectors were effectively overlooked. This case is significant in that it begs the question of who is or is not considered part of the community and how decisions about forest management deeply impact various groups who depend on natural resources for a livelihood.

To address this issue, the Jefferson Center brought the Forest Service and harvesters together in a first-of-its-kind meeting to discuss the impacts of logging on mushroom regeneration and harvester lifestyles. This meeting promoted more open dialogue between the two groups and afterwards, the harvesters decided to challenge Forest Service plans to proceed with further logging.

Issues/ challenges dealing with participatory research

The mushroom harvesters who chose to challenge the Forest Service's decision to log were either documented immigrants (many of whom came as refugees from Southeast Asia in the late 70s and early 80s) or US citizens. Harvester groups had community members who were fluent in English and could serve as liaisons between the USFS, ally non-governmental organizations (like the Jefferson Center) and other interested parties (locals in the area). The recent influx of Latino migrant workers in mushroom picking however, will likely change this dynamic. The case of the mushroom harvesters seems conducive to participatory research because the group has identified an issue/ topic of

interest: preventing further logging and gathering more comprehensive information on the impacts of logging on mushroom harvesting and reproduction. This latter question attempts to incorporate harvester input and knowledge in the management of mushrooms. Harvesters have welcomed the help of outsiders in so far as they can bring expertise and guidance to the negotiation process (between the Forest Service and harvesters).

Conclusions

The above cases concern different populations, ranging from undocumented workers who have few resources and are fairly vulnerable, to citizen groups who feel entitled to advocate for their interests through legal means and immigrant communities allying with NGOs to negotiate management over certain natural resources. Although all these groups work with natural resources, some have more opportunities to participate in decision-making and resource management while others simply hope to get remunerated for their labor.

The table below briefly summarizes the concerns of different communities working in the field of natural resources. It is evident that groups’ varying status as citizens, legal immigrants or illegal workers plays a critical role in their participation (or lack thereof) in natural resource management.

Latino workers	Anglo community	Mushroom harvesters
Primarily undocumented workers.	U.S. citizens.	Have citizenship or refugee status.
Have no official access to political process.	Feel entitled to making claims on the state.	Do not feel entitled to make demands in the political arena.
Lack access to affordable health care.	Have access to multiple resources.	Are not regarded as potentially impacted community members.
Language barriers result in restricted opportunities.	Desire full-time, year-round, skilled work.	Left out of consultation process (environmental impact assessment).
Rampant labor violations.	Make claims to be part of the community. Have a history of belonging to the area.	Have allies in the NGO community.
Little or no access to resources.		

While all three communities share the status of workers who depend on natural resources to make a living, each group's respective ability to leverage the political arena to address their particular concerns varies significantly (based on citizenship status, feelings of entitlement and perceptions of who does or does not belong to a 'legitimate community'). If community forestry is at all interested in equitable and just access to resources, it must have no choice but to deal with the reality of undocumented workers and their limited access to the formal political arena.

In addition, the feasibility of doing participatory research varies according to each group's socio-economic and political circumstances. I found that it was far more challenging to contact undocumented workers and inquire into their interests. Two months spent in the area (and not in any one community) was not sufficient to build trust or establish deep relationships. My legitimacy as a "graduate student", moreover, was more recognized among Anglo groups, perhaps because they have worked in alliance with environmentalists from similar class-backgrounds before. The Jefferson Center's relationship with mushroom harvesting communities, which took several years to build, also gave me legitimacy in this arena. Overall, the Human Rights Summer Fellowship gave me the valuable opportunity to explore some of the complexities involved in doing fieldwork. It becomes increasingly apparent that working with especially vulnerable populations (i.e. undocumented workers) demands a long-term commitment to these communities and necessitates building legitimate and trustworthy relationships. The question of whether conducting participatory research is feasible or even beneficial to such communities, however, is unclear and remains an open question.