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Work without workers: Legal geographies of family farm exclusions from labour laws in Alberta, Canada

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Abstract

Under the Canadian labour laws that govern workplace safety, wage, and other work conditions, ‘family’ workers are not covered by the law under special rules for agriculture. Among other legal exclusions, the family farm exclusion contributes to a dearth of basic work, health, and safety standards in the sector, despite the commercialization and industrialization of family farming activities. Through a focus on Alberta, Canada—where farm labour rules have only applied to agriculture since 2016—this article explores the family exclusion in relation to family farming experiences with work and risk, based on interviews with farm operators, their family members, and farm employees in Alberta. While some participants continued to press for exemptions for farms from labour rules under the rationale that there is intrinsic safety within families, the findings also reveal how other participants have begun questioning this rationale, despite their overall support for the family farm exemption in Alberta. Using the lens of legal geography and critical perspectives on the family, we argue that the family is a significant but under-examined dynamic in the legal regimes governing farm labour and agricultural safety and health. Together, the law and dominant narratives about family farming treat farm operations as hyper-private domains, where operators have disproportionate power to dispose of their own work and the work of others how they wish. These legal geographies of hyper-privacy contribute to the indecent work conditions that characterize farm labour systems in Alberta and other jurisdictions.

Keywords Labour laws, Agriculture, Workplace rights, Family farms; Farm safety; Legal geography

Abbreviations

| | |
|-----|--------------------------------|
| ES | Employment Standards |
| NDP | New Democratic Party |
| OHS | Occupational Health and Safety |
| UCP | United Conservative Party |
| US | United States |

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| WCB | Worker's Compensation Board |
|-----|-----------------------------|

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Introduction

In Canadian, US, and other jurisdictions, labour laws¹ are subject to ‘special rules’ and exclusions that wholly or partially exempt agricultural operations (Fudge et al. 2012; Schell 2002; Shortall et al. 2019; Thomas et al. 2019). Family members—defined as immediate relations of the operator—are often excluded from the definition of ‘worker’ under these laws (Barnetson 2009), to varying degrees, in many Canadian provinces as well as under the US Fair Labor Standards Act, and most US state-level labour law (see Somerwine et al. 2015).² These exclusions rest on the false notion that family farms are less dangerous and more internally harmonious than non-family farms (Barnetson 2009; Shortall et al. 2019) as well as the wider dynamics of agrarian idealism (Guthman 2004) and exceptionalism (Barnetson 2015;

¹ Elsewhere, the term *labour law* often refers solely to labour relations legislation. In this paper, we use labour laws as a shorthand to refer to the following core legislation governing workplaces in Canada: occupational health and safety (OHS) and workers’ compensation which seek to prevent, compensate for, and monitor work-related injury and illness; labour relations governing the right to unionize and collective bargaining; and employment standards (wages, work time, sick leave, etc.). Note also that in Canada, provinces have jurisdiction over labour laws, outside of federally-regulated sectors (aviation, telecommunications, the federal civil service, etc.).

² There are key differences between jurisdictions as how family farms are covered or not under labour laws, differences that are summarized in Moore et al. (2020). See also MacDonald and Barnetson (2016) on Alberta and Butler et al. (2019) on Newfoundland.

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Schell 2002). There is limited research on the ‘family’ exclusion within agriculture, especially in terms of its significance for power relations in agriculture, and within broader labour law regimes.

This article explores the dynamics associated with the family farm exemption in legislation through the case of Alberta, Canada, where labour laws excluded the entire agriculture sector regardless of the ‘family’ status of workers. The laws changed in 2016, after the New Democratic Party (NDP), a social democratic party, was elected to the provincial government in 2015. This was an unprecedented win for the NDP in Alberta, a province where Conservatives ruled for 44 years (up to 2016). The NDP government instituted key changes to bring farm labour rules in line with both constitutional rights and prevailing farm labour rules in most other Canadian provinces (McDonald and Barnetson 2016). The new 2016 Alberta farm rules not only included farm employees under basic workplace rights—including the right to unionize—but also sought to include *family* under the definition of ‘worker.’ Rural constituents widely opposed these rules, prompting the government to amend the proposed legislation and remove family from coverage (Giovanetti 2015). Nonetheless, it remained significant that Alberta labour law formally included the agriculture sector for the first time in the province’s history.

The research question guiding this project was: how do differently positioned groups (operators, family members, employees) understand the role and reach of workplace health and safety regulation in agriculture, based on their own experiences? Using the framework of legal geographies, the article explores how the law sorts different spaces and subjects through definitions such as ‘worker,’ ‘farm,’ and ‘family,’ which, in turn, shapes which workplaces and groups of workers benefit from labour rights and protections (Strauss 2017). Through qualitative interviews, the research explores participants’ own contradictory work experiences within family farm relationships, where family relationships are conventionally associated with care and safety but also hierarchy (Collins 1998), and their experiences with the way labour laws treat the family farm as a *hyper-private* space (Brickell and Cuomo 2019). This hyper-privacy, bounded by a ‘father right,’ grants farm operators unprecedented autonomy and freedom over how to organize work and the workplace, compared to other sectors. This hyper-privacy is significant because it grants farm operators independence not only to dispose of their labour how they please but also the labour of subordinate family members and employees.

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The findings are based on qualitative research conducted in 2019 with a relatively small research sample of farm household members, farm employees, and industry, labour, and regulator representatives.³ The research is situated in the context of the 2016 changes to Alberta's farm labour laws. We focus on how farm household members and employees explained, justified, and/or contested farm labour rules and the family farm exclusion (contained within the rules), to explore the relationship between farm-level experiences and identities and the process through which the boundaries and jurisdiction of labour laws are shaped. The exclusions and the narratives that underpin special farm labour rules are connected to the extreme forms of precarity and exploitation within the food labour system. The interconnected legal and social dimensions of farm labour rules as they relate to family are worthy of attention because they are enmeshed within the wider model of power in the food system, marked by multiple layers of vulnerability and entrenched racial, class, and gender hierarchies (Heather et al. 2005; McDonald and Barnetson 2016; Preibisch 2010; Sargeant and Tucker 2009). This analysis, thus, has significance for understanding the legal geographies of farm and food labour beyond Alberta.

We first discuss legal geographies as a conceptual framework in relation to the jurisdiction of labour laws and the wider salience of the 'family' for normalizing inequality. Subsequently, we describe regulatory changes to Alberta's farm labour rules and its consequences for the farm workforce. Then we detail the research approach. Interpretive analysis from interviews is then presented in two sub-sections, one exploring how farm household members conceive of family farm exclusions under labour laws and another exploring farm employees' perspectives. Finally, we turn to employees' experiences with farm work-related injury and illness, showing how several employees in the study endorsed family farm exclusions because of their aspirations to become operators.

Conceptual framework: Family farms and labour laws through a legal geographies lens

The core premise of legal geographies is that social relations and experiences are simultaneously legal and spatial. Within this perspective, social and lived spaces are conceived as 'legally significant,' which impacts "how law happens", just as the law always often has a "spatial frame of reference" (Braverman et al. 2014, p. 1). The law concretizes and sorts spatial categories and settings, such as 'the workplace.' Though there are countless workplaces (boardrooms, slaughterhouses, labs, etc.) and

³ A full study report based on the research is available (see Reid-Musson et al. 2020).

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experiences of work, the workplace and employer–employee relationships are “made legally meaningful, at least in part, with recourse to the distinctive traces, categories, and images associated with ‘labour law’ and ‘employment law’ (even if a workplace is explicitly excluded from the applicability of ‘labour law’)” (Delaney 2010, p. 66). The notion of geolegality (Brickell and Cuomo 2019) more specifically draws attention to the mutually constituting processes of geographical categories (the home, the body, the workplace), legal categories (‘the workplace,’ ‘the worker,’ etc.) and power relations. Family farms are uniquely constituted at this juncture, through categories that are simultaneously legal, social, and spatial and through contested questions about whether and how to justify these boundaries and categories.

Feminist legal geographers, building on insights from feminist legal theory (such as Pateman 1988), have attended to the gendered public/private dualism built into labour laws and the differential rights and resources that legal categorizations of ‘worker’ and ‘workplace’ denote (Fudge and Strauss 2014; Strauss 2017). The formal role of labour law is to regulate the labour market and the relationship between workers and employers “based upon a series of related *norms about the proper role and form of law and the typical worker* which is to be regulated” (Glasbeek 1987 quoted in Fudge 1991, emphasis added). That is, labour law’s ‘proper role’ (or jurisdiction) is to regulate contracting parties in the workplace as opposed to the home or family (i.e., the domain of family law).

The spaces and people that the law ‘sorts’ (Strauss 2017) are thus legally codified between the public and private as politically, economically, and socially separate (Bakan and Blomley 1992), and this has enormous meaning for the economic, social, and political power the law confers (or does not). Yet the actual world of work does not map neatly onto the public/private dualism embedded in labour laws. Paid domestic work, for example, is undertaken in private homes and is normally not subject to labour law. These gendered legal geographies of labour laws mean that domestic work is systemically precarious for feminized and racialized workers (England and Alcorn 2018; McGrath and DeFilippis 2009).

As a legal space, family farms are constituted not solely in relation to their exclusion from labour laws, but through various legal traces and meanings, including what could be framed as the moral hegemony of agricultural work and family—both of which have profound significance for family farming identities and places. Family farming is both an organizing principle within agriculture as well as a potent cultural symbol (Cairns et al. 2015; Dreby et al. 2017, p. 151). More broadly, families are important sites for transmitting work values and aspirations, including through family pressures and expectations (Worth 2018). People’s understandings of intimacy, care, and safety are strongly rooted in notions of family, just as families act as a stopgap or insurance against financial and economic insecurity (Brickell and Cuomo

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2019; see also Barnetson 2009). Because of the ‘ideological scripting’ of intimate relationships as safe, people tolerate intimate and family violence to avoid acknowledging or admitting to failure or collapse within these intimate relationships (Brickell and Cuomo 2019, p. 10; see also Berlant 1998). Family is also a potent model of ‘naturalized hierarchy’ for non-family social formations (Collins 1998; Seitz 2019), including normalizing social relations of subordination within employment contracts. There is now research on how the ‘family farm’ imaginarily organizes and legitimizes farm worker precarity, as workers are understood (erroneously) to benefit from the ‘protection’ or care of the families who employ them (see Cairns et al. 2015; Reid-Musson 2018).

The lens of legal geographies draws attention to the family farm as a legal space constituted through multiple and often conflicting legal categories and meanings. Labour laws form a terrain where the meaning of family farming is debated as well as the legal status and rights of family members and employees involved in farming.

Labour laws in flux: Regulatory change in Alberta and its consequences

Alberta’s labour legislation as it applied to agriculture was unique in Canada until 2016; up to that point, agriculture was entirely exempt from any labour legislation (see Table 3). This farm regulatory regime was politically justified for over forty years by the Progressive Conservative government (1971–2015) to “protect the so-called family farm” (Barnetson 2016, p.1). Rural, conservative politics plays a disproportionately important role in the Alberta legislature (and its economy and culture) compared to most other Canadian provinces (Barnetson 2016). Industry, government, and labour advocates all recognized the farm safety and farm labour rights gap, albeit for different reasons. For prior governments, the lack of safety rules on farms was a liability, that is, most farms were underinsured or uninsured, and the exclusion from labour relations rights contravened Charter rights of association (Fudge et al. 2012; McDonald and Barnetson 2016). For industry, the problem was one of social license. For labour advocates, the exclusion demanded redress in relation to systemic labour and social injustices in agriculture (Barnetson 2015; McDonald and Barnetson 2016).

Despite this cognizance, provincial labour laws were not addressed until the social democratic NDP was elected to the Alberta legislature in 2015. Almost immediately, the new government passed new labour legislation, the *Enhanced Protection for Farm and Ranch Workers Act*, which (a) extended Workers’ Compensation Board (WCB) insurance coverage, Occupational Health and Safety (OHS), and some Employment Standards (ES) legislation to Alberta farms and ranches, and (b) the Labour Relations Code was also modified to include farm and ranch employees, including rights of association,

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unionization, and collective bargaining (Giovanetti 2015). These rules were enormously controversial with Alberta's rural electorate, especially the provision to not only *include* family under the definition of 'worker,' but also the extension of union and employment standards legislation to non-family employees. In response, the government backpedaled, modifying the new rules such that they solely applied to *non-family, waged employees*. The eventually-adopted rules in the legislature did not cover family-only farms in Alberta agriculture, much like other Canadian provinces. The proposed legislation in 2015–2016 was perceived by many as controversial largely because it 'over-reached' the conventional jurisdiction of labour law in agriculture—that is, the prevailing legal norm that 'family farms' are *not* (conventionally) the purview of labour regulation.

Despite exclusions for family members, the new legislation remained controversial with conservative rural constituencies because farm employees now had labour rights and because the NDP had passed the legislation. In 2020, a provincial conservative government (United Conservative Party-UCP) was elected and again made changes to curtail farm worker rights under the *Farm Freedom and Safety Act* (Government of Alberta 2019a; 2019b; 2020). Notably, a new 'small farm' category was created that would be excluded from most farm labour rules; small farms are defined as farms with five or less full-time non-family employees (employed for six continuous months or more). The result of these changes (summarized in Table 1) is that most farm employees—who are primarily part-time and seasonal workers—are no longer covered by basic workplace protections. The 'small farm' category effectively extended the exclusionary dimension of farm labour rules from family farms to all 'small farms.'

Through this mechanism, workplace rights only *appear* to cover farm employees—and thus constitutionally consistent—whereas in reality, only a minority of workers are covered. This legal flux signals how 'family' and other exclusions function as a legal tool of labour subordination in agriculture. Legal controversies over the scope of labour laws in farming, including family farming, highlight the ongoing politics and challenge of attempts to regulate farm labour arrangements in a context of change and diversity (Ekers et al. 2016; Somerwine et al. 2015; Weiler et al. 2015). Conservative agrarian communities, like those within Alberta, are heavily rooted in a moral hegemony of the family farm as a hyper-private domain (Brickell and Cuomo 2019). Both the 2016 farm rules and the 2020 legislation underscore how this legal *status quo* is maintained and reproduced over time despite attempts at reform and change. Having evaluated the legislation in broad terms, in the following sections we explore how interviewees explained and framed their positions towards farm labour rules.

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| LEGISLATION | Various, Pre-2016, Progressive Conservative Party | <i>The Enhanced Protection for Farm and Ranch Workers Act, 2016, New Democratic Party</i> | <i>Farm Freedom and Safety Act, 2019, United Conservative Party</i> |
|--|--|--|---|
| Occupational Health and Safety (OHS) | None of the legislation applies to agricultural workplaces | Operations with non-family employees required to comply with the OHS Act, regulation and code | All farms must comply with the OHS Act, but are exempt from the OHS regulation and code ⁴ |
| Mandatory Workers Compensation (WC) Insurance⁵ | | Operations with non-family employees required to purchase workers compensation insurance | Applies to farms with six or more full-time non-family employees (employed for six continuous months or more) |
| Employment Standards | | Operations with non-family employees required to comply Rules on daily and weekly hours of work, breaks during shifts, overtime requirements and overtime pay did not apply to any farm and ranch worker. | Applies to farms with six or more full-time non-family employees (employed for six continuous months or more) Rules on daily and weekly hours of work, breaks during shifts, overtime requirements and overtime pay did not apply to any farm and ranch worker. The definition of ‘farms’ expanded to include mushroom farms, sod farms, nurseries, and greenhouses |

⁴ The OHS Act is a high-level requirement that requires employers to reasonably ensure workplace health and safety, whereas the OHS Code is a more detailed requirement that involves creating a plan to identify and eliminate or mitigate workplace hazards.

⁵ Normally, where WC is not mandatory, it remains optional, i.e., self-employed operators, employees, family workers, or unpaid workers can voluntarily ‘opt in.’

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| | | | |
|-------------------------|--|---|--|
| Labour Relations | | Applicable to agricultural workplaces with non-family employees | Does not apply to any agricultural operation |
|-------------------------|--|---|--|

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Research methods

The study involved interview-based research conducted in 2019 that explored how Alberta family farms perceived workplace safety and risk in relation to new 2016 legislation. From the outset, the analytic approach was to view workplace safety regulation—one aspect of labour laws—through a critical lens, meaning that law and policy have varied and complex meanings for differently situated participants, while also playing a role in how power is organized in the workplace and beyond (Barnetson 2010). We interviewed four groups of participants to capture a range of perspectives (summarized in Table 2).

In total, there were 37 participants. The core focus of interviews was to discuss provincial farm labour rules in relation to people’s experiences with farming work, family, and risk. In this article, we draw mainly from interviews with farm operators, their family members and farm employees.

Table 2: Key groups of study participants

| Group | Number of participants |
|---|--|
| Farm operators and their family members | 16 participants from 6 farm households |
| Senior-level professionals and association representatives (safety, industry, labour) | 14 participants |
| Provincial labour regulators (senior level) | 2 participants |
| Farm employees ⁶ | 5 participants |

Farm household members were recruited through commodity and safety organizations. To recruit farm employee participants, social media posts were shared through Facebook groups and agricultural society email lists. We obtained participants’ informed consent and all participant information was treated confidentially. Pseudonyms are used in this paper. Interviews with farm operators and family members

⁶ Farm employees interviewed for the study were not employed by the farm operators in the sample.

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were held in person, and farm employee interviews were held by phone. Interview questions were open-ended. Some participants chose to participate in interviews individually, and others as a household unit. It is possible this affected how freely some were able to speak, compared to others. The interviews were transcribed verbatim and then were thematically coded by the research team using NVivo, with at least two researchers being involved in the coding of each transcript. Material attributed to each thematic code was then analyzed and discussed, creating higher level categories for interpretation.

About study participants: farmers, young farmers, and farm employees

The farm households who participated in the study identified as ‘family farms,’ though only one farm out of six relied exclusively on family labour. All others relied on *both family and non-family labour* in differing arrangements (see Table 3). The six farms were commercial farms, specializing in cereals and grains, dairy, and potatoes. Interview participants were mainly young adults (20s–30s) and their parents, many of whom had left the farm to work in trades before returning to devote more time to farming with family members. Most Alberta farms depend heavily on off-farm employment: 79% of Alberta’s unincorporated farms report participating in off-farm employment to manage financial volatility in agricultural production (Hamm 2016; Komirenko and Furtas 2017).⁷ There was a range in ages from teens to 50s, as well as a roughly equal number of women to men participants (9 women, 7 men). None of the farm households in the sample relied on migrant workers in Canada’s Temporary Foreign Worker Program. Because the farms employed non-family labour, most farms in the sample were required to follow 2016 farm labour rules.

Table 3: Farm work arrangements among farms in the study sample

| |
|-------------------------------------|
| Family only |
| Family plus seasonal volunteers |
| Family plus 1 FT employee |
| Family plus 2 FT and 1 PT employees |
| Family plus 4 FT and 4 PT employees |

⁷ This rate is higher than the national level (50%).

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Family plus 5 FT and 15 seasonal employees

Of the participants who identified as farm employees, most were also small farm owner-operators and most had childhood backgrounds on family farms. As a result, several referred to their experiences as both ‘hired labour’ and as ‘small operators.’ The farm employees ranged in age from 20s to 50s, and there were 2 women and 3 men participants. As farm employees, they had experience working for various operations, including dairy, horse ranching, grain farming, and cattle lots. They worked full-time hours and spent time on their own operations after hours. Most aspired to run their own operations full-time.

Family farms as private spaces: Father/operator power and challenging family relationships

The most aggressive, protective person is a mother with their own children... nobody in their right mind is going to put their children or their wife or their spouse or any family member or their workers in harm’s way. Do accidents happen? Yes, we work in a dangerous environment, but ... somebody shouldn't be telling us...that we have to take care of our own—we do it anyhow (Ian, commodity association).

The scripting of families as safe and caring and the normalisation of farming risk often accompany justifications as to why farm safety rules and other farm labour legislation are unnecessary (Barnetson 2009; Shortall et al. 2018). Operators who participated in the study were most likely to signal that farming was safe, especially within families, and least likely to share concrete examples from experience that included risk, injury, or illness. The quotation above by Ian, who was also a farmer, is exemplary of this attitude.

The scripting of families as safe is pervasive in social, political—and *economic*—thought, and is not unique to agrarian contexts. In analyzing homes through the lens of geolegality, Brickell and Cuomo (2019), echoing work by Pateman (1988), have noted how family law (distinct from labour law) historically conceived of the male head of household as having jurisdiction over his spouse and dependents. Thus, neither criminal law enforcement nor labour regulators had jurisdiction over the family.

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These patriarchal geolegal formations, then, are rooted in the public and private dualism, whereby relations of subordination within the private sphere are conceived as ‘natural’ rather than political, and where the husband is conceived as having a welfare function for the household. Strongly tied to gender norms, these ideas are not solely imposed on subordinates within families but internalized such that they too fear how state laws would jeopardize ‘natural,’ private relationships within homes. There is, thus, a connection between normalizing risk in family farming (Shortall et al. 2018), the wider patriarchal scripting of family as safe (Brickell and Cuomo 2019), and the use of family to depoliticize social hierarchies (Collins 1998).

For the most part, study participants who identified as members of family farms were opposed to the requirement that family farms comply with prevailing labour laws. Several participants (for example, Ian, quoted above), defended family farm exemptions on the basis that family members do not put others in harm’s way. This section focuses on participants unlike Ian who shared experiences where family farming relationships directly led to safety or health risks, yet who nonetheless defended family farm exemptions and patriarchal forms of power these exemptions afforded. These participant perspectives highlight support for family farm exemptions even among those uncomfortable with the undue power granted to operators/fathers through the law.

As agriculture researchers are aware, farming is subject to intensive production timelines and countless uncertainties, including pests, weather, and volatile prices. Prior research has shown that children often work the longest hours on economically-stressed farms (Zepeda and Kim 2006). In this research, one participant explained how, in some circumstances, these pressures are downloaded onto younger family members, especially where it was not feasible to hire external ‘replacement’ labour if the family could not cope with the work internally, for example, if someone was sick or injured.

That's a part of it, is working long hours. Cutting corners is a big thing. Working under pressure and stress and fatigue, and not working at your best health. Like, I can count many times where my dad and even sometimes my siblings and I—where we're required to go to work, even when we want to be sick in bed, and that's oftentimes when things don't go right because you're not at your best. You just want to be done. You're distracted, you're ill for whatever reason, but you don't have anybody else to do the job. ... it's just, well, ‘we have to do this job’. ... it's not the safest, ..., but it's that's all we've got (Kyle, safety professional with a farming background).

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In research interviews, young/mid-aged farmers who worked alongside their older parents were more candid in their concerns about power imbalances within family work relationships. Four of these interviewees—Adam (30s), Nicole (40s), and sisters Brenda and Ivy (20s)—who participated individually in interviews without their parents—were ambivalent about whether they felt safe working with their fathers. They were more likely to challenge unsafe practices on their parents’ farm, and even question the family exemption under farm labour rules. Because most farms rely on off-farm employment (Hamm 2016), many young family members had also encountered the workplace regulatory system outside of agriculture. In describing returning to the farm, they spoke about negotiating unsafe practices with their fathers (i.e., securing oneself at heights is required under the OHS code in other workplaces).

I went to school to be a [profession redacted], and moved away for several years; worked in the mining industry where it's very safety-oriented, and then to come back to be like, ‘Dad, do you think that ladder maybe should be secured to the side of the grain bin before we climb up there?’, you know, things like that... (Nicole, farmer).

So I had to go up the side of the bin, and if I probably wasn't in industry, I wouldn't have thought that I'd need fall protection, but it's been pounded in my head. ... And like, even now, I look at it, and I go 'I'm not going up there without being tied off'. Like, that's my mindset around here, and I'll spend an extra twenty minutes to go find a pair of safety glasses, where my dad, he never was in that full industry, like, filling out safety cards. So he doesn't look for safety glasses (Adam, farmer).

Younger family members also spoke about how they lacked control over their work, including being assigned unsafe work. In contrast to off-farm workplaces, Ivy’s father (basically, her ‘boss’) would become angry if she refused unsafe work.

Everybody I’ve worked for, like in the other smaller businesses, even if it wasn’t directly ag[riculture] related, you know, they cared more about my safety than anything, so if I were to call and be like, ‘I dumped the quad,’ they wouldn’t be like, ‘Well, are the chemicals everywhere?!’ {speaking harshly} They’d be like, ‘Are you okay?!’ {laughs}. ... I know Dad’s figured out that there is some stuff that I just do not want to do [on the farm], ... I say it every year, and then Dad gets annoyed. He’s getting better, ... but, like, he would get, like, so irritated,

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and, like, if he's already mad about something else, and you're like 'I don't want to do this!', and he just, like, blows up (Ivy, farmer).

Young adults also mentioned that their fathers had no formal knowledge about how to control farm hazards. They put themselves and others at risk unwittingly, whereas younger adults with off-farm experience were more like to take steps to reduce hazards on the job. However, young adult interviewees also valued the unregulated nature of farming work—the fact that they did not have to follow as many rules and were 'their own boss.' These ambivalences about working under their fathers' rules (both as children and as adults); seeing the need for a safer, fairer workplace; as well as the desire for the relatively 'freedom' of farm work shaped how they felt about farm labour rules. They saw the need for creating safer farms while feeling that laws would be associated with a loss of farming autonomy. While many support family farm exemptions; nonetheless, these accounts indicate how some, especially younger family members, question their validity.

Managing children's safety is often part of women's multiple, competing farm duties, though this burden is under-acknowledged (Elliot et al. 2018; Rissing et al. 2020; Whatmore 1994). In interviews, women were more likely to discuss caregiving challenges in relation to farm safety and their overlapping work duties. Monica was an older interviewee (60s) who farmed with her husband and adult sons on an intergenerational, 7,500-acre grain farm, which previously had livestock. She juggled "four jobs" (her words), even nursing her infants as she operated farm equipment. She spoke about how being stretched as both a mother and farmer posed risks not only for children involved but her own emotional and physical health.

When they [the children] were little and just stuck in the [tractor] cab with me or, like, breastfeeding or things like that, that wasn't so bad cause they were immobile. ... But with the [livestock] and stuff, everyone was out there pitching things, and running in pens and things like that, and it was a matter of necessity. ... Because it's ... of course, lack of time, if you're split between four jobs and stuff, so emotional and physical drain I think are the major factors in any kind of safety protocols, and even though that's no excuse (Monica, farmer).

Though Monica emphasized elsewhere in the interview that she was "not a feminist," her experiences reveal the unequal gender bind and extra work involved in keeping family members safe. Women assume

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the mantle of caregivers who protect children from harm but are also burdened with multiple roles that make it challenging to effectively carry out these caregiving duties.

'Family' is exempt from the legal requirement for farms to carry mandatory Worker's Compensation or private health insurance coverage. If someone is injured or falls ill, the farm is in a vulnerable position as there is no wage replacement or disability support (Becot and Inwood 2020). Health and disability insurance decisions are left to the discretion of operators, again underlining the power of the male authority figure to determine the fate of the family and the operation. Several interviewees struggled to reconcile the notion that families cared for one another with the vulnerabilities resulting from lack of insurance coverage. In her interview, Brenda weighed the freedom the exemption affords against the risk of remaining uninsured.

I don't mind being exempt. I feel like I'm more free and clear to maybe do things I shouldn't be doing, but at the same time, it's like, if one of us were to get hurt badly enough, you know, we're gonna be off work for the next year or something, I kinda can't help but wonder. ... I'm just like, should that be how it is, or should we be paying into something that'll take care of it for us? ... so that is kind of a point that I kinda waffle back and forth on. (Brenda, farmer).

As others have described (Barnetson 2009; Shortall et al. 2018), conventional narratives about family and family farming normalize risk and rest on the notion that family members are bound by relations of care. These narratives buttress legal exclusions in agriculture and draw attention away from economic pressures facing family members and inequalities within family farming, some of which are directly linked to safety risks. Here, participant accounts reveal the internal contradictions of family farming relationships, such as the fact that family farms do not have carry insurance (and thus leave family members and farms exposed to financial and health risks). These contradictions meant that some participants were ambivalent about provincial farm labour rules, even between members of farm households, but especially among young adults who questioned the *status quo*. For some participants, their direct experiences of farming within family involved harm and risk, yet they nonetheless supported legislation that exempted family farms from labour and safety rules.

Hired labour: Health inequities, fairness and power in family-employee relationships

The economic and employment precarity of farm workers is rooted in labour laws that leave them with few to no legal or social rights compared to other workers (MacDonald and Barnetson 2016; Schell

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2002; Thomas et al. 2019). ‘Family farming’ is an organizing principle and discourse in agriculture that impacts these legal regimes of farm worker precarity (although see Cairns et al. 2015; Reid-Musson 2018). It was critical to include non-family farm employees’ voices and experiences within this study, and to examine how farm family members frame their relationships to employees who lack basic workplace rights. The context for the interviews was significant at the time of collection since farm employees gained coverage under labour laws in 2016 and Alberta farm operators with employees had to comply with workplace legislation for the first time. Our results suggest that the notion of intrinsic safety is deployed to justify the lack of farm worker rights, while farm employees have their own contradictory views and positions about workplace legislation.

Interviewees who relied on non-family employees spoke about making efforts to ensure their work was safe. Some acknowledged that basic workplace safety rules for employees were justified, but often bristled at other areas of workplace protection, such as employment standards. Several employer participants indicated that employment conditions were already safe (i.e., stressing that the legal requirement was duplicative or unnecessary). Lucas, a farm operator who had the most employees compared to other farms in the study, was strongly opposed to the legislation:

Our workers have to be able to refuse unsafe work, which they have always been able to do **at my place**. They've been never been forced to go up to a grain bin while there's lightning or whatnot. We told them that (Lucas, farmer; emphasis added).

Overall, while employers in the study emphasized safe working conditions, employees in the study discussed unsafe and precarious farm work conditions. In other words, employees were least likely to normalize the risks they faced. All farm employees reported experiences with risky conditions (i.e., presence of hazards), while three out of five had experienced serious injuries and/or illness due to farm work. These included broken and dislocated bones from falls, concussions, and chronic injury from repetitive use.

While some workers in the study said their employers were conscientious and took their safety seriously, this did not necessarily translate into effective injury prevention. Mary, who had worked on several farms starting when she was a teenager, had developed a lung condition from cleaning grain silos without protective equipment. At the time, she was young and unaware of the risks associated with exposure to moldy dust, a chronic lung condition known as ‘farmer’s lung.’ Her breathing had been

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permanently affected by this exposure. She described that grain farmer as a kind man who had unknowingly failed to protect her against the mold exposure. This experience highlights how employers' 'good intentions,' such as an expressed wish to care for workers, do not translate into concrete knowledge about how to reduce and/or manage occupational risks. Had her employer possessed knowledge about the hazards of confined spaces and toxic exposures, as well as being required to comply with disease/injury prevention steps, he *may have* taken steps to protect her health.

Rather than viewing legal reform as the remedy to their precarity and lack of workplace rights, some interviewees instead viewed exiting farm employment into farm operatorship as their primary goal. In doing so, these interviewees attached their well-being and security to family farming, often repressing how both farm employment and operations are associated with vulnerabilities while viewing labour laws as a threat to family farming. Ralph's experiences, in his late 30s at the time of the interview, are illustrative of this dynamic. Ralph had developed arthritis in his hip accompanied by chronic pain and had been advised that he would need hip replacements soon. His doctor attributed the arthritis to repeated use from long hours spent truck driving. Though Ralph was covered by worker's compensation through his employer, the injury was not insured because he was dissuaded by his employers from filing a worker's compensation claim.

The worse damage is, is the exact position of operating an accelerator for extended periods of time. It's from pushing down on that gas pedal, over and over. ... Then on one of the follow-up visits [to the doctor] I outright asked the surgeon ... and he's like, 'it's a direct result of your work.' ... So, over time, my hip has got arthritis in it pretty bad ... I've had two surgeries on the right and one on the left, and eventually it'll mean a replacement.... Even though you get out and you try and move around every load, like, it still takes its toll, and then by the end of the day, you're so stiff and sore and that, and you have to go, is it really worth it? So, eventually, in that not distant of a future, I think it'll be the end of my career there, that it'll be just too much (Ralph, farm employee).

At his relatively young age, Ralph's impairment significantly had limited his ability to pursue his central goal—to become a farm operator full-time and transition away from farm employment. His experiences with farm employment echoed the wider experiences of interviewees: They were paid relatively low wages (though higher than minimum wage). Time off due to injuries was also a financial strain,

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particularly when they did not receive wage replacements. High living costs and lack of job options in rural areas contributed to making workers feel ‘stuck’ in their jobs, and tolerant of dangerous conditions. All these factors meant farm employees had much less leeway to modify their tasks and had few options other than tolerating risky conditions. Ralph also grew up on a family farm that was lost due to financial strain. Despite all these realities—the adverse health impacts of unsafe farm work in an industry where he feels stuck, combined with the economic vulnerabilities of family farming—Ralph aspired to run his own farm just as he questioned the legitimacy of extending labour laws to family farms.

Farm employees in Alberta have extremely limited political voice. This broader reality explains how, while employees in the study often disagreed that farms were safe, they accepted the legal status quo. The extreme power imbalances between employees and industry contribute to the cycle through which the law reinforces the economically and politically vulnerable position of farm workers by leaving farm workplace and work conditions outside of the jurisdiction of labour laws. The interviews also revealed how employees in the study expressed a preference for exemptions from farm labour rules because their identities were more closely tied to that of *family farming* rather than *farm labour*. In the hopes of one day occupying positions as operators (and employers), current-day farm employees paradoxically positioned themselves as supporters of agricultural exceptionalism. While lack of farm safety had harmed them, these participants continued to express support for legal exclusions. These findings suggest that for farm employees in the study, their aspirational identities as future farmers were more powerful than their current realities as employees.

Conclusion

The concept of geolegality reveals how there is a contradictory interplay between narratives about family farming and the boundaries and categories embedded in labour laws. Exceptional legal regimes governing agricultural labour conditions are not purely juridical but are reinforced by and impact how farm populations understand the hyper-private nature of farming work, especially through the lens of family. In this way, we argue that farm labour regimes, often characterized by exclusions from labour laws, can be understood as “reciprocal materializations” (Delaney 2010, p. 11) where farm populations are engaged—unequally and contradictorily—in discussions about the appropriate scope and jurisdiction of labour laws in agriculture.

In this article, we have used legal geographies and critical perspectives on the family as a wider political and economic discourse to argue that the family is a significant but under-examined dynamic in the exceptional legal regimes governing farm work and agricultural safety and health. We argue that the

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category of the nuclear family has enduring resonance for depoliticizing and normalizing how patriarchal and employer power in farming work are organized, both within and beyond the nuclear family, extending into employment relations, for example. Farming independence (i.e., the discretion to organize one's work and take risks) rests against and upon relations of subordination of spouses, children, and employees, who do not necessarily enjoy the independence afforded to the operator/head of family. While the 'father right' over subordinates has antecedents in Western legal traditions (Pateman 1988), this research has explored how farm labour rules allow the father right to persist in commercial agriculture whereas labour laws do not extend this right to non-agricultural operators.

The findings also reveal how those directly harmed by these rules nonetheless supported legislation that gave fathers/operators discretion over their family operations. This suggests that levels of tolerance of risky work conditions may be waning among some participants, while at the same time, participants wish to see family farms remain exempt from workplace regulation. There are thus underlying perceptions or beliefs that family farm operators have a 'natural' right to remain free from regulations that prevail elsewhere, a belief defended even among those whose fathers or employers have put them in harm's way.

The research presented in this article is based on a relatively small qualitative sample. It is critical to situate this sample in regulatory context to understand the wider resonance of the findings, which help reveal some of the potential ways the family exclusion and other legal exclusions under farm labour rules are maintained over time. While the research focused on Alberta, there are relatively similar (though not identical) rules across other Canadian and US jurisdictions in terms of how the family farm is legally configured. In many jurisdictions, family farms are not considered 'workplaces' unless non-family employees are present, and family farm members are not considered 'workers,' despite the moral value and practical importance placed on 'hard work' in agrarian settings (Reid-Musson et al. forthcoming). Whether farm family members are paid or unpaid is irrelevant under these rules—the family-only farm is not legally considered a workplace. Even where non-family farm employees are covered by basic workplace laws, these rules are limited and partial. Compared to any other sector, agricultural operations are treated as hyper-private legal domains, where operators have unprecedented autonomy to organize and dispose of labour how they choose. In this sense, the patriarchal family arrangement is profoundly significant in shaping the legal and lived dimensions of farm labour regimes.

The legal and labour geographies of the family farm are tightly interconnected; to date, however, there has been little research examining the relationship between the legal and social category of the

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‘family farm’ and wider systemic issues of labour subordination and precarious employment in agriculture. Understanding the nature and impact of the family farm as a legal space, mode of organizing farm labour, and agrarian identity is crucial to understand labour regimes in Canadian agriculture more broadly.

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