Keep the Union at Bay
The Racial Dimensions of Anti-Union Practices in US Agriculture and the Long Fight for Migrant Farm-Labor Representation

Francesca Coin

1 Rural Wounds

> By the end of the 1970s, anti-unionism had supplanted racism as the South's most respectable prejudice. Senator Strom Thurmond of South Carolina, a former segregationist, found it easier to cope with black voting than with the threat of unionization. Said one labor leader, "he'll accept blacks now, but you still don't see Storm shaking hands with union people".
> James Charles Cobb (1993, 259)

1.1 The *Plight* of Rural America

The best starting point for this story is 2004, when US Senator for North Carolina Elisabeth Dole delivered a speech at the White House advocating a tobacco buyout in North Carolina. Referring specifically to the situation of tobacco growers, she claimed that "every week my office continues to receive numerous calls from tobacco farm families in desperation". "There is a deep feeling of helplessness", she continued (2004a). Most tobacco farmers are at retirement age,

> just hanging on a little while longer in hopes of being able to pay off their debts. They have hung on and continued to produce in hopes that things would get better – knowing that if they got out now they would have to sell their farm and liquidate other assets to settle up with their lenders. […] And all they can do is get on their knees and pray that those of us who have been given the privilege of serving in Congress will act. (Dole 2004a)

Senator Dole was arguing for a tobacco buyout: an opportunity, as she described it, for the growers to pay off their debts, and for those who wanted to retire to do so "with dignity". "If nothing happens this year, these farmers will be forced to give up all that they have". The situation is critical, she continued:

> There will be no holding out for just a while longer. This may sound like rhetoric to some, but it is the precise truth for countless thousands of farm families. I've been there to see it and I could not be more dead serious about this. Status quo is simply not an option. […] It is either now – or never. (Dole 2004a)

In 2004, the situation in North Carolina was no different from what was happening across the United States. In recent decades, the cost of all agribusiness-related production and distribution has continued to increase while farm commodity prices have fallen. Especially in the tobacco industry, growers depended on the support prices for tobacco that had been in place since 1938. Since 1938, the tobacco industry has operated within a system of quotas. An attempt to respond to the financial difficulties that tobacco farmers faced during the Great Depression, quotas represented a license to grow tobacco that allowed the Government to control tobacco supply. From 1938, the possession of a quota was required to sell tobacco at the support price and included constraints on the number of pounds of tobacco that a farmer could grow (Penkava 2004). People in North Carolina invested in tobacco quotas to either grow tobacco, lease or rent them to small farmers. This system was to the great advantage of large farmers, who generally used the money from renting out their quotas to pay property taxes and insurance on their land (Rice 2004; Penkava 2004). In general, the quota system assured a minimum price for tobacco and guaranteed a buyer. From 1989 to 1996, tobacco farmers experienced seven years of stable quota payments. Between 1997 and 2004, quota dropped almost 60 percent (Dole 2004a; Rice 2004; Penkava 2004). The reduction in quota payments came at a time when the international demand for cigarettes and tobacco had declined, while tobacco imports from countries such as Brazil had increased (Dole 2004a; Rice 2004; Penkava 2004). According to Specialist in Agriculture Policy Jasper Womach (1998), in 1996 about 58% of the tobacco in US manufactured cigarettes was domestic leaf and 42% was foreign. Conversely, nearly 65% of the US-manufactured cigarettes were consumed in the United States and the remainder exported (Womach 1998). Since 1997, the reduction of marketing quotas induced farmers to expand their investments in order to buy new equipment to replace old (Brown 2005). In this context, tobacco farmers found themselves with a decline in demand and a limited market for their crops, while they had borrowed significant amounts of money to increase their competitive advantage. It is in these years that the controversial hypothesis to terminate the tobacco program with compensation to quota owners started to take shape (Brown, Rucker, Thurman 2007), in an attempt to reduce the negative consequences deriving from both an increase in the global supply of tobacco and from a decline in cigarette consumption.

In 2004, Senator Dole acknowledged that thousands of family farms were living a situation of distress (Dole 2004a). In those years, the agricultural crisis, together with the closings of textile and furniture manufacturing, resolved in foreclosures and layoffs for thousands of workers. Throughout the state, families struggled to even put a meal on their tables, argued Elisabeth Dole (2004a). According to Senator Dole, a tobacco buyout would help farmers to be more competitive in the world market, it would relieve farmers of their debts "and restore hope to countless North Carolina farmers who have labored all of their lives under the sun to feed America" (Dole 2004a).

In October 2004, Congress legislated on an end to tobacco quotas in exchange for a one-time buyout. *The Fair and Equitable Tobacco Reform Act* of 2004 ended the tobacco quota program and established the Tobacco Transition Payment Program (TTPP) (Halich, Powers, Snell 2007). Basically, the government could buy the farmers' quota and in exchange for quotas provided annual transitional payments for ten years to eligible tobacco quota holders and producers (Brown 2005). Payments lasted nine years, beginning in 2005 and continuing through to 2014. In 2004, Senator Dole saluted the buyout as a "monumental achievement" (2004b): "by buying out these quota holders, [the US Government] gives families […] the ability to pay off the bank for loans made against an ever shrinking collateral", said Senator Dole (Dole 2004b). In his analysis of the tobacco industry, Peter Benson recalls how regional newspapers called the buyout a "miracle" (Benson 2012, 124). In particular, on the eve of Election Day the Wilson Daily Times defined the tobacco buyout "a legislative miracle by farmers and Congressmen alike" (quoted in Benson 2012, 124). In general, Benson is correct to say that the bill "pulled a safety net out from under growers" (Benson 2012, 128). In those days, however, mainstream media presented the buyout as the only reform that could save numerous farmers from losing their farms. In fact, while the buyout did represent a temporary relief for farmers, it was just the final step in a decade-long federal policy meant to "liberalize" the tobacco industry, terminate the quota and price support provisions, do away with small farmers and transition to the big, industrial farm (Brown 2005).

In recent decades, the tobacco industry in the US has been dominated by the Big Four tobacco companies: Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard. A merger between R.J. Reynolds and Brown & Williamson in summer 2004 created Reynolds American Inc. (RAI), thus turning the Big Four into the new Big Three. On July 25th 2017, British American Tobacco (BAT) announced with a press release the completion of the acquisition of the remaining 57.8% of Reynolds American Inc., thus creating a global tobacco company (BAT 2017). Mostly outsourcing the supply of tobacco leaves and labor due to low prices abroad, tobacco companies have increasingly bought tobacco leaves offshore to remain competitive in world markets. In recent years, the lower raw material costs and cheaper labor in countries such as Brazil have increased the import of offshore tobacco. Conversely, the declining demand for tobacco in the US has been detrimental to tobacco producers. In fact, growing health concerns and increasing foreign production of tobacco have reduced demand for US tobacco, leading to a reduction of both aggregate quota and real price-support levels (Brown, Rucker, Thurman 2013). These factors have led growers and quota owners to support a buyout (Brown, Rucker, Thurman 2013). At the same time, leading manufacturer of cigarettes in the United States and the largest purchaser of US grown tobacco Philip Morris supported the tobacco quota buyout. According to Jim Burns, manager of agricultural programs for Philip Morris USA,

> quota leasing over the years has added costs and weakened US tobacco growers' ability to compete with foreign markets. Elimination of this cost should make US tobacco more competitive and stimulate demand, though there can be no guarantee in this regard. (Quoted in "Tobacco Has A Future, Panelists Say, But It Will Be Very Different From In Past")

According to Burns, "eliminating the quota system and establishing an open marketplace where tobacco farmers are permitted to grow tobacco in any quantity should bring more stability and certainty to the grower community". In general, in those years, Philip Morris consistently supported legislation that would provide the US Food and Drug Administration (FDA) with effective authority to regulate cigarettes and other tobacco products and to impose performance standards for the manufacture of cigarettes and their promotion (Givel 2005, 452). In contrast, Philip Morris' competitor Reynolds American lobbied extensively against the FDA regulatory authority. According to Michael Givel:

> One reason for this opposition from the rest of the industry is fear that new regulation will lead to even stronger FDA regulations in the future that will hinder marketing, distribution, and sale of tobacco products. (2005, 457)

In fact:

> while Philip Morris might talk about the stability of the marketplace, its real motivation, say competing industry lobbyists, is solidifying its market domination and eventually squeezing its competitors out of the business altogether. (Goldman 2001 quoted in Givel 2005, 457)

At the same time, the buyout was not necessarily convenient for growers. For small farmers, the buyout amounted to nothing but "fair compensation to tobacco quota holders" so that they could leave tobacco and "retire with dignity" as Senator Dole foresaw.

> In fact,
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> The exodus of tobacco farmers after the buyout was large. The number of tobacco farmers declined from about 57,000 in the 2002 Census of Agriculture to 16,234 in the 2007 census. Part of this decline can be attributed to the way tobacco producers were defined during the tobacco program. Non-producing quota owners were counted as tobacco farmers during the program years if they shared in the risk of growing the tobacco by sharing in the cost and revenue of growing the tobacco with a grower who used the non-producing owner’s quota. The decline is also due in part to farmers who exited tobacco production to non-farm jobs. Some farmers were part-time farmers growing tobacco, particularly burley, who dropped tobacco from their farms. But a large share of exiting farmers is attributable to farmers retiring with the end of the program. (Brown 2013, 3)

Benson reaches a similar conclusion:

> My interviews with growers suggest that cash is being used to repay farm loans and invest in new farm equipment, often through local lenders and agricultural suppliers. Many growers also indicate they invested the money in stock markets, with the recipients of very large sums establishing trust funds for their children, hardly the ideal of compensating struggling businesses for hardships or helping to diversify the regional economy. No growers told me that they used the money to improve labor camps. Nor did recipients see the transfers as a means of exiting tobacco production in favor of another cash crop. The transfers were basically used to support the retirement plans of landowners and aging growers or to enable active growers to mechanize their operations to increase global and local competitiveness. With no restrictions on the use of the money, and no incentives to diversify crops, the buyout undermined the central goal of the president’s report to phase out tobacco production and create more sustainable livelihoods. (2012, 130)

In this context, conditions for growers became more demanding. Under the TTPP, farmers growing tobacco have to produce specifically for the supply chains of major processors, wholesalers and retailers rather than selling commodity crops locally to the highest bidder. In this typical “contract farming” arrangement, the grower is not faced with quota production constraints, but has to follow the exact customer specifications of their buyer. In contract farming, the grower provides the land, the buildings, the equipment and the labor. The company provides the management direction and the market outlet. Under the contract system, there is no longer a market where the government can purchase tobacco rejected by the companies (Halich, Powers, Snell 2007). According to Will Snell, Laura Powers and Greg Halich

> Contracting growers have a legal agreement with a buyer which states the company will purchase their crop (as long as they fulfill contracting terms), along with a pre-marketing price schedule for a given set of grades/qualities established and determined solely by the contracting company. (2007, 4)

Given the competitiveness of the global market, these conditions largely benefit tobacco buyers. On some level, the system may also benefit large tobacco growers. But small farmers gain almost no benefit in this legislation.

As Halich, Powers and Snell argue, future income for farmers:

> will have to be earned in a marketing environment characterized by a concentrated group of buyers with market power and against very competitive tobacco producers from other countries and from other traditional and non-traditional growing areas in the United States. Consequently tobacco growers will have to pay a lot more attention to cost-cutting measures (along with quality) if they are going to survive and prosper in the post-buyout era. (2007, 4)

1.2 The Inherent Ambivalence of the Guest-Worker Program

The crisis of small farmers was not limited to tobacco. In the past fifty years, the number of farms throughout the state has dropped dramatically. In 2005, North Carolina had less than 17 percent of the farms it had in the late 1940s (Brown 2005). This trend encompassed all major crops, not just tobacco. One North Carolina grower argued that in the Sweet Potato Belt "we see smaller farmers go out of business and those who stay in get bigger and bigger" (Robertson 2006). In the cucumber industry, there has also been rapid change after NAFTA, contributing to a continuing decline of prices. In this context, throughout North Carolina small farmers "had to do what they had to do" (Glascock 1999): cut their labor costs.

During the 1980s, the first noticeable effect of the US farm crisis was a general replacement of American farm-laborers with migrant workers, and the impoverishment of their working and living conditions. During the 1990s, the agricultural sector replaced authorized workers with almost exclusively undocumented immigrants from Mexico (Ahn, Moore, Parker 2004). In North Carolina, one grower explained that as the cucumber business was becoming increasingly competitive, "with cheap cukes from Mexico and Guatemala" (Steinberg 1998), growers were forced to hire undocumented workers. "We're not proud of the fact, but the reality is a lot of our workers are illegal" (quoted in Steinberg 1998). At that time, growers in North Carolina were complaining about the limited availability of domestic workers. According to Schrader (1999), growers were nervous about a series of raids conducted by the US Immigration and Naturalization Service and concerned with the tendency of undocumented workers to quit in the middle of the season to work for someone who paid them more (Schrader 1999). It is at that time that the growers began contemplating the possibility of creating a Growers Association with the purpose of recruiting temporary farm-workers from Mexico with temporary work visas.

In 1989, the future NCGA President Stan Eury did a little consulting work for local farmers (Schrader 1999). According to Schrader:

> A wiry man who grew up in North Carolina's tobacco country, Eury had been a state employee for years, representing farmers' interests at the North Carolina Employment Security Commission. But in 1989, he and a friend were arrested and charged with growing marijuana for sale. Eury paid a fine and did community service. And he was fired.
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> At the time, a series of raids by the US Immigration and Naturalization Service at farms around the state had made North Carolina growers nervous about hiring illegal immigrants. And they found that domestic workers were not only in short supply but also had a tendency to quit in mid-season to work for someone who paid more. Eury, looking for work himself, saw his chance. Although he spoke no Spanish and had never farmed an acre, he knew the convoluted H-2A regulations inside out. He convinced 40 growers to pay him $500 per worker to recruit 300 Mexicans under the H-2A program.

The growers wanted Eury to bring in guest-workers to offset a lack of domestic farm-workers and to protect them from raids by federal immigration agents. "Before long", he said, "several approached me about forming the association" (quoted in Schrader 1999). Promising to handle all the paperwork and logistics, Stan Eury founded the North Carolina Growers Association in the mid 1990s with the purpose of recruiting farm-labor in Mexico. During its first season, the NCGA recruited 300 Mexican workers for 50 growers under the H-2A program (Schrader 1999). In a few years, its activity had grown exponentially. By 1996, the NCGA counted 500 grower members and 4,800 H2A workers. At that time, Eury was already so well established that he had "a stronghold in North Carolina" (Glascock 1999). In 2005, the NCGA had 1,050 members, and was the chief contractor for H-2A workers nationwide. Up to 2005, the association recruited about 10,000 workers a year for their tobacco, cucumber, sweet potato and strawberry harvests. About 2,000 of these workers were employed in the production of cucumbers, a crop most of which is sold by contract to the Mount Olive Pickle Company (MOPC), the second largest pickle processor in the nation. The largest number of workers was employed in tobacco, a crop often sold through the use of seasonal contracts to the Big Three tobacco companies. The NCGA served as a middleman between the government and the growers. Each member of the association paid 498 dollars to the organization for each single recruited worker. According to the rules of the H-2A program, the federal government must certify a labor shortage before H-2A visas can be sought from the Immigration and Naturalization Service. Every year, the NCGA advertises its jobs in newspapers and on the radio, and places work orders with local job-service offices (Glascock 1999). However, "nobody wants to do this kind of work anymore", said Eury. In 1999, only 80 US workers responded to the NCGA job postings, and only ten showed up for work (Glascock 1999). Nowadays "workers aren't interested in jobs that pay so little and take so hard a toll on the body" (Glascock 1999): "You just can't find local labor" (Glascock 1999). In fact, even though the mainstream narrative often maintains that migrants take jobs away from natives, multiple studies have proved beyond doubt that migrant agriculture workers accept jobs that native workers are unwilling to do, and this is particularly true in North Carolina. An excellent 2013 report by Michael A. Clemens for the Partnership for a New American Economy and the Center for Global Development has analyzed over a decade's worth of these records in order to ensure that not only do migrant workers not steal labor away from native workers but rather "there is virtually no supply of native manual farm-laborers in North Carolina" (Clemens 2013, 1). In fact, starting from the assumption that the NCGA is "far and away the largest single user of H-2A visas in the country" (Clemens 2013, 1), the report reminds us that in order to recruit temporary workers, the NCGA must actively offer jobs through advertising in local newspaper classifieds. According to the article, in 2011 only 268 individuals of the nearly 489,000 unemployed people in North Carolina applied for these jobs. The report continues by saying that over 90 percent of those applying (245 people) were hired, but just 163 showed up for the first day of work and more than a half quit within a month (Clemens 2013, 3). In other words, "no matter how bad the economy becomes,native workers do not take farm jobs". Not only that, but "the North Carolina Growers Associa tion spends more money to comply with the immigration laws designed to protect American workers than it does on salaries for all its American farm-workers combined" (Clemens 2013, 3). In this sense, foreign labor plays a fundamental role in making the agriculture industry tick. It is not surprising that guest-worker programs have often been considered as a win-win solution. In 2004, George W. Bush explained that a "guest-worker" program was a way to reconcile the need for cheap labor with the need for border security. In fact, the program allows "a willing worker and a willing employer to mate up, as long as there's not an American willing to do the job" (quoted in Gonzalez 2006, 158).

Stan Eury used the same narrative to define the program a win-win situation:

> It's a win for the growers because they get a reliable work force, a win for the workers because they get good jobs and a win for the American public because it helps cure our illegal alien problem.[…] Well, [and] I get a job out of it, so I guess that's another win. (Schrader 1999)

In fact, the H-2A program is a "win" because it recruits migrant workers while comforting public opinion with respect to concerns related to social security. According to Geffert (2002, 132), guest-workers are relatively easy to recruit:

> For employers, obtaining a full crew of workers is often as easy as a telephone call; the workers arrive when the grower wants them and no sooner, eliminating the need to provide shelter for workers before the harvests begins. And they leave in an organized fashion as soon as the work ends.

Moreover, these workers are cheap, they protect farmers from INS controls and they are "available".

> Growers love Eury's business because they get workers when they want them, for as long as they want them, without the hassles of having to recruit them themselves. And they do not have to worry that the INS will come knocking on their door. (Schrader 1999)

> These guys are here. They're in my camp. I get ready to go to work in the morning, they're standing out there waiting for me. They're waiting to go. They want to work. That's the great difference. (Schrader 1999)

> "I don't know what we would have done without them", said a Moore County farmer who has used guest-workers since 1989. (Glascock 1999)

Molinero Gerbeau and Gennaro Avallone (2016, 140) argue that the win-win approach is a questionable narrative that institutions often use to justify the adoption of programs intended to recruit unprotected labor workforce to use in the physical territory of the enclave. At the same time, "the concept seems more rhetorical than a real propellant factor for programmes (Gerbeau, Avallone 2016, 140). In terms of rhetoric, it is interesting to notice that such narrative tends to emphasize the benefits that the guest-worker program provides to migrants. Rather than admitting the large benefits that advanced economies receive from migrant workers, such narratives magnify the economic gain that migrant workers receive from partaking in such programs. According to Stan Eury, the program is a “win” because it provides a service that gives farmers the labor that they need while “helping foreign farm-workers make an honest buck” (Eury, quoted in Glascock 1999). “These guys”, adds Eury, still referring to the workers, “love this”. “This is the best thing that has ever happened to farm-workers in North Carolina” (quoted in Glascock 1999). President Bush maintained that the guest-worker program is “a sign of openness towards immigrants”, who would be finally “given fair rewards” and advantages (quoted in Gonzalez 2006, 158). According to these narratives, such programs are more convenient for farm-workers than they are for growers. Aili Palmunen (2005) maintains that guest-worker programs ensure that migrant workers cross the border securely. In addition, workers employed in US agriculture can make ten to fourteen times the amount that they would in Mexico, according to Kristi Morgan (2004). In this sense, the guest-worker program comes with built-in advantages for the workers, making sure that they enhance their human rights and chances of emancipation.

Often times, such narrative of innocence conceals a much darker reality. In fact, while North Carolina growers define H-2A workers as “the best thing that has ever happened to farm-workers in North Carolina” (quoted in Glascock 1999), Martin, Fix and Taylor (2006) note that when migrants arrive, they do not find the American dream, but rather persistent poverty, overcrowded housing and labor violations. Clemens maintains that only seven native workers completed the entire growing season, according to the report (Clemens 2013, 3). By contrast, about 90 percent of all Mexican farm-workers at the NCGA complete the growing season (Clemens 2013, 3). In fact, while the program reflects the need for Mexican immigrants to find economic relief in the United States, the recruitment of Mexican migrants also reflects the necessity for US growers to cut their labor costs and “externalise” their economic difficulties onto Mexican farm-workers. The guest-worker program attempts to reconcile the growers’ need to cut their labor costs with the workers’ need to improve their economic conditions. As a result, growers define the H-2A program as a “Christmas gift” (Gonzalez 2006, 161) while immigrant advocates argue that a guest-worker program is in fact a “disgrace” (David North, quoted in Yeoman 2001). According to former Labor Department official David North, the H-2A program is a new form of colonial labor that “simply transfers funds from American farm-workers to agribusiness” (quoted in Yeoman 2001). According to Gonzalez (2006), the guest-worker program is simply the continuation of the historical colonial policy towards Mexico. In this sense, the guest-worker program “has turned NAFTA inside out”, claims Yeoman (2001): “since US farms can’t go to the Third World, the federal government allows agribusiness to bring the Third World to US farms”. While the guest-worker program has been designed to come with "built-in advantages" for growers, it transfers all of the contradictions of the federal policies onto migrant laborers. To put it in the words of historian Cindy Hahamovitch, the H-2A program "looks pretty amazing" on paper. In fact, "there's a lot of suffering here" (quoted in Yeoman 2001). Often times, literature describes the guest-worker program as being characterized by all the typical features of an internal colony: a dual wage system; social and occupational segregation and disposability (Gonzalez 2006). In the 1970s, President Carter requested the National Commission on Manpower Policy (NCMP) to study whether the existing H-2 provisions of the *Immigration and Nationality Act* should be expanded as an alternative to undocumented workers (Gonzalez 2006, 34). After lengthy study of the idea, the Commission advised the President in May 1979 that it was "strongly against" any such expansion of the H-2 program (cited in Reubens 1979, 100) because although the program was a "seductive" idea, it would build a dependency on foreign labor in certain sectors of the economy (National Commission on Immigration and Refugee Policy 1981, 45).

In fact

> the idea of a large, temporary work program is tremendously attractive. Perhaps a better word though, would be "seductive." There is a superficial plausibility to this argument and the Commission gave it serious consideration for more than a year and a half. I can recall being very much entranced by it when I first joined the Commission. In the end, we were persuaded, after much study, that it would be a mistake to launch such a program.(Subcommittee on Immigration and Refugee Policy of the Senate Committee on the Judiciary and the Subcommittee on Immigration 1981, 28)

Although the guest-worker program reconciles the need for economic advantage with the need for social security, it also creates a reserve of colonial labor within the recruiting country. Today, the H-2A is currently considered as a possible economic and political solution for US farmers. Nevertheless, the program is still characterized by all the typical features of an internal colony: a dual wage system; social and occupational segregation and political vulnerability. Let us look more closely at the case of the H-2A program in North Carolina.