

## **Keep the Union at Bay**

The Racial Dimensions of Anti-Union Practices in US Agriculture.  
A Case-Study About Race, Labor Rights and White Supremacy

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# **7 The Human Right to Abuse**

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The press was also a valuable ally to local leaders pledged to keep the union at bay. Editors often portrayed unions as the enemies of economic progress in the South. In 1937 a Tu-pelo writer warned, "If you join the CIO, you will be endorsing the closing of a factory". Lest such subtlety be lost on the reader, an editor might be more blunt: "The Mississippi National Guard has been mustered up to 2,300 guns... and are not afraid to do it when the command to fire is given". In response to an organizing campaign the Huntsville, Alabama, Times warned employees that the mills would move away and union members would be blacklisted. "You may go to Chattanooga or Birmingham, New York or Chicago, BUT THERE ARE NO JOBS THERE FOR YOU. If your application is made to another mill elsewhere, the story of this city will be familiar until your dying days!"

Cobb 1993, 108

This white supremacist thinking is institutionalized.

It is everywhere. In the history, in the workplace.

It is part of the anti-union, right-to-work climate.

Angaza Laughinghouse

## **7.1 Corporate Neglect and Anti-Union Practices**

After 2004, the four-year labor agreement that won collective bargaining recognition for migrant farm-workers was renewed four times, the last in 2016. Throughout these years, migrant farm-workers continued raising 25 to 30 different crops in North Carolina. In addition to cucumbers, they picked tomatoes, strawberries, sweet potatoes, raspberries, blueberries and Christmas trees, while the largest share of their effort was represented by tobacco. Even though the 2004 agreement was groundbreaking, the activity of the union continued to be challenging and demanding, obliging workers and union organizers to find new strategies to enforce the labor

contract. In this sense, the next step for the union was the start of talks with Reynolds, one of the major global tobacco companies and one of the most important in ostracizing the right of tobacco farm-workers to organize for the purpose of collective bargaining.

As we have seen, growers reacted to the *Collective Bargain Agreement* by leaving the growers' organization. Often times, farmers were complaining that they do not get as much work out of their employees and that the labor contract allows the workers to still make "8.24 dollars an hour" even if they decide to "sit on their bucket" (Fitzsimon 2006). According to Moore County farmer Carter, it is unclear whether the workers have changed, or "if anti-union sentiment has colored farmers' views" (Carter quoted in Fitzsimon 2006). Despite this, after the introduction of the labor contract, growers began to look for ways to maintain the same levels of profitability despite the higher cost of labor. In this context, about five hundred growers decided to leave the NCGA. At the same time, many decided to take advantage of the Federal tobacco buyout of 2005. In 2007 the North Carolina Growers Association counted about half the number of members it had three years earlier. In many instances, the growers that did remain inside the association decided to hire unorganized labor and looked for ways to overlook the provision that required them to give priority to union members in the recruitment process. In 2005 there were hundreds of workers who were not called back to work despite their union membership. As mentioned above, the attempt to limit union demands escalated in 2006, when several growers claimed that the provision that required them to give priority to union workers was a violation of the North Carolina "Right to Work" laws, thus enabling new agencies to compete with the NCGA to provide non-union H-2A workers to North Carolina farmers.

Three years after the previous campaign, FLOC was forced to start a new labor campaign in North Carolina in order to organize those non-union H-2A workers who were not complying with the labor contract. Since the global economy allows companies to outsource production wherever the cost of labor is cheaper, thus "externalizing" production where the labor force was not 'organized', the union had to "organize" labor wherever these companies "externalize" production. For this reason in 2007 FLOC started a new campaign against R.J. Reynolds in order to prevent non-union growers from gaining an unfair advantage over union growers and demanded that all growers respect the basic labor and human rights protections mandated by the labor contract signed in 2004. The same principle had driven the union to move its operations to North Carolina after signing a labor contract with Campbell Soup, Vlasic Food, Heinz, Green Bay, Aunt Jane corporation and their tomato and pickle growers in the 1980s. In fact, the union was then forced to expand its operations to North Carolina in order to prevent producers from Ohio from buying cucumbers from non-union growers. As heroic or desperate as it seems, an

expansion of the labor contract was vital in order to prevent these companies from moving their operations to other states with lower costs of labor, thus overriding the rights enforced by many years of pickets and strikes.

For the first five years since the beginning of the campaign in 2007, FLOC demanded Reynolds to commit to protect workers' rights and to introduce a labor contract that would cover all of the company's suppliers. In this sense, the union required that the company release the names of its suppliers in order to ensure that workers' rights were respected throughout the tobacco industry. For the first five years since the beginning of the campaign in 2007, the largest tobacco manufacturer in North Carolina refused to meet with the union. In those years, FLOC demanded Reynolds take responsibility for conditions in the fields together with manufacturers, growers, farm-workers and their chosen representatives. To put it with the words of the FLOC Vice President Justin Flores, "they need to fix their supply chain. It's a very simple message" (quoted in Michaels 2014, 76). In particular, FLOC demanded that the company recognize the workers' freedom of association. Since farm-workers are excluded from the *National Labor Relations Act* (NLRA), workers not covered by the *Collective Bargain Agreement* signed in 2004 do not have a voice in denouncing the illegal abuses they endure. Despite this, the company has maintained that it is powerless to intervene in the food chain since it does not directly employ tobacco farm-workers. In this sense, the entire work done by FLOC over the past ten years was meant to put the company in the limelight in the hope that social attention and media exposure would induce it to contribute to improving the labor conditions of farm-workers throughout their supply chain. The yearly marches on Reynolds, the FLOC participation in the company's annual shareholders' meeting, as well as the 2017 boycott against the Vuse electronic cigarette made by Reynolds (Blest 2017) - to name but a few - were all strategies meant to increase social awareness of the laboring conditions of farm-workers among grassroots movements and religious communities with the aim that the company would enforce international standards in the tobacco industry rather than being "embarrassed around the globe" (Milliken 2016).

In 2010, FLOC started putting pressure on British American Tobacco (BAT), the largest shareholder of Reynolds American Incorporated (RAI). Until recently, Reynolds had sourced most of its tobacco leaves from North Carolina, where 20% of suppliers were members of the North Carolina Growers Association, which recruited workers in compliance with the *Collective Bargain Agreement*. FLOC demanded that Reynolds secured decent working conditions for all tobacco farm-workers - including non-union members and undocumented workers.

In 2013, the FLOC President Baldemar Velásquez briefed the British House of Commons on the state of human rights in the tobacco industry of North Carolina. Members of Parliament were sensitive to FLOC's concerns

and signed a letter to British American Tobacco expressing their concerns over its relationship with Reynolds America Inc. On that occasion, Reynolds Vice-President John S. Wilson III confirmed that the company is “blameless and powerless to stop any abuses because it contracts with independent contractors who operate the tobacco fields” (Boyle 2013). Moreover, it claimed that the British do not have a legal right to interfere their American operations (Boyle 2013). Despite the company’s neglect, FLOC’s campaign gained international attention. In July 2014, Parliamentarians Ian Lavery and Jim Sheridan concluded their visit to the tobacco fields with a report of their findings called “A Smokescreen for Slavery: Human Rights Abuses in UK Supply Chains. A fact finding visit to the tobacco fields of North Carolina in November 2014”. In the following years, reports from Human Rights Watch, *The New York Times* and *The Guardian* have brought to light the frequency of child labor, substandard housing conditions and the health hazards that occur in the fields. Despite growing social awareness, the growing power of transnational corporations and the constant undermining of union organizing have been two major obstacles in FLOC’s activity.

## 7.2 The Inherent Anti-Union Character of Labor Externalization

It has now been ten years since FLOC started its Reynolds campaign. It has been five years since FLOC started attending the British American Tobacco (BAT) AGM. Reynolds, Philip Morris, and BAT have all refused to work with FLOC for the purpose of reaching a collective bargain agreement. In 2017, BAT acquired Reynolds American Inc. In 2018, BAT will operate a tobacco-supplier review including all suppliers of the RAI, as announced in its 2017 *Sustainable Agriculture and Farmer Livelihoods Focus Report*. According to BAT’s group operations director Alan Davy, the review is part of an attempt to integrate “our businesses and our supply chains” (Craver 2017). The report indicates that

BAT sources tobacco leaf from more than 350,000 farmers in 34 countries: more than 90,000 directly contracted by BAT leaf operations and more than 260,000 contracted by third-party suppliers. (Craver 2017)

As FLOC organizers Crowe and Castillo maintained in an interview to *The Guardian*, in the past

BAT has shown more willingness to work with the organizing committee, promising to encourage Reynolds to listen to union demands. As for how the unified company will act in the future: “That,” said Crowe, “is the question”. (quoted in Glenza 2017)

Given BAT's declared sensibility, it would be desirable if it used the suppliers' review to select only those farmers who respect labor standards. It is possible however that it will simply enforce stricter conditions on the growers. In a courageous response, FLOC President Baldemar Velásquez maintained that "the merger has pushed him to take the fight for fair, organized labor worldwide" (Kollewe, Glenza 2017):

"The supply chain is globalised, and they put one poor group against another," said Velásquez. "Tobacco is the one crop that runs through the agriculture industry - it's the most lucrative crop, and it's the industry with the deepest pockets".

In this context, the union is currently taking the fight for fair labor conditions worldwide. As mentioned above, the global economy allows corporate powers to outsource production wherever the cost of labor is cheaper. It follows that any time FLOC is successful in its campaigns and so implicitly increasing the labor cost, it also creates the conditions for capital to outsource production elsewhere. In this sense, the corporate right to externalize its activities wherever labor is cheaper and to invest capital abroad reveals the perverse anti-union character of the global economy. The absence of any obstacles to the free movement of capital in and out of a country allows companies to cut labor standards in order to gain a competitive advantage. In this sense, the neoliberal case for capital mobility as built on the basis of neo-classical economic efficiency appears to be extremely problematic, in that it contributes to undermining labor rights towards the bottom of the barrel. BAT's acquisition of Reynolds America Inc. can be interpreted within this framework, as it increases the distance between big tobacco and farm-labor, potentially reducing corporate responsibility and increasing downward pressure on workers' power and wages. Despite the heroic commitment to organize labor wherever the corporate powers externalize production, it is unlikely that even the bravest unions will succeed in improving the conditions of farm-labor unless we accept a setting of some boundaries to capital mobility and enforce corporate responsibility.

### 7.3 A State of Fear

While companies tend to move their operations to states characterized by lower costs of labor, undocumented workers live in a state of fear. In 2011, an excellent report by Oxfam entitled *State of Fear: Human Rights Abuses in North Carolina's Tobacco Industry* detailed the situation in the fields. Based on in-depth interviews conducted with 103 farm-laborers, of whom 89 were undocumented, two had expired visas, seven had H-2A visas, and

five had permanent resident status or were citizens (Oxfam 2011, 5-6), the report revealed that labor conditions on farms were not dissimilar to the ones we documented five years earlier. According to the Oxfam report

Two common themes emerge from these interviews. The first is a deep sense of responsibility that makes these men and women desperate to work and provide for their families, whether those families were with them in the camps or, more often, back in their homeland. The second is a strong sense of fear that dominates the workers' lives - fear of arrest and deportation, and therefore of seeking any help from the government; fear of losing their jobs; fear of being unable to repay the thousands of dollars demanded by the recruiters and "coyotes" who brought them across the border to these jobs; fear that the grower who employed them or the crew leader who supervises their work will retaliate if they don't work fast enough, if they get sick from exposure to toxins in the tobacco or pesticides, or if they need a break for water or for the bathroom. Much of this fear stems from the fact that nine out of every 10 farm-workers in North Carolina are undocumented. Their desperate need to work and their fears benefit all actors in the supply chain who are complicit in the sub-poverty wages, degrading treatment, and inhumane conditions that workers far too frequently face without the right to complain. (Oxfam 2011, 5-6)

Fear contributes to concealing a number of violations. The report details violations of adequate housing, reporting problems such as "inadequate or nonfunctional showers and toilets, over-crowding, leaky roofs, lack of locks, lack of heat, lack of ventilation, beds with worn-out mattresses or none at all, infestations of insects and rodents, lack of laundry facilities, and inadequate cooking facilities" (Oxfam 2011, 7). In general, there is a tragic continuity between the violations reported by the workers between 2004 and 2007 and the violations reported by Oxfam in 2011. In fact, wage theft continues to be a problem in North Carolina. Once again, this takes the form of pay rates below the minimum wage and pay inequality among those doing the same work (22). The workers report that contractors on occasion under-report the number of hours worked or make arbitrary deductions from the workers' paychecks without their authorization (22). On a positive note, the report makes clear that the workers in H-2A camps covered by the union contract were aware of their rights and of the procedures available in case they needed legal assistance (23). According to the report, one thing that remained particularly hazardous involved the repeated violations in terms of security standards and healthy working conditions (7). The report details the consequences of nicotine exposure, discussing in particular Green Tobacco Sickness (GTS), a form of acute nicotine poisoning caused by the absorption of nicotine through the skin

(26). Lack of prevention and insecurity increase the debilitating effects of nicotine absorption, to the point that more than one half of the workers interviewed reported “having been sick with a job-related illness or having symptoms indicating GTS”, according to the report (26). Health related problems include poisoning caused by the use of pesticides, insecticides and fungicides. In general, the report does an important job in making clear how fear transforms a lack of proper labor protections into a health hazard. In fact, workers are often forced to work in the fields even though pesticides are being sprayed, without any protective clothing or gloves and without hand-washing facilities.

“[Even] if it’s too hot, you can’t stop. You have to follow the group... If you stop, they are simply going to replace you because you can’t do the work. The boss is going to tell you that if you can’t do it, he’ll get another guy. Then you’re gone”. (Oxfam 2011, 24)

“You can see that the water is dirty. One day we were working with a guy who gave us water with ants in it. It didn’t have any ice and it was over 95 degrees outside. He just said get to work. So what you get is poor treatment and no water”. (Gonzalo, quoted in Oxfam 2011, 23-24)

The importance of freedom of association cannot be stressed enough. In fact, freedom of association is the only antidote against repeated violations in the fields. The amount of labor violations and health-related problems endured by farm-workers reveal all too clearly that the right to speak out and report unfair labor practices is the indispensable prerequisite to any improvement in their living and working conditions. This is all the more necessary if we consider the apparent chronic nature of migrant labor exploitation in US agriculture. Despite the union’s tireless endeavor, the yearly grievances collected by the organizers make it clear that we are still quite distant from making farm-labor a safe practice for the workers. Even though union workers nowadays are more aware of their labor rights, the FLOC 2017 grievances summary confirms that the workers continue to endure difficult labor conditions in the fields. In 2017, the union received 700 grievances, most of which reflected a grim continuity of labor violations. The union documents grievances ranging from wage disputes to health and safety violations; unsanitary housing conditions and unjust terminations. Working conditions continue to be dramatic. At the same time, the ability of union representatives to resolve these issues and implement a grievance procedure is the clearest example of how indispensable freedom of association is in improving the laboring conditions of the most vulnerable sectors of society.

## 7.4 The Unconceivable Right

As mentioned above, in the United States farm-workers are excluded from the *National Labor Relations Act* (NLRA) which guarantees basic rights to workers, including the right to organize into trade unions and engage in collective bargaining (Oxfam 2011, 22). In addition, farm-workers are not entitled to overtime pay or to receive an hourly minimum wage as part of their exclusion from the overtime pay provisions of FLSA (22). In many instances, this means that farm-workers are condemned to endure substandard labor conditions unless they gain union representation. This explains why FLOC has considered freedom of association as a primary political objective for the union. As FLOC President Baldemar Velásquez argued in a 2016 interview,

over the past four years, we've pressed these tobacco companies, particularly *Reynolds America*, to put freedom of association in their protocols. They have to find a way to get their suppliers to recognize freedom of association, which is tough. These are international standards, which they've put into the corporate social responsibility protocols. (Milliken 2016)

Particularly in the South, unionization is indispensable to increase the workers' bargaining power or ability to enforce basic labor standards. However, companies often consider unionization unwelcome for fear that an expansion of the workers' bargaining power would reduce corporate profitability. This holds true for farmers who decided to leave the North Carolina Growers Association after 2004, in an attempt to circumvent the labor agreement and continue to utilize the traditional exploitative labor practices it attempted to overcome. Particularly for growers, hiring cheap non-unionized labor is often the easiest way to increase profitability. As Martin (2011, 5) points out,

In mechanized agriculture (...), labor is often considered the most "controllable" expense in the sense that it is easier for a farmer to negotiate whether to pay \$0.25 or \$0.26 cents to have a 25-pound tray of raisin grapes picked than to negotiate the price of fertilizer.

In this sense, it is particularly troublesome that the political juncture is using "right to work" legislation to enforce anti-union practices in order to externalize their costs onto farm-workers, particularly in the South.

In *The Guardian*, FLOC organisers Catherine Crowe and Sintia Castillo told the story of Brent Jackson, a tobacco farmer who was forced to repay the workers several thousand dollars in withheld back wages after being sued in federal court by the workers (Glenza 2017). Taking advantage of the grievance procedure, in 2014 the workers filed a grievance against



Jackson for “manipulating hours and underpaying workers”. Found guilty, Jackson left the North Carolina Growers Association in order to externalize production to non-union workers. In this particular case, Jackson was also a Republican named by Trump as a member of the Agricultural advisory committee. According to Glenza, Republican Sen. Brent Jackson was a primary sponsor of SB 615 that makes it illegal for farmers to deduct union fees from paychecks or for growers to end a dispute with farm-workers by signing a union contract (Glenza 2017). According to FLOC, the bill should be understood as a retaliation against the union, guilty of initiating grievances procedures against wage theft and mistreatment. In the words of North Carolina AFL-CIO Secretary Treasurer MaryBe McMillian:

This attack on farm workers’ rights is most likely in retaliation for a series of lawsuits brought by farm workers and their union over wage theft and mistreatment on several farms in Eastern NC - including one owned by Sen. Brent Jackson, who sponsored this bill and chaired the Senate conference committee. [...] It is a clear conflict of interest and blatant abuse of power for legislators who are also growers to push policies that allow them to gain more and more profit on the backs of their workers”. (NC State AFL-CIO 2017)

After Democratic Governor Cooper signed the bill, organized labor in the state was “near unanimous” in denouncing how such legislation undermines freedom of association for farm-workers and their ability to denounce mistreatment (FLOC 2017). On November 15, 2017, FLOC filed a federal lawsuit challenging a state law that allows farm-workers to organize and make collective bargaining agreements with employers. As stated by the union:

The lawsuit argues that the *North Carolina Farm Act* of 2017 impedes farmworkers’ First Amendment right to participate in unions, and asserts that the law is discriminatory, as more than 90 percent of the state’s agricultural workers are Latinos. (FLOC 2017)

FLOC President Baldemar Velásquez maintained that:

politicians that are also growers shouldn’t pass self-serving laws simply because they don’t want their workers to unionize. With the continuation of Jim Crow era laws that aim to stop a now almost entirely Latino workforce from organizing, this is an affront to freedom of association and smacks of racism. Companies like Reynolds American should be embarrassed that growers in their supply chains are attacking the very farm-workers who make their companies’ wealth. (Velásquez, quoted in SPLC 2017)

## 7.5 The White Supremacist Roots of Anti-Unionism

In fact, this is not the only anti-labor bill that is being approved. Over recent months, several states are discussing anti-union legislation. In North Carolina, SB 375 attempts to eliminate dues deductions for public employees. Union organisers fear that SB 615 might open the door to even more attacks on unions (Elc 2017). At the same time, President Trump is trying to advance right-to-work legislation nationwide. In theory, the “right-to-work legislation” protects the right of a worker to have a job without having to pay dues to a union. In line with the principles of supply economics, advocates of the right-to-work legislation argue that “states with right-to-work laws attract more new business than states without such laws and also typically have a better business climate than non-right-to-work states” (Shannon 2014); they maintain that workers in right-to-work states enjoy higher income than workers in non-right-to-work states; they deny any relationship between such legislation and practices of union busting and maintain that right-to-work simply gives workers a choice about financially supporting a union effort (Shannon 2014). In reality, this misleading notion is meant to induce workers to prevent the union from collecting the workers’ dues, hence undermining its ability to represent the workers and negotiate higher wages, benefits or labor protection. In fact, “right-to-work” history law begins in Texas, when the Christian American Association began its anti-labor crusade (Kromm 2012). The problem was two-fold. On the one hand, unions were expanding their bargaining power. On the other hand, the prospect of pro-labor legislation that would allow unions to extend labor rights to blacks was perceived as troublesome to the conservative far-right. In this sense, the urgency of passing right-to-work legislation depended on the need to ensure uninterrupted race exploitation despite the end of slavery (Kromm 2012). Martin Luther King Jr. spoke out against right-to-work laws in 1961, when he warned against being fooled by such slogans.

In our glorious fight for civil rights, we must guard against being fooled by false slogans, such as ‘right to work’. It is a law to rob us of our civil rights and job rights. Its purpose is to destroy labor unions and the freedom of collective bargaining by which unions have improved the wages and working conditions of everyone...Wherever these laws have been passed, wages are lower, job opportunities are fewer and there are no civil rights. (quoted in Kromm 2012)

Similarly today, right-to-work legislation appears as the last resort to establish the corporate right to use and abuse labor despite the advances in labor protection made over the last century. Even more so, right-to-work legislation and union busting come over as being necessary in order to

ensure that blacks and Latinos continue to endure a subaltern status in labor relations. Cynically, the idea is that if farmers are forced to recruit foreign workers to farm the land, at least foreign workers should remain unprotected. Very unfortunately, right-to-work legislation cannot be separated from the culture of racism underlying discrimination in labor protection particularly in the South. In fact, both traditions are functional to transforming seasonal migrants into ontologically devalued subjects, thus normalizing their labor exploitation. In this context, union busting practices and anti-union legislation are even more troublesome considering the resurgence of white supremacist nostalgia pervading the South. After the violent attack in Charlottesville in 2016, former president of North Carolina Public Service Workers Union Angaza Laughinghouse drew a clear connection between anti-union sentiment and white supremacy. Reflecting upon the arrests and raids on those activists who decided to pull down the statue of a Confederate soldier outside the Durham County Courthouse, she maintained that

It is not just a question of protests and rallies. In the “right-to-work” South, where only 1.9 percent of all workers in North Carolina were unionized in 2015, there is a lot of anti-union feeling. This white supremacist thinking is institutionalized. It is everywhere. In the history, in the workplace. It is part of the anti-union, right-to-work climate. These supremacists are now calling the county government, telling them to prosecute these folks who pulled down the statue to the fullest extent of the law. It is fully institutionalized, it is systematic, this white supremacy. It is not just a few crazies as some people want to write it off. (quoted in Jaffe 2017)

In a sense, it is unsurprising that racist attacks and right-to-work legislation are being enforced at the same time. Right-to-work legislation normalizes racism and undermines any attempts to undo the racial discrimination structuring the labor market. Right-to-work legislation keeps workers divided and prevents them from unionizing or having basic rights. In this sense right-to-work legislation needs to be seen as the most vicious and subtle form of racial discrimination structuring the labor market today. Its goal is to normalize economic and racial violence and to undermine any attempt to resist it. Sharp in his analysis, after the attack in Charlottesville FLOC President Baldemar Velásquez declared:

As someone who has been threatened with physical violence and has watched the Ku Klux Klan burn crosses in front of our strike headquarters, we are no stranger to this type of racial violence. We have seen this violence from farmers who seek to stop the progress that we have made and return the institutions of slavery and share cropping to the South and Midwest. We have seen this violence from local police who

target our people and collaborate with ICE to tear apart our families. We have seen this violence from the NC state legislature, most recently with Farm Bill, SB 615, a targeted attack against our union and farmworkers who are fighting to improve their working conditions. And we have seen this violence from our president whose words and policies have not only directly hurt us but have also emboldened neo-Nazi and other white supremacist organizations to commit acts of terror. Racism hurts us all and seeks to divide us as a people. Those who dismantle the structures and institutions of racism should be celebrated not criminalized. (Velásquez 2017)

In this context, Trump's attempt to transform right-to-work into federal legislation and the attempt to undermine unions' bargaining rights seems to correspond to a nostalgic plan to conceal the crisis along gender and racial lines. Even though most strikes in the twentieth century saw racial and economic justice intertwined, right-to-work-laws seem to target specific segments of society as natural recipients of economic violence. It is a shame that race can still be used to normalize inequality in the third millennium. Conversely, experiences of grassroots organizing such as FLOC are primary examples of the potential that workers have when they unite against racial and economic abuse.