

Culture del lavoro 7

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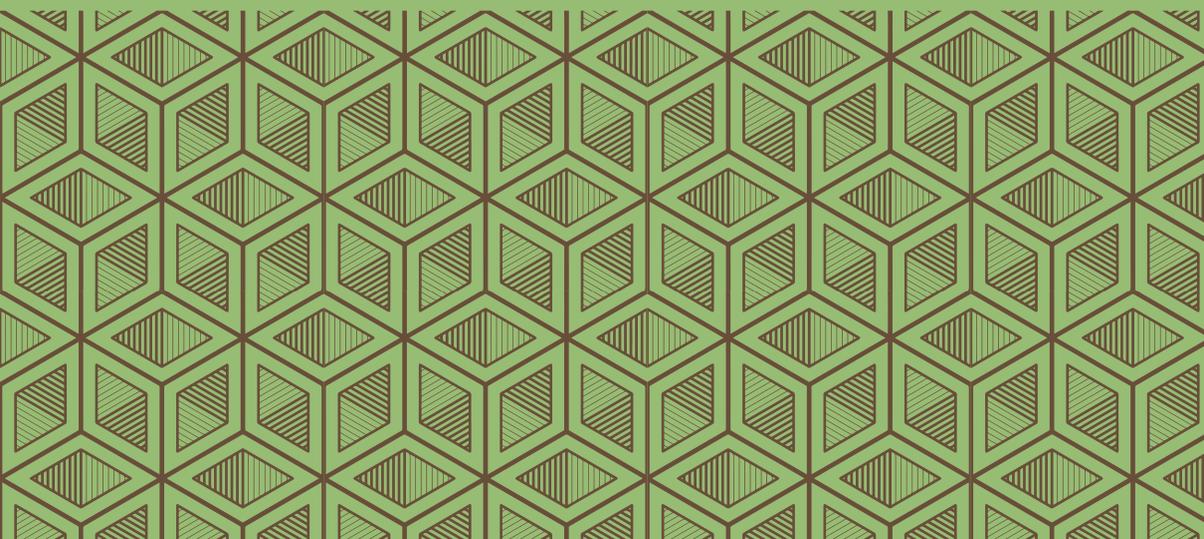
# **Keep the Union at Bay**

Anti-Union Practices in  
US Agriculture  
and the Long Fight  
for Migrant Farm-Labor  
Representation

Francesca Coin



**Edizioni**  
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Keep the Union at Bay

## **Culture del lavoro**

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# **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

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Francesca Coin

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### **Abstract**

In the United States, farm-workers are traditionally excluded from the Fair Labor Standards Act (FLSA) and from the National Labor Relations Act (NLRA) which guarantee basic rights to workers, including the right to organize and engage in collective bargaining. In a sense, farm-workers are confined to a secondary market characterized by substandard wages and labor conditions. This study explores how migrant farm-workers in North Carolina have responded to their labor conditions with a campaign that culminated in the achievement of the first labor contract for guest-workers in US history. Based on ethnographic research, it reflects upon the role of grassroots organizing in challenging a culture of racism that has remained dangerously alive in many parts of our society.

### **Keywords**

Agriculture. North Carolina. Mexico. Food regime. Political economy. NAFTA. Farm-labor. Wal-Mart. FLOC. Tobacco. Farm-Labor Movement. Union busting. White supremacy. Racism. Trump. Right-to-work.



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## **Keep the Union at Bay**

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## **Introduction**

Driving down US highway 117 in the proximity of Goldsboro in North Carolina is almost like watching the richest country in history disappear behind a series of overcrowded shacks and shanty towns. In 2004 I was living in Atlanta and on occasion I would drive to Raleigh to visit the union organizers and the migrant camps in North Carolina. Used to the city, I was disoriented in the countryside. The highway dominated the land for miles and miles, only interrupted by endless tobacco fields and refueling stations. The bucolic image of the white family with a blonde woman smiling at the basket of fresh tomatoes was quite alien in those areas. The glorious days of farming seemed to have long gone, transforming the countryside into a long highway surrounded by Tyson Food, Chick-fil-A and Wal-Mart. Somehow, the glittering image of US agriculture seemed to vanish along those highways as the advertisements of the most profitable food retailers and poultry producers ruled the rural landscape undisturbed by farmers haunted by debts and broken dreams.

My first visit to North Carolina occurred in 2004 in the middle of a boycott campaign. In those days I used to stay at the house of one union organizer – an empty house a few miles away from Dudley where each of us slept on the floor in a sleeping bag. The house was empty of furniture and essential in its decor. There was an Italian coffee-maker for eight people that B. used to drink alone from in the morning, before heading out to the camps. In those days, the union had induced the Mount Olive Pickle Company (MOPC) and the North Carolina Growers Association (NCGA) to negotiate a labor contract for migrant farm-workers. As the second largest pickle packager in the United States, every year Mt. Olive stipulated unilateral contracts with the growers before the planting season, specifying all the conditions from prices to the strains of crops to be planted and the

This work is a close revision and update of my unpublished PhD dissertation: Coin, F. (2007). *Pickles and Pickets After Nafta: Globalization, Agribusiness, the US-Mexico Food-Chain, and Farm-Worker Struggles in North Carolina* [PhD dissertation] [online]. Atlanta: Georgia State University. URL [https://scholarworks.gsu.edu/sociology\\_diss/31](https://scholarworks.gsu.edu/sociology_diss/31). Part of the results were previously published in a book chapter entitled: "Organizing Labor in a Right to Work State". Lippard, Cameron D.; Gallagher, Charles A., *Being Brown in Dixie: Race, Ethnicity and Latino Immigration in the New South*. Boulder (CO): First Forum Press, 2010.

pesticides to be used in the fields. With policies and operations designed around its annual production and profit goals, Mt. Olive paid North Carolina growers the cheapest price for cucumbers and the growers, in turn, rewarded farm-workers with substandard wages. It had taken five years for the union to persuade Mt. Olive to sit down at the negotiating table. Before the end of August, it was vital that all migrant farm-workers knew about the negotiation and could speak out about their labor conditions, in order to win a collective bargain agreement in the least unionised state of the nation.

In those days, I knew all too little about what it means to be a migrant farm-worker in North Carolina. All I was aware of was that several workers had a residence permit for seasonal work as a part of the so-called H-2A program – a temporary migrant measure that regulates seasonal employment in agricultural labor. In general, the first temporary worker program was established in 1917, when the Secretary of Labor authorized the employment of Mexican workers in the United States to compensate for the labor shortage during World War I. With the advent of World War II, the US Congress created the so-called Bracero Program, which recruited more than million farm-workers from Mexico to be employed in the US agricultural sector from 1942 to 1964. 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 (Subcommittee on Immigration and Refugee Policy of the Senate Committee on the Judiciary and the Subcommittee on Immigration 1981, 28). 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 the *Fair Labor Standards Act* (FLSA) (Oxfam 2011). Often times, this means that the workers are employed in subaltern conditions and unprotected by labor law rights.

Notably, exclusion from the NLRA has not stopped farm-workers from organizing. In fact, the Bracero Program was suspended in 1964, thanks to the mobilization of United Farm Workers in California. On that occasion, Lee G. Williams, the very US Department of Labor officer who headed the program, defined the Bracero Program as “legalised slavery” (quoted in Mandeel 2014, 183). From 1964, agricultural employers could still rely on seasonal farm-workers under the H-2 sections of the *Immigration and Nationality Act* of 1952. Revised in 1986 as part of the *Immigration Reform and Control Act*, the H-2A program still regulates the recruitment of temporary workers in agriculture. In theory, it guarantees certain protections and benefits to the workers. It recognizes immigration status and certain legal protections. In reality, the labor conditions of migrant farm-workers are severely problematic.

Every morning, FLOC organizer B. used to wake up early and drive to the camps. North Carolina is almost as big as England and the migrant

camps are largely invisible. Isolated in rural barracks and back roads, the labor camps were often out of reach and hard to find. In those days, each organizer used to spend six to eight hours driving just to meet the workers for a few minutes. Dependent on their employer for transportation, often unable to communicate, isolated in overcrowded camps and often threatened with deportation, these workers endured conditions of captivity that exuded exhaustion and humiliation. In this context, the union organizers knew that any type of improvement in their labor conditions depended on their own commitment to encounter the workers and build a relationship of trust with them. This was particularly urgent in the days preceding the agreement with Mt. Olive and the NCGA, as signing a labor contract for migrant farm-worker represented a historical achievement, marking the first time guest-workers won union representation in the least unionized state of the nation.

Deborah M. Weissman (2016) spoke of the “federalization of racism and nativist hostility” to describe the violence characterizing the labor conditions of Latinos in North Carolina. Unwelcome as workers despite the hunger for cheap labor and unaccepted as citizens, the conditions of migrant farm-workers echo the racial discrimination that characterized the plantations of the South. J.F. Perea (2011) argued that the discriminatory purpose behind the exclusion of farm-workers from the basic legal protections “echoes slavery” (95), in that it mandates migrant workers to have a subaltern status in agriculture. In this sense, the H-2A program coexists with a form of “benign neglect” – unable to reconcile a public opinion that is increasingly hostile to migrants and the structural need for cheap labor, the guest-worker program posits labor protections for seasonal migrant workers but at the same time it conceals the constant oversight of labor violations in the fields. In this context, the abuses and violations that migrant workers endure in their daily work remain overt and covert at the same time. Everybody knows that the laboring conditions of temporary workers are scandalous but the union remains a primary witness to the daily non-enforcement of farm-labor rights and to the daily attempt to undermine its activities.

In time, it became clear that the problem was not limited to the economic crisis pervading agriculture. Much more complicated was the combined effect of the farm crisis and the culture of racism underlying labor discrimination and right-to-work legislation in the South. In a sense, both traditions were part of an attempt to transform seasonal farm-workers into *ontologically devalued subjects*, thus normalizing the labor exploitation of migrants. In this context, racism normalizes the subaltern status mandated by legislation. It protects agriculture as a symbol of national pride and moral values and it externalizes the costs of the crisis onto migrant workers, forcing them to become the shock absorbers of external economic strain. The history of FLOC helps us reflect upon the role of farm-labor

organizing in times of increasing racism and anti-union legislation. As economic nostalgia and racism become manifest in our society, unions play a vital role in subverting the ongoing labor exploitation that characterizes them. While a new wave of violence pervades our societies, chronicled by the election of Donald Trump and the growth of right-wing populism across the Atlantic, organizing farm-labor means not merely countering the drive to depress wage levels but also challenging a culture of white supremacy that has remained dangerously alive in many parts of our society.

## Keep the Union at Bay

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# 1 Rural Wounds

**Summary** 1.1 The *Plight* of Rural America. – 1.2 The Inherent Ambivalence of the Guest-Worker Program.

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,

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 TPP, 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.

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 Association 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 work-

ers 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.



## 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

## 2 Violence in the Fields

**Summary** 2.1 In the Fields of North Carolina – 2.2 The Political Economy of Race. – 2.3 Unsanitary, Unhealthy and Dangerous Conditions. – 2.4 On Wage Theft.– 2.5 Death in the Fields. – 2.6 Compensation (or Termination) for Work-Related Injuries.

The North may have won the [Civil] War, but that was just on paper. We still haven't given up our slaves.

One grower confronting a FLOC organiser, 1998<sup>1</sup>

### 2.1 In the Fields of North Carolina

FLOC's office was in a small town called Dudley, just a few miles away from US 117. Located in the backroom of a small grocery store called *La Palmita*, each night a handful of organizers in their mid-twenties met inside a small room hidden between the pool table and tortilla shelves. Accustomed to Italian unions, I was impressed by the commitment of the organizers. FLOC (Farm-Labor Organising Committee) was not a typical union. It was a movement of farm-workers determined to create conditions of dignity in US agriculture. Through those months, the organizers met late at night, when everyone returned from the fields. The meetings were designed to discuss the boycott campaign, the obstacles and strategies confronting the achievement of a labor contract for guest-workers in North Carolina. In some instances, I followed the organizers in their long drives to reach the workers in their aging trailers or old barracks.

The first time I entered a migrant camp, it was Sunday afternoon. The camp hosted about two hundred workers. Migrants lived in large bedrooms sleeping each on average ten men. Throughout the building there were only two restroom facilities. Each one had three toilets, three showers and three sinks in a row with no partitioning or privacy. The entire architecture of the building was demeaning. Most of the days, the workers were forced to use the bathroom all at the same time.

1 Quoted in Smith-Nonini 2010.



Figure 1. La Palmita, North Carolina. *La Palmita, Carolina del Norte*<sup>2</sup>

Bedrooms had no air conditioning, pavements or closets. In those summer days, the weather was hot and humid. There were bugs everywhere. In the kitchen there was no electricity or gas. The unavailability of a kitchen forced the workers to rely on the crowd-leader for buying food. On that day, the workers were off. Even though it was Sunday, there was nothing they could do – isolated from the other camps, miles away from the nearest towns and forced to rely on their supervisors for everything from transportation to food, the workers appeared to be living a *de facto* condition of captivity. In a very Marxian way, the camp seemed to be not designed for humans. It was merely a place to sleep, eat and urinate, useful only to the extent to which the satisfaction of such basic functions was necessary for the physiological reproduction of the labor-force.

As will be explained in detail in the methodological appendix, between 2004 and 2007 I used the workers' grievances to study the most urgent

2 The following pictures are part of an exhibit developed and curated by the Atlanta Friends of FLOC, 2006. Photography by Francesca Coin. The Walter P. Reuther Library of Labor and Urban Affairs, Wayne State University, Detroit (MI), is the official home of the FLOC Archives.

problems in North Carolina and I integrated them with interviews of the workers and the labor organizers. In fact, it did not take long to realize that the problem was not limited to the camps I had visited along. In general, the grievances are documents which chronicle the problems workers encounter in the fields during their recruitment process and their employment in North Carolina. They are complaints that the workers file to the union staff in order to inform them about the problems they encounter in the fields. While before September 2004 the grievances were collected by FLOC informally, after the introduction of the *Collective Bargain Agreement* (CBA) with the NCGA and MOPC, the grievance procedure became an official tool for the union to work towards the resolution of the workers' complaints in collaboration with the NCGA. Between September 2004 and December 2006, the workers filed hundreds of grievances. Most of these have been recorded and collected in order to allow FLOC to become an active agent in their resolution. Traditionally, most of the violations that occur under the H-2A program have been categorized by the Department of Labor as conditions relating to the risk of double standards for immigrants. These problems include the risks of substandard housing, below-poverty line wages, and health-related hazards. The Department of Labor (DoL) has set out specific definitions for each one of these problems. Given the general concern that the H-2A program could *adversely affect* the wages and working conditions of US workers, the Department of Labor requested the growers to respect the Adverse Effect Wage Rate (AEWR) set every year for each state. At the time of the *Collective Bargain Agreement*, the AEWR in North Carolina was set at 8.06 dollars per hour, which means that the workers picking on a piece-rate basis had to make at least that overall minimum wage. On top of respecting the AEWR, the DoL requires growers to provide all workers with a "three-quarters guarantee", that is to say that they must provide wages for at least three quarters of the hours established in the labor contract. Moreover, growers must provide free housing that complies with the Occupational Safety and Health Administration (OSHA) standards. OSHA regulations require that employers provide access to water, toilets and hand-washing facilities for their employees. The OSHA standards are coupled with the Environmental Protection Agency standards, which regulate farm-worker exposure to dust and pesticides (Oxfam 2004; Holden 2002).

## 2.2 The Political Economy of Race

As mentioned above, the working conditions of farm-labor in North Carolina are characterized by lack of legal protection. The *Fair Labor Standards Act* (FLSA) sets a federal minimum wage for workers employed on large farms, but it fails to address issues such as overtime pay, day of rest, and work breaks for agricultural workers. The *National Labor Relations Act*



Figures 2-5. Migrant workers, North Carolina. *Trabajadores inmigrantes, Carolina del Norte*



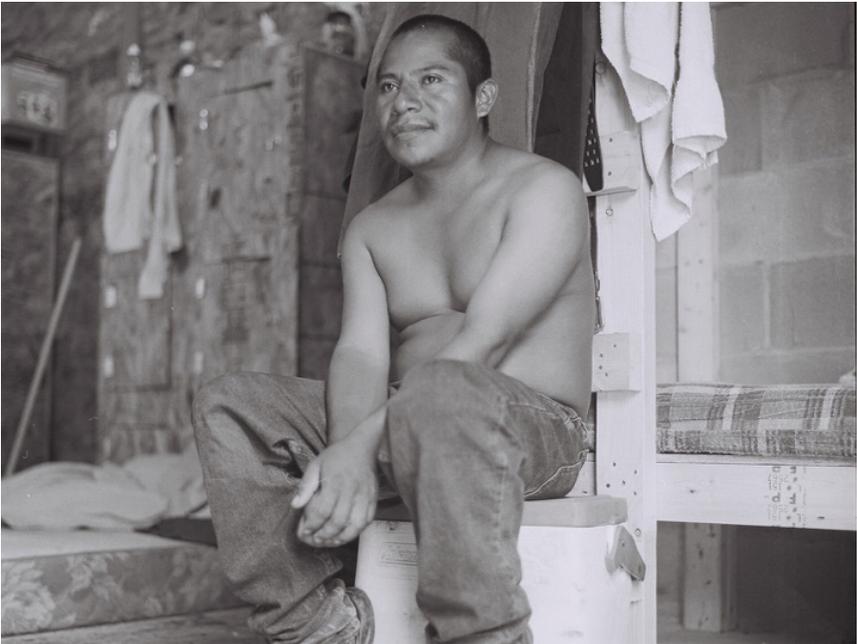


Figure 6. Migrant workers, North Carolina. *Trabajadores inmigrantes, Carolina del Norte*

(NLRA) specifically excludes agricultural workers from the right to union membership and collective bargaining. The Environmental Protection Agency requires that farm-workers be trained yearly in ways to protect themselves from exposure to pesticides and in emergency procedures if exposure occurs, but there is usually no monitoring of workers' levels of exposure as there is for workers exposed to toxic chemicals in other industries. OSHA regulations require that employers provide access to toilets and hand-washing facilities in the fields when groups of eleven or more are working, but often such regulations are not enforced or respected. Despite this, guest-workers are bound by the conditions of the contract (a contract that is negotiated by the US Department of Labor and the employer and that workers have no right to see prior to its approval) to work only for the employer who requests their visa. By law, the H-2A program mandates that the workers must conclude the season with one employer, meaning that eventual dismissal, or the early termination of their contract, would result in deportation and compromise workers' ability to come back to the United States. In order for the workers to terminate the season and provide their families with the necessary economic support, the workers must respect orders, and avoid providing their employer with any potential reason for

dismissal. The legal bond between the workers and their employers thus translates into a “constant blackmail” for these workers, as the workers know that they must keep their head down and work at all times if they want to make it through the season. Such regulation finds a strong complement in the exclusion of women from the program, as their exclusion serves as insurance that these workers will not “take their families and go”, as happens in the case of undocumented workers, but that they will continue to work until the end of the season. As one grower argued: “In this business, when you’re priming tobacco, you need to know your workers are gonna be there tomorrow” (quoted in Glascock 1999).

In this context, the workers are often compelled to finish the season despite the difficulties that they endure. “We don’t have any other option” (quoted in Glascock 1999), said one worker. Blanding (2002) reports similar encounters: “If you speak up for your rights, that will be the last time”. As a Jamaican worker explained, whatever happens:

Don’t gripe about wages and working conditions. Don’t seek the benefits you’re entitled to. Don’t make noise, even when your health is in jeopardy: what you see, you must remain silent.

[...] “If I talk to the boss and say we’re in need of something, he could turn against me and fire me”. “If there’s a chemical sprayed in the field and you think that if you go into that field you would maybe get poisoned, you can’t say anything”, said one worker. (Yeoman 2001)

As attorney at the federally funded Legal Services of North Carolina, Mary Lee Hall explained:

The fundamental problem underlying the program is the degree of control that the employer has over the workers, which is greater even than over undocumented workers: If you are undocumented and you don’t like your job, you can walk away. These workers are coming out of economic necessity and place a premium on returning [to the United States] and being able to bring back that money again. (quoted in Schrader 1999)

### **2.3 Unsanitary, Unhealthy and Dangerous Conditions**

Many grievances revolved around the fact that the housing standards do not comply with Occupational Safety and Health Standards. According to the Housing and Field Health and Safety Standards, there has to be at least one shower head for every ten workers, and the toilet facilities have to be “adequate for the capacity of the camp” (Griev. 56, 2006). Several grievances dated 2005 state that many camps violated the OSHA regulations. One grievance denounced the camp as:

So crowded that two workers are sleeping in the washing area directly adjacent to the bathroom facilities. The only thing that separates these workers' beds from the toilets is a curtain. All workers must walk past these workers' beds to access the bathroom. This is a violation of OSHA regulations, which states that 'each toilet room shall be located so as to be accessible without any individual passing through any sleeping room' [...], and "no Privy shall be closer than 100 feet to any sleeping room, dining room, lunch area, or kitchen" [...]. Only one of the three showerheads works, while according to OSHA standards, there is to be one showerhead for every ten workers [...]; and the toilet facilities must be "adequate for the capacity of the camp. (Griev. 56, 2005)

The workers reported that they had to make a line for the bathroom in the morning. The sewage located just behind the house broke, and waste water came up to ground level. Some of the workers were sent to shovel and fix the pipe, reportedly because the Health Department would not come. Supposedly it was fixed and the broken pipe replaced and moved away, yet the waste odor was very strong and it seemed to constitute a health hazard. The workers also reported that the first aid kit required by housing regulation contained expired medicines; that there was a rat problem in the house; that the smoke detector did not work; that the lighting was very poor; that only three light fixtures worked; and there may have been a short circuit in the wiring because the light bulbs would constantly blow out. In view of this extensive list of housing regulation violations, the workers requested that they be relocated to a suitable alternative suitable housing unit while the original housing was repaired according to OSHA regulations. The workers also repeated that not only were the conditions in the camp hazardous, but there were also health and safety issues in the fields:

The grower does not provide sufficient cups for all the workers, and they must usually drink out of used cups that have been discarded on the ground. They are also not given enough time to drink water, and must run after the truck in order to reach the thermos. They are not given any time to go to the bathroom while on the field and must wait until they come home for their lunch break or after work to go to the bathroom. (Griev. 56, 2005)

The crew leader had told them that he would place thermoses on either side of the field so they would be able to drink more water, yet he had repeatedly failed to do so. As a result, the workers requested that the Association contact the grower regarding conditions both at the fields and at the camp:



Figures 7-8. Migrant camp, North Carolina. *Campamento de inmigrantes, Carolina del Norte*

A significant number of workers have left this camp due to the unbearable living and working conditions over the season, including one worker who was denied medical attention despite requesting it. We are sure that the Association is as disconcerted to hear this as the union is, and wait for a quick and adequate response in order to ensure these workers' health and safety and compliance of Association growers with the law. (Griev. 56, 2005)

After these extensive complaints about the quality of the water supply, the grower assured them that the water was sanitary. The union then arranged that a health department inspector reevaluate the water supply and it tested positive for *Escherichia coli* contamination. A few days later, the NCGA responded that:

We have spent many hours at [the grower's name] camp checking with the workers to insure a successful relationship. All the workers told us they were happy with the arrangements at that farm. Furthermore, Mr. [Grower's name] stated that any worker who wanted their own facilities just ask - he personally informed the workers of this. Please identify any worker who would like to move to a house with a kitchen, there is one available and they will be moved right away (they were told this from the start - ask them yourself). [...] Mr. [Grower's name] has joined with FLOC and NCGA which has significantly raised the level of wages and benefits at the farm for all workers. The workers are happy. That makes me happy - I would hope that would make you happy as well. [...] PS: The workers were not forced to do anything. The workers have not complained to us about anything. (Griev. 56, 2005)

Similar "communication problems" between the union and the association occurred in August 2005 (Griev. 73, 2005), when two workers reported residing in trailers in which the kitchen sinks were clogged. "The two sinks have not been repaired despite the several requests to do so. The workers are unable to do so". NCGA replied that it was normal "wear and tear", and that:

Trouble with the drains in the house is because the workers continue to pour grease in the sink rather than the trash can in order to dispose of it. The grower has unclogged the drain and explained the problem to the workers to the best of his abilities. He said that they continue to pour grease down the drain. He has unstopped them himself until today. He said he would have to call in "professional help to unstop the drains now". (Griev. 73, 2005)



Figures 9-10. Migrant camp, North Carolina. *Campamento de inmigrantes, Carolina del Norte*

In the end, the NCGA solution was to: “advise the workers to dispose of grease and other solids in the waste container and not the sink”. The union spoke again with the workers and advised them to “dispose of grease and other solids in the waste container”, but they replied that this is what they normally do. “If the sinks become clogged again it seems it would be best to call for professional help to determine the cause of the clog, before assuming that normal wear and tear has occurred”, recommended the union. The NCGA responded that “after [Grower’s name] gets the drains unstopped this time the workers will be charged for the next clog due to misuse”.

In another trailer the kitchen sink was also clogged and unusable (Griev. 21, 2005). When the workers inquired, the grower refused to have it fixed and unclogged. In another trailer over fifteen workers had only one small refrigerator for all of them. It took several emails and negotiations just to provide them with an extra refrigerator (Griev. 32, 2004). Twenty-five workers had a similar situation at a different facility (Griev. 33, 2004). Their electrical socket did not work; the screens were broken; the refrigerator did not work; they had no toilet paper; one of their toilets was clogged; some were paid in cash but still were deducted taxes; they were charged to cash their checks; their mattresses were dirty; they were forced to pay 50 dollars a week for food; and they had no phone. Other workers complained that they were forced to withstand temperatures of less than 42 degrees due to low gas supplies. “There has been scarcity of the gas for the heating system in four trailers”, they complained. The *Agricultural Worker Protection Act* requires that heating facilities must be provided when the temperature falls below 42 degrees Fahrenheit (Griev. 71, 2004). In this case the union had to intervene many times until the grower decided to refill the gas tanks. The workers also reported that the two bathrooms in the fields had not been cleaned for an entire month, to the point that they could smell them from a distance. Also, their two toilets in the camp were not working; they could not regulate the water temperature in the shower; and the workers were only provided with medications that had already expired (Griev. 71, 2004). On a different property, the workers reported that there were no individual cups for drinking water; no toilet paper in the fields; no water or soap for hand washing in bathrooms; no access to drinking water and bathrooms in the fields. The law states that there must be water in the fields, that the workers must have ample time to drink and use the restrooms, and that the employer should indicate where all the facilities are in order for the workers to use them as needed. However, the workers complained that the grower established rules that limited their actual ability to use the restrooms; arbitrarily set a maximum amount of time that they could spend in the bathroom; restricted them from taking off their gloves when they were walking from field to field or during breaks; rushed their productivity and constantly moved the truck with drinking water on it. The workers were asking for two ten-minute breaks during

the workday, to be scheduled at 9:00 am and at 3:00 pm, and, since the above violations had saved the grower time and money, the workers felt that they should be compensated in an extra benefit rather than wages or fines. Their other complaint was that the water was warm. When asked to respect these regulations, the grower reportedly “tried to turn them into a joke”, arguing that “if they want ice in the water they’d have to buy it themselves or not drink as much water”. The union organizer who filed the grievance also reported that the grower debated about what “cold” water means, but in the end he had to comply with the rules (Griev. 29, 2004).

In general, the organizers reported that:

All too often, housing is unsanitary, unhealthy and dangerous. The Wake Forest University School of Medicine has found that 40 percent of farm-worker families live in overcrowded housing. The *North Carolina Migrant Housing Act* sets standards for farm-worker housing. These standards, however, are minimal. For example, the *Act* requires one toilet for every 15 residents. This ratio is below what is required in the state’s prisons. It is necessary to update housing standards for the twenty-first century (by ensuring clean and sanitary mattresses on all beds, making sure that toilets and showers at least meet NC jail standards, ensuring there is a telephone for emergency use within at least a mile, and guaranteeing access to kitchen and eating areas, providing locks on exterior doors, and clarifying that migrant workers can have visitors. (Griev. 12, 2004)

A summary of violations submitted by FLOC reported that:

The most common violations include: lack of bathrooms in fields, lack of cold water provided or lack of drinking cups and illegal application of pesticides while workers worked in the fields. [...] Raw sewage was flowing outside the camp. [...] Workers were sleeping on metal frames with no mattresses and the stove did not work. In this case, the workers did not want to make any formal complaints because of fear of retaliation. [...] One worker was actually beaten up for stopping to drink some water. [...] Workers were sold beer while working, which of course is dehydrating [...] There are serious wage violations including workers being the equivalent of indentured servants, forced to work off a debt and not being allowed to leave. [...] The well-known blacklist makes H2A workers more likely than others to be afraid of reporting problems. (Hall, Elmer, Brooke 2004)

Independent journalist Michael Blanding discusses the case of farm-workers hired to pick blueberries, in which Cherry Field Foods was fined 10,000 dollars by the US Department of Labor for unsanitary conditions. He de-

scribes the living conditions of these workers as “abominable, with filthy bathrooms, rodents, contaminated water, and the nearest fresh water one mile away” (Blanding 2002). Most camps:

Lack simple amenities like portable toilets and drinking water in the fields. Housing often consists of broken-down trailers with sewage backing up into the bathtubs. Pay averages from minimum wage to a few dollars above it, and promises made overseas or at the border are broken by the time workers arrive. Some of these workers are kept in line by intimidation and coercion; few complain for fear of being deported.

The US officials who oversee the program warned that: “we see way too many violations, way too many instances of farm-workers not being afforded minimally decent standards and wages in the workplace” (Schrader 1999).

## 2.4 On Wage Theft

Another problem was the wage structure, the expectations of workers, and the practices of growers. In agriculture, workers can be paid in one of two ways: either by the hour or by the piece. While non-harvest work is almost always paid by the hour, harvest work is often paid by the piece. Given the perishable nature of produce, the piece rate is generally indicated for harvesting, as it pushes the workers to toil faster (Geffert 2002; Goldstein, Leonard 2003). However, both the piece rate and the hourly pay rate are so low that the workers earn wages that are below the poverty line. The Oxfam report shows that under the piece-rate system the workers have to toil faster in order to earn the minimum wage (Oxfam 2004, 12). This system particularly discriminates against those workers that are older or sick and thus work slower than others (12). While on paper all the workers should be able to earn a minimum wage, “many farm-worker advocates report that hourly wages of farm-workers paid by piece rate, or a fixed lump-sum per day or week, are misleading” (12). The Oxfam report carries the example of a North Carolina worker who receives 40 cents for every bucket of tomatoes, and 52 dollars for picking 140 buckets in six hours (12). If we consider the rainy days, states the report, the breaks, and the involuntary waiting times that are so typical in agriculture, the piece rates often remain below the minimum wage, and not only have these rates remained stagnant over time, but they also represent “a drop in real wages from the rates paid two decades ago” (12).

On top of these low wages for both hourly work and piece work, guest-workers do not earn money when they are sick, when it rains, when the crop is small, and often work for fewer hours than their contract mandates (Geffert 2002, 125-6; Goldstein, Leonard 2003). FLOC organizer A.

explained that North Carolina growers regularly hire twice the number of workers that they need during the season. Since H-2A workers harvest perishable goods, growers often make sure that they have a “reserve army” of workers to use during season peaks. Thus, “unemployment and underemployment are endemic among farm-workers” (Yeoman 2001). As a result, many workers remain idle for days or even weeks during the summer season. In this sense, not only do workers suffer from low wages, but they are also afflicted by labor oversupply, and often they are not reimbursed under the three-quarters guarantee. The three-quarters guarantee is intended to ensure that workers are compensated for at least three quarters of the hours that are mandated by the labor contract, with the very aim to prevent the workers from being overly impacted by the endemic underemployment of farm-labor. However, as we shall see, violations of the three-quarters rule are frequent in North Carolina. As a result, the Oxfam report warns that half of farm-workers in North Carolina earn less than 7,500 dollars per year, and half of farm-worker families earn less than 10,000 dollars per year, bringing a large percentage of farm-workers families below the poverty level (Oxfam 2004, 8). It is not rare that workers in North Carolina rely on food stamps to eat, as many of them do not make the minimum wage. According to A.:

Legally the minimum wage of H-2A workers is 8.06 dollars, but... a lot of workers don't make even that little. I was talking to a worker yesterday and his complaint was that he woke up at 6 am and worked for 3 hours. Under the H-2A program you don't have the ability to leave that grower without the grower's permission. Sometimes there's no demand for labor and they don't work at all. I talked to some workers today and they all said that they started at 5 and worked until 3. So they worked ten hours. But other times they don't work for 4 days. So you have both workers that overwork and workers that don't work at all and make no money.

All of these conditions came up in the grievances. The greatest problem that emerges in the 2004 grievances is, however, workers' wages. Only within the one month from September 16, to October 16, 2004, many workers reported that they were not paid for the amount of hours that they actually worked. At one camp the workers complained that they were not being paid each week; their hourly pay was 7.00 dollars instead of 8.06 dollars; and at times they were forced to stay idle for entire weeks (Griev. 3, Sept. 04). One worker at a different farm reported that his grower was asking him to work for 11 hours straight every day but paid him for five (Griev. 8, 2004). Five workers reported that their grower owed them a total amount of 600 dollars (Griev. 11, 2004). Seventeen workers at a different farm found that they were missing hours for a total amount of 1,378 dollars in lost wages, but they were being forced to sign a paystub stating that they agreed that

their hours and pay were correct (Griev. 10, 2004). One worker claimed that he had worked Sundays for a number of weeks but his grower failed to pay him. He claimed a total amount of 950 dollars in lost wages, but his grower never answered his phone calls and refused to pay him (Griev. 14, 2004). In 2004, Legal Aid contacted FLOC to refer a complaint from workers located at a camp in Yadkinville. The workers stated that by the contract they should be paid on Sundays, which was convenient because they could go to the store. When they demanded to be paid on Sunday after several weeks of negligence, the grower told them to “get their stuff and leave”. The union called the grower who responded that he did not fire the workers, but thought that the workers were going to leave. He said that it was a “communication problem”: one of the many “communication problems” that happened at the workers’ expense (Griev. 16, 2004).

In July 2004, one worker reported that his crew leader had threatened him at gunpoint for asking for a break and then had fired him. The worker had not received his payment and was told that he would not be paid. The grower owed him 611 dollars (Griev. 18, 2004). It took several weeks of negotiation between the union and the grower before the worker received his payment. Other workers at a different camp complained that they were making less than 8.06 dollars an hour. Only after the union demanded that they be paid fully, did the grower start paying more than 8.06 dollars to make up for the previous week (Griev. 21, 2004). A similar case involved ten workers who reported that they were not enjoying the “three-quarters” guarantee. In 45 days, they had only made 1,242 dollars. When FLOC reported the problem to the grower, he said that he was also upset about the harvest but that he would do whatever he could about the guarantee, but he “couldn’t promise”. Eventually the workers were paid, but it took several weeks for the union to make sure that the grower complied (Griev. 23, 2004). Similarly, in 2005 fourteen workers reported that their grower was not paying them the correct amount of hours. The grower gave FLOC the records for the sweet potato harvest but there was a large discrepancy between the hours reported in his records and the hours reported by the workers. When the workers complained about the missing payments, they were fired and forced to leave camp overnight. Their crew leader was apparently trying to force them to leave the camp immediately and without compensation, arranging a ride for which they were supposed to pay. On that occasion, the workers also complained that they were being paid in cash; taxed; not allowed to use the kitchen; forced to pay 60 dollars a week for food and seven dollars for sodas; forced to sleep on the floor without a bed; forced to pay an additional 150 dollars for their transportation from North Carolina to the camp; forced to live at a camp that had an insufficient number of bathrooms and showers; and to work without hand-washing facilities in the sweet potato field. Apparently, the workers proved that the grower owed them payments for a total amount of 600

dollars. Referring to the large discrepancy in the pay stubs, the grower suggested that: "somebody could go to jail over this [issue] and that might be me". A few days later, therefore, he decided to write checks for all of the workers, and to pay the difference he owed them (Griev. 5, 2005),

In general, the grievances show that on many occasions the workers were not making the minimum wage in North Carolina. One of the problems that characterize the working conditions of H-2A workers in North Carolina is the very disregarding of the Adverse Effect Wage Rate (AEWR), and the failure to provide the workers with a payment that is consistent with minimum wage regulations. In 2004, one worker employed in Myrtle Beach, North Carolina filed a complaint arguing that his grower owed him a total of 950 dollars. For months, he had attempted to recover his back wages but his efforts had proven fruitless. At that same camp, there were over a dozen workers who shared the same problem but they had not filed any claim due to a combination of fear and hopelessness. Apparently the grower had never filled out the necessary paperwork for his employees and refused to give out accurate information about his business (Griev. 30, 2004). On a different case, six workers filed a wage grievance against their grower, who apparently failed to pay them minimum wage. In response to their phone call, the grower allegedly threatened the workers that they would be deported if they kept making these demands. The following day the workers were told not to work in reprisal for filing the wage complaint, and told that they would be sent home without reimbursement. The union required that the grower settle with the workers, reminding him that by law a worker cannot be fired or punished for submitting a grievance. A few days later the workers reported yet another violation at this camp: apparently there was no record keeping of the working hours; the camp was overcrowded; and the most vocal union supporters were discriminated against and often denied the right to work due to their affiliation with the union. The union explained that according to Title 20 of the Federal Code of Regulations Section:

The employer shall not intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against, and shall not cause any person to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against, any person who has with just cause: exercised or asserted on behalf of himself/herself or any others a right or protection afforded by section 216 of the INA. (Griev. 41, 2005)

In fact, this was not an isolated case. In several cases, the workers complained they were not paid for their actual hours of labor. "You know how we cheat them? We fuck 'em on the hours", candidly confessed one grower to Yeoman (2001), an independent journalist. In other instances, the workers reported that labor was distributed unevenly among the workers, depending on their political views. Often times, workers that were active with

the union complained about being discriminated against. On one occasion, twelve workers complained that they had not been asked to work for two weeks. The workers demanded that the work be distributed equally among all workers without giving preference to some and discriminating against others. The workers that were not being asked to work were all affiliated with the union (Griev. 37, 2005).

## 2.5 Death in the Fields

In the fields, like in the camps, one of the greatest problems for H-2A workers was the lack of drinking water. Throughout their interviews, the workers reported that the lack of drinking water was one of their major concerns. Alejandro talked about a combination of problems:

The injustice is that they try to pay us in such a way that it is not adequate for the work we do. They try to pay us less than the hours we work. They don't do anything about dehydration in the fields. They don't give us water in the fields while we are working and the situation in the camps is not adequate as well. We don't have ventilation there, we don't have telephones or any way to communicate, and then they threaten us. Now with the union we are somewhat protected, but they still threaten us.

According to José, the grower is the law in the fields, and the grower does not appreciate that the workers need to stop to drink during their shift:

For what you are paid... you have no freedom there. You don't have the same freedom there that you have here. You cannot leave. You cannot move. There's nothing you can do. If you leave the camps they can catch you. The grower doesn't want anyone to leave the camp and anybody to come to the camp. The grower is the law. For example I love music and the grower doesn't like music. I used to turn the music on but the grower didn't like it, so I had to turn it off, because when he doesn't like something he just fires you. He makes you go home and he doesn't call you back. I had some fellow workers last year that didn't work the way he wanted them to work so he didn't pay them. Sometimes there are a few people that they don't like, and so they fire them. One year there were about 50 of us in the camp that worked all day, but other workers never worked. They asked the grower to work but the grower wouldn't let them. So they spent the season there but they were not paid. That time there were a total of 100 workers under the same grower. We shared everything. We used to pay 30 dollars each for our meals. In the fields the grower gave us the cooler for water. Now that we have the union it's much better. Until a while ago you had no union, nothing. It

was hard. The work is hard. It's *puro trabajo*. Only labor, only, only labor, and a long time without seeing the family.

Alfonso complained that in many places "you cannot drink water. You have to drink your own sweat, because you need water".

So far I have been to the US for 8 years. It's been a struggle. It's hard, it's hot. In tobacco you have to work a lot, but there's no drinking water. There are places in which you cannot drink water. You have to drink your own sweat, because you need water. The other thing is the use of pesticides. When I work there I work with pesticides. Always pesticides, but I know that they do something to me because I cannot breathe. I am 45 now, and this work doesn't do me good. Sometimes I am so tired and I need to rest. But I can't rest. Sometimes I have a headache. Sometimes I am sick, but nevertheless I must work. So many things happen, but still you have to work, even if you don't eat or you don't drink. So many things happen in those fields: people get injured. So many people get injured. I've seen so many people there that get injured and sick. Then they discriminate against us because we are Mexicans. When they know that you are Mexican they think that we are worth nothing. But we are making their country better because we are working for them. And the US is a hard country to live in. It's hard. We are Mexicans and we are working there, we are struggling there, we are doing our job there. Still they treat us bad. Still they say that they don't want us there. Still they don't give us water. Still. Here in Mexico it's hard, but there it's worse: we get paid there, but it's hot, it's humid, it's hard.

Pablo declared that his employer did not provide water facilities at all:

In the past years I have worked for different growers. [Grower's name] paid me by the bucket instead of paying me by the hour, as the contract said. That was a problem because I had to work much faster in order to make a minimum wage. I didn't have that big a problem because I was young: I did 20 buckets an hour or even 25. Sometimes it was convenient, but the older workers couldn't do it. I had colleagues that were slower than me, They did 18 buckets an hour. For each bucket they paid us 40 cents, whereas for every hour they paid us 8.06 dollars. So we had to pick at least 20 buckets to get the minimum wage. So we asked the *patron* to pay us by the hour because the majority of us couldn't reach 20 buckets. That was exactly why he paid us by the bucket. Anyway we won. The grower paid us by the hour. But that was only because we had the union. The year before the grower also didn't pay us what we deserved. He should pay us at least for 30 hours a week, which is at least 5 hours a day, 6 days a week. But he paid us only for 4 hours a day. So I was earn-

ing something like 240 dollars a week, while my brothers were making 420 dollars a week. So I asked to be changed, and they moved me to a different grower. Yet there was no water in the fields. In the camps it was hot, and we didn't have ventilators or air conditioning. The other problem that we had was that the growers didn't give us proper equipment to work. Say for example that you are working with pesticides and they don't give you the masks: you're going to start coughing, it's not healthy. Then in the camps we couldn't use the kitchen, so we had to buy food from the majordomo. Those of us that do have a kitchen many times they have no plates, no forks, no knives and no glasses. The only thing they give you is a refrigerator. But they don't give us anything else, so even if we do have a kitchen we don't have the burners and we can't cook, not to say that we need to buy forks and plates and food... So it's expensive. It's expensive to work there. For the past three years I was never able to cook my own food. There was only one worker that was allowed to cook, and he would sell us food for 55 dollars a week. For each person.

Geraldo described the situation in North Carolina to be one of the most difficult that he has ever experienced. He complained that the growers asked the workers to do more labor than they could physically handle, in any weather condition, and without water. In the fields there is no water, he said. For that reason three years ago he decided to call Legal Services. Lawyers from Legal Services came to the farm and prohibited the crew-leader from selling beer to the workers. After the visits by Legal Services lawyers, the workers who had called them were blacklisted. In fact, Geraldo had been blacklisted before that event. He had been blacklisted when he went to a local church to ask for help because "the crew-leader threatened us". Reportedly, both the crew-leader and the grower had threatened Geraldo and his co-workers. When they went to the NCGA to report the problem, "the association told us that we'd better shut up and keep working or they would call the police and the police would deport us". It was then that they found refuge at a local church, where the minister helped them. Geraldo had not been back to North Carolina since that event. He was afraid to go back and he was afraid about telling me this story. It took him several days before he decided to share it with me.

In 1997 I had the opportunity to go to North Carolina. I had never been to the US before. I was afraid. My friend used to tell me that they treat people bad there, so I was afraid. When I went there it wasn't easy. The association and the legal services know that they pay us badly. They treat us with violence... [sighs] threats. Verbal threats. I've had several problems there.

The representative of the association forbade me to go to the church and he said that if I kept going to the church I could have problems af-



Figura 11. Migrant farm-worker, North Carolina. *Trabajador inmigrante, Carolina del Norte*

terwards. There were good people at the church and they were helping us. But they threatened us. Many times I was close to giving up. Many colleagues went back to Mexico because they were mistreated, and because they couldn't handle the amount of work. It was not the amount of hours alone; it was the intensity and the speed that they demanded from each of us. They asked us to do more labor than we physically could handle. In the heat, in the rain, without water. They asked that we work so much. They kept asking for more. They asked for more production, more tobacco, more production, more every hour. And at the same time they didn't give us the possibility to drink water, so we couldn't drink water. We didn't have any water as well, just beer and soft drinks. They sold us beer because they can sell it for profit, whereas they can't sell water for profit. So they would sell us beer and soft drinks, but not water. A lot of people ended up drunk. If you work under the sun without water you either get dehydrated or drunk, and if you get drunk it's very dangerous, because you may injure yourself and everyone else. It's very dangerous, but nevertheless the crew-leader sold us beer.

At the camps we used to have a kitchen but it was closed. It was open only at particular times. If you didn't eat during those times you could not eat at all. They sold us dinner for 45 dollars a week, but that did not include

water or anything to drink. So we asked for the help of Legal Services. This happened three years ago. Legal Services came on the fields and talked to the crew-leader. There were also other inspectors. They prohibited the crew-leader from selling us beer. But after we spoke to Legal Services we all ended up in the blacklist. Actually, I was in the blacklist before I talked to Legal Services, because the Association prohibited me from going to Church. They put me in the blacklist because they didn't want me to go to church. So when my contract was over they said that they'd never call me again. When I learned that they wouldn't call me anymore I called Legal Services again. The thing is that I was going to Church because the crew-leader threatened us. At the church there were people that could help us. When the grower threatened us, we went to the association to report the problem. We thought that the association would defend us, but the association told us that we'd better shut up and keep working or they would call the police and the police would deport us. So the association threatened us too. We were asking them for help because our crew-leader and the grower threatened us, and they ended up threatening us too. At that point we had to leave because we were told that the grower would call the police and deport us. We were afraid. So we left. It was the four of us, and we ran to the church and the minister helped us. Then the minister talked to the association and they sent us to another grower. Had he not talked to the association I don't know what we would have done: we had no place to sleep, no place to go, no work, nothing. But at that point we were all blacklisted, and the association treated us badly.

I haven't been there for two years since. They didn't call me back last year because I was blacklisted. Now with the introduction of the new labor contract and the union they were forced to call me back, but now I am afraid to go. I know that I should not be afraid, because I can call Legal Services again, and because I know that I can always ask for help at the church and there is the union now. But still, I am afraid. My wife is afraid too because she thinks that they are going to retaliate against me for what happened in the past, because I called Legal Services and caused them so much trouble. She thinks that they will take some action against me. That's what she and my children think. That's what I think too. But I am going, because I need to. Here in the past few years there have been less and less opportunities. There is more competition, so for one job opening you have thirty people competing with you. So I have to go. I only hope that they won't harm me. Harm me with threats... I don't know what they can do to me.

Geraldo was afraid to go back to North Carolina. He feared for his health and for his life. According to one organizer, the workers have several reasons to be concerned about their safety. Not only in many cases were they threatened with blacklisting or deportation, verbally or at gunpoint

but many times they suffered under inadequate working conditions, such as the use of pesticides or the lack of drinking water. More than once, these conditions became very dangerous for the workers. A few times they have been lethal. Urbano is one of the workers who died in North Carolina due to the lack of drinking water. This is what union organizer A. said about him.

A: Urbano, he was literally worked to death In North Carolina. He was working in late June, in North Carolina, harvesting crops. He was working for 12 to 14 hours a day. Workers didn't have any access to water. Frequently they had no rest breaks. So Urbano worked until he was physically... until he couldn't work anymore, until he couldn't harvest anymore cucumbers or tobacco. He suffered a heat stroke and after two weeks, only two weeks after his death was he taken to the doctor.

Q: What did the doctor say?

A: That the cause of the death is unknown.

Q: Why is it that they don't have water?

A: Because when the workers ask for water the *contratista* sells them a beer.

Q: So they can't have water?

A: They can't have water but they can buy beer.

Q: Buy beer?

A: Right. So when you're working 14 hours shifts in June in this type of weather...

Q: It's gonna kill you.

A: Right it did. The DOL withdrew the investigation in December. After Urbano died their files said that that unit was working in late June and didn't have access to water. [...] I was talking to a worker yesterday and they have the same problem. Apparently the workers were working and there was a truck in the fields and the truck was moving constantly. The water was in the front of the truck but the truck wouldn't stop to let them drink, so they had to run in front of the truck and try to move with the drinks truck. It's a very vindictive, humiliating process where they don't even stop the truck to let them drink water.

Q: How hot is it here?

A: It's 90 some degrees with high humidity. It's hard to imagine being out all day with no shade, completely exposed to the sun when there's no water.

The case of Urbano became well known in North Carolina, and it probably represents one of the darkest moments in the recent history of farm-labor. Urbano exhibited signs of heat stroke in July 2001. His body was only found two weeks after his death, when his co-workers found his remains in the field. A similar case occurred in 2005, when Pablo died some time during

July 19 or 20, 2005. The date is not certain, because his body was found on a soybean field between one and two days after his death. Apparently both workers died from heat stroke and dehydration. Pablo was hired on July 11, 2005 to work in the tobacco fields in Person County. He lived in a trailer located at walking distance from the tobacco fields, which required him to walk through a soybean field to go to work. The grievances contained a lawyer's report. According to this report, on July 20 Pablo was feeling sick and was told to return to the residence. He departed towards the residence at around ten in the morning. When his co-workers returned to the residence that evening he was not there. On the afternoon of July 22, 2005, his co-workers found his corpse, at the time "severely decomposed at the end of a long week of severe heat at the edge of the soybean field", says the report. The body was examined by the Medical Examiner, who declared that the cause of his death was undetermined. The North Carolina Department of Labor began an investigation on July 26. The investigation resulted in citations for a serious violation for failing to provide the employees with:

Conditions of employment and a place of employment free of recognized hazards that were causing or likely to cause death or serious physical harm in that the workers were exposed to heat-related hazards without adequate provisions to protect them. (Griev. D1)

Among the adequate provisions that the employer failed to provide were "permitting workers to drink at liberty" and not developing a "heat stress program". Under the citation, there were items indicating that the employer failed to inform the workers of the importance of drinking water frequently on hot days. The workers were in fact discouraged from drinking water frequently, even when temperatures were dangerously high. After examining data from the State Climate Office of North Carolina; the Report of Investigation by the Medical Examiner; the Report of Autopsy examination; and the incident Investigation Report by the Person County Sheriff Department, the lawyer concluded that the conditions in which Pablo was working were sufficiently hot to increase the risk of a heat-related disorder for Pablo and his co-workers; and that it was:

More likely than not that the working conditions significantly contributed to [worker's last name] becoming too ill to continue working in the field on July 20, 2005. That it is more likely than not that [worker's last name] left the worksite feeling ill due to the hot working conditions, got part way to the residence and collapsed in the field. That it is more likely than not that before, or soon after collapsing in the field, [worker's last name] suffered from heat stroke, stopped sweating, had a continuous rise in body temperature, leading directly to death from being overheat

ed. [...] The normal progression for occupational heat disorders is for the worker to develop symptoms of heat exhaustion initially, followed by the more serious heat stroke. During heat exhaustion, a person continues to benefit from the cooling effect of sweat. Workers can recover from heat exhaustion by resting in a cool place and drinking plenty of fluids. If a worker with heat exhaustion does not stop to rest and re-hydrate, but instead continues walking or working in the warm or hot environment, the body's thermoregulatory control mechanism can be overwhelmed, resulting in heat stroke. [...] The progression described here fits very well with the facts in this case and all of my opinions. (Griev. D1)

After receiving news about the death of Pablo, FLOC organizer A. went to his former labor camp to offer support to the five remaining workers, and to investigate the circumstances surrounding his death. "The purported cause of death was a heart attack, yet many questions still remained in regard to the events surrounding the tragedy", reported the grievance. As A. was at the trailer where the workers reside, the grower arrived and demanded that he leave the premises immediately. A. explained to the grower that under the CBA he was permitted to be at the labor camp because the union was the exclusive representative of all H-2A contracted workers in the state. Under the CBA he had the right to be there and to do

His job as a union representative, investigating the circumstances of Pablo's death and consulting with co-workers regarding their condition after stumbling upon Pablo's decomposed remains some two days earlier. (Griev. D1)

Despite A.'s explanation, shortly after his arrival the grower called the authorities. Person County sheriffs informed the grower that they could not arrest the organizer unless there was a warrant out for his arrest. The grower drove into the town of Roxboro, where the Magistrate granted him a warrant for A.'s arrest. FLOC organizer A. was put in a holding cell and released just over two hours later when another organizer came to post the bond. A few days later, the autopsy reported that the cause of death was "unknown", largely because the worker's body was not found for two days after his disappearance. According to the five co-workers, the worker "died due to the grower's negligence and failure to provide medical attention to Pablo" (Griev. D1). The Department of Labor investigation found that "the grower did not provide adequate drinking water to employees", and that he specifically "discouraged and reprimanded workers for stopping to drink" (Griev. D1; NCC 2007). The lawyer also had a written statement from one former co-worker saying that Pablo was reprimanded by the grower for drinking water shortly before his death (Griev. D1; NCC 2007). At the time of death Pablo had two children, both under the age of 18, and

his wife was pregnant. After his death, his widow started working “at a sweatshop in Durango, to provide for herself and her sons. Her baby was born in October of 2005 and then died in December 2005” (Griev. D1).

In 2005, Pablo’s death came only two days after the death of another worker, Rito, who died in University of North Carolina Memorial Hospital in Chapel Hill from a heat stroke on July 20, “following a week of record 100-degree temperatures in North Carolina”. Rito was a 56-year old farm-worker from Zacatecas, Zacatecas, Mexico, who suffered a heatstroke on Monday, July 18 while working on a tobacco farm in Harnett County. At the time of death, Rito had eight children all over the age of 18. FLOC records on Rito report that:

Rito had no desire to or interest in returning to work in NC, and was hoping to be able to remain in Zacatecas with his wife and extended family during the final years of his life. But Rito’s economic reality, which is currently that of the vast majority of post-NAFTA Mexican farm workers, drove him to do something that he himself knew he had no business doing, given his age and health (he was a heavy man): work in tobacco in NC in more than 90 degree temperatures, in July. Rito died of heatstroke, according to his autopsy, though he also died of NAFTA, and inhumane trade policies. He died within two weeks of arriving in NC, in 2005. His son, Benjamin, has never been the same, at least the last time that I saw him, after his father’s death. Before Rito’s death, Benjamin was one of the strongest union members and leaders in the Triangle region. After his father’s death, Benjamin resorted to drinking heavily and became increasingly withdrawn and reclusive. (Griev. D2)

In 2006, another worker, Juan, died on or about August 1 and also from heat stroke while harvesting tobacco in Wayne County. According to the NC Department of Labor investigation:

The employer did not furnish to each of his employees conditions of employment and a place of employment free from recognized hazards that were causing or likely to cause death or serious physical harm to employees, in that employees were exposed to heat-related hazards without adequate provisions to protect them. (Griev. D3)

The investigation also found that

Twelve migrant farm-workers were exposed to heat indices of 105-110 degrees without the opportunity to adequately hydrate or cool down” and that subsequently one worker died of hyperthermia. The grower has contested the findings and the proposed penalty of 2,100 dollars [...] the apparent worth of the workers’ life and health. The Workers’

Compensation claim is currently being denied by the grower's insurance carrier. (Griev. D3)

Two weeks later, on August 15, 2006, another worker, Mario, died due to a tobacco machinery accident. In July 1995, another worker, Raymundo, exhibited signs of heat stroke before he disappeared (NCC 2007). His skull was found only several months after his death. In August 1998 Carmelo was picking tomatoes when a heat stroke caused him severe brain damage. He has been defined "brain dead" ever since (NCC 2007). In August 4, 2004, an African American farm-worker died in Harnett County of heat stroke. Mario died in Johnston County at the end of the summer in 2005. FLOC records show that Mario left his wife, a daughter in middle school and a son in elementary school. Since Mario's death, the extended family has been helping them economically. According to FLOC records, Mario's cousin declared how the family suffers "when someone goes to Carolina and comes home in a box" (Griev. D4).

## **2.6 Compensation (or Termination) for Work-Related Injuries**

According to Geffert, farm-labor is one of the most dangerous jobs in America (2002, 122). Farm-workers suffer high rates of workplace accidents, including accidents during transportation to the worksites in overcrowded, poorly maintained vehicles provided by the farm-labor contractors. The extensive use of pesticides and toxic chemicals leads an estimated 300,000 workers to suffer pesticide poisoning and toxic chemical injuries each year (Oxfam 2004, 8). Farm-workers are also at great risk of such illnesses as lead poisoning, parasitic diseases, and gastrointestinal infections, as well as toxic burns resulting from exposure to pesticides. Dangerous machinery, strenuous labor and exposure to pesticides and other chemicals contribute to make farm-work one of the most accident-prone industries (Oxfam 2004; Rothenberg 1998). Picking crops requires lifting and carrying heavy containers such as sacks, crates or baskets to a central holding container or truck in extreme conditions of heat and cold. Workers suffer from muscle strains, back pain, dermatitis from exposure to chemicals and plants that exude toxic chemicals, and injuries from performing the same repetitive motions for hours on end. Health problems may be exacerbated by the workers' poverty, by the fact that the perishable nature of the crops requires long hours of work, from sunrise to sunset, and by the fact that migrant workers usually have no health insurance through their employers nor do they earn enough to purchase it.

Despite these problems, workers often do not receive compensation for their sickness or injuries, and sometimes are fired if they cannot work due to health-related problems. During the second week of tobacco trimming

in North Carolina, the same week of Rito's death, one worker was injured and given a six-week sick leave due to an infection that resulted from a cut to his finger and harvesting various crops without gloves. Another worker suffered from rashes and tobacco sickness. He was given doctor's orders to rest from work for approximately 22 days, but was pressured into returning to Mexico by his employer and the NCGA. By law, workers that are injured on the job should be compensated. In many cases, NCGA issued a written statement for unsatisfactory work, refused to compensate the workers and sometimes blacklisted them for falling sick. One worker who had a back injury was reportedly compelled to leave for Mexico without even his last paycheck and without treatment (Griev. 66, 2004). One worker went to the doctor on September 2004 for back pain:

He lasted until he couldn't work anymore, and went to the clinic. The doctor gave him a prescription for medications and told him not to work for 7 days, but the grower told him that he didn't want him there if he couldn't work.

In the end, the worker had to sign a voluntary renunciation form and leave for Mexico (Griev. 61, 2004). Another worker left North Carolina in 2004 due to a workplace sickness that had been substantiated with the proper documentary evidence, but due to his sickness he was blacklisted and categorized as ineligible for 2005 (Griev. 65, 2004). In 2005, a worker who had suffered a work-related injury and had been told by the doctor not to work for at least ten days, was ordered by his employer to "return to work or quit" (Griev. 87, 2005). The grievances show that many workers were injured in the fields but never taken to a clinic as well as being denied reimbursement for their medications. For example, one worker who injured his chest while picking sweet potatoes was taken to the clinic but had to pay for the appointment and the medicines. His grievance reports that the worker was running to empty a sweet potato bucket when he ran into a co-worker whose bucket hit him in the chest. After the incident, he asked his grower to reimburse him for the doctor's appointment and the medications, but the grower argued that this was not a workplace injury and that the worker was "lying" (Griev. 41, 2005). Another worker caught his thumb in the tobacco press and had to file for permanent partial disability. He was never able to receive his partial disability rating during the 2004 harvesting season because his employer ordered him to work any time he had an appointment with the doctor (Griev. 18, 2005). In September 2004, another worker complained for two weeks about a pain in his kidneys. For two weeks, he requested to be taken to the clinic. For a long time his crew leader refused to take him. The crew-leader informed him that he would take the worker "one day when it was raining". In the end the worker was told that: "you are not my mother, we are not even relatives and for me you

candie". When he was finally taken to the clinic, the worker was diagnosed with a possible herniated disc resulting from a workplace injury. According to the doctor, the worker had a workplace injury that had developed and aggravated over the course of the 20 days of not being taken to hospital. His case was assigned to a lawyer, and the worker was eventually paid 50 dollars for his lost day of work, while the insurance company paid him about a month's unemployment compensation (Griev. 65, 2005). According to the grievances, the workers' injuries were used several times by the grower as an excuse for dismissal, or to blacklist them and not rehire them during the following season. One grower reportedly decided not to rehire a worker due to his back pain (Griev. 15, 2005). Another grower did not give a preferred status in the recruitment order to a man that had worked for him for four years, because in 2003 he had to go home sick due to head and neck problems. In general, FLOC reported that there was a tendency to fire and blacklist workers due to their sickness or injuries, especially when they were union members (Griev. 25, 2005). On the opposing side, NCGA suggested that FLOC helped the workers manufacture injuries and sickness in order to guarantee them the right to return to work in North Carolina:

It appears that there is a disturbing trend evolving that all workers who are warned, terminated or are leaving of their own accord are allegedly injured if FLOC is involved. This appears to be a circumvention of the CBA in an effort to credit workers with seniority as well as guaranteeing their return. This strategy drives our comp insurance rates up, casts doubt on workers who really are injured and rewards workers who are deliberately breaking the contract. It will also lead to a reduction in the use of the program.



## 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

### 3 The Political Economy of Food

**Summary** 3.1 “How Comest Thou in This Pickle?” – 3.2 The Origin of a Food Regime. – 3.3 Cheap Food for Conquest.

As I sat thinking about why the article upset me so much other than the obvious reasons I realized that at this moment in time when it comes to farming I feel like I am digging my own grave to follow my dreams.

Weingarten, Mulkern 2017

#### 3.1 “How Comest Thou in This Pickle?”<sup>1</sup>

In point of fact, the case of tobacco in North Carolina is not unique. From the middle of the nineteenth century, agricultural policy has been influenced mainly by a handful of corporations and businesses which have lobbied at the federal level for regulations which would increase productivity and competitiveness for small farmers. Economics examiner Al Krebs defines this sector of the economy as agribusiness, “the financing of agriculture and the manufacturing, transporting, wholesaling, and distribution of farm machinery, fertilizers, chemical poisons, seed, feed, and packaging materials (agricultural inputs)” (Krebs 1992, 16). In general, for over a hundred years, agribusiness has monopolized the farmers’ inputs and their trade outlets, thus gaining the ability to exercise its pricing power over them. In this context, farmers have become virtually powerless to determine the prices that they pay for agricultural inputs or the prices they receive for their outputs (Qualman 2001, 17).

The growth of corporate power in agriculture began in the early nineteenth century, when the development of trade and commerce became dependant on the creation of a new transportation system and trade routes. The US government transferred public land to private citizens through

1 Shakespeare, *The Tempest*. Act V, Scene I.

dozens of different “land grants”, which allocated the railroad companies an extensive amount of land. By the late nineteenth and the early twentieth century, the emerging industrial capital represented by companies such as the United States Steel Corporation, Ford Motor Company, or the Standard Oil Company needed railway lines to gain access to raw materials, labor, and trade outlets. Lenin notably noticed how these companies had a voice at the political level, which gave them the power to apply discriminatory land rates, hold land grants and monitor farmers’ profit books, maintain mining operations, regulate transportation and grain terminals, grant mortgages and loans, and ultimately control entire regional economies (Lenin [1917] 1997, 26).

Already in the 1930s, a small directorate of railroad companies, industrial and financial capital governed California agriculture. As McWilliams argues, during the 1930s California Lands, a subsidiary of Transamerica Corporation (Bank of America), was the largest farming organization in the world, owning 600,000 acres of land. Companies like Campbell Soup both owned the land and used contracts to buy fruit and vegetables from “independent” growers; California agriculture was controlled by a small number of corporations:

Southern Californians Inc. (a group of employers); Southern Pacific Company, Santa Fe Railroad Company, Pacific Gas and Electric Company, Industrial Association of San Francisco, Cannery League of California, Holly Investment Company. [...] In whatever way you turn the investigation, you find the same complex of forces involved. (McWilliams 1942, 50)

During the 1930s, the concentration of capital in agriculture was further increased by two major events: the Great Depression and the Dust Bowl. At the same time as the Great Depression pushed thousands of families into bankruptcy, a severe drought hit the Great Plains – at the time the “breadbasket of America” – setting records for dryness in twenty states. Farmers suffered a 60 percent decline in income, and millions had to abandon their farms (McWilliams 1942, 50). These events led to a new wave of foreclosures and bankruptcies in the US countryside, primarily involving small farmers. Slowly, these events fostered the concentration of land ownership. Given the high costs and risks of land ownership, agribusiness has pursued a strategy of horizontal integration, trying to consolidate its ownership and control of production within the same stage of the food system. At the same time, the need to minimize its interaction with other companies led to a strategy of vertical integration, the control the entire process of production from “seed to shelf”. The vertical integration of production typically occurred through the use of contracts: agribusiness would ask the growers to provide the land and the buildings in exchange for a market outlet (Heffernan 1999).

During the 1930s, many farmers were forced to foreclose and others were dependent on the integrating companies for both their agricultural inputs and to ensure a market outlet for their crops. Throughout the decade, farmers organized against the growing power of US agribusiness. In 1933, President of the American Farm Bureau Federation Ed O'Neal warned the Senate that "unless something is done for the American farmer we will have revolution in the countryside within less than 12 months" (Agricultural Adjustment Relief Plan 1933, 12).

In 1933, Roosevelt responded to the rural crisis with the New Deal, legislation that introduced a non-recourse loan program in US agriculture. The *Agricultural Adjustment Act* of 1933 (48 Stat. 31) organized agriculture around the principle of "full cost accounting", or "parity": a non-recourse loan program which raised farm incomes through price supports and production adjustments for farmers accepting a reduction of acreage for basic agricultural commodities—namely wheat, cotton, corn, hogs, rice, tobacco and milk. This sort of "minimum wage" for growers encouraged farmers to reduce the acreage under cultivation in order to allow farm commodity prices to increase. If the market price fell below parity (the cost of production), farmers could take a government loan worth up to 90 percent of the parity price and withhold their crops until the next year (Dawkins 2002, 210). If prices remained low, the farmer kept the loan and the government kept the crop (209). Since the New Deal, US farmers have found innovative ways to work around the acreage restriction laws by improving the yield of cultivated acreage (Pollan 2006, 50). While these policies reduced the total amount of cultivated acreage, their indirect result was a steady increase in productivity. As Friedmann clarifies:

Instead of direct income support, New Deal price supports tried to raise farm incomes indirectly by setting a minimum price for commodities named in the legislation, and maintaining this price through state purchases. Government purchases to support prices encouraged farmers to produce as much as possible. Legislation to limit production by restricting acreage was never effective. In fact, insofar as they encouraged farmers to remove their worst land from production, acreage controls tended to increase productivity. Surpluses mounted more persistently with the technological developments involved in the industrialization of agriculture. Industrialization subordinated farms to emerging agro-food corporations, both as buyers of machines, chemicals and animal feeds, and as sellers of raw materials to food manufacturing industries or livestock operations. Profits in the agro-food sector depended on the larger restructuring of the postwar economy towards mass production and mass consumption, especially increased consumption of animal products and high value-added manufactured foods, or what might be called 'durable foods'. (Friedmann 1995, 32-3)

In the years following World War II, the introduction of new technological inputs, such as the widespread use of pesticides, chemical fertilizers and electric-powered machinery, stimulated a further increase in productivity, leading US surplus to reach its highest historical peak in the 1950s.

### 3.2 The Origin of a Food Regime

By the end of the 1950s, technological innovations had led farm output to increase rapidly (Orden, Paarlberg, Roe 1999). In fact, supply outstripped demand, leading farm prices to fall relative to the price of other products (Orden, Paarlberg, Roe 1999, 12). During the 1950s, a few political figures questioned the legitimacy of price-support policies. As Robert Wolf (2000) recalls in an excellent article:

From 1942 through 1952 farmers had received, on average, 100 per cent of parity. But in 1952 Secretary of Agriculture Ezra Taft Benson tried to get parity repealed (it was 90% in 1952). Eisenhower replied that “gradualism” was the better policy, but in 1953 the repeal began. The rhetoric of the period is sometimes distinctly business oriented, stressing efficiency, bigness, and profits, or else it emphasizes an appeal to God and country. Earl Butz, who was another of Benson’s Assistant Secretaries of Agriculture, spoke bluntly in business terms, as in 1954 when he declared that agriculture “is now a big business”, and that “just like the modern business enterprise, [it] must ‘adapt or die’”. Adaptation for Butz meant that the farmer must “get big or get out”, a phrase that he used repeatedly over the years.

They observed that while the acreage reduction policy stimulated a continuous increase in productivity and over-production, it also contributed to depress farm prices and incomes, and it caused a greater need for government assistance and an increase in public expenses (Pollan 2006). In fact, the contradictory nature of these policies was causing a vicious cycle of over-production, low profits, and the need for greater subsidies at the level of the family-farm. At the same time, these policies rapidly expanded the market for those companies that monopolized the sale of US surplus abroad. As a result, US agribusiness has lobbied at the federal level since 1950 not so much to decrease competition and protect the ability of farmers to sell their crops for prices at least equal to the cost of production, but to decrease assistance to farmers, thus forcing them to sell their crops at any price. Indeed, in 1942 agribusiness began lobbying the White House for a reduction of the price of parity (Dawkins 2002, 209). The “Committee for Economic Development”, formed with the participation of university professors, economists and corporate executives from Heinz and Hormel,

Ford and General Motors, AT&T and IBM, suggested lowering agricultural subsidies and taking “greater advantage” of the farmers’ surplus and financial crisis. The committee argued that: “the movement of people from agriculture has not been fast enough to take full advantage of the opportunities that improving farm technologies and increasing capital create” (quoted in Dawkins 2002, 209). In order to take “full advantage” of the industrialization of agriculture, it was necessary to stimulate the sale of new machinery and chemical outputs, and to force the substitution of the small farm with the large, industrial farm. The goal of US agribusiness throughout the second half of the twentieth century has thus been to “move off the farm about two million of the present farm-labor force, plus a number equal to a large part of the new entrants who would otherwise join the farm-labor force” (quoted in Dawkins 2002, 209). As University of Michigan agricultural economist Kenneth Boulding notably suggested:

The only way I know to get toothpaste out of a tube is to squeeze, and the only way to get people out of agriculture is likewise to squeeze agriculture. If the toothpaste is thin, you don’t have to squeeze very hard, on the other hand, if the toothpaste is thick you have to put real pressure on it. If you can’t get people out of agriculture easily, you are going to have to do farmers severe injustice in order to solve the problem of allocation. (quoted in Dawkins 2002, 210)

Since the 1950s, federal subsidies to farmers have been gradually reduced. During the Eisenhower’s presidency, the price of “parity” decreased from 90 percent to 75 percent of the cost of production.

The President’s message on January 11, 1954, urged the adoption of flexible supports for basic commodities ranging between 75 and 90 percent of parity, depending on supply, so farmers would be discouraged from overplanting. He also asked that export programs be strengthened to reduce surpluses and that part of the Government-owned surpluses be isolated from the market to prevent them from depressing prices. (Bowers, Rasmussen, Baker 1984, 21)

Obviously, the reduction of subsidies did not alleviate the crisis for US farmers, but it did stimulate a further increase in productivity and the accumulation of surplus that could be sold for artificially low prices abroad. In those years, the slow process of industrialization in agriculture contributed to shift agriculture from a system based overwhelmingly on manual labor to a largely mechanized industry. This was a key factor in the substitution of the small farm with the industrial farm, and marked the period when agriculture became fully dominated by agribusiness. According to Orden, Paarlberg and Roe (1999, 32):

This efficient behaviour of individual farmers led to greater aggregate supply, which pushed down agricultural prices because of the smaller growth in aggregate demand. The lower prices then forced more farmers out of agriculture, and required the ones who remained to adopt even more output-expanding modern technology. Despite their best efforts [...], the internal dynamic of the technological treadmill made it impossible for enough labor adjustment to occur for farmers' earnings to keep pace with non-agriculture earnings.

In 1972, the Soviet Union bought one-fourth of the US wheat harvest, making farm prices and consumer food prices shoot upward (Hillgreen 1982; Luttrell 1973). The surge in demand drove grain prices up, providing a major market outlet for American farmers (Hillgreen 1982; Luttrell 1973). In 1972 and 1973, conveniently low interest rates persuaded many farmers to go deeply into debt based on the assumption that commodity prices and land values would continue to rise (see Luttrell 1989, 82). When the "boom" ended several years later, farmers had accumulated even more debt. At the same time, the temporary increase in inflation and farm income persuaded President Nixon's second secretary of agriculture, Earl Butz, to reduce the New Deal price support policy. In fact, the growing expansion of international markets had turned "the New Dealera practice of controlling supply to boost crop prices with supply controls into a liability that impaired US agriculture's global competitiveness" (Orden, Paarlberg, Roe 1999, 13). Now payments were offered to growers when the market price fell below an arbitrary "target price" set by government regulators. To receive these payments, farmers had to remove some of their land from production, thereby supposedly helping to keep market prices up. This repeated the "side-effects" of the old acreage reduction policy: increasing production, decreasing prices, and driving small farmers off their land. Once again, the "new system" of direct payments did not solve problems for the small family-farm, but it did allow the government to further accumulate grain surplus to dump in the foreign market, and to justify "squeezing" small farmers out of the countryside. In 1984, Butz admitted that the goal of these contradictory agricultural policies was to foster the liberalization and industrialization of agriculture and to induce farmers to "plant their fields 'fencerow to fencerow'".

According to the reconstruction of Robert Wolf (2000, 45):

In the same period Butz told the Dayton, Ohio Rotary Club: "American agriculture's like a big pie. Right now we've got lots of farmers, and each one is getting a small slice of the pie. We need to eliminate a bunch of them, so that those that are left will get a lot bigger slice". No one could have made the administration's intentions any clearer. The ap-

peal to God and country was exemplified in an article by Benson, part of which A.J. Krebs quoted in his comprehensive study of agribusiness, *The Corporate Reapers*. "Freedom", Benson wrote, "is a God-given, eternal principle vouchsafed to us under the Constitution. It must be continually guarded as something more precious than life itself. It is doubtful if any man can be politically free who depends on the state for sustenance. A completely planned and subsidized economy weakens initiative, discourages industry, destroys character, and demoralizes the people.... The future of agriculture and the preservation of a sound economic system depends on the vigorous emphasis of the principles, benefits, and values of competitive enterprise."

Between 1960 and 1982, the number of large farms doubled and the number of small farms was cut by more than half (USDA 1987). By 1984, farm indebtedness rose to 215 billion dollars. Heather Ball and Leland Beatty (1984) described the crisis pervading US farmers as if the "specter of foreclosure" was "haunting America's independent family farmers".

According to Emanuel Melichar, senior economist at the Federal Reserve Board, more than one third of America's commercial farmers are in serious financial trouble, and unless real interest rates come down and debts are rescheduled, many of them will fail. An American Bankers Association survey conducted in 1983 found that 17 percent of farmers with outstanding loans would be unable to make their payments this year (Ball, Beatty 1984).

In those years, farm foreclosures rose dramatically, and many described the farm crisis of the Eighties as the worst since the Great Depression. In general, for all these years federal support for farmers has been considered a socialist measure potentially undermining competition and self-reliance (Wolf 2000). In a clearly neoliberal fashion, farmers had to adhere to the principle whereby only "competition is thoroughly American" (Wolf 2000, 45). In 1996, the *Freedom to Farm* bill accelerated small farm foreclosures, consistently driving small growers out of farming. At the end of 1998, Vice President Al Gore admitted that the US was facing "the worst crisis our farmers have ever experienced" (Weiner 1999).

### 3.3 Cheap Food for Conquest

The New Deal price support program encouraged the US to accumulate large stocks of surplus. It also created supplies available for export in quantities greatly exceeding demand. In general, the practice of selling US surplus abroad for prices below the cost of production is referred to as "dumping". According to Porter and Bowers (1999, 10):

The United States had used its authority under section 32 of the Agricultural Adjustment Act of 1933 primarily for the disposal of small surpluses of perishables, wheat, and cotton. In the 1950's, when the United States developed unmanageable surpluses of grains and other agricultural products, Congress passed Public Law 480 [1954]. P.L. 480, soon named Food for Peace, provided authority for sales of surplus US agricultural products for nonconvertible foreign currencies, for donations of such commodities to relief organizations and foreign countries for various non-profit uses, for the barter of such commodities for strategic and critical materials for the US stockpile, or for use in US foreign diplomatic or aid programs.

On paper, US Public Law 480, named "Food Aid", (the *Agriculture Trade Development and Assistance Act*) was described as a humanitarian effort meant to dispose of American surpluses abroad for purposes of "assistance". In reality, it was hardly so. In fact,

far from feeding the hungry, Title I Food Aid first of all puts money in the pockets of giant grain corporations like Cargill, who provide and ship the products. Second, it supports factory-style poultry producers and food processors, and finally it helps shift consumer tastes in recipient countries away from locally grown crops toward wheat products like bread and pasta. (Lappé, Collins, Rosset 1998, 134)

In 1947, the *General Agreement on Tariffs and Trade* (GATT) introduced among member countries a series of regulations meant to reduce trade protectionism in manufacturing. As Orden, Paarlberg and Roe point out, GATT was meant to smooth transition to a free market in manufacturing, although initially it insisted "that quantitative import restrictions tied to domestic production controls and direct export subsidies be explicitly allowed for agricultural products" (1999, 60). In fact, Article VI of the original GATT initially "banned" dumping. In those years, several countries were using protectionist barriers to promote agricultural self-sufficiency. In this sense, policies of *laissez faire* were seen as potentially destabilizing. In 1955, the US used this clause to negotiate a permanent waiver from the GATT Council for its domestic agriculture policy. Orden, Paarlberg and Roe maintain that according to the waiver the US could "continue to operate its dairy, beef, sugar and other import-control programs for supported commodities even when there were no domestic pro-action restraints" (1999, 60). Moreover, the US Government used its permanent waiver to dispose of food surpluses abroad via the Public Law 480 program of cheap food aid (Shiva, Bedi 2002).

According to Douglas E. Bowers and Jane M. Porter (1989, 10):

Some countries contended that all of the concessional sales under the Food for Peace program (1954) could be classified as export subsidies. The United States has consistently rejected this interpretation. The United States, however, contended that the French export subsidies were a flagrant violation of part 1 of the International Grains Arrangement. US agricultural interests vowed that there would be no more trade negotiations for industry without primary consideration for agriculture.

In 1996, the US Agency for International Development (US AID) admitted that by means of Public Law 480, “9 out of 10 countries importing US agricultural products are former recipients of food assistance” (quoted in Lappé, Collins, Rosset 1998, 110). Former Public Affairs Director for US AID Vincent Wilber described the law as being one of “big agriculture’s most sacred cows”, a program that since its inauguration in 1954 “has given away over 27 billion dollars worth of American farm products to 148 countries, [...] [using] PL-480 shipments [and has provided] an important outlet for otherwise unmarketable surpluses” (Wilber 1981). According to Lappé, Collins and Rosset (1998, 111),

By encouraging the growth of poultry farms, wheat mills and soap and vegetable oil factories, PL 480 helps create a structural dependence on continued imports. When the food aid stops, these industries, needing the supplies to continue their level of operations, will pressure their governments to keep importing the commodities on commercial terms.

Eminent scholars such as Philip McMichael and Harriet Friedman attribute to dumping a central role in the gradual construction of a US centered food-regime, “a historically specific geo-political-economic organization of international agricultural and food relations” whereby a particular structure of food production becomes the pillar of a new cycle of capital accumulation (Friedmann, McMichael 1989). In fact,

The US food aid program, formalized in 1954 as PL 480, came to dominate the food trade landscape over the next two decades. US-managed food surpluses were distributed strategically as concessional food aid to states on the geo-political frontline, and/or those regarded as future customers of American agri-exports once they transitioned from aid to trade. As Harriet Friedmann (1992) has shown, this food export regime reshaped, indeed westernized, social diets of newly urbanized customers in industrializing regions of the Third World, at the same time as undermined local farmers with low-priced staple foods. The managed construction of the Third World consumer paralleled the decimation of

peasant agriculture. Each confirmed the central tenets of the development vision: that the western consumption pattern was a universal desire and peasants were historical residuals destined to disappear. (McMichael 2004, 4)

Harriet Friedmann (1992) traces back to US Public Law 480 the aim of creating commercial markets inducing Third World countries to depend on wheat imports.

In the 1950s and 1960s, the US share of world wheat exports grew from just over a third to more than half. And as Europe substituted domestic production for its historic imports, the Third World (and Japan) became the major importers. The Third World share of wheat imports grew from 19% in the late 1950s to 66% in the late 1960s. At the end of World War II, no Third World country had been a significant importer, and some, especially in North Africa and Latin America, had been major or minor exporters (Argentina and Brazil still are). Between the early 1950s and the late 1970s, per capita consumption of wheat increased by 63% in the market economies of the Third World, but not at all in the advanced capitalist countries. By contrast, per capita consumption of all cereals except wheat in the Third World increased only 20%, and per capita consumption of root crops actually declined by more than 20%. (Friedmann 1992, 372)

According to McMichael, the Uruguay Round negotiations allowed the crisis of overproduction derived from US and European Community agricultural policies (McMichael 2004, 6) to be managed. The *Uruguay Round Agreement of Agriculture* (URAA) of the World Trade Organization (WTO) was ultimately an implementation of GATT. As Shiva demonstrates, the URAA made dumping “legal”, or more accurately it introduced an antidumping law that recognized dumping as a generalized practice and imposed certain restrictions on it (Shiva 2002, 55).

Under the new agreement, signed in April 1994, countries are obliged over a period of six years to phase out export subsidies by 21 per cent in volume and 36 per cent in monetary terms, from the 1986-90 base period. This is not a removal of subsidies but rather a perpetuation of them. The Uruguay Round does not help farmers anywhere, even in the North. The agriculture agreement requires a 20 per cent reduction in each industrialized nation’s support for domestic producers over six years and a 13.3 per cent reduction over 10 years for developing countries. All government farm programs are to be added up as a single monetary value, called the ‘Aggregate Measure of Support’ (AMS), summing up that country’s annual budgetary; its friends in Congress have used the commitment to phase down the AMS thereby leading

to cutbacks in several support program that encourage conservation, wetlands protection, and other environment friendly farming practices. (Shiva, Jalees 2005, 86)

In short, the removal of import protections and export subsidies, together with the introduction of dumping, increased the sale of European and US surpluses enormously around the world, while depressing world prices and forcing small farmers to compete “as equals” with larger corporations such as Cargill. Ultimately, these agreements introduced a new system of free competition in which the transnational governance of agriculture largely undermined the sustainability of the peripheries, destroyed traditional economic structures, and forced a new army of producers and consumers to depend on the market for subsistence. Moreover, the widespread devaluation of agricultural produce that affected US farmers became an international phenomenon, which contributed to the decline of the global countryside, and to the consolidation of the hegemony of US agribusiness in the global economy.



## 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

# 4 Emigration by Dispossession

**Summary** 4.1 The Disruption of Food Sovereignty. – 4.2 Emigration by Dispossession. – 4.3 Debts and Recruiters.

The idea that developing countries should feed themselves is an anachronism...They could better ensure their food security by relying on US agricultural products, which are available in most cases at lower cost.

John Block, US Secretary of Agriculture, 1986

## 4.1 NAFTA and the Disruption of Food Sovereignty

In 1982, the sovereign debt crisis induced the World Bank, the International Monetary Fund and the US Treasury Department to draft a Structural Adjustment Program (SAP) with the Mexican government that demanded the introduction of neoliberal reforms to its economy. Suárez Carrera (2002, 185) gives us an insightful reconstruction of the main points of such an agreement, which demanded the application of the principle of comparative advantage to Mexican agriculture. Since the Mexican grain and oilseed sector is “not competitive”, it demanded that Mexico reconverted its agricultural production towards those sectors in which Mexico does have a “comparative advantage”, namely niche products such as “winter vegetables, fruits, and tropical flowers” (SAP, quoted in Suárez Carrera 2002, 185). It stimulated the introduction of the “necessary constitutional and legal reform” to facilitate the development of a private land market (Suárez Carrera 2002, 185) and required that the government would privatise *ejido* and communal lands. It demanded a reduction in public investment in the agricultural sector and an increase in private investment, since public investment “distorts the functioning of the free market” (185). Moreover, given the small size of peasant farms and “their attachment to the land, their technological backwardness, and their non-market oriented culture” (185), it demanded that “surplus non competitive peasants” be given “the opportunity to find employment in either the

modern agricultural sector or the industrial and service sectors" (185). Last but not least, Suárez Carrera points out that food security had to become a function of the market both in terms of supply and quality. In fact, "in terms of access to food for Mexicans, those that can pay for it will not have a problem. Those that cannot pay for it will perhaps be assisted with welfare programs. In terms of quality, quality has a price, and those who desire quality will have to pay for it" (185).

Between 1986 and 1994, the Mexican government introduced a number of reforms intended to liberalize the economic structure. In this context, national protections to industry and agriculture were gradually liberalized, thus integrating the country into the international free market. Candice Shaw reconstructs the way in which the liberalization of trade had a strong impact on the Mexican economy. In those years, Carlos Salinas de Gortari eliminated certain government subsidies for small-scale/peasant farming. In July 1992 Salinas made constitutional amendments to Article 27 of the *Agrarian Law* and allowed for a large portion of the *ejido* land to be consolidated and made available for sale (Shaw 2011). In 1994, President Ernesto Zedillo encouraged Mexico's participation in the *North American Free Trade Agreement* (NAFTA) and lifted tariffs in order to attract foreign investment. By 1996, the national agricultural trade deficit had risen by 43 percent; one and a half million peasants were unemployed; consumption had decreased by 29 percent; and Mexico was forced to import more expensive corn from the US (Suárez Carrera 2002, 185). In this context, the price for tortillas rapidly increased by more than ten times the increase in the minimum wage. Ochoa argues that: "in some states a kilogram of tortillas accounts for as much as one-third of the daily minimum wage" (Ochoa 2007). As the Mexican trade deficit with the US escalated, millions of Mexicans did not have enough resources to satisfy their minimum food requirements. In general, the liberalization of Mexico's economy proceeded parallel to the liberation of a new army of producers and consumers who could no longer rely on the land for self-subsistence but were forced to become dependent on the market.

The *overarching* result of the "re-conversion" of the Mexican economy into a market economy was the "interruption" of the Mexican re-production chain and a massive process of urbanization. Until 1976, Mexican farmers had used a "family oriented" vertical integration to produce, transport, and sell their products in the market (Schwentesi, Gómez 2002). Small producers grew corn for their own subsistence and then sold it in the closest market. According to Schwentesius and Gómez (2002), the connections between small city markets and the small farm accounted for both production and consumption, thus transforming the family farm into a relatively self-sufficient unit of production. In 1994, NAFTA dismantled the existing human and commercial bonds between the countryside and the closest towns by inducing Mexico to import foodstuffs from foreign



Figure 12. Fruits. Tampico, Mexico. *Frutas. Tampico, México*



Figure 13. Son of a juice vendor, Mexico. *Hijo de un vendedor de jugo, México*



Figure 14. Fruit vendor. Monterrey, Mexico. *Vendedor de fruta, Monterrey, México*

markets. At that point, not only were millions of “non competitive farmers” forced to seek employment in the city, but the entire traditional economic structure of Mexico was largely undermined. In 2002, a US Department of Agriculture study on Mexico’s economy, edited by Debra Tropp, David Skully, and John Link (Tropp et al. 2002), explained that Mexico had become an unprecedented opportunity for foreign investment. The report shows that the process of urbanization that typically follows the reconversion of an agricultural country into a market economy had produced a new set of needs for the new urban dwellers. In fact, the new urban population Moreno no longer had access to daily perishable items. The rapid process of urbanization reduced access to “small, specialized shops and corner stores or street stalls” (Tropp et al. 2002, VI) and induced urban dwellers to become dependent on foreign capital for both production and consumption.

Large retail stores reflect this transformation. They cut the average number of trips to the grocery from 11.5 in 1995 to 7.5 in 1998, a figure that is still high compared to US standards of 2.2 trips a week (USDA 2002, 22). This change largely reflected the restructuring of Mexico from a rural economy to a service economy. In fact, a 2002 USDA report emphasizes how the reconversion of Mexico’s economy towards more manufacturing and service jobs had led to a “scarcity of time” and a growing demand

for convenience in food shopping” (USDA 2002, V). In this context, the interruption of agricultural self-sustainability stimulated a new need for home appliances, refrigerators, microwaves and cars. In fact, the rural population is often characterized by insufficient cold storage availability, inadequate rural roads and strict gender roles in the family, which reduced its expenditure on household equipment or family-owned automobiles. Before NAFTA, the rate of automobile ownership in Mexico was one car per eleven people (USDA 2002, VIII).

In 1996, 25 out of the 30 industrial sectors classified under the new North American Industrial Classification System (NAICS) experienced a significant growth in their exports to Mexico. This growth involved, in particular, Chrysler, GM and Ford in the automotive sector; Texas Instruments in computers and telecommunications; Whirlpool in home appliances; and Kmart, J.C. Penney and Wal-Mart in retail. Ford, General Motors and Chrysler largely benefited from the reduction in Mexican tariffs on cars and light trucks, which went from 20 percent to 10 percent on January 1, 1994. “Before NAFTA, sales of Ford products accounted for less than one percent of the Mexican market. By 1996, sales of Ford products from the United States and Canada already accounted for almost 11 percent of the Mexican market” (Kengor, LaFaive, Summers 1999). Similarly, General Motors exports to Mexico were “virtually zero” before 1993 (Kengor, LaFaive, Summers 1999). In 1999, GM was the largest seller of vehicles in Mexico (Kengor, LaFaive, Summers 1999). As far as the Electronics industry is concerned, Lüthje, Hürtgen, Shenzhen and Sproll (1999, 87) emphasize how

exports more than doubled between 1996 and 2004, reaching US\$43 billion at the end of 2004 and surpassing exports of other industrial goods such as auto parts or garments. In computers and telecommunication equipment, along with TV, audio and video equipment, the proportion of exports reached almost 53%.

In this context, not only were foreign manufacturers able to increase their exports to Mexico and, in some instances, decentralize their production in the Mexican *maquilladoras*, but the interruption of the traditional structure of rural self-subsistence also allowed US retailers and corporations to benefit from the liberation of a new army of producers and consumers. It is in this context that Wal-Mart became the largest food retailer in Mexico. According to Schwentesius and Gómez (2002), in Mexico there are traditionally five main retail outlets, two of which go back thousands of years - the open air markets in citycenters and the mobile street markets. Since 1946, when the first supermarket was established in the country, the number of supermarkets has grown from 4 self-service stores per 100,000 people in 1960, to 63 self-service stores

in the 1980s, to hundreds during the 1990s (Schwentesi, Gómez 2002). The penetration of Wal-Mart into the Mexican economy was not only a reflection of the loss of sustainability in the rural countryside but was also a reflection of the ability of big retail chains to coordinate their outsourcing operations in the country through a new system of communication, transportation and distribution. In fact, “supermarket chains not only control distribution, but also shape decisively the production, processing and consumption of food as a result of their enormous buyer power”, emphasizes Corrado (2017, 8-9). Jan Douwe van der Ploeg has spoken of food empires, adding that “it is becoming difficult, if not often impossible, for farmers to sell food ingredients or for consumers to buy food outside of the circuits that they control” (Ploeg 2010, 101, quoted in Corrado 2017). In this context, big retailers such as Wal-Mart have slowly restructured the food-chain across the border.

In April 2014, former US agriculture secretary Dan Glickman defined Wal-Mart as “the most important force in agriculture today” (Gunther 2014). In that year, more than half of the company’s annual revenues came from groceries, and its market share was growing. According to the USDA’s Economic Research Service (2013), the twenty largest food retailers accounted for 64 percent of grocery store sales in America, up from 40 percent in 1993. At the same time, the increasing power of US capital in Mexico has affected the sustainability of the rural population, leading not only to the impoverishment of rural areas, but also to an increase in the rates of migration from the peripheral farm to the United States.

## 4.2 Emigration by Dispossession

In 1998, sociologist and economist Saskia Sassen asked why it is that “the major immigrant-sending countries are always the leading recipients of jobs and foreign-investments in labor-intensive manufacturing and service activities” (Sassen 1998a, 252). Sassen’s question was based on the observation that emigration often originates in those countries that are also the main recipients of foreign capital. According to Sassen, the reason for this process lies in the effect that foreign investments have on the economic structure of the developing countries. Foreign capital causes the “disruption of traditional work structures” and directly displaces “small farmers who are left without means of subsistence” (Sassen 1998a, 257). In this context, the pursuit of foreign market contributes to the impoverishment of farmers, initiating a process of “emigration by dispossession” – a process whereby peripheral farmers are driven to leave their lands to seek occupation in the service economy of the urban areas of Mexico or to migrate to the United States in search of work. Despite the fact that the workers had different personal stories, the experiences of migrant farm-workers in

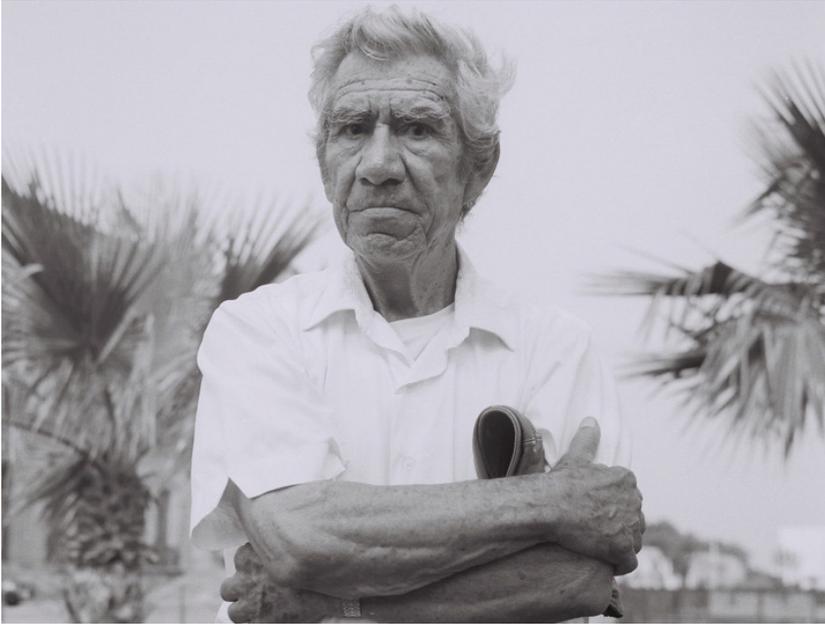


Figure 15. A man who lost his land, Mexico. *Un hombre que perdió su tierra, México*

Mexico were similarly characterized equally by poverty, low-educational attainment, and a lifetime spent on the farm. All of these workers had been farmers for generations. They were forced to migrate as working in agriculture became more and more difficult due to the ever-growing cost of farm inputs and the plummeting price of imported maize. Farm-Labor Organising Committee (FLOC) organizer A. describes the impact of NAFTA in the rural areas of Mexico with these words:

A couple of years after NAFTA, Baldemar visited two villages close to Michoacán in Southern Mexico. In these two villages, where there were hardly any men, Baldemar said that almost no adult men were there, only children. All the men had travelled to Mexico City or the US to find a job. In those same days Baldemar attended the annual convention of farm-workers and farm-workers' unions in Mexico. He was a speaker there and when he rose to the podium the first thing he asked was how many of the 1,500 people that were there had family members working in the US without documents. Every single one of them raised their hand, he said. More than any statistics I've ever read this says a lot about NAFTA and its consequences on farmers.

The personal experience of the workers largely reflects this macro-dynamic. Most had been *campesinos* for much of their lives and most decided to migrate to the United States after growing maize became impossible due to the high costs of farming and its plummeting profits. This is Alejandro's experience:

I have been a *campesino* all my life. Until a few years ago my wife and I had our own land, but then everything became more and more expensive. Over recent years there is a lot of competition if you grow maize. Here in Tampico there is a big seaport where many ships come from the United States. Many times they ship maize from North America. They buy maize here for cheap prices and then they sell tortillas for high prices. Everyone in Mexico eats tortillas, you know? We are at the point that we buy tortillas from abroad. So for many *campesinos* it's not worth growing maize anymore. One kilo of tortillas is worth 10 pesos. One kilo of maize is worth 1 peso. So I buy maize and then sell tortillas. That's the only thing I can do. That's the problem that we have in this country now in Mexico. Many times the government gives you a piece of land. Having ten hectares of land is like a small company, but the problem is that we don't have any banks to give us the money to work the land, so we can't buy the machinery. And then we can't buy the fertilizers; we can't pay for water: in the end even those that do have the land can't farm it. So my wife and I had to sell our little piece of land and now we work for other people. My wife works at the hospital and I work in the US every summer. Usually I leave in May and come back in November. During the winter I work here: I build houses, I grow tomatoes, chilly, watermelon... Many people need daily workers: there are several companies that hire you to harvest here. You work for as long as the harvest lasts. It can be 15 days, one month or one week. It is only temporary labor and it's not paid well.

Alfonso was a skinny man in his mid-forties, born in Tamaulipas from a family of farmers. As his family was very poor, he left home when he was only ten years old to find a job that would help him support his brothers. A poor farm-worker all his life, Alfonso was working to pay for the medical expenses of his daughter who was sick. Alfonso had the marks of hunger on his face. Throughout his life he spent many days without anything to eat, he said. After picking crops all day, many times he had to drink a beer "so I don't feel the hunger".

I have been a *campesino* since I was ten. I didn't have any childhood because my father was very poor. He was struggling to give us food. I could see that. We didn't have enough food to eat. At that time my older brothers worked in the house, but we needed extra money. So when I

was ten I left to go to work. My mom and dad were crying when I left. They didn't want me to leave. They said "don't go, son, you're going to end up badly, you're going to end up with bad people, doing drugs". Thank God that never happened to me. One beer is all I have sometimes, and most of the times I drink because I am hungry. I drink so I don't feel the hunger.

That day when I left the house alone I cried... I cried and I cried because I had no food and I was scared. I was looking for a job but no one would give me one. They kept saying that I was a kid and they didn't need me. They needed my dad, my older brothers, but not me. There were a few growers that kept me for one or two days. They kept me for two or three days so that I could have some money to eat. But that was it. It took me some time to finally find a man that helped me. He was rich and had many fields. He helped me. When I was 12 he taught me how to drive the tractor, so that I could gain a little more money. Back then he used to pay me 70 pesos a week. But what can you do with seven dollars a week? Still, I sent the money home. I have sent money to my family for many years. I had 13 brothers. At that point there were 15 of us in the house, so I worked for a week and then I sent the money home. Sometimes I couldn't send any money for one entire week because my salary was too little. Other times the grower fed me and I sent my money home. I used to tell him: "this week I need to send money to my family". So he said ok, send it this week and for this week I feed you. He helped me.

I worked for him for about ten years. He was generous. I am very grateful. I am sorry that he is not here anymore. His daughters still talk to me and invite me over. When I am there they ask me to stay for a few days and help them with their work. They tell me to help them and they'll cook me dinner. We're like brothers now. Like brothers.

Geraldo had been a farm-worker since he was fifteen years old. Now a man in his late forties, Geraldo spent many years working as a *campesino* and integrating his salary by working in the *maquilla* industry, as a carpenter or electrician. Geraldo had two sons who were both studying. He was working hard to give them a better future.

Here in Mexico I work as a carpenter: I make furniture, but it is not a stable job. I usually work as a daily laborer. When I am lucky I find a job for six months. Other times I just work for one day. One day is the minimum and six months the maximum. It depends. Most of the time I work for an electronic plant; when I don't work there I work as a carpenter or a driver. Whatever I can find. But it's not a stable job, you know, it's temporary labor. I've been working temporary jobs for years now, ever since I started working in agriculture when I was 15. Actually I was twelve when I started working. Where I am from the people are very

poor so when I was 15 I had to drop out of school. But where I am from in the State of Puebla there is no agriculture, so soon I had to move to Tamaulipas, where I was able to work in the fields. A few years later I left San Luis Tamaulipas and I started working for General Electrics (GE) and Electrolux for 12 years until 1993. I had to leave because the company was sold to another company and we were all fired. GE started us with a low wage, but they recognized our seniority. The pay was low, but I used to do a lot of overtime work, and at that time it was paid twice or three times as much. This means that I earned enough each week: compared to the regular wage the double wage was decent. Normally we worked for 45 hours a week. However on top of those I worked for about 25 hours overtime each week, which means that I worked for 70 hours a week more or less, seven days a week. I made about 350 pesos a week, which is the minimum wage in Mexico. I stopped working for GE in 1993. From 1993 to 1997 I worked in agriculture as a middleman. I would go to the store and buy 50 kilograms of oranges, and then sell them by the kilo. The difficulty was that I needed to have a truck and a refrigerator. Now there are specialized companies that do this. My wife didn't like it because she said that it was dishonest: when you work as a middleman you make money by charging people more. So she thought that was not an honest job to do, but it was the only job I had. Finally in 1997 I had the opportunity to go to North Carolina.

Like Alfonso and Geraldo, most of the workers told me the same story: a story that began in the poor states of Tamaulipas, Saint Louis Potosi or Santiago de Nayarit, where these workers had many brothers and sisters, a small piece of land, and no money. This is Demetrio's experience.

I am 22 years old. I am the youngest of 12 brothers. We are all *campesinos*. My entire family is a family of *campesinos*. We grow maize. We all worked in the fields. I went to school for four years. I wasn't able to finish my fifth year when I was in primary school because my father didn't have money and I needed to work. At that time we lived in the *ejido*. Primary and secondary schools were there, but none of us made it to the secondary school. Very few people in my *ejido* had the opportunity to study because we needed to work. Since I stopped studying I have been working in the fields. One day one guy came to the *ejido*. He was working for some growers in Tennessee and he was looking for workers. He had an employment list and I asked how I could be recruited. He put my name on the list. It was 2003. Then I went to NC in 2003, 2004, and 2005.

I had to go to NC because there is no work here. No one buys maize anymore. The only thing you can do with maize is eat it, but it's not worth it. In the past 10 years everything has changed. There are not the same people buying maize. They don't pay us good money anymore.

Now it's mostly private companies. Growing maize is not worth it. It's too expensive and they don't give you money for it.

Demetrio and his brothers never made it to secondary school. Usually most *ejidos* only had a primary school. While Demetrio's *ejido* did have a secondary school, he could not attend it because he needed to work. Similarly, Enrique could never go to school. Enrique could not read nor write. He could not find better jobs. He spent his entire life in the fields: sleeping in friends' homes, and saving on water, food and electricity to survive. Life was very hard for him: "It's a struggle", he said, "you have to fight to make it through".

I have lived all my life in the fields. I have never been to school and I never had the opportunity to study, so I can't read or write. From the beginning everything was hard for me. I had to work hard for a living. Somehow I got by. People lent me their homes. They lent me their homes for one or two years. I did that for about nine or ten years, and then I went to the States. At that point I had three daughters, and all of them were grown women. What could I do? My salary was about 600 pesos a week. This means 60 dollars. It's very little. Then you have the rent, the water, the electricity. Here in Monterrey the rent for a month is around 600-800 pesos. Electricity is about 100 pesos, gas is 300, water is 100 pesos. And then you need to eat. You have to buy food, clothes... There's no other choice, you have to cross to eat. Life is very hard in Mexico. For us, life is very hard. Migrating is a necessity: a necessity, not something that I like or want to do. Not a diversion: a necessity. There was nothing else I could do. I had to migrate. Here poverty is a war. It's a war. It's a real war. There is no national war in Mexico, but here we have a daily war: poverty. It's a war against all of us, and we are struggling. We are all struggling. Everyday we need to struggle. We struggle to bring food to our table. We struggle to work. The first thing you have to do if you want to work is get the paperwork, and this paperwork is not free, you need money. You can't even work if you don't have money. You have to have money because they charge you to work: they charge you for transportation, which is 12 pesos, 24 pesos a day. Then they charge you for the paperwork. You have to have the *acta de nacimiento* [birth certificate], and a social security number. They ask you for these things before they hire you, and they cost money. So if you don't have money life is very hard. It's a struggle. You have to fight to make it through.

Fernando was a young man and a fast worker. When he was younger he wanted to be a mechanic. But he needed to help his family, so he dropped out of school when he was fifteen. Since then, he has been working the land.

I am 27 years old and I live in Santiago de Nayarit. I went to school until I was 15 years old, and I had to drop out then because I needed to work. When I was in school I wanted to be a mechanic, but the economy in Mexico is so difficult that it's hard to have money to do anything. My family did not have the money. We have always been farmers but in 1994 things were going really badly, so in 1994 we all moved to Tijuana. In Tijuana we worked at a local plant, all of us. Only my mother was working in the house. My brothers, my father and I worked at the plant. I worked there for four years, then I started working in the tobacco fields in Santiago de Nayarit. In Nayarit they paid us more or less five pesos for each bucket. I did about 120 buckets a day, which meant more or less 600 pesos a week. We all worked in the same *rancho* then, but the economy in Santiago was also bad. We didn't have our own land, we worked for the *ejidatarios*, but they didn't have the money to pay us. I worked there for six years, and then I left for the United States. Originally I didn't want to leave Mexico, but I really had no other option. The thing is that you can earn better money there. In those four years I helped all of my family, and that made a difference. But other than the money, it's not a great experience. It still depends on the grower, but usually the grower is very demanding. If you give all you can, in the best way you can, it's fine. But if you don't, you have problems.

Alejandro was the only worker I met who had been able to afford an education. He had studied for four years in college and had worked for many years as a teacher. I had spoken to Alejandro many times before, because not only was he a *campesino* and an H-2A worker, but for a short time he had also been a FLOC organizer. He had three younger brothers who needed to be fed. That is why when he was only twelve years old he started working in agriculture.

I am 28 years old, I have five brothers and one one-year-old child. I am from Santa Fe in the state of Nayarit. I finished primary school in my home town when I was ten and then I moved to the city to go to secondary high school. I studied for seven years in high school and for four years in college. My mother was a nurse; she worked at the local clinic. Until I was 23 I studied and worked. I have always worked, since I was twelve. First I worked in the fields and then as a mechanic. Then when I graduated I became a teacher for three years. My grandparents had a small piece of land. We used to grow maize, beans and chilli. Now we don't sell our products, so we only use them for our own consumption. We have six acres of land. We used to have another six acres of land but we had to sell it. It was 1968, and that year I had to find a better job to support my family and earn money to feed my brothers. Back then my brothers were studying. It was my responsibility to feed the family.

The story that José told me is very similar. I met José at his home. He lived close to Ciudad Victoria. When he came to pick me up at the bus station he was driving a truck that he had bought with the money he earned in the United States. José was a 32-year-old man who had been working in the fields all his life. I spent a few hours alone with him, as he showed me his house and told me about his experience as a farm-worker. José lived in a small apartment close to Ciudad Victoria. His wife was not there. He showed me the room where his children lived. He was proud to show me that his children had a room to themselves.

I am originally from Saint Louis Potosi. Before I went to the States I used to do everything, every job: I have worked in a grocery store; built furniture; worked as a driver; worked in the kitchen... every job. I've done many different jobs but I have always been a *campesino*. Always. All of us have always been *campesinos*. You can be a carpenter or work in a shop but then when it's time for harvesting you go back to the land. The thing is that you cannot survive only by working the land: it's very hard. Very hard, especially now that everything is so expansive. So I had to find other jobs, but whatever I did I always went back to the land, always. Here a *campesino* earns 100 pesos a day, which is ten boxes a day. But then it depends on the season and the weather. So you must have another job on the side.

Maurice lived in an *ejido* with his family. He was a 32-year-old man with four children and nine brothers. His wife had eight brothers. I visited Maurice and his family on their land. I probably met thirty or forty members of their family that day. There were smiling women and man, and a dozen children. They all had a little house and a small piece of land. On the *ejido* there were also a small *tienda* and an elementary school. The land was visibly poor, but the warmth of each family member was touching. Maurice told me about his life as a *campesino*.

I have always worked in the fields. I went to primary school when I was a child and since then I have always worked in the fields. Mostly oranges, beans, and maize. That's the only work I've done in my life. All of my family has been working in the fields, we lived in an *ejido*. We also met in the *ejido* [pointing at his wife]. We were young, we were eight years old when we met. We were both born here. We have never done anything other than this. The problem is that these days it's difficult to do this job. The corn we grow is not worth anything. Its price becomes cheaper and cheaper every year. Whatever we grow, they give us less and less money for. So many families are leaving the *ejido*. So many, they sell their land and move to the city. The thing is that we can't sell our produce and we don't have the machinery to work the land. Here we live in a commu-



Figure 16-17. The communal land, Mexico. *El ejido, México*

nity, but we work the land individually. Our schools are in common, but we don't work together. We all work our own piece of land. And none of us has the money for the machinery. Even if we worked together, we couldn't afford the machinery. No one has money here.

Carlos had also been a *campesino* all his life. He lived in a small house in Tampico. Carlos had two sons, one was eight and the other was ten years old. The eldest was born with a birth defect and both Carlos and his wife had to do several jobs to pay off his medical expenses. Carlos had been in North Carolina for three years. Given his ability to speak a little English, he was the camp representative for his fellow workers. I met Carlos, his wife, and their two children at their home. The house was very small, there was only a little bedroom and the kitchen. I spent one night with them. We all slept in the same tiny bedroom, close together in two big, soft beds, while the television was on all night. This is what he said.

I have always worked in the fields, with animals and cows. My family had five or six cows and a little bit of land. There were eight of us in the family: I had two brothers and three sisters. The youngest one was 17 years old, while my two brothers are now 28 and 26. We used to grow maize and beans. We also have nopal now and different fruits. Maize has always been the main produce, but today its price is very low. They pay little money for it. They practically don't pay anything for it, so now we use it mostly for our own consumption. Today if you don't have animals or other produce, maize is not enough. The people are selling their land real cheap now, because they don't have the money to farm it. Things are changing quickly. When I was young there were about 70 families in the *ejido*. It was a big community; a lot of people lived there. Right now a lot of people have left. Most of us went to the US. There are lots of people that have migrated to the US because they can't work here anymore now, everything has become too expensive. So they look for another grower to work for either here or in the States.

### 4.3 Debts and Recruiters

I asked Alfonso why he decided to migrate. Alfonso told me that his daughter was ill. His daughter had just had brain surgery, and he needed money to pay for her medicines. For that reason he continued to work in the US, but he was getting older and working in North Carolina was very demanding.

I have a daughter who is sick. She has a disease in her brain. It's a tumor. She had surgery. Now apparently she's safe and she will survive. But they told me that we won't know for years if she's really out of danger.

The tumor was in her brain and she was very sick for two years. My grower helped me and gave me the money for the surgery. He is a religious man and he goes to the church. He gave me 2,000 dollars, which is a lot of help for me. But giving her medicines is still a problem. That is expensive. So now I have no money. I had to buy insurance for the operation, and the insurance was 3,500 dollars. That was something that I had not planned on. It was so expensive. Good doctors and good medicines are so expensive. I had to buy medicines for 200, 300, 400, 500 pesos, and I earned 600 pesos a week. Her medicines lasted 15 days. Then the problem was that if I bought the medicines for her I had no money for my family to eat. It was so hard. Then I called them and asked how she is and they said she is sick. And now I have insurance but I have to pay the insurance for ten years. And deal with all of these doctors. That's expensive. That's why I go back to the US.

Maurice's wife told me that it was difficult for her to let her husband leave for the United States. She said that they needed the money, but when he was away it was difficult to take care of everything without him. The demarcation in gender roles in Mexico is very strong in rural areas. Like Maurice's wife, women still carry out most domestic tasks while men work in the fields. The process of migration has revolutionized family structure. When the men migrated, women had to take on the men's responsibilities, both inside and outside the house. Maurice's wife said that every year she hoped that it would be the last time, but every year he had to go again.

For most workers, the opportunity to migrate to the United States came with a visit of the recruiter to the *ejido*. The North Carolina Growers Association (NCGA) handles the recruitment process by means of a sub-contracting agency called Manpower of America (MOA). MOA is an employment services company specializing in permanent, temporary and contract recruitment services. Every year, MOA handles thousands of temporary visas from Mexico, sending workers not only to North Carolina, but also to Georgia, Indiana, Mississippi, Texas, and Ohio. The recruiting procedure begins in dozens of Mexican towns, where MOA recruiters seek to hire impoverished farm-workers (Cano, Najjar 2004; Cueduecha, Pederzini 2012). In order to be hired, the workers must meet certain requirements: each potential recruit must have a passport and enough money to pay for their visa and transportation to the United States in advance. According to Cano and Najjar (2004), every year each recruiter has a long list of farmers waiting and hoping to be contracted. The *contratista* reviews the farm-workers' credentials and if they are lucky enough to be hired, they are sent to the American consulate in Monterrey for an interview.

During the harvesting season, the consulate in Monterrey grants thousands of interviews daily and rejects between five and fifteen percent of the applicants. Eight thousand of these workers travel from Monterrey to North

Carolina (Cano, Najar 2004). According to the report published by Cano and Najar in the Mexican journal *La Jornada* (2004), when they reach North Carolina after a 40 hour journey, they are met by an NCGA representative who gives the farm-workers strict warnings of their obligations: they must fulfill their labor contract or they will be declared ineligible to return to the US the following year; and they must not communicate with Legal Services or the union, because communication with such bodies has already “killed the H-2A program in New York, Maryland and Florida” (Cano, Najar 2004).

This is Thomas’ experience of the recruitment process:

When living at the *ejido* became difficult, I left for Ciudad Victoria, where I worked for ten years in a hotel. I was 17, and I worked there from 17 to 27. At the hotel I had one day of rest a week. There they used to pay me 300 pesos a week, sometimes 400. Then I went to Monterrey to work in a plant. The wage was a little better, about 450 pesos a week, but the problem was the rent, because it was higher. So I moved again, and worked a few days in construction, as an apprentice. I worked as an electrician, a plumber, and a painter. But still, it was not secure labor. Only temporary labor. Temporary labor in agriculture, construction, and the *maquiladoras* were the only options. I wanted to go to the United States. A lot of people cross the border with a coyote. They pay and go without documents. A lot of people go like this but it’s very dangerous: many people die crossing the river. It’s easy to die in the river or in the desert. The coyote takes some ten people with him each time, but there are so many tragedies that happen there. They cross the desert and they walk for days. When the water ends they are in trouble. So others cross the river, but there is no air to breathe in the river. Here in the *rancho* everyone knows the coyote. He tells us that there is someone in another *rancho* that takes people to the other side. He demands around 15,000 pesos for each person. Sometimes the coyote has fake papers to allow the people to cross. Other times they cross the river. It’s very dangerous.

When I decided to cross, my dad did not want me to go. He thought it would be very dangerous. But I didn’t go as an undocumented, I had my visa. I went as an H-2A. I paid the *contratista* 3,800 pesos. It is about 100 dollars for the visa but on the top of that figure there were 3,800 to the *contratista* only. Then you pay for transportation on top of that money. So you pay 3,800 to the *contratista* only to send you to the other side, for no particular reason. Brandon said that we are supposed to receive a receipt otherwise we are not to pay. Overall I pay 6-7,000 pesos each time to go to the US That’s a lot of money.

In general, a MOA recruiter would travel to the *ejido* in search of new young laborers. Soon enough, their name would be on his employment list and the worker would pay about 7,000 pesos. This is Fernando’s experience.

For me to go to the US every year I have to pay 7,000 pesos. So I have to ask for a loan, and this is one month's salary of work. If they lend me 7,000 pesos and then I leave in August I only earn what is necessary to pay my debts. That is why I need to start working in May. The thing is that it's not worth it to come later in the season because every year you have to pay. Now with my seniority I have privileges because they know that I work fast and so they call me earlier in the season. From May to November it's good money.

Carlos also paid 7,000 pesos to his recruiter. In Carlos' case, he was the one to contact the agency:

I needed money. So I talked to MOA and paid almost 7,000 pesos. All together it was about 7,000 pesos for the recruitment process. On paper, you are paid eight dollars an hour and at least it's eight hours a day, 40 hours a week. But it really depends on the grower, sometimes you work ten, twelve, fourteen hours a day, and other times you don't work at all. It depends, it depends on the grower and it depends on the weather. Sometimes they tell us to work more today because it's going to rain tomorrow, and so that day we work for 16 hours. If you work they pay you and if you don't they don't pay you. It's that simple. By the end of the season if you're lucky you earn 6,000 dollars. It is 5,000 pesos each month on average. So that means that in a year we make 6,000 dollars. But you have to stay for a few months at least because you have to make up for the money you pay out. Now with that money we are building a house. A very simple house is 60,000 pesos.

Geraldo was the oldest worker I interviewed. Maybe for that reason he seemed to be the most sensitive to the difficulties of the H-2A program.

After so many years as a temporary worker finally in 1997 I had the opportunity to go to North Carolina. A friend told me about the NCGA and he introduced me to a *contratista* in San Luis Potosi. I met the *contratista* and filled in the documents and waited for almost one year until he said that I could go. The following year the grower in NC asked for me again so I went back. I had never been to the US before. I was afraid. My friend kept telling me that they treat people badly there, so I was afraid. However I needed to go, there was no other option. I needed the money to buy food.

## **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

# **5 Labor Representation in a Right-to-Work State**

**Summary** 5.1 The *Collective Bargain Agreement*. – 5.2 Unions Make Harvesting Unprofitable. – 5.3 Violations of Recruitment Standards. – 5.4 Torture Protects Peace in the Labor Market. – 5.5 Union? Mexico.

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 collective bargaining by which unions have improved the wages and working conditions of everyone.

Martin Luther King Jr.

Calling it right-to-work is like calling drowning right to swim.

AFL-CIO

## **5.1 The *Collective Bargain Agreement***

In 1999, FLOC launched a boycott campaign against the Mt. Olive Pickle Company (MOPC), the second largest pickle company in the United States and the main competitor of Vlasic food in Ohio. The FLOC campaign sought to reach a three-way agreement with the company and the NCGA, which would improve the workers' wages and working conditions. On September 16, 2004, farm-workers in North Carolina signed the first labor contract for guest-workers in United States history.

On the anniversary of Mexican Independence, three H-2A workers, Adrian Briones, Juan Manuel, and Jesus Martinez, President of FLOC Baldemar Velásquez, Bill Bryan, President of the Mt. Olive Pickle Co., and Stan Eury, President of the North Carolina Growers Association, signed a labor contract for over 8,000 Mexican guest-workers in North Carolina. This contract is a historic achievement for immigrant workers in the United States. It chronicles the first time guest-workers have won union representation; the first time guest-workers have won a labor contract; and the largest contract in the history of North Carolina, the least unionized state in the US Exactly three years after the vigil

held for Urbano Ramírez, the worker that died in the fields due to heat stroke and dehydration, the farm workers in North Carolina have made it explicit that they will not allow any more violations of their rights and dignity. (Coin 2004, 4)

In fact, the contract gave new rights to H-2A workers and new responsibilities to the growers. It required that workers with seniority be given priority in the recruitment process and that union workers be given preference over non-union workers; it required that the workers be compensated for their trip from and to Mexico; that the MOPC pay the growers more for their cucumbers and that in turn the growers give the workers a 10 percent wage increase in three years (Coin 2004; Chavez 2004). The labor contract transformed the social relations of production in the North Carolina food-chain. While in the past the primary function of the H-2A program was to help growers cut their labor costs, H-2A workers had now obtained better wages and working conditions. The labor contract gave workers the right to demand better working conditions without fear of retaliation. But for growers the situation was different: now not only were they under economic pressure from the US agribusiness, but they were being pressured from the bottom by the workers, who demanded better wages. The following chapter explores how the North Carolina growers have reacted to the introduction of the labor contract; it considers the latter's impact on the farm-workers covered by the *Collective Bargain Agreement* (CBA), and analyses the ways in which North Carolina growers have responded to the labor contract with new policies of cost-externalization and several violations of the collective bargain agreement.

When the agreement was announced, union officials said that it was the beginning of a new era: farm-workers finally had the right to demand better working conditions without fear of retaliation. At the end of last year's growing season:

Workers gathered at a forum in Raleigh and said their relations with farmers had vastly improved. Many said they had better housing, more breaks and several other new amenities. They recounted stories of asking their employers for concessions – a car for workers to use, the re-scheduling of their duties – and, for the first time, getting 'yes' for an answer. (Fitzsimon 2006)

Alejandro declared that: "now with the union we are somewhat protected, they still threaten us but we are protected". According to Thomas: "now that we have the union it's much better. We don't have to pay 30 dollars each week for our meals. The grower gave us a cooler for water. Until a while ago it was much harder". Even Geraldo said that:



Figure 18. September 16, 2004. Contract signing celebration, North Carolina.  
*Septiembre 16, 2004. Celebración de la firma del contrato, Carolina del Norte*

Last year they didn't call me back because I was blacklisted. Now, with the introduction of the new labor contract and the union, they were forced to call me. Now I am afraid to go but I know that I should not be afraid, because I can call Legal Services, the church, and there is the union now.

This chapter addresses the question of how the growers reacted to the demands of their newly unionized labor force; what determined the dynamics of the three-way relationship among the farm-workers, the North Carolina Growers Association and the Mount Olive Pickle Company; and whether the successful negotiations indicate the possibility of constructing an alliance between people in different class positions such as growers and farm-workers.

## 5.2 Unions Make Harvesting Unprofitable

After the introduction of the CBA, the workers enjoyed a few improvements in their working conditions. In contrast, farmers complained from the start. Already in 1998, one North Carolina grower had declared that if “FLOC is successful with its unionizing drive [...] that would make it unprofitable to harvest cucumbers” (quoted in Steinberg 1998). After the introduction of the labor contract, many growers left agriculture altogether. Many growers left the NCGA. A few growers changed their production to crops that did not involve manual labor – this decision mostly involved farmers that left the tobacco industry after the buyout and decided to reconvert their production to crops that did not involve farm-labor. On their part, the growers that did remain inside the NCGA continued their practices of labor exploitation, in an attempt to avoid the multiple economic responsibilities introduced by the CBA.

The CBA required the growers to comply with several major rules; the CBA established that the growers must pay compensation for job-related injuries and illnesses; and must reimburse the cost of transportation to and from Mexico. For the growers, this meant spending not only 496 dollars for each worker to the NCGA (Oxfam 2004, 11), but also laying out equivalent funds to cover the workers’ trip and visa to the United States, on top of hiring union workers who would be educated to defend their rights. At the same time, the labor contract implemented recruitment standards, and gave the right to preferential employment to union workers with seniority. Under the provisions of the CBA, union workers who had completed a satisfactory season in North Carolina had to be given preference over non-union workers in the recruitment order. This rule was meant to protect the achievements of the CBA and give workers another reason to be part of the union. In North Carolina, a state known to be the least unionized state in the US, growers “simply [weren’t] willing to abide an organized work force”, argued Larry Wooten, president of the NC Farm Bureau (quoted in Fitzsimon 2006). “This is a right-to-work state, and people shouldn’t be forced to hire union labor”, he continued in an interview with Chris Fitzsimon.

The NCGA president reported that the growers complained not only about the additional costs of labor, but also about the fact that union membership “makes workers less motivated, prompting complaints from farmers” (quoted in Fitzsimon 2006). The President of a labor supply business in Lovington said that some union organizers gave workers the impression that “if they want to sit on their bucket, they’re still going to make 8.24 dollars an hour” (quoted in Fitzsimon 2006). Billy Carter, a Moore County farmer who obtains workers through the association, reportedly heard complaints about union workers from other farmers, “and many are adamant that they don’t get as much work out of their employees as they

used to. Carter said he's not sure whether the workers have changed, or if anti-union sentiment has colored farmers' views" (Fitzsimon 2006).

Throughout 2005 and 2006, the growers looked for ways around the labor agreement. In many cases, the growers did not leave the association, but refused to comply with the regulations introduced by the labor contract. These growers did not give any reimbursement for the workers' visa or trip expenses, and while the recruitment agency continued to overcharge the workers in Mexico, in North Carolina the growers looked for ways to hire non-union workers in spite of the availability of union members. The 2005 and 2006 grievances report that these abuses occurred repeatedly. In several cases, they involved NCGA's recruiting agency in Mexico. The NCGA argued that "MOA is not part of the CBA", and therefore "it should not be involved with the issues that we have presented" (Griev. 1, 2006). However, FLOC insisted that under contract law, a principal is contractually obligated and responsible for the acts of its agent, and in this case the NCGA was responsible for the actions of its recruiting agency.

Under contract law, a principal (NCGA) is contractually obligated and responsible for the acts of its agent (MOA) where that agent was acting within the scope of its apparent authority under the contract, or where the agent is acting with the knowledge of the principal. In addition, the principal (NCGA) is contractually obligated to instruct its agent (MOA) to comply with the terms of the contract (CBA) to which the principal has agreed. All this means that the CBA requires the NCGA to remedy acts or omissions of the MOA that are in violation of the CBA that the NCGA either directs or becomes aware of where MOA engages in those acts or omissions either at the direction of NCGA or with the apparent authority provided by the NCGA to recruit on its behalf. In Article II, Paragraph 1, the term "Association" is defined to include "agents" of the NCGA. MOA is an agent of the NCGA. (Griev. 1, 2006)

### 5.3 Violations of Recruitment Standards

In those years, there were a number of recruitment violations in Mexico. The most recurrent violations include workers who were asked to pay for their trip to the United States and their visa, but were never hired despite the payment of such fees, and never given their money and documents. According to Cano and Najar, each recruiter receives a commission of 40 dollars for each recruited worker. Each North Carolina farmer pays a 500 dollars fee to the NCGA for each hired worker (Cano, Najar 2004). And in Mexico, each worker pays a similar provision. The workers must pay in advance for the round trip cost of transportation from Mexico to the United States (500 dollars for a 40-hour bus trip from Monterrey to the

NCGA headquarters in Vas) (Cano, Najjar 2004). They must pay about 100 dollars for their visa; 100 dollars for their interview at the US consulate and another 100 dollars for the recruitment agency that sends them their visa. This amounts to at least 4,000 pesos on top of the trip, a sum that the farm-workers must pay in advance to the *contratista*.

Since the contractors are legal figures that work at the bounds of illegality, often times they overcharge the workers, and other times they charge the workers and then disappear. In the state of Tlaxcala, a recruiter was charging between 8,000 and 20,000 pesos for recruitment when the fee for the 2005 season was 4,150 pesos. According to Daniela Bove, the person in charge of fraud at the American Consulate in Monterrey, there are recruiters who receive up to 3,000 dollars for a place on the list. "People are scared to speak with us, but I believe that there are many more frauds than those that we have detected", she said (quoted in Cano, Najjar 2004). Another problem is that for the most part these recruiters have no office. "One of them had an office at a bus station for a while, but after some time she went away and we did not know where" (quoted in Cano, Najjar 2004). Contractors often take the money from the workers and then disappear. The grievances report a wide variety of these practices. On one occasion, the:

Workers have tried repeatedly over the course of the last couple of months to get [recruiter name] to return their money and their federal documents with no luck. As most workers took this money out on loan at 20 percent interest, it is very pressing that something be done to correct this situation. (Griev. 2, 2006)

FLOC requested that these workers be returned "the fees that they paid to MOA, the 4,152 pesos plus any amount of expenses that might have been accumulated in either interests, transportation, phone, and expenses in reapplying for their passport if it is not returned in a timely manner" (Griev. 2, 2006). The union also asked that those workers who had not been returned their passports or their money should have their passports and money returned within two weeks (Griev. 2, 2006). In one grievance dated April 2006, one worker was initially scheduled to cross the border on April 25. He turned his passport in to MOA on April 12, but was not informed that his crossing date had been cancelled. The worker asked for his passport and money to be returned to him but without success. Most of the time, MOA responded that the workers who did not receive their passports and fees back had in fact been contacted by the recruiter, but never came to pick up the items (Griev. 1-13, 2006). In some cases, individual recruiters were officially accused of fraud. FLOC repeatedly required that the recruitment agency break off its relationship with particular recruiters.

We reiterate our concern regarding possible MOA continuation of employment or collaboration with [recruiter name]. She is in bad standing with the US consulate and has been barred from the H-2A program for overcharging workers and is under investigation by numerous government agencies in Hidalgo for committing fraud. (Griev. 16, 2005)

In the same grievance, FLOC argued that:

[Recruiter's name] is not in good standing with the US consulate, for she has been banned for life from processing visas by the US consulate because of her history of fraud and overcharging of workers. We strongly request that she be removed from the recruitment process, as in the end she is a liability for the NCGA, FLOC and MOA.

The same problem occurred with another recruiter, who also overcharged the workers. In general, the recruitment system for "guest-workers" has traditionally been an opportunity for corruption. After the agreement, many FLOC members reported problems of field agents charging them hundreds (and sometimes thousands) of dollars just to be recruited, as well as "fees" for processing or transportation. In the few short weeks that Santiago worked in the Monterrey office in 2007, he filed about 200 complaints from H-2A workers having problems in recruitment. FLOC reported that the enforcement of recruitment standards over the two years following the agreement saved FLOC workers around four million dollars. In fact, the CBA agreements reduced the opportunity for extortion, fraud and bribes. In this sense, the CBA agreement strongly contributed to challenging the power exercised over farm-workers on both sides of the border. It is in this process of transformation that Santiago Rafael Cruz was brutally tortured and murdered in the union office in Monterrey on April 9, 2007.

#### **5.4 Torture Protects Peace in the Labor Market**

In 2004, the *Collective Bargain Agreement* allowed the union to enforce recruitment standards, including asking all MOA recruiters to provide receipts for the fees paid by workers and to give the workers who complete the season a reimbursement for their travel expenses. In order to make sure that these agreements were respected, on March 17, 2005, FLOC inaugurated a new office in Monterrey. The main purpose of the FLOC presence in Monterrey was to inform Mexican H-2A workers of their rights under the CBA, make sure that their rights are respected during the recruitment process, and that they are hired in accordance to the seniority system specified in the labor agreement. Since Mexican law forbids any foreign union from opening an office in the country, FLOC defined its office in Mexico as a "civil

association”, an association in which the purpose was not to “unionize” the workers, but to offer advice, help solve conflicts regarding the recruitment process and educate the workers about their situation. In this sense, the union tried to meet the workers before their departure, in order to make sure they were aware of their rights and basic labor protections. When the new office was inaugurated in Monterrey, the business community in Mexico launched a national campaign against the union. In March and April 2005, the national newspaper *El Norte* published a number of articles explaining why the most important private conglomerates in Mexico were so strongly opposed to the union’s presence in Mexico. In April 2005, the president of the Maquiladora Industry, the National Chambers of Commerce (Cámara Nacional de Comercio, or CANACO), the Chamber of Industry of Transformation (Cámara de la Industria de Transformación de Nuevo León, or CAINÁ TRA), and the National Employers’ Confederation of the Mexican Republic (Confederación Patronal de la República Mexicana, or COPARMEX), were reportedly accusing FLOC of destroying the “harmony of labor” in Mexico. On April 1, 2005, COPARMEX president Jesús Garza Cantu explained to reporter Ortega that the FLOC purpose in Mexico was to:

Destabilize the business sector. We are asking entrepreneurs to not be caught by surprise by these people, who claim that they are here to help the workers and the firms, but they only intend to undermine them. (Ortega 2005a)

That same day, the president of the Labor Commission in COPARMEX Nacional, Tomas Natividad Sánchez, argued that “in all Northern Mexico there is an organization working against the *maquiladoras*, which is represented and financed by American unions and is against the creation of *maquiladoras* in the country” (Ortega 2005a). Gregorio Ramírez, president of the Asociación de Maquiladoras de Nuevo León, went on to say that such a presence was a matter of concern for the business sector: “We are concerned because foreign unions are infiltrating the country” (Ortega 2005a). Guillermo Dillon, director of CAINTRA Nuevo León, and president of CANACO de Monterrey Jesús Marcos Giacomán, demanded that the authorities control FLOC activity in Monterrey, and “ensure that they do not influence [the Mexican unions], or bring ideologies that are not compatible with them” (Ortega 2005a). A few days later, the most important business conglomerates of the country again accused FLOC of destroying the “harmony of labor” in Mexico. On April 6, *El Norte* reported that representatives from the Consejo de Relaciones Laborales del Estado, and the Asociación de Maquiladoras and COPARMEX had agreed to investigate FLOC activity in Mexico (Ortega 2005b). “[We will] solicit the American Consulate in Monterrey to provide us with information about the union”. Jesús Garza declared that COPARMEX had asked the state

government in Nuevo León to help them “prevent the union from destabilizing the harmony of labor in the country”. “We are going to be united”, said Garza, “work with the American Consulate and obtain information about the union”. The idea was to create a “common front” against the presence of FLOC in Mexico. Isaías Vasquez Mendoza, Subsecretario de Conflictos Obreros de la CROC, and Víctor Joaquín Rodríguez, leader of La Federación de Trabajadores de Sindicatos Autónomos, argued that “we want to prevent any action that would damage the relationship between our entrepreneurs and their workers” (Ortega 2005b).

In early April, there were only two FLOC organizers in Monterrey: B. and “Alejandro”. B. was the young American director of the new office and Alejandro was a Mexican worker who had been particularly active during the campaign in North Carolina the previous year. At that time, their activity in Mexico largely consisted of two main tasks. First, they supervised the recruitment process and ensured respect for the seniority scale, which mandated that union members and those workers who had successfully completed the season during the previous year be given preferred status in the hiring system. Second, they educated the workers leaving for the United States about their rights under the CBA. Every day, B. and Alejandro met hundreds of workers in front of the American consulate in Monterrey, just before they were interviewed to receive their visa, in order to share information about their rights as well as the union and its contact information in North Carolina. On top of this daily activity, FLOC organizers held weekend councils at workers’ hometowns. Each week, the two FLOC organizers in Monterrey travelled across Mexico to reach the poorest states of the country – namely those states from which most workers came, and in old-fashioned union style they held a public “*junta*” at the *zocalo*, addressing around one hundred workers each time to inform them about their working rights in North Carolina.

By the middle of April 2005, FLOC had already held public *juntas* in Durango, Durango, Nayarit Tepic, Tamazunchale San Luis Potosi, Ciudad Victoria Tamaulipas, and it was planning to hold *juntas* in Zacatecas, Zacatecas, and some places in Guanajuato. Each *junta* was extremely well attended: thanks to the support of the workers who called the local radio station and took responsibility for spreading the word, one hundred to one hundred and fifty workers came out every time. The following winter, all FLOC organizers went to Mexico from November to February to visit these communities and inform the workers about the situation in the United States. As FLOC organizer B. said in an interview:

If you have one organizer per state then you have time to visit almost every home and every *ejido*, and this makes a big impact when the workers come prepared to North Carolina.



Figure 19-20. FLOC meeting in front of the US Consulate, Mexico. *Junta de FLOC frente al Consulado estadounidense, México*

From the start, the *juntas* had a significant impact on the workers. This tireless educational activity provided the workers with the tools to protect themselves throughout the process of migration and to question the legitimacy of their treatment under the H-2A program. As B. argued:

If all workers in the H-2A program are organized, then the very organization of the guest-worker programs is undermined. [...] After NAFTA and with all of the powers that are investing in Mexico and recruiting workers from Mexico, this organized resistance is a big problem. That's why they are opposing us so strongly: because we are showing that despite their expectations the workers are ready to defend their rights.

The potential of the FLOC activity caught the attention of the business community, and in early April not only was the formal recognition of FLOC as an "organization civil" delayed, and was the approval of B.'s working visa in Mexico, but on April 17, 2005, on the occasion of their visit to Nayarit, Tepic, the two FLOC organizers were detained. The charges alleged that FLOC had asked three workers to pay the union for their working visas. FLOC hoped that the complaints against the organizers would be withdrawn without any further processing, but two weeks after the event the authorities had not provided the union with a copy of the charges against them, a failure which suggested that the incident could be converted into a penal case. On the day of B.'s detention, I flew into Mexico. I had planned to meet FLOC organizer B. at home after he returned from Santiago de Nayarit. When B. arrived that evening he was overwhelmed by tension. He explained to me that the situation in Mexico was not easy.

There's been a lot of reaction to our activity here from the beginning. The president of the *Maquiladora* industry and the Chamber of Commerce, the most powerful business conglomerates of the country, have been attacking us during the past week for destroying the "harmony of labor" in Nuevo León. Working in two countries, both in the US and here in Mexico, is a big step. Farm-workers are one of the most oppressed groups in the US and if they are aware of their rights in both countries that really challenges the H-2A program, the free market, and NAFTA, because of all these policies depend on the exploitation of farm-workers. That is why they want to stop us.

B. was under a great deal of pressure. At that point, he was still waiting for FLOC to be formally accepted as an "organization civil" in the country; he was still waiting to have his visa approved; and he was potentially going to undergo a trial and still be in a foreign country while the rest of the union was abroad. His working schedule began at 4 am every day, and it continued until late at night. Every weekend he was travelling, and every

day his name was in the national press, described as a danger for “peace” in Monterrey. The days were tense, and B. was very tired. My work with him was equally difficult. My field notes from those days recount this:

Not a day goes by without the police stopping either me, or B., or both. I am always working with B. Whenever I can, I pull out my little tape recorder and interview the workers. But even when I am only speaking with them, the police come and stop me. There are police everywhere: outside the office; at the American consulate, at the bus station, and outside the house of hospitality. Right in the middle of the corporate campaign against the union, this intimidation is overwhelming. It is difficult to interview the workers. It is a difficult situation and we are all tired and concerned.

As will be detailed in the methodological notes in the appendix, the pervasive experience of social control was at times underscored by my legal status as an international student with a temporary visa in the United States. This led me to think more closely about the role of the researcher in the field and to reflect upon the challenges of doing research in violent or politically charged settings, a topic that would gain international importance in the following years.

In general, the campaign against the union was not unexpected. Although at the time it was written Mexican labor law was the most progressive law in the world, when Article 123 of the 1917 Constitution found expression in the national legislation of 1931 in the form of the *Ley Federal de Trabajo* or Federal Labor Law (LFT), the LFT was made up of representatives from the government. Since then, the state has always kept a strict control over labor unions, requiring that they have periodical legal registration and a right to negotiate collective bargaining that is formally recognized by the Secretary of Labor. In this context, Mexican unions have always been controlled by the state. The FAT (the Authentic Workers Front or Frente Auténtico del Trabajo) is the only independent confederation of unions in the country. Throughout the years, FAT openly condemned NAFTA and later the Trans-Pacific Partnership and made “labor dumping” a key issue in its activity (Penman-Lomeli 2016). In general, FAT often denounced the situation of intimidation surrounding independent unions in Mexico (Hathaway 2000). In 2009, a report by Amnesty International emphasized that human rights defenders in Mexico were often the favored target of disappearances, beatings or threats (Amnesty International 2010). All too often, states the report, human rights defenders have been met

with hostility and attacks. They have faced threats, harassment and intimidation, spurious criminal charges and wrongful prosecution. Some activists have been killed in relation to their human rights work. Threats,

attacks and killings of human rights defenders are rarely investigated effectively by either federal or state authorities. The seriousness of attacks on human rights defenders in Mexico in the last few years calls for urgent action by federal, state and municipal authorities. [...]. The criminal justice system is often misused by both state and federal authorities to harass human rights defenders and to target those who have taken part in public actions or protests. With or without arrest warrants, the detention of human rights defenders can amount to arbitrary arrest or detention if it is carried out with the intention of stopping or impeding their work.

When FLOC moved to Mexico, the campaign showed the intention to stop the “intrusion” of yet another liberal North American union in the country. Despite its moderate forces, FLOC’s activity challenged the exploitation of migrants across the border. As a result, the union has had to battle against anti-union hostility and frequent attacks in both the US and Mexico. The office in Monterrey was burgled and broken into several times. There have been a number of other attempted break-ins, threats, arrests and intimidations. The tension in Mexico reached its climax when FLOC organizer Santiago was bound, gagged and beaten to death in the Monterrey office. The organizers who found him said that he had been tortured. The crime came at a point in the campaign in which FLOC’s enforcement of recruitment standards had saved FLOC workers around two million dollars a year. As was made clear in the *New York Times*, in 2006 the United States issued about 37,100 temporary visas for agricultural workers and Mexico accounted for 92 percent of them (Malkin 2007). In 2005, a lawsuit led to a settlement between the union and the growers’ association that dropped all of the workers’ recruiting fees for two years (Malkin 2007). The recruiters’ charges and the costs of the visas was now paid for by the growers rather than by the workers. In this context, the union insisted that Santiago’s murder should be interpreted as an act of retaliation against the union’s efforts to contrast the interference of criminal syndicates in the guest-worker recruiting system. According to the Congressional Records, FLOC President Baldemar Velásquez repeatedly maintained that Santiar go’s murder should be understood as being related directly to

FLOC’s efforts to organize workers in the Monterrey area. He said the union’s education efforts made workers were less susceptible to people who would charge workers large sums of money to enter the United States illegally. [...] “We are actually fighting the corruption that’s prevalent in this area”. Mr. Velásquez said via telephone from Monterrey “There’s been 10 policemen killed here in the last year. We’ve educated the workers to not be taken advantage of and some people here don’t like that, but we have to carry on the work”. (Congressional Record 2007, 9039)

## 5.5 Union? Mexico!

In North Carolina, the *Collective Bargain Agreement* had an equally important backlash. In this case, dispute over the recruitment process involved workers who were jumped in the seniority order in violation of the CBA and often in an attempt to hire only those workers who were not affiliated with the union. FLOC complained about a trend whereby workers who had filed grievances during the 2004 or 2005 season were not rehired the following year, in what appeared to be a perpetuation of the blacklist system even after its legal abolition. At the same time, the union reported that many union workers were being classified as new workers and thereby denied the right to preferential status in the recruitment order despite their union membership. For the union, this disregarding of the recruitment order was a major problem. FLOC asked its members to pay 2.5 percent of their salaries in union fees. In return for membership the union granted them an advantage over non-union workers during the recruitment process. In point of fact, this rule was violated a number of times. The grievances show that the growers often discriminated against union members in the two seasons that followed the establishment of the CBA. In one grievance, 1,531 preferred union workers were defined as ineligible. This means that these workers were hired only after new, non-union workers had been hired, resulting in a major violation of the labor contract (Griev. 19, 2005). In this case, FLOC requested that the workers be changed from new or ineligible to either "active" or "preferred" workers, depending on their real status. A few days later, the union liaison for the NCGA provided an updated status list, in which he recognized that many union workers had been "mistakenly" categorized as non-union workers without seniority, and he pointed out that:

You insinuate in this grievance that we gave these workers a code of N to somehow deny them their spot in the recruiting order. It is detrimental to make insinuations like this with no evidence to back them up. [...] Please exclude baseless accusations such as this from your grievances in the future.

This issue became a matter of dispute in several grievances. In 2005 and 2006, union workers were often classified as "new", while new non-union member workers were given preferred status. An internal document dated March 2006 reported that the NCGA had its own "preferred workers which practically all are non-union". Although NCGA denied this grievance, during the season there were hundreds of cases of individual workers who were not called back to work despite (or due to) their union membership. On one occasion, 330 union workers who had completed a satisfactory season during the previous year did not appear in the

NCGA seniority list for 2005. The NCGA hired non-union workers instead. According to the union grievances, in March 2006, while driving four workers to their sites of employment, one NCGA representative reportedly asked the four workers he was driving: "*¿por qué no renuncian [al sindicato]? Tienen los mismos beneficios* [why don't you resign from the union? You will have the same benefits]". In this particular case, the NCGA denied the claims and argued that the grower had:

Denied making said statements to said workers on said date on the way to said grower's farm. Our members have been instructed to inform workers that they have the right to resign from FLOC if they joined last year because they thought it was necessary in order to return to work in 2006. (Griev. 31, 2005)

In a similar fashion, on March 8, 2006, ten workers faxed resignations to FLOC. The grievance reported that these workers had justified their request by saying that: "*tenemos que renunciar* [we have to resign]" (Griev. 21, 2006). Another grievance reported that:

FLOC received six resignations from workers at [grower's name], and on the same date received twelve resignations from workers at [grower's name]'s camp. Though the six workers at these camps are separately employed, sixteen of the eighteen resignations are overwhelmingly identical (of the approximately first 150 words of the resignations of [worker's name] and [worker's name], one to two words are different). This makes us believe that workers are receiving a script on what to write in order to resign. [...] There have been countless confrontations in 2005 and now in 2006 regarding this issue. Including the date in which the above workers received their orientation at Vass. (Griev. 51, 2006)

The NCGA response was that:

NCGA is not responsible for a scripted resignation if this is indeed occurring. We have simply informed the workers of the reason they have the right to resign. The fact that many of them signed up for the same reasons could be contributing to the homogeneity of their resignations. In addition, we suspect that workers with limited educational backgrounds may be deferring to those workers who have the ability to communicate effectively in writing. As I stated in my response to the last grievance, FLOC is welcome to speak with the workers who are resigning. If the workers are in any way confused about their freedom to make a choice in this matter, we are happy to accept written notice that they wish to rejoin the union and would like the dues deducted

from their weekly pay. Until we receive such correspondence, we will instruct our growers not to make dues deductions.

In May, another grievance reported that one grower asked one worker if he was “with the union”.

When [worker’s name] responded that, yes, he is “with the union”, [grower’s name] responded by shouting, “Mexico!”, as in either resign from the union or face termination or not being asked back the following year, based on his union affiliation. [grower’s name] also stated that he would explore manners by which to hire workers who were not union members, because only workers affiliated with the union arrived at his camp, and to only request as preferred workers those that are not union members, for future harvest seasons.

NCGA responded that:

I have a statement from the workers that is completely different from your rendition of the events. I tried to scan it in but it was hand written so I will need to fax it to you. Please send me a fax number where you want it sent. I believe that you “baited” this grower until you extracted a negative comment. I do not consider your efforts at this farm to be in harmony with our agreement and believe this incident was orchestrated by you. We have never in ten years had a problem on this farm.

A few days later, another grievance reported that two NCGA representatives encouraged workers to resign from FLOC, emphasizing that the union “misinformed, intimidated, and coerced workers into signing [union membership] in 2005” (Griev. 71, 2005). According to the grievance, the NCGA representatives also stated that if they “do not want to support the union quota they can resign”. Similarly, this other complaint stated that:

A field rep. for NCGA got in front of the workers in the course of the orientation session at the [location name] shed, and basically told them that they should resign because they were tricked into signing union membership and wage deduction authorizations irrevocable for a year. When the FLOC representative who was present tried to discuss the manner in which it [the signing of cards] was handled with the workers, he was verbally heckled and interrupted by another NCGA field rep in what I understand was a manner which was calculated to prevent or frustrate any effective communication with the workers. (Griev. 75, 2006)

The dispute over the “Interference with Workers’ Union Membership”, and “Disparagement and Subversion of Union”, lasted for two years. These

actions represented attempts to exclude union workers from the recruitment process, allow growers to ignore the economic requirements introduced by the CBA, and to minimize the influence of the union and the CBA in North Carolina agriculture. In fact, in 2006 the NCGA claimed that it would not comply with the need to hire union workers introduced by the CBA, because the “Union Preference” provision was a violation of the North Carolina “Right to Work” laws. Right-to-work laws have been enforced in 28 US states as of 2017 and are allowed under provisions of the *Taft-Hartley Act*, which prohibits trade unions from making membership or payment of dues a condition of employment. This statute theoretically implies that the growers should not be forced to hire union workers. In fact, on the basis of this statute the Farm Bureau passed a resolution opposing unionization, while several other groups started to recruit legal, H-2A non-union workers for North Carolina farmers. Among these groups is the Mid-Atlantic Solutions Company, which began to provide non-union H-2A workers to North Carolina farmers in competition with the NCGA. This led farmers to drop out of the NCGA and move from one agency to the other. According to the Mid-Atlantic Solutions president:

Workers who come in under the federal migrant labor program are protected by federal law, get free transportation and live in state-inspected housing, and don’t need [union] representation. The workers who really need help are illegal immigrants who have no such protection. (quoted in Fitzsimon 2006)

With this philosophy, the Mid Atlantic president not only reiterated the belief that the H-2A program “protects” workers, but suggested that a union is not necessary (or welcome) in North Carolina. The Right to Work campaign in North Carolina became very popular very quickly. Already in 2006, the NCGA was down to about 500 farmers “and will bring in only about 5,000 workers”, said President Eury. Eury “said that if membership dips below 350 farmers, the association probably will shut down” (Fitzsimon 2006). At that time, the growers started using the right to work as a reason to deny the validity of the CBA. NCGA farmers abandoned the association in large numbers and began to rely on the services of other groups that offered “legal, H-2A non-union workers”. Within the two seasons following the agreement, 500 farmers dropped out of the association. The agency Mas Labor H-2A alone recruited more than 20 former NCGA growers, for a total of about one thousand jobs. At that point, the union had limited bargaining power - not only were hundreds of FLOC members losing their jobs because of grower dropouts rather than retaining preferential status, but the union was losing its leverage over the workers, as there was theoretically no reason for them to pay union fees if these could not guarantee that the worker would be rehired. As the situation degenerated, the issue became part of a larger

dispute: a class action lawsuit against the NCGA and its original 1,000 members, also known as the *García-Alvarez* case. In December 2002, more than 15,000 temporary agricultural workers with visas under the H-2A program filed a class action lawsuit against the NCGA and all of its approximately 1,000 grower members. The basis for that lawsuit was that both the *Federal Minimum Wage* law and the *North Carolina Wage and Hour Act* required the NCGA and its grower members to pay for all visa and transportation expenses for those 15,000 and more workers to travel to NC to work (Griev. 76, 2006). With a decision filed on September 30, 2004 in *De Luna v. NCGA*, the federal court agreed that the NCGA and its members had violated the federal minimum wage law by failing to pay for those expenses and effectively transferred the plaintiffs' state law claims for more than 12 million dollars to state court. In the subsequent litigation, known as the *García-Alvarez* case, those same 15,000 and more workers used the legal precedent from the *De Luna* case and the potentially disastrous liability of more than 12 million dollars to pressure the NCGA and its members into a settlement of the claims of all of those workers (Griev. 76, 2006). The settlement required payment of approximately 1.475 million dollars to those workers in addition to major changes in the collective bargaining agreement between FLOC, AFL-CIO, and the NCGA and its growers in 2006 and 2007. Those changes led to the establishment of a seniority system for H-2A workers that gives absolute preference to FLOC members; it required that the NCGA and its grower members pay the US government directly for all visa fees for any H-2A worker who comes to NC to work for the NCGA; and it required that the NCGA reimburse all H-2A workers for their transportation expenses to NC from their home villages in Mexico at the end of each worker's first working week in NC (Griev. 76, 2006).

As a result, in October 2006 FLOC obtained the right to "super-seniority" preference for those FLOC members who had lost their jobs (Griev. 76, 2006). Under this provision, FLOC could demand that those workers who used to be employed by rule-breaking growers be given "super"-preferential status over everyone else during the recruitment process. However, although the litigation mandated that all NCGA members who were members of the association between 2001 and 2006 had to comply with the CBA regulations, most of the growers who had left the association reportedly failed to comply with the contract and to pay the necessary recruiting, transportation, visa and visa interview fees. In this context, FLOC tried unsuccessfully to prove that a few growers were violating these regulations. Without an affidavit, argued the FLOC lawyer, NCGA growers have no incentive to comply with these demands. In fact,

It will be extremely difficult if not impossible to convince the judge to enforce his October 3rd, 2006 order requiring payment of recruiting fees, transportation visa fees, and visa interview fees by the grower,

and not the worker. If that enforcement does not occur against each group of growers listed above and below who are not complying with that part of the judge's order, there is no incentive for NCGA growers to stick with the NCGA CBA which requires them to pay all of those costs when they can go non-union and avoid paying them with impunity. (Griev. 75, 2006)

Now that the growers could legally hire non-union workers, the achievements of the CBA were potentially compromised. In fact, the "Right to Work" campaign undermined the rights that workers had obtained throughout their boycott campaign: the right to respect recruitment standards, wage, health, and safety regulations, and the right to reimbursement and seniority. The growers could overlook all the regulations that the contract had enforced and return to traditional exploitative practices. In this situation, the only option for FLOC was to begin a new boycott campaign in North Carolina, and organize those non-union H-2A workers who were hired by "runaway growers," or on farms that had never been part of the NCGA. The purpose of the new campaign was to ensure that all farmers respect the conditions mandated in the labor agreement whether or not they were part of the association. The idea behind it was the same that led FLOC to begin its activity in North Carolina in 1997; when FLOC signed a labor contract with Campbell Soup and its growers in 1987, after eight years of strikes against the tomato and pickle operations of Campbell Soup in Ohio and Michigan, in short order the union had to protect its success by signing new contracts with Vlastic, Heinz, Green Bay and Aunt Jane Corporation and their pickle growers in Ohio and Michigan. Without an expansion of the labor contract, there was no incentive for these companies to buy tomatoes or cucumbers from union growers; they could simply move their operations to other states where the costs of crops were cheaper. After signing labor contracts with these companies, FLOC was then forced to expand its operations to North Carolina in order to prevent these pickle producers from buying cucumbers from non-union growers in North Carolina at the expense of union growers in Ohio. As Velásquez said, organizing North Carolina was not merely an option, but a necessary:

Second step in a broader campaign that we see stretching down into Guanajuato and Michoacán, Mexico. The same companies buy cucumbers there. They use the same structure this contracting, subcontracting style, but this multi-party collective bargaining arrangement is a vehicle to offset the way they would play us off against each other and the way they would keep us from truly creating some change for workers. (Velásquez 1998, 26)

Similarly, FLOC's new campaign intends to prevent non-union growers from having an edge in the market over union growers. Since the global economy pressures farmers and corporate powers to outsource production wherever the cost of labor is cheaper, any time FLOC is successful in its campaigns it implicitly increases the costs of labor and pushes capital to outsource production elsewhere. In this context, the union is forced to organize the workers wherever these corporations externalize their production, countering the downwards pressure on prices and wages with an upwards pressure for social reforms in agriculture (Velásquez 1998, 25).

## **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

# **6 The Affective Dimensions of Farm-Labor Organizing**

**Summary** 6.1 The Union Is Us. – 6.2 The Affective Dimensions of Farm-Labor Organizing.

We're privileged to be part of this great organization that helps us defend our rights. I know that each season we get closer to realizing our dream for a better quality of life for ourselves and our families.

Eli Porras, FLOC Board member

## **6.1 The Union Is Us**

Over the past decades, FLOC has tried to oppose the subaltern status of migrant workers in agriculture with social awareness and solidarity at the grassroots level. This endeavor has created a wide basis of social support constituted by thousands of consumers, students, labor and church groups throughout the nation. Over the years, thousands of people on both sides of the border have started supporting the union. Ken Berger and Ernesto Reza (1994) argue that there are several fundamental causes for the success of a social movement. In the case of FLOC, the subaltern conditions of migrant workers played an ambivalent role in this sense. While on the one hand below-poverty wages and sub-standard living conditions made many workers "cautious about doing anything that would cause them to lose the meager subsistence they already have", on the other hand "they also provided a reason for actively seeking reforms" (Berger, Reza 1994, 131). In fact, the union itself is composed of migrant farm-workers who consider union organizing as sort of a mission. FLOC President Baldemar Velázquez is member of a Mexican farm-worker family who grew up watching his parents suffer the injustices of migrant workers. Inspired by the work of Cesar Chavez, Gandhi, and Martin Luther King, he vowed at an early age to change the living conditions of his community. Like Baldemar, many FLOC organizers were born into a farm-worker family. Roldan came to the United States as an undocumented worker during the 1980s when he

was in his mid-thirties. After working as a farm-worker for many years, he obtained amnesty in 1986 under the *Immigration Reform and Control Act*, and became a union organizer. Santiago shared a similar story. Santiago paid a coyote to cross the border and worked as a farm-worker in Ohio for three years to pay off his debt. Eventually he became an organizer with FLOC, crucial in enforcing recruitment standards for farm-workers. L. had also been working in the fields since she was just four years old.

I was born in Mexico, with two brothers and two sisters. My dad had been coming to the States since he was young, since he was 16. After he got married he would come to the States to send money home. When I was born my mom left and she came to the states with my dad. She was insecure about what my dad was doing here. She thought 'well, if he can earn enough money then the two of us can earn even more money.' So she left and for the first year and a half she was in the States. My grandmother took care of me and my sisters for that time. Then she came back because she couldn't stay away from her children. It was too hard for her. But then when I was older we had the necessity again. My mother wasn't willing to separate the family anymore. Neither was she willing to let my dad come by himself. So she said we put up with what we have in Mexico or we all go together. So we did. We crossed the border with me and my sister. That was before my mom had another baby. My little brother was only eight months old then. Me and my sister, we crossed the river. We had a coyote [that] smuggled us. He was a friend of my dad and he smuggled us from the river to - I don't remember where because I was too young. My mum had my baby brother in her arms and we walked across the river. And of course the smuggler had... My dad had Dora. Dora is my sister's name. My dad had Dora on his shoulders holding on to a rope where I was and my dad was holding up mom too... We got across and we landed in a very dark place where I guess people welcomed people that crossed and... We crossed the big river and we landed in Harington Texas. My older sister and my middle brother came later. They borrowed papers from another two kids that were around the same age group so they crossed like that. We were in Harington for a while but we didn't have much work. So we run up to Ohio for the first time to pick cucumbers and tomatoes. [...] We used to... back then there was no daycare program in Ohio so my mom would take us all and she would just take a sheet and put two sticks on the ground and she would make like a cover for the sun and that's what we did, while we were working my little baby brother would stay there. He was five then and he used to say "I'm not working" and so his job was to take the water to us while we were working. I was out there all day and of course I'd sit down a lot... [laughs] It was hot but I started receiving my first paycheck when I was 12 and I was going to school.

The difficulties that many organizers experienced when they were farm-workers became their strongest motivation for changing the conditions of farm-labor. As L. said: "When you grow up like that, you grow up angry". The union is a way "to turn that anger into motivation". In general, this motivation was vital to overcome a number of obstacles in guest-worker organizing. In fact, farm-workers are traditionally considered as one of the hardest categories to organize. "Dispersion [of employment] is no doubt one of the principal reasons for the failure of hired farm-workers to organize into unions" (Morin 1952, 34). Unlike union organizing in the industrial sector, organizing in the countryside has to deal with the geographical distance between workers. Workers live far away from each other and have very little mobility. Therefore talking to the workers requires long hours spent driving just to reach a handful of remote camps and speak individually with a dozen workers. While this is "just" a logistical difficulty, farm-labor organizing is also characterized by several psychological barriers. As Alexander Morin has explained (1952), farm-workers are typically identified with farm-owning, rather than farm-working. The hope of escaping wage employment in agriculture often results in a general hostility towards union membership. Generally speaking, "joining a union with fellow farm-workers" is not one of the main "long-term aspirations for farm-workers", argues Morin (1952, 43). In the case of Mexican farm-workers, resistance to union participation was made even harder by "pride", a national trait that FLOC national coordinator often mentioned as being one of the main deterrents to union membership. As L. explained, pride had been a problem with a number of workers, including her father.

It was 1986 when we met the union. My dad was skeptical and proud. He thought that if anything bad happens we should be strong enough as a family to go through it on our own. We don't need other people to come through our businesses and lives and things like that. So they had a hard time convincing him to become a member. Every year after the pickle season ended we went down to Florida for the oranges and the strawberries. The stream was like that: from Ohio to Florida. For 12 years we did the stream. Eventually after working under union contract and working in camps that were not under union contract my dad could see the difference. My dad could see the difference in pay, in housing, in everything. So after a while he was convinced that the union was a good thing, and he eventually he explained and asked for support from his fellow workers. He grew really strong and was a camp representative for 5 years. The camp representative works like a union steward. At every camp they have their representative, he is the one that talks to the union and that talks to the workers. My dad was the first person that a union came to when they needed to communicate something.

Another problem was fear. "A work force that has so little to gain and so much to lose from talking about their workplace problems with 'outsiders'" is very difficult to organize (Riley, Hogan 2002), explained former FLOC organiser Nick Wood. It is necessary to establish a relationship of "trust" with the workers, but such a relationship is often difficult to achieve due both to the high rates of turnover amongst the workers, and to the fact that very often the season is over by the time such a relationship is established. Commenting on the many difficulties facing farm-labor organizing, Harvard economist John Dunlop declared in a 2001 interview that helping FLOC to establish Collective Bargaining relationships with cucumber and tomato processors and farmers in 1986 was one of the three major challenges of his career, the other two being dealing with a student strike at Harvard in 1969 as acting dean, and resolving a jurisdictional dispute in the construction industry in the 1950s (Kaufman 2002, 332). Proud, vulnerable, politically and geographically isolated, and accustomed to being "used by everyone since coming here" (Riley, Hogan 2002), farm-workers constitute a challenge for unions. Given the obstacles that characterized the campaign, the successful achievement of a labor contract required total commitment on the part of the organizers. In fact, as B. explained during his interview, FLOC's secret is very simple: you have to give "every ounce of yourself".

## 6.2 The Affective Dimensions of Farm-Labor Organizing

Fear and pride are not the only affective dimensions of farm-labor organizing. Courage and self-sacrifice are just as important. As B. said,

They [the workers] have to see that you are there and that you are not going anywhere. [That] you are committed to them. When the workers don't trust you, when they don't trust your intentions or what you are doing, then you're fighting a lost battle. You have to earn their trust. You have to earn it by being there every day and by giving them every ounce of yourself. Just giving yourself. It's about showing people through action and through, through action, and then getting results from that action, that it's possible. You have to show people that when they do get together and they do something and they win it then it's possible. Step by step the people realize that they can: they can do anything, they can do what they want, they have the power in their hands. If you give yourself to it, when you give yourself to it, it's just a matter of time. Just a matter of time. [...] It's a process.

In contrast to a common utilitarian model that grants the emergence of a movement in terms of the basis of opportunity, FLOC's lack of resources



Figura 21. Boycott, North Carolina. *Boicoteo, Carolina del Norte*

pushed the union to create a model that is characterized “more by solidarity and principle than by individual self-interest” (Fireman, Gamson 1979, 10). As Bruce Fireman and William Gamson argued (1979, 10), self-interest models cannot explain why ideologically committed movement participants may be willing to sacrifice their time, their welfare, sometimes even their lives, to a cause. In fact, the organizers spoke of self-sacrifice rather than self-interest. Throughout the campaign, the organizers worked tirelessly, from early in the morning until eleven or midnight every night, seven days a week without a break. As Berger and Reza argue (1994, 134):

Over the years there has been some self-selection in the people who have been at the core of FLOC. We have observed a pattern of self-sacrifice in their commitment to the cause. They have also had a high level of tolerance and patience in following their vision throughout the long struggle with many obstacles.

This was precisely the case anytime I was visiting the camps. Each day they would drive for hours and hours, trying to reach the greatest possible number of camps, in every county of North Carolina. In this sense, organizers endured any discomfort for the campaign, putting their personal needs after the needs of their mission, in a practice that often resulted in sleep deprivation and an unhealthy diet. At the same time, union representatives were exposed to political challenges – arrested or threatened with detention, when not explicitly intimidated by violence. In this sense, the conditions of farm-labor are undeniably difficult not only for the workers, but also for the organizers themselves who experienced high rates of exhaustion and burnout. The ability to work through these challenges created a strong bond of solidarity and commonality with the workers. As B. said, that is what a union is about.

A union is when the people take the power into their own hands when they are highly organized. Taking power into their own hands and using that power to get the things that they need. I don't consider myself to be union smart [...] I didn't even know what a union was before I worked with the UFW. And I don't consider myself necessarily to be 100 percent pro-union, there are a lot of unions that I don't like. But with FLOC, I've seen what it means to be committed to a community, working with a community, building strengths; that's what a union is: sacrifice and working together to do whatever you need to do to make your vision come true, whatever that vision is.

In this formulation, a union is not merely an institutional actor; it is a process of mobilization through which different social groups become one political subject committed to create new social relations of production. When asked what a union is, B. said:

A union is movement: movement, movement, movement! It is not a business. The workers are not commodities. They are everything to me: I learn from them, I learn a lot from them just about what's important and what's not important, about their spirit. They inspire me, they teach me, they school me, they are [pause] my comrades, my friends... everything.

A union is based on principles opposite to those that define capitalism: not utilitarianism but solidarity, not competition but cooperation. Asked what the workers represent, A. said

they are everything to me, you know they are everything. That's what I'm here for. I feel blessed to do this work. My job as a union organizer is always to find new ways for the workers to speak their voice. My job is to be there, open the door for the workers get them in the door and have

them share their truth. So for me it's like the workers are everything. They are the movement. My job as an organizer is to let their voice be heard and amplify their voice. They inspire me, teach me, school me, they are like... My comrades, my friends... all of that.

From this perspective, FLOC seems to be a movement whereby the notion of identity is developed with respect to common needs, common beliefs, and an overreaching commitment to the cause. The element of irrationality that characterizes social movements in FLOC's experience translates into a superior experience characterized by a strong sense of religious faith and ethical belief. In this context, L. defined the union as being almost like a "mission" for social justice. "I was put on this earth for my people, I need to be there. My faith keeps me going", she said. This element of faith ensured FLOC great solidarity at the grassroots level. Inspired by non-violent leaders, the FLOC President believed that consumers' awareness and solidarity could become a catalyst to mobilize popular support in churches, schools and communities throughout the country. In time, FLOC ceased to be merely a union and became a movement, committed to enforce the right to self-determination of all those who have been marginalized and exploited. In this sense, the FLOC campaign was often perceived as a mission for social justice. Asked about how and why the workers became involved with the campaign, their answer largely reflected this sense of social responsibility.

What the workers are doing in North Carolina is they are trying to unite, because if we unite we can bring about a proposal, a proposal for a new code of conduct for the growers and we can interrupt this system of discrimination. We want to educate Americans and teach them that we are humans. We want to change their ideas about racism and the racism in their culture. [...] I never have been afraid because I believe in justice. I believe in justice and I believe in the struggle. The workers are able to defend themselves. It doesn't matter if they speak the language. It doesn't matter if they are being discriminated or exploited. They are able to defend themselves. So I will not stay idle and I will keep working for change. I want to change the economic life of Mexico. I want to change farm-labor in the US, making sure that our rights are respected. I want there to be a change in the way in which I am treated as a worker. That is what I want to change. And as a union I know that this can be done. This can be done together. Now there's a lot to be changed. That's why we will continue. We will continue until we change it. [Alejandro]

In respect to the union my goal is to contribute to eradicating and ending all injustices. Unfortunately in Mexico we don't have ... or I do not consider myself to be someone that can obtain a work without recom-

mentation. If they know me they know that they hire me because I can work 100%. I don't want to be hired by people that give me a job out of charity or want to "help" me. I want to be hired because I can do the job. Whatever I have I have because I've gained it merely with my work, only by my struggle. *Mieramente lucha*. [Maurice]

The reason why I decided to work with the union is that I have a fighting spirit. *Tiengo un espiritu de lucha*. The thing is that it is very hard to work with the growers. It's hard. What we want is for the growers to recognize our labor. Besides paying us a just wage, we want them to appreciate our job. We want them to see that we are working with love and dedication. We are giving them all we can and we want them to recognize this. We want them to see this, we want them to treat us like people, not like animals or machines. Is that too much to ask? I just want my employer to recognize that I am as human as he is. And then we want to have the opportunity to come back even if we get sick, even if we get injured. We musn't live with the uncertainty that if anything unpredictable happens we may be blacklisted or punished. If I am a member of the union and I pay my quota then they have to call me back. I do this because I want to live well. I want to be treated well I don't want to be threatened or intimidated. If I do something bad I want them to tell me not to shout at me. I am tired of hearing constantly that we need to do whatever they tell us because otherwise they deport us. I am tired of hearing this and I want this to change. [Demetrio]

Often times, FLOC organizers and workers use a religious language to define their work with the union. Farm-labor organizing is a mission to them that requires a certain faith and spirit. To some extent, they perceive themselves as an embodiment of historical necessity, individuals called on earth to pursue a greater good.

We will continue struggling and give it all we got, because there is still work to do. We will never forget those that started this, those that made it possible, those workers and leaders who were in the front lines of the campaign and the union. Right now we do it for ourselves and for our families in Mexico, but we also sign this contract for the future generations who will follow us in the coming years. *Hasta la Victoria, somos hermanos en la lucha*. [José]

## **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

Francesca Coin

# **7 The Human Right to Abuse**

**Summary** 7.1 Corporate Neglect and Anti-Union Practices – 7.2 The Inherent Anti-Union Character of Labor Externalization. – 7.3 A State of Fear. – 7.4 The Unconceivable Right. – 7.5 The White Supremacist Roots of Anti-Unionism

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.

## **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

## **Conclusion**

### **Beyond the Politics of Plight**

Upon signing the labor contract with the Farm-labor Organising Committee and the Mount Olive Pickle Company, many growers have left agriculture altogether and taken advantage of the tobacco buyout to just “take the money and go”. About five hundred growers simply left the North Carolina Growers Association, in an attempt to circumvent the labor agreement and continue to utilize the traditional exploitative labor practices it banned. The growers who remained in the association have either continued to externalize their production costs on the workers or complied with the union in its campaigns for better wages and working conditions. These four major responses to the labor campaign reflect two contradictory dynamics: on the one hand, they reflect some growers’ continued identification with agribusiness and their attempt to survive in the market by externalizing their labor costs on the workers; on the other hand, they reflect other growers’ identification with the workers in their demand for better working conditions for both groups.

Ten years after the bargain agreement, growers have been further losing ground. According to the North Carolina Farm Bureau, “approximately 50 percent of tobacco growers stopped growing after the buyout; smaller growers were forced out, and the 2,000 to 3,000 remaining farms got larger” (quoted in Oxfam 2011, 45). Strict dependence on the market has made it overwhelmingly difficult to survive on the land. “The risk-to-reward ratio is badly out of balance. [...] The grower is taking all the risk”, commented a grower in Sampson County, North Carolina (quoted in Oxfam 2011, 50). In this context, it cannot be expected that many North Carolina farmers will change their attitude towards the union. It is, however, important to highlight that farmers play a crucial role in this transition.

In his fascinating analysis of tobacco in North Carolina, Peter Benson focuses largely on the growers’ experience of the farm crisis. Benson introduces the case of Dwight Watson, a tobacco farmer who drove a tractor into Washington, D.C. wearing an ill-fitting military helmet and supposedly carrying explosive to publicize what he called the “plight” of tobacco growers (Benson 2012, 16). Benson quotes the social critic Susan Faludi (1999) and maintains that she would probably consider Dwight Watson as an ex-

ample of what she calls the “betrayal of the American man”. Citing scholar and social theorist Lauren Berlant, Benson moves beyond the notion of betrayal to speak of “imperilled privilege”, a “social strategy of reasserting and maintaining structures of comparative advantage and discrediting policies that aim to bring about a more equitable and just society as excessive concessions to undeserving constituencies and grave threats to the tacitly white family as the national icon” (Lipsitz 2006, 454-6; Berlant 1997, 6, quoted in Benson 2012, 16). The description that Benson provides of North Carolina growers fits the labor conditions of farm workers that we have so far described. According to Benson, the imperilled privilege of farmers unveils a sense of “power and entitlement at the same time as it was furled by farm loss and the feeling that power is slipping away” (Benson 2012, 19) In a sense, whenever we speak of farmers we find ourselves in a contradictory position which juxtaposes traditional privileges with current economic hardships - a situation whereby the recruitment of vulnerable farm-workers looks like an easy scapegoat. Benson speaks of the “plighted citizen” to describe the social construction of an innocent citizen forced to endure a situation of misfortune and disadvantage. At the same time, he goes on to say that

Reference to the plight of tobacco farmers seems congenial [...] but there is a political valence that is linked to the depiction of economic crisis and hard times as a uniform, national condition, the concealment of race and class stratification, and the appropriation of victimhood and discrimination for the benefit of white constituencies. (Benson 2012, 26)

In this sense, the politics of plight and victimhood help explain the apparent legitimacy regarding the continued abuse of migrant workers. In fact, victimhood and the collective feeling of being conspired against give legitimacy to any attempt to externalize economic decline onto others. In a sense, it can be said that white farmers hide the exploitative relationship they maintain with farm-workers behind victimhood and the politics of plight. In this perspective, it is true that farmers “have a lot more in common with farm-workers than they have with corporate agribusiness giants” (Velásquez 1998, 25). At the same time, we could paraphrase David Roediger and say that the farmer “creates a pornography of his former life [...] in order to insure that he will not slip back into the old ways or act out half-suppressed fantasies” (Roediger 1999, 95).

As I write, different sets of data have highlighted the continued emergency facing rural America. In December 2017, former farmer Debbie Weingarten used recent data from the Farm Household Income Forecast to expose the increase of suicides on US farms. According to the 2017 Farm Household Income Forecast (USDA 2017), farmers have experienced a 50 percent drop in net farm income since 2013. As a consequence, “slightly

more than half of farm households earn positive off-farm income". In other words, farmers must secure off-farm income to compensate for prices that remain below the cost of production. Quoting the Centre for Disease and Control Prevention study *Suicide Rates by Occupational Group*, Debbie Weingarten observed that people working in agriculture have a suicide rate higher than any other occupation (Weingarten, Mulkern 2017). In commenting on these data, psychologist and Iowa farmer Mike Rosmann wrote that "the rate of self-imposed [farmer] death rises and falls in accordance with their economic well-being ... Suicide is currently rising because of our current farm recession" (quoted in Weingarten, Mulkern 2017). Over the same months, a survey by the American Farm Bureau Federation and the National Farmers Union have shown that 74% of farmers and farm workers have been directly impacted by the opioid epidemic as well as 45% of rural adults (NFU 2017). AFBF President Zippy Duvall commented "we've known for some time that opioid addiction was a serious problem in farm country, but numbers like these are heartbreaking" (quoted in NFU 2017). In general, the farm crisis is becoming an emergency. In this sense, improving the living conditions in rural America requires that we abandon economic nostalgia and dissect the neoliberal forces that have contributed to destabilize rural communities before they deteriorate into conservative extremism (Benson 2012). Recognizing the interdependence of all rural actors and encouraging farmers to demand corporate responsibility is vital in order to challenge the ongoing racism and labor exploitation that pervades our societies. In this sense, making sure that growers become sensitive to the workers' demand for better working conditions is the first step towards reducing economic violence and improving democracy and labor conditions at all levels of the food-chain.



## **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

# **Appendix**

## **Notes on Methodology**

**Summary** 1 Notes on Methodology. – 2 Fields of Solidarity and Violence. – 3 The Importance of the Workers' Grievances. – 4 The Political Economy of Farm-Labor. – 5 Lessons from Farm-Labor Organizing in the Age of Trump.

### **1 Notes on Methodology**

This study investigates why farm-labor has remained one of the most hazardous occupations in the United States many years after Edward Murrow's *Harvest of Shame* (1961). Having been conducted over a period of 15 years, it combines a number of different methodological approaches adopted at different times. In the early years of this work, I combined an ethnographic approach with a political sociology perspective to analyze the ways in which workers and growers negotiate their position in the food-chain. Secondly, I applied the methods of political economy to study the social relations of production within the US-Mexico food-chain. It was my intent to listen closely to the voices of the workers and to look at social research as an instrument of social change. As the pursuit of a closer relationship with the workers was both ethically and methodologically important, a multi-faceted representation of the humanity of these workers required that I interacted with them in situations other than the camps where they lived in North Carolina. In this sense, this study became a transnational analysis of farm-labor that took me from the fields of North Carolina to the Mexican countryside.

In general, I began this work in 2004. Between 2004 and 2007 I visited North Carolina regularly every few months. In that period I spent about 6 months in the field. Beyond my stay in North Carolina in 2004, 2005, and 2006 and my visit to Mexico in 2005, my activity with FLOC continued in Atlanta with a small group of FLOC sympathizers who worked to organize a few events and fundraisers. In this sense, during that time my constant presence in the union's activity helped me to consolidate my relationship with the workers and organizers. In the same period I carried out 26 in-depth, face-to-face, semi-structured interviews with the workers across the

Mexico border. In Mexico, I had an opportunity to meet the workers' families and spend several days at the workers' houses and live with one union organizer. Often times my relationship with the workers and the union organizers almost developed into a friendship. On top of that, I analyzed 441 grievances - about ten thousand pages of documents which chronicle the problems workers encounter in the fields. In general, all my conversations were in-depth, semi-structured, face-to-face interviews. Often it took several evenings with the workers before they agreed to the interview. In a few cases like those of Geraldo and Alfonso, the workers would "size me up" for several days before they began to trust me. They were afraid to talk, they said, because they had been threatened and intimidated many times before. On many occasions my conversations with the workers continued long after I turned off my tape recorder. In general, my interviews of the organizers were conducted in English, while my interviews with the workers were conducted in Spanish.

## 2 Fields of Solidarity and Violence

Throughout my study, I had access to the North Carolina fields through FLOC. The decision to access the fields via a farm-worker union constituted a specific ethical and methodological choice: I wanted to look at the world from the perspective of the most vulnerable actors. This decision was inspired by the work of feminist methodologists and anthropologists, who stressed the importance of using social research to "give voice" to the marginal groups of society. Just like Marxism, gay and lesbian studies, black studies and post-colonial theory have emphasized the role of research as a praxis leading to liberation, so feminist research considers social research as a methodology that "does not prescribe the use of any research method" but only "a shared commitment to questions" (De Vault 1996, 30). These principles have informed my research in different ways. In fact, these Mexican farm-workers really did not have a voice. The great majority of them did not speak English and lived in conditions of isolation and political vulnerability. The social and political isolation of these workers generated in me a spontaneous empathy and almost a need to use social research to shed light on their stories. In general, while empathy is necessary to ethnography, an empathetic relationship between the observer and the observed may also involve certain risks.

In order to prevent the emergence of a simplified interpretative model, I paid attention to the multiple economic constraints that today confront the US family-farm and stressed how the conditions of farm-labor are intertwined with a combination of structural factors. This approach prevented me from personalizing the causes of the deterioration of farm-labor and allowed me to focus instead on the challenges that today confront farmers

and farm-workers alike. Aside from the above, this approach stimulated me to listen closely to the voices of these workers and to look at social research as an instrument of social change. In *The Vulnerable Observer: Anthropology That Breaks Your Heart* (1996), Ruth Behar does away with the notion of the objective observer and maintains that the ability to look at the subject under study from a vulnerable and emotional perspective facilitates a process of “revelation” and “self-revelation” that allows the researcher a deeper understanding of the other person’s world and culture. In this sense, Behar stresses that the feminist values of closeness, trust, and emotional participation are not only instruments of ethnographic research but mediums of protest and social change. In my research, the pursuit of a closer relationship to the subject thus became both a methodological instrument and an ethical commitment. In fact, the portrait of the multi-sided humanity of these workers was necessary to widen their otherwise often one-dimensional representation as objectified laborers. While the pursuit of a closer relationship with the workers was both ethically and methodologically important, it was, however, not a simple task. In North Carolina, the life of these workers is largely characterised by very repressive conditions. Far from being multi-sided, such conditions reduce the lives of H-2A workers to basic tasks and mere survival. A more complex representation of the humanity of these workers required that I interact with them in situations other than those camps. I felt an ethical obligation to meet these workers on the other side of the border, in their homes in Mexico, or in Monterrey before their departure for the United States. This aim required a transnational research methodology that took me from the fields of North Carolina to the Mexican countryside.

In 2005, FLOC opened a new office in Monterrey in order to supervise the recruitment procedure in Mexico. At the time, the union had opened a “Hospitality House” in Monterrey, where those workers whose departure date had been postponed indefinitely could stay for free until they were ready to leave for the United States. The Hospitality House became the setting for most of my interviews. Before my departure for Mexico, I was planning to use a quota sampling system to select the workers to interview. My idea was to use FLOC’s employment lists as a sampling frame, and select a number of workers that was representative of the total population in terms of gender and seniority. In fact, the political situation that characterized my stay in Mexico forced me to rely on an availability sample. While I was in Mexico there was a national campaign against the activity of the union in the country. Union organiser B. had been arrested the day prior to my arrival, and throughout that time not only were the organizers under great pressure but my activity was often interrupted by the police. Possibly mistaking me for someone from the press, the authorities required to see my papers at least a couple of times every day, asking me to give them my notebook, my tape recorder and my documents. In those

conditions, it was very difficult to talk to the workers or conduct any interview in a public place. After a few days in the field, I decided to rely on an availability sample and to do most of my interviews at the Hospitality House. The pervasive experience of social control also forced me to think more closely about the role of the researcher in the field in settings that are either politically charged or violent. This was destined to become a topic of academic reflection in the following years. In fact, the tragic murder of Giulio Regeni, a PhD student from Cambridge University studying labor movement in Egypt, made it clear that universities should do more to protect students and researchers investigating topics that are politically charged or conducting their research in dangerous contexts. At that time, such discussions were non-existent and the campaign of intimidation that targeted FLOC, ranging from several episodes of detention and culminating in the violent torture of one FLOC union organizer, was challenging on an intellectual, political and emotional level.

In the end, I interviewed most of the workers at the Hospitality House. At the time, the departure of a group of one hundred workers from Mexico to the United States had been postponed indefinitely, and many workers were temporarily in residence there. The Hospitality House was the perfect setting for interviews. Not only was it protected from the difficult outside situation, but it was very quiet and private. At the time, the workers spent their days laboring at a nearby market, in order to gain a few pesos and eventually earn the necessary resources to travel back home. It was mostly in the evenings when they came back from work that I had an opportunity to interview them.

My relationship with the workers greatly benefited of the time spent in Mexico. While in North Carolina my attempts to talk with the workers were often characterized by a sense of suspicion and fear, in Mexico these power-dynamics largely faded away. In fact, in Mexico I was the one "out of my element" and to not know "my way around." As a result, the background of fear that characterized our relationship in the United States largely translated into a sense of collaboration. During my interviews I made extensive use of probing in order to minimize issues of interpretation and validity. The fact that I was living with one labor organizer in Mexico and could discuss matters with him in depth in addition to interviewing him and the other organizers, made it simpler to ensure that I could collect all the elements I needed for interpretation of the data. In general, several interviews took place at the office in Monterrey. The rest of my interviews with FLOC organizers took place either at the FLOC's office in North Carolina or at my home in Atlanta. In fact, since 2004 I have been visited several times by FLOC organizers: they would stay at my home any time the campaign brought them to Atlanta. On those occasions there was often plenty of time to talk, to conduct follow-up interviews, and to receive updates about the workers and the campaign.

### 3 The Importance of the Workers' Grievances

The grievances have been a key part of this project. While before September 2004 the grievances were collected by FLOC informally, after the introduction of the *Collective Bargain Agreement* (CBA) with the NCGA and MOPC, the grievance procedure became an official tool for the union to work towards the resolution of the workers' complaints in collaboration with the NCGA. Between September 2004 and December 2006, workers filed hundreds of grievances. Most of these grievances have been recorded and collected in order to allow FLOC to become an active agent in their resolution. As rich sources of data, the grievances chronicle the problems that workers experience in the camps and in their working environment. The importance of the grievances as opposed to data collected through participant observation and in-depth interviews lies in the fact that the grievances are unobtrusive data sources that reduce the observer effects of quantitative research. The grievances reduce the bias that results from the intrusion of the researcher in the field and they are more likely to have a more limited negative effect on the validity of the data they collect. Given the vulnerable population that is the focus of my research, the grievances allowed me to study the workers' situation in North Carolina while reducing the production of non-representational data. Further to this advantage, the grievances gave me the opportunity to study the interaction between FLOC and the NCGA. In fact, each complaint was not only an example of the ways in which the growers related to the workers in terms of labor standards, but also a representation of the ways in which the FLOC and the Growers' Association had different interpretations of particular issues. From a methodological point of view, it is important to notice that although the analysis of the grievances *per se* did not require any fieldwork, it was because of my extensive fieldwork that I had the opportunity to analyze them. While my initial relationship with FLOC was rather challenging and characterized by the difficulties of the campaign, in time I was able to build a relationship of trust with the organizers. During my first visits, I had to constantly renegotiate my access to the field, in order to "prove" to union members that I was not intending to harm the workers. As I entered the field more deeply, I was able to develop a relationship of trust with many workers and organizers. Such a relationship became consolidated over time after visiting North Carolina and Mexico and on the basis of my activity with a small group of FLOC sympathisers in Atlanta. As a result, when it came to analyzing the grievances, the national coordinator gave me complete access to their archives as indicative of the trust that had come to characterize our relationship.

Overall, I analyzed 441 grievances: 121 from 2004; 181 from 2005 and 139 from 2006. The simplest grievances required the exchange of only a few emails, whereas the most complex cases required the exchange of even thirty to forty emails. On average, each grievance included multi-

ple documents from multiple parties, a factor that leads me to estimate that the overall amount of grievances that I have analyzed is about ten thousand pages. In fact, the grievances did not only report the basic problems that the workers experienced in the North Carolina fields and during the recruitment process in Mexico, but also the different steps that were taken by the union, the NCGA and the recruiting agency MOA towards their resolution. Moreover, they detailed not only the original complaint for which the grievance was filed but also the different interpretations that the NCGA and FLOC gave of the problem, and the multiple obstacles and communication problems that challenged the reaching of an agreement in their resolution. Many times, the grievances included documents from third parties such as lawyers, union liaisons, workers, doctors, and other public figures who were involved in the dispute. Most of the time, the grievances reported cases in which the growers violated the rules of the H-2A program or the CBA. Usually, it was FLOC asking the NCGA for compensation and the NCGA responding with more or less compliance.

In order to analyze the grievances, I used qualitative content analysis. Although I analyzed several hundred grievances, these materials did not encompass the entirety of the problems experienced by farm-workers in North Carolina, but rather a broad sample. This was due to two factors: not all the extant problems were reported in the form of grievances, and FLOC did not keep a record of all the grievances that were filed. In this sense, it was not possible to measure a trend or identify what problems are prevalent in North Carolina, but only to explore what dynamics shaped each situation individually. Additionally, the grievances did not necessarily specify how many workers were involved in each episode: overall there were thousands of workers involved in these issues. Sometimes a single grievance involved several hundred workers, and other times more than one grievance was filed by one person. Many times the number of people involved in each complaint was not specified. In this sense, it was often not possible to use the grievances to estimate the quantitative preponderance of a specific situation in the fields, because the numeric prevalence of certain types of complaints was not indicative of their effective prevalence.

Traditionally, most of the violations that occur under the H-2A program have been categorized by the Department of Labor as conditions relating to the risk of double standards for immigrants. These problems include the risks of substandard housing, below-poverty wages, and health-related hazards. The Department of Labor has set out specific definitions for each one of these problems. Given the general concern that the H-2A program could “adversely affect” the wages and working conditions of US workers, the Department of Labor requested the growers to respect the Adverse Effect Wage Rate (AEWR) set every year for each state. In 2004 in North Carolina, the AEWR was set at 8.06 dollars per hour, which means that the workers picking on a piece-rate basis had to make at least that overall

minimum wage. On top of respecting the AEWR, the DOL requires growers to provide all workers with a “three-quarters guarantee”, that is to say that they must provide wages for at least three quarters of the hours established in the labor contract. Moreover, growers must provide free housing that complies with the Occupational Safety and Health Administration (OSHA) standards. OSHA regulations require that employers provide access to water, toilets and hand-washing facilities for their employees. The OSHA standards are coupled with the Environmental Protection Agency standards, which regulate farm-worker exposure to dust and pesticides. On top of the regulations set by the Department of Labor, the *Collective Bargain Agreement* established that the growers must provide the workers with compensation for their job-related injuries and illnesses, and that they must reimburse them for the cost of transportation from their home country to the place of employment and back (upon completion of a specified portion of the contract). The CBA enforces recruitment standards in Mexico and the right to preferential employment for union workers with seniority. The contract also mandated that workers should be not charged more than 340 dollars for their visa and trip to the United States (an amount that previously bordered on 600 dollars); that the workers should not be subject to punishments, discrimination, harassment or blacklisting, and that they should be recruited according to specific recruitment standards. While health and safety grievances and cases of abuse and discrimination have been reported both before and after the establishment of the CBA, it is only since the establishment of the labor contract that these rights were recognized. Before I began my analysis, FLOC suggested that I categorize grievances according to these definitions. Although these foundations have been created in order to prevent a dual labor market characterized by second-class workers in a situation of occupational and housing segregation, these rules have in fact been consistently violated in North Carolina. It was therefore important to understand what types of violations were still taking place under the H-2A program. For this reason, the union suggested the division of grievances into five categories:

1. Health and safety grievances, to describe cases of workers experiencing substandard working and living conditions.
2. Lost wages, unpaid working hours, and violations of the three-quarters guarantee.
3. Reimbursement grievances, which included issues concerning the reimbursement of the trip to and from Mexico and of all fees paid during the recruitment process; sickness and injuries in the working place and bereavement leave.
4. Enforcement of recruitment standards.
5. Seniority violations, which describe cases of workers who were excluded from the recruitment process despite their seniority, often due to their union membership.

As the union gave me these preliminary categories for my study, I used both a level of induction and a level of deduction to validate them. I validated my preliminary categories by moving deductively from general to specific, and I used induction to compare my coding categories with the raw data. In this process, I searched for “themes”: single words, phrases, sentences, paragraphs, or entire documents – expressions that represented problems related to health and safety; reimbursement and recruitment; seniority violations or lost wages. From the theme I then moved on to the categories. Many times the union had already highlighted the main theme for each grievance and divided them into categories before I analyzed them. In the end, I maintained the five categories reported above, but I developed five subcategories within the “health and safety issues” category, which assumed particular importance: a) housing problems; b) problems in the fields c) health problems; d) lack of drinking water; e) cases of a worker’s death. Other times the grievances included multiple problems and complaints: in traditional content analysis, categories should generally be mutually exclusive, but in my case-study the grievances could not always be reduced to one single theme. In those cases in which the data reflected simultaneously more than one problem I created a “multiple grievances” category, which usually consisted of cases in which the workers experienced multiple and equally relevant violations. Only towards the end of my research did I manage to divide these grievances into specific categories, as I recognized the theoretical importance of one particular aspect of their content or the greater emphasis and detail that was used to describe it.

In my analysis, I used the grievances to highlight the most urgent problems in North Carolina, and I integrated them with interviews of the workers and the labor organizers. As evidence of the specific problems occurring in North Carolina and in Mexico during the recruitment process and the summer season, the grievances have indeed one major limitation: they document only the problems that the workers experience in the fields and they do not represent potentially harmonious situations. In this sense, the grievances do not saturate or express the totality of the experiences that characterize the life of farm-workers in North Carolina, but merely help shed light on those issues that most urgently demand resolution. It goes without saying that anonymity and confidentiality of participants have been respected at all times. In fact, pseudonyms for participants and for the specific location of each record and testimony have been used at all times to preserve anonymity. In addition, the reported personal details of participants have in some instances been altered to conceal their identities and protect confidentiality.

The grievances were my primary source even when I decided to continue this work in 2017. By then, the union itself ran a yearly analysis of the workers’ grievances intended to verify the labor conditions of farm-workers in the fields. Ten years later the conditions in the field had not changed in a relevant manner. Very clearly, the labor conditions of migrant

farm-workers in the fields are still extremely problematic. At the same time, the numerous grievances filed by the workers prove that the workers trust the grievances procedure as an effective method to report and resolve labor violations.

#### **4 The Political Economy of Farm-Labor**

To understand the continuity of such conditions, it was important to detail in what context these workers operate. When this project begun in 2004, big retailers externalized their costs on industrial suppliers, thus cutting the costs for the merchandise that it purchased, while lessening profits for manufacturers. In agriculture, the negotiating power of retailers was still largely under-analyzed. From the start, my intent was to understand whether the growing involvement of retailers such as Wal-Mart in agriculture was likely to deliver the same effects that the company had in industry, leading to practices of cost-externalization that would affect the farmers. Back in 2004, there was a limited number of publications addressing the influence of retailers in agriculture. In time, socio-economic studies have come to focus on the role of post-Fordist decentralization and externalization in agriculture. These works note that in the past five decades the process of production has become more and more fragmented, only coordinated and assembled in the Western headquarters and plants (Corrado 2017). On top of this, recent literature has emphasized the role of retailers in coordinating their outsourcing operations through a new system of communication, transportation and distribution, which have transformed retailers such as Wal-Mart into “global supply chains” (Corrado 2017, 10). The first retailer in history to become the greatest corporation in the world, Wal-Mart had the ability to centralize the means of consumption and to exercise unprecedented negotiating power over its suppliers. At the same time, big retailers such as Wal-Mart themselves represented the symptom of a global economy that had largely undermined food sovereignty in the peripheries and restructured agriculture, assisting a process of alimentary dependency on the corporate regime of countries such as the United States.

#### **5 Lessons from Farm-Labor Organizing in the Age of Trump**

In 2017, I decided to go back to analyzing the labor conditions of farm-workers in North Carolina. At that time, the union itself ran a yearly analysis of the workers’ grievances intended to verify the labor conditions of farm-workers in the fields according to the same categories we had used ten years earlier. At the same time, the union had taken its campaign to a global scale, leading to a number of in-depth reports from Human Rights

Watch, *The New York Times* and *The Guardian*. Mainstream media had brought to light the frequency of labor and human violations in the fields. Despite growing social awareness, the power of transnational corporations was undermining its activity. In addition, in 2017 the Trump administration declared its intention to transform right-to-work legislation into a federal law. The problem was not merely the decline of union membership among US workers but the way in which right-to-work laws were being pushed at state and federal level, hence undermining labor protections altogether. The ultimate example of union busting, right-to-work legislation has always had a racial intent. Especially in the South, union busting cannot be separated from the need to protect the labor exploitation of blacks and Latino workers, who are largely employed in vulnerable sectors such as farm-labor. Over recent months, all republican governors have signed right-to-work laws. In a sense, restricting collective bargaining rights is functional to protecting the corporate right to abuse and dismiss labor at will, a right to exploitation that is deeply intertwined with a racial understanding of labor relations. Currently, republicans are pushing right-to-work legislation in the entire private sector. In a sense, labor has never been so vulnerable and exposed to corporate abuse as it is today. In a national context deeply wounded by racism and white supremacy, the FLOC experience appears all the more important to describe new strategies of resistance in the current dark ages.

## Keep the Union at Bay

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In the United States, farm-workers are traditionally excluded from the Fair Labor Standards Act (FLSA) and from the National Labor Relations Act (NLRA) which guarantee basic rights to workers, including the right to organize and engage in collective bargaining. In a sense, farm-workers are confined to a secondary market characterized by substandard wages and labor conditions. This study explores how migrant farm-workers in North Carolina have responded to their labor conditions with a campaign that culminated in the achievement of the first labor contract for guest-workers in US history. Based on ethnographic research, it reflects upon the role of grassroots organizing in challenging a culture of racism that has remained dangerously alive in many parts of our society.

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