

Human Trafficking and Labor Exploitation in United States Fruit and Vegetable Production by Claire Luff George Mason University - Illicit Trade December 2021

Please tell people there are thousands of Mexicans on these farms just like me. We share the same experience. We are forced to work like this because of poverty. I do not think the Americans realize where their food comes from. If they knew they would not be happy.
-Enrique (from Modern Slavery by Siddharth Kara)

Introduction

There are several farm marketing systems in United States agriculture. In direct marketing systems, farmers sell their goods directly to the end user of the goods. Types of marketing that facilitate this exchange of goods are farmers' markets, community supported agriculture, selling directly to restaurants or institutions, on-farm sales, and internet marketing and delivery. In direct marketing systems, farm businesses can earn a larger share of the final sale price of goods than within indirect marketing systems, which most corporate farms utilize.

In the much larger, more standard agribusiness model of corporations in the United States, farms hire contracting companies known as farm labor contractors (FLCs) which take charge of bringing on and managing laborers. FLCs are often contracted to harvest and clean the produce, which is then transported to a storage facility and finally to the grocery store. Journalist Tracie McMillan in her 2012 book on the food system "The American Way of Eating: Undercover at Walmart, Applebee's Farm Fields, and the Dinner Table", found that only about 16% of the total price on the shelf goes to the farm business (McMillan 2012, 28). Meaning, only a small portion of the 16% is going to the laborers. The rest of that final price - 84% - goes to what is referred to as "marketing" costs" (McMillan 2012, 28). With such a small percentage of the final price of produce from this more complex agribusiness supply chain going to the laborers, there is a higher likelihood that those who are hired to do the manual labor work on farms are paid very low wages. Because of the high costs involved in the multi-step process of the supply chains, farms that utilize indirect marketing methods are therefore more likely to exploit their labor.

Labor trafficking in United States agriculture is driven by the increase in business competition as a result of globalization, consumer demand for low prices, and the outsourcing of farm labor. Labor trafficking is exacerbated by the rural nature of farms, the consolidation of farms in America and the United States government's current H2-A visa program. (It is important to note that the nature of the direct marketing model of farm business does not exclude these businesses from participating in labor trafficking. However, it does appear to happen less frequently in these types of farms, likely because farm labor contractors are not often utilized to locate laborers, and because there is a certain level of transparency that direct market farms inherently have.)

What is Labor Trafficking?

Agriculture has a long history of utilizing slaves for food production all over the world, from chattel slavery in the American South to modern child labor in Malaysian palm oil production and beyond. Though chattel slavery was abolished in the United States in 1865, many American citizens would be shocked to learn that forms of bondage still exist today, even in their own country.

In 2018, The National Human Trafficking Hotline received 10,658 potential cases of human trafficking to investigate via their tip line (The National Human Trafficking Hotline 2019). In 2017, the Polaris Project reported that there were 1529 cases of labor exploitation specifically in the agriculture sector in America (Anthony et al 2017, 33). But this was only the detected number of cases. There are many more that are not detected (TRACIT 2021, 8-9), due to the very rural nature of the work, or complicated because of the workers immigration status (SPLC 2013,15). The TRACIT report states: "Although the US Trafficking in Persons Report has emerged as an extremely valuable tool, its reliance on law enforcement data collected on the number of prosecutions, convictions and victims identified runs the risk to overlook the vast number of trafficking or forced labor cases that may never be reported" (TRACIT 2021,8-9).

Terms to indicate forms of bondage have changed over time. Peonage, debt slavery, debt servitude, and involuntary servitude are all terms that have been used to describe various forms of slavery (Kara 2011, 67). Today the most accepted term for slavery is "human trafficking", though some in the academic field challenge this term as it can be confusing for the public.

The U.S. Department of Justice (DOJ) defines human trafficking as: "a crime that involves compelling or coercing a person to provide labor or services, or to engage in commercial sex acts. The coercion can be subtle or overt, physical or psychological". Labor trafficking is "the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion" (DOJ National Strategy to Combat Human Trafficking 2017). DOJ also notes that other names for human trafficking are "trafficking in persons" or "modern-day slavery".

The key to defining whether a situation is labor trafficking is whether it occurred under "force, fraud, or coercion" (DOJ). But labor exploitation can still occur outside of those terms and does often in United States agriculture. Few statistics exist on labor trafficking in agriculture partly due to the large number of illegal migrants performing the work, so it is difficult to ascertain precise numbers. In their article, Bracy et al cite Clawson, Layne & Small's 2007 research that states: "Due to the covert nature of labor trafficking activities, creating reliable statistics on prevalence, frequency, geography, and other nuanced factors have been difficult to develop" (Bracy 2021, 35).

The numbers may be skewed because there is much confusion regarding labor trafficking, even by law enforcement officials (Barrick et al 2014, 2). Human trafficking can be mixed up with illegal immigration and human smuggling, which does not include force, fraud or coercion. People who are willing participants in illegally crossing the United States' border are at a high risk for being trafficked, however (Shelley 2010, 50). But without force, fraud or

coercion, labor exploitation is not considered labor trafficking (Owen et al 2015, 76). Much exploitation still exists, whether or not it qualifies as labor trafficking. It is helpful to think of exploitation as existing on a spectrum. "Labor exploitation applies to instances in which employers deny workers their rights under labor law, such as the right to fair compensation, working hours, and conditions..." (Owens et al 2015, 75). Along the scale of exploitation exist a multitude of varied abuses that victims of trafficking may suffer including, but not limited to wage theft, not being paid the minimum wage, document fraud, psychological manipulation, discrimination, and threats against the victims or their families (Owen et al 2015, 201).

The types of involuntary servitude related to labor trafficking include bonded labor, also known as debt bondage, and forced labor. Debt bondage is a system in which the victims take on debt - often related to the transportation costs of coming into the United States, and then pay off their debt through their labor. Forced labor means that the victims are "forced to work against their will, under threats of violence, or when their freedom of movement is restricted" (McCabe 2008, 41). Research conducted by Barrick et al indicates that there are thousands of victims of labor trafficking in the American agricultural industry that law enforcement officials have not yet discovered (Barrick et al 2014, 2).

Economics

In order to better understand the labor trafficking situation in America, it is helpful to consider several economic factors. Siddarth Kara writes of the two constant forces that drive human trafficking: a demand for profit on the part of the producer, and a demand for cheap goods on the part of the consumer (Kara 2011, 70). Labor, being one of the highest costs of production, is therefore targeted for cost reduction in order to lower the cost of goods. For unethical producers, exploiting their labor allows them to undercut their competition and capture more of the market share. Additionally, globalization means that producers are no longer just competing with their neighbors, or even just the people in their general geographic area - they are competing with producers from all over the world. One way to stay competitive in the market is to keep the price of goods low: "Producers often try to compete by minimizing price, and one of the most effective ways to do this while retaining profitability is to exploit labor" (Kara 2011, 70).

Meanwhile, struggling families in Mexico and Central America (and elsewhere) believe that they can find a better life in America. "The common human desire to make a better life for oneself and one's family, coupled with a lack of economic mobility [...] in their home countries motivated our sample of labor trafficking survivors to look elsewhere for employment opportunities" (Owen et al 2015, 198). Many people travel to work in America specifically so they can send money back to their families. Sadly, this push factor from the less developed economic areas means that those who are targeted and become victims of labor trafficking are impoverished, from rural areas, and usually indigenous (Lesue 2016, 3).

Crossing the Border and After Effects

Oftentimes, workers who want to come into the United States are recruited by private labor recruiters in Latin America. They seek out potential laborers to travel to the United States. The recruiters then "charge fees to the worker — sometimes thousands of dollars — to cover travel, visas and other costs, including profit for the recruiters" (Southern Poverty Law Center (SPLC) 2013, 9). As mentioned, without work to support their families, many men believe that coming to the United States is the answer to finding reliable, well-paid work. Desperate to cross

the border, but lacking the funds needed to pay to cross (or be smuggled) to the US, migrants will take out high interest loans (SPLC 2013, 9) or even agree to hand over the deed to their family holdings as collateral for crossing. “The families of the individual often signed over their personal properties such as land” (Iesue 2016, 2). Migrants start the journey through the desert, but the *coyotes* (border crossing guides) might demand more money along the way. The fees can add up, as the migrants have a choice between paying the excess fees or being left stranded in the desert. The “debt” incurred from crossing becomes something that must be repaid via labor, and the migrants have entered the debt bondage system. The family holdings that have been handed over to the recruiter back home can now be used as a manipulation tool; threatening to take the family land or house away from the families of the migrants is one way that migrants feel compelled to stay in bad labor situations (Kara 2017, 80).

Once the migrants have crossed into the US, they are taken into the custody of farm labor contractors and transported to often ramshackle housing. The farm labor contractor may confiscate the passports or other paperwork of legal migrants, and in the case that the migrants would like to leave, the contractor threatens to report them to the authorities as illegal migrants.

Control over a worker’s immigration status (whether in the United States on temporary visas or unauthorized) was one of the most powerful mechanisms used to keep workers in forced labor. Victims would continue laboring in abusive conditions because they were told their visas would be extended or that they would be unauthorized if they tried to leave, and the trafficker would threaten to call immigration and have them deported. In many cases, the traffickers’ threats had some truth to them. (Owen et al 2015, 199)

Since these legal migrants do not have access to the paperwork that proves they are legally in the United States, they are forced to stay and work to pay off their “debt”. This amounts to debt bondage.

The North American Free Trade Agreement (NAFTA), enacted in 1994, worsened the economic problems in rural Mexico (McMillan 2012, 63). “While the self-sufficient subsistence farming that characterized the economy in rural southern Mexico since colonial times had been declining since the mid-twentieth century, the introduction of subsidized American corn to the Mexican market decimated Mexican corn farmers” (ibid). Larger owners took over what had been traditional Mexican subsistence farms, driving a migration north for Indigenous workers seeking employment (Shelley 2010, 42). Through the process described in this section, Mexican migrants made their way into the United States, whether through obtaining U.S. visas and subsequent travel, or through illegal border crossing.

United States Visa Program for Agricultural Workers

It is not just illegal migrants that are vulnerable to labor trafficking. Even those who cross the border while under sponsorship of a legitimate company are at risk.

From importing African slaves to work on plantations pre-Civil War to the Bracero program of the 1940 to the 1960s, farms in the United States have a history of utilizing low wage laborers (or no wage laborers) to do the labor required in growing produce. The Bracero program was an agreement signed between the U.S. and Mexico, also known as the Mexican Agricultural Labor Program. During WWII, laborers in the agricultural field sought higher-paying jobs in the defense industry. Because of this labor shortage in agriculture, the Bracero program allowed U.S. farms to contract with Mexican citizens to be guest workers on American farms.

The program provided the following benefits for the workers: free sanitary housing, medical treatment, bathing facilities, transportation, and wages equal to those of American farm workers (SPLC 2013, 3-4). Yet despite guarantees written in the contracts, farms did not always supply these benefits, nor did the government enforce the farms to require them (Kara 2017, 105). The U.S. Department of Labor officer in charge of the program, Lee G. Williams, described the program as a system of “legalized slavery” (SPLC 2013, 4).

The framework of the Bracero program was carried over into the H2-A visa program that the United States government facilitates today. Additionally, the program established a migration pattern that still exists in modern times.

The H2-A visa program exists in order to bring in foreigners to fill the farm labor positions that cannot be filled by American workers. Foreigners must apply to become guest workers in the United States. The program is facilitated via the U.S. Department of Labor. Companies must apply to the Department of Labor to receive a seasonal guestworker, and they must show that no American workers are available for these positions. The guest worker’s visa and ability to stay in the country are tied directly to the company they work for (Iesue 2016, 4). Migrants must also apply for the H2-A visa by applying via the Department of State or a U.S. Embassy or Consulate in their home country (United States Citizenship and Immigration Services 2021).

Per the Southern Poverty Law Center, workers who come into the United States on H-2A visas are legally entitled to:

Receive at least three-fourths of the total hours promised in the contract, which states the period of employment promised (the “three-quarters guarantee”); receive free housing in good condition and meals or access to a cooking facility for the period of the contract; receive workers’ compensation benefits for medical costs and payment for lost time from work and for any permanent injury; be reimbursed for the cost of travel from the worker’s home to the job as soon as the worker finishes 50% of the contract period. The expenses include the cost of an airline or bus ticket and food during the trip. If the guestworker stays on the job until the end of the contract or is terminated without cause, the employer must pay transportation and subsistence costs for returning home; be protected by the same health and safety regulations as other workers; and be eligible for federally funded legal services for matters related to their employment as H-2A workers (SPLC 2013, 7)

The U.S. Department of Labor approved 257,667 H2-A visas in 2019. The U.S. Department of Agriculture (USDA) publishes data on the amount of legally authorized workers versus unauthorized workers: “In 2014-16, 27 percent of crop farmworkers were U.S. born, 4 percent were immigrants who had obtained U.S. citizenship, 21 percent were other authorized immigrants (primarily permanent residents or green-card holders), and the remaining 48 percent held no work authorization” (USDA 2021, “Farm Labor”). This author questions the accuracy of the data collected on unauthorized workers, since being found out by the government would necessitate an illegal immigrant’s deportation.

There are numerous cases documented by the Southern Poverty Law Center report that show workers were cheated out of wages (SPLC 2013,18) or were coerced into continuing to work in poor conditions with the threat of deportation (SPLC 2013, 15). Such coercion often came hand in hand with the employer sponsoring the visa” (Iesue 2016, 4). In *Modern Slavery*, Siddharth Kara also expected to find that illegal immigrants were exploited more often than

those immigrants who were legally in the United States on an H-2A visa, but “was surprised to find that slavery and other exploitative conditions occurred almost equally in the population of regular migrants” (Kara 2017, 81).

As demonstrated by the Bracero program, “government enforcement of guestworker rights is historically very weak” (SPLC 2013, 2). That weak oversight still exists today - there are few inspectors to manage the tracking and follow up of individual workers (Owen et al 2015, 200).

The very rules that were meant to create a safe environment for immigrant laborers can easily be abused by unsavory individuals: “provisions that may legally allow employers to provide housing and food for employees (such as agriculture workers) and to deduct those expenses from employee paychecks may facilitate conditions that legally increase an employer’s control over their employees” (Owen et al 2015, 199). As a result of the lack of oversight by government officials, some farm labor contractors take advantage of foreign workers. “An employer’s control over an employee’s living conditions and movement to and from work are common elements used to compel a person to remain in a forced labor situation. These findings were consistent across industries and affected both workers with temporary visas and unauthorized workers” (Owen et al 2015, 199). A worker’s vulnerability to labor trafficking is tied directly to how much control the employer has over their living situation and transportation access.

The Problem with Farm Labor Contractors

Another factor that immensely shapes the agricultural sector and influences the amount of exploitation that occurs there is the use of contractors instead of employees. Perhaps no other system in the United States is more exploitative than the farm labor contractor (FLC) system that many large agribusinesses utilize. The California Department of Industrial Relations defines an FLC as:

Any person/legal entity who, for a fee, employs people to perform work connected to the production of farm products, to, for, or under the direction of a third person, or any person/legal entity who recruits, supplies, or hires workers on behalf of someone engaged in the production of farm products, and for a fee, provides board, lodging or transportation for those workers, supervises, times, checks, counts, weighs, or otherwise directs or measures their work, or disburses wage payments to these persons.

Farm labor contractors are separate businesses hired by corporate farms. FLCs manage the hiring of subcontractors to engage in the day to day of various farm responsibilities such as harvesting, weed control, or application of pesticides, while also relieving the agribusinesses of the burden of liability when it comes to having employees. Additionally, FLCs take on the responsibility of recruiting workers, finding housing for migrant labor, transporting the laborers to their work, and paying them (Patterson and Zhou 2018, 415).

Following the demands of farmworkers for higher wages in the 1960s and 1970s, utilizing farm labor contractors became popular in California. McMillan found in 2012 that “between 50 and 60 percent of California farmers make use of contracted labor for at least part of their labor needs” (McMillan 2012, 25).

In 2012, there were 1200 farm labor contractors in California alone (McMillan 2012, 76). In the United States in 2021, there were 8962 registered FLCs (U.S. Dept. of Labor 2021).

FLCs go through a competitive bidding process to get contracts with agribusinesses. If a farmer would like to hire a contractor to manage the harvest, he or she will outline their needs: where the farm is, what needs to be harvested, and how much. Essentially, the farmer puts out a Request for Proposals. Contractors who want to take on the project will submit a proposal that estimates “the number of crews and workers required for the work; the piece rate to be paid for the crop harvested; the hourly rate for workers and supervisors; and the length of time the harvest is expected to take. On top of that, contractors will include a commission fee, which covers both profit and overhead - everything from portable latrines, shade tents, and water jugs required by law in the field to workers’ compensation insurance.” Whoever can offer the cheapest price wins the bid (McMillan 2012, “California’s Rampant Farm-Labor Abuse”). When the contractors are submitting proposals for the lowest bid, it is not difficult to understand why farm laborers are paid such low wages or exploited.

Because the growers bring on farm labor contractors to manage their labor, the growers have no legal obligations to the laborers: “[FLCs] are a means of outsourcing the recruitment, treatment, and management of labor that severs legal liability between the company and the conditions under which the laborers live and work. Farm owners can point a finger to the FLC and claim ignorance of any abuses that may be committed” (Kara 2017, 97).

Because the corporate farms who utilize farm labor contractors rarely interact with the subcontracted migrant laborers that do the physical labor on their farms, laborers often don’t even know the business entity to which they’ve been subcontracted to work: “The complexity of these labor supply chains creates huge obstacles for the implementation and regulation of labor laws as even the individuals most directly affected by these systems are unsure of their positions” (Polaris Project n.d.). Perhaps requiring transparency to guest workers would help prevent exploitation.

Research indicates that there exists rampant exploitation of workers on American farms. A recent report conducted by the Economic Policy Institute “found that 75% of all [Department of Labor] Wages and Hourly Division investigations of FLCs detected violations” (Costa et al 2020, 20). Tracie McMillan experienced being paid by the piece, or by the bucket: “1.60 is the amount paid for each five-gallon bucket of garlic we fill, which means that my four-hour morning will bring be \$6.40” (McMillan 2012, 65) and “My first paycheck - about twenty-four hours of work, though that information isn’t printed on the check - and comes to \$54.40. Minimum wage would have yielded \$192” (McMillan 2012, 72). Though federal law requires minimum wage, McMillan certainly experienced some creative accounting practices.

The problem is not just low wages, though the amount farm workers are paid is shockingly low. From weights being rounded down when workers are to be paid by the pound (McMillan 2012, 57) to cooked books:

None of us earn minimum wage, but you wouldn’t know it from looking at our checks, where some curious accounting is at work. I start off getting simple company checks without payroll information, but Diego’s family receives the latter. Each check lists the buckets picked and hours worked, but the numbers never match the information on their cards. Each worker is paid for the number of buckets they got credit for [...] and will be paid that amount minus social security and taxes. The problem is that, somewhere

between the farm and our paychecks, the company is changing the number of hours for which it is paying us. Even though Rosalinda's card will show that she came in at 5:30am, and left at 2:30pm, a nine-hour day, her check will say she was there for two hours - exactly the number of hours she would have had to work at minimum wage (\$8) to earn what she made via piece rate (\$16). (McMillan 2012, 75)

Additionally, migrant farm workers are likely to encounter poor living conditions such as: no access to clean water, as the groundwater in the Central Valley of California is contaminated by pesticides used to produce crops (McMillan 2012, 19); overcrowded housing which can lead to disease, stress, and binge drinking (McMillan 2012, 42-43); exposure to pesticides via lack of personal protective equipment and crew foremen who ignore pesticide regulations (McMillan 2012, 44). Foreign agricultural workers often experience unclean living conditions: Siddharth Kara also mentioned how horrible the housing conditions of foreign farm workers in the United States can be and noted that living conditions in prison might be better (Kara 2017, 85). Kara also notes that access to healthy food is an issue, ironically: "they are forced to subsist on substandard and processed food" (Kara 2017, 90).

It is helpful to think of the exploitation on a scale (Weitzer 2014, 15). On the one hand there are migrants who came to work of their own free will, but perhaps do not fully understand what is happening. Maybe they do know that they are being cheated out of money that has been earned, but they cannot do anything about it because they do not want to risk losing a job that helps to keep their families back home out of poverty. They are willing to put up with the poor housing conditions and low access to healthful food. On the other end of the scale is the worst exploitation, such as debt bondage - those who "work day and night just to survive, with no opportunity to leave, do other work or return home. Their movements and employment options were completely restricted, and they had no way to break free of this chokehold" (Kara 2017, 85). Murkiness exists even in the process of coming to America:

Some [migrants] do not fully comprehend the terms of their agreement with a facilitator, the specific working conditions or risks in a new locale, or how difficult it can be to pay off a debt. In some scenarios, one's initial consent or knowledge about the kind of work he or she will be doing is diluted by subsequent, unexpected demands or conditions; or the individual "consents" to performing a task that they initially considered distasteful but later define as acceptable because of its economic benefits—a "very fine line between deception, socialization [by other participants], and normalization" of previously disliked tasks (Molland 2012, 100). Some migrants relocate reluctantly—a diluted form of consent—out of an obligation to support their families or because of tacit pressure from relatives. And, finally, for those who performed the same kind of work at home, living and working conditions at the destination may be far worse than what they previously experienced. (Weitzer 2014,15-16)

The systemic failure of our current agricultural framework is apparent. Rampant exploitation appears to be taking place, and yet "labor law enforcement typically relies on complaints - people coming in and making a fuss over not having been paid" (McMillan 2012, 29). Farm labor contractors are not often inspected, though they should be - Kara's source indicated that there were not nearly enough inspectors to keep up with the amount of FLCs in California (Kara 2017, 97). McMillan's undercover research indicates that farm workers do not hold the same rights as other workers in America: "I have no right to days off; I have no right to overtime pay; I have no right to collective bargaining" (McMillan 2012, 27). McMillan was

correct: the Fair Labor Standards Act exempts agricultural businesses from allowing days off or from paying their workers overtime (Totenberg 2021); agricultural workers are not covered under the National Labor Relations Act (Kelkar 2017). However, states can and have created their own laws that protect agricultural workers. Still, the lack of federal rights leaves many agricultural workers open to exploitation.

Modern-Day Labor Exploitation Cases

In recent years, there have been an increasing number of labor trafficking cases being prosecuted in America. Below are the summaries of cases having to do with fruit and vegetable production.

US vs. Bontemps In 2010, Cabioch Bontemps, Carline Ceneus, and Willy Edouard were accused of conspiring to commit forced labor. They were apparently forcibly holding 50 guestworkers from Haiti on their farms in Florida. The workers' passports and visas were confiscated, and they were forced to work in unsafe conditions. The resulting case was U.S. versus Bontemps, but the charges were dropped in 2012. (Coalition of Immokalee Workers (CIW) 2020)

Equal Employment Opportunity Commission vs. Global Horizons Global Horizons was a labor recruiting and farm labor contractor that falsely promised Thai workers high paying agricultural jobs, decent housing, among other things. The workers had to sign a contract and pay a high "recruitment fee". Upon arrival, the passports of the workers were confiscated, and the Thai workers were unable to leave. The workers were forced into working on several farms and received little to no pay. The labor ring was active in 13 states. In 2010, the company was accused of "holding six hundred guest workers from Thailand against their will" (FBI, 2011). The Thai workers were awarded over \$7.5 million in damages (EEOC 2016).

California Rural Legal Assistance vs. JB Farm Labor Contractor In the case against JB Farm Labor Contractor and Victoria Island Farms in the year 2000, hundreds of California asparagus harvesters were forced to pick the vegetable with almost no pay. The workers had been recruited from Mexico and transported to California, for which money was deducted from their paychecks each week to pay off. The workers eventually filed a civil suit against the FLC and farm and were able to obtain the wages owed to them. (Free the Slaves 2005, 8)

US vs. Tecum In 2001, Jose Tecum was convicted of kidnapping and forcing a woman to work not only in the tomato fields but also in his home near Immokalee, FL. (CIW 2020)

US vs. Cuello In 1999, Abel Cuello kept approximately 30 tomato harvesters under constant surveillance on his property near Immokalee, FL. Cuello worked for Manley Farms North, Inc., a farm labor contracting operation. Cuello later admitted in his plea that "the workers were not free to leave until their smuggling debt was repaid" under threat of violence. (CIW 2020)

US vs. Lee In 2001, Michael Lee was charged with using drugs, threats, and violence to hold his

workers against their will. Lee managed workers who harvested oranges in Florida. He has recruited homeless Americans and supplied them with loans for rent, food, and drugs, which they were required to pay off through their labor. Lee pleaded guilty. (CIW 2020)

US vs. Ramos In 2004, a case was brought against Ramiro and Juan Ramos who held over 700 farmworkers against their will in Florida and North Carolina. They threatened and utilized violence to keep workers in bondage. The Ramoses managed the harvest of citrus for Consolidated Citrus and Lykes Brothers, primarily, both farm labor contractors. Both men were sentenced to prison. (CIW 2020)

US vs. Flores Miguel Flores and Sebastian Gomez managed a workforce of over 400 people who harvested vegetables and citrus in Florida and South Carolina. The workers were required “to work 10-12 hour days, 6 days per week, for as little as \$20 per week, under the watch of armed guards”. Flores and Gomez used violence to hold the workers against their will. In 1997, both men were sentenced to prison. (CIW 2020)

US vs. Patricio et al In December 2021, a labor trafficking ring was uncovered in southern Georgia. More than 100 people were smuggled into the United States to live and work under debt bondage conditions. The workers paid the traffickers for housing, food, and transportation, yet were only paid 20 cents per bucket of onions, if that. “The collaborators of the ring are accused of taking advantage of and defrauding the federal visa program for guest farmworkers, known as H-2A, to bring immigrant workers from Mexico, Guatemala, Honduras and other countries to the United States”. Threats of violence and deportation were used to control the workers. This case is still pending trial. (Silva and McCausland 2021)

Sadly, according to Siddharth Kara’s research, the financial penalties associated with convictions of exploitative employers are not nearly enough to deter their behavior: “the costs of exploiting trafficked slaves is almost nonexistent. That is to say, the costs of exploiting a slave are miniscule as weighted against the immense profits that criminals can reap” (Kara 2017, 69). Even in the United States, the number of cases prosecuted remains low. Perhaps this is because of the language barriers present with immigrant labor, or because of the rural, unseen nature of such crimes.

Modern Farm Prices

Some may wonder how labor trafficking affects their lives, and whether increasing the wages of agricultural laborers would increase the cost of fruits and vegetables. The Bureau of Labor Statistics collects data and then compiles it in various charts and graphs. The Consumer Price Index (CPI) is “a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services”. The amount of money spent on fruits and vegetables annually has increased over time. In 1984 consumers spent \$105.70 annually on fruits and vegetables, and in 2020 they spent \$304.93 annually. However, the percentage of income spent on fruits and vegetables over time has decreased. In 1984, consumers spent 1.5% of their income before taxes on fruits and vegetables. In 2003, consumers spent 1.1% of their income before taxes on fruits and vegetables (Bureau of Labor Statistics). So though the price of fruits and vegetables has increased over time, the percentage of Americans’ pre-tax income that is spent on fruits and vegetables has actually decreased.

Perhaps then, it makes sense to charge more in the grocery store for fruits and vegetables, with the goal being to pay higher wages to agricultural workers. The U.S. Department of Agriculture (USDA) provides agricultural wage information, but the statistics do not include contract labor. It is not possible to say whether the higher prices of fruits and vegetables resulted in higher wages for contract workers. It seems unlikely that wages have increased in this sector given Tracie McMillan's experience and research. However, the USDA did provide data for nonsupervisory crop workers: their wages "rose at an annual average rate of 1.1 percent per year between 1990 and 2020" (USDA 2021, "Farm Labor").

In 2012, when McMillan's book was published, she wrote: "Today if you pay a dollar for a pound of apples or a head of lettuce in the supermarket, only about six cents covers the farm work used to get it there; increasing farm wages by 40 percent would increase the average American family's produce bill by about sixteen dollars a year" (McMillan 2012, 29). The latest USDA price spread data indicates that in 2017 the cost of an apple was 1.29 per pound. The farmer receives just 40 cents, or 32 percent of the final price (USDA 2021, "Price Spreads"). If we take McMillan's calculation from her 2012 book, 6 percent of the 40 cents, or 2 cents per apple, would go to the farmworkers.

"Higher wages do change the price of food, but rarely as much as people fear they will. That's because, even for produce, most of the price tag at the store pays for the system that moves it from place to place - not the wages in the field" (McMillan 2012, 28). So why, then, if wages don't change the retail price very much, aren't farmworkers paid living wages?

According to McMillan in a 2016 National Geographic article, if grocery store produce prices were raised by 47%, agricultural workers could make \$15 per hour. This would cost each American household only an additional \$21.15 per year, or \$1.76 per month (McMillan 2016). Of course, McMillan wrote this when the minimum wage in California was \$10/hr. and in Florida it was \$8.05/hr. Today these calculations would look different, given that the minimum wage in California is now \$14/hr. and in Florida it is \$10/hr.

One piece of data with an astronomical effect on labor conditions is that the number of farms that exist in America has been shown to be decreasing as time goes on. Yet farms are becoming larger, on average (USDA 2021 "Farming and Farm Income"). This points to a concerning trend: consolidation of farms into fewer hands, which gain more power in the marketplace. This means that there are an increasing number of corporate-run farms, which likely means a larger number of farms that rely on Farm Labor Contractors for their labor needs, which in all likelihood means an increase in labor exploitation.

Public Image of Agribusiness

Additionally, what is presented by these companies to the public can be a very different picture than what happens in the fields. The marketing departments of the companies for which undercover journalist Tracie McMillan worked apparently "know how important work conditions can be" (McMillan 2012, 77) as evidenced through their fraudulent advertising about "family farms, consistent control, high quality" (ibid). Not every corporate farm is engaging in deceptive marketing practices, but there are certainly bad actors among them.

Solutions

The United States has taken certain steps to fight human trafficking within its borders. The government provides protection to those who have been in exploitative labor situations by providing t-visas. T-visas give foreigners who have suffered from abusive labor conditions the right to stay in the United States for up to four years if they have assisted with a law enforcement request to aid in an investigation (USCIS 2021). Multiple U.S. government departments are taking the problem of human trafficking seriously, as the Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons has made clear (Barr et al 2018). However, the United States' government has thus far focused their efforts on sex trafficking and not labor trafficking: very few of the prosecutions of traffickers are related to labor trafficking (Feehs & Wheeler 2021, 22).

But much more needs to happen, beyond just what the U.S. government has done and can do. A multidisciplinary approach to the problem of labor trafficking and exploitation in the US agricultural industry would be the most effective, according to Littenberg and Baldwin (Littenberg and Baldwin 2017).

As Farmworker Justice, a farm worker rights organization, has suggested, the focus of much reform should be on farm labor contractors. The Department of Labor or the various states' Departments of Labor need to inspect farm labor contractors on a regular basis. "Changing the law to prevent such loopholes [farm labor contractors] will perhaps provide a better method to decrease unauthorized workers, ensure safer work environments, prevent human trafficking, and require agricultural corporations to be held accountable for such abuses instead of shouldering the blame onto the contract companies" (Lesue 2016, 5). Either FLCs must follow the rules or the farms themselves must follow the rules. Whoever takes on the responsibility of finding, transporting, and providing accommodation for foreign workers must be under government oversight.

Kara suggests a primary way of attacking the profitability of illegal labor trafficking enterprises is to elevate the risk of such actions via law enforcement (Kara 2017, 86). Inspections of the system can and should take place often, and steep penalties should be implemented for those who break the law. The risk of getting caught must outweigh the benefits of committing a crime. Currently, that is not the case: "...since 2000 the government has prosecuted very few forced labor cases when compared to sex trafficking cases, and in 2020 this trend continued. Only 6% (32) of active human trafficking cases focused on holding traffickers accountable for forced labor crimes" (Feehs and Wheeler 2021, 56).

The United Nations believes that there is more the United States can do to combat labor trafficking: "There was a continued lack of progress and sustained effort to comprehensively address labor trafficking in the United States, including in efforts to identify victims, provide specialized services to labor trafficking victims, and address obstacles to including high-risk sectors in federal labor protection laws" (UNODC 2020, 584). While the Department of Labor does investigate labor issues in agriculture, according to the Economic Policy Institute, by 2018 only "one investigator was responsible for 175,000 workers" (Costa et al 2020, 3). It is clear that there is not enough enforcement of labor laws, likely due to underfunding of the Wage and Hourly Division (Costa et al 2020, 3).

The USDA could collect data on Farm Labor Contractor employees and wages in their annual Census on Agriculture. The Department of Labor should be given more funding to enable the Wage and Hourly Division to conduct more inspections of farms. Other branches of the

government can do more to address labor trafficking in this country by making it more of a priority and training local law enforcement agencies how to detect it (UNODC 2020, 585). The Department of Homeland Security can train their immigration enforcement agents to look at the intricacies of each immigrant case and determine whether labor trafficking was involved (UNODC 2020, 589). The United Nations suggests that the U.S. “adopt policies that incentivize workers to report program violations” (UNODC 2020, 585).

There is currently pending legislation in the United States House of Representatives entitled The Business Supply Chain Transparency on Trafficking and Slavery Act of 2020. This bill would “require certain companies to disclose information describing any measures the company has taken to identify and address conditions of forced labor, slavery, human trafficking, and the worst forms of child labor within the company’s supply chains” (U.S. Congress 2020). This seems like a step in the right direction.

Additionally, the government could direct more federal agriculture subsidies to fruit and vegetable growers to help pay for the labor required to grow the food. Currently, the vast majority of federal agriculture subsidies go to farmers for growing corn, wheat, and soybeans.

Worker protection and rights education need to both be extended to those who labor in the agricultural industry. The Coalition of Immokalee Workers (CIW), a worker-based human rights organization in Florida, has pioneered several groundbreaking efforts in the fight for fair wages. The workers organized work stoppages and applied public pressure to corporate buyers which resulted in raises for farmworkers across the tomato industry. The CIW also launched the Fair Food Program, which has a set of standards that workers are educated about. The Fair Food Standards Council conducts audits of farms on a regular basis to ensure the standards of the program are followed. Buyers who participate in the program agree to pay a premium amount for certain goods, with the knowledge that they are paying the farm workers more. The CIW describes this work as “worker-driven social responsibility”. (CIW 2020)

Requiring Corporate Social Responsibility is an absolute must. There should be annual or bi-annual supply chain inspections all the way up the food chain - the grocery store, the distribution company, and the farm fields.

It is imperative that those who are aware of labor trafficking in the United States take steps to increase public awareness of the issues. Kara suggests that “it is up to us to demand that lawmakers enact provisions whereby corporations must investigate and certify that their supply chains are free of trafficked, slave or child labor of any kind” (Kara 2017, 71). Kara is suggesting a top-down approach, but a bottom-up approach in which consumers make demands on corporate entities could work as well.

As for the general public, people need to be taught to value more than just the price of goods when making purchases. Slow Food International does a wonderful job at teaching this concept, and other NGOs could take on this work as well. Consumers need to demand that the produce they are purchasing is produced fairly. Awareness of where food comes from and how it is produced is an excellent first step. Secondly, citizens should ask the producers questions, and learn about company practices in the food chain. Though it is generally easier to have transparency when purchasing directly from farmers, even general research and critical thinking about farm businesses is a step in the right direction. Siddarth Kara explains: “By attacking the fundamental motivation behind the exploitation of trafficking slaves - profits - and by leveraging consumer power to shift the market away from the “cheap at all costs” product to the product

that is morally and socially responsible, a powerful near-term impact can be achieved on the business of human trafficking” (Kara 2011, 71). Holding food suppliers to account is necessary.

Conclusion

“We are the people no one wants, but everyone needs.” -Mateo (from Modern Slavery, 86)

Americans are used to cheap food, but at what cost? Is this really the American way of eating: to stand on the backs of the poor, sometimes undocumented, invisible people who are being taken advantage of?

Americans would not have an abundance of affordable, healthy food were it not for the immigrant laborers who diligently work in the farm fields, laboring for next to nothing. “The millions like Mateo are discarded, unprotected, and exploited by the societies that cannot seem to function without them but do not ever want to recognize them as equally human” (Kara 2017, 86). It is imperative that Americans recognize the immigrants’ contribution to our society, and it is time for this country to fairly compensate these workers for their hard labor and the sacrifices they have made.

Consumers can create needed change through curiosity about company practices and a willingness to pay a little bit more for healthy produce. Government entities can take on more enforcement responsibility through additional oversight of the H2-A visa program, more funding of the Department of Labor’s Wage and Hourly Division, and increased training of law enforcement agencies. The USDA could collect needed data on FLCs and their employees.

With these key points and the suggestions outlined above, headway can be made on combating the illegal and unethical exploitation of foreign farm workers in the United States.

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