

A Smokescreen for Slavery: Human Rights Abuses in UK Supply Chains

Fact finding visit to the tobacco fields of North Carolina

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Prior to entering politics Jim worked as a material handler for Thales Optronics (formerly Bar and Stroud) in Glasgow. He also served as a Trade Union Convener with the Transport and General Workers Union.

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Ian Lavery is the MP for Wansbeck. He is the Chair of the Trade Union Group of MPs and the National Union of Miners (NUM) Parliamentary Group. He is also a member of the Energy and Climate Change Committee as well as the Regulatory Reform Committee.

Prior to entering politics, Ian was the President of the NUM.

The information in this report was gathered during Jim and Ian's factfinding trip to North Carolina on 26th-27th July 2014.

I. INTRODUCTION

In December 2013, Baldemar Velasquez, the founder and President of the American farm worker union the Farm Labor Organizing Committee (FLOC), briefed the British House of Commons on the state of human rights for tobacco farm workers in the United States. His report raised deep concern amongst MPs. Forty-five of our colleagues signed the Early Day Motion (appendix A) calling for British American Tobacco, as a major shareholder and purchaser of Reynolds American, Inc., to guarantee the human right to freedom of association for tobacco farm workers through a codified agreement with FLOC.

“That this House, noting that Oxfam America and the Farm Labor Organizing Committee (FLOC), . . . have highlighted onerous conditions faced by migrant farm workers in the tobacco fields of North Carolina and the American South, including exploitation, long hours, child labour and other human rights abuses . . . [This House] believes that [British American Tobacco] has a responsibility to ensure that its supply chain is free of human rights abuses and that FLOC’s proposals to [Reynolds American Inc.] can achieve that goal in the US; and therefore calls on BAT to use its influence with RAI to reach an agreement with FLOC forthwith.”

Early Day Motion 1247, 1/4/2014

Mr. Velasquez’s report of worker exploitation, long hours, substandard housing, human trafficking, and child labour constituted a laundry list of human rights abuses that did not well befit our perception of upstanding labour codes within the United States. Was not the United States the “land of the free”, a world leader in trade union rights? Did not the tobacco industry, one of the most lucrative industries in the world, have standard or above standard labour conditions on its supply farms?

Alarmed as we were by Mr. Velasquez’s testimony, and with the intention to stand in solidarity with farm workers struggling for recognition of their labour rights, we accepted his invitation to see the conditions in tobacco in the American South first-hand.

On July 26 and 27, 2014, we met with farm workers in the fields where they work, within the camps where they live, and within the FLOC union hall, gathering first-hand testimony of the conditions they face in the tobacco industry.

Furthermore, we met with Mr. Jerry Tyndall, a tobacco farmer from Deep Run, North Carolina, as well as Erica Peterson, Executive Vice President and CEO of the NC Agribusiness

Council, in order to better understand the challenges of farm management for tobacco growers.



II. BACKGROUND

Manufacturers and tobacco leaf merchants like British American Tobacco (BAT), Reynolds American (RAI), Phillip Morris International (PMI), Alliance One, Altria, Universal Leaf, Imperial Tobacco, Lorillard, and Japan Tobacco International (JTI) rely on farm workers to harvest the tobacco they process and distribute.

FLOC represents over 7,000 farm workers through its collective bargaining agreement with the North Carolina Grower’s Association (NCGA), itself the largest contractor of temporary agricultural workers (H-2A) in the United States. The union estimates that 20,000 tobacco farm workers do not have union representation. In total, 150,000 farm workers are employed in agriculture in a growing season (from April-November) harvesting one or multiple of 32 available crops, of which tobacco is the staple commodity.

The employers of these farm workers are independent contract farmers that usually grow tobacco for more than one manufacturer or leaf merchant. Manufacturers such as Reynolds American contract directly with the growers and set standards for the production of the tobacco crop, as well as the prices with no substantive bargaining.

In North Carolina, tobacco manufacturers, such as Phillip Morris International, Japan Tobacco International, Altria/Phillip Morris USA, and Imperial Tobacco contract with tobacco farmers. Alternately, leaf merchants like Alliance One or Universal Leaf contract directly with farmers and then sell to tobacco manufacturers all over the world.

Labour standards are set by both the state and federal Department of Labor. Standards are generally weak, and lack sufficient inspectors to adequately enforce them. For example, under North Carolina law it is legal for thirty men to share two toilets with no dividers and one kitchen stove with six burners.



Freedom of Association, or the right to join a group and take collective action in pursuit of collective interests, is a universally recognised human right. For the tobacco farm worker, the precarious condition of his/her employment, and poor enforcement of weak legal obligations on the part of the growers, reinforces the need for the right to join a union in pursuit of better labour standards. Agricultural workers are excluded from the National Labor Relations Act, the only law that guarantees the right to come together with your co-workers and ask your employer to improve wages and conditions on the job, without retaliation. No other federal, state or local laws in the region protect this universally recognised human right.

II. BACKGROUND (contd.)

“The term “employee” shall include any employee . . . but shall not include any individual employed as an agricultural laborer. . .”

National Labor Relations Act, 29 U.S.C. §§ 151-169 section 2(3).

In a potentially positive development, a multi-stakeholder group, convened by Reynolds American and Altria through the Keystone Group, known as the Farm Labor Practices Group (FLPG), was formed in May 2012 to address the abuses identified in the supply chain by the Oxfam America – FLOC human rights report, *A State of Fear: Human rights abuses in North Carolina’s tobacco industry*. Most of the above mentioned manufacturers and leaf merchants, along with FLOC, NC Agribusiness Council, US Department of Labor, and the Interfaith Center on Corporate Responsibility, sit on the committee. While the manufacturers and leaf merchants believe that the FLPG is key to addressing change in the industry, FLOC, the only farm worker representative in the group, has been adamant that until farm workers have guarantees to organize freely and speak out about improving conditions without facing retaliation, any other “improvements” will continue to be merely cosmetic. The tobacco companies on the committee have also repeatedly refused to talk about wages or other work conditions, using anti-trust concerns as a reason these cannot be discussed. Mainly because of this, FLOC believes that each individual company should meet and discuss these labour rights with farm worker representatives.

Reynolds American and Philip Morris International have met directly with FLOC; but neither company has yet agreed to develop an independent process with FLOC which guarantees labour rights on their contract farms. Until such a process is developed, any human rights protocol promulgated by these companies is a hollow promise, since there is no US law that mandates freedom of association to tobacco farm workers.

From our investigation, it became clear to us that the FLPG has failed to effectively address worker abuses in the tobacco supply chain, and no real progress will be made until tobacco farm workers have a process which guarantees their right to freedom of association without fear of retaliation.

III. FINDINGS: CAMP VISITS

A. RELIANCE ON HUMAN TRAFFICKING; ‘CONSTITUTIONALIZED SLAVERY’

Our visits showed that the majority of workers with whom we spoke were undocumented, coming mostly from Mexico, but also from Central American countries such as Guatemala and El Salvador. They crossed the border with the help of ‘coyotes,’ or traffickers, or, in many situations, recruiters that themselves contract with farmers in need of skilled labour. Workers pay thousands of dollars to these ‘coyotes’ in order to be smuggled across the border into the US.

Temporary agricultural workers with H-2A visas are recruited by the NCGA or other agencies and are paid \$9.87 USD per hour. For the same work, undocumented workers generally make the federal minimum wage of \$7.25 USD per hour. All agricultural workers are excluded from overtime laws and many farm workers are effectively excluded from workers’ compensation insurance coverage for injuries on the job.



Sometimes the workers are paid directly by the farmer, but most often by the labour contractors who skim money from the wages owed the workers for rent, transportation, food, or other services so that workers effectively and routinely earn below the minimum wage. For many, it is difficult to know if they have been properly remunerated, since workers commonly do not receive pay stubs, itself a violation of federal law. It is particularly problematic for workers being paid a piece rate to establish if their wage holds up to the federal minimum. The worker pictured to the left received weekly cash payments from the labour contractor in an envelope, with no pay stub or accounting justification.

B. SUBSTANDARD WORK CONDITIONS & SQUALOR

Our visit showed us that the conditions under which farm workers are expected to labour are overwhelmingly deficient.

The workers we spoke with commonly work from 7 AM to sundown, which, during our delegation, was 8:30 PM. Farm workers are in the fields from Monday to Friday and a half or full day on Saturday, depending on the weather.

The farm workers work outside in the tobacco fields, under very harsh conditions, tending the tobacco plants in temperatures upward of 35°C, enduring harsh sun in the open fields, with no shade and infrequent breaks. A common complaint among workers we visited was the lack of ready accessibility to potable water in the fields. When water was available it often was in a location far from where the workers had been working or was of very poor quality. This extreme heat, and more importantly, the lack of respect for safety, creates dangerous conditions that can and have resulted in deaths.



Though required by law, there are usually no portable toilet facilities available to farm workers.

Additionally, the work is, by nature, dangerous; workers have constant contact with the tobacco plant, absorbing its nicotine through the skin. This nicotine exposure, often without so little as access to gloves for protection, leads to Green Tobacco Sickness (GTS), an affliction that causes intense headaches, nausea, vomiting, and insomnia. GTS could be prevented if farmers provided protective clothing, regular breaks, soap, and water for washing in the fields.

Pesticide use creates an added danger, especially when workers are forced to enter the fields too soon after spraying, a common complaint among the workers. A number of workers reported becoming ill from the chemicals, showing symptoms such as nausea, vomiting, and rashes on their bodies.

After a long day's work, farm workers return to their labour camps in run down houses, trailers, or barracks provided by the farmer. These accommodations are often overcrowded and very hot, usually with no air conditioning or adequate ventilation.



Mattresses are dirty, wet from leaking roofs, bug-infested, or missing entirely. Infestations of bed bugs, roaches and vermin are common.

Sanitation, laundry, and bathroom facilities are inadequate, in disrepair, or broken and lack basic privacy, such as toilet dividers.

The housing conditions we saw varied considerably, testament to the general deficit of fair industry standards, or at least, enforcement of them. The minimal legal requirements for migrant worker housing state that the "wash tub" pictured above is sufficient for up to thirty farm workers for washing their nicotine and chemical soaked clothes every day.

In summary, there are no bounds to the squalor we observed. We were convinced that prison conditions in the UK are superior to those endured by agricultural workers we visited who work in tobacco fields.



While visiting the fields, we saw the skilled nature and labour intensiveness of tobacco farm work, including the topping, suckering, hand harvesting, and curing of tobacco. One farm worker encouraged us to experience a day in the life of tobacco farm workers first-hand. Our honest response was and is, that even after 5 minutes in a tobacco field in North Carolina in July, dripping with sweat, it is impossible for us to imagine enduring 8 constant hours of this work, let alone 40, 50, or more hours a week, and hundreds upon hundreds of hours in a season. Tobacco farm workers are greater men and women than ourselves, and the conditions they are subjected to are not even fit for animals.

C. FEAR OF RETALIATION

During our visit many workers expressed their fear of retaliation for complaining about housing and working conditions. This fear was endemic and palpable. If they lost their jobs how would they live? How could they send money home to their families? Where would they go, stranded thousands of miles from their countries, not even being able to speak the language?

We heard many workers express a lack of hope that things could change or would change. One worker told us that since he was in this country no one had even cared enough to offer him a cup of water to drink. Why would anyone care if he was fired for trying to make things better?

IV. WORKER STORIES

On Saturday evening, 26th July at the FLOC union hall in Dudley, NC, we heard the stories of tobacco farm workers who came to bear witness to their experiences in the tobacco fields. Their stories were both heart wrenching and provocative and we feel compelled to share some excerpts of these in our report. Of course their names have been changed to protect their identities.

A. Hector, 49, Wilson County

"I had an accident and the farmer didn't take responsibility. I don't agree with that [treatment], that they made me suffer there in the field.

"I was working the tobacco and a harvesting machine cut off part of my finger. The farmer told me that someone was going to take me [to the hospital] but the hours went by and I couldn't tell if he was telling me straight and there I was with my finger bleeding all the while."

B. Sandra, 13, Wayne County

"I started working in tobacco when I was seven. I work in tobacco because I'm thinking of my future. I want to go to college. My parents have a hard time paying for high school [materials], and I have younger brothers and sisters that want to go to college, too. It's important for me to work to help my parents, but there are problems."

C. Lorenzo, 26, Nash County

"If you have a contract [H2A visa] they treat you differently, but for us they lower the weekly wage. There's no bathroom and if there is, you can't use them, you can't even go in because they are so dirty, and they don't clean them. When the [inspectors] come around is when they bring the [portable] bathrooms, and clean, too, but the [inspectors] leave and nothing changes; they don't clean them for- I don't know- two, three months at a time, minimum. And if they do bring bathrooms, it's so far away. They tell us, if you want to go to the bathroom, go outside. But outside, for women especially, it's very difficult for women."



D. Gloria, 23, Duplin County

"Women with children have it harder. We have no support. If you go out with the contractor, in every way you get treated better. If you go out with him, you'll get a lot of hours in the good jobs and if you don't, your pay will suffer. We have to take care of our children! All I ask is that women get treated equally as men in the fields."

E. Maria, 26, Greene County

"We get pesticides sprayed near us when we work and we don't know what they are. This season [2014], I got sick from the chemicals and one day I was sick in the bathroom and the supervisor came and told me I had to get back to work. When I couldn't, he told me he didn't need me anymore and that was my last day working there."

V. CONVERSATIONS WITH TOBACCO GROWERS

Meetings with tobacco growers and grower representatives were very informative. Mr. Tyndall, a tobacco grower, who employed the same union members year after year, was very progressive and sympathetic to the needs of his workers.

Our meeting with Ms. Erica Peterson, Executive Vice President and CEO of the NC Agribusiness Council, was useful, although she maintained that none of the Council's members employ workers in exploitative conditions. Moreover, she did not know any farms where workers were treated in the manner which had been described to us on the visits.

VI. CONCLUSIONS

Our Fact Finding Visit to the tobacco fields of North Carolina provided us with an inside view of the lives of tobacco farm workers and the harsh conditions under which they work.

We saw for ourselves the squalor of the labour camps and wondered how human beings could endure under these conditions without crushing the human spirit.

We met undocumented workers who are part of the shadow labour supply which provides the human labour which tends and harvests tobacco. So many of these workers have been exploited by human traffickers who promised to fulfil their dreams and instead mired them in crushing debt and horrid conditions with no way out.

We talked with workers who wanted to change their living and working conditions but had lost all hope since they feared certain retaliation if they chose to complain about the abuses in a strange land and in a language that few spoke or understood. They were alone against all odds.

From this admittedly short excursion into the lives of tobacco farm workers in North Carolina, we came away with the conclusion that the tobacco manufacturers and leaf merchants need to take their responsibilities seriously and address these issues in their supply chain.

We believe that until farm workers are free to form and join trade unions and speak up about the problems they face without fear of retaliation, they will not be able to address the poverty wages, mistreatment, squalor in the housing, and fear of speaking out that were so evident in the conversations we had with dozens of farm workers throughout Eastern NC.

As most tobacco manufacturers and leaf merchants have already committed to the principles of international law in their supply chain, which specifically recognise the right to freedom of association and collective bargaining, companies should implement their corporate responsibility policies within their supply chain in a real way. The reality is that there are no labour laws in the US which provide protection to farm workers who want to exercise their human right to freedom of association. The Farm Labor Organizing Committee is approaching the tobacco companies and leaf merchants and asking that they work together to develop an independent process which will guarantee freedom of association without retaliation on their contract farms. The FLPG may have a role to play in this process, but as of now has spent almost three years and significant resources, without having any progress to show for it; for this reason, companies must make independent commitments to human rights in their supply chain, rather than depend on a process that remains out of their hands and provides a convenient justification for justice delayed.

Our fact finding visit to the tobacco fields of North Carolina has convinced us beyond any doubt that tobacco farm workers need a way to improve their living and working conditions. The tobacco companies should not seek to use charity to deal with the poverty and abuses in their supply chain, but instead provide farm workers with the means to exercise their human right of freedom of association without fear of retaliation to negotiate better working conditions.

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