

Contracts, *Contratistas*, and Control

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Abstract

H-2 workers in the United States are recruited to work for a single employer, a circumstance that can lead to labor relations similar to those that characterized indentured servitude during the 18th century. Recent immigration reform proposals have included provisions for guestworker programs in which immigrant workers would work for six years prior to initiating the process of becoming permanently work-authorized or pursuing U.S. citizenship. Examining contemporary settings in the rural United States, the author considers how current H-2 programs operate on the ground and often deviate from the legal parameters of the programs. Although workers are recruited to work for a single employer, the growth of Latino recruiting throughout the South has enabled them to work off their contracts, allowing them to become more familiar with the growing settled populations of immigrants across the rural United States and, at times, leave the H-2 program, become undocumented immigrants, and revise and resist the conditions their contracts set for them.

Introduction

In a two-month time span early in 2007, North Carolina's Beaufort County Commission approved two measures directed against the growing Latino population in the county, voting first to remove all non-English language materials from county offices and following with a vote to approve the County Sheriff's cooperation with Immigration and Customs Enforcement (ICE) to locate and deport undocumented immigrants. Around the same time, the New York Times reported on a case of excessive exploitation of Thai guestworkers in North Carolina and Louisiana, and the Southern Poverty Law Center (2007) released a report entitled, Close to Slavery: Guestworker Programs in the United States. In the week between the New York Times article and the release of Close to Slavery, the cooperative extension service of Johnston County, North Carolina, hosted a panel to address agricultural labor issues, inviting representatives of the North Carolina and U.S. Departments of Labor, the Employment Security Commission, North Carolina Department of Labor, the Farm Bureau, and, most notably, the North Carolina Growers Association (NCGA). Farmers from across North Carolina's coastal plain attended, and the issue of pending immigration reform legislation generated the most heated debate. The NCGA expressed vehement opposition to pending legislation known as AgJobs, primarily because its passage would cut deeply into their business. The NCGA is one of the largest labor contracting organizations in the United States, specializing in the placement of H-2 workers; in 2004, the NCGA signed an agreement with the Farm Labor Organizing Committee, a farm worker labor union, on the condition that law suits against them be dropped.¹ Not insignificantly, much of the

¹ In the spring of 2007, Santiago Rafael Cruz, a FLOC representative in Mexico, was beaten to death in his union office, allegedly in revenge for the union's work to quell corruption (principally illegal recruiting fees) in the H-2A program. This paper describes some of the practices that FLOC has attempted to purge from the H-2A program and that H-2A workers continue to attempt to resist.

recent focus on immigration occurred around the time that President Bush toured Latin America and, in Mexico, again raised the issue of immigration reform.

These local, regional, and national events and reports illustrate the varied dimensions of immigration and its pervasiveness across the North American social and cultural landscape, underscoring the point that the United States is ripe for immigration reform. Several legislative initiatives include some form of expansion of the current H-2 programs—the nation’s current guestworker programs—although these vary by such things as how guestworkers’ wages would be determined, whether or not employers would provide housing, guestworkers’ access to the courts, protections workers would receive, and other factors. Much of this legislation has been crafted as if ignorant of the ways the H-2 programs have evolved (or devolved) since the last major immigration reform in 1986, despite widely publicized works like Close to Slavery and other, less widely read work (e.g. Hahamovich 2000; Griffith 2006; Smart 1997). These works nearly always find that H-2 programs, primarily because of the provision that H-2 workers are bound to individual employers, have a tendency to deteriorate over time, approximating highly exploitative labor contracting practices like indentured servitude.

In this paper, I examine practices that are common in the nation’s current H-2 programs and in labor contracting generally, relating them to other developments in immigration taking place in the rural U.S. South.² Drawing on research conducted in rural North Carolina from 2001 to the present, as well as case studies of immigration into Georgia, Iowa, and Minnesota, I suggest that, as labor relations in guestworker programs deteriorate, people participating in H-2

² This work draws on several research initiatives, including, most recently, a project that has gone by the working title of the New Pluralism project, funded by the US Department of Labor (Agreement No. 2001-36201-11286) and a second project, “Developing Best Practices for Coastal Communities Experiencing High Levels of Immigration,” funded by the UNC Sea Grant College Program. Additional work conducted for the National Science Foundation (SBR-9706637), the Ford Foundation, and the U.S. Department of Labor also contributed to this work.

programs have been able to resist the excessive labor control that has been structured into the programs. They accomplish this, usually, by working outside of their contracts, in jobs that they are not legally contracted to accept. At times they access these jobs with the assistance of their legal employers and at times against their employers' wishes or without their employers' knowledge. The maturing of Latino communities in new destinations across the United States, a process bolstered by several public and private U.S. organizations, has facilitated this resistance. In some cases, these communities provide guestworkers with network ties to access jobs, housing, security, friends, important cultural places, and other dimensions of lives that reaffirm the humanity of people who, too often, are viewed merely as workers and rarely as guests. One of the principal reasons these ties to community members develop is due to the idleness that guestworkers typically experience during the seasons they work in the United States.

Idleness in Guestworker Programs

For seasonal, temporary workers, especially those who have left their families to work in distant locations for months on end, periods without work—idleness (as opposed to rest or leisure)—are as abhorrent to them as the condition that they work for one and only one employer. As many observers of farm labor markets have reported, seasonal workers can earn high per hour rates of pay without earning high seasonal or annual incomes—due, primarily, to forced idleness. Currently, H-2A workers receive an Adverse Effect Wage Rate of \$9.02 per hour; with additional costs of housing, transportation, and labor contracting fees, growers in North Carolina complain that they pay nearly \$12.00 per hour for H-2A workers (Phillips and Blake 2006). Paying wages they consider too high, many growers are as disappointed with guestworker idleness as the workers themselves, viewing idle workers as a wasted resource. Yet, for ecological and structural reasons, idleness is common in guestworker programs. H-2A

workers in agriculture suffer from periods of idleness for at least three reasons: rain or other weather days when work cannot be done in the fields; lulls between periods of peak labor demand, as between the planting and harvesting of tobacco; and in cases where growers bring in the number of workers needed during peak periods but need, during much of the season, far fewer workers, creating less work per worker.

Idleness in guestworkers programs is not confined to farm labor. Nonagricultural H-2B workers also suffer from periodic idleness. In blue crab processing, blue crabs burrow into the mud or migrate out to sea during the winter months, emerging or returning in small numbers as early as March but rarely plentiful prior to May or June. Employers of H-2B workers in crab processing, however, typically bring workers in as the first crabs are landed. Crab workers believe that part of the reason for this is so that they can charge them for housing that remains unoccupied (and unprofitable) for much of the year. Employers of H-2A workers have to provide free housing and do not have this option.

H-2B workers in the hospitality industry, subject to fluctuating guest occupancy rates, suffer from extensive idleness between short, frenetic spurts of activity on holidays and weekends. Many are left with little to do for weeks between Labor Day and Thanksgiving or between Thanksgiving and Christmas. Often living on or near the hotels and resorts where they work, prohibitive costs of living, a lack of public transportation, and restrictions regarding receiving guests in their quarters deepen the boredom that accompanies idleness.

Employers in H-2A programs are more likely than H-2B employers to take measures to prevent idleness because of two principal differences between agricultural and nonagricultural guestworker programs: work guarantees and housing. First, unlike H-2B workers, H-2A workers also receive a three-quarters work guarantee—or a guarantee that they will be given at least

three-quarters of the work promised—which constitutes another incentive growers have to keep workers busy. Second, providing H-2A workers free housing, agricultural producers often seek methods of keeping workers employed during seasonal lulls either to cover housing costs or, at the very least, to utilize guestworkers in ways that deepen their positions in farming communities, enriching their stores of social capital. Farmers will plant additional crops to keep guestworkers busy, applying earnings from the crop toward housing expenses, or will allow guestworkers to work on neighbors' farms who may be suffering from temporary labor shortages or who may have fence repairs or other work that they have been meaning to accomplish. These behaviors point to ways in which guestworker program provisions can influence the way these programs function in practice; in general, H-2A programs contain more worker protections than H-2B programs. In addition to free housing and work guarantees, H-2A workers are guaranteed higher wages than H-2B workers and have their transportation expenses paid if they work at least 75% of the contract period.

Once considered a savior to North Carolina tobacco and other farming, today the H-2A program is declining in North Carolina.³ Most farmers perceive the wages as too high and the other dimensions of the program too onerous, and many farmers, coming from the historically anti-union South, do not like the FLOC agreement. As such, the numbers of H-2A workers in the state have declined from a high of 10,520 in 1998 to its 2006 level of 7,671; NCGA representatives claim that the 2007 level is around 5,000. At the same time, the state has seen an increase in labor contracting organizations in the state, some of which utilize the H-2A program and others of which utilize non-H-2A workers. Among the new H-2A labor contractors are

³ During the early years of the H-2A program, from 1989 to 1998, tobacco production increased substantially in North Carolina; a corresponding increase in H-2A labor took place over this same time period. Whether the former caused the latter or the latter the former is open for debate.

companies bringing H-2A workers from Thailand, Vietnam, and South Africa as well as Mexico and Central America. These new labor supply sources are significant, in that the growth of Spanish-speaking communities across the South and other regions have provided H-2 workers with the means to resist excessive labor control in guestworker programs.⁴

In any case, the H-2A program has always been a small part of North Carolina farm labor. Its impact on rural labor conditions has been geographically uneven as well as uneven in terms of crops, concentrated primarily in the eastern part of the state and in tobacco, cucumbers, and sweet potatoes, while H-2B workers have been concentrated in seafood processing in the far eastern reaches of the state and in Christmas trees in the west. The following table and figures show that, at its height, the program accounted for under 10% of the total North Carolina farm working labor force. Over the past twenty years, the most profound change in North Carolina farm labor has been the decline in seasonal workers—many of whom were African American—and the increase in migrant and Latino workers, who tend to be recruited through labor contractors.

⁴ In 2003, liaison officers from Barbados, Jamaica, and Mexico met to discuss the Canadian guestworker program with researchers who had been studying different dimensions of the program and its impacts on citizens of their home countries. At one point, the Barbados officer complained that if he pressed too hard on workers rights issues for Barbadians, he was liable to lose placements to Mexico or Jamaica. This points to the potential for employers and others who participate in guestworker programs to shop around for workers in different parts of the world, seeking the most compliant. While the Mexican and Jamaican officers seemed far more complacent about losing placements, the recent expansion of companies involved in H-2 recruiting abroad may, in the future, give them reason to worry.

Table 1: North Carolina H-2A Workers, Selected Years

| Year | Number | Percent of Total FW Labor |
|------|--------|---------------------------|
| 1989 | 168 | .11 |
| 1995 | 3,038 | 2.3 |
| 1998 | 10,520 | 8.4 |
| 1999 | 10,060 | 8.4 |
| 2000 | 10,143 | 8.5 |
| 2004 | 8,903 | 8.6 |
| 2005 | 8,286 | 8.5 |
| 2006 | 7,671 | 8.3 |

The transformation from seasonal African Americans to migrant Latinos in North Carolina farm labor occurred over the same post-IRCA period that there was increasing settlement of Latinos across rural counties in the state. Long time observers of this process, in the most heavily impacted counties, claim that agricultural production stimulated the bulk of this immigration, while others contend that it was a combination of farm work and rural industry, particularly food processing, in which direct recruiting of Latinos began in earnest following IRCA (Griffith 1993).

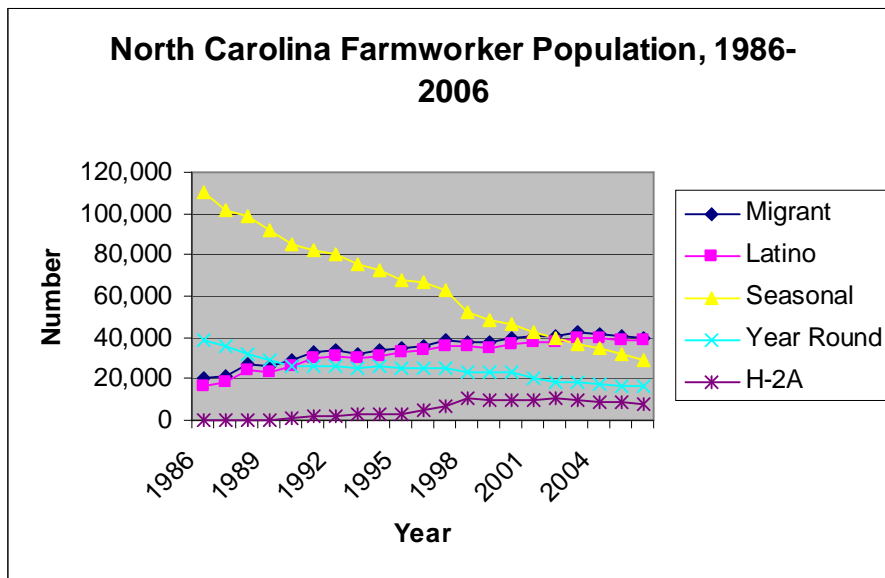


Figure 1: Total North Carolina Farmworker Population, 1986-2006

Whichever the case, the relations between settled and migrant Latinos, including H-2s, have been dynamic. Figures 1 and 2 present data on the state's farm labor force, showing that both year-round and seasonal local labor have fallen relative to Latino and migrant labor.⁵ Although H-2A labor increased from zero to over 10,000 during its first ten years in the state, it never reached the level of year-round labor nor came close to the level of migrant (Latino) labor.

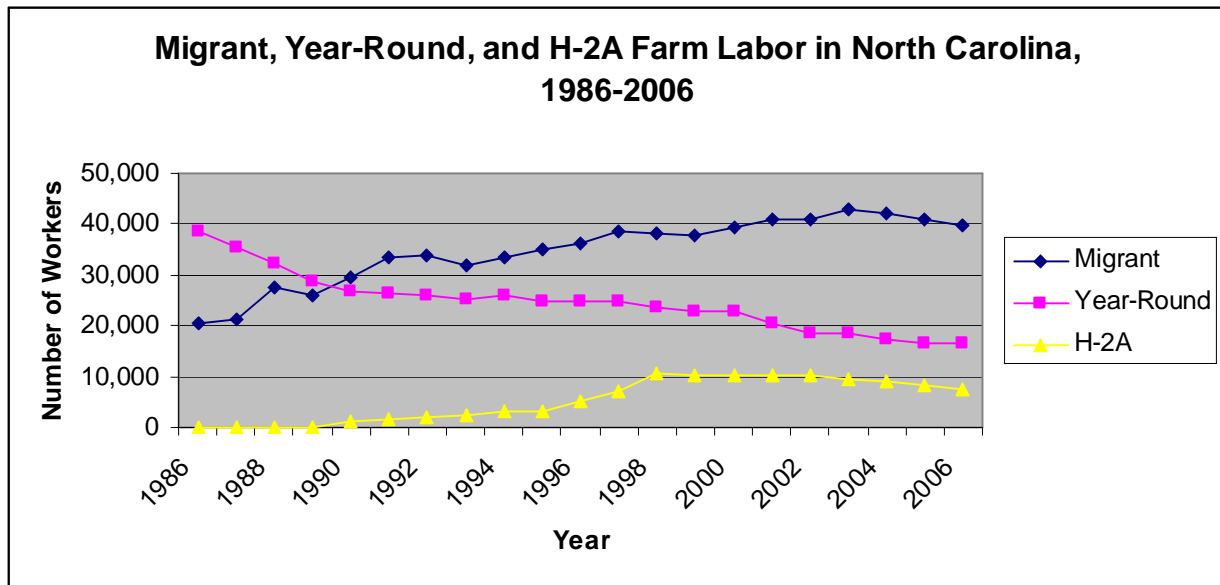


Figure 2: Comparisons of Migrant, Year-Round, and H-2A Farm Labor Over Time

H-2s and Seasonal Labor Migrants in Relation to Settled Latino Populations

Since 1986, across the rural United States, Latinos and other immigrants have begun taking jobs in several sectors of rural economies, establishing the new destinations that have received so much attention since the 2000 census (Gozdziak and Martin 2005; Zuñiga and Hernández-Leon 2005; Murphy, Blanchard, and Hill 2001; Fink 2003). The U.S. South, particularly Georgia and North Carolina, are among the new destinations with the most rapid growth of immigrant populations, and in the rural South it has been primarily Latino immigrant

⁵ Migrant and Latino are, in most cases, the same individuals, counted twice. For this reason, we present the data for all categories of workers in Figure 1, but in Figure 2 narrow it to the three principal groups of interest here.

populations. Some rural southern counties have experienced increases in Latino populations of over 700%, and 400% increases or higher are common, particularly in counties where a combination of agriculture, food processing, landscaping, and construction work is available. Southeastern North Carolina, for example, is home to some of the largest turkey and pork producing companies in the world, within commuting distance of rapidly developing Wilmington, and rich in labor-intensive production of tobacco, cucumbers, sweet potatoes, and blueberries. Counties in this region currently have elaborate Latino communities enriched with *Tiendas*, restaurants, Latino churches and other organizations, and service providers, including health care centers, that serve Latino families.

This growth and its impacts have been geographically uneven, varying from county to county based, in large part, on the history of agriculture and other seasonal work in the region. For example, much of mountainous western North Carolina has a history of small, diversified farms, with burley tobacco, Christmas trees, apples, and a few other crops requiring migrant seasonal farm labor for relatively short time periods. Resident Latinos in some counties number less than one hundred. South Central Georgia represents a kind of half way point between western and southeastern North Carolina, with a long history of migrant agricultural labor and a shallower history of Latino families settling in the area, elaborating their residence there, and finding more diverse job opportunities.

Wherever their numbers have begun to increase, Latinos have begun taking jobs in social service offices, health care centers, and schools, established businesses, and have created more textured neighborhoods and other areas where Latinos can converse in Spanish, access goods and services important to them, learn about other work in the area, and generally feel comfortable. These developments benefit Latinos who are settling in the area and H-2 and other Latino

workers who migrate into these areas seasonally or temporarily, but not necessarily equally. Again, they vary by region as well as by structural features of work and residence in the area.

What follows are four cases that compare Latinos who have arrived in new destinations as seasonal migrant workers—two of which involve H-2 workers and two of which involve Latino migrants who are not in H-2 programs—in relation to the growth and elaboration of settled populations of Latinos. They illustrate that relations between settled and migrant immigrant populations influence labor relations in ways that can facilitate excessive control over the lives of new immigrants or that can undermine that control. As such, they suggest that the maturing of Latino communities has become an important force in U.S. rural labor relations generally.

From Farm Crew to Welding in Cook County, Georgia

Seasonal immigration into Cook County, in south central Georgia, has been going on for several decades, but the settlement of immigrant families is a more recent phenomenon, dating only to the late 1990s. At the time of we conducted fieldwork there (2002 – 2005), only around 100 new immigrant families had settled out of agriculture in the county. How this occurred is a story we heard again and again during our ethnographic work in the community, where a migrant farm worker from Veracruz, Pedro, was brought to the area from Texas by a farm labor contractor (FLC) after crossing the border.⁶

In his own words, he was “tricked” into coming to work in the county seat of Adel, believing that he was going to North Carolina, where he had relatives. In Adel, he worked for a nursery as part of the FLC’s crew, having to stay in the area primarily to repay his debt to the FLC for transportation. This was temporary work, something the FLC found for Pedro between

⁶ Individuals and businesses in these four cases are referred to by pseudonyms, and certain facts have been altered to protect the identities of those involved.

harvests. The FLC in Adel paid off Pedro's debt to the *raitero*⁷ who brought Pedro from the borderlands to Georgia, acquiring his debt in the same way lending companies sell one another mortgages. In other words, Pedro was still bound to pay his debt, just now to a different person.

While at the nursery, Pedro performed various jobs for around \$4.00 per hour until one day the owner of the nursery discovered he could weld. By this time Pedro had learned that the FLC was earning over \$7.00 for every hour that he, Pedro, was working, yet the FLC was not working himself. Outraged, Pedro said, "*Saco la cuenta y se dio cuenta que el contratista estaba ganando lo doble—y sin trabajar!*" ("I got the check and figured that the contractor was earning double [what Pedro was]—and without working!").

Having begun soldering for the nursery, when the labor contractor was ready to move on, Pedro, with the nursery owner's blessing, refused to join him. In spite of the FLC's objections, Pedro stayed at the nursery, in part because his ability to weld convinced the owner of the nursery to defend his decision against the labor contractor. This cathartic moment set the stage for Latino settlement in Adel.

This story is indicative of the way many migrants have come to Adel—in part as a result of the partial breakdown of authority within the FLC system, a breakdown facilitated by local employers who recognize the value of immigrants with skills like Pedro. Yet it is partial. Pedro's case indicates this with his strained relations with the FLC following his leaving the crew. At least twice since the break, the FLC has threatened him, once sending members of his crew to confront him.

⁷ *Raitero* is an Hispanicized English word referring to people who provide rides to new immigrants (most of whom are undocumented) from locations near the U.S.-Mexico border to work locations across the United States. They often have extensive ties to labor contractors in Florida, North Carolina, and other locations.

Pedro's story also illustrates that ties to Fruit-Vegetable-Horticulture production that have been instrumental in bringing immigrants to various parts of the south. During our interviews, stories of FLCs emerged again and again, though in different forms. The picture that one pieces together from these accounts is that FLCs have exercised a great deal of control over the immigrant work force and have been moderately successful at setting themselves up as liaisons between the local natives and the immigrant population. Even though Pedro's resistance indicates that the system may be coming apart as workers settle out of agriculture, farm labor contracting still manifests itself in different guises around Cook County. For example, the city clerk reported that some FLCs keep utility accounts for a number of families. A policeman characterized the local immigrant population as "keeping to their own, because the crew leaders (FLCs) keep them in line." Local realtors reported that FLCs have approached them about housing alternatives to farm labor camps, which can be abysmal, and social workers at Family and Community Development told of FLCs intervening in some of their cases, telling people not to testify against others in their crews.

Combined with the story about Pedro's resistance, these stories attest to an immigrant population transitioning from a seasonal, farm labor population to one that is more settled, yet with some still working in various branches of agriculture and others working outside of agriculture altogether. The continued influence of FLCs in Adel and Cook County suggests that this transition is far from complete. One of the principal FLCs in the county now owns one of the only Latino stores in Adel, still exerting his influence over the migrant and settled immigrant Latino populations of the county. Also, many immigrant women in the settled families, for example, work seasonally in a pallet-making company that provides pallets to local fruit, nut,

and vegetable producers, thus working indirectly for agricultural enterprises. Thus links to agriculture remain—and with those links, connections, too, to FLCs.

From Emerald Sound Seafood to the Homestead Inn in Down East North Carolina

Emerald Sound Seafood is one of several crab processing (or “crab picking”) plants in rural eastern North Carolina that employ H-2B workers, although somewhat unique in that it is located near a busy highway in a town of nearly 25,000. This town has a growing Latino population, with its characteristic *Tiendas* and restaurants, and some of these are within walking distance of the crab plant. Women there had established weak but, as we shall see, significant network ties with other women in the area.

During the 1998 season, crab pickers complained that the owners brought them from Mexico too early in the year in order to begin charging them rent. Not only were they spending too much time idly, they were accumulating debt to the owners in rental fees. When two of the women, Rose and Marielba, attempted to find work cleaning residents’ houses in town, the owners objected and the argument that followed led the women to decide to quit and return to Mexico.

As is common among some H-2B employers, the owners had confiscated the women’s passports upon their arrival, arguing that this was necessary as a hedge against their slipping into the undocumented work force. This was also in line with one owner’s tendency toward excessive labor control—a tendency that had led, on more than one occasion, to sexual harassment. Having made the decision to leave, Rose and Marielba requested their passports, but the owners said they would only return them when they were sure they were on a bus to Mexico. The owners then drove them to the bus station, made sure they purchased tickets to Mexico, and waited until they boarded the bus before returning their passports.

At the next stop, still in town, Rose and Marielba disembarked. From their interactions with other Latino women in town, they had met two women who worked at the local Homestead Inn. They sought these women out and learned that the Inn was hiring chambermaids. Later that same day they applied, were hired, and were given a room to share until they found a place to rent.⁸

New Enganchadores in Brunswick County, North Carolina⁹

Brunswick County, North Carolina lies between Wilmington, North Carolina, on the lower Cape Fear River, and northern Horry County, South Carolina, home to the golf and beach resort of Myrtle Beach. This is one of the fastest growing regions of the United States, with new residents pouring in from the U.S. Northeast and other locations across the country as well as a growing population of immigrant Latinos. With this growth, the economy of the county has changed from primarily tobacco and vegetable farming with some commercial fishing to a booming construction industry for the development of golf courses and gated communities, tourism, landscaping and nurseries, and port development. Between Wilmington and Pauley's Island, South Carolina (just south of Myrtle Beach), there are over 100 golf courses, each of which requires around 12 workers year-round and 18 during the height of the golfing season. Many of these golf courses are associated with gated communities, some with country clubs as well, and a few with resorts.

⁸ At the time, this particular hotel did not use H-2B workers, although it is likely their personnel department knew about the practice. Interviews with hotel managers in coastal North Carolina in the mid-1990s found that they were experimenting with new ways of finding housekeeping staff, including providing them with housing and considering the H-2B program. Myrtle Beach, South Carolina hotels began using H-2B workers in the early 1990s, offering them rooms for 2 weeks, at the beginning of their contract periods, until they could find places to rent in nearby North Myrtle Beach.

⁹ Enganchadores translates literally as "hooker," which is a telling term for Latinos to use for labor recruiters, given the many problems that tend to accompany labor contracting.

Local employers estimate that between 1989 and the present, immigrant Latinos have risen from around 40% of the labor force that tend the golf courses to around 90%. In addition, Latinos routinely round out crews in construction—the economic sector absorbing Latinos at the fastest rate in the state—and now dominate labor forces in other sectors associated with Brunswick County growth: draining wetlands and swamps, clearing land, landscaping, dredging waterways, growing and transplanting nursery stock, working in plywood or particle board factories, manufacturing cabinets and other household fixtures, and cleaning rooms in hotels. Inland from the coast, near the neighboring counties of Columbus and Bladen, tobacco, blueberries, and other labor-intensive agriculture continue as well, creating additional employment for Latinos.

Labor contracting has accompanied this growth. Two of the labor contracting organizations in Brunswick County are similar in that they are based on marriages between local, native entrepreneurs and Mexicans: in one case a local businessman, Grey, married a Mexican woman, Anna; in the second a local businesswoman, Natalie, married a Mexican man, Lorenzo. In both cases, the local entrepreneurs have been able to use their business connections to provide workers to firms throughout the county and the Mexicans have been able to use their network ties, language abilities, and cultural knowledge to secure Latinos for work.

Neither of these couples runs a benign operation. Both house crews of workers in substandard housing, have access to false identification, are rumored to be involved in prostitution¹⁰ and pornography operations, and rent the workers out, as Pedro's FLC did him, for twice what they pay the workers. Anna and Grey, for example, charge golf course managers and

¹⁰ Prostitution directed toward Latino men seems to be fairly common in rural North Carolina, especially in areas that witness large seasonal influxes of H-2A workers. These tend to be almost exclusively young single men. Health care personnel in southeastern North Carolina list STDs as among the most pervasive health risks facing new immigrant Latinos.

construction crews \$12.00 per hour per worker while paying the workers \$6.00 per hour. Unlike the H-2A program but like the H-2B program, their housing is not free. In one case, for example, five workers pay \$95.00 per month for a trailer with holes in the floor, no heat, and no air conditioning. Grey and Anna have also experimented with H-2A workers, bringing them in ostensibly to work in agriculture, including on their own tobacco farms, but placing them with golf course and construction crews.

In addition to housing 50 to 60 workers at their own trailer park, Natalie and Lorenzo own a local Latino store that, like the old company store, they use to extend credit to workers in their crews. They are part of an interrelated network of around 20 families from the Michoacan-Guero border who live in and around an extremely small town where Latinos now comprise most of the town's residents. Members of this network work in cabinet making, agriculture, and the hospitality industry, and Natalie and Lorenzo have used their connections to place workers with these firms.

Unlike the two women who left the crab picking plant, workers for these new *enganchadores* have fewer opportunities to get out from under the control of Grey and Anna or Natalie and Lorenzo. That they provide workers with housing is part of this, although equally important has been their ability to further isolate them by providing their transportation and by locating their labor camps near their own houses and in locations that are near very little else. Lorenzo and Natalie's trailer park labor camp, for example, borders a vast swamp, and Anna and Grey's sits on a road several miles from any population center. Natalie and Lorenzo are able to exercise further control with their extensive network of family, although this is not critical to their control, especially given that internal disputes in the family have undermined its solidarity.

Workers' distance from major population centers seems more important to their exercise of labor control, as is true in the following case as well.

Isolation and Refusal at Lowe Seafood

Lowe Seafood sits just inside a coastal North Carolina town with only around 800 residents and no settled Latino population, although annually around 150 to 200 H-2B crab processing workers work in the town and nearby areas from March to October or November. Gary Lowe, the owner of Lowe Seafood, built new worker housing when he began using H-2B workers. Of this I wrote that he “characterized the housing he had built for H-2 workers as ‘investment property,’ adding, ‘This is America. When you build housing in America you expect to make a profit’” (Griffith 2006: 183). Like other crab processors, he brought H-2 workers in as early in the season as he could, to begin making the profit he expected from his housing.

Initially, there was a phone in the house that workers could use to call home. Lowe charged them for the calls, but didn't like receiving large telephone bills every month. One day, when the workers were at the plant, Lowe replaced the phone with another—this one a pay phone that was more expensive and that, very likely, Lowe received some profit from as well. The workers complained, but continued working.

Every Tuesday Lowe left the plant to “hunt crabs,” as crab processors call it, driving up and down the Mid-Atlantic coast buying live crabs from dealers and fish houses. Typically, crab processors cook a set amount of crabs each day, which, once cooled, are the crabs from which the workers pick meat. On the Tuesday following the change in phones, shortly after he left the plant, the workers, knowing he would be gone for the day, refused to work. That they chose idleness to work testified to the depth of their complaint. They demanded that Lowe reinstall the

old phone. Lowe's wife called him while he was on the road with the news, which meant that the crabs he had cooked for the workers to pick that day would go to waste.

Instead of reinstalling the old phone, Lowe contacted the labor contractor who had supplied him with the H-2s and arranged to have all of his current workers deported and replaced with a fresh, pliant crew. The workers, in this case, were unable to access alternative employment, their only other Latino contacts being H-2 workers as well. Their isolation from any substantial settled population of Latinos undermined their ability to learn of the alternatives available to them.

Discussion: Structure, Agency, and Human Relations in the Rural South

Each of these cases illustrates slightly different dimensions of the relations between settled and migrant Latino populations in the South in terms of how they influence conditions structured into H-2 programs and labor contracting. Like H-2 programs, highly successful labor contractors work to restrict workers' free access to the wider labor market, a practice that may entail surveillance, residential or social isolation, and other methods of labor control. Structural dimensions of H-2 programs that enable this include the contractual stipulation that workers can legally work for a single employer, the complexity of the labor contracting system, with branches in the United States, Mexico, and elsewhere, and control over daily schedules, transportation, and housing.

Earlier I mentioned the issue of idleness in guestworker programs to suggest that it encourages H-2A workers to find work outside of the firms for which they are contracted to work. Yet the significance of idleness goes beyond this. Workers aren't alone in their abhorrence of idleness (again, as opposed to rest or leisure). As noted earlier, employers, whether farmers or labor contractors, dislike seeing workers idle. This is especially the case

when workers occupy employer housing or when employers receive a portion of workers' earnings, either through payroll deductions for such things as rent, food, equipment, or phone calls, or directly from other employers with whom labor contractors enter into contracts.¹¹ Remember that Pedro found work in a nursery during a lull in farm work—a job that enabled Pedro to break free of the FLC's control. Similarly, seafood processing employers often find work for H-2B workers during periods with few to no crabs to pick. North Carolina tobacco growers, perhaps the heaviest users of the H-2A program, will often plant sweet potatoes, cucumbers, and other vegetables to keep workers on their farms busy during lulls in work associated with tobacco.

Efforts to fight idleness, whether initiated by the worker or employer, commonly result in increased interaction between seasonal and year-round work forces, or between migrant and settled populations, and inevitably introduce the possibility of resistance to the problems associated with H-2 programs or labor contracting. Again, this does not apply to everybody equally. Whether or not possibilities of resistance present themselves, and whether or not workers can take advantage of them, varies geographically, by workers' circumstances, and by the structural conditions that employers have been able to construct or use to their advantage. Importantly, too, it varies by the size of the settled immigrant population and the complexity of that population's relationship to the native population. Brunswick County has a large and growing settled Latino population and a large spring and summer migrant Latino population, yet

¹¹ Because subcontracting can shield employers from exposure to immigration laws, and because fear of enforcement has increased substantially since September 11, 2001, demand has increased for labor contracting and subcontracting arrangements of the kind Pedro experienced in Georgia or the Brunswick County labor contractors have developed. North Carolina Department of Labor and Employment Security personnel, labor advocates, and others familiar with North Carolina's farm labor force report that at least 15 new labor contracting organizations have been formed in the past two to five years. One of these was responsible for cheating the Thai workers that, I mentioned earlier, was reported about in the New York Times.

the growth and elaborate nature of labor contracting there have enabled Grey and Anna and Natalie and Lorenzo to isolate workers more effectively than in areas where frequent, easy contacts between H-2 workers and settled Latino workers are possible.

In general, however, the more workers have been able to work outside of their contracts—whether those contracts are H-2 or with a labor contractor—the more they have been able to increase their opportunities for resistance. This is because they expand both their knowledge of the area and their network connections with co-ethnics and natives, learning about such things as where they are likely to find jobs that ICE probably won't bother with, where there is affordable housing, what services are available to them, and what kinds of rights they have even if undocumented. Increasing immigrant knowledge bases, including their knowledge of workers' rights, is a principal objective of many organizations that have emerged across the South to speak up on behalf of immigrants. These include churches and ministries, labor advocacy organizations and labor unions, immigrant-led organizations, universities, community colleges, public schools, and health service organizations.

Policy Discussion: Expanding H-2 under AgJobs

At the labor panel mentioned in the opening paragraph of this paper, the discussion of AgJobs—a federal immigration bill to address perceived shortages of agricultural labor—generated the most heated debate of the evening. One particularly vehement opponent to the proposed legislation was a man from the labor contracting organization, the North Carolina Growers Association, that currently brings in the bulk of the state's H-2A workers. There was, of course, a clear material basis to his opposition: AgJobs proposes to give temporary legal status and work authorization to 500,000 current agricultural workers who can prove they worked in agriculture 100 days in 12 months in the 18 months prior to August 31, 2003. This number of

farm workers accounts for around one-quarter of all farm workers in the United States¹² and would, in all likelihood, flood North Carolina’s agricultural labor market, displacing the current 5,000 to 8,000 H-2A workers who work on North Carolina farms. The labor contractor on the panel misrepresented the bill, saying it would legalize 1.5 million farm workers, warned farmers in the audience that they would be stuck with this bill for the next 20 years, and questioned the government’s ability to enforce the provision that workers legalized under AgJobs remain in agriculture for six years. He compared this to the Special Agricultural Worker provisions of the Immigration Reform and Control Act of 1986, asking, “How many of those workers are working in agriculture now?” Spreading fear among the farmers in the audience was central to his argument. He suggested that people attempting to bring in H-2A workers outside of his organization, which had signed a contract with the Farm Labor Organizing Committee on the condition that lawsuits against them be dropped, would definitely be targeted for law suits. He added that hiring illegal workers was becoming more and more difficult with increased ICE enforcement, which has direct and indirect effects on the supply of labor to agriculture. Directly, enforcement may lead to a tighter border and raids on North Carolina farms. Indirectly, increased border security has, he said, increased the cost of border crossings, leading new immigrant undocumented workers to bypass agriculture for higher paying, more stable jobs in meatpacking, construction, and other fields. He added that most workers now had the network connections to accomplish this.

¹² No one knows how many farm workers there are in the United States, although scholars have been placing the number at around 2,000,000 for several years. However, the farm labor force is so internally varied—including day laborers, contracted workers, family workers, seasonal nonmigrant workers, seasonal migrant workers, and various types of year-round hired hands—that estimating the number is nearly impossible.

However much labor contractors dealing in H-2A workers may dislike AgJobs, and however astute his observations might have been, AgJobs currently has a broad base of support among both labor advocates and factions representing agriculture, including President Bush.¹³ Two reasons for labor advocate support are that first, under AgJobs, workers are not bound to individual employers and, second, workers gain access to federal courts.¹⁴ Regarding wage rates, however, audience members and most panelists at the Johnston County Agricultural Center that evening believed that AgJobs would result in a reduction of the wage rate from the current \$9.02 or \$12.00 per hour (see note 9) to \$7.53 per hour, which they believed would be the new federal minimum wage. They had heard the latter figure from a lobbyist for AgJobs who had been speaking to farmers and farm groups around the state. This conflicts with fact sheets on AgJobs that have been prepared by the labor advocates, which say that AgJobs employers will have to pay the higher of the AEWR or the state or federal minimum wage. Even with a \$7.53 federal minimum, the AEWR is still the higher wage.

What is interesting about the debate over immigration legislation in a forum such as this is that it attests to the uneven support for such legislation *within* the agricultural employer community. This suggests that AgJobs, as currently written, is unlikely to pass, but will have to

¹³ This support is not complete, however. A woman on the panel representing North Carolina Farm Bureau said that both her office and the national office were opposed to AgJobs because “it doesn’t address the prevailing wage issue.” She was referring to the Adverse Effect Wage Rate.

¹⁴ One potential problem with AgJobs is that it may, over time, replicate the “military model” of farm labor, with primarily single males living and working together in agriculture. In the New Pluralism studies, we have seen that it is primarily the presence of immigrant women and children in rural areas, particularly women of child-bearing age and teenaged children, who stimulate the process of settlement that leads to the communities that farmworkers can use to resist excessive labor control. Women and children have been at the helms of engaging health care systems, schools, churches, and other community institutions and resources, drawing more attention to the immigrant community and elaborating the immigrant community’s links to specific localities. Many Latino stores, too, tend to be founded by women, in part because they can work and take care of children in such businesses.

be modified in some way before it becomes palatable to growers, labor contractors, and labor advocates. It also suggests pending immigration legislation, heated and often intense, set against local assaults on immigrants and immigration by county commissioners, is something that is often misrepresented in the attempt to garner support or spread opposition. Such debates may draw upon the on-the-ground dynamics of the farm labor market selectively—as in the labor contractor’s observations that the undocumented can bypass agriculture for more permanent jobs with the assistance of network connections—but they are rarely frank about the payroll deduction schemes and other developments in guestworker programs that make them resemble labor contracting of the kind practiced in Brunswick County. It has been my experience, in over 20 years of studying guestworker programs, that, instead of improving labor relations as legal alternatives to undocumented immigration, the tendency has been for guestworker programs to deteriorate to the level of labor relations common among undocumented immigrants (Griffith 2006). While the growth of an immigrant co-ethnic community may enable some undocumented and some guestworkers to free themselves from such labor relations, practices that continue to isolate immigrants make the deterioration of guestworker programs, perhaps, inevitable.

Postscript: Controlling the Second Generation and New Contract Workers

As Latino communities continue to mature throughout the South, labor contractors will either have to adapt their methods of controlling workers’ access to co-ethnics or, more likely, consider moving on to other sources for a new supply of workers. Historically, the H-2 program was initially dominated by Jamaicans, but shifted to Mexicans after Jamaican law suits against the sugar companies forced South Florida sugar producers to mechanize the sugar harvest (U.S. Congress 1991). I noted earlier that, over the past two to five years, there has been a proliferation of farm labor contracting organizations in North Carolina, with at least 15 new

organizations appearing over the past two to five years. Some of these have been little more than a few farmers banding together to circumvent fees charged by the North Carolina Growers Association.¹⁵

Others, however, are less benign, bringing workers from Thailand, Vietnam, South Africa, and other locations at great expense to workers with little reward. It was one of these that the New York Times covered in its February story. In this case, one of the new labor contracting networks¹⁶ recruited workers in Thailand for work on North Carolina farms, promising them three years of work and charging them \$11,000 apiece for these opportunities. Not only did the three years of work not materialize, according to the complaint brought by North Carolina legal aid against the labor contracting network:

“Plaintiffs were the victims of trafficking. When they arrived in North Carolina, Defendant Million Express Manpower, Inc. confiscated their passports and visas. Defendants did not provide plaintiffs with the promised work, and kept plaintiffs in seriously substandard housing. Defendants warned plaintiffs that they would be arrested if they left their employment, monitored their movements constantly, and showed plaintiffs that they possessed guns. Plaintiffs were fearful of leaving the defendant employer, and were also bound to continue working to pay off the massive recruitment fees they had paid. After Hurricane Katrina, defendants moved plaintiffs to New Orleans, Louisiana. They housed plaintiffs in a condemned motel there, put plaintiffs to

¹⁵ Farmers report fees of around \$900 per worker, which includes fees to the association and the costs of transportation, visas, and other costs. Some farmers, with the workers’ agreement, deduct these costs from workers’ pay (which is illegal), and workers also pay around \$130 to \$150 each to recruiters in Mexico.

¹⁶ I call this a labor contracting “network” rather than an association or an organization, because it involved several linked groups and individuals, including firms in Thailand and North Carolina and North Carolina farmers and former employees of the North Carolina Department of Labor.

work under atrocious conditions, and failed to pay them for their work. Plaintiffs eventually sought help and escaped” (Muangamol Asanok, et al. vs. Million Express Manpower, Inc, et al. Case 5:07-cv-00048-BO, filed 02/12/2007: 2).

A similar case has also been brought against another labor contracting network, this one recruiting workers from Indonesia and charging them fees of \$6,000 each for the promise of farm work in the United States. In North Carolina, workers from Asian and other backgrounds have no opportunity to benefit from a flourishing co-ethnic community, as the state’s Asian population is concentrated in its urban areas. While Asian workers in both of these cases were able to resist excessive labor control by accessing a legal aid organization, we have no idea how many other victims of trafficking are currently working in the United States. It is likely it is considerable, as trafficking has become one of the major human rights violations of the 21st century (Gozdziak and MacDowell 2007).

These practices are expanding, moreover, at a time that agricultural producers and other employers of low-wage labor in the United States complain of chronic labor shortages. As we know from labor history, such complaints often precede government intervention in rural labor markets, if not in the form of creating or expanding guestworker programs then in the form of subsidizing housing for farm workers or marshalling enhanced recruitment campaigns (Hahamovich 1997, 2000). As has been the case in the past, too, these shortages are not absolute shortages of labor, but shortages of labor paid wage rates that farmers believe are fair, that most everyone else believes are low, and that in actuality fall somewhere in between, with some farm workers at times capable of earning high hourly, daily, or weekly incomes but low annual incomes because of irregular work from forced idleness.

Clearly, North Carolina agricultural producers do have access to a steady and reliable source of labor with the H-2A program; the program brought in nearly twice as many workers in 1998, when hourly rates were cheaper, than it does today. Those who have dropped out of the program have not done so because of a labor shortage, they have done so because of a shortage of labor they can hire at wage rates of \$7.00 per hour as opposed to \$9.00 to \$12.00 per hour. As long as powerful financial incentives exist to meet the demands for farm labor at low cost, new labor contracting organizations and networks are likely to develop that shop the world for workers willing to agree to lower wages than those stipulated in their contracts. While Latinos may be increasingly able to resist conditions such as those experienced by the Thai and Indonesian workers in the court cases mentioned above, the Latinization of rural America may be progressing at the very time that we are beginning to witness the globalization of the North American farm labor force.¹⁷

¹⁷ Use of Asian and other non-Latino workers in North American agriculture and other low-wage labor forces is, of course, nothing new. Labor historians have traced the use of Asian refugees and others in a variety of farm and other low-wage labor markets, particularly on the west coast, as well as Italians, Portuguese, West Indians, and others in labor markets in the east and Midwest. It may be argued, too, that some workers from indigenous regions of Mexico and Central America, an increasingly common feature of the post-NAFTA era, speaking Mixtec, Trique, Otomi, Xanjobal, Quiche, and other indigenous languages, have reduced access to the process of Latinization than Mexicans and Central Americans whose first language is Spanish.

References

Fink, Leon. 2003. The Maya of Morgantown: Work and Community in the Nuevo New South. Chapel Hill: UNC Press.

Gozdziak, Elzbieta and Susan Martin. 2005. Beyond the Gateway: Immigrants in a Changing America. Lanam, MD: Lexington Books.

Griffith, David. 2006. American Guestworkers: Jamaicans and Mexicans in the U.S. Labor Market. University Park, PA: Penn State University Press.

Griffith, David. 1993. Jones's Minimal: Low-Wage Labor in the United States. Albany: State University of New York Press.

Hahamovich, Cindy. 1997. The Fruits of their Labor. Chapel Hill: UNC Press.

----2000. "Creating Perfect Immigrants." Paper presented at the Labor History Conference, Wayne State University, Detroit, MI, October 17.

Muangamol Asanok, et al. vs. Million Express Manpower, Inc, et al. Case 5:07-cv-00048-BO, filed 02/12/2007. North Carolina Legal Aid Office, Raleigh, NC.

Murphy, Art, Colleen Blanchard, and Jennifer Hill. 2001. Latino Workers in the Contemporary South. Athens: University of Georgia Press.

Smart, Josie. 1997. "Borrowed Men on Borrowed Time: Globalization, Labour Migration, and Local Economies in Alberta." Canadian Journal of Regional Science 20:141-156.

Southern Poverty Law Center. 2007. Close to Slavery: Guestworker Programs in the United States. Southern Poverty Law Center, 400 Washington Avenue, Montgomery, Alabama.
<www.splcenter.org>

U.S. Congress. 1991. Report on the Use of Temporary Foreign Workers in the Florida Sugar Cane Industry. 102nd Congress, 1st Session, July. Serial no. 102-J. Washington, DC: U.S. Government Printing Office.

Zuñiga, Victor and Rubén Hernández-León. 2005. New Destinations: Mexican Immigration into the United States. New York: Russell Sage Foundation.