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Harvests of Shame: Enduring Unfree Labour in the Twentieth Century United States (1933-1964)

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Abstract

This article reframes the discussion on vulnerable and exploited agricultural labour in twentieth-century United States using the overarching category of unfree labour. In order to do so, it bridges two usually distinct historiographies by linking the phenomenon of ‘peonage’ during the New Deal, with the one of immigrant contract labour in southern Florida, under the H2 visa. Archival research on the practices at the US Sugar Corporation in southern Florida illustrates this link. The article draws on Federal archives, US Government proceedings, papers of political activists and legal and labour scholarship to argue: firstly, that unfree labour has been an enduring feature of agricultural labour relations at regional level during the twentieth century, through both a transmission and a transformation of practice that had their origin in the control of black emancipated labour; secondly, that the introduction of ‘guest workers’ under the H2 and Bracero programme meant a modernization in the practices of unfree labour, pivoting on the lack of citizenship rights, racial discrimination, debt at home, and threat of deportation; and, finally, that the failure to recognise forms of legal and economic deprivation and coercion as unfree labour has hurt the ability of the United States to enforce protection of human rights at home.

Keywords: unfree labour, modern slavery, guestworkers, H2-program, Bracero Program, sugarcane, peonage

‘On both sides of the highway west from Belle Glade can be seen the South Bay Plantation of the US Sugar Corporation, with its neat, orderly, and Well-maintained cottages of happy, contented plantation workers’

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In 1960, *Harvest of Shame*, a CBS award-winning documentary by Edward Murrow, exposed to millions of Americans the plight of immigrant farm workers in Florida, California and other states. They toiled all day cutting cane or picking vegetables and fruits, yet lived in a state of abject poverty and precariousness. Workers and their families showed signs of malnutrition and inhabited filthy lodgings. Murrow related the words of a farmer: "We used to own our slaves. Now we just rent them" (Murrow, 1960). Aired few years before Lyndon Johnson's War on Poverty, the documentary raised questions about U.S. migration policy, about precarious and unfree labour—work that is performed under some form of coercion—and its persistence throughout the twentieth century, and about its connection with the politics of race and citizenship; questions that have a long history and are still current—indeed critical—today.

The CBS documentary was not the only instance in which these themes were presented to the public opinion of the 1960s. Academic studies such as Henry Anderson's *Field of Bondage* (1963) or muckraking accounts such as Moore's *The Slave We Rent* (1965) hammered on the same idea: unfree labour persisted in Twentieth Century United States in new forms and hidden from the view of mainstream America. The use of the term 'slavery' in these books and documentaries was no doubt hyperbolic; yet, I would like to pursue in this paper the idea that unfree labour, remarkably, continued to exist during last century in the United States.

This is not actually surprising. Public opinion is often astonished by contemporary accounts of modern slavery and human trafficking in our liberal democratic capitalist societies. We tend to think of slavery or indenture labour as a 19th century phenomenon of unreformed capitalism. Such view, however, overlooks the fact that in the 20th century unfree labour persisted, worldwide, in different forms. During the 1930s and right through to the '60s, in Africa the colonial empires were still embroiled in allegations, or outright practice, of coerced labour. The main culprit was the waning Portuguese empire, where forced labour was eradicated from the laws with much difficulty (Keele, 2014; Ball, 2005 but see also the Congo, Seibert, 2016), but even in the British and French empires, where it had been banned by the 1930s, the issue resurfaced regularly (Klein, 1998; Fall, 1993; Cooper, 1996; Cooper, Holt, Scott, 2000; Austin, 2005; Kwabena, 2000, 2002; Clayton and Savage, 1974; Hogendorn and Hogendorn, 1993). During WW II, Nazi Germany had used large quantities of forced labour to prop its economy and war effort, and Soviet Russia had its own labour camps for political prisoners (Gruner, 2006; Herbert, 2000). With the onset of the Cold War the practice spread to other states in the Soviet bloc. Equally, Franco's Spain had also established forced labour camps in the 1940s (Gonzalo, 2013). In South East Asia archaic forms of unfree labour were widespread in rural areas and in the case of India intersected with the caste issues. And in Latin and Central

America, many peasants lived under a classic peonage system, tied to a single large landowner for decades. All this landscape is depressingly documented in the papers of the International Labour Organisation and in the preparatory work for the convention against forced labour that occurred in the 1930s and 1950s (Maul 2012). During the preparatory inquiry for the Abolition of Forced Labour Convention (1957), the United States were remarkably left off the hook. The Commission left unchallenged its claim that the US Constitution provided a sufficient safeguard and redress against coercion in employment relations (Pizzolato, 2017).² In the international arena, the American case seemed ‘exceptional’ in having eradicated forms of labour bondage. It was not.

As in the above international cases, American unfree labour was not linked to a few sensational cases, interpreted as the criminal activity of deviant individuals over unfortunate, helpless victims, but was an enduring and evolving phenomenon in large areas of the American south; it informed important aspects of the political economy of these regions and of the nation, under the aegis of the State concerned and often with the protection of the law.³

More broadly, in the United States, public policy, jurisprudence, the media, and scholarly research have been reluctant to employ the category of unfree labour to characterize the enduring practice of rural low-wage work under a degree of coercion. (Unfree labour is in itself a slippery concept as the historiographical debate that I report in the section below demonstrates). Modest in size, historical research has usually focused on the first three decades of the century and has provided an understanding of the classic form of so-called peonage that is known to be part of the American South before the Second World War. A number of historians have analysed its emergence in the late nineteenth century, interpreting it within the framework of a long ‘shadow of slavery’ (Daniel, 1972; Woodruff, 2003; Blackmon, 2008; Goluboff, 2008). This has constrained the study of unfree labour and hid ways in which employers have used the racialization of labour hierarchies, the denial of

² United Nations and International Labour Office, ‘Report of the ad hoc committee on forced labor’, 1953, E/2431. http://www.ilo.org/public/libdoc/ilo/ILO-SR/ILO-SR_NS36_engl.pdf [visited 1/1/2018]

³ There are of course no governmental statistics about the extent of unfree labour in the period under examination. However, a few numbers can provide a clue to the scale of the phenomenon. Between 1925 and 1945 the Peonage files of the Department of Justice, file 587 investigations into situations of unfree labour, each involving from one to over one hundred workers. Even though a small number of these investigations resulted in prosecution is also to be taken into account that the very nature of the phenomenon made so that only a fraction of cases would be reported at all. A commission of inquiry set up by the Workers Defense League in 1949 established that 76,000 Americans lived in peonage (See Pizzolato, ‘On the unwary and the weak’, p. 304). In the 1952 activist and researcher Stetson Kennedy estimated the number to be 880,124. These number do not include guestworkers such as the H2 workers covered in this article (44,000 at the war and the declining to 9-10,000 workers in the sugarcane fields in subsequent years) nor the guestworkers under the Bracero programme, which Ernesto Galarza famously compared to slavery in this investigations of Southwestern Arizona and California (for an overview see ‘Immigration in a rural context’ in Riney-Kehrberg, 2016). While we need further quantitative research on the importance of the phenomenon, these different estimates and sources point to continued relevance on agricultural labour with degree of coercion.

citizenship rights and debt, to foster unfree labour relations well into the second half of the 20th century.

The peonage that historians of the American South described emerged from the indebtedness of the sharecropper in the cotton belt and was a particularly aggravating form of the indebtedness that characterised sharecropping in general. When landlords advanced money for food, housing, tools and clothes in return for a share of the crop, which included interest, they were often binding the black sharecropper and his family for a long period of time. This system was common in Mississippi, Arkansas, Georgia, Alabama, but the degree and the length of this debt bondage varied from county to county and from case to case. Not all sharecropping was peonage, but most cases of unfree labour emerged out of sharecropping. The premise was that deals involved actors of unequal standing in a racist society. Although both white and black sharecroppers would fall in debt, the system was in particular rigged against African Americans who could not challenge the bookkeeping (or lack of it) without further economic, social, or even penal sanctions. Violence, whether legal or extra-legal was also an ever present threat (Raper, 1936; Johnson, 1934; Kester, 1997; Thomas, 1934; The National Emergency Council, 1938). The convict leasing system was another path to unfreedom (Mancini, 1996; Lichtenstein, 1996; Myers, 1998). Local sheriffs and the courts of justice connived into use vagrancy laws to place destitute African Americans in bondage. ‘Vagrancy’, of course, had a broad meaning. It was selectively applied, with a racist bias, to any African American who did not have the protection of a white employer or landlord and it allowed a white employer to pay a sum to bail the individual from jail and keep him or her under virtual bondage until they had paid out the debt through work. This system provided bonded labour to farms, but also turpentine camps and lumber industry and, for a time, to coal mines.

In this form, unfree labour responded to the will of white southerners to regiment a black labour force that had long been emancipated but was still indispensable. It was a phenomenon that grew out of the legacy of slavery but it was also an ever-changing phenomenon. As the century progressed, unfree labour took on connotations that were remarkably different from its 19th century ancestor: it could be a very much a temporary condition; it affected a number of industries and newly established enterprises; and eventually it involved immigrant labour as well as African Americans. By mid-twentieth-century, it was more than a practice that grew out of the legacy of slavery, it had evolved into something different. When the Federal Government in the 1940s protected African Americans from peonage more vigorously, and when the tractor, Second World War, and another great migration diminished the density of black labour in the cotton fields, unfree labour still survived. Many rural fields in the American South and sometimes in the South West, remained, or became, fields of bondage and their harvests, harvests of shame.

While post-war immigrant labour, both contracted and illegal, is subject of a copious literature there is little recognition of the historical link with what is often studied under the rubric of peonage and its connection to a much longer tradition of unfree labour. The problem is compounded by the fact that historians generally seem to regard the history of African-Americans and this history of farm workers immigration as different spheres of inquiry, one in which scholars are often not in dialogue with each other (Majka and Majka, 1982; Mitchell, 2012; Gonzalez, 2015). Yet, I argue, as an analytical category, unfree labour is the one best suited to understand the cocktail of low-wages, precarious conditions and authoritarian employment relations that have characterised twentieth-century American agro-industry in some regions of the American South between the 1930s and the 1960s

In this article I focus on the evolving practices of unfree labour by joining the dots between two distinct episodes: a peonage farm in Georgia and sugarcane harvesting in southern Florida. Sugarcane harvesting was one of the most fatiguing and dangerous jobs in agriculture. In the 1940s large growers such as the US Sugar Corporation, found it difficult to attract cheap labour for this seasonal task—typically running from November to April. Drawing on the labour culture of the South, they employed all the instruments of peonage known locally, including luring workers with fraudulent promises or rounding them up with vagrancy charges, and keeping them under close surveillance in secluded quarters. Almost a century after emancipation, plantation work was still deemed suitable only for African Americans, and modern companies such as US Sugar, established with northern capital, had a racialised vision of how their workforce should be selected. No white American, in their view, was suitable for this task.

Charged with ‘peonage’, but never prosecuted, US Sugar changed its labour strategy during the Second World War, when African Americans fled to occupy jobs in the defense industry or were drafted into the army. With the help of the Government the agroindustry brought in guest workers from Mexico and the West Indies. In the case of Florida, sugar growers obtained permission to employ workers from Bahama, Barbados, and, especially, Jamaica, during harvest season. Nominally under a contract that gave them a minimum of protection, these workers were actually indentured labour: they could work only for the employers to which they were destined, they would be arrested and deported for any misbehaviour, including claiming what was due to them, and a part of their wages would be withheld in case of deportation and their name blacklisted for future entry to the United States. These workers were not slaves, but neither were they free (Hahamovitch, 2011; Hollander, 2009).

Conceptualising unfree labour, from peonage to contract labour

A note on terminology is needed here. I have chosen to use the phrase unfree labour, which appears in political economy and sociological theory, because it is less loaded and more inclusive than ‘forced

labour', 'coerced labour' or, a favourite lately, 'modern slavery'. By using this phrase I position myself within a diverse literature that posits fluid boundaries between free and unfree labour, recognising that most labour relations exist in a spectrum between the two. It is problematic to single out 'unfree labour' from other labour relations and unfree labour relations are deeply embedded in capitalism (Lerche, 2011; Banaji, 2003; Brass, 1988; Brass, 2003; Brass and Krissman in Brass & van der Linden, 1997; van der Linden, 2016). 'Unfreedom' in labour relations occurs along a spectrum of different modalities of labour exploitation with certain characteristics in common. The scholarly debate on these themes has often focussed on whether the presence of wages or a contract amounted to free labour (Banaji, 2003; Brass, 1999). In response to the urge to understand contemporary forms of unfree labour, there is now an increased recognition that unfree or forced labour can entail forms of payment or a consent to enter the contractual relation. Currently, definition of unfree labour clarify that, irrespective of the means of recruitment, the payment of wages, or temporality of the situation, the performance of low-paid, dangerous work, the lack of right to protest and penalties for exiting the relation amount to a situation of unfreedom. The Brazilian definition of *trabalho escravo*, 'slave labor', now encompasses 'degrading conditions of work' (McGrath, 2013). The International Labor Organisation (ILO) recognises as indicators of forced labour: the inability to walk away from an employer without heavy sanctions; the lack of freedom to select a better employer; the lack of freedom to claim better working conditions or to bargain collectively; the lack of freedom to refuse to work and the acquiescence to living and occupational standards that are below the minimum accepted in a given society. (ILO, 2012; Lerche, 2007). These elements may or not be accompanied by the use of violence.⁴ Unfree labour is often enforced on racial minorities and migrant workers: the racialization of the labour relation (for instance, white employer, non-white worker) becomes an importance element of labour control.

Unfree workers often enter freely an employment situation, but are deceived about the amount of wages and/or the conditions of employment. They also often find out that exiting such situations is often precluded, because respectively of coercion, threat or lack of alternatives. According to a scholarship that dates back to Robert Mile (1987, pp. 28-33), the power to leave employment at will is a crucial component of free labour.

Fudge and Strauss remarked that, 'Migrant domestic workers are rendered unfree at the moment of contract by virtue of the restrictive conditions imposed by their precarious migrant status, which is often constructed by the state' (Costello and Freedland, 2014, p. 163). Coercion, in different forms, is

⁴ Note the current ILO definition 'Forced labour refers to situations in which persons are coerced to work through the use of violence or intimidation, or by more subtle means such as accumulated debt, retention of identity papers or threats of denunciation to immigration authorities.' Relevant is also the 1930 Forced Labor convention definition "'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.'" The penalty might consists in the loss of rights and privileges.

thus an attribute of different kinds of work relations, and its presence cannot be discounted even in presence of wages, consent or a contract. Lebaron and Ayers (2013) define broadly unfree labour as ‘a social relationship of insecurity and exploitation’ (p. 874) embedded in many types of labour relations that occur within the overarching structure of capitalism. In the American case, employers resorted to unfree labour as an evolving response to the changing availability of labour in the local market, within a changing political and legal framework that closed or opened opportunities to reach their pre-eminent goal: cheap labour. Transposing the categories employed by Mae Ngai (2004), employers and the state conspired to create ‘alien citizens’—racially constructed subjects with rights which are unenforceable, and ‘illegal aliens’, whose mere presence on the national soil is a criminal act.

Unfree labour and 20th century sugar industry

The cultivation of sugar in Florida provided the clearest example of unfree labour practices that have continued across several decades of the 20th century, across the divide of the Second World War, involving different ethnic groups of workers. The commercial cultivation of sugar was a recent event in Florida, established with significant success only in 1931 by the US Sugar Corporation, which in the following decades became the major player in the area. Sugar cane, established on the south shore of Lake Okeechobee, is harvested from November to April and, until the 1990s, required tens of thousands of hand-cutters to work in it; it was a dangerous, poorly paid, monotonous and fatiguing job. These plantations had no connection with slavery – they just did not exist in the nineteenth century and they belonged to men who had never been slave owners (the corporation belonged to some of the most successful industrialists of the South, who drew on northern capital)⁵ but in terms of labour relations the sugar planters inherited a regional practice that emerged in the last decades of the nineteenth century: peonage.⁶

Notwithstanding a few prosecutions during the Progressive era, in the 1930s the system of racial management and labour relations known as ‘peonage’ was still intact in Florida. The labour that sugar planters wished to hire was to be so cheap that, in their view, a degree of fraud and coercion was needed to recruit it. In 1943, in Glades County, near Clewiston, Sheriff Jeff Wiggins was indicted of working county prisoners as slaves in his own farm, under the excuse of liquidation of a fine for vagrancy, gambling or other minor violations.⁷ But sugar planters needed a much numerous workforce than the one that could be provided by complacent law officers. Unable to attract labor

⁵ Department of Justice, Peonage Files (from now on DOJ), Reel 10, 852.

⁶ Peonage practices had a long history in Florida. *Clyatt v United States* (1905), the first case in which the Supreme Court upheld the statute against peonage (1867), concerned two black workers held in bondage in the turpentine camps of Florida.

⁷ DOJ, Reel 10, 669. See also DOJ, Reel 10, 866.

from neighbouring counties, where the appalling working conditions of the plantations were well-known, US Sugar sent labour recruiters to Georgia, Alabama, South Carolina and as far as Memphis, where word of their reputation had not yet arrived.⁸ According to a reportage, these white recruiters would ‘walk through the black part of the town offering free transportation and medical care and housing and meals to anyone who would cut sugar cane in Florida, and when the men arrived they would hear that they owed the corporation for the ride and for the equipment to cut cane and that they couldn’t leave the plantation until they had satisfied their debts’ (Wilkinson, 1990, p. 5). In reality the bulk of the thousands of men needed for the harvest were recruited in those states through the US Employment Service (USES), a New Deal agency that oversaw the interstate job market, providing opportunities for the unemployed. The USES policy was to make referrals ‘without regard to race’, except when the employer demanded ‘discriminatory specifications’. As Gunnar Myrdal noticed, it was impossible to oppose federal officers who practiced racial discrimination when it was endorsed by the official instructions to such an extent (Myrdal, 1944, p. 418). The Federal Government, via USES, was therefore sending unemployed whites to northern factory jobs and unemployed blacks to sugar fields in southern Florida. The government was endorsing a time-worn discourse of racialization of the labour market that saw plantation work fitting to innate, essentialized racial characteristics. Men were promised \$3 to \$6 per day, but they were paid \$1.80, which went all towards paying their debts.⁹ They were charged for transportation, room and board, a blanket, a knife and a badge. Even fresh water had to be purchased.¹⁰ US Sugar ran 11 plantations around Clewiston, employing up to 200 men each, making it the largest planter in the area. Though with different levels of security, they were all run like prisoners’ camps, where workers would not be allowed to leave until the season was over. One could argue that twentieth century sugar plantations were still total institutions – enclaves where individuals were forcibly cut off from the rest of society (Knottnerus, Monk, Jones, 1999; Griffith, 2006, p. 10). Topography reinforced the feeling of imprisonment. For instance, the so-called Miami Lochs plantation was surrounded by canals and it was necessary to cross a guarded bridge to leave. Or to wade the canal, which many attempted.¹¹ In May 1942, a report from the FBI, which summarised the federal investigation and the testimony of about a hundred witnesses, stated dryly, ‘There does not seem to be any dispute as to the fact that those men who have attempted to escape from the plantations and are picked up on the highway or shot while trying to hitch rides on the sugar trains are returned to the plantations and forced to work’.¹²

⁸ See Assistant attorney general’s comment on this ‘On two occasions I talked with the employment agency about the methods of the sugar corporation, expressing my wonderment that an organisation in Florida, where there is an ample supply of colored labor, would find it necessary to transport workers from Memphis to that state’, DOJ, Reel 10, 1076.

⁹ DOJ, Reel 10, 853.

¹⁰ DOJ, Reel 10, 869.

¹¹ DOJ, Reel 10, 885.

¹² DOJ, Reel 10, 854.

The work routine was exhausting. Wake up call was at 3.30am and the working day started at 4.30am after a small breakfast. At 11:30am another small breakfast, then work until dark.¹³ Worker Johnnie Grey was bluntly told by a supervisor, ‘I know you are going to work if you stay here, and I am not worried about you staying here because I know you can’t get away’.¹⁴ This in spite of the fact that men did get away in witty and courageous way – or taking advantage of the moments in which security was lax¹⁵. ‘The men worked seven days a week for the first few weeks and word got around among the men that if any of them tried to leave they would be killed’, stated worker Allen Slayton, from Tuscaloosa, Alabama, after managing to escape with a car and the help of his sister.¹⁶ All these boys and men, exclusively black, told their story to federal investigators who, in the early 1940s, uncovered practices that had been routine in the sugar plantations for over ten years. White men with guns and blackjacks patrolled the camps. Those who escaped were beaten, jailed, fined and returned to camps with an increased debt. The law enforcement helped, but no record of arrest would be made. The Sheriff acted as extra-judicial power at the service of planters.¹⁷ Workers who suffered injuries, a frequent occurrence in sugar cane harvesting, either from the knives or snakes, were left without medical attention.¹⁸ Workers were ‘made to work in every kind of weather and made to work even if they were sick’.¹⁹ To a boy who refused to work because he was sick, the supervisor retorted :, ‘I brought you down here to work and you’ll work, whether you are sick or not’.²⁰

In fact, the most poignant stories came from teenagers, boys as young as 15, whom recruiters lured with fraudulent promises.²¹ Enthused by the prospect and gaining high wages young men lied to officers of the USES about their age.²² They were loaded on trucks from faraway cities such as Tuscaloosa and then trapped in the plantations with few means of escaping, though sometimes slipping the occasional letter to alert their families, who then wrote desperate pleas to the NAACP, the Workers Defense League, the Department of Justice, or President Roosevelt or, more often, his wife. In wartime America, recruiters gave boys the false impression that working for US Sugar meant working for the government or in a defense job. Upon arrival in Clewiston, however, the reality was different.²³ Guards beat boys more often than they beat adults and boys usually found it more difficult to escape.²⁴ Worker Jake Robinson: ‘Several Memphis boys ran away from the plantation and when Mr. Neal [the supervisor] missed them he told the rest of them that he was going to get those boys and

¹³ DOJ, Reel 10, 860.

¹⁴ DOJ, Reel 10, 862.

¹⁵ DOJ, Reel 10, 874.

¹⁶ DOJ, Reel 10, 861.

¹⁷ DOJ, Reel 10, 862, 863.

¹⁸ DOJ, Reel 10, 864.

¹⁹ DOJ, Reel 10, 872.

²⁰ DOJ, Reel 10, 884.

²¹ DOJ, Reel 10, 880.

²² DOJ, Reel 10, 880.

²³ DOJ, Reel 10, 872.

²⁴ DOJ, Reel 10, 881.

bring them back.’ The next days he did so.²⁵ And he hit one of the boys so hard that he threatened to ‘wear out’ his blackjack on him.²⁶ Other times, intimidation might be only psychological. In their testimonies boys at Miami Lochs remember when Mr Neal, the feared white supervisor, bought a new whip and went around the plantation cracking it, though without hitting anybody.²⁷ Behind the coercive practice was the desire to pay as little as possible for stoop work, the difficulty to recruit for seasonal, dangerous, hard work and the idea of the plantation as a racialized workplace, where discipline followed and shaped a racial hierarchy.

The documentation of these practices is extensive. Comprising about a hundred testimonies compiled by FBI detectives in spring 1942. But what were Federal investigators doing in Belle Glades County anyway?

The Struggle Against Peonage

Unfree Labour had come under the attention of the Federal Government in the early years of Twentieth Century, and then slipped off the radar again. Progressive era prosecutions had led to some landmark Supreme Court decisions that provided a solid jurisprudence against peonage, had the political will to prosecute been there (Huq, 2001; Howe, 1904; Daniel, 1970).²⁸ But there was no such political will. And if anything, the progressive era investigation had made things worse by unwittingly suggesting to landlords and sheriff how to cloak their notorious practices under the pretence of the law. However, in the late 1930s a tenacious political campaign against peonage put on the spot the most notorious practices of coercion, such as those occurring in Florida, and eventually led to the investigation and prosecution (but rarely the conviction) of a number of employers.

The national and, later, international, campaign against peonage that took place in the second half of the 1930s is a little known episode with the ‘long civil rights movement’ (Down Hall, 2005; Gilmore, 2008; for a criticism Anersen, 2009). From the mid-1930s until well into the 1940s, hundreds of African American workers wrote letter of complaints, of request for help, or desperate pleas to free relatives from bondage. They wrote to organisations receptive to their complaints, such as the International Labor Defense (ILD), and later its Abolish Peonage Committee, the Workers Defense League (WDL), the National Association for Advancement of Colored People (NAACP), to labor unions, or sometimes directly to the Department of Justice or even to Eleanor or Franklin Roosevelt—

²⁵ DOJ, Reel 10, 895.

²⁶ DOJ, Reel 10, 902.

²⁷ DOJ, Reel 10, 885.

²⁸ See also “Horrors of Peonage. Alabama Negroes Whipped to Death”, *The Stanstead Journal*, June 25, 1903. “Violations of Federal Peonage Laws by State Statutes”, *Virginia Law Review*, 2 (1915), pp. 385-390.

to anyone who would listen. As the campaign grew momentum, their letters were reinforced by telegrams, phone calls, investigative reporting, radio broadcasts, protest marches and speeches—all the tools available to political movements at the time to lobby for changes and stimulate federal intervention. Dedicated activists informed the public opinion through articles and pamphlets, raised money and assisted plaintiffs with individual grievances and complaints. In some cases, political and civil rights activists secretly helped the victims of peonage to escape the labour camps. One of this instance is particularly famous because it involved Herbert Aptheker, the pioneer historian of slave revolts and one of the founding members of the Abolish Peonage Committed, established in 1939. Aptheker, a Communist, travelled to Georgia under the pretence of being a salesman to slip cash to friends and relatives of people held in bondage, and arrange safe places for their escape. Aptheker barely escaped being apprehend himself, and returned to New York to write articles about peonage (Aptheker, 1940; Bowser, Kushnick, Grant, 2004). Other times it was the NAACP or the Socialist WDL that sent such emissaries. As it is known, these groups had different political agendas and it is exemplary of the political opportunity opened by the New Deal that joined in a fleeting alliance to bring about political change (Martin, 1985; Auerbach, 1966).

The climax of the campaign against peonage, in terms of political visibility and impact on Federal justice concerned a case occurred in Oglethorpe County, Georgia. A rogue planter there, William Cunningham, came under the attention of the African American press when he demanded the arrest and attempted to extradite/e from Chicago three black workers escaped from his 75-acre plantation, Sandy Cross, and return them to what the defendants claimed was a condition of slavery or forced labour.²⁹ Testimonies revealed that Cunningham kept a sizeable number, probably close to a hundred, of bonded workers in his farm, rounded up in a variety of ways, though mainly via a form of convict leasing, which was still legal at county level, even if banned at state level. Working with no pay, these workers did not have the chance to pay back the small fee that Cunningham had disbursed to ‘release’ them and would labour in his farm for as long as 18 years to pay off few dollars.³⁰ The Oglethorpe County case was crucial for the evolution of unfree labour in the US because the mobilization that it provoked moved the FBI and the Department of Justice from a position of apathy to one of intervention, opening the way for the more pro-active policy that would characterise the DOJ during the war years. The FBI had closed the case twice and the DOJ had refused to press charges before a national

²⁹ Some aspects of this case are also mentioned in Daniel, *Shadow of Slavery*; Goluboff, *The Lost Promise of Civil Rights*; and Erik S. Gellman, *Death Blow to Jim Crow: The National Negro Congress and the Rise of Militant Civil Rights* (Chapel Hill, NC, 2012), pp. 131-133;

³⁰ "He offered me several drinks of whiskey, gave me five dollars, and asked me to work on his plantation, promising to pay me \$12 a month with board and room". For 18 years, Fleming had not received any pay and had been unable to leave the farm." (Abolish Peonage Committee, "Peonage - 1940 style slavery", p. 9)

campaign obliged them to change their course. In 1941 Cunningham was indicted and prosecuted by federal courts for the crime of peonage, but not convicted.³¹

The evolution of unfree labour

How did the campaign against peonage in Georgia affect what was happening in the sugar plantation in Florida? The Oglethorpe County case shook up a dormant Department of Justice and was a testing ground for the newly established Civil Rights Section (a story recounted by Risa Goluboff, 2007); it also drew a lot of media attention. This changed the political context, making peonage a legal and public relation liability. In November 1942, the *New York Times*, as well as other national and local papers, ran the story that a Grand Jury in Tampa, Florida, had returned an indictment against US Sugar for having ‘injured, oppressed, threatened and intimidated’ field workers, and returned them to a condition of peonage, if they had escaped.³² However, six months later the indictment was voided on a technicality – that the Grand Jury in Tampa had been drawn from urban dwellers that lacked familiarity with rural labour. This lack of familiarity presumably would have prevented the jury to realize that the unfree labour conditions in the sugar plantations were perfectly acceptable by the standards of the agro-industry. According to Judge Barker such a jury would be unfair to the defendant. That a federal judge would accept this argument showed the powerful grip that the sugar planters had on the judicial machinery more than the cogency of the technical objection. A new Grand Jury refused to return the indictment and eventually the DOJ renounced pursuing the case. In a report to shareholders, September 1943, US Sugar announced with satisfaction that the indictment for peonage had been declared null and void, but added, ‘These absurd charges, with the attendant widespread publicity, were undoubtedly detrimental to the best interests of the employees, the Corporation and the Nation’ (United States Sugar Corporation, 1943, p. 4).

In fact, lack of prosecution notwithstanding, the outcome of the case had not been positive for the Corporation. The indictment had followed weeks of investigation and had brought unwarranted attention to other cases of unfree labour in Florida as a whole, in the turpentine mills or in the beans farms. In one of the few cases of zealous investigation, FBI detective visited labour recruitment offices in Alabama, Georgia and Tennessee, precisely those pools of labour on which the Corporation relied. The case had also brought the US Sugar at odds with the Federal Government, with whom they

³¹ NAACP Papers Part 13 Series C reel 12 0521.

³² ‘Peonage charged to sugar growers’, *New York Times*, 5 November 1942, p. 11.

hoped to do business during the war.³³ This occurred when the company registered its record sugar harvest in April 1942 and set for an even bigger one for the following year.³⁴

The failed peonage prosecution brought US Sugar, as well as other sugar growers, to design an alternative way that would allow them to continue to pay very low wages, exercise dictatorial control on workers, and maximise their exploitation on the fields. They found this model in a system of temporary migration from countries of Central America and the Caribbean that for the following two decades reached levels of exploitation just too similar to the system that they had substituted. Sugar planters as well as other agricultural employers throughout the nation lobbied the Federal Government for a system that would substitute, or at least supplement, internal migration with international migration from Central America, using the argument that entry into the war had created a labour shortage that imposed the temporary, controlled recruitment of foreign workers.

Another way to understand what US Sugar considered a labour shortage was a scarcity of domestic labour to work at the low wages that the company and other sugar growers offered. Beans growers, who offered triple that wage experienced no labour shortage. In other words a major aim for the sugar growers was to depress wages in the labour market. As the work of John Weber (2015) demonstrates, large growers across the South and Southwest shared the same concern. This rationale is illustrated by an USES officers who worked closely with US Sugar on recruiting black workers, ‘One strong reason why growers favour the importation of Bahama Negroes [is that...] they would be subject to control. With a sufficient number of Bahamians in here, it is believed resulting conditions would force idle domestic labour to work also’ (Hollander, 2006, p. 279). Eventually sugar growers claimed a labour shortage even after the war ended. What started as an emergency farm labour programme became a permanent policy.

The US Government negotiated with the British Colonial Office an agreement, known as the H-2 Programme, which allowed as guest workers thousands of Bahamans, Barbadians and, in particular, Jamaicans, many of whom ended up harvesting sugar cane in Florida. Almost simultaneously, the US negotiated with the Mexican government a similar agreement, which brought a much large number of so-called *braceros* to the Southwest. While the Bracero programme is well known, there is a paucity of historical studies on the H2 programme, with the exception of excellent work of Cindy Hahamovitch. As Hahamovitch (2011) has demonstrated, during the war, the Government driven by the anxiety to control labour supply, attempted to actively monitoring the implementation of the agreement, which involved some safeguards for the immigrants, but it quickly withdrew its support as the war ended. This left *de facto* the recruitment, transport, housing, and feeding of the workers in the

³³ DOJ, Reel 10, 1105 about the federal government lifting the restriction to sugar cane growing in the Everglades.

³⁴ ‘Record Sugar Harvest Taken from Muckland of Southern Florida’, *The Evening Star*, Washington, 24 April 1942. Clipping in DOJ, Reel 10, 1105.

hands of employers, together with the management of labour in the fields and the wage system. Having shrunk to a procedural role, the Immigration and Naturalisation Service (INS) simply validated employers' practices. For historian Gabrielle Clark, the case of post-war contract workers showed that the state labor market regulation reinforced employer control over migrants; this has become an enduring feature of contemporary American capitalism (Clark, 2016).

Jamaican (and handful of Bahamians and Barbadians) workers arrived in the Everglades in the autumn 1943, the beginning of the harvest season, joining, but soon outnumbering African-Americans who had been working on those fields since 1931. To Florida sugar planters, the H2 Programme came to solve the problem that had emerged during the investigations of 1942. How to retain cheap labour in a way that was legal? And how to substitute the black labour force without changing labour conditions? While African Americans had been forced to endure those conditions through debt, fraud and violence, Jamaicans' protest could be held at bay through the threat of deportation, if they protested, and detainment, if they escaped and tried to change employer. Their visa bonded them to a single employer. The Government helped to enforce those threats. H2 workers, as they came to be known, were not slaves. They had entered this labour relation on their own will, if only to escape the poverty back at home, but neither were they free to exit it when they realised their wages were too meagre, the hours too long, and the housing and food insufficient and expensive (Hahamovitch, 2011, pp. 67-68). This was no slavery nor involuntary servitude, but was it unfree labour? H2 workers were barred from invoking the privileges of legal protection against abuses for two reasons: they were not citizens of the United States and they were black males in a Jim Crow society. In 1943 more than seven hundred Jamaicans waited in the prisons of Florida to be repatriated because they had protested labour conditions, challenging both managerial authority and the racial etiquette that demanded subordination of blacks to whites (Hahamovitch, 2011, p. 73). Thousands of others had been arrested for similar protests (25,000 according to Schnur, 1993, p. 3). At no time the Federal Government enforced on the plantation the terms of the H-2 agreement (the same can be said of the Bracero Programme, Plascencia 2016). The crisis brought the West Indian Council to write a plea to President Roosevelt. Appealing to the key role of West Indians in the food production during war time, the letter denounced 'the attempt to reduce these workers to virtual peonage and to subject them to racial segregation and proscription'.³⁵ The letter reached the Department of Justice, which took no action. In 1944, though conditions had not changed, protest in large numbers disappeared (resistance though likely remained in the micro-politics of the plantations) (Hahamovitch, 2011, p. 74). Although conditions on the field were the same as three years earlier, the Department of Justice did not consider Jamaicans as working in conditions of peonage.

³⁵ DOJ, Reel 11, 134. West Indian Council to Franklin Delano Roosevelt, 1 November 1943.

The problematic condition of immigrant labour was exacerbated in locations like the Everglades where there was a history of peonage – in the sugarcane fields immigrant H2 Workers were hired to do what African-Americans had done before. In wartime Texas the complaints by Mexicans against peonage that the FBI investigated are identical to those initiated by African Americans throughout the 1930s.³⁶ However, various sources of evidence suggest that unfree labour conditions could take root anywhere, from the South-East to the South-West where farmers and planters employed immigrant labour, legal or illegal, vulnerable to arrest and expulsion and without the protection of labour laws.

Incidentally, it was not only immigrant agricultural labour that lived in precarious, unhealthy conditions, exploited for little wages. This condition was shared by domestic migrant labor, as it had been amply described by a report commissioned in 1951 by President Truman on ‘Migratory Labor in American Agriculture’ (Brown, 1951). Government inspectors had found that eight to ten workers normally shared a one-room shack and the incidence of tuberculosis and venereal disease among migrant laborers represented a public health threat (Brown, 1951, p. 154). Domestic migrants worked for few months per year and their meagre wages were even more diminished by a cut that the crew leader or contractor had on all the salaries. However, no legal threat or discrimination on the basis of citizenship status compelled them to work for a single employer. It was *only* the prospect of destitution that forced them to work.

After the end of the war the sources from the Department of Justice are less revealing. Peonage, as it had existed before the war, affecting primarily African-Americans, continued to exist, although the Department recorded a fewer number of complaints, while the Civil Rights Section became reluctant to prosecute. According to Pete Daniel, it was ironic than at the eve of height of the civil rights period the DOJ remained ‘remarkably insensitive to peonage and slavery complaints’ (Daniel, 1972, p. 189). 85 complaints were reported in 1950 and 63 in 1951. For legal scholar Sidney Brodie, however, there are ‘strong indications that considerably more violations occur than ever reported or discovered. The very nature of the offense inhibits exposure’ (Brodie, 1952, p. 373). There were only 67 cases of involuntary servitude and peonage were brought to the attention of the Department of Justice between January 1958 and June 1960, which the Commission on Civil Rights considered and underestimation. (Daniel, 1972, p. 188). Only 104 cases were filed between 1961 and 1963, a three-year period. California and Florida – two states with strong immigrant labour—topped the charted with 14 and 13 each (Shapiro, 1964, p. 85). Most of the sources that we have about labour conditions for agricultural immigrant workers are not judiciary but come from journalistic reportage or government inquiry. On the contrary, the very nature of immigrant exploitation, which occurred within a government-supported programme and afflicting non-American citizen, made it unlikely that it could find redress in courts.

³⁶ DOJ Peonage Files, reel 23, 0917-0923.

During this period, the NAACP shifted away from its temporary interest in the grievances of agricultural or industrial workers of the wartime period (Goluboff, 2007). Furthermore, as the 1940s progressed, Left and Labour organisations were increasingly on the retreat, unable to dedicate the resources to the problem of agricultural labour that were at their disposal before. However, as late as 1949, the Workers Defense League continued to investigate on the field instances of unfree labour, at a time when FBI investigators were reluctant to pursue complaints.³⁷ Florida was singled out as the most 'versatile' state in terms of unfree labour. 'All forms of peonage are practice there', stated the report. Turpentine and lumber camps continued to be the most blatant offenders, but the abuse of Jamaican contract labour in the Everglades was also widely known. And in several counties, arrest for vagrancy peaked during harvest season as a way to secure cheap labour. However, the report signalled that peonage related to sharecropping in the Delta was decreasing, due to the effects of mechanization. In other states, it was remarked that the use of Mexicans as unfree labour was on the rise, whether they were contract labour or illegal entrants.³⁸ The geography of unfree labour was changing to include the Southwest too, while Georgia and Mississippi receded from the chart. Contemporary government sources, are full of references to unfree labour, however, in what will become a pattern in the following years, no judicial action would follow from these declarations. Grover C. Wilmoth, District Director of US Immigration Service, stated on 5 December, 1948, 'More than 100,000 Mexicans are working on farms and ranches in Texas alone and they are all in this country illegally. These people are living in a state of virtual peonage and they have no recourse to the law regarding the treatment or pay they receive'.³⁹ In 1949, a union organiser testified about the INS practice, in marked continuation with the past, of 'paroling' illegal migrants to individual farmers, thereby unwittingly continuing a practice that had been at the core of pre-war peonage. Farm labour from Mexico, he continued, is 'forced to work under contract conditions which deprives it of its basic rights as free workers'.⁴⁰ The Workers Defense League reported that guest workers were often contracted out by their employers in slack periods, although this was contrary to the letter of the contract. Three Bahamians workers met this fate when they refused to pick oranges at rates they considered unfair. They were arrested for vagrancy, fined \$25 dollars and sent back to work, although now with a debt towards their employer.⁴¹ Under threat of deportation or arrest for vagrancy workers could hardly refuse the offer.

³⁷ 'Supplemental report on Peonage and other forms of Forced Labor in the United States', Walther P. Reuther Library of Labor and Urban Affairs, Workers Defense League (WDL) Collection, LR000408, 128, 09, p. 2.

³⁸ 'Peonage and Other Forms of Forced Labor in the United States', April 1949, WDL Collection, Reuther Library, LR000408, 128, 03, p. 9.

³⁹ 'Peonage and Other Forms of Forced Labor in the United States', p. 10.

⁴⁰ 'Forced Labour Among Farm Workers', testimony of Edwin C. Mitchell, WDL Collection, Reuther Library, LR000408, 128, 12, p. 3

⁴¹ Rowland Watts, 'Report on Legal and Illegal forms of Labor in the United States', WDL Collection, LR000408, 128, 10, p.4

The diverse bundle of federal agencies that dealt with questions of labour or migration both denounced and abetted instances of unfree labour. Cases of immigrant unfree labour were sustained by restrictive conditions built by the state as well as by the employers, as in the fact that visa precluded the worker from changing employer and mandated their residency in the employer's premises (Costelle and Freedland, 2014. p. 163) . This chimed with Lee G. Williams caustic remark of the Bracero Programme as 'legalized slavery... The *braceros* were hauled around like cattle in Mexico and treated like prisoners in the United States' (quoted in Trumpbour and Bernard, 2002, p. 129).

Dissecting Contract Labour

In 1964, at the eve of the vast mobilization led by Cesar Chavez and the United Farm Workers, the government had terminated the Bracero programme, which was mired in controversy, but it had not taken any steps to redress the situation of thousands of migrants, among which the West Indians working for US Sugar, who worked in conditions of unfree labour. While there were incremental beneficial changes in the wage structure and living conditions, in the sugar fields reports of abuses continued until the 1990s, when a class action lawsuits forced the company to pay a large sum in compensation to workers and prompted the switch to mechanization.

In 1964 it was the case of an immigrant worker, Luis Oros, which brought a Federal Court to discuss whether the definition of involuntary servitude would embrace some of the worst abuses on immigrant farmworkers. Ironically, the test case occurred not in a large sugar or vegetable plantation of Florida owned by powerful growers, but in Connecticut, on a poultry farm where David Shackney employed the Oros family seven days a week, 365 days a year. Shackney had incurred expenses for procuring the visa and the transportation of the Oroses and held them in the farm with virtually no contact with the outside world on the threat of deportation, until the debt they owned had been paid through their work, which would have taken two years. Shackney was convicted of holding the Oroses in peonage and involuntary servitude, but the conviction was reversed in appeal with a sentence that had a large impact on jurisprudence. The Federal Court of Appeals held that, since the family had had ample opportunity to escape if they wanted, the Oroses' condition was not one that Congress had in mind when they drafted the Thirteenth Amendment. In the majority opinion Judge Friendly wrote that fear of arrest and deportation was not a threat equivalent to physical force or threat of violence and did not give rise to 'involuntary servitude', 'even if the master has led him to believe

that the choice may entail consequences that are exceedingly bad'.⁴² The controversial *United States v Shackney* (a mild case, by Florida's standards) was followed by a string of other high profile cases such as *United States v Mussry* (1984) and *United States v Kozminski* (1988) which hinged on the question of the cogency of forms of coercion which were not physical (violence) nor legal (threat of imprisonment). The jurisprudential debate cut at the core of what the meaning of involuntary servitude should have been. In *United States v Kozminski* the Supreme Court concluded that an employer should not face criminal sanction "whenever an employee asserts that his will to quit has been subdued by a threat which seriously affects his future welfare, but as to which he still has a choice, however painful"⁴³ While the Court acknowledged that a person's vulnerability (such as the one of children in the *padrone* system) might mean that they could be coerced by threats who would not otherwise induce a normal intelligent adult in servitude, that vulnerability had to be demonstrated. The lack of consideration for the threat of discharge by visa revocation, the poor treatment, the manipulation of wages and working hours that contract workers often faced effectively precluded any serious possibility of invoking involuntary servitude to redress their circumstances.⁴⁴

⁴² *United States v. Shackney*, 333 F.2d 475, 479 (2d Cir. 1964); See also Robert J. Steinfeld, 'Changing Legal Conceptions of Free Labor' in *Terms of Labor: Slavery, Serfdom and Free Labor*, Stanley Engerman, Stanford University Press, 1999, pp. 137-167.

⁴³ *United States v. Kozminski*, 487 US 931 (1988) at 950 (quoting *Shackney*, 333 F.2d at 487).

⁴⁴ *United States v. Mussry*, 726 F.2d 1448, 1450 (9th Cir. 1984); *United States v. Kozminski*, 487 US 931 (1988)

Conclusions

Between the 1930s and the 1960s, American unfree labour evolved, taking the lead from a peonage system that arose in the 'long shadow of slavery' it became a modern form of unfree labour built upon the construction of the immigrant status as non-citizens and the threat and exercise of deportation. Unfree labour built on the idea of racial management of the workforce, exploiting workers who did not enjoy access to the full protection of American citizenship (Roediger and Esch, 2012). This was the case of African Americans during Jim Crow and of immigrant labour from the West Indies and Mexico on temporary contract visas, such as the H2 or the Bracero programme. This process transformed the notion of what unfree labour was: away from the model of nineteenth century American slavery towards a more contemporary understanding of unfree labour. That is, from a servitude to which workers were drawn against their will and which they endured for an indefinite period of time (like a number of the peonage cases of the first part of the century); to a form of a exploitation that workers entered voluntarily and possibly for short periods, but facing unexpectedly harsh working and living conditions, very low wages, and the threat of arrest or deportation if they protested or tried to exit that contract. The case of the US Sugar Corporation shows, in a single territorial location and industry, the continuity of unfree labour regimes where it existed and the wider process of substitution of the farm labour force. As black farm workers started to demand their rights or, simply, walk away towards the northern industrial jobs that they expected the war effort to provide, growers demanded and obtained the command on another type of non-white workforce that could toil for the lowest wage and in abysmal conditions, without any right that they were bound to respect. It was an ironic aspect of the changing nature of unfree labour that where employers had previously tried to acquire cheap labour by enforcing immobility, they continued to do so by threatening deportation.

This story also tells about the role of the state in creating and controlling a racialized labour force and setting the form for an acceptable form of unfree labour in modern capitalism, which Weber characterizes as 'a thoroughly modern set of practices that relied on forced mobility, enforced immobility' (Weber, 2015, p.8). This role started with federal agencies supporting interstate recruitment and continued with international agreements backed by the Government. The racist postulate that sugarcane cutting, and in general agricultural stoop work, was best suited to non-whites was allegedly 'the ideological foundation for winning state support', both in the old and new labour regime (Hollander, 2006, p. 286). While racist ideals and political control persisted, the transformation of unfree labour in the Twentieth Century went hand in hand with a transformation of a whole political economy, with its changing deployment of interregional and international labour, the reorganization of agribusiness and of private investment, and the regulation of labour markets and the industry.

The reluctance of the American public opinion to face up the existence of unfree labour call for further investigation on the relationship between national identity and the connected discourses of labour rights, citizenship and race. The failure to connect the dots in the history of rural unfree labour in the US has important consequences for the contemporary effort to combat forms of unfree labour among migrant workers. Maria Ontiveros (2010) has argued that the treatment of guest workers has important implications that offend the Thirteenth Amendment as ‘its prohibition of involuntary servitude seeks to eliminate those situation where workers are not free to leave abusive employment’ (p. 283; see also Tsesis, 2004). The gap that has emerged with *United States v Schakney* (1964) between the practice of unfree labour and the judicial application of the Thirteenth Amendment is still wide. For instance, this gap visible in between the human rights treaties of which the US is part and US statutes and case law. The former define involuntary servitude with the language open to all forms of coercion; the latter, and the jurisprudence which has interpreted them, offer a narrow interpretation based on physical coercion, at odds with the current standards of the ILO and NGO-organisations. The United States is thus in potential contravention of international treaties, which it has signed, but not fully implemented with statutes (Asher, 1994, p. 215). Furthermore, as late as 2012 the UN found the United States unwilling to defend the right of migrant workers to receive visits from Legal Aid in labour camps. Growers, with the aid of local law enforcement, effectively prevent and prosecute attempts of outreach workers to speak to migrants, threatening the former with arrest and the latter with deportation.⁴⁵ Thus, the restrictive interpretation of concepts of slavery and involuntary servitude has harmed the protection of human rights in the United States. Historical research that would connect different and evolving forms of unfree labour would be a step in the direction of addressing that gap.

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⁴⁵ ‘Request for Thematic Hearing – Denial of Access to Migrant Labor Camps in the United States’, Gittis Center for Clinical Legal Studies, University of Pennsylvania Law School, January 20, 2014 URL: <http://www.wicny.org/wp-content/uploads/2014/01/Denial-of-Migrant-Labor-Camp-Access-in-the-US-20Jan2014.pdf> [last accessed 9 October 2017]. See also Holley, 2000.

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