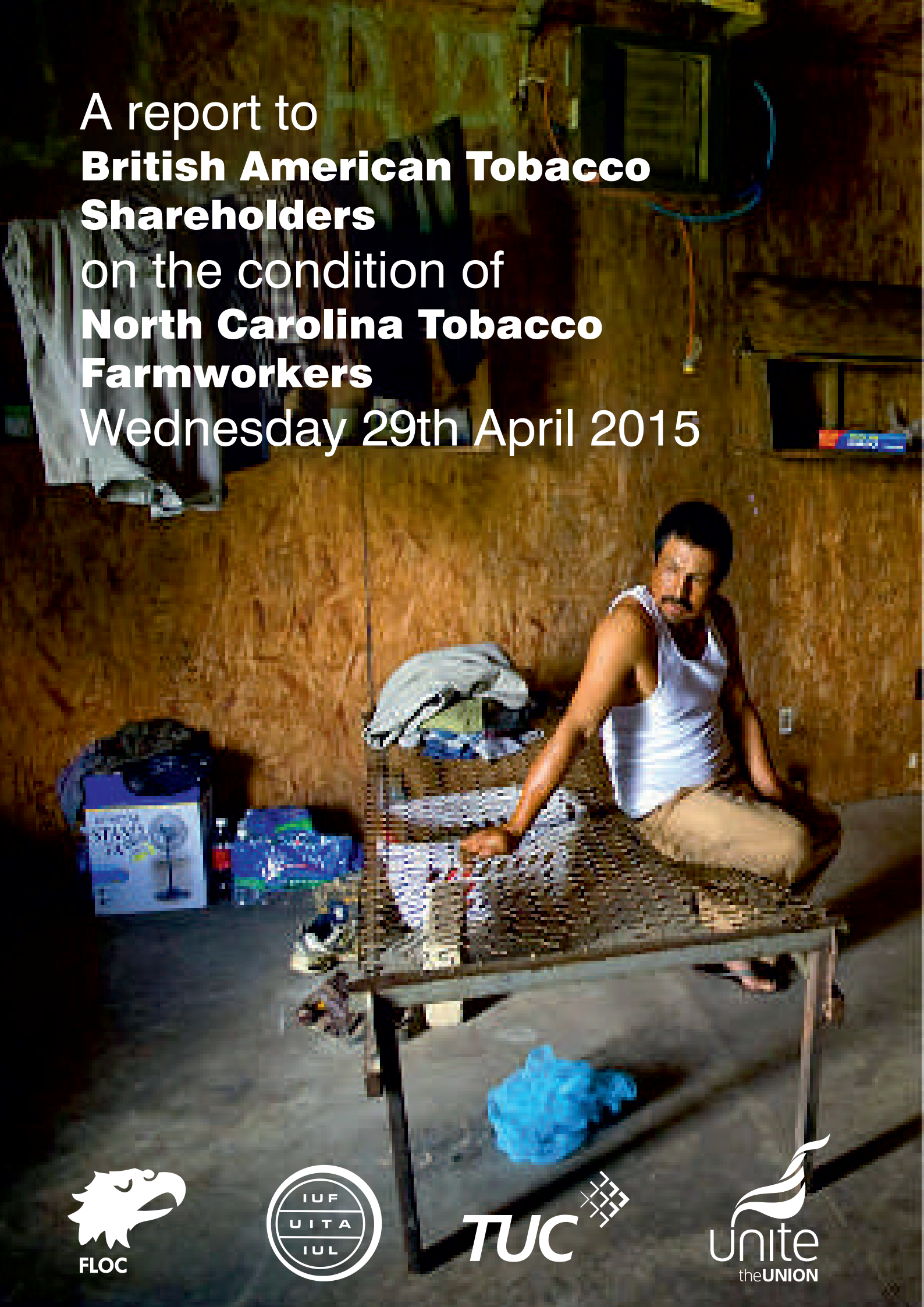

A report to **British American Tobacco Shareholders** on the condition of **North Carolina Tobacco Farmworkers** Wednesday 29th April 2015

FLOC

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1. PREFACE

Purpose of this Report

A report to British American Tobacco Shareholders on the Condition of North Carolina Tobacco Farmworkers is an alternative shareholders report to inform British American Tobacco shareholders about the Farm Labor Organizing Committee (FLOC) and its campaign to end human rights abuses in the tobacco fields of the US.

FLOC represents and advocates for tobacco farm workers in North Carolina and wherever tobacco is grown in the United States.

BAT sources US tobacco from Reynolds American contract farms, nominates five members of RAI's Board of Directors; and owns 42% of Reynolds, being the company's largest shareholder.

FLOC has attended the BAT AGM since 2011

Since 2011 when FLOC President Velasquez first addressed the BAT AGM, there has been absolutely no progress in resolving human rights abuses in three areas of the Reynolds American supply chain which President Velasquez has brought to the attention of BAT AGM.

These areas are: first, Reynolds American's continued to reliance on human trafficking for their labour supply on contract farms. Second, there has been no end to the squalid conditions found in in the labour camps on these contract farms. And third, there continues unabated the state of fear of retaliation among the workers if they complain about these abuses.

RAI has not responded to FLOC's Proposal

In 2012, the Farm Labor Organizing Committee presented a serious proposal to Reynolds American Inc. that would address these and other issues in the U.S. tobacco supply chain. The proposal guarantees freedom of association and worker representation without retaliation on Reynolds American Inc. contract farms. However, Reynolds American Inc. has yet to sign such an agreement.

FLOC wants RAI to ensure that their suppliers recognise freedom of association which RAI says it supports, to engage in credible neutrality and to develop a process with FLOC to implement the principles concerning fundamental rights set out in the International Labour Organizations Declaration on Fundamental Principles and Rights at Work.

There is no American law which mandates compliance with internationally recognised human rights protections for tobacco farm workers such as freedom of association. FLOC reasonably wants RAI to guarantee the human right to freedom of association and worker representation on its contract farms. It is not asking that RAI condition their purchase of tobacco on a producer's entry into an agreement with a union.

The Multi-Stakeholder Process is not the Answer

RAI argues that it participates in and promotes a multi stakeholder process called the Farm Labor Practices Group (FLPG), which includes other tobacco manufacturers, growers, NGO's and FLOC. RAI sees this as the solution to abuses in the tobacco supply chain. In fact, the FLPG lacks the power to make systemic changes in the tobacco supply chain or forthrightly address the issue of worker representation and freedom of association. The FLPG process has marginalised the discussion of this most important issue and instead has looked to cosmetic approaches which will have no long term effect on confronting the inequities which are endemic to the tobacco supply chain. Most importantly, due to US Anti-Trust laws the discussion of solutions to various issues such as a process for guaranteeing freedom of association must be agreed to by each tobacco manufacturer individually ultimately making the FLPG process powerless in this regard.

Without worker representation on contract farms there is no day to day organised presence that can monitor and ensure that worker rights are being protected and that health and safety standards are being met. Training and educational posters can never take the place of freedom of association and worker representation without fear of retaliation.

Audits cannot take the place of freedom of association and worker representation for ensuring that labour conditions on contract farms meet core labour standards. The credibility of any audit that states that out of 922 workers interviewed, 0 workers ever had a reason to file a complaint should be questioned.

BAT and RAI recognise and promote International Labor Rights Standards

RAI needs to do more than say it is guided by the United Nations Universal Declaration of Human Rights and the UN Guiding Principles on Business and Human Rights. RAI needs to put into practice what these core human rights standards require.

BAT as a major owner and customer of RAI has a responsibility to use its corporate relationship with Reynolds to ensure that these human rights standards are implemented. John Ruggie, whose UN Guiding Principles are foundational for both RAI and BAT states: “A company's responsibility to respect (human rights) applies across its business activities and through its relationship with third parties connected with those activities – such as business partners, entities in its value chain, and other non-state actors and state agents.”

The Alternative BAT Shareholders Report

This Alternative Shareholders Report contains excerpts from the Fact Finding Report: **A Smokescreen for Slavery: Human Rights Abuses in UK Supply Chains** issued by Jim Sheridan MP and Ian Lavery MP on 5 November 2014 at the House of Commons. The Report is based on their visit to the tobacco fields of North Carolina in July 2014.

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

The Alternative Shareholders Report includes quotes from NGO's, Political, Religious Leaders and persons of good will who support freedom of association on Reynolds contract farms.

A question for BAT Shareholders

How many more years will it take for BAT's Human Rights Commitments to be realised in American tobacco fields where BAT sources tobacco?

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

I. INTRODUCTION

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

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

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

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

Furthermore, we met with Mr. Jerry Tyndall, a tobacco farmer from Deep Run, North Carolina, as well as Erica Peterson, Executive Vice President and CEO of the NC Agribusiness Council, in order to better understand the challenges of farm management for tobacco growers.

II. BACKGROUND

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

FLOC represents over 9,000 farm workers through its collective bargaining agreement with the North Carolina Grower's Association (NCGA), itself the largest contractor of temporary agricultural workers (H-2A) in the United States. The union estimates that 20,000 tobacco farm workers do not have union representation. In total, 150,000 farm workers are employed in agriculture in a growing season (from April-November) harvesting one or multiple of 32 available crops, of which tobacco is the staple commodity.

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

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

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

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

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

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

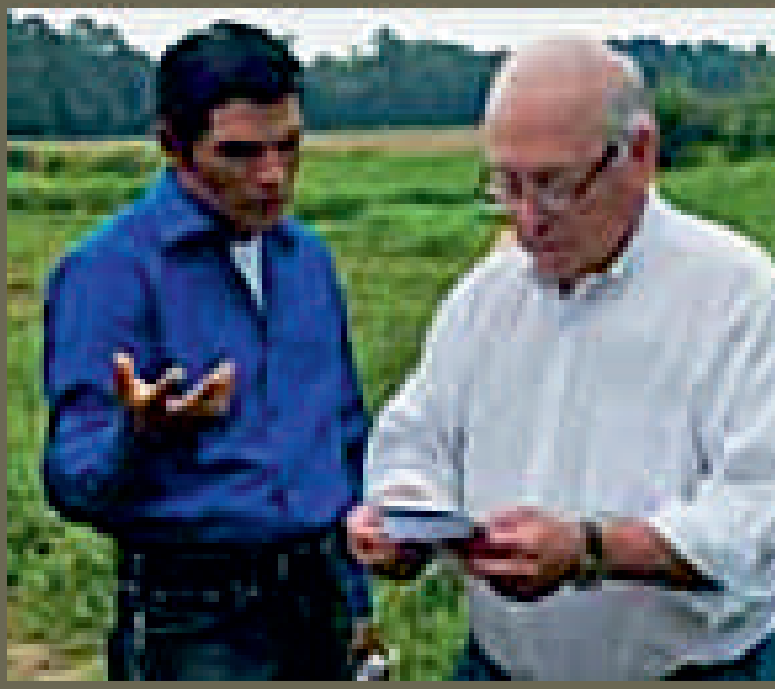
III. FINDINGS: CAMP VISITS

A. RELIANCE ON HUMAN TRAFFICKING; 'CONSTITUTIONALISED SLAVERY'

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

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

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



B. SUBSTANDARD WORK CONDITIONS & SQUALOR

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

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

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

Though required by law, there are usually no portable toilet facilities available to farm workers. Additionally, the work is, by nature, dangerous; workers have constant contact with the tobacco plant, absorbing its nicotine through the skin. This nicotine exposure, often without so little as access to gloves for protection, leads to Green Tobacco Sickness (GTS), an affliction that causes intense headaches, nausea, vomiting, and insomnia. GTS could be prevented if farmers provided protective clothing, regular breaks, soap, and water for washing in the fields.

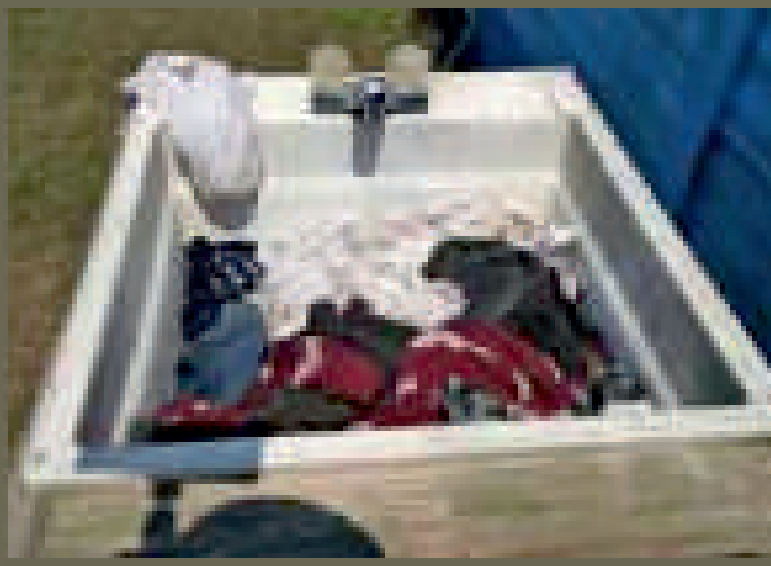
Pesticide use creates an added danger, especially when workers are forced to enter the fields too soon after spraying, a common complaint among the workers. A number of workers reported becoming ill from the chemicals, showing symptoms such as nausea, vomiting, and rashes on their bodies.

After a long day's work, farm workers return to their labour camps in run down houses, trailers, or barracks provided by the farmer. These accommodations are often overcrowded and very hot, usually with no air conditioning or adequate ventilation. Mattresses are dirty, wet from leaking roofs, bug-infested, or missing entirely. Infestations of bed bugs, roaches and vermin are common.

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

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

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



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

C. FEAR OF RETALIATION

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

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

IV. CONCLUSIONS

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

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

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

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

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

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

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

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

3. PEOPLE OF GOOD WILL ADDRESS BAT SHAREHOLDERS

Pope Francis has likened the injustices to those who labour in agriculture as "slavery." The Catholic Church has a long history of supporting every worker's right to join a labour union. We Franciscans Friars throughout the western U.S. stand in solidarity with farm workers. We support the efforts of FLOC to end the modern slavery of tobacco labourers.

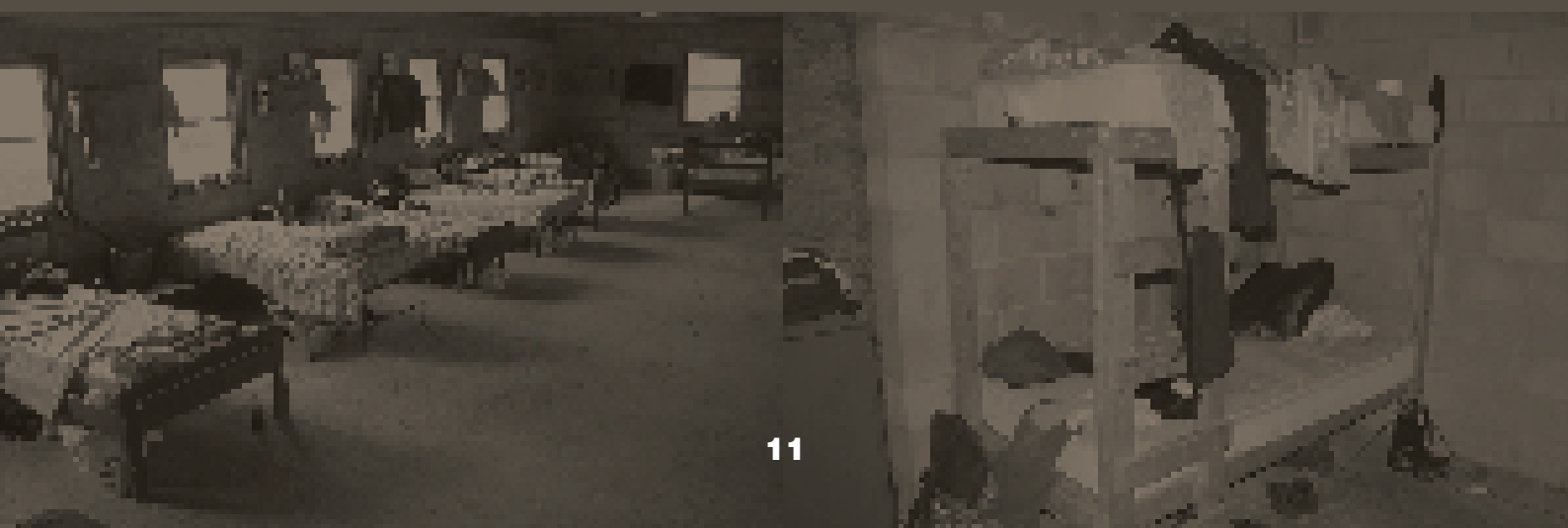
Mark Schroeder, Animator,
Franciscans for Justice

National Farm Worker Ministry (NFWM) supports the Farm Labor Organizing Committee's (FLOC) campaign of empowerment for tobacco farm workers. The NFWM Board is composed of national representatives of thirty Protestant denominations and Catholic Orders around the U.S. NFWM has advocated alongside farm workers for more than forty-five years to improve the living and working conditions of the men, women and children who work our fields and who are the backbone of our agricultural industry. Since the 1980s, we have proudly, and loudly, stood with FLOC so that farm workers gain freedom of association and self-determination. As we did during the Campbell Soup and Mt. Olive Pickles campaigns, NFWM will persevere with FLOC and its campaign for tobacco farm workers until the power to name and correct human rights abuses in the tobacco fields is in the hands of farm workers themselves.

Sylvia Campbell, Alliance of Baptists, President,
National Farm Worker Ministry Board

I am writing to you in support of the Farm Labor Organizing Committee which is trying to gain freedom of association for the many tobacco farm workers in North Carolina and a collective bargaining agreement to address human rights abuses in the tobacco fields of the US. I have visited many farm workers over the past twenty-seven years and have seen the need for systemic changes for this vulnerable population of farm workers.

Sister Karen Bernhardt HM, Leadership Team Member,
Sisters of the Humility of Mary, Villa Maria, PA

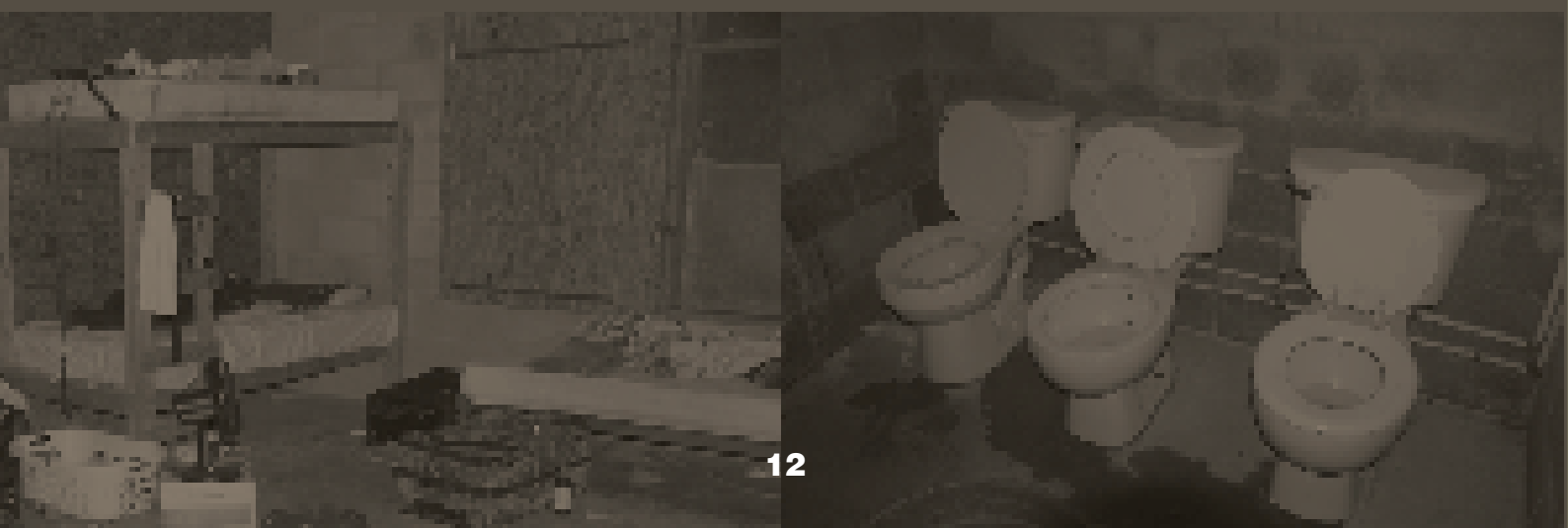


The United Church of Christ has long believed that workers' organised, collective action is the best way to ensure just conditions in the workplace and dignity for workers. The UCC endorsed the boycott of the Mt. Olive Pickle Company and we strongly support FLOC's campaign with tobacco workers in the Reynolds supply chain. We have written to and spoken with officials at Reynolds America to encourage them to negotiate with FLOC and establish a collective bargaining agreement. Such an agreement is the best way to address the many human rights abuses in the U.S. tobacco fields. *Listen! The wages of the labourers who mowed your fields, which you kept back by fraud, cry out, and the cries of the harvesters have reached the ears of the Lord of hosts. -- James 5:4-5*

Edith Rasell, Ph.D. , Minister for Economic Justice,
United Church of Christ

During my visit [to North Carolina], I found workers who labour eleven hours a day under gruelling conditions at high season for $7.25 an hour. As many as twelve men sleep jammed inside ramshackle, dilapidated trailers or barracks. There is no hot water, no decent laundry facilities, no air-conditioning, substandard electrical and gas wiring, and flush toilets are a luxury. . . . My counterparts in the British Parliament, Ian Lavery and Jim Sheridan, were also shocked by what they described as human rights violations. . . . The three of us came away from North Carolina with a renewed commitment to social justice, just as people of conscience responded in the 1960s when Cesar Chavez rallied the nation and the world to support the grape workers in California. As Mr. Velàsquez and FLOC stir the conscience of the Americas, we must stand with them to demand social justice on behalf of some of the most unjustly treated people in our society. We've been down this road before. We must make sure that the tobacco fields of North Carolina are not the scene of America's latest “harvest of shame.”

Marcy Kaptur, Representative for Ohio's Ninth Congressional District,
U.S. House of Representatives



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