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How Racialization Shapes Work Conditions for H2A Migrant Farmworkers: Literature Review

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How Racialization Shapes Work Conditions for H2A Migrant Farmworkers: Literature Review

Abstract

Scholars have argued that an existing gap between the idealization of American prosperity and actualization of American exploitation occurs on account of racialization. Racialization refers to the process in which subsets of people are reduced to a set of occupational practices, beliefs, or narratives that work to define their low position within societal hierarchy (Garcia 2014). This concept distinguishes itself from racism as it focuses on the conditions that exist in order for the reproduction of racism and oppression to occur (Gonzalez-Sobrinio and Goss 2019). Thus, it will be argued that the reproduction of these tenants occurs capitalistically and perpetually. A historical examination of the US's role in foreign affairs in respect to South and Central America is vital in understanding the large extent to which racialization has shaped temporary work conditions. The racialization of this population will be examined and separated based on the various waves of guest worker programs in order to display the similarities of the US's role in foreign affairs temporally.

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FARMWORKERS

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Abstract

Migrants in America have been met by various manifestations of apathy as a result of the US's role within foreign affairs. Deemed a global hegemon, the US has asserted itself in external affairs for internal benefit at the cost of exploitation. This study analyzes the events that have precipitated these types of experiences in migrants. It questions these capitalistic priorities and synthesizes migrants' work experience in the context of racialization.

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Introduction

Meritocracy is a unique justification for inequality that Americans frequently refer to. The ideal that individuals rise through the ranks of society or occupation on basis of their merit and ability rings true for a very small subset of people. As for rest, there are structural and institutional barriers that make achieving the American Dream just that, a dream. The rising through ranks, breaking through ceilings, insert other American proverb, instead is reliant upon race and class no matter of talent nor ability. With the stress put on individualism over collectivism in America, a lack of achievement of this goal seems to be attributed to personal lack of tenacity or drive when in reality some of the hardest working people in America strive for the bare minimum, day in and day out with no reprieve, to no fault of their own. Perhaps the first step in reducing the idealism behind this goal is acknowledging that the American Dream is anything *but* American. In order to “make it” in America under the capitalistic regime that exists, there is a foundational reliance on exploitation. It will be argued that exploitation in America has not strayed far from 17th century slave labor yet has only become more justified and obscured from public view through temporary labor programs, implying a sense of agency that, in reality, does not exist.

Thesis

Scholars have argued that an existing gap between the idealization of American prosperity and actualization of American exploitation occurs on account of racialization. Racialization refers to the process in which subsets of people are reduced to a set of occupational practices, beliefs, or narratives that work to define their low position within societal hierarchy (Garcia 2014). This concept distinguishes itself from racism as it focuses on the conditions that exist in order for the reproduction of racism and oppression to occur (Gonzalez-Sobrinio and Goss 2019). Thus, it will be argued that the reproduction of these tenants occurs capitalistically and perpetually.

A historical examination of the US's role in foreign affairs in respect to South and Central America is vital in understanding the large extent to which racialization has shaped temporary work conditions. The racialization of this population will be examined and separated based on the various waves of guest worker programs in order to display the similarities of the US's role in foreign affairs temporally.

Informal Programs

The import of external labor to the US from Mexico began as a proxy result of the 1917 Immigration Act. Known as the Literary Act, or less commonly known as the Asiatic Barred Zone Act, the law prohibited immigration from the Middle East to Southeast Asia in tandem with the introduction of a literacy test in order to reduce the number of migrants from Europe (US Congress 1917). This act built on the racist tendencies before them like the Chinese Exclusion act of 1882 and the Gentleman's agreement of 1907 (Zhao and Park 2014). From the origins of immigration law, migrants were seen as undesirable, uneducated, and unfit for life in America. These perceptions trickled into society in through film depictions of Latinx persons playing "greasers", someone who was violent or dangerous (Sanchez-Palumbo 2019). Simultaneously, the US was experiencing a shortage of domestic labor as a result of WWI and the export of American soldiers to Europe. Consequently, the US looked towards Central America, specifically Mexico, for workers. In a series of bilateral agreements, the US created a Mexican guest worker program, in 1922, in which over the subsequent four years over 72,000 workers came to the US (Ashby 2007). The number of workers continued to grow to an average of 162,000 workers a year, including both guest worker programs and undocumented migration (Ashby 2007). Push and pull factors were tied to the Mexican revolution upset of 1910 and the promise for American prosperity and wealth in a pursuit for a better life.

First Removal

In the aftermath of WWI and beginning of the Great Depression, the US no longer needed foreign labor in which nearly half a million Mexicans were removed to Mexico through illegal and inhumane means (Guerra 2004). Many Mexicans were coerced into leaving by: signs demanding their removal, threats made by citizens of arson, social workers lying to Mexican officials on behalf of legal residents saying they wished to return to Mexico, separation of families, and “repatriation” of US citizens of Mexican descent (Guerra 2004). The US invites workers in states of need and expends them soon after. This cyclical dependency creates a system of exploitation and racism.

Bracero Program

Another wave of importing and expending labor demonstrates this type of dependency, reducing the workers who have immigrated, in the US’s benefit, to labor without the acknowledgement of their human rights and lives. Investment in domestic employment in America continued until the 1940s when the US experienced another labor shortage due to WWII. Bracero, earlier translated to strong-arm and now laborer, is reflective of a reductionist process simply from the name itself. A testimony from a “bracero” says, “They treated us like animals... but as a bracero, you knew you couldn’t complain” (McManaman 2006). Human beings who migrated to the US on account of various reasons were stripped of their humanity and instead defined on their ability to perform manual labor. Over the 22 years of the program, over 4.6 million Mexican citizens were legally hired under the program, yet this didn’t curb farm owners from employing undocumented workers or abusing Bracero workers in order to get around paying for accommodations like minimum wage, housing or healthcare (McManaman 2006). Farm owners preferred profit over protection and as this priority continued, concerns

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around the program arose. The Bracero Program faced large reconstructions and imposed safeguards for wage security and housing standards as per the Mexican government's request which in turn increased the cost of hiring workers, reducing the amount of workers hired in general (Philip 2003) (Kosegi 2001). Consequently, the program ended in 1964 in the wake of rising concerns about human rights violations *and* more importantly, the large pool for cheap labor maintained low farm wages for domestic workers. Almost 19 years after the end of WWII, Mexican government officials raised concern about the intention of the program—whether it was to fill a shortage of labor or just maintain cheap labor. Nonetheless, the Mexican government remained optimistic in thinking that braceros would learn tactile knowledge that would benefit agricultural development in Mexico in addition to making money in the US to bring back and stimulate Mexican economy (Bampasidou and Salassi 2019). While the hope was good in theory, in the US, braceros were poorly trained, with little to none of the promised protections, and were not paid enough to bring back. On a societal level, some establishments prohibited or segregated Mexican individuals (Sanchez-Palumbo 2019). Many Mexican families risked their lives coming to work in America and were met with minimal returns.

Second Removal

Another deportation wave depicts the expendability of Mexican labor which contributes to current societal and occupational discrimination and racism. In 1949, the number of undocumented workers began to outnumber braceros 22:5 in 1949 (Philip 2003). Shortly following, summer of 1954, a mass deportation effort under the name of “Operation Wetback” ensued, removing over 1.1 million Mexicans in its year (Funderburk 2018). Presented again, the racist semantics contribute to the perception of Mexican labor on a professional and societal level. The perception of Mexican immigrants was largely colored by governmental language as “wetback” implies an “illegal” immigrant who waded through the Rio Grande to the US (García 1981). While the program penalized undocumented migration, it did nothing to address root causes of the migration itself as poor working conditions and discrimination for braceros continued. The historical relationship between America and migrants has contributed to the racialization of this population. The juxtaposed dependency and expendability of migrant labor create a system of impunity in which human rights abuses perpetually occur.

H-2A Program

The creation of the H-2 program took the place of the Bracero program under a different guise with little adjusted protection. The difference between the H-2 programs and the Bracero program was the additional protection of domestic job security. Under the Immigration and Nationality Act of 1952, which established the H-2 Program, the Department of Homeland Security (DHS) would grant H-2 contracts if:

“There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and, the employment of the alien in such labor or services will not adversely affect the wages and

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working conditions of workers in the United States similarly employed” (United States Citizenship and Immigration Services 1952).

Under the H-2A (agriculture) program, migrants are excluded from the Migrant and Seasonal Agricultural Worker Protection Act which, most relevantly, *would* allow the right of action in court if the employer inaccurately disclosed terms and conditions of employment, a common violation (Hall 2001). As an alternative, workers have the ability to seek help from the Community Legal Services (CLS) for issues regarding protections provided by the program. CLS only assist workers currently in the US in which many H-2A workers cannot access during their contracted time due to rural boundaries of work. Additionally, many workers only have Sundays off and are unfamiliar with community centers that offer these services (Stockdale 2012). Farmworkers are also excepted from the National Labor Relations Act which would provide workers the ability to unionize contributing to their lack of advocacy and employer protections. Although violations and abuses occurred and continue to occur regularly, they are severely underreported because migrants fear of deportation or blacklisting. This cyclical impunity perpetuates a cycle of abuse and exploitation.

Alterations to the Program

Aside from various minute iterations of the H-2A program, the foundation has remained consistent. Show-me-your-papers laws were passed in various states, allowing law officials to stop people on the basis of appearance to determine whether they were in the US legally (Bier 2020). As a result, the climate for immigration became more and more hostile and severe. Shortly before leaving, the Bush administration made adjustments to the program in late 2008. The societal narrative leading up to the harsh changes consisted of remnants of racist tendencies found in the late 1900s from the influx of Cuban immigrants to Miami (Sanchez-Palumbo 2019). It was perceived that Castro sent “undesirables” and prisoners to the US which only amplified the discrimination in America. Reflective of this discourse, Bush altered the H-2A program adjusted the labor certification needed from the Department of Labor (DOL) was replaced with an “attestation” that reduced the formality of an application, making the process for hiring *more* labor, easier (Farmworker Justice 2011). Additionally, the administration altered wage rates by switching the adjustment standards to rely on the Bureau of Labor Statistics’ Occupational Employment Salary which doesn’t include farm labor yet would match wages with the farm labor contractors who had lower wages (Bruno 2020). Bush’s changes resulted in a near 10% wage drop to \$8.02 per hour and also imposed an average of \$63 additional charges in transportation that was now unrequired for employers to cover (Farmworker Justice 2010). Fortunately, the Obama administration reversed these changes in 2010 but many migrants faced the economic stress imposed two years earlier.

Current Climate

Even still, the current political climate, referring to the Trump administration, is similar and arguably more severe compared to the attitudes of the Bush Administration. The US President claims that migrants are “rapists” and “crime junkies”. In his 2018 State of the Union address he claims, “As we speak tonight, we are removing gang members, drug dealers, and criminals... that pray on our very innocent citizens” (Trump 2017). The attitudes of political leaders seep into society, contributing to the hostile societal experiences of migrant workers. Racialization weakens the political power and rights of this particular community, only contributing to the negative lived occupational and social experiences (Sanchez-Palumbo 2019). This charged discrimination exists on an executive level as well. With a \$2.6 billion decrease in the DOL budget for investigation as of 2019, the already limited auditing of farms participating in H-2A programs will persist (Sanchez-Palumbo 2019). This negligence belittles formal investigation and hope for reform on a basis of human rights violations cases.

Protections Offered

Intended protections of the H-2A program are different in theory rather than application. Beginning with wages, it is assured that wages would be calculated based on the local labor market’s highest prevailing wage and or the state or federal minimum wage in compliance with the adverse effect wage rate. In reality, wage levels are based on surveys of wages that are depressed as they include earnings of undocumented workers, lowering the actual earnings of H-2A workers (Department of Labor 2020) (Farmworker Justice 2011). Recruitment of US workers entails that employers first look towards interstate employment services and private markets to ensure domestic workers get the opportunity to find work 60-75 days prior to the date of need (Department of Labor 2020). In actuality, employers domestic recruitment efforts are inadequate

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and job descriptions are meant to scare domestic workers, allowing an influx of migrant work that is free of social security or other benefit systems (Farmworker Justice 2011). Continually, employers are required to hire US workers who apply for work until $\frac{1}{2}$ of the season has ended in order to protect domestic labor opportunity when in reality US workers aren't offered jobs or are driven to quit (Department of Labor 2020) (Farmworker Justice 2011). Employers must offer recruited H-2A workers $\frac{3}{4}$ ths of the number of working hours in the work period which guarantees work hours and income, yet workers aren't paid for the hours worked (Department of Labor 2020) (Farmworker Justice 2011). The DOL also requires employers to provide housing that is consistent with temporary labor camp standards along with three meals or a cooking facility (Department of Labor 2020). Housing is often substandard with no oversight and when audits are demanded they are denied for being on private property (Farmworker Justice 2011).

Transportation is also intended to be covered for travels to the US and to work yet often times, workers are fired or coerced to sign voluntary quit forms before the contract is up, leaving the burden of return transportation to them (Department of Labor 2020) (Farmworker Justice 2011). Workers compensation is meant to be provided through insurance provided by the employer yet employers either don't provide insurance or they send employees home when they're injured, prohibiting them from accessing compensation when no longer in the US (Department of Labor 2020) (Farmworker Justice 2011). Consequently, migrant workers lack full occupational rights yet are still obliged to participate in order to survive. Migrants under the H-2A program are at higher risk for experiencing debt, human trafficking, wage theft, discrimination, and occupational injuries.

COVID-19

Currently, the ignorance of the protections under the H-2A program also increase the risk of contracting COVID-19. Workers are living and working in close quarters without proper means to social distance as per CDC guidelines (Flocks 2020). Workers are additionally ill prepared in terms of PPE to be working, especially in jobs indoors and in close proximity. Migrant workers may also not seek healthcare for fear of deportation, language barriers, lack of transportation, or economic burden which only attributes to the perpetuation of the sickness. In March 2020, the Department of State eliminated in-person interviews for migrants applying for the H-2A yet only allowed H-2A workers that have previously worked under the program to come without interviews (Flocks 2020). In April, the DHS commits to keeping the program admits the pandemic to “Provide ag employers with an orderly and timely flow of legal foreign workers, thereby protecting the integrity of the nation’s food supply chain... while encouraging the agricultural employers use of the H-2A program” (Department of Homeland Security 2020). In June of this year, Trump signed an executive order suspending issuing new temporary work visas under specific industries, excluding the agricultural industry (Trump 2020). Migrant workers under the H-2A program were deemed “essential workers” without essential protections, only contributing to the risk factors already present for this population. It is clear that the protective mandates during this pandemic apply to domestic people on a different plane than migrant workers under the H-2A program.

Conclusion/synthesis

From the origins of labor programs between the US and Mexico, it has been inextricably saturated with blatant discrimination and preferential treatment for domestic workers. The societal and executive narratives surrounding migration to the US have continued to impact migrant workers on levels outside of occupation. The policies surrounding immigration in context of the H-2A program are racist by nature and disguised as beneficial to both parties when in reality it is exploitation in its purest form. The US abuses the consistent flow of migration in order to maximize profitability. Migrants will continue to migrate in order to survive and, as such, the US will take the liberty to commodify these people in their accumulation of capital.

Recommendations

In order to address the issues at hand, a reform is much in need. It has been suggested by scholars that on a policy level, the entire H-2A program should be completely reformed rather than adjusted (Marin 2020). The introduction of feasible pathways to citizenship would contradict the reductionist approach of the program, allowing improved agency and social mobility for temporary workers (Oliveira 2002). This would actually be in the US's interest as there would be more participation in the US economy as a whole. Additionally, it has been suggested to secure rights for migrant workers under the Migrant and Seasonal Agricultural Worker Protection act in order to stabilize wages and enforce protections (Oliveira 2002). There also are suggestions to motion for more agency of farm employers to set individual requirements for their own agricultural needs (Green 2005). Above all, however, there should be an adjustment to the H-2A program to allow migrants the freedom to change employers on account of occupational abuses and violations (Watkins 2015). As such, it is also argued that there should be increased oversight by the DOL to ensure that protections are adequately provided to workers

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(Watkins 2015). Many of these issues would be solved with the passing of the Agricultural Jobs, Opportunities, Benefits, and Security Bill (AgJOBS) which would improve work conditions for migrant workers (this bill has since lost its momentum since its 2009 introduction) (Berman 2009). Unfortunately, in order for reform to be a priority for the US, it would have to be more profitable and in advantage to US interests. Human rights come at a cost that migrant workers have been individually bearing for years and it is unlikely that this cost will be alleviated given its colored past and present.

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