

CRIME IN THE FIELDS: THE FORGOTTEN AMERICAN IN MICHIGAN

The law is not an end in itself, nor does it provide ends. It is pre-eminently a means to serve what we think is right.

Law is here to serve! To serve what? To serve, insofar as law can properly do so, within limits that I have already stressed, the realization of man's ends, ultimate and mediate.

Law cannot stand aside from the social changes around it.

Justice William J. Brennan¹

The migrant worker is victim of our society; he is the "forgotten American." Indeed, there is a crisis in rural America, a crisis characterized as one of "crime in the fields" by Senator Harrison A. Williams, Jr., Chairman of the Subcommittee on Migratory Labor of the Senate Committee on Labor and Public Welfare.² Regarding his wages and working conditions, the migrant today is undergoing the same kind of exploitation undergone by laborers during the industrial revolution. Translated, this means that migrants are poor casualties of poverty, members of the lower class, victims of racism and of lack of education, and are forced to work under the most abject conditions with poverty-level rates of pay.

I. Legislative Discrimination

These workers of the fields are the most neglected group in our society, and they suffer an incredible and depressing range of legal problems both individually and as a group. "The primary sources of these problems are state and federal inadequacies and discriminations against farmworkers."³ Statutes which relate to farm laborers are a clear indication of this.

Nationally, farmworkers are excluded from coverage under the National Labor Relations Act,⁴ and, in most states, from coverage under state labor relations, minimum wage, and workmen's and unemployment compensation laws. "In those states in which there is coverage, it is generally limited, and the effect is to give less consideration to farmworkers than to other covered laborers."⁵

However, some farmworkers are covered under the Federal Fair Labor Standards Act,⁶ which provides for minimum wages. Yet, coverage is limited to those farmworkers employed on a farm which used more than 500 man-days of agricultural labor during any calendar quarter of the preceeding year, and the quarters are designed such that the summer, a major season for agricultural labor, falls into two quarters.⁷ The effect

1. *Roth v. United States*, 354 U.S. 476 (1957).

2. S. Rept. No. 91-83.

3. Gary S. Goodpaster, *Peonage: The American System of Migratory Farm Labor*, Clearinghouse Review.

4. 29 U.S.C. §157 et seq. (1964).

5. Goodpaster, *op. cit.*

6. 29 U.S.C. §201 et seq. (1964).

7. Goodpaster, *op. cit.*

of this requirement is to exclude most farmworkers. In 1967, only two per cent of all farms employing farm laborers used more than 500 man-days of hired farm labor, thus making only 35% of the 1.1 million farm laborers subject to the minimum wage.⁸ Covered workers are also excluded from the overtime provisions of the Fair Labor Standards Act, thus encouraging covered farm owners to extend the work week or hours worked per day rather than to hire more laborers.⁹ Even if a 100 man-day test were to be used, only 60% of all farmworkers would be covered under the Fair Labor Standards Act.¹⁰ In addition, all farmworkers employed as harvest hand laborers and paid a piece-rate, who commute daily from permanent residences and who were employed less than 13 weeks in agriculture in the preceeding year are also excluded from coverage.¹¹

In 1956, farmworkers were included in the Social Security Act, but only those farmworkers paid more than \$150 a year or who work for an employer 20 days or more are covered.¹² However, there is a major difficulty in this area in that under the provisions of the Act, the crew leader rather than the farmer is presumed to be the employer for Social Security purposes.¹³ In many cases where Social Security deductions are made, the practices are that the crew leader keeps the money for himself and simply does not report the deductions. More often than not, the situation is that there are simply no deductions made for Social Security. These practices together with the \$150 or 20 day exemption virtually exclude farmworkers from Social Security benefits.¹⁴

In order to more clearly present a description of the farm labor force in this country, some additional statistics are necessary:

In 1968, for example, approximately three million people did some, work on the farms in the U.S.; however, only 66 per cent of them worked more than 25 days. The seasonal work force, those working 25 to 150 days, numbered approximately one million, with those working more than 150 days numbering about 0.6 million.¹⁵

These are only a small dosage of the legislative and legal problems which the migrant farmworker faces. They are, by no means, a complete or even an in-depth picture of the problems in this area. They are, rather, the first strokes on the canvas, the first blocks in the foundation of the pyramid, the beginning from which one can see the need for legislation, legislative change and an end to the statutory inadequacies and discriminations against farmworkers.

8. **The Migrant Farm Labor Problem in the United States**, 1969 Report of the Sen. Com. on Labor and Public Welfare 56, 90th Congress 2d Sess. (1969).

9. Goodpaster, *op. cit.*

10. *Ibid.*

11. 29 U.S.C. §213 (a) (6) (Supp. IV, 1966).

12. 42 U.S.C. §409 (b) (12) (1964).

13. 42 U.S.C. §410 (n) (1964).

14. Goodpaster, *op. cit.*

15. Dr. D. W. Strut. **Some Migrant Workers Needs**, Rural Manpower Ienter, Michigan State University, April 15, 1970, p. 2, (mimeographed testimony presented before the U.S. Senate Subcommittee on Migratory Labor).

II. *Situation in Michigan*

In an attempt to picture the problems in the State of Michigan, the Civil Rights Commission has conducted studies into the area of the migrant farmworker in Michigan. In its publication, "Report and Recommendations on the Status of Migratory Farm Labor in Michigan, 1968," the Commission made the following conclusions from its study:

- (1) The migrant population is being excluded from full participation in the life of our society.
- (2) The present network of laws, policies and practices traps migrants economically and politically.
- (3) The migrants' position is substantially damaged by lack of adequate housing, minimal social and health services and reasonable educational benefits.

In its subsequent publication, "Report and Recommendations: A Field Study of Migrant Workers in Michigan, 1969," the Michigan Civil Rights Commission looked to the response of government and agencies to the migrants' situation and said,

One of the serious problems is that while so much of this responsive concern and activity is well-intentioned, it remains uncoordinated. So there is non-cooperation, duplication, wasted effort in many areas of need, and no effort in others.

Therefore, a general recommendation of the Commission, based on its two years of investigation in the fields of Michigan, was that, "... agencies of the federal and state government which are most directly concerned with the problems of the migrant worker, begin immediately to systematize and coordinate their efforts." In addition, the Commission went further and made the following specific recommendations:

State agencies which relate to migrant problems should begin to coordinate their programs with the governor's office urging agency directors to appoint liaison personnel immediately.

In the summer of 1970, Governor William G. Milliken created the Area Councils on Migratory Farm Labor with the following mandate:

That there be established in each county (or combination of contiguous counties) where migrant labor is employed of an inter-agency task force or area council consisting of representatives of all the agencies dealing with migrants, representatives of agriculture and related employers, as well as representatives of migrants and/or ex-migrants, designed to make certain that maximum service and efficiency is produced in that area or county. The Michigan Office of Economic Opportunity should be the initiating agency.¹⁶

This concept for the establishment of Area Councils on Migratory Labor is essentially a good one. Today, over one year since the Governor's mandate, the major consequence has been that many counties have not created migrant councils, and in those counties which have, the councils

16. Governor's Task Force on Migrant Labor, State of Michigan, 1969 Recommendation Number Three.

suffer from lack of direction, ignorance as to their proper role, and a complete failure or lack of state-wide coordination of efforts.

Actually, what does now exist is a conglomeration of a variety of efforts on the part of various local, county, state and independent organizations. As a result, services provided vary from locality to locality, and those services which are commonly provided are done so with no long-range or short-range goals. The result is confusion and chaos in many areas throughout the state. A classic example of this was the number of migrants who came to Michigan in the summer of 1971 and found no jobs and inadequate, or no housing, and, who thus became trapped in Michigan with no means to leave. Two demonstrations at the Governor's office further depict how drastic the situation had become last summer.

III. A Bill to Establish a Commission on Migrant Affairs .

The present situation with regards to the organization and coordination of efforts for migrants is the primary reason for a bill which will become part of a package of migrant-related bills, to be introduced soon in the Michigan legislature, a joint effort of United Migrants for Opportunities, Incorporated, and the Michigan Office of Economic Opportunity. With no state-wide coordination of efforts for migrants, there have been sweeping consequences for both the migrant and the government.

There are two main purposes under this bill. First, a movement will be set in motion which would require the establishment or improvement of the Area Councils on Migratory Labor and later would be able to provide the direction and coordination necessary to make them effective. Secondly, a body would be created which would combine all migrant-related organizations within the State of Michigan, which would have the proper standing to not only coordinate and guide area migrant councils but to begin an all-out assault on the migrant's problems as well.

One major criticism which will undoubtedly arise will be concerned with the effect of the quantity of migrant, ex-migrant and migrant-supported representation on the commission. The answer to this question is simple: a Commission on Migrant Affairs has no hope of real success if the major concentration on the commission is not the people who are directly involved on a day to day basis. Institutions, which ostensibly serve the total society must become relevant to the problems of minority groups.

In summation it suffices to say that in the State of Michigan a Commission on Migrant Affairs is not the total answer, nor would similar instrumentalities in other states be a complete solution. It is however, a means of taking that first step in launching the war on the migrants plight in our society.

PROPOSED DRAFT

AN ACT

To create a commission on migrant affairs and to prescribe its duties and powers.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. There is hereby established a commission to be known as the "Commission on Migrant Affairs" under the Executive Offices of the Governor. The commission shall consist of forty (40) members plus nine (9) additional members during the months of April through September. Twelve (12) of the members shall be the following the Director of the Department of Agriculture or his designee; the Director of the Department of Commerce or his designee; the Director of the Department of Education or his designee; an official representative of the Executive Offices of the Governor; the Director of the Department of Labor or his designee; the Chairman of the Michigan Civil Rights Commission or his designee; the Director of the Michigan Employment Security Commission or his designee; the Director of the Michigan Office of Economic Opportunity or his designee; the Director of the Department of Natural Resources or his designee; the Director of the Office of Comprehensive Health Planning or his designee; the Director of the Department of Public Health or his designee; and the Director of the Department of Social Services or his designee. There shall also be three (3) official members selected from a list submitted by the United Migrants for Opportunities, Incorporated. UMOI is a private non-profit corporation funded under Title IIIB of the Economic Opportunity Act to provide services to migrant and seasonal agricultural workers and their families. In addition, there shall be five (5) members selected from lists submitted in writing to the Governor from independent organizations dealing with migrant affairs. At least one of these members shall be from the Michigan Migrant Ministry. Michigan Migrant Ministry is a department of the Michigan Council of Churches which promotes and serves an inter-denominational program for the needs of migratory farm workers.

The remaining twenty (20) members shall be regional representatives selected from lists submitted by each county migrant council, and each such member selected shall be an ex-migrant. For the purposes of this act, the regional divisions are taken from the official state regional map for State Planning and Development Regions. There shall be two (2) members selected from Region One; one (1) member selected from Region Two; and one (1) member selected from Region Three; four (4) members selected from Region Four; one (1) member selected from Region Five; and (1) member selected from Region Six; three (3) members selected from Region Seven; four (4) members selected from Region Eight; and three (3) members selected from Region Nine. In addition, there shall be one additional member from each region during the

months of April through September who shall be a migrant. A migrant is an individual who earns at least one half of his income from the harvesting of seasonal agriculture crops and travels to two or more locations to engage in this activity. These members shall be chosen from lists submitted from regional meetings of the county migrant councils in the month of March. The members of this commission shall be appointed by the Governor, with the advice and consent of the Senate, within thirty (30) days after this act shall take effect. All members shall serve for a term of one (1) year, and at the expiration of that term may be reappointed to serve at the pleasure of the Governor. Vacancies may be filled for any unexpired portion of the term in the same manner as appointments are made for a full term. The members of this commission shall be selected without partisan consideration. The members shall serve without compensation other than for their necessary and proper expenses, which expenses are to be audited and paid from funds appropriated for this purpose.

Sec. 2. The commission shall:

- (a) Provide comprehensive state-wide planning for the seasonal visits of migrant farmworkers.
- (b) Provide comprehensive state-wide planning to confront the problems of the settled-out migrant.
- (c) Coordinate all migrant-related efforts within the state.
- (d) Make recommendations to the Governor for immediate action where such need is determined by the commission.
- (e) Formulate policies to effectuate the purposes of this act and make recommendations to agencies and officers of the state or local subdivisions of government on such policies and purposes.

Sec. 3. A chairman shall be selected by the Governor whose duty shall be that of calling meetings of the commission at least quarterly, but not oftener than twelve (12) times a year, and presiding over such meetings. The commission may authorize committees of such commission to meet during interims between meetings.

Sec. 4. There shall be a Steering Committee of the commission. It shall consist of eight (8) regular members and one (1) additional member, a migrant, during the months of April through September. The membership shall consist of the following and be chosen in the following manner: the chairman, appointed by the Governor; one (1) representative of the United Migrants for Opportunities, Incorporated, chosen by and from the official members of the United Migrants for Opportunities, Incorporated; one (1) representative of the state agencies represented, chosen by and from those official agency members; one (1) representative of the independent organizations represented, chosen by and from those members; four (4) representatives of the ex-migrant representation of the county migrant councils, chosen by and from those members; and during the months of April through September, one (1) representative of the migrant members, chosen by and from the migrant

members. The Steering Committee shall be authorized to meet as often as it deems necessary. It shall be the function of the Steering Committee to organize and plan the meetings of the entire commission and to formulate the agenda for such meetings. In the case of an emergency, which is to be determined by the Chairman or a majority of the committee, the Steering Committee may be convened and decide policy with the approval of the entire commission.

Sec. 5. The commission shall render a report and recommendations to the Governor and to the legislature. The first report shall be made no later than January 31, 1972, and annually thereafter.

Sec. 6. State agencies and departments whose work is related to the problems which affect migrant labor shall cooperate with the commission in the implementation of this act.

*P. Robert Rigney, Jr.**

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