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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 preceding 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 preceding 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 Center, 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.