

Migratory labor.

(1950)

U.S. Bureau of labor standards.

Suggested Recommendations of the U. S. Department
of Labor to the President's Commission on
Migratory Labor

INTRODUCTION

Note: Pencilled and typed changes + additions were present on copy when received from the Bureau. B. Lloyd

The Nation's economy today demands the migration of large numbers of workers to meet seasonal production needs in agriculture, industry and transportation. Migrant workers have always created wealth for America, the States and the communities which they serve. In agriculture, without their labor during peak seasons, many of the crops would be lost, much of the investment of food producers and processors sacrificed, and the National economy weakened. Owing to the seasonal type of employment, a considerable number of workers and their families habitually migrate with the seasons from State to State, not primarily from choice but because the nature of their work demands it.

Surveys repeatedly made have shown that the traditional conditions under which migrants have worked -- irregular recruitment and employment, low wages and their attendant effects, child labor, lack of community roots and educational opportunity, poor health and low living levels -- are a denial of those American standards which all workers should enjoy.

Most migrant workers are citizens of the United States, others are foreign nationals legally recruited or illegally entering the country to seek or engage in employment here. The Department believes the Nation's task is to establish good working and living levels for both domestic and foreign migrants. Better working conditions for domestic workers would, however, lessen the need and demand for importation of foreign migrants. Our first responsibility therefore is to improve working conditions for our own workers.

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Migrants engage in both industrial and agricultural pursuits.

The authority of the President's Commission on Migratory Labor as well as the Department's responsibility extends to both. If the Department's recommendations submitted herein appear to concentrate on improving the lot of agricultural migrants, it is because industrial migrants are more likely to enjoy the benefits accorded by labor law and practice in this country to resident industrial workers. Agricultural workers in this country have traditionally been exempted from the operation of labor legislation. In proposing better working and living conditions for agricultural migrants, it is of course impossible to consider them apart from agricultural workers as a whole.

The historical exemption of agriculture from labor laws does not mean however that the Department's recommendations for agricultural migrants break untried ground. A few enactments, both Federal and State, have sought to regulate agricultural employment, especially in the child labor field. Many other countries have long led this Nation in extending labor legislation to agriculture. Conventions of the International Labor Organization have for years been in effect in agriculture, covering such standards as minimum age, old age and survivors insurance, sickness, workmen's compensation insurance, and the right of association. The ILO is currently considering a convention establishing minimum wage-fixing machinery for agriculture. So a body of international standards and tested administrative experience is available on which this Nation may draw to bring itself in line with accepted world practice.

The task of improving working and living conditions for migrants is a long term job and the Department has tried to encompass both immediate and ultimate objectives in its recommendations. For instance, it submits proposals covering education, health and welfare services, housing and transportation.

Improvements in these services are intimately bound up with the whole problem of migratory labor and the Department believes the Federal agencies having jurisdiction in these respective fields will submit more detailed suggestions.

The Department also presents recommendations for both Federal and State action. Migratory problems under our form of government assume both ~~and~~ inter- and intra-state character. Especially does the Department advance suggestions involving appropriate State labor agencies. It believes that Federal and State labor departments have major responsibility for aiding migratory workers since theirs is basically a labor problem. It has sound working relationships with State labor agencies developed over a long period of time and on many fronts. It believes therefore that it can provide and should have the resources to provide leadership and such clearing house functions as may be required to give necessary coordination in the activities and programs of other Federal agencies and national organizations. It can assist and cooperate with State labor agencies in developing and discharging their extended obligations.

The Department has long recognized that the Government's basic responsibility for fostering the welfare of wage-earners covers migratory workers as well as all others. But resources have not been adequate either to meet that responsibility fully or to enlist public support for enlarging those resources so that this obligation to the nomadic segment of America's working population could be discharged.

The Department is glad to respond to the request of the President's Commission on Migratory Labor to submit recommendations on this subject. It looks forward to the report of the President's Commission with the hope and belief that it will include a comprehensive program for according these under-privileged citizens the same rights, protections and privileges that

have long been accepted for resident, industrial workers. The Department hopes the Commission's recommendations will emphasize important next steps as well as ultimate objectives in executing such a program. It believes the Commission's report will be of tremendous value in enlisting public support for the many sided approach to a solution of this complicated problem.

RECOMMENDATIONS - LABOR LAW AND PRACTICE

Recruitment

The Department believes that one of the most effective ways to prevent unnecessary migration is through the use of the United States Employment Service. This Service through its local offices knows the labor supply of the area and through its clearance system, the availability of workers in other States. One of its standards is the full utilization of local labor before out-of-State labor is recruited.

Domestic Workers - One of the difficulties the Employment Service meets in controlling over-recruitment and misrepresentation as to work and conditions of employment is the prevalence of the labor contractor system and the private employment agencies. Over a period of years the Department has pressed for Federal legislation requiring the licensing of these contractors and agencies who recruit workers for out-of-State employment. The proposed legislation would prohibit certain unfair practices, including the circulation of misleading job information, charging excessive fees, referral to non-existent jobs and various types of deductions for wages. It would require performance bonds and would regulate maximum fees and set up other standards of good business practice. The enactment of such legislation, supplemented by State legislation providing for registration and the setting up of similar control measures would go a long way toward meeting some of the abuses connected with migration for employment. Another practice by employers leading to over-recruitment and unproductive movements of workers on a large scale is mass advertising. A well-remembered example was the mass advertising in the Southwestern dust bowl during the depression thirties which brought thousands of ^{migrants} ~~Oksies and Arkies~~ to California. Methods for preventing the abuses of such advertising should be developed and applied.

Foreign Nationals - The Commission will be reviewing the problems brought about in connection with the importation of foreign workers and those entering illegally for employment. During World War II the number of foreign workers recruited for employment in industry as well as in agriculture was greatly expanded. Since the end of the war, this program has continued on a smaller scale for agricultural workers only. In the meantime there has been a marked increase in the number of workers who have entered the country illegally. The social and economic problems involved in this influx of aliens are by now familiar to the Commission.

It is the policy of the Department of Labor to recruit foreign workers only when domestic workers are not available under good working conditions and only under circumstances which will not depress wages, working conditions and employment opportunities for domestic workers. The World War II experience should not be repeated wherein ~~prisoners of war and~~ ^{the employment of} foreign nationals ~~were employed~~ ^{was} in agriculture under international agreements ~~assuring standards~~ distinctly higher than domestic workers enjoyed. The Department believes that foreign recruitment should be curtailed as speedily as possible except in cases of national emergency. When group importation is authorized, foreign nationals should be recruited only under supervision of Government agencies and under agreements entered into between governments. The terms of such agreements should be in conformity with international labor standards.

The problem of dealing with the illegal entry of persons for employment is difficult of solution. The Department believes that the Immigration Service should be equipped to deal more effectively with the illegal entrances. In addition it recommends the enactment of Federal legislation imposing penalties on persons who encourage the illegal entry of workers or who ^{knowingly} employ workers who have entered the country illegally.

Wages

Traditionally, wages in agriculture have lagged behind wages in industry. Largely because of irregular employment, earnings for migrants have usually been lower than those for other agricultural workers. Irregularity of employment, together with low earnings, results in substandard living for the great masses of migrant workers in agriculture. Agriculture will never attract reliable and efficient workers until it recognizes the advantages of good wages and conditions of work as a stabilizing factor in employment. Minimum wage-fixing for industrial workers has proved of value in these respects and should be ~~extended~~ ^{adapted} ^{include} to agriculture.

Eight States, the District of Columbia and 3 Territories have legislation permitting the establishment of minimum wages for women and minors in agriculture. Only two of the States, however, Nevada and Wisconsin, actually have rates applicable to such workers. The three Territories also have applicable rates, Hawaii and Puerto Rico's applying to men as well as to women and minors. The Department recommends ~~the~~ enactment by Congress of minimum wage legislation for agricultural employees and the adjustment or enactment of State laws to supplement this legislation. It also ^{and} urges ~~the~~ extension and application of wage payment and wage collection laws to such workers.

Child Labor

Child labor here, as formerly in industry is an evil attendant upon sub-standard wages, irregular employment, and low family earnings. Along with measures to raise the wage and economic position of seasonal agricultural workers, full child-labor protection under Federal and State laws should be given children employed in agriculture.

Under the new National standard which sets a 16-year minimum age for employment in agriculture during school hours under the amended Fair Labor Standards Act, effective January 1950, two programs have been launched:

(1) a promotional program to enlist the cooperation of National, State and local groups, both public and private, in getting voluntary compliance with the law and in getting the children into school and (2) a program of investigation for compliance and of enforcement of the new agricultural child labor provisions of the Fair Labor Standards Act. In intensifying these educational and enforcement programs, there is need for ^{broader} public understanding and support.

When present child-labor provisions applicable during school hours become accepted parts of farm operation and as progress is made in providing schooling for migrant children of school age, attention should be directed to ways in which the child-labor provisions of the Fair Labor Standards Act need to be strengthened to afford protection of young children at any time from burdensome agricultural employment.

^{The protection of} State child-labor laws should be extended to ~~cover~~ children employed in agriculture, both during and outside school hours.

Safety

Farm employment has always involved animal and natural accident hazards. The recent trend toward mechanization of equipment has added serious mechanical hazards, thus materially increasing agricultural accidents. Farm workers should be given the safety and health protections that are provided for other workers.

Departmental experience in industrial safety demonstrates that three things are necessary: (1) wider public recognition of farm hazards and support for sound accident prevention programs; (2) State safety and health laws and

regulations establishing standards of safe performance; and (3) wide-spread education and promotion of special safety programs in agriculture, safety training, technical and popular information.

Laws and regulations won't accomplish the task single-handed, so the Department should give advisory and consultative assistance to State labor agencies and to national and State organizations in developing safety programs and training for the prevention of farm accidents. In cooperation with the Department of Agriculture, it should enlarge its services in the field of industrial safety to include agriculture and give assistance to State labor agencies and interested organizations in developing safety codes and safety practices to reduce farm accidents.

Workmen's compensation

It is highly important that agricultural workers injured in the course of their work, be given the same workmen's compensation benefits as other workers. Now, these workers are usually excluded from coverage under State workmen's compensation laws. However, in 13 States, some steps have been taken toward their inclusion on the same basis as other workers. Only in Ohio is compulsory coverage provided for agriculture. Five other State laws are compulsory for certain mechanized or power operations on a farm.

Unless they expressly reject the act, farmers are generally subject to the workmen's compensation law in 4 States and in 3 additional States for certain mechanical operations.

An obstacle to coverage of agriculture has been the problem of adapting premium payments to short periods of employment and small numbers of workers but it has by no means been insuperable. The Department should encourage State workmen's compensation administrators and the International

Association of Industrial Accident Boards and Commissions to consider how this form of insurance can be made more practicable for employers of seasonal workers and to give support to the amendment of State workmen's compensation laws accordingly.

Unemployment and disability insurance

Agricultural employees should enjoy the same forms of social insurance as industrial workers. Measures should be taken to extend the Federal legislation and the State unemployment compensation and to extend and enact temporary disability laws to cover agricultural employees as broadly and as rapidly as possible.

Industrial Relations

Freedom of association and organization should be available to agricultural workers on the same basis as to industrial workers in our laws. Machinery for the development of harmonious relations or for settling disputes has proved valuable in industry and should be fully available to agricultural employers and employees.

Information and ~~Education~~ Advisory Service

The Department ^{of Labor} /should collect and maintain current information on living and working conditions of agricultural migrants, conduct ^{such} research studies as may be necessary to supplement research activities of the Department of Agriculture in all phases of migratory labor, /study and evaluate State laws, programs and administrative services for migrants, promote improved labor standards including safety and workmen's compensation, and offer a consultative and advisory service to Federal and State agencies and private organizations on standards and procedures for improving the lot of such workers. Cooperation and facilities of the Department of Agriculture are essential to the effectuation of this program.

RECOMMENDATIONS - OTHER LAWS AND PRACTICE

Education and School attendance

Migratory children have the same need for schooling to help them develop into competent adults, good citizens and happy individuals, as other children of this Nation. In fact their need may be greater because of the many disadvantages they must overcome.

Every possible encouragement and substantial financial assistance should be given by Federal and State education authorities to help local school districts provide sufficient and good school facilities for migrant children, including school programs that are adapted to the individual needs of migrant as well as other children.

State compulsory school attendance laws should be amended where needed to make them apply to migratory children as well as residents and to remove exemptions that allow ^{children to be absent from school for} employment ~~of children~~ in agriculture. ↵

Information and technical assistance should also be given to farm employers, citizen groups and others to help them in their efforts to support the educational improvements and expansion of school facilities that are needed to enable migrant children to get adequate schooling.

Adult Education

Facilities for adult education in such fields as dietetics, health, child care and citizenship should also be provided.

Health and Welfare Services

Health, public assistance, and welfare services, comparable to those available to residents, should be readily available to migratory workers and their families.

Moreover since these children move from State to State there is need for cooperative action among States in the interest of getting these children into school.

The Department recommends increased support by Congress for aid to the States, and by States, for more adequate health, public assistance, ^{maternal, child health} and child welfare services, particularly in rural areas. Federal grants-in-aid should provide assistance to any needy individual irrespective of his residence or cause of need. Such Federal funds would remove the undue burden placed on State or local funds by any sudden influx of migrant population. Many States and localities have sought to protect their funds against such a burden by erecting resident requirements of 6 months to 5 years for persons in need of general assistance, for example. As a condition precedent to receiving the Federal funds, State and local residence requirements should be removed so that ill, destitute, or otherwise needy migrants may receive the kind of services for which other citizens are eligible.

Where mothers of young children in migratory families work, as they usually do to supplement meager family earnings, child-care facilities should be provided to ensure wholesome conditions and care for young children, and constructive play and use of leisure time for the older ones. Experiments in combined child-care, education and leisure time programs should be encouraged and given needed public and private support in planning and financing.

Old-Age and Survivors' Insurance

Old age and survivors' insurance benefits available to other workers should be completely extended to migratory ^{and other seasonal} workers. The Department recommends the extension of The Social Security Act to give the protection of old-age and survivors' insurance to migratory workers.

Housing

The Department believes that decent sanitary housing for migrant workers is not only essential in itself but it has been shown by experience to contribute to the regularization of employment and the stability of the work force. The extension of the benefits of community facilities to migrants is dependent in large part on physical shelter. Without suitable housing it is difficult if not impossible to provide access to schools, care for small children while mothers are at work, health and welfare services and opportunities for constructive use of leisure time. By the recent amendments to the Housing Act, migrant labor is entitled to the benefits of public housing. Steps should be taken to bring to the attention of the local housing authorities the special needs of this group of under-privileged workers. If these needs are not met by the housing authorities, then other agencies of Government should be equipped to give the leadership and take administrative responsibility necessary to achieve for migrants decent housing and sound community relationships as well as shelter against the weather.

In addition to public housing, the many private labor camps established to shelter migrants should be regulated. The Department recommends the enactment of State laws authorizing State labor departments to regulate the housing of migrant workers, to license labor camps, and *in cooperation with Health Departments* to develop and issue labor camp codes to assure sanitary conditions which will not menace the health either of migrant workers or of the communities in which they live.

Another type of shelter is required to take care of migrant workers and their families who are frequently in transit several days at a time going from one State to another between periods of employment. Over-night camps

Should be established where stops are limited to two or three days and where shelter, bathing, sanitary and laundry facilities, stoves, fuel, beds and furniture would be provided. Such facilities should be limited to workers having identification as migrants from a local employment office and they should be required to pay a nominal fee for occupancy. The Department believes the Federal Government should establish such over-night camps since the workers to be served are traveling between States and since economy would dictate the location of the facilities at strategic spots along well established routes.

Transportation

Among the thousands of agricultural migrants and their families who follow the crops, a few travel by public carrier, in their own cars or jalopies, or on a share-expense basis in cars of fellow-workers. Most migrants, however, travel in trucks provided by the employers or by labor contractors. These workers are often transported for long distances. Frequently they are crowded into unsafe trucks, they most sit on boards or wooden benches or on their personal belongings, or even remain standing for hours at a time. Frequently they travel many hours without stops, without adequate opportunity to secure food, drinking water, rest and other necessities. Day workers too are commonly crowded into unsafe trucks for the journey between their homes and farms.

Trucks carrying seasonal laborers have been involved in accidents in which their occupants were killed or severely injured. For instance, in late 1949, a truck operator hired by some Arkansas growers, was transporting some Mexicans from Texas and after long hours at the wheel, fell asleep. The truck overturned, killing 2 passengers and injuring 7 others. The truck owner carried

no insurance and denied any legal responsibility. Some settlement was ultimately made in this case but it could not bring back the dead. It is but one of many similar accidents arising out of the use of unlicensed and unregulated truck transportation.

Much of the transportation of farm workers occurs in interstate commerce. Such transportation when by rail or common and contract motor carrier is subject to regulation by the Interstate Commerce Commission. Most such transportation, however, is by private carriers, not subject to the jurisdiction of this Commission. A 1945 study by the ICC on transportation of migrant workers by private carriers showed that 94 percent of the 131,174 migratory workers reported were farm workers, 16 percent under 18 years of age. Of the total number of migrants reported 92 percent were transported in interstate commerce. Straight trucks, usually 1- or 1-1/2-ton open stake-body with tarpaulin covers, were used to transport 67 percent of the workers. Of the estimated workers transported, about 3/4 of the workers were transported by their employers or by employment agencies. Most of the remainder were transported in their own vehicles or in cars of other workers on a share-expense basis.

Although private motor carriers of passengers are not subject to the jurisdiction of the ICC, it is empowered to establish for private carriers of property by motor vehicle, reasonable requirements to promote safety of operation, including qualifications and maximum hours of service of employees and standards of equipment. Safety requirements for private carrier transportation of human beings would seem thoroughly justified.

Nor are State regulations for transporting migrant agricultural workers much better. Only three States--New York, Connecticut and Oregon--have laws directed specifically at the control of this problem.

The Department therefore recommends amendments to the Interstate Commerce Act to assure safe and suitable transportation of migratory workers in interstate commerce except for hauls of one day or less. It proposes that private carriers transporting migratory workers be licensed to require fixed seats with backs; to specify the maximum number of passengers to be carried; to require adequate shelter against inclement weather and rest stops; to require adequate insurance and roadability certificates; to require drivers to have licenses meeting Federal test standards; and to provide for periodic inspection of such vehicles. The Department also recommends similar amendments to State motor vehicle laws and urges States to adopt Federal standards for intrastate hauling by truck.

INTERDEPARTMENTAL COOPERATION IN CONDUCTING DEMONSTRATIONS OF SERVICE TO MIGRANTS

Experimentation is needed to show how the various Federal, State, and local agency programs can contribute their resources and work together to effectively bring housing, child care, health, welfare, and other services and labor protections to migrants. Because of the many related aspects of migrant labor problems, approach to one phase is likely to be less fruitful than when several aspects of the problem are attacked together. Stimulation of effort and encouragement result from cooperative work on a concrete project.

Several demonstration projects in meeting the needs of agricultural migrant workers and their children should be undertaken in different areas as a joint endeavor by the interested Federal agencies working with State and local agencies and groups. The objectives of these demonstrations should be to work out techniques of improving working and living conditions and services to agricultural migrants and to demonstrate the value of joint effort in coming to grips with the difficult and ramified problems of improving conditions and services for agricultural migrants.

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