

IMPLEMENTATION OF THE HELSINKI ACCORDS

MIGRANT FARMWORKERS IN THE UNITED STATES



**Briefings of the
Commission on Security and Cooperation in Europe
Washington, DC**

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PREFACE

The Commission on Security and Cooperation in Europe is mandated by law to monitor and encourage human rights compliance by signatories of the Helsinki Final Act of 1975. The Commission is composed of nine Senate members, nine House members and three presidential appointees from the Departments of State, Commerce and Defense. The Helsinki Commission issues reports, holds hearings, organizes bipartisan Congressional delegations to examine CSCE issues in participating states and participates on the U.S. delegation to all CSCE meetings.

In November 1979, the Commission published a comprehensive domestic compliance report entitled - Fulfilling Our Promises: The United States and the Helsinki Final Act. The Commission undertook the project for numerous reasons. First, it believes that the United States should work with other signatory nations to identify and acknowledge problems within our respective societies and attempt to find solutions to those problems. Second, as the Final Act encourages multilateral scrutiny of each state's implementation of CSCE principles, self-examination increases the credibility of the United States to raise concerns regarding non-compliance by other states. Finally, the Commission is often called upon to respond to charges of U.S. non-compliance and the 1979 domestic compliance report has served as a useful data base. This report was subsequently updated in 1981, and was the subject of Commission hearings. Additionally, the Commission has examined U.S. visa laws as well as facilitated access by Soviet doctors to examine a U.S. prisoner alleged not to be receiving proper medical care. In August 1990, the Commission published a report entitled "Homelessness in the United States." This report was a comprehensive and critical look at problems of homelessness in America and was in part a response to sharp criticism from Warsaw Pact members made during CSCE meetings. The examination of migrant farmworker issues represents another segment of the Commission's ongoing review of U.S. compliance with CSCE concerns and was undertaken with similar considerations in mind.

Language pertaining to migrant workers is found in all major CSCE documents. In July 1992, the United States joined 51 other nations in promising to abide by the Helsinki Document, adopted at a summit of Heads of State and Government. The meeting was notable as the first large-scale CSCE follow-up meeting since the collapse of the communist regimes in Eastern Europe and the Soviet Union and included more than a dozen new participating States. The Helsinki Document pronounces that "human rights and fundamental freedoms are universal, that they are also enjoyed by migrant workers wherever they live . . ." Participating States would seek to "create the conditions for promoting equality of opportunity in respect of working conditions, education, social security and health services, housing, access to trade unions as well as cultural rights for lawfully residing and working migrant workers."

Additionally, last month a CSCE conference convened in Warsaw, Poland to examine migration issues. At this meeting, participants from over 40 states examined various aspects of economic induced migration. Another CSCE forum focussing specifically on migrant labor issues is expected to convene sometime in 1994. While the status and character of European and United States migrant workers are vastly different, many of the problems facing both populations stem from basic socio-economic and political factors. But what is common to both is the need for greater governmental involvement and commitment to addressing the problems facing these growing populations.

The first stages of the Commission project on migrant labor were initiated in December 1991 as staff fact-finding missions to agricultural regions of the American South and West. On these visits, staff members met State, Federal and local officials, farmworker advocates, service providers, legal assistance groups, farmworkers and employers. Labor camps, health, housing and other facilities utilized by migrant farmworker families were examined.

The second stage of the Commission project was a series of public briefings examining specific segments of the farmworker population and areas of concern in order to raise public awareness of the critical problems encountered by migrant and seasonal farmworkers and their families. Over the course of five days of public hearings the Commission: presented an overview of farm labor economics, demographics and living conditions and examined relevant government operated programs; focussed upon health and safety areas, including the effects of pesticides on agricultural labor and consumers; highlighted farmworker children's issues, including education and daycare; studied the difficult challenges facing farmworker women and their families; and, explored possible strategies for addressing problems facing farmworkers, their families and their employers.

This report is a compilation of those proceedings, written statements and other materials submitted for the record over the course of the briefings and during the fact-finding missions. The following recommendations reflect discussions conducted during the briefings and research undertaken during the Commission's examination. In bringing attention to the problems facing farmworkers and their employers, it is the Commission's hope that both the public and government will join together to alleviate the suffering and injustices that permeate migrant farmworker communities. The recommendations are neither comprehensive nor exclusive, but are put forward as guidelines that at a minimum seem critical to any serious attempt to redress circumstances that economically imprison farmworkers and their families, and strip them of their human dignity.

RECOMMENDATIONS

While identification of problem areas has been a goal of the Commission briefings, a more primary objective has been to elicit possible solutions to problems facing migrant farmworkers. Recommendations offered throughout the course of the briefings address a wide array of concerns. Panelist statements and materials submitted in the appendixes provide a litany of suggested solutions and strategies. And while many of the suggestions would likely have a positive impact on the situation, their implementation remains dependent upon political will and a concordant commitment of resources to see that such reforms are effectively enacted.

The following recommendations reflect panelist proposals and the discussions of problems raised during the Commission briefings.

REFORM AND ENFORCEMENT OF LABOR LAWS

1. Federal and state governments must strictly enforce existing laws designed to protect farmworkers.
2. Agricultural employers who utilize farm labor contractors should be held liable for violations by those contractors of the Migrant and Seasonal Agricultural Protection Act and other relevant laws and regulations.
3. Higher fines should be levied against growers and contractors who violate the Migrant and Seasonal Agricultural Protection Act. Prison terms should be mandated for repeat offenders.
4. Federal and state licensing procedures for farm labor contractors should be changed to make it impossible for repeat violators to resecure licenses and continue to abuse workers. Conspiring with other persons, including family members, to evade licensing restrictions should be made a criminal violation.
5. Farmworkers and their family members who seek information about their rights or help in defending those rights must be protected from retaliation by employers.
6. The H-2A and H-2B visa programs, which enable agricultural employers to import temporary foreign workers into the United States, should be discontinued because domestic workers are displaced and foreign workers have been subject to abuse. If the program is to continue, the Department of Labor must be required to improve enforcement of existing protections and revise policies to prevent future abuses.

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