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Migrant Labor Laws: Now and Then

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IF THE Texas-Mexican migratory farm laborer were a student of history—but alas, he rarely knows how to read—he would discover a curiously familiar echo in the injustices and offenses he must now everyday endure. A brief hop, skip, and a jump back into the history of his people would find them facing the same intolerable exploitations he now confronts, and the same employment of efforts to protect him from his misery. For in the latter half of the sixteenth century, the large landowners and ranchers of New Spain had imposed a labor draft upon the Mexican-Indians which closely parallels our present farm labor recruitment system. The *Repartimiento* system, it is true, had behind it the powerful compulsion of royal and religious law, while our present system is only propped upon the force of economic necessity. The single alternative to compliance in 1575 was death by hanging, or beating, or the like, while our present alternatives offer little more than death by starvation. Thus the modern democratic choice seems to offer little difference and meager compensation.

In the 1590's, the abuses of the *Repartimiento* system were multiple, and eventually aroused the holy ire of the Franciscan priests. Workers were being forced to labor far in excess of any legal or humane limits, and those who survived were often cheated out of their paltry pay. These conditions could not help but disturb the humanitarians of the time. The Indian's poor health and miserable life so stirred the fires of compassion that, in 1594, the Franciscans petitioned the all-powerful Council of the Indies to correct the most flagrant abuses. The Council, hardly acting in haste, nevertheless issued the Ordinances of 1609, some 15 years after the original petition, and these Ordinances became the Labor Code of the day. Records indicate that the General Indian Court was able to enforce these laws with some regularity and even some severity,

which would imply that the laws were generally recognized by the populace as being just and appropriate.

Dr. Leslie B. Simpson, in his fascinating book *Many Mexicos*,¹ describes some of the more important provisions of the Ordinances as follows:

1. Indians might not be brought from excessive distances (more than one day's journey) or from different climates;
2. their wages were to be adequate and proportioned to their work;
3. they must be paid for time in traveling to and from work;
4. they must be paid in cash, in person, and in the presence of a magistrate;
5. their hours of labor were to be fixed by the Viceroy; etc.

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laws!

To anyone familiar with the problems of migrant labor in the United States in 1960, these ancient Ordinances must seem ironic, for they strike at the same abuses one can encounter in most agricultural states today. Leaving their homes in the hot and arid southern portions of Texas and New Mexico each spring, hundreds of thousands of present-day farm laborers are forced, by necessity, to travel night and day, often without rest, to harvest the green growing lands that so desperately need their hard-working hands. Usually the trip is made at their own expense and recompense comes only when the actual work begins. But employment starts only when the employer decides his crop has reached the magical moment of peak harvest. If this moment should arrive later than was predicted, the workers must sit idle, without pay and many times without sufficient resources to tide them over until their first payday. Advances on salary by the employer can force the worker into a kind of debt peonage system. On the other hand, if the harvest peak is early, the worker may arrive at the contracted hour and place and find his promised job usurped, and since he is without any legal recourse, he can only move on defeated, hoping to find another crop on another farm where he can sell his labor. In short, the migrant laborer takes all the risks.

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¹ Leslie B. Simpson. *Many Mexicos*. Berkeley: University of California Press, 1959. p. 108.

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Many attempts have been made, and are still being made, to install some system whereby the migrant is assured of receipt of his earned pay in cash instead of the kind of script which is negotiable only at the grower-controlled store. Efforts also are being made to assure the migrant that he will receive his total pay, unencumbered by the sleight-of-hand deductions of unscrupulous crew leaders and/or growers. For many years, too, there has been agitation to extend the minimum wage laws that protect all other American workers and apply them equally to the large body of agricultural workers who toil in our "pastures of plenty." In addition, and in keeping with Franciscan compassion, modern America has seen various attempts made to install minimum age laws for agricultural workers, as well as the imposition of reasonable limitations on working hours and general working conditions.

But the economically powerful and politically influential groups which eagerly exploited the Mexican-Indian worker of the sixteenth century have their latter day counter-parts, and most of

the above described social reforms have been defeated in part or in total. The general rules of today, the Ordinances of 1960, if you will, do not demand (1) restrictions on distances traveled to the job; (2) travel pay to and from work; or (3) protection against contrasting climates. Nor do they demand minimum wages, minimum ages, or maximum working hour limits, and there is little restriction on the practice of payment in script, and small protection from the many machinations of crew leaders and growers. The *Repartimientos* of 1960 are not hampered by any oppressive regulations imposed by the American Viceroy.

But the Texas-Mexican migrant usually cannot read his history, either in Spanish or English, and unfortunately, we cannot turn back the clock four centuries to allow the benefits of ancient justice to aid our modern toilers in the fields. The Ordinances of 1609, passed by the Council of the Indies of New Spain, can, however, prick the consciences of those of us who can read and act, if we are willing to use the lessons of the past to gain a better future.

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come to mind, though they cannot be developed here: our Latin American relations, where among other things we are learning that we cannot shake hands with dictators without soiling our own hand; the problem of rising nationalisms, where we are torn between colony and homeland (and which in fact parallels our internal ideological conflict of local versus federal authority); and President Eisenhower's recent trip to cities around the world—a trip symbolic of the necessity of working within history rather than from above it. America is involved in history, whether she likes it or not, and whether her inherited presuppositions are adequate to it. One is tempted to quote Nietzsche as a conclusion to these illustrations: "All history is the experimental refutation of the theory of the so-called moral order of things."

This sense of involvement in history, I would suggest, is the basis—or part of it, for there are also uncertainties internal to the nation which have not been mentioned here—of the disillusionment settling upon America. We are beginning to wonder if America is the bearer of an ideal, transhistorical purpose, and indeed we are

wondering about that very purpose itself. Has our national experience taken a turn such that the conjunction of theory and daily experience so obvious in an earlier day is no longer apparent? Are we having new experiences without the guidance of theory and value, so that, like all absolutists whose faith is shaken, we are tending toward a nihilism of action and purpose?

Perhaps the time is well upon us to rethink the problems of historical involvement and of our role and purpose in the historical process. Such reexamination must be a matter of fundamental beliefs and presuppositions, as well as one sensitive to, and responsive to, the modern mind. Mere echoing of the sentiments of the past will not do, and it may be that America must now consider what she has never faced before, namely the possibility that some of the problems besetting her may be due to her own ideological tradition. A descent from the American Enlightenment may still be possible; but the experiences of the fifties seem to indicate that we can no longer live with our original Enlightenment inheritance, and that we may be in mortal danger in continuing to believe that we can.