

Manitoba Oblate Justice and Peace Committee

Submission to the Review of the Employment Standards Code of Manitoba

January 12, 2006

The Missionary Oblates of Mary Immaculate have been in Manitoba since 1845. Our work has been primarily with First Nations and the Métis, immigrants, prisoners, francophone community and other social minorities. Our Justice and Peace Committee is made up of priests, brothers and lay people, working for peace, social justice and the integrity of creation here in Manitoba and around the world.

Every summer, hundreds off-shore workers arrive in Manitoba. They come here under the federal *Seasonal Agricultural Workers Program*, which brings nearly 18,000 temporary workers to Canada each year to help with the harvest of fruit, tobacco and other agricultural products. In Manitoba, most of the workers come to harvest vegetables: broccoli, lettuce, cauliflower. Some work in intensive livestock operations. Most of them come from Mexico.

In Manitoba, as in the rest of Canada, agricultural workers are not protected by laws that apply to other workers. In the past, there have been no formal rules that would allow them to refuse dangerous jobs, such as spraying insecticides without proper protection. Even today, these workers are not even guaranteed the minimum wage. Though, under proposed revisions to Manitoba law, health and safety regulations will apply to temporary farm workers, they will remain excluded from laws governing employment standards. Employers will still be able to pay them a rate less than the Manitoba minimum wage. There are still no regulations concerning hours of work, overtime, etc. They will not be covered by workers' compensation. Commitments may be made to workers – for example, regarding bonuses. However, there is nothing obliging the employer to keep his promises. The worker is at the mercy of the employer.

For 5 years, members of the Oblate justice and peace committee and a generous group of volunteers have been doing regular ministry among Mexican farm workers on one Manitoba farm – a farm that employs over 100 of the temporary workers every summer. We are happy to report that the employer in question is a fairly generous and just employer, paying a wage close the minimum. The owner of the farm pays the return trips of the workers from Mexico City to Winnipeg. The men live in relatively comfortable lodgings, inside a barn that has been converted to a motel-like structure. Six to eight workers share a “suite”; each suite contains a small kitchen, a little living room, a bathroom and dormitories, with up to four men per bedroom. The employer supplies buses that take the workers to Winnipeg once per week, where they can do their grocery shopping and buy whatever else they need. One a month, the buses also take the workers to our Sunday evening church services at a nearby Catholic Church. Though a few workers are here from April to November, the great majority work only during the harvest, from July to October.

These temporary workers come to Canada to take jobs that, it is said, Canadian workers are reluctant to take. The work is only temporary. It is back-breaking. The workers spend the day stooped over to pick vegetables in all kinds of weather, including the sweltering sun of July and some bitterly cold mornings in October. And course there is the curse of the Manitoba mosquito.

Because hours are unregulated, the days are often very long. When the harvest is at full tilt – and the weather permits – they usually work up to 12 hours a day, 7 days a week. The men often suffer loneliness. They are immersed in a language and a culture that is completely foreign to them. No language training or any other formal training is provided. They totally dependent on a translator/support worker that is provided by the employer. They are obliged to spend many months far away from their spouses and children. Indeed, in order to assure that the temporary workers will not be tempted to stay in Canada after the season ends, the men are only allowed to participate in the guest worker program if they are married and have children back home in Mexico. Though the workers may come to work in Canada year after year, some of them for up to 20 years, they cannot apply for permanent residency; they will never have a chance of bringing their families and making their home here.

The situation of the workers is, to say the least, vulnerable. There are summers when the weather is good, when the sun shines, when the vegetables are abundant and the harvest goes relatively smoothly. The workers are able to send home cash that is usually for the education of their children. They may even take home some clothing and a few toys for their children and a few consumer goods for themselves – a new camera or cassette player. Then there are the summers when there seem to be more rainy days than good days, when they cannot get into the rain-soaked muddy fields. They sit in their little rooms, unable to work, for days and weeks at a time – without pay, of course. Then there are summers like those of 2004 and 2005, when the crops rot in the fields, or cannot even be planted. The farmer on whose land they work suffers a major financial hit – and so do his guest workers. After summers like these, the workers go home with little more than that with which they came. At the end of the 2005 season, the workers were deeply discouraged by their experience; almost all of them who thought about returning planned to take their chances elsewhere in Canada.

The workers are vulnerable to accident and other health problems. One year, one of them suffered an accident shortly after arriving. He could not continue to work. He required medical care. His health insurance did cover the necessary visit to the doctor, and his trip home was, he understood, to be paid by his employer. However, the trip home is paid only if the worker finishes the season. The injured worker, therefore, had absolutely no way of paying his way home, and no means of earning what he needed to pay his flight. Workers' compensation was, of course, unavailable. Happily, the farmer in whose employ he was, finally consented to make an exception and paid his flight home – a generous gesture. However, it was a gesture that makes clear the extreme vulnerability of the men who work in the guest workers program.

We ask ourselves if this guest worker program is not being used to subsidize the Canadian agricultural industry – a subsidy made on the backs, not of the Canadian tax-payer, but on the backs of the guest workers. Moreover, it is made at the expense of all agricultural workers, as the lack of regulation on the guest worker program is a way of keeping all wages in the agricultural sector low.

No worker in Manitoba should have to depend on the luck of having a kind employer to be able to take home enough cash at the end of the season to support their families. The laws of the province should apply to all workers who labour within its boundaries. Workers are not agricultural or industrial machines that are purchased at the best going price. They are human beings, that justice demands be treated in such a way that their dignity is respected and that their needs and the needs of their families can be provided for. They laws and standards that apply to native Manitoba workers must be equally applied to all who labour within the borders of our province.

Therefore heartily and gratefully endorse your proposal that the employment standards that cover the majority of Manitoba workers be extended to migrant agricultural workers.

Although we are aware that the following do not fall directly within the purview of your Commission, we would like to take this opportunity we would like to encourage the Government of Manitoba and the Government of Canada to bring fairness to the Migrant agricultural worker program by implementing the following related measures:

- To extend the minimum wage law fully to seasonal agricultural workers – bringing it up to the same level as that of other workers;
- To assure that provincial health and safety standards be completely extended to seasonal agricultural workers and to assure that the health insurance programs that have been put into place for migrant workers include a proviso to provide air fare home in case of accident or serious illness;
- To put into place insurance programs (perhaps by adaptations to the Employment Insurance program) that, like crop insurance for farmers, would protect seasonal workers in the case of failed crops or other natural disasters;
- To assure that Workers' Compensation apply to migrant workers
- To enact laws to insure that migrant workers benefit from the taxes and programs into which they have paid: employment insurance, tax credits, etc.; this might be proportional to the number of hours they spend working here in Canada;
- To assure that migrant workers be guaranteed the same rights to organize and bargain collectively as other Canadian workers;
- To ensure that seasonal agricultural workers from outside of Canada be provided with at least rudimentary language training in English as a second language (or the dominant language of the region);
- To amend immigration legislation to provide that, after spending an agreed amount of time working in Canada (for example, 50 months spread over at least 10 summers), regularly returning migrant workers could apply for permanent residency within Canada;
- To ratify the Convention on the Protection of Migrant Workers and their families, which recently came into force in International Law after ratification by 20 countries – Canada not being one of the signatories.

- Olivia Jimenez and Brother Thomas Novak OMI
for the Manitoba Oblate Justice and Peace Committee