

# **Civil Rights Issues in Maine: A Briefing Summary on Hate Crimes, Racial Tensions, and Migrant/Immigrant Workers**

**Maine Advisory Committee to the  
U.S. Commission on Civil Rights**

**February 1996**

*This summary report of a briefing session before the Maine Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in this report should not be attributed to the Commission but only to the participants in the briefing meeting, other individuals or documents cited, or the Advisory Committee.*

## **The United States Commission on Civil Rights**

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An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 and section 3(d) of the Civil Rights Commission Amendments Act of 1994. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference that the Commission may hold within the State.

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## Letter of Transmittal

Maine Advisory Committee to the  
U.S. Commission on Civil Rights

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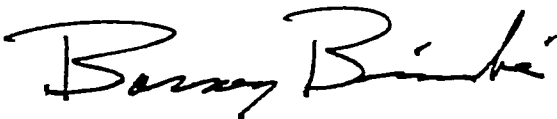
Mary K. Mathews, *Staff Director*

The Maine Advisory Committee to the U.S. Commission on Civil Rights held a briefing session on September 9, 1993, to acquaint its members with a broad range of civil rights issues in Maine on which to base future program activities. More than 20 resource persons were invited to the briefing, including officials from the State and local governments, schools, civil rights advocates, business and industry representatives, and community leaders, all of whom were chosen to reflect a variety of viewpoints. At the briefing, three panels focused on the topics of (1) hate crimes and racial tensions in educational institutions, (2) equal educational opportunity of language minority students, and (3) migrant and immigrant workers, respectively. The all-day session was well-attended and also given prominent coverage by both print and broadcast news media.

Subsequent to the briefing, the Committee received numerous inquiries from the general public, civil rights organizations, and public officials who wanted to know more about what was said at the briefing. In addition, the newly created Governor's Commission on Diversity wanted to use the information gathered at the briefing in preparing its report for the Governor.

In response to recurring requests for information on the briefing, the Committee has prepared this document summarizing the presentations and exchanges that took place at the briefing. The Committee hopes that this summary, which it approved in October 1994, meets the informational needs of those who have shown interest in the September 1993 briefing.

Respectfully,



Barney Bérubé, Ph.D., *Chairperson*  
Maine Advisory Committee

## The Maine Advisory Committee to the U.S. Commission on Civil Rights

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### Acknowledgments

The Maine Advisory Committee wishes to thank the staff of the Eastern Regional Office for its help in the preparation of this summary. The project was the principal assignment of Ki-Taek Chun. The Committee commends Chairperson Barney Bérubé for preparing the first draft of the summary, in collaboration with Chun initially, and subsequently, with Tino Calabria, who also edited the report with support from Linda Raufu. Editorial assistance was provided by Fernando A. Serpa and Gloria Hong. The report was prepared for printing by Gloria Hong. The Committee also expresses its appreciation to the officials and citizens who were panelists at the briefing. The preparation of the briefing summary was initially carried out under the overall supervision of John I. Binkley, former Director, Eastern Regional Office, and subsequently by Edward Darden, Acting Director, Eastern Regional Office.

# Contents

<b>Panel I: Hate Crimes and Bias in Maine</b> .....	1
Rising Hate Crimes and Bias Incidents .....	1
Panelists' Recommendations .....	3
<b>Panel II: Racial Tension and Educating Language Minority Youth</b> .....	4
Prejudice and Racial Tensions in Classrooms .....	4
Disparate Treatment of Language Minority Children .....	6
Training for Cultural Diversity .....	7
Panelists' Recommendations .....	7
<b>Panel III: Migrant and Immigrant Workers</b> .....	9
Living Conditions of Migrant Workers .....	9
Isolation of Migrant Workers .....	10
Working Conditions of Migrant Workers .....	11
Attitudes Toward Migrant Workers .....	12
Migrant Youth .....	12
Panelists' Recommendations .....	13

## Panel I: Hate Crimes and Bias in Maine

The Maine Advisory Committee to the U.S. Commission on Civil Rights convened its briefing session on the morning of September 9, 1993, in the Augusta Civic Center in Augusta, the capital of Maine.<sup>1</sup>

The first panel of nine speakers included State officials, Steve Wessler, of the State attorney general's office, and Patricia Ryan, of the Maine Human Rights Commission. Community perspectives were represented by Janet Johnson, of the Maine NAACP; Gerry Talbot, of Black Education and Cultural History; Tong M. SaVaun, of the Maine Khmer Council (Talbot and SaVaun are also members of the Maine Advisory Committee); Meyer Bodoff, of the Jewish Federation of Southern Maine; and David Agan, of the Maine Refugee Resettlement Program. A law enforcement perspective was represented by Michael Chitwood, of the Portland Police Department; and Laurier Dehetre, of the Lewiston Police Department. Upon request, two additional community leaders were permitted to speak on their perspectives. They were Terry Polches, of the Central Maine Indian Association, and Paula Aboud of the Maine Lesbian and Gay Political Alliance. The following six documents germane to hate and bias crimes were collected from the speakers by the Committee:

- (1) The 1992 Annual Report of the Portland Police Department;
- (2) A statement of the Diversity Leadership Institute prepared by the Portland Police Department;
- (3) A statement of the Community Task Force on Bias Crime by the Portland Police Department;
- (4) A 1992–1993 statistical report of complaints motivated by hate and bias compiled by the Maine attorney general's office;

- (5) A letter by Jeanne Davis regarding alleged harassment against an Afghan family in Augusta by the manager of Greentree Apartments;
- (6) A letter by Paula Aboud of the Maine Lesbian/Gay Political Alliance highlighting hate crimes against gays and lesbians in Maine.

### Rising Hate Crimes and Bias Incidents

The State attorney general's office received 226 hate/bias-related complaints from October 1992 to October 1993. The most frequent victims were African Americans, followed by gay/lesbian individuals, Jews, Caucasians, Hispanics, Asian Americans, Native Americans, religious institutions, and persons with disabilities. Most of the alleged hate crime perpetrators were junior and senior high school students.

A plea was made by the attorney general's office and the Maine Human Rights Commission for civil rights protection to be extended on the basis of sexual orientation under the Maine Human Rights Act. The Maine Gay/Lesbian Political Alliance argued for such protection, based on growing acts of violence against persons who are perceived as gay or lesbian. The Maine Legislature passed such legislation in 1993; however, then-Governor John McKernan vetoed it.

Sexual harassment complaints filed with the Maine Human Rights Commission (the State commission) grew by 150 percent in 1992–1993 whereas the Federal rate of increase for the same 2-year period was 70 percent. A third of the racial discrimination complaints stemmed from allegations of harassment. The State commission had an "open inventory" of 1,300 complaints. There were 3.5 investigators on staff to process them. The caseload at the State commission had grown

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<sup>1</sup> A transcript of the briefing session is available in the Eastern Regional Office of the U.S. Commission on Civil Rights. Due to the late arrival of the stenographer, a few statements attributed to speakers are from notes made by Maine Advisory Committee Chairperson Barney Bérubé, which are also available in the Eastern Regional Office.

**TABLE 1**  
**Hate/Bias-Related Complaints, October 1992 to October 1993**

<b>Complainants</b>	<b>Number</b>	<b>Percentage</b>
African Americans	89	39.4
Gay/lesbian persons	57	25.2
Jews	20	8.8
Caucasians	12	5.3
Hispanics	12	5.3
Asian Americans	9	4.0
Native Americans	5	2.2
Religious institutions	3	1.3
Persons with disabilities	3	1.3
All other	16	7.1
<b>Total</b>	<b>226</b>	<b>99.9</b>

by 42 percent during the previous year, but its staffing decreased by 30 percent. Eighty-two percent of the complaints by the State Commission received were on the bases of disability, sex, age, and retaliation against whistleblowers, respectively.

Other complaints were discussed by representatives of agencies including the NAACP, the Maine Khmer Council, local police departments, the Office of Refugee Resettlement, the Jewish Federation of Southern Maine, and the Central Maine Indian Association. The NAACP reported an increase in complaints by gays and lesbians, particularly in the area of housing.

Statistics reported by the State commission or the attorney general's office do not list a separate category for Cambodian Americans or Asian Americans as victims. This has been a serious concern for the Maine Khmer Council.<sup>2</sup> Several incidents involving Maine's Khmer residents have been reported to the police. A Watt Samaki Buddhist Temple was violently desecrated. School-age youth have hurled epithets at refugees. Hate posters were strategically placed so that refugees would notice them.<sup>3</sup> Native Americans have been reportedly beaten up with

no police interventions. Similar incidents have been reported among the Khmer. Obscene phone calls and anti-Semitic flyers have targeted Jewish peoples.

The Portland City Police have investigated over 40 incidents of bias crimes. It was the first police agency in the State to investigate crimes based on hate. The Lewiston Police Department has placed a high priority on investigating hate and bias crime. To date, gays and lesbians have been the most frequent targets of hatred, followed by African Americans in Lewiston. This trend was particularly noticeable at the high school level.

Testimony by Paula Aboud focused on incidents of hate against gays and lesbians in Maine and on the absence of legal protection for them. She pointed out that gays and lesbians do not receive antidiscrimination protection in housing and employment. They are victims of hate crimes, can be fired from jobs, and can be evicted from housing on the basis of sexual orientation. They are doubly victimized: at the "hand of a criminal" and then "by society" through society's prejudice and hostility. Although ordinances in Lewiston and Portland have discrimination against gays and lesbians, an antigay referendum, she pointed

2 Tong M. SaVaun, member, Maine Khmer Council, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, p. 47 (hereafter cited as Transcript).

3 SaVaun Testimony, Transcript, pp. 46-51.



out, was being proposed statewide. Ms. Aboud further noted that a statewide gay rights law was passed by both houses of the legislature but vetoed by the governor.<sup>4</sup>

### **Panelists' Recommendations**

Most panelists stressed the need for the community, not just the police, to become engaged in resolving incidents of bias and hate crimes. The schools, too, were noted as being pivotal players in this struggle. Panelists made the following recommendations:

- (1) To increase staff at the attorney general's office and at the Maine Human Rights Commission so that staff investigations are commensurate with the inventory of complaints filed;
- (2) To pursue vigorously and punish perpetrators of hate crimes;
- (3) To build trust to counter the fear among some Native Americans and newcomers, such as recent immigrants and refugees, who may not come forward to file complaints with the appropriate authorities;
- (4) To encourage other communities across Maine to consider adopting the Portland Police Department's Task Force on Bias as a model intervention;
- (5) To counter and refute forcefully charges of Jewish conspiracies and similar racist or antiethnic dogmas;
- (6) To mobilize ongoing media attention for civil rights issues and also provide for greater visibility of racial, ethnic, and language minorities in publications seen or read in waiting rooms or offices frequented by the public;
- (7) To promote further the involvement of schools in nurturing cultural diversity and building networks of groups, agencies, and individuals to provide advocacy for protected groups;
- (8) To support a revision of the Maine Human Rights Act to provide protection for gays and lesbians and also for whistleblowers;
- (9) To expand and promote exemplary programs such as those fostered by the Diversity Institute of the Holocaust Human Rights Center of Maine, the National Coalition Building Institute, and the Gang Resistance Education;
- (10) To establish a Khmer Center that can offer acculturation programs on American society, including Federal and State laws, Federal, State, and local governments, and democracy and citizenship.

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<sup>4</sup> Paula Aboud, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, Sept. 9, 1993, Transcript, pp. 95-96.

## Panel II: Racial Tension and Educating Language Minority Youth

The second panel focused on racial tension and equal educational opportunity for language minority students in the State's educational institutions. Speakers included Lieutenant Mark Dion, of the Portland Police Department; Jed Davis, former president and director of the Holocaust Human Rights Center of Maine; Sue Essler, of the University of Maine (UM); Rhea Cote-Robbins, of the Center Franco-American at UM; Beth Pinette, of the University of Maine at Fort Kent; Reverend Steve Coleman and Janet Johnson, of the NAACP; Susan Parks, of the Maine Department of Education; Dr. J. Brian Smith, Superintendent of Maine Indian Education; and Rebecca Hershey, a high school student.<sup>1</sup>

### Prejudice and Racial Tensions in Classrooms

As Maine is reportedly the second "whitest" State in the Nation, children of color in the State are particularly vulnerable to those who are racially biased. For example, Rebecca Hershey, a

student of color who moved from Maranacook High School to the Kents Hill School, said she did not feel welcome at Maranacook.<sup>2</sup> Similarly, Jed Davis of the Holocaust Human Rights Center spoke of a "mulatto" girl whose classmates referred to her as "nigger" and of minority students routinely being the brunt of jokes.<sup>3</sup> Rev. Steve Coleman of the Maine NAACP, stated that his daughter's skin was termed "dirty" by her classmates and that Ku Klux Klan activity was as prevalent in Maine as in Los Angeles.<sup>4</sup>

Prejudice against Franco-Americans in Maine has also flourished for many years with little overt objection to it. Parks, of the Maine Department of Education, described Franco-American children as Maine's "major hidden language minority group" who have suffered silently with little attention paid to them.<sup>5</sup>

Sue Essler, the UM affirmative action officer, pointed out that, if asked whether there were problems of racial tension on campus, the majority of faculty, staff, and students would reply with

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- 1 Subsequent to the briefing, the Maine Advisory Committee was given an opportunity to review related documents, which included the following:  
(1) A detailed explanation of a conflict between Indian Township School and a Calais department store over honoring a purchase order from that school; and  
(2) A letter from the Maine Department of Human Services regarding its survey of violence against children.
  - 2 Rebecca Hershey, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993. (Hershey's statements do not appear in the briefing transcript due to the stenographer's late arrival. See explanation in briefing transcript, p. 107.)
  - 3 Jed Davis, former president and director, Holocaust Human Rights Center, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript p. 108.
  - 4 Rev. Steve Coleman, member, Maine NAACP, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993. (Not recorded in transcript due to stenographer's late arrival.)
  - 5 Susan Parks, staff, Maine Department of Education, testimony before the Maine Advisory Committee, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, p. 142.

a "very self-satisfied NO!"<sup>6</sup> The respondent, she thought, would be likely to recite as corroboration that faculty and staff are very much a product of the civil rights era and that the university has three times the proportion of faculty, staff, and students of color than is representative of the State.

However, Essler stressed her view that minority faculty and students experience more isolation than acknowledged by the university. Junior faculty and students suffer from a relative lack of mentoring opportunity. Minority faculty members are burdened with the additional tasks of attending to the needs of minority students, which is time-consuming but undervalued officially. In addition, their research interest in multiculturalism is either not taken seriously by colleagues or not viewed as important as other mainstream topics. She believed that fear, stereotypes, and misunderstanding contribute to racial conflict on campus and that racism at UM only meets a "well-intended silence . . . [that] reinforces bigotry." Starting to educate on the value of diversity as early as possible, in her view, is "absolutely critical."<sup>7</sup>

Rhea Cote-Robbins of the Franco-American Center and editor of *La Forum*, a UM publication, identified herself as the only Franco-American woman at the Franco-American Center. She suggested that racial/national origin tensions extend to Franco-Americans at UM and that Franco-American women are victims of "double jeopardy" with fewer opportunities to participate in university affairs.<sup>8</sup>

Franco-Americans exist in an "atmosphere of nonacceptance," which has forced them into silence. There is a lack of general support and

sensitivity for their linguistic heritage. All university affairs—classes, meetings and presentations—are conducted in a language that is "foreign to Francos." This practice, when combined with nonacceptance and nonsupport, hardly encourages Franco-Americans to participate, or become visible, in university affairs.

Speaking for the University of Maine at Fort Kent (UMFK), which is nearly 95 percent Franco-American and where 60 percent of its graduates are from the French-speaking St. John Valley, Beth Pinette noted that the "dumb Frenchman" epithet was very much alive on campus and in the community. At UMFK, non-Francos dominated policymaking and administrative and management positions, while Francos were over-represented as typists and custodians. Of the 32 faculty members at UMFK, only 2 are reportedly bilingual.<sup>9</sup>

According to a report, *Violence Among Children and Teenagers in Maine: Professionals View Violence Prevention*, issued in December 1993 by the Maine Department of Health's Division of Maternal and Child Health, violence to children due to intolerance of differences is rampant. In a survey of 1,090 individuals in professional health services and in education, 61.8 percent of the respondents listed intolerance of differences among the causes of violence to children.<sup>10</sup>

A 1993 report by the Maine Department of Education showed that the overall school dropout rates were much higher for minority children than for majority children. It also revealed that there were significant within-race gender differences. For example, black males dropped out of school at three times the rate of black females; Asian males dropped out five times more than did

6 Sue Essler, affirmative action officer, University of Maine, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, p. 112.

7 Ibid. pp. 115-17.

8 Rhea Cote-Robbins, member, Franco-American Center, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, p. 120.

9 Beth Pinette, University of Maine/Fort Kent, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993. (Not recorded on transcript due to recorder's late arrival.)

10 Division of Maternal and Child Health, Maine Department of Human Services, *Violence Among Children and Teenagers in Maine: Professionals View Violence Prevention*, (December 1993), pp. 1, 5.

Asian females and three times more than did white males. In contrast, Native American Indian females dropped out of school four times more than did Native American Indian males and four times more than white students of either sex.<sup>11</sup>

### **Disparate Treatment of Language Minority Children**

According to Superintendent of Maine Indian Education J. Brian Smith, American Indians have been described as “statistically insignificant” among the students who are mandated to participate in the Maine Educational Assessment (MEA) test. “If [American Indians] are statistically insignificant,” he argued, “the State Department and the politicians behind the MEA testing process have no business in publishing the data in the newspaper.” Since many of the students residing on the State’s four reservations who take the test do not speak English as their first language, he contended, the use of norm-referenced tests for this population is inappropriate.<sup>12</sup> Data supplied by the Maine Department of Education show that bilingual children who are reported as fluent in English perform consistently more poorly on the MEA than do their monolingual English peers.<sup>13</sup>

According to a recent home language survey, approximately 3,000 school-age children in Maine report that, at home, they speak a language other than English.<sup>14</sup> These children represent nearly 80 different language backgrounds. Each one of these children is potentially a limited-English proficient (LEP) student. At present, however,

only 1,713 students are reported by schools as needing extra assistance because of their limited-English proficiency. Whether or not the remaining 1,300 students are limited in English proficiency remains an open question, but educators and administrators strongly suspect that the number of LEP students exceeds the reported figure.

According to the 1993 report by the Maine Department of Education, 506 of these 1,713 LEP students are enrolled in some form of total submersion (i.e., “sink-or-swim”) program, 61 in special education programs, and 51 in the gifted and talented programs, leaving 1,095 LEP students receiving no ESL (English as a Second Language) or bilingual assistance.<sup>15</sup> In other words, 64 percent of LEP students (i.e., 1,095 are not served at all).

As for the quality of service, it was noted that 73 percent of those individuals teaching in ESL or bilingual programs do not have the State-mandated ESL endorsement. Thus, a large number of LEP students are not served, referred to special education programs, or taught by individuals who possess the requisite qualifications to teach ESL. School administrators claim that they are financially unable to provide the required service to LEP students, although the Office for Civil Rights of the U.S. Department of Education, rejects this argument of fiscal inability.<sup>16</sup>

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11 Division of Information, Maine Department of Education, Form EFM-35, Maine Public Schools (June 1993).

12 Brian Smith, superintendent, Maine Indian Education, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, p. 132

13 Bureau of Administrative Services, Maine Department of Education, *Data Collection Report on Language Minority Children*, (October 1993), unpaginated (hereafter cited as *Data Collection Report on Language Minority Children*).

14 Ibid.

15 Ibid.

16 Recent compliance reviews of applied technologies programs (i.e., vocational education) show that most schools were in violation of title VI provisions of the Civil Rights Act. Among those cited for violation were Maine School Administrative District (MSAD) 9 at Farmington, MSAD 29 Houlton, MSAD 54 at Skowhegan, Southern Maine Technical College, Jay, Westbrook, Madawaska, Union 87 at Orono, and Vocational Region 10 at Brunswick. Maine Department of Education, Letters/Summary of Findings, Methods of Administration: Madawaska, Westbrook, Southern Maine Technical College, Skowhegan, Vocational Region 10, Orono, Jay, Farmington, Van Buren.

## Training for Cultural Diversity

The Portland Police Department, the Holocaust Human Rights Center, and the Maine Department of Education have played pivotal roles in providing administrators and other school personnel with the staff development opportunities necessary to create a school environment where diversity is not only accepted but also celebrated. The Portland Police Department's Task Force on Bias Crimes has provided school systems around the State with awareness training to provide a psychological safety net for children who may feel socially isolated or oppressed by reason of racial, ethnic, cultural, or linguistic differences. This training is also designed to help students develop strategies to cope with conflicts created by diversity. Although the task force training has been heavily targeted for immigrants of recent arrival, it is beginning to reach out to the Wabenaki of Maine as well.

Rebecca Hershey described her experiences of loneliness and discomfort from being racially different at Maranacook High School; she spoke of American studies that did not include her culture, and how she was cast as "coloring the school" and not "belonging there."<sup>17</sup> Jed Davis noted that the Holocaust Center seeks to intervene as early as possible in children's lives.<sup>18</sup> Sue Essler reiterated the critical need for educating people to the value of diversity in Maine culture.<sup>19</sup>

According to Davis, the summer Leadership Diversity Institute, sponsored by the Holocaust Human Rights Center of Maine, convenes high school students to assist them in learning survival skills to cope with slurs, taunts, insults, and discrimination that stem from the intolerance of differences. Many graduates of the institute speak in public forums about their experiences so

that others may learn from what they have gone through.<sup>20</sup>

Educational consultant Parks said that school districts across the State, other than in southern Maine, have had difficulty finding Maine-certified teachers with the ESL endorsement needed to provide services or to supervise the services. In some parts of the State, courses required for the ESL endorsement have not been available or easily accessible. To meet these needs, the Maine Department of Education has provided training and assistance to teachers for an easier access to State-required endorsement for teaching English as a second language.<sup>21</sup>

Other serious issues in the education of language minority students, according to Parks, include:

- (1) placing the ESL program under the auspices of special education, reinforcing the myth that limited-English proficiency is a handicapping condition or learning disability;
- (2) the inability to evaluate LEP students for their first language proficiency due to the unavailability of qualified personnel; and
- (3) the unpreparedness of teachers to deal with the linguistically diverse student population.<sup>22</sup>

## Panelists' Recommendations

Many speakers from the hate crimes and migrant workers panels, as well as the speakers on this panel, argued forcefully for the need to strengthen the teaching of diversity and tolerance in Maine schools. Other recommendations from this panel include:

- (1) To launch a sustained campaign for students, teachers, and administrators in order to reduce racial/ethnic prejudice, promote acceptance, and, ultimately, celebration, of

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17 Hershey Testimony, Advisory Committee Chairperson's notes.

18 Ibid.

19 Essler Testimony, Transcript, p. 117.

20 Davis Testimony, Transcript, p. 110.

21 Parks Testimony, Transcript, p. 110.

22 Ibid. pp. 125-30.

diversity. Educational effort aimed at students should start at as early an age as possible;

- (2) To provide teachers with in-service training on diversity so that they can better understand the needs of the cultural or language

minority students and offer appropriate assistance;

- (3) To request, plead, or pressure so that school administrators may rectify their non-compliance as soon as possible and provide legally mandated services to LEP students.

## Panel III: Migrant and Immigrant Workers

The third panel focused on disparate treatment of immigrant workers and their families, primarily at Caribou, Portland, and Turner. Panelists included Eric Nelson, an attorney for Pine Tree Legal Assistance; Claire Holman, a freelance reporter; Juan Pedro, regional monitor-advocate (New England), the U.S. Department of Labor; Pamela Gatcomb, a migrant education consultant for the Maine Department of Education; Belinda Carter, a staff person of the Aroostook County Action Program; Mauvourneen Thompson, a migrant education teacher for the Portland Public Schools; Gustavo Solis, a former migrant worker and currently a member of the East Coast Head Start Policy Council; and Linda Ayer, a part owner of the Ayer Broccoli Farms, an employer of migrant farmers.<sup>1</sup>

### Living Conditions of Migrant Workers

Many panelists reported upon the substandard living conditions of migrant workers. For example, Eric Nelson described situations at a farm in Turner where 16 workers lived in a 10-by-10

foot tent or 8 workers in a cabin with cots for 2 persons.<sup>2</sup> A similar condition was also cited by Claire Holman: the workers commonly slept on floors, and sometimes 12 persons lived in one trailer. Illegal evictions were commonplace.<sup>3</sup> According to Pamela Gatcomb, as many as 70 percent of the migrant children in the State lived in substandard housing.<sup>4</sup>

Migrant farmers live in facilities owned and maintained by their employers, who allegedly are resistant to making any improvement to the facilities. Even when they are called into court over poor living conditions, they simply pay the fines rather than make appropriate improvements. Apparently fines are not a sufficient deterrent or disincentive and are considered a necessary cost of doing business. At least one company was alleged as an example of a recalcitrant employer. Recalling a 1974 report of the Maine Human Rights Commission that described extremely poor housing conditions of migrant workers.<sup>5</sup> Several speakers including Maine Advisory Committee member Gerald Talbot and Mr. Nelson noted that

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1 In addition to the panel presentations, the following materials were provided to the Committee:

- i. A position paper relating to housing for migrant and seasonal farmworkers;
- ii. Several press clippings from national newspapers assembled by the Migrant Legal Action Program, Inc.;
- iii. A Report of the Maine Human Rights Commission resulting from a 1974 investigation of labor camp conditions in Washington County;
- iv. The Maine Superior Court Decision for *State of Maine v. Austin J. DeCosta*, Dec. 2, 1992.

2 Eric Nelson, attorney, Pine Tree Legal Assistance, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, pp. 153-54 (hereafter cited as Transcript).

3 Claire Holman, freelance reporter, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, pp. 162, 211.

4 Pamela Gatcomb, migrant education consultant, Maine Department of Education, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, p. 240.

5 Maine Human Rights Commission, briefing session, Augusta, ME, "Title of Report" (report to Governor Kenneth M. Curtis, August 1974).

discrimination and conditions for minorities have not changed in the past 20 years.<sup>6</sup>

According to Mr. Nelson, because large growers more recently have relied on farm labor contractors to deal with the migrant workers, living conditions for the migrant workers have remained similarly substandard.<sup>7</sup> He added that people in Maine are unaware that most of the migrant workers are forced to live in substandard housing. Migrant workers are hardworking, law-abiding citizens, but because they lack organizational basis or political clout, their plight has not been adequately conveyed to the general public and the policymakers.<sup>8</sup>

Health problems are pervasive among all migrant groups and across the State, although Linda Ayer reported the situation for children in Caribou has improved in recent years.<sup>9</sup> Panelists questioned whether Federal funds dedicated for health support of migrant workers and transferred to Maine have been reaching the intended targets.

### Isolation of Migrant Workers

According to a demographic report of the Maine Department of Education on migrant workers in 1993, there were nearly 20,000 migrant workers and dependents in Maine; 8,107 were children.<sup>10</sup> An increasingly large portion of migrant workers are Spanish-speaking. There are about 85 migrant school-age youth at Caribou, 500 at Portland, and 65 at Turner.<sup>11</sup>

Outreach efforts of social service agencies do not often reach migrant worker families, who remain isolated from service agencies, as well as

from the surrounding communities. Obstacles causing such inaccessibility are migrant workers' long, nontraditional work hours, their employers' hostility against outside contact, and the language barrier. Many employers allegedly discourage contact with the outside world and social service agency personnel. Sometimes such contacts are explicitly prohibited. For example, access by State agencies to migrant workers at one company came about only after a court battle.

Due to long and nontraditional work hours and employer hostility, migrant workers have been unable to obtain the services of the Pine Tree Legal Assistance Office or of social workers who are bilingual. Panelists also pointed out that migrant workers have been vulnerable to exploitation by their employers; sometimes they are paid subminimum wages, promises of wage increases are often not kept, and they are frequently charged exorbitant prices for necessities purchased at the company-owned stores.

Children of migrant workers encounter barriers to education. They are kept out of school because they are without birth certificates, or because they have not met State requirements for immunization before the start of school. In addition, local schools sometimes are outright hostile to migrant worker children. Mrs. Gatcomb cited one example when a superintendent exclaimed to her, "They aren't my kids; they don't live here; we aren't serving them and they can't enter [my] school."<sup>12</sup>

Migrant workers are culturally isolated and, one might say estranged, from the rest of the population. Juan Pedro, a regional monitor-

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6 Gerald Talbot, member, Maine Advisory Committee, and Nelson, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, pp. 80-83, 220, and 222-23.

7 Talbot Testimony, Transcript, pp. 220-22.

8 Nelson Testimony, Transcript, p. 230.

9 Linda Ayer, part owner, Ayer Broccoli Farms, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, p. 200.

10 Maine Department of Education, *State Agency Program for Migratory Children Demographic Report*, Regular and Summer Terms, 1993-94. See also, Gatcomb Testimony, Transcript, p. 177, and Nelson Testimony, Transcript, p. 151.

11 *Data Collection Report on Language Minority Children*, unpaginated document.

12 Gatcomb Testimony, Transcript, p. 181.



advocate with the U.S. Department of Labor, noted that migrant workers know very little about the environment where they work and live, have an erratic work schedule, have little contact with the outside world, and often travel long distances, following crops. They do not vote and do not know who their congressional representatives are, their lobbying power is nonexistent, their voice is never heard, their advocacy groups are very limited, and they rarely attend public meetings.<sup>13</sup>

Noting that most migrant workers at Caribou are U.S. citizens, Linda Ayer urged communities to shed their NIMBY ("Not In My Back Yard") mentality about migrant workers and become more culturally sensitive. She also pointed out that the high value which Latino cultures place on families and family decisionmaking should be respected by the employers.<sup>14</sup> As a sign of possible change in community attitudes, Gustavo Solis noted that stores at Caribou are now stocking Latino food items, and restaurants are serving tacos and similar dishes.<sup>15</sup>

### **Working Conditions of Migrant Workers**

Migrant workers are vulnerable to exploitation by their employers. Panelists provided several examples of exploitation. For example, migrant workers at one company were barred from contacting social service agencies until the court intervened; they were paid subminimum wages until the company lost in litigation. Panelists also pointed out that migrant workers work long hours but are not paid for overtime because agricultural employers are not required to pay for overtime. Employers of migrant workers increasingly use labor contractors as an intermediary who are held

responsible for compensation and working conditions. It was alleged that the motivation for this arrangement was to free employers of legal accountabilities for illegal labor practices, perpetuating the continued exploitation of migrant workers.

Another company, a sea urchin plant, reportedly employed high school students of immigrant parents during after school hours until as late as 5:30 a.m. During winter their hands were in iced water almost all the time; frostbitten fingers were frequently observed by their teachers the following day. OSHA and school personnel intervened to cease the abuse. Thompson used this illustration as an example of both the lengths to which these students will go to help support their families under the most adverse of conditions and the way their willingness can be exploited by their employers.<sup>16</sup>

In contrast to the various problems cited above, Solis countered that migrant workers, in fact, do know their rights and that they are not illegal aliens. He added that they know their ability to work, and they like the long hours (15–16 hours a day). Solis noted that he was proud of the labor camps.<sup>17</sup> Linda Ayer assured the Committee that she does not hire cheap migrant labor and that fewer than 15 percent of migrant workers are in the U.S. on a temporary basis. She said she is not paying below the minimum wage and does not tell workers how long they may work; the decision is theirs as U.S. citizens. She did point out that she must assure that the consumer is provided with fresh broccoli—and that means picking broccoli at the right time.<sup>18</sup>

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13 Juan Pedro, regional monitor-advocate, U.S. Department of Labor, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, p. 200.

14 Ayer Testimony, Transcript, p. 200.

15 Gustavo Solis, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, p. 198.

16 Mavourneen Thompson, migrant education teacher, Portland Public Schools, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, pp. 235–36.

17 Solis Testimony, Transcript, p. 196.

18 Ayer Testimony, Transcript, pp. 203–06.

## Attitudes Toward Migrant Workers

Migrant workers encounter hostility not only from their employers or growers but also in the communities. Derogatory comments made by employers and community residents about migrant workers are quite common, according to Nelson.<sup>19</sup> Even more insulting is the fact that in local restaurants migrant workers are asked to "wait for 20 minutes while all the local people who come in after them are served." Nelson remembers migrant workers telling him, "It wasn't so much the comments they heard, it was the fact that they were totally ignored" that was upsetting.<sup>20</sup> Observing the pervasive hostile atmosphere in Aroostook County, Carter described one incident: one day after the recent "Caribou Cares About Kids" pie-eating celebration, an irate grandparent called to protest that migrant children had no business participating in the pie-eating contest because their participation deprived the Caribou children an opportunity to do what they wanted to do.<sup>21</sup>

According to Holman, an incident at Turner was alleged to have involved a race-related shooting, which was still under investigation after many months. Unresolved shooting incidents like this heighten their sense of vulnerability. Holman observed that, combined with the preexisting feeling of powerlessness, migrant workers at Turner live in a constant state of intimidation and fear.<sup>22</sup>

Solis, by contrast, reported that migrant workers encounter no problems in the Caribou community, saying "they accept us as we are."<sup>23</sup> A member of the audience, Dennis Klein, of the Brunswick Harmony Group and Maine Association of Black Professionals, commented that we should place a greater emphasis on diversity as a

strength. Starting with ourselves and our children, we should emphasize, he continued, that difference is something to be appreciated as one of our great strengths, and that it is not a problem, or a weakness, it is our strength.

## Migrant Youth

According to Gatcomb, 120 teachers provide instruction to Maine's 10,000 migrant children who are scattered geographically and follow non-traditional daily family schedules. In addition to the obvious overload problem, panelists pointed out other obstacles to the education of migrant children of school age. Gatcomb noted that the transiency of the migrant student population makes it impractical to measure the effectiveness of migrant education programs based on pre and postdata over a 3-year period. Therefore, alternative assessment options should be considered that can accommodate the transiency of the student population.<sup>24</sup>

Attendance or truancy is another problem. Though each school has a truant officer, there is not "enough teeth in the legislation by which to bring kids back to school or have them enter school." According to this panelist, the problem is due more to the lack of authority for the school officials, as stipulated in the current State laws, to bring the truant students back to school. A disproportionately high dropout rate of migrant students was cited as another issue deserving of remedial action.

School authorities are usually reluctant to incur expenses related to the education of migrant students because costs associated with migrant student needs are an added burden to local schools. For example, Gatcomb reported that one

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19 Nelson Testimony, Transcript, p. 154.

20 Ibid., p. 160

21 Belinda Carter, staff member, Aroostook County Action Program, testimony before the Maine Advisory Committee to the U.S. Commission on Civil Rights, briefing session, Augusta, ME, Sept. 9, 1993, Transcript, p. 190.

22 Holman Testimony Transcript, pp. 167-68.

23 Solis Testimony, Transcript, pp. 197-98.

24 Gatcomb Testimony, Transcript, p. 177.

superintendent, who was responsible for more than 50 Hispanic children of 92 migrant children in the school district, was not willing to hire an ESL teacher. It was the intervention of Pine Tree Legal Assistance that forced the superintendent to hire an ESL instructor against his will. The ESL instructor is not fulltime, although one is needed during harvest. Caribou now hires one ESL teacher for up to 50 LEP Hispanic children. ESL support for migrant youth, however, is satisfactory at Turner and at Portland, it was reported.<sup>25</sup>

According to data provided by Mauvoureen Thompson, 500 migrant students attend the Portland schools. They come from Afghanistan, Rumania, Russia, Somalia, Ethiopia, Cambodia, Vietnam, and Haiti among other countries. There are 110 migrant refugee youth at Portland High School alone. Most migrant refugee youth at Portland live in poverty with attendant problems of at-risk behavior.<sup>26</sup>

### Panelists' Recommendations

The speakers on this panel made the following recommendations:

- 1) To launch a large scale public awareness campaign to educate the general public regarding the deplorable substandard housing conditions for migrant and immigrant workers;
- 2) To monitor the use of Federal funds targeted for support of migrant workers to determine if they are being used as mandated;
- 3) To strengthen or revise State laws as they pertain to the education of migrant children so that truant officers are empowered to do what is educationally desirable, that is, to bring the truant students back to school;
- 4) To have school districts comply with the provision of legally mandated ESL support to students whose parents are migrant workers in Maine.

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<sup>25</sup> Ibid., pp. 181-82.

<sup>26</sup> Thompson Testimony, Transcript, pp. 191-92.

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