

REPORT ON THE STATUS OF MIGRANT WORKERS IN CANADA 2011



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PREFACE

Thank you for taking the time to read the UFCW Canada Report on the Status of Migrant Workers 2011.

This annual Report was compiled to educate about the draconian federal Temporary Foreign Workers Program (TFWP) and the genuine human cost that continues to scar Canada's reputation internationally. More importantly, the TFWP continues to be a dark, painful and dreary road wrought with abuse, exploitation and utter lack of oversight for tens of thousands of people annually entering Canada. As shocking as it may be for those who deny this reality, primarily governments and employers, parallels have been drawn to the slave trade and indentured servitude of a colonial era many thought had past. Moreover, the number of people in Canada who are unaware of the sometimes sub-human conditions that many migrants are subjected to once in Canada is shocking.

As such, this Report is intended to act as an easily accessible vehicle to raise awareness and concern amongst our membership of 250,000, the Canadian public, NGOs, international bodies and organizations, and a variety of governmental jurisdictions across the country.

UFCW Canada is in a unique position to provide a reliable and genuine account of the current national situation regarding migrant workers. As the largest private sector union in the country, UFCW Canada annually comes into face-to-face contact with more than 50,000 migrant workers – this is greater than any other organization, NGO, or government (including the federal government) in the country. Moreover, it is estimated that the UFCW Canada has the greatest percentage of its membership of any union in Canada being migrant workers.

We know that the need for support for some of the most vulnerable workers in the country is tremendous. For instance, in response to our recent 2010 UFCW Canada funded Scholarship for the Children of Migrant Workers, we received over 4,000 applications within a few short months.

In reading this Report you are likely to be appalled by the testimony and information provided. The Canadian ethos has been contentedly dismantled by the Conservative federal government in the name of higher profits for a few. The horrific treatment of migrant workers is a conspicuous symbol of that rupture in our shared humanity.

If conditions are to change, they will only do so by continuing to build our movement with community allies and individuals such as you. We ask only one thing. Please speak to your family members, neighbours, friends, co-workers and elected officials about this ongoing catastrophe of extraordinary proportions. Only by raising awareness together will change occur.

While our resources are finite, if you are holding an event in support of migrant and immigrant communities, require speakers or other support, please feel free to contact us.

Finally, if you require ongoing information on migrant workers and our ongoing regional, national and international campaigns please feel free to visit our webpage at www.ufcw.ca/socialjustice and sign up for the Human Rights, Equity and Diversity (HRED) E-Mail List Serve.

In solidarity,

Wayne Hanley, President, UFCW Canada

January, 2011

EXECUTIVE SUMMARY

The face of the working class in Canada is rapidly changing to reflect the growing diversity of workers. While the trope of Middle-Eastern, Filipino, Latino, South Asian, Chinese and Jamaican first and second generation immigrant workers remains a reality in our urban, sub-urban and increasingly rural landscapes, a new category of further marginalized workers has now emerged - Temporary Foreign Workers or migrant workers.

Migrant workers have been a reality in Canada for decades, with the oldest surviving programs being the Seasonal Agricultural Workers Program and various incarnations of the Live-in-Caregiver Program.

However, in the past few years a disturbing trend has emerged within Canadian immigration policy which continues to fundamentally alter Canada's demographic makeup. This alteration is as a result of the drastic increase in the use of migrant workers. Under the current Conservative government the federal Temporary Foreign Worker Program (TFWP) has expanded exponentially. The radical expansion of these categories encompasses workers in agriculture, food processing, manufacturing, construction, service, and hospitality industries, to name a few. Moreover, to make up for the harsh inadequacies related to child care and the Canadian health care system, tens of thousands of workers are employed annually as Live-in Caregivers in private homes.

According to Citizenship and Immigration Canada (CIC), in 2009 the number of permanent residents who entered Canada totalled 252,124. The number of migrant workers for same year was over 280,000. This data reflects a targeted shift from a governmental model favouring entry of permanent residents, whom would have equal access to legal rights and a path to citizenship, to migrant workers who are faced with precarious immigration status and more limited access to legal rights. The consequences of such a shift has inevitably created a perpetually vulnerable and exploited workforce.

It is important to note that the increase in migrant workers is predominantly within the classification of "low skilled" migrants. Hence, we are not seeing a dramatic shift in the number of professional and managerial workers who are often coming to work in Canada with open visas, but a dramatic expansion in the number of labourers and domestic workers from the developing economies of the global south.

Unlike their professional counterparts, these so called "low skilled" workers are subjected to numerous rights violations; they are tied to a single employer and in many cases required to either live with the employer or rely on the employer for housing and transportation. In addition, low skilled migrant workers are not permitted to bring their families to Canada and must endure the duration of their work contract living apart from their spouses, partners and children.

In contrast to permanent residents, these temporary workers are frequently excluded from a variety of worker protections offered to other workers in Canada. As such, migrant workers are de facto second class workers subjected to employment conditions deemed unacceptable to most Canadians and working in

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constant fear of repatriation at the hands of unscrupulous employers if they assert basic rights.

Protection of temporary migrant workers is often treated like a child's game of hot potato by the federal government and many provinces. Each continues to pass the buck and refuses to take responsibility for the monitoring of both working and living conditions of these typically isolated workers. Where a jurisdiction acknowledges that a certain issue related to the well being of migrant workers is in fact their responsibility, this is typically followed by a refusal to implement an effective legal framework that would protect those who require protection. For example, the government of Ontario continues to discriminate against migrant agricultural workers by failing to grant them the right to collectively bargain, although the Court of Appeal of Ontario and the Supreme Court of Canada have both identified these as rights found in the Charter of Rights and Freedoms.

As well, the federal department of Citizenship and Immigration Canada (CIC) and many of their provincial counterparts continue to act as temporary employment agencies for corporations by bringing in migrants as an inexhaustible "stock" of cheap, flexible and exploitable labour.

Employers wield their control over workers unfettered by effective governmental oversight or the mediating power of a union. When one of the few rules that do exist relating to migrant workers is violated by the employer, it is the migrant worker and not the employer who typically pays the price.

While CIC imposes strict annual quotas on the number of immigrants entering Canada as permanent residents, with the goal of providing corporations a pliable workforce, there are no apparent quotas for the number of people entering Canada as temporary migrant workers. If businesses require compliant workers, and they are granted positive Labour Market Opinions from Human Resources and Skills Development Canada (HRSDC), they are then free to import temporary workers relatively quickly.

It is shocking that under this program governments are no longer in charge of who gets into this country. Through the TFWP, employers have been commissioned with that role. In this way, the reins to Canada's immigration system have been handed over to businesses that are permitted to demand as many temporary migrant labourers as they desire. The TFWP is a brutal and unforgiving "made by business for business" program.

Unfortunately, the only avenue for permanent residency offered to most Temporary Foreign Workers is via nomination by the employer towards the various and limited provincial nominee programs. Few have access to such programs. By being fixed with the ability to put forward nominations for provincial nominees, employers not only determine who among the hundreds of thousands of migrant workers enters Canada, employers and corporations are given ultimate authority to select who becomes a permanent resident in Canada and who does not. This power is frequently wielded by employers as a carrot while subjecting workers to the stick of sub-poverty level wages and desperately poor working and living conditions.



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Under the global economic crisis, the same corporate entities that created the economic crisis are using it as a smokescreen to scapegoat marginalized workers and further polarize the struggling workforce. With the power to repatriate (deport) migrant workers at will, employers often utilize migrant workers to extort lower wages, less benefits and embarrassingly poor working conditions.

While the number of Temporary Foreign Workers increases every year, the federal and some provincial governments continue to negate responsibility for monitoring the treatment of these workers or for ensuring the same legal rights in accessing the collective protection of a union. In addition, there are no effective enforcement measures in place by the federal, and most provincial governments, to effectively deter infractions by employers. At best, they are merely “encouraged” to do better.

With respect to the nature of the Temporary Foreign Workers Program, the term “Temporary” is increasingly a misnomer. With permanent residency requirements becoming increasingly restrictive, particularly for working people from developing countries in the Global South, more and more families are looking to temporary foreign work programs as a means of navigating their way to permanent residency. Many workers have their work permits renewed for longer and longer periods continuing to remain precarious as temporary workers even after years of working in Canada. In the case of migrant seasonal agricultural workers, a majority of participants return every year to work in the Canadian agricultural industry for decades without ever getting closer to achieving permanent residency, not to mention Canadian citizenship.

Our experience has been that the vast numbers of the participants in the Temporary Foreign Workers Program are not coming to Canada with the intention of working temporarily and leaving but with the hope of finding an avenue to navigate their status from temporary and precarious workers to permanent residents.

In addition, employers across the country are consciously expanding their reliance on migrant workers. The business community demands greater access to migrant workers to staff Canadian farms, green houses, meat plants, hotels, construction sites and private homes. Many Canadian businesses and industries, such as the agricultural industry, utilize temporary migrant workers as permanent additions to their Human Resources strategies. Clearly, Foreign Workers are no longer a short term solution for perceived labour shortages but an entrenched element of Canada’s changing workforce.

UFCW Canada and our national network of community allies have been able to successfully advocate for rights protections for migrant workers in the food and meat processing, manufacturing, agriculture, and hospitality industries.

We have seen examples of the tremendous success in advocating for the rights of migrant workers at unionized workplaces. For example, UFCW Canada Locals 1118 in Alberta and 832 in Manitoba have been

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able to use collective bargaining as a means of navigating a path to permanent residency for their members who come to Canada as migrant workers. In their collective agreements with employers, reached through collective bargaining, these UFCW Canada local unions have guaranteed the nomination of every migrant worker member towards the Alberta Immigrant Nominee Program or the Manitoba Provincial Nominee Program, respectively. Through their work and ingenuity, unionized migrant workers are given a viable chance at attaining permanent residency.

UFCW Canada and our allies continue to advocate for immediate permanent residency and a path to citizenship for all workers entering Canada. We believe that if a person is good enough to work in Canada than they are certainly good enough to be able to stay in Canada with full access to the legal rights afforded to others. Unionization and permanent residency remain the only viable solutions that begin to address the crisis of the deplorable and mean hearted working and living conditions that migrant workers are subjected to.

At best case, the TFWP is a form of modern day indentured servitude. At worst, it is a form of modern day slavery wrought with suffering, exploitation and abuse. Either way, it is a “made in Canada” embarrassment.



THE BIG PICTURE: THE SHIFT FROM NATION BUILDING TO INDENTURED SERVITUDE

It is no secret that the Canadian immigration system has been historically and intrinsically connected to the country's business needs. A snapshot of the inhumane arrival and working conditions of Chinese immigrants to British Columbia in the 1880s shows such a business need. For the Canadian government, a source of cheap labour was tapped. For the Chinese immigrants, the hopes of settling in the new world resulted in documented nightmare after nightmare.

For instance, one historical report indicated that approximately 700 deaths before they even reached British Columbia. With regard to earnings, these migrants earned approximately half of what a "white" counterpart would earn during the construction of the Canadian Pacific Railway. Over a century later, the state's reliance on inexpensive and easily exploitable labour to address the business community's desire for the lowest labour costs possible remains the basis for the massive shift from Permanent Residents to Temporary Workers.

Canada's immigration policies are now orientated away from humanitarian concerns and family reunification towards businesses' labour market needs. These can be best seen in the drastic expansion of the number of migrant workers arriving in Canada annually.

Since 2006 the Canadian government has been shifting its immigration policy to expand temporary migrant worker programs. Statistics show that while in Ontario there were 140,525 permanent residents in 2005, such figure had been reduced to 106,840 by 2009. The statistics support an increase in temporary migration, and thereby temporary resident status, with 64,741 temporary residents in Ontario by 2005 swelling to 94,968 in 2009.

British Columbia paints a similar picture. Permanent residents totalled 44,770 in 2005 and then fell to 41,433, while the number of temporary residents increased by 37,686 from 31,419 in 2005 to 69,105 in 2009. This presents an increase of 120%.

Working with HRSDC, CIC announced a number of changes to the TFWP in 2006-2007. These changes allowed employers to more readily access migrant workers and retain them for longer periods of time as temporary workers. Most importantly, the maximum duration of work permits for "low-skilled" Temporary Foreign Workers was extended from 12 months to 24 months, and one year to three years for Live-in Caregivers. In addition, the process for employers hiring a foreign worker were fast-tracked by allowing work permit applications to be processed at the same time as the application for a Labour Market Opinion.

These changes heralded the beginning of a radical shift in Canada's immigration policy from a focus on attracting immigrants as permanent residents prepared to continue to build a nation to "importing" temporary migrant workers at the behest of businesses.

THE BIG PICTURE: THE SHIFT FROM NATION BUILDING TO INDENTURED SERVITUDE

The expansion of the Temporary Foreign Worker Program was coupled with greater power being given to provinces to govern immigration flows. In 2006-2007, CIC undertook negotiations for new Provincial Nominee Program agreements (PNP) with several provinces including Alberta, Prince Edward Island, Yukon and Nova Scotia and signed a new agreement with Newfoundland and Labrador.

Immediately, CIC heralded the PNP agreements a success as nominee admissions reached 13,336, exceeding the planned range of 9,000 to 11,000 announced in the 2006 Levels Plan. CIC interpreted the growing nomination volumes by provinces as a sign of the demand for workers with specialized skills in certain regions and labour markets across Canada. As immigrants were being increasingly understood as mere economic units, so too was the HRSDC given a leadership role in matters originally dealt with by CIC.

Of significance is the fact that since the introduction of the Ontario PNP process, only workers with occupations classified under NOC 0, A and B (higher skilled workers) are eligible for consideration under the program. However, 80% of TFWP workers arrive in Ontario on a yearly basis making the reality of staying in this province under the PNP process ultimately unreachable for lower skilled occupations classed to be NOC C and D.



CANADA'S TEMPORARY FOREIGN WORKER PROGRAM: A MODEL FOR BRUTALITY

The Temporary Foreign Worker program is jointly run by CIC and HRSDC under the authority of the Immigration and Refugee Protection Act (IRPA).

HRSDC is the federal government ministry responsible for issuing the Labour Market Opinion (LMO) which is intended to objectively determine if an employer has met the test of searching for domestic workers in Canada to meet their labour needs prior to requesting the ability to hire a migrant worker. HRSDC also assesses whether salaries being offered to temporary foreign workers are consistent with the prevailing wages that is being paid to Canadians working in the same occupation in the region. Finally, HRSDC determines if the working conditions meet the Canadian standards.

Once an LMO is provided by HRSDC, CIC may issue a work permit tying the worker to the single employer who had applied for the LMO.

Under the TFWP including the Pilot Project, employers are responsible for:

- paying all costs of attracting workers and transportation costs for the worker to travel from their country of origin to their Canadian employment site and back;
- providing medical coverage until the migrant workers are eligible for provincial health insurance coverage
- registering workers under the provincial workers compensation system.

By relying wholly on employers to provide medical coverage, housing and transportation costs, many migrant workers have been subjected to inadequate housing, denied medical treatment and been forced to incur their own travel costs.

“The boss says that he got rid of the Thai workers because they were lazy and complained too much; they didn’t want to work late and wanted extra overtime. He says us Mexicans are good workers so far; we don’t complain much; but he said if we do he’ll kick us [out]; we don’t say anything; we are scared.”

Jorge, Mexican Migrant Worker in Ontario

Historically, with little if any enforcement or adjudication mechanisms when employer violations occur, the result has been migrant workers being left vulnerable, exploited and at the mercy of employers. There is little doubt that the employer-driven nature of the program also opens many innumerable doors for abuse.

For instance, some employers use their power to select workers from specific countries or gender as a means of dividing and controlling the workforce by pitting one group of workers against another. Some employers threaten changing their existing migrant workers with a group of workers from another country as a means of forcing workers into complying with sometimes brutal or illegal instructions.

CANADA'S TEMPORARY FOREIGN WORKER PROGRAM: A MODEL FOR BRUTALITY

The Temporary Foreign Workers Program includes a number of distinct streams including the Seasonal Agricultural Workers Program (SAWP), the Live-in Caregiver program (LCP), and the Pilot Project for Occupations Requiring Lower Levels of Formal Training:

THE SEASONAL AGRICULTURAL WORKERS PROGRAM

The Canadian Seasonal Agricultural Workers Program (SAWP) is one of Canada's oldest surviving TFW programs. It was designed in 1966 on a trial basis to serve as a short term solution for Canada's agriculture industries' seasonal labour shortages.

Today participating countries include Jamaica (joined in 1966), Barbados (joined in 1967), Trinidad and Tobago (joined in 1967), Mexico (joined in 1974), and the Organization of Eastern Caribbean States (Grenada, Antigua, Dominica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent, the Grenadines and Montserrat) (joined in 1976).

The SAWP can be differentiated from other segments of the TFWP in that seasonal workers are brought annually for the harvesting season from approximately May to December. Some workers have been returning to staff Canadian farms for decades without ever getting any closer to obtaining permanent residency in Canada. Under the SAWP, employers also have the power to recall or refuse specific workers by name each season, without justifying their choice.

For a more in depth analysis on the SAWP please see the 2010-2011 UFCW Canada AWA Annual report on agricultural workers entitled "The Status of Migrant Farm Workers in Canada" or refer to it online at www.ufcw.ca.

THE LIVE-IN CAREGIVER PROGRAM

The Live-In Caregiver Program (LICP) is a special classification under the Temporary Foreign Workers Program. Live-in caregivers are individuals who are qualified to provide care for children, elderly persons or persons with disabilities in private homes. Live-in caregivers must live in the private home where they work in Canada. Currently, this is the only program under the TFWP which allows migrant workers the ability to acquire permanent residency after working in Canada for at least 2 years within a 4 year period. However, the restrictions within this program make it very difficult for many Live-in Caregivers to gain access to permanent residency.

Approximately 90,000 Filipino women arrived in Canada under this program from 1981 to 2004. A further 6,895 live-in caregivers arrived in 2006, 77% of whom came from the Philippines. Although live-in caregivers are classified as economic migrants, the program suffers from similar governmental restrictions and lack of protection for the basic needs of workers including those surrounding the provision of health



CANADA'S TEMPORARY FOREIGN WORKER PROGRAM: A MODEL FOR BRUTALITY

care, housing, isolation, intimidation and fear of reprisals if workers speak up regarding their concerns. One study supporting this point cites, “most of those who were terminated a few months after starting the LCP were not eligible for employment insurance. None of them were aware of any type of service by the government for temporary shelter.” When migrant workers are terminated, their employer provided housing co-terminates.

THE PILOT PROJECT FOR OCCUPATIONS REQUIRING LOWER LEVELS OF FORMAL TRAINING

Despite these classifications within the TFWP, CIC statistics for temporary workers are organized according to a system called the National Occupational Classification Matrix (NOC). Under this system workers are grouped according to occupational skill levels:

- NOC “0” represents senior and middle-management occupations;
- NOC “A” encompasses professional occupations usually requiring a university degree;
- NOC “B” includes technical and skilled trades and occupations requiring some post-secondary education, apprenticeship or extensive job training;
- NOC “C” is the category for occupations requiring some job training and some high school education; and
- NOC “D” are the occupations requiring no training or formal education and encompass solely on-the-job training.

Historically, migrant workers entering Canada were often formally educated professionals coming to work in higher paying jobs. As the TFWP has expanded, the number of migrants entering Canada as “low-skilled” or NOC “D” has grown exponentially.

These include those jobs that are heavily reliant on commissions and tips, as in the restaurant sector and where there is a tremendous lack of vigilance by government, coupled with low wages.

A MOVE TO FEWER PROTECTIONS UNDER THE PILOT PROJECT

Since 2002, workers from Thailand, China and Guatemala have been providing additional migrant workers for the agricultural industry under a third stream of the TFWP program entitled “Pilot Project for Occupations Requiring Lower Levels of Formal Training (NOC C and D) (the Pilot Project)”. Unlike the Canadian SAWP, these categories are not limited to Canadian farms and include staffing of hothouses and greenhouses. In addition, the program is not seasonal, allowing workers to work in Canada beyond the traditional growing season.



CANADA'S TEMPORARY FOREIGN WORKER PROGRAM: A MODEL FOR BRUTALITY

Unlike SAWP, under the Pilot Project once an employer's LMO has been approved by HRSDC Canada, the employer can select workers from any country.

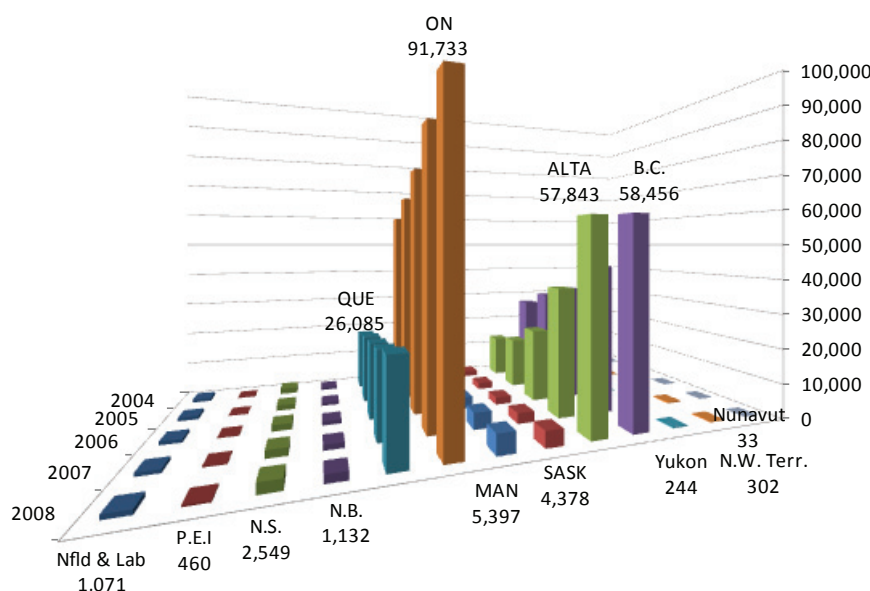
While under the SAWP housing must be provided free of charge to the workers, pursuant to the Pilot Project and live-in caregiver programs, employers are contractually encouraged to charge rent.

DRASTIC EXPANSION OF THE TFWP

Since the introduction of the program, the number of migrant workers has increased every year. In 2008 there were 252,196 migrant workers in Canada. Ontario housed 91,733 Migrant workers, British Columbia hosted 58,456 Migrant workers, Alberta imported 57,843 Migrant workers and Quebec brought in 26,085 Migrant workers (See Figure 1 below).

Alberta has experienced a colossal growth in the number of workers entering under the TFWP. In 2008 the province experienced a 55% increase in its number of migrant workers during a single year. From 2004 to 2008, Alberta increased its population of migrant workers by an astounding 336.9%. Moreover, migrant workers account for 1.6% of the provincial workforce. Clearly migrant workers can no longer be referred to as a stop-gap measure for Canadian businesses.

Figure 1: Total entries of temporary foreign workers by province or territory (2004-2008)



THE EXPLOITATION EXPRESS BARRELS DOWN THE TRACKS: SOME SPECIFIC PROBLEMS

LENGTH OF STAY AND EFFECTS ON THE WORKER

Under the TFWP, workers can be issued work permits for a maximum of 24 months. During that time they are not eligible to bring their family members with them to Canada. This permit may be renewed by the employer for an additional 24 months. However, as a result of recent draconian amendments by the Conservative regime in Ottawa, a worker is required to leave Canada for a minimum of four years before being eligible to re-apply for a new permit.

The process of renewing work permits at the desire of employers effectively means that migrant workers can be separated from their spouses and children and other loved ones not only for a year or two, but sometimes several years.

"I have husband and three kids in Mindanao [Philippines] ...our lives are mess...I miss them so much...my baby is 4 years now ..., I come to work [in] Canada so I could bring them [here]...that's what they told me..., coming here was our chance. Now it is over three years away from [my] kids. We talk on the phone, they are growing up fast. I hope that we can be together soon."

Julie, Filipino Migrant Worker, Meat Processing Plant, Alberta

RECRUITERS/PLACEMENT AGENCIES

The use of employment recruiters by employers continues to be a significant issue for many migrant workers. Unscrupulous recruiters continue to charge migrant workers exorbitant and sometimes illegal placement and processing fees. The exact purpose for fees charged is often difficult to ascertain, particularly as certain fees are permitted while others are not.

The reality is grave. Recruiters often charge thousands of dollars to migrant workers back home which sometimes amounts to several generations of savings. As expected, several thousand dollars are typically not available to migrant workers.

A horrifying reality faced by some migrant workers is their reliance on organized crime in the sending country. As many migrant workers are economically marginalized people from developing countries, they have a complete inability to pay the thousands of dollars demanded by recruiters. Some turn to organized crime as a source to pay the recruiters. This results in illegal rates of interest and a principal amounts that can never be re-paid. The further consequence is indenturing the migrant workers' families to the organized crime syndicate or worse if payments are not made in full and on a timely manner.

The migrant worker in Canada has therefore no ability to resist illegal or harsh treatment he may receive from his/her employer. A termination in Canada for a migrant worker has meant death or the threat of death to family members back home at the hands of organized crime.

THE EXPLOITATION EXPRESS BARRELS DOWN THE TRACKS: SOME SPECIFIC PROBLEMS

When employment contracts are not honoured in Canada or employers terminate migrant workers early, very few options are left for such a worker. In order to repay an organized crime syndicate in the sending country some migrants are forced to work in Canada without legal status in Canada. If found working without status they are typically quickly repatriated and effectively banned from entering Canada under any stream of the TFWP again. In some cases they leave Canada in a worse economic situation than when they arrived.

Another common problem in recruitment is that workers are not presented with documentation regarding the fees they paid and when such receipts do exist they are regularly devoid of the necessary information. With no existing paper trail documenting such fees, it becomes difficult to prove that such injustice occurred in the first place. To make matters worse, many recruiters demand payment in the workers' home country. As such, in the few provinces where legislation exists to regulate recruiters, such recruiters would be outside of provincial jurisdiction. Moreover, as most migrant workers are not fully aware of their rights, governments have done next to nothing to provide migrant workers with material outlining their limited rights. .

Many migrant workers have reported incidents where recruiters have confiscated their or their family members' travel and other documents and held them ransom in exchange for large recruiter's fees.

"In [the] Ukraine we [were] told that after six months our wives and kids could come to be with us...and [that] we would all become full Canadians. We were told a different story but that was not true. If I [had] know[n] I [would] not have turned my life ... upside down to be [in] Canada"

David, TFW in British Columbia

residency only to arrive in Canada to find that such immigration status is typically legally impossible. One exception is in some unionized workplaces through the Provincial Nominee Programs where the union has negotiated such conditions with the employer.

"Back in my country, the recruiter took my wife's things, her passport and her government I.D. They say it was [the] way we could apply for her to join me in Canada. They charged us seven thousand dollars in US money - we had to get this money from the mafia. It has been a year and we have not heard any progress, she is afraid to stop making payments or to ask for her documents back. We don't want to lose our chance of being together; I have children and I want them not in danger."

Carlos, TFW in Alberta

In the process of recruiting workers in other countries, recruiters have been reported to promise workers terms and conditions of employment, including wages, that are radically different from the wages and jobs they are given when they arrive in Canada.

Additionally, many workers are also lured to the TFWP with the promise of access to permanent



THE EXPLOITATION EXPRESS BARRELS DOWN THE TRACKS: SOME SPECIFIC PROBLEMS

for permanent residency and bring their families to join them within a short few months after commencing work in Canada.

THE PROVINCE OF ONTARIO'S BILL 210

There have been some limited attempts to rectify recruiting abuses relating to some migrant workers. For instance, in Ontario, Bill 210, was promoted by the provincial government as a resolution to this matter for only Live-in Caregivers. Migrant workers in Ontario under other streams of the TFWP were left to fend for themselves.

As such, on March 15, 2010, live-in caregivers received some protections from the grip of recruiters as follows:

- ban recruitment fees charged
- prevent employers from recovering recruitment and placement costs
- prohibit the practice of employers keeping personal documents (passports and work permits)
- prohibit reprisals against caregivers for exercising rights under the legislation
- Amend the time a live-in caregiver can make a complaint from two to three and a half years.

The government's response however falls short as it does not provide any mechanism to deal with the non-LIC migrant worker coming to Canada and suffering from exploitation at the hands of recruiters. Without an extension of Bill 210 to migrant workers as a whole, many recruiters shall continue to extort thousands of dollars.

While migrants continue to be vulnerable to the influences of dishonest recruiters, the federal and most provincial governments continue to pass the buck when it comes to taking responsibility legislating policy that effectively monitors or protects migrant workers. In most jurisdictions, Canadian governments have abdicated their responsibility to the recruiters in sending countries, refusing to be accountable for practices directly connected to bringing migrant workers to Canada .

WAGE RATES

Pursuant to the HRSDC guidelines, an employer must demonstrate that wages and working conditions offered to migrant workers is in line with Canadian standards for the occupation in order to issue a successful Labour Market Opinion (LMO). The reality for many migrant workers in Canada has been very different.

Many workers under the TFWP have had serious concerns over the disbursement of wages for instance. Unscrupulous employers and recruiters often mislead workers by initially promising higher wages than those given once they arrive to their work sites in Canada.



THE EXPLOITATION EXPRESS BARRELS DOWN THE TRACKS: SOME SPECIFIC PROBLEMS

UFCW Canada has documented hundreds of cases where employers have withheld wages, failed to pay workers for work performed, underpaid workers or illegally garnished wages for unexplained expenses.

HRSDC AND THE “PREVAILING WAGE” FIASCO

There have also been serious concerns regarding the methodology and data used by HRSDC to compute the prevailing wage rate for migrant workers. Unions and advocacy groups continue to demand transparency and accountability when it comes to formulating prevailing wage rates for industries and occupations requesting migrant workers.

Most recently, UFCW Canada was involved in the HRSDC Labour Advisory Group. The primary focus of the group in 2009 was the determination of an equitable formula to determine the prevailing wage in an industry in which migrant workers would work. Unfortunately, the methodology proposed by the HRSDC was based on the notion that the prevailing wage for migrant workers should be based on the wage rates of those unemployed Canadians in the relevant industries.

As has been the case with the current federal Conservative regime in Ottawa, the concerns, inputs and submissions of Unions were generally ignored. Many among those participating unions were of the opinion that the HRSDC Labour Advisory Group was more of an opportunity for the federal government to assert that they consulted with labour than a genuine consultation.

WORKING CONDITIONS

UFCW Canada has documented hundreds of cases whereby these vulnerable workers are often made to perform additional work duties:

- Without pay for regular hours worked;
- Without overtime pay for over-time hours worked;
- For lower wages than contracted for;
- That were not related to the job contracted for;
- For other employers contrary to the worker's work permit from CIC;
- And work longer hours including evenings and weekends beyond what is allowed in employment standards legislation
- And work in dangerous or hazardous working environments, sometimes without access to safety clothing and equipment, contrary to Occupational Health and Safety Legislation.

“We worked all the time. Double shifts, day and evenings and sometimes both weekend days. I knew that this was against the Canadian laws but I was afraid to lose my job. They no give extra time (overtime). The boss said that there were plenty of other worker[s] and he [could] send us away with one [phone] call, maybe to Thailand.”

TFW from Alberta Factory [translated]



THE EXPLOITATION EXPRESS BARRELS DOWN THE TRACKS: SOME SPECIFIC PROBLEMS

FORCED TO WORK IN A DIFFERENT JOB THAN CONTRACTED FOR

Once in Canada, many migrant workers find themselves performing jobs that are radically different than the ones they were promised by recruiters in their home country.

In some cases skilled workers in industries such as the hospitality industry are brought from countries such as Jamaica where they have accumulated years of work experience in the hospitality industry only to find them working in low-paying, entry level jobs as room-attendants or dishwashers.

"I was a chef in Jamaica for years, working in three and four star resorts in Ochos. I was trained to do this. I was told by the recruiter that I would have the same job in Canada, using my skills. When I arrived here they said that I would be cleaning hotel rooms. This was a shock, but I had already resigned my job at home and I couldn't just go back empty-handed. So I stayed, but I am very angry."

Jamaican TFW working at a major international hotel chain in Ontario

FORCED TO WORK UNDER DANGEROUS AND/OR ILLEGAL CONDITIONS

"When I first started work in the mushroom farm, I spoke almost no English. There are signs on the machines but I could not understand them. I just tried to watch the other guys and learn. But I was scared I would get hurt but what choice do I have."

Migrant Workers from mushroom growing facility in Ontario (Translated)

Dangerous industries such as the agricultural industry have produced some of the most horrific incidents of workplace fatalities and injuries, as workers are often expected to work with hazardous chemicals and machinery in remote areas contrary to provincial occupational health and safety legislation. (see UFCW/AWA Campaign – Stop the Harvest of Death).

REPORTING WORKPLACE INJURY OR ILLNESS

Many migrant workers are hesitant to report workplace injuries or request sick days for fear of losing their job. Many workers have stated that they would rather disguise their illness or injury than seek medical attention. In many cases seeing a doctor means requesting time-off from the employer or relying on the employer's resources for transportation to a medical facility and translation assistance. As such, injuries and illnesses are oftentimes disguised by migrant workers who suffer in silence in order to avoid repatriation.

"There was one guy who got sick, he saw a doctor with the supervisor, after a few days he was sent home. The boss said he was lazy and a bad worker. I know if I am sick, I will go to work, I don't want to take the chance - I owe too much money back home."

Due to the constant fear of reprisal from the employer in the form of repatriation,

Guatemalan Migrant Worker from Quebec Greenhouse



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many workers endure these violations of employment standards legislation in order to maintain their tentative grasp on a job in Canada and the impossible hope of gaining full immigration status.

HOUSING

The Live-in-Caregiver Program (LCP) and the Seasonal Agricultural Workers Program (SAWP) both tie migrant workers to either live with their employer or reside in housing provided by the employer.

However, under most other cases in the TFWP, employers are not required to house workers for the duration of their stay in Canada. Unfortunately, even under these conditions, many workers, particularly those designated for remote rural work sites, are left with little choice but to live in housing provided by the employer. This housing is sometimes substandard and does not meet municipal housing requirements.

From the experience of UFCW Canada, it is without question that many employers provide substandard, overcrowded or over-priced housing to their migrant employees. As with most areas of their life in Canada, these workers have little choice but to accept such housing for fear of reprisal through termination and repatriation. Many migrant workers are located in remote areas with few, if any, housing options or transportation resources and where there is little choice but to consent to the employer's housing provision.

In some cases migrant workers have to endure extreme conditions. UFCW Canada has documented many cases where, for instance:

- Several migrant workers have been forced to share a single room meant for one person for months on end;
- Migrant workers have been told to sleep on a damp mattress directly placed on dirt or dirty floors or sleep outside;
- a dozen workers are forced to share a single bathroom facility and kitchen in a trailer or small house for months on end;
- Migrant workers living in portable housing, with intermittent electricity and water, toilets that drain into an open pit outside the housing, and even outhouses and open air plumbing all year.
- Illegal rents (rent above the allowable legal limit) are deducted from workers paycheques without the workers permission and contrary to employment standards

In one situation, the employer had purchased a four bedroom house in rural Manitoba that should have been rented for no more the market rent of \$900 per month. The employer instead placed sixteen of his day shift employees in the house and charged each employee \$85 per week or approximately \$340 per month per employee. When these employees went to work the day shift, the employer would have another 16 night shift employees sleep in the bedrooms and charge then an addition \$340 per month per employee.



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On Sunday when no one worked, about half of the migrant workers would sleep in hallways or the living room on the floor. The Employer had been collecting almost \$11,000 per month from the migrant workers for a house that should have rented for \$900 or less.

These are merely some examples of the types of conditions endured.

Placing workers in a position where their employer is also their landlord means giving employers an unacceptable amount of control over the lives of migrant workers. Workers are often powerless to refuse housing charges in cases of intolerable living conditions. Municipal governments, which are typically tasked with the job of inspecting housing are either unaware of the problem or sometimes turn a blind eye. In such situations, speaking out about housing conditions also means risking their employment and possible repatriation.

“There were 15 guys in a three bedroom house and we had one bathroom. In the morning we had to line up to use the toilet. Sometimes the heat would go off in winter and it was cold at night - really cold. We had no choice. If anyone said anything we would get fired.”

TFW on Ontario farm

TRANSPORTATION

TO AND FROM CANADA

Transportation continues to be a major issue for migrant workers. Under the regulations pursuant to the TFWP, employers are responsible for the cost of transporting workers to Canada from their home country and back. However, there have been numerous cases where workers have reported that recruiters have charged them for their flight costs to Canada with the promise that the employer will reimburse them once they are in Canada. Unfortunately, in many of these cases the flight cost was never reimbursed.

“We were told that we were being fired on Friday night with no reason. They said we had to leave our home and take a bus to the airport the next morning if we wanted a free flight to Mexico. In one night we lost our job and our house. Most of the guys left because they didn’t know what to do.”

Juan, Migrant worker in Ontario

In other cases, employers have used the flight home as a means of pressuring workers to leave Canada following a termination. Workers are told that they must leave the country, even when their work visas remain valid, or the employer will refuse to pay for their flight home. In this way, employers can dispose of workers who have evidence of misconduct or employment standards violations by repatriating them.

In other documented situations, employers fail to provide migrant workers flights home when they are terminated or their contract ends. With no effective mechanism by any level of government by which to enforce their paper rights, some stranded workers

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are forced to work without status to feed themselves and save enough money to return home. In such cases they return home in a worse situation than when they arrive. Alternatively, workers are sometimes apprehended by Canada Border Services or CIC agents for working without a proper work permit. They are consequently detained and then repatriated. In such a situation, their ability to return under any stream of the TFWP is improbable. They are effectively banned from the program.

GETTING TO WORK

Transportation to and from work continues to be a barrier for many migrant workers, particularly those residing in remote areas. Some employers provide transportation from the housing to the job site to employees at a cost. As employer provided transportation is often the only available means of commuting to work, workers are left with little choice but to concede to the arrangement. Some employers also automatically deduct this transportation fee from the workers' regular pay. In many cases these transportation costs are well beyond the employers' actual cost; thus, like housing, allowing the employer to profit from the migrant workers. In addition, transportation is deducted without any prior discussion or consent from the workers. This is typically considered in breach of provincial employment standards legislation. As with wages and housing issues, there is almost no effective means for a migrant worker to access justice to remedy the problem.

"After about a month, we noticed there was less money in our pay-cheques. My supervisor said that we had to pay \$6 each way and every day for the bus to work and home. We were stuck far from the hotel where there was no other bus. On the weekend it is bad enough we have to spend \$30 just to buy groceries in a taxi. We are mad but what could we do?"

Kathy, Jamaican Migrant Worker employed at a major international hotel chain in Ontario

Relying on the employer as their sole means of transportation means that migrant workers are further restricted in their mobility, they cannot access support services, community assistance, or medical resources without the intervening assistance of the employer.

EQUIPMENT

UFCW Canada has documented numerous cases whereby employers also act as the sole suppliers to migrant workers by selling their employees necessary work clothing and safety equipment. The cost of these products is either paid for upfront by the migrant worker or the cost of the mandatory items is garnished from the workers' pay-cheques. Again, this is in contravention of provincial employment standards and health and safety legislation. This is little choice for these captive workers.



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MEALS

Similarly, with respect to meals at work, it has been reported that some employers in the hotel and hospitality industry deduct food costs from migrant workers regardless of whether the worker has an opportunity to eat the meal provided. A primary motivation for migrant workers to come to Canada is to make enough money to send remittances to loved ones in their home country.

When the deductions for housing, transportation, work gear and food are made, many migrant workers find that there is little money left on their regular wages to fulfill the reason they came to Canada in the first place. These practices which allow corporations and employers to act not only as employers but as landlords, transportation agents and merchants to migrant workers hark back to nineteenth century mining or corporate towns that served as controlling structures, consuming the meagre wages paid to their employees while controlling every aspect of workers' lives.

"In the second month of work, the boss started taking money off our pay for meal costs, even if we didn't have anything to eat. If I worked an extra shift or overtime in the same day, even for just 5 minutes, I had to pay for two meals. I was never asked or told about this change. I had no choice but to pay if I wanted to keep my job"

Vincent, Jamaican Migrant Worker employed at a major international hotel chain in Ontario

LACK OF SERVICE PROVISION

While the number of Migrant workers entering Canada in 2008 has now exceeded the number of newcomers entering as permanent residents, migrant workers continue to be severely neglected in terms of service provision and delivery. Most settlement services, community services and immigration referral facilities do not receive adequate funding to account for the over 262, 000 temporary foreign workers in Canada each year. Another issue of significance is that there are very few services that are able to cater to their particular needs.

Beyond social isolation, some migrant workers face racism and xenophobia, which compounds their vulnerability and need for access to community, settlement, housing, immigration and employment services. For years, labour, community and faith groups have stepped in to act as advocates and service providers for migrant workers. However, as the population of migrant workers in Canada balloons, the urgency for service dollars is also compounded.

UFCW Canada and the AWA, through the 10 Agricultural Workers Support Centres across Canada have been able to provide assistance and community spaces for thousands of migrant agricultural workers. With thousands of drop-in visits recorded for the 2009 period, it is clear that migrant workers are anxious to know their rights and services that may be available

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The federal and most provincial governments have failed miserably to adequately increase the resources allocated to address the needs of this growing population of workers in Canada.

MIGRANTS BECOMING UNDOCUMENTED WORKERS

With work permits being tied to a single employer, migrant workers are sometimes left with the impossible choice of enduring illegal, hazardous or damaging working conditions or to risk termination and repatriation to their home country. Currently, there are no official measures or programs provided by governments for migrant workers who are laid off or in situations which leave them no choice but to leave their employer.

A list of employers with approved LMO's is not a list that exists. As such, as opposed to an immigrant or Canadian citizen with full mobility, migrant workers who are unemployed have little hope of relocating to another employer. With no arbitrating bodies to support non-unionized migrant workers in cases of conflict, most workers have no hope of being given assistance to relocate to another employer.

Under such circumstances, with no viable option to feed or shelter themselves, much less pay recruiters, organized crime or remit money to dependent family members, jobless migrant workers have little choice but to work in the underground economy without legal status to do so. As such, the TFWP creates environments where migrant workers are forced into illegality. Some estimate that there are well over 500,000 plus migrant workers in Canada working without status as a result of such situations.

Discovery of undocumented workers by CIC and Canadian Border Services has generally resulted in punishment in the form of detention and then repatriation of the workers rather than reprisals against the employers or recruiters who have taken advantage of the precarious conditions these workers are subjected to.

CASE STUDY: CIC AND CANADA BORDER SERVICES AGENCY (CBSA) - PUNISHING THE VICTIMS THROUGH U.S. STYLE IMMIGRATION RAIDS, APRIL 2009

When a worker works without status, the only one who suffers is the worker. The employer is not fined nor punished in any effective way. For instance, over a hundred migrant workers in Bradford, Markham, Leamington, and East Toronto were arrested in April 2009, detained and deportation after a series of U.S. style immigration raids carried out by Canada Border Services Agency (CBSA) agents.

While migrant workers were persecuted through detention and deportation, charges were not to be laid against the employer and recruiters who lured workers to these worksites. Also, the majority of the workers were fast-tracked through the deportation system making them unable to ever serve as witnesses



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in any possible investigation against their unscrupulous employers or recruiters. The raids demonstrated how the federal Conservative government is willing to devote vast resources to carry out enforcement measures against migrant workers, who are scraping by to service and support their families, and ignores the provision of fair and equitable working and living conditions for migrant workers. The raids succeeded to further stigmatize vulnerable workers through detention and deportation, making other migrant workers more open to future exploitation at the hands of these same employers.

The raids in Southern Ontario were reminiscent of those carried out in 2006 by U.S. Immigration and Customs Enforcement (ICE) agents at plants owned by Swift & Company. Over 1,300 UFCW meat processing workers were detained and taken away. A national commission was subsequently established as UFCW urged the government to investigate ICE misconduct and violations of the U.S. Constitution. The unprecedented raids were a clear sign that Canada's Immigration policy is moving closer to a U.S. style immigration system where fear and enforcement are routinely used to terrorize migrant workers.

CASE STUDY: THE ROAD TO LOSING STATUS FOR THAI MIGRANTS, 2009-2010

In the past few years, the industries supported by migrant workers have been subjected to a trend of illegal recruiters who recruit migrant workers from various businesses. This practice has been documented in the towns of Leamington, Kingsville, Blenheim and other communities in Ontario in relation to Thai workers. These workers who are illegally moved to other operations that end up giving them work, sometimes without being fully aware of the fact that they are employing them illegally. As soon a migrant worker works for an employer in a job that is not the one listed on his/her work permit, the worker has violated his work visa and is technically stripped of his status.

The contractors, who are often not registered as companies, pay the workers directly in cash once they receive the payment for the workers from the actual employer. These contractors often deduct taxes, CPP, EI, as well as a host of fraudulent deductions, but do not remit anything to the Government..

Under these circumstances the workers are denied the very limited benefits and rights that are available to migrant workers. These arrangements leave an already vulnerable workforce at the mercy of unscrupulous contractors who take advantage of their situation for profit. The lack of regulations, enforcement and government oversight places migrant workers in precarious positions. Faced with an early termination or intolerable working conditions, workers may be tempted to seek the assistance of unscrupulous contractors rather than facing repatriation without the opportunity to earn wages.

CASE STUDY: THE THREE AMIGOS, MANITOBA, JANUARY 2011

In numerous documented cases, migrant workers are lead to believe by employers or recruiters that working at various jobs for a variety of employers is legal and acceptable under the TFWP. With sometimes



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limited literacy in English, it is understandable how this occurs. Nonetheless such workers still face repatriation if found doing so. Such was the case of the “Three Amigos” in Manitoba.

Three Filipino men, Laroya, Arnisito Gaviola and Ermie Zotomayor, faced removal from Canada for violating the terms of their work permit by taking jobs in Thompson, Manitoba. The men, given the name “the Three Amigos,” arrived Canada in 2007 after paying a recruiter \$3,000 each. In order to fulfill their debt and support their wives and children in the Philippines they worked in remote places that have shortages of low-cost labour.

The workers were arrested in June and given a December court date and haven’t been allowed to work since then. It is clear that the workers were unaware that they had violated the terms of their work permits when they were laid off in Alberta and accepted jobs in Manitoba. They were under the impression that everything was legitimate and was being taken care of by their employer. The Amigos are vigorously fighting removal from Canada. All three have been offered jobs by employers who are willing to accept them through the TFWP.

REPATRIATION

The threat of termination and repatriation, whether explicit or implicit, continues to prevent migrant workers from being able to voice concerns about employment standards, health and safety violations, housing, or transportation. Employers continue to misinform migrant workers regarding their right to

*“We were told that we had to leave Canada.
We were fired and so we had no right to stay.”*

Hanson, Migrant worker in Ontario

continue to reside in Canada for the remainder of their work visas, even though they may be laid off. Many Migrant workers are not informed about the possibility of acquiring new employment with an employer who has a valid LMO.

Unscrupulous employers continue to subject migrant workers to low pay, dangerous and hazardous work conditions, unpaid overtime and mistreatment without recourse due to their power to repatriate workers at will. In rare cases, when workers have chosen to speak out about workplace violations, employers have used repatriation as a successful means of controlling and silencing their workforce. Allowing employers to continue to misinform migrant workers in this way, and with almost no government programs aimed directly at education migrant workers as to their rights, employers effectively have the power to effectively repatriate migrant workers.

For the majority of migrant workers, their participation in the temporary foreign worker program is the only means of financially supporting their families back home.

*“I came to Canada so I could have a better
life for my family. If I get send back home I
will lose that chance; not only for me, but also
for my kids. The work is hard, and the boss is
heartless but there is no other way.”*

Angel, Migrant worker in Alberta [translated]



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Other migrant workers see their participation, often mistakenly, in the program as the only means of gaining access to permanent residency in Canada for themselves and their family. With the possibility of repatriation hanging over their head, migrant workers are effectively silenced into compliance regardless of the harshness associated with working conditions.

CASE STUDY: REPATRIATION IN PRACTICE - MIGRANT MUSHROOM FARM WORKERS, DECEMBER 2008

On December 6, 2008, a few weeks before the Christmas holiday, more than 70 Mexican and Jamaican workers at the mushroom grow house outside of Guelph were fired without notice. Rol-Land Farms, a multi-million dollar a year, privately owned industrial agricultural corporation had employed the workers under the Temporary Foreign Worker Program.

The workers were also evicted from the housing rented to them by Rol-Land Farms without notice, although many of them had already paid their monthly housing charges via automatic deductions from their pay-cheques. Many of the workers were repatriated the next day without having an opportunity to make any other arrangements.

Although, the workers had signed contracts to work for the mushroom farm for 12 months, the majority had only been in Canada for short periods ranging from three to seven months. Seven of the workers refused to accept repatriation without voicing their stories. These courageous men remained behind to speak about their experiences as migrant workers in Canada. Their experiences were reported by several local, national and foreign newspaper, radio and television programs, drawing mass outrage from Canadians, migrant rights advocates and labour organizations in both Canada and abroad. Despite the media frenzy, both the provincial and federal governments remained silent on this case.

Having faced no governmental sanction for their first round of firings and terminations, on December 23, 2008, Rol-Land Farms fired an additional 50 Guatemalan farm workers, the majority of whom were women. This time the workers were given a few days notice before their scheduled eviction and were eventually repatriated on December 28, 29 and 30. These women were contracted to work for a one-year period but were facing repatriation to Guatemala after only two to four months in the Canada.

While Rol-Land Farms had the option to relocate these workers to another of their Canadian operations, they refused to do so. Many of the women stated that they could not afford to be repatriated before they had the opportunity to earn enough money to repay the loans they took out in order to pay the recruiters and the necessary applications fees, visas and medical exams required for the TFWP. Many were devastated by the consequences of the termination during the Christmas season and were fearful for their families back home who were relying on their Canadian wages.



THE ROLE OF GENDER IN MIGRATION

Under some streams of the TFWP employers not only have the ability to choose the nationality of their workers but also specify the gender of the people they employ. Some occupations under the TFWP have become gender specific. For example, the LCP has employs primarily women from the Philippines and other countries to provide child-care and home-care to Canadian families. The stereotype at play is that women are more fit to provide care within the domestic setting is an old trope.

Although the Canadian SAWP was created in 1966, it was not until 1989 when the Canadian agricultural industry began to request women workers for seasonal employment on farms. Today between two and three percent of the migrant agricultural workforce is composed of women. Mexico was the first sending country to allow women to participate in the Canadian SAWP. Interestingly, until 1998 only single mothers were able to participate in the program.

Women migrant workers face tremendous barriers at home when attempting to participate in migrant worker programs. Stereotypical gender roles of a good wife and daughter oftentimes plague women who want to participate. Women are threatened with separation and being denied custody of their children even though their male counterparts' inability to financially provide for the family is the main cause many women seek migrant employment.

Women also face obstacles when attempting to complete the application process for the migrant worker program. A major issue for women is the difficulty of travel back and forth to complete the various components of the application including the medical examinations. The costs associated with the application, including the internal travel costs to the capital, are oftentimes prohibitive for many rural women. This fact is compounded by the inherent dangers for women travelling back and forth in countries such as Mexico with limited funds for over-night stays. The incidents of rape and violence experienced by women outside the offices of the Mexican Ministry of Labour are quite disturbing.

The addition of women to the ranks of migrant workers in various industries allows Canadian employers to further segment their labour force not only along linguistic and cultural lines but also according to gender divisions. A trend has emerged in Canadian agricultural operations where women are employed to work with men to divide the sexes by country of origin. The research points to the tender fruit industry, where Mexican women are employed to work in a packing house for a fruit orchard staffed by Jamaican male pickers. Employers readily admit that these hiring strategies are designed to create separations within the workforce that will reduce socialization amongst the workers.

Many of the women migrant workers are the primary earners in their families. The majority of these



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women are parents, with many as single mothers. Other women have sustaining disabled or unemployed spouses.

The ties to family members in the home country is part of the selection process for all workers selected for the TFWP, so it is not surprising that the women selected have strong familial ties and financial obligations in their country of origin. As many of the women are also mothers, many of them face significant challenges in trying to parent across borders. Unlike many of the men who participate in the TFWP, who can leave their children in the care of their wives or female parents, most of the women must leave their kids with grandparents or other female relations. In some cases, children are left behind without any adult supervision. According to the results of one study, extended separation and relying on others to provide care for the children creates anxiety leading to depression for migrant women.

The employment opportunities available in the sending countries to women are temporary and low-paying. Even with access to education, women often have limited access to jobs that can sustain them and their families. The wages earned in Canada are utilized to pay for the day to day family expenses, to fund housing and improvements to housing, to fund educational expenses for their children and siblings, and to cover family medical expenses. For women temporary foreign employment also means becoming financially independent.

The results of the studies show that much like their male counterparts, women comply with the demands of their employers, even when their health or safety is at risk or their rights are being violated. Being tied to a single employer under the TFWP, and with the employer having the power to repatriate a worker at will, as well as the power to not recall a specific employee, places women migrant workers in fear of losing their jobs and their family's primary income. Studies suggests that women may be more likely than their male counterparts to accede to employer demands as they often have more at stake and because they are told that the few positions allocated to women in the TFWP are under threat of being eliminated.

There are also many restrictions on mobility for women migrant workers, particularly for those employed in remote rural areas. Although the majority of migrant agricultural workers work and live in remote areas with very little access to transportation, women are even more limited. Many employers issue curfews and restrictions on visitors for female migrant workers, making it very difficult for the women to socialize or access outside resources.

Women migrant workers are also stigmatized as sexually subservient to their male counterparts. Some studies show that these women are often labelled as bad mothers and fall victims to sexual harassment. This stigmatization further isolates women.

While migrant workers face barriers in accessing health care and social services, women experience even more restrictions when accessing services for their gender-specific needs. Like their male counterparts,



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women migrant workers often do not communicate health issues to employers for fear of losing hours and risking repatriation. In order to access health care in Canada most migrants rely on intermediaries such as translators, guides and drivers. As such, many women endure health issues privately until their return home where they can access health care resources independently. Studies also speak to the specific needs of women with unwanted pregnancies or in need of prenatal care who are not in a position to wait until they return to their country of origin to access health care.

The particular needs of women in accessing contraceptives are also an issue. Migrant women have difficulty purchasing birth control pills or condoms on their weekly shopping trip while in the company of their male co-workers and employer. As this is oftentimes the only occasion that women can access drug stores it becomes very difficult for them to protect themselves against sexually transmitted diseases and unplanned pregnancies. Similarly women migrant workers face barriers in accessing services due to their long work hours, limited access to transportation, and language barriers. In addition, many service providers are not funded to services to migrant workers.

Despite the barriers to accessing birth control products women who arrive pregnant or become pregnant are seen as problems by employers and pregnancy oftentimes results in repatriation, although never officially. Researchers conclude that migrant women are resilient and innovative individuals striving for a new life for their children and loved ones. Migrant women while aware of the difficulties at hand undergo migration in order to provide for their families. Many women take on the role of migrant worker which is a departure from their traditional gender roles out of necessity.



OTHER RELEVANT LEGISLATIVE REGIMES AND INITIATIVES

BILL C-50 - FEBRUARY 2008

In February 2008, with the implementation of the federal Budget (Bill C-50), the minority Conservative government delivered a disturbing blow by pushing through a number of key amendments to the *Immigration and Refugee Protection Act* (IRPA). As the immigration amendments were part of the federal budget they were reviewed by the Standing Committee on Finance rather than the Standing Committee on Citizenship and Immigration. Not surprisingly, the government failed to conduct thorough community consultations prior to the introduction of these amendments. This lack of consultations resulted in a national outcry regarding the undemocratic nature of the proceedings and lack of transparency in the process from immigrant advocacy groups and social justice groups such as UFCW Canada .

The amendments to IRPA gave the Minister of Citizenship and Immigration unfettered power to decide which category of immigrants would be allowed to enter the country each year.

Under this new system annual immigration priorities and categories are not reviewed and debated within the Standing Committee on Immigration as has been historically the case. Rather, they are made solely by the Minister and then published, removing democratic oversight. The publication could also occur AFTER the Minister's instructions have come into effect. This would strategically prevent consultation. As such, the Minister now has the authority to develop instructions that are not subject to debate or approval in Parliament. Under this regime, elected Members of Parliament have no say on these instructions. In essence, instructions made by the Minister will rule who will enter, stay or leave Canada, opening the door to a further lack of transparency, insecurity and an increase to the vulnerability.

The changes also meant that applicants processing applications for permanent residence in Canada can be denied entry even if they meet all the requirements to enter Canada on paper. One significant change noted in the Bill C-50 amendments cites a change in text from "shall" to "may". Therefore, while applicants can meet all the requirements of IRPA and receive sufficient points, they can now be rejected at the Minister's discretion or that of an immigration officer.

More specifically, Section 11 (1) of Bill C-11, IRPA, originally stated, "A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document shall be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act. With Bill C-50 amendments to IRPA, Section 11 (1) is amended to read "A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued, if following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act."



OTHER RELEVANT LEGISLATIVE REGIMES AND INITIATIVES

Section 25 (1) of Bill C-50 also reflects a significant change from Bill C-11, with the latter citing the following, “The Minister shall, upon request of a foreign national who is inadmissible or who does not meet the requirements of this Act, and may, on the Minister’s own initiative, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligation of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to them, taking into account the best interests of a child if directly affected, or by public policy considerations.”

Bill C-50 amends this legislation to read “The Minister shall, upon request of a foreign national in Canada who is inadmissible or who does not meet the requirements of this Act, and may, on the Minister’s own initiative or on request of a foreign national outside of Canada, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligation of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to them, taking into account the best interests of a child directly affected, or by public policy considerations.”

While these appear to have been simple changes made to the text of each section, they rendered the entire point system and its objective non-discriminatory criteria effectively meaningless. Since Bill C-50 has received Royal Assent, and contrary to Canada’s historical emphasis on family reunification and permanent residency, new immigrants no longer have an assurance that if they meet the necessary criteria to come to Canada as permanent residents they will be granted entry.

Perhaps the most significant change to Canada’s immigration strategy has been CIC’s attempt to singularly align Canada’s immigration program with the labour market needs of businesses and the steps it has taken to ensure easy access to temporary migrant workers as a cheap and more easily exploitable workforce.

The federal government has argued that changes to IRPA were designed to give flexibility to visa offices by bringing in skilled workers to meet labour needs. The reality is that employers are claiming labour shortages for mainly “low-skilled” workers. Under the existing point system, “low-skilled” workers will never have enough points to stay in Canada as permanent residents and never be able to qualify as citizens, much less be able to bring their families to Canada.

While quotas are placed on numbers of immigrants entering the country as permanent residents, there are no quotas for migrants entering Canada as Temporary Foreign Workers. The planned range is 240,000 to 265,000 new permanent residents annually. In 2008, Canada only accepted 247,202 permanent residents. This figure is close to the low end of the annual target and falls drastically short of the recommended 1 per cent of the Canadian population or about 300,000 - 330,000.



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During the same year 252,196 migrant workers were brought to Canada, surpassing the number of permanent residents by 2 %. Canada now welcomes more migrant workers annually than permanent residents (See Figure 2 below).

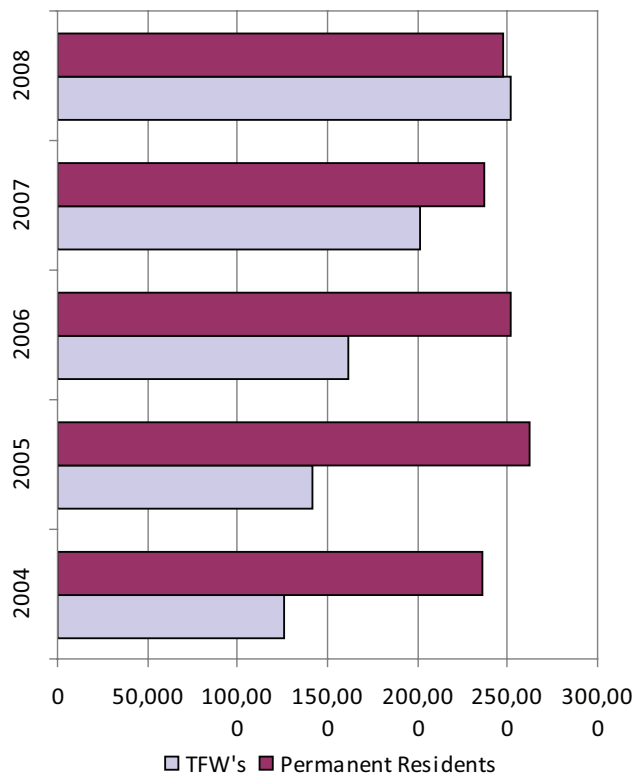


Figure 2: Canada -Numbers of Permanent Residents and Temporary Foreign Workers, 2004 - 2008

Despite a national outcry against these radical un-Canadian changes to Canada's immigration system, the damaging amendments under Bill C-50 were passed by the minority Conservative Government.

REGULATORY CHANGES TO THE IMMIGRATION REFUGEE PROTECTION ACT (IRPA) - OCTOBER 2009

In October 2009, and on the heels of Bill C-50, the Federal Government issued a set of regulatory changes to IRPA. The regulatory changes introduced three key measures to the Temporary Foreign Worker Program:

- A more rigorous assessment of the genuineness of the job offer
- Limits to the length of a worker's stay in Canada



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- A two-year prohibition from hiring a Temporary Foreign Worker for employers that are found to have provided significantly different wages, working conditions and occupations than promised

The stated objectives of these regulatory changes were to:

- Minimize the potential for migrant workers exploitation by employers and third-party agents, thereby better protecting migrant workers who work in Canada;
- Implement stricter employer monitoring mechanisms, including a denial-of-service provision, thereby encouraging greater adherence by employers to the terms of their offers of employment with respect to wages, working conditions, and occupations; and
- Underline that employment facilitated through the TFWP is meant to be temporary in nature.

While the objectives of minimizing the potential for exploitation of migrant workers are commendable, the proposed changes do little more than offer tokenistic paper regulations. In fact, the regulations further entrench the inherent injustices of the Temporary Foreign Worker Program by burdening migrant workers and punishing them rather than the unscrupulous employers and recruiters who take advantage of them.

“A more rigorous assessment of the genuineness of the job offer”

While it is imperative to protect workers from unscrupulous employers, the conservative Government’s regulatory changes are designed in such a way that migrant workers rather than these employers would be burdened and negatively impacted. The effect of these measures will be to prevent migrant workers from entering Canada rather than offering meaningful measures to shield them from unprincipled employers and labour recruiters.

To make matters worse, the role of unscrupulous labour recruiters and brokers are not taken into account in these regulatory changes. Labour recruiters are often key players in determining employment conditions such as wages and job descriptions. Yet the government failed to draft amendments to address the role of labour recruiters and brokers. The measures in no way include real steps towards protecting migrant workers such as mandatory licensing of labour brokers coupled with vigilant enforcement, and monitoring measures.

“Limits to the length of a worker’s stay in Canada before returning home”

The measure to limit the length of a worker’s stay in Canada to 48 months is one other way that these regulatory changes punish migrant workers rather than employers who rely on these migrant workers as a consistent element within their human resource strategies.

According to the new regulations, after 48 months of employment in Canada, migrant workers would



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be repatriated and barred from re-entering Canada as migrant workers for 6 years.

Without putting in place measures that will encourage employers to re-structure their operations to meet their labour needs without reliance on migrant workers, these regulations will only serve to prevent migrant workers from remaining in Canada in jobs that they have become fully trained in. In effect, these regulations will only replace one group of migrant workers with another group in 4 year cycles.

This simply perpetuates the cycle of temporary and precarious work, in the same way that the Seasonal Agricultural Workers Program has done; this historic migrant worker program was designed in the 1960's as a short-term solution to address the labour needs of Canada's agricultural industry. Now almost 50 years later, the agricultural industry and governments have yet to find a solution to address the needs without reliance on migrant workers subjected to living and working conditions deemed unacceptable for other workers in Canada.

Furthermore, the proposed regulation does not take in to count the reality of Canada's population decline. Migrant workers who possess the needed skills and meet the alleged labour shortages in Canada's industries should be granted permanent residency and a pathway to citizenship not a pink-slip and a one-way ticket back to their home country.

"A two-year prohibition from hiring a Temporary Foreign Worker for employers found to have provided significantly different wages, working conditions or occupations than promised"

While placing a two year prohibition from hiring a migrant worker for proven abusive employers is a move in the right direction, this amendment does little to provide actual adequate measures to protect workers. Proven abusive employers would also be placed on a list of ineligible employers published on the CIC website to publicize such employers to potential migrant workers. The rationale is that prospective foreign workers should not go to work for ineligible employer.

Unfortunately, this regulatory change is disingenuous in that it is clearly just window dressing devised to tackle the increasing number of national and international individual and organizational opponents of the Canadian TFWP. Moreover, it is apparent that very little thought or qualitative policy analysis was put into this amendment. The proposed regulatory change fails to address the interest of migrant workers and is unlikely to achieve its stated goal.

For instance, there is no mention of compensation for lost earned or potential wages or loss of status or even repatriation as a result of working outside one's working permit. Migrant workers' work permits are tied to a single employer. For migrant workers forced to work outside of their work permit, it stands to reason that if an employer is found guilty, then there must be a finding that the abused migrant worker violated their work permit, even if they were forced to do so. In turn, the migrant worker may also be



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punished with repatriation and loss of status. As such, in such a situation, evidence of a violation based on a migrant workers testimony is incredibly unlikely.

Without stated monitoring and enforcement measures in place, it is unclear how employers who violate the promised terms of employment will be found in order to face the two year ban.

The amendment is also short sighted as it does not take into count the possibility that ineligible employers can very easily use a different names, corporations, holding companies, and agencies to hire a migrant worker; a name not listed on the CIC webpage.

Moreover, the amendment places the onus on the migrant worker to check the website rather than the government accepting its responsibility for a proper and adequate enforcement regime. It also assumes that all migrant workers, who are often dominated by the poor from developing countries, have access to a computer, know how to use a computer, know how to use the internet, or are even aware of the list of ineligible employers.

While it is highly unlikely that CIC performed any statistical analysis to determine the percentage of migrant workers who have access to a computer, know how to use a computer, or know how to use the internet given this amendment, the statistics from the 2010 UFCW Canada Scholarship for Children of Migrant Workers is informative in determining efficacy of this amendment. The scholarship had over 4000 applications from a wide variety of industries and occupational categories. Applications, promotional material and brochures were made available both online and distributed by hardcopy to settlement centres and agencies supporting migrant workers in Spanish, Tagalog, English and French. Only 105 applications or 2.5 % of applications were submitted online. This result speaks volumes as to the usefulness of the ineligible employer list on the CIC website. In any event, as of January 2011, there was no list apparent on the CIC webpage.

In totality, the proposed regulations do little more than continue the cycle of abuse and exploitation.

REPORT OF THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION ON TEMPORARY FOREIGN WORKERS AND NON-STATUS WORKERS - MAY 2009

On May 6, 2009 the Federal Standing Committee on Citizenship and Immigration released their Report on Temporary Foreign Workers and Non-Status Workers. The report was accompanied by two noticeably different minority reports from the Conservatives and the New Democrats. All were based on a series on national consultations conducted by the Committee in 2008. The primary Report:

- echoed the voices of labour advocates, community groups, faith groups and service providers for a



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- more just immigration regime that would allow workers to enter Canada as permanent residents;
- highlighted many of the problems with the TFWP listed above including the lack of transparency in the formulation of wage rates for migrant workers;
- listed the need for information sharing regarding the various PNPs across Canada as being important
- asserted various ways that migrant workers are made vulnerable under the conditions and restrictions of the TFWP; and,
- underlined the need for a path for permanent residency for these workers.

In response to the report, UFCW Canada, the Canadian Labour Congress, along with a host of other allies, also continued calls for a radically different approach to Canada's current migrant workers programs.

Paramount to future decisions on the TFWP is the principle that migration must support nation building. Currently the TFWP acts as a pipeline to bring in people to Canada as vulnerable workers to meet business needs. Precarious immigration status and family separation should not be hallmarks of any immigration program. For instance, workers who provide needed labour to Canadian industries should be able to come to Canada as permanent residents along with their families. In the interim, a swift, fair, transparent and equitable pathway to permanent residency status must be a central component of any migrant worker program.

Social isolation and political exclusion are dangerous bi-products of the TFWP which create a second and third class of workers and an underclass of temporary residents. Canada's migrant worker programs must be fully resourced to enable the full and equal social and political inclusion of newcomers. The federal and provincial governments must implement and fund adequate support to settlement agencies, civil society groups, unions, and community organizations that are strategically positioned to provide support to these communities. Only through these efforts can we ensure that the growing populations of migrant workers are provided the services to be able to successfully integrate into Canadian communities and workplaces.

To prevent continued abuses against migrant workers, employers and recruiters must be held accountable. Migrant worker programs must be accompanied with effective monitoring and enforcement measures. Inspectors and investigators must be proportionately employed to regularly review the recruitment, employment and living conditions that Migrant workers and their families are subjected to. Unscrupulous recruiters and employers must be made responsible for their actions, through both civil and criminal remedies, and prevented from accessing any future migrant workers.

CANADA PENSION PLAN (CPP) AND EMPLOYMENT INSURANCE (EI)

Migrant workers cannot also effectively collect Canadian Pension Plan (CPP) and Employment



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Insurance (EI) which are deducted off their regular pay. From this perspective migrant workers make a biweekly and involuntary donation to the Canadian Taxpayer, meanwhile they continue to struggle to access EI and often do not collect CPP. The primary reason for this according to migrant workers is the inaccessibility of the programs to migrant workers. Most migrants leave the country unaware that they may collect CPP or EI under the proper conditions. The Federal government has done little to effectively track and make migrant workers aware of this earned benefit.

While there are many problems with accessing these systems, it bears noting that with the aid of the UFCW Canada and the AWA more than \$23-million in accumulated parental benefit claims were filed by the end of the 2009 growing season on behalf of Seasonal Agricultural Workers, many of whom are migrant workers. In the 2009 / 2010 seasons there were also 2,155 CPP inquiries made to the AWA centres and 208 CPP cases filed on behalf of migrant workers across Canada.

PROVINCIAL LEGISLATIVE INITIATIVES

Migrant workers in most jurisdictions in Canada continue to be neglected when it comes to the enforcement of workplace standards. In the rare circumstance where an investigation is launched, it is often abandoned due to a lack of evidence, and no formal action is taken. This is often because employers are quick to repatriate workers who may have claimed violations.

MANITOBA

Recently, there have been some measures implemented that begin to address some concerns of migrant workers. In 2007, Manitoba announced new legislation entitled the *Worker Recruitment and Protection Act*.

Starting in April 2009, the Act provides new protections for temporary foreign workers by prohibiting fees charged by recruitment agencies, and by forcing recruitment agencies to register and be licensed with the province. This legislation also requires that employers and recruitment agencies submit detailed records about the place of employment; what the worker was hired to do and their rate of pay; as well as up-to-date contact information for the worker.

As opposed to the limited legislation in Ontario which only aims to protect Live-In Care givers from recruiters, the Manitoba legislation does not make such distinctions and aims to protect all migrant workers recruited to work in the province.

With this legislation in place Manitoba is to keep a registry of where Migrant workers are, who recruited them, and what they were promised when they were hired. As such, Manitoba was the first Canadian jurisdiction with legislation that has at its aim to penalize and weed out employers and recruiters who



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abuse migrant workers.

Under this legislation, both employers and recruiters can be fined up to \$50,000.00 for failing to comply with its regulations or disqualified altogether from future recruiting or hiring of migrant workers.

While this is a useful start in legislating protections specific to migrant workers, it has yet to be seen as to the policing, enforcement and resulting effectiveness of the Worker Recruitment and Protection Act.

ALBERTA

The Alberta Employment and Immigration Department instituted the Temporary Foreign Worker Advisory Office (TFWAO), as well as the TFW Hotline, in the summer of 2008. In addition, eight Employment Standards Enforcement Officers were assigned to act as an audit team to review employers with LMOs to ensure that they were complying with the provincial Employment Standards Legislation.

ONTARIO

See “The Province of Ontario’s Bill 210” above under “Recruitment” above.

PROVINCIAL NOMINEE PROGRAMS

Provincial Nominee Programs (PNP) were instituted in the late 1990’s as a means for the provinces to decide on their specific immigration needs and be able to fast-track desirable candidates through the Permanent Residency process. Under this regime provinces were given leave to stipulate their own eligibility criteria.

Unfortunately, in many other jurisdictions the PNP remains an underutilized program. Out of the 282,771 migrant workers present in Canada on December 1, 2009, only 11,799 were granted permanent residency via the various PNPs. Only approximately 4% of migrant workers entering Canada annually qualified through the PNPs to become permanent residents.

Nomination for the PNP is employer driven. In essence, in provinces where the PNP is utilized, employers are granted unfettered power to decide which one of their employees, if any, will be awarded access to permanent residency. In certain provinces and industries, quotas stipulate how many employees a single employer can nominate for the PNP. This power is oftentimes wielded over employees as a carrot while workers are subjected to the stick of low wages and bad working conditions.

Employers also use nomination for the PNP as a means of pitting workers in a degrading fashion against each other in competition for the coveted spots as nominees in the program. Even when nominated,



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workers have raised fears over employers threatening to withdraw their nomination if an employee raises concerns about working conditions, or refuses to comply with the employers' demands.

Provincially, the quotas set for the maximum number of nominations remain extremely restricted and out of sync with the growing population of migrant workers entering Canada annually. Many provinces, such as Ontario, continue to primarily target highly skilled workers and international students, leaving the large population of low-skilled workers with no avenue to access permanent residency.

"My boss can pick only one person for the PNP, so every day he says we have to work harder and the best worker will win."

Sully, Migrant worker in Alberta

Manitoba continues to lead other provinces when it comes to the PNP as the only jurisdiction which has opened the PNP to all skill levels. In Manitoba, some migrant workers are becoming permanent residents within two years of their commencement of employment in Canada. Manitoba has successfully been utilizing the PNP as a means of transforming their sizable migrant workers population to permanent residents.

Unfortunately, in most provinces even when the PNP is opened to certain groups of low-skilled workers employed in select industries, many of these workers face barriers such as lack of educational requirements, lack of work experience or a substandard language proficiency level in English.

"Before you only needed a level 2 English to pass for the PNP. Now you need a level 3 English. This will be very hard for so many. We have no teachers and no time."

Carmita, Migrant worker workers in Alberta [translated]

The language proficiency requirement remains one of the primary restrictions for many workers applying to the PNP. Many provinces continue to raise their language proficiency requirements as more workers attempt to access permanent residency via the PNPs. As migrant workers are not granted access to free language classes, and many have little money or

additional time due to long work hours, many are left out of the process with no hope of satisfying this requirement in the allotted time.

To make matters worse PNP sponsorships are being withdrawn for many workers if the migrant workers are laid off. As most jurisdictions require a worker to have been employed from anywhere between 6 and 12 months in Canada in order to be eligible to apply, and given that most nomination processes take an additional 8 to 12 months to be processed, many workers waiting years to be qualified only to find themselves being taken out of the nomination process with only a few months remaining to finalize their application.



UNIONIZATION AS A PATH TO PERMANENT RESIDENCY, GENUINE ADVOCACY AND PERMANENT SUPPORT

As noted elsewhere, out of a membership of over 250,000, several thousand UFCW Canada members are migrant workers in various industries. From the East Coast to the West Coast, these industries include fish and meat processing, agriculture, and hotels and resorts. UFCW Canada has been at the forefront of the movement to secure equal employment economic and social rights, and a permanent residency for migrant workers. The union's approach is one of broad social trade unionism which means that the work of the union does not end at the factory door or the farmer's field but extends to the community and the home. Where the federal government has failed to provide resources, UFCW Canada has stepped in to fill the gap.

CASE STUDY: UFCW CANADA LOCAL 1118, ALBERTA

In Alberta, UFCW Canada Local 1118 has an extremely diverse membership including 15% to 20% that are migrant workers or individuals who came to Canada as Migrant workers. This population amounts to thousands of migrant workers.

Using the collective agreement, Local 1118 has been able to negotiate with their large meat processing employers to effectively make the TFWP into a permanent residency program by across the board utilization of the PNP in Alberta.

The union negotiated with the Employers so that each and every person arriving to work in these unionized workplaces are entered into the called the Alberta Immigrant Nominee Program. Local 1118 has taken the migrant workers out of the wrong immigration line, which does not lead to permanent residency, and placed them in the right line which allows them to gain access to permanent residency status.

As equal members of the Union, these workers are covered by strong collective agreements and receive the same wage, benefits, and working conditions and protections as all other domestic unionized workers in the plants. It is an equity based approach to counter the exploitive base of the TFWP.

In the area of housing, the Local Union representatives inspect housing before new migrant workers arrive to ensure it meets with municipal codes and that the housing is habitable and reasonable given the number of workers to live in a certain premises.

The need to inspect housing began out of necessity. Some employers contracted the housing needs of the migrant workers to unscrupulous companies who would charge the workers illegal rents. To make matters worse in some instances numerous workers were crammed in housing intended for only a few people. Local 1118 now ensures that each worker pays their proportionate share of the fair market value rent for housing and that limits placed on the number of people living in a house provided by the employer.

By way of education, the Union provides English-as-Second-Languages classes to all migrant workers



UNIONIZATION AS A PATH TO PERMANENT RESIDENCY, GENUINE ADVOCACY AND PERMANENT SUPPORT

who may need these classes to satisfy the language proficiency requirement of the Alberta Provincial Nominee Program. Other educational opportunities such as computer literacy courses and internet navigation trainings are also made available to workers through the collective agreement.

Other settlement work includes settlement trainings and acclimatization regarding where to buy groceries, how and where to do banking, where and how to access healthcare needs as well as a range of other services.

From a social perspective, UFCW Canada, Local 1118 organizes events other social activities in order to foster community building and break the isolation and desperation felt by many migrant workers who are separated from family.

In this way UFCW Canada, Local 1118 not only serves as a workplace advocate but also acts as a settlement agency, fighting for migrant worker rights in the areas of housing issues, healthcare, and education. This is all done without receiving any financial subsidy from the provincial or federal governments.

The Union ensures that the healthcare and workers compensation requirements for migrant workers are met from the second they get off the plane. In fact, it is the Union that regularly greets the workers upon arrival.

CASE STUDY: UFCW CANADA, LOCAL 832, MANITOBA

UFCW Canada Local 832 in Manitoba has been another exceptional pioneer when it comes to representing migrant workers in Canada. Across the province in smaller towns such as Brandon (1,500 migrant members), Neepawa (300 migrant members with an additional 300 migrant members by 2012), and Blumenort (150 migrant members), Local 832 has developed a revolutionary model to support its migrant worker membership which now is in the thousands.

Over a number of years the vast majority of the migrant workers who are members of UFCW Canada Local 832 have chosen to apply to become permanent residents. Most are successful given the vast support mechanisms provided by the Union as well as the rights negotiated for them including full access to the Manitoba PNP. Today, Manitoba benefits from the residency of this diverse group of workers who have settled, bringing their spouses and children to join them in their new home in Canada.

The partnership between the city, community groups and agencies, the union and the employer has led to these migrant workers gaining access to essential settlement services. Through the collective agreement, the union has been able to provide workers with access to English language classes in order to assist these members in obtaining provincial language proficiency levels for the PNP.



UNIONIZATION AS A PATH TO PERMANENT RESIDENCY, GENUINE ADVOCACY AND PERMANENT SUPPORT

EDUCATION AND SETTLEMENT SERVICES

For instance, in Brandon, Manitoba at its unionized employer, Maple Leaf Meats, there are now more than 1,500 migrant workers from El Salvador, Columbia, Honduras, Mexico, China, the Ukraine, Russia, Germany, Mauritius Islands among others. As such, 60% of the workers are migrant workers. Through the collective agreement negotiated by Local 832 these workers all have access to the Manitoba PNP program. As a result of being union members, they are taken off the wrong road and placed on the right road to immigration. Essentially the TFWP has been converted by Local 832 into an immigration program.

As well, the Local Union has an extensive education program including “English as an Additional Language Training.” In fact, Local 832 is the primary provider of English language training for these new members and for their families and is the largest EAL provider in Brandon and one of the largest in Manitoba.

To support such services, the Local Union opened a 7,500 sq. ft. Training Centre as well as a center in Western Manitoba, supported by staff speaking a variety of languages. The staff work evenings and weekends providing translation services for members and assist with everything from doctor’s appointments to apartment shopping to banking.

Local 832 also provides income tax services in Brandon and Neepawa and are the only services offered with translators in those communities. One member of their staff even specializes in doing returns for members who do not yet have permanent residency status.

Additionally, there are two computer labs in Brandon used for education, but also as drop-in centres for members to keep in touch with their family overseas. In this environment workers are often allowed to bring family members to Manitoba while they are working at the plant. As the need was there, EAL training for family of Local 832 members has expanded the number of classes dramatically.

As securing permanent residency status is so important, UFCW Canada, Local 832 has become experienced with the ins and outs of the immigration system and regularly help with paperwork, phone calls and deadlines. They are currently lobbying to have a CIC branch office established in Brandon.

In Neepawa, the major employer, Springhill Farms, employs migrant workers from Korea, the Ukraine, the Philippines, and China. As a result, Local 832 leased a 2500 sq. ft. commercial site in downtown Neepawa and have converted it to Manitoba’s third UFCW Training Centre. Programming offered is similar to that offered in Brandon.



UNIONIZATION AS A PATH TO PERMANENT RESIDENCY, GENUINE ADVOCACY AND PERMANENT SUPPORT

MIGRANT COMMUNITY OUTREACH AND SUPPORT

With respect to Community Outreach, the Local Union continues to partner with community organizations in providing them with the use of our Training Centre for cultural events as well as assisting them with document translation and production. An annual drive in Winnipeg for furniture, clothing and gently used household items is conducted. The items are then shipped to Brandon to provide new members who arrive with little many of the necessities they require before their first paycheques arrive.

The Local Union also sponsors a variety of social events in support of migrant workers including an annual family picnic, activists' appreciation night, and an "All Nations" soccer tournament.

ADVOCACY

As an example of their level of migrant worker advocacy, Local 832 was successful in having the Workers Compensation Board (WCB) produce application forms in Spanish and actively advocating having them produced in other languages as well. They are also lobbying government to open a WCB office in Brandon for migrant members.

IN THE WORKPLACE

Concerning membership development, at the workplace itself, Local 832 has 58 shop stewards that accurately reflect the diverse membership they represent. The reason for this is that Local 832 actively develops stewards from all the various communities.

The most recent round of negotiations with the employer highlights the respect and resources allocated by Local 832 for its' migrant members. Proposal meetings are held in English, Spanish, Chinese and Ukrainian and the negotiating team 17 rank and file members with a minimum of one from each representative group in the plant. Throughout bargaining the Union met regularly with all 58 shop stewards in an effort to keep our members informed. Moreover, all negotiations documents were translated and posted or distributed.

As a result of this inclusive negotiation strategy that genuinely wove the concerns of migrant members into the fabric of union proposals, the 2010 outcome of the negotiations was revolutionary in its content and application. With over 80% ratification, the new collective agreement provides:

- that the Employer will process all paperwork required for migrant workers as early as possible, including work permit renewal applications and forms required for permanent residency;
- that the Employer shall provide translators whenever required by migrant workers;
- that the Employer will pay for the translation of the Collective Bargaining Agreement and the



UNIONIZATION AS A PATH TO PERMANENT RESIDENCY, GENUINE ADVOCACY AND PERMANENT SUPPORT

Employee Handbook into any language that is the first language for 100 workers or more.

- that the Union and the Employer will equally share the translation cost of any documents they agree need to be translated beyond the Collective Bargaining Agreement and the Employee Handbook
- in the event of the termination of a non-probationary foreign worker, there will be an expedited arbitration hearing to take place within six (6) weeks of the termination. The Employer shall continue to process all necessary paperwork required for the employee to remain in Canada until such time as the arbitrator's award is received.
- In order to facilitate migrant members or previously migrant members who have received their permanent residency who may want to travel home, 2 week leaves of absence are now available to any employee with 1 year service.
- Additional shop stewards on every shift, in every department that are fluent in the language of the members of that department.



CONCLUSION

While trade unions, faith communities, community groups and service providers continue to advocate for drastic reforms to the TFWP, UFCW Canada maintains that the only guarantee to the full protection and inclusion of this vulnerable population of workers is by allowing immediate permanent residency upon arrival and a path to Canadian Citizenship.

As long as migrant workers remain precarious as temporary workers with less than equal access to Canadian labour laws, and living and working under the control of employers, they will continue to be susceptible to rights violations.

Family separation, social and political exclusion, and precarious status as temporary residents should not be tropes of Canada's most predominant immigration program. Canada needs to re-evaluate our immigration system to install a system that priorities the fundamentals of nation and community building over short sighted business interests.

Under the current incarnation of the TFWP, unionization remains one of the few limited avenues for migrant workers to gain access to equal workplace protections and a road to permanent residency.

While access to permanent status in Canada allows for greater rights, study after study indicates that permanent residency status alone does not guarantee any greater socio-economic standing in Canada. The primary indices for increasing socio-economic standing is whether someone works in a unionized environment. In our research with both migrant and immigrant communities, going from being an impoverished migrant worker to becoming an impoverished immigrant workers, of course, is only part of the solution. The expanding models of UFCW Canada Locals 1118 and 832 indicate what is possible when migrant workers are empowered to utilize their strengths across languages, cultures and ethnicities and work together as workers.



RECOMMENDATIONS

Based on the account above and our continuing work with migrant workers in Canada, and around the World, UFCW Canada proposes the following recommendations and amendments to the Temporary Foreign Workers Program (TFWP). It is important to note that our main recommendation is that the federal government immediately stop the practice of bringing workers to Canada without granting them full immigration status as permanent residents upon arrival.

Temporary Foreign Workers should be acknowledged as skilled workers eligible for the skilled worker class which allows successful applicants to enter Canada as permanent residents. However, as we move towards the immediate and permanent residency we make the following recommendations in the interim:

1. The Government of Canada should mandate that all provinces who would like to access migrant workers meet basic national standards of to protect workers including equal and full coverage under the Employment Standards Act, Provincial Health Coverage, access to Health and Safety legislation, and Worker Health and Safety Compensation.
2. Provide the option for immediate permanent residency status for all NOC A, B, and C, D, O, SAWP and LIC migrant workers.
3. Provide open work permits for all temporary foreign workers. Work permits should not be tied to specific employers.
4. Comply with the rulings of the Supreme Court of Canada and make it a condition of the TFWP that provinces bringing migrant workers to Canada allow these workers the right to the freedom to associate and bargain collectively.
5. Immediately make public the statistics used by HRSDC to determine the yearly wage rates to be paid to all categories of migrant workers.
6. Enforce the provisions of the TFWP that states that temporary foreign workers receive the same rate of pay as their Canadian counterparts.
7. Establish a quasi-judicial Migrant Workers Commission that would determine the genuineness of the need to utilize migrant workers and provide a transparent, impartial process of appeal, available to all workers, before any decision to repatriate is made.
8. Ensure that in cases of repatriation, contract termination, or contract completion, the employer must notify the consulate and union officials (where applicable). In addition the employee must be consulted in arranging their travel itinerary prior to the booking of the transportation within the 7 day provision.



RECOMMENDATIONS

9. Guarantee automatic seniority and recall rights.
10. Inspect all worker housing provided by employers prior to and following their occupancy. Random inspections should also be mandated and occur regularly, and employers who are found to be in non-compliance with standards for adequate housing terminated from participation in the various incarnations of the TFW program.
11. Eliminate the requirement under the SAWP and Live-in-Caregiver program which forces employees to reside with employers. This would mandate that Live-in-Care Givers and SAWP workers be paid a living wage so that they may afford their own accommodations
12. Make it mandatory that any and all written materials, instructions and signage – particularly in regard to workplace health and safety issues and chemical/pesticide use and application – be provided in English, French, Spanish, Thai, Punjabi and other languages as necessary.
13. In addition, an orientation on employment standards, and health and safety legislation should be conducted for all workers under the TFW program in their first language prior to the commencement of their employment. An information package entailing these resources in any necessary languages should also be provided for each worker.
14. Government services must be made available in languages accessible to migrant workers.
15. In cases where employers have violated agreements regarding wages, working conditions etc. transfer the migrant workers to another employer rather than repatriating them.
16. Immediately terminate from the TFWP any employer found to be holding the personal documents, particularly passports and health cards, of migrant workers. Amend the program to ensure that this is a direct contravention of the program whether the withholding of the documents is done by the employer or through the consulate.
17. Where an employer is removed from any part of the TFW program for violation of the terms of the agreement, this employer should also be ineligible to participate in any other federal or provincial foreign temporary worker programs. When an employer is involved in any labour dispute they should be barred from accessing Labour Market Opinions or further migrant workers until the dispute is settled.
18. Migrant workers are obliged to undergo medical screening prior to entering Canada. These workers should be given a free medical exam from a non-partisan medical practitioner to determine medical clearance before leaving to return to their home country to assess that they are arriving healthy and



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free from workplace illness or injury. In situations where this is not the case, ensure that worker compensation claims are duly filed.

19. Provide financial support for effective, on-the-ground representation for migrant workers.
20. Remove the proposed 4 year cap on a migrant worker's stay in Canada and instead grant Permanent Residency and a pathway to citizenship to migrant workers in order to meet Canada's labour shortages and population decline.
21. Regulatory changes that put the onus on employers to off-set the human replenishment costs of importing workers educated, trained in other countries.
22. Regulatory changes that fund workplace enforcement and community integration initiatives of migrant workers
23. The Provincial Nominee Programs (PNP) have to be restructured to allow any worker in the TFW program in Canada to be able to apply for the PNP without the need for employer sponsorship. Prior Canadian employment history must be recognized. Information on the various PNP programs must be made transparent and accessible.
24. Canada must immediately sign the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which has been adopted by the United Nations General Assembly.
25. Recruiters who bring temporary foreign workers to Canada must be licensed and effectively regulated via the Provincial Ministries of Labour.
26. Eliminate the requirement under the Live-in-Caregiver Program that mandates these workers to complete 24 months of work while living in their employer's home within a 4 years period of work in Canada before being eligible for permanent residency.
27. The federal and provincial governments must jointly resource provincial inspectors that will regularly monitor the housing, working, health and safety conditions of the workers in the TFWP, Canadian SAWP and LCP. Inspectors should be granted the ability to issue orders, fines and penalties. In certain cases, amendments to the Criminal Code should be developed and implemented for employers in consultation with migrant workers advocates.
28. The Federal government must provide transparent statistics of the number of temporary foreign workers who come to Canada each year, including a breakdown of agricultural workers under the



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Canadian SAWP and the TFW (low skilled or NOC) program, and Live-in-Caregivers and. These statistics should also show the gender, country of origin of the workers as well as showing which province they were hosted in and which sector of the each industry they are employed in.

29. The names of employers issued Labour Marker Opinions should be made available to temporary foreign workers, unions and service providers in order to facilitate transition from one employer to the next in cases of contract violations by employers.
30. The Federal and provincial governments must have a full list all Temporary Foreign Workers in Canada and each Province and municipality as well as the list of their employers, work sites and lodgings in order to conduct regular inspections in to the living and working conditions provided by employers.



CANADA BORDER SERVICES AGENCY (CBSA)

The Canada Border Services Agency (CBSA) is the enforcement arm of Citizenship and Immigration Canada. This agency was created in 2003 in the post September 11 period of fear and hostility. The agency is responsible for border security, detention and deportation proceedings. The creation and expansion of this agency marks a move towards a U.S. style immigration system in Canada.

The President of the CBSA reports directly to the Minister of Public Safety Canada and controls and manages all matters relating to the Agency.

CANADIAN EXPERIENCE CLASS (CEC)

A new program introduced to allow a select group of temporary foreign workers or a foreign student s who graduated in Canada, to apply for permanent residence. The CEC is not open to so called “low-skilled” workers such as agricultural workers under the Seasonal Agricultural Workers Program or undocumented workers who are currently working in Canada in various industries such as construction without full immigration status.

CITIZENSHIP AND IMMIGRATION CANADA (CIC)

Citizenship and Immigration Canada (CIC) was created in 1994 to link immigration services with citizenship registration. In 2008, the Multiculturalism Program was moved from Canadian Heritage to CIC. The department admits immigrants, foreign students, visitors and temporary workers. CIC also processes refugee claims and resettles and protects successful claimants. CIC is also responsible for helping newcomers adapt to Canadian society and become Canadian citizens. CIC is responsible for manages access to Canada.

CONVENTION REFUGEE

A Convention refugee is a person with a well-founded fear of persecution based on race, religion, nationality, political opinion or membership in a particular social group. Because of conditions in their home country and their fear of persecution, they are unwilling or unable to return.

This definition has become part of Canada’s Immigration Act. All policy and practice regarding refugees in Canada is determined and delivered by the Refugees Branch of Citizenship and Immigration Canada (CIC) or the Immigration and Refugee Board (IRB).



GREATER TORONTO ENFORCEMENT CENTRE (GTEC)

The Greater Toronto Enforcement Centre (GTEC) is responsible to carry out the enforcement duties related to immigration. GTEC officers are responsible to investigate and carry out removals.

DETENTION (IMMIGRATION DETENTION)

The Canadian borders are closing down and being increasingly fortified and militarized, not necessarily to keep migrants out but to ensure that those who get in are under greater surveillance and even further criminalized.

Under the ironically named Immigration Refugee Protection Act (IRPA) an increased number of migrants are being arrested and detained. There are two broad categories of people arrested and jailed under the immigration act: those arrested inland, meaning people arrested who are currently living in Canada and those arrested at points of entry such as borders and airports.

The three main reasons that allow for immigration detention are: identity, being a flight risk and security.

Unfortunately in the past years we have seen greater and greater use of a “jail first, ask later” practice regarding immigration detention in Canada. Immigration officials are given even broader discretionary power to detain people on mere suspicion, rather than fact, as a result Canadian immigration detention centres have been constantly full with asylum seekers to the point that many people held for immigration reasons are carted off to jails across the country.

DETENTION REVIEW/BAIL HEARINGS

Once in immigration detention, a detainee is entitled to an immigration bail hearing within 48 hours of arrest in front of a member of the Immigration and Refugee Board. If the Board Member decides that the initial reason for detention is still valid, or that there are further reasons to continue detention, the detainee must remain in prison until the next review which is legally meant to take place seven days later. After that a detainee is entitled to monthly reviews until their release or deportation. Unfortunately, the longer a detainee is held in custody, the larger their bail amount is set at.

HUMANITARIAN AND COMPASSIONATE CONSIDERATIONS/APPLICATION (H & C)

This application is for persons in Canada who would suffer excessive hardship if they had to return to their home country to apply for permanent residence in Canada as required by the Immigration and



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Refugee Protection Act. Cost and inconvenience are not considered excessive hardship.

To qualify for an exemption based on Humanitarian and Compassionate (H&C) grounds, you must prove that your hardship is unusual, excessive, or undeserved and the result of circumstances beyond your control.

If your application is refused, your processing fees will not be refunded. There is no right of appeal for Humanitarian and Compassionate cases

A family member in Canada may support your application by submitting a sponsorship that will be considered in conjunction with all other factors presented with your application.

Typical examples of humanitarian and compassionate cases that have been recognized by Citizenship and Immigration Canada are: marriage breakdown, de facto family members, undocumented residents, people facing a life threatening situation in country of origin, and long term foreign workers.

To qualify for an H & C you and any family members must:

- pass an immigration medical examination;
- pass criminal and security clearances; and
- Have a valid passport or travel document.

Remember to include your spouse or common-law partner and dependent children. Family members who are not included on your application will not be able to be sponsored by you at a later date. If your family members are Canadian citizens or permanent residents, they do not have to meet the above mentioned requirements.

A majority of H & C applications are denied. The application form is in no way self-explanatory and legal assistance or knowledge is required to properly complete an H & C. Most successful applications include many letters of reference from community groups and employers speaking to a person's degree of establishment in Canada as well as many other forms of evidence.

IMMIGRATION REFUGEE BOARD (IRB)

The Immigration and Refugee Board (IRB) is an independent statutory tribunal created by Parliament under Part IV of the Immigration Act. The Chairperson of the Board reports to Parliament through the Minister of Citizenship and Immigration.

The IRB carries out three major functions: immigration inquiries and detention reviews; immigration



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appeals; and, refugee determination.

Decision making is carried out by three divisions whose functions are quite distinct: the Adjudication Division, the Immigration Appeal Division, and the Convention Refugee Determination Division.

The Adjudication Division conducts immigration inquiries and detention reviews for people believed to be inadmissible to, or removable from, Canada.

The Appeal Division hears appeals of refusals of sponsored applications for permanent residence and appeals against deportation orders issued against permanent residents. The Division also hears appeals made by persons in possession of valid visas seeking admission to Canada who have been detained, reported or ordered removed at ports of entry.

The Refugee Division deals exclusively with claims to Convention refugee status. It is responsible for determining refugee claims fairly and expeditiously, so that Canada can offer protection to Convention refugees, while discouraging those who make refugee claims for reasons other than a need for protection.

Claims to Convention refugee status made by persons in Canada are determined in accordance with the Immigration Act, the Canadian Charter of Rights and Freedoms, the 1951 Geneva Convention on the Status of Refugees and the 1967 Protocol to the Convention.

Members of the IRB are politically appointed a fact that has called in to question the unbiased nature of their decisions on refugee cases. In many cases IRB adjudicators have been found to make determinations in line with government relations with refugee producing countries. In other cases, different adjudicators have made contradictory ruling on similar cases, in one publicized case two Palestinian brothers from the same refugee camp in Lebanon received two different rulings from two difference IRB adjudicators, one brother was accepted as a refugee while the other was rejected. Many refugee rights advocates refer to the refugee determination system in Canada as a lottery.

IMMIGRATION AND REFUGEE PROTECTION ACT (IRPA)

The Immigration and Refugee Protection Act is the Act which governs Canada's immigration and refugee regulations. The Act came in effect in 2001 during the post September 11 period of fear and hostility and represents a step backward in terms of immigrant and refugee rights. For example, the Act gives greater power to immigration enforcement agents at border crossings to detain individuals on a variety of grounds.



JUDICIAL REVIEW

As an appeal process, promised under the Immigration refugee Protection Act of 2002 (IRPA) has not yet been implemented for Refugee cases. If a refugee application is rejected there is no other recourse but to apply for a judicial review (JR). Unfortunately, a JR is not like an appeal, and the factual merits of the case cannot be re-argued, the only area which can be debated within the JR process is the legal merits of the decisions and problems with the application of the law.

LABOUR MARKET OPINION (LMO) CONFIRMATION:

When hiring a foreign worker, the employer must generally submit an application to Human Resources and Social Development Canada (HRSDC) requesting a Labour Market Opinion (LMO) Confirmation.

The LMO Confirmation from HRSDC confirms that having a foreign worker employed in the LMO specific occupation will not have a negative impact on the labour market in Canada.

LIVE-IN CAREGIVER PROGRAM (LCP)

The LCP is one of the special classifications of workers under the Temporary Foreign Workers Program. Live-in caregivers are individuals who are qualified to provide care for children, elderly persons or persons with disabilities in private homes without supervision. Live-in caregivers must live in the private home where they work in Canada.

MIGRANT WORKER

A migrant worker is someone who migrates to a country other their own in order to pursue work such as seasonal work, these individuals are not citizens in the country where they work. The “United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families” stipulates regulations on the treatment of migrant workers. This Convention has been ratified by Mexico, Brazil and the Philippines (amongst many other nations that supply foreign labour) but it has not been ratified by the United States, Canada, Germany and Japan (amongst other nations that depend on cheap foreign labour). Also referred to as a “Temporary Foreign Worker” in Canada (see below) or “Guest Worker” in the United States.

MINISTER’S PERMIT

In special circumstances, the Minister issues a written minister’s permit, giving permission to a person to come into or remain in Canada. If that person, seeking entry, is a member of class not allowed in Canada or, if already in Canada, has been the subject of a report, he or she requires a Minister’s Permit.



NATIONAL OCCUPATIONAL CLASSIFICATION (NOC):

The National Occupational Classification (NOC) is a classification system that describes duties, skills, talents and work settings for occupations in the Canadian economy.

NOC C and D are the two categories that represent so called low to medium skilled workers such as agricultural workers, live-in-caregivers, construction workers and hospitality workers. These categories of workers face the greatest barriers in accessing permanent residency and citizenship, regardless of the number of years that they have worked in Canada.

PERMANENT RESIDENT:

A person who is legally in Canada on a permanent basis as an immigrant or refugee, but not yet a Canadian citizen (formerly known as landed immigrant).

PERMANENT RESIDENT CARD:

Permanent residents receive a Permanent Resident Card as proof of their status in Canada. Replacing the former Record of Landing (IMM1000), the card is a secure, machine-readable and fraud-resistant document, valid for five years.

The Permanent resident Card or PR Card was introduced in Canada in January 2004. The introduction of the PR card was one of a series of changes to Canadian Identification Documents. These new changes are a continuation of the Canadian governments attempt to marginalize and criminalize immigrants, refugees, non-status people and non-Canadian born citizens by subjecting them to a campaign of surveillance and security. As a result many immigrants and refugees are unable to access essential services such as employment assistance programs, apply for social assistance, or even simply open a bank account. The introduction of these new ID's and the de-valuation of old ID's such as the Social Insurance Card is part of the ongoing barriers faced by immigrants, refugees, and non-Canadian born citizens.

Initially, the Permanent Resident Card was introduced by Citizenship and Immigration Canada as a travel document in June 2002. By January 1, 2004 all permanent residents in Canada were required to carry a Permanent Resident Card to re-enter Canada.

While the Permanent Resident Card was initially presented as a travel document for landed immigrants, it has become much more than that. It now serves as a "Foundation Document", a primary piece of ID required to access all other identification documents in Canada.



PERSONAL INFORMATION FORM (PIF)

When a refugee applicant or asylum seeker makes a formal claim for asylum or refugee status they are interviewed by immigration officers and then presented with an application called the Personal Information Form or PIF.

From the date that an applicant is issued the Personal Information Form, the form required by all refugee claimants, they have a total of 28 days to complete and submit it to the Immigration Refugee Board.

The personal information form is the most essential component of a refugee claim and requires a detailed account of the applicant's case for asylum, including the reasons why they seek protection and the grounds under which they are making their claim. The names, dates, sequence of events must be accurate and in sync with the facts reported during the initial interview conducted by immigration officials at the point of entry or when the initial claim was filed.

In addition, the forms requires a detailed itinerary of the applicants travel route from their home country to Canada, a list of all countries visited, all previous education and training, all previous employment as well as a list of all their family members names, dates of birth, location of birth and current citizenship status.

For applicants who have language barriers, lack of detailed documentation, lack of communication with family members, or complicated or unorthodox travel routes this poses a large barrier. In addition, if the applicant is detained, they are often required to complete this form without community, legal or translation assistance, resulting in incomplete, late or inaccurate applications.

If an application is not filed within the 28 day period it is considered abandoned. All information stated on the application is deemed to be accurate and deviance from the stated names, dates or sequence of events at future hearings or interviews has serious consequences on an applications chance of success.

PRE-REMOVAL RISK ASSESSMENT (PRRA)

A Pre-Removal Risk Assessment Canada is an application form that is designed to prevent Canada from violating international law by sending people back to a country where they would be in danger or where they would face the risk of persecution.

In a pre-removal risk assessment (PRRA), Citizenship and Immigration Canada (CIC) evaluates the risk you will face if you are sent back to your country. PRRA is supposed to take place when the Canada Border Services Agency (CBSA) is ready to remove you from Canada.



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Immigration officers who decide PRRA applications are called PRRA officers.

If you are told to leave Canada, you will be given a notice that the removal order is being enforced. In most cases, if you are given a removal order, you can apply for a pre-removal risk assessment (PRRA). During the PRRA process, an officer will review the documents related to your case and any other evidence that you provide. If you had made a refugee claim, the evidence that will be considered will be limited to any new or different evidence that was not presented when you had your hearing at the Refugee Protection Division.

In some cases, you will be asked to attend an interview before a decision is made about whether you can stay in Canada.

When you receive your PRRA forms, your removal order is stopped for 15 days. The removal order will not be in effect until:

- you notify Citizenship and Immigration Canada (CIC) that you do not intend to apply for a PRRA, or you abandon or withdraw your application for a PRRA
- the 15-day deadline passes (if you do not send an application to CIC for a PRRA) or
- You apply for a PRRA and the decision is negative.

Seven days will be added to the 15-day deadline if the PRRA notice was mailed to you, and not delivered in person. This is to allow time for the notice to be sent to you.

Unfortunately, the PRRA is not a self explanatory application that can be easily completed without substantial legal knowledge or assistance. The fact that the PRAA prevents an applicant to argue risk based on grounds not previously presented during the refugee hearings makes it very difficult for many applicants to submit successful claims.

To make matters worse it is very difficult for most applicants to gain legal aid certificates for the completion of their PRAA, a barrier for those who may not be able to afford the legal costs.

Very few PRRA applications are successful.

PROVINCIAL NOMINEE:

A foreign national selected by the province for specific skills that will contribute to the local economy to meet specific labour market needs. A provincial nominee must meet federal admissibility requirements, such as those related to health and security.



PROVINCIAL NOMINEE CANDIDATE:

A foreign national who has been selected for nomination by an approved employer .

PROVINCIAL NOMINEE CANDIDATE (EMPLOYEE) APPLICATION PACKAGE:

The package including all forms, supporting documents and information provided to the Alberta Immigrant Nominee Program for consideration.

REFUGEE CLAIMANT:

A refugee claimant is a person who requests refugee protection status.

Canada recognizes 2 types of refugees:

- Persons who, even before their arrival to Canada, have been sponsored by the government of Canada or by a private group. They are called “resettled refugees.” They might have been waiting in one of the world’s many emergency refugee camps, where they were fortunate enough to be selected for resettlement in Canada. People in this category are granted permanent residency (landed status) when they arrive in Canada.
- Persons who make their own way out of the country or situation they are fleeing. After reaching Canada by land, sea or air, they apply for asylum through the in-land refugee determination system. If they are carrying valid identity documents, they can live in the community while they await the hearing that is the first step of the refugee determination system. If their documents are missing or are suspicious, they are held in detention. They enter a process of waiting while it is determined that they are refugees, after which they might get permanent resident status. Some Refugees are accepted outside of Canada through government sponsorship.

Citizenship and Immigration Canada selects persons seeking resettlement in Canada based on three classes of refugees:

- Convention Refugees Abroad Class
- Country of Asylum Class
- Source Country Class

Also, some refugees apply for resettlement in Canada by contacting a United Nations High Commissioner for Refugees (UNHCR) office or a Canadian Embassy, High Commission or Consulate while overseas.



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Others are sometimes privately sponsored by volunteer groups or organizations. There are 3 types of Sponsoring Groups:

- Sponsorship Agreement Holders and Their Constituent Groups
- Groups of Five
- Community Sponsors

Within Canada, a refugee claim can be made by informing an immigration officer at a Canadian port of entry. The Convention Refugee Application for Permanent Residence in Canada must then be fully completed and submitted to a local immigration centre. You can also order an application kit by calling the CIC Call Centre.

All eligible claims will be referred to the Immigration and Refugee Board (IRB) Refugee Determination Division for an oral hearing. Refugee claimants in Canada are assessed on 3 basic factors:

- Whether they meet the Immigration Act's definition of "refugee"
- Their need for resettlement in Canada
- Their ability to settle in Canada

The Immigration and Refugee Board (IRB) is responsible for the convention refugee determination process. During this process you may be asked to fill out the Personal Information Form.

During this process refugee claimants have certain rights. It is important to be aware of these rights. For example, all claimants have the right to either speak for themselves or to be represented by counsel. Community legal clinics can also provide help with legal information and representation.

REPATRIATION:

Repatriation is another word for deportation. This is a practice prevalent amongst employers who utilize temporary foreign workers. An employer can repatriate a worker back to their sending country for a variety of reason without facing repercussions. Employers oftentimes threaten to repatriate workers who stand up for their rights or demand better living or working conditions.

SAFE THIRD COUNTRY AGREEMENT:

On December 29, 2004, safe third country provisions took effect, restricting the right to make a refugee claim in Canada. The general rule is this: If you try to make a refugee claim in Canada by coming through the US first, you will be sent back to the US to have your claim heard in the US.



SEASONAL AGRICULTURAL WORKERS PROGRAM (SAWP):

The Canadian Seasonal Agricultural Workers Program (SAWP) is a federal initiative which was designed to allow so called “low” to “mid-level” skilled farm workers to work up to eight months a year planting, cultivating and harvesting during the peak seasons.

The SAWP was designed in 1966 on a trial basis to serve as a short term solution for Canada’s agricultural industries’ seasonal labour shortage. The first country to participate in the program was Jamaica. By 1974 it was extended to include other Caribbean countries and Mexico. Today participating countries include Mexico (1974), Jamaica (1966), Barbados (1967), Trinidad and Tobago (1967) and the Organization of Eastern Caribbean States (Grenada, Antigua, Dominica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines and Montserrat) (1976).

SEMI-SKILLED WORKER:

A candidate whose occupation requires secondary school and/or occupation-specific training, or on-the-job training.

SKILLED WORKER:

A Candidate whose occupation requires formal education and/or specialized training.

HOUSE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION

House Standing Committee on Citizenship and Immigration is the Parliamentary committee which examines issues related to immigration matters.

The bulk of Members’ parliamentary work is done in committee. There they study and amend bills, and examine important issues and departmental spending plans (known as the Estimates) in depth. Committee work requires Members to read background documents and meet experts in various fields, including lawyers, economists, special interest groups, business persons and senior government officials. Committee work enables Members to study issues and legislation in greater detail than is possible in the Chamber.

In general, Members sit on at least two committees. There are 26 permanent, or standing, committees, a Liaison Committee, a number of subcommittees, as well as special and legislative committees that may be set up from time to time to consider a specific issue or a particular bill. Committee schedules may vary from week to week and committees may travel across the country or abroad as part of their studies.



TEMPORARY FOREIGN WORKER:

A foreign national who has been authorized to enter and remain in Canada, on a temporary basis, as a worker. Every year, Canadian employers hire thousands of foreign workers to help address so called skill and labour shortages. In the past few years over 200,000 temporary foreign workers were admitted to Canada.

Human Resources and Skills Development Canada (HRSDC) and Citizenship and Immigration Canada (CIC) jointly operate this program.

While foreign workers have always been a part of Canada's workforce, the current expansion of the Temporary Foreign Workers program in Canada will open the doors to larger categories of so called "low to medium skilled" workers who are treated as cheap and exploitable sources of labour by Canadian corporations. These programs often do not have a road to permanent residency and citizenship for workers, tying workers to employers and leaving them in precarious conditions where workers are afraid to stand up for their rights for fear of termination and repatriation. Also referred to as a "Migrant Worker" (see above).

VISITOR VISA:

A document issued by a Citizenship and Immigration Canada (CIC) visa or immigration officer authorizing a foreign national to enter Canada on a temporary basis. (Necessary for foreign workers who are from a country where a visa is required to enter Canada.)

WORK PERMIT:

A document with terms and conditions that is issued by a Citizenship and Immigration Canada (CIC) visa or immigration officer allowing a foreign national to work temporarily in Canada.

An approved provincial nominee may be eligible for an extension of their temporary work permit while awaiting a decision on their permanent residence application from Citizenship and Immigration Canada (CIC). This work permit would not require Service Canada validation if the nominee has a job offer in his/her assessed occupation and a supporting letter from the AINP.



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