

# Canada: Justice for Migrant Workers: Why We Will March

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*Global migration has been increasing rapidly over the last decades within and between states. A disquieting aspect of this has been the growth of migrant workers who are non-citizens and thus lack 'status'. Many of these workers are coming as part of formal government programs, especially in areas of domestic workers and seasonal agricultural workers, but also in others. They are especially 'workers of colour' from the global south. These programs have been expanding rapidly in Canada, and the Conservative government of Stephen Harper appears set to expand them even further. These developments have sparked demonstrations for migrant rights in many parts of the world, particularly in North America. People will again be marching this week in Canada, largely under the banner of 'No One Is Illegal'. The following report emerges from a submission to the Canadian Parliament's Standing Committee on Citizenship and Immigration. It outlines vividly why unionists and workers should all be out marching in solidarity with migrant workers across Canada and North America.*

*I want to thank the committee for providing Justicia for Migrant Workers Ontario (J4MW) with the opportunity to present to you about the conditions of migrant agricultural workers here in Canada. Many members of J4MW have been organizing in the fields of Southern Ontario for over 7 years. So in one sense it is ironic that you are giving us the equivalent of one minute for each year that we have been organizing workers but also to note the disparate discussion that has occurred amongst both policy makers and governing officials to engage with workers employed under the most precarious conditions. To put it simply: we are not interested in elected officials using this as an opportunity to expand indentureship and exploitation, nor are we here to support the expansion of employer-driven programs. These programs have led to the countless testimonials of abuse and injustices that have been reported to us hundreds, if not thousands of times, over the last seven years.*

## **Listen to the Workers**

While you are here today to question us about the conditions for these workers in the fields, I am here to challenge you to listen to the demands of these migrant workers! Engage in a discussion with the workers. Respect their demands for fairness and inclusion. This is something that no governing party in the Canadian Parliament has afforded to these men and women in the over forty years that the program for seasonal migrant workers has been in operation. To simply treat these workers, their families and their communities as silent, expendable and invisible foreign labour denies their humanity. This has been directly manifested itself in both deplorable living and working conditions across this nation. As Nandita Sharma (*Home Economics: Nationalism and the Making of 'Migrant Workers' in*

Canada, Toronto: University of Toronto Press, 2006, p. 19) so eloquently writes: "...regulations (such as the Non-Immigrant Employment Authorization Programme - NIEAP) that render migrant workers socially and politically powerless in Canada. Their non-immigrant status is used to deny them the rights normally associated with citizenship that is civil, political and social rights."

Before describing some of the most pertinent issues faced by workers, I want to quote the comments that some workers asked me to convey to you the parliamentarians about their experiences in Canada. These workers want you to know that: "They have to respect each individual as a person and not as a farm worker as a person then farmers they would not have anything...if (it was not for the migrant workers) ...farmer have to respect and they don't respect how hard a person work so they treat you like a crook, a trini, a Jamaican, a bajan, and this is how they think. They don't think that this is a person with two kids and a wife ...they have to deal like you deal with human because if it come like if I workin' in my country its like I driving a long distance to go to work this is nothing different cause in the present form, the program is like a form of contemporary slavery. The only difference is that if there is a problem on the job I entitled to go home: long time ago they would have killed me, now they sending me home. So it's the same thing basically the punishment change..."

### **Migrant Workers Lack Status**

With the exception of being sponsored by an employer or through marriage, these farm workers are not permitted to apply for status here in Canada. We have met workers who for the last two or three decades have toiled in Canadian fields for upwards of eight months a year. Yet, despite their contributions, neither they nor their families will ever have the opportunity to apply for status in Canada. We believe that workers if they so desire should have the right to apply for residency in Canada. Both these workers and their families should be granted status.

Several areas have consistently raised inequities in the just treatment of migrant farm workers:

**Wages:** Many of these workers may lack the promised adequate employment when they arrive and they may be unemployed or 'rented' by other employers. In the former case, workers unemployed for significant periods of time are forced to work under the table. In the latter case, workers are 'rented' to other employers to pick their crops. Both practices are widespread. This shortchanges these workers the promised the wages and benefits that they are entitled to receive from Canadian employers and the state.

**Repatriation:** In Ontario, we have gathered statistics about repatriation or the unilateral deportations that workers are subjected to. For the period of 1996 to 2008, J4MW has calculated that there have been over 9507 premature repatriations or workers who have fled the program. The numbers provided by Human Resources and Skills Development Canada cover broad categories: Breach of Contract (2510); Medical (1006); Domestic (3022); and AWOL (2969). It has been difficult to provide a national snap shot. However, these figures are troubling for several reasons. Workers are being sent home, sometimes at their own expense, without a proper appeal mechanism. Through anecdotal evidence, we know that many of these workers were sent home for nefarious reasons: exerting their rights at work; their employer is not happy with their work performance; for non-work activities; for injuries at work; the employer no longer needs the worker; the worker broke

curfew; or for inter-racial dating. The overall point is that workers are being unilaterally sent home. The actual or threat of repatriation acts a control mechanism that leads to gross violations of human rights under the Seasonal Agricultural Workers Program.

**Healthcare:** Many workers who are sent home for either medical or domestic reasons are returned due to sickness or injuries received in Canada. We are downloading our healthcare costs onto the home countries. In some cases, workers are going home to die. We have ample testimonies to document this position: workers are having their Ontario Health Insurance Plan (OHIP) cards withheld; first time workers have a time delay in receiving their OHIP cards; and because of visa restrictions workers who are seriously injured have their healthcare severely curtailed. Fear of being labeled non-status in Canada and thus deported, these workers return to their home countries where the costs of their sickness or injuries incurred in Canada may not be met.

### **Justice for Migrant Farm Workers**

Migrant workers in Canada endure the inequities of non-status, repatriation and lack of social mobility. This curtails their ability to exert their rights. These workers constantly face the threat of being sent home prematurely for standing up for their rights. The program's employer-driven model means workers are fearful for being banned for the program or not being called back the next year by their employer. This is all compounded by the fact that the workers are indentured to one employer

As Sharma (*Home Economics*, p. 19) notes: "People admitted under (guest worker) programs are denied the freedom of labour market and spatial mobility available to those existing within the legal designation of citizen or permanent resident. Guest worker programs "exist because it is unconstitutional for the state to restrict the mobility of citizens or immigrants. Such restrictions apply only for non-immigrants or foreign visitors who can legally be full indentured to employers in Canada...Those categorized as migrant workers have little or no de facto claims to the minimum wage and labour standards and protection available to the citizenry. Migrant workers are also usually made ineligible for social benefits."

Justicia for Migrant Workers makes a number of recommendations as follows:

1. Implementation of the recommendations of the 2004 Arthurs Report on the Canada Labour Code with respect to agricultural workers (section 10).
2. More transparent and accountable reporting mechanisms of the detailed information on workers' repatriation, deportation, and medical repatriation, including information pertaining to deaths, injuries and reasons for deportation.
3. Reassignment of the jurisdiction of migrant labourers to being under the provisions of the Federal Labour Code. Migrant workers come to Canada under a federal program and should be under that jurisdiction
4. Immediate regularization and status for current participants in migrant workers programs, but also for previous agricultural workers and their families. J4MW supports a broad based approach to status.
5. An end to unilateral repatriation and deportations of migrant workers.
6. Enforcement of Canada's Healthcare Act so that blockages to full access for migrant workers are removed. We hold that each province violates aspects of the act in the area of protection for migrant agricultural workers.
7. Abolition of the employer-driven programs that effectively establishes an

indentured worker system. No worker should be indentured to one site of employment, or one employer, or one sector.

8. Revise Canadian social entitlements to ensure that migrant workers receive equal access and equitable access to unemployment insurance, the Canadian Pension Plan and other benefits the Canadian old age security system.
9. Termination of employer-sanctioned organizations such as the Foreign Agricultural Resource Management Service (FARMS) in the administration of SAWP. It is a conflict of interest for employers to participate in and govern and administer a program such as FARMS while the workers are left voiceless!
10. Increase of the minimum wage.
11. Effective enforcement of proper working and living conditions for migrant workers.
12. When prosecuting bad employers, the state must ensure that workers' rights are protected and that workers are not deported and do not face reprisals from employers.
13. Removal of existing barriers of access to education for temporary workers. Visas that are granted to migrant agricultural workers do not permit them to attend educational facilities in Canada. Steps undertaken to remove restrictions on international students to work off campus suggests that it is also time that the government allow migrant workers access to education.
14. Any discussion of buyouts or compensation for Canadian farmers must also provide provisions for compensation for migrant agricultural workers who might be losing their employment due to a crisis in agriculture.

Migrant agricultural workers must be accorded the right to respect, dignity and justice.

*Chris Ramsaroop is an activist in [Justicia for Migrant Workers in Ontario](#).*

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