

The logo features a red banner at the top with the words "MIGRANT WORKERS" in white, uppercase letters. Below the banner, the words "Alliance for Change" are written in a large, bold, black sans-serif font. The letter "h" in "Change" is red, matching the banner's color.

MIGRANT WORKERS Alliance for Change

Hon Yasir Naqvi
Minister of Labour

Cynthia Morton
Deputy Minister of Labour

Cc: Fahim Kaderdina (Chief of Staff) and Jesse Rosenberg (Policy Advisor)

Ministry of Labour
400 University Avenue, 14th floor
Toronto, ON, M7A 1T7

February 27, 2013

Honorable Minister Naqvi and Deputy Minister Morton,

I am writing to you to follow up on my letter of October 31, 2012, to the Ministry of Labour requesting action on three key items related to migrant worker recruitment laws in Ontario (Appendix A). My colleague Sonia Singh also brought this to the Minister's attention on Monday at the launch of the "It's more than Poverty" report by McMaster University and United Way.

Briefly I'm writing to request a meeting with your office by March 15, 2013, to discuss:

(1) Regulatory changes to EPFNA including

- **Expansion of the *Employment Protection for Foreign Nationals Act (Live-in Caregivers and Others), 2009 (EPFNA) to include all migrant workers:*** EPFNA gives the mandate to the Minister of Labour to make regulatory changes to ensure that the Act covers all migrant workers, (subsection 3(1), "other prescribed employment"; subsection 1(1), "prescribed by the Regulations made under this Act"). This would prohibit agencies and employers from charging fees, or directly or indirectly recovering costs, from migrant workers; and prohibit employers and recruiters from seizing property that belongs to migrant workers. The Metcalf Foundation and the Law Commission of Ontario have both recommended that such a change take place.

(2) Make further appropriate amendments to EPFNA, including:

- Registering employers, licensing recruiters, requiring irrevocable letters of credit or security deposits from recruiters, and mandatory filing of information about recruitment and employment contracts.

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- Make recruiters and employers jointly and severally liable for any and all fees charged to workers, whether in Canada or abroad. Employers must bear responsibility for ensuring recruitment agencies are complying with the law. This measure will also facilitate the recovery of any prohibited fees. Migrant workers would be able to seek recovery from both the recruiter and the employer (which goes beyond the current joint and several liability provision for related businesses only).
- Creating an expedited anti-reprisals process for migrant workers that explicitly prohibits an employer or other party from repatriating migrant workers who are attempting to enforce their rights under this Act or the Employment Standards Act. A functional and accessible expedited process must also include negotiations with the federal government to provide for special temporary resident and work permits for migrant workers pursuing abuses at work or by recruiters.

(3) **Ensure that EPFNA provisions are implemented:** As of March 22, 2010, Ontario law prohibits agencies from charging live-in caregivers recruitment or placement fees. Nonetheless, two-thirds of caregivers in our survey who arrived after that date paid fees, averaging \$3275. Agencies are not respecting the laws that were put in place to protect these vulnerable workers. More proactive enforcement is needed.

As the two-year anniversary of Bill 210's passing comes up I hope that member organizations of the Migrant Workers Alliance for Change can meet with your office to develop a timeline to make these important and necessary changes happen.

Best wishes,
Syed Hussan
Coordinator
Migrant Workers Alliance for Change

The Migrant Workers Alliance for Change includes Alliance of South Asian Aid Prevention, Asian Community Aids Services, Canadian Auto Workers, Caregivers Action Centre, Industrial Accident Victims' Group of Ontario, Justicia for Migrant Workers, KAIROS, Legal Aid Windsor, Migrante Ontario, No One Is Illegal – Toronto, Parkdale Community Legal Services, Social Planning Toronto, United Food and Commercial Workers and the Workers' Action Centre

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Appendix A

Via email and fax

Fahim Kaderdina

Chief of Staff
Office of the Minister
Ministry of Labour
400 University Avenue, 14th floor
Toronto, ON, M7A 1T7

October 31, 2012

Dear Mr. Kaderdina,

Thank you for meeting with members of the Migrant Workers Alliance for Change on October 23rd, 2012. We were happy to have arranged a meeting between the Just Work delegation and you and your colleagues. We were also delighted in your interest in creating an ongoing dialogue between migrant worker groups and their allies and your Ministry. Though we have many issues and concerns, we are writing today to follow up on our conversations regarding Bill 210 and to request a meeting to discuss the swift expansion and implementation of that Bill.

As you know, the Employment Protection for Foreign Nationals Act (Live-In Caregivers and Others) or EPFNA came in to effect on March 22nd, 2010. In March of 2011, coming up to the one year anniversary of the Bill, we wrote to then-Minister Sousa requesting that the Ministry of Labour extend the protections offered in the EPFNA to all migrant workers and make several amendments in order to guarantee the effectiveness of the legislation (Please see details of our request in Appendix 1).

Eighteen months further down the road, these amendments are even more critical. As Jose Sicajau, a Maya Kaqchiquel organizer and former migrant farm worker, emphasised to you, migrant workers are being charged exorbitant fees for work with the false promise of full labour and citizenship rights. When workers speak out about their rights, they face reprisals and expulsion from the program (See Jose's story in Appendix 2).

Though a number of reports have consistently identified the exploits of unscrupulous offshore and domestic recruiters at every stage of migrant work programs, the issue has recently made national news in the context of Chinese temporary migrant workers bound for British Columbia's coal mines (See *Made in Canada: How the Law Constructs Migrant Workers' Insecurity*, pp 61-76, as well as a small sample of workers' stories, as you requested, in Appendix 3). In the context of British Columbia, *The Tyee* learned that Chinese workers were being made to pay CAD\$ 12,500 to work in Canada and were being promised a chance to sponsor their families.

Under current Ontario laws, this practice of lying and charging fees from workers is legal. Fortunately, this gap in Ontario's employment laws is easily remedied.

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As passed by Ontario's legislature, the EPFNA includes provisions to make regulatory changes to include all migrant workers within its mandate (subsection 3(1), "other prescribed employment"; subsection 1(1), "prescribed by the Regulations made under this Act"). This is an opportunity for your office to step in and fill this gap. At a time when many Ontarians are wondering if their government is at work, Minister Jeffrey could step forward and show that her Ministry is responsive to the needs of all Ontarians.

We look forward to hearing from you by November 14, 2012.

Best wishes,

Syed Hussan
Coordinator
Migrant Workers Alliance for Change

The Migrant Workers Alliance for Change includes Alliance of South Asian Aid Prevention, Asian Community Aids Services, Canadian Auto Workers, Caregivers Action Centre, Industrial Accident Victims' Group of Ontario, Justicia for Migrant Workers, KAIROS, Legal Assistance of Windsor, Migrante Ontario, No One Is Illegal – Toronto, Parkdale Community Legal Services, Social Planning Toronto, United Food and Commercial Workers and the Workers' Action Centre.



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APPENDIX 1

Hon. Charles Sousa
Minister of Labour
400 University Avenue, 14th Floor
Toronto, Ontario
M7A 1T7

Dear Hon. Charles Sousa,

We are writing on behalf of the Migrant Workers-Alliance for Change (formerly Coalition for Change) to request a meeting with you to discuss exorbitant recruitment fees and other abuses that are experienced by migrant workers in Ontario. The Migrant Workers- Alliance for Change is a community alliance of migrant workers, community groups, community faith groups, and labour organizations working in solidarity with migrant workers.

The enactment of the Employment Protection for Foreign Nationals Act (Live-In Caregivers and Others) (EPFNA) in March 2010 recognized that migrant workers employed through the Live-In Caregiver Program were in need of protection from being charged recruitment fees and having their personal property seized. As we approach the one year anniversary of EPFNA's enactment, we would like to meet to discuss the implementation of EPFNA to date.

Members of our organization have documented numerous cases of migrant workers employed through other Temporary Foreign Workers Program (TFWP) who are also being forced to pay substantial fees and have reported that their passports and other property was seized by recruiters or employers. These abuses increase the precarious status these workers already face while working in Canada and place barriers for workers to speak up about Employment Standards and other labour rights violations.

Migrant Workers-Alliance for Change requests that the Ministry of Labour extend the protections offered in the EPFNA to all migrant workers and make several amendments in order to guarantee the effectiveness of the legislation.

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- Extend EPFNA to include all migrant workers. Ensure a level playing field by ensuring EPFNA's protections are guaranteed for all migrant workers.
- Ensure that there is a prohibition against agencies or employers charging fees for professional services, e.g., resume writing for all migrant workers.
- Prohibit employers from directly or indirectly recovering recruitment costs from any migrant worker.
- Prohibit employers and recruiters from seizing property (e.g., passports, work permits, and other personal documents) that belongs to migrant workers.
- In order to ensure effectiveness of the EPFNA, recruiters and employers should share liability for any and all fees charged to workers, whether in Canada or abroad. Employers must bear responsibility to ensure recruitment agencies they contract are complying with the law. This measure will also facilitate the recovery of prohibited fees. Migrant workers would be able to seek recovery from the recruiter or the employer.
- The EPFNA should explicitly prohibit an employer or other party from repatriating migrant workers who are attempting to enforce their rights under this Act or the Employment Standards Act.

We look forward to meeting with you to discuss the above recommendations and how the Ministry of Labour can ensure protections against recruitment fee abuses for all migrant workers. Please contact Carolina Alvarado, Co-ordinator, Migrant Workers –Alliance for Change at 647-269-6753 to set up a time and date that would be most convenient to meet.

Sincerely,

Carolina Alvarado
on behalf of the Migrant Workers-Alliance for Change

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APPENDIX 2

OFFSHORE LABOUR

Migrant workers seek better working conditions on farms

ADRIAN MORROW

The Globe and Mail

Published Wednesday, Oct. 24 2012, 8:35 PM EDT

Last updated Wednesday, Oct. 24 2012, 8:43 PM EDT

Every year from 2003 to 2006, Jose Sicajau made the trek from Guatemala to Canada, working at a produce farm south of Montreal to earn money for his family back home.

One day, he and fellow migrant workers were building an irrigation system on the operation.

Mr. Sicajau says the owner, upset that they were doing the job incorrectly, hit a Mexican worker in the foot with an aluminum pole.

He and two other men signed a written account of the incident and filed it with a local union.

Since then, no employer in Canada has invited Mr. Sicajau back.

In Guatemala, he formed an organization of fellow ex-workers to press governments to raise standards in programs such as Canada's Seasonal Agricultural Workers Program.

This week, he returned to Canada as part of a delegation of Guatemalan activists, to meet with current migrant workers and bring their concerns to civil servants and politicians.

"If we want to get ahead, we have to find work [outside of Guatemala], and that makes us quite vulnerable to people violating our rights," Mr. Sicajau told The Globe and Mail through an interpreter.

One of the workers' chief concerns is the fact that the program ties them to a single employer.

If they quit that job while in Canada, it can take months for another company to go through the paperwork necessary to hire them.

As a result, Mr. Sicajau says, workers put up with poor conditions.

"There should be on-site visits to the places where workers live, without the farmers knowing in advance," said Father Juan Luis Carbajal Tejada, a Guatemalan priest who belongs to a Catholic order that helps migrants.

In most streams of the program, workers do not have any direct way to become permanent residents or Canadian citizens despite working in this country for many years.

They also miss out on many of the government benefits accorded to Canadians.

Winston Morrison, 37, a migrant worker who met with Mr. Sicajau in Windsor, Ont., this week, said he is facing exactly that problem.

A Jamaican national, Mr. Morrison said he has come to Canada every year since 2004 to work at a farm near Leamington.

Last year, he injured his right knee in two separate falls and said he had a metal plate put in it.

Over the course of the winter in Jamaica, his leg became swollen and painful.

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When he returned to Canada in May, Mr. Morrison said, his condition was so bad the leg had to be amputated. He is living with a friend now, unsure how he will provide for his family.

"These governments, they don't know what we're going through," he said.

"We are treated like we are nothing."

The Guatemalan group met this week with officials from Ontario's Ministry of Labour; next week, they will meet Quebec civil servants and members of parliament in Ottawa.

Original at: <http://www.theglobeandmail.com/news/national/migrant-workers-seek-better-working-conditions-on-farms/article4649494/>

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APPENDIX 3

'Debt bondage' grows

Human trafficking: A cry for help
Craig Pearson, The Windsor Star
Published: Saturday, June 19, 2010

Her first duty when she stepped off the plane at Toronto's Pearson International Airport: slip her Canadian contact some money wrapped in a newspaper.

Her next duty: start paying back the \$5,000-plus -- a huge sum for her back home -- that she paid to work in Canada.

She remained hopeful, but when "Angela" arrived in Leamington from her home country in southern Asia, she soon started realizing farm work in Canada wasn't as advertised.

She said she lives in an overcrowded apartment, her wages are below what she signed on for and she experiences a general lack of freedom, including with whom she associates.

"I'm still paying after almost two years," said Angela, who supports two children back home on \$400 a month and lives in an apartment here with eight people.

"We don't have a problem with the work, it is only with the agent we work with." "He tries to control our home, our work renewal permits, even our laundry," Angela said.

"We do not have freedom at all." Human-rights advocates are focusing more and more on the growing issue of "debt bondage" and human trafficking in Windsor and across the country, helping educate foreign workers about their rights in Canada.

Angela is among the thousands of temporary foreign workers who cut fish, pack cucumbers and pick tomatoes in Essex County.

Most work at legitimate operations and happily return year after year. Some, however, pay excessive fees to agencies promising benefits that never materialize.

A work renewal permit costs \$150. But third-party agents sometimes charge \$2,000 or more to fill out the paperwork. If workers attempt to complete the requirements themselves, an unscrupulous agent might threaten to have a worker fired -- which would instantly render the foreign national "illegal" in Canada.

Such workers then feel defenceless.

"I came to work in Canada to get money for my family in Thailand," said Sumalee, 31, who has been in Canada for four years and who sometimes makes as little as \$50 a day doing piece-meal work in a fish-packing plant. "I feel disappointed because we didn't get what we expected.

"It's kind of frustrating. But I keep smiling. I still have hope." The United Nations defines human trafficking as "the acquisition of people by improper means such as force, fraud or deception, with the aim of exploiting them." The UN notes that every country in the world experiences the phenomenon to some degree and estimated in 2008 that some 2.5 million people fell victim to human trafficking worldwide.

According to the U.S. Department of Health and Human Services: "After drug dealing, trafficking of humans is tied with arms dealing as the second largest criminal industry in the world, and is the fastest growing." Yet it's hard to see.

"Human trafficking is a very difficult problem to wrap your head around statistically, because it's a very hidden crime," said Marty Van Doren, the RCMP's London-based human trafficking awareness co-ordinator. "Most human trafficking victims never come to the attention of law enforcement or other organizations. They don't come forward because they can be very scared of the human traffickers who are taking advantage of them, scared to testify, scared of authorities. Quite often they're ashamed to come forward, and if they're illegal in this country, they have a big bull's-eye on them because there's always a chance of being deported." Van Doren said while coercing women into the sex trade is the most common form of human trafficking, exploited labourers -- especially in southern Ontario -- are the next most common group.

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Full story at: <http://www2.canada.com/windsorstar/news/story.html?id=534d0e53-7f59-45ef-9e90-cd27e7640b28>

Exploited farm workers win reprieve

Human trafficking case sets precedent

Don Lajoie, The Windsor Star

Published: Tuesday, June 21, 2011

Nineteen victims of international human trafficking have been granted a reprieve by Canadian immigration officials in Windsor to stay in the country for two more years and make their case for remaining here permanently.

Cathy Kolar, immigration specialist with Legal Assistance Windsor, said Monday the case of the 19 migrant workers from Thailand, who had worked as forced labourers in the agriculture and food processing industries in Essex County and were facing deportation, has set a precedent for other exploited workers across Canada.

"It's very positive," said Kolar, as the 19 smiling workers filed out of the Citizenship and Immigration Canada offices on Walker Road.

"They recognized that the hardships of forced labour should be examined in their case and will allow them to submit applications to stay on humanitarian grounds...."

"We're happy that a precedent has been set."

In the meantime the 19 will have their temporary resident work permits to seek employment in Canada extended by two years. All of the 19 are now working in the local agricultural industry.

"I'm very happy with the decision," said Phawinee Mingmun, who came to Canada 3½ years ago to work in the food processing industry. "I want to especially thank immigration for recognizing that we are human," she said through an interpreter.

"I want to thank the government from the bottom of my heart for recognizing us," said Chiraphon Phaiphae, who was trafficked and exploited for two years. "I would like to live and work here and be able to return home to visit my family."

Shelly Gilbert, social worker for Legal Assistance Windsor, said the Thai nationals have all been found by immigration officials to fit the legal definition for human trafficking under Canada's new anti-human trafficking laws. Many have agreed to co-operate with police in human trafficking investigations.

The 19 came to Canada under the federal temporary migrant workers program to work legally in Essex County over the last several years. But instead they were forced to work long hours for little pay in poor working conditions for exploitive bosses who clawed back their wages to pay for accommodation in over-crowded "bunk houses" they shared with dozens of other migrants.

Typically, said Gilbert, human trafficking victims pay between \$9,000 and \$12,000 to third-party agents in exchange for arranging travel and jobs in Canada, only to find the terms of their employment change upon arrival, making their status in this country illegal. Through debt bondage and threats of deportation they are forced to work to pay off the money owed.

When deported, said Gilbert, "they may be going home to absolutely nothing," but with children or aging parents to support.

"We want to acknowledge Citizenship and Immigration Canada's commitment to dealing with these victims of human trafficking in a humanitarian manner by allowing the hardship incurred as a result of their trafficking situation in Canada to be reviewed prior to any removal," said Kolar. "With the conclusion of criminal proceedings they will also be permitted to remain in Canada to pursue civil remedies through the human rights tribunal and the courts."

Read full story at: <http://www2.canada.com/windsorstar/news/story.html?id=ef857811-23f7-494e-a0b4-413b707a8101>

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Watch video investigation by Global TV on these workers and others:

<http://www.globalnews.ca/video/disposable+labour/video.html?v=2228323126#video>

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Foreign workers seeking improvements

By [Ellwood Shreve](#), QMI Agency

Monday, September 26, 2011 10:17:11 EDT PM

The Daily News

Regina, who paid thousands of dollars to come to Canada from the Philippines to work at a low-skilled, warehouse job, likely won't be working here much longer.

The woman, who didn't want to use her real name, said her employer in Essex County doesn't want to renew her work permit, because the agent who organizes bringing workers from her country has accused her of trying to organize a union.

She is one of several foreign and migrant farm workers who visited Chatham and Dresden Sunday during the second leg of the 2011 Pilgrimage to Freedom Caravan, organized by Justicia/Justice for Migrant Workers. The pilgrimage is retracing parts of the Underground Railroad route to pay homage to the sacrifices former slaves made to find freedom.

Regina, who is here through the low-skilled worker program, said her employer and agent don't even want workers joining a church group.

"They are being paranoid," she said.

She said many workers are reluctant to stand up for better rights, such as joining a religious group, because they are at the mercy of the agent.

"They're very scared because this agent is threatening them if they do, they will be sent home," she said, adding workers want to keep their jobs because their families need money back home.

"It's not easy to come here," Regina said, adding she paid nearly \$5,000 come to Canada.

"It took me more than a year to repay all my debts in the Philippines, because I have to borrow money (to come here)," she said.

Chris Ramsaroop, a volunteer organizer of the tour, said many people pay \$5,000 to \$10,000 to agents to be able to come to Canada to work.

He said the provincial government has refused to ban recruitment fees.

Read full story at: <http://www.chathamdailynews.ca/2011/09/26/foreign-workers-seeking-improvements>