



# Backgrounder: Migrant Workers Deserve A Strong Voice

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## *How it's unfair!*

- New laws and policies are often passed with no new money attached to enforcement, allowing employers and recruiters to continue exploiting workers.
- Many migrant workers are afraid to complain about their bad bosses while on the job. Ontario laws limit the time workers are allowed to make a complaint, giving bosses a free-hand to exploit workers.
- Third party complaints could allow advocates to report abusive behaviour, but right now there's no process for these complaints to be heard
- Workers are sometimes deported while waiting for a decision on a complaint they made. This is a denial of justice.

## *How to make it right; remember we are in it together!*

Migrant workers should be able to make workers rights complaints without fear. To have a stronger voice at work, migrant workers need the Ministry of Labour to put more resources into proactive enforcement of their rights and to allow third party complaints. Migrant workers should have the right to change employers and stay in the country when they come forward about a violation. Some simple steps Ontario could take:

- a) **Increase proactive enforcement:** Resources should be devoted to emphasize proactive enforcement of employment standards and health and safety in sectors and workplaces employing migrant workers. The Ministry of Labour should work with workers' advocates and community organizations to identify where violations are occurring and identify what investigative strategies

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will best uncover employer tactics to evade or disguise violations and to build trust with workers and avoid reprisals.

- b) **Allow third party and anonymous complaints:** The Ministry of Labour should allow for anonymous and third party employment standards complaints. The inspection team should collaborate with the worker advocate or third party in determining investigative strategies.

When migrant workers, worker advocates, and community organizations bring forward individual ESA or OHSA complaints and there are confirmed violations, the Ministry of Labour should expand investigations to the entire workplace and carry out ongoing follow-up to ensure compliance.

- c) **Publicize employers with confirmed violations:** Employers or recruiters found in violation of ESA and related legislation should be clearly identified on the Ministry of Labour website and other relevant provincial and federal websites (e.g. HRSDC; CIC; consulates). This will serve as a disincentive to employers and an education tool for workers. An annual report on enforcement activities should also be issued by the Ministry of Labour.
- d) **Strengthening anti-reprisal protection for migrant workers:** Employers are able to immediately deport seasonal agricultural workers who try to enforce workplace rights. We have heard many reports of employers threatening other migrant workers with deportation or contacting immigration authorities, even when they do not have the authority. The anti-reprisals provisions of the Employment Standards Act and Ontario Health and Safety Act should explicitly prohibit an employer from forcing “repatriation” on an employee who has filed an ESA or OHSA complaint. The ESA should be further amended to provide for a general reverse onus in ESA claims where the migrant worker has been threatened with repatriation (not limited to the allegations of reprisals). Develop an expedited process for investigating ESA and OHSA claims for all migrant workers. **Establish a moratorium on repatriations** of migrant workers with ongoing workers’ rights complaints.
- e) Agricultural workers and live-in caregivers must have the **same rights to unionize** as other Ontario workers. In consultation with community stakeholders, the Ontario government should update the OLRA to address the specific barriers to unionizing under migrant worker programs, and to address the new forms of labour organization in order to remove barriers to workers’ collective rights.

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- f) **Expand the Provincial Nominee Program (PNP)** to give pathways to permanent residency to migrant workers deemed ‘low-skilled’. Workers living without precarity are more likely to establish

community ties, and invest in their workplaces and communities resulting in overall improvement of public life. This also creates a reliable workforce and reduces continuous training costs that employers must incur as a result of a transitional workforce.

- g) **Create an open work permit program** for migrant workers with workers’ rights complaints against employers and recruiters to off-set reprisals and repatriation threats. The *Alberta Open Work Permit Pilot Project, Agreement for Canada-Alberta Cooperation on Immigration (Annex B, 2009)* is such a pathway. However, the Alberta TFW Advisory Office must make recommendations for the issuing of work permits. This is a barrier to access for workers at risk of reprisals. Open work permits for workers should instead be streamlined, and worker complainants at the Ministry of Labour should have immediate access to open work permits. If the permit is made discretionary, expedited mechanisms for appeals should be instituted.
- h) **Develop comprehensive information-sharing processes** between the federal and provincial government to ensure protections for migrant workers (like Manitoba has with Canada).

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