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Cc: The Honourable John McCallum
Minister of Immigration, Refugees and Citizenship
House of Commons
Ottawa, Ontario K1A 0A6

November 23, 2015-11-22

Dear Alice Young and Minister McCallum,

On October 9, 2015, the Provincial Ministry of Citizenship, Immigration and International Trade released draft general regulations for the *Ontario Immigration Act* (Proposal Number: 15-MCIIT001). The proposed regulations set out prescribed criteria for categories of individuals who may be eligible to receive a certificate of nomination for permanent residence.

The regulations outline six different categories of applicants who may receive a nomination:

- foreign worker with a job offer;
- international student with a job offer;
- Master's graduate;
- Ph.D. graduate; and
- two different categories directly linked to the federal government's Express Entry system: the Human Capital Priorities category, and the French Speaking Skilled Worker category.

The regulations also set out the criteria for employers applying for approved positions that migrant workers must be offered in order to apply for nomination by the province. I am writing today to request that the Ontario Immigration Act, and future Canada-Ontario Immigration Act regulations must include access to permanent residency for migrant workers. This step should be taken in parallel to ensuring permanent resident immigration status upon arrival for migrant workers.



Many immigrant-Ontarians are excluded

Among the criteria prescribed for employers applying for approval of an employment position, section 3(2)7 of the proposed regulations reads:

- The position must be listed in the National Occupational Classification under Skill Type 0 Management Occupations or Skill Level A or B (Footnote: Exclusion of C & D)

Similarly, in the 'foreign worker with a job offer' category, those applying for a certificate of nomination must have (among other things) work experience relevant to the approved employment position in at least two of the last five years (R 6(1)3(i)). The proposed regulations also stipulate that the director shall consider whether the experience is "relevant to Skill Type 0 Management Occupations or Skill Level A or B set out in the National Occupational Classification" (R 6(2)).

In restrictively classifying the positions put forward by employers, and the work experience held by workers, these proposed regulations do not adequately provide paths to permanent residency for either: 1) work that is deemed 'semi' or 'low-skilled', or 2) workers with experience categorized as 'semi' or 'low-skilled'.

Both the available positions and the pool of workers are geared to the exclusion of so-called 'low-skill' and 'low-wage' migrant workers from the Ontario Immigrant Nominee Program. These exclusions are built into the regulations *even though the Act does not specify or require an emphasis on skilled workers*, but at most emphasizes having an economic connection to Ontario (see OIA, preamble; A 12(3)).

In 2013, there were 30,125 temporary foreign workers in NOC C & D who were issued Labour Market Impact Assessments. Over the last five years, on average 63% of all Temporary Foreign Workers coming into Ontario have come in for work classified as NOC C & D (see Table 1).

Of these approximately 30,000 workers, the vast majority are Seasonal Agricultural Workers or Temporary Foreign Workers who have no access to permanent residency under federal programs.



The proposed regulations perpetuate the federal exclusion of these workers from permanent residency at the province's admittedly low levels of nomination.

In addition to these migrant workers, a large number of international students upon graduation are unable to secure work classified as high-skilled work. Exact statistics are unavailable as graduating students are on open work permits and their level of work is not documented. However, anecdotal data from our member organizations makes it clear that graduating students, particularly those from low-income backgrounds and in college programs, are living temporarily in Canada and are unable to get access to permanent residency through federal programs.

Many thousands of international students will also now be shut out of a path to permanent residency because of Ontario's laws.

Ontario is out of step with other provinces.

Low-waged migrant workers have partial or full access to provincial nominee programs in Alberta, British Columbia, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, PEI and Newfoundland and Labrador.

These pathways provide incentives to many temporary foreign workers to leave Ontario during the course of their contract to move to other provinces where they may qualify for provincial pathways to permanent residency. The lack of such pathways in Ontario unduly excludes workers that the province, its employers, and its people widely need and rely upon.

After Alberta, Ontario has the highest number of temporary foreign workers deemed to be 'low-skilled', but Ontario only has 5,200 spaces for all of its permanent residency nominations. While small in number, allowing low-skilled temporary foreign workers to **nominate themselves** under the OINP would be a symbolic step away from the federal system that restricts many migrant workers to precarious and short-term employment. While it would not be a substitute for meaningful and systemic changes on access to permanent residency at the federal level, it would recognize the essential agricultural, care, and service work performed by migrant workers in Ontario.



It's about human rights.

Many migrant workers (including those in agriculture, construction, and other such industries) come back to Ontario year after year, in some cases for decades.

They have laid down deep roots in our community, and have spent the majority of their lives separated from their families. They've paid all provincial taxes and, quite literally, cannot come here without a guaranteed job. Recognizing this work, commitment, and sacrifice in the OINP is the right thing for Ontario to do, especially where no federal programs exist for these workers to access permanent residency.

By focusing on NOC 0, A, & B positions and relevant work experience, the proposed regulations discriminate against people in Ontario whose experience and employment are deemed to be 'low-skilled' and, not surprisingly, are also lower-waged. Industries that are deemed as NOC C & D are historically occupations that have been taken up by women, racialized and poor people. Examples include clerical work, sewing, agriculture, and food service.

Poorer migrants are systematically excluded from permanent residency by the proposed regulations, despite their personal, social, and economic connections to Ontario and Ontarians.

The discrimination against low-waged, poorer workers is compounded by the fact that these workers are also more likely to be racialized, with even greater differential impact on those who are both racialized and gendered.

It's about the economy.

Workers in the Seasonal Agricultural Worker Program and Temporary Foreign Worker Program come to work in Ontario year after year. Many of them are loved in their communities and are a major boon to the local economy in rural and urban centres across the province.

Ensuring that these workers have access to permanent residency will mean that they will continue to work and live here. An Ontario-specific nominee program that respects all migrant workers would



also help to realize the goal of increasing Ontario's share of economic immigrants and retaining immigrants in areas of rural Ontario with long-term labour needs.

This security of status would remove employer cost of re-training workers every few years, increase the quality of work by cracking down on unscrupulous employers unfairly profiting from workers' precarious status, and help to ensure longer-term economic growth in areas of long-term labour needs.

Recommendations

1. Allow migrants in "low skilled" occupations to apply for permanent residency under the provincial nominee program **without the need of an employer nominating them**.
2. Renew the federal-provincial relationship in a way that acknowledges the needs of migrant workers and Ontario by working to re-negotiate a Canada-Ontario Immigration Agreement (COIA) that protects workers. For example, while advocating for permanent residency on arrival, a renewed COIA could uphold the workplace rights of migrant workers by providing open work permits to protect against employer reprisals by way of repatriation.
3. Stipulate that migrant workers will be eligible for settlement and integration services.
4. Consult with migrant workers and their advocates to ensure that Ontario's Immigration Act, regulations, and immigration strategy accurately reflect the diversity and contribution of all those who live and work in this province, in line with the province's and Premier's commitments to human rights, equality, and poverty reduction.

About the Migrant Workers Alliance for Change

The Migrant Workers Alliance for Change is comprised of various advocacy and community groups, unions, workers and community members, aimed at improving working conditions and fighting for better protections for live-in caregivers, seasonal agricultural workers and other temporary foreign workers. The Migrant Workers Alliance for Change includes Alliance of South Asian Aid Prevention, Asian Community Aids Services, Caregivers Action Centre, Fuerza Pwersa, Industrial Accident Victims' Group of Ontario, Justicia for Migrant Workers, Legal Assistance of Windsor, Migrante Ontario, No One Is Illegal – Toronto, Parkdale Community Legal Services, Social Planning Toronto,



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TABLE 1: Number of temporary foreign worker positions on positive Labour Market Impact Assessments (LMIAs), by province, Ontario

Management Occupations and Skill Level (A - D)	2009	2010	2011	2012	2013
0 - Management Occupations	1,285	1,400	1,455	1,725	975
A - Professionals	6,820	7,105	6,900	6,400	3,860
B - Skilled and Technical	9,080	10,290	9,990	11,900	8,320
SUB-TOTAL (O,A,B)	17,185	18,795	18,345	20,025	13155
C - Intermediate and Clerical	30,585	29,570	28,395	28,355	29,060
D - Elemental and Labourers	1,010	1,350	1,320	1,635	1,065
SUB-TOTAL (C,D)	31,595	30,920	29,715	29,990	30,125
Ontario - Total	48,775	49,715	48,055	50,015	43,285