

Honourable Carla Qualtrough - Minister of Employment, Workforce Development and Disability Inclusion
Honourable Marco Mendicino - Minister of Immigration, Refugees and Citizenship
Philippe Massé - Director General, Temporary Foreign Worker Program

March 15, 2021

Ministers Qualtrough and Mendicino, and Mr Massé,

Re: Migrant Food and Farm Workers in Canada in 2021
Update to our letter of March 9, 2021

We are writing to you as the Food & Farmworker Working Group of the Migrant Rights Network. This letter is a follow up to our communications in 2020 concerning rights, protections and immigration status for migrant food and farmworkers in Canada in the Temporary Foreign Workers Program, as well as those with other immigration status. Our recommendations are regarding all food and farmworkers including seasonal, fisheries, food processing and greenhouse workers.

Specifically our letter outlines concerns and recommendations regarding:

1. Migrant workers' hotel quarantine beginning March 21st;
2. Pre-arrival testing for migrant workers;
3. Rights for migrant workers during quarantine and after;
4. Proactive enforcement mechanisms;
5. Blacklisting of seasonal migrant workers; and
6. Vaccination for migrant food and workers.

Our central recommendation remains ensuring full and permanent immigration status for all migrant and undocumented people in Canada. Migrant farmworkers need the ability to assert the rights that they do have, to speak up about dangerous or unfair working or living conditions and to protect themselves from COVID19, but also exploitation in general. Full and permanent immigration status is necessary for them to do so. Most of our recommendations below would not be necessary if migrants had the ability to protect themselves that permanent resident status would provide. This is what migrant workers want: on February 23, 2021, over 230 migrant farmworkers shared photographs of themselves holding signs calling for Status for All, see [here](#).

Migrant worker hotel quarantine beginning March 21st (or later)

As migrant workers arriving in Canada and who need to travel to other provinces are placed in hotels and other Public Health Agency Canada facilities, we recommend the following specific measures to ensure workers have access to basic rights and protections:

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- Universality: All temporary foreign workers, including those on Open Work Permit - Vulnerable Workers must have access to hotel quarantine on arrival at no cost to themselves.
- Connection to local support organizations at the 4 ports of entry: Our member organizations are available to respond to worker concerns in Calgary, Montreal, Toronto, and Vancouver. We have staff and volunteers that can respond to requests via WhatsApp. As trusted organizations with long term relationships, migrant workers will be more likely to reach out to us than to government officials. We support replicating the Migrant to Migrant Project that was in place in BC in 2020.
 - Calgary: AMexCal
 - Montreal: Immigrant Workers Centre
 - Toronto: Migrant Workers Alliance for Change
 - Vancouver: Sanctuary Health
 - *If there is an Atlantic Region port established, we are able to support workers there too.*
- Connecting to Migrant Support Organizations in their regions: Workers must be provided contact information of support organizations in their respective regions before departing from these hotels. We are able to provide contact information of support organizations in Alberta, British Columbia, Manitoba, Nova Scotia, Prince Edward Island, Ontario and Quebec.
- No cost to workers: Hotel quarantine should be free. This includes no additional costs for food in the case where meals provided are insufficient.
- Safe transportation: Safe and dignified transportation must be provided between airport, hotels and migrant worker housing.
- Adequate, sufficient, and culturally appropriate meals: Recent media reports indicate that there is food and water shortage during hotel stays for citizens. It is essential that migrant workers receive sufficient food that is culturally appropriate and considerate of dietary requirements, including those due to medical conditions and/or religious practices. Many workers cannot eat the food being provided, and volunteers are prohibited from bringing in donations. Workers cannot purchase food at cheaper prices; hotel food is incredibly expensive.
- Anti-racism measures: Migrant workers in Vancouver, BC placed in hotels in 2020 complained about derogatory and racist treatment by hotel staff and neighbours. Comprehensive measures must be put in place, including complaints mechanisms for mistreatment.
- Fresh air: All workers in quarantine must have daily access to the outdoors to maintain physical and mental health.
- Language and accessibility: Someone must be available to respond to worker concerns in their language at all times. All information provided to workers, including what to do in case of emergencies, and how to raise concerns must be provided in workers' first language. All written information must be provided verbally for workers that are unable to read. This includes workers whose first languages are Indigenous languages in Mexico, and not Spanish.
- Rights information and services: Workers must be provided their contracts, information about labour rights and health services during their stay at these hotels. Social Insurance Numbers and health cards can be processed here too. Health care providers must be available at all times.

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- Take-home COVID-19 tests: Migrant workers will be given tests to take personally on the tenth day of their stay once they have left these facilities. Information about these tests must be clearly explained, it is likely that some workers will not be able to understand how to do the test properly. If workers fail to conduct the test or do not submit information, they must not be penalized.
- Supporting COVID-19 positive workers: Clear plans for workers that test positive for COVID-19 must be announced, and shared with workers on arrival.
- Vaccination: Vaccines must be offered to workers at hotels. These vaccines must not be mandatory or coercive, workers must be provided clear guidelines about the value of vaccines as well as their right to say no.

Pre-arrival testing for migrant workers

Migrant workers are paying approximately CAD \$800 in Mexico to get access to pre-arrival testing. This cost includes often travelling to cities where testing is available but where rates of infection are high. Travelling to other cities has resulted in some workers being infected while trying to get a test.

As all workers are now being tested on arrival, we recommend that the requirement for testing before boarding a flight be removed.

Further, we ask the federal government to compensate workers for the tests they did take. Most workers had to go into debt to take the test and are facing significant economic hardship.

Rights for migrant workers during quarantine and after

COVID-19 outbreaks have continued on farms and food processing facilities. Changes must be made to ensure that the crisis that took place in 2020 does not continue and grow in 2021.

Specifically, we recommend that during quarantine:

- A number of measures that we outlined above in Migrant worker hotel quarantine beginning March 21st need to also be put in place for quarantine coordinated by employers as well as housing and working in Canada during COVID-19. This includes (i) Connecting to Migrant Support Organizations in their regions; (ii) Safe transportation (iii) fresh air (iv) language and accessibility, (v) rights information and services, (vi) Take home COVID19 tests (vii) Supporting COVID-19 positive workers and (viii) Vaccination.
- Employers must be required to enable self-isolation and quarantining.
- Employers must provide wages to workers during the quarantine period. Many workers reported not being paid, or their pay being treated as loans or advances on their pay. Employers must be required to prove that they paid workers, instead of waiting for workers to complain.
- Employers must ensure meals for workers during their quarantine period for free, without deductions. These meals must be prepared by an unrelated third party catering company and the

meal plan must be reviewed and approved by a qualified nutritionist (as outlined in existing SAWP contracts) and be culturally appropriate. Many workers complained in 2020 about being overcharged for food, or not having enough food while employers restricted access to grocery stores, vendors and volunteers. Workers must also be provided adequate hygiene products, and other essentials such as soap, laundry detergent, etc.

- All health assessment and follow-up support must be done by public health officials without the involvement of employers. Where workers are symptomatic, and with worker permission, public health officials can coordinate with employers to ensure workplace health and safety is upheld.
- Workers' ability to reach social supports must be facilitated through guaranteed wireless internet access, ensuring workers get a local SIM if they need it.

Following quarantine, and during the entire season:

- Migrant workers must not be restricted to their farms and housing. Despite communication from ESDC, employers have continued to bar workers from receiving visitors or vendors or leaving the premises to get social supports, healthcare, groceries or even to send remittances.
- Migrant workers must be able to physically distance at work and at home. Congregate settings make it impossible for workers to protect themselves from COVID-19 outbreaks.
- Migrant workers must be able to request a test through direct contact with local public health agencies, and results of their tests must be provided to them. All workers must be provided with a phone number to ask for a test, and tests must be provided within 24 hours of a call.
- Decent work conditions and health and safety protections must be mandated and proactively enforced.
- Specific policies must be created in case of outbreaks, including:
 - As soon as a single worker shows symptoms, all work must stop. In a number of reported cases, employers increase work while awaiting results of testing in preparation for a potential suspension of work during quarantine. This practice forces workers to be in closer proximity and is one of the most common causes of larger outbreaks.
 - As soon as a single worker has tested positive, all workers must be informed so that they can act accordingly.
 - Names of farms with outbreaks must be publicly released every day so that migrant worker supporting organizations can support workers.
 - Sanitization of workplace and housing if workers have tested positive must be the responsibility of employers not workers.
- Specifically for migrant workers where housing is not provided by employers:
 - Employers must be responsible for ensuring workers have decent housing conditions in circumstances where there are relationships between employers and the landlords (if the employer refers the workers, or if employers and landlords are related, etc);
 - If the employer is not connected with the landlord in any way, they must provide information about adequate housing requirements and support workers to make complaints if housing is sub-standard.

Proactive enforcement mechanisms

A responsive monitoring and enforcement system must be set up, in consultation with migrant worker organizations like ourselves, to ensure the protections outlined above are accessible to migrant workers.

At a minimum, this enforcement and monitoring system must include:

- A dedicated joint enforcement unit established of federal and provincial authorities, building on Employment and Social Development Canada's compliance unit. Contact information about the enforcement unit must be shared with migrant worker organizations and migrant workers;
- The enforcement unit must assess fields, farms, greenhouses and housing conditions prior to workers arrival to ensure physical distancing is possible and health and safety rights protected including cooking, cleaning and washing facilities are adequate;
- A 24-hour accessible telephone hotline and web interface for workers to confidentially and anonymously make complaints about employer non-compliance in their own languages, or through third parties such as migrant worker support organizations, including through photos and videos. The unit must respond to every complaint;
- The enforcement division must do swift, unannounced inspections on employers where complaints have been made, in coordination with local public health officials and always include federal and provincial labour officials. During unannounced inspections, workers must be interviewed in their own language, individually and separately from other workers and employers unless workers specifically request an off-farm support person to participate with them;
- Non-compliance should be met with fines that will incentivize compliance. In addition, specific measures must be enacted to ensure workers are appropriately compensated where employers put their lives at risk through non-compliance;
- Workers must be provided information on how to make labour complaints and how to access the Open Work Permit for Vulnerable Workers;
- Results of inspections must be provided to all workers, as well as to those that provided complaints over the hotline if they provided their contact information.

Blacklisting of seasonal migrant workers

Because of the pandemic, many more farm workers were forced to speak up and ask for basic rights in the 2020 season. This is because:

- When workers arrived in Canada, they were placed in quarantine. While in some regions, this quarantine was managed by provincial authorities, in Ontario this responsibility was left to employers who abused these measures by unduly restricting workers' mobility and freedom. Many workers were not able to access basic food supplies, healthcare or other necessities such as phone access or remittance services;

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- At the height of the pandemic, migrant farm workers were falling ill at a rate 11 times that of frontline healthcare workers. At least 1,600 were infected, 3 died. Basic safety measures to protect against the spread of COVID-19, including physical distancing and provision of PPE, were not taken by most employers.
- Infected workers were also often placed in quarantine with inadequate access to food, healthcare or social support; and
- As a result of border closures and travel delays, many migrant workers faced labour intensification without increased compensation.

Those that commented in the media, such as Mexican citizen Gabriel Flores, were fired as punishment. But the many others that simply asked for adequate food or breaks were told that they would not be hired back.

Now as the 2021 season begins, many workers have not been invited back. Despite the prohibition against “blacklisting” in the Seasonal Agricultural Workers Program, and that reprisals are illegal under provincial labour legislation, there are no effective mechanisms in place to ensure workers do not face this type of reprisal.

This is an urgent concern. Workers know from experience that blacklisting is a common practice that will only be worse this coming season. When one worker is not called back as a reprisal, it has a long-term chilling effect on other workers by sending a clear message that those who speak up will be punished. Employers use this type of reprisal as a form of collective discipline and punishment. Already this year we have heard many instances of employers - on farms where there were COVID outbreaks - telling workers that because someone complained to authorities, they will no longer be calling “any Jamaicans” or “any Mexicans” next year. This threatens the future of labour and human rights in the program.

We urge you to develop immediate and effective solutions to ensure workers are able to return in 2021, as you work towards long-term systemic changes to ensure workers can safely assert their rights, beginning with full and permanent immigration status for all. Immediate solutions can include:

1. Guaranteed re-entry process for migrant workers who have previously come to Canada, so that workers are not dependent on employers to be able to return to work;
2. Workers who are not invited back should be granted access to an expedited review and reassignment process such that they can return in time for the 2021 season;
3. Workers in sending countries should be able to raise concerns about farms and request a placement elsewhere. These requests should be automatically granted, and must be accompanied by guaranteed protection against reprisals for having raised such complaints;
4. A mechanism must be established for workers to complain about employers that have reprimed against them in the form of non-invitation. This complaints mechanism must trigger an investigation of those employers by the Canadian federal government. A list of employers found to have engaged

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in blacklisting must be made public in Canada, be shared with sending country governments and made publicly available to workers before they begin their applications for the upcoming season.

Vaccination for migrant workers

We urge you to implement recommendations in the letter from Migrant Rights Network dated February 22, 2021. Specifically, we call on you to ensure that:

- Vaccination are provided free of charge;
- Vaccination does not require a health card or health coverage;
- Names, addresses or other identifying information should not be required for vaccination because migrant and undocumented people are fearful of sharing this information;
- No ID information should be shared with federal immigration enforcement;
- Vaccine must be accessible (in rural communities, to those who don't speak English or French, don't have access to a computer, telephone, etc), specific mechanisms must be developed for migrant food and workers in rural areas;
- COVID-19 vaccination should not be coercive or mandatory. This is a particular concern for food and farmworkers where employers have already informed workers that they must get vaccination or they will face reprisals. To protect against this, anti-reprisal protections and permanent resident status must be ensured for migrants that speak up about workplace issues;
- Vaccine providers must be trained so that they don't turn away people who don't have health coverage are fearful of sharing their ID or are hesitant in some way;
- Anti-racist public education is necessary to address vaccine hesitancy. Migrants have well-founded reasons to distrust medical systems because of histories of violence and coercion;
- Universal healthcare for all; and
- Full and permanent immigration status for all.

Thank you for your attention to these matters. Please contact us with any questions at info@migrantrights.ca.

Food & Farmworker Working Group of the Migrant Rights Network

AMexCal - Alberta

Cooper Institute - Prince Edward Island

FCJ Refugee Centre - Ontario

Immigrant Workers Centre - Quebec

Migrant Workers Alliance for Change - Ontario

Migrante - Alberta

No One Is Illegal Halifax - Nova Scotia

Northumberland Legal Clinic - Ontario

Parkdale Community Legal Services - Ontario

RAMA - British Columbia

Sanctuary Health - British Columbia