



Migrant Agricultural Workers in Alberta

INTRODUCTION

Every year in increasing numbers, thousands of migrant agricultural workers travel from Mexico and the Caribbean to work on Canadian farms as seasonal labourers. Although the program has been in place since the late 1960s, very few Canadians even know that a program facilitating temporary migrant agricultural work exists in Canada. The program operates with little public scrutiny or accountability.

While the vast majority of migrant workers are employed on farms in Ontario, the program also operates in Alberta and has the potential to increase in the future due to changes in the agricultural industry in the province. At a recent meeting in Mexico, Prime Minister Jean Chretien also mused about extending the program to other sectors.

This paper will discuss the history and structure of the program for seasonal agricultural workers in Canada, look at the legislated and actual rights and conditions of migrant workers, and make recommendations regarding the program to ensure that Canada is meeting its obligations to workers' and human rights.

Background of the Seasonal Agricultural Worker (SAW) Program

In the mid-1960s, a period of tight labour markets and

upwards pressure on wages, a number of fruit and vegetable farmers in Canada began to hire migrant workers from Jamaica to meet individual needs for seasonal work at relatively low cost. In response to this perceived need and to facilitate the transfer of temporary foreign workers, the government of Canada negotiated a series of bilateral agreements on seasonal agricultural workers. The first was with the Government of Jamaica in 1966, followed by a number of Commonwealth Caribbean countries the following year, Mexico in 1974, and the East Caribbean States in 1976.

The program is typically referred to as the Caribbean and Mexican Seasonal Agricultural Workers Program (CMSAWP), although there are actually two agreements which employers enter into: the Commonwealth Caribbean Seasonal Agricultural Worker Program and the Mexican Seasonal Agricultural Worker Program.

The primary administrator of the program at the Federal level is Human Resources and Development Canada (HRDC), but also involves Citizenship and Immigration Canada (CIC) and the Department of Foreign Affairs and International Trade (DFAIT).

Initially, HRDC set a quota for the program, but complaints by employers of continuing problems of labour shortages led to the 1987 decision to move to a more market-driven model. The program was largely decentralized and the management of the SAW program was privatized.

The decision was made to more directly involve agricultural industry employers in the administration of the program, and a non-profit organization called FARMS (Foreign Agricultural Resource Management Service) was created to administer the program in Ontario, the province with the most SAW workers. In Quebec, the administration of the program is with FERMES (Foundation des Entreprises en Recrutement de Main-d'oeuvre Agricole Etrangère).

Both FARMS and FERMES are funded by user fees paid by farmers who make use of the SAW program. In Alberta, direct administration of the program is maintained by HRDC due to the relatively small numbers of workers involved, although there are currently discussions being carried out by HRDC within the prairie provinces to create some form of collective administrative structure similar to FARMS.

There is relatively little statistical information available on migrant agricultural workers in Canada, especially outside of Ontario. Since its establishment in 1966, the SAW program has grown dramatically. In the first year of the program, it brought 264 seasonal workers from Jamaica to work in Canada. By the time the direct administration of the program by HRDC was ended in 1986, it had grown to 5166 workers. With quota restrictions lifted, the number of workers had more than doubled by 1989 to 12 237.

In 2000, just over 16 700 workers participated in the program. Almost 90 percent of these workers are employed in Ontario, but Quebec, Nova Scotia, Manitoba and Alberta also host workers. New Brunswick, Prince Edward Island, and Saskatchewan have either joined or are in the process of joining the program.

The concentration of workers in Ontario is due to the fact that the labour-intensive greenhouse industry in Ontario is the largest in North America. In contrast, much of the harvesting in the prairie provinces is performed by farmers or contractors using mechanical combines and thus requiring less handiwork. The growing interest in the program in the prairies is, in part, a response to the expansion of intensive livestock operations and the resultant need for increased numbers of workers.

In Alberta, the number of migrant workers employed under the SAW is small relative to Ontario and Quebec. In 1994 there were 129 migrant workers on farms in Alberta, by 1998 the number had only grown to 146, and for the 2001 season, the most recent for which figures are available, there were 180 migrant workers on Alberta farms. These workers are employed on fewer than twenty farms in the province, primarily for the harvesting of field crops such as onions, potatoes, and beets in Southern Alberta. Almost all of the migrant workers employed in Alberta are from Mexico.

It should also be noted that there are migrant agricultural workers in Canada who do not fall under the SAW. In Alberta, a number of apiarists work as bee-keepers and many Mennonite farm workers who reside outside of Canada but maintain Canadian citizenship migrate annually to work on farms.

Problems with the SAW

At one level, the seasonal agricultural worker (SAW) program is mutually beneficial. Employers are able to meet demand for seasonal labour and workers are able to earn income at wages which are higher than would be available at home. It should be noted that the majority of employers treat their workers with respect and follow the regulations.

However, a system in which unemployed workers from developing countries are brought to Canada to do work that Canadians are unwilling to do is a system inviting exploitation. Problems have emerged about the conditions workers in the program are forced to endure, and stories of abuse of the system by employers is common. In a 2001 report, the Anglican Church stated:

Here in Canada and in other host countries, there are migrant workers who work in conditions where they are exposed to danger and are vulnerable to exploitation, human rights abuse, and violation of their legal rights. Host countries, including Canada, have some policies, laws, and practices which discriminate against migrant workers or treat them less favourably than nationals.

Much of the information available comes from the work of the United Food and Commercial Workers who have been working with migrant workers in Ontario since they started the *Global Justice CareVan* in 2001.

Repatriation and Rights

The biggest problem with the SAW program is the constant fear of repatriation that workers live under. Workers can be sent home before the end of the work term for almost any reason. There is no worker representation, no appeals process, and following a call from the farm worker to the appropriate consulate, workers are often on the plane home within a day. If less than half their term has been completed, the workers themselves may be charged the cost of airfare to return.

These conditions create an atmosphere of fear in which workers are reluctant to complain about unfair work practices, poor working conditions or problems with pay. Workers are far more likely to be sent home and blacklisted by employers than having their concerns addressed. Since the workers depend on the salaries they receive, and many workers return year after year at the employer's request, the chill factor is very real and practically encourages abuse by employers.

In both Ontario and Alberta, agricultural workers have no rights to union representation, although a recent Supreme Court decision means that both provinces will have to change the laws to allow workers on farms to join unions. It remains to be seen what form these changes will take in Alberta. Even with union representation, however, the fear factor would still exist as it is completely at the employers discretion whether or not to bring workers back each year.

Finally, migrant farm workers, many who have worked seasonally in Canada for years, are not allowed to apply for residency status as are migrant workers who work as live-in nannies. Years of working on Canadian farms are not reflected in any way when applying to become a Canadian citizen. In fact, the program prefers young workers with spouses and children at home so they will have incentive to return home once work is completed.

Wages

Migrant workers are to be paid the greater of: the provincially determined agricultural wage, the prevailing provincial agricultural wage as determined by HRDC, or the rate being paid to Canadian-based workers performing the same work. Because of the small size of the program, wages in Alberta are set at \$7.50 per hour.

UFCW has cited shortfalls relative to Canadian workers and express concerns over how the rate is determined. For example, according to HRDC, the average starting hourly salary for general farm workers in Alberta is \$10.20 per hour.

There are also problems relating to receiving vacation pay, with some workers having portions withheld to the end of the contract, and others receiving nothing.

Workers are also required to pay Employment Insurance premiums, despite the fact that workers are repatriated at the end of their contract or if they are dismissed for any reason. UFCW has calculated that in 2000, contributions to EI from migrant workers totalled over \$11 million.

While systems are in place with Mexican consulates to ensure wages and deductions are correct, verification is almost impossible since there are only three representatives for all the Mexican workers in Canada.

Living Conditions

The SAW agreements state that the employer must provide housing for workers free of charge. Guidelines for accommodation are set by the Ministry of Health and monitored and enforced through regional public health agencies. Inspections are usually done only once and typically before workers arrive.

Complaints about living conditions have occurred despite the constant fear of repatriation that exists. Cases of up to 25 workers being housed in a single house have been reported, as have problems with broken plumbing and toilets, dripping ceilings, inadequate hot water, mould and other substandard conditions. Some workers have noted that conditions are better in their home countries.

It must also be mentioned that these workers are living in isolated communities, away from their families for up to eight months a year. Language barriers impact their interactions in Canada, and isolation and lack of recreation and socialization have resulted in alcohol abuse and depression in many of the workers.

Hours of Work

Workers may be brought to Canada for up to eight months per year. Employers must provide employment of at least 240 hours over six weeks. There is no published information about actual hours worked, but informal surveys have shown that some workers average 12 to 15 hour work-days. While they are meant to provide days of rest, language in the agreements state that workers may be required to work longer than 8 hours a day or more than 6 days without rest "where the urgency to finish farm work cannot be delayed."

Another problem is that the workers themselves are often eager to work extended hours in order to maximize the amount earned while in Canada.

Health and Safety

In Alberta, as well as in Ontario, agricultural workers are excluded from health and safety legislation. Health and safety concerns associated with agricultural work, especially around the use of pesticides are made worse due to the language barrier of many workers. While regulations exist, the limited resources for inspections and enforcements mean that effective enforcement is often difficult and insufficient.

Workers' health care costs are covered under provincial health plans, but medicines are not included. Delays in registration and receipt of health care cards means that workers sometimes need to pay for treatment up front. Farmers are often unwilling to give workers time off to see a doctor. In cases of extreme injury, workers may be sent home rather than allowed time for rehabilitation in Canada.

CONCLUSION AND RECOMMENDATIONS

At present, the issue of seasonal agricultural workers is not a major one in Alberta as it is in Ontario. However, there are reasons that the AFL and its affiliates should monitor the growth of the program here.

First, changes to the agricultural sector, in particular the issue of factory farming, may lead to an increase in the number of employers who subscribe to the program. The recent Supreme Court decision supporting the right of agricultural workers to join unions could impact where the program goes in the future.

More importantly, during a visit to Mexico in early March, Jean Chretien spoke of using the SAW model to help employers in other sectors, including hotel meat-packing and construction industries, deal with labour shortages. Pilot projects involving 40 Mexican workers at Fairmont Hotels in Banff and Lake Louise and about 200 Mexican workers at a meat-packing plant in Winnipeg show the importance of the labour movement monitoring the expansion of the SAW and similar problems.

Allowing migrant workers to fill jobs which the employer chooses to undervalue may become an effective anti-worker strategy in many sectors in the future. The SAW program provides the means by which agricultural producers in Canada are able to maintain artificially low wages, and thus artificially low prices for the commodities they produce. The reason cited by employers for their inability to improve working conditions is consumer unwillingness to pay higher prices for food coupled with increased competition, most notably as a result of NAFTA. As a document produced by FARMS in 1995 put it:

In the age of GATT and NAFTA, the citizens of Canada and their elected representatives have a choice. They can purchase and consume products that are:

- (a) grown in California harvested by Mexicans*
- (b) grown in Mexico harvested by Mexicans*

(c) *grown in Canada harvested by Mexicans.*

While definitely a racially biased overstatement, it does have a grain of truth to it. By design, the expansion of free trade in the Americas has impacted the ability of Canadian companies to compete and put downward pressure on wages and working conditions. The creation of a controlled continental workforce who cannot unionize and do not have legal protections is an extension of the free trade ideology, and has been discussed by some Canadian trade representatives in the past.

In the short term, the AFL can:

- monitor the SAW program for growth in subscriptions to the program in Alberta, and especially the extension of the program to other sectors;
- request more information about employers in Alberta who are using migrant labour in Alberta to facilitate more effective monitoring and public scrutiny;
- continue to be involved with the process of the labour law review to ensure that changes related to agricultural workers' rights to unionize are made

- and allow for full union participation;
- support the campaign run by UFCW and the CLC to push for rights for migrant agricultural workers, which asks the federal government to:
 - o transfer the administration of the SAW program to the Ministry of Labour which has more expertise and ability to enforce labour standards;
 - o mandate that any province participating in the SAW include agricultural workers – including migrant workers – under health and safety legislation;
 - o provide training and employment services to migrant farm workers from the payments migrant workers have been making to EI for over 30 years;
 - o institute a national bipartite board made up of representatives from the federal government and the Canadian Labour Congress to develop national standards for working and living conditions and methods of implementation, monitoring and enforcement to oversee the standards.

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