A Voice for the Silenced: UFCW Canada and the National Campaign to Empower Vulnerable Migrant Agricultural Workers

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Responses
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Introduction

Migrant agricultural workers have become an enduring, yet invisible, fixture in the Canadian labour market — seasonally emigrating from their home countries to toil in the fields of Canadian farmers, who are unable to employ local workers in such dirty low-paid labour. While an integral part of the Canadian labour scene, migrant agricultural workers’ contributions have historically been devalued. By contracting temporary foreign workers, rather than local workers, employers and the state have minimized agricultural workers’ access to social services and employment rights — allowing for greater economic gains. Seasonal migrant agricultural workers have been coming to Canada for almost fifty years, through temporary foreign worker programs that were established as a way to fill the growing void of domestic workers unwilling to assume this type of work.

The Seasonal Agricultural Worker Program (SAWP) and the Temporary Foreign Worker Program (TFWP) provide local farmers with the means to seasonally contract foreign workers who come from economically marginalized countries. While there are great benefits to temporary foreign worker programs, the lack of protections and regulations has allowed exploitation to be commonplace. Seasonal agricultural workers from poorer countries are reluctant to speak out against health and safety hazards and human rights violations for fear of not being granted the opportunity to return to work in Canada — which, for migrants, has become an economic necessity.

As a vulnerable group, migrant agricultural workers require local assistance to ascertain rights and benefits that pertain to them, but often denied by employers and the state. By educating and empowering migrant agricultural workers, local support systems help to decrease the vulnerability and invisibility of a group of non-permanent workers with little to no knowledge of how to gain access to certain information on basic human rights. Temporary migrant workers are restrained from campaigning for improvements to their working and living conditions and, as a result, groups such as the United Food and Commercial Workers (UFCW) and the off branching Agricultural Workers Alliance (AWA) become vital lifelines. Over the years, the UFCW and AWA have been the strongest advocacy groups and ultimately most accessible support systems for temporary migrant agricultural workers in Canada. For migrant workers, the union has become an inclusive resource and form of support in a country where they know little to nothing about what they are entitled to or how to campaign for certain rights.

Before engaging in a discussion of support and assistance provided to migrant agricultural workers, it is necessary to outline the structure of SAWP and TFWP to gain a stronger understanding of the institutionalized vulnerability of temporary foreign workers. This will be followed by an outline of outreach and support the UFCW and AWA provide to migrant agricultural workers, while also scrutinizing the various risks and challenges that the union is trying to confront and then ending with an overview of the UFCW national campaign to unionize agricultural workers in Canada. Through the efforts of the UFCW and AWA, the rights of migrant workers in the agricultural sector are slowly improving. The objective of the UFCW and AWA is to educate seasonal agricultural workers on the rights they are entitled to but, more importantly, on the value of unionization. Since migrant agricultural workers coming to Canada are denied access to the resources that can help them challenge poor working and living conditions, UFCW Canada has
become a vital and necessary group for outreach and advocacy in an workplace environment where temporary migrants are set up to fail.

Agricultural Worker Programs

In recent years, there has been a growing demand for unskilled, cheap, and flexible workers in Canada, given the unwillingness of local nationals to take on arduous, unstable, low-paying jobs. In response to the mounting pressure from local farmers, the Canadian government was forced to adopt the Caribbean Seasonal Workers program, now known as the Seasonal Agricultural Worker Program (SAWP), in 1966, initially contracting seasonal workers from Jamaica and various other Caribbean countries to fill in the void of agricultural labour on Ontario farms. In 1974, the Canadian government also negotiated a bilateral contract with Mexico. Today, Mexicans are the largest number of seasonal agricultural workers contracted in all of Canada, the large majority being found in Ontario.

Under the SAWP, a Memorandum of Understanding (MOU) is established between Canada and the labour-sending countries at the intergovernmental level. The MOU requires participating countries to acknowledge the objectives of the program, the steps involved, and the role of the participants. By formalizing matters in such a fashion, the Canadian government is able to safeguard itself from exploitative practices associated with private labour contractors and illegal migration (Brem 2006). In addition, SAWP agreements guarantee participants many of the same rights and benefits as domestic workers, including accommodation, access to health coverage and medical attention, clause on normal hours of work, provision of training, amongst other stipulations.

Administrators of the program claim that their main goal is to ensure economic prosperity for both Canada and foreign workers; however, Bauder (2006) insists that, as the labour-receiving country, Canada benefits far more than any of the labour-supplying countries. Bauder (2006, 157) argues that the SAWP was implemented to benefit the Canadian agricultural industry and provide a “disciplined and flexible labour at the lowest possible cost to the Canadian growers.” With no concern for the welfare of the sending country or the needs of seasonal workers, the program functions in favour of the Canadian industry. The UFCW (2009) report on the Status of Migrant Farm Workers in Canada draws attention to the failures of the program to ensure respect of workers’ rights. The main drawbacks being that migrant workers have no input in the structure of the program or any say about their working and living conditions.

Rather than improving upon the SAWP in order to develop it into a stronger program, the federal government expanded on the Temporary Foreign Workers Program for Occupations Requiring Lower Levels of Formal Training (TFWP), in order to recruit more seasonal farm workers from various other economically marginalized countries. The low-skilled foreign worker program was established in 2002 as a means of recruiting low and medium-skilled workers for various sectors. What differentiated the TFWP from the SAWP is that it does not require bilateral agreements between Canada and the labour-sending states to contract migrant workers temporarily. Instead, companies can now recruit temporary migrants from any country without bilateral agreements limiting the selection process. While the program was initially introduced by Human Resource and Social Development Canada (HRSDC) to fill demands in Canada’s meat, construction, and tourism industries, in 2003, Fondation des entreprises pour le recrutement de la main-d’œuvre étrangère (FERME) was also able to obtain permits for Guatemalans to work on farms in Quebec. Since then, foreign workers from South Asia and Central America have been recruited onto farms all across Canada. In establishing the TWFP, the federal government intended to expedite the process of selecting foreign workers and convert immigration into a more efficient and competitive process. While the program provides employers and the state with greater economic benefits, foreign workers are granted less protection and supervision of rights than under the SAWP.

Both programs have been criticized for disempowering migrants and creating a vulnerable pool of seasonal agricultural workers, taking advantage of their temporary status and lack of knowledge regarding such issues as employment rights, health and safety standards, and how to gain access to certain rights and benefits (Basok 2002, Brem 2006, Preibisch and Binford 2007, Hennerby 2008, Fudge and MacPhail 2009,
McLaughlin 2009). With over 25,000 seasonal agricultural workers in Canada, advocacy and support become integral to the improvement of living and working conditions in an industry that poses various health and safety hazards and risks.

**Outreach and Advocacy: UFCW and AWA Support for Migrant Agricultural Workers**

As non-citizens, migrants are forced to confront a series of limitations rendering them vulnerable to exploitative living and working conditions. Seasonal migrant workers labouring in rural Canada do not have the same opportunities as many other newly-arrived immigrants settling in cities across the country. Immigrants in larger urban areas are more likely to be granted support from local social networks built upon shared commonalities, such as ethnicity, nationality, culture, and language. Sabar (2002) maintains that these social networks help immigrants adjust to their new social environment by granting them access to contacts and information that support their endeavours in the new community. Social networks are a key component to support systems of newly-arrived immigrants who have minimal if any knowledge of their new host communities. Unlike many other immigrants who settle in larger urban areas, migrant farm workers are sent to rural areas where there are few if any immigrants of the same ethnic background in the community. Without the proper network based support, many migrant farm workers are isolated in the rural communities of Canada, uncertain as to whom to turn for support and guidance (Basok 2004).

Support systems play a pivotal role in the lives of immigrants who have minimal knowledge of their new environment and are unable to navigate the Canadian legal system alone. Organizations, constituencies, and other political bodies that provide outreach through advocacy, education, and assistance have become an integral support system to temporary migrant farm workers in Canada. These groups battle to provide the support and guidance needed to maintain a respectable quality of life while migrants temporarily live and work in their host community. Even though migrants require the assistance of support systems to gain access to certain rights and benefits, extension of such recourse to seasonal farm workers has been a difficult undertaking for the UFCW and AWA.

UFCW Canada has been a pivotal support system, providing outreach for migrant agricultural workers since the mid 1990s and acting as a leading force in the effort to improve their working and living conditions. Agricultural workers support centres, funded by UFCW Canada, have been opened all across Canada to meet the needs of migrant agricultural workers. In 2002, the first agriculture workers support centre was set up in Leamington, Ontario and, since then, another nine support centres have been opened in: Abbotsford, BC; Kelowna, BC; Surrey, BC; Portage la Prairie, MB; Bradford, ON; Simcoe, ON; Virgil, ON; St. Remi, QC; and Saint-Eustache, QC. Support centres have become a vital lifeline for migrant agricultural workers all across Canada. For UFCW, support centres provide them with an opportunity to have close contact with agricultural workers, even though they are unable to legally bargain on their behalf. For Walchuk (2009, 159), UFCW’s outreach to migrant agricultural workers provides a vital lesson for other unions, “a union organizing drive should not be abandoned if the union cannot get enough cards signed to prompt a vote, nor should it necessarily be abandoned following an unsuccessful vote.” The support centres provide a positive, friendly environment educating workers on their basic rights, but importantly valuing the sacrifices and dedications of marginalized migrants.

In 2008, the UFCW enhanced its efforts through the establishment of the Agriculture Workers Alliance (AWA), a national advocacy and support network for both domestic and foreign workers under the SAWP and TFWP. According to the UFCW Canada (2009, 7), both UFCW and AWA “stand as Canada’s most comprehensive resource of support and outreach to seasonal and temporary agriculture workers.” The centres are there to provide agricultural workers with various forms support and advocacy services at no charge. Staff and volunteers respond to a number of issues, which include assistance in: filing health insurance and prescription claims; cases of repatriation, claims for parental benefits; filing of income tax statements; worker’s compensation claims and entitlements for vacation pay; assessing deductions for
Canadians have the right to expect a safe and healthy workplace, free from exploitation and injustice. Critics of these programs have cited a series of problems and difficulties that migrant farm workers are forced to endure as a result of lack of mechanisms and legislation implemented to protect workers from exploitative living and working conditions.

Aside from helping workers in the support centres, staff and volunteers will also make visits to various farms and offer twenty-four hour hotlines. As a safeguard for the workers, these centres also deal with concerns regarding working conditions; hours of work; rest periods; inadequate training and knowledge and lack of proper equipment; transportations costs; and food and overtime pay.

Another integral initiative of the centres is educating workers through workshops on a variety of topics that can be utilized at their workplace. Workshops subject matter includes: ESL/FSL language classes; Health and Safety, Know Your Rights; Workers Compensation; Parental Benefits; Bicycle Safety; amongst others. There are also workshops that educate workers about employment standards acts, the Canada Pension Plan and Employment Insurance, and how to claim parental benefits. Migrant workers come to Canada with a limited educational background and little to no knowledge regarding provincial employment and health and safety standards and the Canadian legal system. For foreign workers, the workshops not only allow them to become more knowledgeable about employment standards and rights, but also act as educational tools for empowering migrants in the workplace.

Educating migrant agricultural workers on their rights at the workplace has been a major initiative of the UFCW and AWA. Three basic rights at the workplace, regarding health and safety, are taught to any agricultural worker willing or averse to associating with this union. According to UFCW Canada (2010), workers have the right: (1) to know about health and safety hazards and their employee rights; (2) to participate in any association and in keeping your workplace safe healthy; and (3) to refuse to do unsafe work. For migrants, the education provided to them by the support centres not only empowers them, but provides them with a sense of self-confidence knowing that they are being acknowledged and appreciated.

Aside from dealing with complaints and enquires, support centres establish a space of comfort and relief for the workers after long days of strenuous work. One staff member at the St. Remi, Quebec support centre remarked, “It is a space for them to sit and chat and chill and to talk about what happened on that farm or this farm. It is an articulating centre. It is important for them to have that space and the centre provides that space.”

One of the more integral initiatives of UFCW and AWA has been the mobilization and unionization of agricultural workers, as a means of protecting them from exploitative working and living conditions. Not only is UFCW’s unionization initiative helping to empower agricultural workers on Canadian farms, it is also building solidarity with agricultural workers all across Canada. The UFCW’s attempt to unionize workers has forced them into provincial courts, reconstructing labour rights as human rights and relying on the Canadian Charter of Rights and Freedoms to protect and promote the rights of agricultural workers. According to Walchuk (2009, 152), “they have moved beyond a sole reliance on the provincial legislature to foster progressive social and economic change.” The UFCW sees itself as a leading voice for seasonal agricultural workers in Canada, advocating to not only improve the lives of workers but to also uphold the integrity of the agricultural industry.

There are a series of mounting problems and issues that migrant farm workers are forced to confront while in Canada, linked to the double disadvantage of being: (1) employed in sectors that are defined as precarious and (2) denied access to rights allotted only to members of the labour-receiving society. While bilateral agreements and/or contracts established between the participating parties (governments, administrators, employers, and employees) of the SAWP and TFWP assure the provision of certain labour rights, the implementation of these rights has continually failed. Academics and various other critics of these programs have cited a series of problems and difficulties that migrant farm workers are forced to endure as a result of lack of mechanisms and legislation implemented to protect workers from exploitative living and working conditions.

Often referred to as “unfree” workers, temporary labour has become a form of modern day slave labour restricting the movement and freedom of seasonal migrant agricultural workers (Basok 2003, Sharma 2006). While a worker contracted through the SAWP still has the opportunity to change employers and return to
Canada, foreign workers contracted through the TFWP are not provided the same option. Nevertheless, for workers under the SAWP, it is not an easy process to transfer between employers, as repatriated workers are not provided with access to a formal appeals process. Migrants will often be sent home for being sick or injured while working in Canada, since employers can easily repatriate workers under either program without much recourse. The fear of easily being sent home pushes migrants to stay silent and not speak out against certain abuses.

Another way the employers have been able to intimidate migrant workers has been by retaining their passport, health insurance card, bank cards, and other important personal documents. Retention of these documents has granted employers a dangerous level of control over workers who must already deal with a variety of other difficulties.

According to a study by the Canadian Agricultural Injury Surveillance Program (2008), agricultural labour is the third most hazardous occupation in Canada and results in over one hundred deaths annually. There are numerous health and safety issues that workers must deal with both in and outside of the workplace, as the current living and working conditions of Canadian farms pose a number of health risks for agricultural workers. In the agricultural industry, migrant agricultural workers must deal with occupational exposures and other conditions common to farming which, according to McLaughlin (2009), includes: pesticides, noise, sun, awkward work positions, use of machines, and long hours. Migrants’ immobility and difficulties communicating with an employer intensify these health and safety risks. What is more, workers will often not discuss health problems with their employers for fear of being sent back to their home country. Lack of proper training and not being provided with the proper equipment is a major issue that workers often have to confront alone. In addition to workplace health concerns migrant agricultural workers must also deal with poor housing conditions provided to them by their employers, which often entails overcrowded housing, poor facilities, poor sanitation and close proximity to pesticides (UFCW Canada 2009).

The UFCW has continually demanded that the federal and provincial government improve health and safety at the workplace. After mounting pressure placed on the provincial government in Ontario, through a legal case, agricultural workers were finally covered by the province’s Occupational Health and Safety Act in 2006. The province of Alberta, however, continues to exclude agricultural workers from protection under health and safety legislation (UFCW Canada 2009). For the past two decades, the UFCW has also been battling with the provincial and federal government to revise employment standards to improve workplace regulations of agricultural workers. Provincial governments are often criticized for not provided agricultural workers protections that are standard in other industries and, in effect, failing to implement and apply legislation that can protect the rights and health of workers (Fairey, et al 2008). Prohibited by provincial legislation to collectively bargain in Ontario and Alberta, agricultural workers have relied on the UFCW to improve workplace regulations. In British Columbia, the provincial government has taken a step backwards by reducing employment standards, including the reduction of wages of agricultural workers (UFCW Canada 2009).

With the largest number of migrant agricultural workers recruited from Mexico, the established relationship with the Mexican government has the potential to make significant improvements to the SAWP. Participation in the Mexican Congress Commission on Population, Borders, and Migration in 2007 and then hosting five Mexican federal deputies that same year has resulted in formal partnership with a number of Mexico stakeholders. UFCW was able to establish a partnership with the Ministry of Migrants in Michoacan state signing a migration worker protection pact in February 2009. The pact grants enhanced protections for migrant workers from Michoacan coming to Canada and are assisted by UFCW Canada along with the AWA. This is the first time in North America that a state institution has partnered with a civil society organization to extend services and assistance to citizens working outside the labour-sending country. The UFCW has also initiated efforts to commence dialogue with government officials from Thailand, Guatemala, and Jamaica (UFCW Canada 2009).

At the international scale, the UFCW had launched a file against the government of Ontario with the United Nations agency in March 2009. In addition, the UFCW Canada has also filed a formal complaint
with the International Labour Organization, claiming that Ontario’s ban on agriculture unions violates the human rights of Ontario farm workers (UFCW Canada 2009).

The Drive for Unionization

While the UFCW and AWA have achieved great strides through legal advocacy and lobbying government, the UFCW sees unionization and membership as the most effective way to empower marginalized seasonal agricultural workers. Historically, trade unions were unreceptive towards migrant workers as they were thought to pose a threat to the interests of domestic counterparts who had citizenship rights. According to Michele Ford (2006), contemporary trade unions are now adopting a protectionist sentiment as the number of poorly paid and mistreated migrants employed within their own national boundaries increases. Unions are no longer worried about the national origins of a worker; instead, they have become more interested in collectively organizing workers, overlooking socio-economic status. The task of collectively organizing migrant workers with an “unfree” status has proven to be difficult. Support centres’ efforts to organize workers who have no legitimate claims in Canada will not be easy. The high turnover of agricultural workers makes the tasks of organizing temporary migrants quite difficult since, by the time workers are organized and integrated, they may have already left the country. In addition, many do not know the language of the host country, live in isolated rural areas, and might be afraid of losing their jobs the following year (Schmidt 2006). This has not discouraged the Support Centre from standing alongside and supporting migrant workers in their efforts to strive for legal recognition.

The unionization initiative has the potential to advance the cause for just and fair treatment. Verma (2005) compiled a report on the implications and impact of migrant agricultural worker unionization in Canada, highlighting migrants’ need for assistance. If given the opportunity to represent migrant farm workers, unions would then be granted authority to bargain for the terms and conditions of the contract. The employment agreement would also be replaced by a collective agreement based on current labour relations law in the province. Verma (2005) explains that, while the role of government agents would be strengthened, unions would in turn mitigate grievances about working conditions and the enforcement of local regulations. Other advancements brought on by unionization would include increased wages and benefits and more job security. The role of the government agent would still be a critical component in the operation of the SAWP and FWP; recruiting workers; processing income tax returns, CPP and worker’s compensation claims; providing policy input, and negotiation with the Canadian government regarding the framework of migrant programs in Canada.

In Ontario, farm workers are currently prevented from joining a union, impeding the UFCW from formally organizing migrant agricultural workers in Ontario. A decision made by the Supreme Court of Canada (Dunmore vs. Ontario), in 2002, now permits migrant agricultural workers in the province to join associations; however, this does not grant them the right to carry out formal negotiations with their employer (Brem 2006). The establishment of the Agricultural Employees Protection Act was a huge step in the challenge to contest violations of workers’ rights under the Canadian Charter of Rights and Freedoms. The UFCW took it a step further and through the Court of Appeal for Ontario, in November 2008, the provincial government was told to drop the ban on farm unions as it violated the Charter rights of agricultural workers.

The filing for union certification at four farms, one in Manitoba and three in Quebec, largely employing migrant workers, in 2006, was a historical breakthrough for migrant agricultural workers all across Canada. Currently, four applications for certification are still in front of the Quebec Labour Relations Board, awaiting a response. In June 2008, agricultural workers from the farm Portage La Prairie in Manitoba accepted a three-year collective agreement that has the potential to improve their living and working conditions. This agreement stipulates a wage increase every year and also grants workers with recall rights, a grievance procedure and implements a new process for allocating overtime pay (CBC News 2008). In August 2009, PICS Farms, a hog-breeding operation in Malton, Manitoba, also ratified a first collective
agreement with UFCW. An additional two farms in British Columbia, Greenaway Farms and Florialia Plan Growers Ltd. were organized by the UFCW in 2008, but both employers have filed an appeal with the B.C. Labour Board (UFCW Canada 2009).

UFCW recognizes the importance of a regulated workplace, given the health and safety problems that have occurred in the past with food. In an unregulated workplace food becomes quite dangerous to Canadian consumers. The bottom line is the implementation of more effective regulations in the workplace will ultimately result in the production of better quality of food for the consumer. Through their outreach and advocacy, UFCW is not only helping to advance the rights and improve the working conditions of migrant workers they are also educating agricultural workers on the importance of a regulated workplace. UFCW Canada wants migrants to recognize the significance of a strongly organized workforce, which help to enforce regulations for proper inspection in health and safety and enforcement of laws and rights.

Conclusion

UFCW has proven itself to be not only a valuable resource for outreach and support, but also an essential voice and advocacy group for migrant agricultural workers who are unable and denied the opportunity to contest mistreatment and campaign for improvements in the workplace. Throughout their outreach and support efforts, the UFCW and AWA have campaigned under the slogan, “If they are good enough to work here, they are good enough to stay here.” UFCW and AWA are determined to improve the labour rights of agricultural workers, but more importantly continue to push for a safer, better, and more equitable way of life for all migrant agricultural workers. The outreach and advocacy efforts of the union not only bring awareness to the plight of agricultural workers, it ultimately empowers vulnerable migrants and creates a more equitable workplace. Temporary workers may be willing to engage in stigmatized dirty labour, but this does not dignify rendering them to unjust treatment. Both Canadian employers and the federal and provincial governments ought to recognize the need for drastic amendments to the regulations of the agricultural industry and foreign worker programs. Until then the UFCW and AWA will continue to educate and empower migrants on how to confront and deal with the many challenges and risks imposed upon them as a result of their temporary status.

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