



LABOUR WITHOUT BORDERS

TOWARDS A
MIGRANT
WORKERS'
BILL OF RIGHTS



ONTARIO FEDERATION OF LABOUR

TABLE OF CONTENTS

Guide to the Document	1
Part 1 - An Economic Snapshot of Migrant Workers in Ontario	3
Who Are Migrant Workers?	4
A Controversial Program	5
Labour Shortage or Low-Wage Agenda?	6
Province-Wide Picture of Migrant Workers in Ontario	9
Revealing the Corporate Agenda	12
Part 2 - Promoting Immigration, Not Exploitation	13
Migrant Workers' Bill of Rights	16
Next Steps: Towards an End to Exploitation	18
End Notes	20



Labour Without Borders • August 2013 • Ontario Federation of Labour (OFL)

The Ontario Federation of Labour (OFL) represents 54 unions and one million workers. It is Canada's largest provincial labour federation.

15 Gervais Drive, Suite 202, Toronto, Ontario M3C 1Y8

416-441-2731 • 1-800-668-9138 • info@ofl.ca

TDD: 416-443-6305 • FAX: 416-441-1893

www.OFL.ca  [OFLabour](https://www.facebook.com/OFLabour)  [@SidRyan_OFL](https://twitter.com/SidRyan_OFL) [@OFLabour](https://twitter.com/OFLabour)

This document was proudly produced with unionized labour: BSW//EG/JD/ss:cope343

GUIDE TO THE DOCUMENT

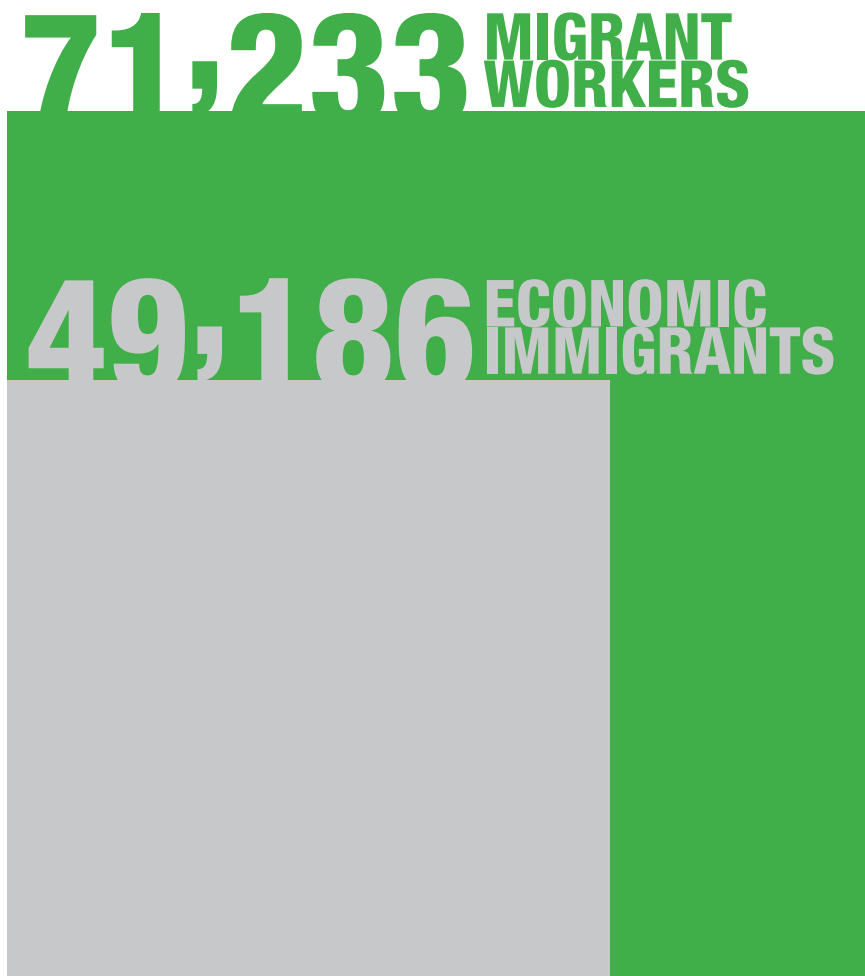
This backgrounder is meant to be an introduction for labour and community organizers to the issues surrounding migrant workers in Ontario. It provides a snapshot of both the shift from immigration towards a growing reliance on migrant workers and the experiences of migrant workers in Ontario.

Part I - An Economic Snapshot of Migrant Workers in Ontario, demonstrates that a shift from immigration to temporary migration is taking place, resulting in expanding numbers of migrant workers in Ontario. It goes on to debunk any economic justification for this expansion. The growing reliance on migrant workers has been justified as a response to a labour or skills shortage; however, a quick look at the facts and figures shows that this argument has no weight in Ontario. An economy-wide labour or skills shortage would be characterized by decreased unemployment, increased employment and significantly increased wages, but in Ontario between 2008 and 2012 overall trends have been just the opposite.

Part II - Promoting Immigration, Not Exploitation, lays out the rights of migrant workers in Ontario. For a variety of reasons migrant workers are vulnerable to exploitation. Community groups and labour unions have been working with migrant workers for many years and have documented some of the abuses and exploitation they face. Despite federal responsibility for driving the growth of the Temporary Foreign Worker Program, there are many practical steps the provincial government can take to address the exploitation of migrant workers in Ontario. Part II ends with a list of policy recommendations and calls on the provincial government to take immediate action. All workers in Ontario should earn fair wages, experience good working conditions and have access to permanent residency. It is not acceptable to treat migrant workers as an expendable labour force.

Ontario's Anti-Immigration Strategy

Migrant Workers vs Economic Immigrants, 2012



Source: Citizenship and Immigration Canada, 2013



LABOUR WITHOUT BORDERS



PART 1

AN ECONOMIC SNAPSHOT OF MIGRANT WORKERS IN ONTARIO

Under the Harper government's watch, the number of migrant workers coming to Canada has grown dramatically and Canada's intake of migrant workers has outpaced the number of economic immigrants that are granted permanent residency each year. For example, in 2012, 160,617 economic immigrants were admitted as permanent residents, while 213,516 migrant workers with temporary status came to Canada.¹ The same pattern also exists on a provincial level. In 2012, 49,186 economic immigrants were granted permanent residency in Ontario, while 71,233 migrant workers with temporary status arrived in the province.²

The fastest growth of migrant workers has been among low-wage workers who come primarily from the global south to do work that is deemed low-skilled.³ For many reasons these workers are vulnerable to exploitation, often working in

conditions where their human rights and labour rights are not respected. The increasing numbers of migrant workers in Canada is contributing to the entrenchment of a low-wage workforce that works and lives in poor conditions. This creates a downward pressure on wages and contributes to an erosion of human rights and labour rights for all workers.

The growing numbers of migrant workers coming to Canada has been driven by the Temporary Foreign Worker Program (TFWP), which has doubled in size since 2006. It now accounts for over 300,000 migrant workers present in Canada.⁴ Ontario is the province with the largest number of migrant workers arriving through the TFWP, with over one-third of the total number of temporary foreign workers in Canada.⁵

As use of the TFWP expands, migrant workers are employed in a growing range of sectors of the Ontario economy, including but not limited to agriculture, construction, retail, mining, hospitality and caregiving.⁶ In 2012, over 17,000 different employers in Ontario applied for migrant labour through the TFWP.⁷ Evidently, despite being labeled “temporary,” workers coming to Ontario through the TFWP are actually doing jobs that are core to the economy, such as growing the food we eat and taking care of our children. Overall, the growth of the TFWP represents a shift away from permanent immigration that allows workers to bring their families and lay roots in Canada, towards temporary migration that leads to the vulnerability of migrant workers and separates families.

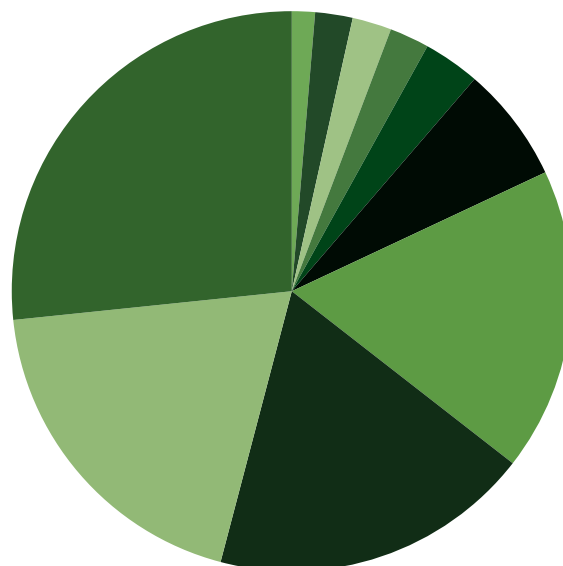
WHO ARE MIGRANT WORKERS?

Migrant workers come to Ontario from all over the world. A large proportion of migrant agriculture workers come to Canada through the Seasonal Agricultural Worker Program from Mexico, Jamaica and other eligible Caribbean countries.⁸ Another group of migrant workers is live-in caregivers of whom 90 percent come to Canada from the Philippines.⁹ In 2012, the top ten countries for which temporary foreign worker permits were granted to employers in Ontario also included India, China, Portugal, United Kingdom, Thailand and the United States.¹⁰

Top Ten Countries of Origin, 2012

Temporary Foreign Worker Permits Granted to Ontario Employers

Country of Origin	Permits
Mexico	10,590
Jamaica	7,660
Philippines	7,380
United States	6,960
India	2,665
Trinidad & Tobago	1,300
China	910
Portugal	900
United Kingdom	860
Thailand	530



Source: Human Resources and Skills Development Canada, 2013



A CONTROVERSIAL PROGRAM

Many migrant workers come to Canada through the TFWP, which is made up of several streams divided according to skill levelsⁱ and type of work.¹¹ When first established, this program was primarily used to bring in seasonal workers or those working in specialized trades or professions for short periods of time. The ongoing problems faced by seasonal workers employed through the TFWP since it was established have been well documented, yet the low-skilled component was still expanded in 2002.¹² In 2006, a government review of the program acknowledged that it failed to safeguard workers from exploitation and in 2009 a review by the Auditor General also pointed to abuses and inadequate oversight of the program.¹³ Despite clear evidence of major problems and abuses of the program, the federal government continued the expansion of the low-skilled component of the TFWP. Today, the majority of migrant workers coming to Canada through this program come to do work that has been deemed “low-skilled.” In Ontario, in 2012 over 60 percent of all permissions granted to employers to hire migrant workers were for low-skilled work.¹⁴

i Decisions about what kind of work is deemed “skilled” are highly political. For example, live-in caregivers are categorized as low-skilled workers. However, caregiving is demanding work that requires a definite skill set – one that has been undervalued by long-standing gendered and racialized understandings of what constitutes skilled work. Consequently, deeming particular jobs low-skilled actually results in the deskilling of a particular segment of the workforce, in this case women and people of colour.

Before hiring a temporary foreign worker, employers in Canada are required to apply for a Labour Market Opinion (LMO). They must demonstrate that no Canadian citizen or permanent resident is available to do the job and that hiring a migrant worker will not have a detrimental effect on prevailing wages and working conditions in Canada.¹⁵ The stated purpose of the LMO process is to protect against abuse of the program by employers, but there is growing evidence that the federal government oversight of this process has been wholly inadequate.

Much attention has been shed on the TFWP in Canada recently because of growing evidence that employers’ use of the program is displacing Canadian citizens, new immigrants and permanent residents who are qualified and available to do these jobs. High profile cases involving companies such as HD Mining have thrust the issue into the public spotlight.¹⁶

In addition, a recent list of employers who had been granted Accelerated Labour Market Opinions (ALMOs) was exposed by the Alberta Federation of Labour. This accelerated process can take as few as 10 days and is supposed to be reserved for high-skill employment; however, the list of employers includes fast-food restaurants, convenience stores and gas stations.¹⁷ The list provides evidence that the program is being widely abused, revealing that 4,839 employers in Canada were granted ALMOs between April and December 2012.

The introduction of ALMOs, along with a rule that allowed temporary foreign workers to be paid 15 percent less than the prevailing wage

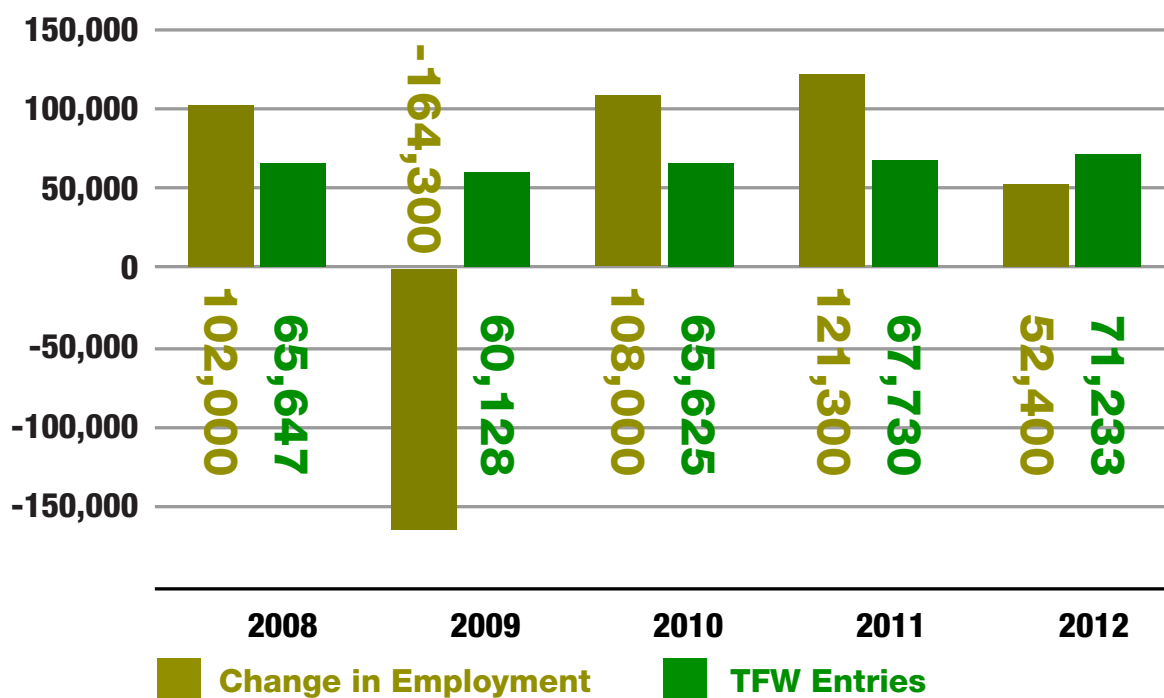
in 2012, was a clear nod to employers. Even amidst evidence of abuses within the program, employers now had easier access to a lower paid workforce.¹⁸ Due to public outcry, the ALMOs have recently been suspended and a few other changes have been made to the program. These include eliminating the rule that allowed migrant workers to earn up to 15 percent less than the prevailing wage, changes to the LMO process that require employers to have a plan in place to transition to a Canadian workforce, and several other minor reforms.¹⁹ These changes, however, are inadequate. They do not shift the general thrust of the program or address the exploitation faced by migrant workers.²⁰

LABOUR SHORTAGE OR LOW-WAGE AGENDA?

The expanding numbers of migrant workers in Ontario and the rest of Canada have been justified as a necessary response to so-called skills and labour shortages.²¹ When skills and labour shortages exist, they should be characterized by low unemployment, rising wages and higher than normal employment.ⁱⁱ By these measures, we are far from experiencing an economy-wide labour or skills shortage in Ontario.

ii Because reductions in the unemployment rate can be a result of discouraged workers giving up on looking for work, the employment rate is often a better measure of labour market strength.

Change in Employment vs New Temporary Foreign Workers in Ontario, 2008-2012



Source: Citizenship and Immigration Canada, 2013 and Statistics Canada, CANSIM Table 282-0002

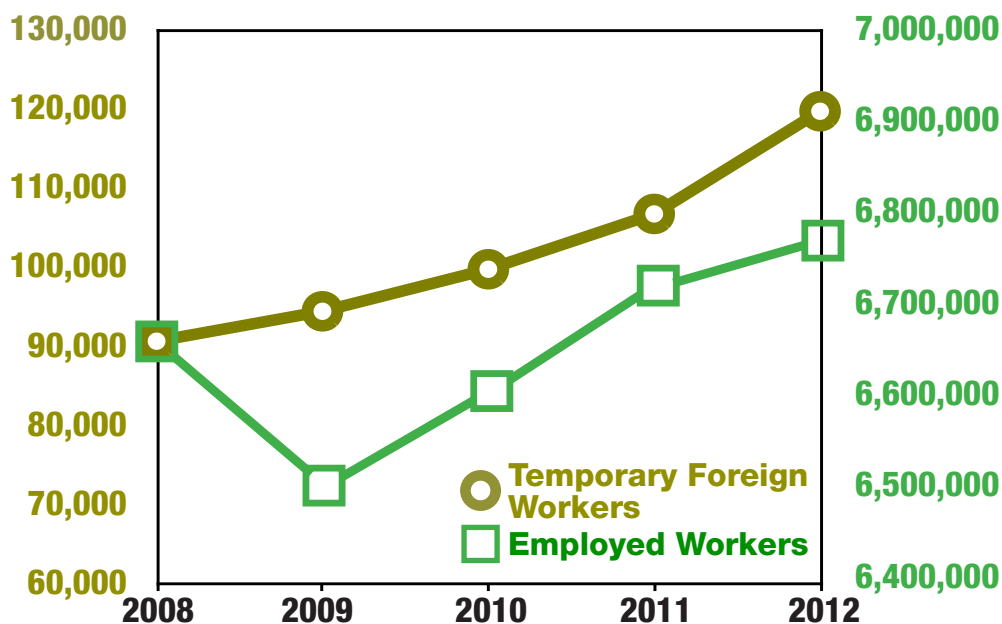


LABOUR WITHOUT BORDERS

The employment rate in Ontario has still not recovered from the 2008 recession. Before the recession 63.5 percent of Ontario's working age population was employed, but this number fell to 61.1 percent in 2009. By June 2013, it had climbed up only slightly to 61.5 percent, representing a gap of over 220,000 jobs needed to return to pre-recession employment rates. Unemployment is not at record lows either. Instead, it has been consistently hovering between seven and eight percent since 2011, significantly higher than the 2008 unemployment rate of 6.5 percent.²² At the same time, average wages have basically remained flat. Average wages in Ontario, when adjusted for inflation, have increased by less than one percent between 2008 and 2012.²³ In other words, the conditions of a labour and skills shortage are not in place in Ontario.

Despite scant economic evidence to support the idea that migrant workers are needed to address a skills or labour shortage in Ontario, the number of temporary foreign workers present in Ontario is on the rise, climbing from 90,802 in 2008 to 119,899 in 2012.²⁴ Moreover, in 2008 the Ontario economy lost over 164,000 net jobs, but over 60,000 temporary foreign workers still entered the province. In 2012, the Ontario economy gained only 52,400 net new jobs, but 71,233 temporary foreign workers arrived in the province.²⁵ The rise of temporary foreign workers, even during periods of weak or negative employment growth, demonstrates that the expanded use of the TFWP in Ontario has certainly not been a necessary response to employment trends in the province.

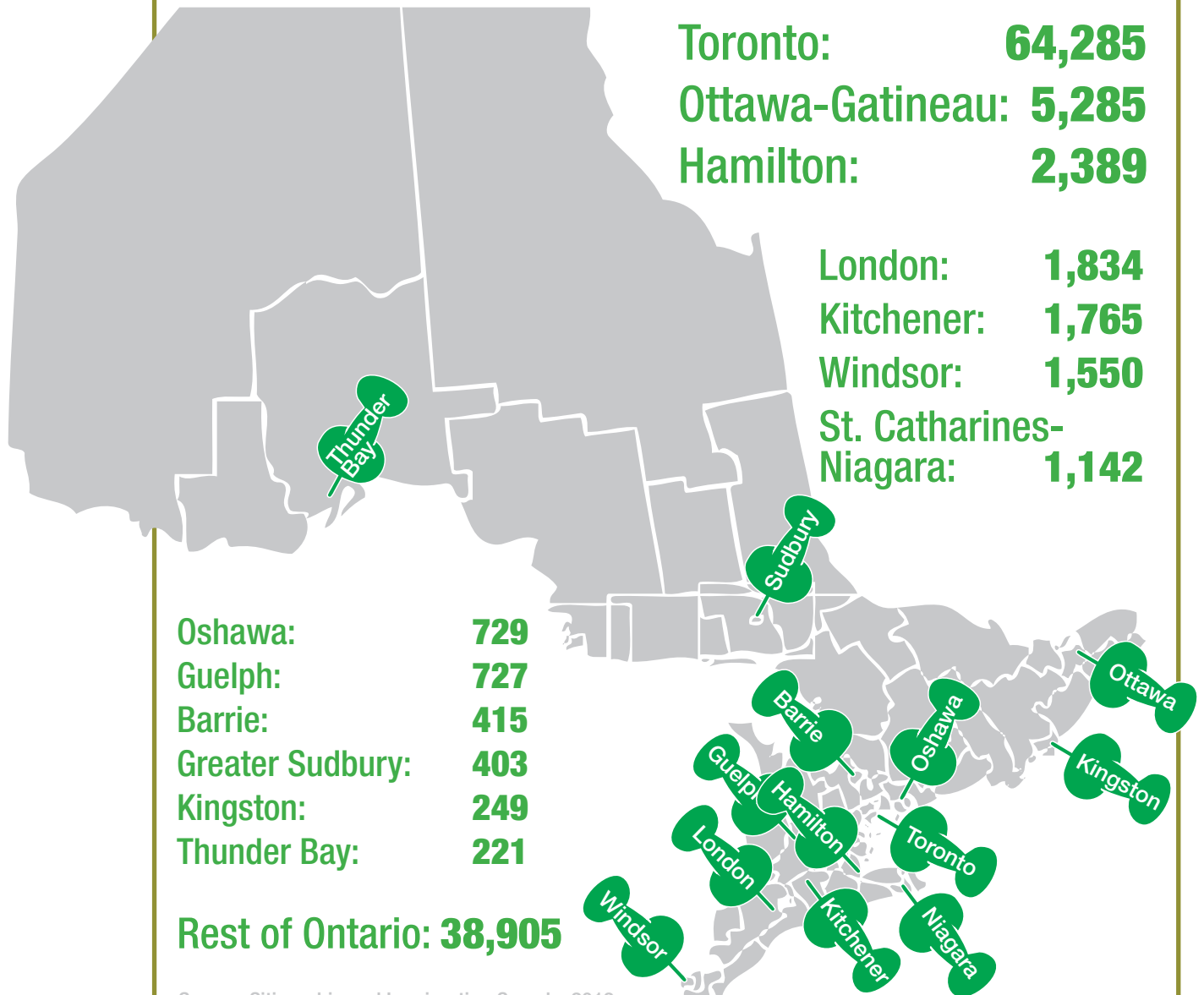
Employed Workers vs Temporary Foreign Workers in Ontario, 2008-2012



Source: Citizenship and Immigration Canada, 2013 and Statistics Canada, CANSIM Table 282-0002

ONTARIO'S MIGRANT WORKER POPULATION

Migrant workers are working and living across Ontario. The map below shows how many migrant workers were present in 13 urban areas in 2012.



Source: Citizenship and Immigration Canada, 2013

PROVINCE-WIDE PICTURE OF MIGRANT WORKERS IN ONTARIO

The shift from immigration towards a reliance on migrant workers is not isolated to one part of the province. Although concentrated in Toronto – the province's biggest city – migrant workers are working across the province in growing numbers.

The number of temporary foreign workers has increased in almost every urban area in Ontario for which there is data available. At the same time there is an overwhelming trend towards increased unemployment and decreased employment, which discounts the argument that the growth of migrant workers is addressing a genuine skills or labour shortage in these regions.²⁶

PRECARIOUS WORK FOR MIGRANTS MEANS PRECARIOUS WORK FOR ALL

While the employment rate in Ontario remain below pre-recession levels, the number of migrant workers in Ontario continues to balloon.

EMPLOYMENT RATE

-1.7%

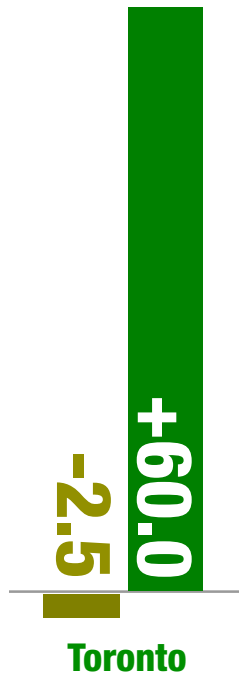
32%

MIGRANT WORKERS

Source: Statistics Canada, CANSIM Table 282-0110 and Citizenship and Immigration Canada, 2013

EMPLOYMENT RATE & NUMBER OF MIGRANT WORKERS

percentage change between
2008-2012



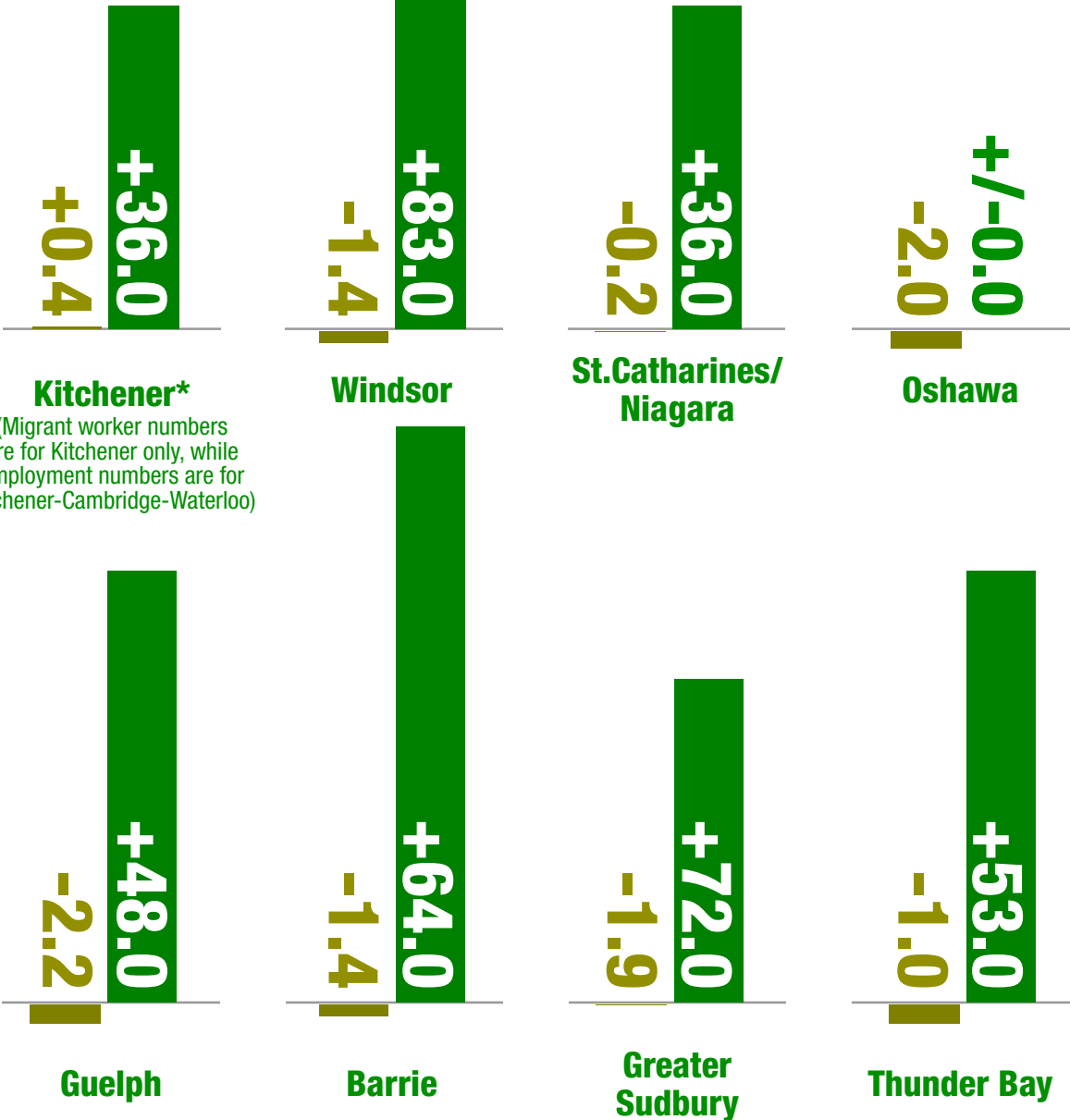
Despite a steady drop in employment rates in nearly every municipal area, the influx of migrant workers is growing rapidly and shows no signs of slowing down.

Clearly, employers are being encouraged to turn to an expendable temporary workforce rather than creating permanent jobs for Canadians and new immigrants.



ONTARIO MUNICIPAL ROUND-UP

■ % change in employment rate
■ % change in migrant workers



Source: Statistics Canada, CANSIM Table 282-0110 and Citizenship and Immigration Canada, 2013

REVEALING THE CORPORATE AGENDA

It is clear that the skills and labour shortages used to justify the increasing numbers of migrant workers do not exist in Ontario, revealing another agenda – to drive down wages and working conditions.

Providing employers in Ontario with another source of cheap labour allows them to shirk their responsibility to spend on training and wages. The onus should be on the government and employers to first invest in training and offer more desirable working conditions and wages to workers, before looking to migrant workers to

fill jobs. In direct contrast, the expansion of the TFWP has created a disincentive for employers to invest in training or raise wages as they try to attract and retain workers.

The result of giving employers the ability to hire vulnerable workers from other countries – who are not granted full status in Canada and too often are not in a position to turn down low wages and poor working conditions – is a downward pressure on both wages and working conditions and an erosion of human rights and labour rights across Ontario. This is just one part of a broader low-wage labour market strategy that is driven by employers and supported by the federal government.





PROMOTING IMMIGRATION, NOT EXPLOITATION

In recent years, Canada's intake of migrant workers has outpaced the number of economic immigrants that are granted permanent residency each year, demonstrating a shift towards temporary migration. Temporary immigration status is one of the primary factors that makes migrant workers vulnerable to exploitation. Low-skilled migrant workers are employed on "tied" work permits, which means they can only work for the employer and perform the job that is named on their permit. This puts workers in a position where they are too often unable to report or resist abuses or unfair treatment for fear of losing their work permit and being sent home. Magnifying this situation, migrant workers often rely heavily on the wages they have been promised they will earn while in Canada to support their families in their home country. This creates a power imbalance between these workers and their employer, which is at the heart of existing abuses and exploitation.²⁷

The exploitation faced by migrant workers is widespread and unacceptable. For migrant workers, it often begins in their home country when they are recruited and continues throughout their time working in Canada. Documented abuses include excessive and sometimes illegal recruitment fees that can leave migrant workers with thousands of dollars to repay. They can sometimes return to their home country worse off economically than when they left.²⁸ Other common abuses include being provided with sub-standard housing, being required to pay unreasonable fees for transportation, equipment and meals and not having adequate access to information about healthcare and other services. Many of these issues arise from the fact that employers often coordinate migrant workers' living arrangements and take advantage of their position of power to charge unreasonable fees and increase their profits.²⁹

Many migrant workers have also been forced to work in dangerous and often illegal conditions. For example, in the agricultural sector migrant workers have reported having to operate machinery without proper training and being exposed to dangerous chemicals.³⁰ Many horrific accidents in Ontario in recent years have involved migrant workers including five migrant workers who fell from scaffolding, four to their deaths, while working for Metron Construction in West Toronto in 2009 and a tragic truck accident in Hampstead in 2012 that killed ten agricultural workers and one truck driver and left three workers injured.³¹ Making matters worse, migrant workers often choose not to report or treat injuries or illnesses for fear that they will lead to reprisals from their employer or repatriation.³² In addition, when injuries are reported many barriers exist for migrant workers to get access to the Workers' Compensation benefits that they are entitled to. For example, being forced to return to their home country can create logistical challenges and the practice of "deeming"ⁱⁱⁱ can reduce or eliminate access to benefits.

Research also shows that employers have often failed to pay migrant workers according to the terms of the employment contract and the *Employment Standards Act*. A 2011 Workers' Action Centre report based on interviews with

520 vulnerable workers in Ontario, including migrant workers, found that there were countless incidences of unpaid wages. One in five workers surveyed also reported being paid less than minimum wage. In addition, over 30 percent reported not being paid adequate vacation pay, 30 percent reported not being paid adequate termination pay and 39 percent said they had worked overtime but did not receive overtime pay.³³

It is also important to consider the growing reliance on migrant workers in the context of increasingly precarious work in the Ontario economy more broadly. For both migrant workers and other workers in Ontario, precarious employment can impact all facets of their lives including health, family and community engagement.³⁴ Addressing the exploitation that migrant workers face is a key aspect of a broader strategy to curb the rise of precarious work in Ontario.

Community organizations and unions across the country are playing an important role in increasing awareness and exposing employer abuse. They are also organizing migrant workers into unions, lobbying for legislative and policy changes and pushing for meaningful enforcement of employment standards. However, much more needs to be done.

iii Deeming is the process of identifying alternative jobs in the same geographical area where the worker was working when injured that they could in theory undertake. Once this job is identified, a worker's benefits are reduced or eliminated based on the assumption that the worker is receiving the income associated with the identified job, whether or not they have the job. This process is unfair for all workers and particularly unfair for migrant workers who cannot reasonably be expected to work in Ontario once they have returned to their home country.

ENDING EXPLOITATION

Migrant workers find themselves working in a new and unfamiliar country, where they don't know the laws and often don't speak the language.

In many cases, they have traveled from some of the world's most economically depressed conditions to strive for a better life for their families. These circumstances that make migrant workers so deserving of protection also make them vulnerable to exploitation.

Vulnerable Circumstances

Permits tie workers to one employer.

Fear of reprisal or being sent home.

Language barriers.

Lack of training in health and safety.

Lack of information about rights and protections.

Barriers and legal exclusions from supports and government services.

**LEAD
TO**

Common Abuses

Excessive or illegal recruitment fees.

Sub-standard housing.

Unsafe working conditions.

Unreasonable fees for meals transportation, equipment, etc.

Unpaid wages.

Payment below minimum wage.

Lack of healthcare, employment insurance and workers' compensation.

Without adequate education, advocacy and protection, many migrant workers will continue not to report or resist abuses, injuries or unfair treatment.

The persistence of their exploitation creates downward pressure on the wages and working conditions for all workers in Ontario.

MIGRANT WORKERS'

All migrant workers should have the following inalienable rights:

Permanent Residency and Citizenship Rights

1. All migrant workers should have access to permanent residency and citizenship. Despite the fact that many workers come to Ontario with hopes of immigrating to Canada, with the exception of live-in caregivers,^{iv} low-skilled migrant workers do not have access to permanent residency in Canada.³⁵ The capacity for migrant workers to contribute to communities in Ontario should be recognized and they should have access to permanent residency.

^{iv} Despite legally having access to permanent residency after completing 24 months of work for a single employer within four years of arriving in Canada, only a small proportion of live-in caregivers actually end up becoming permanent residents. This is due to a power imbalance between live-in caregivers and employers that is constructed and reinforced by government policy. For example, only 28 percent of live-in caregivers arriving in Canada in 2005 had become permanent residents by 2007. For more information, see Salimah Valiani "The Shift in Canadian Immigration Policy and Unheeded Lessons of the Live-in Caregiver Program," February 2009. <http://www.ccsf.carleton.ca/~dana/TempPermLCPFINAL.pdf>

Right to Information

2. All migrant workers should have access to information about human rights, labour rights, workplace health and safety and employment standards. Too many migrant workers are unaware of the rights they have as workers in Canada and Ontario for many reasons, such as language barriers, insufficient orientation and lack of access to existing services.³⁶ It is critical that all migrant workers are provided with this information in accessible languages and format.

Union Protection and Labour Rights

3. All migrant workers should have the right to organize in a union. Both live-in caregivers and agricultural workers are refused the right to collective bargaining under the *Labour Relations Act*.³⁷ Further, many migrant workers face the threat of being blacklisted or not being invited back to Canada again if they try to organize.³⁸ As per the *Canadian Charter of Rights and Freedoms* and the *International Labour Organization Convention Number 98*, all migrant workers should have the right to organize in a union and bargain collectively.

BILL OF RIGHTS

Full Benefits and Healthcare Rights

■ 4. All migrant workers should have access to benefits and healthcare. Migrant workers should have full access to social programs and benefits including Employment Insurance, Workers' Compensation, social services and settlement services, both by law and in practice. Migrant workers should also have access to healthcare. Employers are required to provide health insurance until migrant workers qualify for provincial healthcare, however, there is widespread non-compliance on the part of employers in fulfilling this responsibility.³⁹

Freedom from Recruitment Fees

■ 5. All migrant workers should have protection from unfair and exploitative recruitment fees. During recruitment, migrant workers are often charged exorbitant fees.⁴⁰ This is entirely unacceptable and employers should bear the cost of recruitment, which is a standard cost associated with running a business.

Housing Rights

■ 6. All migrant workers should have decent housing and living conditions. Employers frequently provide or help migrant workers to find housing during their employment. Housing and living conditions are too often inadequate.⁴¹ Every migrant worker should live in safe, sanitary and comfortable living conditions.

Mobility Rights

■ 7. All migrant workers should have freedom of mobility. Currently, migrant workers' work permits are tied to a specific employer. Work permits tied to sectors or provinces would provide workers with more freedom of mobility once they arrive in Canada.

Freedom from Discrimination

■ 8. All migrant workers should be free from all forms of discrimination including racism and sexism. This should include equal remuneration for all workers regardless of race, nationality or gender.

NEXT STEPS: TOWARDS AN END TO EXPLOITATION

The accelerating shift from immigration towards temporary migration and the growing number of migrant workers in Ontario underlines the need for major changes to the TFWP at the federal level. Despite federal responsibility for the TFWP, the provincial government must step up and address the exploitation of migrant workers in Ontario.

The Government of Ontario should pursue legislative reform that would ensure that the human rights and labour rights of all migrant workers are protected. To do so, the province can build on the advances that governments in both Manitoba and Saskatchewan have recently made in this area.^v Further, it is crucial that migrant workers' voices and experiences are considered as new policy is developed. Some steps the provincial government should take include:

1. Establishing a registration and licensing system for employers and recruiters

In Manitoba, the *Worker Recruitment and Protection Act* requires that employers are registered and recruiters are licensed and required to submit a mandatory letter of credit or deposit, which provides some oversight and the data needed for proactive enforcement.⁴² Similar legislation should be adopted in Ontario. This legislation should also ensure that employers are joint and severally liable for recruitment fees collected by private recruiters.

2. Banning recruiters or employers from charging migrant workers recruitment and placement fees

In 2009, Ontario passed the *Employment Protection for Foreign Nationals Act*, which prohibits recruiters and employers from charging or passing on recruitment fees to live-in caregivers.⁴³ However, this law has been ineffective because it depends on individual workers filing complaints. More effective legislation should be implemented that prohibits a person seeking employment from being charged fees and is accompanied by proactive enforcement.

3. Putting in place penalties for employers and recruiters that fail to comply with legislation

In Saskatchewan, the *Foreign Worker Recruitment and Immigration Services Act* puts in place penalties for employers and recruiters that fail to comply with the legislation. Penalties include fines of up to \$50,000 or one year in jail for individuals and fines of up to \$100,000 for corporations.⁴⁴ To ensure compliance, penalties for employers and recruiters should also be put in place in Ontario.

4. Providing accessible information to migrant workers before and upon their arrival explaining their labour rights and human rights in Ontario

Too many migrant workers are unaware of the rights they have in Ontario.⁴⁵ It is critical that all migrant workers are provided with this information in an accessible language and format.

^v See *The Worker Recruitment and Protection Act, 2008*, Manitoba Government, Sections 2-13. <http://web2.gov.mb.ca/laws/statutes/2008/c02308e.php> a

5. Using the Provincial Nominee Program to nominate migrant workers for permanent residence

Presently in Ontario the Provincial Nominee Program is only open to higher-skilled workers with full-time jobs.⁴⁶ Ontario should follow the lead of other provinces that use the Provincial Nominee Program to nominate low-skilled migrant workers for permanent residence. Ontario could also undertake a pilot project like the one currently underway in Alberta that removes some dependence on employers by allowing migrant workers in listed occupations to nominate themselves for permanent residence under the Provincial Nominee Program.

6. Providing the financial and human resources needed for proactive enforcement of migrant workers' rights

Complaint-driven enforcement is often inaccessible, expensive and lengthy, making legislation aimed at protecting migrant workers ineffective.⁴⁷ In Manitoba, a Special Investigations Unit in the

Employment Standards Branch has staff and resources dedicated to proactive investigation, inspection and enforcement of the *Worker Recruitment and Protection Act*, which has been crucial to the legislation's success.⁴⁸ To be effective, the *Employment Standards Act*, *Occupational Health and Safety Act* and all legislation aimed at protecting migrant workers needs to be adequately and proactively enforced. Anti-reprisal measures should also be implemented and enforced to protect workers who exert their rights from being repatriated.

7. Establish an Office of the Migrant Worker Advocate

Currently, migrant workers do not have adequate voice in order to stand up for their legal rights. An independent, publicly-funded Office of the Migrant Worker Advocate⁴⁹ could coordinate with existing community groups to help provide migrant workers with information and advocacy free of charge.

END NOTES

1. For further discussion see Fay Faraday, "Made in Canada: How the Law Constructs Migrant Workers' Insecurity," *Metcalfe Foundation*, September 2012, endnote 1 and 2. <http://metcalffoundation.com/wp-content/uploads/2012/09/Made-in-Canada-Full-Report.pdf>
2. "Canada Facts and Figures: Immigration Overview and Temporary Residents 2012," *Citizenship and Immigration Canada*, August 2013 and "Canada – Total entries of temporary foreign workers by province or territory and urban area, 2008-2012," *Citizenship and Immigration Canada*, February 27 2013.
3. Fay Faraday, "Made in Canada: How the Law Constructs Migrant Workers' Insecurity," *Metcalfe Foundation*. September 2012, page 5. <http://metcalffoundation.com/wp-content/uploads/2012/09/Made-in-Canada-Full-Report.pdf>
4. Karl Flecker. "How the Conservatives built the temporary worker pipeline, and why you should care," *Rabble.ca*, April 24 2013. <http://rabble.ca/news/2013/04/how-conservatives-built-temporary-worker-pipeline-and-why-you-should-care>
5. "Canada – Temporary foreign workers present on December 1st by province or territory, 2008-2012." *Citizenship and Immigration Canada*. February 27 2013. <http://www.cic.gc.ca/english/resources/statistics/facts2012-preliminary/04.asp>
6. "Labour Market Opinion Statistics – Annual Statistics 2012: Table 5," *Human Resources and Skills Development Canada*, May 9 2013. http://www.hrsdc.gc.ca/eng/jobs/foreign_workers/lmo_statistics/annual2012.shtml
7. "Labour Market Opinion Statistics – Annual Statistics 2012: Table 12," *Human Resources and Skills Development Canada*, May 9 2013. http://www.hrsdc.gc.ca/eng/jobs/foreign_workers/lmo_statistics/annual2012.shtml
8. "Hiring Seasonal Agricultural Workers," *Human Resources and Skills Development Canada*, 2013. http://www.hrsdc.gc.ca/eng/jobs/foreign_workers/agriculture/seasonal/index.shtml
9. "Profile of Live-in-caregiver Immigrants to Canada, 1993-2009," *Toronto Immigrant Employment Data Initiative*, York University, March 2011, page 10. <http://www.yorku.ca/tiedi/doc/AnalyticalReport18.pdf>
10. "Labour Market Opinion Statistics – Annual Statistics 2012: Table 10," *Human Resources and Skills Development Canada*, May 9 2013. http://www.hrsdc.gc.ca/eng/jobs/foreign_workers/lmo_statistics/annual2012.shtml
11. "Temporary Foreign Worker Program," *Human Resources and Skills Development Canada*, June 3 2013. http://www.hrsdc.gc.ca/eng/jobs/foreign_workers
12. Karl Flecker. "Canada's Temporary Foreign Worker Program: Model Program or Mistake?" *Canadian Labour Congress*, April 2011, page 1-11.
13. *ibid*, page 11-13.
14. "Labour Market Opinion Statistics – Annual Statistics 2012: Table 3," *Human Resources and Skills Development Canada*, May 9 2013. http://www.hrsdc.gc.ca/eng/jobs/foreign_workers/lmo_statistics/annual2012.shtml
15. "Labour Market Opinion Basics," *Citizenship and Immigration Canada*, May 29 2013. Accessed June 2013. <http://www.cic.gc.ca/english/work/employers/lmo-basics.asp>
16. For example see "Controversy over Chinese miners in BC prompts review," *CBC News*, November 8 2012. <http://www.cbc.ca/news/canada/british-columbia/story/2012/11/08/bc-temporary-workers-review.html>
17. "List of 'accelerated' TFW approvals reveals widespread abuse of program," *Alberta Federation of Labour*, April 9 2013. <http://www.afl.org/index.php/Press-Release/list-of-accelerated-tfw-approvals-reveals-widespread-abuse-of-program.html>
18. "Backgrounder: The Temporary Foreign Worker Program's Accelerated Labour Market Opinion (ALMO) Process and Wage Depression in Alberta's Oil-Sands Construction Sector," *Alberta Federation of Labour*, June 1 2012 and "Government Announces a More Efficient and Responsive Temporary Foreign Worker Program," *Human Resources and Skills Development Canada*, April 25 2012. <http://news.gc.ca/web/article-eng.do?crtr.sj1D=&crtr.mnthndVI=5&mthd=advSrch&crtr.dpt1D=&nid=670919&crtr.lc1D=&crtr.tp1D=&crtr.yrStrtVI=2008&crtr.kw=temporary%2Bforeign&crtr.dyStrtVI=26&crtr.aud1D=&crtr.mnthStrtVI=2&crtr.page=1&crtr.yrmdVI=2012&crtr.dyndVI=17>
19. "Harper Government announces reforms to the Temporary Foreign Worker Program – Ensuring Canadians have first chance at available jobs," *Human Resources and Skills Development Canada*, April 29 2013. <http://news.gc.ca/web/article-eng.do?nid=736729>
20. For further discussion see Jim Stanford, "It'll take more than window-dressing to fix the Temporary Foreign Worker Program," *Rabble.ca*, April 29 2013. <http://rabble.ca/columnists/2013/04/itll-take-more-window-dressing-to-fix-temporary-foreign-worker-program> and Karl Flecker, "Look who's lying about the temporary foreign worker program," *Our Times*, May-June 2013. http://ourtimes.ca/Between_Times/article_274.php
21. HRSDC, "Temporary Foreign Worker Program – Employer Compliance: Requirements for the Temporary Foreign Worker Program," http://www.hrsdc.gc.ca/eng/jobs/foreign_workers/employer_compliance.shtml
22. Statistics Canada, CANSIM Table 282-0002 - Labour force survey estimates (LFS). Accessed June 6 2013.



23. Statistics Canada, "Summary table: Earnings, average hourly paid employees, by province and territory," March 27 2013. <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/labr80-eng.htm>
24. "Canada – Temporary foreign workers present on December 1st by province or territory, 2008-2012." *Citizenship and Immigration Canada*, February 27 2013. <http://www.cic.gc.ca/english/resources/statistics/facts2012-preliminary/04.asp>
25. Statistics Canada, CANSIM Table 282-0002 - Labour force survey estimates (LFS), Accessed June 6 2013 and "Canada – Total entries of temporary foreign workers by province or territory and urban area, 2008-2012," *Citizenship and Immigration Canada*, February 27 2013.
26. Statistics Canada, CANSIM Table 282-0110 Labour force survey estimates (LFS), based on 2006 census boundaries, Accessed June 6 2013 and "Canada – Temporary foreign workers present on December 1st by province or territory and urban area, 2008-2012," *Citizenship and Immigration Canada*, February 27 2013.
27. Fay Faraday, "Made in Canada: How the Law Constructs Migrant Workers' Insecurity," *Metcalfe Foundation*, September 2012, page 22. <http://metcalfoundation.com/wp-content/uploads/2012/09/Made-in-Canada-Full-Report.pdf>
28. "Report on the Status of Migrant Workers in Canada 2011," *United Food and Commercial Workers*, January 2011, page 11-12.
29. *ibid*, page 14-19.
30. *ibid*, page 15-16.
31. "Damning Report Says Ontario Failing Migrant Workers," *Ontario Federation of Labour*, May 16 2013. <http://ofl.ca/index.php/damning-report-ontario-failing-migrant-workers-ofl-calls-wynne-government-protect-rights-vulnerable-workers/>
32. "Vulnerable Workers and Precarious Work," *Law Commission of Ontario*, December 2012, page 100. <http://www.lco-cdo.org/vulnerable-workers-final-report.pdf>
33. "Unpaid Wages, Unprotected Workers: A Survey of Employment Standards Violations," *Workers' Action Centre*, May 2011.
34. "Vulnerable Workers and Precarious Work," *Law Commission of Ontario*, December 2012. <http://www.lco-cdo.org/vulnerable-workers-final-report.pdf> and "It's More than Poverty: Employment Precarity and Household Well-being," *Poverty and Employment Precarity in Southern Ontario*, February 2013. <http://pepsouwtf.files.wordpress.com/2013/02/its-more-than-poverty-feb-2013.pdf>
35. Fay Faraday, "Made in Canada: How the Law Constructs Migrant Workers' Insecurity," *Metcalfe Foundation*, September 2012, page 31-32. <http://metcalfoundation.com/wp-content/uploads/2012/09/Made-in-Canada-Full-Report.pdf>
36. *ibid*, page 26.
37. *Labour Relations Act*, 1995, Section 3(a) and 3(b.1). http://www.e-laws.gov.on.ca/html/statutes/english/elaws/statutes_95l01_e.htm
38. For example, see Valerie Dugale, "Migrant Farm Workers Organize," *Our Times*, Vol. 28, Issue 3, June-July 2009. http://ourtimes.ca/Features/article_112.php and "Supreme Court asked to muzzle BC Labour Board regarding Mexico blacklisting evidence," *United Food and Commercial Workers*, March 26 2012. http://www.ufcw.ca/index.php?option=com_multicategories&view=article&id=2736%3Aabc-supreme-court-asked-to-muzzle-bc-labour-board-regarding-mexico-blacklisting-evidence&Itemid=98&lang=en
39. Fay Faraday, "Made in Canada: How the Law Constructs Migrant Workers' Insecurity," *Metcalfe Foundation*, September 2012, page 13. <http://metcalfoundation.com/wp-content/uploads/2012/09/Made-in-Canada-Full-Report.pdf>
40. *ibid*, page 22-25.
41. "Report on the Status of Migrant Workers in Canada 2011," *United Food and Commercial Workers*, January 2011, page 16-7.
42. *Worker Recruitment and Protection Act*, 2008, Sections 2-13. <http://web2.gov.mb.ca/laws/statutes/2008/c02308e.php>
43. "Employment Protection for Foreign Nationals Act (Live-in Caregivers and Others), 2009: FAQ," Ministry of Labour, March 2010. <http://www.labour.gov.on.ca/english/es/faqs/epfna.php#rights>
44. *Foreign Worker Recruitment and Immigration Services Act*, 2012, Section 40. <http://www.qp.gov.sk.ca/documents/english/FirstRead/2012/Bill-83.pdf>
45. Fay Faraday, "Made in Canada: How the Law Constructs Migrant Workers' Insecurity," *Metcalfe Foundation*, September 2012, page 26. <http://metcalfoundation.com/wp-content/uploads/2012/09/Made-in-Canada-Full-Report.pdf>
46. *ibid*, page 32.
47. Linnse Clark, "Background: Migrant Worker Recruitment & Protection – Model Legislation," *BC Employment Standards Coalition*, February 2013, page 24.
48. "Special Investigations Unit," *Manitoba Government*. http://www.gov.mb.ca/labour/standards/special_investigations_unit.html
49. Fay Faraday, "Made in Canada: How the Law Constructs Migrant Workers' Insecurity," *Metcalfe Foundation*, September 2012, page 30. <http://metcalfoundation.com/wp-content/uploads/2012/09/Made-in-Canada-Full-Report.pdf>

