



FCJ Refugee Centre

Walking With Uprooted People



Migrant Rights and Labour Exploitation

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LAND ACKNOWLEDGEMENT

- The land we are standing today is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples. We also acknowledge that Toronto is covered by Treaty 13 signed with the Mississaugas of the Credit, and the Williams Treaties signed with multiple Mississaugas and Chippewa bands



FCJ Refugee Centre

Walking With Uprooted People

Who We Are

- We are a non-profit organization which serves refugees and others at risk due to their immigration status
- We welcome anyone asking for advice, counsel and support regarding these issues.
- We address systemic issues that newly arrived refugee claimants and persons with precarious immigrations status face in Canada including lack of resources, marginalization, and discrimination.
- FCJ Refugee Centre is unique in its capacity to serve anyone who needs assistance. We have a particular penchant for serving populations who we term as “precarious migrants”.

www.fcjrefugeecentre.org

FCJ REFUGEE CENTRE



WALKING
WITH
UPROOTED
PEOPLE



Service and Resources



SETTLEMENT & INTEGRATION

IMMIGRATION SUPPORT

ANTI-HUMAN TRAFFICKING

PUBLIC EDUCATION & NETWORKING

FCJ REFUGEE CENTRE

- Shelter for women & children
- Refugee Housing Hub
- Women's services
- Food distribution
- English Classes
- Clinic
- Youth
- Access to Education

- Refugee process
- Immigration orientation
- PRRA (risk assessment)
- Refugee appeal
- H&C (Humanitarian & Compassionate App.)
- Sponsorship
- Work permit
- Etc.



- Migrants Workers Mobile Clinic
- Direct services to trafficked persons
- Migrant Women's Counter Trafficking Alliance
- Youth Alliance Against HT

- Webinars & training sessions
- Borderless Voices podcast
- YouTube channel
- Resources
- Country research
- Newsletter & annual reports

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Workshop Objectives

- Understand your labour rights in Canada
- Understand who is vulnerable to exploitation and trafficking
- Recognize the signs of exploitation
- Learn how to protect yourself if you are in an abusive or exploitative situation
- Analyze available and potential immigration remedies for victims of exploitation

OUR WORK IN COUNTER HUMAN TRAFFICKING

- Founded the Toronto Counter Human Trafficking Network (TCHTN)
- Member of the Canadian Council for Refugees' Steering Committee Against Human Trafficking
- Youth Alliance Against HT
- Migrant Women's Counter HT Alliance
- Migrant Workers Mobile Program



Anti-Human Trafficking & Migrant Mobile Program

- We raise awareness about labor exploitation and human trafficking.
- We work directly with clients to provide comprehensive case management support.
- We work in collaboration with other organizations
- Prevention of labor exploitation
- Presentations on workers' rights and immigration processes
- Responding to the lack of services, settlement or legal support available to migrant workers who are exploited or at risk



Your Rights as a Worker

All workers in Ontario, regardless of their immigration status, have rights under the Ontario Employment Standards Act (ESA), and those rights must be respected.

- You have rights as a worker even in the following circumstances...

You are not a Canadian citizen, a permanent resident or a holder of a work permit

You work in your home or someone else's home

You just started the job

Your job is full-time, part-time or temporary

You must work in different places at different times to do the job



ONTARIO EMPLOYMENT STANDARDS ACT, 2000

This law covers standards for places of employment - this covers ALL workers regardless of status however, there are exceptions depending on certain occupations.

1. HOURS OF WORK

In most jobs regular hours of work are 8 hours a day, but cannot exceed 13 hours. The regular work week cannot be more than 48 hours.

You have the right to refuse, unless you have already agreed in writing to work longer hours - if you agreed to longer hours you have the right to cancel this agreement and this can be enforced in 2 weeks

Rules of work may not apply if you agreed in writing to different rules

2. MINIMUM WAGE

Minimum wage (in most cases) is currently \$16.55 in Ontario.

3. REST PERIODS & BREAKS

Every week, you are entitled to 24 consecutive hours off and every 2 weeks, you are entitled to 48 continuous hours off.

Your time off can be any day of the week; it does not have to be on a weekend, although this is common.

You must receive a 30-minute unpaid meal break if you work a shift of more than 5 hours. If you agree to it, you get two 15-minute breaks instead of one 30 minute meal break.

ONTARIO EMPLOYMENT STANDARDS ACT, 2000

4. VACATION

After you have worked for the same employer for 1 year, you are eligible for a paid vacation period of 2 weeks. If you are entitled to more vacation days, this will be indicated in your contract.

All workers are entitled to 4% vacation pay in addition to regular wages.

This money can be paid: A) in a lump sum before the worker takes vacation or B) each pay period or C) at a time agreed to by the worker - it depends on their contract.

For public holidays, you must have the day off or if you are working on that day, you must be paid more; generally, you are paid triple your regular pay. There are 9 public holidays in Ontario.

5. PROOF OF PAY/ PAY STUB

On or before your payday, your employer must give you a statement of your wages. This is often called a pay stub.

Pay stub must include:

- your rate of pay, how much you make in an hour
- pay period covered
- your wages for that period, before and after any deductions, and
- amount and reason for any deductions

6. ILLNESS/EMERGENCIES

ESA calls time off for illness and other personal emergencies "personal emergency leave" - you can take up to 3 days off each year as personal emergency leave. This can be because of your needs or the needs of a family member. Family member includes a common-law or same-sex partner

YOUR RIGHTS AS A TEMPORARY FOREIGN WORKER

In Canada, the rights of all workers—including temporary foreign workers—are protected by law. If you are a temporary foreign worker, you have the same rights and protections as Canadians and permanent residents.

Your employer must:

- Give you a signed copy of your employment contract
- Pay you for your work as stated in your employment agreement
- Give you information about your rights

Your employer must:

- get and pay for private health insurance that covers your emergency medical care until you're eligible for OHIP
- Make reasonable efforts to provide you with an abuse-free workplace

Your employer cannot:

- force you to work if you're sick or injured
- Force you to perform unsafe work or work you are not authorized to do
- Punish you for reporting any issues or concerns
- Take your passport away

Your employer cannot:

- threaten you (with deportation or violence)
- Make you pay for recruitment-related fees
- Pressure you to work overtime if not stipulated in your contract
- Take your work permit away

Housing Rights

(SAWP & Low-Wage Agri-Food Stream)

Low-Wage Agricultural Stream

Your employer must provide you with housing or make sure that you can find suitable housing.

The amount deducted for housing costs must be stated in your contract and must be a price similar to the cost of other comparable housing in the area. Generally, your employer can deduct \$30 a week from your wages for accommodation. If your position is considered high-skilled and you are provided with accommodation off the farm, up to 30% of your monthly earnings could be deducted for housing costs.

Your housing may be private or shared. It is common to share housing with your co-workers. In this case, you may have to share a bathroom and kitchen with others.

If you have a problem with your housing and your employer is not responding to it, you can contact a community agency, worker advocacy organization or community legal clinic. We can put you in touch with the appropriate agency that can help you.

Season Agricultural Worker Program

Your employer must provide you with adequate housing at no cost to you.

Your accommodation should be safe, clean, weatherproof, have sufficient lighting and ventilation, and access to hot and cold water. You should either have access to a washing machine and dryer or your employer should take you to a laundromat at least once a week.

It is common to share your accommodation with other farm workers. This means that many people could be sleeping in the same building and you may have to share a bathroom and/or a kitchen with your colleagues.

All pay deductions should be listed in your employment contract.



Discrimination in the Workplace

The Ontario Human Rights Code states that employers cannot treat you unfairly or discriminate against you because of your:

- Age
- Ancestry, colour, race
- Citizenship
- Ethnic origin
- Place of origin
- Creed
- Disability
- Family status
- Marital status (including single status)
- Gender identity, gender expression
- Receipt of public assistance (in housing only)
- Record of offences (in employment only)
- Sex (including pregnancy and breastfeeding)
- Sexual orientation

These are known as
PROTECTED GROUNDS



Health & Safety at Work

You have 3 rights under *The Occupation Health & Safety Act*:

1. The right **to know** about any possible danger or risk to your health and safety, which may exist in your work and/or your workplace
2. The right **to participate** – workers can have a Health and Safety representative or a Joint Committee to represent them, who can hear concerns or complaints and support the workers
3. The right to **refuse unsafe work**:
 - if you consider the work to be a danger to your health or to the health of others
 - If you are in danger of being a victim of violence by someone else at the workplace- you must inform your supervisor immediately and explain your reason
 - Your employer cannot fire you, send you back to your home country, or treat you badly in any way for refusing to do dangerous work. This means the employer cannot take a reprisal against the worker for exercising their rights.

Violence and Harassment (verbal or physical) are not permitted in the workplace.

Injury or Illness at Work

If you get injured or fall sick at work:

1. Report this immediately to your supervisor
2. Receive medical treatment or an opinion from a doctor immediately
3. You may be eligible to receive benefits from WSIB (Workplace Safety Insurance Board):
 - you must file a report about your injury/illness with WSIB
 - you must inform the doctor your injury took place at work, and the doctor must complete a form to send to WSIB as part of your WSIB report

You can find the forms on the website of WSIB: <https://www.wsib.ca/en>

Or call them at: 1-800-387-0750



Termination of Employment

If your employer fires you (without cause) then they should provide you with *reasonable* notice.

If you have worked 3 months in a row or more, your employer must provide you with:

Prior written notice, or

- A payment, in lieu of notice, or
- A combination of both.

*These rules do not apply if your employer fires you because he or she claims "just cause" (blames you for misconduct).



Labour Exploitation

It can happen in any industry like:

- Industry and Factories
- Agriculture
- Sex work
- Domestic work
- Hotels, restaurants, etc.
- Beauty industry
- Construction industry

Some common indicators:

- Not free to come and go as they please
- May find the work differs from what originally promised by employers
- Unpaid, paid very little or only paid through tips
- Works excessively long hours, unusual hours, and hardly receives breaks.
- Not given health or safety training and/or protections
- In poor or substandard housing
- Has few or no personal possessions
- No control of their own money
- No control of their own personal identification documents
- Seldom or never given the opportunity to speak for themselves.
- Not able to negotiate their own working conditions

The UN Palermo Protocol Definition of Human Trafficking

"...as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation"



ACT

- What is done?

MEANS

- How is it done?

PURPOSE

- Why is it done?

Breaking it Down



ACT

- Recruitment
- Transportation
- Transfer
- Harboursing
- Receipt

MEANS

- Threat
- Coercion
- Fraud
- Deception
- Abusing position of power

PURPOSE

- Forced Labour
- Sexual Exploitation
- Forced Marriage
- Domestic Servitude
- Removal of Organs



Domestic vs International Trafficking

- **Domestic Trafficking:** When the entirety of the trafficking (including recruitment) occurs within one country's borders and no international boundary is crossed.
- **International Trafficking:** When the crime of trafficking sees an international boundary crossed
 - When a trafficker transports a citizen of one country into another country for the purpose of exploitation

Challenges & Factors of Vulnerability

- Limited Understanding of Rights
- Limited Access to Rights, Supports and Services
- Reluctance to Seek Support Due to Fear
- Language Barriers
- Restrictions on Work
- Lack of Work Permits
- Employer Specific Work Permits = Limited Freedom to Change Employers
- Limited Tools to Report Abuse
- May Depend on Trafficker/Abuser/Employer
- May not Recognize Situation as Exploitative or Identify as a Victim or Survivor

It Happens Here: Labour Exploitation Among Migrant Workers During the Pandemic Findings

1. Migrant workers have a limited understanding of their rights
2. Many migrant workers are not aware that labour trafficking occurs in Canada
3. Migrant workers are frustrated by policies that make it difficult to acquire permanent residency status
4. Migrant workers' primary concern is family separation, followed by low wages, employer discrimination and safety training
5. Many migrant workers had access to COVID-19 vaccines during the pandemic, but employers jeopardized workers' safety by failing to implement other public health measures.



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Labour Trafficking & Exploitation Trends



Common Exploitative Practices: Temporary Foreign Worker Program

- **Physical Abuse:**
 - Forcing workers to perform unsafe work or work while sick
 - Providing unsafe, overcrowded and unsanitary housing/bunk houses
 - Force workers to either handle or be exposed to harsh chemicals without protection
 - Extremely long hours with very few breaks
- **Financial Abuse**
 - Paying by piece instead of by hour as stipulated in contract
 - Making illegal or unfair deductions
 - "Jamaican Liasion" services
 - Advance payments
- **Psychological Abuse**
 - Threaten workers with deportation or loss of job
 - Racial discrimination
 - Extremely hostile work environments; criticism, disrespect, verbal abuse
 - Treating workers as property; lending workers, setting unrealistic production goals
- **Other Abuses**
 - Providing contracts/documents in only English or providing new contract to sign upon arrival that differs than original
 - Providing very little amount of free time
 - Offering no assistance to access doctors or grocery stores (or other essential services)
 - Sexual harassment and abuse by colleagues or supervisors



Labour Trafficking: Recruitment

- May happen in country of origin or in Canada; often through Facebook, third party agencies, or recruiters
- Victim may pay large fees for recruitment and/or "complete package"
- Coercive and deceptive practices;
 - promises of new life in Canada
 - Work permits/documents
 - Family reunification
 - Good pay and housing
 - Education



Labour Trafficking: Control

- Once entering Canada, may be instructed to make a refugee claim and delete all messages regarding recruitment
- Often placed in overcrowded/unsanitary housing and charged monthly rent
- Passports may be confiscated as "insurance"
- Debt bondage to employer or recruiter
- Fear tactics to make victim feel afraid of trafficker or authorities
- Direct or indirect threats made to victim to fear leaving or seeking support; often related to cartel or "connections" in country of origin
- Confined to remote areas with limited access to services, information, and/or unable to move around freely



Labour Trafficking: Forced Labour

- Working in agriculture, hospitality, cleaning, landscaping or service work
- May intersect with sex trafficking or sex work
- Not paid directly by employer; often not paid at all
- Victim does not feel they have a choice to leave- they depend on the income, they may be scared, and they don't know where to turn

Case Example: Labour Trafficking

- Recruited from Mexico, through travel agency offering good pay, housing and work permits in Canada
- Trafficker had connections in Mexico with these agencies
- Victims paid high fees to come to Canada and secure their jobs
- Once arriving, they were told they needed to pay to be picked up from the airport, for their first and last month's rent, and needed to hand in their passports as insurance
- They were taken to housing where they shared rooms and air mattresses with other workers (some not having any mattress at all) and were told they could not cook in the home; they must pay for groceries and one worker will be assigned to cook
- Trafficker placed them in different service type jobs, paying them after making many deductions for the reasons above- leaving them with only a few hundred dollars a month
- Trafficker bragged about her wealth, her influence and her connections back home saying nobody could cross her- instilling fear in the workers
- Workers were afraid to leave their housing, as they were told they would be caught by CBSA and deported if anyone caught on
- Trafficker was verbally abusive, controlling, and aggressive especially when intoxicated



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What can you do if you are being abused or exploited?



Open Work Permit for Vulnerable Workers

For workers who work on a Closed Permit, if they face labor abuse at their workplace, there is this immigration remedy. It is called Open Work Permit for Vulnerable Workers, and it is a temporary open permit. It allows you to keep your worker status and be able to work, and have time to search for and find a new employer with LMIA to obtain another Closed Permit.

IRCC considers the following to be labor abuse:

- physical abuse : may include unsafe or unhealthy accommodations or forcing you to work in unsafe conditions.
- sexual abuse - any situation in which force or threats are used to obtain participation in unwanted sexual activity, as well as coercing a person to engage in sexual activity against their will
- psychological abuse : insults, threats, intimidation, humiliation, disrespecting or criticizing a worker, attempting to control or dominate a worker
- financial abuse : not paying wages owed, charging fees to a worker for work that does not exist, wage theft.

Abuses must be proven on your application, so keep your own records of everything that happened. Make a note of what happened with dates and names of those involved, your pay stubs, copy of your contract, written communication with your employer, all the evidence you can gather to strengthen your claim.



OWP-VW

- Duration: This permit is normally issued for 12 months, and cannot be renewed. It is a temporary solution.
- It is not a travel document, so it does not allow you to leave the country and return. It authorizes you to work here.
- Application Deadline: You must apply before the expiration of your current Closed Permit, you cannot apply if your permit has already expired.
- IRCC may want to interview you before making a decision.
- The application is free of charge.
- Spouse or Dependents may be eligible
- FCJ or another support organization can assist you with the preparation and processing of your application.
- It authorizes you to work for any employer (LMIA is not required) and you are free to change your employer/job as long as your open permit is valid.
- It requires a detailed narrative and most importantly evidence



Limits of Open Work Permits for Vulnerable Workers (OWPVW)

- Inconsistency in what “evidence” of abuse is accepted
- Officers not applying guidelines consistently
- Short time period (12 months)
- Available only to those with valid tied work permit
- Requires survivor to “tie” themselves to a new employer once finding work again.. Leaving them vulnerable to exploitation once again!
- Sometimes the exploitation does not meet the definition of abuse

TRP for Victims of Trafficking

- Started in 2006
- Available for trafficked persons who are out of status
- Individual's partner and children can receive TRP if applicable
- Other supports with a TRP:
 - Open Work Permit (WP)
 - Health coverage through the Interim Federal Health Care (IFH) Program (includes counseling)
 - May apply for study permit
- Long processing times
- Inconsistencies in acceptances & rejections
- Immigration officers do not apply guidelines consistently
- Fees for subsequent TRP are expensive
- Interview can be difficult for the survivor and not trauma informed
- Short Duration
- Victim may not be deemed "victim" of HT and may only be issued a TRP as a witness
- No right for family reunification until PR
- Very difficult pathway to permanent residence
- IRCC automatically consults with CBSA and RCMP so there are risks to the application

Ministry of Labour Claims & Complaints

- You have the right to file a claim with the Ministry of Labour for your unpaid wages. This process is done online. If you win your claim, your employer will need to pay your owed wages.
- If your employer is breaking any labour laws, you may make a complaint to the Ministry of Labour. They can investigate the employer without a reason, and this may result in fines and compensation.



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Additional Supports

www.fcjrefugeecentre.org

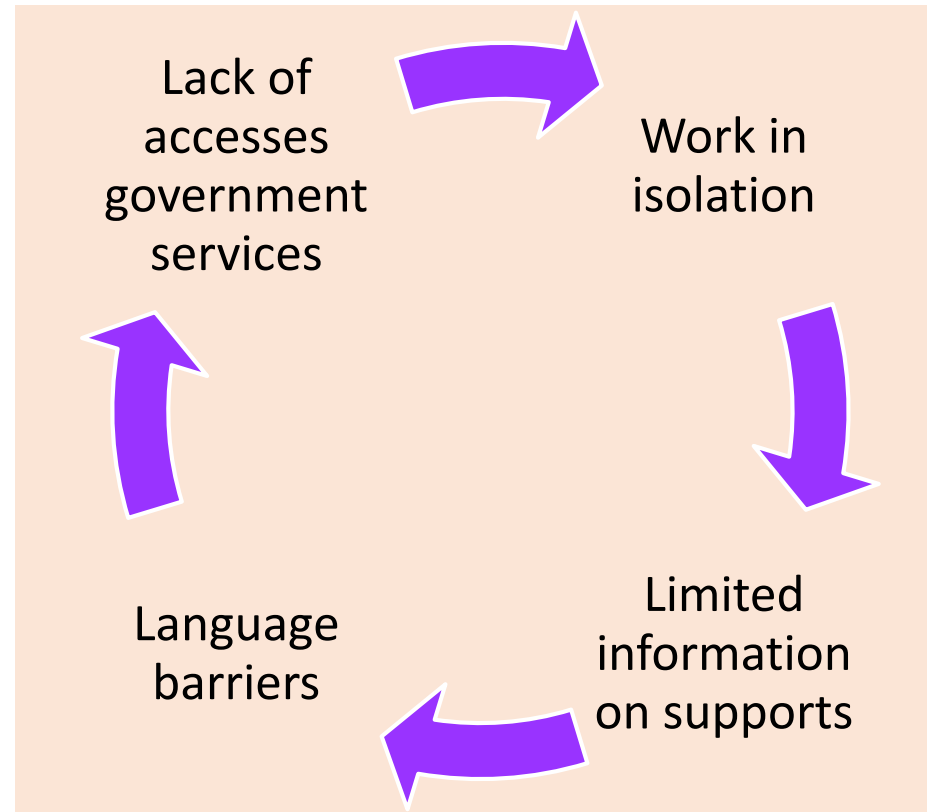


Supports For a Survivor





Breaking the Cycle





Do Not:

- React verbally/physically to communicate disgust or shock
- Dispute facts or comment on motivation, just Listen!
- Expect the person to recognize their situation as exploitative or see themselves as a victim in need of rescuing.
- Assume sole responsibility for meeting the person's needs. Know additional sources of support.
- Make promises you cannot keep.



You Can:

- Be non-judgmental . Listen and don't make assumptions
- Check yourself. Are you tense, resistance or uncomfortable with the subject?
- Believe them
- Ask if they are safe, or what would make them safe
- Allow for choice. Don't control the conversation
- Let them know if you don't have the answer. With their permission, reach out to other supports.



Advocacy Opportunities & Resources

- Migrant Rights Network:
 - Status for All
- Campaign: <https://migrantrights.ca/>
- Open Work Permits Now! Campaign
 - Caregiver's Action Centre
 - Worker's Action Centre
 - Justicia for Migrant Workers
 - Youth Alliance Against Human Trafficking
 - Counter Human Trafficking Women's Alliance



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Connect with us



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QUESTIONS

