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Government of Canada

**The Honourable Marco E. L. Mendicino, P.C.,
M.P.**
Minister of Immigration, Refugees and Citizenship
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December 4, 2020

RE: Immediate action to protect SAWP workers against blacklisting in 2021

Dear Ministers and Ambassadors,

COVID-19 has ravaged the lives and livelihoods of multitudes. One of the most affected groups in Canada are migrant agricultural workers, particularly those that are citizens of Anguilla, Antigua and Barbuda, Barbados, Dominica, Grenada, Jamaica, Mexico, Montserrat, St. Kitts-Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. The outbreaks and deaths of migrant workers on farms this year have generated massive public attention and outrage.

This season, many workers had to demand that basic measures be taken to protect their health and safety, and saw their workplace rights curtailed by employers. As a result, many migrant farmworkers are deeply concerned about reprisals, in the form of not being hired back next year. With SAWP negotiations underway,

we are writing today to call your special attention to this matter and encourage you to take immediate steps to ensure migrant workers are not punished and their livelihoods are not jeopardized.

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

- When workers arrived in Canada, they were placed in quarantine. While in some regions, this quarantine was managed by provincial authorities, in Ontario this responsibility was left to employers who abused these measures by unduly restricting workers' mobility and freedom. Many workers were not able to access basic food supplies, healthcare or other necessities such as phone access or remittance services;
- At the height of the pandemic, migrant farm workers falling ill at a rate 11 times that of frontline healthcare workers. At least 1,600 were infected, 3 died. Basic safety measures to protect against the spread of COVID-19, including physical distancing and provision of PPE, were not taken by most employers.
- Infected workers were also often placed in quarantine with inadequate access to food, healthcare or social support; and
- As a result of border closures and travel delays, many migrant farmworkers faced labour intensification without increased compensation.

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

Now as 2020 ends and workers return home, many workers fear not being invited back by employers. Despite the prohibition against "blacklisting" in the Seasonal Agricultural Workers Program, and that reprisals are illegal under provincial labour legislation, there are no effective mechanisms in place to ensure workers do not face this type of reprisal.

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

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

1. Guaranteed re-entry process for migrant workers who have previously come to Canada, so that workers are not dependent on employers to be able to return to work;
2. Workers who are not invited back should be granted access to an expedited review and reassignment process such that they can return in time for the 2021 season;
3. Workers in sending countries should be able to raise concerns about farms and request a placement elsewhere before the 2021 season. These requests should be automatically granted, and must be accompanied by guaranteed protection against reprisals for having raised such complaints;

4. A mechanism must be established for workers to complain about employers that have reprimanded against them in the form of non-invitation. This complaints mechanism must trigger an investigation of those employers by the Canadian federal government. A list of employers found to have engaged in blacklisting must be made public in Canada, be shared with sending country governments and made publicly available to workers before they begin their applications for the upcoming season.

We appreciate your immediate attention to this matter and are available to further discuss mechanisms that can be put in place to protect workers' ability to return to Canada to work in the 2021 season.

Please feel free to contact me via email at hussan@migrantworkersalliance.org.

Sincerely,



Syed Hussan

Executive Director

Migrant Workers Alliance for Change