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## Submission to Standing Committee on Status of Women Regarding: Human Trafficking Of Women, Girls And Gender Diverse People

### **Who we are**

The Migrant Workers Alliance for Change is Canada's largest migrant-led organization, representing over 30,000 members across nearly every province. Our members work in various sectors, including agriculture, healthcare, domestic work, and precarious employment. This submission focuses exclusively on migrant workers, i.e. working class people without permanent resident status.

### **Trafficking/Anti-Trafficking is a Funding Regime**

The definition of trafficking in Canada has expanded in ways that undermine migrant workers' access to basic rights and protections. Instead of addressing the root causes of exploitation, trafficking/anti-trafficking has become a funding regime in which institutions and organizations define the concept as broadly as possible to receive funding for work that would otherwise be excluded, and in fact should be excluded.

Over the past decade, federal and provincial bodies have approached most migrant organizations, including ours, with offers to fund our work within the anti-trafficking framework. Unfortunately, this has resulted in exploitative labor practices being reconstituted as labor trafficking. The funding framework is self-renewing, as organizations funded to do anti-trafficking work report employment abuse as trafficking, thereby expanding the "data" on trafficking and justifying further expansion of the anti-trafficking funding regime. Money is creating data, not the other way around.

In our expert opinion, based on the thousands of migrants we work with across the country, the cases of exploitation that meet the definition of "trafficking" are exceptions. Most of the organizations that insist otherwise use limited anecdotal data, and re-interpret the calls they are receiving for mistreatment as trafficking so as to justify access to funding.

### **Trafficking/Anti-Trafficking Frameworks Restrict Workers' Ability to Access Justice**

In March 2023, York Regional Police, the Ontario Provincial Police, and the Canada Border Services Agency (CBSA) announced the rescue of 64 Mexican migrant workers from traffickers in Toronto, in what was known as "Project Norte." The 64 agricultural workers endured grueling long hours, were paid only \$13 per hour despite promises of higher wages, and lived in inhumane, substandard conditions. This treatment of migrants is not an exception. In our work, we have encountered thousands of migrants who have been threatened, coerced, and harmed by their employers, charged illegal recruiter fees, and forced to work and live in deplorable, dangerous conditions.

Most of this treatment is often legal or at least commonplace. For instance, Ontario labor laws exclude migrant agricultural workers from minimum wage, hours of work limits, public holiday pay, and overtime pay, meaning that making a migrant farm worker work 16 hours a day, seven days a week, for



months at a time is legal. Migrant worker housing is unregulated, and many workers are warehoused in facilities without clean drinking water or privacy.

Before the Project Norte “rescue”, several of the same workers approached us for support. We helped rehouse some workers, including pregnant women, but others chose not to leave because they had borrowed large sums of money to come to Canada for work, and leaving the job meant they would be unable to repay the loans. We assisted those who wished to do so in making claims under Ontario's Employment Standards Act. If they succeed, they will receive reparations in the form of wages that were taken from them.

However, those rescued by the police have no such options. In the context of trafficking/ anti-trafficking, the repercussions for the employers are criminal charges. “Justice” is when the employer or recruiter is fined or given a jail sentence. For the affected workers, this is not justice, as the fines are not redirected to them, and a jail sentence does not help them repay their loans. The participation of police agencies and the mobilization of the idea of trafficking hurts and hinders workers' ability to access justice. In most cases of “anti-trafficking rescue,” the workers are largely worse off after their rescue: they still owe debts at home, are unemployed, are unable to earn income and will likely be deported.

The expansion of the definition of trafficking, and the use of “rescue operations” are forcing migrants out of accessing justice through channels where they have standing (like the Ministry of Labour), into the area of criminalization of employers, where they are “victims” and thus have no access to reparations.

### **Temporary Resident Permit for Trafficking is a Failure**

The vast majority of migrant workers who seek Temporary Resident Permits for Trafficking are refused, even when they are rescued and law enforcement agencies organize large media events to publicize their rescue. This is because the definition of trafficking for the purposes of accessing temporary resident permits is specific and limited, despite the expansion of discourse and funding on the concept of trafficking.

In instances where workers are issued permits, which are often valid for only six months, they are not renewed, and consequently, these workers become undocumented or are compelled to leave the country. In several cases, the same Canada Border Services Agency (CBSA) officers who coerce them to testify in court cases to frame their situations as trafficking, also assume responsibility for issuing exclusion and deportation orders. That is workers who are deemed “trafficked” and are “rescued” are not in a better economic position or have better access to immigration status.

### **Work authorization exclusions on the basis of “sex work”**

Currently, migrants on study or work permits are not permitted to work in industries related to sex. This restriction has led to a situation where migrants who do engage in sex work are vulnerable to greater exploitation because employers know that they are breaking the terms of their work permits and use this knowledge to underpay workers, force them to work longer hours, and in more hazardous



conditions. Prohibiting migrants from engaging in sex work does not restrict them from working; instead, it restricts their access to basic rights.

Some migrants who apply for permanent residency following the expiration of their work permits do not report engaging in the sex industry. As a consequence, they are considered to have misrepresented themselves under immigration law and are banned from Canada. The moral panic associated with the notion of trafficking has led to the implementation of policies such as the ban on working in industries related to sex, which has had the opposite effect of its intended purpose. More workers are outside of the protections of labour laws and standards.

### **Our Recommendations**

1. Restrict the definition of trafficking to exceptional circumstances of exploitation; and instruct relevant departments to stop defining labour exploitation and employment abuse as defined under provincial and federal labour laws as trafficking.
2. Ensure full and permanent immigration status for all migrants in Canada: Permanent residence gives migrants the ability equal rights as any other residents and is the most effective means to combat exploitation.
3. Remove immigration regulations that restrict the ability of workers to access justice:
  - a. Remove the use of subsection 185(b) of the Immigration and Refugee Protection Regulations, under which work permits are “Not valid for employment in businesses related to the sex trade such as strip clubs, massage parlours or escort services.”
  - b. Bar CBSA from participating in “rescue” operations or “visiting” massage parlours or other sex work related workplaces which create fear and restrict worker ability to access justice.
4. Review all federal funding related to anti-trafficking to ensure that funding is not resulting in misrepresentation of reality and is not limiting the ability of workers to access justice.
5. Invest money in migrant-led and sex worker-led community initiatives that are not framed around “rescuing” migrants or supporting migrants to “exit” industries.