



Niagara Migrant Workers Interest Group: 120 Queenston St, St. Catharines, ON, L2R 2Z3

Dear Advisors for the *Changing Workplace Review*,

I would like to thank you for the opportunity to submit our thoughts and suggestions in the *Changing Workplace Review*, and compliment you for making this Review happen. If laws and regulations are never re-evaluated, never questioned with the goal of assuring the best for the people, they are in danger of becoming arbitrary and outdated. Insuring that the Ministry remains in touch with changing times and needs, is something you should be commended for.

Our organization, the Niagara Migrant Workers Interest Group would like to submit our comments, ideas and suggestions for this review. I have enclosed our written submission with this letter. Please feel free to contact me or any of the members listed for further information and examples, clarification, or discussion.

Thank you for taking the thoughts of the people into account as you complete this Review.

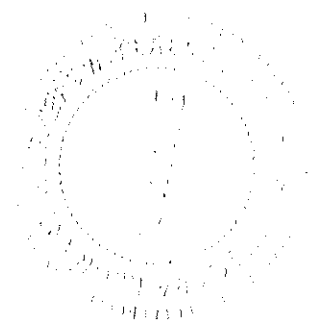
Sincerely,

A handwritten signature in black ink, appearing to read "J. Barrett-Greene", is written over a light-colored background.

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Who we are

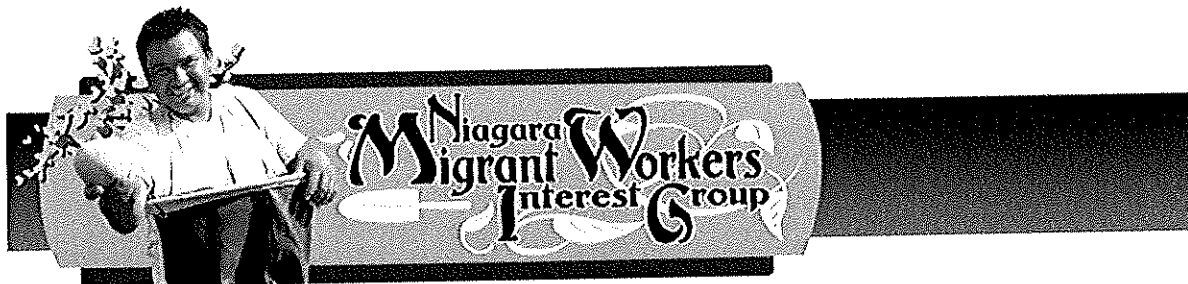
The Niagara Migrant Workers Interest Group (NMWIG) is a coalition of community based agencies, individual community members, students and local business owners in the Niagara Region who are working together to coordinate services and create meaningful initiatives for migrant workers in Niagara. Member organizations include Niagara North Community Legal Services, Positive Living Niagara, Agricultural Workers Alliance, Multilingual Problem Gambling and Mental Health (NHS), Occupational Health Clinics for Ontario Workers (Hamilton/Niagara), Quest Community Health Centre, Brock University, International Migration Research Centre, McMaster Medical Students/Residents, Next Company Theatre as well as individuals and local business owners.

Member agencies work collaboratively in their particular area of expertise to fill gaps in service to migrant workers in areas of advocacy; community inclusion; health and safety; workers' rights; and primary, sexual and mental health care. As well as collaborative work in member's areas of expertise, NMWIG coordinates special initiatives to provide services and education to migrant workers and awareness to the community:

NMWIG sponsors an annual Health Fair to provide education and information about available services to migrant workers in the Region and introduce the community to the labourers who grow their food. Attendance at this annual event continues to grow exponentially and in 2015, over 300 migrant workers and 100 members of the community attended this event.

In 2010 NMWIG petitioned Quest Community Health Centre in St. Catharines to provide accessible health care to migrant workers by offering a Sunday clinic in Virgil. We organized space for the clinic and provided volunteer translators to serve the migrant workers from intake to examination with a clinician, and coordinated outreach among the migrant population to make them aware of this service. The clinic has been extremely successful and continues to grow, providing a much needed service to migrant workers. We continue to work in conjunction with Quest Community Health Centre to provide translation services, advertising and referrals for this Sunday clinic. NMWIG would like to thank the Ontario Government for providing funding through the Local Health Integration Network to Quest Community Health Centre in St. Catharines as well as one in the Simcoe Region to provide primary health care for migrant workers. This forward thinking initiative has brought basic healthcare to hundreds of migrant workers who would otherwise face considerable barriers to accessing services.

The Niagara Region in which we operate is large and spread out from Ft. Erie to Grimsby to Niagara-on-the-Lake. There is a large diversity in agricultural operations and an equal diversity of migrant workers labouring in everything from agriculture to hospitality. Estimates based on our experience in front-line



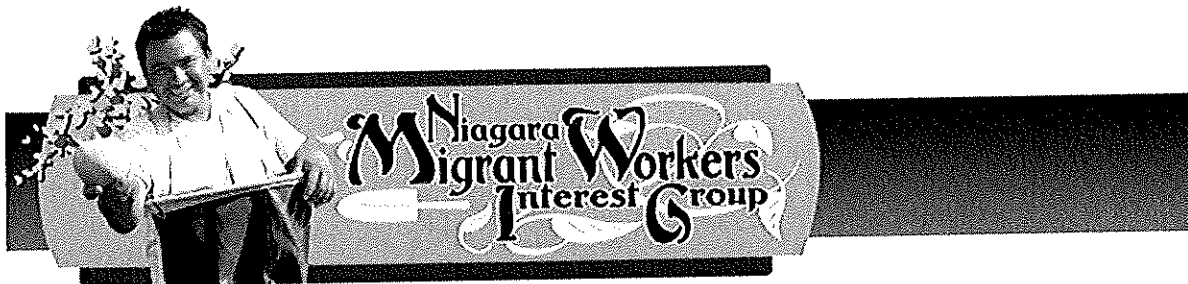
work are that the actual number of migrant workers from both SAWP and the Temporary Foreign Workers (NOC C & D) programs in our Region numbers between 3000-4000 workers in any given year depending on crop diversity, harvest and tourism seasons. The recent funding awarded to the two Community Health Centres (Niagara and Simcoe) by the LHIN has been instrumental in helping migrant workers access basic medical care. NMWIG is encouraged by this acknowledgment that targeted funding is needed and would like to see clinics like these set up throughout the province where migrant labour is used. However, basic health care is just one area in which minimal targeted funding has been provided for this very vulnerable population and much more is needed. Access to services, health education, safety training, community inclusion, and more remain unaddressed by funding initiatives. Without access to resources, our ability to continue to fill gaps in services is threatened. Our member agencies are filling these gaps in service among migrant workers without any additional funding, often reaching beyond their wheelhouses to meet dire needs that would otherwise be unmet and leave migrant workers without access to services they are entitled to. Without designated funding, our ability to meet these needs will decrease due to individual and agency burnout. Community based funding from the Ministry of Labour and the Province would ensure that collaborative initiatives such as NMWIG would be able to continue to provide necessary services to this marginalized population.

Ontario has a critical role to play

NMWIG is encouraged by the Changing Workplaces Review and wishes to commend the ministry for its action. A modern world must be continually examining and revising policies so that they remain in step with changing times. Ontario has a critical role to play in ensuring that basic protections and standards are in place for all who labour within its borders. Exemptions from protections on the basis of occupation disproportionately impacts migrant workers who cannot rely on regulations to guide safe work practices or enable them to safely refuse up to 80 hour work weeks. They generally experience a lower level of basic rights and entitlements as a result of their particular vulnerability to deportation and abuse. Being tied to a single employer who may control housing, their ability to return to work in Canada and/or apply for permanent residence status, and their access to health care and services, makes it extremely difficult to assert rights in a complaints based framework. This creates a tiered system of classes within Canada; those who have protection under workplace rights and provincial standards and those who do not.

The Niagara Migrant Workers Interest Group recommends one solution: inclusion for all in the Employment Standards Act, the Labour Relations Act and the Occupational Health and Safety Act.

Individuals, who labour in such a high risk industry such as the agricultural industry, whether they are Canadian citizens or migrant workers, should not be exempt from protections under the law.



- Migrant workers who labour under the Seasonal Agriculture Workers Program (SAWP), Temporary Foreign Workers (NOC C & D) and the Live-in Caregivers program should be afforded the same rights and protections that all other Canadians enjoy while laboring in this country, no matter the industry in which they are employed.

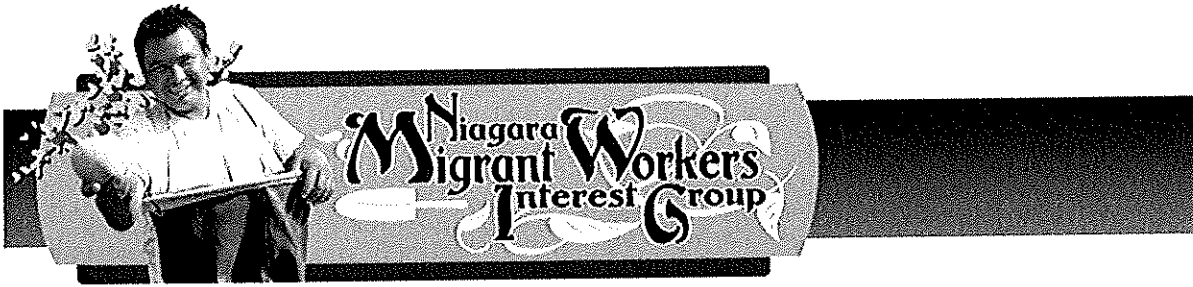
Inclusion; one law for all

In order to provide a safe and fair work environment for all, the ESA should be amended to include:

- a) Removal of agriculture specific exemptions from the ESA including minimum wage, overtime, vacation and holiday pay, hours of work, daily and weekly rest periods, and time off between shifts. Exemptions result in a patchwork of rights and entitlements and a lack of protection for agricultural workers under basic ESA standards. This contravenes the purpose of the ESA to establish a floor of minimum standards for all workers;
- b) Amend the ESA so that seasonal migrant workers can access termination and severance pay that recognizes their years of service and the continuity of an employment relationship with the same employer;
- c) Prohibit changes that lower wages or terms and conditions of employment;
- d) Provide model contracts. Ensure migrant workers in Ontario are receiving fair working conditions that are consistent with the ESA and other legislation by providing comprehensive standard contracts for migrant workers under each stream in the Temporary Foreign Worker Program. Contracts should be executed in Ontario and registered by employers with the Employment Practices Branch and a copy of all contracts provided to the signatory worker.
- e) Institute industry specific regulations for agriculture to ensure basic requirements for decent work, such as access to bathrooms in the field, clean drinking water and regular breaks are available for all agricultural workers.
- f) Include basic hours and wage protections in the ESA for migrant workers by repealing overtime exemptions, overtime averaging provisions and special rules.

Proactive Enforcement

Resources should be devoted to emphasize proactive enforcement of employment standards and health and safety regulations in the agricultural industry and sectors and workplaces that employ migrant workers.



- a. Establish a formal anonymous and third party complaint system and provide anti-reprisals protection to those workers whose workplace is subject to proactive inspection;
- b. Publicize employers with confirmed violations;
- c. Strengthen anti-reprisal protection for migrant workers including; expedited ESA and OHSA claims for migrant workers, protections from repatriations and extended time limitations for filing an ESA claim.

In conclusion, the inclusion of all agricultural, migrant and domestic workers into the ESA, the Labour Relations Act and Occupational Health and Safety Act without exceptions and providing proactive enforcement will be a forward step in ensuring a safe and healthy workplace for all who labour within our borders.