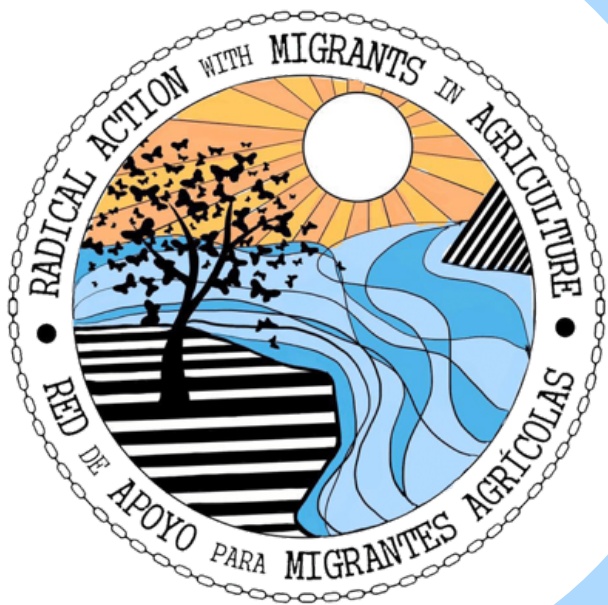


A SPACE TO LIVE, a home to stay:

dignified housing for migrant farmworkers



RAMA ISLA

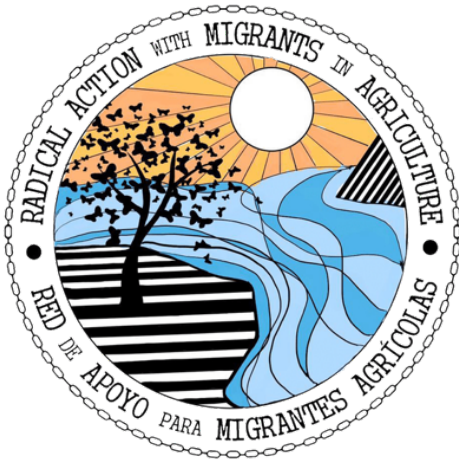
**Submission to the Stakeholder
Consultations on “Requirements
for Employer-Provided
Accommodations” in the
Temporary Foreign Worker Program**

DECEMBER 2020

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About RAMA Isla



RAMA Isla is a chapter of the volunteer-run migrant justice collective Radical Action with Migrants in Agriculture (RAMA Okanagan). We are based on W̱SÁNEĆ and Ləkʷəŋən territories and provide outreach on southern Vancouver Island. Our objective is to listen to migrant farmworkers and develop a support network based on their needs to ensure respect for their rights and well-being. RAMA Isla was formed in the spring of 2020 in response to a lack of services for migrant farmworkers on Vancouver Island and a lack of community awareness about migrant workers and the discrimination they face. Our recent efforts have focused on workers' health concerns during the COVID-19 pandemic, which has disproportionately impacted farmworkers and their access to the provincial healthcare system.

Acknowledgements

RAMA Isla would like to thank each of the migrant workers who trusted us with their stories in our preparation of this report. We are committed to continuing to fight as allies in securing dignified working and living conditions for migrant workers.

We would also like to acknowledge that our work, occurs on the territories of the W̱SÁNEĆ, Ləkʷəŋən, and Snuneymuxw peoples, territories on which we live and work as uninvited guests.

Introduction

In this report, we provide our feedback and recommendations regarding the federal government's "Proposed Minimum Accommodation Requirements for Primary Agriculture" as part of its [consultation process](#) for Temporary Foreign Worker accommodations. Our recommendations are based on research and RAMA Isla's outreach with migrant workers on southern Vancouver Island, including feedback we received from migrant workers specifically for the purpose of this consultation.

It is important to note this consultation process is taking place in the context of the COVID-19 pandemic, in which the inadequacy of living and working conditions has resulted in the death of three migrant farmworkers in Canada: **Bonifacio Eugenio Romero, Rogelio Muñoz Santos** and **Juan Lopez Chaparro**. Thousands more have been infected with COVID-19. However, it is also important to emphasize that migrant farmworkers' inadequate housing conditions are not unique to the COVID-19 pandemic. These inadequacies existed long before COVID-19 and they will continue to exist after COVID-19 unless their root causes are acknowledged and addressed.

Based on our review, the proposed requirements provide a preliminary template for identifying some of the major issues associated with migrant farmworker accommodations and outlining initial steps for improvement. However, they do not adequately respond to the scope of housing problems being described by migrant farmworkers in this region, nor the specific solutions they are seeking. For this reason, RAMA Isla believes the federal government's proposed recommendations fall short in guaranteeing adequate protection and respect for migrant farmworkers' rights and well-being.

We have organized our feedback and recommendations according to four central actions, each of which must be taken if the federal government is to achieve its stated objective of improving migrant farmworkers' living conditions:

1. Granting Permanent Status for Migrant Farmworkers and their Families;
2. Improving Housing into a "Living Space";
3. Promoting Access to Healthcare through Housing; and
4. Ensuring Rigorous and Regular Inspections and Safe Reporting.

One: “Good Enough to Work, Good Enough to Stay”: Granting Permanent Status for Migrant Farmworkers and their Families

The widespread issues of housing, healthcare, and labour conditions that have been at the forefront of criticism of the Temporary Foreign Worker Program (TFWP) can be linked to migrant farmworkers’ permanently temporary immigration status in Canada. This status renders them an expendable and exploitable labour force. Migrant farmworkers, particularly those in the Seasonal Agricultural Worker Program (SAWP), have no access to permanent residency for themselves or their families. These workers, predominantly from Mexico and the Caribbean, work for up to 8 months a year, for years or decades, on Canadian farms bolstering the Canadian economy without a hope of becoming residents or citizens.

Many workers in this region have spent the majority of their adult lives in Canada, yet have no right to immigrate. In addition to their temporary status, workers cite undue hardship as a result of 1) their permits being closed; 2) the practice of employers providing invitations for re-contracting; and 3) employers’ broad abilities to repatriate workers within SAWP. The closed work permit is of particular concern, as it ties workers and their immigration status to a single employer and farm. The employer’s ability to send workers back home, and the necessity of employers to recommend workers to be re-contracted, must be removed from the labour contract. These measures only serve to generate worker vulnerability. Workers from this region continue to report that the status quo allows unsafe conditions to proliferate and infringements of workers’ rights to go unreported. What is more, workers are structurally disempowered and yet the responsibility is put on them to speak out in the face of abuses, even though it may cost them their job.¹ Granting workers permanent status would allow them to navigate the labour market, provide autonomy, and enable them to access labour, housing, and healthcare rights.

To be contracted in the SAWP, workers must have dependents. Their family status qualifies their participation, and, yet, family separation is structured into the program. Workers from Mexico are motivated to work in Canada to provide for their families in the face of economic insecurity, employment scarcity, and growing violence in their home communities. These circumstances condition workers’ reliance on Canadian wages to provide for their families, making it increasingly difficult for them to leave an abusive employment situation and risk future wages. Structured family separation has been shown to create troubling impacts on migrant workers’ mental and emotional well-being.² In a 2019 study, migrant farmworkers in the Okanagan, BC

¹ Alexandra Mae Jones and Molly Thomas, “Migrant worker who got COVID-19 Says he was fired from Ontario farm for speaking out,” *CTV News* (30 July 2020), online: *CTV News* <<https://www.ctvnews.ca/canada/migrant-worker-who-got-covid-19-says-he-was-fired-from-ontario-farm-for-speaking-out-1.5046484>> [Accessed 21 December 2020].

² Elena Pennell, “*No somos maquinas*” (*We aren’t machines*): *Emotional dimensions of precarious labour in the Seasonal Agricultural Worker Program* (Master of Arts, Simon Fraser University, 2019), online (pdf): *SFU* <<http://summit.sfu.ca/item/19179>> [Accessed 21 December 2020]; Geraldine Pratt, *Families apart: Migrant mothers and the conflicts of labor and love* (Minneapolis: University of Minnesota Press, 2012), online (pdf): *Google Books* <<https://books.google.ca/books?hl=en&lr=&id=xIkQgJR9rEYC&oi=fnd&pg=PP2&dq=geraldine+pratt+families+apart&ots=99lgW5WlGf&sig=rsMArmeAKGQk09vhKqCEDkfWWk0#v=onepage&q=geraldine%20pratt%20families%20apart&f=false>>.

asked that family reunification be an option in the SAWP.³ They asked that they have an option to go home for a visit if they had a work contract longer than four months, and that they have the option to immigrate with their families to Canada.⁴ Workers in the Vancouver Island region similarly highlight structural issues of unfreedom and temporariness because they underlie many of workers' experiences of unsafe working conditions and inadequate housing.

Recommendations

If the Canadian government is committed to meaningful change, we argue that these structures must change. To this end, we make the following recommendations:

- **Open Work Permits:** The TFWP must include open work permits to enable workers to freely leave unsafe employment and enter the labour market, without fear of losing their wages.
- **Permanent Residency Upon Arrival for Workers and their Dependents:** Workers and their families must be granted immediate permanent residency upon arrival in Canada and have an avenue to permanent family reunification. Farmworkers devote years of their lives to working in Canada away from their families and contribute to Canada's multi-billion dollar agricultural economy. They deserve permanent status.
- **End Repatriation:** Employers' ability to repatriate workers at any time must be removed from the SAWP employment contract. This severely disadvantages workers, making them easily exploitable and expendable, and leads to the misuse and abuse of authority on the part of the employers.
- **End Employer Recommendations for Re-contracting:** The practice of employer recommendations must be removed from the SAWP. Recommendations create a culture of competition between workers and make it so workers must not only comply with their employer's demands, but must fight for their recommendation to be re-contracted the following season.

³ Elena Pennell, *ibid* at 66.

⁴ Elena Pennell, *ibid* at 121.

Two: Improving Housing into a “Living Space”

In our outreach experience on Vancouver Island, migrant farmworkers have consistently expressed concerns about and sought solutions to their inadequate housing conditions. In particular, workers have emphasized that their housing continues to fall well below provincial guidelines,⁵ despite recent updates to the provincial guidelines and new systems by which housing inspectors are approved to carry out inspections.⁶ Workers express continual infringements of their tenant’s rights to the private use and enjoyment of their housing, as a result of inadequate space, improper or limited facilities, and lack of maintenance by the landlord resulting in health hazards and unsanitary living conditions.

Recommendations

Workers within our region express that the current minimums proposed by the “Proposed Minimum Accommodation Requirements for Primary Agriculture” are entirely insufficient to guarantee their safety, privacy, and security. To this end, we make the following recommendations:

- **Sleeping Quarters:** Migrant workers in our region identified that the proposed guidelines of four workers per bedroom continues to be too high of a number. Workers continue to ask for more spacious and private sleeping quarters with one worker per bedroom. On this basis, the proposed maximum of four workers per bedroom is grossly insufficient. Workers have explicitly stated that multiple people living in a bedroom is very uncomfortable and unacceptable, particularly during the COVID-19 pandemic, and that sleeping quarter space is simply too small, with bunk beds ranging well below the allowable height allowance. Workers want and deserve privacy to relax and spend time with their families free from interruption.
- **Kitchen and Eating Facilities:** Workers in our region continue to identify that the minimums included in the “Proposed Minimum Accommodation Requirements for Primary Agriculture” continue to be insufficient to meet minimum kitchen and food storage space they require to maintain healthy and sanitary living conditions. In particular, they have identified a need for more food preparation facilities (particularly, stoves). In some instances on Vancouver Island, twelve people are living in one house with only one stove and two fridges, some of which are kept in disrepair by employers despite increased inspection regimes.
- **Washroom/Washing Facilities:** Workers in our region continue to identify that the minimums included in the “Proposed Minimum Accommodation Requirements for

⁵ Guidelines for migrant worker housing in British Columbia are included here: WALI and BCAC, “B.C. Temporary Foreign Agricultural Worker Housing Inspection Housing Guide,” online (pdf): *WALI Canada* <<https://walicanada.ca/wp-content/uploads/2020/11/TFW-Housing-inspection-guide-V20-3-October-2020.pdf>>.

⁶ WALI, “Approved Home Inspectors,” (12 August 2020), online (pdf): *WALI* <<https://walicanada.ca/wp-content/uploads/2020/08/Updated-Aug-12-2020-1.pdf>>.

Primary Agriculture” continue to be inadequate in terms of the square footage of washroom facilities. They further ask instead for a maximum allotment of two workers per washroom. On this basis, the proposed ratio of one toilet for every five workers continues to be insufficient. Workers have also explicitly stated that hot water supply continues to be insufficient, making it difficult for them to bathe, wash their hands, and wash dishes. The fact that this element is not even included in the Federal guidelines is extremely concerning, especially in light of the context of the global pandemic.

- **Building Structure:** Migrant workers in our region continue to express concern about the inadequate maintenance of properties, including rundown and unkempt accommodations, inadequate heating and ventilation, pest infestation, broken infrastructure, and fragile bed structures. They have also expressed concerns about regular electrical issues such as power outages, heating concerns, and other electrical problems. They have also noted the need for safety equipment in all worker accommodations. They have further emphasized that the current inspection regime within British Columbia continues to fail to ensure sufficient maintenance of worker accommodations. A federal regime that simply replicates the current regime in British Columbia will, therefore, continue to be insufficient. Regulatory authorities must continually ensure sufficient maintenance of worker accommodations.
- **Amenities:** Workers in our region continue to identify concerns as a result of not having reliable access to phone and internet service. It is imperative that employers provide access to phone and internet at no cost. On this basis, we support the proposed requirement of phone access and free internet provided the qualification “where available” is not used to shield employers from providing internet simply because they have not installed it, making it “unavailable.”
- **Common Living Spaces:** Worker accommodation must include recreational leisure space. Farmworkers live and work in remote rural areas in isolation from community centres and thus need a place to relax in their off time. Workers have consistently expressed concerns about inadequate living space inside and outside their accommodations. Tellingly, the housing element of “Common Living Spaces” identified in the “Proposed Minimum Accommodation Requirements for Primary Agriculture” is restricted to issues of temperature control, sound furniture, and usable floor area. However, there is no requirement to provide recreational facilities within worker accommodations or recreational space outside of worker accommodations. Neither recreation nor leisure are even mentioned in the proposed requirements, implying that these essential elements of any living space are unnecessary and unworthy of legal protection. The social and community dimension of housing is essential to workers’ mental and emotional health, given the isolation experienced by migrant workers living and labouring on geographically remote farms, particularly during the pandemic. This must be reflected in the proposed requirements. In particular, we propose that an additional housing element of “Recreational Facilities” be added to the proposed requirements or that this element be included within the existing element of “Common Living Spaces.” In either case, “Recreational Facilities” should include but not be limited to the following requirements:

- **Indoor recreational space:** accommodations must include recreational amenities sufficient to support the number of workers housed, including entertainment facilities characteristic of communal social spaces (i.e. culturally-appropriate television, games, music, billiards, table tennis, etc.)
- **Outdoor recreational space:** accommodations must include outdoor recreational space sufficient to support social gatherings of workers and their guests, sporting, and other leisure activities, and a gardening space for workers to grow their own food.
- **Guests:** Workers continue to report that they are being subject to employers' commonplace practice of applying extra-contractual "on-farm" rules to forbid guests from entering the property to visit workers. This practice must be prohibited. Workers must be allowed guests in their living spaces, as is guaranteed under existing residential tenancy agreements in British Columbia. The proposed requirements must affirm this right.

Three: Promoting Access to Healthcare through Housing

Housing and healthcare are inseparable. Migrant farmworker housing is provided by employers at workers' place of employment. This creates serious barriers to accessing healthcare insofar as workers' accommodations are often geographically isolated in rural areas at a significant distance from healthcare services. This reality renders workers' access to healthcare dependent on their employer providing transportation to access healthcare services. In our outreach experience on Vancouver Island, workers have expressed how employers are unavailable or simply unwilling to take responsibility for the provision of such supports. In one instance, a worker experiencing a medical emergency was denied transportation to hospital by their employer. Instead, they were required to self-isolate at their place of employment despite requiring life-saving intervention.

In our experience, this has resulted in migrant farmworkers relying on community organizations or other support services that may or may not be available (or exist) in the area where they work and live, let alone have the resources or training to respond to workers' healthcare concerns and medical emergencies, often on short notice. In our experience, this has resulted in workers having to hire private transportation at their own cost or walk to access the nearest hospital. Furthermore, the lack of reliable and free internet and phone service in worker accommodations obstructs access to mobile health clinics providing medical consultations either online or over the phone. These housing barriers to healthcare have only been exacerbated by the COVID-19 pandemic, in which inadequate housing conditions increase the risk of transmission among workers and thus the need to access healthcare services that are already inaccessible to migrant farmworkers. Furthermore, "on-farm" rules have forbidden farm workers from leaving the farm and community organizations providing transport to health care from entering onto the farm.

Migrant farmworkers' access to healthcare services is also dependent on private insurance providers. In our experience, workers have expressed uncertainty about the scope of coverage they can expect when accessing healthcare services under their particular agricultural worker policy plan with COWAN Insurance Group. In turn, this uncertainty contributes to workers' hesitation to access healthcare since there is a risk workers will assume personal liability for the cost of accessing certain services. These barriers to accessing healthcare are further exacerbated by hospital admitting staff's unfamiliarity with the direct billing policies of their respective health authority and the unavailability of on-site translation services. Although public healthcare coverage is now available for migrant farmworkers in British Columbia at no cost in the form of a Medical Services Plan (MSP), the application process is only available upon arrival, is exclusively in English, and requires internet access, photographs of one's work permit and passport, and a Canadian phone number. Moreover, workers are also not provided with application instructions upon their arrival. In our experience, workers are unaware MSP coverage is even available and unfamiliar with the scope of coverage it provides. Even when workers are successful in applying for MSP, because their mailing addresses do not necessarily differ from those of their employers, their employers have the opportunity to intercept any mail and stop workers from getting their MSP cards. As we have had situations in the past of employers withholding mail, identifying documentation, and otherwise, this becomes a significant concern.

Recommendations

We outline these barriers to healthcare in the context of housing because it is essential that migrant farmworkers' housing includes detailed information on how to access healthcare services in their respective jurisdictions and provides the means for accessing them. To this end, we make the following recommendations for worker housing:

- **Health Care Services Information:** Worksites must display visible posters in workers' preferred languages outlining province-specific information on how to access healthcare services pursuant to the policies of both the province and workers' private insurance providers, including information on how to apply for public health insurance;
- **Health Authority Contact Information:** Worksites must display visible posters in workers' preferred languages outlining contact and location information for the relevant health authority, hospitals, mobile health clinics and prescription service providers, including their hours of operation and availability of on-site translation;
- **COVID-19 Health Resources:** Visible posters in workers' preferred languages outlining province-specific information on how to access COVID-specific healthcare services;
- **Internet and Phone Service:** Housing must include reliable and free internet and phone services necessary to contact healthcare services without reliance on the employer;
- **Guaranteed Transportation:** Reliable means of transportation necessary to access healthcare services in-person at no cost, without reliance on the employer should be made available to migrant workers; and
- **Emergency Health Supplies:** All accommodations must include first aid kits and personal protective equipment such as masks, gloves, and hand sanitizer.

Four: Ensuring Rigorous and Regular Inspections and Safe Reporting

Any improvements to existing requirements, including those advocated throughout this report, will only be impactful if the federal government and provinces and territories work together to ensure rigorous and regular inspections. In British Columbia, a number of protections (for example, the *Worker's Compensation Act*, the B.C. *Employment Standards Act*, the *Residential Tenancy Act*, the *BC Human Rights Code*) currently exist on paper to some extent or another (although migrant workers continue to be exempted from many portions of, for example, the *Employment Standards Act*), yet, we still consistently see alarming rates of abuse and rights infringements on farms.

Housing Inspections

In British Columbia, housing inspections are currently used by the government as a one-stop-measure to guarantee the housing of migrant workers. Housing inspections, when used as a one-stop measure, do little to monitor migrant workers' actual living conditions for the duration of their stay. While we are glad that there is an approval process for inspectors doing inspections of migrant worker housing within BC, it is concerning that employers are the ones that hire and schedule housing inspectors, meaning that employers are aware before-hand of the time the housing inspectors will visit and can clean up the property and ensure workers are segregated from housing inspectors before they arrive (so that they cannot bring up concerns with them). This makes it harder for inspectors and the government, by extension, ascertain the true conditions migrant workers face during their stay, and creates an oversight vacuum. For example, RAMA receives multiple reports every year that employers only comply with requirements for the time of the inspection, continuing to contravene requirements once the inspection is over. For example, we have heard reports of employers moving pesticides back into the premises after inspections and having inspectors inspect areas that migrant workers are not actually living in (and then putting migrant workers in other buildings that are not up to the requirements). During RAMA Isla's outreach work during the 2020 summer, we encountered workers who explained that their living conditions were inadequate and overcrowded, with no COVID-19 protections in place. The employer then provided them with personal protective equipment including masks, gloves, and hand sanitizer and separated their sleeping quarters. Evidently, these performative measures do nothing to protect workers' well-being throughout the season. Violations such as these and employers' blatant non-compliance could be regulated and removed from the TFWP with rigorous, regular and unannounced inspections. Our experience on Vancouver Island has made it clear that in order for employers to be held accountable, inspections must be unannounced.

Safer Reporting of Infringements

Workers currently face significant barriers to safe reporting. They work long twelve-hour days, often six days a week, with limited access to a computer or phone. Furthermore, the complaint process through the BC Residential Tenancy Branch is complex and in English. In our experience in outreach, it has been very rare that workers feel comfortable to pursue a human rights, employment standards, WorkSafeBC, or tenancy grievance, even with the support of

advocates. They feel it is too much of a risk to their employment, which they desperately rely on to support their families, and thus they prefer to keep their head down and get through the season, despite what are all too often serious and life-threatening living conditions.

Recommendations

Workers should not have to choose between employment security and job safety. We therefore submit that the federal government must work with the province to provide an integrated complaint portal to receive, triage, and translate workers' complaints. This service should act as a centralized support centre to advocate for workers' rights and assist them through the complaint process with the appropriate provincial or federal authority. The initial complaint process must be anonymous, in workers' language(s), and available 24/7. This complaint process should be independent from the employer and include a request for housing and workplace inspection. We summarize these recommendations as follows:

- **Rigorous and Regular Inspections:** The provinces and territories must conduct rigorous, regular, and unannounced housing and workplace inspections. Employers need to know that they will be accountable for upholding the Mandatory Minimum Requirements, which we argue will have minimal impact on workers' well-being if active enforcement is not at their core.
- **Safer Reporting:** Workers need to feel safe and encouraged to report workplace and housing abuses. We recommend an impartial centralized complaint portal to receive migrant farmworkers' complaints that can be accessed anonymously in their language(s), 24/7, and which is equipped with supports to help workers follow through with the safe reporting process.

Conclusion

Our recommendations are based on the experience of migrant farmworkers who labour largely out of sight from most Canadian communities. Researchers, academics, advocates, and workers themselves have long decried the irregularities and abuses migrant farmworkers experience in Canada and continue to fight to bring these stories to the public and policy makers. These consultations should make the injustices clear and represent a significant opportunity to reform housing and employment standards within the Temporary Foreign Worker Program.

Our recommendations for permanent immigration status, improved quality of living, access to healthcare, and regular enforcement will improve conditions for migrant farmworkers in line with Canadian employment standards already upheld in other employment spheres. RAMA Isla is pleased to make this contribution and appreciates the federal government's attention to these important issues affecting migrant farmworkers in Canada. We share one final word from a migrant farmworker:

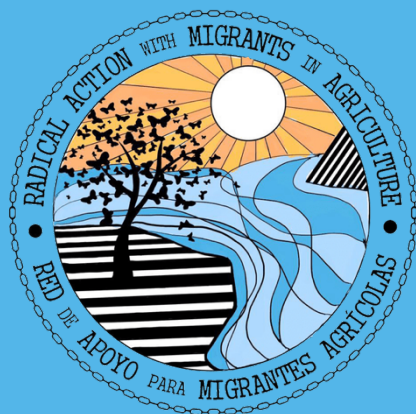
"if there are things that have to be regulated, regulate them, there are things that aren't okay, there are many irregularities . . . the SAWP has to demonstrate . . . that it really complies with what we sometimes need, that it is more aware of really . . . the problems, of the severity that exists."⁷

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⁷ Pennell, supra note 3 at 123.



RAMA ISLA

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