

Migrant Workers Rights Based on Citizenship: We Need Them and We Should Protect Them.
An Analysis of Ontario and California.

by

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AUTHOR'S DECLARATION FOR ELECTRONIC SUBMISSION OF A MRP

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Immigration and Settlement Studies Ryerson University

ABSTRACT

The purpose of this paper is to provide an insight on the policies that impact the rights of migrant workers in Ontario and California. This paper will explore the policies in depth while also analyzing how citizenship is used as a neoliberal tool to determine the treatment that workers will receive in the workplace. This paper will analyze the employment laws that are in place for Ontario seasonal agricultural workers. The paper will also analyze laws in California including: AB263, SB666, AB2751 and AB450. This paper also examines whether employers uphold the laws in each respective area. I suggest that neoliberalism has had a negative impact on the way that migrant workers are treated because employers thrive off the exploitation of vulnerable workers to stay globally competitive. I also argue that it is possible to ensure the rights of workers in a neoliberal world through increased access to organizations for agricultural workers as well as information regarding their rights.

Key Words: Seasonal Agricultural Workers Program, Ontario, California, H-2A, Unions, Employment Standards, Exploitation, Migrant Workers, Neoliberalism, Citizenship.

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Table of Contents

<u>AUTHOR'S DECLARATION FOR ELECTRONIC SUBMISSION OF A MRP</u>	ii
<u>ABSTRACT</u>	iii
<u>Acknowledgements</u>	iv
<u>Introduction</u>	1
<u>Neoliberalism</u>	2
<u>The Effect of Neoliberalism on Migration</u>	3
<u>Temporary Foreign Work Programs in Canada</u>	5
<u>Citizenship Status and Rights</u>	7
<u>History of Migrant Farm Workers in Ontario</u>	13
<u>Seasonal Agricultural Workers Program (SAWP)</u>	13
<u>History of Migrant Farm Workers in California</u>	18
<u>RAW and SAW Programs in the United States</u>	20
<u>Employment Protections for Farm Workers in Ontario</u>	26
<u>Health and Safety</u>	26
<u>Discrimination and Harassment</u>	28
<u>Employer Reprisals</u>	29
<u>Employment Standards</u>	29
<u>Housing</u>	30
<u>Unionization</u>	30
<u>Recent Proposals</u>	31
<u>Exploitation and Abuse</u>	33
<u>Employment Protections for Farm Workers in California</u>	39
<u>Health and Safety</u>	39
<u>Discrimination and Harassment</u>	40
<u>California's Laws: AB 263 and SB 666</u>	40
<u>AB 2751 (2015) and AB 450 (2017)</u>	41
<u>Employment Standards</u>	42
<u>Housing</u>	44
<u>Unionization</u>	45
<u>Recent Proposals</u>	45
<u>Exploitation and Abuse</u>	47
<u>Analysis of Ontario and California</u>	51
<u>Permanent Residency and Partial Mobility for Migrant Workers</u>	54

<u>Case Studies</u>	56
<u>Salas v. Sierra Chemical Company California Supreme Court</u>	56
<u>The Case of Ned Peart</u>	58
<u>Analysis of Cases</u>	63
<u>Discussion & Recommendations</u>	63
<u>Conclusion</u>	66
<u>Bibliography</u>	68

Introduction

Migrant workers are vital to the industry of agriculture throughout the world due to the seasonal and cyclical nature of the work. Although their labour is vital, it is also often taken for granted. Many people are not aware of the hardships that migrant workers go through on a daily basis to ensure they can maintain their livelihood. These hardships include but are not limited to the following: exploitation, abuse, harassment and discrimination. In this paper, I will explore these issues on a deeper level, specifically by analyzing the labour laws in place in Canada and the United States to protect the rights of agricultural workers. This paper will examine the notion of citizenship and neoliberalism, which are two key concepts that determine agricultural workers' position in society. There will then be an analysis of whether labour laws are being respected in Ontario and California, using two relevant case studies to support the analysis. Lastly, the paper will present discussion and recommendations to highlight the gaps to be addressed in both respective migrant worker programs. This analysis fills a gap in the literature regarding the connection between law, neoliberalism, citizenship and migrant worker programs. For this paper, Ontario and California were specifically chosen because they have the highest numbers of migrant workers in each respective country. Also, Ontario and California have similar state-sponsored migrant worker programs: the Seasonal Agricultural Workers Program and the H-2A.

The objective of this paper is to examine whether there is a relationship between citizenship and the treatment of agricultural workers. The research questions guiding this paper are the following: First, what does citizenship mean and what impact does this have on workers? Second, how does politics influence the treatment of agricultural workers? Third, how has neoliberalism affected the rights of agricultural workers?

Neoliberalism

Neoliberalism will be defined as an economic system that thrives off of quicker production and competition while decreasing employment standards for workers with an ultimate goal of creating a race to the bottom. Neoliberalism also believes in a 'laissez-faire' approach to the market, which suggests that the markets will balance themselves with little to no government intervention. The following section will explore the broad concept of neoliberalism and its effects in Canada as well as its implication in the United States (US). In order to adjust to an economic recession and handle a growing national debt, the Canadian government introduced significant economic restructuring in the 1980s. Restructuring the economy resulted in the introduction of user fees, privatization and overall cutbacks to social services, consequently providing less assistance to the general public (Ghosh & Pyrcie, 1999 p. 233). Neoliberalism in Canada led to significant changes with regards to immigration policy in the 1990s by emphasizing the selection of immigrants to maximize their economic contribution while also minimizing the costs that are associated with settlement (Arat-Koc, 1999 p. 49). The selection of immigrants in the 1990s was centred around what migrants could contribute to the economy which drew away from the notion of immigration as a nation-building exercise.

Neoliberalism in Canada placed a greater emphasis on deregulation and privatization which caused a decline in wages (Cole, 2010 p. 1). The Washington Consensus greatly contributed to the expansion of neoliberalism, and this can be seen through the examples of the International Monetary Fund and the World Bank. The main goal of both of these financial institutions was to restructure the economy of developing nations (Cole, 2010 p. 2).

Neoliberalism has negatively affected wages, benefits and contributed to the loss of jobs which

has weakened the rights of workers. The period before neoliberalism in the U.S. was known as the capital-labour accord, also referred to as the Ford Compromise and the 'Golden Era' for the worker due to wage increases, better pensions, enhanced safety regulations and more health benefits (Cole, 2010 p. 3). The results of this era had 4-5% growth each year, low unemployment rates and even lower inflation that has been described as virtually non-existent and real wages rose about 60% (Cole, 2010 p. 4). The cross-examination of neoliberalism in Canada and the U.S. demonstrates that with different policies, there can be positive changes for workers while also ensuring that the workers have benefits, adequate pay and a safer work environment. Through neoliberalism, economies were restructured to increase global competitiveness, which led to further requirements for individuals attempting to immigrate (Arat-Koc, 1999 p. 31). This is significant because it demonstrated that there was a societal shift which incorporated a new notion on market-oriented values, including self-reliance, which was reflected in employment laws and regulations.

The Effect of Neoliberalism on Migration

Neoliberalism derived from the idea of liberalization, deregulation and privatization which is rooted in the belief in self-regulating and balanced markets (Stoenescu, 2019 p. 79). As a result of this, key players in the market such as governments seek cheaper production costs and more flexible working methods which will be shown through the use of migrant workers in this paper. The purpose of neoliberalism is to accelerate work production and to create a division amongst labour (Stoenescu, 2019 p. 79). Neoliberalism negatively affects the rights of workers as individuals are dehumanized and are more vulnerable to exploitation in the workplace due to

the increased pressure to maintain competition in the global market (Stoenescu, 2019 p. 79). The shift towards neoliberalism in Canada in the 1980s particularly facilitated the exploitation of the migrant worker. Neoliberalism within Canadian immigration policy became more apparent through laws, politics and legislation throughout the 1980s such as the creation of the business class immigration category (Arat-Koc, 1999p. 33). Bill C-86, introduced in 1992, was also important in pushing the neoliberal agenda as it amended the 1976 *Immigration Act* to favour and increase the number of professional and business class immigrants as well as encourage the use of temporary workers (Arat-Koc, 1999 p. 42).

The shift toward neoliberalism in the 1980s was not isolated to Canada. It was in fact a phenomenon that was transforming the economies of many countries throughout the world, and in turn shaping the global movement of people. In Mexico, neoliberalism had negative implications due to the privatization and social security restructuring (Cole, 2010 p. 12).

Agricultural institutions were going out of business and therefore, individuals who worked in these institutions were forced to look for opportunities elsewhere in order to survive. Moreover, the implementation of the North American Free Trade Agreement (NAFTA) in 1994 further facilitated the exploitation of the worker, as shown in Mexico. For example, NAFTA decreased the price of crops such as corn and as a result, people stopped planting corn because it was not economically beneficial to do so (Bacon, 2014). This resulted in a decrease in employment, as the worker was no longer necessary due to the decrease in demand of the crop. After signing onto NAFTA, 120,000 jobs were lost in Mexico (Bacon, 2014). The Mexican economy was left vulnerable because there was no protection of agriculture from the fluctuations of the world market (Bacon, 2014). In Oaxaca, towns became empty and the population was mostly of those

who were old and young, where the ideal age group was not prevalent for employment (Bacon, 2014). The relocation of production and jobs contributed to wage cuts because it made unemployment rates increase, and workers were forced to take more temporary and part-time jobs due to the lack of full-time opportunities (Cole, 2010 p. 12). Neoliberalism contributed to the alienation of the worker, due to the rise of precarious employment. Harald Bauder has referred to this era of neoliberalism as “migrant work unfree labour” and even mentions that labour in today’s society is “unfreedom” referring to the inability of workers to have spatial mobility in the labour market (Bauder, 2008 p. 101). State and capitalist interests have influenced the selection of the migrant workers and as a result of this, migrant workers have adapted to these expectations of the ‘perfect migrant worker’ according to McLaughlin (2010 p. 79).

Temporary Foreign Work Programs in Canada

In Canada, the Temporary Foreign Worker Program that has been created as a result of neoliberalism has been used to “shift the social relations of power in favor of capital, and thus must be analyzed as the tool that has been applied and instituted to restructure the capitalist political economy” (Cole, 2010 p. 12). Employing migrant workers has become imperative to maintaining the political economy, it has facilitated the employment of disposable labour for difficult work with low wages that are not considered acceptable to domestic workers (McLaughlin, 2010 p. 80). McLaughlin refers to this as a “multi-unit competition” where performance or adaptation to a neoliberal subjectivity is a defining element in determining who is “worthy” to be an immigrant (McLaughlin, 2010 p. 80). In Canada for instance, the Seasonal Agricultural Workers Program (SAWP) has workers that are selected from Mexico and English-

speaking Caribbean countries who are solely selected on their ability to be the most efficient workers to support the interests of capital (McLaughlin, 2010 p. 80). McLaughlin notes that Pauline Gardiner Barber has discussed the notion of the “performances of subordination”, which means that workers must conform to the model image that is expected of them by the sending and receiving states (McLaughlin, 2010 p. 80).

The SAWP program which is guided by a neoliberal ideology, allows multiple actors to come together to produce a flexible worker. This is done by reproducing a specific construction of gender, class, race and citizenship (McLaughlin, 2010 p. 80). For example, Mexican and Caribbean farmworkers have to express subordination to appear appealing to future employers. Workers must impress their employers as the applicants usually have an idea of what the Ministry of Labour seeks and as a result of this, some workers forge documents to comply with the preferences of the Ministry of Labour preferences (McLaughlin, 2010 p. 85). Neoliberalism has caused a shift where workers are expected to have pre-qualifying factors prior to entering the country in order for the state to attain labour that is disposable and temporary. For those from Mexico, the state purposely looks for individuals who have dependents, limited education and few other job prospects (McLaughlin, 2010 p. 85). These individuals are more likely to return to their host country once their contract has been fulfilled.

However, in Jamaica selectors are concerned with ensuring that applicants are physically able to handle agricultural labour, and individuals that are sought after for the position should be willing to accept an environment where they have little control over their living conditions and be willing to obey their employer (McLaughlin, 2010 p. 87). Through a neoliberal lens, selecting the ideal migrant is a process of ensuring little to no job mobility as migrant workers are

permanently temporary. This separates the labourer from the human, seeking only to extract a specific service and not to develop a well-rounded citizen with various skills to contribute to the country (McLaughlin, 2010 p. 91). This results in a system where migrant workers are dehumanized by becoming a commodity and not being allowed the same benefits of a worker who is a Canadian citizen. There is a two-tiered system where one group of residents which includes those deemed worthy of permanent membership has the chance to develop skills and be mobile while the other is only wanted temporarily and is ultimately viewed as replaceable.

Migrants jobs are precarious because workers can be fired at the discretion of their employer and these workers are often in dire economic circumstances, ultimately put in a position to oblige to any order given by the employer.

An end to the employment contract would result in deportation, as the worker no longer has a means of staying in the country, and re-admittance into the program would also not be guaranteed (Basok 2002; Binford 2009). Neoliberalism has facilitated the flow of labour and has also facilitated the conditions of exploitation. Also, this has deteriorated countries in the global South which has caused the movement of individuals to want to seek better opportunities in the global North. For example, Seasonal Agricultural Workers travel for work opportunities for a short period of time only to make an income to send remittances to their respective families due to the lack of opportunities in their host country. Therefore, neoliberalism has created an exploitable, flexible and vulnerable labour force.

Citizenship Status and Rights

Citizenship is a way of producing difference and inequality due to the state using the idea of citizenship as a subsidy of capital (Sider, 2003 p. 371) Bosniak highlights key differences in the way that people think about citizenship and work. This includes: citizenship being a legal status, citizenship as a process of ruling and being ruled and lastly, citizenship giving individuals the right to a decent quality of life and basic economic empowerment (Bosniak, 2002 p. 500-502). Bosniak argues that citizenship should be understood in ways that extend beyond formal nationality and should include things such as universal rights and democratic participation (Bosniak, 2002 p. 506). Citizenship is typically understood in at least three different ways: as a status, rights and democratic engagement (Bosniak, 2002 p. 505). Mantouvalou however, argues that human rights inform the discussions of citizenship by “untying rights from the status of nationality and bringing them closer to the idea of universality” (Mantouvalou, 2013 p. 367). The notion of citizenship has caused a debate where people argue citizenship as being political participation, passive citizenship and formal citizenship (Mantouvalou, 2013 p. 368). The theoretical aspects of citizenship shape the discourse regarding citizenship and how people view it. In turn, this can have negative or positive impacts for those who lack citizenship. In Canada for example, the conversation surrounding temporary workers has changed over time. Foster and Barnetson discuss how there are political actors who support international migrant workers due to economic necessity of the state however there are also conversations that are against migrant work. These discrepancies in discourse regarding citizenship actually support a neoliberal emphasis on a flexible and expendable workforce (Abu Laban, 2015 p. 8). An example of this is the Conservative government Bill C-24 “Strengthening Canadian Citizenship Act” which empha-

sized the value of Canadian citizenship while reminding individuals that citizenship is not a right but a privilege (Abu Laban, 2015 p. 3). This sets the tone for the way that communities, state actors and those in power understand Canadian citizenship which has an effect on the way that they treat those who lack citizenship status. Citizenship establishes an understanding of privilege and entitlement which can often cause those with status to disregard the rights of those who are undocumented. This is exemplified through an example that Harald Bauder discussed in 1999. There was a suggestion to require Canadian citizen welfare recipients work on farms which incited a fierce backlash (Bauder, 2008 p. 325). The media outlets reacted negatively to this by causing an uproar that Canadian citizens would have to do these dangerous and physically demanding jobs. However, there was no regard for the fact that migrant workers do these jobs on a daily basis. Therefore, the conversations surrounding people's essential rights change once citizenship is discussed.

Fudge discusses the concept of "Industrial Citizenship" which in essence means that rights should apply to standards at work, in the terms and conditions of employment (Fudge, 2005 p. 633). Industrial citizenship includes social and political rights into the market. However, industrial citizenship eroded with the expansion of neoliberalism through the United States- Canada Free Trade Deal. The forces of globalization created the perfect combination to dehumanize workers and alienate them from their rights (Fudge, 2005 p. 641). This understanding of citizenship is important because it illustrates the shift in the economy which changed the perception of how individuals should be treated in the workplace because there was a greater emphasis being placed on capital and profit. The definition of citizenship can change over time. While Bosniak argues that it is simply a matter of legal recognition (2000, p 455), Shklar and Smith emphasize

the idea that citizenship determines one's position in society and the law uses a legal status as a way to structure one's position (Bosniak, 2000 p. 465). TH Marshall discussed citizenship as a status for those who are full members of a community, this involves having three elements: the civil, the political and the social (Mantouvalou, 2013 p. 368). Mantouvalou differed from the literature because there was an argument made discussing marginal citizens, which is defined as those who are workers but are excluded from the protection of labour rights through legislation, the marginalization of these workers is justified through legislation which gives employers the power to exercise arbitrary control to dominate migrant workers (Mantouvalou, 2012 p. 369).

Ultimately, most of the literature defines citizenship in terms of having a political legal status. The common theme missing from the literature is the conversation on universality and rights for those who do not have legal citizenship. Citizenship is a form of power and control established by the elite to form a barrier on the entitlement of rights. Universality is defined as a central feature of human rights, and should be attached to everyone simply by virtue of being human regardless of citizenship status, as labour rights are fundamental according to international human rights law (Mantouvalou, 2013 p. 375). The exclusion of undocumented workers from labour rights protection has been discussed at the Inter-American Court of Human Rights which came to the decision that labour rights are based on human dignity and not on the status of citizenship (Mantouvalou, 2013 p. 375). However, this understanding of rights has been difficult for state actors and elites to apply due to their perception of citizenship. According to Bauber, aspects of citizenship function as a form of capital and as mechanism of distinction (Bauber, 2008 p. 316). The legal status and cultural meanings that are attached to the understanding of citizenship ultimately create migrants that are vulnerable and exploitable (Bauber,

2008 p. 317). Many non-citizens, although they pay taxes, are denied basic social and health services. Citizenship is strategically used as a form of capital because it reproduces the economic privilege of the global North (Bauder, 2008 p. 327).

It is important to note that there are contradictions that exist in the principles of citizenship. Even though legal access to some economic rights may be extended to non-citizens the exercise of these rights may be neglected by the denial of social membership in the community (Basok, 2004 p. 48). Citizenship should be understood on a broader spectrum, that breaks away from the idea of only having legal entitlements. This is imperative so that those without legal status are able to claim rights or expand existing rights (Basok, 2004 p. 50). For example, in Leamington Ontario, Mexican workers are employed in field crops and greenhouses for a maximum period of eight months at a time, many greenhouse growers have admitted that Mexican seasonal workers are vital to their industry and without their contribution, the agricultural industry would collapse (Basok, 2004 p. 52). However, Mexican workers are often not aware of their entitlement to a right to a minimum wage or prevailing wage, workers compensation, access to medical care and some provisions of the Employment Standards Act (Basok, 2004 p. 54).

While all migrant workers are covered by provincial health plans, workers tend to under-utilize services because of the language barriers they encounter. They also do not claim for injuries through the Workplace Safety and Insurance Board (Basok, 2004 p. 58). Employers fail to offer workers days of rest, vacation, public holiday pay and decent living conditions (Basok, 2004 p. 58). As global citizens, Mexican workers are entitled to the rights imposed by international conventions and recognized by the Canadian state. Being denied membership in

communities, Mexican migrants are deprived of opportunities to learn the language and skills — recent initiatives of organizations have given them more opportunities (Basok, 2004 p. 60).

However, Canada has not signed the UN Convention on migrant workers (Basok, 2004 p. 60).

The broader definition of citizenship includes the concept of belonging, Mexican workers in Leamington have reported feeling as if they do not belong by experiencing social rejection and isolation (Bosniak, 2000 p. 510). Citizenship is rooted in the groups and communities in which human beings live (Bosniak, 2000 p. 476). Bosniak discusses the possibility of completely decoupling the notion of citizenship from the nation-state. However, it was acknowledged that this may not be feasible due to the legal association between citizenship and the nation state which would be hard to overcome (Bosniak, 2000 p. 509).

It is possible to achieve rights in states without acquiring legal citizenship. For example, in Canada permanent immigrants are able to achieve social, civic and some political rights without legal citizenship status (Basok, 2004 p. 49). Permanent residence status gives immigrants access to Canada's labour market whereas temporary migrant status limits individuals to work for a specific employer and contract. Canada has a long history with temporary migration, and the government has used this type of migration to create a permanent source of temporary workers in order to maximize the economic benefit of the nation (Reed, 2008 p. 469). Canada tailors its need for foreign labour based on changing labour market conditions, and the SAWP is being used to keep the agricultural industry competitive on a global scale (Reed, 2008 p. 477). Agri Food is a \$108 billion business in Canada and is responsible for 6% of the country's GDP (Keung, 2017). It has also been one of the top priorities for Prime Minister Justin Trudeau's innovation economy (Keung, 2017). Citizens are able to make claims on

the state and hold the state accountable, whereas migrant workers have limitations because they are indentured to an employer (Foster & Barnetson, 2015 p. 110). As a result of this, migrant workers are not likely to be able to engage in the social, political or economic life of Canada because of their temporary status (Foster & Barnetson, 2015 p. 125). Preibisch (2007) argues that granting or withholding of citizenship rights through immigration policy serves as a powerful tool of labour-receiving states and can be seen as legal discrimination. Seasonal agricultural workers are particularly vulnerable due to their poor living conditions, and being forced into a position where their voice is not heard and the health and safety risks inherent to the job such as the exposure to dangerous pesticides (Beckford 2016; Preibisch, 2007). Much of the literature focuses on the state policies and laws and how these can be detrimental to the treatment of workers. However, there is very little discussion on how the neoliberal understanding of citizenship itself can contribute to the exploitation of migrant workers.

History of Migrant Farm Workers in Ontario

Seasonal Agricultural Workers Program (SAWP)

Temporary migrant worker programs were popular in North America and Western Europe following the Second World War - one of the largest programs was the United States Bracero Program (1942-1964). Annual worker admissions came close to half a million and many other high-income countries implemented this form of labour such as Germany, Netherlands and Austria (Preibisch, 2010 p. 407). In the 1960s, farmers began incorporating non-citizen migrant labour into their operations (Preibisch & Grez, 2010 p. 296). In Canada, the creation of the

SAWP was institutionalized in 1966, a bilateral framework of agreements between Canada and labour source countries such as Jamaica, Trinidad & Tobago, Barbados, Mexico and members of the Organization of Eastern Caribbean States (Preibisch & Grez, 2010 p 296). The Canadian government wanted to provide a solution to the labour shortage specifically in the agricultural sector (Foster & Bartnetson 2015; Basok 2002; Preibisch 2007). The SAWP attracts applicants from rural areas who may have been negatively affected by neoliberalism. Most workers reside in countries who lack the resources, networking contacts and the will to risk undocumented migration to the United States (Binford, 2009 p. 506).

The program began by recruiting individuals from Jamaica. Agreements with Barbados and Trinidad and Tobago followed in 1967, and by 1974 there was an agreement that was signed with Mexico (Beckford, 2016 p. 155). Countries within the organization of Eastern Caribbean states were later included in 1976 (Greenhill & Aceytuno 1999; Preibisch, 2007). The first phase of recruitment generates a labour force which must meet a minimum criteria to be eligible for inclusion. After the contract season is complete, all workers are evaluated by their employer. Each worker must submit their evaluation to the Ministry of Labour, who then decides whether the worker will be able to return to Canada for another harvest (Binford, 2009 p. 507). The Ministry of Labour also has the discretion to expel or suspend workers on the basis of bad behaviour, or not enough productivity (Binford, 2009). Between 1978 to 2007 the SAWP grew from employing less than 5,000 migrant workers per year to over 25,000 migrant workers almost three decades later (Preibisch, 2010 p. 410). SAWP currently operates in nine Canadian provinces, Ontario has the greatest share of all workers (Preibisch, 2007). In 2015, the SAWP recruited approximately 18,000 farm workers per year from Central America and the Caribbean

(Foster & Barnettson, 2015 p. 108). Mexico provides the greatest share of workers and the research suggests that this is due to racial stereotyping of Mexican workers. It has been argued that employers view Mexican workers as more docile whereas, Caribbean workers are viewed as more resistant (Binford, 2002; Foster & Barnettson 2015). For example, Caribbean workers have some knowledge of employment rights and know English, and therefore may be able to hold managers accountable, whereas Mexicans have a language barrier as well as limited experience with labour negotiations (Binford, 2002). This is important because it exemplifies that some employers discriminate when choosing their workers, and therefore the employer has the discretion to mistreat the respective group and not respect their rights solely because they do not speak English and are not aware of their rights.

The SAWP prohibits the workers' right to mobility and permanent residence, and the individuals in the program are not able to stay in the country for longer than eight months in a year (Reed, 2008 p. 469). Workers admitted under the SAWP are strategically chosen and must enter the country as single applicants. They must prove that they have dependents in their host country in order to qualify for the program (Preibisch, 2007 p. 435). This process is strategic in the sense that it deters migrant workers from seeking to apply for permanent residency because they have dependents to care for in their respective host countries, it also results in a workforce that is willing to work additional hours to support their families. The SAWP operates under federal immigration laws, but it is governed by provincial laws with respect to employment standards, labour and health (Basok, 2002). Many migrant farm workers in Ontario do not have any form of representation or bargaining rights because the province does not allow farm workers to be unionized (Preibisch, 2007). Therefore, due to the lack of protection from unions, it is up to

the employers to inform the employees of their rights. However, the literature has found that these migrant workers are often not made aware of their rights and also do not have a lot of knowledge on how to proceed with complaints against their employer. This can have negative implications due to underreporting of injuries and harassment and therefore, it is likely that injuries that are not reported can undergo complications. Another significant policy change happened in 1973, where there was the establishment of the Non-Immigrant Employment Authorization Program (NIEAP). The NIEAP was significant because it established a precedent for the government to legally differentiate between the treatment of workers due to immigration status. NIEAP work permits were tied to a specific employer, residence, length and terms of employment.

The NIEAP placed restrictions on visitors who intended to work in Canada. Migrant workers were no longer able to apply for work permits from inside the country. They had to leave Canada in order to apply to change their immigration or employment status (Fudge & MacPhail, 2009 p. 7). The legislation also gave a lot of power to the employer and to the state, because it “immunized them from appeals to deportation from migrant workers in Canada” (Sharma, 2000 p. 240). The NIEAP functioned as a way to shift immigration policy away from permanent settlement towards an increasing reliance on temporary labour to fill employment gaps. The introduction of the NIEAP allowed the Canadian state to have employers with greater flexibility in terms of creating a permanent temporary workforce according to changes in demand in the market (Sharma, 2000 p. 243). Moreover, it worked in favour of employers because farm workers were exempt from minimum wage and employment standard legislations (Sharma, 2000 p. 243). Ultimately, the NIEAP facilitated the neoliberal agenda by creat-

ing a permanent temporary work force that could fill shortages in the Canadian labour market. The introduction of the NIEAP separated employment rights on the basis of citizenship status. Another significant change was under the introduction of the Low Skill Pilot Project (LSPP) in 2002. This program accepted an international pool of labour available to Canadian employers, which changed the previous understanding of the SAWP. Employers were able to hire migrant farm workers from any country outside of the SAWP (Preibisch & Grex, 2010 p. 296).

The LSPP and the SAWP hold key features in common as both programs offer a maximum stay. However, under the SAWP it is a length of eight months and under the LSPP it is a stay of two years, the work permits are employer specific and have forced rotation (Preibisch, 2010 p. 412). Worker recruitment is different under the SAWP, as it is the government's responsibility to make arrangements with sending countries, under the LSPP it is the employer's responsibility to recruit workers through the use of a recruitment agency and the sending country does not have a formal role (Preibisch, 2010 p. 412). The SAWP is resource intensive, committing the federal government to work in co-operation with sending country governments to facilitate the movement of workers to Canada according to conditions that have been signed in a Memoranda of Understanding (Preibisch, 2010 p. 424). The Memoranda of Understanding is meant to hold the Canadian government responsible for the treatment of workers while staying in Canada (Preibisch, 2010 p. 424).

The neoliberal changes in the understanding of citizenship are important to recognize through the policy changes in Canada. It seems as though there has been a shift away from the bilateral model of migrant workers. The Canadian government has moved more towards a clear adherence to the neoliberal ideology. There is a shift away from social protections by introduc-

ing the LSPP, due to the fact that the LSPP does not require the involvement of the government and has created a role for private recruiters which can cause more exploitation and abuse. As of 2010, 11,160 workers under the LSPP were able to fill jobs in crop production, animal production and support for agriculture (Preibisch, 2010 p. 410). Although the treatment of workers under the LSPP is not the focus of this paper, it would be interesting to see whether there is a difference in the treatment of a program that is run with little government intervention. A key feature of all of the migrant worker programs in Canada include the restrictions on labour mobility and the limits on social and political rights. Migrant workers in Canada are excluded from participating in society due to their lack of full Canadian citizenship which deters them from voting, running for political office and applying for Permanent Residence Status (Preibisch, 2010 p. 414). Ultimately, the role of neoliberalism has caused a clear difference in the treatment of migrant workers as they are alienated from participating in the social and political realms of being in Canada due to the existing structure of the SAWP and LSPP. These programs have caused the desire for workers only for their labour and a disregard to their rights as people.

History of Migrant Farm Workers in California

The migrant farm labour system in the US depended on a large influx of workers who were willing to work during difficult seasons. These workers were hard to find in a society where there was a lot of upward mobility (Martin 2002). The key economic development in the rise of the migrant labour system was the completion of the transcontinental railroad in 1869 (Martin, 2002 p. 1124). Once the railroads were completed, there were a large number of farms who needed agricultural work due to the drylands agriculture (Martin, 2002 p. 1124). The *Chi-*

nese Exclusion Act of 1882 was expected to terminate the supply of migrant workers who had no other job prospects in the U.S. (Martin, 2002 p. 1127). The first guest worker policy in the U.S. began as a national emergency program during World War I (WWI). The U.S. established an agreement with Mexico which led to having seasonal workers during the period of 1917-1921. This was coined as the first Bracero program: “*bracero- meaning, the one who works with his arms*” (Önel & Farnsworth, 2016 p. 12). The program came to an end in 1922 after WWII had finished. This is important because it demonstrates that migrant workers were only considered due to the gaps in labour since most young males went to fight in the war. However during the program there was 76, 862 migrant workers from Mexico that were admitted to the U.S. and only 34,922 returned to Mexico (Önel & Farnsworth, 2016 p. 12).

With the rise of World War II, men went abroad for the war and as a result, there was another labour shortage in the agricultural sector. The U.S. federal government then proposed the second Bracero program in order to overcome agricultural labour shortages (Martin, 2002 p. 1128). Farm labour reformers were against the idea of having Mexican migrant workers through the Bracero program however, the farmers needed labour to produce food to win the war (Martin, 2002 p. 1128). The period of the 1950s was significant for the guest worker programs because in 1952 the *Immigration and Nationality Act* was passed. In so doing, there was the creation of the H1 program for temporary workers “of distinguished ability or merit” and the H-2 program for other temporary workers (Önel & Farnsworth, 2016 p. 13). Initially, the agricultural employers used the H-2 program. The year 1969 had the peak of its usage where 69,000 visas were issued (Önel & Farnsworth, 2016 p. 13). The H-2B visa permits employers to hire unskilled foreign

workers to work in the U.S. and work in nonagricultural areas which could either be one-time, seasonal, peak load or intermittent (Taylor & Finley, 2009 p. 193).

The H-2B program was also used to recruit workers for entry level positions, and the visas were given to employers who “petition the Department of Labour (DOL) and the bureau of Citizenship and Immigration Services with an annual cap of 66,000 new visas allocated per fiscal year” (Taylor & Finley, 2009 p. 193). The H-2B program also started an agreement with the Mexican government, the agreement went under the conditions that the Mexican government would recruit labourers and supply them to the U.S. however, only on a temporary contract (Önel & Farnsworth, 2016). The majority of these workers were in agricultural production although some also worked in the railroad bracero program. During this time, 7.5 million contracts were signed. However, even though the contracts were temporary, some workers decided to overstay for the harvest season (Önel & Farnsworth, 2016).

At the end of the 1970s, California farm workers were working in a “golden age” where migrant workers were highly paid. For example, through United Farm Workers (UFW) there was a contract that was signed with Sun World, which was a large citrus and grape producer (Bacon, 2017). The contract’s starting wage was \$5.25 an hour where the minimum wage at the time was \$2.90 (Bacon, 2017). This golden age only lasted up until the 1980s, when there was a lot of changes in the global economy due to neoliberalism. Also, there were contributing factors such as a change in the UFW, a switch from a Democratic to a Republican governor. As a result, there was a change in state farm labour relations law, more undocumented workers arriving to California and a changing structure of agriculture — employers were realizing that it could be easier to hire workers via agencies rather than directly (Martin, 2002 p. 1128). The *Immigration*

Reform and Control Act of 1986 established a farm labour compromise containing the following: an easy legalization program for currently ‘illegal’ workers, the Special Agricultural Worker program and the two guest worker programs through which farmers could obtain additional workers in the event of labour shortages (H-2A, and Replenishment Agricultural Worker Program/RAW) that would allow foreign farm workers to circulate within agricultural regions in the US” (Martin, 2002 p. 1131).

Companies such as United Brands and Dole began to buy produce from farmers in order to supply to larger chain retailers, unions lost the ability to bargain with companies and found themselves dealing with “operators who leased land and used labour contracts and other intermediaries to obtain seasonal workers” (Martin, 2002 p. 1140). Through neoliberalism, it was shown that unions lost the ability to bargain, and the state had other interests in mind. For example, having a way to make higher profits with lower wages and involving large multinational corporations such as United Brands and Dole. Workers were now subject to lower wages, and the golden age of agricultural work had come to an end.

RAW and SAW Programs in the United States

Agricultural interests during the 1980s had changed significantly as there was now a precedence for the special need and dependence on migrant workers. The Special Agricultural Workers (SAW) Program allowed undocumented workers to work in the US with a pathway to becoming legal U.S. residents which was under the provision of the *Immigration Reform and Control Act* (1986). This was done by proving that the workers had done at least 90 days of work in seasonal agricultural services’ (Martin, 1990 p. 70). The argument supporting the cre-

ation of SAW and the RAW program was intended to give agricultural regions in the U.S. a legal work force, as legal workers would be more likely to join unions and press for wage increases, through both programs approximately 2.7 million people were legalized (Martin, 2002 p. 1132).

An applicant could apply for the SAW program by attaining an affidavit from an employer which specified the number of days worked however, most of the burden of proof was with the Immigration and Naturalization Service, who would review the documents to determine if individuals were eligible for “permanent resident alien status” (Martin, 1990 p. 73). The program was eligible to anybody who was involved with the following: cultivating, planting, growing and harvesting perishable fruits and vegetables (Martin, 1990 p. 75). However, the filing for the SAW program was short-lived from June 1, 1987- November 30, 1988 as the SAW program had an abundance of fraud as there was no process in place for the verification of documents (Martin, 2002 p. 1133). This program enabled one million people of Mexican descent to become legal U.S. immigrants, including 700,000 in California alone (Martin, 1990 p. 75). This program had negative implications for the economy of Mexico as one million Mexicans became legal residents in the United States prior to this, Mexico had an estimated population of six million adult men in rural Mexico (Martin, 2002 p. 1133).

The Replenishment Agricultural Worker Program (RAW) was also added to the 1986 implementation to the *Immigration Reform and Control Act* the program was implemented to provide agricultural workers and alleviate the current shortage. The program allowed the government to replenish the supply of workers by allowing migrant workers to have legal citizenship status (US Citizenship and Immigration Services n.d.). Workers were able to receive temporary

U.S. residence visas similar to those issued to SAWs, if there was 90 days of farm work completed annually (Martin, 1990 p. 86). Those in the RAW program were able to live and work anywhere in the U.S. and after three years, were permitted to apply for a green card to become a “permanent resident alien” (Martin, 1990 p. 86). This program was also short-lived as it ended on May 10, 1994 (US Citizenship and Immigration Services n.d.). Although the program was successful in alleviating the shortage, it was announced that there were no more shortages present in the agricultural sector as of January 2, 1990 (Martin, 1990). The DOL reported that enough workers had entered the agricultural sector in 1989 and continuing workers did more days of farm work (Martin, 1990 p. 91). Since the termination of the SAW and RAW program, employers who were seeking migrant workers would do this through the H-2A contractual worker program. The H-2A program recruits migrant workers however, employers must have certification present by demonstrating that there is a shortage of American workers available (Martin, 2002 p. 1135). As of 1995, Western farm employers pressed for an alternative to the H-2A guest worker program because they wanted a program with fewer requirements. In 1997, a bill was introduced to create a two year pilot program administered by the U.S. Department of Agriculture for the acceptance of 25,000 temporary foreign agricultural workers a year, with employers obtaining access to these workers by stating they satisfy recruitment and wage obligations similar to the previous H-1B process (Martin, 2002 p. 1135).

This law did not go through due to the General Account Office rejecting it as there was no reported national agricultural labour shortage at the time (Martin, 2002 p. 1135). In July of 1998, the U.S. Senate approved the *Agricultural Job Opportunity Benefits and Security Act* which created a new guest worker program, migrant workers would fill seasonal jobs and stay

for a maximum of ten months a year (Martin, 2002 p. 1135). However, new conditions were instilled stating that if a migrant worker stayed longer than the ten months, 20% of their earning would be withheld and returned to the worker only once they returned to their host country (Martin, 2002 p. 1135). Also, AGJobs eliminated the requirement that farm employers must provide free housing to legal guest workers. Instead, there was the option to provide a housing allowance (Martin, 2002 p. 1135). There has been a neoliberal shift at this point in the history of U.S. guest worker programs as the government wanted to receive labour at a more flexible rate however, there was the erosion of social protections for those who do not have citizenship status. In October of 1999, a new bill was introduced S.1814 which stated that if workers could prove they did at least 150 days or 880 hours of farm work in the 12 months ending October 27, 1999 individuals were eligible to apply for temporary resident status and eventually convert it into permanent status (Martin, 2002 p. 1136). However, this bill did not go through.

In 2000, there was another attempt for a new guest worker program, which was a partnership with former President George W. Bush and Mexico's former President Vicente Fox, called the December 2000 Compromise which would have admitted additional guest workers under the H-2A program, freezing adverse effect wage rate for two to three years, giving migrant workers 25% of a housing allowance, granting temporary resident status to undocumented migrants who did at least 100 days of farm work in the preceding 18 months (Martin, 2002 p. 1137). However, this option was shut down by Senator Phil Gramm, Republican from Texas who stated that there should be a guest worker program that is temporary and stops the possibility of the settlement of Mexican workers in the U.S. (Martin, 2002 p. 1137).

After this, debates surrounded major immigration issues over the following decade. In 2005, President Bush wanted to enact the *Border Protection Anti-Terrorism and Illegal Immigration Control Act* which would require all employers to participate in a federal provision that involves employers submitting data to check the legal status of workers in a government data base known as E-Verify (Martin, 2013 p. 471). This bill also called for more control over the border by hiring more Border Patrol Agents, and now introduced the idea of making illegal presence at the border as a felony which would deter undocumented workers to become legal guest workers and immigrants in the future (Martin, 2013 p. 471). There was backlash towards this and there was the “Day Without Immigrants” protest on May 1, 2006 which caused the Democratic controlled U.S. Senate to approve an immigration reform that included a pathway to legal migration status again. The State approved the *Comprehensive Immigration Reform Act* which had a legalization process for undocumented workers (Martin, 2013 p. 471). In 2008, President Barack Obama supported the legalization of undocumented workers and also wanted to put a stop to the raids of workplaces that former President George W. Bush had implemented (Martin, 2013 p. 473). Over time it can be seen that the neoliberal approach to citizenship caused negative implications for guest worker programs in the U.S. For example, workers were not wanted for citizenship status and legality anymore, there was a constant struggle and push for guest worker programs without a pathway to citizenship.

H-2A Program in the United States

The H-2 program began with the 1952 *Immigration and Nationality Act*, which was enforced by sugar cane growers in the state of Florida and apple growers along the East coast up until the 1990s. The program was revised by the Immigration Reform and Control Act of 1986

(Martin, n.d. p. 9). It was renamed 'H-2A' and this had negative impacts because the number of farm employer requests had declined due to the rise in unauthorized migration and the "mechanization of the Florida sugar cane harvest" (Martin, n.d. p. 9). The H-2A program allowed employers to hire workers from abroad in order to perform seasonal or temporary agricultural work when there was a labour shortage of qualified U.S. workers (Önel & Famsworth, 2016 p. 12). The process includes the following: farmers must seek certification from the DOL in order to have migrant workers admitted temporarily to the U.S. to work in agriculture, and certain conditions must be satisfied. These conditions are the following: there must not be a sufficient number of U.S. workers who are able, willing and qualified and who will be available at the time and place needed to perform the labour or services involved in the employer petition. Also, the employment of an H-2A worker must not adversely affect the wages and working conditions of U.S. workers who are similarly employed (Martin, n.d. p. 9). Farmers must satisfy these conditions by attempting to recruit U.S. workers and explain why the U.S. workers who applied were not hired. Farmers must also begin the recruiting process approximately 45 days prior to the harvest beginning (Martin n.d. p. 9). Many farmers have the notion that U.S. workers who respond to the ads will not show up when needed and therefore, put up ads that purposely discourage U.S. workers from applying (Martin, n.d. p 9). Farmers also must provide free housing to H-2A guest workers and the DOL must enforce the "no adverse effect requirement" this means to have a very low minimum wage that must be paid to H-2A workers and any U.S. workers that are also employed with the migrant workers must be paid the "adverse effect wage rate" which is 20% above the state's minimum wage (Martin, n.d. p. 9).

The prime of the H-2A program was during 2005-2006 where it can be seen that California vegetable growers had a large labour shortage, the top requesters of H-2A workers were employer associations and labour contracts, large corporations such as the Washington Farm Labour Association with 11,600 people recruited, and 5,200 in California with Fresh Harvest (Martin, n.d. p. 10). In 2015, only the state of California had a peak of 475,000 workers in August and 354,000 in January (Martin, n.d. p. 10). Fresh Harvest also constantly reappears in the literature because it is the largest employer of the H-2A workers, and places most of the workers into Salinas area berry and vegetable fields. Fresh Harvest also has operations in Mexico (Martin, n.d. p. 10). Fresh Harvest selects the most productive workers in Mexico for H-2A visas to work in the U.S., they do this by testing the employees and “having them climb with a 60 pound weight to see if they can pick avocados and wheel a strawberry cart to determine if they will be productive berry pickers” (Martin, n.d. p. 10). This program was pushed even further through the goals of neoliberalism, in order to have cheaper labour, higher profits and production. Ultimately, this program is still currently in place as it facilitates the states adherence to neoliberalism by having higher profits, lower social protections and competition in the agricultural global markets.

Employment Protections for Farm Workers in Ontario

Health and Safety

In Ontario, workers that are a part of the SAWP program are protected by the following:

The Charter of Rights and Freedoms, Workplace Safety and Insurance Act, Ontario Human

Rights Code (OHRC) and Occupational Health and Safety Act (OHSA). In particular, for health and safety, workers are to be made aware by their employer that they have three rights: the right to know about any potential hazards they may be exposed to such as pesticides, the right to participate in identifying hazards, and the right to refuse unsafe work that could be dangerous to their own health or to other workers (Government of Ontario, OHSA 2019). The OHSA outlines the responsibilities of the employer, safety committees, workers and supervisors. The employer is outlined as having the greatest amount of responsibility because they must take every precaution to protect the rights of the worker. There must also be an Internal Responsibility System that is ensured by the employer (Government of Ontario, OHSA 2019). This requires that the employer must provide worker training, have regular inspections, hazard analysis, analysis of accidents and illnesses at the workplace as well as a health and safety budget (Government of Ontario, OHSA 2019).

All farming operations that employ 6-19 workers must have a health and safety representative, those who have 20 or more with work related to a greenhouse need to have a Joint Health and Safety Committee (Government of Ontario, OHSA, 2019). Should there be more than 50 employees, the law requires at least four members of a Joint Health and Safety Committee, where at least two must be certified, one of the members must be advocating on behalf of workers and the other must be advocating on behalf of management (Government of Ontario, OHSA 2019). Furthermore, SAWP workers are protected under section 50 of the OHSA, which states that an employer is not able to dismiss, threaten, suspend, intimidate or coerce a worker (Government of Ontario, OHSA, 2019). Also, workers cannot be penalized if they provide information to the Ministry of Labour inspector (Government of Ontario, OHSA 2019). The OHSA also

gives SAWP workers the opportunity to file a complaint for free with the Ontario Labour Relations Board (Government of Ontario, OHSA 2019). The OHSA provides information on their website in Spanish as well in order to provide more accessibility to migrant workers. It is also important that workers do not have to worry about being penalized when submitting a claim for free. Ontario workers have legal rights pertaining to the reporting of injuries and hazards, which impose legal responsibilities on employers to accept and act on those reports without reprisals (Basok et Al. 2014 p. 41). Workers not only have the right to report, they also have a legal obligation to do so, as workers may be liable for prosecution therefore, it is important for employees to discuss concerns with the Ministry of Labour.

Discrimination and Harassment

With regard to discrimination and harassment, workers under the SAWP that are employed in the province of Ontario have their rights protected by the OHRC. This protects individuals on the basis of age, ancestry, colour, race, citizenship, ethnicity place of origin, creed, disability, family status, marital status, gender identity, receipt of public assistance, record of offences, sex, sexual orientation (Government of Ontario, OHRC, 2019). Protected areas include, areas of accommodation, contracts, employment, goods, services and facilities, membership in unions, trade or professional associations (Government of Ontario, OHRC, 2019). Everyone has the right to file a complaint with the Tribunal of Ontario, workers of the SAWP also have access to the Human Rights Legal Support Centre, which assists people in the process of filing complaints (Government of Ontario, OHRC, 2019). All employers are required to have policies in place to prevent workplace violence and harassment, these policies are to be reviewed at least

once a year, and any incidents that are experienced by workers can be reported to the province-wide Health and Safety Contact Centre (Government of Ontario, OHRC, 2019). Those workers under the SAWP are protected against the grounds of discrimination and harassment, and there are also resources on the website for the OHRC on how to process a claim.

Employer Reprisals

Migrant workers under the SAWP are entitled to file their own complaint with the Ontario Labour Relations Board or with the Ministry of Labour, free legal advice can be provided as well as information on how to access health and safety legal clinics (Government of Ontario Reprisals, 2019). The Ontario Labour Relations Board is then able to review a worker's reprisal complaint. As a worker, one is entitled to know the rights under the OHSA, to refuse unsafe work, followed by asking an employer to follow Ontario's Occupational Health and Safety laws, and follow the proper procedures of providing information to the Ministry of Labour Inspector (Government of Ontario, Reprisals, 2019). Ultimately, workers are protected from reprisals and cannot be fired or denied for the rights that workers are entitled to in the province of Ontario.

Employment Standards

Ontario recently made changes with the introduction of Bill 148: *Fair Workplaces and Standard Act (2017)* the goal of this bill is to prohibit employers from abusing the rights of workers. This act was in response to making amendments to the *Employment Standards Act of 2000*, which did not ensure the right to a fair wage. Bill 148 allowed SAWP workers to be paid

for overtime and the minimum wage was also increased as of January 1st, 2018 and will continue to increase on the first of October of every year starting in 2019 (Legislative Assembly of Ontario, 2017). This Act also included the right to refuse demands to work on a day that an employee is not scheduled to work as well as giving the employee three hours of pay for cancellation of work with less than two day notice (Legislative Assembly of Ontario, 2019).

However, even though there are significant efforts towards ensuring the rights of migrant workers, employees are still not entitled to having the right to unionize, daily rest periods, time off between shifts, eating periods or public holiday pay.

Housing

Those who work in the SAWP are entitled to housing guidelines that are administered by Foreign Agricultural Resource Management Services (F.A.R.M.S.) This lays out the minimum requirements for Seasonal Housing (FARMS, 2010). Housing for SAWP workers must meet legislative and regulatory requirements, where the houses must also be at least 100 feet away from any buildings that house animals, and with a well-drained ground (FARMS 2010). There also must be rodent and pest control within the houses, and it must be the owner's responsibility to ensure that such construction is in compliance with the Ontario Building Code (FARMS, 2010). There must also be one toilet facility for every ten occupants, at least one laundering tub for every 15 bunks or access to a laundromat once a week (FARMS, 2010). Moreover, there should be readily available safe drinking water, washing food preparation and laundering, dishes that are provided must be sanitized by an acceptable method and there must be smoke alarms as well as rodent and insect proof garbage (FARMS, 2010).

Unionization

In 2002, Ontario established the *Agricultural Employees Protection Act (AEPA)* which in essence, grants the workers rights to the freedom to associate however, they are not able to collectively bargain. This was an issue through the precedent of *Dunmore v Ontario (2001)* where the Supreme Court of Canada held that the right to unionize was ultimately not granted to agricultural workers (Lynk, 2015 p. 20). The AEPA requires employers of agricultural workers to provide employees with an opportunity to make representations on employment concerns and for employers to consider these representations (Lynk, 2015 p. 21). The International Labour Organization has implemented conventions which discuss agricultural workers, and the right to associate. Convention 141 of the Rural Workers' Organisation Convention (1975) stated that rural workers should have their principles of freedom of association respected (Lynk, 2015 p. 29). Article 26 of the United Nations Rights of Migrant Workers Convention protects the rights of migrant workers to join and participate in the activities of trade unions (Lynk, 2015 p. 31). However, Canada has not signed onto any of these conventions (Lynk, 2016 p. 31). Prior to 2002, agricultural workers were exempt from labour legislation in Ontario except for a brief period that was reported between 1994-1995 where there was the enactment of the *Agricultural Labour Relations Act (1994)* which allowed agricultural workers to have unionization and collective bargaining. However, due to a federal and provincial election in 1995, this act was repealed in November (Lynk, 2015 p. 35). Ultimately, the government can provide unionization for agricultural workers as it has been done in the past however, it has not been granted and as a result could have negative repercussions on the rights of workers.

Recent Proposals

Currently, there are proposals being discussed regarding the aspect of citizenship for workers in the SAWP. In early 2020, temporary foreign workers will be able to apply under the AgriFood Immigration Pilot where a maximum of 2,750 applicants as well as their family members could be accepted for citizenship per year (AgriFood Immigration Pilot 2019). Hill stated in the Windsor Star that Canada has a historic low in unemployment and there is a desperate need for workers (Hill, 2019). The Windsor Star also stated, “while our first priority is to make sure Canadians have the first chance at jobs, we also rely on the temporary foreign worker program” (Hill, 2019). Due to the shortage, there has been a loss of 2.9 billion in sales for the country’s economy (Hill, 2019). This exemplifies neoliberalism, where the state is prioritizing the economic needs of the nation while using the labour from individuals. Another issue is that the only people that are eligible for citizenship status are those with twelve months of full-time non seasonal Canadian work experience, a Canadian Language Benchmark in level four in English or French is required, as well as an education at a high school level or greater and a job offer for full-time non seasonal work in Canada (AgriFood Immigration Pilot, 2019).

Ultimately, it is clear that the state would like to prioritize neoliberalism and create an exclusionary pathway to citizenship by having guidelines that most agricultural workers do not meet. In 2019, the federal government discussed the possibility of having partial mobility for migrant workers. This is significant because it would allow workers to leave abusive working conditions and potentially find another employer (Pinto, 2019). In order for this program to be successful and ensure the safety of workers, Santiago Escobar from the UFCW suggested implementing hiring halls. These hiring halls would give migrant workers the resources to find a

new job in cases of abusive employers. Escobar also stated that in order to have a successful program, there should be co-operation between the farming industry, UFCW, and the federal government because migrant workers may be reluctant to voice their dissatisfaction with their employers due to the lack of financial resources, knowledge of the English language and psychological abuse (Pinto, 2019). This new program seems to be a good start to give migrant workers the opportunity to move away from toxic situations and abuse. However, it is important to acknowledge that they must be given the resources to find a new employer, in the same way that they were given the resources to go to their employers when they first arrived in Canada.

Exploitation and Abuse

Most Mexican workers are not made aware of their entitlement of rights in the workplace at the farms and these workers ultimately experience social isolation. This social isolation includes a lack of access to communities, English classes, and they are not able to attend church (Basok, 2004 p. 54). Furthermore, while all migrant workers are covered by provincial health plans, workers underutilize these services as a result of their language barriers (Basok, 2004 p. 54). Many migrant workers are unaware of their rights as well, which is why they may underutilize their services. Some workers according to Basok's study claim that management takes advantage of the rights of immigrants. Workers also report not receiving adequate employer orientation or training (Basok et Al. 2014 p. 43).

Although Ontario has laws allowing workers to report any issues, many workers still have a fear of employer reprisals, and the lack of a union causes them to be more vulnerable due to the fact that workers believe that they can be fired for reporting (Basok et Al. 2014 p. 46).

SAWP workers are also geographically restricted and as a result they may be less likely to access support systems such as churches or other networks (Callon, 2016 p. 38). Workers have reported that they have little to no ties with the local community and their existence in Canada was solely tied to the farm (Beckford, 2016 p. 167). The process of coming to Canada is alienating for these workers and they do not have the opportunity to learn English or integrate into their respective communities. Therefore, migrant workers are solely viewed for the value of their labour and the state does not make any attempts to try to integrate them into society. Employer provided housing has been reported as being overcrowded, lacking in basic cleanliness and overpriced. The living conditions are poor, and workers are routinely exposed to gases, pesticides and other chemicals without adequate protective clothing and training (Beckford, 2016 p. 157). Many migrant workers also have been reported as being fired or denied future employment for having low productivity, conflict with other workers, interests in joining labour unions, engaging in relations with other workers or Canadians and for having health problems (Basok & Belanger, 2016 p. 143). Some employers have disciplined workers by locking them out of their houses, limiting their access to transportation and threats of physical violence in Ontario (Basok & Belanger, 2016 p. 143).

Although the federal government states that migrants entering the country receive equal protection, ultimately the rights of workers pertaining to employment, health and labour falls under provincial jurisdiction. As global citizens, seasonal workers should be granted the right to have international conventions recognized by the Canadian state. According to TH Marshall, formal rights are an important aspect of citizenship, this is what gives people formal access to the state (Basok et Al. 2014 p. 37). Migrants and minorities are also more fearful to report things

due to their precarious status of having a non-unionized job. However, with unions there was also a fear of having disapproval from employers (Basok et Al. 2014 p. 47). For those of Latino descent, Basok found that injury and risk is tied to a cultural construction of themselves as good workers. Males often try to prove they can get the job done even when it is difficult and risky — this is a way that distinguishes them from Canadian-born workers who are assumed as being more likely to report injuries due to their entitlement of rights and citizenship status (Basok et Al. 2014 p. 49). Therefore, citizenship has an effect on the way that workers understand injuries and hazards.

The incorporation of workers from the global South to the global North has largely been male dominated. Participation in the SAWP has been highly masculinized, 25 years after the implementation of the SAWP, women began to apply however, women only account for 2-3% of the workforce (Preibisch & Grez, 2010 p. 297). The reason for this was that the Mexican state did not allow women to participate until 1989 and single mothers were eligible to apply in 1998 (Preibisch & Grez, 2010 p. 298). In Canada, there have been reports of discrimination against women of the SAWP as they are not given the same tasks as males in the program (Preibisch & Grez, 2010). For example, women have the responsibility to pack fruit and pot seedlings which admittedly by employers, is purposely done due to their “finer and lighter touch than men” (Preibisch & Grez, 2010 p. 302). Women are also purposely paired with Jamaican men while working in order to create a barrier of socialization because they will not be able to communicate with one another due to language barriers (Preibisch & Grez, 2010 p. 304). Mexican women are also required to do pre-departure pregnancy tests as pregnancy is an established ground for repatriation (Preibisch & Grez, 2010 p. 304). Women face greater restrictions

on their labour mobility as well, as they are prohibited from having visits from the opposite sex, follow curfews and some must sign waivers confirming that they would not be in contact with people of the opposite sex (Preibisch & Grez, 2010 p. 308). This form of abuse is referred to as hierarchical observation, Michael Foucault referred to this as a form of surveillance that threatens a person from falling out of order. For example, threatening to deport migrant workers leaves damaging impacts for the psyche of workers resulting in a docile labour force with increased forced labour productivity (Basok & Belanger, 2016 p. 148). Through neoliberalism, it has caused an increase in productivity however, through the use of threats as shown by employers in the SAWP. Neoliberalism has caused a form of self-exploitation, which has been demonstrated by agricultural workers in Ontario who wish to outpace other workers to show that they are the best workers (Basok & Belanger, 2016 p 151). Migrants then internalize this way of thinking and monitoring each other's productivity, and as a result report slow and non-compliant workers to their bosses (Basok & Belanger, 2016 p. 151).

Lower-skilled workers who lack proficiency in Canada's official languages are more likely to experience abuse and exploitation (Cundal & Seaman, 2012). The literature indicates that there are violations of workers' rights in farms due to the exposure to chemicals and lack of training on how to handle chemicals appropriately (UFCWU 2008, Fairley et Al. 2008). For example, in 2010 two Jamaican men on a farm in Ontario lost their lives when they fell into a tank that they were cleaning and succumbed as a result of overexposure to vinegar fumes (Beckford, 2016). On that farm, workers had limited knowledge about the chemicals and pesticides that they used and were exposed to (Beckford, 2016). Paul Roach, and Ralston White, died on September 10, 2010 while working at Filsinger's Organic Foods & Orchards. They were attempting

to fix a pump for a vinegar vat when they were exposed to fumes. Ultimately, the supervisor and operators of the farm faced charges under the OHSA for failing to provide training, equipment and a plan for workers who are confined to space such as a vinegar vat, the charges were dismissed and were fined \$22,500 (Beckford, 2016). Evidently, the OHSA failed two migrant workers who were entitled to having adequate training by their employer.

The SAWP requires employer-specific work permits that dictate which employer the worker is legally entitled to work for in Canada. If a worker holds an employer-specific work permit and wishes to change jobs, they must apply for a change of conditions on their work permit (Cundal & Seaman, 2012 p. 205). In addition to this, the worker must wait for the new employer to apply for and receive a positive labour market opinion which may take up to five months (Cundal & Seaman, 2012 p. 205). This process may deter migrants from leaving their jobs as they may fear a loss or disruption in income. Therefore, many workers in Canada stay in poor working conditions for extended periods of time (Cundal & Seaman, 2012 p. 205).

There is also no requirement for migrant workers to have formal English or French language proficiency levels, and with little or no knowledge of English, workers are disadvantaged in terms of understanding workplace expectations, their rights, obligations and health and safety (Cundal & Seaman, 2012 p. 208). Also, information regarding goods and services are not typically offered in any other language except in larger metropolitan cities, which leads to further alienation. While Ontario farmers rely on migrant workers for their labour, migrant workers from unstable economies also rely on coming to Canada to engage in farm work in order to feed their families. The SAWP allows employers to use discriminatory hiring practices which go against provincial and federal human rights codes. For example, the program allows employers

to choose the gender of the worker and the countries that will supply them (Preibisch, 2007 p. 435). This allows the employer to have gendered and racialized labour strategies to promote productivity and deter worker solidarity. Sending countries also seek to maintain and expand their share of placement in the SAWP, particularly because the sending countries want to remain competitive and have more remittances (Preibisch, 2007).

Ultimately, migrant workers in Ontario do not have many options to claim their rights. For example, while they are able to go to their respective consulates in Ontario, for the Mexican consulate there are only five officials working on behalf of the Mexican SAWP workers nationwide. Transportation is an issue for those who are on isolated farms. Consular officials are limited regarding the scope of what they can do because although they attempt to negotiate a solution for the workers they often end up siding with the employer (Binford, 2009 p. 510). This is because consular representatives feel pressure from Mexican governments to have as many workers as possible in Canada (Binford, 2009 p. 510). This has negative implications for the rights of workers as they may feel hopeless with no legal guidance or information.

In an article published by the Toronto Star in 2019, it highlighted many issues faced by having access to thousands of complaints by workers in the SAWP. On one Ontario farm, supervisors demanded a \$500 bribe in order to ensure that migrant workers would return the next year, low-wage migrants had also been promised a bonus if they worked a quicker pace however, were never compensated once the work was completed (Mojtehdzadeh & Renwick, 2019). There were also over 450 complaints regarding health care, migrant workers reported that even though they were entitled medical treatment as tax-payers they would be denied or delayed treatment by employers (Mojtehdzadeh & Renwick, 2019). Furthermore, there were 1,200

complaints lodged in 2009, regarding housing, not having adequate living conditions with bed-bugs, snakes, broken amenities, gas leaks, sewage issues, overcrowding, rat infestations and sinks in the bathrooms that did not work (Mojtehdzadeh & Renwick, 2019). In London Ontario, there were bunk beds for 50 workers in unfinished basements with many of the bottom bunks curtained off with cardboard or garbage bags, lacking bathrooms or kitchens. The workers were forced to use portable bathrooms outside (Mojtehdzadeh & Renwick, 2019). Housing arrangements shape power relations because most employers prefer locating workers near their property, which enables restrictions as the employer can monitor and control the workers' whereabouts. Mexican consulates were also able to make visits to the farms to see the negligence of workers by employers but feared that by bringing complaints forward to Mexican authorities would have a negative impact and cause people to not be called back for employment as this had happened in the past (Mojtehdzadeh & Renwick, 2019). Also, another reason for underreporting on behalf of workers was due to being threatened of being replaced by Honduran workers through the LSPP if workers were not working at a quick pace (Mojtehdzadeh & Renwick, 2019). However, the issue ultimately lies with employers because they are not properly informing employees of their rights and have workers fearing the possibility of repatriation. Employees do not have the proper information to know how to process claims or where to go when there is an issue that they encounter in the workplace. Ontario does provide employment rights and standards for workers however, they are not enforceable due to the issues highlighted in this section, such as the control held by the employer. Therefore, there is a disconnect between granting rights and entitlements to workers and the actual enforcement of these laws on farms.

Employment Protections for Farm Workers in California

Health and Safety

In California, there is the Department of Industrial Relations who is in charge of ensuring that workers' rights are not being violated. There is also the Division of Occupational Safety and Health (OSHA), where employers are required by law to have an effective injury and illness protection program. This provides training on safe working practices. Employers also must have a system to encourage reporting hazards for employees without the fear of retaliation (OSHA, 2015). Furthermore, there are yearly on-site inspections conducted by the OSHA which aids in providing accountability and transparency for employers at the worksite. In California, it is also the right of the worker to refuse hazardous work and it is illegal for employers to punish people if the worker violates an OSHA health or safety regulation (OSHA, 2015). Workers also have the right to access written information regarding hazards including exposure records, medical records, safety data sheets, records of injury or illness, written health and safety plans (OSHA, 2015). Lastly, it is also illegal for employers to punish people if the work would violate an OSHA health or safety regulation, and it is also illegal to threaten, discharge, demote or suspend workers for reporting hazards (OSHA, 2015).

Discrimination and Harassment

California's Laws: AB 263 and SB 666

The purpose of these laws are to provide protection for all workers by broadening protections for whistleblowers and to increase penalties for employers who break employment laws.

Both of these laws went into effect on January 1, 2014 and strengthened the California Labour Code's protection for all workers regardless of citizenship status. AB is an Assembly Bill whereas SB is a Senate Bill. These laws prohibit employers from retaliating, discriminating and taking adverse action against an employee for filing a complaint against their employer through the California Division of Labour Standards Enforcement (National Employment Law Project, 2013). The new laws are also meant to deter employers from retaliation, therefore if a worker has made a complaint on unpaid wages, the employer must follow through and pay the worker accordingly (National Employment Law Project 2013) Employers may face a penalty of up to \$10,000 USD per employee per instance of retaliation (National Employment Law Project, 2013).

The purpose of these laws is to provide protections for workers who are facing threats of deportation or reporting of immigration status, a report or a threat regarding immigration status is prohibited under the California Labour Code (National Employment Law Project, 2013). If it is found that an employer has reported a worker, then an employer's business license may be revoked. All unfair immigration related practices fall under the following scope: requesting more or different documents than those required under nine U.S. Code, refusing to honour documents that appear to be genuine, using the federal e-verify system to check employment status in a manner that is not required (National Employment Law Project 2013). The law also includes consequences for employers who threaten to contact immigration authorities, or those threatening to file a false police report. This also applies to attorneys that may be involved, if found violating the law. There is the possibility of being disbarred by the California State Bar, a maximum jail punishment of one year and a fine of \$10,000 USD (National Employment

Project 2013). This law was a significant step forward for protecting the rights of migrant workers because there would now be legal protections for them, which is important as seen in Ontario there is the lack of adequate support and resources to go forward with a complaint. This law has significant changes because it holds employers accountable in order to ensure that they are not violating the rights of workers.

AB 2751 (2015) and AB 450 (2017)

AB 2751 was significant to California's laws for migrant workers because it expanded the definition of "unfair immigration related practices" in the workplace, it was meant to include threatening to file complaints with any state or federal agency. It now expanded the scope of how employers could be held accountable for their actions. The law authorizes a civil action for damages or penalties that are imposed by employers onto the employees (National Law Review, 2014). The law also clarified that there would be a \$10,000 USD penalty per employee, per violation would be given to the employees who face discrimination (National Law Review, 2014). The California Supreme Court has made it clear through the case of *Salas v. Sierra Chemical Case* that all employees regardless of their citizenship status would be protected under employment laws (National Law Review, 2014). California employers are told that they must consult with employment counsel before taking any "potentially adverse employment actions" against employees who might not have their citizenship (National Law Review, 2014). AB 450, *Immigration Worker Protection Act (2017)* is significant because it is the most recent legislation enforced in California. It states that employers must give notice to employees if there is an upcom-

ing inspection from an immigration agency (OAG, n.d.). Specifically, this law is meant to make employers decline requests “for voluntary cooperation by federal agents” (OAG, n.d.).

The law also prohibits employers from allowing immigration agencies to enter the work-site unless there is a judicial warrant present (Judge & Vick, 2018). Immigration enforcement agents are also not allowed to access any personal employee information without having a subpoena or judicial warrant therefore, an employer is not allowed to disclose this information otherwise, there is a fine that will be faced (Judge & Vick, 2018). Lastly, employers are not able to do re-verification of employment eligibility, in a manner that is not required by federal law (Judge & Vick, 2018). Therefore, these new laws demonstrate that it is possible to attain protections for those regardless of citizenship status in any workplace. In regards to employer reprisals California has its own Labour Enforcement Task Force also known as a Labour Commission office, workers can make complaints, exercise their labour rights without retaliation or discrimination.

Employment Standards

In California, agricultural workers are covered under the Fair Labour Standard Act which was originally implemented in 1938 but revised in 2011 (Department of Labour, 2011).

Agricultural workers are all entitled to a minimum wage and employers are required to pay their employees by law, under the Fair Labour Standard Act section 213, the agricultural workers are exempt from minimum wage and maximum hour requirements (Department of Labour, 2011). However, this changed recently through the introduction of AB 1066, which gives agricultural workers the right to a minimum wage of \$12.00 per hour for workers at a business with 26 or

more employees and \$11.00 per hour for workers at a business with 25 or less employees (California Legislative Information, 2016). The standard hours to be required for agricultural workers per week would be 60 hours however, commencing July 1 2019, it went down to a 50 hour minimum a week, the goal is to ultimately reduce weekly work hours and the requirement of overtime (California Legislative Information, 2016). Employers also have to provide breaks for agricultural workers due to legislation as well, according to the OSHA, workers have the right to a 15 minute break in the shade each hour to keep people's bodies safe from heat illness, also if an employer does not provide water, rest or shade as required by law employees are able to make a complaint to the OHSA without disclosing their immigration status (OSHA, 2015). Ultimately, California's laws as the departments pertaining to health, safety and employment standards provide protection for workers and it is also interesting that it is emphasized that any employee can make a complaint and is not legally required to disclose their immigration status. Under section 29 of the U.S. Code, subsection 1821, each farm labour contractor who recruits any migrant agricultural worker must provide workers compensation through the existence of any strikes and keep record of the wages paid, piecework units earned, the numbers of hours worker, total pay period earnings and cannot provide misleading information to the worker (Cornell University, n.d.). Furthermore, all forms that pertain to health and safety must be provided to the worker in their preferred language.

Housing

California has a Special Housing Program for Migratory Workers under Health and Safety Code, Division 31 Housing and Home Finance, Department of Housing and Community Devel-

opment. Under Section 50710. 3 it states that a migratory agricultural worker is eligible for housing but must reside outside of a 50 mile radius of the labour centre for at least three months out of the preceding six month period, in order to live close to the farm, preference is given to those who have school aged children, while also providing proof of enrolment of their children in the local school district (California Legislative Information, 2018). Under the law 50717, employers must report where the migratory workers are migrating from, household incomes, ethnicity, number of school aged children and those who are enlisted in the Migrant Education Program (California Legislative Information, 2018). Farmworker housing is to be provided by the employer and must comply with all of the regulations under 17008 (b) of the California Health and Safety Code which outlines the following: farmworker housing for agricultural employees can consist of up to 36 beds in a group, must have proper sewage disposal, building, construction and water supply, the use of tents and recreational vehicles shall not be used for more than 30 calendar days in a 180 day period, there also must be a verification form submitted annually the states: the entity responsible for housing maintenance, how many people are housed, description of the housing, location and description of sewage methods (California Legislative Information, 2018). Therefore, in California there are laws in place that regulates the conditions of houses where workers live. It is up to the employer whether they wish to provide housing which is why there is a shortage of agricultural workers having a home which will be further discussed in the section of exploitation and abuse.

Unionization

Under federal and state laws, agricultural workers have been excluded from labour protection under the National Relations Act of 1935. For example, employers are not allowed to fire a worker for joining, organizing or supporting a labour union but this law specifically excluded farm workers and domestic workers (National Labour Relations Board, n.d.) The *Agricultural Labour Relations Act* ultimately changed things for agricultural workers in 1975, as they were allowed to unionize in California. For example, agricultural workers were able to meet with the employer to change wages and working conditions if a union is not present, exercise any of the rights the *Agricultural Labour Relations Act* gives to workers without fear of threats, engage in union activities or refuse them, discuss union matters at work, refuse to answer whether one supports a union and agricultural workers are also able to file a complaint with the Agricultural Labour Relations Board and testify at hearings (Agricultural Labour Relations Board, 2018). Therefore, agricultural workers in California historically were once not able to unionize however, they currently have the right to form or join a union. However, although workers are able to unionize it is acknowledged that most agricultural workers, are not aware of the rights that they are entitled to in California, including the right to unionize (Wozniacka, 2019).

Recent Proposals

The introduction of AB1783 was approved as of October 13, 2019 where it allows a construction of housing for agricultural workers. The new apartments must be managed by a non-profit third party and this was enforced as a response of the statewide shortage of houses and affordable homes for farm workers. However, it is important to note that these houses are

only for those who come in through the H-2A program, and there was no discussion surrounding undocumented workers. AB 1783 also does not receive state funding during the predevelopment, development and operation of housing that is used for agricultural workers. Any state funding that could be given, must be eventually returned to the state (California Legislative Information 2019). Employers must now provide furnished housing to workers under the H-2A program, the purpose of this program is to ensure that workers have improved housing and sanitation (California Legislative Information, 2019). AB 1783 states, “existing state law, the California Community Services Block Grant Program, requires the Department of Community Services and Development to administer the federal Community Services Block Grant funds to provide financial assistance for activities designed to have a measurable and potentially major impact on causes of poverty in a community” (California Legislative Information, 2019). Therefore, this recent proposal is to ensure that there are better housing standards for workers however, undocumented workers are exempt from reaping of the benefits from this law.

There is also the proposal of the bipartisan bill, the *Farm Workforce Modernization Act* which, if passed, could ultimately change all the regulations that surround the H-2A temporary farm workers program, including how salaries are determined and adding new temporary visas with a longer working period (Cimini, 2019). The plan is to create a temporary workforce into a permanent one, in order to encourage the growth of the agricultural industry. Up to 60% of California’s farmworkers are currently undocumented, and in order to apply for the Farm Workforce Modernization Act they would need to show that they worked in agriculture for at least 180 days, over the last 2 years in order to obtain the visa, the short-term status would last for 5 years and renew as long as they meet the terms of the visa (Cimini, 2019). The conversation surround-

ing this bill is to give vulnerable workers more rights, because citizenship status will provide them with a greater sense of security to report injustices, Cimini emphasized that the CEO of Western Growers Associations stated, “we want to legalize our existing workforce: people who have been here a long time, raised families here, paid taxes and obeyed the laws, but were here on false documents” (Cimini, 2019). As previously noted, citizenship could impact engagement in one’s social and political rights. These proposals could have a greater impact on the lives of agricultural workers in California because it could provide them with better living conditions on the farm and it could open the possibilities for citizenship if the bills are to be passed.

Exploitation and Abuse

Rick Mines conducted a survey in 2008 of 120,000 migrant farm workers in California from Indigenous communities in Mexico such as Mixtecos, Triquis, Purepechas where one third of the workers reported earning above the minimum wage, another third made exactly the minimum and the rest made below minimum wage (IFS, n.d.). The workers in California work in intense heat, and their overtime protections are different than the other hourly workers. They do not get paid until they have worked 10 hours in a day or 60 hours in a week (Los Angeles Times, 2016). According to a report from the DOL, agricultural workers have a higher risk of having fatal injury more than workers in any other industry in the U.S. (Snipes et al. 2017 p. 2). Specifically, agricultural workers have a fatal injury rate of 24.9 injuries per 100,000 workers (Snipes et al. 2017). Studies also indicate that from 33%-69% of agricultural injuries go unreported and between 42-50% of Latino farmworkers do not seek medical treatment (Snipes et al. 2017 p. 2). Discrimination is the reason that injuries go unreported, due to threats of deporta-

tion. Farm workers of Latino origin are frequently asked to work overtime and beyond what they are physically able to do in order to meet the demands of employers (Snipes et al. 2017 p. 2). Unfair treatment and injuries could also be due to “incomplete health surveillance systems”. A large majority of the farmworkers are working in the informal sector (Snipes et al. 2017 p. 2). Agricultural workers may work on farms that are not acknowledged by the federal government and as a result, there are no routine check-ups by the DOL surveys and Workers Compensation Claims Data (Snipes et al. 2017 p. 3). Furthermore, because the migrant workers are alienated and do not speak English it is difficult to voice their injuries and this provides a significant barrier to reporting.

Low wages are another important element of exploitation that migrant farm workers face in California. According to Bacon (2017), farmers in California were found to be paying illegal wages to thousands of workers. California Rural Legal Assistance has had a history of trying to help workers reclaim the illegal and unpaid wages (Bacon, 2017). Moreover, due to the low wages some migrant workers are not able to afford housing and as a result, workers sleep in their cars (Bacon, 2017). Worker advocates have estimated a shortage of 3.5 million houses and apartments, which makes it challenging for agricultural workers to find housing in California (Hansen, 2019). Workers are reportedly living in third-world country conditions, in RV's, dilapidated mobile homes and packed apartments (Hansen, 2019). Immigration status causes farm workers in California to be reluctant to discuss the mistreatments they experience and to report any form of discrimination. For example, farmworkers report that being Mexican born, having limited English proficiency and being undocumented all contributed to the reasons of not reporting discrimination. However, they also explained that the individuals with citizenship that

worked on the farms were treated differently. The individuals who were of Mexican descent but with U.S. citizenship were referred to as “chicanos” who were able to have more vacation time off and benefits (Snipes et al. 2017 p. 8). One worker stated: “Our boss pays us less because we’re migrants, although we do the same work [as those with citizenship], the difference is that they can defend themselves because they know English and we only speak it a little bit. We don’t know many words to defend ourselves against the boss” (Snipes et al. 2017 p. 9). Another farm worker described farm owners firing workers and then not paying them the money that they were owed (Snipes et al. 2017 p. 9).

Farm workers in California also discussed that discrimination from the farm owners negatively affected their performance and health at work. For example, individuals who had their citizenship would be granted time off if they had an injury. However, those without citizenship would be expected to go back to work and not take any time off to recover (Snipes et al. 2017 p. 9). An example of this is the case of Peter Campos who was a farm worker in California. The owner saw that he was severely injured, but the injury was overlooked because Peter did not speak English well. Peter thought that he would be able to deal with the pain after a nail had been driven into his foot (Snipes et al. 2010 p. 10). Therefore, Peter treated himself, by applying a cream and gauze in order to avoid infection. It was suggested by the interviewer that he should visit a hospital. Peter did this and found out his foot was infected, and without treatment his foot would have been amputated (Snipes et al. 2010 p. 10). Ultimately, it is shown that through the fear of repatriation workers are putting their health at risk.

In the strawberry industry in Santa Maria, California, undocumented families live on the farms and are paid on a piece-rate system. Workers report that they get mistreated if they en-

counter any problems with the strawberries they picked during inspection (Sanchez, 2015 p. 927). To avoid losing the time in production, workers would have to carry extra fruit in their baseball caps to replace any poor-quality fruit that was found in their trays; otherwise they would be fired (Sanchez, 2015 p. 927). Interestingly in a study done by Harrison and Getz, it was reported that small farms in California had a greater likelihood of abusive and exploitative worker treatment. Large farms had formal systems in place such as employee manuals, discipline and termination practices, employment contracts and policies in Spanish (Harrison & Getz, 2015 p. 623). Unlike small farms where there were informal mechanisms such as working side by side with employers (Harrison & Getz, 2015 p. 626). Therefore, even though there are laws in place to enforce the right of workers it is ultimately up to the discretion of the employer to enforce these laws and make workers aware of their rights. In the case of those who are in large farms, they have access to more information and accountability which causes there to be a lower rate of exploitation and abuse. Whereas, in smaller farms where there are informal processes in place, there are higher reports of exploitation and abuse.

Despite laws to enforce housing standards, there have still been complaints concerning sanitary issues and safe housing (Wiltz, 2016). Some agricultural workers do not live in state-licensed inspected facilities which makes their living situation more precarious where there is often overcrowding (Wiltz, 2016). There is also conflicting information regarding the housing standards due to the OSHA stating that overcrowding is anything less than 100 square feet a person, whereas the U.S. Department of Housing and Urban Development reports that overcrowding is anything less than 165 feet a person (Wiltz, 2016). In California, as of 2016 there were 24 housing centres around the state, where people pay approximately \$11.00-\$12.50 a day

in rent to have access to laundry facilities, daycare, English classes, medical and dental care.

But the majority of these centres are prioritized for families and single males are not able to live there (Wiltz, 2016). Therefore, the housing programs that are currently in place are exclusionary, lack availability and do not always abide by state standards.

Analysis of Ontario and California

In Ontario, as noted, there are laws and regulations put in place however, the problem is that there is a lack of accountability for the employer who chooses to not enforce these laws or make employees aware of the rights that they are entitled to. Furthermore, the main difference between Ontario and California is that all of the agricultural workers in Ontario are sponsored through the SAWP, which is a federal program and therefore, all agricultural workers are entitled to the same rights. In Ontario, there has not been as many changes to the program in comparison to California. Although California's H-2A program has been around for a longer period of time, there have been significant changes to the laws over time. For example, in the U.S. there was a constant battle of deciding whether agricultural workers would be able to receive citizenship. In Ontario, it was not until recently since its inception, that there has been a proposal to give agricultural workers the chance to work with the AgriFood Immigration Pilot. However, this proposal is not realistic for most workers, since they are alienated from society and do not have the opportunity to socialize. Therefore, they do not have the opportunity to excel in one of the important requirements for the AgriFood Immigration Pilot, which is to learn English. Furthermore, most of the agricultural workers do not have access to computers, which is an important component of the application process.

In California, there were various attempts to grant citizenship to workers and the only requirement for eligibility was to ensure that they worked a certain number of hours at a farm, which seems to be more realistic. Furthermore, Ontario and California both need to implement systems that provide more accountability for employers to ensure that the workers are aware of their rights as this seems to be a common and recurring theme between both locations. Employers also need to provide employees with adequate resources and support centres in order to ensure that employees are receiving assistance for any issues that they encounter. In California, the main issue is that there are agricultural workers from a variety of streams including the H-2A program as well as undocumented workers which creates a grey area because the workers that are entitled to the laws are typically for those who arrive under the H-2A program. For example, the introduction of AB1783 does not address the issue of housing for undocumented workers, the sole focus of the law is to provide more affordable and housing with adequate standards only for those who arrive through the H-2A program. It is important for California to consider the rights of the undocumented workers. Currently with the Trump Administration, due to the mass deportations there has been a lack of undocumented workers and as a result the agricultural sector has been suffering (California Institute for Rural Studies, 2019). Due to the new increased reliance of H-2A workers, undocumented workers have been reportedly trying to find work in other sectors and they are not being hired for the jobs that they have done for many seasons (California Institute for Rural Studies, 2019).

According to the U.S. Department of Labour National Agricultural Workers Survey, there are 2.5 million farmworkers in the U.S. and half of them are undocumented (California Institute for Rural Studies, 2019). As the H-2A program is increasing in size, deportations are rising,

256,000 people were deported in 2019 which is slightly more than the number of people that were recruited through the H-2A program (California Institute for Rural Studies, 2019). In California, politics, neoliberalism and discourse changes the conversations surrounding citizenship and labour. For example, during the Trump Administration, the main goal is to prioritize American jobs and workers, with no regard for those who lack American citizenship. In 2016, President Donald Trump promised to prevent unauthorized migration and deport unauthorized foreigners in the U.S. but had no regard for the fact that agriculture in the Western states heavily rely on the labour of newcomers to fill seasonal jobs (Martin, 2017 p. 254). Trump issued three executive orders during his first week in office which were: build a wall, deport illegal migrants, and punish sanctuary cities. He also wanted higher immigration and customs enforcement agents (Martin, 2017 p. 254). In response to this, farmers have come up with the 4S strategy: satisfy, stretch, substitute and supplement (Martin, 2017 p. 258). Satisfy means treating workers better in order to retain them longer, stretch the current workforce with mechanical aids, substitution means to replace the workers with machines and the fourth, is to supplement the current workforce with H-2A guest workers (Martin, 2017 p. 259). Many farmers have delayed turning to guest worker programs due to the high cost of housing in California (Martin, 2017 p. 260). During the Obama Administration, President Barack Obama's main goal was to stop the raids deriving from the Bush Administration and legalize workers. Ultimately, this shows that in the case of California, the shift in politics has had a negative impact on the rights of agricultural workers. Those who applied through the H-2A have more rights and protections than those who are undocumented, which is a large proportion of the workforce. It will be interesting to see if there are any changes if the *Farm Workplace Modernization Act* is implemented.

In Ontario, it has also been similar in that once politics shift there are also changes in the way that the SAWP is conducted. For example, as previously mentioned there was a time period where workers were able to be unionized but due to a change in government, this was repealed and was never reintroduced. In 2009, the Ontario Liberal government took an important step to protect migrant workers by prohibiting recruitment fees. However, there are still reports of recruiters charging illegal fees from migrant workers (Migrant Workers Alliance, 2017). Bill 148, which was introduced by the Ontario Liberal government in 2017 attempted to improve outdated employment standards. However, Bill 148 did not address the exemptions that apply to migrant workers. One of the amendments that could have been made to Bill 148 is to stop illegal recruitment fees and introduce effective enforcement (Workers Action Centre, 2017 p.2).

Moreover, Bill 148 was repealed by the Conservative government in 2018 and replaced with Bill 47, which rolled many of the amendments that Bill 148 had introduced.

To date, Bill 66, which was the 2018 Conservative amendment to the Labour Relations Act, continues to exclude farm workers from the right to unionize and collectively bargain. (Migrant Workers Alliance, 2017). Therefore, with both California and Ontario the adherence to a neoliberal market has caused a change in the way that governments view the need for labour. There is constantly a discussion on the ways that there can be cheaper labour, with less government interference. The main problem with these programs is the shift in politics and the discourses surrounding immigration has a negative impact on workers. Once workers attain their citizenship, as previously noted, citizenship improves the workers' position in society (Bosniak, 2000 p. 465). The examples of California and Ontario demonstrate that both citizenship and ne-

oliberalism have significant impact on the employment conditions of migrant agricultural workers.

Permanent Residency and Partial Mobility for Migrant Workers

In 2019, the federal government of Canada discussed the possibility of having partial mobility for migrant workers. This is significant because it would allow workers to leave abusive working conditions and potentially find another employer (Pinto, 2019). In order for this program to be successful and ensure the safety of workers, Santiago Escobar from the United Food and Commercial Workers union (UFCW) suggested implementing hiring halls. These hiring halls would give migrant workers the resources to find a new job in cases of abusive employers. Escobar also stated that in order to have a successful program, there should be co-operation between the farming industry, UFCW, and the federal government because migrant workers may be reluctant to voice their dissatisfaction with their employers due to the lack of financial resources, knowledge of the English language and psychological abuse (Pinto, 2019). This new program seems to be a good start to give migrant workers the opportunity to move away from toxic situations and abuse. However, it is important to acknowledge that they must be given the resources to find a new employer, in the same way that they were given the resources to go to their employers when they first arrived in Canada.

As mentioned previously, another new initiative introduced by the federal government is the AgriFood Immigration Pilot program. This program allows the possibility for migrant work-

ers to apply for Permanent Residence (PR) through the opportunities to work in meat processing, greenhouse crop production and raising livestock year-round (Keung, 2019).

However, in order to be eligible for PR status, there must be 12 months of full-time experience working in the industries that were mentioned above, some English or French proficiency, high-school education and a job offer (Keung, 2019). Previous federal Immigration Minister, Ahmed Hussen stated that “this would be important because it contributes to Canada’s economic growth, supporting one in eight jobs across the country.” (Keung, 2019). Under the new program, there will be a maximum of 2,750 PR statuses granted, and a total of 16,500 spouses and children are expected to arrive in Canada over the next three years (Keung, 2019). The Canadian Agricultural Human Resource Council stated that this is an important step because there were 16,000 agricultural related job vacancies in Canada, and as a result of this there was a \$2.9 billion loss in sales in 2019 (Keung, 2019). Ultimately, it is clear that through the lens of neoliberalism, the Canadian government is prioritizing PR status for greater profits. However, this PR application is exclusionary because not all migrant workers have attained a high school education. A lot of them may also lack English proficiency skills because they are isolated and do not get to practice their English in Canada. Ultimately, these actions proposed by the federal government could be helpful to migrant workers. However, there needs to be a standard that is agreed upon throughout the provinces that protects the rights of migrant workers in order to ensure that they are not subject to abuse by their employers.

Case Studies

Salas v. Sierra Chemical Company California Supreme Court

This case ultimately changed the scope of employment laws. The California Supreme Court came to the decision that just because companies choose to hire undocumented workers it does not mean that they are able to exploit or discriminate against them. In this case, Mr. Salas sued his employer, Sierra Chemical Company because they did not bring him back to work after he had suffered an injury and had compensation benefits (Arkansas & Boomer, 2014). Mr. Salas was working in the state of California as a seasonal agricultural worker starting April 2003. He obtained falsified documents for his federal Immigration and Naturalization Forms, which were required to get the job (Arkansas & Boomer, 2014). However, the company did not verify these documents, and Salas kept working for the company for the next following years with the same documentation. During this period working for the company, he injured his back and as a result, received compensation claims. In May 2007 Salas was offered to be re-hired for a seasonal position which would be “pending on obtaining a release from his physician to return to work”. However, due to the fact that his documents were falsified Salas did not have the necessary documents for re-hire (Arkansas & Boomer, 2014).

In August of 2007 Salas sued the company for disability discrimination under the California Employment and Housing Act. Salas stated that he was not legally allowed to work in the U.S. and had been using falsified documents for the whole duration of his employment. The company then proceeded to state if they had known he did not have the legal documents he would not have been hired (Arkansas & Boomer, 2014.). The Immigration Reform and Control

Act (IRCA) of 1986, states that employers have a duty to verify that the employees they are hiring are eligible to work in the United States and if not, the employer is subject to penalties for violations (Arkansas & Boomer, 2014). “The IRCA does not explicitly preempt all state laws related to immigration. However, preemption may arise when state law conflicts with federal law either because compliance with both laws is impossible or because the state law is an obstacle to accomplishing congressional objectives” (Arkansas & Boomer, 2014). The state of California stated that all protections that had to do with state labour employment and civil rights laws applied to all workers regardless of their citizenship status. Therefore, the discrepancy in the case was that even though people without work authorization should not be working, the law also states that all workers must be protected. Mr. Salas was able to take his case to a jury, which all agreed that a company should be held responsible for discrimination even if that is against undocumented employees (Arkansas & Boomer, 2014). The case of Salas resulted in migrant workers in California having more protections and accountability in the workplace.

Another example in California is the conditions of H-2A workers who face unsafe working conditions, wage theft and labour law abuse. A man by the last name of Rincon worked on a tomato field for West Coast Tomato. He reported being constantly insulted including phrases such as “Stupid donkey, you’re old now. You can’t make it anymore” when he was forced to work alongside 20-year-old agricultural workers (Bacon, 2018). Rincon worked with Santiago Bautista, who stated that they would be yelled at if they went to the bathroom, and the employer would have no regard for their health. He recalled an instance where he had a heart attack, and medical examiners determined this to be the result of his working conditions (Bacon, 2019). Rincon was fired as a result of not being able to work, and he collaborated with two other co-

workers in suing Harry Singh's company, West Coast Tomato (Rincon et Al. v. West Coast Tomato Growers, LLC et al. n.d.) They sued him for the working conditions, not receiving compensation for time worked off the clock and for not having legally required meal periods (Rincon et Al. v. West Coast Tomato Growers, LLC et al. n.d.). Ultimately, Harry Singh was required to pay \$1,000,000 to the workers on February 12, 2018. This case exemplifies that even although these are workers who entered into the U.S. through the H-2A program, they are still susceptible to exploitation and abuse. These three workers were made aware of their rights and were able to hold the employer accountable for his wrongdoings. However, there are many workers who are undocumented who ultimately do not get this opportunity to hold employers accountable to their legal status in the country and their vulnerability.

The Case of Ned Peart

The case of Ned Peart exemplifies the lack of protection for migrant workers in Ontario. Ned Peart died in August of 2002 while working on a farm near Brantford, Ontario. It was reported that he had been loading tobacco onto a truck and the tobacco bin had crushed his chest and he fell to the ground (CBC News, 2013). His family requested for a coroner's inquest, however this was refused. Under the *Coroner's Act (1990)* an inquest is mandatory for workplace deaths in only the construction and mining industries (CBC News, 2013). Justicia for Migrant Workers began to advocate for a coroner's inquest into the incident. However, in 2005 the Ministry of Labour and Ontario's chief coroner announced that Peart's death was a result of his own actions and there was no lesson to be learned for the public (Gamble, 2013). Justicia and the family of Ned Peart filed a complaint with the Human Rights Tribunal (HRT) in 2005. The ar-

gument in the complaint was that the province of Ontario demands mandatory inquests for some workers (for example, those in construction and mining), however it excludes others such as agricultural workers which is a violation of the Ontario Human Rights Code (Gamble, 2013). Miranda Leal, an organizer with Justicia stated that “ideally, the HRTO will agree that the Coroner’s Act is applied in a discriminatory way when it comes to migrant workers and from now on there should be mandatory inquests when a migrant worker dies” (Gamble, 2013).

Without mandatory inquests, workers have said that they do not feel safe and feel disposable because they can easily be replaced if they are injured or killed (Gamble, 2013). However, the HRTO found that the Coroner’s Act does not discriminate against migrant workers. Ned Peart’s brother argued that the Coroner’s Act discriminated against temporary foreign workers on the basis of race, ancestry, place of origin, colour, ethnic origin and citizenship by excluding them from the mandatory inquest requirements under s. 10 (5) of the Act (Newell, 2014). After six days of evidence, including testimony by several expert witnesses, the HRTO stated that although s. 10 (5) of the Act had a “disproportionate impact on foreign workers in Ontario under the SAWP”, workplace fatality rates in areas such as mining and construction was much higher than in agriculture and therefore, agriculture should be excluded from the mandatory inquest requirement (Newell 2014). Ultimately, the HRTO should have protected the right of the worker because the worker died due to the negligence of the employer. One thing that came out of the case was the fact that the HRTO acknowledged that workers under the SAWP are vulnerable due to the relationship that they have with their employers. For example, they are unable to leave their employer if they are experiencing discrimination. Second, it accepted that SAWP workers are reluctant to discuss their injuries and are more likely to keep working while they are injured.

Lastly, it accepted that SAWP workers are less able to challenge demands that are given to them by their employer (Newell, 2014). However, these acknowledgements were not enough to make a sufficient amount of change for the case where the migrant worker had passed away. It is interesting to note that the citizenship status of this worker determined whether he would get a coroner's inquest relating to his case. As previously noted, the occupation of being a miner or a construction worker has more importance to lead to an inquest. However, even though Canada brings in thousands of workers into the country the HRTTO managed to rule that there are simply not enough injuries and for that reason being, an inquest is not necessary. Ultimately, there is a clear discrepancy that shows that the HRTTO acknowledged that migrant workers are hesitant to report discrimination and injuries due to their vulnerable status. Therefore, the injuries that are officially reported are not a clear indication of whether agricultural work is dangerous.

Since March of 2015, there have been some improvements in health and safety legislation for Ontario farm workers. For example, the government of Ontario has been conducting inspections of farms to ensure that employers have adequate working conditions and that migrant workers have adequate living conditions as well (Global News, 2019). These inspections have increased, and the fines associated with health and safety violations have also increased. So far, 129 companies have been given fines for violations (Global News, 2019). However, the UFCW has stated that this has not had a large difference for migrant workers, Santiago Escobar, a representative from UFCW stated that "a key part is how to implement it, if you live in rural Ontario you don't have access to Service Canada, you do not have access to a toll-free number" (Global News, 2019). "This is why we are calling on the government to partner with us because we have access to workers and are familiar with their issues" (Global News, 2019). It is

important to have the government's intervention to be aware of the issues that are happening on the ground. In order to have a successful program, there should be a tripartite agreement between the sending countries, Canada/USA, and the consultation of organizations. Organizations are aware of the issues; specifically what agricultural workers may be worried about and rights that are not being addressed.

Escobar also stated that migrant workers were often moved around to different farms every few weeks, in areas where they do not have any training or knowledge (Global News, 2019). The federal government launched a review in 2017 of the primary agriculture stream in Canada's temporary foreign worker program, which is meant to help employers fill any job vacancies when there is a labour shortage. The federal review involved consultations with stakeholders and employers. The findings demonstrated that Canadian citizens are not willing to work on farms and therefore, the agriculture business will continue to recruit migrant workers to meet their labour needs (Global News, 2019). The federal review also recommended increasing wages to attract more Canadian citizens to take more farm jobs and they also explored the idea of allowing migrant workers to have better access to permanent residency by offering open work permits, allowing them to quickly leave employers in cases of abuse and establishing a housing standard for workers (Global News, 2019). As previously mentioned, having access to permanent residency would be a significant change in Ontario because it would allow a pathway for citizenship to agricultural workers. However, it is acknowledged that there are limitations to this being introduced because English proficiency is required as well as high school level education.

Another instance of employers not protecting the rights of workers in Ontario was shown through an interview done by CBC news of three workers: Francisco, Rodrigo and Juan who worked on a farm in Leamington Ontario (CBC News, 2018). These three sources stated that the reason they came to Canada for economic opportunities was due to the difference in monetary value between Canada's currency and Mexico's (CBC News, 2018). All three sources indicated that they were forced to handle vegetables covered in pesticides without requiring them to wear protective equipment. This later was attributed to headaches, burns and skin irritations (CBC News, 2018). On the farm, it was also mentioned that there is a system of productivity, names of employees are displayed with their productivity levels, if one had a low percentage of productivity they would be punished, by having suspension without pay for a few hours or days (CBC News, 2018). Rodrigo recalled a time where he had to go to the hospital for an emergency surgery due to a kidney stone, where he was sent alone, had to sign forms in English even though he did not understand the forms.

The next day, the manager asked that he return to work immediately, Rodrigo refused and was then told that his ticket to return to Mexico had been bought (four months prior to his contract ending) (CBC News, 2018). Although Leamington has a Mexican consulate available, all three workers stated that they were little to no help, in the case of Rodrigo the consulate officers stated that the management had the right to send him back to Mexico because he did not respect his contract (CBC News, 2018). Ultimately, this case study of the workers in Leamington, Ontario exemplifies that in the eyes of employers, productivity is prioritized before the health and safety of workers. According to the accounts of the three workers, there were numerous health

and safety violations, and they did not have the support from their own consulate to report these violations.

Analysis of Cases

In both areas, there is still a common theme between the exploitation of vulnerable workers. Surprisingly so, even in state sponsored programs. The notion of not obtaining citizenship seems to have an impact on the way that workers are treated because there is an understanding amongst employers that they are not aware of their rights and as a result, they will not be able to hold them accountable for violations. However, those who do know their rights and are exposed to the laws that protect them, have been able to take action as shown through the cases noted in California and Ontario. This exemplifies why it is important for migrant workers to be made aware of their rights and what they are entitled to in the workplace. Workers are able to come forward if they have the opportunity and the resources to do so. An important outcome in the case of Mr. Salas was the idea that a company should be held responsible for discrimination even if that is against undocumented employees. Although many undocumented workers may not know this, if there was more awareness, there could be more cases of people exposing the exploitation of their employers. In Ontario, workers should have more access to resources and awareness of the labour laws they are entitled to in order for them to feel more comfortable to fight back against injustices without fear of repatriation.

Discussion & Recommendations

In Leamington, Ontario in 2001 and 2003 there were two strikes where migrant workers spoke up against exploitative work such as the payment and living conditions, in the first case 21 workers were identified and deported and in the second, 30 out of the 60 workers were sent home but able to return to work on a different farm (Basok & Belanger, 2016 p. 153). Another instance of collective action was the 50km march called the Pilgrimage to Freedom: Breaking the Chains of Indentureship, this strike called for permanent residency, citizenship status, an end to repatriation and equal access to social entitlements (Basok & Belanger, 2016 p. 153). It is important for workers to fight for their rights and strike. For example, in the case of Norma, who was an agricultural worker, she was able to speak with a grassroots organization because she was fired from her job. She was advised by her employer that she had to go back to Mexico, however the grassroots organization advised that her work visa had not expired so she would be able to stay in Canada and work. Ultimately, Norma was able to find a job in Leamington, Ontario (Basok & Belanger, 2016 p. 156)

Migrant Workers Alliance has been calling to repeal s.3 (b.1) and s.3 (c) of the *Labour Relations Act (LRA)*, so that agricultural workers are given the same protections and rights as other workers under the LRA in Ontario (Migrant Workers Alliance, 2017). Migrant Workers Alliance for Change (MWAC) suggests that the federal government should work with organizations in order to consider the vulnerabilities that migrant workers face. Working with front line organizations would allow workers to report their experiences to the organizations, and this could then be relayed to the federal government on which employers to fine and hold accountable. Working with the federal government to issue open work permits as well as allowing anonymous com-

plaints would help in alleviating the issue of the mistreatment of migrant workers and provide them with more protection (Migrant Workers Alliance for Change, 2017). The problem with the SAWP is that contracts are negotiated by Canada and the government of the workers' country of origin. The workers do not have any representatives to participate in these negotiations. Workers are given contracts that they must accept, and wages are already set without considering the voice of the worker. Migrant workers are working in an informal sector where the terms and conditions of their work is already decided, and they are denied the rights of collective action that could potentially allow them to have meaningful influence in terms of their work.

It is important to have accountability in the workplace, especially when dealing with the vulnerability of agriculture workers. Future steps that can be taken is to make it a law to ensure that employers are making employees aware of their rights both in California and Ontario. For example, there could be a few days dedicated to health and safety training as well as a training day on employment standards. Furthermore, there should be more access to local organizations that agricultural workers can easily access, a main problem that was found throughout the literature was the fact that agricultural workers were not aware of who to go to for reporting their concerns. Through the process of having agriculture workers, it should also be implemented to have a person who can act as a neutral middleman on behalf of the worker, who can speak English and Spanish. This person can have the responsibility to report to the employees, what their rights are and be responsible for assisting in the reporting of violations at the workplace. It is also important to give agricultural workers handbooks in their language of preference. For example, the provincial government in Ontario can make it mandatory to give workers a book,

outlining their rights prior to starting the SAWP program. Moreover, it is important to have a partnership with the government and local organizations in order to have a successful guest program. Local organizations are aware of the issues on the ground and could advise the government on how to proceed with future policies or guest programs. This applies for both the case of California and Ontario, where there should be an external advisor who can consult and vouch for the experiences of agricultural workers.

Conclusion

Ultimately, it is shown that in California and Ontario there are laws that exist to protect the rights of agricultural workers. However, the problem lies in the enforcement. There is a lack of awareness amongst workers on what rights they are entitled to as well as how to proceed with claims when they have their rights neglected by their employer. Citizenship also has an impact on the way that migrant workers are treated because as shown in the case of California, only the workers that work with the H-2A program are entitled to rights as an agricultural worker and have access to housing. Neoliberalism has ultimately caused the demise of social protections as shown through the history and comparison of Ontario and California. For example, employers are looking for a flexible, cheap and precarious workforce in order to maintain themselves in relation to global competition. Furthermore, it was shown in Ontario that even those who are supposed to vouch for the worker, such as the consulates, do not make their governments aware of the injustices that are happening due to the fear that employers will no longer want to hire workers from a specific country. The changes in government also had an impact on the rights of agricultural workers, as shown in the shift between the Bush, Obama and Trump Administra-

tions. This was also the case for Ontario where it can be seen that there was a brief period in 1994-1995 that migrant workers could unionize however, as a result of a party shift in government this was repealed and never reintroduced into law. The conditions of agricultural workers are deplorable, and employers should be held accountable for not respecting the laws. The research and analysis indicate that employers take advantage of the vulnerable status of agricultural workers, to the point that agricultural workers internalize a form of self-exploitation that push themselves beyond their capabilities to prove their worth to employers and to their own governments. Migrant workers often have families to take care of and do not have the choice to return to their countries due to neoliberal conditions that have limited their opportunities to make a living in their home countries. It is important to protect the rights of migrant workers by giving them the access to organizations that can ensure that employers are not taking advantage of them. In the literature, it was common to find that migrant workers have barriers with language and therefore, are not able to voice injustices.

Therefore, it should also be a law to have a person who can act as a middleman on behalf of the worker, who can speak English and Spanish. This person can have the responsibility to report to the employees, what their rights are and be responsible for assisting in the reporting of violations at the workplace. The recommendations in this paper also suggested the importance of providing handbooks for agricultural workers, prior to beginning their employment. This handbook could be provided in their language of preference, which outlines the rights they are entitled to as an agricultural worker. Lastly, it is important to obtain a partnership with the government and local organizations in order to execute a successful migrant worker program. This could be beneficial because local organizations have more experience in understanding the

hardships migrant workers face which could potentially provide positive recommendations that could be useful for policy implementation. Ultimately, it is possible to ensure that migrant workers' rights are protected by providing them with more awareness of their rights and incorporating possibilities to citizenship.

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