

--- STATUS FOR ALL ---

justice for immigrants and refugees

may 2005

campaign for regularization

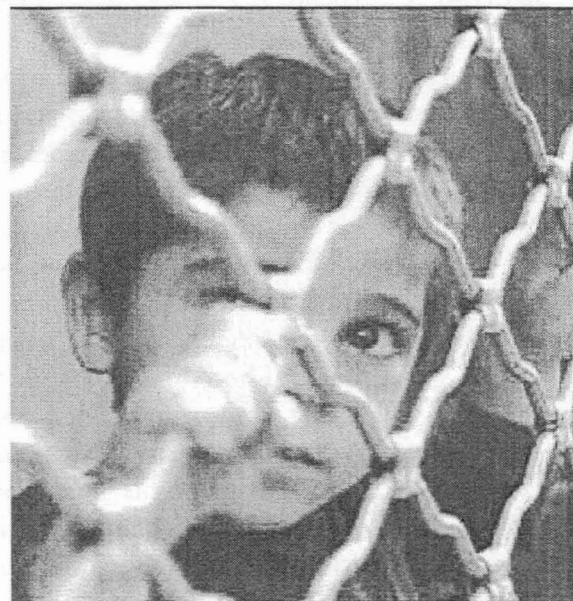
Regularization is an issue of self-determination and justice. Entire families live in a state of constant stress and fear. Workers are being exploited. Children of non-status immigrants, whether Canadian-born or not, are denied the right to education. Children and entire families lack adequate and affordable medical coverage.

The Canadian government supports international agreements that allow the free movement of capital, business and goods across the globe. While businesses are free to move across borders to find thriving economic conditions, these same agreements deny people the same type of free movement. Business relocation has created huge areas of poverty and depression around the world giving people no choice but to migrate in order to save their families and children from poverty, war and militarization.

Many sectors of the Canadian economy rely on the exploited labour of non-status and refugees and it is not in the best interest of the Canadian government to deport non-status immigrants, thus maintaining a social and economic system that has created two classes of people - exploited non-status immigrants without social and citizenship rights- and the rest of the population.

Just as Canada was dependent upon colonial plantations in Latin America, Africa and Asia that produced fruit, vegetables, coffee, tea, sugar for the Canadian market, today the Canadian economy depends upon the labour of migrant workers of colour who are underemployed and exploited. One clear and present example is the garment industry, in which 77% of workers are racialized immigrant women whose pay depends on their status- ranging from two to four dollars per hour. (Women and Welfare Project March 2004, Vancouver Status of Women).

In the past, every time there has been an overhaul of our immigration law, the government has brought in programs to regularize the status of those who were caught in the old system. The first time the government introduced a special program to allow a person in Canada to regularize their status was in 1960. Since then there has been many other such programs: in 1972, 1986, 1989, and in 1995.



"Yet, it is the practically universal acceptance of the right of national states to determine their members (as enshrined in national and international law) that allows for the easy mobilization of widespread opposition to anyone seen to be a non-member. Based on the sovereignty story (the fusing of identity, territory and authority in the nation state), differences in people's access to legal protections based on nationality are widely seen as natural, and are imbued with the moral authority of the nation protecting itself. This allows those possessing citizenship status and the unproblematic identity of "Canadian" to take for granted the discriminatory aspects of state policies in which the state is empowered to classify some people as non-citizens."

- Nandita Sharma

statement on behalf of no one is illegal vancouver

April 22, 2005

Joe Volpe stated in a press release dated April 18, 2005 "Canada's immigration system is a model for the world." We sincerely hope that Canada's immigration system, which is a self-declared fortress against newcomers, does not become a model for the world.

Reducing application times, exemptions for the language requirements for the citizenship test, and issuance of visitor visas, as per Joe Volpe's recent policy announcements, are band-aid solutions that do not begin to scratch the surface of systemic problems with the immigration and refugee system in Canada. Furthermore, all of the changes introduced by the Minister address the economic needs of the government and the country. The \$550 application-processing fee is considered to be a major source of profits for the federal government. The Minister needs to prioritize human rights ahead of his quest for profits. Even more disturbing is that the Minister appears to view the Canadian Charter of Rights and Freedoms as an obstacle for his immigration agenda. As Minister Volpe stated in a recent Globe and Mail interview, "The Charter of Rights gives certain rights to everyone that sets foot in this country, and we have to deal with this."

In recent weeks and months, the government and media have portrayed the refugee system as one plagued by abusers. The prevalent discourse behind this is one that re-articulates the war on migrants and aims to lay blame for a deeply flawed system on its own victims. Borders and nation-states are historically specific social systems that shape distinctive cultures and identities. There are those who are Canadian and those who eternally remain as hyphenated citizens- Indo-Canadian, Chinese-Canadian, just never quite Canadian enough. With the events of 9/11, the identities of Canadians versus those of the terrorists are being further re-defined and there is the increasing public perception that migrants are terrorists or criminals whose ability to remain in Canada must be curbed.

Such calls for "border control" create more vulnerability, abuse and terror in the lives of those who are already the world's most vulnerable, most abused and most terrorized people. Today, an estimated 150 million people are in migration. Increased migratory pressure over the decades owes more to the dynamism of international capitalism rather than to the growing size of the population of Third World countries. Those colonial forces are the same forces that have caused and continue to perpetuate genocide and dispossession of indigenous peoples within the colonial territories of North America. The very conditions that spawn migration into the countries of the North-war, poverty,



MYTHS AND REALITIES ABOUT MIGRANTS

"Non-Status Migrants and Refugees Jump the Queue"

Our current immigration point system is designed to ensure that those who qualify for immigration to Canada are either business people with large amounts of capital, professionals with a university education who speak English or French fluently, or family class immigrants. Most of the non-status immigrants are skilled or semi-skilled workers who do not qualify under our point system so there is no queue for them.

"We Cannot Afford to Let Anymore People In"

Canada sets immigration targets because demographically we need immigrants to help sustain our country's economy. These targets are set at 1% of the total population, and we consistently fail to meet them.

"Canada's Refugee Policy Takes Care of Everyone"

The definition of a Convention refugee is restricted to persons who face serious reprisals against their human rights because of their race, religion, nationality, and membership in a social group or political opinion. However, many of the people who come in as nonstatus are victims of growing global inequalities, extreme poverty and generalized violence in their country of origin, but do not qualify as Convention refugees.

fueled by G-8 policies on free trade and western-style "development"; the same G-8 nations then refuse any semblance of life and dignity to those migrants who can get to the territories of the North.

What follows is not merely a laundry list of grievances; these are real and systemic issues that affect the lives of thousands of people. Every day, thousands of migrants and their families struggle against the uncertainties and fear created by the current processes and policies of Immigration Canada. Nonstatus and other migrants are forced underground and rendered highly vulnerable and exploitable; threatened with detention or with deportation; and subjected to discriminatory legal standards. The system creates a vulnerable community of non-citizens, which all industrialised states use as temporary, cheap, and hyper-exploitable labour. This apartheid system of assigning criminal status to "illegals" means that they are treated as a flexible pool of workers without rights of settlement or political enfranchisement.

The racist scapegoating and criminalization of migrants has also meant an attack on basic civil liberties. Canada's Secret Trial Five are five Muslim men whose lives have been torn apart by accusations that they are not allowed to fight in a fair and independent trial. All five men were arrested under "Security Certificates," that have been described by Amnesty International as "fundamentally flawed and unfair". They are imprisoned indefinitely without charges on secret evidence and face deportation to their countries of origin, even if there is a substantial risk of torture or death. The shameful history of Japanese-Canadians being interned and deported from Canada during World War II and the "red scare" of the McCarthy era should stand as warnings to us.

The governments covert and overt endorsement of racial profiling in the 9/11 climate is further demonstrated through policies such as the creation of the Canada Border Services Agency that handles enforcement of removals and reports to the Minister of Public Safety and Emergency Preparedness. Having refugee claimants processed by an enforcement agency sends the racist message that refugee claimants are a threat to public safety. Operation Thread has been a clear example of gross human rights violations resulting from Canadian immigration policy. In August 2003, newspapers reported the arrest and detention of 22 Pakistani and 1 Indian student as suspected terrorists. The incriminating evidence at the time was as simple as young men living together in sparsely furnished apartments. The RCMP and Immigration eventually backed away from all the allegations but the detainees were already publicly labeled as terrorist and most have since been deported.

In a similar vein, Muslims in Canada this week expressed their disappointment and outrage upon hearing that Canada voted against an important United Nations resolution which seeks to protect the rights of Muslims and stem the tide of Islamophobia in the world.

Security Certificates: Canada's own Guantanamo Bay

Canada's Secret Trial Five are five Muslim men whose lives have been torn apart by accusations that they are not allowed to fight in a fair and independent trial. These five men have been held a collective total over 200 months, much of it in solitary confinement. Security certificates and secret evidence reverse the fundamental rule of innocent until proven guilty. The men are imprisoned indefinitely without charges on secret evidence and face deportation to their countries of origin, even if there is a substantial risk of torture or death. Security certificates only apply to Permanent Residents and Refugees. They thus deny certain classes of people in Canada their rights - a completely unacceptable discrimination.

The families of these men and their supporters demand FOUR things:

1. That the five men be released immediately; or, if any case against them actually exists, that they be allowed to defend themselves in open, fair and independent trials with full disclosure of the case against them.
2. That they not be deported.
3. That the federal government abolish the secret trial security certificate process.
4. That CSIS, RCMP, and CIC end its ongoing harassment and intimidation of individuals and communities of Arab, Middle Eastern, and South Asian heritage and/or Muslim faith.

Racial profiling is a double standard by which individual members of communities are considered responsible for every action of every other individual in their community and legislation is passed and legitimized to criminalize their civil liberties and human

The UN resolution expressed concerns regarding "the intensification of the campaign of defamation of religions, and the ethnic and religious profiling of Muslim minorities, in the aftermath of the tragic events of 11 September 2001 and expressed deep concern that Islam was frequently and wrongly associated with human rights violations and terrorism." Canada was one of 16 countries that voted against this important resolution, giving the impression that it actually supports or condones racism and intolerance. Canada's NO vote is a sad testimony on the Government of Canada and we call on the Canadian Government to reverse its decision.

The announcement by Mr. Volpe provides no assistance to the tens of thousands of migrant and temporary workers in Canada who are employed under the Seasonal Agricultural Workers Program or Live in Caregiver Program, whose contributions to our society go unrecognized. For example, migrant farm workers from the Caribbean, Mexico and Guatemala work in Canada's agricultural industry for up to 25 to 30 years with no social and/ or economic mobility rights.

migrant workers



LCP: Prisoners of Legislated Exploitation

For more than 20 years, Canada has recruited foreign domestic workers to Canada under what is now known as the Live-in Caregiver Program (LCP). Over 80% of LCP visas are granted to Philippino women.

The LCP fills in holes in the Canadian labour pool and creates an exploitable class of labour. Although the program calls for a 49-hour maximum workweek, the live-in aspect allows employers to call on the caregivers at any time. Many work up to 70 hours a week, their overtime often unpaid, and subject to labour rights violations and gross abuse. Under the program, women are required to work, doing domestic childcare and home support work, for two years within a window of 36 months. Upon completion of this work, the women may apply for landed immigration status. However, despite their significant contributions, those who are unable to fulfill the requirement, face deportation. Furthermore, many Filipino domestic workers are professionals their home country. For example, although BC is facing an intensifying nursing shortage in unprecedented proportions, nursing degrees obtained in the Philippines and other countries are not recognized.

We demand that the exploitative Live in Caregiver Program be scrapped and that Canada implement a moratorium on deportations of domestic workers. Furthermore, we call for an accreditation process that recognizes nursing degrees obtained in the Philippines.

- Phillipine Women Centre of BC, SIKLAB (Overseas Filipino Workers Organization) & Filipino Nurses Support Group.

www.kalayaancentre.net

PRINCIPLES OF REGULARIZATION

Principle 1: We need a comprehensive, transparent, inclusive and ongoing regularization program that is both equitable and accessible to ALL persons living without legal immigration status in Canada (non-status). Any such program must not be contingent upon a person's participation in the labour force, nor should it exclude particular groups such as the poor, unwaged, unemployed and those who have ever accessed any government assistance. Likewise, it should not be limited to any group, such as members of a trade or profession, selected sectors or industries, those determined to be successfully integrated, and so on.

Principle 2: Any regularization program must provide immediate access to unrestricted and unconditional permanent resident or landed immigrant status in Canada.

Principle 3: Any regularization program must be non-discretionary, non-arbitrary and be applied consistently. As well as guaranteeing the right to due process for all applicants, it must also include a right to appeal for those whose applications are rejected.

Principle 4: Any regularization program must not be discriminatory on such basis as race, colour, national or ethnic origin, faith or religion, gender, mental or physical disability, sexual orientation, family status, etc.

Principle 5: Any regularization program must not be based on length of residency in Canada.

Principle 6: Medical inadmissibility is deeply discriminatory, violates fundamental human rights and is an affront to basic principles of justice and compassion. Any regularization program must not discriminate on the basis of an applicant's medical condition.

Principle 7: Any regularization program must respect the principle of family reunification in Canada, and respect the right of children to be with their primary caregiver(s) in Canada. It must allow regularized non-status individuals to sponsor their family members here and abroad on an immediate basis. The definition of family must be fully inclusive so as to recognize diverse cultural norms and practices, de facto family arrangements, same sex relationships, and the evolving realities that characterize people's lives. In all cases, proof of family relationships must not be determined on the basis of medical testing.

Principle 8: Non-status persons must not be penalized for having been forced to live "underground" in Canada. The regularization program must allow non-status individuals to submit their applications on an anonymous basis or through a third party, without fear of criminalization, detention, deportation or any other kind of enforcement.

Principle 9: While any regularization program is in process, all levels of government in Canada must guarantee non-status people full and equal access to health care, social assistance, education, childcare, employment, labour protection, housing, legal aid, domestic violence services etc., without fear of identification, criminalization, detention, deportation or any other kind of enforcement.

Principle 10: There should be no application or processing fees as they would constitute an unjustified barrier to any regularization program.

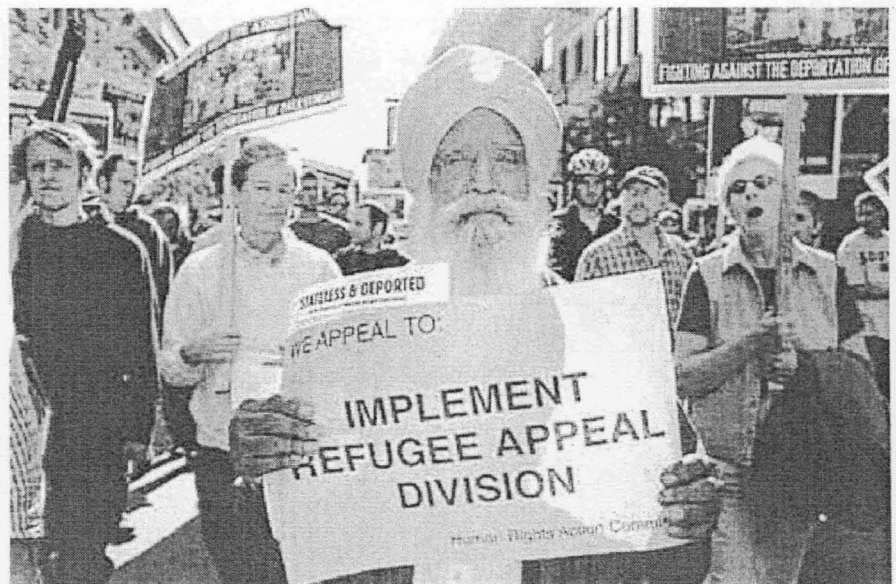
Principle 11: Anyone with less than full status in Canada - including people on temporary work permits - must be eligible for the regularization program.

- Adopted by the Status Coalition in 2004
www.ocasi.org/status

We call for Permanent residency status to be provided for temporary migrant workers and that a program of regularization that is comprehensive, inclusive and equitable be initiated for all non-status peoples in Canada.

The current refugee system is also plagued with a disregard for the rights of asylum seekers. No One is Illegal, along with the Iranian Federation of Refugees, has for example, supported Haleh Sahba, an Iranian women's-rights activist, who was deported in December 2004. The Canadian government, in deporting Haleh, assured her of her safety in Iran. Yet it is now widely reported that she was detained and faced serious charges. There is no reason to believe that Haleh is an exception in our refugee process and that the Canadian government appropriately concerns itself with the risk that asylum seekers face in their countries of origin.

Contrary to public perception, there are not an infinite number of appeals that a refugee can access in Canada. For the overwhelming majority of claimants, refugee determination in Canada is a one-step process because there is in fact no full merit-based appeal in Canada. For example, one of the limited avenues in the refugee process, the Pre-Removal Risk Assessment, had an overall national acceptance rate of less than 3% in the year 2004. If Canadians have the right to appeal a parking ticket, then certainly refugees facing potential torture or death should have the right to appeal the decision of a single, politically-appointed decision maker in a process that has been called a "lottery system". We call for an immediate implementation of the Refugee Appeal Division as promised and as provided for by the (ironically-titled) Immigration and Refugee Protection Act 2002.



"I have already made a commitment to the Canadian Council of Refugees that we will have an appeals system in place in one year's time."

- Denis Coderre, Minister of Citizenship and Immigration Canada in the House of Commons on June 6, 2002.

Despite the popularly perpetuated myth of a "border rush ", the number of refugee applications in Canada has actually declined 41% since 2001. Those numbers are expected to drop even more sharply this year due to the Safe Third Country Agreement. Canada and US signed an agreement that took effect Dec. 29, 2004 disallowing refugees from seeking asylum in Canada if they first arrived in the U.S. This major attack on asylum seekers mimics historic Canadian immigration policies such as the "None is Too Many" policy against Jewish refugees, the Continuous Journey policy implemented to exclude South Asian migrants, and the Chinese Exclusion Act. History is grossly repeating itself and we call for a repeal of this racist and exclusionary Agreement.

Simultaneously, removals from Canada have increased from 8946 removals in 2001 to over 10,000 removals in 2004.

These are the issues and policies that need to be addressed. The survival and dignity for people must be first and foremost. Token solutions will do little to quell the growing resistance that demand systemic transformation to Canada's current immigration system. Contrary to reformist approaches to this reality of global apartheid that accept colonial and imperialist control, No One is Illegal sees strength in our unity as immigrants, refugees and non-status people build greater trust in visions of an alternate world and organize, educate, act and fight for their own self-determination.

trafficking of migrants

Given the increasing criminalization of migrants, trafficking of migrants will increase. It is estimated that at least 800, possibly as many as 16,000, people are trafficked into Canada each year to work as cheap labourers in industry and agriculture, as domestic workers, and in sex work. The Canadian government has signed several International Protocols and Conventions committing Canada to protect trafficked women; but in reality, the Government's immigration policies and practices offer little protection. No form of temporary status is available to grant asylum, nor are support services in place.

We demand that Canadian government live up to its international obligations to respect the human rights of trafficked women by:

- Implement a process to provide status for trafficked women
- All future CIC action involving trafficked women be carried out in accordance with international agreements.
- Ensure in the event of raid that there be person from community group to provide support and language-appropriate information on their options-this includes options for claiming refuge in Canada.
- Give women protection as potential victims of trafficking, instead of treating them like criminals. This means placing them in safe housing instead of in detention centres, providing them with legal information, language support, and contacts with service organizations.
- Funding for services (shelter and necessities) while they recover.
- Signing the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Their Families.

- Sex Workers Action Network (SWAN)

Canadian History of Exclusion

1908 Continuous Passage Act which stipulates that all immigrants must arrive by an uninterrupted journey. Komagatu Maru, arriving after an uninterrupted journey in Vancouver, with 376 Indians aboard was refused admittance to Canada. Between 1914 and 1920 only one Indian was admitted to Canada.

1910 In 1911 an order in council prohibited the landing of "any immigrant belonging to the Negro race, which race is deemed unsuitable to the climate and requirements of Canada" to prevent Black farmers from arriving.

Head tax on Chinese in early 1900's. July 1st, 1923 Chinese Immigration Act prohibited Chinese immigrants. The day is known as "Humiliation Day".

1938 St Louis boat sailed from Germany with 930 Jewish refugees. No country in the Americas would allow them. The ship was forced to return to Europe where three-quarters of the refugees died at the hands of the Nazis. A memo to McKenzie King stated 'We do not want to take too many Jews' in what became known as Canada's "None is Too Many" Policy.

Feb. 1942 Japanese Canadians were expelled from within 100 miles of the Pacific and most went to detention camps in BC. After the war, the government encouraged many to "repatriate" to Japan. 4,000 left, more than half Canadian-born and two-thirds Canadian citizens.

"smart borders"

Stated principles of Smart Border Action Plans between USCanada and US-Mexico: Biometric identifiers, Permanent Resident Cards, Advance Passenger Information / Passenger Name Record, Share Advance Passenger Information, Harmonized Commercial Processing, Intelligent Transportation Systems, Integrated Border and Marine Enforcement Teams, Fingerprints, Joint Training and Exercises.

Safe Third Country Agreement: US-Canada Border

The most draconian measure on the rights of migrants in Canadian history is the Safe Third Country implemented on December 29, 2004. The Safe Third Country Agreement would that mean asylum seekers who land in the US (a common transit point when travelling to Canada) would no longer be allowed to make their way to Canada; they would be forced to make their claim in the US instead.

This is yet another way to create a fortress in North America similar to Fortress Europe, reducing the number of refugee claims in Canada by an estimated 40%; robbing the rights of migrants to self-determine where they would like to re-settle, while contending with some of the most dehumanizing refugee practices in the US.

Refugees in the US face a greater risk of detention, particularly indefinite detention. Thousands of asylum seekers, including children, are held in detention in the US, for months and even years.

Border Liason Mechanisms: US-Mexico Border

The Border Patrol at the US-Mexico border is the nation's largest law enforcement agency with nearly 12,000 agents. Charged with enforcing immigration laws and drug policies, the Border Patrol has allocated over 80% of its agents to the southern US-Mexico border. After September 11th, the Border Patrol gained national prominence as one of the key anti-terrorism forces.

Stories of Border Patrol agents shooting and killing Mexican men as self-defense to alleged rock-throwing have become common place. Agents are known to use excessive force, as in the case of the July 2003 beating and subsequent death of a Nogales, Sonora man.

And for Hispanics and Mexicans that live along the border, it is clear that the region has turned into a zone where people-citizens, legal residents and undocumented alike---are regularly denied fundamental civil rights.

SECURITY CULTURE

The attack on rights began before September 11, 2001. During the 1990's there has been a surge in people protesting against capitalist policies and free trade agreements that favour financial transactions and eliminate social gains. The abusive and recurrent invoking of "unlawful assembly" against protestors across Canada gives police wide latitude to arrest, detain and charge any individual participating in a demonstration since the mere fact of being present in an unlawful assembly can be enough to be denied the right to demonstrate. Governments complicit in free trade agreements have responded with extreme repression and given police broader powers of intrusion and surveillance powers. The "Total Information Awareness" Program was launched in the US to collect information on each of the 6.2 billion inhabitants of Earth.

Since 9/11, Canada's arsenal includes the Anti-Terrorism Act, the Anti-Gang Act, the creation of a mega-database on national and international travellers, the Public Safety Act, the Citizenship Bill, increased use of Security Certificates, as well as projected legislation giving police legalized access to computer communications under the Lawful Access Project, and plans for a national identity card with biometric data. The Anti-Terrorism Legislation allows police to detain and question for upto 72 hours without being charged and a judge can order the deportation of a suspect who is not cooperating during an interrogation. Many of these directives, are established through administrative directives.

migrant labour standards in BC

In BC, under the current liberal government, we witnessed the dismantling of labour protection under the Employment Standards Act in 2001 and 2002. The Act reflects regulations which gives employers tremendous power, while creating vulnerable working conditions for workers. Particular regulations that deepen the exploitation of immigrant, non-status and migrant workers are:

- All workers who are new to the labour force are paid a \$6 per hour "training wage", instead of the regular \$8 per hour minimum wage, for the first 500 hours of work. The most obvious impact has been on immigrant populations.
- The minimum shift is currently 2 hours. Immigrant workers who are part-time and casual workers can be called out for less work and receive less pay. Also, the legislation reduces employers' liability for unpaid wages from 2 years to six months. An employee's only means of recovering more than six months is through the courts, now even less accessible with the denial of legal aid for poverty law matters.
- Workers' complaints about violations of the Act are now initially dealt with using a "self-help kit," which directs the worker to approach their employer on their own. The Employment Standards Branch will only become involved after this process has been attempted.
- Live-in caregivers, particularly vulnerable due to their temporary status and live-in requirement, are now expected to attempt to enforce their own rights using the self-help kit.
- Farmworkers in BC, predominantly immigrant workers, are excluded from overtime and statutory holiday pay.
- Seasonal Agricultural Workers find themselves with no protection under this Act.

To ensure that pressing realities for migrant workers and immigrants are addressed in BC, we have prepared the following candidate questions for the upcoming provincial election:

- 1) Will your party revise the Employment Standards Act to better reflect the much need protection for marginalized workers, especially domestic workers, farmworkers, and garment workers?
- 2) Will your party put pressure on the federal government for the regularization of non-status people in Canada, so that BC can be at the forefront of promoting healthy, safe, working conditions and worker's rights?

- Vancouver Status of Women

migrant workers



Migrant Farm workers from the Caribbean, Mexico and Guatemala arriving under the Seasonal Agricultural Workers Program (SAWP) work in Canada's agricultural industry, predominantly in Ontario and an increasing number in British Columbia, for a period between eight weeks to eight months with no provisions in their contracts for permanent residency in Canada.

Justicia for Migrant Workers is Demanding that the following provisions be made available

- Permanent residency status be provided for workers currently employed under SAWP.
- Permanent residency status be provided retroactively for workers previously employed under the auspices of the SAWP.
- The implementation of an appeals process to prevent unilateral repatriation of migrant workers without representation.
- Provisions for family reunification be included to allow families of migrant farm workers to apply for residency status in Canada

Contacts & Resources:

There is a growing network of immigrant organizations and social justice groups in Vancouver: Association of Chinese Canadians for Equality and Solidarity Society, Iranian Federation of Refugees, Kalayaan Centre (Philippine Women Centre), South Asian Network for Secularism and Democracy, Rainbow Refugee Committee, Palestine Community Centre, Committee for Solidarity with Columbia, No One Is Illegal, Sex Workers Action Network, Vancouver Status of Women.

STATUS campaign: www.ocasi.org/status/
Kalayaan Centre: www.kalayaancentre.net
No One is Illegal: <http://noii-van.resist.ca>
www.justicia4migrantworkers.org
www.palestinecommunitycentre.com
Chinese Canadian National Council:
www.ccnc.ca
Campaign to Abolish Security Certificates:
www.zerra.net/freemohamed
Canadian Council of Refugees:
www.web.net/~ccr/

prepared by:



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