



# Legal and social protection for migrant farm workers: lessons from COVID-19

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In most countries, the COVID-19 pandemic has led to a reassessment about whose work is deemed essential. Citizens and their governments have come to realize the importance of maintaining reliable food supplies during a global health crisis, and there is broad agreement that farmers and farm workers at the very beginning of the food chain are undeniably essential. Yet, what is now more apparent than ever before is to what extent national food systems in the Global North have become dependent on migrant farm workers. Until recently, hundreds of thousands of these temporary, precarious, and oftentimes unregistered workers have secured the supply of fresh fruits and vegetables for consumers, but border closures and suspension of visa services have thrown many of them into legal limbo, social uncertainty, and economic distress.

Over the past two decades, governments in North America, Europe and Australasia have established a host of schemes to secure steady streams of migrants to fill temporary labor shortages in the agricultural and horticultural sectors. Among the most prominent ones are the H2-A Visa Program in the United States, Canada's Temporary Foreign Worker Program, the New Zealand Recognized Seasonal Employer Scheme, and the Seasonal Worker Program in Australia. While these have been hailed by policy makers as triple-win arrangements for host countries, temporary workers and their home countries, many academic studies and media reports have revealed that such formalized guest worker programs are often no less exploitative than undocumented farm labor arrangements, such as those involving African refugees in greenhouses in Spain and Italy, working

holiday makers in Australia's horticultural industry, or unregistered Mexican farm workers in California. None of the governments in the Global North have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (also known as the UN Migrant Workers Convention), and very little effort has been undertaken to enforce adequate legal and social protection of migrant farm workers to date.

Migrant farm workers in countries of the Global North tend to enjoy minimal labor rights and are often subjected to underpayment of wages, restriction of movement, excessive working hours, workplace harassment (including sexual violence and racial discrimination), substandard housing, and gross health and safety violations. These forms of exploitation are enabled by vulnerabilities that emerge from geographic isolation of farms, understaffed monitoring bodies, and the widespread use of employer-assisted visa processes, whereby workers are discouraged from reporting human rights abuses for fear of deportation. Many migrant farm workers who feel unwell continue to show up for work for fear of losing their job and avoid seeking medical treatment due to lack of proper health insurance.

When the onset of the global COVID-19 crisis brought international labor migration to a grinding halt, governments in wealthy countries embarked on highspeed policy-making to maintain the foreign temporary workforce in their primary industries, in most instances without any broader policy debate. As an exception to its restrictive immigration policy under COVID-19, Germany has recently opened its borders to up to 80,000 temporary farm workers from Eastern Europe, while also considering to grant asylum seekers temporary rights to employment in the horticultural sector, to secure the harvest of white asparagus, strawberries and other high-value specialty crops. Meanwhile, the Canadian Honey Council chartered a plane to fly 80 temporary workers from Nicaragua to Canada to help local beekeepers weathering labor shortages due to the COVID-19 crisis. The Canadian federal government is providing farmers and food processors

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with financial support to ensure that their temporary farm workers comply with mandatory quarantine measures. The Australian and New Zealand governments have extended by several months the visas of temporary farm workers stuck in the two countries due to border closures.

Yet the sudden flexibility in policies enabling temporary migrants to continue their back-breaking work for food security in wealthy countries does not seem to go along with better recognition of the human rights of temporary farm workers to decent wages, social protection, and safe working conditions. Some of the first hundred Romanian workers that were flown to Germany in late March 2020 to secure the asparagus harvest reportedly came from COVID-19 hotspots and underwent only brief health checks upon arrival. Despite stringent government regulations, many migrant farm workers live in crowded conditions—such as repurposed shipping containers or shacks in communal housing camps—where physical distancing and adhering to proper sanitary regimes is near impossible. Several workers subsequently tested positive for COVID-19, and one Romanian worker died from the virus in his residential container in mid-April 2020. A concept paper published by the German Federal Ministry of Food and Agriculture in early April 2020 starts with the sentence, “Even during and after the Corona crisis the population has to be provided with high-quality food in sufficient quantity” (*author’s translation*). Yet such legitimate policy goals must not come at the expense of the lives and human rights of migrant farm workers.

The COVID-19 crisis is likely to require long-term economic recovery programs during which migrant farm

workers will continue to play a crucial role in keeping food on our tables. It is a moral imperative that governments develop humane migrant labor policies and ensure that human rights of temporary farm workers are respected along the food supply chain. This will require political pressure from consumers, critical social scientists and the media, and a general recognition among the populace that migrant farm workers are not just spare parts that can be used and discarded at random to keep national food systems running.

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