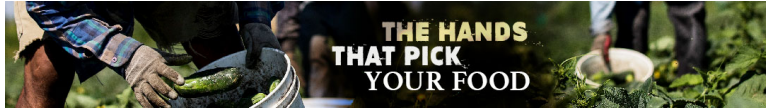




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## Unscrupulous recruiters keep migrant workers in 'debt bondage'

Employers seeking low-wage temporary foreign workers are required by law to bear the costs of bringing the workers to Canada. In practice, many of the low-wage workers end up paying Canadian job recruiters.



Over the years, Gina Bahiwal has encountered three Canadian recruiters, each asking for the  
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By **JIM RANKIN** Feature reporter

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Convinced by friends that Canada's low-wage temporary foreign worker program would provide a better life for her family, Gina Bahiwal borrowed \$6,000 to pay a recruiter in the Philippines to take care of paperwork and get her a job.

Within nine months, she was in Leamington, Ont., packing vegetables for minimum wage, signed to a two-year work permit that tied her to an employer — and to a Canadian job recruiter who collected more money, she was told, to cover rent and utilities, in an apartment of the recruiter's choosing.

When it came time to renew her work permit, the recruiter asked for \$2,500. Instead, she received free legal help and got the permit for nothing, but not paying the recruiter cost her the vegetable packing job.

It would be the first of three Canadian recruiters Bahiwal would encounter — each asking for thousands of dollars — on a years-long odyssey that involved jobs as a housekeeper and fast food restaurant worker, a deportation order, a public outcry and — a rarity — permanent residency. She has also become a champion for worker rights.

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[Why Canada's farm industry is ripe for change: Wells](#)



"All of us paid this money in order to come work here," Bahiwal, 43, says of herself and her friends who came to Canada. And then they shelled out more to move around Canada and stay employed.

Under Canadian rules, it was money they should never have had to pay.

Employers seeking low-wage temporary foreign workers must bear the costs of bringing the workers to Canada, including recruiting and transportation. Yet, through private recruiters paid directly by workers, employers can avoid the costs, which are passed on to the workers — plus the recruiters' markup.

Bahiwal's experience is not uncommon among workers in the low-wage stream of the Temporary Foreign Worker Program, one of four streams under which migrant farm workers are brought into Canada.

Recruiters — individuals who connect workers with jobs for a fee — have proliferated in Canada and abroad as more and more foreign agricultural workers stream into the country. The temporary worker programs, which tie workers to an employer, have a weak federal enforcement mechanism around recruiting, leaving it to the provinces to monitor.

Roughly 54,000 migrant farm workers came to Canada last year. The number of migrant farm workers in the country has more than doubled since 2000.

Manitoba is considered the best at ensuring workers are not left vulnerable to unscrupulous recruiters. It has a proactive licensing system for recruiters and requires employers to register with the government before recruitment of temporary workers begins. Employers cannot access the federal program unless they comply. Saskatchewan and Nova Scotia have similar protections in place.

Elsewhere, reactive complaint-driven enforcement, exorbitant illegal fees and a program that ties workers to employers have left workers open to abuse, as outlined in numerous studies, including examinations of the legal framework of Canada's temporary migrant worker programs by Toronto lawyer Fay Faraday.

"What we have created is a system that facilitates indentured labour — debt bondage," says Faraday, who has been advocating for improved rights for migrant workers for decades.

# 90,323

Job positions approved for foreign workers across all sectors in Canada in 2016

# 54,277

Approved job positions for foreign workers in agricultural occupations in Canada in 2016

The potential for abuse and exploitation begins at the recruitment phase of a migrant worker's "labour migration cycle."

The worker and his or her family in the developing world see hope in the developed world. Recruiters sell and benefit from that hope. The developing country and the worker's family benefit from remittances — earnings sent back home. The developed country gets cheap labour. Employers rely on recruiters to find workers. Recruiters control access to work.

Sometimes, owners and recruiters also control housing. It's at this point in the cycle that workers are most vulnerable, and the economic and power imbalance at their greatest, giving recruiters leverage over workers, their families and hometowns.

All of this must be contemplated in designing legal protections in Canada, Faraday argues in [Profiting From the Precarious](#), her 2014 report on how low-wage migrant workers are exploited by recruitment practices.

Ontario's temporary foreign worker protection system is particularly weak, Faraday says.

"It depends on individual workers coming forward and filing complaints, but that doesn't happen," Faraday says. "Any complaint about the terms of work, any complaint about the housing conditions, very promptly results in the worker being fired."

Permits that tie workers to a single employer, Faraday says, are "probably the most damaging part of this system, along with the fact that there is no possibility of access to (permanent resident) status. The UN has recognized that tied permits are an invitation to exploit workers."

Doing away with them — replacing them with open permits or sector-specific permits that would both allow an easier change in employer — would help cleanse the program of unscrupulous recruiters.

Paying to get low-wage jobs in agriculture, food processing, warehouses and restaurants is "widespread, even routine," Faraday says in her 2014 report, citing interviews with workers.

Money to pay recruiters is often borrowed from family or from private lenders recommended by recruiters. Fees start at \$1,000 but usually range between \$4,000 and \$10,000, notes Faraday.

A study by the United Food and Commercial Workers Union Canada estimated employment broker fees can eat up about half of temporary worker salaries, or more.

# 30,427

Total number of job positions approved for foreign workers across all sectors in Ontario in 2016

# 22,269

Those categorized under agricultural occupations in Ontario in 2016

Farm workers come to Canada under the Seasonal Agricultural Worker Program (SAWP), which limits them to working a maximum of eight months a year here, or under one of three streams of the year-round Temporary Foreign Worker Program.

The SAWP, which requires employers to provide housing and pay for the workers' airfare to and from Canada, is administered by government officials from Canada and the workers' home countries.

However, the other temporary foreign worker streams are based on private contracts between the Canadian employers and foreign workers, with less official oversight.

These temporary foreign workers are more vulnerable — and increasingly more appealing to year-round farming operators, such as greenhouses.

"The lack of oversight leaves (temporary foreign workers) totally at the mercy of their employer; a seemingly non-issue for the federal government, which has nonetheless expanded the (temporary foreign worker) program," the United Food union said in its 2010-11 report on the status of migrant workers.

The picture has not changed as the number of temporary foreign workers increases year over year.

Workers here under the SAWP are chosen for suitability, initially by their own country, and farmers choose who comes back year after year. There is no formalized seniority.

While they are not exposed to unscrupulous private recruiters and predatory fees, they are caught in a cycle of "perpetual" recruitment, Faraday says.

“Every year the worker is dependent on getting a favourable review from the employer in order to be named to come back,” Faraday says. “So what that does is create a relationship in which the worker has to maintain favour with the employer.

“Because, if they don’t, they’ll not be named and if they’re not named they can be kicked out of the program and there’s no recourse.”

As for complaining about unscrupulous recruiters, workers here under the temporary worker program feel they would lose their jobs if they don’t pay the fees charged for finding them the work and employer they are tied to. If that were to happen, they’d most likely have to leave Canada — or pay another recruiter.

In a rare case, reported the Windsor Star, recruiter Nehwin Wanhar was charged with extorting about \$15,000 from three Indonesian temporary foreign farm workers toiling in Leamington greenhouses. He pleaded guilty in February to a lesser charge of theft for collecting baseless fees.

The recruiter was ordered to pay back the victims, who were featured in [Migrant Dreams](#), an award-winning 2016 documentary by Toronto filmmaker Min Sook Lee.

The case served to highlight the mostly unchecked world of recruiting, something Bahiwal learned all about — and kicked back at.



Recruiter Nehwin Wanhar was charged with extorting three Indonesian temporary foreign farmworkers toiling in Leamington, Ont. greenhouses out of \$15,000. He pleaded guilty in February to a lesser charge of theft for collecting baseless fees. (COURTESY OF MIN SOOK LEE)

Gina Bahiwal’s time in Canada began in 2008 when she was housed with five other Philippine workers in a two-bedroom apartment chosen by the Canadian recruiter.

The cost was about \$50 per week per worker, which the recruiter deducted from their paycheques. That made the monthly rent roughly \$1,300, which seemed high to Bahiwal, as she learned more about how affordable housing was — and remains — in Leamington, a city in southwestern Ontario known for tomatoes and greenhouses.

Bahiwal, with a son and niece to support in the Philippines, got involved with the advocacy group Justicia for Migrant Workers.

When it came time for her to renew her work permit, she and other workers balked at paying the recruiter, who, she says, threatened to remove their names from their employers’ labour market impact assessment — a necessity for a worker to get a permit. She and another worker lost their jobs.

“You have a fundamental problem when the recruiter brings them in from the country of origin, drives them to the farm and then still acts in some sort of management capacity, managing the housing of the worker,” says lawyer Cathy Kolar, an immigration specialist who helped Bahiwal find another employer. “And (the recruiter) also is there as sort of a liaison, so if there is a problem between the worker and the employer, that person is there to step in but also there to offer employment elsewhere. They’re in a position of power.”

In Bahiwal’s case, some workers saw the recruiter as a saviour.

“They don’t feel that their life here in Canada is being controlled by this recruiter,” Bahiwal says. “Actually, they are thankful they are here.”

The years since have seen Bahiwal travel to British Columbia, where she worked as a hotel housekeeper and at a McDonald’s. When she encountered recruiters this time around, she either paid partial fees or refused to pay anything.

She returned in 2015 to Leamington, where she met a Canadian. They fell in love and married.

This year, she was nearly deported based on a now-rescinded federal rule stipulating that foreign workers who had been in Canada for four years had to leave the country for the next four.

After Justicia for Migrant Workers intervened, she received a one-year permit to stay. It allowed her time to make a spousal sponsorship application. She got her permanent residency in May.

This past summer, she travelled back to the Philippines and saw her 14-year-old son for the first time since 2008. She hopes to bring him, and her niece, to Canada.

### The labour migration cycle

Gina Bahiwal came to Canada from the Philippines in 2008 under Canada's temporary foreign worker program. Click the icons to hear her describe the labour migration cycle.

