



PRESS RELEASE

For immediate distribution – August 18, 2022

Human Rights Tribunal of Ontario finds that police engaged in racial discrimination against migrant farmworkers during DNA sweep

TORONTO - On Monday, August 15, 2022, the Human Rights Tribunal of Ontario (HRTO) delivered a historic ruling following a 9-year legal battle between 54 migrant farm workers, the Ontario Provincial Police (OPP), and the Ministry of the Solicitor General.

The underlying incident stemmed from a October 2013 sexual assault that occurred near the community of Bayham, Ontario. As part of its investigation into the incident, the OPP conducted a DNA sweep to collect samples from dozens of migrant farmworkers employed in the region.

The HRTO's 64-page ruling is the first human rights case of its kind in Canada to examine allegations of systemic racial profiling and discrimination by the police towards migrant farmworkers. The decision details how the police exploited systemic vulnerabilities experienced by participants of the the Seasonal Agricultural Worker Program, and involved the workers' employers during the investigation. It was found that Leon Logan (the lead applicant for the group) and his fellow workers were targeted solely on the basis of their skin colour and their status as migrant farmworkers, and that DNA samples were obtained from them even if they had alibis or did not match the suspect description.

The Tribunal found that the police's conduct during the DNA sweep was contrary to section 1 of Ontario's Human Rights Code, and that it violated Mr. Logan's right to be free from discrimination by improperly targeting him on the basis of his race, skin colour, and place of origin. Damages in the amount of \$7,500 were ordered for Mr. Logan. The parties have also reached an agreement between them which will provide a pathway for the remaining 53 applicants to receive the same award granted to Mr. Logan, resulting in a potential aggregate damages award of \$405,000. A subsequent hearing to address public interest remedies remains to be scheduled, where the applicants will seek an order that their DNA samples be destroyed and that the OPP be required to develop a policy that ensures DNA sweeps are compliant with the Human Rights Code.

Chris Ramsaroop of Justicia 4 Migrant Workers (J4MW) observes that "This is a significant victory by a group of courageous workers whose strength in numbers and a burning desire for change lead to today's victory. These workers fought and will continue to fight to end criminalization, and racist police practices. This isn't about a few bad apples though; the entire system is rotten to its core."

Shane Martinez, the lawyer representing the 54 migrant farmworkers who brought the case, states “While this decision represents a landmark victory, it also reminds us of the significant work that remains to be done to understand and combat anti-Black racism and its impact on migrant farmworkers across Canada. The oppression and exploitation endured by tens of thousands of racialized migrant farmworkers in this country is a shameful part of both Canadian history and our present-day reality.”

For interviews and additional information, please contact:

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A copy of the Tribunal’s decision is attached to this press release.

EXCERPTS OF INTEREST FROM THE DECISION:

“A police request for DNA from a person for forensic analysis as a method to investigate a crime, even when the request is voluntary, is a significant intrusion on one’s personal privacy and places a high degree of scrutiny on a person.” [para 94]

“In conducting the DNA canvass in the manner it did, the migrant workers’ vulnerabilities, which are rooted in the intersectionality of Code grounds raised in the Application, likely helped the OPP obtain the consent of Mr. Logan and the other migrant workers to provide their DNA sample.” [para 158]

“[M]igrant workers are tied to a single employer under the SAWP and employers are empowered to fire and deport migrant workers without reason at any time, creating a power imbalance in the employment relationship.” [para 159; accepting the expert evidence of Dr. Jenna Hennebry]

“[M]ost SAWP workers are men from poor households who often have low levels of education, are socially isolated due to the structure of the SAWP, and face systemic barriers in protecting their legal rights and accessing justice.” [para 159; accepting the expert evidence of Dr. Jenna Hennebry]

“It is highly significant evidence that the police organized the DNA canvass of the migrant workers with the assistance of their employers and on the employers’ property.” [para 166]

“If the DNA canvass was discriminatory and in violation of the Code, the success of the DNA canvass does not justify the conduct. In other words, the end cannot justify the means.” [para 177]

“In the context of these migrant workers who visibly stand out, and are a clearly differentiated minority group from this rural White community, one can readily see from this evidence how relying solely or predominantly on their migrant worker status in selecting them for investigation of a crime when additional information was available, subjected them to over-investigation by police.” [para 193]

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