

**THIS MAGAZINE: BECAUSE EVERYTHING IS POLITICAL**

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PHOTOGRAPHY BY VINCENTO PIETROPAOLO

It was the Thursday before Easter that Henk Sikking Jr. got the doctor's call. The 28-year-old tulip farmer was getting ready to take his crew of Mexican migrant workers grocery shopping. The workers live on his property and get around with bicycles, but rely on their boss to take them on major shopping trips. He had arranged for a bus to take the workers into town.

Sikking's best worker, Hermelindo Gutiérrez, had gone to see the doctor earlier in the week, complaining of swollen feet and ankles. Sikking assumed that Gutiérrez had injured himself while driving one of the carts used to navigate the sprawling complex of greenhouses. The doctor was blunt. The bloodwork revealed that both of Gutiérrez's kidneys had failed. If Gutiérrez did not go to the hospital, he was going to die.



The family business, Pioneer Flower Farms, was started by Henk Sr., who immigrated to Canada from Holland in 1972. Henk Jr. is in charge of potted plants, his brother Peter runs the cut flowers division, while Henk Sr. oversees the entire operation. The farm is the main supplier of buds for Ottawa's annual tulip festival. Until he fell ill, the 32-year-old Mexican had been working at the St. Catharines, Ontario greenhouse for six years, working his way up to become foreman. "He was my right-hand guy," said Sikking. "He pretty much ran the crew. He could speak English. He was really interested in the job."

Gutiérrez was diagnosed with kidney failure and admitted to the Hotel Dieu Hospital in St. Catharines. His co-workers suggested he call the Mexican consulate in Toronto to let them know he was sick. Before long, the consulate began to call Gutiérrez, demanding that he return to Mexico. Sikking knew that for Gutiérrez this was a death sentence. Unless he received a kidney transplant, he would require dialysis for the rest of his life. The rural village that he comes from does not have dialysis facilities. And Gutiérrez hadn't bothered to buy health insurance in Mexico because he spends most of the year working in Canada. Sikking said to Gutiérrez, "You're not going back. You got sick in Canada. It's Canada's responsibility to take care of you."



Gutiérrez came to Canada through the Seasonal Agricultural Workers Program (SAW), a federal guest-worker program that has been in existence since 1966. The original participants in the program were from Jamaica, Trinidad-Tobago and Barbados; Mexico followed suit in 1974; other Caribbean nations joined in 1976. According to statistics provided by Human Resources and Skills Development Canada (HRSDC), in 2004, 18,887 migrant workers came to Canada under the SAW program, 10,777 of whom were from Mexico.

Compared to the undocumented masses who make the dangerous trek to the US, migrant workers in Canada—theoretically at least—receive more social benefits and have more legal rights. According to Juan José Martínez de la Rosa, coordinator of the agricultural program at the Mexican consulate in Toronto, Mexico considers Canada's SAW program to be a "best practices" model for managed migration, especially compared to the US, where the vast majority of migrant workers are illegal immigrants. "It's a tangible, positive example of what can happen when two parties agree to administer migration, given the need of one party for labour, and the need of the other party to provide jobs. It's a way to manage the phenomenon of migration without the risk associated with border crossing by *indocumentados*."

For Mexico, and other countries that participate in the SAW program, the money sent home by migrant workers is an important source of hard currency. According to the World Bank, Mexico received \$18.1 billion US in foreign remittances in 2004—about 2.5 percent of its GDP—making it the third-greatest recipient of remittances in absolute terms, after India and China. In 2003, remittances were Mexico's second largest source of foreign exchange after oil, eclipsing foreign investment and tourism. The Canadian Department of Foreign Affairs estimates that in 2002, Mexico received about \$80 million in remittances from participants in the SAW program. Mexican participation in the SAW program has more than doubled from 1994 to 2004.

Canada benefits, according to the HRSDC website, because the program provides farmers with a "reliable" source of labour. From the farmers' perspective, the chief attraction of guest workers is that they can't easily quit their jobs. "If you want 100 Canadians, you have to hire 300," said Sikking. The temporary work permits given to migrant workers are for specific farms; workers need the farmer's permission to transfer elsewhere. If workers complain about their work conditions, farmers have the power to have them repatriated to Mexico. If workers return to Mexico before completing half their work term, they have to reimburse the farmer for their airfare, a powerful disincentive to quit.

The farmers benefit, too, from securing workers who are comparatively cheap. The agreement between Canada and Mexico stipulates that migrants must be paid the "prevailing wage" that Canadians are paid for the same work. According to a United Food and Commercial Workers' (UFCW) draft 2005 report on the SAW program, the rate paid to migrant workers in 2006 will be \$8.30 an hour. HRSDC's own stats, however, show the average for Canadian agricultural workers is closer to \$10.50 an hour. Assuming a 40-hour work week, migrant workers gross about \$332 per week before taxes. The actual hours worked are much longer: Gutiérrez initially assumed that his feet had swollen from working 16- and 17-hour days. Farmers don't always pay the required rate: In 2005, Mexican workers who were picking berries in Pitt Meadows, British Columbia returned to Mexico of their own accord, complaining of being paid \$24 for 10-hour days.

Still, \$332 per week is a lot of money in Mexico. From the workers' perspective, the SAW program gives them a well-paying job and raises their

family's standard of living. According to a report prepared for the North-South Institute by Mexican researchers Gustavo Verduzco and María Isabel Lozano, the same workers make an average of \$55 US per week in Mexico. Verduzco and Lozano also found that the program may be helping to keep the workers' kids in school: The longer a worker participated in the SAW program, the higher the level of schooling reached by his children.

The Canadian government takes a big cut from the workers' paycheques. According to Verduzco and Lozano, about 20 percent of workers' paycheques are deducted in taxes, including EI, CPP and income tax; 77 percent of the workers have their income tax deductions refunded because they make less than \$14,000 per year. The cost of housing and airfare to and from Canada is borne by the farmer.

In exchange, the workers receive some social benefits. Retired workers can collect CPP, even if they retire in Mexico. Health coverage varies by province, but in Ontario the workers get provincial health cards that are valid for the calendar year. In addition, the workers receive Worker's Comp for work-related injuries, and are required to purchase private health insurance for expenses not covered by their provincial health cards. The Mexican workers have a group policy with RBC Insurance.

The workers' relative prosperity comes at a price: Although the workers are helping to subsidize Canadian social programs with their taxes, they don't receive all the benefits that Canadians receive. Many social benefits require Canadian residency. Because the workers have to leave Canada when their work permits expire, they are not eligible to receive those benefits. For example, migrant workers are not eligible for most EI benefits, despite paying EI premiums. In the case of medicare, workers who have returned to Mexico do not have coverage for conditions developed in Canada.

The exclusion of migrant workers from EI is currently the subject of a Supreme Court challenge. The federal government tried to have the case dismissed, arguing that the UFCW does not have standing in the case. The judge ruled in January that the UFCW does have the right to represent migrant workers, the first time a union has ever won the right to represent unorganized workers. It is illegal in Ontario for agricultural workers, both migrant and Canadian, to join trade unions and to strike. (They can join "associations," but the associations can't bargain on their behalf.) The rationale given by farmers and by the government is that crops are time-sensitive. If agricultural workers take collective action, farmers could lose their crops.



In the spring-bulb world, crops are planted in the fall and harvested in the spring. Sicking summons Mexican workers to his farm in two stages: in spring to coincide with the harvest, and again in fall to coincide with the planting. In the barn, workers are stationed along an assembly line, planting tulips. Some workers feed bulbs onto a conveyor belt. Others sort bulbs onto trays, 100 bulbs to a tray. The bulbs are watered, covered in dirt and sand, and placed in cold storage for four months, until they sprout roots. The bulbs are then taken to the greenhouse for three weeks, where they will form buds. Tulips are classified



as hardy bulbs because they can withstand low temperatures. They must be "forced" to bloom by being placed in cold storage.

Sikking is a tall man, with Elvis sideburns and a kindly face. He picks up a tulip bulb and holds it before him. "These are the best bulbs," he says proudly. Pioneer Flower Farms imports all its tulip bulbs from Holland. It is one of the largest flower bulb forcing farms in North America, producing over 40 million blooms per year, 20 million tulips and 20 million other varieties. The farm includes 300,000 square feet of greenhouse and nearly two acres of cold storage. Eighty percent of the farm's business is with the United States; its customers include Dominion, Costco and the National Capital Commission.

When Gutiérrez fell ill, he had just arrived at the farm for the spring harvest. He spent one week in the Hotel Dieu hospital. The consulate said they would send someone to see him, but no one ever came. Gutiérrez was discharged from the hospital and went back to the farm. He continued to receive dialysis treatment as an outpatient. During this time, the cost of his dialysis was covered by OHIP, Ontario's medicare.

One day, the phone rang at the farm, and it was the consulate. The consulate told Gutiérrez that he would have to go back to Mexico because he had a pre-existing condition that was not covered by his insurance, and because his treatment was too expensive. He offered Gutiérrez a payment of \$3,500 from RBC Insurance on the condition that he return.

The Mexican Ministry of Labour is supposed to ensure that workers have received yearly medical checkups before sending them to Canada. When Gutierrez was first admitted to the SAW program, he got a clean bill of health. When he was diagnosed with kidney failure, he had not had a medical checkup in several years.

"Do you have any idea what your treatment costs?" said the consulate.

Gutiérrez is modest and soft-spoken in the way of the Mexican *campesino*, but now he raised his voice. "I don't care what it costs," said Gutiérrez. "I've been working here seven years. I don't have health insurance in Mexico. I've brought everything to Canada, just like you. I want to be treated here."

"That doesn't matter," said the consulate. "You're going back to Mexico."

The consulate contacted Gutiérrez's wife in Mexico, and asked her to sign a power of attorney authorizing the consulate to forcibly return her husband to Mexico. She refused. When Gutiérrez found out about the conversation, he was furious. The consulate told Gutiérrez he was starting to become difficult, *sangrón*.

The consulate says it contacted Gutiérrez's family so that it could arrange for Gutiérrez to receive medical treatment in Mexico. Gutiérrez initially went along with the plan, and then backed out. According to Lourdes Borofsky, a Mexican community activist who does outreach with workers and advocated on Gutiérrez's behalf with the consulate, Gutiérrez didn't believe the consulate's promises. "He didn't believe it because he had heard of other cases in which workers are returned to Mexico and once they are there, the government totally forgets about them," said Borofsky. "They promise things and don't deliver. That's what he heard."

Gutiérrez did what migrant workers are supposed to do. Workers are told to contact their consulate if they have a health issue or a problem with their employer. But because the consulates have an interest in attracting farms and in ensuring the smooth functioning of the program, they often sacrifice individual workers.

In Gutiérrez's case, his work permit gave him the legal right to remain in

Canada for eight months, until December 15, and his medicare was valid until December 31. According to Marina Wilson, a spokesperson for Citizenship and Immigration Canada, temporary workers aren't forced to leave Canada immediately if they become sick or injured. "They can stay for the duration of their permit. They still have status for as long as their work permit is valid. They are not deported if they break their leg on the job or if they develop a condition." Under Canadian law, migrant workers who fall ill in Canada can legally remain here until their work permits expire. Under the terms of their employment contract, farmers can send them back to Mexico for any "sufficient reason," including illness. According to a report prepared for the North-South Institute by human rights lawyer Veena Verma, "workers are not provided equal treatment with Canadian workers when the effect of the repatriation provisions make it difficult to enforce their rights." In theory, migrant workers are protected by the same laws that protect Canadians. In practice, because they can be repatriated at any time, they can't enforce their rights.

Jorge Aceytuno, a spokesperson for HRSDC, said that sick workers are generally returned to Mexico only if they have a long-term illness, and that Mexico makes arrangements for treatment to continue there. "If it's a short-term illness, it's in nobody's interest for the worker to go back," he said. He acknowledged that Mexico is not obligated by the Canada-Mexico agreement to provide health care for sick workers after they return. According to a report published in 2004 by the UFCW, the Canadian government washes its hands of its responsibility towards the workers. "The government believes its responsibility with regard to migrant workers begins and ends with the issuance of work visas," said the report. "The government has indicated that the consulates of the sending countries and their staffs are responsible for supporting and advocating on behalf of workers."

The small Mexican community in St. Catharines rallied around its beleaguered countryman. When Gutiérrez's co-workers realized he was having difficulty getting to his dialysis treatments—Sikking would sometimes lend Gutiérrez his van, but he couldn't always spare it—they chipped in \$1,600 to buy him a used car.

The consulate then began to call Sikking, pressuring him to send his worker back to Mexico. RBC Insurance called Sikking too, offering Gutiérrez a \$3,000 payment. Sikking asked Gutiérrez if he had health insurance in Mexico; Gutiérrez said no. Sikking was afraid of what the government would think if it found out he helped his worker. "We depend on these guys for our livelihood," he said. Sikking's friends advised him to send Gutiérrez back. "People were saying, 'Don't take it personal, just send the guy back,'" said Sikking.

Gutiérrez recalled Sikking's reaction to the consulate's pressure. "When they insisted on removing me, my boss said, 'Hermelindo'—he always calls me Hermelindo—'You have worked for me. You have been a good worker. I am going to help you. I don't know how we're going to do it, but you're going to stay here.'" Someone at the office happened to know a human rights lawyer, Ryan Persad. Sikking paid the \$2,000 retainer fee, and the lawyer filed a claim for refugee status. They are currently awaiting a court date.

Gutiérrez's case is not exceptional. Workers are routinely sent back to Mexico when they are gravely ill. There was a case in Hamilton of a worker who fractured his skull in a bicycle accident. The doctors had to remove a seven-centimetre piece of his skull to accommodate the swelling of his brain. "They took him out of the Hamilton hospital with his skull in a bag and a nurse to escort him back to Mexico," said Stan Raper, agricultural coordinator at the UFCW.

Workers can also be repatriated if they complain about their working or housing conditions. In 2003, a Caribbean worker was sent home after he complained that pesticides were seeping into his living quarters. In 2001, in an incident that caused the Canadian labour movement to take notice of

migrant workers, Mexican workers at a greenhouse in Leamington, Ontario organized a wildcat strike. The farmer had the ringleaders repatriated.

What makes Gutiérrez's case different is that his employer wants him to stay in Canada, against the wishes of the consulate. What is also different is the involvement of a private insurance company. RBC Insurance applied pressure to Sikking and to the consulate to persuade Gutiérrez to return to Mexico, offering him a financial incentive to go home. "They wanted him out of the country," said Sikking.



One day in September, Borofsky called Gutiérrez to see how he was doing. He had moved into a refugee settlement house in St. Catharines. "He didn't say he was depressed, but I could tell he was depressed," said Borofsky. "He was sad and afraid he wouldn't have anyone to talk to. And he said, 'I would like to spend Christmas with my family. I don't know if you could help me out.'"

Borofsky contacted Wayne Manne, a priest at Ste. Marguerite d'Youville parish in Brampton. He arranged for one of the members of the congregation, who wishes to remain anonymous, to purchase plane tickets for Gutiérrez's wife, María del Rosario Romero, his 11-year-old daughter Sayuri and his eight-year-old son Sergio. The family arrived in Canada on a tourist visa, and planned to stay until April.

According to Kerry Preibisch, a sociology professor at the University of Guelph, the preference given by Mexico to hiring married men is one of the mechanisms used to ensure that workers go home. "This program works through cooperation between Canada and the labour-sending countries. They're not wanted as citizens by Canada, they're wanted as labourers. Allowing workers to stay in the country when they're not working jeopardizes the smooth functioning of the program," said Preibisch. "If you think about it, it's remarkable that every year, nearly 20,000 workers come up to Canada to fill labour shortages in agriculture, and then go back to their country."

Meanwhile, Gutiérrez continues to live at the settlement house and to receive dialysis, while awaiting a court date for his refugee hearing. The irony is that, although he has medicare and a willing organ donor, he can't afford a kidney transplant. Gutiérrez is not eligible to be on Canada's waiting list for donated organs since he is not a permanent resident, but he is sure that one of his brothers and sisters will be willing to donate a kidney. The cost of transplanting a kidney into Gutiérrez is covered by OHIP, but the cost of removing a kidney from his sibling is not.



Back on the farm, Mexican *cumbia* music pulsates from a boombox. Migrant workers carefully stack tulip buds into crates: red, pink and white. Using forklifts, the workers transport the crates from the assembly line area in the barn to the loading dock at the other end of the greenhouse complex. They load the crates into trucks and dispatch them to the National Capital Commission in Ottawa. At the tulip festival, the buds will bloom, a symbol of the safe refuge that the Dutch royal family found in Canada during the Second World War.

“What happened to Hermelindo happens to almost everyone,” says Sikking. “If they’re not getting medical treatment in Mexico, then I think they should get something here. Some of these guys have been working here 40 years.”

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