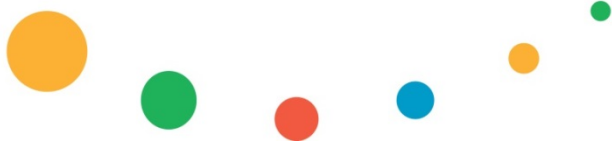


# AMSSA<sup>®</sup>

 Strengthening Diversity In BC



## **Assisting Foreign Workers Who Face Risks of Abuse**

**FEBRUARY 16, 2017 | 2:00 pm – 4:00 pm**



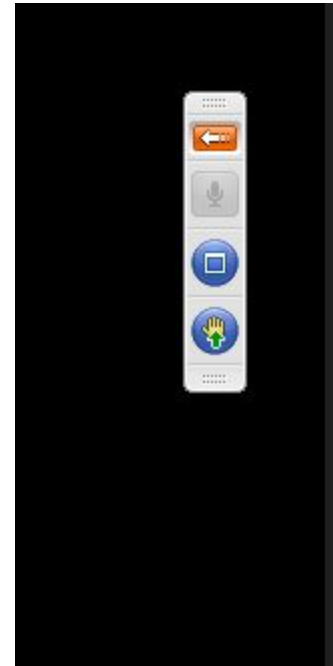
# Technical Support

Please contact Melissa Jay, at  
**[events@amssa.org](mailto:events@amssa.org)** or **604-718-4221**.



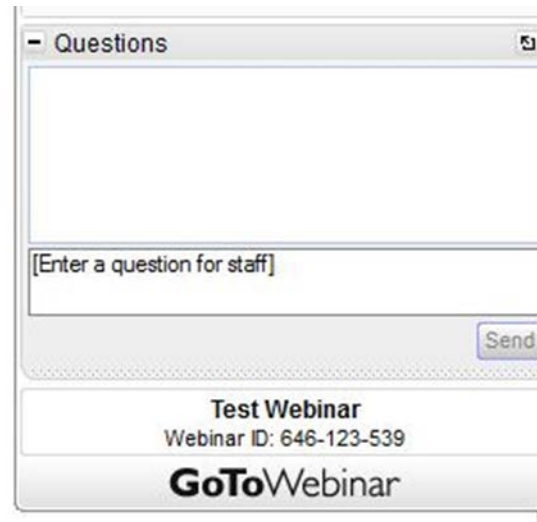
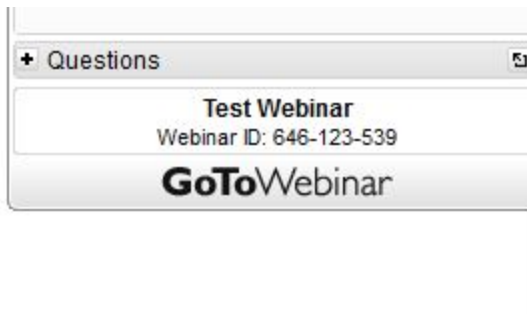
# Housekeeping

'Hide Control Panel'



# Housekeeping

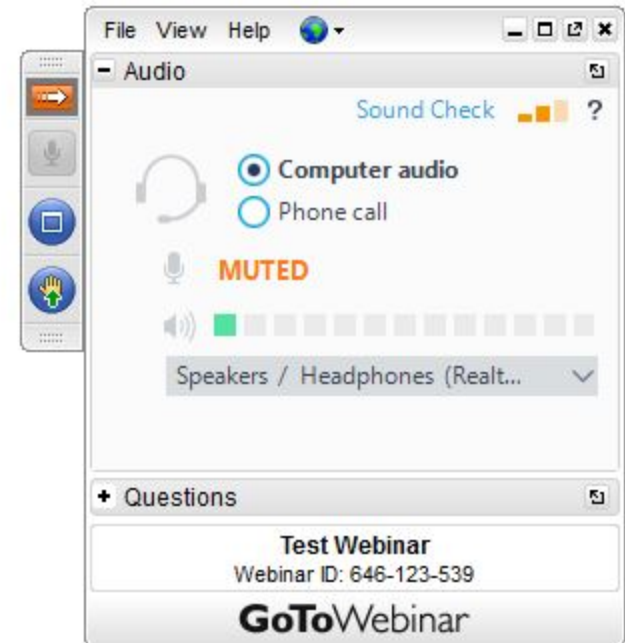
## Expand Control Panel Features



# Housekeeping

## Sound & Audio

- Telephone
- Mic & Speakers



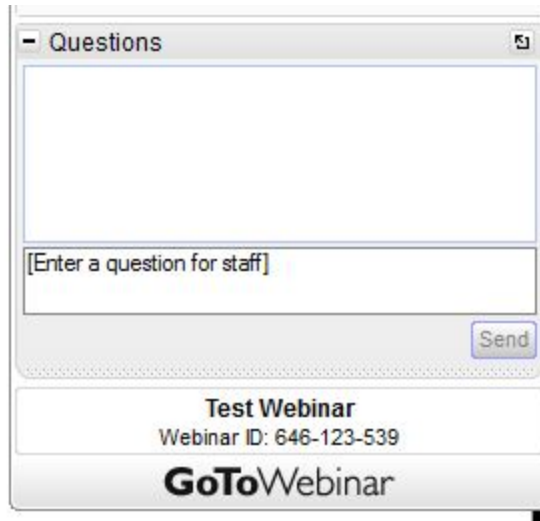
# Housekeeping

## Downloading PowerPoint and Handout Documents



# Submitting Questions

- Type your questions in the **Question Box**
- Email to [events@amssa.org](mailto:events@amssa.org)



The image shows a screenshot of a web browser window titled "Questions". The window contains a large empty text area for entering a question. Below this area is a smaller text input field with the placeholder text "[Enter a question for staff]". To the right of this input field is a "Send" button. Below the input field and button, the text "Test Webinar" and "Webinar ID: 646-123-539" is displayed. At the bottom of the window, the "GoToWebinar" logo is visible.



# Goals & Objectives

**Farah Kotadia**  
***Acting Program Director***



# **British Columbia –Annex B Section 9: Foreign Worker Protection [R204 (b)]**

**Leanne Hodaly**

***Immigration, Refugees and Citizenship Canada***





# **British Columbia –Annex B Section 9: Foreign Worker Protection [R204 (b)]**

February 16, 2017



## Overview

- The Foreign Worker Protection was established in the summer of 2016.
- Foreign workers (FWs) in British Columbia (B.C.) who face real or substantial abuse as a result of an employer not complying with applicable federal laws or provincial laws may be eligible to receive a work permit exempt from the Labour Market Impact Assessment (LMIA) process as per section 9.4 of Annex B of the Agreement Canada – British Columbia Immigration Agreement.
- This program is available to all foreign nationals in B.C. who hold an employer-specific work permit for an employer located in B.C. or who are authorized to work without a work permit as per the *Immigration and Refugee Protection Act and Regulations* for an employer in B.C.

## Identification of real or substantial risk

- Settlement service providers identified by the B.C. government can identify a foreign national where there is a real or substantial risk of abuse by the employer.
- The settlement service provider may be the foreign national's first point of contact.
- Foreign nationals may go directly to enforcement agencies as an initial point of contact.
- Enforcement agencies may also refer foreign nationals seeking assistance to a settlement service provider

## Work Permit Issuance

- Officers may consider issuing a work permit for up to **180 days** in the following situations:
- Employer non-compliance with provincial laws e.g. not paying the wages owed to the foreign worker or fails to correct unsafe working conditions at the detriment of the foreign worker.
- Employer non-compliance with federal laws e.g. failing to provide a workplace that is free of abuse.

## **IRCC may issue work permits for the following purposes:**

- To regularize the temporary foreign workers' status in Canada;
- To facilitate the participation of foreign workers in the inspection or prosecution of an alleged employer or employment agency for non-compliance in Canada, or otherwise assist authorities;
- To facilitate a change of employers for a temporary foreign worker who must leave their place of employment which placed them at risk; or
- For any other purpose the officer may judge relevant to facilitate the protection of the TFW at risk as a result of potential employer non-compliance.

# Requirements

- Foreign workers should provide the following documents:
  - Proof that an official complaint to the appropriate enforcement agencies regarding potential employer non-compliance has been filed.
  - A written recommendation from an approved settlement service, including:
    - a brief summary of the case;
    - a copy of the official complaint form filed with the enforcement agencies
    - an indication of which provincial and/or federal law(s) have not or appear to have not been complied with;
    - a description of the risk faced by the FW; and
    - Contact information for the FW.
  - Any supporting or additional material such as a victim impact statement may be included by the approved settlement service provider to assist officers in reviewing a case.
- Upon receipt of a recommendation from the settlement service provider, IRCC officers will arrange an in-person or telephone interview with the FW if required.

## Type of work permit issued

- An open work permit under a Labour Market Impact Assessment exemption or an employer specific work permit if the foreign worker has obtained a new job.
- Both types of work permits will be processed on an urgent priority basis.

## **Spouses or common-law partner**

- Spouses may have their work permits issued under the same program and for the same duration as the principal applicant.
- Spouses must also submit a completed application and fees, including evidence of their relationship (marriage certificate).

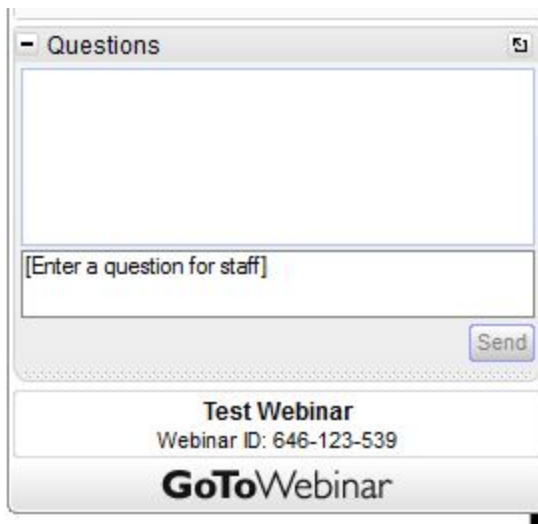
## Enforcement Agencies

- Foreign workers under this protection program may contact:
- ESDC tip line 1-866-602-9448 or use the [Online Fraud Reporting Tool](#)
- Human Rights Tribunal
- The Canada Border Services Agency
- The Royal Canadian Mounted Police
- WorkSafeBC
- Employment Standards Branch of the B.C. Ministry of Jobs, Tourism, and Skills Training

B.C. workers at Risk	Victims of Human trafficking
<p>Foreign workers (FWs) in British Columbia (B.C.) who face real or substantial abuse as a result of an employer not complying with applicable federal laws or provincial laws</p>	<p>The recruitment, transportation, transfer, harbouring or receipt of persons, by improper means, such as force, abduction, fraud or coercion, for an improper purpose, such as forced or coerced labour, servitude, slavery or sexual exploitation.</p>
<p>B.C. settlement service providers identify a foreign national where there is a real or substantial risk of abuse by the employer.</p>	<p>A person self-identifies or is referred to IRCC by a non-governmental organization (NGO) or law enforcement authority.</p>
<ul style="list-style-type: none"> <li>○ An official complaint to the appropriate enforcement agencies.</li> <li>○ A written recommendation from an approved settlement service.</li> </ul>	<ul style="list-style-type: none"> <li>○ Consultations between IRCC and partner law enforcement agencies.</li> <li>○ An interview may be required with IRCC and potential victim to establish the facts of the case.</li> </ul>
<p>Vancouver IRCC processes applications.</p>	<p>Local IRCC offices must process these applications.</p>
<p>Open or employer specific work permit issued for up to 180 days.</p>	<p>A TRP valid for at least 180 days makes the holder eligible to apply for a work permit.</p>

# Q&A

- Type your questions in the **Question Box**
- Email to [events@amssa.org](mailto:events@amssa.org)



The image shows a screenshot of a web browser window titled "Questions". It features a large empty text area for entering a question, a smaller text area below it containing the placeholder text "[Enter a question for staff]", and a "Send" button to the right of the smaller text area. Below the question box, there is a section for "Test Webinar" with the "Webinar ID: 646-123-539" and the "GoToWebinar" logo at the bottom.



# **Employment Standards Act**

## **An Introduction for Employees**

**Mica Nguyen**  
***Employment Standards Branch***





Employment Standards Branch  
Province of British Columbia



# Employment Standards Act

An Introduction for Employees

# Who is covered?

- Employees as defined in the Act;
- Must be covered by provincial jurisdiction;
- Unionized employees must use dispute resolution procedure set out in collective agreement;
- Certain occupations excluded from the Act.

# Payment of Wages

- Wages must be paid for all work performed;
- “Work” includes training, staff meetings, travel time and on call work;
- At least minimum wage must be paid;
- Wages must be paid in Canadian currency;
- Payment may be made by direct deposit if authorized by the employee in writing;

# Payment of Wages (cont'd)

- There must be at least two pay periods every month;
- Wages must be paid within eight days after the end of the pay period;
- If an employee is fired, final wages must be paid within 48 hours;
- If an employee quits, final wages must be paid within 6 days.

# Wage Statements

Written wage statements must include:

- Employer's name and address;
- Employee's wage rate and hours worked;
- Overtime wage rate and number of overtime hours worked;
- Any money, allowance or other payment the employee is entitled to, i.e. vacation pay, statutory holiday pay, bonuses, etc.;

# Wage Statements (cont'd)

- If the employee is paid other than by the hour or by salary, how the wages were calculated;
- Amount and purpose of each deduction;
- Employee's gross and net wages;
- How much money the employee has taken from his or her time bank and how much remains.

# Minimum Wage

- **\$10.85** an hour - Regular Minimum Wage  
Commissions, salaries and piece rates must be equivalent to minimum wage.
- **\$9.60** an hour - Liquor Server Minimum Wage  
Primary duties to serve food or drink;  
Serves liquor directly to customers as regular part of duties.
- Other minimums for resident caretakers, live-in home support workers, live-in camp leaders, and farm workers paid by piece rate.

# At a new job...

- Keep a record of daily hours, copies of pays stubs and personal correspondence with employer;
- Understand employment-related rights and responsibilities including Human Rights, Employment Standards, EI, WorkSafe BC and income tax;
- Raise questions or concerns with your employer;
- Employer is entitled to expect that you: arrive on time, be productive, avoid unexplained absences, dress and act appropriately, follow the rules, avoid conflicts of interest and return company property.

# Dispute Resolution Process

---

- Self-Help Kit;
- Filing a complaint;
- Mediation;
- Adjudication;
- Investigation;
- Determination;
- Appeals.

# Self-Help Kit

The Self-Help Kit helps an employee to:

- Decide whether the *Employment Standards Act* applies;
- Assess whether an employer is contravening the Act;
- Calculate how much money is owed; and
- Make a written request to the employer to pay money owing.

If the employer agrees with the employee's request, money can be paid directly to the employee to resolve the matter.

# Self-Help Kit not required

- Employer's business is closed;
- The matter involves a person under the age of 19;
- The employee is a farm worker, garment or textile worker, or a domestic;
- The employee has significant language difficulties;
- The complaint is related to a leave provision of the Act;
- The employee has already sent a letter to the employer attempting to resolve the issue.

# Filing a Complaint

## Complaint

- Must be in writing and delivered to an office of the Employment Standards Branch;
- May be submitted online, mailed, faxed or delivered in person;
- Must be delivered within six months of last day of work or, if still employed, within six months of contravention.

## Wage recovery

- Wages can be recovered from the last six months of employment or, if still working, from six months before the complaint was filed.

# Mediation

- Officer of the Branch conducts informal meeting between employer and employee;
- Takes place in person or by teleconference;
- If parties resolve dispute, officer drafts settlement agreement and file is closed;
- If agreement is not honoured it can be filed in court for collection;
- If dispute not resolved, proceeds to adjudication.

# Adjudication

- If a complaint is not resolved at mediation, adjudication hearing is scheduled;
- Hearing may be held in person or by teleconference;
- Parties may give evidence, call witnesses and question the other party;
- Officer will issue written decision, which will include mandatory penalties if wages are found to be owing.

# Investigation

- Some matters may be resolved by way of investigation;
- Officer will try to resolve the matter informally;
- If not possible, will issue written decision.

# Determination

- If a matter cannot be resolved voluntarily, a written decision will be issued;
- Called a “determination”;
- If a determination finds an employer is not in compliance with the Act, it will contain mandatory penalties.

# Appeals

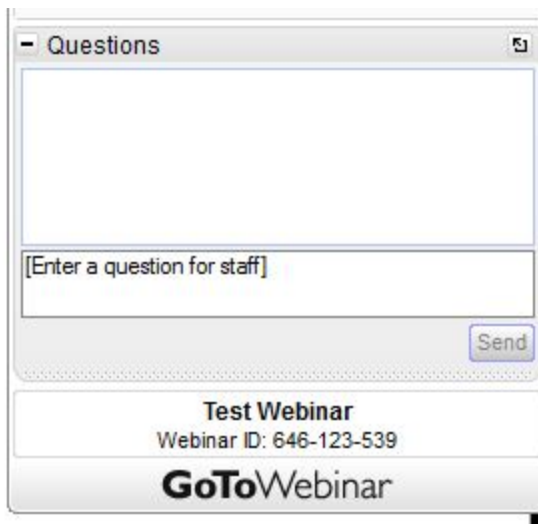
- A party to a determination may appeal the determination to the Employment Standards Tribunal;
- EST is separate from the Employment Standards Branch;
- Appeal information is contained in the determination.

# How to Contact the Branch

- Web site: [www.labour.gov.bc.ca/esb](http://www.labour.gov.bc.ca/esb)
  - General information, policy interpretation, forms, factsheets, contact information
- Toll Free Info-line: 1-800-663-3316
  - General inquiries
- Branch offices (10 locations)

# Q&A

- Type your questions in the **Question Box**
- Email to [events@amssa.org](mailto:events@amssa.org)



The image shows a screenshot of a GoToWebinar question box. The window has a title bar that says "Questions" with a close button on the right. Below the title bar is a large empty text area for entering a question. Underneath this is a smaller text area containing the placeholder text "[Enter a question for staff]". To the right of this text area is a "Send" button. Below the question box, there is a section for webinar information that reads "Test Webinar" and "Webinar ID: 646-123-539". At the bottom of the window is the "GoToWebinar" logo.



# **Assisting Foreign Workers Who Face Risks of Abuse**

**Rosalind Currie**

***Ministry of Public Safety and Solicitor General***



# BC's Office to Combat Trafficking in Persons

## Assisting Foreign Workers Who Face Risks of Abuse

Rosalind Currie

February 16th , 2017



Ministry of Public Safety and Solicitor General  
Community Safety and Crime Prevention



# OCTIP Mandate

- Coordinate BC's response to human trafficking (HT)
- Support communities in local efforts to address HT
- Raise awareness and provide training about HT
- Coordinate services for trafficked persons
- Contribute to national and international efforts to combat HT



# International Instruments

## UN Trafficking in Persons Protocol

*to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.*

Supplement to **UN Convention**  
***Against Transnational Organized Crime***



**Canada  
ratified the  
Protocol in  
2002**

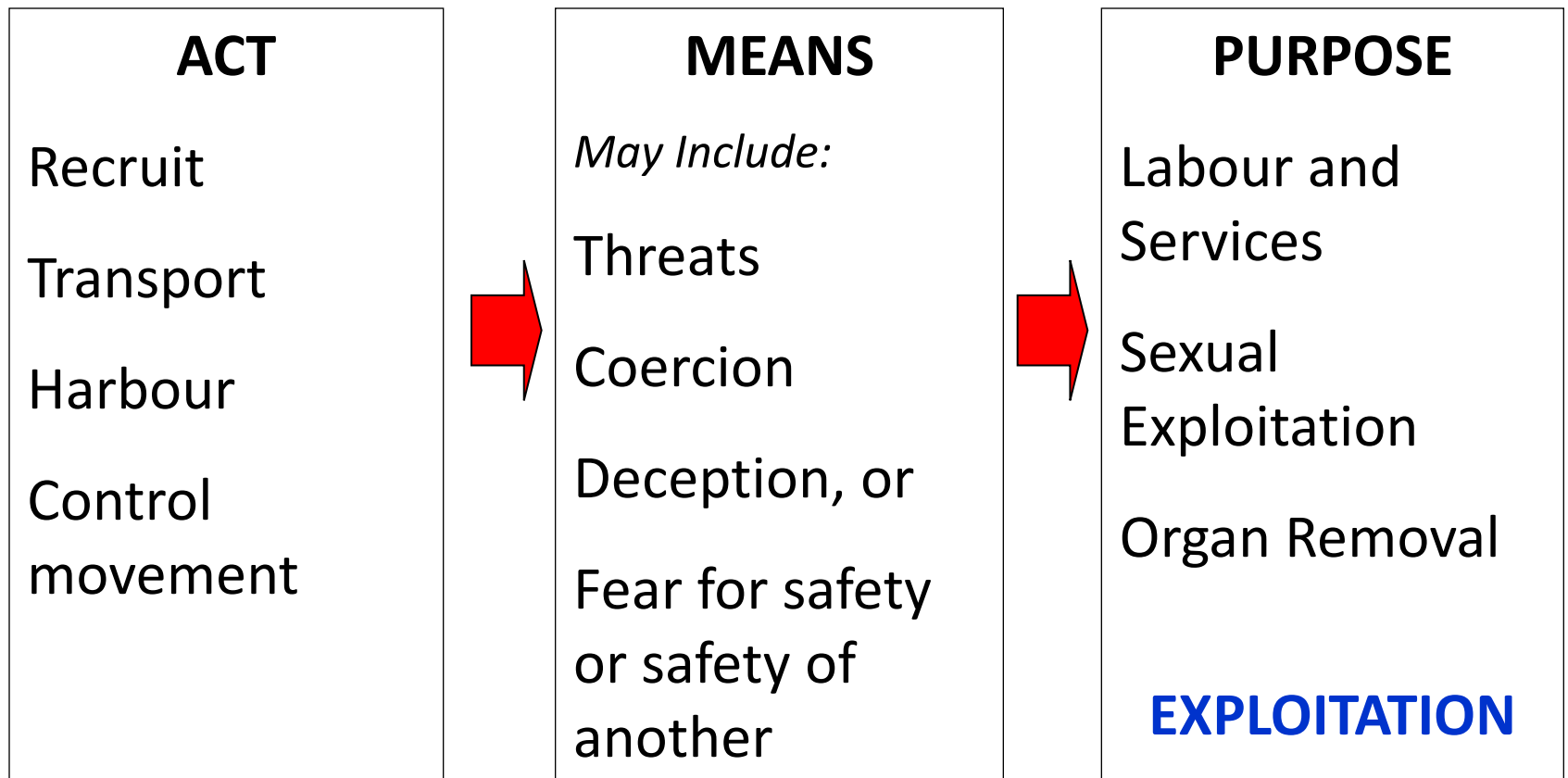
# Universal Declaration of Human Rights

- *All human Beings are born free and equal in dignity and rights*  
(Article 1)
- *No one shall be held in slavery or servitude*  
(Article 4)

United Nations 1948



# Definition of Trafficking





# Trafficking vs. Smuggling

## Trafficking

- Forced exploitation
- Movement may occur
- Can occur within own country
- Is a crime against the person

## Smuggling

- Is voluntary
- Relationship ends at destination
- Fees are paid in advance or at arrival
- Crime against the State

# Laws in Canada

2002: Immigration and  
Refugee Protection Act

2005: Criminal Code  
Section 279.01-.04

2010: Minimum Sentencing  
for Child Trafficking

2012: Amendment to Definition of  
Exploitation





# Trafficking Indicators

- no ID or other travel documents
- Passport taken away
- movement restricted
- shows signs of being controlled or abused
- does not have control over their money
- owes money feels honour bound to pay it off
- lives in same place where exploited

# RECENT Labour Cases

*“Human-trafficking trial hears woman forced to work long hours for no pay”* – **Mumtaz Ladha found Not Guilty**



*“Nanny was ‘virtual slave’, Crown says at sentencing”* – **Franco Orr found Guilty**





# Farm Worker

- Brought to Canada under the Temporary Foreign Worker program
- Sole worker on a 50.000 blueberry plants operation
- Substandard living conditions, undernourished
- Forbidden to speak to people outside the farm
- Movements controlled by cameras surrounding his dwelling
- Passport retained by employer
- Threatened regularly and over the phone when he left
-



# Domotor Case

- 19 workers from Hungary
- Exploited through construction, petty crime and welfare fraud
- Pursued relentlessly by the trafficker
- Resulted in the largest international trafficking conviction in Canada



# 4 Temporary Foreign Workers

- Hired to work in a hotel in Alberta
- Force to do 2 shifts and were paid for 1
- Moved to BC at the end of tourism season
- Forced to clean houses and do other work for no pay.
- Threatened with violence and deportation if failing to comply
- Passports were retained by the “employer”
- Identified and helped through church community



# Top Concerns for International Survivors

- Will I be deported?
- Do I have to meet with law enforcement?
- Can I work and send money back home?
- Can I go back home?
- I am scared for my safety.
- I am scared for the safety of my family



# Human Rights Approach

- Be Safe
- Do No Harm
- Give Back Control and Obtain Consent
- Consider the Whole Person
- Provide Culturally Appropriate Services
- Be Patient
- Offer Options to Seek Justice

# ONLINE COURSE

<http://www.pssg.gov.bc.ca/octiptraining/index.html>



Office to Combat Trafficking in Persons

English (Anglais) Français (French)

## Human Trafficking: Canada Is Not Immune

**Thank you !  
Merci !**

BC's Office to Combat  
Trafficking in Persons

Email:

[octip@gov.bc.ca](mailto:octip@gov.bc.ca)

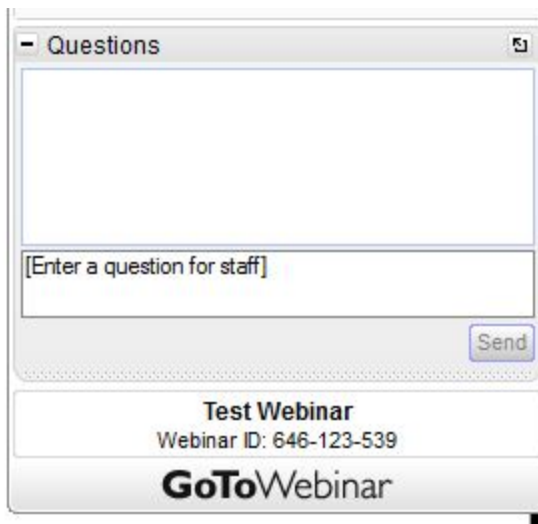
[www.pssg.gov.bc.ca/octip](http://www.pssg.gov.bc.ca/octip)



**Some people are very  
attached to their work.  
Human Trafficking. Don't ignore it.**

# Q&A

- Type your questions in the **Question Box**
- Email to [events@amssa.org](mailto:events@amssa.org)



The image shows a screenshot of a GoToWebinar interface. At the top, there is a window titled "Questions" with a close button. Below the title bar is a large empty text area for entering a question. Underneath this is a smaller text area containing the placeholder text "[Enter a question for staff]". To the right of this text area is a "Send" button. Below the question input area, there is a section for webinar details: "Test Webinar" and "Webinar ID: 646-123-539". At the bottom of this section is the "GoToWebinar" logo.



# Concluding Remarks

**Farah Kotadia**  
***Acting Program Director***

