



“CANADA HAS

DESTROYED ME”

LABOUR EXPLOITATION OF MIGRANT WORKERS IN CANADA

AMNESTY
INTERNATIONAL



Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

© Amnesty International 2025
Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence.
<https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode>
For more information please visit the permissions page on our website: www.amnesty.org
Where material is attributed to a copyright owner other than Amnesty International this material is not subject to the Creative Commons licence.
First published in 2025
by Amnesty International Ltd
Peter Benenson House, 1 Easton Street
London WC1X 0DW, UK

Index: AMR 20/8807/2025
Original language: English
amnesty.org



Cover photo: "Migrant workers in Canada", illustrates the essential work migrant workers do in many sectors of the Canadian economy.
© Rachel Kara Lim

AMNESTY
INTERNATIONAL



CONTENTS

EXECUTIVE SUMMARY	7
METHODOLOGY	12
EVIDENCE BASE	12
FINDINGS OF LABOUR EXPLOITATION	13
FINDINGS OF RACIAL DISCRIMINATION	14
ACKNOWLEDGMENTS	16
1. CANADA'S IMMIGRATION POLICY AND THE TEMPORARY FOREIGN WORKER PROGRAM	17
1.1 THE ROOTS OF CANADA'S TEMPORARY MIGRATION PROGRAMS: THE LEGACY OF SLAVERY AND WHITE MIGRATION POLICIES	17
1.2 CANADA'S CURRENT MIGRATION POLICY	20
1.2.1 PERMANENT ECONOMIC IMMIGRATION	21
1.2.2 TEMPORARY LABOUR MIGRATION VISAS AND THE INTERNATIONAL MOBILITY PROGRAM	22
1.3 THE TEMPORARY FOREIGN WORKER PROGRAM	23
1.3.1 TFWP POLICY AND REGULATIONS	24
1.3.2 THE TFWP STREAMS	26
2. LABOUR EXPLOITATION IN THE TEMPORARY FOREIGN WORKER PROGRAM	30
2.1 WAGE THEFT	32
2.1.1 UNFAIR AND UNLAWFUL DEDUCTIONS	33
2.2 EXCESSIVE WORKING HOURS	34
2.3 EXTRA TASKS AND TASKS NOT INCLUDED IN THE CONTRACT	35
2.4 UNSAFE CONDITIONS AT WORK	36
2.5 SERIOUS INJURIES AND FAILURE TO GET MEDICAL CARE	37
2.6 INADEQUATE HOUSING	38
2.7 RACIST PSYCHOLOGICAL AND PHYSICAL ABUSE	40
2.8 RACIALIZED GENDER-BASED VIOLENCE	41
2.9 RESTRICTION OF MOVEMENT, SURVEILLANCE AND LACK OF PRIVACY	42
2.10 RACIAL DISCRIMINATION IN THE WORKPLACE	44

2.11 CANADA'S RESPONSIBILITY FOR ABUSES UNDER THE TFWP	45
3. INEFFECTIVE AND INADEQUATE REMEDIES	46
3.1 STRUCTURAL OBSTACLES INHERENT TO THE TFWP	47
3.1.1 THREATS OF REPATRIATION, REPRISALS AND FEAR OF REPRISALS	48
3.1.2 STRUCTURAL OBSTACLES INHERENT TO THE SAWP	49
3.2 ADDITIONAL STRUCTURAL OBSTACLES FOR AGRICULTURAL WORKERS	50
3.3 PRE-DEPARTURE FACTORS	51
3.4 ENFORCEMENT, COMPLAINT MECHANISMS AND REMEDIES	52
3.4.1 TEMPORARY RELIEF: THE OPEN PERMIT FOR VULNERABLE WORKERS (OWP-VW)	53
3.4.2 LABOUR INSPECTIONS, NOT FIT FOR PURPOSE	54
4. DISCRIMINATION AND EXPLOITATION: ESSENTIAL JOBS DONE BY "DISPOSABLE" WORKERS	59
4.1 THE TFWP AS RACIALIZATION OF EXPLOITATION	61
4.2 THE GENDER ASPECTS OF RACIALIZED EXPLOITATION	62
4.3 THE RACIALIZATION OF CLASS: LIMITED PATHWAYS TO PERMANENT RESIDENCY FOR "LOW-SKILLED" WORKERS	63
CONCLUSIONS AND RECOMMENDATIONS	66

GLOSSARY AND ABBREVIATIONS

TERM	DESCRIPTION
CLASS	The position of individuals in the social division of labour, which is partially defined by occupation/ jobs individuals perform, and which determines their material wealth. ¹
LABOUR EXPLOITATION	Although international law does not define “labour exploitation”, the notion broadly refers to labour conditions that breach international law and standards, encompassing phenomena of different gravity.
LABOUR MIGRATION POLICY	Official policy designed and implemented by a government to regulate migration for work.
MIGRANT WORKER	“A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national” (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Art. 2.1).
RACIALIZATION	The processes through which institutions and groups socially construct racial meanings and use them to justify discrimination, stereotyping, violence, and othering of ethnic, religious and other groups.
RACIALIZATION OF LABOUR	The practices of unequal treatment, segregation and appointment of workers to specific jobs based on assumed racial, ethnic, or national differences justified in racial biases, stereotypes and discrimination, resulting in racialized groups being overly represented in particular types of work, often low-waged or precarious industries and positions. This reinforces racial inequalities by restricting opportunities and imposing barriers for racialized groups.
SAWP	Seasonal Agriculture Worker Program.
TFWP	Temporary Foreign Worker Program.
TIED VISA/ TIED WORK PERMIT	A visa or work permit that ties a migrant worker to a specific employer. For example: a visa or work permit that requires permission by the employer for the migrant worker to change jobs; or a visa or work permit immediately or rapidly

¹ While “class” is a contested term, the organization uses this definition for the purpose of this report. On class and migration see Philip F. Kelly, “Migration, transnationalism and the Spaces of Class Identity”, *Philippine Studies: Historical and Ethnographic Viewpoints*, Vol. 60 N2, 2012.

TERM	DESCRIPTION
	<p>expiring when a migrant worker leaves a job or is fired. Also known as closed visa/work permit; employer-specific visa/ work permit.</p>
<p>WAGE THEFT</p>	<p>The total or partial non-payment of a worker's remuneration, earned through the provision of labour services. It includes: total or partial non-payment of wages; systematic delayed payment of wages; payment of wages below the minimum wage or the contractually agreed rate; non-payment of overtime; non-payment of benefits and entitlements, including end-of-service benefits; non-payment of severance pay; unlawful deductions.</p>
<p>WHITE IMMIGRATION POLICIES</p>	<p>Set of policies that imposed restrictions and exclusions on the entry and permanent settlement in Canada of Black, Asian and Jewish people due to their race, ethnicity, national origin or other racialized characteristics. They were based on white supremacy beliefs. They entailed a preference for the settlement of white-European individuals in Canada, in order to build and preserve the predominantly white racial composition of the Canadian settler society.</p>

EXECUTIVE SUMMARY

“[T]he Temporary Foreign Worker Program serves as a breeding ground for contemporary forms of slavery, as it institutionalizes asymmetries of power that favour employers and prevent workers from exercising their rights.”

‘Tomoya Obokata, Special Rapporteur on contemporary forms of slavery, including its causes and consequences’.²

Tens of thousands of migrant workers travel every year to Canada in the hope of providing a better life for their families. Canada represents a dream for many of them: they are promised labour opportunities and working conditions that very often they cannot enjoy in their countries of origin. Yet, many find a different reality upon arrival: they are made to work long hours without rest, assigned tasks not included in their contract, are underpaid, suffer verbal, physical, sexual and psychological abuse, and are often subjected to stereotypes and assumptions about their skills, behaviours or identities based on their race, skin colour, nationality or ethnicity. Many of them cannot leave their job or change employers, nor can they report abuses or access effective remedies for those abuses due to the very characteristics of their visa.

This report focuses on showing structural conditions within Canada’s migration policies that perpetuate racial subordination and labour exploitation and how systemic racism leads to human rights violations against racialized migrant workers. It investigates the human rights impact of Canada’s Temporary Foreign Worker Program (TFWP), a temporary migration scheme that allows employers to hire migrant workers, primarily in low-pay occupations in agriculture, food processing, the care system, domestic service, but also in many other sectors across the country. Amnesty International’s research finds that Canada’s migration policy has designed, regulated and implemented the TFWP in such a way as to inherently increase racialized workers’ risk of labour exploitation and other abuses, creating discriminatory outcomes in violation of its international human rights obligations.

Migrants travelling to Canada under the TFWP are granted temporary visas that tie them to a single employer (employer-specific or tied visas), who controls both their migration status and labour conditions. The origins of this type of visa go back to the 1960s, and paradoxically coincided with Canada’s adoption of an immigration points system that was purported to end the explicit racism of the previous immigration policy. At that time, authorities introduced tied visas to control Black Caribbean workers who were travelling to Canada under temporary labour schemes.

Since then, tied visas have been a fundamental component of the TFWP, conditioning workers’ access to rights and status in Canada. While, according to Canadian regulations, migrant workers should be entitled to similar rights and labour protections as Canadian workers, many migrant workers with tied visas under the TFWP cannot enjoy them. Tied visas render migrant workers dependent on employers to enjoy fair working conditions, or to effectively access several of their rights, including the right to adequate housing, health, or social security. For instance, some migrant workers live in employer-provided accommodation and may find themselves homeless if they are dismissed. They rely on the employer to get access to health insurance or to

² Special Rapporteur on contemporary forms of slavery, including its causes and consequences, *Visit to Canada*, 22 July 2024, UN Doc A/HRC/57/46/Add.1, para. 22, <https://documents.un.org/doc/undoc/gen/g24/120/97/pdf/g2412097.pdf>

get transportation to get medical care. They also depend on their employer to remain in the country with regular status and effectively access social benefits.

TFWP VISAS EFFECTIVELY TARGET RACIALIZED PEOPLE FROM THE GLOBAL SOUTH

Temporary labour visas under the TFWP are mostly granted to Black, Latin American, Indigenous and other racialized people - including those coming from rural areas. In 2023, the top countries of origin of TFWP workers were Mexico, India, Philippines, Guatemala and Jamaica, together representing almost 70% of the work permits granted. There is a strong correlation between the nationalities of the TFWP workers and their racialized identities, as most of the TFWP workers come from countries where the majority of the population is racialized.

The overrepresentation of specific nationalities, as well as racial and ethnic groups, among TFWP workers, is not accidental. Official policy documents seen by Amnesty International show that the Canadian government expressly designed the TFWP – and distinguished the TFWP from the International Mobility Program (IMP) - using skills and nationality as a proxy for class and race. By design, the Canadian government intended the TFWP to offer tied visas to “low-skilled” workers from “developing countries”, while the IMP is intended to offer comparatively “greater mobility” and “generally open permits” to mainly “high skill” / “high wage” nationals of “highly developed” countries. This mechanism is particularly evident within the Seasonal Agricultural Worker Program (SAWP), one of the TFWP streams that recruits agricultural workers. Based on bilateral agreements that the Canadian government concluded with their countries of origin and that govern the terms of hire and employment, the SAWP is limited to workers from Mexico, Jamaica and other participating Caribbean countries. The position of Mexico and Jamaica among the top five sending countries is, therefore, directly associated with Canada’s bilateral agreements with these countries, which target the recruitment of these specific nationalities for temporary labour migration through the SAWP. More generally, migration from these and other sending countries is shaped by histories of colonization and expropriation that placed these countries in a subordinate position globally.

TIED VISAS UNDER THE TFWP PUT MIGRANT WORKERS AT HIGHER RISK OF LABOUR EXPLOITATION

Despite having equal rights on paper to Canadian workers, migrant workers under the TFWP do not enjoy the same rights in practice. As this report documents, these migrant workers are at higher risk of labour exploitation compared to Canadian nationals and other migrants with open work permits, mainly due to the nature of their visas.

The high risk of labour exploitation for migrant workers under the TFWP is intrinsic to tied visas, as this type of visa inherently bestows power to the employer over the worker. One of the manifestations of this power is the employers’ control over both the labour conditions and the migration status of the workers, which, among other things, renders workers disposable. In this sense, the abuses documented in this report and their seriousness and interconnectedness cannot be entirely appreciated without considering the profound dehumanization of racialized workers, whose labour is extracted, exploited and disposed of at the will of the employer. Many workers face termination of their contract and a swift repatriation when they fall sick, suffer injuries, or develop occupational illnesses, as they are no longer considered “able” and fit for the job. Any complaint they raise may result in the termination of their contract, their legal status and, in many cases, their stay in Canada.

Furthermore, TFWP workers’ disadvantaged position in terms of class, race, gender, nationality and education opportunities leads them to accept jobs, wages, and labour conditions that Canadian nationals do not generally find attractive. As they are primarily hired to address labour demands in sectors that are often considered undesirable and offer low salaries, migrant workers under the TFWP are disproportionately represented in some sectors of the Canadian economy where labour exploitation is generally more common - such as agriculture.

In 2022, 23% of the employees in agricultural industries in Canada were migrant workers (64,660 out of 276,977), representing 34% of the labour force in agriculture in Ontario and 30.5% in Quebec. In 2023, 70,267 TFWP workers were employed in agricultural industries, another 45,428 were working in food and beverage manufacturing. Out of the total of temporary migrant workers in agriculture, 41% were from Mexico, 27.7% from Guatemala and 11.6% from Jamaica. The agricultural sector offers lower labour protections to workers and is regulated in a manner that is not consistent with international human rights obligations, especially in some provinces. This means that racialized workers are also disproportionately impacted by regulations that allow a wide range of exemptions on overtime pay, working hours or periods of rest, or that ban or impede agricultural workers’ right to collective bargaining, in blatant breach of international law.

TIED VISAS HAMPER MIGRANT WORKERS' ACCESS TO ADEQUATE REMEDIES

The very characteristics that make migrant workers attractive to employers in Canada not only put them at higher risk of exploitation and abuse but also make it extremely difficult for them to complain. When abuses happen, many workers do not report them: they risk threats, more abuses and other reprisals, including unfair dismissal, non-renewal of their contract, and repatriation to their country of origin. When they do complain, they are faced with Canada's complex labour enforcement system, a reactive and compartmentalized system with multiple bodies that, in most cases, migrant workers are only able to access with the support of unions and civil society organizations. The enforcement and complaint system in Canada is not designed to protect individuals with precarious status, who risk reprisals, do not have support, often do not speak the language, and do not have the time to engage in proceedings. Access to justice remains, therefore, illusory for many.

The obstacles TFWP workers experience when trying to obtain remedies for the abuses suffered are intrinsically linked to the fundamental features of the TFWP, the manner workers are recruited and other factors that can aggravate workers' disadvantaged position and pre-existing risk factors. While all TFWP workers are in a position of structural risk due to being tied to a single employer, this fundamental feature of the TFWP combines with other aspects of Canada's federal and provincial legislation – such as the characteristics of some TFWP streams; lower provincial labour standards in agriculture; and provincial limitations imposed on the right to unionize - to heighten workers' risk of labour exploitation and other human rights abuses at the hands of employers. These factors interweave with the workers' multiple and intersecting identities and characteristics (education opportunities, language skills, gender, class and race), creating barriers to escape abuses and report.

INDIRECT AND SYSTEMIC DISCRIMINATION: THE DISPROPORTIONATE IMPACT OF THE TFWP ON RACIALIZED WORKERS

The TFWP not only opens the door to abuses but also produces disparate outcomes for racialized workers. As the “tied” nature of visas under the TFWP exacerbates risks of labour exploitation, and the program targets racialized workers by design, the risks of labour exploitation within the policy and institutional framework of the TFWP disproportionately affect racialized people.

While the TFWP is facially “race-neutral” as it does not explicitly reference race or skin colour, its design and implementation create higher risks of labour exploitation that disproportionately impact racialized migrant workers. The TFWP is expressly intended for “low-skilled” workers from low- and middle-income countries in the Global South, who are mostly racialized. As a result, racialized migrant workers are overrepresented among those subject to exploitative conditions under the TFWP, particularly in the sectors of the economy for which the TFWP is mostly used. This disproportionate impact is particularly evident within the SAWP. While the SAWP explicitly targets migrant workers from particular nationalities (who are mostly racialized people) based on bilateral agreements with their countries of origin, it also exposes them to even higher risks of labour exploitation due to the combined effects of the tied nature of all TFWP visas, the short length of SAWP visas and the sector where they work (agriculture).

Furthermore, many racialized migrant workers in “low-skilled” jobs face a prolonged risk of labour exploitation, as they continue travelling and working in Canada with tied visas for years, with little prospects to access a more secure status, in the form of open visas and permanent residence. In contrast to “high-skilled” workers, Canada's immigration system offers few avenues for “low-skilled” workers to permanently settle in Canada. For instance, in 2023, only 275 people from Guatemala (0.06% of the total admissions) were admitted as permanent residents; 4,340 from Jamaica (0.9%) and 5,735 from Mexico (1.2%). Excluded by an immigration points system that privileges high skills and education over experience, most racialized migrant workers will remain in precarious status and at risk of labour exploitation for years. Their employer will continue to condition and limit their access to rights in Canada as long as they hold a tied visa.

CANADA'S RESPONSIBILITY

While Canadian authorities are very aware of the abuses migrant workers are exposed to, they have often blamed employers for “abusing the system” and implemented very limited and sometimes misguided reforms without tackling the root causes of labour exploitation and other abuses. However, it is time for authorities to recognize that the abuses suffered by migrant workers under the TFWP at the hands of employers are not isolated incidents. The abuses are systemic because they are caused by one of the fundamental characteristics of the TFWP, its tied visas. As such, they fall under the responsibility of Canadian authorities, who have designed and implemented a visa system for the TFWP that intrinsically carries an increased risk of labour exploitation. In that sense, as a government program, the abuses committed under or enabled by the TFWP trigger Canada's international responsibility. The prevalence of

those abuses shows how the state is failing to prevent abuses and protect workers from labour exploitation, to provide workers with effective remedies and to ensure that the program does not result in discrimination.

MAIN FINDINGS: CANADA'S VIOLATION OF THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK, THE RIGHT TO AN EFFECTIVE REMEDY AND THE RIGHT NOT TO BE DISCRIMINATED AGAINST

Amnesty International has found that the abuses racialized migrant workers experience under the TFWP are systemic: they are the foreseeable result of tied visas and an intrinsic feature of the program. On the one hand, the tied nature of their visa exposes TFWP workers to a higher risk of labour exploitation compared to both Canadian nationals and other migrant workers with open visas. On the other hand, both the tied nature of the visas and their temporary character make it difficult for workers to access the benefits they are entitled to and to obtain redress when they suffer labour exploitation and other human rights abuses.

In light of the systemic nature of the abuses, it is Amnesty International's conclusion that labour exploitation and other abuses under the TFWP are caused by Canada's immigration policy, laws and regulations. They cannot be attributed to a few unscrupulous employers, nor can they be understood as isolated incidents. While employers can and should be held to account under the labour and criminal domestic systems, this report focuses on the State responsibility and contends that abuses under the TFWP fall squarely under Canada's responsibility.

In its current design, the TFWP is inherently exploitative and, therefore, violates Canada's international obligation to respect, protect and fulfil the right to just and favourable conditions of work enshrined, among others, in Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). It also fails to comply with the right to an effective remedy, recognized in Article 2(3) of the International Convention on Civil, Political and Cultural Rights (ICCPR) and Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

Moreover, Amnesty International concludes that the TFWP is inherently discriminatory, as it entrenches instances of discrimination and disproportionate impacts of human rights violations on racialized "low-skilled" workers based on their race, gender, class and national origin. It therefore violates the international prohibition of racial discrimination, enshrined, among others, in Article 2 of ICERD. As this report shows, Canada has failed to fulfil its obligation to prevent and eradicate racial discrimination in all its forms.

The abuses documented in this report are not unknown to Canadian authorities. Over decades, migrant-led organizations, unions, academics and other civil society actors have produced extensive research, voiced concerns and campaigned tirelessly, demanding an end to the tied nature of these visas. Yet, the Canadian authorities have, so far, failed to make systemic policy changes and refused to abolish closed work permits, adopting instead narrow, piecemeal measures.

As the main feature of the TFWP, tied visas are the most evident root cause of migrant workers' labour exploitation and discrimination. Therefore, the prevention and eradication of labour exploitation and racial discrimination of TFWP migrant workers in Canada requires, at a minimum, the abolition of the tied visa system. This system should be urgently replaced with an open visa system that allows workers to freely change jobs and employers, and that can fully protect racialized workers from labour exploitation and discrimination.

MAIN RECOMMENDATIONS

This report ends with a series of detailed recommendations. Among them, Amnesty International is calling on:

CANADIAN FEDERAL AUTHORITIES TO:

Ensure that the Canadian migration system respects, protects and promotes the rights of all migrant workers without discrimination on the grounds of class, gender, nationality or national origin, ethnicity or race. In particular:

- Overhaul the TFWP to prevent and address the systemic discrimination of the workers due to their class, gender, nationality, national origin, ethnicity and race.
- Grant open work permits to migrant workers participating in the TFWP, ensuring that they can change employers and jobs freely.
- Remove all eligibility criteria for permanent residence that result in discrimination of "low-skilled" migrant workers due to their class, gender, nationality or race.

Prevent discrimination and ensure equal treatment of migrant workers while in Canada.

Ensure that migrant workers in Canada obtain redress for the human rights violations they have survived. In particular:

- Grant migrant workers who have survived labour exploitation and other human rights abuses a residence and an open work permit for the time necessary to seek and obtain effective redress.
- Improve and increase the number of federal inspections and ensure they are proactive, conducted on-site where possible, and unannounced.

TO PROVINCIAL AUTHORITIES:

- Work with federal authorities to revisit provincial employment standards on agriculture to ensure they comply with Canada's international obligations and relevant standards with respect to rights at work.
- Repeal provisions and legislation limiting the rights of agricultural workers to collective bargaining and barriers for migrant workers to join and form unions.
- Ensure that complaints by migrant workers of labour exploitation and other human rights abuses are examined and adjudicated fairly, speedily and effectively.

STRUCTURE

Chapter 1 analyses the TFWP within the framework of Canada's contemporary immigration policy and its historical roots: slavery and white migration policies. It traces the origins of tied visas to Canadian authorities' goal of preventing a "race problem" and controlling Caribbean workers arriving in Canada through temporary labour schemes that would precede the TFWP. The chapter further describes the features of the TFWP within Canada's labour migration policy.

Chapter 2 documents a wide range of human rights abuses against TFWP workers: from wage theft and excessive working hours; to racist abuse and gender-based violence; to surveillance, lack of privacy and inadequate housing. It centers the voices and testimonies of workers and their own experiences of exploitation and discrimination in Canada. While the abuses workers have endured are committed by employers, this chapter shows how these abuses are not isolated incidents, but a systemic and foreseeable outcome of tied visas. In that sense, these abuses involve State's responsibility and shed light on Canada's abject failure to prevent labour exploitation and protect migrant workers under the TFWP. Chapter 2 also documents human rights violations and abuses directly based on race, skin colour and national origin, documenting several instances of racist and xenophobic psychological abuse, as well as cases of racial discrimination in the workplace.

Chapter 3 details the obstacles TFWP workers face to report abuses, as well as the shortcomings of the remedies available when they do. It shows how the obstacles to report stem from the tied visa, and further delves into other factors that make it more difficult for workers to escape abuses. It also analyses the inadequacy of the remedies available to racialized migrant workers from an intersectional perspective, examining the positionality of racialized workers. It concludes that Canada is failing to provide adequate and effective remedies to migrant workers under the TFWP.

Chapter 4 details how racism and other systems of oppression shape the way the TFWP is designed and implemented; the TFWP workers' experience in Canada; and the way the points system is designed and implemented. It analyses how the TFWP produces disproportionate effects on racialized workers, including a higher risk of labour exploitation, resulting in the racialization of exploitation. It also describes how the program reproduces gender inequalities. Last, the chapter analyses the limited possibilities for racialized workers in "low-skilled" occupations under the TFWP to access a more permanent status and concludes that Canada's points system produces disparate outcomes in terms of class and race. As a result, racialized migrant workers with tied visas working in "low-skilled" occupations will remain at risk of labour exploitation and with serious limitations on their access to rights for years.

METHODOLOGY

EVIDENCE BASE

The findings of this report are based on in-depth interviews and desk research conducted between February 2023 and June 2024, involving a total of 44 migrant workers from 14 countries. Amnesty International selected the interviewees based on referrals from partner organizations and in a few instances, from workers interviewed by the organization.

The initial interviews took place in the provinces of Quebec and Ontario, and some remotely. Amnesty International conducted 16 in-person interviews with migrant workers in Quebec, and 21 in-person interviews in Ontario, in September 2023. Researchers conducted seven more in-depth interviews with migrant workers remotely between September 2023 and February 2024; follow-up exchanges via email and phone between January 2024 and December 2024; and follow-up in-person interviews in Quebec in May 2024.

Amnesty International interviewed 21 migrant workers (15 men and six women) who were living or working in Quebec at the time of the interview or had lived and worked in the province before: eight men from Guatemala, four men from Mexico, two women from Cameroon, two women from Ivory Coast, one woman from Madagascar, one woman from Colombia, one man from Morocco, one man from Tunisia, and one man from Mauritius. All of them had had visas tied to a single employer under the TFWP. Most had travelled to Canada with permits under the agriculture and the low-wage streams.³

Amnesty International interviewed 23 migrant workers (seven women and 16 men) who were living or working in Ontario at the time of the interview: three women and three men from Jamaica, one man from another Caribbean state, one woman from Argentina, two women from Indonesia, one man who is a dual national of Spain and Dominican Republic, five men from Mexico, and six men and one woman from Guatemala. All of them had tied work permits under the TFWP⁴ and 20 of them were employed in the agricultural sector upon arrival in Canada.⁵

Amnesty International decided to conduct research in Quebec and Ontario, as these provinces receive a large number of migrant workers under the TFWP. Several of the workers interviewed had worked in other provinces before reaching Quebec or Ontario.⁶

All migrant workers interviewed are racialized as Black, people from Latin America, including Indigenous people, or other racialized identities within the political, cultural and racial context of Canada. This means

³ Of the Quebec interviewees, 12 were recruited to work in agriculture, livestock and associated tasks, two women in care work, one woman in cleaning services, two men in meat processing, two in welding, one in industrial painting and two in the cleaning of septic tanks. Some of the workers interviewed had also done or moved to do other jobs including two women who moved to care work, one man worked in a restaurant, and another one had two jobs in welding and cleaning.

⁴ One individual was originally employed via the Seasonal Agricultural Worker's Program (SAWP) and then was changed to other streams of the TFWP with a longer duration of work visa, seven individuals worked entirely within the SAWP, 15 in the TFWP.

⁵ Two people interviewed in Ontario were employed in the construction industry, and one in the restaurant industry.

⁶ Among workers interviewed in Quebec, three had worked in other Canadian provinces: in Alberta, New Brunswick, and Ontario. Among workers interviewed in Ontario, three had worked in Nova Scotia – one of these also worked in British Columbia, and four had worked in Alberta.

that they are perceived or identified based on their national origin, race, skin colour or ethnicity influenced by racial biases and assumptions (see Glossary).

Additionally, Amnesty International spoke to case workers and experts, and had in-depth discussions with representatives of two unions, two academics, six representatives of civil society organizations, some of them on multiple occasions, and an immigration lawyer. The organization consulted official statistics, federal and provincial legislation, court files and decisions, complaints, medical reports, and reports and articles published by academics, unions and civil society organizations.

Official statistics on the TFWP and other migration programs and visa classes are publicly available but only broken down by nationality, gender, age and occupation. Data is not disaggregated by race and ethnicity, contrary to international human rights standards (see below Findings of racial discrimination). As a result, this report uses nationality as a proxy for race to understand racial discrimination in immigration policy, although it acknowledges that it cannot encompass all the complex lived experiences of racialized migrant workers based on the available data. All figures are updated with the latest available annual data as of 1 November 2024.

During the course of this research, Amnesty International submitted freedom of information requests to federal and provincial authorities. Prior to the publication of this report, the organization requested meetings with Employment and Social Development Canada (ESDC), Commission des Normes de l'Équité, de la Santé et de la Sécurité du Travail in Quebec (CNESST), and the Ontario Ministry of Labour, Immigration, Training and Skills Development. The organization met with a Senior official from Office of the Minister of Employment, Workforce Development and Labour, and, at the provincial level, with representatives of the Ontario Ministry of Labour and Immigration. It also received written responses from the CNESST. However, as of 20 January, Amnesty International had not received any information or response to the questions submitted to federal authorities in September 2023, nor to the allegations concerning the TFWP shared with Immigration and Citizenship before the publication of this report.

FINDINGS OF LABOUR EXPLOITATION

While some of the cases documented in this report may amount to violations of domestic and international criminal law, including domestic anti-slavery and anti-trafficking legislation, in this report, Amnesty International focuses its analysis primarily on structural and systemic issues leading to labour exploitation, as defined below. The organization believes that analysing structural and systemic causes of labour exploitation is key to better understanding, addressing and solving the plight of its survivors, including survivors of those forms of labour exploitation that engage individual criminal responsibility.⁷

Although international law does not define specifically “labour exploitation” as such, the notion broadly refers to labour conditions that breach international law and standards. The key international laws and standards protecting the right to work and rights at work are detailed in Chapter 2. The International Labour Organization (ILO) defines “unacceptable forms of work” as “work in conditions that deny fundamental principles and rights at work, put at risk the lives, health, freedom, human dignity and security of workers or keep households in conditions of poverty.”⁸ Conversely, the ILO refers to “decent work” as a notion encompassing employment, social protection, workers’ rights and social dialogue.⁹

Labour exploitation is understood as a spectrum or a “continuum”, a variety of experiences that may vary over time and include phenomena of different gravity: at one end of the spectrum, freely chosen, regular and decent work; at the other end, major and multiple abuses and violations and severe forms of exploitation, including forced labour, trafficking for labour exploitation, debt bondage and slavery. The gravity of different forms of exploitation depends on working conditions, workers’ personal circumstances and other factors.¹⁰

The Committee on Economic, Social and Cultural Rights (CESCR), the body tasked with monitoring the implementation of the ICESCR by its state parties, has clarified that states can violate the right to just and favourable conditions of work both through direct actions (commission) and by failing to take reasonable

⁷ Klara Skrivankova, “Between decent work and forced labour: examining the continuum of exploitation”, JRF programme paper: Forced Labour, November 2010.

⁸ International Labour Organisation (ILO), *Unacceptable Forms of Work: A global and comparative study*, December 2015, page v, <https://www.ilo.org/publications/unacceptable-forms-work-global-and-comparative-study>

⁹ *Report of the Director-General: Decent Work*, International Labour Conference, 87th Session, Geneva, June 1999, <https://webapps.ilo.org/public/english/standards/reim/ilc87/rep-i.htm>. See also ILO, *ILO Declaration on Social Justice for a Fair Globalization*, adopted by the International Labour Conference at its Ninety-seventh Session, Geneva, 10 June 2008, <https://webapps.ilo.org/static/english/inwork/cb-policy-guide/ilodeclarationonsocialjusticeforaairglobalization2008.pdf>, p. 10.

¹⁰ Klara Skrivankova, “Between decent work and forced labour...” (previously cited); Labour Exploitation Advisory Group, “So I decided to carry on...”: *The continuum of exploitation in practice*, February 2024. London: Focus on Labour Exploitation (FLEX).

steps to fully realize the right for everyone (omission).¹¹ Direct actions in violation of the right to just and favourable conditions of work include the adoption of labour migration policies that increase the vulnerability of migrant workers to exploitation.¹² Acts of omission include failing to enforce relevant laws and implement adequate policies, failing to regulate the activities of individuals and groups to prevent them from violating the right, or failing to take into account its Covenant obligations when entering into bilateral or multilateral agreements with other States.¹³ Additionally, states must put into place an adequate monitoring and accountability framework by ensuring access to justice or to other effective remedies.¹⁴

In this context, states must not just respect workers' rights (that is, refraining from interfering directly or indirectly with their enjoyment) but also protect them by taking measures to ensure that third parties, such as private sector employers and enterprises, do not interfere with their enjoyment. This includes taking steps to prevent, investigate, punish and redress abuse through effective laws and policies and adjudication. For example, States should ensure that labour laws, policies and regulations, are adequate and effectively enforced.¹⁵ Beyond this, states are also under a duty to proactively adopt positive measures necessary to ensure the full realization of workers' rights, including through collective bargaining and social dialogue.¹⁶

FINDINGS OF RACIAL DISCRIMINATION

International human rights instruments characterize racism as an ideological structure that serves to justify unequal power relations primarily based on phenotype or ancestry.¹⁷ Racism does not only refer to acts of beliefs of internalized or interpersonal bigotry but also, more importantly, to situations of institutional or systemic subordination.¹⁸ The General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) has stated that “racism includes racist ideologies, prejudiced attitudes, discriminatory behaviour, structural arrangements and institutionalized practices resulting in racial inequality as well as the fallacious notion that discriminatory relations between groups are morally and scientifically justifiable.”¹⁹ As noted by the United Nations High Commissioner for Human Rights, “systemic racism persists, in large part, due to misconceptions that the abolition of slavery, the end of the transatlantic trade in enslaved Africans and colonialism, and measures taken by States to date, have removed the racially discriminatory structures built by those practices and created equal societies.”²⁰

Article 1.1 of the ICERD defines racial discrimination as: “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”

According to international human rights law, in particular ICERD, Canada has the obligation not only to refrain from discriminating, but also to protect people from direct and indirect racial discrimination. Under the *obligation to protect*, the state needs to prevent abuses of human rights by third parties. This obligation includes the duty of the state to prevent foreseeable and avoidable risks of human rights abuses. Under the *obligation to fulfil*, the state must take appropriate legislative, administrative, budgetary, judicial and other actions towards the full realization of human rights without discrimination for all people under their jurisdiction. This may include the adoption of positive measures to redress discrimination which, by

¹¹ UN CESCR, General Comment 23: On the Right to Just and Favourable Conditions of Work (Article 7 of the ICESCR), 27 April 2016, UN Doc. E/C.12/GC/23, para. 78-79.

¹² CESCR, General Comment 23 (previously cited), para. 78.

¹³ CESCR, General Comment 23 (previously cited), para. 79.

¹⁴ CESCR, General Comment 23 (previously cited), para. 80.

¹⁵ CESCR, General Comment 23 (previously cited), para. 59.

¹⁶ CESCR, General Comment 23 (previously cited), paras 60 and 61.

¹⁷ The Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance (CIRDI) defines racism in its Article 1.4 as “any theory, doctrine, ideology, or sets of ideas that assert a causal link between the phenotypic or genotypic characteristics of individuals or groups and their intellectual, cultural, and personality traits, including the false concept of racial superiority.” Likewise, the preamble of the ICERD refers to the ideological nature of racism by declaring that “... any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere.” On the proscription of racism, Article 4 of the ICERD imposes on State-parties the obligation to condemn the propaganda and any form of organization that is based on the belief of racial superiority of a group or that promote racial hatred or discrimination. This same article establishes that State-parties to the Convention have an obligation to punish by law the dissemination of ideas based on racial superiority or hatred, violence or the incitement of violence motivated by racist ideas, the provision of support for racist activities or the funding of such activities.

¹⁸ CIRDI, Article 1.4 Declaration on Race and Racial Prejudice, General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), 27 November 1978, Article 2.2.

¹⁹ Declaration on Race and Racial Prejudice, Article 2.2.

²⁰ UN High Commissioner for Human Rights, *Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers*, 1 June 2021, UN Doc: A/HRC/47/53, para. 10.

definition, must target disadvantaged groups. Adequate access to justice and timely reparations, when discrimination or other human rights abuses occur, are also part of the State obligation to fulfil human rights.

The ICERD definition of racial discrimination covers not only direct discrimination but also instances of indirect racial discrimination, which also constitute manifestations of systemic racism. Policies and laws may not be aimed or intended to affect a certain group but may inadvertently do so: they may have an “unjustified disparate impact on a group” and thereby constitute discrimination.²¹ Indirect racial discrimination occurs when a seemingly neutral provision, criterion, or practice entails a particular disadvantage for persons belonging to a specific group based on a prohibited ground or puts them at a disadvantage unless that provision, criterion, or practice has some legitimate objective or justification and is proportional under international law.²²

To provide evidence of indirect racial discrimination, a situation therefore requires the following elements:

- a. That there is provision, criterion or practice that, on its face, applies equally regardless of race, skin colour, descent, or national or ethnic origin.
- b. That the provision, criterion, or practice *disproportionately disadvantages* individuals of a particular group based on race, skin colour, descent, or national or ethnic origin.
- c. That the differential impact lacks a legitimate aim or, if there is a legitimate aim, the means of achieving it are not proportional.²³

The CERD clarifies that “the potential indirect discriminatory effects of certain domestic legislation, particularly legislation on terrorism, immigration, nationality, banning or deportation of non-citizens from a country, as well as legislation that has the effect of penalizing without legitimate grounds certain groups or membership of certain communities” are indicators of racial discrimination.²⁴ The CERD further calls for States to ensure that the implementation of any legislation does not have discriminatory effects on non-citizens.²⁵ This includes immigration and visa policies, laws and practices.²⁶ In the case of visas, distinctions, restrictions, exclusions, or preferences based on nationality “must be construed so as to avoid undermining the basic prohibition of discrimination”.²⁷

To understand and address the way systemic racial discrimination and xenophobia manifest and intersect, international human rights standards require states to collect data.²⁸ The Durban Declaration and Program of Action called on states to “collect, compile, analyse, disseminate and publish reliable statistical data at the national and local levels and undertake all other related measures which are necessary to assess regularly the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance.”²⁹ Without data on race and racial bias, states cannot claim that their laws, policies, and approaches are not, in practice, racist because they are automatically unable to analyse how race impacts decision-making.

Amnesty International has used a combination of methods in this report to demonstrate racial discrimination. Historical sources, including political speeches and regulations, have been consulted to trace the origins of tied visas. Direct testimonies of workers and other witnesses, as well as additional documentation, have been employed to identify and corroborate instances of direct discrimination. Official statistics have been

²¹ CERD, General Recommendation 14, “Definition of Racial Discrimination”, 1993, UN Doc. A/48/18, para. 2.

²² CIRDI, Article 1. The CERD and the UN Special Rapporteur on contemporary forms of racism have emphasized the importance of analysing the effects of facially race-neutral laws and policies. CERD, General Recommendation 30, “Discrimination against Non Citizens”, 5 August 2004. UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Report: “Racial discrimination in the context of in the context of laws, policies and practices concerning citizenship, nationality and immigration”, 25 April 2018, UN Doc. A/HRC/38/52, para. 14.

²³ This requires the following: (a) The difference in treatment pursues a legitimate aim, such as national security or public order; and (b) There is a reasonable relationship of proportionality between the means employed and the aim, meaning that the means employed are: appropriate, that is the policy is a suitable and effective means of achieving the intended aim; necessary, that is there are no other, less discriminatory policies that could meet the same aim; and proportionate to that aim, that is the significance of the aim pursued outweighs the disadvantage suffered by the targets of discrimination and their wider community. This assessment of appropriateness, necessity, and proportionality is often referred to collectively as the “proportionality principle.” See: Human Rights Committee (HRC), General Comment 18: “Non-discrimination”, para. 13; CERD, General Recommendation 14 (previously cited), para. 2.

²⁴ CERD, “General recommendation 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system”, 2005, UN Doc. A/60/18, para. 4(b).

²⁵ CERD, General Recommendation 30 (previously cited), para. 7.

²⁶ CERD, General Recommendation 30 (previously cited), para. 9.

²⁷ CERD, General Recommendation 30 (previously cited), para. 2.

²⁸ UN Working Group of Experts on People of African Descent, Report of the Working Group of Experts on People of African Descent on its twenty-third and twenty-fourth sessions, 15 August 2019, UN Doc. A/HRC/42/59, para. 99, UN High Commissioner for Human Rights, *Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force...* (previously cited), para. 20.

²⁹ The Durban Declaration and Programme of Action, para. 92. See also Report of the Working Group of Experts on People of African Descent on its twenty-third and twenty-fourth sessions (previously cited), para. 81.

instrumental in identifying indirect and systemic racial discrimination in the TFWP. As Canada does not collect data on the TFWP or other labour programs disaggregated by race and ethnicity, the organization used nationality to infer race and ethnic identities, as perceived in the Canadian context. Moreover, the organization consulted legal documents, including submissions to courts and court decisions, that have also considered the indirect discrimination suffered by migrant workers under the TFWP.

ACKNOWLEDGMENTS

Amnesty International would like to express its deep appreciation to the workers who generously shared their time and trusted the organization with their stories. In most cases their names have been anonymized for reasons of confidentiality and safety. While this report cannot fully reflect the complexity of the many abuses they have endured, it hopes to contribute to their legitimate demands for justice and dignity.

Amnesty International is deeply grateful to the organizations, unions, academics and individuals who shared their invaluable expertise, experience and time. In particular, the organization would like to thank the Immigrant Workers Centre (IWC), the Réseau d'aide aux travailleuses et travailleurs migrants agricoles du Québec (RATTMAQ) and the Confédération des syndicats nationaux (CSN) in Quebec, especially Viviana Medina and Raphaël Laflamme (IWC), Véronique Tessier, Michel Pilon, Georgina Giron, and Mélanie Gauvin (RATTMAQ) and Marie-Hélène Bonin (CSN); and in Ontario, FCJ Refugee Centre, Legal Assistance of Windsor, and United Food and Commercial Workers (UFCW), in particular Jovana Blagovcanin, Shelley Gilbert, and Santiago Escobar provided invaluable support.

1. CANADA'S IMMIGRATION POLICY AND THE TEMPORARY FOREIGN WORKER PROGRAM

Canada has a long history of promoting immigration to contribute to economic growth and ensure labour shortages are addressed. One of the main labour migration programs used by Canadian authorities to meet labour demands is the Temporary Foreign Worker Program (TFWP), a temporary migration scheme that allows employers to hire migrant workers, primarily in low-pay occupations in agriculture, food processing, the care system, domestic service, and many other sectors across the country. In 2023, there were 183,590 TFWP work permit holders in Canada.³⁰

This chapter examines the TFWP within the wider context of Canada's past and present permanent immigration and temporary labour migration policies. It shows that worker exploitation in the context of the TFWP is anchored in a long history of discrimination and abuse of racialized migrants in Canada.

1.1 THE ROOTS OF CANADA'S TEMPORARY MIGRATION PROGRAMS: THE LEGACY OF SLAVERY AND WHITE MIGRATION POLICIES

Canada's positive image as an "immigration nation" whose identity is rooted in the celebration of multiculturalism and openness towards immigrants has concealed other parts of its history.³¹ Canada was

³⁰ Statistics Canada, Temporary Foreign Worker Program (TFWP) work permit holders by province/territory of intended destination, program and year in which permit(s) became effective, January 2015 - September 2024, https://www.ircc.canada.ca/opendata-donneesouvertes/data/EN_ODP-TR-Work-TFWP_PT_program_sign.xlsx (accessed on 21 November 2024). The number of temporary foreign workers is higher, as statistics reflect the number of permits that become effective every year. Some workers are granted work permits that last several years.

³¹ According to the survey by Environics Institute, while in 2023 there has been a shift in the public attitude towards immigration, the majority of Canadians continue to strongly (36%) or somewhat (38%) agree that "immigration has a positive impact on the economy of Canada". More than four in ten (42%) Canadians say that immigrants make their own community a better place, *Canadian Public Opinion about Immigration and Refugees*, fall 2023, <https://bit.ly/3Z9O2aR>

established through the colonization of Indigenous lands, many of which remain unceded,³² and the displacement of Indigenous Peoples and dispossession of their lands. Colonial officials first and Canadian authorities later, stripped Indigenous Peoples of their lands and encouraged migration of white European settlers to support the colonial enterprise and the formation of a white nation. Enslavement of Black people, labour exploitation of Chinese workers to build the Canada-Pacific Railroad, and exclusionary immigration policies against Asian, Jewish and Black people based on ideas of white supremacy are important parts of Canada's history.³³ Racist beliefs and ideologies, including anti-Black racism, were explicit in Canada's white immigration policies up until 1962, when authorities adopted new immigration regulations eliminating overt racial discrimination and establishing skill as a criterion, through an apparently race-neutral "points system" (see below and section 1.2.1. "Permanent economic migration"). The abuses and discrimination that characterize the TFWP are anchored in this history.

Slavery was legal in what is now Canada for over two centuries, from 1629 to 1834, when Britain passed the *Slavery Abolition Act*. The French and British colonies that would become Quebec, Ontario, Nova Scotia, Prince Edward Island and New Brunswick enslaved Indigenous peoples, as well as Black people of African descent who arrived in Canada at various times from West Africa, Madagascar, the Caribbean and the United States of America. Enslaved people were considered the property of white settlers, who had the right to exploit and subject them to horrific forms of torture, punishment and death.³⁴ More broadly, Canada was part of the trans-Atlantic slavery economy through commerce with the West Indies based on the commodification and exploitation of Black people. The exchange of goods and the import levies that benefited the colonies "were premised on the circulation of Black bodies".³⁵

Settler colonialism shaped the formation of Canada as an extension of Britain and its institutions and as a white nation, "White Canada", institutionalizing racial hierarchies and white supremacy.³⁶ To preserve the "whiteness" of Canadian settler society, the Canadian government actively encouraged white migration, with a hierarchy of preference for those migrants who were closer to what was perceived as "British character" - those from Northern and Western Europe, as well as the US.³⁷ Instrumental in this endeavour were racist immigration laws and policies that, between the late 19th century and until the aftermath of the Second World War, excluded Black, Asian and Jewish people.

Authorities would accept the limited admission of Asian people when the work was considered too dangerous for white workers, concretely for the construction of the Western section of the Canadian Pacific Railway. Nevertheless, the admission of Chinese men was severely restricted.³⁸ The exclusion of Asian people would culminate with the *Chinese Immigration Act of 1923 (Chinese Exclusion Act)*, which prohibited Chinese immigration.³⁹ Prior to the enactment of this piece of legislation, authorities restricted immigration from Japan and India.⁴⁰

Canadian authorities also restricted the immigration of Black people, claiming that they could not adapt to Canada's climate.⁴¹ The *1910 Immigration Act* enabled authorities to exclude migrants who belonged to "any race deemed unsuitable to the climate and requirements of Canada or immigrants of any specific class, occupation or character"⁴² from entering the country. The Act would be amended in 1919 to add nationality

³² Lands or territories that Indigenous Peoples have never ceded/surrendered or legally signed away to the Crown or to Canada. Often refers to lands that are not formally under a treaty; however, there are regions under treaty in Atlantic Canada that encompass lands that have not been surrendered.

³³ Some of the legacies still affect people of African descent, who live in poverty, have poor health and are overrepresented in the criminal justice system. Human Rights Council, *Report of the Working Group of Experts on People of African Descent on its mission to Canada*, 16 August 2017, UN Doc. A/HRC/36/60/Add.1, para. 7.

³⁴ Afua Cooper, *The enslavement of Africans in Canada*, Canadian Historical Association, Ottawa, 2022.

³⁵ Afua Cooper, *The enslavement of Africans in Canada* (previously cited), pp. 19-20.

³⁶ Vashanti Venkatesh, *Rethinking the Temporary, Reconstituting the Citizen: Rights Mobilization by Temporary Foreign Workers in Comparative Perspective*, Thesis, 2018, p. 30, <https://escholarship.org/uc/item/0bd93844>; Nalinie Mooten, *Racism, Discrimination and Migrant Workers in Canada: Evidence from the Literature*, Policy Research, Research and Evaluation Branch, IRCC, July 2021.

³⁷ While Canada's immigration policy was explicitly racist until 1962, notions of "whiteness" would change over time and expand to include previously non-desired European Eastern and Southern agriculturalists - Italian, Polish, and Ukrainian people - who would arrive in Canada since the late 19th century, with the aim of meeting the labour demands. Lisa Jakubowski, *Immigration and the Legalization of Racism*, 1996, Fernwood Publishing, pp. 11-12.

³⁸ Chinese men had to pay a tax and their wives and children were not allowed to come with them and settle in the country, a policy that had gendered effects in terms of family separation. Chinese Immigration Act of 1885. The tax was increased in 1900, and again in 1903.

³⁹ Government of Canada, "Exclusion of Chinese Immigrants (1923-1947) National Historic Event", <https://parks.canada.ca/culture/designation/evenement-event/exclusion-chinois-chinese>

⁴⁰ As summarized by Nalinie Mooten, Japan accepted to limit the number of Japanese immigrating to Canada through the 1907 Gentleman's Agreement. The 1908 Continuous Journey Stipulation allowed authorities to refuse entry to those who had not travelled to Canada through a continuous journey and with a ticket from their country of origin, which was a way to prevent Indians from entering Canada. Nalinie Mooten, *Racism, Discrimination and Migrant Workers in Canada* (previously cited).

⁴¹ Satzewich, Vic, "Business or Bureaucratic Dominance in Immigration Policymaking in Canada: Why was Mexico Included in the Caribbean Seasonal Agricultural Workers Program in 1974?", *International Migration & Integration* 8, pp. 255-275, 2007.

⁴² Article 38 c). Immigration Act, 1910, Canadian Museum of Immigration at Pier 21, <https://bit.ly/495k8ZR>

as a ground for exclusion and would be followed by a list of preferred countries.⁴³ In addition to Black and Asian people, Jewish people would be *de facto* barred from entry, as authorities used unlimited discretionary powers to refuse their admission up to the 1940s.⁴⁴

While race was removed from the explicit goals or provisions that shaped immigration policies post-World War II, racism and discrimination did not disappear from the legislation. The *1952 Immigration Act* replaced “race” with “ethnic group” as a ground for exclusion from entry into the country and included other grounds, such as lifestyle, homosexuality, drug use, and ideology or personal belief.⁴⁵ Canada maintained its preference for “British subjects from the UK, Ireland, Newfoundland, New Zealand, Australia or the Union of South Africa, and also citizens of the United States”⁴⁶ as they were perceived as more suitable to maintain “Canada’s white character”.⁴⁷

In 1967, Canada adopted an immigration “points system” based on skills and qualifications.⁴⁸ This system introduced a set of criteria - education, language and others - by which authorities measured and selected immigrants based on their potential for the Canadian economy and their integration prospects. Under the points system, the skill level required for permanent immigration functioned as a proxy for class, with a strong race correlation, allowing “whites” to settle in Canada with their families but resulting in the general exclusion of Black people from permanent immigration, as Black immigration was equated with unskilled labour.⁴⁹ While the *1976 Immigration Act* declared that people seeking to enter Canada as immigrants would not be discriminated against on the grounds of race, national or ethnic origin, colour, religion or sex,⁵⁰ discriminatory practices and prejudices remained. Migration policies disadvantaged Caribbean and Black immigrants, and immigration officers maintained racist selection practices.⁵¹

De facto excluded from the points system, many racialized workers would only be accepted as temporary labourers through a parallel system: the temporary labour migration schemes that would become today’s Temporary Foreign Worker Program (see below, section 1.3).⁵² In contrast to previous white European agriculturalists, who had been offered permanent settlement in Canada, Caribbean workers were only allowed to work seasonally in agriculture in Canada before returning home. The first male Jamaican temporary workers arrived in Ontario in 1966. Other Caribbean countries were later included in the scheme, known as the Seasonal Agricultural Worker Program (SAWP), and Mexico would join in 1974.⁵³

Under the SAWP, migrant workers arrived in Canada with a temporary work permit that allowed them to work in agriculture for a single and specific employer (“tied” work permit). Workers could not resign nor change

⁴³ Immigration Act Amendment 1919, https://www.canadiana.ca/view/occihm.9_08048/2; on the list of preferred countries, see Jakubowski, *Immigration and the Legalization of Racism* (previously cited) p. 16.

⁴⁴ Canada admitted fewer than 5,000 Jewish people between the 1930s and 1940s. According to some authors, anti-semitic views were the main factor that led to the rejection of their admission into Canada. Harold Troper and Irving Abella, *No one is too many*, Toronto University Press, 2012; David Matas, “Racism in Canadian Immigration Policy”, *Refuge: Canada’s Journal on Refugees*. Canada refused entry to Jewish refugees before and during the II World War. The refusal to admit the Jewish passengers fleeing aboard of the ship MS. St. Louis, became an indictment of the antisemitism embedded in institutions and among immigration authorities in Canada. Steve Schwinghamer, “The existing Immigration regulations will not offer any solution”: MS St. Louis in Canadian Context, December 2023, <https://pier21.ca/research/immigration-history/canada-and-ms-st-louis>

⁴⁵ Immigration Act, 1952, Article 61.g. These were added to the previous existing grounds such as nationality, citizenship, occupation, class. This article also allowed authorities to prohibit or limit admissions based on “peculiar customs, habits, modes of life, or methods of holding property”, unsuitability to Canada’s climate or economic, social, industrial, labour, health or other conditions; inability to be assimilated or to “assume the duties and responsibilities of Canadian citizenship”. Socially undesirable migrants such as “prostitutes”, “beggars”, “idiots”, “insane persons”, persons with “infectious diseases”, “dumb, blind or physically defective”, or sick people were also included among prohibited migrants, https://www.canadiana.ca/view/occihm.9_08041/2; Jan Raska, “Who Is Admissible? Immigrant Desirability and Immigration Acts since Confederation”, Canadian Museum of Immigration at Pier 21, 9 October 2020, <https://pier21.ca/blog/jan-raska/who-is-admissible>

⁴⁶ Jakubowski, *Immigration and the Legalization of Racism* (previously cited) p. 17, and Government of Canada, Manpower in Immigration, 1974.

⁴⁷ As cited by Nalinie Mooten, Racism, *Discrimination and Migrant Workers in Canada* (previously cited), p. 40.

⁴⁸ The Immigration Regulations of 1962 removed open racial discrimination from immigration policy and introduced skills as the main criteria for admission. In 1967, the points system was introduced in the Immigration Regulations. Immigration Regulations, Order-in-Council PC 1962-86, 1962, <https://pier21.ca/research/immigration-history/immigration-regulations-order-in-council-pc-1962-86-1962>; Library and Archives Canada. “Immigration Act, Immigration Regulations, Part 1, Amended” RG2-A-1-a, volume 2380, PC1967-1616, August 16, 1967, <https://pier21.ca/research/immigration-history/immigration-regulations-order-in-council-pc-1967-1616-1967#fn-2>

⁴⁹ In that sense, “the points system was a way to manage race at the intersection of class and status”. Elrick, Jennifer, “Bureaucratic Implementation Practices and the Making of Canada’s Merit-Based Immigration Policy”, *Journal of Ethnic and Migration Studies*, pp. 1-19, 2020.

⁵⁰ Canada: Immigration Act, 1976-77, c. 52, s. 1, 1976, <https://www.refworld.org/legal/legislation/natlegbod/1976/en/20311>

⁵¹ Satzewich, V. “Racism and Canadian Immigration Policy: The Government’s View of Caribbean Migration, 1962-1966”, *Canadian Ethnic Studies* 21(1), pp. 77-97, 1989.

⁵² An exception to the lack of access to permanent immigration status for Caribbean workers was the West Indian Domestic Scheme, which from 1955 to 1967, allowed Caribbean women of “good character” after medical examinations to migrate to Canada under the condition they remained a year with their employer. They received landed status after one year of domestic work and Canadian citizenship after five years in the country. Other schemes would follow the West Indian Domestic Scheme: in 1981 the Foreign Domestic Movement Program with Jamaica and Barbados, and later the Live-in Caregiver and caregiver streams. Government of Canada, “Cabinet conclusions”, June 1955, pp. 14-15, RG2 A-5-a, Volume: 2658, <http://central.bac-lac.gc.ca/redirect?app=cabcon&id=1239&lang=eng>

⁵³ Satzewich, V. “Racism and Canadian Immigration Policy...” (previously cited).

jobs, and their status in Canada was attached to the job: they could work and stay in Canada as long as they continued working for the same employer, who held the power to terminate their contract and repatriate them.

Tied visas were imposed as a fundamental component of the SAWP. The Canadian government understood the impact on workers of tied visas and tied employment as a deprivation of freedom, even amounting to “slave labour”,⁵⁴ and had previously considered them to be unsuitable for white people.⁵⁵ Yet in the context of the SAWP, it envisaged them as a form of control of Black labourers from the Caribbean, intended to prevent social unrest and a “race problem”.⁵⁶ Through the use of tied visas, the SAWP entailed a differential treatment of workers, whose labour rights were restricted on the grounds of nationality and race.⁵⁷

In 1973 the Canadian government created the Non-Immigration Employment Authorization Program (NIEAP),⁵⁸ the precedent of the TFWP, to address shortages in the labour market, expanding the recruitment of temporary migrants beyond agriculture and domestic work and dividing migrants into “high-skilled” and “low-skilled” jobs. The NIEAP incorporated “low-skilled” streams, including the SAWP. The NIEAP entailed a shift in the Canadian government’s strategy to meet needs in “low-skilled” occupations: from using permanent migration of Europeans to using temporary migration of racialized workers from non-European countries.⁵⁹

Number of temporary migrant workers would significantly increase over the following decades (see below). Successive reforms would lead to what today is known as the TFWP, a program that nevertheless has maintained its original features: a source of cheap, largely unprotected and racialized labour.

1.2 CANADA’S CURRENT MIGRATION POLICY

According to the federal government, Canada’s current migration policy pursues a twofold objective: meeting Canada’s international humanitarian obligations and providing the country with the labour force needed for its economy.⁶⁰ While the first objective drives the permanent admission of refugees and other protected persons into the country, authorities pursue the second one through a combination of permanent and temporary⁶¹ migration programs.⁶²

The significance of immigration for the country is visible in the percentage of the population born outside of Canada, in authorities’ plans and public rhetoric, as well as in the continuity of policies that rely on labour migration for the economy. In 2021, over 8.3 million people (23%) of the Canadian population were born outside the country.⁶³ The majority came from Asia (4,307,000), followed by Europe (1,967,620) and the

⁵⁴ In June 1966, when the SAWP was introduced for Caribbean workers, the Hon. Jean Marchand, Minister of Citizenship and Immigration, stated: “Now, we were asked to try and establish a special class for people intending to go into agriculture [...] The only way is to bind them by their fare, in other words to promise to pay their fare provided they work on a farm for one, two or three years. But, in my opinion, this is not a very sound procedure in a democracy. I think this is slave labour rather than freedom”, Speech from the Canadian House of Commons, 3 June 1966 <https://www.lipad.ca/full/permalink/2421203/> The Minister also stated in November 1966, “I am not prepared to enslave immigrant workers who have come to Canada. Even if you hire unskilled labour abroad for the mining industry, where there is a shortage right now, there is nothing that can assure us they are going to stay there, because they will not. If the working conditions are poor, or the wages too low, they will move to Toronto or Montreal and then we will have the problem. We cannot enslave them. I am opposed to this form of contract.”, as cited in Statement of Claim, *Kevin Palmer and Andre Peters vs. the Attorney General of Canada before the Superior Court of Justice of Ontario*, proceeding under the Class Proceedings Act 1992.

⁵⁵ Canadian authorities rejected tied employment for European farmworkers. For instance, in 1952 the Hon. Walter Harris, Minister of Citizenship and Immigration, opposed it stating that it “would be contrary to the whole Canadian belief in freedom of the individual”, Canadian House of Commons, 4 July 1952, <https://www.lipad.ca/full/1952/07/04/13/#1702872>

⁵⁶ Satzewich, V. “Racism and Canadian Immigration Policy...” (previously cited).

⁵⁷ Statement of Claim, *Kevin Palmer and Andre Peters vs. the Attorney General of Canada...* (previously cited).

⁵⁸ Government of Canada, Cabinet Conclusions, April 27, 1972, pp. 9-10, RG2 A-5-a, Volume: 6395, <http://central.bac-lac.gc.ca/.redirect?app=cabcon&id=3076&lang=eng>; Immigration Regulations Amendment, SOR 73/20, 21 December 1972, Canada Gazette, vol. 107, no. 1, Regular Issue, January 10, 1973, pp. 82-88, <http://central.bac-lac.gc.ca/.redirect?app=cangaz&id=13946&lang=eng>

⁵⁹ Judy Fudge and Fiona MacPhail, “The Temporary Foreign Worker Program in Canada: Low-Skilled Workers as an Extreme Form of Flexible Labour”, *Comparative Labor Law and Policy Journal*, Vol. 31, pp. 101-139, 2009.

⁶⁰ IRCC, *2023 Annual Report to Parliament on Immigration*, 2023, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/annual-report-parliament-immigration-2023.html>

⁶¹ Temporary visas include visas that allow entry into Canada for visits (tourism), studying and working. In 2023 Canada registered 27,209,536 entries of non-resident visitors, mainly coming from the US, other countries in the Americas, and Europe. Statistics Canada, Table 24-10-0050-01 Non-resident visitors entering Canada, by country of residence DOI: <https://doi.org/10.25318/2410005001-eng>

⁶² Immigration policy is regulated by the *Immigration and Refugee Protection Act* (IRPA), which lays down who can be temporarily admitted to Canada and establishes the categories of permanent residents. *Immigration and Refugee Protection Act* (S.C. 2001, c. 27). The IRPA allows the Governor in Council to adopt regulations detailing immigration programs: *Immigration and Refugee Protection Regulations* (SOR/2002-227).

⁶³ Statistics Canada, Census Profile. 2021 Census of Population. Statistics Canada Catalogue no. 98-316-X2021001. Ottawa. Released November 15, 2023, <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E> (accessed on 18 June 2024).

Americas (1,200,895).⁶⁴ Authorities consider immigration as critical for the growth of the Canadian population and the economy. The government has acknowledged that “immigration [...] contributes to nearly 100% of the labour force growth”.⁶⁵ Despite the significance of migration for the economy, authorities have recently announced their goal to reduce immigration levels, decreasing the share of temporary residents to 5%, and have projected a reduction in permanent resident admissions to 395,000 in 2025, 380,000 in 2026 and 365,000 in 2027.⁶⁶

1.2.1 PERMANENT ECONOMIC IMMIGRATION

Permanent immigration includes several visa classes.⁶⁷ “Economic class” (labour immigration) visa categories are the main source of permanent residents. According to the latest available data, in 2023, 57.8% of permanent residents were admitted to Canada under economic classes (272,655 individuals out of 471,815 permanent residents).⁶⁸

Canada’s points-based system shapes the country’s permanent economic immigration policy.⁶⁹ Economic immigration visa categories to access permanent residence privilege occupations classified as medium or high skilled. This is the case for the main economic programs for admission of permanent residents: Canadian Experience Class, the Federal Skilled Worker Program and the Federal Skilled Trades Program (jointly known as Express Entry programs). In 2023, Skilled Workers and Canadian Experience were the main sources of permanent admissions, with respectively 65,475 and 42,080 admissions, which together represent 39.4% of the individuals admitted through the economic class and around 22.8% of the total permanent residents admitted in 2023.⁷⁰ In contrast, considerably fewer individuals accessed permanent residence through immigration categories that were primarily associated with medium-skilled or low-skilled occupations. These include the Agri-food pilot (1,565 admissions) and the Caregivers pilots (3,040 admissions), which together represent 1.7% of the individuals admitted through the economic class and around 1% of the total permanent residents admitted in 2023.⁷¹

Per country of origin, the main sources of new permanent residents in 2023 through economic class visas were India (38.1% of the total economic class visas granted), followed by China (7.6%) and the Philippines (6.7%). In contrast, some of the nationalities overrepresented in the temporary migration programs and particularly in the TFWP, such as Guatemala, Jamaica and Mexico, were underrepresented in terms of permanent admissions.⁷²

⁶⁴ Before 1980, the majority of those born outside Canada were Europeans. Statistics Canada, Immigrant population by selected places of birth, admission category and period of immigration, 2021 Census of Population, Ottawa, <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/dy-vd/imm/index-en.cfm>

⁶⁵ Immigration, Refugees and Citizenship Canada (IRCC), *2024 Annual Report to Parliament on Immigration*, October 2024, <https://www.canada.ca/content/dam/ircc/documents/pdf/english/corporate/publications-manuals/annual-report-2024-en.pdf>

⁶⁶ IRCC, *2025–2027 Immigration Levels Plan*, <https://www.canada.ca/en/immigration-refugees-citizenship/news/2024/10/20252027-immigration-levels-plan.html>; IRCC, “Notice – Supplementary Information for the 2025–2027 Immigration Levels Plan”, <https://www.canada.ca/en/immigration-refugees-citizenship/news/notices/supplementary-immigration-levels-2025-2027.html>

⁶⁷ These are: 1) protection class for refugees and other protected persons; 2) family class, intended to facilitate family reunification; 3) economic class, including programs for workers and businesses; 4) other categories, which allow authorities to grant permanent residence to individuals, based on discretionary policy or powers. Article 25 (1) IRPA.

⁶⁸ Statistics Canada, Permanent Residents by Country of Citizenship and Immigration Category, January 2015 - September 2024 https://www.ircc.canada.ca/opendata-donneesouvertes/data/EN_ODP-PR-CitzImmCat.xlsx (accessed on 5 November 2024).

⁶⁹ Authorities use the National Occupational Classification (NOC) system to categorize jobs based on the training, education, experience and responsibilities (TEER) they require. Management occupations are in TEER category 0 (high-skilled), while occupations that usually need short-term work demonstration and no formal education are in TEER category 5 (low-skilled). Government of Canada, “Find your National Occupation Classification (NOC)”, <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/eligibility/find-national-occupation-code.html>

⁷⁰ Statistics Canada, Permanent Residents by Country of Citizenship and Immigration Category, January 2015 - September 2024 (previously cited).

⁷¹ Statistics Canada, Permanent Residents by Country of Citizenship and Immigration Category, January 2015 - September 2024 (previously cited).

⁷² Statistics Canada, Permanent Residents by Country of Citizenship and Immigration Category, January 2015 - September 2024 (previously cited).

QUEBEC'S IMMIGRATION POWERS

Immigration is a shared power between the Canadian government and provinces.⁷³ In the case of Quebec, The *Canada–Québec Accord relating to Immigration and Temporary Admission of Aliens* of 1991⁷⁴ granted Quebec significant powers to manage its economic migration. According to the agreement, the province has the power to select permanent and temporary migrants. Migrant workers wishing to work in Quebec under the TFWP need to get the Quebec Selection Certificate before applying for a work permit before Canadian federal authorities.

Quebec has established its own permanent immigration programs, such as the Quebec Experience Program and the Regular Skilled Worker Program, which are also designed for high-skilled workers. The two pilot programs that allow medium and “low-skilled” workers to access permanent residence are the Permanent immigration pilot program for workers in food processing and the Permanent immigration pilot program for orderlies (see Chapter 4).⁷⁵

1.2.2 TEMPORARY LABOUR MIGRATION VISAS AND THE INTERNATIONAL MOBILITY PROGRAM

Temporary labour migration visas have almost quadrupled between 2015 and 2023, reaching the figure of 946,785 temporary permit holders in 2023, 3.5 times the number of permanent labour migration visas.⁷⁶ Two different labour migration programs combine to produce these figures: the TFWP and the International Mobility Program (IMP). In 2023, Canada granted 763,195 work permits under the IMP, more than 80% of all temporary work permits.⁷⁷

While the aim of the TFWP is to temporarily fill the “labour shortages” of the Canadian economy (see below), the IMP pursues “to advance Canada’s broad economic and cultural national interests”,⁷⁸ enabling greater labour mobility and exchanges. In 2023, 62.4% of the IMP permits were issued under the “Canadian interests” category, namely work permits that would have “significant social, cultural or economic benefits” to Canada.⁷⁹

Whereas under the TFWP, workers can only be granted temporary closed permits that tie them to a single employer, under the IMP workers can be granted either open or tied temporary permits.⁸⁰ Official statistics on the percentage of open and tied visas granted under the IMP are not publicly available.⁸¹ The different objectives of the two temporary programs entail two different hiring and management systems. Hiring a migrant worker under the TFWP is subjected to a licence system, the Labour Market Impact Assessment (LMIA), overseen by Employment and Social Development Canada (ESDC), for which employers must pay a

⁷³ Article 95, The Constitutions Act 1867-1982.

⁷⁴ Accord Canada-Québec relatif à l'immigration et à l'admission temporaire des aubains, (Accord Gagnon-Tremblay-McDougall), https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/immigration/publications-adm/accord/AC_canada_quebec_immigration_MIDI.pdf

⁷⁵ Gouvernement du Québec, “Immigration Programs for skilled workers”, <https://www.quebec.ca/en/immigration/permanent/skilled-workers>

⁷⁶ Calculations made on the basis of data provided by Statistics Canada on TFWP and IMP permit holders. Statistics Canada, Canada - Temporary Foreign Worker Program (TFWP) work permit holders by province/territory of intended destination, program and year in which permit(s) became effective, January 2015 - August 2024 (previously cited), and Canada - International Mobility Program (IMP) work permit holders by province/territory of intended destination, program and year in which permit(s) became effective, January 2015 - September 2024, <https://open.canada.ca/data/en/dataset/360024f2-17e9-4558-bfc1-3616485d65b9/resource/d5779439-e0fb-4e6f-82d0-c6070f654bec> (accessed on 22 November 2024).

⁷⁷ The number of work permits under the IMP has quadrupled between 2015 and 2023, going from 186,195 in 2015, to 763,195 in 2023. Statistics Canada, International Mobility Program (IMP) work permit holders by province/territory of intended destination, program and year in which permit(s) became effective, January 2015 - September 2024 (previously cited).

⁷⁸ Employment and Social Development Canada (ESDC), *Overhauling the Temporary Foreign Worker Program*, June 2014, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/reports/overhaul.html#h2.4>

⁷⁹ Figure calculated on the basis of data included in Statistics Canada, International Mobility Program (IMP) work permit holders by province/territory of intended destination, program and year in which permit(s) became effective, January 2015 - September 2024, (previously cited).

⁸⁰ IRCC, “Hire a worker without a labour market impact assessment: How to hire a temporary worker”, <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/hire-temporary-foreign-international-mobility-program/how-to-hire.html>

⁸¹ According to IRCC, in 2023, 84% of employer-specific permits were issued under the IMP and 16% under the TFWP. IRCC, “CIMM – Open vs. Employer-Specific Work Permits, February 7, 2024”, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/cimm-feb-7-2024/open-employer-specific-work-permits.html>

CAD\$1,000 processing fee (see below). By contrast, the IMP is exempted from the LMIA requirement, and employers do not generally have to pay any fee.⁸²

Included under the IMP are a flexible range of categories and programs based on free trade and reciprocity agreements, and aimed at facilitating youth, academic and intra-company exchanges, or allowing post-graduate students and their spouses to work in Canada. The IMP is heavily oriented towards facilitating temporary labour mobility for high-skilled and high-wage workers and postgraduates and it is also conceived as a vehicle to ease businesspersons' entry into Canada without the need to get a work permit.⁸³ As a result, the IMP includes a variety of high-skilled and managerial roles, including occupations in IT and programming, engineering, business and consultancies, financial services, academia, sports and fitness.⁸⁴

NATIONALITY	IMP PERMITS IN 2023
INDIA	251,315
UKRAINE ⁸⁵	103,305
IRAN ⁸⁶	47,395
PHILIPPINES	35,655
FRANCE	32,145
CHINA	30,540
USA	19,170
UNITED KINGDOM	13,685
MEXICO	13,660
NIGERIA	13,360

Table 1: Top nationalities under the International Mobility Program in 2023⁸⁷

1.3 THE TEMPORARY FOREIGN WORKER PROGRAM

The TFWP allows employers in Canada to hire for agricultural and other low-wage jobs involving physical labour, some of which are seasonal. Many of the positions filled through the TFWP are difficult, physically demanding jobs in isolated settings (such as farms) with low rates of pay, that Canadians do not wish to do.

⁸² Only in some cases, employers hiring under the IMP are required to pay a compliance fee that amounts to CAD\$230. Government of Canada, "Hire a worker without a labour market impact assessment: How to hire a temporary worker" (previously cited).

⁸³ ESDC, *Overhauling the Temporary Foreign Worker Program* (previously cited).

⁸⁴ Statistics Canada, Canada - International Mobility Program (IMP) work permit holders by province/territory of intended destination, intended occupation (4-digit NOC 2011) and year in which permit(s) became effective, January 2015 - April 2024, <https://open.canada.ca/data/en/dataset/360024f2-17e9-4558-bfc1-3616485d65b9/resource/8af07cf1-2d7a-4428-a27c-4d6e719b18cf> (accessed on 25 November 2024). In Quebec, university professors and lecturers, post-secondary teaching and research assistants, and information system analysts and consultants were the main reported occupations in 2023. In Ontario information systems analysts and consultants, software engineers and designers and program leaders and instructors in sports and fitness were the main reported occupations of permit holders.

⁸⁵ On March 17, 2022, the Government of Canada put in place special measures to help Ukrainians. IRCC, "Canada-Ukraine Authorization for Emergency Travel", <https://www.canada.ca/en/immigration-refugees-citizenship/news/2022/03/canada-ukraine-authorization-for-emergency-travel.html>

⁸⁶ Canadian authorities introduced special measures for Iranians in March 2023, due to the situation in the country. These measures allowed Iranians in Canada to extend and change their temporary status and apply for an open work permit or for a student visa, IRCC, "Situation in Iran: Temporary immigration, passport and citizenship measure", <https://www.canada.ca/en/immigration-refugees-citizenship/services/iran.html> (last accessed on 25 November 2024).

⁸⁷ Statistics Canada, International Mobility Program work permit holders by country of citizenship and year in which permit(s) became effective, January 2015 - September 2024, https://www.ircc.canada.ca/opendata-donneesouvertes/data/EN_ODP-TR-Work-IMP_CITZ.xlsx (accessed on 24 November 2024).

In 2023, Canada granted 183,590 TFWP permits.⁸⁸ The primary sector of the TFWP is agriculture and the agri-food industry. In 2023, there were 70,267 TFWP workers in agricultural industries, concentrated in Ontario (41.3%), Quebec (33.1%), and British Columbia (15.6%).⁸⁹ Another 45,428 were working in food and beverage manufacturing.⁹⁰

Most migrant workers who arrive in Canada as TFWP participants are from low- and middle-income countries in the Global South, with a majority of Black, Latin Americans, and other racialized populations. In 2023, the vast majority of the permits granted to migrant workers under the TFWP were issued to people from Mexico (25%), India (15.4%), the Philippines (11.8%), Guatemala (11.2%), and Jamaica (6.2%), these five countries together representing almost 70% of the work permits granted.⁹¹

Migrant workers participating in the TFWP constitute a significant proportion of the labour force within the agricultural sector. In 2022, 23% of the employees in agricultural industries in Canada were migrant workers (64,660 out of 276,977).⁹² Migrant workers represented 34% of the labour force in agriculture in Ontario, and 30.5% in Quebec.⁹³

At the time of writing, the Canadian federal government had launched a consultation to reform the Temporary Foreign Workers Program (TFWP), sharing its plans to create a new stream under the TFWP - the New Foreign Labour Program for Agriculture and Fish Processing Stream - which would bring together the existing Primary Agricultural Stream under the TFWP and fish processing.⁹⁴ Canadian federal authorities were also studying the possibility of replacing closed permits with sectoral permits within the Agri-food sector. Many details are still unknown, including the enforcement of this new regime.

1.3.1 TFWP POLICY AND REGULATIONS

The TFWP was established in 1973 to serve as a “last and limited resort to allow employers to bring foreign workers to Canada on a temporary basis to fill jobs for which qualified Canadians are not available.”⁹⁵ Over the years, authorities have introduced changes to the program. In 2002 they introduced the “low-skilled pilot program”,⁹⁶ and in 2011, the Agricultural stream, which allowed the hiring of migrant workers for non-seasonal agricultural jobs.

In 2014, in response to criticism that migrant workers were “taking jobs away” from Canadians,⁹⁷ the Canadian government announced an “overhaul” of the program. Previously part of the TFWP, the IMP was established as a separate program. A 2014 policy paper published by Employment and Social Development Canada shows that the Canadian government expressly distinguished the IMP from the TFWP, using skills and nationality as a proxy for class and race.⁹⁸ The Canadian government continued to conceive the TFWP as a tool for employers “to fill jobs for which qualified Canadians are not available”, mainly targeting low-skilled workers from “developing countries” and offering exclusively employer-specific (tied) work permits. The IMP, on the other hand, was designed as a foreign-policy tool “to advance Canada’s broad economic and cultural national interest”, targeting mainly high-skill / high-wage nationals of “highly developed” countries and offering “greater mobility” and “generally open permits”. A Table quoted from that policy paper is reproduced below (see: Evidence 1, *Policy distinctions between TFWP and IMP*).

⁸⁸ The number of visas granted under the TFWP has increased by 250% since 2015. Statistics Canada, Temporary Foreign Worker Program Work Permit Holders by Country of Citizenship and Year in which Permit(s) became effective, January 2015 - September 2024, https://www.ircc.canada.ca/opendata-donneesouvertes/data/EN_ODP-TR-Work-TFWP%20CITZ.xlsx (accessed on 21 November 2024).

⁸⁹ Statistics Canada, Table 32-10-0218-01 Temporary foreign workers in the agriculture and agri-food sectors, 20 June 2024, <https://doi.org/10.25318/3210021801-eng>

⁹⁰ Statistics Canada, Table 32-10-0218-01 Temporary foreign workers in the agriculture and agri-food sectors (previously cited).

⁹¹ Statistics Canada, Temporary Foreign Worker Program Work Permit Holders by Country of Citizenship and Year in which Permit(s) became effective, January 2015 - September 2024 (previously cited).

⁹² Statistics Canada, Table 32-10-0215-01 Employees in the agriculture sector, and agricultural operations with at least one employee, by industry, 18 April 2024, <https://doi.org/10.25318/3210021501-eng>

⁹³ Percentages calculated on the basis of the data provided by Statistics Canada, Table 32-10-0216-01 Employees in the agriculture sector, and agricultural operations with at least one employee, by province (previously cited).

⁹⁴ Government of Canada, Annex A: Proposed Features of the New Temporary Foreign Worker Agriculture and Fish Processing Stream; Annex B: Occupational Scope of the New Temporary Foreign Worker Agriculture and Fish Processing Stream. On file with Amnesty International.

⁹⁵ Standing Senate Committee on Social Affairs, Science and Technology, “Act Now: Solutions for Temporary and Migrant Labour in Canada”, May 2024, https://sencanada.ca/content/sen/committee/441/SOCI/reports/2024-05-17_SOCI_Migrant_Report_e.pdf, p. 9.

⁹⁶ ESDC, *Evaluation of the Temporary Foreign Worker Program*, June 2021, https://www.canada.ca/content/dam/esdc-edsc/documents/corporate/reports/evaluations/temporary-foreign-worker/SSPB-ED-TFWP-Report-PPTVersion-ENG-20220217-V08-Final-PPT_JP.pdf

⁹⁷ Igljka Ivanova, “Temporary Foreign Worker Program Takes Jobs Away from Canadians”, *Policy Note*, 24 April 2014, <https://www.policynote.ca/temporary-foreign-worker-program-takes-jobs-away-from-canadians/>

⁹⁸ Government of Canada, *Overhauling the Temporary Foreign Worker Program* (previously cited), p. 1.

Temporary Foreign Worker Program Objective: Last resort for employers to fill jobs for which qualified Canadians are not available	International Mobility Programs Objective: To advance Canada's broad economic and cultural national interest
• Based on employer demand to fill specific jobs	• Not based on employer demand
• Unilateral and discretionary	• Base largely on multilateral/bilateral agreements with other countries (e.g. NAFTA, GATS)
• Employer must pass Labour Market Impact Assessment (formerly LMO)	• No Labour Market Impact Assessment required
• Lead department ESDC	• Lead department CIC
• No reciprocity	• Based largely on reciprocity
• Employer-specific work permits (TFWs tied to one employer)	• Generally open permits (participants have greater mobility)
• Majority are low-skilled (i.e. farm workers)	• Majority are high skill / high wage
• Last and limited resort because no Canadians are available	• Workers & reciprocity are deemed to be in the national economic and cultural interest
• Main source countries are developing countries	• Main source countries are highly developed countries

Evidence 1: Policy distinctions between TFWP and IMP. Source: Canadian government, 2014⁹⁹

The TFWP requires a two-step authorization to hire. First, the employer must apply for and receive a Labour Market Impact Assessment (LMIA) demonstrating the impossibility of filling in a vacancy in the internal labour market, for which they must pay a CAD\$1000 processing fee.¹⁰⁰ Second, the potential employee must apply for a work permit and a permit to enter the country (for which they require the aforementioned LMIA).¹⁰¹

Potential employees must agree to leave Canada at the end of their employment and not to undertake any work they are not previously authorized to do. All employees hired under the TFWP are “tied” to their employer through an employer-specific work permit, also known as a “closed” work permit. Work permits issued for the TFWP specify the name of the only employer the individual is allowed to work for, the specific occupation (which is designated by a code), the duration of allowable employment, and may also specify the location where the individual is allowed to work.¹⁰²

To change employers, workers must find a second employer who has applied for another LMIA on their behalf or has one available. The employee must then apply for a new work permit with the second employer and must wait until its receipt before working for them.¹⁰³

Due to the complexity of the process and the non-transferable nature of permits, many individuals have little to no control over the employer they will work for during hiring or once they arrive in the country. Many employers utilize the services of third-party recruiters to find and match employees to available jobs. In practice, this means that many employers and potential employees do not know one another or have any contact before initial employment, though employers who are satisfied with an employee’s performance may invite them back year-on-year for seasonal work, or renew their work contracts and LMIA if they wish the individual to remain as an employee. Workers, however, have no ability to choose their employer in most cases, and no control over whether or not they are called back to a specific job or to renew their permit.

⁹⁹ Government of Canada, *Overhauling the Temporary Foreign Worker Program* (previously cited), p. 1.

¹⁰⁰ ESDC, “Program requirements for low-wage positions” <https://www.canada.ca/en/employment-social-development/services/foreign-workers/median-wage/low/requirements.html#h2.3> (accessed on 26 November 2024).

¹⁰¹ IRCC, “Work permit: About the process”, <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/permit/temporary/work-permit.html>, (accessed on 29 June 2024). Some provinces require additional permissions to hire. In Quebec, potential employers must simultaneously submit authorization requests from ESDC via the LMIA process, as well as directly to the Government of Quebec. Government of Quebec, Comprendre les autorisations à obtenir pour embaucher un travailleur étranger temporaire, <https://www.quebec.ca/entreprises-et-travailleurs-autonomes/administrer-gerer/embauche-gestion-personnel/recruter/embaucher-immigrant/embaucher-travailleur-etrange-temporaire/comprendre-autorisations> (accessed on 28 June 2024).

¹⁰² IRCC, “Operational Manuals, Temporary workers: Eligibility and admissibility”, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/eligibility/eligibility-admissibility-conditions-including-validity-period.html>, (accessed on 24 June 2024).

¹⁰³ With the exception of SAWP workers, who may be able to change employers without getting a new work permit. ESDC, Temporary foreign workers: Your rights are protected, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/protected-rights.html> (accessed on 5 August 2024).

1.3.2 THE TFWP STREAMS

Within the TFWP, there are five sub-programs, called “streams”. Each of the streams has additional and varying requirements based on the wage offered for the position,¹⁰⁴ the sector of work, and the country of origin of the employee (Table 2: TFWP streams).

Primary Agriculture stream	Occupation: agriculture, National Commodities List (NCL) products.	SAWP	Country of origin: Mexico and participating Caribbean countries. Salary: low wage or high wage. Visa length: up to eight months. NB: LMIA fee exempt.
		Agricultural stream	Country of origin: any. Salary: low wage or high wage. Visa length: up to three years (depending on high- or low-wage position). NB: LMIA fee exempt.
Low Wage stream	Occupation: any, including agricultural work for non-NCL products. Country of origin: any. Salary: below the median wage in the province or territory. Visa length: up to two-year visa until September 2024; currently one-year visa.		
High Wage stream	Occupation: any, including agricultural work for non-NCL products. Country of origin: any. Salary: above the median wage in the province. Visa length: up to three-year visa.		
Caregivers	Occupation: caregivers. Country of origin: any. Salary: low wage or high wage. Visa length: up to three-year visa.		
Global Talent Stream	Occupation: positions requiring a “unique and specialized talent” (advanced degree and knowledge; minimum 5 years of experience); or positions in the “global talent occupations list” (IT, engineering, sciences, etc.) Country of origin: any. Salary: high wage (minimum salary requirements apply). Visa length: up to three-year visa. ¹⁰⁵		

Table 2: TFWP streams. Source: Government of Canada

Employers recruiting through the TFWP must ensure that anybody recruiting on their behalf does not charge or recover any recruitment fees, directly or indirectly, from the workers.¹⁰⁶ They are also forbidden to directly or indirectly recover or charge employees for the cost of their LMIA to hire foreign workers. Employers are responsible for obtaining and paying for private health insurance that covers emergency medical care for any period during which the TFWP worker is not covered by the applicable provincial/territorial health insurance system, and for ensuring that workers are covered by the provincial/territorial workplace safety insurance provider.¹⁰⁷

¹⁰⁴ A salary below the median wage in the province or territory is considered to be “low wage”; while a salary above the median wage in the province is considered to be “high wage”. The provincial/territorial median wage, which is set each year in April, was (CAD) \$28.39 in Ontario, \$27.47 in Quebec, and \$28.85 in British Columbia until 8 November 2024, when the threshold was increased by 20%. ESDC, “Hire a temporary foreign worker in a high-wage or low-wage position”, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/median-wage.html> (accessed on 26 November 2024).

¹⁰⁵ ESDC, “Program Requirements for the Global Talent Stream”, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/global-talent/requirements.html> (accessed on 25 June 2024).

¹⁰⁶ ESDC, “Hire a temporary foreign worker through the Agricultural Stream: Program requirements”, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/agricultural/requirements.html>, (accessed on 19 August 2024); “Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements”, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural/requirements.html>, (accessed on 19 August 2024); “Program requirements for low-wage positions” (previously cited).

¹⁰⁷ ESDC, “Hire a temporary foreign worker through the Agricultural Stream: Program requirements” (previously cited); “Program requirements for low-wage positions” (previously cited); “Hire a temporary foreign worker in a high-wage position”, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/median-wage/high.html> (accessed on 26 November 2024). The standard contract of employment for SAWP workers includes private health insurance that covers emergency medical care for any period during which they are not covered by the applicable provincial health insurance system. Employers must ensure that all workers

Allowable deductions from TFWP workers' wages vary depending on the stream, the bilateral agreements made with the individual's country of permanent residence and provincial laws.¹⁰⁸ These and other unique characteristics of the streams that are most relevant to this research are summarized below.

PRIMARY AGRICULTURE STREAM

The fees and regulations for employers who want to hire a temporary foreign agricultural worker are dependent on whether their products are part of the National Commodities List (NCL).¹⁰⁹ If what they produce is on the list, employers do not have to pay for an LMIA and can hire workers through the Agricultural stream or the SAWP. If their products are not on the list, employers must pay for a LMIA and can hire positions through the TFWP's high or low wage streams (see below).¹¹⁰

Agricultural stream

Employers recruiting through the Agricultural stream must pay for the round-trip transportation costs between the worker's country of residence and the location of work in Canada; they cannot recover the transportation costs from the worker.¹¹¹

Employers must also provide workers with "adequate, suitable and affordable" housing, either on-farm or off-site, and daily transportation to and from work sites at no cost. They can deduct accommodation costs from wages up to a maximum of \$30/week. Workers can choose not to stay in the housing provided by the employer and leave in favour of private accommodation.¹¹²

Seasonal Agricultural Worker Program (SAWP)

SAWP is limited to workers from Mexico, Jamaica and other participating Caribbean countries.¹¹³ Bilateral agreements between Canada and each participating state govern the terms of hire and employment. Under the bilateral agreements, sending states must, among other things, recruit and select the workers and appoint representatives to assist them in Canada (known as "liaison officers").¹¹⁴ As the sending state matches employers and workers, employers do not necessarily know their workers' names prior to arrival.¹¹⁵

Contracts for SAWP workers are standardized and non-modifiable; they are signed by the worker, the employer and the relevant "liaison officer".¹¹⁶ Workers are employed for up to eight months between 1 January and 15 December and must depart Canada no later than 15 December of each year.¹¹⁷ They can return year after year if called back (named) by an employer and if the sending country agrees.

Employers recruiting through the SAWP must pay for the round-trip transportation costs between the worker's country of residence and the location of work in Canada. However, unlike the Agricultural stream, they can recover up to 50% of the transportation costs through payroll deductions.¹¹⁸

register for provincial/territorial health insurance. ESDC, "Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements" (previously cited).

¹⁰⁸ For instance, In Quebec, Article 49 of the Act respecting labour standards (Loi sur les normes du travail) requires that workers agree with deductions in writing.

¹⁰⁹ The National Commodity List includes: apiary products, bovine, dairy, duck, flowers, fruits, vegetables, grains, horse, maple syrup, mink, mushrooms, nursery-grown trees, greenhouses/nurseries, oil seeds, pedigreed canola seed, poultry, seed corn, sheep, sod, swine tobacco. ESDC, "Hire a temporary foreign worker through the Agricultural Stream: Overview", <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/agricultural.html>, (accessed on 19 August 2024).

¹¹⁰ ESDC, "Hire a temporary foreign agricultural worker", <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural.html>, (accessed on 19 August 2024).

¹¹¹ According to ESDC, "These costs must be paid upfront by the employer to ensure that they aren't part of any negotiations related to the employment contract. This process helps protect TFWs, who may be tempted to accept alternative travel arrangements in return for a job offer." ESDC, "Hire a temporary foreign worker through the Agricultural Stream: Program requirements" (previously cited).

¹¹² ESDC, "Hire a temporary foreign worker through the Agricultural Stream: Program requirements" (previously cited).

¹¹³ Caribbean countries participating in the SAWP are Anguilla, Antigua and Barbuda, Barbados, Dominica, Grenada, Jamaica, Montserrat, St. Kitts-Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. ESDC, "Hire a temporary worker through the Seasonal Agricultural Worker Program: Overview", <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural.html>, (accessed on 30 June 2024).

¹¹⁴ ESDC, "Hire a temporary worker through the Seasonal Agricultural Worker Program: Overview" (previously cited).

¹¹⁵ ESDC, "Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements" (previously cited).

¹¹⁶ Under the standard contract for Mexican SAWP workers, and the standard contract for Caribbean SAWP workers employed in British Columbia, only the "liaison officer", not the worker, can rescind the contract if the employer does not fulfil their obligations. ESDC, "Contract for the employment in Canada of seasonal agricultural worker from Mexico – 2024", <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural/apply/mexico.html>, (accessed on 19 August 2024); "Contract for the employment in Canada of Commonwealth Caribbean seasonal agricultural workers – 2024", <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural/apply/caribbean.html>, (accessed on 21 August 2024).

¹¹⁷ ESDC, "Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements" (previously cited).

¹¹⁸ ESDC, "Contract for the employment in Canada of seasonal agricultural worker from Mexico – 2024" (previously cited); "Contract for the employment in Canada of Commonwealth Caribbean seasonal agricultural workers – 2024" (previously cited). In British Columbia, no fees for transportation can be recovered.

Employers must provide daily transportation to and from the work site at no cost to the worker.¹¹⁹ Employers must also provide workers with “adequate, suitable and affordable” housing, either on-farm or off-site, at no cost to the worker.¹²⁰

Employers can transfer SAWP workers to another farm/employer, subject to the worker’s consent and written approval by both ESDC and the worker’s home government representative. The worker can request the transfer but cannot initiate it.¹²¹

LOW WAGE STREAM

Wages offered for positions in this stream are below the median wage for the province or territory. At the time Amnesty International conducted its research, these positions could be approved for a duration of up to two years.¹²² However, authorities have recently adopted new measures allegedly intended to reduce the “reliance of Canadian employers on the program”. These measures include a reduction of the maximum duration of employment from two years to one year and a 10% cap on temporary foreign workers out of the total workforce that employers can hire.¹²³

Low-wage positions require employers to provide round-trip transportation costs for workers to arrive at their work location and return to their country of residence when their position is finished. Transportation costs cannot be recovered from workers.¹²⁴ Employers must also provide “suitable and affordable housing” or ensure that it is available, costing no more than 30% of pre-tax wages, including municipal services like water and electricity.¹²⁵

HIGH WAGE STREAM

This stream is for positions offering a wage that is at or above the provincial/territorial median wage. These positions can be approved for a duration of up to three years.¹²⁶ Employers hiring high-wage positions through this stream do not have to pay for transportation or accommodation.¹²⁷

IN-HOME CAREGIVERS

This stream allows families to hire live-in or live-out foreign workers to provide full-time care for children or individuals with high medical needs, including elderly persons or people with disabilities, and those with chronic or terminal illnesses.¹²⁸

Authorities have made substantive changes to the caregiving stream over the years, through the creation of ad hoc pilot programs.¹²⁹ The last pilots, the Home Child Care Provider Pilot and the Home Support Pilot were introduced in 2019 and gave caregivers the option to work in Canada and apply for permanent residence.¹³⁰ The 2019 changes directed employers to the pilot schemes to hire caregivers who were outside

¹¹⁹ ESDC, “Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements” (previously cited).

¹²⁰ ESDC, “Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements” (previously cited). Article 209.3(1)(a)(vi) of IRPR lays down the employer’s obligation to provide accommodation to foreign nationals hired to perform seasonal work under a bilateral agreement. In British Columbia, employers can deduct accommodation costs from wages and workers can find private accommodation in the community.

¹²¹ ESDC, “Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements” (previously cited).

¹²² ESDC, “Hire a temporary foreign worker in a low-wage position”, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/median-wage/low.html>, (accessed on 26 November 2024).

¹²³ ESDC, “Minister Boissonnault reducing the number of temporary foreign workers in Canada”, 26, August 2024, <https://www.canada.ca/en/employment-social-development/news/2024/08/minister-boissonnault-reducing-the-number-of-temporary-foreign-workers-in-canada.html>

¹²⁴ ESDC, “Program requirements for low-wage positions” (previously cited).

¹²⁵ ESDC, “Program requirements for low-wage positions” (previously cited).

¹²⁶ ESDC, “Hire a temporary foreign worker in a high-wage position” (previously cited).

¹²⁷ ESDC, “Hire a temporary foreign worker in a high-wage position” (previously cited).

¹²⁸ ESDC, “Hire a temporary worker as an in-home caregiver: Overview”, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/caregiver.html> (accessed on 26 November 2026).

¹²⁹ Under the Live-in Caregiving program (1992-2013), caregivers could migrate to Canada in a two-step process. After two years of tied work in the residence of their employers, they were eligible for permanent residence. Following the 2014 reforms of the TFWP, the Live-in Caregiving program was replaced by two five-year pilots, Caring for Children and Caring for People with High Medical Needs, which ended in 2019. IRCC, “Become a permanent resident – Live-in Caregivers”, <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/permit/caregiver-program/become-permanent-resident.html> (accessed on 27 August 2024); on the pilots see, Ministerial Instructions 14 Establishing the Caring for Children Class and the Caring for People with High Medical Needs Class, Canada Gazette, Part I, Volume 148, Number 48: Government Notices, 29 November, 2014, [gazette.gc.ca/rp-pr/p1/2014/2014-11-29/html/notice-avis-eng.html#na1](https://www.gazette.gc.ca/rp-pr/p1/2014/2014-11-29/html/notice-avis-eng.html#na1)

¹³⁰ There were two modalities within the pilot for caregivers with no or little experience and for those who had 24 months of experience, which was later reduced to 12. Caregivers recruited under these pilots obtained sectoral permits that allowed them to change employers in the caregiving sector. Language and education were introduced as eligibility requirements. IRCC, Ministerial Instructions 32 (MI32) and 63 (MI63): Caregiver Program <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/ministerial-instructions/other-goals/mi32.html> (accessed on 27 August 2024); IRCC, Ministerial instructions 32, regarding the processing of applications under the Caring for Children and the Caring for People with High Medical Needs classes, Canada Gazette, Part I, Volume 153, Number 26, 29 June 2019, <https://www.gazette.gc.ca/rp-pr/p1/2019/2019-06-29/html/notice-avis-eng.html> and Canada Gazette,

Canada, while only caregivers already in Canada could be hired for caregiving positions under the TFWP.¹³¹ These pilot programs closed in June 2024, and authorities have announced that a new pilot program will take their place.¹³²

Caregivers can otherwise be hired under the high wage or low wage streams. They must be employed for a minimum of 30 hours per week and must be able to read and speak either French or English.¹³³

Employers hiring low-wage caregivers are required to pay for the transportation costs to the work location in Canada.¹³⁴ Since 2014, employers cannot require a caregiver to live in their home, but a live-in arrangement can be mutually agreed upon.¹³⁵ If no accommodation is provided in-home, the employer is responsible for ensuring that suitable and affordable housing is available.¹³⁶

Part I, Volume 157, Number 17: Government Notices, 29 April 2023, <https://canadagazette.gc.ca/rp-pr/p1/2023/2023-04-29/html/notice-avis-eng.html>

¹³¹ ESDC, "Notice: Important information for employers hiring in-home caregivers from overseas", <https://www.canada.ca/en/employment-social-development/corporate/notices/hiring-caregivers-overseas.html> (accessed on 24 June 2024). Quebec was an exception to this new limitation, and entrants from outside of Canada were still eligible for the TFWP. IRCC, Work temporarily as a caregiver, <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/caregivers/work-temporarily-caregiver.html> (accessed on 24 June 2024).

¹³² In June 2024, IRCC announced a forthcoming "enhanced pilot" that will allow for permanent residence upon arrival for some, though eligibility requirements and full operational details have not yet been released. IRCC, "Canada announces new pilot programs to support caregivers and Canadian families, intends to make the caregivers program permanent", 3 June 2024, <https://www.canada.ca/en/immigration-refugees-citizenship/news/2024/06/canada-announces-new-pilot-programs-to-support-caregivers-and-canadian-families.html>

¹³³ ESDC, "Hire a temporary worker as an in-home caregiver: Program Requirements", <https://www.canada.ca/en/employment-social-development/services/foreign-workers/caregiver/requirements.html> (accessed on 26 November 2024).

¹³⁴ ESDC, "Hire a temporary worker as an in-home caregiver: Program Requirements" (previously cited).

¹³⁵ If a live-in arrangement is agreed upon, the worker must have a private and furnished space with a lock and safety bolt on the inside, that meets safety regulations. Foreign caregivers cannot be charged room and board for the in-house accommodation. ESDC, "Hire a temporary worker as an in-home caregiver: Program Requirements" (previously cited).

¹³⁶ ESDC, "Hire a temporary worker as an in-home caregiver: Program Requirements" (previously cited).

2. LABOUR EXPLOITATION IN THE TEMPORARY FOREIGN WORKER PROGRAM

“We are like slaves tied to an employer. This is modern slavery in an indirect manner [...] The closed permit gives employers the opportunity to abuse us. The abuse starts as the employers [...] pay so much money [to hire someone], they consider we must do what they want. They think ‘I can’t spend my money for nothing; you are going to do what I want.’”

“Stacey”.¹³⁷

This chapter shows the range of human rights abuses that migrant workers with tied visas have experienced and are exposed to in Canada under the TFWP. They include, among others: wage theft and excessive working hours; surveillance, lack of privacy and inadequate housing; racist abuse and gender-based violence. Abuses affect migrant workers across nationalities and gender - although some have a distinct gender impact - and across different sectors and skill levels. When analysed cumulatively, the abuses documented in this chapter depict an environment in which migrant workers are dehumanized and discriminated against, and where racialized labour is extracted and the migrant worker carrying it out can be disposed of at the will of the employer.

As explained below (see Chapter 4), the abuses must be understood as an intrinsic result and a systemic feature of the TFWP, and inherently linked to the employers’ power over the workers’ labour conditions and status.

¹³⁷ Interview in person with Stacey (not her real name), Montreal, 15 September 2023.

All workers in Canada, regardless of their migration or work status, are protected by international human rights norms and standards. Canada is a state party to most of the core international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

In ratifying the ICESCR, Canada committed to guarantee the right to work and rights at work to all, including migrant workers, within the country, including “the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts”¹³⁸ and “the right of everyone to the enjoyment of just and favourable conditions of work”, including adequate remuneration that allows a person and their family to live a decent life.¹³⁹ The Committee on Economic, Social and Cultural Rights (CESCR) has recommended that “laws and policies should ensure that migrant workers enjoy treatment that is no less favourable than that of national workers in relation to remuneration and conditions of work.”¹⁴⁰

The International Labour Organization (ILO) has contributed to shaping the concept of just and favourable conditions of work through a body of conventions. Canada has currently ratified nine out of ten of the ILO fundamental Conventions: the Forced Labour Convention, 1930 (No. 29); the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Equal Remuneration Convention, 1951 (No. 100); the Abolition of Forced Labour Convention, 1957 (No. 105); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Minimum Age Convention, 1973 (No. 138); the Worst Forms of Child Labour Convention, 1999 (No. 182); and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).¹⁴¹

Although Canada ratified the ICESCR in 1976, it is yet to codify it in domestic law. The conditions of work most individuals experience are regulated by provincial and territorial authorities, including protections available to workers, minimum wage, statutory holidays and other rights, and occupational safety, which varies by province.¹⁴²

Ontario’s employment standards are regulated by the Employment Standards Act, or ESA.¹⁴³ While the ESA provides for general protections such as maximum working hours, minimum rest periods, and pay rates, including a requirement for overtime pay, there are notable exceptions to some categories of workers, including residential care and farm workers.¹⁴⁴ The Employment Protection for Foreign Nationals Act (EPFNA) specifically addresses employment of foreign nationals.¹⁴⁵

In Quebec, migrant workers are protected by the same rights and obligations as all other workers under the Act respecting Labour Standards (*Loi sur les normes du travail*) and the Act respecting Occupational Health and Safety (*Loi sur la santé et la sécurité au travail*). Among other provisions, the Act respecting Labour Standards regulates recruiters and prohibits fees charged to workers. Agricultural workers are excluded from some labour standards provisions, including maximum hours and overtime.¹⁴⁶

Legislation in these provinces restricts the rights of agricultural workers to unionize, affecting the majority of migrant workers in the province (see section 3.2).

The applicable sections of the international instruments summarized in the box above will be discussed in more detail under each subject heading.

¹³⁸ Article 6 ICESCR.

¹³⁹ Article 7 ICESCR.

¹⁴⁰ Committee on Economic Social and Cultural Rights, (CESCR), General Comment 23: On the Right to Just and Favourable Conditions of Work (Article 7 of the ICESCR), 27 April 2016, UN Doc. E/C.12/GC/23, para. 47(e).

¹⁴¹ Canada has not ratified the Occupational Safety and Health Convention, 1981 (No. 155).

¹⁴² The Canada Labour Code only regulates workers and employers in federally regulated workplaces, which most industries do not fall in.

¹⁴³ Employment Standards Act, 2000, S.O. 2000, c. 41 (Ontario ESA), <https://www.ontario.ca/laws/statute/00e41>

¹⁴⁴ Sections VII and VIII of the ESA regulate hours of work and eating periods, and overtime pay. The ESA allow employers to “...pay to each employee an amount that is at least equal to the amount the employee would have earned at the minimum wage”; and can do so by setting a “piece work” rate that one would “reasonably assume” earns at least minimum wage. Piece work means “a rate of pay calculated on the basis of a unit of work performed”. Ontario ESA (previously cited), O. Reg. 285/01: When work deemed to be performed, exemptions and special rules, s. 25(2).

¹⁴⁵ Of note, this act prohibits employers or recruiters from: charging fees to an employee or attempting to recover fees from employees (with the exception of SAWP workers, who can be charged for their flights if their contracts allow for it); using the services of a recruiter who has charged an illegal fee; using the services of another recruiter if they have charged an illegal fee; taking property from a foreign national, such as a passport or work permit; intimidating or penalizing a foreign national for asserting their rights. Employment Protection for Foreign Nationals Act, 2009, S.O. 2009, c. 32, <https://www.ontario.ca/document/employment-standard-act-policy-and-interpretation-manual/section-1-interpretation>

¹⁴⁶ Farm workers are exempt from overtime pay requirements and are paid only at their base hourly rate for all work over 40 hours per week. Rest periods are mandatory for all farm workers, with a minimum of a 32-hour rest period per week, which can be postponed one time only due to needs such as harvest, but the employer is then required to provide two 32-hour rest periods the following week.

2.1 WAGE THEFT

ICESCR's Article 7(a) recognizes the right of everyone to just and fair remuneration, providing a decent living for the workers and their families. The CESCR has stated that all wages must be paid in a timely way, regularly, and in full.¹⁴⁷ Article XIV of the American Declaration of the Rights and Duties of Man recognizes the right to work and to fair remuneration.

Thirty-two workers out of 44 interviewed by Amnesty International reported to have experienced some form of wage theft.¹⁴⁸ This included receiving lower salaries per hour than the remuneration stipulated in their contract; delays in payments or even periods of time without receiving any wages; hours that were not registered or paid; overtime that was not adequately remunerated, or in some instances, not paid at all. Individuals also reported that their very short breaks, which were unpaid, were often cut short, and they were required to work during them without payment. Some workers claimed the employer arbitrarily and sometimes unlawfully imposed deductions for accommodation, transportation and other services (see below 2.1.1).

Martin,¹⁴⁹ a Guatemalan man with a two-year tied work permit to work in agriculture, told Amnesty International that his first employer paid him CAD\$12 per hour instead of the CAD\$13 stipulated in his contract. His employer did not provide him with payslips, despite Martin's multiple requests. Martin told Amnesty that, on one of these occasions, his former employer mocked him, took a piece of paper and a pencil simulating writing a payslip, tore the paper in two and gave the two pieces to him and another co-worker saying, "Here you go". RATTMAQ, an organization that provides legal support to migrant agricultural and food processing workers in Quebec making complaints to CNESST, estimated that Martin's employer owed him approximately CAD\$7,000.

Felipe,¹⁵⁰ from Mexico, worked with a tied visa for one employer on an animal farm for four years since 2017. He told Amnesty International that, from 2019 to 2020, his employer stopped remunerating him for work done on Sundays. Despite this, he returned to Canada in March 2022 to work for another season, as his employer promised that his outstanding wages would be paid. However, in 2022 his employer did not pay him his salary in a regular and timely manner. First, his employer delayed the payments, claiming they were experiencing financial difficulties. Then, the employer stopped paying his salary completely. Felipe did not receive any salary from mid-May till November 2022, when he quit.¹⁵¹

Santiago,¹⁵² a Mexican man who travelled to Canada under the SAWP in three different years to work for the same employer, used to work 10-hour or even longer days during the harvest. However, he reported not being paid overtime. To avoid paying overtime, his employer changed schedules arguing hours were deducted from an "hour bank", despite not being authorized to stagger hours or having an averaging agreement. Additionally, the employer only compensated him for the collection of vegetables, despite requiring him to also be a driver for other workers.

José,¹⁵³ a Mexican national hired to work in Canada under the High Wage stream of the TFWP, was offered a position by a construction company, which promised him he would be paid the salary he requested, CAD\$35 per hour net. The company then hired him as a carpenter, an occupation below his qualifications, and paid him CAD\$25 per hour. He complained, and the director told him he would receive the additional money in cash - CAD\$10 - but the company only paid him CAD\$6 in cash. He was required to work starting at 5:30am, loading construction materials into the van and driving other co-workers, but he could not log his work hours until 7:00am. His contract stated that he would be paid an overtime rate for hours above the contractual week, but he never received this pay, and instead, the employer would "credit" his overtime to regular hours the following week, despite not having an averaging agreement.

Chloe,¹⁵⁴ a Jamaican national, was employed on a strawberry farm in Nova Scotia. She reported that her contract stipulated an hourly wage, but on the farm, they were paid by the piece (strawberry). When picking,

¹⁴⁷ CESCR, General Comment 23 (previously cited), para. 10.

¹⁴⁸ Wage theft can encompass several types of under-payment or non-payment of wages and/or benefits due to a worker and is a violation of these obligations. See Glossary.

¹⁴⁹ Interview in person with Martin, Saint-Rémi, 14 September 2023.

¹⁵⁰ Interview in person with Felipe (not his real name), Montreal, 16 September 2023.

¹⁵¹ In September 2022, as the situation became unbearable, he submitted a complaint to Quebec's *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (CNESST) to demand his salaries with the assistance of the Mexican consulate, estimating that the employer owed him CAD\$24,367.90. The CNESST found his employer owed him a total of CAD\$11,876.15 for 15 weeks. Lettre par la CNESST: Suivi de votre dossier de plainte pécuniaire, 19 janvier 2023. Document on file with Amnesty International.

¹⁵² Interview by video call with Santiago (not his real name), 15 December 2023.

¹⁵³ Interview in person with José, Toronto, 21 September 2023.

¹⁵⁴ Interview by video call with Chloe, 22 September 2023.

they were required to put an extra 30 pieces in each pack of 1,000 strawberries, “just in case” they accidentally counted incorrectly. They were not compensated for the extra work, and she states she never was paid appropriately.

Five Guatemalan people¹⁵⁵ who worked for the same employer in Alberta consistently reported that they were paid by piece rather than by hour as their contract indicated, and they were not paid adequately by piece. They had irregular payments, and one individual reported that he received no payment for 15 days of work.

2.1.1 UNFAIR AND UNLAWFUL DEDUCTIONS

Sixteen of the migrant workers Amnesty spoke with reported deductions that were not allowable under the TFWP regulations, were inflated, were deducted regardless of consent or use, or were demanded in cash payments. In some instances, deductions included medical expenses or medical insurance, despite the employers’ obligation under the TFWP to provide private insurance to migrant workers in the first months until they are covered by the public health system.¹⁵⁶

Daniel,¹⁵⁷ a Mexican welder who travelled to Canada with a three-year permit under the High Wage stream of the TFWP had significant amounts deducted from his salary by his first employer, in breach of applicable legislation. Upon his arrival in Canada, his employer provided him with a list of expenses which amounted to CAD\$5,241.¹⁵⁸ The document listing the expenses included the plane ticket, hotel during the Covid-19 quarantine period after his arrival, transport to the company and car insurance, winter car tyres, medical insurance, and medical expenses the employer incurred when he had to go to the hospital - despite having deducted the cost of private insurance too. Daniel earned between CAD\$380 and CAD\$540 weekly as a result of unlawful deductions, despite working 40 hours per week and the fact his contract stipulated a salary of CAD\$20 per hour.¹⁵⁹

Anthony,¹⁶⁰ a Mexican national working in agriculture, had the cost of his plane ticket to Canada deducted from his salary by his employer, despite the contract stipulating it would be paid by the employer.¹⁶¹ The employer told him that he recruited Mexicans because he could make such deductions.¹⁶²

Sylvie and H el ene,¹⁶³ two Ivorian nationals working in a nursing home with a two-year visa under the TFWP, told Amnesty they had to pay their employer CAD\$500 per month for accommodations and CAD\$100 for transport, despite the transport being inadequate for them.¹⁶⁴

Ismail’s employer obliged him and his co-worker - both hired as industrial painters under the TFWP - to move to a house that belonged to the employer’s father and pay CAD\$400/month each, despite the house being in poor condition. When Ismail’s co-worker died, following months of intense work, his employer obliged him to pay his former co-worker’s rent too, amounting to \$800 monthly for accommodation.¹⁶⁵

Martin, a Guatemalan man with a two-year tied permit working in agriculture, told Amnesty International that after suffering an accident at work in which he lost part of a finger, his employer requested CAD\$80 “to help with fuel costs”, as he had taken him to the doctor. He also subsequently requested Martin to pay him CAD\$2,000 for “driving him to the hospital and for paperwork”.¹⁶⁶

¹⁵⁵ Interviews conducted separately in person, Leamington, 24 September 2023.

¹⁵⁶ Sylvie told Amnesty she had to pay doctors as her employer failed to provide her with private medical insurance for the first three months she was in Canada. Interviews by video call with Sylvie (not her real name), 18 September 2023.

¹⁵⁷ Interview in person with Daniel (not his real name), Quebec City, 18 September 2023.

¹⁵⁸ Document on file with Amnesty International.

¹⁵⁹ After being dismissed by his first employer, a recruiter in Canada offered Daniel a job for US\$25 and asked him to sign a blanket contract via WhatsApp. The recruiter disregarded Daniel’s objections and promised him that the contract details would be completed at a later stage. When Daniel received his first salary, he complained to his employer he was only paid \$20 per hour. His employer and the recruiter told him that he had already signed a two-year contract and had to comply with it. Interview in person with Daniel, 18 September 2023.

¹⁶⁰ Interview in person with Anthony (not his real name), Farnham, 15 September 2023.

¹⁶¹ Contract, on file with Amnesty International.

¹⁶² Anthony informed the Mexican National Employment Service, who communicated to Anthony’s employer he could not deduct the cost of his flight, and he received a CAD\$556 reimbursement from his employer.

¹⁶³ Interviews conducted separately. Interview by video call with Sylvie, and interview in person with H el ene (not her real name), Quebec City, 18 September 2023.

¹⁶⁴ They arrived at work up to two hours in advance of their morning shift and had to wait hours after the end of their evening shift before leaving work.

¹⁶⁵ Interview by video call with Ismail (not his real name) remote, 22 September 2023. Follow-up interview in person with Ismail, Montreal, 10 May 2024.

¹⁶⁶ Interview in person with Martin, Saint-R emi, 14 September 2023

Carlos¹⁶⁷ reported that, for two and a half months, his employer deducted CAD\$100 from his salary on a weekly basis to pay a total of CAD\$1000 for medical expenses.

2.2 EXCESSIVE WORKING HOURS

“I was like a machine, I had to do all the work.”

Felipe, from Mexico.

ICESCR Article 7(d) recognizes everyone’s right to “rest, leisure, reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays”. Limitations on daily and weekly hours of work should be established through legislation and should generally average out to eight hours per day or 40 hours per week without overtime.¹⁶⁸ In most cases, workers should have at least 24 consecutive hours of rest per week, with the preference being two full days.¹⁶⁹

Canada has ratified the ILO Hours of Work (Industry) Convention, 1919 (No. 1), which establishes the 8-hour working day and the 48-hour working week for workers employed in industrial sectors; and the Weekly Rest (Industry) Convention, 1921 (No. 14), which mandates that workers in industrial sectors must receive at least one day of rest per week. The General Conference of the International Labour Organisation indicated that the forty-hour week is “a social standard to be reached by stages if necessary” in all industries.¹⁷⁰ Some Canadian provinces have enshrined exceptions to limits on daily and weekly work hours for agricultural workers during harvest times in provincial legislation.¹⁷¹

Thirty-two workers told Amnesty they worked long hours, more than 40 hours per week. Among them, four reported having worked without a day of rest for months on end. Most workers indicated that they were not given a choice or were required to work 10-12 hours per day, sometimes even more, and without sufficient breaks during or between work days.¹⁷²

Jordan¹⁷³ and Richard,¹⁷⁴ a greenhouse worker and a farm worker from a Caribbean State and Jamaica, respectively, hired under the Agricultural stream and the SAWP, both said that the bosses on their farms would regularly prevent them from fully taking their allotted breaks, including after working overtime. They both reported that work days would exceed 12 hours at times, that they would be back-to-back with no days off, and that they were unable to eat or drink appropriately while working, or even use the toilet facilities.

Felipe was the only worker on a farm, and he was in charge of approximately 250 animals. He told Amnesty International he worked every day, Monday to Sunday, between 12-14 hours per day:

“Sometimes I started at 6am and worked until 8pm, sometimes even more. There are periods when animals give birth. When babies were born, I had to put them on vitamins, I had to feed them. Sometimes eight or ten babies were born at the same time. I did not have a break. That was a lot of work for just one person”.¹⁷⁵

Some workers reported that they were routinely working 70, 80 or even 85 hours per week. Several workers reported that they agreed to contracts that were in excess of 40 hours per week for agricultural work while they were in their home countries before arriving at the farms for the first time. However, they did not realize

¹⁶⁷ Interview in person with Carlos (not his real name), Montreal, 15 September 2023.

¹⁶⁸ CESCR, General Comment 23 (previously cited), paras 35-36.

¹⁶⁹ CESCR, General Comment 23 (previously cited), para. 40.

¹⁷⁰ General Conference of the International Labour Organisation, *Reduction of Hours of Work Recommendation*, 1962 (No. 116), Geneva, 46th ILC session (26 June 1962).

¹⁷¹ In Quebec, workers must enjoy 32 consecutive hours of rest every week, but in the case of a farm worker, provided that the worker agrees, the rest period can be delayed to the following week. The rest period can be postponed once, but in that case, the employer is obliged to grant two rest periods of 32 consecutive hours the following week. Articles 54 and 78, Act respecting Labour Standards. In Ontario, the daily limit on hours of work is eight hours and 48 hours weekly. These daily and weekly limits can be exceeded if there is an electronic or written agreement. However, legislation allows exemptions to daily and weekly limits. Farm employees, fishers, flower growers, fresh fruit and vegetable processors, fruit, vegetable and tobacco harvesters, among others, are not entitled to daily and weekly time limits on hours of work. See the Ontario’s Employment Standards Act, 2000. Some contracts viewed by Amnesty International provided no contractual obligation to time off, limits to the number of consecutive days worked, or paid sick coverage.

¹⁷² José worked for 12 hours at a time outdoors in the sun without breaks to eat or drink, or even sit down, and suffered painful burns to his face due to this.

¹⁷³ Interview in person with Jordan (not his real name), London, Ontario, 23 September 2023. Jordan’s two-year contract stipulated 0 days off, which is allowed by applicable legislation in Ontario.

¹⁷⁴ Interview in person with Richard (not his real name), Chatham, 25 September 2023.

¹⁷⁵ Felipe’s payslips in March, April and part of May seen by Amnesty International reflect that, bi-weekly, he worked between 175 and 200 hours. Payslips, document on file with Amnesty International. Interview in person with Felipe, Montreal, 16 September 2023.

how punishing the pace of work would be. When arriving at Canadian farms, they were shocked at how different the conditions were than expected or described to them, that they were not allowed to rest when needed, that they were constantly hounded and harassed to work faster and faster, and they were unable to eat, drink, or use the toilets when needed.

2.3 EXTRA TASKS AND TASKS NOT INCLUDED IN THE CONTRACT

“He moved me as if I were a chess pawn.”

Henry, Guatemalan worker.

Fifteen workers reported being ordered to perform different functions to the ones described in their contract or outside the occupation included in their work permit, which they could not refuse to do. This was the case particularly for those working in rural or remote and isolated locations, affecting mostly those in agriculture, but not exclusively. Employers demanded that workers clear paths of snow in winter, chop wood to heat the owner’s house, pull up weeds in private gardens or mow the lawn, collect fruits, clean, do domestic work or act as chauffeur for the employer’s family.¹⁷⁶ In some cases, employers forced workers to do work for which they were neither trained nor paid to do. In some cases, extra tasks endangered workers and resulted in serious accidents.

Henry,¹⁷⁷ a Guatemalan national who arrived in Canada in 2019 to work as an agricultural worker on a dairy farm, was called upon by his employer to handle agricultural machinery. The employer moved Henry from one kind of task to another at his discretion. Henry performed different jobs, such as filling the maize silos, cutting down trees with a saw - a task he was not trained for - clearing a vast field of stones by lifting and carrying them himself in extreme weather conditions, with temperatures below 0° Celsius or under the sun and extreme heat, and ultimately, fixing the farm water drainage, which resulted in a severe work accident.

Carlos¹⁷⁸ was requested to cut down trees with a saw by his supervisor, who also ordered him to cook for the other workers. Carlos had to get up earlier every day to prepare meals for six workers. Carlos told Amnesty International his employer knew but took no action to stop the abuse.

José¹⁷⁹ was carrying out a variety of tasks for which he was not contracted, and was also asked to carry out illegal actions such as dumping old paint into sewers. The company did not train him for several tasks that were outside the occupation he was hired for, carpenter, like working at heights, concrete forming or traffic control, which he was required to do. His employer provided him with bogus certificates to indicate he had been trained for them when he had not.

Tasking employees with functions not included in their contract and outside the occupation they are hired for infringes the terms of employees’ work permits. The capacity of employers to force workers to be at their disposal to carry out all sorts of tasks stems precisely from the closed work permits, which entail an inherent power imbalance in favour of employers. Workers tied to their employer cannot refuse to do these extra tasks, despite not being paid or trained for them, as they risk adverse consequences if they do, such as termination and repatriation.

¹⁷⁶ Martin shared that, as his employer owned a farm, in addition to milking cows as set in his contract, he had to collect apples. Bénédicte and Stacey, two Cameroonian women with two-year tied visas recruited to work in farm as agricultural workers, were ordered to do domestic work, gardening and carpentry.

¹⁷⁷ Interview in person with Henry, Valleyfield, 14 September 2023.

¹⁷⁸ Interview in person with Carlos, Montreal, 15 September 2023.

¹⁷⁹ Interview in person with José, Toronto, 21 September 2023.

2.4 UNSAFE CONDITIONS AT WORK

Article 7(b) of ICESCR recognizes the right to safe and healthy working conditions. States are required to institute national policies and bodies for monitoring and reporting accidents to ensure workers are protected. All categories of workers must be protected in the workplace, including temporary or migrant workers.¹⁸⁰

Twenty-four workers reported working in unsafe conditions. They were not provided with protective equipment by their employers,¹⁸¹ including clothes to protect themselves from extreme weather conditions in winter,¹⁸² were exposed to pesticides and other chemicals, and/or were even directly physically endangered by their employers.¹⁸³

Ismail, a Tunisian man working in industrial painting, told Amnesty International that his employer did not provide him with adequate protective equipment. The mask provided by his employer was in a poor state and did not cover his entire face. As a result, he was exposed to chemical substances, which he claimed damaged his eyes.¹⁸⁴

Stacey, a woman from Cameroon, fractured her ankle while doing domestic work, which was outside the tasks allowed under her permit as an agricultural worker. She also worked in unsafe conditions and contracted salmonella, most likely due to a lack of protective equipment.¹⁸⁵ “I collected eggs without gloves; there weren’t masks. When I requested a mask, he [the employer] said, ‘go and buy it yourself’”.¹⁸⁶

Carlos,¹⁸⁷ a man from Guatemala, worked on a maple farm in Quebec, and had to bear freezing temperatures in winter. However, he lacked the equipment and clothing to protect him from the cold. The boots provided by his employer and which he used for three years, had a hole in the sole. In one instance, Carlos slipped on the ice, hurting his back, an accident he believes was at least in part due to the bad condition of his boots. His employer ordered him to keep working. The next day, he was in acute pain and could not move. He asked his employer to take him to see a doctor, but the employer refused. He rested for seven days without any medical care, during which time he alleges he was not paid.

Felipe told Amnesty that his employer left the corpses of dead animals in an area of the farm adjacent to where he was working for three months. “I had to work among dead animals. I asked her to move the animals out. I told her, please, this is terrible, I can’t bear smelling dead animals all the whole time”.¹⁸⁸

Several agricultural workers told Amnesty International that their employers did not provide them with equipment to protect them from the chemicals used in their fields and greenhouses.¹⁸⁹

Jordan¹⁹⁰ reported that the workers were not allowed to wear gloves when picking tomatoes in the greenhouse where he was employed, and the chemicals used on the plants gave them skin rashes. They were not informed about what chemicals were used. He also stated that chemicals would be sprayed at regular intervals in the greenhouses when staff were working, and they were not given any respiratory protection though many workers complained about the impact on their breathing. He and others suffered from respiratory ailments and excessive coughing.

¹⁸⁰ CESCR, General Comment 23 (previously cited), paras 25-30.

¹⁸¹ Chloe, Amelia, and Gabrielle (not their real names) were all employed as berry pickers on various farms, and all reported that they were not provided with the appropriate knee pads. Their knees would swell and cause a lot of pain, and they were forced to buy knee pads themselves.

¹⁸² Mr. Justice (not his real name) told Amnesty International that when he arrived in January 2018 under the SAWP, he was not provided with any protective clothing for the freezing weather he had to endure in the fields.

¹⁸³ Daniel, a Mexican welder, reported that he had to work with inadequate equipment, and he was exposed to toxic gasses emanating from the welding of aluminium. Richard reported a similar situation on the Christmas tree farm where he worked – he was expected to work in heavy snowstorms without the provision of boots, facial or hand protection, or appropriate coats, and his team was not allowed to leave the fields in a particularly heavy storm that was dangerous to life due to lightning strikes in close proximity of the workers.

¹⁸⁴ Photos and videos seen by Amnesty International show chemical paint on Ismail’s face. Interview by video call with Ismail, 22 September 2023. Follow-up interview in person with Ismail, Montreal, 10 May 2024.

¹⁸⁵ Hospital records of 24 and 28 November 2020, on file with Amnesty International.

¹⁸⁶ Hospital records of 27 July and 21 October 2020, on file with Amnesty International. Interview in person with Stacey, Montreal, 15 September 2023.

¹⁸⁷ Interview in person with Carlos, Montreal, 15 September 2023.

¹⁸⁸ Interview in person with Felipe, Montreal, 16 September 2023.

¹⁸⁹ Chloe reported that chemicals were sprayed onto the fields without the workers being informed of what they were, and many women passed out or suffered respiratory distress when they were working, and the chemicals were sprayed.

¹⁹⁰ Interview in person with Jordan, London, Ontario, 23 September 2023.

2.5 SERIOUS INJURIES AND FAILURE TO GET MEDICAL CARE

“I did not come here injured [...] Canada has destroyed me.”

Gabrielle, from Jamaica

In several instances, by exposing workers to unsafe working conditions or by demanding them to perform tasks outside the workers’ work permit, employers endangered workers, which resulted in severe injuries. In some instances, the employer failed to get medical assistance for the worker.

Jack,¹⁹¹ a Jamaican national who worked on a strawberry farm reported that he and the workers on his farm were exposed to unknown chemicals without appropriate protective equipment, and he became severely ill as a result. Following hospital treatment, he went back to the farm, but his duties were not adjusted, despite his requests. Eventually, a lung specialist told him he was developing asthma as a result of exposure to the chemicals without respiratory protection.

THE CASE OF HENRY

Henry,¹⁹² a worker from Guatemala, travelled to Canada in 2019 as an agricultural worker with a tied visa. His employer often ordered him to carry out different tasks outside his functions, particularly but not exclusively mechanical work, such as handling, cleaning and replacing parts of agricultural machinery. Henry reported he was never provided with protective equipment by his employer.

In September 2022, Henry’s employer demanded he help with the farm water drainage, something that was not part of his contract, and for which Henry lacked training and protective equipment. His employer, who had excavated a 5m depth hole, demanded Henry to go inside, while he continued excavating. When Henry was inside the hole, the earth wall on one side collapsed and fell on him: “The earth pressed my stomach; I could not breathe, and I lost consciousness. When the employer took me out, I did not feel the part of my body between my waist and my legs”.

Henry told Amnesty that his employer left him on the ground, next to the hole. He managed to crawl under a tree, where he remained for about an hour. His employer told him he would be fine soon. Henry, in pain, begged his employer to take him to the hospital. He listened to his employer talking to someone on the phone refusing to take him to hospital. Eventually, Henry phoned a co-worker and asked him to take him to the nearest hospital. At the hospital, doctors informed Henry that the collapse of the earth wall had provoked a fracture of his pelvis and part of his body was paralysed. The following day, Henry underwent surgery.

From September 2022 to June 2024, Henry was living and rehabilitating in a long-term care home (CHSLD). With treatment and support, he has managed to start walking again. However, he suffers from chronic pain, and the doctors consider the accident has resulted in severe functional limitations,¹⁹³ which not only make it impossible for him to work in agriculture again but also have profound implications on his personal and daily life.

Gabrielle,¹⁹⁴ a Jamaican national working in Canada with a SAWP permit, was employed on a cherry farm in British Columbia. She appears to have been illegally transferred to another farm, without her consent. One day, her employers took her with a group to a “neighbour’s farm” to work on apple trees. The workers had to scale tall ladders perched on muddy soil and climb into the trees to reach the top. After her ladder slipped on the mud, Gabrielle fell out of the tree. The ladder also fell on top of her. She was severely injured as a result.

¹⁹¹ Interview by video call with Jack (not his real name), remote, 27 September 2023.

¹⁹² Interview in person with Henry, Valleyfield, 14 September 2023.

¹⁹³ Henry’s medical records, June 2023, and November 2023. On file with Amnesty International.

¹⁹⁴ Interview in person with Gabrielle (not her real name), Pickering, 22 September.

2.6 INADEQUATE HOUSING

“This was not a house. I don’t even know what to call it. It was inhumane.”

Miguel, Central American worker.

The right to adequate housing is guaranteed by Article 11 of the ICESCR. The CESCR has clarified that the concept of adequacy includes several aspects, among others: availability of services, materials, facilities and infrastructure; affordability; and habitability.¹⁹⁵

Under the SAWP, as well as the Agricultural Stream of the TFWP, employers must provide workers with “adequate, suitable and affordable” housing, which can be on-farm or off-site (see above).¹⁹⁶ Employers hiring migrant workers under the Low Wage stream of the TFWP have an obligation to provide or ensure that suitable and affordable housing is available to workers.¹⁹⁷

Accommodation for foreign workers under the TFWP is regulated provincially, and the standards are defined and enforced at the provincial level. Housing inspections fall equally under the power of provincial and municipal governments.¹⁹⁸

Over the years, organizations and unions have publicly denounced the overcrowding, unsanitary and poor conditions of the accommodation provided by employers to migrant workers in the TFWP.¹⁹⁹ A review of the research on housing conditions for agricultural workers under the TFWP between 2000 and 2020 concluded that agricultural workers experienced a variety of housing issues that posed risks to their physical and mental health, including, among others, lack of access to potable water, lack of adequate sanitary facilities, inadequate heating, inhabitable lodgings, overcrowding, lack of privacy and limited access to services, due to the isolated and rural location.²⁰⁰

Amnesty International’s findings are consistent with the concerns listed above and raise serious doubts about the habitability of some of the dwellings provided to TFWP workers. Seventeen of the workers interviewed reported having experienced housing problems, which encompassed lack of space and overcrowding, lack of adequate heating/cooling, lack of privacy, insufficient sanitary facilities or lack of access to drinkable water.

¹⁹⁵ CESCR, General Comment No.4 “The right to adequate housing”, UN Doc 13 December 2014.

¹⁹⁶ Employers hiring workers under the Agricultural Stream of the TFWP can deduct CAD\$30 weekly from the worker’s salary for accommodation. ESDC, “Hire a temporary foreign worker under the Agricultural Stream: Program requirements” (previously cited).

¹⁹⁷ ESDC, “Programme requirement for low-wage positions” (previously cited). According to Canada Mortgage and Housing Corporation (CMHC) adequate housing is understood as housing that does not need major repairs; suitable refers to housing that has enough bedrooms for the size and make-up of residents, and affordable means that it costs less than 30% of the residents before-tax income. CMHC, “The National Housing Strategy Glossary of Common Terms”, <https://www.cmhc-schl.gc.ca/nhs/guidepage-strategy/glossary> (accessed on 12 June 2024).

¹⁹⁸ Employers must provide proof of inspection of accommodation by the competent authorities at the provincial or municipal level to the federal government, which must have been carried out within the last eight months before the employer applies to hire a foreign worker under the TFWP. ESDC, “Program requirements for the Agricultural Stream” (previously cited); “Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements” (previously cited).

¹⁹⁹ Immigrant Workers Centre and the Association of Migrant Workers of Quebec *Decent housing for migrants agricultural workers: Report submitted for the Stakeholder Consultations on Mandatory Requirements for Employer-Provided Accommodations in the TFW Program*, 2020, https://iwc-cti.ca/wp-content/uploads/2021/07/Report-consultation-housing_CTI-2020.pdf; Migrant Workers Alliance, *Decent & Dignified Housing for Migrant Farmworkers Food & Farmworkers: Working Group Submissions to Consultations on Mandatory Requirements for Employer-Provided Accommodations in the TFW Program*, 2020, https://migrantworkersalliance.org/wp-content/uploads/2020/12/MRN-Submission_-_Decent-Dignified-Housing-for-Migrant-Farmworkers.pdf; Cooper Institute, *Falling Short: Troubles with the Seasonal Agricultural Worker Program in Nova Scotia*, March 2024, https://www.cooperinstitute.ca/sitefiles/Documents/Migrant-Workers/Falling_Short_TFWMARITIMES_NS_March_27_2024.pdf; Cooper Institute, *Unfree labour: Migrant workers in the Seafood Industry in New Brunswick*, March 2023, https://www.cooperinstitute.ca/sitefiles/Documents/Migrant-Workers/Unfree_Labour_TFWMARITIMES_NB_2023.pdf; Cajax et al., “Migrant agricultural workers’ death in Ontario from January 2020 to June 2021: a qualitative descriptive study”, *International Journal for Equity in Health* 21:98, 2022; Leah F. Vosko, Tanya Basok, Cynthia Spring, Guillermo Candiz, Glynis George, *COVID-19 Among Migrant Farmworkers in Canada: Employment Strain in a Transnational Context*, ILO Working Paper 79, September 2022; Migrant Workers Alliance, *Unheeded warnings: Covid-19 and migrant workers in Canada*, June 2020, <https://migrantworkersalliance.org/wp-content/uploads/2020/06/Unheeded-Warnings-COVID19-and-Migrant-Workers.pdf>; Cooper Institute, *Safe at work, unsafe at home: Covid-19 and Temporary Foreign Workers in Prince Edward Islands*, June 2021, https://www.cooperinstitute.ca/sitefiles/Documents/Migrant-Workers/Report-Safe_at_Work_Unsafe_at_Home-TFWMARITIMES-PEI-2021.pdf

²⁰⁰ Caxaj, Weiler and Martynuk, “Housing Conditions and Health Implications for Migrant Agricultural Workers in Canada: A Scoping Review”, *Canada Journal of Nursing Review*, October 2023.

Felipe explained he lived in the same house as his employer. Rather than having a bedroom, he said he lived in a corridor with a curtain, and did not have any privacy, as other individuals passed through when leaving the house. The lack of privacy fostered his employer's psychological abuses and control.²⁰¹

Roberto and Miguel,²⁰² two workers from Central America, lived in two shipping containers with two other workers. The containers lacked adequate heating, were infested with mice and lacked drinking water. The containers had been put together to make four rooms and a common space. They were not well insulated, even though the weather in winter was extremely cold. When it rained, the water dripped from the ceiling inside the containers. Roberto and Miguel told Amnesty they were allowed to use just one heater spread the heat within the containers. However, they had to keep their room doors open to heat them up, which meant they had very little privacy. From April onwards they could not warm the containers, as the employer confiscated the heater to save on electricity costs. The shower was dirty and in bad condition. According to Miguel, they had to shower using dirty water, which drained from the sink where they washed the dishes. They also had to use a portable toilet, outside the container, even in winter, with temperatures well below 0° Celsius. They did not have drinking water and had to buy bottled water or boil the tap water. They had to cook with an electric double hot plate of which only one burner worked. There was a camera inside the container directed towards the common spaces, by which they could be watched and monitored. Miguel explained that he was given a ripped mattress, and mice entered the holes. Despite their efforts to clean the containers, there were mouse droppings in mattresses, cupboards and drawers.²⁰³

Mr. Justice,²⁰⁴ a man from Jamaica who had travelled to Canada with a SAWP permit showed Amnesty International photographs of stained and dirty toilets, food cabinets infested with cockroaches with “sticky traps” next to the food and full of dead roaches. Bunk beds provided no privacy, and the men attempted to wall off a small space by hanging up some makeshift curtains around their beds. They did not have adequate storage space for their personal belongings or even clothing. He reported having to walk to the neighbouring property to access clean water.

Gabrielle²⁰⁵ reported that on the berry farm where she initially worked, the bunkhouse for women was raised off of the ground with stilts, but the flooring was not sealed and there were wide gaps between planks where the dirt was visible. She said that the “mattresses” provided for sleeping were bundled and discarded clothing from previous workers who had come and gone – in other words, they did not have a mattress provided to them.

Richard²⁰⁶ reported that the housing he stayed in had a water ingress, which he reported to the owner of the farm, but nothing was done to stop the water or address the subsequent mould growth. He reported that he became ill with respiratory infections over an extended period due to the mould.

Concerns about inadequate housing have persisted over the years. Already in 2018, authorities launched the Primary Agriculture Review, which recognized that “inadequate housing could pose a risk to workers”.²⁰⁷ This review was followed by the 2020 ESDC's consultation to improve housing standards for temporary foreign workers across Canada.²⁰⁸ However, despite the consultations and authorities' awareness of the problem, the Auditor General, who assessed the health and safety of migrant workers during the Covid-19 pandemic, concluded in 2021 that ESDC had failed to address long-standing concerns about workers' accommodations.²⁰⁹ In September 2024 the Canadian government launched another consultation on employer-provided accommodation for workers under the future Agriculture and Fish Processing Stream.²¹⁰

²⁰¹ Felipe recounted that his female employer often made sexual comments. She also asked him questions about his sexual life and told him about her sexual life without Felipe consenting to having that conversation. Interview in person with Felipe, Montreal, 16 September 2023.

²⁰² Separate interviews by video call with Roberto (not his real name), 19 and 22 September 2023, and Miguel (not his real name), 27 October 2023.

²⁰³ Interview in person with Miguel, 27 October 2023. Pictures on file with Amnesty International.

²⁰⁴ Interview in person with Mr. Justice, Ajax, 22 September 2023.

²⁰⁵ Interview in person with Gabrielle, Pickering, 22 September 2023.

²⁰⁶ Interview in person with Richard, Chatham, 25 September 2023.

²⁰⁷ ESDC, *What we heard: Primary Agriculture Review*, December 2019, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/reports/primary-agriculture.html>; National Home Inspector Certification Council, *National Housing Standard for Primary Agricultural Review (Temporary Foreign Worker Program)*, December 2018, <https://www.nationalhomeinspector.org/NHICCreportRsum.pdf>. The consultation resulted in recommendations to develop minimum housing standards.

²⁰⁸ The outcomes of the consultation are summarized in ESDC, *What we heard: Consultations on accommodations for temporary foreign workers*, April 2022, https://www.canada.ca/content/dam/esdc-edsc/images/services/foreign-workers/reports/what_we_heard_report.pdf

²⁰⁹ Auditor General of Canada to the Parliament of Canada, 2021, Report 13, *Health and Safety of Agricultural Temporary Foreign Workers in Canada during the Covid-19 Pandemic*, 2021, https://www.oag-bvg.gc.ca/internet/docs/parl_oag_202112_02_e.pdf

²¹⁰ Amnesty International, *Canada: Submission on Housing Requirements for Migrant Workers*, AMR 20/8494/2024, 9 September.

2.7 RACIST PSYCHOLOGICAL AND PHYSICAL ABUSE

The ILO Discrimination (Employment and Occupation) Convention No. 111²¹¹ prohibits discrimination-based harassment, in particular racial harassment.²¹² Furthermore, ILO Violence and Harassment Convention, 190, defines and prohibits violence and harassment in the workplace.²¹³

Canada defines “harassment and violence” in the workplace as “any action, conduct or comment, including of a sexual nature that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment.”²¹⁴ Provincial Human Rights codes also regulate work conditions against harassment.

Migrant workers interviewed by Amnesty International experienced intersecting forms of discrimination, harassment and abuse, including xenophobia, racism and sex- and gender-based discrimination. Amnesty International’s research found several instances of racist and xenophobic psychological abuse, as well as cases of physical assault and endangerment.²¹⁵

Seventeen workers told Amnesty International their employers shouted at them, uttered offensive and derogatory words, and used racist and xenophobic language to humiliate them. Carlos, from Guatemala, recalled his employer often insulted him and other coworkers, swearing and calling them “animals”, and telling them: “If you do not like how things are here, go back to your country”.²¹⁶ Anthony declared his employer would call him “shitty Mexican” and would frequently use obscenities to insult him. He also reported the treatment worsened after he reported the abuses to the Mexican National Employment Service.²¹⁷ Erick, a Guatemalan national with a two-years visa to work in agriculture, reported being called “donkey”, “Indian” on a regular basis instead of his name and told things like, “You are shit here, you are worth diarrhoea”.²¹⁸

Gabrielle, a Jamaican woman working in agriculture, reported that at her first farm, supervisors would threaten staff in the fields with repatriation and utter racial slurs to make them work faster. She recalled phrases like “we’ll send you back to the tree you came from”.²¹⁹

Some workers working in rural and isolated locations stressed they felt intimidated when employers who were physically larger than them shouted at them at close distance. Some workers reported being physically assaulted by their employers.

Martin told Amnesty that his employer assaulted him and pushed him against the wall. Searching for his knife, his employer told him: “I’m old, but I can kill you if I want”.²²⁰

In some instances, physical assault was accompanied by what appears to be cruel and degrading treatment. In April 2023, Carlos fled the farm where he worked after he was physically assaulted by his employer. His employer grabbed and pushed him, shouting and threatening to slap him. Then he put his hands around his neck and threw him on the ground outside his workplace, forcing him to sit on a chair outside in the cold for two hours. It was not the first time his employer did this to Guatemalan workers. According to Carlos, his employer would punish workers by making them sit in a chair in the cold for hours.²²¹

²¹¹ Article 1, ILO, Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

²¹² According to ILO General observation (CEACR) on discrimination based on race, colour and national extraction, adopted 2018, published 108th ILC session (2019), “Racial harassment occurs where a person is subject to physical, verbal or non-verbal conduct or other conduct based on race which undermines their dignity or which creates an intimidating, hostile or humiliating working environment for the recipient. Moreover, the intersection of factors such as race, religion, gender or disability increases the risk of harassment, particularly in respect of young women from an ethnic or racial minority.”, <https://www.ilo.org/normlex-permalink/comment/en/3996050>

²¹³ ILO, Violence and Harassment Convention, 21 June 2019 (No. 190). The Convention defines violence and harassment as unacceptable behaviours and practices, or threats thereof, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm. The Convention requires that states prohibit such acts in law, ensuring access to remedies and support for victims, and ensuring effective investigation of cases of violence or harassment, among others (Article 4.2). Article 8 requires that states identify the sectors or occupations and work arrangements in which workers and other persons concerned are more exposed to violence and harassment and take measures to effectively protect such persons.

²¹⁴ Subsection 122(1), Canada Labour Code, (R.S.C., 1985, c. L-2).

²¹⁵ Felipe told Amnesty his employer slapped him on the hand once. Erick was hit hard on the back by his supervisor following a disagreement about when he would return to Guatemala.

²¹⁶ Interview in person with Carlos, Montreal, 15 September 2023.

²¹⁷ Interview in person with Anthony, Farnham, 15 September 2023.

²¹⁸ Interview in person with Erick (not his real name), Leamington, 24 September 2023.

²¹⁹ Interview in person with Gabrielle, Pickering, 22 September.

²²⁰ Interview in person with Martin, Saint-Rémi, 14 September 2023.

²²¹ Interview in person with Carlos, Montreal, 15 September 2023.

Richard²²² witnessed an incident where his Jamaican colleague was humiliated by his employer when he tried to take his break on time, after the employer had repeatedly shaved minutes off of their 30-minute lunch and 15-minute breaks. The employer turned a water hose on him, soaking him to the skin, which severely impacted his mental health and made him tear up. The colleague left the job.

2.8 RACIALIZED GENDER-BASED VIOLENCE

Gender-based violence (violence which is directed against a woman because she is a woman or that affects women disproportionately) is a form of discrimination, as defined in CEDAW, Article 1.²²³ The ILO Handbook on addressing violence and harassment against women in the workplace includes a variety of measures companies should take to prevent and tackle violence and harassment, including adopting gender-responsive workplace policies or guidelines addressing prevention, management and intervention in cases of violence and harassment, providing regular training, reintegrating victims of violence and harassment, assessing risk factors; drawing up workplace prevention strategy in consultation with women, allowing for confidential and anonymous reporting systems, and ensuring transparency on how reports of sexual harassment are handled and reported.²²⁴

Three Black women from Africa, a woman from Guatemala, and a man from Latin America reported having experienced different forms of gender-based violence (GBV).

GBV was inflicted by employers, and in some instances, by co-workers or supervisors, at the employer's residence or at the worker's accommodation. Women performing domestic tasks and care work reported being subjected to unwanted touching of a sexual nature by their employers. In some instances, individuals experienced race-based sexual comments, propositions, or invasive questions about their sexual life, which were used to foster fear and control, and instrumentalized as tools for racialized exploitation.²²⁵ Workers experiencing sexual assault and harassment were often unable to immediately report these abuses to authorities due to the psychological impact of GBV, the very characteristics of their close work permit, and the lack of support and information.

Bénédicte,²²⁶ a woman from Cameroon with a two-year work visa to work in agriculture, was sexually assaulted by her employer in several instances, and continued to be harassed by him, controlled and psychologically abused for over a year and a half. She also had to endure demeaning race-based remarks and comparisons about "higher white standards of beauty" by her employer, who made sexual propositions to her, perpetuating a climate of fear and exploitation (see her full case in section 2.9).

Stacey,²²⁷ a Cameroonian woman with a closed permit to work in agriculture, witnessed how the employer sexually harassed another co-worker who arrived in Canada with her. Seven days after their arrival, her female colleague left. Stacey would stay on the farm for almost two years and felt very nervous and at risk of sexual harassment. She herself suffered sexual assault and harassment at the hands of another employer (see her full case in section 3.4.1).

In other cases, employers failed to ensure a safe environment free of sexual abuse and harassment or to provide support, including failing to adopt a victim-centred approach, offer medical assistance, as well as psychological and legal counselling, provide safe and gender-sensitive accommodation, or investigate reports of sexual harassment and protect female workers from the consequences of reporting.²²⁸

²²² Interview in person with Richard, Chatham, 25 September 2023.

²²³ See: CEDAW General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, 26 July 2017, UN Doc CEDAW/C/GC/35. The CEDAW Committee has stated that "sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment." CEDAW, General recommendation No. 19 on gender violence against women, 30 January 1992, UN Doc A/47/38.

²²⁴ ILO, *ILO Handbook on addressing violence and harassment against women in the workplace*, 4 December 2019, <https://www.ilo.org/publications/addressing-violence-and-harassment-against-women-world-work>

²²⁵ See Felipe's case, above 2.1, 2.2, 2.4.

²²⁶ Interview in person with Bénédicte, Montreal, 15 September 2023.

²²⁷ Interview in person with Stacey, Montreal, 15 September 2023.

²²⁸ Eva (not her real name), an African young woman, was raped by a co-worker in the mixed accommodation provided by her employer. Male co-workers from the same country reported the rape to the company she was working for. The company tried to identify the perpetrator, and according to an organization that supported Eva, subsequently fired and deported five workers of the suspected nationality of the perpetrator, but at the same time failed to offer her medical, psychological or legal assistance. Two months after she was raped, the

María,²²⁹ a Guatemalan woman with a two-year visa in agriculture, told Amnesty International she experienced sexual and psychological harassment by her supervisor. He told her that she had to do as he wished if she wanted to continue working and asked her to kiss him. She reported it to her employer, together with another co-worker, as she was not the only woman to have suffered unwanted propositions. Her employer did not believe her and failed to take any action. Reporting him led, however, to reprisals against her by her supervisor.

2.9 RESTRICTION OF MOVEMENT, SURVEILLANCE AND LACK OF PRIVACY

Article 17 of the ICESCR guarantees the right to privacy. As observed by the CERD, protection against any undue interference with individuals' privacy is a crucial element of the definition of the right to adequate housing.²³⁰ Article 12 of the ICESCR recognizes the right of freedom of movement of migrants lawfully in the territory of a State. States must ensure this right is protected from private interference.²³¹

Nineteen workers interviewed by the organization reported experiencing some form of control by their employers, encompassing limitations on their freedom of movement, retention of documents, surveillance and undue interference in their privacy. Interference with workers' privacy entailed the employer entering the workers' accommodation, but also other forms of surveillance such as cameras, or even in two cases, the employer's control over medical appointments and the information provided by the doctor to the worker.²³²

Some employers purposely tried to isolate employees, controlling their ability to leave their accommodation, and in some instances, they restricted their freedom of movement indirectly, by forcing them to always be available.²³³ Some employers were reported to surveil their staff, including by using cameras outside of the bunkhouses or having neighbours watch them.

Their employer prohibited Gabrielle and her coworkers from leaving the farm at any time, accepting visitors, or even grocery shopping at her own choice of shop – they were forced to grocery shop late at night at a friend of the owner's shop. The shop owners would count the number of employees who came to the shop and report any short numbers to the owners.²³⁴

Richard²³⁵ and Jack,²³⁶ from Jamaica, reported that their employers put limits on their activities in their free time and forbade them from bringing any guests to their accommodations. Richard lived on a property that was owned by a neighbour to the farm, and the neighbour would watch them and report to the owner if they were “breaking any rules”, including consuming alcohol. He was prohibited from leaving his accommodation after 11:00pm. He would, on occasion, play soccer together with other Jamaican friends, but the neighbour complained to the farm owner and they were disallowed to do this. Jack reported that there were cameras outside of the bunkhouse to watch what the men were doing.

Some employers retained workers' documents, arguing they did it to “keep them safe”.²³⁷

company ordered Eva and three other women from the same country to move to a different mixed accommodation with dozens of men. Eva and her colleagues refused, as they feared a mixed accommodation would be unsafe for them. They instead asked human resources to move them to the accommodation where their male nationals lived. However, instead of adopting a victim-centred approach and accommodating Eva's needs, human resources rejected the proposal and retraumatized her, accusing her of using the rape to oppose a measure that was in the interest of the company. Eva could not stand the pressure exercised by the company, which compounded the trauma she was carrying from being raped. Ultimately, scared and unable to live in a mixed accommodation where there was such a disproportion between male and female colleagues, she saw no alternative but to leave the company. Interview by video call with Eva, 31 January 2024. See also Erick's case in Chapter 3, interview in person in Leamington, 24 September 2023.

²²⁹ Interview in person with María (not her real name), Leamington, 24 September 2023.

²³⁰ CERD, General Comment No.4 “The right to adequate housing” (previously cited).

²³¹ HRC, CCPR General Comment No. 27: Article 12 on Freedom of Movement, 1 November 1999, UN Doc. CCPR/C/21/Rev.1/Add.9.

²³² Gabrielle told Amnesty International that, after her accident, she was assisted by a doctor known by her employer, who talked to him before her, allowing the employer to control the information about her injury. Rudy, a Guatemalan man working in meat processing, developed an illness in his fingers stemming from his work, but his employer controlled his doctor appointments and the medical information provided to him to conceal that his illness stemmed from his work. See Chapter 3.

²³³ Santiagos reported he and other workers were heavily controlled by their employers. He had to ask permission to leave the house.

²³⁴ Interview in person with Gabrielle, Pickering, 22 September.

²³⁵ Interview in person with Richard, Chatham, 25 September 2023.

²³⁶ Interview by video call with Jack, 27 September.

²³⁷ Santiagos' employer retained his passport and other documentation. Gabrielle, Hilda, and five Guatemalans working in the same farm all had their passports retained by their employers.

THE CASES OF ROBERTO AND MIGUEL

Roberto and Miguel,²³⁸ two Central American men with two-year visas under the low-wage stream of the TFWP, were subjected to severe forms of control by their employer, who retained their passports and had cameras inside and outside the containers where they lived.

Both were deceived by their employer and promised a 40-hour-per-week job, a salary of CAD\$13.50 per hour, accommodation free of charge, and the possibility of bringing their families in the future. In fact, they lived in wholly inadequate conditions, worked between 60 and 72 hours a week without adequate rest and were significantly underpaid.²³⁹

The employer assigned Roberto and Miguel tasks that were clearly outside the remit of their permit. After the first month of work, the employer transferred Miguel to another farm, telling him he no longer had enough work for him. Miguel ended up having two jobs in practice: he worked on the farm, for a different employer, and had to wash the trucks upon his return from the farm. They had to be available at any time for their employer, who would sometimes enter their accommodation uninvited and unannounced, telling them: "Come on, go to work".

Threats and other forms of verbal abuse were frequent, including threats of repatriation.

Miguel decided to document their situation and reported it to the recruitment agency in his country of origin. When the employer realized this, he decided to terminate their contracts early. He gave them a last paycheck and informed them they were returning to their country on that same day. In an apparent effort to erase any evidence of abuses, the employer forced Roberto to give him his personal mobile phone. One of the drivers of the company drove Roberto and Miguel to the airport.

Miguel and Roberto never boarded the plane and managed to stay in Canada. They reported the abuses they suffered to the police and were granted open work permits.

THE CASE OF BÉNÉDICTE

"I did not expect to be a slave here. They promised me things. Everything I endured in the hope of having my children [come to Canada]... It had been almost two years, and I knew that none of these promises would come true."

After her prospective employer promised her permanent residence in Canada, Bénédicte,²⁴⁰ a woman from Cameroon with two children, paid CAD\$10,000 in recruitment fees to a Cameroonian man - her recruiter - before travelling to Canada. She told Amnesty she signed a contract that stipulated a salary, periods of rest, holidays, and foresaw accommodation, car, and parking.

Bénédicte arrived in Canada in September 2016 with a two-year tied visa to work on a poultry farm. She reported that upon arrival, her employer told her that her previous contract was not valid and informed her that she had to work seven days per week and be at his disposal. He also told her that she was not allowed to leave the house or have a mobile phone, due to her migrant status.

Bénédicte worked around 70-80 hours per week, doing domestic and garden work in her employer's home, as well as agricultural work, while her contract stated that she worked in agriculture only. She said she never enjoyed any holiday or rest days and was heavily controlled by her employer and the recruiter, who had control over her bank cards and withdrew money from her account. She said she was only allowed to leave the house once a week to do her shopping and was always accompanied by her recruiter. Her employer would enter her accommodation unannounced to inspect her room.

Bénédicte was sexually harassed and assaulted by her employer. She explained to Amnesty that upon her arrival in Canada, her recruiter told her she had to be available for sexual services for her employer. She reported that the employer would sexually abuse her, physically and psychologically. When another young Cameroonian woman arrived, Bénédicte was assigned to agricultural tasks, whereas the new woman stayed at the employer's house doing domestic work. According to Bénédicte, she was also sexually harassed by him. She worked and lived in a climate of fear, intimidation and abuse. Despite the abuse she suffered, she felt she had no option but to comply with her contract, as the employer had promised to sponsor her children to come to Canada and threatened her with repatriation if she complained.

²³⁸ Interview by video call with Roberto, 19 and 22 September 2023; Interview by video call with Miguel, 27 October 2023.

After a year and seven months, Bénédicte fell sick.

“I started getting weaker, falling ill, with our work rhythm too, because I worked in the woodworking shop, I worked on the farm, he took me to work at his son's, and he needed me at home; I had to be there. It had become very exhausting for me”.

Her employer told her that if she fell sick, he would return her to her country. She had to be taken to the hospital by a co-worker, and the doctor diagnosed her with severe anaemia.

When Bénédicte finally left the farm in July 2018, her employer cancelled her visa, leaving her in an irregular migration status. Bénédicte obtained permanent residence in 2021.

2.10 RACIAL DISCRIMINATION IN THE WORKPLACE

“I can't work under these conditions because there is a lot of discrimination. Are they [nationals] better than us? Is it not the same work that we do? If they [nationals] are sick, they call you to replace them; if an African falls sick, they tell the African to find someone to come to work in their place.”

Hélène, Ivorian worker.

Several workers reported they experienced discrimination in the workplace: compared to nationals, they were assigned more physically demanding tasks, they had to do more work, and/or they had heavier work schedules and were imposed overtime.²⁴¹ In Amnesty International's view, this discriminatory treatment stemmed from their visa: due to their visa, they could not refuse those tasks without risking losing their job, visa and migration status.

Julien,²⁴² a man from Mauritius with a tied visa under the TFWP, had to do a physically demanding job in a meat processing company. His job involved handling big pieces of meat. He told Amnesty that the closed permit did not allow him to refuse the hardest tasks: “With a closed permit, even if [your shoulder hurts] you have no choice but to work”. A Quebecois worker who was a union delegate in that company told Amnesty International: “I notice that employers are abusive to foreign workers who have a closed permit. We [nationals] have easier and lighter jobs. Most foreign workers who arrived with closed permits were immediately put on the heavy physical jobs”. She also stressed that she could leave the job, while migrant workers could not. “They are stuck; they are tied; [it is as if] since you cannot leave, we will make you do physical work”.²⁴³

Hélène²⁴⁴ and Sylvie,²⁴⁵ two Ivorian care workers with two-year visas to work in a nursing home, reported they did not have fixed schedules, had to do split shifts and were forced to work overtime by their employer. They claimed this happened only to Black staff, most of them Ivorian.²⁴⁶ Documentation seen by Amnesty International shows that nationals generally enjoyed more favourable, regular and unbroken schedules.²⁴⁷ The schedules, imposed overtime, and lack of contractual breaks made it hard for them to get rest and take care of basic necessities such as shopping and cooking.²⁴⁸ Hélène complained to her employer and

²³⁹ Miguel and Roberto were not paid for the first four weeks. When they received the first payment, they realized they were underpaid. The employer never gave them any payslips. When Roberto asked his employer about his salary, he replied that he could only pay 40 hours per week, as per their contract, as more hours would entail problems with authorities. Registration of hours, document on file with Amnesty International.

²⁴⁰ Interview in person with Bénédicte, Montreal, 15 September 2023.

²⁴¹ CESCR General Comment 20 states, “...discrimination constitutes any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of Covenant rights.” CESCR, General Comment 20: Non-discrimination in Economic, Social and Cultural Rights (Article 2 Para. 2), 2 July 2009, UN Doc. E/C.12/GC/20, para. 7.

²⁴² Interview in person with Julien (not his real name), Princeville, 17 September 2023.

²⁴³ Interview in person with a worker from Quebec, Princeville, 17 September 2023.

²⁴⁴ Interview in person with Hélène, Quebec city, 18 September 2023.

²⁴⁵ Interview by video call with Sylvie, 18 September 2023.

²⁴⁶ Hélène added that the employer would call Africans at the last minute, to cover for sick staff, and impose overtime on them. They both indicated that they had to be available and could not refuse overtime or split shifts.

²⁴⁷ Photos of the week schedule, on file with Amnesty International.

²⁴⁸ Split shifts had a disproportionate impact on them. Both told Amnesty they had to remain in the premises of the care home between the split shifts, and often in the evening, until transport was available to take the workers to the accommodation provided by the employer.

Sylvie said “How can someone work from 3pm to 11pm, by the time transport arrives, I get home at 1 am, and I have to go back having only slept two hours? I feel like crying.”

requested a reconsideration of the schedule. Her employer ignored her request and threatened to deport her and charge her for the fees incurred to recruit her.²⁴⁹

2.11 CANADA'S RESPONSIBILITY FOR ABUSES UNDER THE TFWP

The ICESCR's obligation to protect workers' right entails taking measures to ensure that third parties, such as private sector employers and enterprises, do not interfere with the enjoyment of the right to just and favourable conditions of work. This includes taking steps to prevent, investigate, punish and redress abuse through effective laws and policies and adjudication.²⁵⁰

The abuses experienced by migrant workers at the hands of employers are not exceptions. Most of the workers interviewed by Amnesty International endured multiple abuses at different points in time, by one or several employers. The abuses documented affected migrant workers of different nationalities, across provinces and sectors. Migrant workers' testimonies, together with other documentation and reports produced by organizations, academics and unions over the years, reveal a consistent pattern of abuse that has a clear root cause: tied visas under the TFWP. The abuses under the TFWP cannot be attributed only to unscrupulous employers that operate outside the law. On the contrary, they are a foreseeable consequence of tied visas, which stems from the power these types of visas grant to employers. They are equally a systemic outcome of the TFWP, as tied visas are a fundamental component of the program.

In light of the systemic nature of the abuses,²⁵¹ it is Amnesty International's conclusion that labour exploitation and other abuses under the TFWP are caused by Canada's immigration policy, laws and regulations. They cannot be attributed to a few unscrupulous employers, nor can be understood as isolated incidents. They fall squarely under Canada's responsibility in as much as Canadian authorities have designed, regulated and implemented a visa system for the TFWP that intrinsically carries a higher risk of labour exploitation. In its current design, the TFWP is inherently exploitative, and therefore violates Canada's international obligation to respect, protect and fulfil the right to just and favourable conditions of work enshrined, among others, in Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The prevalence of those abuses does not only show that the state is failing to prevent abuses and protect migrant workers from labour exploitation but also, as the next chapter will show, that authorities are failing to provide workers with effective remedies.

²⁴⁹ Messages seen by Amnesty International, on file.

²⁵⁰ CESCR, General Comment 23 (previously cited), para. 59. The CESCR has also stated that "the obligation to protect means that States parties must prevent effectively infringements of economic, social and cultural rights in the context of business activities. This requires that States parties adopt legislative, administrative, educational and other appropriate measures, to ensure effective protection against Covenant rights violations linked to business activities, and that they provide victims of such corporate abuses with access to effective remedies", CESCR, General Comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, 10 August 2017, UN Doc. E/C.12/GC/24.

²⁵¹ In a meeting on 20 January 2024, a Senior official from Office of the Minister of Employment, Workforce Development and Labour, acknowledged the systemic abuses stemming from close work permits and informed Amnesty International that the Ministry aimed at adopting sectoral permits in the agri-food sector in 2026.

3. INEFFECTIVE AND INADEQUATE REMEDIES

“Here, there is no justice for immigrants.”

Bénédicte, from Cameroon.

Most of the workers interviewed by Amnesty International had not received adequate redress for the abuses they were subjected to by their employers. Some of the workers interviewed felt they could not leave or report their employers without suffering adverse consequences to their status and income. For those who reported, pursuing labour claims required being able to stay in the country and engage in long procedures, as years would pass before they had access to any form of redress. Remedies would be very limited for some workers, as separate procedures mean that abuses are not addressed as a whole - elusive or non-existent for others.

Bénédicte was sexually assaulted and harassed by her employer, controlled and psychologically abused by him (see Chapter 2). She told Amnesty International that she was never granted justice. She submitted complaints of sexual harassment against her first employer; a few other women who had worked for the same employer filed similar complaints. Whereas she received some compensation, her employer was only sanctioned with a fine for non-compliance with the terms of the LMIA and is allowed to hire migrant workers again.

Eva, an African young woman, was raped by a co-worker in the mixed accommodation provided by her employer. She left her job and applied for an open permit for vulnerable workers (OWP-VW, see below), but she was not granted one. When she talked to Amnesty International, she said:

“I shouldn't have complained about my assailant, I should have hidden the bruises. I had so many thoughts in my head. I should have... I shouldn't have done that. Overwhelming guilt. It ate me up. I was like, during eight months, I didn't work. For eight months, I had no support.”²⁵²

This chapter details the obstacles TFWP workers face in reporting abuses, as well as the shortcomings of the remedies available when they do. These obstacles are intrinsically linked to the fundamental features of the TFWP, the manner workers are recruited and other factors that can aggravate workers' disadvantaged position and pre-existing risk factors.

While all TFWP workers are in a position of structural risk due to being tied to a single employer (see section 3.1 Structural obstacles inherent to the TFWP), several other factors heighten the risk of labour exploitation for some workers and increase the barriers to complain. These include: TFWP stream (see section 3.1.2 Structural obstacles inherent to the SAWP); employment sector (see section 3.2 Additional structural obstacles for agricultural workers); limitations imposed on the right to unionize (see below The right to unionize for agricultural workers); education; language skills; gender; class and race (see section 3.3 Pre-

²⁵² Interview by video call with Eva, 31 January 2024.

departure factors). These factors interweave, creating multiple and intersecting vulnerabilities and barriers for workers to escape abuses and report.

The enforcement systems in Canada rely heavily on reports by individuals, who have the burden to prove they have suffered abuses before different authorities. Migrant workers must navigate a complex division of powers and competencies between federal, provincial and municipal authorities to obtain any redress.

Oversight and accountability systems in Canada put an excessive burden on individual workers and ignore the structural barriers to complain. Racialized migrant workers in “low-skilled” occupations may not have sufficient access to information, connections, resources, and time to navigate the systems, as they are in a situation of precarious migration status. Moreover, they may not speak the language. As a result, the existing complaint system in Canada is neither accessible nor effective for many of the workers, primarily due to the structurally vulnerable/precarious position they find themselves in: the multiple and overlapping intersections of nationality, race and ethnicity, gender, class, and precarious migration status affect their right to be free from labour exploitation in Canada and shape their ability to complain when their rights are violated.

Over the last few years, Canadian authorities adopted some measures to facilitate access to reporting mechanisms and remedies. Notably, they provided funding for organizations to deliver information and hire support workers²⁵³ and created a one-year open work permit for workers who are experiencing abuse or are at risk of abuse in the context of their employment (OWP-VW, see below). Nevertheless, these measures are narrow in scope and do not entail structural changes to the TFWP, nor do they change the primarily reactive, individualized and complaint-driven nature of the system. As a result, they are largely inadequate and insufficient, and therefore fail to comply with Canada’s international obligations.

International law recognizes the right to seek and obtain an effective remedy in Article 8 of the Universal Declaration of Human Rights (UDHR), Article 2(3) of the ICCPR and Article 6 of the ICERD. Remedy for violations of the right to just and favourable conditions of work includes adequate reparation, restitution, compensation, satisfaction and guarantees of non-repetition.²⁵⁴ Migrants who suffer human rights violations or abuses should have access to justice and be able to report and/or file legal complaints without fear of deportation or repatriation, regardless of status.²⁵⁵

The CESCR has also stated that “Workers affected by a preventable occupational accident or disease should have the right to a remedy, including access to appropriate grievance mechanisms, such as courts, to resolve disputes. In particular, States parties should ensure that workers suffering from an accident or disease and, where relevant, the dependants of those workers, receive adequate compensation, including for costs of treatment, loss of earnings and other costs, as well as access to rehabilitation services.”²⁵⁶

3.1 STRUCTURAL OBSTACLES INHERENT TO THE TFWP

The TFWP puts migrant workers in a situation that some academics have qualified as “structural vulnerability”, as both their labour conditions and their migration status depend on their employer.²⁵⁷ Closed work permits entrench a power imbalance in favour of the employer, who controls both the migration status and labour conditions of migrant workers – as well as their access to healthcare, housing, and ability to earn wages. When an employer is “not just your employer, but also your landlord, your access to leaving your rural home (provider of transportation to purchase groceries, get medical attention), your only tie to the

²⁵³ The Migrant Worker Support Program was launched in 2022, with a budget of CAD\$49.5M, IRCC, “Migrant Workers Support Program”, February 7, 2024, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/cimm-feb-7-2024/migrant-workers-support-program.html>

²⁵⁴ CESCR, General Comment No. 23 (previously cited), para. 57.

²⁵⁵ The UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) recommended that: “States should establish effective and accessible channels which would allow all migrant workers to lodge complaints for violations of their rights without retaliation against them on the ground that they may be in an irregular situation.” CMW, Contribution by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to the High-Level Dialogue on Migration and Development of the General Assembly, UN Doc. A/61/120, para. 15(f).

²⁵⁶ CESCR, General Comment No.23 (previously cited), para. 29.

²⁵⁷ McLaughlin and Hennebray, “Pathways to precarity: Structural Vulnerabilities and Lived Consequences in the Everyday Lives of Migrant Farmworkers in Canada”, in *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, University of Toronto Press, Toronto, 2013, pp. 175-194.

community and has control over your ability to stay in the country,”²⁵⁸ the entirety of TFWP participants’ existence is dictated by whether or not they remain in the good graces of their employer.

3.1.1 THREATS OF REPATRIATION, REPRISALS AND FEAR OF REPRISALS

“I felt trapped and imprisoned by my need to keep my job. I was forced to endure all this mistreatment for fear of losing the opportunity to continue working in Canada.”

Carlos, Guatemalan worker.

The ever-present threat of having their employment terminated and being deported (and the exploitation of this fear by employers) makes it extremely difficult for TFWP workers to complain about abusive treatment or working conditions.²⁵⁹ Both employers and workers know that TFWP workers are easily replaced.²⁶⁰ In that sense, tied visas make workers “disposable”. Many workers interviewed by Amnesty International stated that their employers responded to their complaints by threatening repatriation to their country of origin.²⁶¹

Henry reported that his employer told him, “You are going to Guatemala” on several occasions. In one instance, his employer told him off, ordered him to get in the car, then started to hit the steering wheel aggressively, and stopped the car in the middle of the road. When Henry opened the car door to get out, the employer started the engine, and the door flew back and hit Henry. The employer locked the car doors, sped up, and told Henry that he was useless and was leaving for Guatemala the next day.²⁶²

Erick,²⁶³ a man from Guatemala working on a farm, told Amnesty International about the severe bullying, harassment, and physical assault he had endured at the hands of three supervisors. One supervisor would regularly make inappropriate sexual remarks about Erick’s wife and daughter, accompanied by sexualized obscene gestures. Erick reported it to the owner of the company in three different instances, but the supervisors’ harassment worsened. Eventually, one of the supervisors told him to get in his car and said, “You’re going back to Guatemala, we don’t want you here anymore”. The employer’s brother put his luggage in the car, and they drove him to the airport. Erick could not escape as the car doors were locked. Upon arrival at the airport, they tried to force him through the boarding line and to check his luggage. Erick informed the person at the desk that he did not want to board the plane. When authorities were summoned, the supervisor and the employer’s brother disappeared.

Several workers told Amnesty International they suffered reprisals after complaining to their employers or to other actors about the abusive treatment or working conditions they or other workers were experiencing. They faced threats and harassment by their employers or supervisors, were unfairly dismissed and/or lost income.²⁶⁴ In some cases, employers even made death threats.²⁶⁵

²⁵⁸ PEI Action Team for Migrant Workers’ Rights, Presentation to the Standing Senate Committee on Social Affairs, Science and Technology, 14 September 2023, p. 1, https://sencanada.ca/Content/Sen/Committee/441/SOCI/briefs/2023-11-10_SOCI_SS-1_WORK_Brief_e.pdf

²⁵⁹ In a 2024 Senate report on temporary and migrant labour in Canada, an expert witness was quoted stating, “The reality is that because workers are so precarious, when they assert their rights, they are fired, deported, and often forced to remain in those exploitative working conditions.” Standing Senate Committee on Social Affairs, Science and Technology, “Act Now: Solutions for Temporary and Migrant Labour in Canada” (previously cited), p. 35.

²⁶⁰ SAWP workers in particular, can be easily replaced due to their sending country being required to maintain a pool of workers ready to send. A worker cited by Binford’s said, “If we protest, even if all 3,000 workers stationed in Leamington [Ontario] did, we’d get sent back to Mexico. They can do that because there are another 3,000 Mexican workers ready to come to Canada and work.” Arthur Leigh Binford, “Assessing temporary foreign worker programs through the prism of Canada’s Seasonal Agricultural Worker Program: can they be reformed or should they be eliminated?”, *Dialect Anthropol* 43, 347-366 (2019), 21 May 2019, p. 8 (previously cited).

²⁶¹ Walter told Amnesty International he was threatened with repatriation and could not complain, interview in person, Laval, 16 September 2023. Bénédicte’s first employer fostered a climate of fear in which he threatened her with repatriation if she dared to complain or if she fell sick, interview in person, Montreal, 15 September 2023. Hélène’s employer threatened her with repatriation when she complained about her schedules, interview in person, Quebec City, 18 September 2023. Richard reported he was frequently threatened with repatriation by his employer, interview in person, Chatham, 25 September 2023.

²⁶² Interview in person with Henry, Valleyfield, 14 September 2023.

²⁶³ Interview in person with Erick, Leamington, 24 September 2023.

²⁶⁴ Daniel was unfairly dismissed by his first employer after he reported the theft of his salaries to the union and a support organization. His employer changed his shift without giving him enough time to find transportation to the workplace but promised to arrange and pay for transportation for him. Daniel reported the driver did not pick him up at the time convened for two consecutive days. When he went to work on the third day, he was told he was fired, interview in person, Quebec City, 18 September 2023. Santiago, a Mexican worker, was told by his employer that he was returning to Mexico in a week after he intervened in an argument between a supervisor and another worker. Santiago believes this was also the result of him raising his voice to demand fair wages and the payment of overtime, interview by video call, 15 December 2023.

²⁶⁵ Roberto and Miguel indicated that in several instances their employer made implicit physical threats. Interview by video call with Roberto, 19 and 22 September 2023; interview by video call with Miguel, 27 October 2023. Felipe, a Mexican agricultural worker, reported that, after he complained to FERME that his salary was not paid, his employer threatened to add rat poison to his food, interview in person, Montreal, 16 September 2023.

The fear of repatriation, non-renewal of contract or visa, or exclusion from the program by recruitment agencies frequently silenced workers and coerced them into unfair and abusive conditions of work.²⁶⁶ Henry told Amnesty International:

“The employer has the power here. He decides if you return [to Canada] or not; if your behaviour is good, he thinks, ‘he can stand it’. But if you say something against employers, they won’t call you again. This is the fear many have. They fear talking.”²⁶⁷

Carlos referred to fears of being blacklisted by recruitment agencies:

“My biggest fear is to return to Guatemala [before my contract ends] due to recruitment agencies. If I return and I have not fulfilled my contract, I’ll be put on a list, and I won’t be able to return to Canada.”²⁶⁸

These fears are well-founded. Several scholars have noted that those who report abuse risk being summarily deported with no procedure nor appeal rights – a devastating result for many who often go into debt to secure and travel to a job.²⁶⁹

3.1.2 STRUCTURAL OBSTACLES INHERENT TO THE SAWP

In addition to the structural obstacles to redress experienced by all TFWP workers, SAWP workers face specific obstacles related to the characteristics of their program.

First, the short length of SAWP work permits – a maximum of eight months – limits the ability of many workers to pursue remedies for abuses or injuries, as they simply do not have the time to engage in complaint procedures or seek remedies.²⁷⁰

Second, the duration of the SAWP visas also hampers access to benefits that can only be collected while the worker is in Canada, including employment insurance and adequate continuous care in case of work accident or occupational illnesses.²⁷¹ In theory, a TFWP worker could collect regular or sickness benefits while they are in Canada.²⁷² However, injured workers are, in many cases, unable to access sickness benefits, as when their employer considers they are no longer able or fit for the job, they are often subjected to rapid repatriation.²⁷³ SAWP workers are disproportionately affected by the requirement to be in Canada to collect benefits because of the seasonal nature of their contracts. A lawsuit filed in December 2023 by SAWP workers estimated that over the past 15 years, Canada had collected nearly CAD\$500 million in employment insurance deductions from workers in that program, but had denied access to those benefits to SAWP workers, due to the short nature of their visa.²⁷⁴

Third, in addition to the power imbalance in favour of the employer experienced by all TFWP workers, SAWP workers must also overcome a power imbalance in favour of the “liaison officer”, government officials representing the SAWP-participant’s home country. SAWP workers must ensure they remain in the good graces of their liaison officers, who play a role in agreeing to their return to Canada year after year – a factor

²⁶⁶ Martin told Amnesty International, he did not want to complain after suffering an accident at work, as he feared non-renewal of his contract. He said, “I am going back to Guatemala in two months. If I complain, I’m 100% sure I will lose my job as my employer won’t call me again”, interview in person, Saint-Rémi, 14 September 2023. Anthony told Amnesty International: “What happens if a farmworker goes against the conditions that his employer has? They no longer give him a job next year. That’s the worst fear”, interview in person, Farnham, 15 September 2023. Miguel also told Amnesty he felt he had no option, as reporting meant he could lose his job and income, and he had to pay the debt he incurred to come to Canada, interview by video call, 27 October 2023.

²⁶⁷ Interview in person with Henry, Valleyfield, 14 September 2023.

²⁶⁸ Interview in person with Carlos, Montreal, 15 September 2023.

²⁶⁹ Cohen, A. & Cajax, C. S., “A Lifeline in troubled waters: A support intervention for migrant farm workers. *International Migration*, Volume 00, pp. 1-16, 2022, and Ruhs, M., *The Price of Rights: Regulating International Labor Migration*. Woodstock, Oxfordshire: Princeton University Press, 2013, p. 146.

²⁷⁰ Workers interviewed by Amnesty International shared that it had taken them months and years for their complaints to be resolved and to receive any form of redress. On the discrimination and lack of access of SAWP workers to employment insurance due to the nature of their visa, see Statement of Claim, *Kevin Palmer and Andrei Peters vs. the Attorney General of Canada* (previously cited).

²⁷¹ Employment insurance is a contributory benefit to support individuals who are unable to work due to no fault of their own, such as an injury or being laid off from work. Workers pay into this program via deductions from their pay.

²⁷² Current regulations indicate that “Regular and sickness benefits can generally only be collected while workers are in Canada. Temporary foreign workers are eligible to receive regular and sickness Employment Insurance benefits if they are unemployed, have a valid work permit and meet eligibility criteria, including having worked a sufficient number of hours.” Canadian Employment Insurance: Eligibility for Temporary Foreign Workers, https://publications.gc.ca/collections/collection_2022/edsc-esdc/HS24-40-2008-eng.pdf

²⁷³ Gabrielle told Amnesty International she was in deep pain and unable to work after falling from a tree when she was at work. Her employer booked her flight back to Jamaica, interview in person, Pickering, 22 September. On repatriation of injured workers, see Aaron M. Orkin, Morgan Lay, Janet McLaughlin, Michael Schwandt and Donald Cole, “Medical repatriation of migrant farm workers in Ontario: a descriptive analysis”, *CMAJ*, September 17, 2014, 2 (3).

²⁷⁴ Statement of Claim, *Kevin Palmer and Andrei Peters vs. the Attorney General of Canada* (previously cited).

that further disincentivizes workers to protest exploitative or abusive conditions of work.²⁷⁵ Some workers reported having contacted their country's consular representatives or liaison officers for assistance. Of those who took this step, four reported that their efforts were fruitless, and that they received no effective support from their consulate.

3.2 ADDITIONAL STRUCTURAL OBSTACLES FOR AGRICULTURAL WORKERS

Isolation, due to the remoteness of the workplace and workers' dependence on employers for transportation, is a major risk factor for all TFWP agricultural workers (both within and outside the SAWP), and an obstacle to complain.²⁷⁶

Another contributing factor to agricultural migrant workers' disadvantaged position is the exemption of the application of labour standards for farm work in some provinces contrary to Canada's international legal obligations – with blanket exemptions in Ontario where employers do not have to comply with employment standards concerning wages, overtime, and rest; with limited exemptions in Alberta for small farms, as well as Quebec, where employers are exempted from paying overtime to agricultural workers.

On top of this, an important factor that heightens workers' risk of suffering human rights abuses and increases the obstacles to complain are legislated limitations on collective bargaining rights for agricultural workers in Ontario, Alberta and Quebec.

THE RIGHT TO UNIONIZE FOR AGRICULTURAL WORKERS: SEVERELY LIMITED IN QUEBEC, BANNED IN ONTARIO AND ALBERTA

In Quebec, the right to collective bargaining and unionization is limited for agricultural workers. Only agricultural workers in farms with at least three permanent employees can form and join unions.²⁷⁷ This provision has a discriminatory effect on agricultural workers employed by small farms and farms that largely rely on non-permanent, seasonal labour. It also has a clear discriminatory effect on migrant agricultural workers, whose labour under TFWP is considered temporary.

Alberta's Labour Relations Code excludes employees of farming and ranching operations from the right to unionize and bargain collectively.²⁷⁸

Agricultural workers in Ontario are not allowed to organize and bargain collectively, as they are excluded from the general labour protections set in the Labour Relations Act 1995.²⁷⁹ The Agricultural Employees Protection Act (AEPA)²⁸⁰ allows them to form or join employee associations that can make representations to their employers who have to consider them in good faith and *at an appropriate opportunity*. In 2009, the United Food and Commercial Workers International Union (UFCW) submitted a complaint before the ILO, alleging that AEPA denied collective bargaining rights to all agricultural workers in Ontario.²⁸¹ ILO found that Canada had violated the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), as well as the 1998 Declaration on Fundamental Principles and Rights at Work²⁸² and upheld the complaint reminding authorities that:

²⁷⁵ Some observers note that "liaison officers" are dependent upon good relations with employers to maintain their own position in Canada and at home. Arthur Leigh Binford, "Assessing temporary foreign worker programs..." (previously cited), p. 9.

²⁷⁶ Amnesty International particularly noted the risks and vulnerabilities Guatemalan workers in the Agricultural stream experienced, many of whom did not speak English or French, worked in remote locations and reported a lack of consular support and information.

²⁷⁷ The Quebec Labour Code refers to employees who are ordinarily and continuously employed in a farming business. Chapter V.3, Article 111.27-11.32 of the Labour Code lays down special provisions for farming business. Agricultural workers covered by these provisions can form and join associations, but these associations do not have the right to collective bargaining and, therefore, to strike.

²⁷⁸ Labour Relations Code, RSA 2000, c L-1.

²⁷⁹ Labour Relations Act, 1995, S.O., c.1, Sched. A.

²⁸⁰ Agricultural Employees Protection Act, 2002, S.O. 2002, c. 16. Article 1 reads: "The purpose of this Act is to protect the rights of agricultural employees while having regard to the unique characteristics of agriculture, including, but not limited to, its seasonal nature, its sensitivity to time and climate, the perishability of agricultural products and the need to protect animal and plant life."

²⁸¹ Case No 2704 (Canada), 23 March 2009, United Food and Commercial Workers Union - Canada (UFCW Canada), supported by the Canadian Labour Congress and UNI Global Union.

²⁸² ILO, *Interim Report - Report No 358, November 2010 (335 - 361)*.

“All workers without distinction whatsoever (with the sole possible exception of the armed forces and the police) shall have the right to organize under the Convention. Therefore, [...] any provincial legislation that would deny or limit the full application of the Convention in relation to the freedom of association of agricultural workers should be amended.”²⁸³

Regrettably, in 2012, the Supreme Court of Canada concluded that the AEPA did not breach the Canadian Charter of Rights and Fundamental Freedoms.²⁸⁴

It is Amnesty’s view that both the AEPA and the provisions of the Labour Code in Quebec and Alberta constitute disproportionate and illegitimate restrictions on agricultural workers’ right to collective bargaining, are unlawful under international law and a breach of Canada’s international obligations under both ICESCR and the ILO Convention No. 87. Authorities should repeal such legislation and protect the rights of workers to unionize.

3.3 PRE-DEPARTURE FACTORS

Many of the individuals who participate in the TFWP are already in a disadvantaged position in their country of origin. Many of them are poor, racialized, have had little access to formal education and did not speak English or French before departing for Canada. Some are from marginalized groups, such as Indigenous communities. These factors combine to exacerbate the risks of suffering labour exploitation and the obstacles to seeking and obtaining redress when abuses happen.

Eleven workers told Amnesty International they sought to work in Canada to overcome financial difficulties, escape situations of poverty, pay pre-existing debts, as well as to escape conflict or situations of abuse. Twenty-six workers mentioned their family’s dependency on their income to pay for education, housing or other basic goods in their country of origin. These factors put migrant workers in a situation where they feel compelled to endure abuses with the aim of fulfilling previous commitments, mostly for the sake of their families.

Pre-departure factors directly associated with the TFWP and recruitment practices in the country of origin aggravate workers’ vulnerability. The need to repay loans associated with recruitment costs affects workers’ ability to escape abuses and complain. In eight cases, individuals had to obtain loans to pay their recruitment agencies.²⁸⁵

Several workers interviewed by Amnesty International claimed they lacked adequate and accurate information about the terms of their employment in Canada prior to their departure. Nineteen workers reported receiving a distorted description of the job they were hired for. In some cases, particularly affecting Guatemalan and Caribbean workers, individuals claimed they received very little information about the work they were going to do and the conditions. Some individuals reported not being given a copy of their contract before departure, and a few said they were given the contract at the airport.²⁸⁶

Language barriers and lack of information came up at various times before workers travelled to Canada and once in the country. Seven individuals reported they received their contracts in a language they could not understand. Walter said he was asked to sign a lot of documents he could not understand the day before travelling: “They bring up a kind of brochure where one has to sign, but you do not know if you are signing your death sentence”.²⁸⁷

Language barriers and lack of information also affect workers’ ability to access and navigate complaints systems once in Canada. Factors that increase access to and comprehension of information to navigate the system include working in “higher skilled” jobs and unionized sectors and speaking English or French.

²⁸³ Observation (CEACR) - adopted 2011, published 101st ILC session (2012). The quote on p. 52 and 53 can be found here: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:2698634,102582

²⁸⁴ *Ontario (Attorney General) v. Fraser*, 2011 SCC 20 (CanLII), [2011] 2 SCR.

²⁸⁵ Walter told Amnesty International that to enrol in the program, he incurred CAD\$5,000 in debt, while Stacey incurred CAD\$8,000 in debt; Eva had to request a loan from the bank. Interview in person with Walter, Laval, 16 September 2023, in person with Stacey, Montreal, 15 September 2023 and interview by video call with Eva, 31 January 2024. Hilda had to borrow money to pay CAD\$6,500 to the recruitment agency, interview in person, Leamington, 24 September 2023.

²⁸⁶ Henry told Amnesty International he received his contract at the airport, interview in person, Valleyfield, 14 September 2023.

²⁸⁷ Interview in person with Walter, Laval, 16 September 2023.

Rudy, a Guatemalan man working in food processing, worked extremely long hours and developed stiffness in his hands as a result of the repetitive mechanical work he had to do routinely.²⁸⁸ He visited a couple of doctors, accompanied by company representatives, but neither the company nor any of the doctors he visited informed him that his condition resulted from his work. Consequently, Rudy was not able to submit a complaint to get his condition recognized as occupational illness until he received support from an organization.²⁸⁹

3.4 ENFORCEMENT, COMPLAINT MECHANISMS AND REMEDIES

“Complaints and justice require time. But some workers cannot afford a judicial procedure. They simply cannot stay in Canada or do not have the time.”

Viviana – case worker for CIW.

Canada’s available mechanisms to enforce labour, health and safety standards, and to protect and provide remedies to migrant workers under the TFWP, are largely inadequate.

First, Canada’s labour enforcement system is predominantly reactive, meaning that it heavily relies on workers to initiate a complaint and prove before different authorities that they have suffered abuses.²⁹⁰ For the reasons explained above in this chapter, a system that mainly relies on individual complaints is deeply inadequate to protect migrant workers in precarious employment and with precarious migration status.

Second, the system is characterized by a complex regulatory framework and division of powers. Enforcement of most employment, health and safety standards, and non-discrimination laws depends on provincial bodies. The federal government, responsible for the TFWP and therefore for the policy that ties workers to single employers and enables abuses, has limited powers to enforce labour protections, unless they are embedded in the conditions to hire migrant workers.

This system also compartmentalizes a multiplicity of abuses, failing, in many instances, to assess how those interplay and how they combine to affect individuals that are disadvantaged in multiple and intersecting ways, including their economic position, migration status, race and gender.²⁹¹

At best, the system can only provide some form of remedy (often inadequate) for those who dare to complain, without any guarantee the abuses will not be repeated; at worst it not only fails to dismantle the structures of power that enable and perpetuate those abuses but also leaves workers without effective remedies.

Twenty-one workers interviewed by Amnesty International had submitted labour complaints, all of them with help and support from organizations, and only in one case with the support of their consulate. For some, submitting a complaint had taken months or even years. Due to the multiple violations, and given their disadvantaged position, exhaustion and lack of time, some workers prioritized recovering part of their wages or some sort of financial compensation, rather than pursuing other claims.²⁹² In at least 14 cases, it appears that reports and complaints, either against the employer, a recruitment agency or authorities, were followed by reprisals, including the non-renewal of contract, unfair dismissal and attempted repatriations.

In some cases, it would take too long to get any redress.

²⁸⁸ Rudy told Amnesty that he had to work 60-70 hours per week, often including Saturdays and, sometimes even Sundays, and that he could not refuse overtime. He reported that in one instance, during the Covid-19 pandemic, the company obliged the workers to work seven days per week for a period of three weeks, under threat of dismissal. Interview in person with Rudy St-Hyacinthe, 17 September 2023.

²⁸⁹ Although Rudy submitted his complaint once the deadline had passed, the Tribunal Administrative du Travail (TAT) admitted his complaint on account of the language difficulties. Tribunal Administrative du Travail, (Division de la santé et de la sécurité du travail), dossier 1246728-62B-2110, Saint-Hyacinthe, 6 December 2022.

²⁹⁰ Marsden, Sarah; Tucker, Eric; and Vosko, Leah F., “Flawed by Design?: A Case Study of Federal Enforcement of Migrant Workers’ Labour Rights in Canada”, *Canadian Labour and Employment Law Journal* 23:1, 2021, pp. 71-102.

²⁹¹ Atrey, Shreya, and Peter Dunne, ed. *Intersectionality and Human Rights Law*. Oxford: Hart Publishing, 2020.

²⁹² As one worker said: “I initially decided in favour of mediation, because the mediator could reach an agreement on the payment earlier. If I go to court, it can take me two or three years”. Interview by video call with Miguel, 27 October 2023.

FEDERAL AND PROVINCIAL COMPLAINT MECHANISMS

Several complaint mechanisms are in place at the federal and provincial levels for migrant workers to report abuses, but they are parcelled across jurisdictions and areas.

At the federal level, TFWP workers can report abuses to ESDC through a confidential tip line, filling out a report online, by email, or in person at an office of Service Canada. Third parties can also report abuses to ESDC.²⁹³ However, ESDC inspectors cannot make determinations of violations of employment standards – they can only assess whether the employer complies with the terms of the LMIA or the SAWP contract (see section 3.4.2. Labour inspections).

If an employer fails to comply with employment standards (overtime, minimum wage, rest and holidays), health and safety regulations, or accommodation standards, workers in jobs that are provincially regulated can pursue a claim before a provincial body.

In Quebec, workers and non-profit organizations on behalf of migrant workers can submit an occupational health complaint or a labour complaint to the CNESST.²⁹⁴ Complaints about sexual and psychological harassment, and prohibited practices are heard by the administrative labour tribunal (*Tribunal administrative du travail*, TAT), if mediation fails. The CNESST transfers discrimination complaints to the *Commission des droits de la personne et des droits de la jeunesse*.

In Ontario, migrant workers under the TFWP can submit a complaint before the Ministry of Labour, Training and Skills Development for violations of the Employment Standard Act (ESA),²⁹⁵ and of the Employment Protection for Foreign Nationals Act (EPFNA).²⁹⁶ Complaints about discrimination are heard by the Human Rights Tribunal of Ontario. Health and safety claims are dealt with by the Safety and Insurance Board (WSIB).

3.4.1 TEMPORARY RELIEF: THE OPEN PERMIT FOR VULNERABLE WORKERS (OWP-VW)

Migrant workers with closed work permits who are experiencing abuse or are at risk of abuse can apply for an open work permit before the federal authorities.²⁹⁷ The open work permit for vulnerable workers (OWP-VW) is not tied to an employer and has a duration of one year, after which workers need to obtain a new work permit to continue working in Canada.

According to official information provided by the government, from January 2019 until May 2023, authorities received 6,248 applications for OWP-VW, 458 in Quebec and the rest from other provinces or from unspecified locations.²⁹⁸ In that same period, 126 applications in Quebec were granted and 310 refused, while the total OWP-VW granted in other Canadian provinces and unspecified locations amounted to 3,207.²⁹⁹ The total number of applications rejected in other Canadian provinces and unspecified locations was 2,301.³⁰⁰ Between May 2019 and May 2021, the top occupations held by individuals granted OWP-VW were truck drivers, general farm workers, home child care providers, and nursery and greenhouse workers.³⁰¹

²⁹³ ESDC, “How to report abuse of temporary foreign workers”, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/report-abuse.html> (accessed on 26 November).

²⁹⁴ Workers have a year to file a claim for unpaid salaries, two years to file a claim for sexual or psychological harassment, and 45 days to file claims that they have been unfairly dismissed, suffered discrimination or retaliation. These complaints are examined and investigated by CNESST.

²⁹⁵ Employment Standards Act, S.O. 2000, c.41. This includes claims for wages, holidays, severance, rest.

²⁹⁶ Employment Protection for Foreign Nationals Act, S.O. 2009. The Act prohibits recruiters and employers from imposing recruitment fees or unfair deductions, retention of documents, reprisals and intimidation.

²⁹⁷ Immigration and Refugee Protection Regulations (SOR/2002-227), Article 207.

²⁹⁸ IRCC, Vulnerable Worker Open Permit Applications (including extensions), received between January 2019 and May 31, 2023, broken down by year, month, and province/ territory of destination. On file with Amnesty International.

²⁹⁹ Government of Canada, Vulnerable Worker Open Permit Applications (including extensions), processed between January 2019 and May 2023... (previously cited).

³⁰⁰ Government of Canada, Vulnerable Worker Open Permit Applications (including extensions), processed between January 2019 and May 2023... (previously cited).

³⁰¹ IRCC, Number of Work Permit and Extension Applications under Vulnerable Workers Program (Exemption Code A72) received and processed from June 1, 2019 (Program Start Date) to January 31, 2021, by Application Type, National Occupation Classification (NOC) Associated to the Valid Work Permit at the Time the A72 Application was Received, Quebec or Other Destination Province and Final Decision. On file with Amnesty International.

Twenty workers interviewed by Amnesty International had received an OWP-VW.³⁰² They told Amnesty International that it took between two and three months to get it.

However, the open permit provides no remedy for past abuses, nor does it shield workers against future ones. While the OWP-VW has allowed some migrant workers to escape abusive employers, the scheme has severe limitations and cannot be considered a solution to the systemic risks migrant workers with tied visas are exposed to.³⁰³ In fact, its sole existence further highlights the pervasiveness of abuses committed against migrant workers.

First, TFWP workers experience the same structural obstacles in applying for an OWP-VW that they experience in accessing other remedies (see above).

Second, workers can only apply for an OWP-VW while their work permit is still valid. While workers can apply after leaving an abusive job, leaving a job without the certainty that authorities will grant an OWP-VW also entails risks, as workers find themselves without income or support. For some workers, leaving their employment also entails losing their accommodation.

Third, once the one-year OWP-VW has expired, people wanting to continue working in Canada must obtain a new work permit and have few other options except to be tied to a new employer, and therefore at risk of abuse. Employers and recruiters can exploit the workers' need for a new closed work permit and demand exorbitant amounts to hire them. As a result, in many cases, the cycle of abuses persists, even after the workers are granted an open permit (see Text box below).

NO END TO ABUSES: THE CASE OF STACEY

“It is quite traumatizing [to return] to a closed permit.”

Stacey, a Cameroonian nurse apprentice who worked on a farm between December 2019 and February 2021, left her job after experiencing a litany of abuses by her employer, including performing functions outside her work permit, control and interference in her private life, unsafe conditions at work, psychological harassment and threats of repatriation (see also sections 2.4 and 2.8). In March 2021, authorities granted her an OWP-VW. Despite holding an open permit, she experienced abuse by her two subsequent employers, who profited from her need to get another closed permit in order to continue working in Canada.

A few months before her open permit was due to expire, Stacey requested her employer to apply for a closed permit for her to continue working in Canada. When her employer demanded that she pay CAD\$5,000 to arrange her work permit – something that is illegal under applicable legislation – she left the job.

Stacey found a third job as a care worker for an elderly man in a private home. She told Amnesty International: “This employer wanted someone vulnerable [...] they considered that, as I am not a permanent resident, I have a real need to get this job and I’ll be forced to accept everything they do and say.” Stacey reported enduring abuses for seven months, including unpaid overtime, control, lack of privacy, and sexual harassment and assault. Yet, she felt compelled to stay in the job because her employer had promised to arrange a new work permit for her. When she realized that the employer had deceived her about the work permit, she decided to leave.

3.4.2 LABOUR INSPECTIONS, NOT FIT FOR PURPOSE

Effective, proactive and targeted labour inspections can deter abuses, protect migrant workers and help enforce labour and health and safety standards. However, organizations and academics agree that in Canada the system of labour inspections that should protect migrant workers has largely failed to do so.

The system of inspections in Canada is compartmentalized in line with the division of powers at the federal and provincial levels. Inspections at the provincial level seek to enforce employment and health and safety

³⁰² Out of 24 who had applied for it, four had been denied. In one case, Rudy was not considered to be “vulnerable”, despite the attempts of the company to conceal that his occupational disability resulted from his work. Rudy’s case is detailed above (see section 3.3).

³⁰³ Eugénie Depatie-Pelletier, Hannah Deegan, and Katherine Berze, “Band-Aid on a Bullet Wound – Canada’s Open Work Permit for Vulnerable Workers Policy”, in *Laws* 11(3), 36, 20 April 2022, <https://www.mdpi.com/2075-471X/11/3/36>; Danièle Bélanger, Véronique Tessier, Amanda Aziz et al, *Sortie de secours ou cul-de-sac ? Une analyse des impacts du permis de travail ouvert pour les travailleurs vulnérables au Canada*, November 2024, <https://dynamiques-migratoires.chaire.ulaval.ca/wp/wp-content/uploads/2024/11/FR-Sortie-de-secours-ou-cul-de-sac-Numerique-web.pdf>

standards. At the federal level they are aimed at helping enforce immigration regulations.³⁰⁴ While ESDC can assess whether the employer complies with the terms of the LMIA or the SAWP contract, they cannot make determinations of violations of employment standards.³⁰⁵

The paradox is, therefore, that while the federal authorities have built and entrenched structures of vulnerability for migrant workers – primarily tied visas under the TFWP – they have traditionally exonerated themselves from any responsibility for addressing breaches of labour law and human rights abuses,³⁰⁶ which have to primarily be found and sanctioned by provincial authorities.

Between 1 April 2023, and 31 March 2024, the Ontario Ministry of Labour, Immigration, Training and Skills Development (MLITSD) conducted 1,025 inspections, investigated 10,515 claims, and prosecuted 92 employers for lack of compliance with employment standards.³⁰⁷ However, publicly available data is not disaggregated on account of participation in the TFWP nor nationality of the claimant. Authorities in Ontario told Amnesty International that while health and safety inspections were usually unannounced, employment inspections were not, as inspectors needed employers to provide them with documentation (namely, contracts, payslips) to identify breaches of labour legislation and standards.³⁰⁸ They also clarified they did not collect demographic data on individuals submitting complaints, including nationality, ethnicity, status or participation in the TFWP. They explained they did so to facilitate access to reporting, as they considered that collecting information of this sort could prevent workers from complaining out of fear that this information could be shared with federal authorities.

In Quebec, in contrast, the CNESST collects some disaggregated data. CNESST received 1,026 complaints from temporary foreign workers (31% from women and 69% from men). Of the total, 169 were submitted by migrants working in agriculture, fisheries, hunting and 70 in the health and care sector.³⁰⁹ The CNESST conducted 300 inspections in 2023, 108 in agriculture. Out of the total of inspections, 46 were initiated following the submission of a complaint, and 254 were proactively initiated by CNESST. CNESST found 111 infractions of labour norms.³¹⁰

According to federal authorities, from 1 April 2023 to 31 March 2024, ESDC completed 2,122 inspections under the TFWP, and found 94% of employers were compliant. Also, \$2.1 million in Administrative Monetary Penalties were issued to non-compliant employers for violating program rules, and 12 employers were banned from the TFWP.³¹¹ Out of a total of 8,426 tips assessed by ESDC, 57% resulted in the launch of an inspection.³¹² Between 2023 and 2024, only 9% of inspections were unannounced and 69% were virtual.³¹³

A 2021 report by the Auditor General of Canada exposed serious deficiencies in the federal system of labour inspections. The Auditor General concluded that inspections were incomplete, the quality of evidence was poor and that ESDC did not address long-standing concerns about workers' accommodations.³¹⁴ Along the same lines, academics have noted a significant lack of government monitoring of the SAWP/TFWP and no

³⁰⁴ Employers who are found non-compliant with conditions of employment for workers can be fined and banned from the TFWP. Employers who have been penalized are listed online, including details about their violations, penalty, whether it has been paid, and current eligibility status to continue hiring through the TFWP. IRCC, "Employers who were found non-compliant", <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/employers-non-compliant.html#table1> (accessed on 26 November).

³⁰⁵ ESDC can investigate complaints related to verbal and physical threats, bullying and harassment, limitations of worker's movement to their workplace and accommodation, retention of passports by employers, payment not in line with the salary agreed, time off or issues related to workers employed for functions different to the ones described in the LMIA. ESCD, "How to report abuse of temporary foreign workers", <https://www.canada.ca/en/employment-social-development/services/foreign-workers/report-abuse.html>. Inspectors can only check whether the provincial authority has made that determination. In that sense, federal inspections depend or rely on the effectiveness of provincial inspections to find abuses. And even in those cases, inspectors cannot issue compliance orders.

³⁰⁶ Tucker, Eric; Marsden, Sarah; and Vosko, Leah, *Federal Enforcement of Migrant Workers' Labour Rights in Canada: A Research Report*, 15 May 2020.

³⁰⁷ Government of Ontario, "Employment standards enforcement statistics", <https://www.ontario.ca/document/your-guide-employment-standards-act-0/employment-standards-enforcement-statistics#March24> (accessed on 28 November).

³⁰⁸ Meeting with representatives of the Ontario Ministry of Labour, Immigration, Training and Skills Development, 21 November 2024.

³⁰⁹ Among the complaints filed by temporary foreign workers, 307 were pecuniary- unpaid wages-, 267 reported psychological or sexual harassment and 177 concerned dismissal without cause.

³¹⁰ Information received from CNESST, on 14 November 2024. On file with Amnesty International. The CNESST document "Programmation des interventions 2023", identifies temporary foreign workers as a group affected by cumulative risk factors and vulnerabilities that increase the probabilities of suffering a work accident.

³¹¹ ESDC, "Government of Canada continues to take action to protect Temporary Foreign Workers, non-compliant employer penalties increased by 36%", 26 June 2024, <https://www.canada.ca/en/employment-social-development/news/2024/06/government-of-canada-continues-to-take-action-to-protect-temporary-foreign-workers-non-compliant-employer-penalties-increased-by-36.html>

³¹² ESDC, "Temporary Foreign Worker Program Compliance Regime", 26 June 2024, <https://www.canada.ca/en/employment-social-development/news/2024/06/temporary-foreign-worker-program-compliance-regime.html>

³¹³ Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Visit to Canada, 22 July 2024, UN Doc A/HRC/57/46/Add.1, para. 35.

³¹⁴ Auditor General of Canada to the Parliament of Canada, *Health and Safety of Agricultural Temporary Foreign Workers...* (previously cited).

effective inspections of workplaces.³¹⁵ Some studies have found similar concerns about provincial inspections in Ontario.³¹⁶

Four migrant workers interviewed by Amnesty International reported labour inspection visits to their workplaces. In two cases, individuals reported that an inspector had visited the work premises but had not talked to workers. In some instances, workers shared that their employers had given them instructions to lie to inspectors. This echoes the concerns Amnesty International gathered from civil society organizations.³¹⁷

³¹⁵ Cohen, A. & Cajax, C. S., “A Lifeline in troubled waters: A support intervention for migrant farm workers” (previously cited). Tucker, Eric; Marsden, Sarah; and Vosko, Leah, *Federal Enforcement of Migrant Workers’ Labour Rights in Canada* (previously cited).

³¹⁶ Vosko, Leah F.; Tucker, Eric & Casey, Rebecca. ‘Enforcing Employment Standards for Temporary Migrant Agricultural Workers in Ontario, Canada: Exposing Underexplored Layers of Vulnerability’. *International Journal of Comparative Labour Law and Industrial Relations* 35, no. 2, 2019, pp. 227-254.

³¹⁷ Organizations and experts told Amnesty that inspections are not proactive - they are predominantly triggered when there is a complaint; they are frequently announced so that employers have time to prepare workers and hide any evidence of abuse; and do not result in compliance or penalties, as there is a lack of connection or coordination between the federal and provincial level. Focus groups organized by Amnesty International with representatives of organizations, unions and academics based in the provinces of Quebec, Ontario, Alberta, British Columbia, New Brunswick, Nova Scotia and Prince Edward Island between April and May 2023.

THE CASE OF WALTER

“I have almost paid with my own life. My work permit and work almost killed me ... If we did not obey, we would be deported.”

Walter³¹⁸ and another dozen Guatemalan workers have been waiting to get redress since 2016. They suffered severe abuses as chicken catchers, and they were further deceived by a placement agency in Quebec, which falsely promised them new work permits and subjected them to extreme forms of exploitation.

Walter arrived in Canada with a two-year tied visa under the Agricultural stream of the TFWP. He and other workers worked around 12 hours per day, five days per week. Unpredictable schedules and long hours made it hard for him and his co-workers to sleep or rest. He was forced to work as fast as possible by supervisors, who routinely threatened them with jail and repatriation if they were not quick enough or if they harmed any chickens. Workers were forbidden from eating, drinking or taking a break, except during transportation.³¹⁹

Walter was severely underpaid: the Quebec Human Rights Commission estimates that Walter's former employer owes him more than CAD\$8,000 in salaries and deductions.³²⁰ Walter also said that he worked in unsafe conditions. The employer did not provide workers with protective equipment. Catching chickens burned his hands and hurt his back. He was exposed daily to ammoniac, and sometimes he could not breathe due to what he described as “white smoke”. His nose sometimes bled; he also coughed blood and had headaches.

As he endured unbearable working conditions, it was not difficult for the owner of an illegal/unauthorized placement agency³²¹ to deceive him into believing he could help him change jobs lawfully. For a year, Walter lived in the basement of the placement agency's owner, without heating and was banned from using hot water. The placement agency's owner severely controlled him, not allowing him to buy food or leave the house, and severely limiting his ability to speak with others, including on the phone. A dozen other Guatemalan workers would arrive after him, scammed in the same way.

The owner of the placement agency contracted out the workers' labour to a variety of farms and companies. Walter worked for a cranberry farm for two months, then for another company. The placement agency paid the workers only CAD\$300 per week, regardless of hours, citing deductions to pay the workers' debt with an “immigration lawyer” who would get the workers new work permits.³²²

Walter spent a year and a half exploited and psychologically abused by the owner of the placement agency. When the police raided his house, Canadian authorities detained Walter and the other workers and placed them in immigration detention for breaching the terms of their work permit. Walter spent 26 days in detention despite being a victim of severe exploitation.

In 2018, Walter developed a rare life-threatening illness that kept him in intensive care for months, with little hope of surviving. He believes this illness was the result of the unhealthy and abusive working and living conditions, the stress, and the hardships he experienced over two years.

The complaints Walter submitted have so far failed to provide adequate redress for these abuses. In 2019, the administrative labour court in Quebec found that he and the other Guatemalan workers had suffered discriminatory harassment by the placement agency. The court recognized the structural vulnerability created by the TFWP and the discriminatory nature of the abuses Walter and other racialized workers suffered.³²³ Yet, the scope of the case was limited to the placement agency, whose

³¹⁸ Interview in person with Walter, Laval, 16 September 2023.

³¹⁹ Commission des Droits de la Personne et des Droits de la Jeunesse de Quebec, Application submitted to the Cour Supérieure, 30 September 2022, on file with Amnesty International.

³²⁰ Commission des Droits de la Personne et des Droits de la Jeunesse de Quebec, Application submitted to the Cour Supérieure (previously cited).

³²¹ Decision by the Tribunal Administratif du travail, *Prado Paredes et Entreprise de placement Les Progrès inc.* 18 October 2019, 2019 QCTAT 4593.

³²² The owner of the placement agency made Walter and others sign contracts with an “immigration consultant”, presenting him to them as an immigration lawyer, to submit a request to change their work permits. Walter had to pay the “lawyer” CAD\$3,250 in five instalments, and CAD\$150 for the consultation, but the individual never made any attempt to request that authorities change Walter's permit. On the contrary, the owner of the placement agency used the amounts paid by Walter and other Guatemalan workers to pay the “lawyer” to get his authorization to hire foreign workers. Interview in person with Walter, 16 September 2023. Decision by the Tribunal Administratif du travail, *Prado Paredes et Entreprise de placement Les Progrès inc.* (previously cited).

³²³ Decision by the Tribunal Administratif du travail, *Prado Paredes et Entreprise de placement Les Progrès inc.* (previously cited).

owner went bankrupt, preventing the payment of damages. Moreover, three other Guatemalans could not continue the proceedings as Canadian authorities had previously deported them.

Walter's case is still pending before the Superior Court of Quebec, following a submission presented by the Quebec Human Rights Commission in September 2022. Walter got permanent residence in 2023. At the time of the interview, he hadn't seen his family in nine years.

4. DISCRIMINATION AND EXPLOITATION: ESSENTIAL JOBS DONE BY “DISPOSABLE” WORKERS

“The employer gets what he wants, but when [the worker] is no longer useful to him...he simply sends [the worker] back. And I feel that it is like throwing away rubbish and saying it’s no longer useful.”

Francisco, Mexican worker.³²⁴

As detailed above (see section 1.3), temporary labour visas under the TFWP are mostly granted to racialized women and men from low- and middle-income countries in the Global South, to address labour demands in sectors that are often considered undesirable and offer low salaries, such as agriculture, care, cleaning, and food services. In 2023, the top countries of origin of TFWP workers were Mexico, India, Philippines, Guatemala and Jamaica, together representing almost 70% of the work permits granted. The bulk of visas under the TFWP are granted to nationals of a handful of countries in the Global South, with a majority of Black people, people from Latin America, and other racialized populations. In other words, there is a correlation between the nationalities of the workers and their racialized identities, as most of the TFWP workers come from mostly racialized countries.

The overrepresentation of specific nationalities is not accidental. Official policy documents seen by Amnesty International show that the Canadian government expressly designed the TFWP – and distinguished the TFWP from the International Mobility Program (IMP) – using skills and nationality as a proxy for class and race. By design, the TFWP offers tied visas to low-skilled workers from “developing countries”, while the IMP offers comparatively greater mobility and open permits to mainly high-skill / high-wage nationals of “highly developed” countries. This mechanism is particularly evident within the Seasonal Agricultural Worker Program (SAWP), one of the TFWP streams that recruits agricultural workers. Based on bilateral agreements that the Canadian government concluded with their countries of origin and that govern the terms of hire and employment, the SAWP is limited to workers from Mexico, Jamaica and other participating Caribbean countries. The position of Mexico and Jamaica among the top five sending countries is directly associated with Canada’s bilateral agreements with these countries, which target the recruitment of these specific

³²⁴ Interview in person with Francisco (not his real name), Parkhill, 23 September 2023.

nationalities for temporary labour migration through the SAWP. More generally, migration from these countries and other sending countries is shaped by histories of colonization and expropriation that placed these countries in a subordinate position globally.

This research shows that racism and other systems of oppression shape Canada's migration policy in several ways: the way the TFWP is designed and implemented; the TFWP workers' experience in Canada; and the way the points system is designed and implemented.

First, the TFWP, while apparently race-neutral, is implemented in a way that creates racially discriminatory effects, as the program disproportionately disadvantages racialized groups (see section 4.1). Second, those systems of oppression also exacerbate the risk of suffering human rights abuses that migrant workers face at the individual level, which include direct forms of racial discrimination. Moreover, as documented in this report, migrant workers participating in the TFWP are at heightened risk of labour exploitation, a risk that disproportionately impacts individuals of certain nationalities who are racialized. The TFWP also reproduces gender inequalities (see section 4.2). Third, access to permanent residence, also apparently class and race-neutral, is limited and elusive for many under an immigration points system that devalues their experience and skills (see section 4.3).

Amnesty International concludes that Canada's migration policy, as expressed in the TFWP and in the relation between the TFWP and other migration channels, is structurally discriminatory. Being based on "skills", Canada's migration policy appears race-neutral, seemingly applying equally to all. In fact, the implementation of this "race-neutral" policy has discriminatory outcomes, exposing racialized workers to an increased risk of labour exploitation and exacerbating inequalities and existing disadvantages. In other words, systemic racism is embedded at the structural and institutional level of the TFWP.

International law prohibits discriminatory treatment on the basis of race, skin colour, descent, national or ethnic origin, sex, gender, migration status or other prohibited grounds that are often racialized. The prohibition of racial discrimination is a peremptory norm of customary international law (also known as *jus cogens*), giving rise to obligations from which states cannot derogate.³²⁵ It was also codified into instruments such as the UDHR (Articles 2 and 16); the ICCPR (Articles 2, 4, 20, 24, 26);³²⁶ and the ICESCR (Articles 2, 13).

The most important international instrument dedicated to addressing racial discrimination is the ICERD, which provides comprehensive legal provisions intended to respond to racism and racial discrimination situations based on race, colour, descent, or national or ethnic origin.³²⁷ By becoming a party to the ICERD, Canada undertook the obligation "to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of (...) (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration".³²⁸ The ICERD prohibits racial discrimination when it occurs both as direct discrimination (explicit use of racial categories with the intention of discrimination) and as indirect discrimination (facially neutral policies and practices that have discriminatory impacts).

Article 2.1(c) of the ICERD requires States parties to "take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists". The CERD recommended states to "ensure that immigration policies do not have the effect of discriminating against persons on the basis of race, colour, descent, or national or ethnic origin".³²⁹ The Durban Declaration and Programme of Action (DDPA) calls on states "to review and, where necessary, revise any immigration policies which are inconsistent with international human rights instruments, with a view to eliminating all discriminatory policies and practices against migrants".³³⁰

³²⁵ Case Concerning *the Barcelona Traction, Light and Power Company, Limited (Belgium v Spain)* (Judgement) International Court of Justice Rep 3 (1970), paras 33-34.

³²⁶ The Human Rights Committee, which oversees the application of the ICCPR, declared that the rights and protections included in the ICCPR are applicable to all persons within the territory or subjected to the jurisdiction of a state party, independent of their nationality or stateless status. The Committee clarified that "the general rule is that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens," including the prohibition of discrimination included in Article 2 of the ICCPR, which encompasses the prohibition of being discriminated against on the basis of race, colour, national origin, or other status. UN Human Rights Committee (HRC), CCPR General Comment 15, "The position of aliens under the Covenant", 11 April 1986, paras 1-2.

³²⁷ The ICERD has been ratified by over 180 countries, which grants the treaty almost universal applicability.

³²⁸ Article 5 ICERD.

³²⁹ CERD, General Recommendation 30, "Discrimination against non-citizens" (previously cited).

³³⁰ Durban Declaration and Programme of Action, para. 38.

4.1 THE TFWP AS RACIALIZATION OF EXPLOITATION

The TFWP is facially “race-neutral” as it does not explicitly consider race or skin colour. Yet, it has the effect of disproportionately impacting certain racialized groups because of the nationalities of the workers participating in the program, exposing them to an increased risk of labour exploitation.

The TFWP is expressly intended for racialized “low-skilled” workers from low- and middle-income countries in the Global South. As mentioned above, the 2014 “overhaul” of the TFWP featured an express policy distinction between the TFWP, which targeted low-skilled workers from “developing countries”, and the IMP, which primarily targeted high-skill / high-wage workers from “highly developed” countries (see section 1.3). Using skills and nationality as a proxy for class and race, Canada’s migration policy expressly distinguishes the TFWP from the IMP based on class and race.

Workers are racialized through the association/identification of their nationalities with specific low-skilled occupations – for instance, the association of Mexican, Guatemalan and Jamaican men with hard work in agriculture and Filipina women with care.³³¹ In some cases, this is the result of a deskilling process by which worker’s formal skills are not recognized in Canada, and individuals occupy jobs below their level of qualification.

The TFWP entrenches discrimination against the racialized, “low-skilled” workers it targets due to the conditions attached to their visa, which inherently carry risks of exploitation and other abuses. Due to the correlation between the nationalities of TFWP workers and their racialized identities, the TFWP imposes a heightened risk of labour exploitation predominantly on racialized workers. On one hand, the tied nature of their visa exposes TFWP workers to a higher risk of labour exploitation, compared to both Canadian nationals and other migrant workers with open visas. On the other hand, both the tied nature of the visas and their temporary character make it difficult for workers to access the benefits they are entitled to and to obtain redress when they suffer labour exploitation and other human rights violations. As noted by the administrative labour court in Quebec with respect to the case of Walter, one of the workers interviewed by Amnesty International:

“Ces conduites vexatoires n’auraient pas été commises, n’eut été des caractéristiques propres aux plaignants et dont le statut de travailleurs étrangers temporaires les différencie des autres travailleurs québécois. En effet, un tel statut, lié à un permis fermé, n’est attribué qu’à des personnes d’origine ethnique distincte.”³³²

By limiting the worker’s ability to change employers, tied visas limit workers’ internationally protected right to freely choose or accept work.

Article 6 of the ICESCR provides “the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.” The CESCR noted that migrant workers “are vulnerable to exploitation, long working hours, unfair wages and dangerous and unhealthy working environments. Such vulnerability is increased by abusive labour practices that give the employer control over the migrant worker’s residence status or that tie migrant workers to a specific employer.”³³³

The Special Rapporteur on contemporary forms of slavery, including its causes and consequences, recommended that States abolish immigration regimes that tie a visa to the sponsorship of a single employer.³³⁴ Similarly, the ILO *General principles and operational guidelines for fair recruitment* state that “Workers should be free to terminate their employment and, in the case of migrant workers, to return to their country. Migrant workers should not require the employer’s or recruiter’s permission to change employer.”³³⁵

Tied visas are often justified with the need for employers to recover the costs to hire migrant workers – which involve significant investments in the plane ticket, transportation, visa fees, and in some cases,

³³¹ On the racialization of participants in the TFWP see Nandita Sharma, *Home Economics: Nationalism and the making of ‘Migrant Workers’ in Canada*, University of Toronto Press, 2006. See also: Anna Romina Guevarra, “Supermaids: The Racial Branding of Global Filipino Care Labour”, in: Anderson, B., Shutes, I. (eds) *Migration and Care Labour: Theory, Policy and Politics*. Palgrave Macmillan, London, 2014. <https://doi.org/10.1057/9781137319708>

³³² Decision by the Tribunal Administratif du travail, *Prado Paredes et Entreprise de placement Les Progrès inc.* (previously cited), para. 19.

³³³ CESCR, General Comment 23 (previously cited), para. 47(e).

³³⁴ Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, to the Human Rights Council, UN Doc. A/HRC/15/20, 18 June 2010, para. 96.

³³⁵ ILO, *General principles and operational guidelines for fair recruitment and Definition of recruitment fees and related costs*, 2019, part 1(III) para. 12.

accommodation, recruitment costs, and LMIA processing.³³⁶ If the migrant worker leaves the job before completing their contract, employers are not able to recover their investments. However, the high costs involved in recruiting TFWP workers may push the employer to transfer their financial costs to workers, increasing the risk of underpayment, unfair deductions and other labour abuses.

Due to the nature of their visas, the TFWP contributes to the formation of a social underclass in Canada of racialized “low-skilled” migrant workers, who occupy a subordinate position in the social division of labour, sustaining racial hierarchies at the same time.³³⁷

4.2 THE GENDER ASPECTS OF RACIALIZED EXPLOITATION

Racism, patriarchy and other systems of oppression do not shape only Canada’s migration policy and the way the TFWP is designed and implemented, they shape all aspects of TFWP workers’ individual experience in Canada, exacerbating their risk of suffering human rights violations. As explained above (see Chapters 2 and 3) the human rights violations documented in this report – primarily labour exploitation and lack of effective remedy – have disproportionate impacts on racialized migrant workers. This section will focus on the gender aspects of racialized exploitation.

The CEDAW prohibits gender-based discrimination.³³⁸ The UN Committee on the Elimination of Discrimination against Women (CEDAW) has stressed that women migrant workers are entitled to the protection of human rights, including the right to be free from discrimination based on race, ethnicity, cultural particularities, nationality, and other status. This General Comment also pointed out that “women migrant workers often experience intersecting forms of discrimination, suffering not only sex- and gender-based discrimination, but also xenophobia and racism. Discrimination based on race, ethnicity, cultural particularities, nationality, language, religion or other status may be expressed in sex- and gender-specific ways.”³³⁹

Gender-based violence is one of the manifestations of the gendered impact of labour exploitation. Amnesty International’s research documented several cases of sexual assault, sexual harassment and other forms of gender-based violence against TFWP workers, particularly women (see above section 2.8). In these cases, violence is not only gender-based but also racially motivated, being grounded on racial bias and racist beliefs about standards of beauty, hyper-sexualization of Black women, assumptions on migrants’ workers’ desires and needs and exploitation of their precarious migration status.

Another manifestation of the gendered impact of labour exploitation is gender-based discrimination in recruitment practices. As mentioned above, the high financial investment involved in recruiting TFWP workers may push the employer towards exploitation as a way to transfer these costs to workers. In a framework of systemic racial and gender oppression, this mechanism does not spare the costs of maternity leave. H el ene and Sylvie, two Ivorian nationals, had to sign documents before travelling to Canada committing to pay the recruitment fees incurred by the recruitment agency in Ivory Coast and by the employer in Canada, in case they failed to comply with their “commitments”, including not being pregnant at the time of departure, and not abandoning the employment because of pregnancy.³⁴⁰ The recruitment agency justified this on account of experiences with other TFWP workers who had left their employment before the end of their contract.

The case of H el ene and Sylvie is not an isolated one. The TFWP reproduces gendered divisions of labour, in which men are the main recruits for agriculture, while employers predominantly target women when recruiting for domestic and care work. For instance, at least until 2016, Mexican authorities have required

³³⁶ On the cost of LMIA, see Chapter 1. A summary of the views of several employers’ representatives about the costs of hiring foreign workers, can be seen in Standing Senate Committee on Social Affairs, Science and Technology, “Act Now: Solutions for Temporary and Migrant Labour in Canada” (previously cited), pp. 34, 45, 46.

³³⁷ On class see Philip F. Kelly, “Migration, transnationalism and the Spaces of Class Identity”, *Philippine Studies: Historical and Ethnographic Viewpoints*, Vol. 60 N2, 2012.

³³⁸ Article 1 CEDAW defines “discrimination against women” as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

³³⁹ CEDAW, General Comment 26 on women migrant workers, 5 December 2008, UN Doc. CEDAW/C/2009/WP.1/R.

³⁴⁰ Documents on file with Amnesty International.

SAWP prospective workers to be men and women “married or in a de facto union, preferably with children”, allowing single persons to participate in the program provided that they have “economic dependants”.³⁴¹ In the framework of other temporary migration schemes, authorities have imposed similar family responsibility requirements to ensure that the worker would go back to their country of origin at the end of their contract.³⁴² In the TFWP-SAWP, this requirement perpetuates gendered divisions of labour, limiting women’s participation in agricultural jobs, as in most cases, women, traditionally responsible for child rearing, will stay behind while their male partners travel to Canada for work.

While family separation heavily weighs on most migrant workers, for women in particular separation from their children is sometimes instrumentalized as a tool of exploitation. Employer’s false promises to sponsor children are used to further trap women in abusive situations (see Bénédicte’s case in section 2.9).

4.3 THE RACIALIZATION OF CLASS: LIMITED PATHWAYS TO PERMANENT RESIDENCY FOR “LOW-SKILLED” WORKERS

As discussed above (see section 1.1), the adoption of a “points system” based on skills and qualifications marked Canada’s shift from explicitly racist migration policies to an apparently “race-neutral” policy with discriminatory outcomes. While targeting immigrants with privileged class backgrounds, permanent residency programs *de facto* exclude a significant population of “low-skilled” migrant workers. As racialized workers are overrepresented in “low-skilled work”, the unequal treatment in accessing pathways to permanent residency produces discriminatory outcomes in terms of class and race.

Permanent economic migration programs at both the federal and Quebec provincial level privilege occupations classified as medium or high-skilled and require high educational and language levels, savings, and non-seasonal offers of employment, thereby favouring immigrants with privileged class backgrounds, such as graduates from the Global North and nationals of countries with increasingly important IT and business sectors, such as China and India.³⁴³

Access to permanent residence for “low-skilled” workers with TFWP visas, on the other hand, is extremely limited, as they usually face insurmountable barriers to meeting the requirements to obtain permanent residence. Apparently neutral requirements – such as an education diploma and a proficient language level – need considerable investment of time and money, resources that many migrant workers with precarious status do not have. These requirements therefore act as barriers to permanent residence for “low-skilled” workers.

As a result of the current requirements, only a very small minority of migrant workers in “low-skilled” occupations manage to obtain permanent residence. The nationalities overrepresented in the TFWP are underrepresented as permanent residents.³⁴⁴ In 2023, only 275 people from Guatemala (0.06% of the total admissions) were admitted as permanent residents; 4,340 from Jamaica (0.9%) and 5,735 from Mexico (1.2%).³⁴⁵ Official studies confirm low rates of transition from temporary to permanent residence for TFWP visa holders in agriculture.³⁴⁶ Transition rates are “considerably lower” for migrant workers with an

³⁴¹ General Consulate of Mexico in Montreal, *Programa de Trabajadores Agrícolas Temporales*, <https://consulmex.sre.gob.mx/montreal/index.php/es/ptat> (accessed on 8 October 2024).

³⁴² Carmen González Enríquez and Miquel Reynés Ramón, *Circular Migration between Spain and Morocco: Something more than agricultural work?*, European University Institute, 2011, <https://cadmus.eui.eu/handle/1814/19721>

³⁴³ Canada’s main economic permanent residence programs - Canadian Experience, Federal Skilled Worker Program and Federal Skilled Trades Program - require medium or high skill levels (NOC 0/1/2/3) and exclude low-skilled occupations (NOC 4 and 5).

³⁴⁴ The primary nationalities recruited under the Agriculture streams of the TFWP accessed permanent residence through the family class in 2023. This was particularly the case of Jamaicans, Mexicans and Guatemalans. In addition to this, a significant number of Jamaicans also gained permanent residence through the Provincial Nominee Program, while some Mexicans through the economic class, specifically through the Canadian Experience Program. Only 65 Guatemalans accessed permanent residence through the economic class in 2023. Statistics Canada, *Permanent Residents by Country of Citizenship and Immigration Category, January 2015 - September 2024* (previously cited).

³⁴⁵ Statistic Canada, *Permanent Residents by Country of Citizenship and Immigration Category, January 2015 - September 2024* (previously cited).

³⁴⁶ Li Xu, Yuqian Lu and Jianwei Zhong, “Temporary foreign workers in primary agriculture in Canada: Transition from temporary residency to permanent residency and industry retention after transition”, 27 March 2024, <https://www150.statcan.gc.ca/n1/en/pub/36-28-0001/2024003/article/00001-eng.pdf?st=bdY6yedC>

occupation designated at a lower skill level than for those with one designated at a higher skill level. Individuals participating in the SAWP have the lowest rates of transition to permanent residence.³⁴⁷

The “points system” is facially race-neutral. However, it devalues the experience and skills of “low-skilled” migrant workers. As racialized workers are overrepresented in “low-skilled work”, the system has discriminatory effects on the grounds of race and class. Racialized TFWP workers experience increased barriers when trying to become permanent residents. This is particularly the case for SAWP workers, who are in a position of heightened structural risk not only because of their tied visas, but also because of the short length of SAWP work permits and provincial limitations on labour standards and collective bargaining rights for agricultural workers. As discussed above, the insecurity related to short-term temporary migration status has a negative impact on the ability to receive adequate redress in case of abuses, which affects these racialized workers disproportionately. The underrepresentation of TFWP workers, particularly SAWP workers, among permanent residents reinforces the establishment of TFWP workers as a subordinated labour class and sustains racial hierarchies.

Authorities have launched a variety of ad hoc pilot programs over the years, allowing access to permanent residence for “low-skilled” workers – who have to accumulate work experience before they can apply (see text box below). Most of the small number of “low-skilled” workers who obtain permanent residence do so via Provincial Nominee Programs³⁴⁸ and ad hoc pilot programs. However, pilot programs have limitations in terms of eligibility and duration and are, by law, subject to a cap of 2,750 applications per year. All in all, access to permanent residence for people whose work is designated as “low-skilled” remains low. In 2023, the combined total of the Agri-food and Caregiver pilots represented only 1.7% of the permanent residence holders admitted through the economic class.³⁴⁹

³⁴⁷ “Virtually 100% of the TFWs recruited under the SAWP have a designated occupation at a lower skill level, and the opportunities for them to obtain PR status are limited. Over 90% of TFWs who came to Canada through the SAWP and gained PR status did so through family sponsorship, while the majority of workers from other TFWP streams and the IMP transitioned to PR mainly through immigration programs under the Economic Class”. Li Xu, Yuqian Lu and Jianwei Zhong, “Temporary foreign workers in primary agriculture in Canada” (previously cited).

³⁴⁸ The Provincial Nominee Program (PNP) allows provinces discretion to set their own requirements to access permanent residence. Most PNPs established by provinces include streams that allow “low-skilled” workers to access permanent residence, mainly in occupations in high demand in the province. However, an official study on the program acknowledged that many of the nominees were selected on the basis of their skill levels B and A (0 of the NOC): “Skilled and technical provincial nominees dominated in Nova Scotia, Saskatchewan and Alberta, while British Columbia, New Brunswick and Prince Edward Island had higher shares of professional and managerial provincial nominees [...] Manitoba was the one province where lower-skilled provincial nominees (NOC skill level C or D) outnumbered either professionals or skilled and technical nominees”. Garnett Picot, Feng Hou and Eden Crossman, “The Provincial Nominee Program: Provincial differences”, Statistics Canada, 27 March 2024.

³⁴⁹ Statistics Canada, Admissions of Permanent Residents by Province/Territory of Intended Destination and Immigration Category, January 2015 - April 2024 (previously cited).

AD HOC PATHWAYS TO PERMANENT RESIDENCE FOR “LOW-SKILLED” WORKERS

The Agri-food Pilot, launched in 2020, created a pathway to permanent residence for agricultural workers.³⁵⁰ Nevertheless, it came with a cap of 2,750 applications per year, and various requirements limiting eligibility considerably.³⁵¹

Since 1981, different pilot programs have offered migrant caregivers a pathway to permanent residence.³⁵² In June 2024 the government announced that caregivers will have status on arrival.³⁵³

Quebec, which manages its own economic immigrant selection, has also introduced specific pilot programs for some “low-skilled” workers. The Permanent Immigration Pilot for Food-Processing is based on experience, but requires high levels of proficiency in spoken French,³⁵⁴ which excludes many workers currently working in the agri-food sector from the outset. The Permanent Immigration Pilot for Orderlies targets nurse aids with a vocational diploma and experience but also requires high levels of proficiency in spoken French.³⁵⁵ Provincial and regional immigration programs in other provinces for which migrant workers in “low-skilled” positions are eligible also have language requirements; however, the language requirements are particularly high in Québec.³⁵⁶

The limited pathways to permanent residence for “low-skilled” workers mean that those who, over the years, continue travelling to and working in Canada will have limited opportunities for upward mobility. Crucially, they will also retain their subordinate position for years and in many cases remain tied to their employers, and therefore, at risk of labour exploitation.

³⁵⁰ IRCC, “Agri-Food Pilot”, <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/agri-food-pilot.html> (accessed on 29 November 2024).

³⁵¹ The requirements regard language, education and settlement funds, and a non-seasonal job offer. As of February 2024, the pilot accepts either the educational requirement or the job offer requirement if the applicant is already in Canada at the time of application. It also accepts work experience gained while holding OWP-VW, and allows unions to attest to workers’ suitability instead of employers. IRCC, “Agri-Food Pilot: Who can apply”, <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/agri-food-pilot/pr-eligibility.html#education> (accessed on 29 November 2024).

³⁵² Previous programs and pilots include the Live-in Caregiver, Caring for Children Pilot, Caring for People with High Medical Needs Pilot, Interim Pathway for Caregivers Program <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/caregivers.html> (accessed on 29 November 2024).

³⁵³ IRCC, “Canada announces new pilot programs to support caregivers and Canadian families, intends to make the caregivers program permanent, 24 June 2024”, <https://www.canada.ca/en/immigration-refugees-citizenship/news/2024/06/canada-announces-new-pilot-programs-to-support-caregivers-and-canadian-families.html>

³⁵⁴ Government of Quebec, “Permanent immigration pilot program for workers in food processing”, <https://www.quebec.ca/en/immigration/permanent/skilled-workers/food-processing> (accessed on 29 November).

³⁵⁵ This pathway may allow some female workers from French speaking African countries to get access to permanent residence.

Government of Quebec, “Permanent immigration pilot program for orderlies”, <https://www.quebec.ca/en/immigration/permanent/skilled-workers/orderlies> (accessed on 29 November).

³⁵⁶ All other provinces that allow “low-skilled” migrant workers to apply for permanent residence through Provincial or regional Nominee Programs require Canadian Language Benchmark level 4 language skills, while the pilot programs in Quebec require level 7 French. Moreover, language requirements act as a barrier to workers in occupations that require long hours (leaving them without sufficient time to take language classes), those in isolated or rural locations without transport to get to the classes, or those of lower socio-economic status who may have had less formal schooling. While the Quebec government announced in 2023 an initiative to ensure all immigrants and migrants could access French classes, in October 2024 it was made public that the initiative was in crisis and falling far short of its commitments, and many newcomers were unable to access classes to learn the language. Le Devoir, « Plus de 2000 élèves en francisation toujours en « attente » de relocalisation », <https://www.ledevoir.com/politique/quebec/822543/plus-1500-eleves-francisation-sont-deja-relocalises>, 28 October 2024.

CONCLUSIONS AND RECOMMENDATIONS

“Temporary foreign workers play a vital role in many sectors of the economy, including agriculture and agri-food... Ensuring the health and safety of temporary foreign workers and ensuring that they are free from any form of abuse while in Canada are key priorities. Safe, healthy, fair and inclusive work conditions and cooperative workplace relations are priorities for all workers in Canada.”

ESDC Canada 2024 to 2025 Departmental Plan.³⁵⁷

This report documents a wide range of human rights abuses against racialized migrant workers with tied visas under the Canadian TFWP: from wage theft and excessive working hours; to racist abuse and gender-based violence; to surveillance, lack of privacy and inadequate housing. When analysed cumulatively, the abuses documented in this report depict an environment in which TFWP migrant workers are dehumanized, and their labour is “extracted”. TFWP migrant workers are entirely disposable: they face termination of their contract and swift repatriation when they fall sick, suffer injuries, or develop occupational illnesses, as they are no longer considered “fit” for the job.

The abuses racialized migrant workers experience under the TFWP are not isolated incidents or the actions of a few deviant employers who operate outside of the established rules. On the contrary, they are systemic: they are the foreseeable result of tied visas, a fundamental component of the current design of the TFWP. On one hand, the tied nature of their visa exposes TFWP workers to a higher risk of labour exploitation, compared to both Canadian nationals and other migrant workers with open visas. On the other hand, both the tied nature of the visas and their temporary character make it difficult for workers to access the benefits they are entitled to and to obtain redress when they suffer labour exploitation and other human rights violations. **Amnesty International therefore concludes that, in its current design, Canada’s TFWP is inherently exploitative, in violation of Canada’s international obligation to respect, protect and fulfil the right to just and favourable conditions of work enshrined, among others, , in Article 7 of the ICESCR.**

While all TFWP workers are in a position of structural risk due to being tied to a single employer, several other aspects of Canada’s federal and provincial legislation heighten the risk of labour exploitation for some groups of workers and increase the barriers to complain. These include: the characteristics of some TFWP

³⁵⁷ ESDC, *Canada 2024 to 2025 Departmental Plan*, May 2024, <https://www.canada.ca/en/employment-social-development/corporate/reports/departmental-plan/2024-2025.html>

streams; lower provincial labour standards in agriculture; and provincial limitations imposed on the right to unionize. These factors interweave with the workers' multiple and intersecting disadvantages (education; language skills; gender; class and race), creating barriers to escape abuses and report.

This report provides evidence that the laws and policies currently regulating the TFWP, which are on their face race-neutral, have, in fact, disproportionate impacts on racialized groups, thereby causing discriminatory effects (higher risks of labour exploitation), which constitutes indirect discrimination under international law. The TFWP is facially "race-neutral" as it does not explicitly consider race or skin colour. Yet, it is expressly intended for racialized "low-skilled" workers from low- and middle-income countries in the Global South. Due to the conditions attached to their visa, which inherently carry risks of exploitation and other abuses, the TFWP imposes a heightened risk of labour exploitation predominantly on racialized workers. **Amnesty International therefore concludes that, in its current design and implementation, Canada's TFWP entrenches instances of discrimination and disproportionate impacts on racialized "low-skilled" workers based on their race and class, in violation of the international prohibition of racial discrimination, enshrined, among others, in Article 2 of ICERD.**

This research also shows that racism and other systems of oppression shape not only the way the TFWP is designed and implemented but also the way that the points system is designed and implemented and, more broadly, the TFWP workers' experience in Canada. Being based on "skills", Canada's migration policy appears race and class-neutral, seemingly applying equally to all. However, the "skill level" functions as a proxy for race and class, relegating most migrant workers of the Global South to temporary labour programmes, sometimes below their actual skills. In fact, the implementation of this "race-neutral" policy and the unequal treatment in accessing permanent mobility have discriminatory outcomes, exposing racialized workers to an increased risk of labour exploitation and exacerbating inequalities and existing disadvantages.

The TFWP perpetuates a racialized stratification of labour that has historical roots in earlier exclusionary policies and the legacies of slavery in Canada, where migration policies have historically limited mobility opportunities for racialized migrants. In this sense, the exploitation of racialized migrant workers in the context of the TFWP is one of the current manifestations of a long history of discrimination and abuse of racialized migrants in Canada.

The abuses documented in this report are not unknown to Canadian authorities. Over decades, migrant-led organizations, unions, academics and other civil society actors have produced extensive research, voiced concerns and campaigned tirelessly, demanding an end to tied visas. Yet, the Canadian authorities have, so far, failed to make systemic policy changes and refused to abolish closed work permits,³⁵⁸ adopting instead narrow, piecemeal measures. The proposal to replace tied permits with sectoral permits within the Agri-food sector is one of these. Limited reforms may provide some relief but do little to address the root causes of the abuses. As such, limited reforms constitute bandage solutions to a systemic problem.

As the main feature of the TFWP, tied visas are the most evident root cause of migrant workers' labour exploitation and racial discrimination. The prevention and eradication of labour exploitation and racial discrimination of TFWP migrant workers in Canada requires, at a minimum, the abolition of tied visas. This system should be urgently replaced with an open visa system that can fully protect racialized workers from labour exploitation and discrimination.

RECOMMENDATIONS

TO CANADIAN FEDERAL AUTHORITIES

Ensure that the Canadian migration system respects, protects and promotes the rights of all migrant workers without discrimination on the grounds of class, gender, nationality or national origin, ethnicity or race. In particular:

- Overhaul the TFWP to prevent and address the systemic discrimination of the workers due to their class, gender, nationality, national origin, ethnicity and race.
- Grant open work permits to migrant workers participating in the TFWP, ensuring that they can change employers and jobs freely.

³⁵⁸ Minister of Immigration, Refugees and Citizenship and Minister of Employment, Workforce Development and Official Languages, "Minister of Immigration, Refugees and Citizenship response to the Open Work Permit campaign", 13 February 2024, <https://www.openworknow.ca/post/the-government-responds>

- Abolish all other closed permits/ tied visas, granting open permits instead.
- Remove all eligibility criteria for permanent residence that result in discrimination of “low-skilled” migrant workers due to their class, gender, nationality or race.
- Revise the country’s migration policy to better respond to the reality of the labour market, ensuring that short-term temporary migration is not relied on to fulfil labour demand that is structural for the economy.

Prevent discrimination and ensure equal treatment of migrant workers while in Canada. In particular:

- Codify the International Covenant on Economic, Social and Cultural Rights (ICESCR) into law.
- Promptly accede to the Optional Protocol to the ICESCR, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO Occupational Safety and Health Convention, 1981 (No. 155) and the Inter-American Convention Against Racism, Racial Discrimination, and Related Forms of Intolerance (CIRDI).
- Collect and monitor disaggregated statistical data broken down by sex, gender, race, ethnicity, nationality and national origin, education, age and socio-economic status.
- Ensure that migrant workers who are injured on the job or who develop disabilities as a result of their work can remain in Canada for the time needed to receive appropriate healthcare, including through funding legal aid for applications for permanent residence on humanitarian and compassionate grounds, and directing decision makers to consider injuries and disabilities developed as a result of work in Canada when assessing applications on humanitarian and compassionate grounds.
- Ensure that all migrant workers can access social security benefits, including employment insurance; and remove limitations for migrant workers who have left Canada.
- Work with provincial authorities to ensure that migrant workers have effective access to adequate health care.
- Work with provincial authorities to ensure that housing standards for migrant workers meet international obligations and standards, particularly on habitability and affordability, and guarantee dignified living conditions.
- Work with provincial authorities to ensure the recognition of collective bargaining rights for all migrant workers in all provinces.

Ensure that migrant workers in Canada obtain redress for the human rights violations they have survived. In particular:

- Work with provincial authorities to ensure that complaints by migrant workers of labour exploitation and other human rights violations are examined and adjudicated fairly, speedily and effectively.
- Ensure that migrant workers who have survived labour exploitation and other human rights abuses have access to legal aid and that the organizations that support them receive the necessary funding.
- Adopt protective measures when a complaint is launched, including, where necessary, offering to remove the employee from the workplace and transfer them to safe emergency shelters with adequate levels of legal and other support.
- Prevent the repatriation of migrant workers who have been unfairly dismissed to enable them to challenge their dismissal at the provincial level.
- Until closed permits are abolished, expand the grounds for granting the OWP-VW to include situations of injuries and occupational illnesses associated with the work, so that workers can seek jobs in other sectors.
- Grant migrant workers who have survived labour exploitation and other human rights abuses a residence and an open work permit for the time necessary to seek and obtain effective redress.
- Improve and increase the number of federal inspections and ensure they are proactive, conducted on-site where possible, and unannounced. Target sectors where the risks are high and workers are

more vulnerable to abuse, for instance, agriculture. Ensure that inspectors are able to and do speak directly with migrant workers and that the latter are not subject to any form of retribution as a result.

- Work with provincial authorities to improve and increase provincial inspections and ensure they are proactive, conducted on-site where possible, and unannounced.

TO CANADIAN PROVINCIAL AUTHORITIES

- Work with federal authorities to revisit provincial employment standards on agriculture to ensure they comply with Canada's international obligations and relevant standards with respect to rights at work.
- Repeal provisions and legislation limiting the rights of agricultural workers to collective bargaining and barriers for migrant workers to join and form unions. Among other reforms:
 - **Ontario** should repeal the Agricultural Employees Protection Act, amend section 3 of the Labour Relations Act to remove the exclusion of agricultural workers from its protection and amend the Employment Standards Act to ensure their protections apply to agricultural workers.
 - **Quebec** should amend the Labour Code and repeal the Articles previously amended by Bill 8.
 - **Alberta** should ensure the full inclusion of agricultural workers in the Labour Relations Code, including by repealing their exclusion in section 1(1)(l)(iv), and in the Employment Standards Code, including by repealing their exclusion from section 2.1.
- Ensure that housing standards for migrant workers meet international obligations and standards, particularly on habitability and affordability, and guarantee dignified living conditions. Ensure that accommodation arrangements are gender-sensitive.
- Ensure that complaints by migrant workers of labour exploitation and other human rights abuses are examined and adjudicated fairly, speedily and effectively.
- Revisit, increase and strengthen provincial labour inspections, including, if necessary, by reviewing legislation to ensure that inspections are unannounced and labour inspectors have ample powers to enforce employment standards. Ensure that inspectors are able to and do speak directly with migrant workers and that the latter are not subject to any form of retribution as a result.
- Collect and monitor disaggregated statistical data on labour claims submitted by migrant workers to provincial bodies, broken down by sex, gender, race, ethnicity, nationality and national origin, type of visa, and sector.
- **Québec should** remove all eligibility criteria for permanent residence that result in discrimination of "low-skilled" migrant workers due to their class, gender, nationality or race, including prohibitive language requirements.

TO THE COUNTRIES OF ORIGIN OF TFWP MIGRANT WORKERS

- Ensure that the legislative and regulatory framework concerning the recruitment of prospective migrant workers in their country of origin adequately respects and protects their rights. Ensure, in particular, that recruitment agencies provide sufficient, accurate and timely information to workers, as well as relevant documentation, including a copy of their contract in a language they can understand.
- Where applicable, ensure that unions in both Canada and the country of origin are part of bilateral agreements between the respective states and take part in their enforcement and monitoring.

**AMNESTY INTERNATIONAL
IS A GLOBAL MOVEMENT
FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

CONTACT US



contactus@amnesty.org



+44 (0)20 7413 5500

JOIN THE CONVERSATION



www.facebook.com/amnesty



@Amnesty

“CANADA HAS DESTROYED ME”

LABOUR EXPLOITATION OF MIGRANT WORKERS IN CANADA

Tens of thousands of migrant workers travel every year to Canada in the hope of providing a better life for their families. They are promised labour opportunities and working conditions that very often they cannot enjoy in their countries of origin. Yet, many find a different reality upon arrival: they are made to work long hours without rest, are underpaid, suffer physical and psychological abuse, and are often subjected to stereotypes and assumptions about their skills, behaviours or identities. Their visas are tied to one employer, making it difficult for them to leave their job and change employers, or report abuses and access effective remedies.

This report investigates the human rights impact of Canada’s Temporary Foreign Worker Program (TFWP), a temporary migration scheme that allows employers to hire migrant workers, primarily in low-pay occupations. Amnesty International’s research finds that Canada’s migration policy has designed, regulated and implemented the TFWP in such a way as to inherently increase racialized workers’ risk of labour exploitation and other abuses, creating discriminatory outcomes and violating its international human rights obligations.