



Brief Presented by Quebec's Central Labour Bodies to the Standing Committee on Citizenship and Immigration as Part of the Consultation on Closed Work Permits and Temporary Foreign Workers

14 December 2023

Introduction

This brief is submitted jointly by the Centrale des syndicats démocratiques (CSD), the Confédération des syndicats nationaux (CSN), the Centrale des syndicats du Québec (CSQ) and the Fédération des travailleurs et travailleuses du Québec (FTQ). Quebec's labour bodies are present in all sectors of economic activity. Together, they represent nearly 1.2 million employees.

Through this brief, the bodies are uniting their voices to defend a vision of immigration that is more inclusive, more respectful of the dignity of immigrants and more structuring for workplaces. They are calling for the abolition of the closed work permit and replacing it with an open work permit, with no sectoral or regional attachment.

We applaud the work of the Standing Committee on Citizenship and Immigration on the closed work permit. Now is the right time for Canada to change its laws and shut down one of the most maligned avenues of contemporary exploitation. The use of temporary foreign workers (TFWs) has become so widespread that we can no longer ignore the harmful effects of the closed work permit, for which there is simply no longer any social acceptability.

The limitations of the closed work permit

The number of temporary immigrants has increased significantly in recent years in Canada (from 1,305,206 in 2020 to 2,198,679 in 2022,¹ an increase of 68.4% in three years), particularly following the Quebec-Ottawa Agreement,² which eased the TFWP's rules. There have been several stories in the media of abuse and exploitation of temporary immigrant workers, particularly those linked to a single employer through a so-called "closed" work permit, and we know that this is just the tip of the iceberg.

On 6 September 2023, the publication of a statement by Mr. Tomoya Obokata,³ the UN Special Rapporteur on contemporary forms of slavery, caused a real shockwave. In workplaces where the employees we represent are working, we are also seeing the detrimental effects of the Temporary Foreign Worker Program's (TFWP) closed work permit.

¹ [www.ledevoir.com/societe/798860/plus-2-millions-immigrants-temporaires-canada].

² Agreement Respecting the Temporary Foreign Worker Program (TFWP) and the International Mobility Program (IMP) in Response to Quebec's Labour Market Needs

³ [www.ohchr.org/press-releases/2023/09/canada-anchor-fight-against-contemporary-forms-slavery-human-rights-un].

Temporary immigrants linked to a single employer are vulnerable to all kinds of abuse, as the exercise of their rights carries a high risk of reprisal. These real and anticipated risks and challenges are systemic in nature. The current configuration of immigration laws and closed work permits traps temporary immigrants in a straitjacket where they find themselves both dependent on their employers and virtually unable to assert their rights or benefit from basic social protections.

In this context, the risks of discrimination, abuse, exploitation and working in dangerous or degrading conditions increase considerably. In fact, many studies have denounced these conditions, including those by the International Labour Office (ILO),⁴ the Commission des droits de la personne et des droits de la jeunesse (CDPDJ)⁵ and other experts.⁶

Temporary foreign workers (TFWs) are also more exposed to numerous and more severe health and safety risks in their workplaces.⁷ Being tied to their employer, these people are more vulnerable, as they often do not dare to report a situation, for fear of reprisals, which can increase their tolerance for these risks. While it is undeniable that the Canadian and provincial governments, in collaboration with community organizations and unions, have made efforts to better inform temporary foreign workers of their rights, there is no denying that there is still significant work to be done, right from their first day on the job.

⁴ “Certain laws and regulations relating to the employment of workers at all skill levels can also result in discrimination against migrant workers, such as employment permit systems and sponsorship systems that severely restrict the possibility for migrant workers to change workplaces, employers or sponsors, thus placing them in a particularly vulnerable situation and providing employers with an opportunity to exert disproportionate power over them. Moreover, such laws and regulations may also enable employer preferences for migrant workers over national workers, thus facilitating “social dumping” and a race to the bottom.” Source: International Labour Organization, *Addressing governance challenges in a changing labour migration landscape*, International Labour Conference, 2017, p. 20.

⁵ [TRANSLATION] “A restricted work permit binds the worker to his employer and restricts him in his ability to carry out work voluntarily. This could be a violation of the freedom protected by Section 1 of the *Charter of Human Rights and Freedoms*. Indeed, “the freedom to resign is fundamental. It marks the difference between slavery and the contemporary concept of work.” In the case of migrant workers, leaving one’s employer becomes almost impossible due to the financial and administrative difficulties of finding another one.” Source: Commission des droits de la personne et des droits de la jeunesse, *La discrimination systémique à l’égard des travailleuses et des travailleurs migrants*, Quebec, 2011, p. 60.

⁶ Eugénie DEPATIE-PELLETIER and Myriam DUMONT ROBILLARD, *Interdiction de changer d’employeur pour les travailleurs migrants : obstacle majeur à l’exercice des droits humains au Canada*, *Revue québécoise de droit international*, No. 26.2, 2014.

⁷ Pascale PRUD’HOMME, et autres, *Travailleurs immigrants et SST au Québec : État des connaissances statistiques et recension des sources de données*, IRSST, 2015.

It is true that there is now an open work permit for vulnerable foreign workers who are victims of violence.⁸ However, this measure has no preventive value since this open work permit is granted following abuse and on the condition that it can be demonstrated. Recall that temporary immigrants are in a position that makes it very difficult to file a complaint or testify in the context of such a complaint. Immigration, Refugees and Citizenship Canada's (IRCC) web page on open work permits for vulnerable foreign workers who are victims of violence also recommends clearing browsing history if the abuser is monitoring the temporary immigrant's actions.

It is worth pointing out that the closed work permit is detrimental to the full exercise of trade union rights. Fear of employer reprisals and the isolation of TFWs, who often live together and in isolation, mean that temporary immigrants make it difficult to set up new unions, and when they do exist, they make little or no use of them to defend their rights. Many cases of threats to be "put back on the plane" are reported, an intimidation practice made possible by the closed work permit.

Finally, it should be noted that the TFWP is a major contributor to the increase in the number of non-status people, especially in the context of the current labour market contractions. Indeed, while the unemployment rate, both in Canada and in Quebec, has increased slightly in recent months,⁹ we see that TFWs have lost or are at risk of losing their jobs. In other recent cases, their hours of work have been reduced despite Labour Market Impact Assessment (LMIA) rules, and they cannot replace these hours by working elsewhere due to their closed permits. In fact, even without an economic downturn, the increase in the use of the TFWP has an upward impact on the number of immigrants who become non-status in Canada. Replacing the closed licence with an open licence would allow TFWs who lose their jobs or have their hours reduced to find a job while legally remaining in the country.

Such a change does not, however, imply the abolition of all rules and measures aimed at protecting the labour market from a large influx of temporary workers.

All of these points convince us that the TFWP closed work permit is no longer acceptable. It has too many negative effects and keeps immigrants in an intolerable situation of inequity, vulnerability and precariousness.

⁸ [<https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/permit/temporary/vulnerable-workers.html>].

⁹ Canada's unemployment rate was 5.8% in November (+0.1%), while Quebec's was 5.2% (+0.3%).

Temporary immigration and the labour market

The closed work permit must also be seen in the broader context of recent developments in migration policies. While the TFWP was originally designed to address “*rare instances of genuine labour market shortage,*” it has “*become the faster and preferred way to get immigrants to Canada to meet long-term labour shortages.*”¹⁰ Although these lines were written in 2009, temporary immigration is unfortunately still on the increase.

There is absolutely nothing structuring or constructive about this. Not only does the TFWP lock a large and growing number of people into an unacceptable working relationship in order to satisfy the needs of the labour market, it also encourages employers not to improve working conditions or invest in their company’s productivity. The existence of an international pool of “cheap” labour under closed work permits somehow short-circuits the logic of the market economy, which should no longer depend on forced labour. If the needs of the job market are permanent, the Government of Canada must instead promote access to permanent residency and improve the permanent immigration system. Such a recommendation is not new, since it was mentioned in the Tilson Report in 2009.¹¹ Its corollary is to make it easier for immigrants to gain permanent residence, as both the Tilson report¹² and Mr. Obokata pointed out.

By abolishing the closed work permit, the government would be taking a major step toward an immigration system that provides a better framework to Canada’s economic fabric and is respectful of human rights.

¹⁰ Tilson, Report of the Standing Committee on Citizenship and Immigration, 2009, p. 5.

¹¹ “The Committee heard repeatedly that the “immigration system is broken” and that if it were amended, the demand for temporary workers would lessen. There was widespread agreement that permanent immigration was more desirable and better for nation building than using increasing numbers of temporary workers.”

Tilson, Report of the Standing Committee on Citizenship and Immigration, 2009, p. 5.

¹² Tilson, Report of the Standing Committee on Citizenship and Immigration, 2009, p. 9.

Conclusion

We wanted to bring together the main arguments in favour of abolishing the TFWP closed work permit and replacing it with an open permit. We recognize that this change will also lead to other changes throughout the immigration system. However, these challenges should not stop us, quite the contrary. The dignity and rights of immigrants must be respected. That is why we strongly believe that permanent immigration should be encouraged rather than temporary immigration. These goals must guide us throughout the work ahead, in order to make workplaces fairer and more accountable.

Quebec's labour bodies therefore recommend to the Government of Canada:

1. That the TFWP closed work permit be abolished and replaced by an open work permit, which is not limited to one industry or region.
2. That investments be increased in mechanisms for informing temporary immigrants of their rights, inspecting their workplaces, and handling complaints and sanctions.
3. That the changes recommended in this brief be part of a broader reflection aimed at prioritizing permanent immigration rather than temporary immigration in order to definitively meet the socio-economic needs of the country.
4. That there be cooperation and respect for the constitutional jurisdictions of the provinces and the agreements between the various levels of government (Canada-Quebec Accord Relating to Immigration and Temporary Admission of Aliens, 1991), and that there be consultation with civil society partners, including unions and community organizations, defending temporary employees.