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CANADA

CONDITIONS FOR GROWTH: RECONSIDERING CLOSED WORK PERMITS IN THE TEMPORARY FOREIGN WORKERS PROGRAM

**Report of the Standing Committee on Citizenship and
Immigration**

Sukh Dhaliwal, Chair

**NOVEMBER 2024
44th PARLIAMENT, 1st SESSION**

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**Sukh Dhaliwal
Chair**

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NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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has the honour to present its

TWENTY-FIRST REPORT

Pursuant to its mandate under Standing Order 108(2), the committee has studied closed work permits and temporary foreign workers and has agreed to report the following:

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NOTE TO READER

As part of this study, the House of Commons Standing Committee on Citizenship and Immigration heard testimony from, and received written submissions about, temporary foreign workers who experienced mistreatment and abuse. This report quotes directly from these accounts.

Worker mistreatment or abuse may be reported to the Government of Canada's [national tipline](#) at 1-866-602-9448. Reports may also be made [online](#), in person at a Service Canada Centre, or by mail at: Temporary Foreign Worker Program Branch, Service Canada, 140 Promenade du Portage, 5th Floor, Box 520, Gatineau, QC, K1A 0J2, Canada.

SUMMARY

Critics have long argued that the mobility restrictions of employer-specific or “closed” work permits, combined with high dependence on employers, can make temporary foreign workers vulnerable to exploitation and abuse. For all workers tied to a single employer, including workers entering Canada under the Temporary Foreign Worker Program (TFWP), the stakes of not fulfilling the conditions of a closed permit are often high, as leaving their job, even if under duress, can lead to deportation.

In recent years, Canadian employers have increasingly turned to, and relied on, the TFWP to fill labour shortages; the number of new permits issued under the program has more than doubled since 2020.¹ In 2023, the United Nations (UN) Special Rapporteur on contemporary forms of slavery visited Canada to form his impressions of the TFWP. In his preliminary conclusions, he characterized the Agricultural and Low-wage streams of Canada’s TFWP as “a breeding ground for contemporary forms of slavery.” He argued that their closed work permits make these workers particularly vulnerable, notably because “they cannot change employers and may face deportation upon termination of their employment.”²

In November 2023, the Committee began its own study on closed work permits and temporary foreign workers. Among other topics, the study considered the underlying conditions of work and mobility issues, the important roles the TFWP plays for Canadian industries, the effectiveness of existing protections, and the Special Rapporteur’s End of Mission Statement. This report reflects the testimony of employers and industry representatives, workers’ representatives, and government officials, as well as a former temporary foreign worker. It also includes the testimony from the Special Rapporteur.

It is important to understand the context of the study, including the report and testimony from the UN Special Rapporteur. In his own words, Rapporteur Obokata testified to the House of Commons Standing Committee on Citizenship and Immigration (CIMM) that:

1 Immigration, Refugees and Citizenship Canada, [*Temporary Residents: Temporary Foreign Worker Program \(TFWP\) and International Mobility Program \(IMP\) Work Permit Holders – Monthly IRCC Updates – Canada – Temporary Foreign Worker Program work permit holders by province/territory of intended destination, intended occupation \(4-digit NOC 2011\) and year in which permit\(s\) became effective.*](#)

2 Tomoya Obokata, United Nations Special Rapporteur on contemporary forms of slavery, [*End of Mission Statement*](#), 6 September 2023.

In relation to the treatment of migrant workers, I expressed my serious concerns over the low-wage and agricultural streams of the Temporary Foreign Worker Program.

In this regard, I received first-hand information from a wide variety of stakeholders, including close to 100 migrant workers I met across Canada, with regard to appalling working conditions that include excessive working hours, physically dangerous tasks, low wages and no overtime pay, as well as sexual harassment, intimidation and violence at the hands of their employers. When workers try to negotiate their working conditions, many are reportedly threatened or even dismissed instantly.

In my view, the key factor increasing the vulnerabilities of migrant workers to exploitation in Canada is the closed nature of the program that ties workers to specific employers. This creates a dependency relationship between the employers and the workers in many cases, allowing the former to exercise strong control over the latter.³

This report is divided into four parts. First, it outlines the government's use of closed work permits in the TFWP, the growth of the program since 2014, and recent critiques of its working conditions in the Special Rapporteur's End of Mission Statement. Second, it examines the effectiveness of existing worker protections in the TFWP, including the pathways for employment mobility for which TFWs are eligible. Third, the report examines precisely how workers can be made vulnerable to abuse by way of closed work permits in the TFWP, as well as the risks and benefits of issuing open and sectoral permits instead. Finally, possible changes to the TFWP are proposed, such as improving access to permanent resident pathways.

3 CIMM, [Evidence](#), 26 February 2024, 1105 (Tomoya Obokata, Special Rapporteur, United Nations).

LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That Immigration, Refugees and Citizenship Canada raise the threshold for temporary foreign workers in the agri-food sector from 20 to 30%. 18

Recommendation 2

That Immigration, Refugees and Citizenship Canada make permanent its Public Policy on Exemptions to Work Permit Conditions When Changing Employment, and publicize this policy more widely, including by offering webinars to employers and employees in the Temporary Foreign Worker Program..... 32

Recommendation 3

That Immigration, Refugees and Citizenship Canada prioritize processing work permits for temporary foreign workers moving to a new employer; and work to reduce the paperwork burden in the Temporary Foreign Worker Program; and that Employment and Social Development Canada improve processing times for Labour Market Impact Assessments. 32

Recommendation 4

That Immigration, Refugees and Citizenship Canada, while recognizing the principle of contractual agreements between the two parties, allow temporary foreign workers to initiate new work permit applications from within Canada, with no regulatory or practical requirement for the current employer to be involved. 32

Recommendation 5

That Immigration, Refugees and Citizenship Canada simplify the application process for the open work permit for vulnerable workers, lower the evidentiary threshold for success, and prioritize interviews with the worker when there is doubt about the application. 35

Recommendation 6

That Immigration, Refugees and Citizenship Canada provide funding to organizations and legal providers that are recognized as culturally sensitive, trauma-informed and capable of assisting vulnerable workers in submitting their application for the open work permit for vulnerable workers. 35

Recommendation 7

That Employment and Social Development Canada increase the percentage of unannounced, on-site inspections conducted by Service Canada and to increase the use of more severe and sanctions be imposed, up to and including banishment from the program, be imposed on an employer when an inspection reveals breaches of the employment contract or abuse of a worker..... 39

Recommendation 8

That Employment and Social Development Canada prioritize on-site visits and publish annual statistics about the number of inspections conducted, including whether they were virtual, on site, announced or unannounced, and the results of these inspections. 39

Recommendation 9

That Employment and Social Development Canada and Immigration, Refugees and Citizenship Canada develop accessible materials for foreign workers to receive prior to and upon their arrival in Canada that provide details, in their own language, on how the Temporary Foreign Worker Program works, including their rights while working in Canada..... 41

Recommendation 10

That Immigration, Refugees and Citizenship Canada create, in consultation with stakeholders, a two-hour, mandatory paid workshop for temporary foreign workers about their rights and responsibilities while in Canada; that this workshop be presented by an independent, non-governmental organization; and that Immigration, Refugees and Citizenship Canada be invited to be present at the discretion of the temporary foreign workers and the non-governmental organization during these workshops to answer questions..... 41

Recommendation 11

That Immigration, Refugees and Citizenship Canada, after consultation with Quebec, the provinces, and territories, issue sectoral and regional work permits to workers accepted under the Temporary Foreign Worker Program; that the department define sectors broadly, providing workers with access to a wide range of employers that are experiencing labour shortages; and that the department discontinue the use of closed work permits for the Temporary Foreign Worker Program. 53

Recommendation 12

That the Immigration, Refugees and Citizenship Canada develop a comprehensive plan to provide more pathways to permanent residency for Temporary Foreign Workers in the Low-wage and Primary Agriculture streams and agri-food sector, separate from other pools of candidates in economic classes..... 56

Recommendation 13

That, modeled on the Table de Concertation du Québec, the Government of Canada create a forum bringing together relevant government, employers, worker, and union stakeholders, to address issues and foster best practices in the Temporary Foreign Worker Program. 58



CONDITIONS FOR GROWTH: RECONSIDERING CLOSED WORK PERMITS IN THE TEMPORARY FOREIGN WORKERS PROGRAM

INTRODUCTION

Critics have long argued that the mobility restrictions of employer-specific—or closed—work permits, combined with high dependence on employers, can make temporary foreign workers (TFWs) vulnerable to exploitation and abuse.¹ Foreign workers cannot fully defend their human and labour rights with respect to an employer and workplace that they cannot easily leave. For TFWs, the stakes of not fulfilling the conditions of these closed permits are often high. Leaving a job—quitting, being laid off, or being fired—can mean the immediate loss of medical services and housing, financial ruin, and quick deportation.

These risks are especially high for TFWs in the Temporary Foreign Worker Program (TFWP)—including workers with low-wages, caregivers and workers in the agriculture and agri-food system—who often depend on employers for housing (as it is typically a requirement that the employer provide housing) and access to information and services. The House of Commons Standing Committee on Citizenship and Immigration (the Committee) highlighted this vulnerability caused by the use of closed work permits in the TFWP in its June 2021 report, *Immigration Programs to Meet Labour Market Needs*.²

From 23 August to 6 September 2023, Tomoya Obokata, the United Nations (U. N.) Special Rapporteur on contemporary forms of slavery (the Special Rapporteur), undertook an official research visit to Canada to investigate the country's efforts to prevent and address contemporary forms of slavery—such as forced labour, coercion and trafficking—including an examination of the TFWP.³ In his End of Mission Statement

1 House of Commons Standing Committee on Citizenship and Immigration (CIMM), *Immigration Programs to Meet Labour Market Needs*, June 2021, pp. 30–35. This report echoed the Committee's 2009 analysis and conclusions: CIMM, *Temporary Foreign Workers and Non-Status Workers*, May 2009, p. 26. See also House of Commons Standing Committee on Human Resources, Skill and Social Development and the Status of Persons with Disabilities, *Temporary Foreign Worker Program*, September 2016.

2 CIMM, *Immigration Programs to Meet Labour Market Needs*, June 2021.

3 Tomoya Obokata, United Nations Special Rapporteur on contemporary forms of slavery (Special Rapporteur), *End of Mission Statement*, 6 September 2023, p. 1; United Nations Office of the High Commissioner for Human Rights (OHCHR), *UN expert on contemporary forms of slavery to visit Canada*, News release, 21 August 2023.



dated 6 September 2023, which included his preliminary conclusions, the Special Rapporteur characterized the Agricultural and Low-wage streams of Canada’s TFWP as constituting “a breeding ground for contemporary forms of slavery.”⁴ On 22 July 2024, Mr. Obokata echoed this conclusion in his final version of the report, which he will present to the U.N. Human Rights Council during its 57th session, from 9 September to 9 October 2024.⁵

On 7 November 2023, the Committee began its own study on closed work permits and TFWs. As part of its study, the Committee considered the underlying conditions of TFWs’ work and mobility, the important role the TFWP plays for both Canadian industries and migrant workers, the success of existing TFW protections, and the Special Rapporteur’s September 2023 End of Mission Statement. This report reflects the testimony of employers and industry representatives, TFWs and TFW representatives, and government officials. It also explores the testimony the Committee received from the Special Rapporteur, including his comments about the limitations and implications of his two-week official research trip, as well as his preliminary conclusion – since reiterated in his final report – that streams of the TFWP risk creating conditions for forms of modern slavery.⁶ While the Committee’s report references the Special Rapporteur’s final report (2024), its focus is on Mr. Obokata’s End of Mission Statement (2023) which informed much of the witnesses’ testimony.

This report is divided into four parts. First, it outlines the government’s use of closed work permits in the TFWP, the growth of the program since 2014, and recent critiques of its working conditions in the Special Rapporteur’s End of Mission Statement. Second, it examines the success of existing worker protections in the TFWP, including the pathways for employment mobility for which TFWs are eligible. Third, the report examines precisely how workers may be made vulnerable to abuse by way of closed work permits

4 Special Rapporteur, [End of Mission Statement](#), 6 September 2023, p. 3.

5 Tomoya Obokata, Special Rapporteur, [Visit to Canada](#), 22 July 2024, Human Rights Council, 57th session, 9 September 2024-9 October 2024, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, agenda item 3, p. 5.

6 The International Labour Organization (ILO), a specialized agency of the United Nations, uses “modern slavery” as an umbrella term to describe situations of exploitation that a person cannot evade due to threats, violence, coercion, deception, or abuse of power. The term encompasses, among other legal concepts, forced labour, debt bondage, forced marriage, sexual exploitation, domestic servitude, use of child soldiers, and human trafficking. See ILO and Walk Free Foundation, [Global estimates of modern slavery: forced labour and forced marriage](#), 2017, p. 9. See also United Nations Office of the High Commissioner for Human Rights, [Special Rapporteur on contemporary forms of slavery, including its causes and consequences](#); United States Department of State, Office to Monitor and Combat Trafficking in Persons, [What is Modern Slavery](#); and United Kingdom, Elizabeth Such et al., [Modern slavery and public health](#), Public Health England, 7 December 2017.

in the TFWP, as well as the risks and benefits of issuing open and sectoral permits instead. Finally, possible changes to the TFWP are proposed, such as improving access to permanent resident pathways.

Closed Work Permits and the Growth of the Temporary Foreign Worker Program Closed Work Permits

Employer-specific work permits, also known as closed work permits, are issued to foreign nationals entering Canada as temporary residents. Under a closed permit, foreign nationals are restricted to a specific employer during the visa's validity period.⁷ Since 2014,⁸ closed work permits are issued exclusively through the TFWP and the International Mobility Program (IMP).⁹ In 2022, 77% of all work permits issued by IRCC were open, while 23% were closed.¹⁰ According to the Immigrant Workers Centre, "fewer than 150,000 migrants" had a closed work permit in November 2023.¹¹

This report will focus on closed work permits issued under the TFWP, as the majority of IMP visa holders are issued open work permits, allowing them to work for any employer willing to hire.¹² IMP visa holders are highly specialized foreign nationals, from "engineers to university professors,"¹³ and are not subject to restrictions based on the

7 The permit indicates such details as the name of the employer, the place of work and the duration of employment. See [Immigration and Refugee Protection Regulations](#), SOR/2002-227, s. 185. "Canada maintains oversight of foreign workers and their impacts on our labour market by making certain work permits employer-specific. That means the permit is associated with one occupation, wage, location and employer." See CIMM, [Evidence](#), 7 November 2023 1620 (the Honourable Marc Miller, Minister of Immigration, Refugees and Citizenship).

8 On 20 June 2014, a comprehensive overhaul of the Temporary Foreign Worker Program (TFWP) was announced. This led to changes to the grouping and reporting of work permit holders which has been split into two separate categories: TFWP and the International Mobility Program (IMP). See Citizenship and Immigration Canada, [Canada - Facts and Figures: Immigrant Overview - Temporary Residents](#), 2013, p. 6.

9 To an almost equal proportion: in 2019, 98,000 in the TFWP and 90,000 in the IMP. [Regulations Amending the Immigration and Refugee Protection Regulations \(Temporary Foreign Workers\): SOR/2022-142](#), *Canada Gazette*, Part II, 21 June 2022.

10 IRCC, [CIMM – Open vs. Employer-Specific Work Permits](#), 7 November 2023.

11 Immigrant Workers Centre, *Brief*, 30 November 2023, p. 2.

12 Yuqian Lu and Feng Hou, [Temporary Foreign Workers in the Canadian Labour Force: Open Versus Employer-specific Work Permits](#), Statistics Canada, 18 November 2019.

13 CIMM, [Evidence](#), 7 November 2023, 1630 (Hon. Marc Miller).



protection of the Canadian labour market.¹⁴ IMP permit holders include temporary workers with post-graduate work permits, spousal work permits for students or workers, those temporarily visiting, and in March 2024, constituted 44% of all temporary residents in Canada.¹⁵ The number of permit issued under the IMP has grown by 83%, between 2017 and 2022.¹⁶ Data provided by IRCC shows that there were 242,330 new IMP work permit holders in 2017, versus 466,905 in 2022.¹⁷

On the other hand, all work permits issued under the TFWP are primarily closed. Holders of closed work permits in the TFWP are mostly tied to a single employer. Within the systems of Employment and Social Development Canada (ESDC) and Immigration, Refugees and Citizenship Canada (IRCC) who jointly administer the program, one employer is linked to each closed work permit, which are in turn linked to individuals in the TFWP coming to work in Canada temporarily. The employer is also listed on the physical work permit, which is issued to the worker upon arrival in Canada and often stapled and folded into their passport.

The Temporary Foreign Worker Program

Successive governments have adopted the view that the TFWP can assist employers in filling labour market gaps, without compromising the capacity of Canadians to access the job market.¹⁸ The results of this program have not been substantiated. Six subcategories of the program are tailored to address different labour gaps in Canada: the High-wage stream, the Low-wage stream, the Primary Agriculture stream, the Stream to Support Permanent Residency, the Global Talent Stream, and the Caregiver

14 IMP visa holders are exempted from Labour Market Impact Assessments (LMIAs) because they advance Canada’s broad economic and cultural interests. The program “aims to provide competitive advantages to Canada and reciprocal benefits to Canadians.” See Government of Canada, [Canada - Facts and Figures: Immigrant Overview - Temporary Residents](#), 2013, p. 6.

15 To clarify, “temporary residents” would include all international students, temporary foreign workers, and asylum seekers in Canada. See Immigration, Refugees and Citizenship Canada (IRCC), [Speaking notes for the Honourable Marc Miller, Minister of Immigration, Refugees and Citizenship: Announcement related to Temporary Residents](#), 21 March 2024.

16 IRCC, CIMM – Key Distinctions between the International Mobility Program (IMP) and the Temporary Foreign Worker Program (TFWP), 7 November 2023. Data provided by IRCC shows that there were 242,330 new IMP work permit holders in 2017, versus 466,905 in 2022.

17 In 2023, this number reached 763,670. See IRCC, [International Mobility Program work permit holders by province/territory, intended occupation \(4-digit NOC 2011\) and year in which permit\(s\) became effective](#).

18 IRCC, [Temporary Workers](#).

Programs.¹⁹ The TFWP, introduced in Canada over 55 years ago,²⁰ predominately includes farm workers and food processors, but not exclusively.²¹ Workers in the TFWP made up 9% of all temporary residents in Canada in March 2024.²² This number includes TFWs that hold occupation-restricted open work permits, also known as sectoral permits, issued to them through recent Caregiver pilot programs.²³

The TFWP is administered in partnership by IRCC and ESDC.²⁴ While IRCC assesses visa admissibility for the program, ESDC is responsible for determining potential effects of TFWs on the Canadian labour market. ESDC is also responsible for supervising compliance of employers with obligations set out under the program.²⁵

To qualify for the TFWP, employers must provide a valid job offer to the applicant and obtain a positive Labour Market Impact Assessment (LMIA) from ESDC.²⁶ Before IRCC can issue a work permit under the TFWP, employers seeking to hire TFWs in Quebec must obtain a Certificat d'acceptation du Québec from the minister of Immigration,

19 Employment and Social Development Canada (ESDC), *Hire a temporary foreign worker with a Labour Market Impact Assessment*. See also Eleni Kachulis and Mayra Perez-Leclerc, *Temporary Foreign Workers in Canada*, Library of Parliament, 16 April 2020; ESDC, *Evaluation of the Temporary Foreign Worker Program*, June 2021.

20 “A pilot program was launched in 1966 to bring Jamaican workers from Puerto Rico to Ontario to meet the needs of farmers, ensuring that these people would not remain in Canada.” Immigrant Workers Centre, *Brief*, 30 November 2023. See also National Farmers Union, *Brief*, December 2023, p. 1.

21 In 2020, 27.4% of all temporary foreign workers (TFWs) worked in crop production, and 3.4% in food processing industries. Yuqian Lu, *The distribution of temporary foreign workers across industries in Canada*, Statistics Canada, 3 June 2020.

22 IRCC, *Speaking notes for the Honourable Marc Miller, Minister of Immigration, Refugees and Citizenship: Announcement related to Temporary Residents*, 21 March 2024.

23 IRCC, *Occupation-restricted open work permits (OROWPs) under the Home Child Care Provider Pilot (HCCPP) or Home Support Worker Pilot (HSWP)—Gaining experience category [R205(a)—C90]: International Mobility Program (IMP)*.

24 ESDC, *Temporary Foreign Worker*.

25 ESDC’s role is to help ensure worker’s rights are respected through employer’s compliance with the program conditions, to ensure employers understand their obligations and comply with program rules, and to help protect the Canadian labour market. ESDC’s authority is strictly administrative and not punitive—this means: ESDC’s main purpose is to ensure employers comply with program conditions: Employers must demonstrate to the inspectors that they are meeting the terms and conditions of the program and the LMIA’s; it can only penalize or ban non-compliant employers from the program. Criminal enforcement is referred to the Canada Border Services Agency, Royal Canadian Mounted Police, and local police. See ESDC, *Temporary Foreign Worker Program: Compliance Regime*, PowerPoint, Compliance Directorate Presentation on 30 November 2022, p. 4.

26 ESDC, *Hire a temporary foreign worker with a Labour Market Impact Assessment*.



Francisation et Intégration of Quebec, which is not the case for workers in the IMP.²⁷ LMIA's are used by the Canadian government to determine if there is a genuine need for foreign workers in local sectors of the labour market, and if hiring a migrant worker will have a negative impact for qualified Canadians or permanent residents. The LMIA's also play "a role in maintaining the integrity of the [relevant programs]," as it "provides protection to the foreign worker, given that employers ... are held accountable by the Government's employer compliance regime."²⁸ The cost for applying to obtain an LMIA is \$1,000 per position,²⁹ however, an exception is made for employers in the Primary Agriculture stream, which are fee exempt.³⁰

LMIA's and closed work permits also facilitate inspections, because they specify the employers and the conditions of work.³¹ Using this information, Service Canada may inspect workplaces to ensure that the employer complies with 28 conditions set out in the *Immigration and Refugee Protection Regulations*.³² Depending on the gravity of the violations, employers who are found non-compliant may face a series of consequences, including a permanent ban from relevant programs.³³

27 Government of Québec, [Submitting an Application for temporary selection](#) and Government of Québec, [International Mobility Program](#).

28 [IRCC: Notice to interested parties—Introducing occupation-specific work permits under the Temporary Foreign Worker Program](#), *Canada Gazette*, Part I, 22 June 2019, p. 2951.

29 ESDC, [Program requirements for low-wage positions](#); CIMM, [Evidence](#), 23 November 2023 1550 (Mark Chambers, Vice-President, Canadian Pork Production, Sunterra Farms).

30 The LMIA processing fee does not apply to occupations related to primary agriculture "and positions under the National Occupational Classification (NOC) codes 80020, 80021, 82030, 82031, 84120, 85100, 85101 and 85103." IRCC, [Hire a temporary foreign worker through the Agricultural Stream](#).

31 [Regulations Amending the Immigration and Refugee Protection Regulations \(Temporary Foreign Workers\): SOR/2022-142](#), *Canada Gazette*, Part II, 21 June 2022.

32 [Immigration and Refugee Protection Regulations](#), SOR/2002-227, s. 209.3.

33 As of 1 December 2015, an employer can face the following penalties if ESDC finds them non-compliant for a violation: a warning; penalties up to \$100,000 per violation, to a maximum of \$1 million per year; a permanent ban from the TFWP and IMP for the most serious violations; publication of the business name and address on IRCC's [Employers who have been found non-compliant](#) page, with details of the violation and consequences; and, suspension or revocation of previously issued LMIA's. ESDC, [Employer compliance](#); IRCC, [Employers who have been found non-compliant](#).

Growth of the Temporary Foreign Worker Program Between 2014 and 2023

In 2014, IRCC described the TFWP as a “last and limited resort,” to help fill “genuine labour needs.”³⁴ 2014 was the year where the government made significant reforms to the TFWP, thereby limiting employers to hire a maximum of 10% low-wage position TFWs in proportion of their total staffing.³⁵ But over the next decade, Canadian employers have increasingly turned to, and relied on, the TFWP to fill their labour shortages, which has led to significant growth of the TFWP in Canada.³⁶

During the COVID-19 pandemic, IRCC and ESDC relaxed several requirements of the TFWP to allow for greater mobility and faster processing of applications for TFWs into the Canadian labour market to fill skill shortages, especially in sectors considered as “essential services.”³⁷ In April 2022, in the wake of the pandemic, large gaps in the Canadian job market led ESDC to implement the Temporary Foreign Worker Program Workforce Solutions Road Map (the Road Map).³⁸ Among other measures, in response to industry demands, the Road Map increased the percentage of low-wage positions an employer can hire through the TFWP to 20% of their total staffing for all employers across the country, and temporarily increased the cap to 30% in certain sub-sectors of employment that demonstrated significant labour shortages, such as accommodation and food services, construction, as well as food manufacturing and hospitals. Additionally, the federal government ended its Refusal to Process policy for certain low-wage occupations in the Accommodation and Food Services, and Retail Trade sectors in economic regions with an unemployment rate of 6% or higher.

ESDC announced on 26 October 2023 that it would extend the 30% temporary increase into 2023–2024.³⁹ On 21 March 2024, the department reduced the cap on low-wage

34 See Citizenship and Immigration Canada, [Canada—Facts and Figures: Immigrant Overview—Temporary Residents](#), 2013, p. 6.

35 See ESDC, [Overhauling the Temporary Foreign Worker Program](#).

36 As of 8 October 2023, the TFWP continued to see an increase in demand in the last fiscal year (2023–24), with the number of files created rising by approximately 40% (year to date) compared to the same period in the previous fiscal year. See ESDC, [Government of Canada extends Workforce Solutions Road Map and introduces new wage requirements under the Temporary Foreign Worker Program](#), News Release, 26 October 2023.

37 IRCC, [Public policy on exemptions to work permit conditions when changing employment](#).

38 ESDC, [Background: Temporary Foreign Worker Program Workforce Solutions Road Map](#).

39 ESDC, [Government of Canada extends Workforce Solutions Road Map and introduces new wage requirements under the Temporary Foreign Worker Program](#).



positions to 20% for all industries except for construction and health care sectors, and decreased the period of validity of a new LMIA from 12 to 6 months.⁴⁰

The Minister of Immigration, Refugees and Citizenship, the Honourable Marc Miller, reminded the Committee how essential TFWs are for employers “with short-term labour needs.”⁴¹ He went on to highlight the valuable contributions of TFWs to the Canadian economy during COVID-19:

[TFWs] make valuable contributions to our economy and are essential to employers with short-term labour needs. They deserve to be treated with dignity and respect. One need only remind oneself of what happened during COVID and the shutdown, and the crisis that imposed immediately on the economy, if people’s memories are short.⁴²

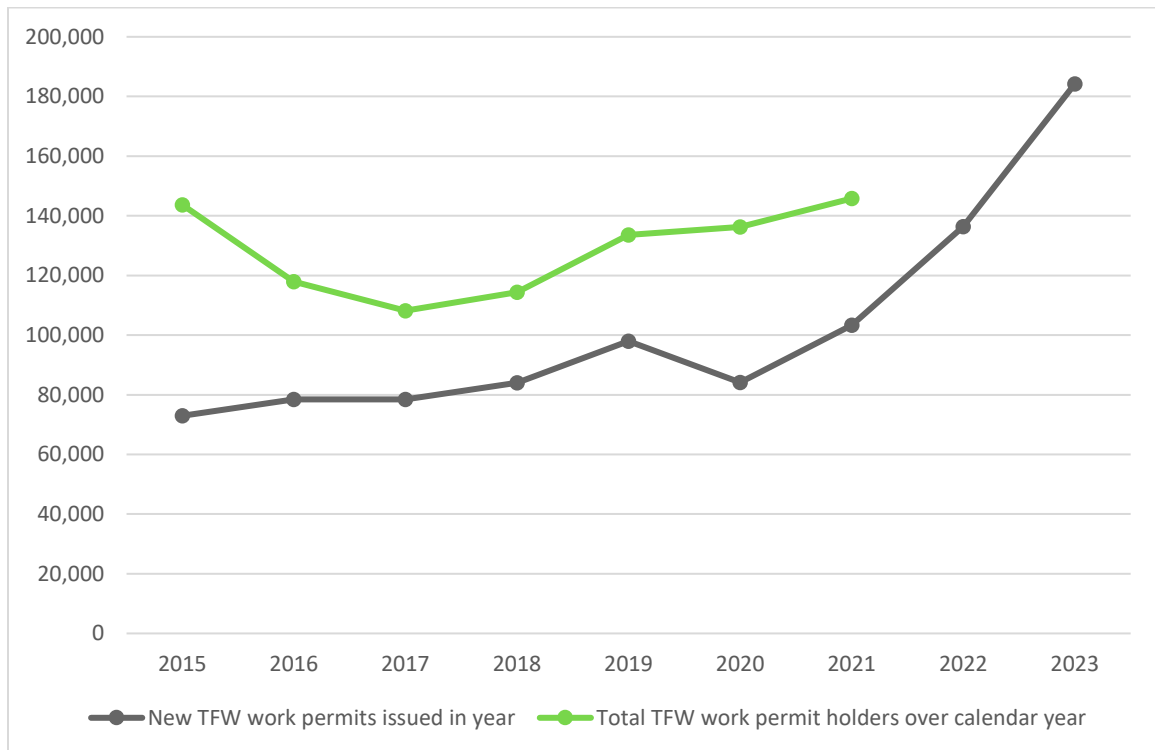
Figure 1 sets out the most recent TFWP numbers, including statistics for newly issued permits by year (new issues) and total TFWs in Canada in a calendar year.

40 ESDC, [*Government of Canada to adjust temporary measures under the Temporary Foreign Worker Program Workforce Solutions Road Map*](#), News release, 21 March 2024.

41 CIMM, [*Evidence*](#), 7 November 2023, 1620 (Hon. Marc Miller).

42 Ibid.

Figure 1—The Total and New Work Permit Holders in the Temporary Foreign Worker Program, 2015-2023



Source: Graph prepared by the Library of Parliament using data obtained from [Yuqian Lu and Feng Hou, *Foreign workers in Canada: Work permit holders versus employment income records, 2010 to 2022*](#), Statistics Canada, 25 October 2023; IRCC, [Temporary Residents: Temporary Foreign Worker Program \(TFWP\) and International Mobility Program \(IMP\) Work Permit Holders – Monthly IRCC Updates – Canada – Temporary Foreign Worker Program work permit holders by province/territory of intended destination, intended occupation \(4-digit NOC 2011\) and year in which permit\(s\) became effective](#).

The growth in TFW numbers prompted the Minister to indicate in September 2023 that IRCC would be “taking a closer look at temporary resident immigration levels and making sure they align with [Canada’s] capacity and needs, to ensure sustainable growth.”⁴³ On 21 March 2024, he announced that, starting in the fall, his department would be expanding the Immigration Levels Plan to include temporary resident arrivals.⁴⁴ In August 2024, ESDC Minister, Randy Boissonnault, announced measures to reduce the number of TFWs in Canada, with exceptions for seasonal and non-seasonal jobs in food

43 CIMM, [Evidence](#), 7 November 2023, 1625 (Hon. Marc Miller).

44 IRCC, [Speaking notes for the Honourable Marc Miller, Minister of Immigration, Refugees and Citizenship: Announcement related to Temporary Residents](#), 21 March 2024.



security, healthcare, and construction sectors, “given current labour market conditions, and to further reduce the reliance of Canadian employers on the [TFWP].”⁴⁵

The growth of low-wage streams of the TFWP will undoubtedly continue to contribute to a growing population of undocumented workers who will be preyed upon by unscrupulous actors. As Quebec’s Central Labour Bodies notes, “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.”⁴⁶

Importance of the Temporary Foreign Worker Program for Canadian Agricultural and Agri-Food sectors

TFWs play an integral role in several Canadian industries, including in Canada’s agriculture and agri-food system. Jobs filled by TFWs in these sectors include positions with businesses in primary agriculture and food and beverage processing industries, but also employment with food retailers and wholesalers, and food service providers.⁴⁷ In 2023, 70,267 TFWs were employed in agricultural industries, and 45,428 were employed in the food and beverage manufacturing industries.⁴⁸

Peggy Brekveld from the Canadian Agricultural Human Resource Council reported on the state of agriculture as an industry, and its importance for Canada’s economy:

In 2022, the [primary] Canadian agriculture sector generated \$38.8 billion in GDP, or 1.9% of the national total. Canada has established itself as a major producer of diverse and high-quality agricultural products. It ranks among the world’s largest exporters, with \$92.8 billion in agricultural and processed food exports in 2022.⁴⁹

45 Canadian employers will no longer be allowed to hire more than 10% of their total workforce through the program. Additionally, LMIA applications in the Low-Wage stream will not be processed in census metropolitan areas with an unemployment rate of 6% or higher, and work permits issued under this stream will be reduced to a one-year duration. See ESDC, [Minister Boissonnault reducing the number of temporary foreign workers in Canada](#), News release, 27 August 2024.

46 Quebec’s Central Labour Bodies, [Brief](#), 14 December 2023, p. 5.

47 Agriculture and Agri-Food Canada (AAFC) defines primary agriculture as “work that is performed within the boundaries of a farm, nursery or greenhouse.” AAFC defines food and beverage processing as the transformation of “raw materials or substances into new products which may be finished, so that they are ready to be used or consumed, or semi-finished, so that they become raw material to be used in further manufacturing.” AAFC, [Overview of Canada’s agriculture and agri-food sector](#).

48 Statistics Canada, [Temporary foreign workers in the agriculture and agri-food sectors, by industry](#).

49 CIMM, [Evidence](#), 28 November 2023, 1535, (Peggy Brekveld, Canadian Agricultural Human Resource Council).

When looking at the agriculture and agri-food system more broadly, \$143.8 billion in GDP was generated by the industry in 2022, which represents 7% of the national total.⁵⁰

But this industry, responsible for creating one in nine jobs in Canada,⁵¹ has faced significant challenges in attracting and retaining sufficient employees. Minister Miller indicated that, over the last 50 years, the ratio of worker-to-retiree in Canada dropped from a seven-to-one to a three-to-one ratio, a change that has put significant pressures on the country.⁵² Canada's changing demography has also impacted the country's capacity to safely achieve food security, with the agriculture and agri-food sectors facing "chronic labour shortages."⁵³ Denise Gagnon, Vice-President of Réseau d'aide aux travailleuses et travailleurs migrants agricoles du Québec (RATTMAQ) reported that the food security index for Quebec was on a downwards trend in 2023.⁵⁴ Mark Chambers, Vice-President of Sunterra Farms, a Canadian pork production company, reported that in 2022 Canadian agriculture and agri-food industries lost an estimated \$3.5 billion in sales due to labour shortages.⁵⁵ Peggy Brekveld informed the Committee that in 2022, the agricultural sector alone dealt with a labour shortage of over 100,000 people, a deficit which was filled by 71,000 TFWs.⁵⁶

50 AAFC, *Overview of Canada's agriculture and agri-food sector*.

51 Ibid.

52 The ratio may "approach the two-to-one [ratio] in the decades ahead if [Canada does not] welcome more newcomers." CIMM, *Evidence*, 7 November 2023, 1620 (Hon. Marc Miller).

53 "For agriculture, the labour market shows the reasons for the ongoing and chronic labour shortage in the agriculture sectors is related to rural location outside of the urban highly populated areas, which is necessary due to the farmland location and issues related to things like smell. The kind of work, picking and harvesting, that is required to produce food is essential but not always desirable for Canadians." Canadian Mushroom Growers' Association, *Brief*, December 2023, p. 2.

54 CIMM, *Evidence*, 23 November 2023, 1610 (Denise Gagnon, Vice-President, Board of Directors Réseau d'aide aux travailleuses et travailleurs migrants agricoles du Québec).

55 According to a Canadian Agricultural Human Resource Council survey. That survey also found that the agricultural sector "has an above average vacancy rate of 7.5%, with two in five employers saying that they couldn't find the workers they needed." CIMM, *Evidence*, 23 November 2023, 1625 (Mark Chambers). See also Canadian Mushroom Growers' Association, *Brief*, December 2023, p. 2.

56 Peggy Brekveld used the Conference Board of Canada's Model of Occupations, Skills and Technology's definition of "agricultural sector," which includes crop production, animal production, support services and agriculture wholesale industries. See Canadian Agricultural Human Resource Council, *Sowing seeds of change: Agriculture Labour Market Forecast 2023-2030*, p. 7. See CIMM, *Evidence*, 28 November 2023, 1535 and 1545 (Peggy Brekveld). Based on Canadian Agricultural Human Resource Council, *Sowing seeds of change: Agriculture Labour Market Forecast 2023-2030*, p. 7. Cf. Statistics Canada estimated that 64,660 TFWs filed roles in the agriculture and agri-food sectors in 2022. Statistics Canada, *Temporary foreign workers in the agriculture and agri-food sectors, by industry*.



The importance of TFWs for the sustainability of Canadian agriculture and agri-food sectors, and the food security of Canadians cannot be overstated. Associations representing employers in these industries, such as Food and Beverage Canada, recognized the “pivotal role” played by TFWs in “addressing labour shortages in Canada.”⁵⁷ The Ontario Fruit and Vegetable Growers agreed that “domestic labour shortage[s] in rural Canada ... [were] one of the primary reasons that [the fruit and vegetable sector] continues to rely heavily on TFWs.”⁵⁸ The essential contribution of TFWs to the Canadian economy was highlighted as a key factor in “fostering not only the growth of businesses that employ them, but also contributing positively to the communities they become a part of.”⁵⁹ Mark Chambers told the Committee that the TFWP had been “a cornerstone in maintaining the balance of labour markets and safeguarding the interests of ... agricultural and agri-food businesses.”⁶⁰ The program allowed Chambers’ business to “continue [its operations] with success, just as many other businesses in Canada have, especially in tight labour markets.”⁶¹ Peggy Brekveld indicated that in order for Canada to keep up the pace with expanding global markets and the growth of demand in the agricultural sector, the Government of Canada will need to put together a “strategic response” to address labour shortages.⁶²

As such, the Committee recommends:

Recommendation 1

That Immigration, Refugees and Citizenship Canada raise the threshold for temporary foreign workers in the agri-food sector from 20 to 30%.

57 Food and Beverage Canada, [Brief](#), January 2023, p. 1.

58 The fruit and vegetable sector accounted for well over 80% of the agricultural TFWs working in Ontario in 2022. Ontario Fruit and Vegetable Growers’ Association, [Brief](#), 23 November 2023, p. 5.

59 Food and Beverage Canada, [Brief](#), January 2023, p. 1.

60 CIMM, [Evidence](#), 23 November 2023, 1545 (Mark Chambers).

61 CIMM, [Evidence](#), 23 November 2023, 1545 (Mark Chambers).

62 CIMM, [Evidence](#), 28 November 2023, 1535 (Peggy Brekveld).

The Primary Agriculture Programs: Seasonal Agricultural Worker Program and Agricultural Streams

Farmers in the agricultural and agri-food industry⁶³ may hire TFWs via the Primary Agriculture programs, which includes the Seasonal Agricultural Worker Program (SAWP) and the Agricultural stream.⁶⁴ While the Agricultural stream allows employers to recruit TFWs from any country to work on-farm for a period of two to three years,⁶⁵ the SAWP is designed around specific bilateral agreements with the Mexican and Caribbean governments, and foreign workers are brought in during the planting and harvesting seasons for up to eight months of the year.⁶⁶

In a brief, Food and Beverage Canada indicated that hiring workers through the TFWP required careful planning from employers, as they “are often required to apply three to six months in advance, if not longer.”⁶⁷ Fernando Borja Torres, Director General of Fondation des entreprises en recrutement de main-d’œuvre agricole étrangère (FERME), informed the Committee that he believed “one of the main reasons for the success” of the SAWP in Quebec was the way it ensured a predictable “number of workers for seeding or planting” in proportion to their needs, thus protecting employers and their investments.⁶⁸ According to Kenton Possberg, Director of the Western Canadian Wheat Growers Association, the ability to get a crop in or out of the ground is “life and death of [a producer’s] farming operations.”⁶⁹ Peggy Brekveld emphasized to the Committee that when TFWs do not arrive on time or in sufficient number, producers are faced with the prospect of losing “entire crops.”⁷⁰ According to the Ontario Fruit and Vegetable Growers’ Association, the

63 To qualify for Primary Agriculture, production must be included on the National Commodities List. Otherwise, employers may hire agricultural worker through high-wage and low-wage positions. ESDC, [Hire a temporary foreign worker through the Agricultural Stream: Overview](#).

64 ESDC, [Hire a temporary foreign agricultural worker](#).

65 ESDC, [Hire a temporary foreign worker through the Agricultural Stream: Overview](#).

66 [Government of Canada, Hire a temporary worker through the Seasonal Agricultural Worker Program: Overview](#).

67 Food and Beverage Canada, [Brief](#), January 2023, p. 2.

68 CIMM, [Evidence](#), 23 November 2023, 1630, (Fernando Borja Torres, Director General, Fondation des entreprises en recrutement de main-d’œuvre agricole étrangère).

69 CIMM, [Evidence](#), 28 November 2023, 1630 (Kenton Possberg, Director, Western Canadian Wheat Growers Association).

70 CIMM, [Evidence](#), 28 November 2023, 1630 (Peggy Brekveld).



harvest window for many crops is very narrow, often only several days, or even hours, wide (e.g., strawberries, peaches, asparagus, etc.), leaving farm employers highly dependent on the reliability and predictability of their workforce.⁷¹ Given the importance of food security and persistent shortages in the food sector, a closed work permit—with accompanying protections for workers—provides farmers and Canadians with predictable food production. This predictability is important for all employers using the TFWP, who pay amounts that they testified could range from \$1,000 to \$10,000 per position, including the LMIA (\$1,000 per position except for primary agriculture positions, which are fee exempt), worker recruitment, housing,⁷² and transportation.⁷³ Under the TFWP, employers hiring workers under the Agricultural Stream and Seasonal Agricultural Worker Program are required to provide adequate, suitable and affordable housing, as defined by the Canada Mortgage and Housing Corporation. Employers hiring workers under the Low-Wage Stream must either provide suitable and affordable housing or ensure its availability. This must cost less than 30% of the TFW’s before-tax income.⁷⁴ Overall, these witnesses argued that fostering good practices amongst employers and investments in the TFWP makes the Canadian agricultural industry more resilient and protects food security. Former Deputy Minister of IRCC Christiane Fox remarked that “a private business that recruits workers and invests in its people fully recognizes their value,” and that it was “important to recognize the investments of good employers.”⁷⁵

Worker Vulnerability to Exploitation and the Special Rapporteur

As the TFWP has grown, it has also attracted increased scrutiny concerning the vulnerability of workers to exploitation and abuse — including from international organizations. As mentioned above, the investigation of Tomoya Obokata, the U.N. Special Rapporteur, included looking at forced labour, coercion and trafficking in the TFWP.⁷⁶ In his preliminary report, he found that the Agricultural and Low-wage streams

71 Ontario Fruit and Vegetable Growers’ Association, [Brief](#), 23 November 2023, p. 4.

72 CIMM, [Evidence](#), 23 November 2023, 1550 (Mark Chambers).

73 Ontario Fruit and Vegetable Growers’ Association, [Brief](#), 23 November 2023, p. 3; CIMM, [Evidence](#), 9 November 2023, 1720 (Denis Roy, Union des producteurs agricoles); Food and Beverage Canada, [Brief](#), January 2023, p. 2.

74 IRCC, [CIMM –Key Distinctions between the International Mobility Program \(IMP\) and the Temporary Foreign Worker Program \(TFWP\)](#), 7 November 2023.

75 CIMM, [Evidence](#), 7 November 2023, 1740 (Christiane Fox, Deputy Minister, Department of Citizenship and Immigration).

76 United Nations Special Rapporteur on contemporary forms of slavery, [End of Mission Statement](#), 6 September 2023, p. 1.

of the TFWP constitute “a breeding ground for contemporary forms of slavery” – a conclusion that, after further research, he retained in his final July 2024 report. Many witnesses representing employees – and one worker who was employed under the TFWP – similarly testified, during the Committee’s study, to worker exploitation and abuse under the TFWP and its closed work permit system.

Special Rapporteur’s Visit to Canada

As part of his mandate as Special Rapporteur, Tomoya Obokata visited Canada, at the invitation of the federal government, from 23 August 2023 to 6 September 2023, to assess Canada’s readiness for implementation of the new [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#).⁷⁷ More broadly, the Special Rapporteur examined “Canada’s efforts to prevent and address contemporary forms of slavery, including forced labour, child labour, domestic servitude, debt bondage, and sexual exploitation within its territory and abroad.” This included an examination of Canada’s TFWP.⁷⁸

During his investigation, the Special Rapporteur travelled to Toronto, Vancouver, Montreal, Ottawa and Moncton. To inform his findings, he met with

representatives from various departments of the Government of Canada and the Governments of Ontario, Québec, British Columbia and New Brunswick, federal ombudspersons, national and provincial human rights commissions, members of Parliament, UNHCR and the UN Global Compact Network, business associations, trade unions, civil society organisations, academics, and Canadian and migrant workers from a broad range of sectors including agriculture, caregiving, meat and seafood processing, and sex work.⁷⁹

Despite his focus on the Low-wage and Primary Agriculture streams, the Special Rapporteur did not visit any farms using the TFWP.⁸⁰ When questioned on this at Committee, Mr. Obokata’s response was that he thought that such visits would likely not

77 OHCHR, [UN expert on contemporary forms of slavery to visit Canada](#), News release, 21 August 2023. The Canadian legislation, which resulted from a Senate public bill, received Royal Assent on 11 May 2023, and came into force on 1 January 2024. [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#), S.C. 2023, c. 9; Robert Mason, [Legislative Summary of Bill S-211: An Act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to amend the Customs Tariff](#), Library of Parliament, 20 May 2022.

78 Special Rapporteur, [End of Mission Statement](#), 6 September 2023, p. 1.

79 Ibid.

80 CIMM, [Evidence](#), 26 February 2024, 1110 (Tomoya Obokata, Special Rapporteur, United Nations). Mr. Obokata also testified to not have visited any employer provided housing for temporary foreign workers. CIMM, [Evidence](#), 26 February 2024, 1220 (Tomoya Obokata, Special Rapporteur, United Nations).



be representative of true working conditions, because they would have to be planned, with notice given to employers.⁸¹

Closed Work Permits and the Risk of Exploitation

In light of his research and these interviews, the Special Rapporteur argued that the Agricultural and Low-wage streams of the TFWP make workers vulnerable to contemporary forms of slavery, including forced labour. In his view, the closed work permit required under the TFWP makes migrant workers greatly dependent on their employers for accessing social services and housing – and, ultimately, for remaining in Canada. On a closed work permit, he noted in his preliminary report, workers largely “cannot change employers and may face deportation upon termination of their employment.”⁸² He also reported that many workers experience “debt bondage” because they have had to pay large sums of money to recruiters in their countries of origin, and must work to pay off this debt.⁸³ In his final report, he also noted that “[m]any workers go into debt to cover the costs associated with participating” in programs under the TFWP.⁸⁴

During the Committee’s own study, many witnesses, including TFWs and TFW representatives, echoed that the TFWP and closed work permits system blocked mobility and created conditions conducive to coercion.⁸⁵ Elizabeth Kwan, from the Canadian Labour Congress, for instance, agreed with the Special Rapporteur’s preliminary analysis, in that, in her view, the Low-wage and Primary Agricultural streams of the TFWP are

81 CIMM, [Evidence](#), 26 February 2024, 1220 (Tomoya Obokata, Special Rapporteur, United Nations).

82 Special Rapporteur, [End of Mission Statement](#), 6 September 2023, p. 3.

83 *Ibid.*, p. 4.

84 Tomoya Obokata, Special Rapporteur, [Visit to Canada](#), 22 July 2024, Human Rights Council, 57th session, 9 September 2024-9 October 2024, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, agenda item 3, p. 6.

85 Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 2; CIMM, [Evidence](#), 9 November 2023, 1605 (Elizabeth Kwan, Senior Researcher, Canadian Labour Congress); Justicia for Migrant Workers & Migrant Farmworker Clinic, Windsor Law, [Brief](#), 15 December 2023, p. 4; Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, FCJ Refugee Centre, [Brief](#), 6 October 2023, p. 1; CIMM, [Evidence](#), 9 November 2023, 1545 (Gabriela Ramo, Chair, National Immigration Law Section, Canadian Bar Association); Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, pp. 3–4; Amnesty International, [Brief](#), 11 December 2023, p. 8; National Farmers Union, [Brief](#), December 2023, p. 1; Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, [Brief](#), 30 November 2023, pp. 2–3; Migrant Workers Centre, [Brief](#), December 2023, p. 4; United Food and Commercial Workers Union Canada, [Brief](#), January 2023, p. 1; Alliance for Gender Justice in Migration, [Brief](#), 31 December 2023, p. 7; Quebec’s Central Labour Bodies, [Brief](#), 14 December 2023, p. 4.

“structured to allow really nasty practices that harm workers.”⁸⁶ While many good employers exist, she argued that:

The employer-specific work permit has a systemic impact of awarding all the power and control of the employment relationship to the employer ... It simply renders migrant workers vulnerable, and open to abuse and exploitation by employers, labour recruiters and labour traffickers.⁸⁷

Gabriela Ramo, Chair of the National Immigration Law Section of the Canadian Bar Association, similarly “agree[d] with the finding of the UN special rapporteur that the issuance of closed work permits to these workers, which prevents them from changing employers, increases their vulnerability to abuse.”⁸⁸

While many witnesses noted that workers have rights on paper, some argued that worker dependency on their employers – combined with bureaucratic hurdles – makes these rights difficult to exercise. For Elizabeth Kwan, while the government claims that TFWP workers have the same rights and protections as Canadians and permanent residents,

the employer-specific work permit takes away the ability of migrant workers to exercise those rights. The fear of getting fired and deported traps migrant workers in involuntary servitude, which generates a compliant labour force.⁸⁹

Similarly, the Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, and FCJ Refugee Centre, claimed, in a brief to the Committee, that “[w]hen exploitation inevitably occurs, closed work permits and bureaucratic barriers make it difficult for workers to leave their employers, report abuse and seek support.”⁹⁰ Speaking of the vulnerability of migrant agricultural workers to the threat of deportation, in particular, Justicia for Migrant Workers & Migrant Farmworker Clinic (Windsor Law), argued that:

Any attempt at seeking justice is faced with immediate loss of employment and ‘repatriation.’ ... Employment can be discontinued at the will of employers and the workers are bundled into a flight back, sometimes within 24 hours, at the flimsiest of

86 CIMM, [Evidence](#), 9 November 2023, 1605 (Elizabeth Kwan).

87 CIMM, [Evidence](#), 9 November 2023, 1605 (Elizabeth Kwan).

88 CIMM, [Evidence](#), 9 November 2023, 1545 (Gabriela Ramo).

89 CIMM, [Evidence](#), 9 November 2023, 1605 (Elizabeth Kwan).

90 Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, FCJ Refugee Centre, [Brief](#), 6 October 2023.



excuses - if the harvest season has been slow, or if they are injured, or for any other reason.⁹¹

Employees tied to employers by closed work permits – and dependent on them for access to housing, continued employment and status – may have difficulty speaking out against exploitation, even when official channels and protections exist.

Reports of Abuse

In some cases, worker vulnerability to coercion can result in appalling living and working conditions. In his testimony to the committee, Elías Anavisca, a former migrant worker under the TFWP recounted his expectation in coming to Canada:

In 2016, I was recruited by an associate of Karin and Jose Callejas. I was promised a job in Canada. I was supposed to be packing turkeys with a salary of \$16 an hour. They also promised I could bring my family later.⁹²

Once he arrived in Canada, however, Mr. Anavisca was very dependent on his employer and faced unhealthy and degrading working conditions. He noted, in a brief to the Committee submitted by the United Food and Commercial Workers Union Canada, that one of his employers “demanded [his] passport, claiming visa renewal under threats of deportation.”⁹³ Rather than \$16 dollars an hour and regular hours, workers were often given extra work, at a low wage, with no sick leave. As he testified, “[o]ur work was gruelling, 10 hours a day or more and a weekly salary of \$300. Getting sick was not an option, and when I needed help, I was ignored.”⁹⁴

At Committee, Mr. Anavisca also spoke of substandard employer-provided living quarters, physical abuse and restricted mobility freedom:

I ... shared a house with eight other workers. There were no mattresses, and they once punished us by shutting off the water in the kitchen. Our freedom was limited, and a co-worker was physically abused by an associate of the Callejas family.⁹⁵

91 Justicia for Migrant Workers & Migrant Farmworker Clinic, Windsor Law, [Brief](#), 15 December 2023, p. 4.

92 CIMM, [Evidence](#), 9 November 2023, 1545 (Elías Anavisca, Migrant Worker, Canadian Labour Congress).

93 United Food and Commercial Workers Union Canada, [Brief](#), January 2023, p. 3.

94 United Food and Commercial Workers Union Canada, [Brief](#), January 2023, p. 4.

95 CIMM, [Evidence](#), 9 November 2023, 1545 (Elías Anavisca, Migrant Worker, Canadian Labour Congress).

In his End of Mission Statement, the Special Rapporteur noted that “a large number of stakeholders,”⁹⁶ similarly told him that workers they represented or advocated for reported:

[E]xcessive working hours, being obliged to perform extracontractual tasks, physically dangerous tasks, low wages, no overtime pay, being denied access to healthcare and/or transport to medical facilities, limited access to social services including services for newcomers, and language courses, as well as sexual harassment, intimidation, and violence at the hands of their employers and their family. Those in employer-provided housing reported overcrowded and unsanitary living conditions, lack of privacy, lack of gender-sensitive housing arrangements, and arbitrary restrictions on energy use.⁹⁷

During the Committee’s study, many witnesses reported similar patterns of abuse.⁹⁸ Some noted that the exploitation and abuse disproportionately affected racialized⁹⁹ and female¹⁰⁰ workers. The Alliance for Gender Justice in Migration noted that vulnerability is especially high for TFWs living in remote areas or for those living in employers’ residences—as some caregivers do—because both groups depend more strongly on their employers. In many provinces, “workers with precarious status are disproportionately working in occupations excluded from protections under provincial Employment Standards, most notably care work and farm work.”¹⁰¹ Workers who break the conditions of the closed work permit and leave their employer can easily find themselves undocumented, and vulnerable to further and worse abuse.¹⁰²

96 Special Rapporteur, *End of Mission Statement*, 6 September 2023, p. 4.

97 Special Rapporteur, *End of Mission Statement*, 6 September 2023, p. 4. See, also, Special Rapporteur, *Visit to Canada*, 22 July 2024, Human Rights Council, 57th session, 9 September 2024-9 October 2024, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, agenda item 3, pp. 6-7

98 United Food and Commercial Workers Union Canada, *Brief*, January 2023, pp. 3–4; CIMM, *Evidence*, 9 November 2023, 1545, 1630 (Elías Anavisca, Migrant Worker, Canadian Labour Congress); Alliance for Gender Justice in Migration, *Brief*, 31 December 2023; Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, *Brief*, 30 November 2023, pp. 5–6. See also, Special Rapporteur, *End of Mission Statement*, 6 September 2023, p. 3.

99 Association for the Rights of Household and Farm Workers, *Brief*, 6 December 2023, pp. 6–8; Justicia for Migrant Workers & Migrant Farmworker Clinic, Windsor Law, *Brief*, 15 December 2023, p. 2–4.

100 Alliance for Gender Justice in Migration, *Brief*, 31 December 2023, pp. 2–3.

101 Alliance for Gender Justice in Migration, *Brief*, 31 December 2023, p. 2.

102 United Food and Commercial Workers Union Canada, *Brief*, January 2023, p. 1. See, also, Special Rapporteur, *Visit to Canada*, 22 July 2024, Human Rights Council, 57th session, 9 September 2024-9 October 2024, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, agenda item 3, p. 6.



Extent of Abuse and Viability of Existing Protections

Overall, during the Committee’s study, witness testimony was divided concerning the extent of abuse and the viability of existing protections. Many argued that, while exploitation and abuse of TFWs is deplorable, this abusive behaviour is limited to a small minority of employers, and existing worker protections are largely adequate.¹⁰³ Gabriela Ramo, Chair of the National Immigration Law Section at the Canadian Bar Association, who agreed that closed work permits increase vulnerability to be abused, noted that, following a legal definition, she was unaware of any instances of slavery in Canada.¹⁰⁴ When questioned by the Committee about his End of Mission Statement, moreover, the Special Rapporteur clarified that he did not consider exploitation and abuse in Canada as “widespread or systemic,” and indicated that he did not know how many workers are currently being exploited.¹⁰⁵ The Special Rapporteur also shared in his testimony that he met with farmers associations that were able to share examples of good practices in protecting the rights of workers.

Other witnesses agreed with the Special Rapporteur that the current provisions to protect workers, and to provide them with options to leave employers, are inadequate.¹⁰⁶ Some went further, and argued that, in practice, the measures cannot, on their own, overcome the vulnerabilities that the TFWP and closed work permit system may create.¹⁰⁷

The next section provides an overview of existing protections on paper and in practice, and possible improvements to these measures. The final sections will look at more systemic solutions – including the possibility of moving away from closed work permits.

103 CIMM, [Evidence](#), 28 November 2023, 1625 (Peggy Brekveld); Food and Beverage Canada, [Brief](#), January 2023, p. 1; Ontario Fruit and Vegetable Growers’ Association, [Brief](#), 23 November 2023, pp. 1–2; CIMM, [Evidence](#), 28 November 2023, 1625 (Kenton Possberg).

104 CIMM, [Evidence](#), 9 November 2023, 1545–1555 (Gabriela Ramo).

105 CIMM, [Evidence](#), 26 February 2024, 1115 (Tomoya Obokata).

106 Alliance for Gender Justice in Migration, [Brief](#), 31 December 2023, p. 5; Amnesty International, [Brief](#), 11 December 2023, p. 8; Migrant Workers Centre, [Brief](#), December 2023, p. 2; Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 2; United Food and Commercial Workers Union Canada, [Brief](#), January 2023, p. 1; Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, [Brief](#), 30 November 2023.

107 Quebec’s Central Labour Bodies, [Brief](#), 14 December 2023, p. 5; Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, [Brief](#), 30 November 2023, pp. 3–4; Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 8; Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, FCJ Refugee Centre, [Brief](#), 6 October 2023, p. 1.

EXISTING PROTECTIONS ON PAPER AND IN PRACTICE

This section discusses the various protections in place to safeguard workers and the TFWP's integrity. It also looks at the available data and testimony about the effectiveness of these protections in practice.

Protections on Paper

Minister Miller detailed the many protections in place to safeguard workers and to “safeguard the integrity of the system,” to the Committee.¹⁰⁸ These “robust elements” include, but are not limited to:

- the employer must demonstrate that their business and job offers are legitimate through documentation;
- the employer must provide housing that is adequate, suitable and affordable as defined by the Canada Mortgage and Housing Corporation;
- the employer must provide transportation to and from the country of origin for their worker and to and from work;
- when dealing with pesticides and chemicals, the employer must provide free protective equipment and appropriate formal and informal training; and,
- the employer takes all “reasonable efforts” to provide access to health care services and provide transportation to the hospital or care clinic.¹⁰⁹

The Minister also mentioned that the TFWP “takes into account minimum working conditions and other aspects of collective agreements, including wage requirements, which are used to prevent wage suppression for foreign workers and Canadians alike.”¹¹⁰ Further, he added that the employers’ obligations are “very similar” to the obligations of employers of Canadians and Canadian permanent residents.¹¹¹

108 CIMM, *Evidence*, 7 November 2023, 1635 (Hon. Marc Miller).

109 ESDC, *Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements*.

110 CIMM, *Evidence*, 7 November 2023, 1625 (Hon. Marc Miller).

111 CIMM, *Evidence*, 7 November 2023, 1635 (Hon. Marc Miller).



Existing Options to Leave an Employer

While TFWs on closed work permits are tied to their employer, there are two avenues that TFWs can consider trying to take if they nevertheless wish to leave their employer and workplace. The first avenue is applying for a new work permit, which can then be used to work with a new employer, so long as the employer holds a valid LMIA. On the government job bank website, employers looking to hire TFWs mention in the job listing whether they have applied for, or already received, their LMIA.¹¹²

The second avenue is for TFWs who have experienced—or who are at risk of experiencing—abuse. This avenue, created in 2019, provides an open work permit, known as the open work permit for vulnerable workers (OWP-VW), to the individual for a limited duration—often a year—that is non-renewable.¹¹³ It is meant to facilitate a quick transition out of an unsafe and abusive environment, allowing the worker to maintain their status and find another job.

There are two other avenues for temporary foreign workers in the SAWP. The first allows SAWP workers to change employers without applying for a new work permit. Instead, they submit a transfer request to change employers within the SAWP program. Alternatively, if the SAWP worker decides they would like to work for a new employer for the following year, they may request to be matched with a new employer for their next contract and are unmatched with the previous employer. Both of these options are available to SAWP workers even if one has already been exercised.¹¹⁴

Other Protections

On 19 September 2016, the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) tabled a report on the TFWP, emphasizing better protections for foreign workers in Canada.¹¹⁵ Then, in the February 2017 mandate letter, the Minister of Immigration, Refugees and Citizenship was instructed to “act on the recommendations”

112 Ontario Fruit and Vegetable Growers’ Association, *Brief*, 23 November 2023, p. 2.

113 Government of Canada, *Open work permit for vulnerable workers who are victims of abuse*.

114 Ontario Fruit and Vegetable Growers’ Association, *Brief*, 23 November 2023, p. 2.

115 House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA), *Temporary Foreign Worker Program*, 19 September 2016.

of the HUMA study of the TFWP.¹¹⁶ When Budget 2018 was tabled, \$194.1 million was allocated for this purpose over five years, with \$33.2 million per year ongoing for TFW protections.¹¹⁷ \$3.4 million was also allocated over two years for ESDC to “establish, on a pilot basis, a network of support organizations for [TFWs] dealing with potential abuse by their employers.”¹¹⁸ The federal government then announced, on 31 May 2019, the creation of the open work permit for vulnerable workers, OWP-VW.¹¹⁹

On 26 September 2022, amendments to *Immigration and Refugee Protection Regulations* included stipulations that the employer make reasonable efforts to provide a workplace free from abuse,¹²⁰ and changed the definition of abuse to include protection from any reprisals;¹²¹ that the employer provide the employee with a signed copy of the employment agreement and information about their rights in Canada (in both official languages) on or before the first day of work; and, the explicit prohibition of employers, or any person who recruited the TFW on behalf of the employer, charging or recovering LMIA and recruitment fees.

Mobility and Protections in Practice

While TFWs on closed work permits have pathways to leave undesirable or abusive employers, and broader protections against coercion by employers and recruiters, the evidence for their effectiveness, in practice, is mixed. Since much exploitation and abuse takes place away from the public eye, the extent of these problems is hard to assess.

Applying for a New Work Permit with a New Employer in Practice

IRCC does not publish data on how many workers in the TFWP have applied for a new closed work permit, and successfully switched to a new employer. Many witnesses

116 Prime Minister of Canada, [Minister of Immigration, Refugees and Citizenship Mandate Letter](#), 1 February 2017; House of Commons Standing Committee on Human Resources, Skill and Social Development and the Status of Persons with Disabilities, [Temporary Foreign Worker Program](#), September 2016.

117 [Budget 2018](#), p. 212.

118 [Ibid.](#), p. 212.

119 [Regulations Amending the Immigration and Refugee Protection Regulations: SOR/2019-148](#), *Canada Gazette*, Part II, 21 June 2022.

120 ESDC, *Temporary Foreign Worker Program: Compliance Regime*, PowerPoint, Compliance Directorate Presentation on 30 November 2022, p. 16.

121 This excludes the Seasonal Agricultural Worker Program. ESDC, *Temporary Foreign Worker Program: Compliance Regime*, PowerPoint, Compliance Directorate Presentation on 30 November 2022, p. 17.



argued that, in practice, this option is not viable for most workers, because—in part—the length of time that it takes to find a new employer with a positive LMIA, and the gap in housing, wages and services during this period, is prohibitive.¹²² This impression was echoed in the Special Rapporteur’s analysis of the ability for TFWs to leave their jobs, more generally:

[Quitting and staying on an existing closed work permit] is not a feasible option for most as they are prohibited from working until they can find a new employer to undertake a labour market impact assessment on their behalf, a process that in and of itself takes many months. They would also not be able to access most social services for persons without employment given their temporary status.¹²³

A TFW wishing to switch employers must apply for a new closed work permit while their current closed work permit is still valid; in April 2024, IRCC estimated that the processing time for work permit applications from within Canada to be 101 days.¹²⁴ One witness cited his experience of wait times of 27 weeks, or roughly 189 days.¹²⁵

Since May 2020, however, IRCC public policy allows TFWs to begin working in a new job while their work permit application is pending.¹²⁶ This policy includes TFWs who continue to hold a closed work permit, but “need to transition to a different occupation or employer for reasons that may include having been laid off.”¹²⁷ Applicants can work for the new employer named in the application, once IRCC acknowledges receipt of the application, which the department estimates will take 10 to 15 days.¹²⁸

Several witnesses representing the agricultural industry argued that this measure is effective for assisting employee mobility and preventing TFWs being stuck with exploitative or abusive employers.¹²⁹ As Mark Chambers put it: “Within about 10 days,

122 Alliance for Gender Justice in Migration, [Brief](#), 31 December 2023, p. 5; Amnesty International, [Brief](#), 11 December 2023, p. 8; Migrant Workers Centre, [Brief](#), December 2023, p. 2; Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 2.

123 Special Rapporteur, [End of Mission Statement](#), 6 September 2023, p. 4.

124 Government of Canada, [Extend or change the conditions on your work permit: Changing jobs or employers](#).

125 CIMM, [Evidence](#), 9 November 2023, 1715 (Denis Roy).

126 IRCC, [Temporary public policy to exempt foreign nationals in Canada from certain requirements when changing employment during the coronavirus \(COVID-19\) pandemic](#); IRCC, [Public policy on exemptions to work permit conditions when changing employment](#).

127 IRCC, [Public policy on exemptions to work permit conditions when changing employment](#).

128 Government of Canada, [Extend or change the conditions on your work permit: Changing jobs or employers](#).

129 CIMM, [Evidence](#), 23 November 2023, 1545 (Mark Chambers); Canadian Mushroom Growers’ Association, [Brief](#), December 2023, pp. 1–2; CIMM, [Evidence](#), 28 November 2023, 1545 (Kenton Possberg).

they can start working for that new employer. That process was introduced through COVID. It was a very positive step [by IRCC] and continues to be a very positive step.”¹³⁰ In addition, as Kenton Possberg noted, “[t]here’s a dedicated processing centre to deal with these situations, and they get priority processing” to finalize the decision on these applications.¹³¹

However, even if this pathway to a new employer is more accessible than commonly believed, many TFWs have difficulty navigating the application process. Witnesses representing TFWs highlighted that the process is complex, bureaucratic, and difficult to understand—particularly for those whose first language is not French or English.¹³² The Canadian Mushroom Growers’ Association noted that the option “is not well publicized to workers or employees,” and recommended that IRCC offer a webinar for the agriculture sector explaining the process.¹³³ Witnesses representing TFWs also highlighted that the application needs the cooperation of both the new and current employers—the cooperation of the latter being potentially difficult to obtain when the relationship between worker and employer is breaking down.¹³⁴ Given this dependency, and the uncertainty of the outcome, some witnesses cautioned that many TFWs will not risk displeasing their current employer—and, potentially, deportation—to take advantage of this pathway.¹³⁵ Denis Roy noted that, in Quebec, his organization, the Union des Producteurs Agricole, and its partners, provide workers in this situation with the information they need, and work to find them a new position.¹³⁶ Some witnesses argued that IRCC should automate the issuance of the second work permit, and make it easily available online.¹³⁷

In addition, the faster, 10-day application process is only available if the TFW can find a new employer willing to hire the worker, and who possesses a positive LMIA and housing

130 CIMM, *Evidence*, 23 November 2023, 1545 (Mark Chambers).

131 CIMM, *Evidence*, 28 November 2023, 1545 (Kenton Possberg); IRCC, *Temporary public policy to exempt foreign nationals in Canada from certain requirements when changing employment during the coronavirus (COVID-19) pandemic*.

132 Alliance for Gender Justice in Migration, *Brief*, 31 December 2023, p. 5; Amnesty International, *Brief*, 11 December 2023, p. 8; Migrant Workers Centre, *Brief*, December 2023, p. 2; Association for the Rights of Household and Farm Workers, *Brief*, 6 December 2023, p. 2.

133 Canadian Mushroom Growers’ Association, *Brief*, December 2023, p. 2.

134 Association for the Rights of Household and Farm Workers, *Brief*, 6 December 2023, p. 9.

135 Migrant Workers Centre, *Brief*, December 2023, p. 2.

136 CIMM, *Evidence*, 9 November 2023, 1715 (Denis Roy).

137 CIMM, *Evidence*, 28 November 2023, 1625 (Kenton Possberg); CIMM, *Evidence*, 9 November 2023, 1650 (Paul Doyon, Senior Vice-President General, Union des producteurs agricoles).



capacity for that worker—something not always readily available. In the experience of the National Farmer’s Union, for instance, “[w]ith these stipulations, it is virtually impossible for a migrant worker to find and safely transfer their permit to a new employer.”¹³⁸ One witness testified that obtaining an LMIA for a new employer who does not already have one takes three or four weeks—a timeline they thought that ESDC should reduce to one week.¹³⁹ While some can quickly find a new, eligible employer, many cannot.

The Committee notes that if IRCC continues to require TFWs to work on closed work permits, it must make transferring to new employers a more viable option that is more independent from the employer. As such, the Committee recommends:

Recommendation 2

That Immigration, Refugees and Citizenship Canada make permanent its Public Policy on Exemptions to Work Permit Conditions When Changing Employment, and publicize this policy more widely, including by offering webinars to employers and employees in the Temporary Foreign Worker Program.

Recommendation 3

That Immigration, Refugees and Citizenship Canada prioritize processing work permits for temporary foreign workers moving to a new employer; and work to reduce the paperwork burden in the Temporary Foreign Worker Program; and that Employment and Social Development Canada improve processing times for Labour Market Impact Assessments.

Recommendation 4

That Immigration, Refugees and Citizenship Canada, while recognizing the principle of contractual agreements between the two parties, allow temporary foreign workers to initiate new work permit applications from within Canada, with no regulatory or practical requirement for the current employer to be involved.

138 National Farmers Union, *Brief*, December 2023, p. 1.

139 CIMM, *Evidence*, 9 November 2023, 1715 (Denis Roy).

Open Work Permit for Vulnerable Workers in Practice

The previous section detailed the creation of the open work permit for vulnerable workers. This section will explore how this work permit is impacting vulnerable workers on the ground.

IRCC provided the Committee with the data in Table 1 below, which shows the refusal rate of OWP-VW applications processed since the program began in 2019.

Table 1—Open Work Permit for Vulnerable Workers Applications between 1 June 2019 and 31 October 2023 (in numbers of people)¹⁴⁰

Final Decision	2019	2020	2021	2022	2023 (to October 31)	Total
Approved	235	591	868	1078	1520	4292
Refused	232	485	527	778	1210	3232
Refusal Rate	50%	45%	38%	42%	44%	43%
Withdrawn	5	12	18	15	36	86

Source: Table prepared by the Library of Parliament with data provided from IRCC, CIMM 82.3—Open work permit rejection rate for vulnerable workers, IRCC’s response to a request for information made by CIMM on November 7, 2023.

Since the permit’s creation in 2019, applications have steadily increased almost sixfold; refusal rates have varied between 38 and 50 percent.

Raw numbers aside, however, multiple individuals and organizations before the Committee highlighted that the OWP-VW is non-renewable, placing vulnerable workers in a precarious position.¹⁴¹ Elías Anavisca, a former migrant worker in Canada, explained that after receiving a temporary resident permit for victims of labour exploitation in

140 IRCC notes that “refused applicants are often re-applying multiple times without a change in their circumstances hoping for a different outcome. In total, 26% of the OWP-V application intake between June 2019, and October 31, 2023, were repeat applications. This is contributes [*sic*] to refusal rates. ... Since 2019, approximately 15% of refused applicants did not hold a valid employer-specific work permit at some point prior to applying for the OWP-V; which would make them ineligible for OWP-V.” IRCC, CIMM 82.3—Open work permit rejection rate for vulnerable workers, *IRCC’s response to a request for information made by CIMM on November 7, 2023*, pp. 1–2.

141 Santiago Escobar (National Representative, United Food and Commercial Workers Union Canada, Canadian Labour Congress); United Food and Commercial Workers Union Canada, *Brief*, January 2023, p. 1; Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, *Brief*, 30 November 2023 pp. 2–3; and the Association for the Rights of Household and Farm Workers, *Brief*, 6 December 2023 p. 6.



2018, a renewal was denied, leaving him undocumented for over a year.¹⁴² The Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto raised another issue: “workers are required to have valid work permits in order to access the [OWP-VW]. Therefore, non-status workers, a population extremely susceptible to forced labour and exploitation, are unable to apply.”¹⁴³ The Committee thus learned that both workers who have in some way lost status, as well as vulnerable workers who have been identified as eligible for the OWP-VW, but have passed the often one year period for the work permit, are offered no further options to remain in Canada, and that, if they choose to stay, they fall out of status.

Another issue was raised by former IRCC Deputy Minister, Christiane Fox, who noted that “the low evidentiary threshold we’ve tried to set [for the OWP-VW application process] hopefully gives people confidence that [the OWP-VW] is a recourse mechanism that is available to them.”¹⁴⁴ However, the Committee heard that in reality, the evidentiary threshold is very high,¹⁴⁵ especially considering that,

- workers are not allowed to bring their phones to work to record workplace issues;
- workers are afraid to speak up and refuse to write letters of support for their coworkers; and,
- it is difficult to prove many abuse allegations, e.g. they are verbal threats or acts of racism.¹⁴⁶

As pointed out by the Migrant Workers Centre: “Applicants must fill out confusing forms, complete a personal statement, create an online profile, and upload documents. Applicants are expected to do all this, despite many of them not fluently speaking French or English or having access to functioning, private internet access. When

142 Prior to the creation of the OWP-VW, this temporary resident permit served as an ad hoc equivalent. This portion of Elías Anavisca’s testimony was provided in writing as a supplement to his testimony in person. United Food and Commercial Workers Union Canada, *Brief*, January 2023 pp. 3–4.

143 Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, *Brief*, 30 November 2023, pp. 3–4.

144 CIMM, *Evidence*, 7 November 2023, 1735, (Christiane Fox).

145 High evidentiary burdens were cited as obstacles by the Alliance for Gender Justice in Migration, Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, Justicia for Migrant Workers & Migrant Farmworker Clinic, Windsor Law.

146 Justicia for Migrant Workers & Migrant Farmworker Clinic, Windsor Law, *Brief*, 15 December 2023, pp. 5–6.

applications are lacking, IRCC officers have the authority to conduct interviews to gather more information. However, this step is often bypassed completely, and applications are regularly rejected without any inquiry or opportunity to submit further details.¹⁴⁷

Moreover, the burden of proof rests with the applicant.¹⁴⁸ This can put workers in dangerous situations where the abuser may learn the worker is trying to collect evidence. The Migrant Workers Centre also highlighted that IRCC officers have the authority to conduct interviews with applicants for the OWP-VW if the application is lacking in any way. However, this step is rarely used and “often bypassed completely,” with applications getting rejected without a further opportunity to provide details.¹⁴⁹ This concerns the Committee, as those who choose to come forward deserve the opportunity to be heard, rather than rejected because they missed something on their application, or for lack of evidence. Just as when employers are deemed non-compliant with the TFWP, they are given the opportunity to comply with justification, workers should have the opportunity to be heard.

Thus, the Committee recommends,

Recommendation 5

That Immigration, Refugees and Citizenship Canada simplify the application process for the open work permit for vulnerable workers, lower the evidentiary threshold for success, and prioritize interviews with the worker when there is doubt about the application.

Recommendation 6

That Immigration, Refugees and Citizenship Canada provide funding to organizations and legal providers that are recognized as culturally sensitive, trauma-informed and capable of assisting vulnerable workers in submitting their application for the open work permit for vulnerable workers.

Amnesty International summarized many issues with the OWP-VW in their brief to the Committee:

[I]f [the worker] want[s] to continue working in Canada, they must return to employment under a closed permit. We also note that the open work permit does

147 Migrant Workers Centre, *Brief*, December 2023, p. 3.

148 Immigrant Workers Centre, *Brief*, 30 November 2023, pp. 2–3.

149 Migrant Workers Centre, *Brief*, December 2023, pp. 3–4.



nothing to address the problem of abuse by employers, as the granting of this type of permit does not [automatically] trigger an inquiry into the abuse. Further, possession of this permit identifies workers to employers as someone who has, in fact, taken action against abuse, which some workers and organizations have indicated makes it more difficult to find work.¹⁵⁰

This last point the Committee heard repeatedly: the blacklisting of workers who have successfully received an OWP-VW. Denise Gagnon, Santiago Escobar (National Representative, United Food and Commercial Workers Union Canada) and Justicia for Migrant Workers & Migrant Farmworker Clinic (Windsor Law) all raised this, pointing out that employers do not want to hire workers who reported their former employers.¹⁵¹

Employer Compliance in Practice

Inspections of employers using the TFWP, through Service Canada, are not always conducted on site. In fact, since 2020, over half of all inspections have taken place virtually. One ESDC official explained that currently “about 46% of them are on site versus 54% being virtual.”¹⁵²

There are five possible reasons an Integrity Service Investigator (ISI) from Service Canada could conduct an inspection of a TFWP employer. The first is that there is a reason to suspect that an employer is non-compliant (e.g., a complaint or tip was received through the ESDC tip line).¹⁵³ The second is that the employer has a history of non-compliance. The third is that an employer is randomly selected. The fourth is that an employer has hired a TFW who is, or was, subject to an order or regulation made under the *Emergencies Act* or the *Quarantine Act*. The fifth is an introduction of a communicable disease where a TFW works.¹⁵⁴

Data provided by ESDC indicates that nearly eighty per cent of federal inspections of workplaces using the TFWP are not conducted in person and merely seven per cent of

150 Amnesty International, [Brief](#), 11 December 2023, pp. 8–9.

151 CIMM, [Evidence](#), 9 November 2023, 1615 (Santiago Escobar, National Representative, United Food and Commercial Workers Union Canada, Canadian Labour Congress); CIMM, [Evidence](#), 23 November 2023, 1615 (Denise Gagnon); and Justicia for Migrant Workers & Migrant Farmworker Clinic, Windsor Law, [Brief](#), 15 December 2023, p. 6.

152 CIMM, [Evidence](#), 7 November 2023, 1745 (Michael MacPhee, Assistant Deputy Minister, Temporary Foreign Worker Program, Department of Employment and Social Development).

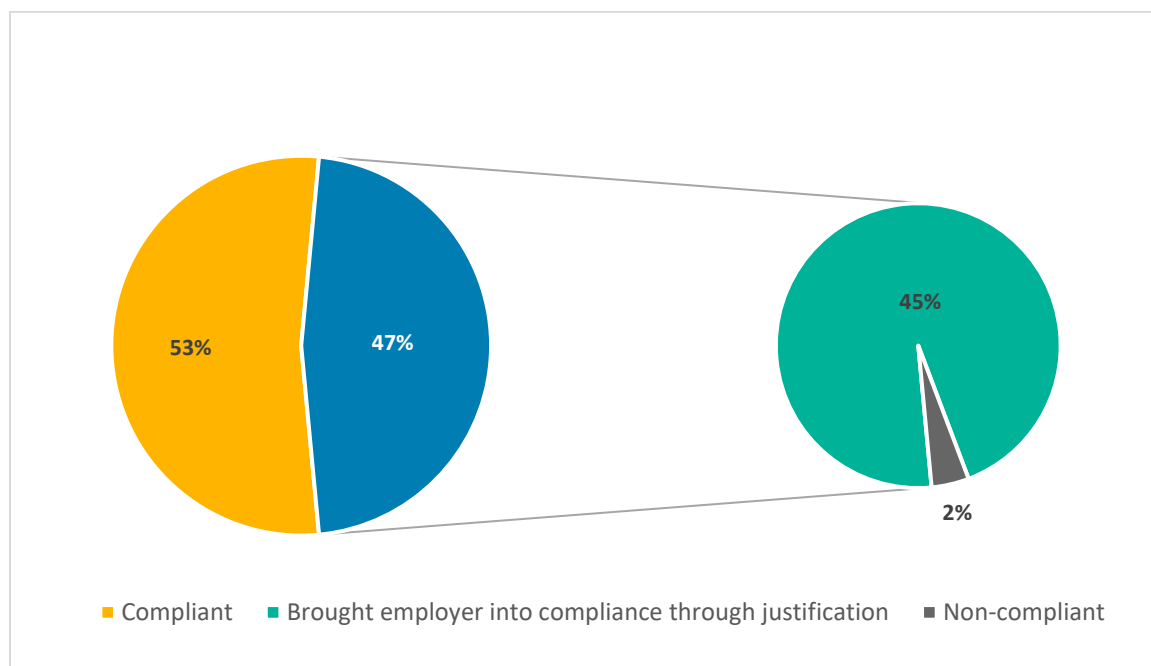
153 The Tip Line number is 1-866-602-9448. For more information on the Tip Line, see Government of Canada, [“When to Call the Tipline.”](#)

154 ESDC, *Temporary Foreign Worker Program: Compliance Regime*, “What causes an inspection?,” PowerPoint, Compliance Directorate Presentation on 30 November 2022, p. 5.

inspections involve unannounced site visits. Virtual inspections and pre-planned site visits, which comprise more than ninety-three percent of ESDC’s TFWP inspections regime, will not uncover substandard living or working conditions and cannot facilitate frank discussions with workers. As Ms. Denise Gagnon, Vice-President of Réseau d’aide aux travailleuses et travailleurs migrants agricoles du Québec indicated: we need to reinforce workplace inspection mechanisms and conduct surprise visits. When visits are planned, everything’s always in order, everything’s beautiful, everything’s perfect, and nobody talks when the inspector arrives on site.¹⁵⁵

The TFWP employer compliance regime has mechanisms in place to ensure procedural fairness. If non-compliance is identified during an inspection, employers may provide additional information to demonstrate compliance. Once a final decision is made, the employer may apply for judicial review.¹⁵⁶ Figure 2 details the compliance rates of employers participating in the TFWP for the 2022–2023 fiscal year.

Figure 2—Compliance Rates for Employers During the 2022–2023 Fiscal Year



155 CIMM, *Evidence*, 23 November 2023, 1600 (Denise Gagnon).

156 [Regulations Amending the Immigration and Refugee Protection Regulations: SOR/2019-148](#), *Canada Gazette*, Part II, 11 June 2022.



Source: Graph prepared by the Library of Parliament with data provided by ESDC, *Temporary Foreign Worker Program: Compliance Regime*, PowerPoint, Compliance Directorate Presentation on 30 November 2022.

This graph shows that, of the employers inspected, 2% were non-compliant. Nevertheless, Minister Miller said that: “1% is too much. I mean, that’s the issue that we have to drive at. I’m not trying to attack an industry. There are some really good actors. That isn’t the intention of anything that we’re saying, but if there’s one bad actor, we have to crack down on it.”¹⁵⁷ While Minister Miller did not “entirely agree with the UN Special Rapporteur,” regarding the TFWP as a “breeding ground for abuse,” he wanted “to get at the root cause,” adding, “[o]ur main goal is to stamp out abuse.”¹⁵⁸

Witnesses agreed, though they had differing views on how to address employers who are non-compliant. Mark Chambers said he supported a system that removes employers found to be at fault for creating an abusive environment, and Kenton Possberg said that protections must be in place for foreign workers and Canadian citizens alike, but both witnesses concluded that the current investigations are thorough and effective enough at stamping out bad actors.¹⁵⁹ Similarly, Peggy Brekveld stated that agriculture employers work in step with IRCC and ESDC to protect workers and employers, improve processes and root out bad actors. Food and Beverage Canada stated in its brief to the Committee that vulnerable workers should have increased access to OWP-VWs and that they “do not condone companies with a history of abuse having access to the [TFWP].”¹⁶⁰ These witnesses from Canadian industry are arguing that the program is running smoothly as is, but TFW advocates and migrant rights groups are saying that is not the case.

In contrast, Michel Pilon from RATTMAQ argued it is the system that is the problem and must be changed, because as employers pay for their workers to come to work at their locale, “in certain situations, employers feel that temporary foreign workers belong to them.”¹⁶¹ The National Farmers Union raised issue with inspection regimes, saying “we are aware that many employers continue to be allowed to hire migrant workers in spite

157 CIMM, [Evidence](#), 7 November 2023, 1650 (Hon. Marc Miller).

158 CIMM, [Evidence](#), 7 November 2023, 1655 (Hon. Marc Miller).

159 CIMM, [Evidence](#), 23 November 2023, 1600 (Mark Chambers), CIMM, [Evidence](#), 28 November 2023, 1605 (Kenton Possberg).

160 CIMM, [Evidence](#), 28 November 2023, 1535 (Peggy Brekveld); Food and Beverage Canada, [Brief](#), January 2023, p. 1.

161 CIMM, [Evidence](#), 23 November 2023, 1610, (Michel Pilon, RATTMAQ).

of serious infractions that have compromised workers' health and safety,"¹⁶² and the Alliance for Gender Justice in Migration believes the deterrents for employers are not harsh enough, suggesting larger fines and a shift from complaint-driven inspections to proactive inspections and investigations.¹⁶³

Multiple witnesses also explained that the closed work permits are an important way of safeguarding the inspection system. Food and Beverage Canada argued that closed, employer-specific work permits "play a pivotal role" in safeguarding the integrity of the program by facilitating effective monitoring of employers through inspections.¹⁶⁴ Both Christiane Fox and Minister Miller emphasized the same point; the Minister said Canada is able to maintain oversight over foreign workers by having the work permit associated to "one occupation, wage, location and employer," while Christiane Fox said that knowing where employees are working allowed the government to better do check-ins and inspections.¹⁶⁵ Mark Chambers added to this discussion by saying closed work permits balance the needs of Canadians and foreign workers, and helps get workers to rural Canada, populating our rural communities.¹⁶⁶

Having heard this testimony, the Committee recommends,

Recommendation 7

That Employment and Social Development Canada increase the percentage of unannounced, on-site inspections conducted by Service Canada and to increase the use of more severe and sanctions be imposed, up to and including banishment from the program, be imposed on an employer when an inspection reveals breaches of the employment contract or abuse of a worker.

Recommendation 8

That Employment and Social Development Canada prioritize on-site visits and publish annual statistics about the number of inspections conducted, including whether they were virtual, on site, announced or unannounced, and the results of these inspections.

162 National Farmers Union, *Brief*, December 2023, pp. 2–3.

163 Alliance for Gender Justice in Migration, *Brief*, 31 December 2023, p. 2.

164 Food and Beverage Canada, *Brief*, January 2023, p. 1.

165 CIMM, *Evidence*, 7 November 2023, 1620 (Hon. Marc Miller); CIMM, *Evidence*, 7 November 2023, 1735 (Christiane Fox).

166 CIMM, *Evidence*, 23 November 2023, 1550 (Mark Chambers).



Language Barriers and Transparency

Many TFWs speak multiple languages, with French or English being a second, third or even fourth language in their repertoire, but more often than not, Spanish, Tagalog, Mandarin, Hindi or Korean are spoken as first languages of TFWs. This can lead to language barriers between employers and the workers, who may be working with an employer for the first time who does not speak their first language, or, who were recruited abroad and had some aspects of the work explained to them there, but are now running into problems seeking healthcare, understanding their contract, and accessing their rights in a country where English and French are the official languages. Organizations and individuals told the Committee that language barriers for TFWs are a longstanding issue.

Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto highlighted that TFWs are excluded from accessing services geared to those with immigration status, including language education and job qualification programs.¹⁶⁷ Gabriela Ramo, Chair of the National Immigration Law Section at the Canadian Bar Association, recommended that “foreign workers have access to clear and transparent information, in their own language, on how the program works, on the prohibition on the payment of fees to recruiters and agents, on their rights while in Canada and on how they can report abuse” and that the government should “ensure that vulnerable foreign nationals understand up front that entering the [TFWP] is not a guaranteed path to permanent residence.”¹⁶⁸ Mark Chambers agreed with this recommendation.¹⁶⁹ The Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, and the FCJ Refugee Centre agreed, suggesting in their joint brief that TFWs have access to information on their labour rights in the workers’ preferred language and at appropriate literacy levels, prior to, during and after coming to Canada.¹⁷⁰

Both IRCC and ESDC spoke with the Committee about language services provided to TFWs. ESDC noted that Service Canada’s tip line is available in 200 languages, and also specified that of the 2,990 calls received on the tip line, 650, or 22%, required

167 Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, *Brief*, 30 November 2023, pp. 5–6.

168 CIMM, *Evidence*, 9 November 2023, 1545 (Gabriela Ramo).

169 CIMM, *Evidence*, 23 November 2023, 1555 (Mark Chambers).

170 Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, FCJ Refugee Centre, *Brief*, 6 October 2023, p. 6.

interpretation services.¹⁷¹ According to ESDC, Integrity Service Investigators review the TFW information to determine possible languages spoken by the workers, as well as the potential need for interpretive services. If interpretive services are needed, the ISI must follow “regional procedures for accessing the use of translation services.”¹⁷²

IRCC also provided details on interpretation services and how language barriers are addressed. Although IRCC does not track how many clients have used interpretation services, invoices provide the total number of hours of interpretation services used for all programs. IRCC stated that vulnerable workers are provided interpretation services “if needed.”¹⁷³ Former Deputy Minister Christiane Fox added that in some rural areas of Canada, IRCC is working with employers to provide on-the-job language training for employees, and that IRCC “appreciate[s] and understand[s] the importance of people being able to communicate.”¹⁷⁴

Recognizing the vital need for employers and workers to understand one another, but more importantly, that workers understand their rights and are able to access information they may require, the Committee recommends,

Recommendation 9

That Employment and Social Development Canada and Immigration, Refugees and Citizenship Canada develop accessible materials for foreign workers to receive prior to and upon their arrival in Canada that provide details, in their own language, on how the Temporary Foreign Worker Program works, including their rights while working in Canada.

Recommendation 10

That Immigration, Refugees and Citizenship Canada create, in consultation with stakeholders, a two-hour, mandatory paid workshop for temporary foreign workers about their rights and responsibilities while in Canada; that this workshop be presented by an independent, non-governmental organization; and that Immigration, Refugees and Citizenship Canada be invited to be present at the discretion of the temporary foreign

171 CIMM, *Evidence*, 7 November 2023, 1805 (Michael MacPhee); ESDC, *Follow-up from November 7, 2023, CIMM appearance*, Closed Work Permits and Temporary Foreign Workers, p. 1.

172 ESDC, *Follow-up from November 7, 2023, CIMM appearance*, Closed Work Permits and Temporary Foreign Workers, p. 1.

173 IRCC, *CIMM 82.5—Interpretation services*, IRCC’s response to a request for information made by CIMM on November 7, 2023, p. 1.

174 CIMM, *Evidence*, 7 November 2023, 1805 (Christiane Fox).



workers and the non-governmental organization during these workshops to answer questions.

RECONSIDERING CLOSED WORK PERMITS

While many witnesses called for improvements to inspections, language services and transparency, some witnesses also argued that worker vulnerability to exploitation and abuse can only be addressed significantly at a deeper level of worker status: by discontinuing the use of closed work permits under the TFWP, and by introducing or increasing other measures that rebalance the working relationship between employer and employee.

This section examines testimony concerning replacing closed work permits with other kinds of work permits. The final section addresses the merits of increasing permanent residence pathways for TFWs, and other structural measures.

International Context

Canada is not alone in requiring closed work permits for TFWs. In response to the Committee’s questions, IRCC noted that six of the seven G7 countries “predominantly use employer-specific work permits for their comparable seasonal agricultural programs,” while also offering worker mobility in particular circumstances.¹⁷⁵ In the United Kingdom, for instance, Season Worker visas are employer-specific. At the same time, workers who hold these closed work permits in the horticulture and poultry sectors “can seek authorization from the Home Office through a ‘change of application form’ in order to change employers/roles.”¹⁷⁶ Among G7 countries, the exception is Japan. Under the Specialized Skilled Workers Program, foreign workers may switch employers within a given industry, and – if they pass a skill test for another industry – can switch to employers in the second field.¹⁷⁷ In addition, seasonal workers from

175 IRCC, [CIMM 82.1 – Other G7 countries that allow open work permits](#), IRCC’s response to a request for information made by CIMM on November 7, 2023, p. 1.

176 IRCC, [CIMM 82.1 – Other G7 countries that allow open work permits](#), IRCC’s response to a request for information made by CIMM on November 7, 2023, p. 1; United Kingdom, UK Visas and Immigration, “Employment restrictions,” [Workers and Temporary Workers: guidance for sponsors part 2: sponsor a worker – general information \(accessible\)](#), 9 April 2024.

177 IRCC, [CIMM 82.1 – Other G7 countries that allow open work permits](#), IRCC’s response to a request for information made by CIMM on November 7, 2023, pp. 1-2; Government of Japan, *Specified Skilled Worker Program, Frequently Asked Questions*, Q8, Q21, and Q23.

European Union (EU) countries may work with any employers within fellow EU countries.¹⁷⁸

While closed work permits are globally popular, critics have argued that, in numerous countries, closed work permits make workers vulnerable to exploitation and even abuse, because they create a significant power imbalance between employers and TFWs. In parallel to the Committee's and the Special Rapporteur's own studies of TFWP and closed work permits in Canada, Amnesty International was also, on 30 November 2023, "in the process of interviewing workers and examining evidence of human rights violations and abuses experienced by individuals who came to Canada with closed work permits as participants in the [TFWP]."¹⁷⁹ In Amnesty International's preliminary conclusions about Canada's TFWP, the organization noted that:

Through years of research on labour migration policies in several countries and the human rights violations that are linked to them, Amnesty International has found that labour migration policies that tie migrant workers to a specific employer increase the risk of labour exploitation and other human rights violations and abuses.¹⁸⁰

Echoing the Special Rapporteur's analysis of the TFWP in Canada, Amnesty International argued, more broadly, that closed work permits "increase the risk of labour exploitation because they greatly reduce the likelihood that the worker will seek help from the authorities in case of abuse for fear of losing their right to continue working in the destination country and being required to return to their home country."¹⁸¹ In the United Kingdom, Qatar, Saudi Arabia, and Hong Kong, the organization traced analogous patterns of closed work permits rendering workers vulnerable to abuse, because they depended on keeping a particular job to maintain their status.

The often extremely high bar for legitimately leaving an employer while on a closed work permit, moreover, can render workers who leave employers without meeting these conditions – further vulnerable to exploitation. Left to migrate or work without regular status, these workers are "very unlikely to report past or current abuse for fear of being

178 IRCC, [CIMM 82.1 – Other G7 countries that allow open work permits](#), IRCC's response to a request for information made by CIMM on November 7, 2023, p. 1.

179 Amnesty International, [Brief](#), 11 December 2023, p. 3; [Amnesty International, Canada: Submission to the Standing Committee on Citizenship and Immigration: Study on closed work permits and temporary foreign workers](#), 30 November 2023.

180 *Ibid.*, p. 4.

181 *Ibid.*



penalized, unable to work, or deported.”¹⁸² Amnesty International noted that, in some cases, the workers lost status simply because they were terminated prematurely.¹⁸³

In countries around the world, the significant control employers may wield over the movement of workers on closed work permits can also lead to human rights abuses. In its brief to the Committee, the Association for the Rights of Household and Farm Workers highlighted occurrences of “employer control over workers’ personal lives and movements during off-duty hours, psychological, physical, and sexual harassment, assault, rape, as well as work-related health issues, accidents, illnesses and death.”¹⁸⁴ Witnesses noted similar criticism of closed work permit systems by some parliaments, government-sponsored independent reviewers, supreme courts, and central departments in the United Kingdom, Israel and the United States, as well as by the International Labour Organization.¹⁸⁵

Studying the United Kingdom (UK) bill that became the 2015 Modern Slavery Act, for instance, a 2014 House of Commons and House of Lords joint committee found that the then UK practice of “tying migrant domestic workers to their employer institutionalises their abuse; it is slavery and is therefore incongruous with our aim to act decisively to protect the victims of modern slavery.”¹⁸⁶ While acknowledging the existence of protection mechanisms, such as the National Referral Mechanism for identifying and referring potential victims of modern slavery, the joint committee found their protection inadequate in the face of the limitations of closed work permits.¹⁸⁷ In 2015, an independent review of the Overseas Domestic Workers visa commissioned by the UK

182 Ibid.

183 Ibid.

184 Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 2.

185 Amnesty International, [Brief](#), 11 December 2023, pp. 4-5; United Kingdom, Joint Committee on the Draft Modern Slavery Bill, Report: [Draft Modern Slavery Bill](#), HL Paper 166, HC 1019 of 2013-14, 8 April 2014, pp. 100-101; James Ewin, [Independent Review of Overseas Domestic Workers Visa](#), United Kingdom Home Office, 17 December 2015, pp. 5-6, 19-26; Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 2; Supreme Court of Israel, *Kav LaOved Worker’s Hotline v. Government of Israel* HCL 4542/02, 30 March 2006, p. 314; United States, Department of State, [Trafficking in Persons Report](#), June 2021, p. 42; United Food and Commercial Workers Union Canada, [Brief](#), January 2023, pp. 2-3; International Labour Organization, [Policy Guidelines for the Promotion of Decent Work in the Agri-Food Sector](#), May 2023, submitted to 349th Session (October–November 2023) of the Governing Body of the International Labour Organization, p. 12.

186 United Kingdom (UK), Joint Committee on the Draft Modern Slavery Bill, Report: [Draft Modern Slavery Bill](#), HL Paper 166, HC 1019 of 2013-14, 8 April 2014, p. 100; Amnesty International, [Brief](#), 11 December 2023, p. 4.

187 UK, Joint Committee on the Draft Modern Slavery Bill, Report: [Draft Modern Slavery Bill](#), HL Paper 166, HC 1019 of 2013-14, 8 April 2014, p. 100.

Home Office similarly found that, while the extent of abuse of domestic workers remained unknown,

the presence of a tie to a specific employer places both real and perceived restrictions upon an overseas domestic worker's ability to seek protection of her fundamental rights while at work in the UK which increases her risk of abuse.¹⁸⁸

It proposed that “the tie to a specific employer should be removed”¹⁸⁹ – a proposal the government has since acted upon. In its brief to the Committee, Amnesty International noted that, since 6 April 2016, domestic workers in the UK, “can now change employer for any reason for the original duration of the work visa.”¹⁹⁰

While the contexts – and the accompanying national protections for workers – vary, review bodies around the world have concluded closed work permits can create conditions for human rights abuses.

Critique of Closed Work Permits in Canada

As noted above, many witnesses in the Committee's study similarly highlighted closed work permits as a key barrier to TFWs in Canada exercising their rights, because their employment and residency status is tied so directly to a single employer listed on a permit.¹⁹¹ As Elizabeth Kwan summarized, “[t]he employer-specific work permit has a systemic impact of awarding all the power and control of the employment relationship to the employer, including employment of the migrant worker, compensation, working conditions and immigration status.”¹⁹² If accessing protections and changing employers is difficult, employees are vulnerable to exploitation – even if many employers treat their

188 James Ewin, *Independent Review of Overseas Domestic Workers Visa*, United Kingdom Home Office, 17 December 2015, p. 26.

189 Ibid.

190 Amnesty International, *Brief*, 11 December 2023, p. 5.

191 Justicia for Migrant Workers & Migrant Farmworker Clinic, Windsor Law, *Brief*, 15 December 2023, p. 4; CIMM, *Evidence*, 9 November 2023, 1545 (Elizabeth Kwan); 9 November 2023, 1545 (Gabriela Ramo); Amnesty International, *Brief*, 11 December 2023, p. 8; Association for the Rights of Household and Farm Workers, *Brief*, 6 December 2023, pp. 3-4; Legal Assistance of Windsor, *Brief*, 30 November 2023, pp. 2-3; Migrant Workers Centre, *Brief*, December 2023, p. 2; Quebec's Central Labour Bodies, *Brief*, 14 December 2023; Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, FCJ Refugee Centre, *Brief*, 6 October 2023, p. 1; Immigrant Workers Center, *Brief*, 30 November 2023, p. 1; National Farmers Union (NFU), *Brief*, December 2023, p. 1; United Food and Commercial Workers Union Canada, *Brief*, January 2023; Alliance for Gender Justice in Migration, *Brief*, 31 December 2023.

192 CIMM, *Evidence*, 9 November 2023, 1540 (Elizabeth Kwan).



workers fairly. These witnesses argued that workers who indeed face exploitation or abuse have few real choices to make the situation better.

Echoing Amnesty International’s analysis, several witnesses argued that the strict conditions of closed work permits – especially the tie to residency status – promotes further worker vulnerability in cases where workers must nevertheless leave exploitative working situations or are laid off early.¹⁹³ Many of these workers may then live and work irregularly in Canada, with even fewer benefits and protections. As the United Food and Commercial Workers Union Canada described the situation of workers on closed work permits, “[r]eturning home prematurely is often an unrealistic choice, and when subjected to abuse by an employer, their options narrow down to enduring mistreatment or resorting to a clandestine existence.”¹⁹⁴

Overall, for many witnesses, the power imbalance that closed permits engenders outweighs the virtues of using these permits – e.g., of allowing participating employers to be subject to tracking and inspections. Government of Canada efforts to increase worker protections and mobility for TFWs on a closed work permit, moreover, are insufficient, because closed work permits render workers so dependent on employers. While improving these mechanisms is important, this may not significantly shift the underlying dependency of TFWs on the employers, or assuage the fear of reprisal against complainants (e.g., the blacklisting of workers who managed to transfer temporarily to open work permits for vulnerable workers, mentioned above¹⁹⁵). TFWs are vulnerable, because their status is precarious, and largely tied to specific employers. As the Association for the Rights of Household and Farm Workers put it:

All those measures were bound to fail and indeed have failed to deter the systemic violations of [im]migrant workers’ rights by employers since the structure that restricts their capacity from asserting their rights remains in place: a legal status in the country dependent on a specific employer or group of employers.¹⁹⁶

In its preliminary conclusions about closed work permits in Canada, Amnesty International similarly commented that, while

193 United Food and Commercial Workers Union Canada, *Brief*, January 2023, p. 1; Immigrant Workers Center, *Brief*, 30 November 2023, p. 2.

194 United Food and Commercial Workers Union Canada, *Brief*, January 2023, p. 1.

195 CIMM, *Evidence*, 9 November 2023, 1615 (Santiago Escobar, National Representative, United Food and Commercial Workers Union Canada, Canadian Labour Congress); CIMM, *Evidence*, 23 November 2023, 1615 (Denise Gagnon).

196 Association for the Rights of Household and Farm Workers, *Brief*, 6 December 2023, pp. 3-4.

[o]ver the years, the federal government has introduced some measures in an effort to address abuse of migrant workers, such as the open work permit for vulnerable workers and funding for organizations to provide support for migrant workers ...the root causes that put migrant workers at risk of labour exploitation and other human rights abuses, including the closed work permit, persist, and so does abuse.¹⁹⁷

Open Work Permits

If closed work permits render worker overly dependent on their employers to protect their rights, other types of permits offer greatly worker mobility – and potentially greater protection. Critics of the TFWP have long called on IRCC to consider alternatives to the closed work permit, such as open, regional, or sectoral work permits.¹⁹⁸ In this study, some witnesses cautioned that any changes to work permits must be made carefully, because each type of permit has advantages and disadvantages for TFWs, employers, and agricultural and agri-food production.¹⁹⁹

For all their faults, closed work permits help the IRCC and ESDC track TFWs, know the conditions of their contracts, and inspect their workplaces. The work permit—and connected LMIA—list the details of the worker, position, contract, duration, and workplace. It provides “a sense of job security for the workers,” and clear criteria—and the means—for inspection.

As the Committee has seen, however, closed work permits have the potential to increase a TFW’s dependency on their employer if the worker cannot easily move to another employer in the case of exploitation and abuse. This increased dependency makes workers less likely to insist on proper working conditions, safety and contract terms, and less likely to reach out for supports, because they fear deportation, possible unpaid debt to recruiters and financial ruin. It is important to note that employers are not allowed to

197 Amnesty International, [Brief](#), 11 December 2023, p. 3.

198 See, for instance, House of Commons Standing Committee on Citizenship and Immigration (CIMM), [Immigration Programs to Meet Labour Market Needs](#), June 2021, pp. 30–35. This report echoed the Committee’s 2009 analysis and conclusions: CIMM, [Temporary Foreign Workers and Non-Status Workers](#), May 2009, p. 26. See also House of Commons Standing Committee on Human Resources, Skill and Social Development and the Status of Persons with Disabilities, [Temporary Foreign Worker Program](#), September 2016.

199 Ontario Fruit and Vegetable Growers’ Association, [Brief](#), 23 November 2023, p. 5; Migrant Workers Centre, [Brief](#), December 2023, p. 4; Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 2.



make the workers reimburse them for recruitment related fees that they paid to hire a temporary foreign worker.²⁰⁰

Many witnesses critical of closed work permits argued that all TFWs instead should be brought to Canada on open work permits.²⁰¹ TFWs on open work permits—like Canadians and permanent residents—can find a new job without applying to the government and involving their present employer. They can leave abusive, exploitative employers. They have much less reason to fear speaking up for their rights, because they are much less dependent on their employer. In his description of the abuse he endured as a TFW, Elías Anavisca put the need for open work permits starkly: “We are given extra work all the time and are not very well paid. We’ve been mistreated and abused. If we had an open work permit, we’d have an opportunity ... to find a better job and work better with better living conditions.”²⁰²

On open work permits, TFWs can also leave an employer for better wages elsewhere. As Elizabeth Kwan put it, “I think for someone making so little money, even 10¢ more an hour makes a big difference,” and a TFW might leave for another employer offering the slightly better wage.²⁰³ Some witnesses argued that—as for some TFWs in the International Mobility Program—eligibility for these work permits should be extended to immediate family members. This would allow TFWs to work without leaving their family behind for many months of the year.²⁰⁴

Michel Pilon, legal coordinator of the Réseau d’aide aux travailleuses et travailleurs migrants agricoles du Québec, further explained: “It’s actually not rocket science. Even if the workers have open work permits, if good employers are offering good working

200 Employment and Social Development Canada, [Temporary foreign workers: Your rights are protected](#).

201 Quebec’s Central Labour Bodies, [Brief](#), 14 December 2023, p. 5; Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, [Brief](#), 30 November 2023, p. 6; Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 1; CIMM, [Evidence](#), 9 November 2023, 1540 (Elizabeth Kwan, Senior Researcher, Canadian Labour Congress); Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, FCJ Refugee Centre, [Brief](#), 6 October 2023, p. 9; CIMM, [Evidence](#), 9 November 2023, 1615 (Santiago Escobar); Alliance for Gender Justice in Migration, [Brief](#), 31 December 2023, p. 6; Quebec’s Central Labour Bodies, [Brief](#), 14 December 2023, p. 7.

202 CIMM, [Evidence](#), 9 November 2023, 1630 (Elías Anavisca).

203 CIMM, [Evidence](#), 9 November 2023, 1625 (Elizabeth Kwan).

204 Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, FCJ Refugee Centre, [Brief](#), 6 October 2023, p. 9.

conditions and good accommodations, the workers will want to work for them and won't look elsewhere.”²⁰⁵

At the same time, some witnesses highlighted that open work permits lack many of the advantages offered by the closed work permit and LMIA system. Unlike a closed work permit, Gabriela Ramo and others noted, they “provide no compliance mechanisms to ensure that employers provide foreign nationals with acceptable terms and conditions of employment,” such as inspections, housing, and transportation a lack of tracking and regulation, which “may also open workers to exploitation.”²⁰⁶

As open work permits are “fully open with respect to position and industry, they may also do little to address the labour shortages in particular industries that the temporary foreign worker program is intended to address.”²⁰⁷ As Kenton Possberg put it, “if [TFWs] have an open work permit and can go anywhere, they're going to be competing with Canadian citizens for jobs, possibly in sectors they're not required in.”²⁰⁸ Some witnesses noted that this employment fluidity, accompanied by unpredictable shortages, would be especially detrimental in the face of the strict timelines of the agriculture industry, because failure “to complete a task such as harvesting within the window prescribed by nature can cause crop failure and can compromise the health of plants and livestock, causing them irreversible harm or even death.”²⁰⁹ Given worker shortages in agriculture and the many steps to procure workers under an LMIA, moreover, an employer operating in an open work permit system would find it hard to find new workers on short notice.²¹⁰ If the federal government continued to require LMIA's, for instance, but required open work permits, finding new workers would be difficult. Even with open work permits with no LMIA's, TFWs in agriculture currently require a medical exam, which can delay workers by six weeks. Such workers often leave for a sector that does

205 CIMM, [Evidence](#), 23 November 2023, 1630 (Michel Pilon).

206 CIMM, [Evidence](#), 9 November 2023, 1545 (Gabriela Ramo); CIMM, [Evidence](#), 9 November 2023, 1650 (Paul Doyon); CIMM, [Evidence](#), 28 November 2023, 1545 (Kenton Possberg).

207 CIMM, [Evidence](#), 9 November 2023, 1545 (Gabriela Ramo); CIMM, [Evidence](#), 9 November 2023, 1650 (Paul Doyon).

208 CIMM, [Evidence](#), 28 November 2023, 1545 (Kenton Possberg).

209 Ontario Fruit and Vegetable Growers' Association, [Brief](#), 23 November 2023, p. 1.

210 Ontario Fruit and Vegetable Growers' Association, [Brief](#), 23 November 2023, p. 1.



not have this requirement.²¹¹ Mark Chambers, Kenton Possberg and Peggy Brekveld noted that they were not aware of any farmers requesting open work permits.²¹²

More broadly, an IRCC official commented that a “private business that recruits workers and invests in its people ... doesn’t want to lose workers because they have an open permit.”²¹³ Kenton Possberg argued that introducing open work permits would lead to some unintended consequences: “As an employer, rather than taking the time, effort and cost of recruiting the individual and paying for the flights, I would be better off waiting for my neighbour to do this and then trying to poach that individual.” Open work permits, also “would likely lead to significant numbers of TFWs leaving their rural employment to move to higher-populated urban centres.”²¹⁴

In order to maintain the worker and sector protections of LMIA, while increasing employee mobility, some witnesses recommended that the federal government—potentially in combination with provincial and territorial governments—take over the full costs and administration of LMIA and work permit issuance and renewal.²¹⁵ This would also decrease financial and administrative burdens on employers. In one version of this idea, employers would be limited to inputting “free fast-tracking requests for open permits for workers and members of their families.”²¹⁶

Sectoral or Regional Permits

To replace closed work permits, another group of witnesses argued for expanding the use of sectoral or regional work permits in the TFWP.²¹⁷ A sectoral permit limits workers to a defined sector, rather than a defined employer. A regional work permit would limit the employment to a given province or region, potentially in combination with a sectoral limitation. Both allow many of the benefits of the current closed work permit system, but with greater worker mobility. Sectoral work permits are currently used in the SAWP.

211 Canadian Mushroom Growers’ Association, [Brief](#), December 2023, p. 1.

212 CIMM, [Evidence](#), 23 November 2023, 1550 (Mark Chambers); CIMM, [Evidence](#), 28 November 2023, 1605 (Kenton Possberg); CIMM, [Evidence](#), 28 November 2023, 1610 (Peggy Brekveld).

213 CIMM, [Evidence](#), 7 November 2023, 1740 (Christiane Fox).

214 CIMM, [Evidence](#), 28 November 2023, 1545 (Kenton Possberg).

215 Migrant Workers Centre, [Brief](#), December 2023, p. 5; Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 1.

216 Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 1.

217 CIMM, [Evidence](#), 9 November 2023, 1545 (Gabriela Ramo); National Farmers Union, [Brief](#), December 2023, p. 2; CIMM, [Evidence](#), 23 November 2023, 1615 (Michel Pilon); CIMM, [Evidence](#), 9 November 2023, 1720 (Denis Roy).

The program requires protections such as LMIAs and housing inspections and limits TFWs to the agriculture sector. At the same time, it allows them to move between employers participating in the SAWP without needing a new permit; upon approval by ESDC, they can ask their source country's liaison officer to place them with a new employer.²¹⁸ One witness noted that, in cases of urgency, this change can happen within a week.²¹⁹ Since 2019, the workers in Caregiver programs also have access to occupation-specific work permits.²²⁰

Gabriela Ramo described a broad version of a sectoral permit system that could apply to all TFWP streams. In her vision,

[a] set number of LMIAs per occupation could be issued, allowing employers in the sector who have been pre-approved to hire workers for the specific occupation. To be approved, employers would need to undertake to provide workers with the terms and conditions of employment set out in the LMIA. A website or portal would list employers participating in the program as well as the terms and conditions of employment.²²¹

As in the SAWP, the government would issue LMIAs within a given sector. Employers could opt into participating and pay for all or part of an LMIA—depending on whether they retained their worker.

The ESDC would set aside [for example] 5,000 workers for this particular sector. Employers who want to be part of that program would pay for the LMIAs in that program. If a worker leaves an employer and moves to another employer, the proposal is for employers to pay for a proportional amount of the time on that LMIA.²²²

However, several witnesses cautioned against a sectoral permit, because it would easily give greater power to employers in a sector, relative to TFWs.²²³ As the Association for the Rights of Household and Farm Workers put it:

Within a framework of sectoral, regional, or equivalent restrictive permits, employers ... are almost compelled to cooperate more extensively and systematically with each other. Consequently, these types of restrictive permits facilitate conditions where the

218 ESDC, *Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements*; Ontario Fruit and Vegetable Growers' Association, *Brief*, 23 November 2023, p. 2.

219 CIMM, *Evidence*, 9 November 2023, 1650 (Paul Doyon).

220 Government of Canada, *Ministerial Instructions Respecting the Home Child Care Provider Class*, 29 June 2019, Canada Gazette, Part I, Volume 153, Number 26.

221 CIMM, *Evidence*, 9 November 2023, 1545 (Gabriela Ramo).

222 CIMM, *Evidence*, 9 November 2023, 1620 (Gabriela Ramo).

223 Association for the Rights of Household and Farm Workers, *Brief*, 6 December 2023; The United Church of Canada, *Brief*, 6 December 2023, p. 1; Migrant Workers Centre, *Brief*, December 2023, p. 4.



worker must confront a group of employers able to boycott and remove foreign workers from the legal labour market when they have become ‘undesirable’ due to occupational illnesses, workplace accidents, inconvenient parenthood or, more generally, attempts to exercise rights or seek justice and the protection of the law in the country.²²⁴

As noted by the Migrant Workers Centre, the SAWP demonstrates how the sectoral permit system has failed to create labour mobility or improve the rights of seasonal agricultural workers:

Sectoral specific work permits are already partially in use under the [SAWP], under which farmworkers come to Canada not tied to a specific employer, but instead are able to work for any employer that is registered under the SAWP. Workers may seek permission to transfer to another farm without the need for a new work permit, but require the approval of their current employer, their proposed new employer, and the country liaison officer responsible. However, the reality for many abused workers is that transferring employers is impossible. The bureaucratic processes involved are complicated to navigate and consulate liaison officers often prioritize economic relationships with employers over the well-being of workers.²²⁵

Several witnesses highlighted the possibility of TFWs being blacklisted or given bad references by employers within a sector.²²⁶ This curtails the ability to change employers. Currently in the SAWP, for instance, workers seeking to transfer to another farm require the approval of their current employer, their proposed new employer, and the country liaison officer. According to the Migrant Workers Centre, this can be hard to achieve, and privileges employers: “[t]he reality for many abused workers is that transferring employers is impossible. The bureaucratic processes involved are complicated to navigate and consulate liaison officers often prioritize economic relationships with employers over the well-being of workers.”²²⁷

The organization claimed that it is aware of “many workers who were not transferred as requested and instead repatriated back to their home country, and who were ultimately not invited back to Canada under the SAWP following their filing of complaints.”²²⁸

Other witnesses highlighted that when officials are given authority to place TFWs with new employers, this makes the workers bound to this new employer, who controls when

224 Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, p. 5.

225 Migrant Workers Centre, [Brief](#), December 2023, p. 4.

226 The United Church of Canada, [Brief](#), 6 December 2023, p. 1; Migrant Workers Centre, [Brief](#), December 2023, p. 4; Alliance for Gender Justice in Migration, [Brief](#), 31 December 2023, p. 6.

227 Migrant Workers Centre, [Brief](#), December 2023, p. 4.

228 Migrant Workers Centre, [Brief](#), December 2023, p. 4.

and where they will work.²²⁹ While increasing flexibility for both workers and employers, sectoral permits also risk tying TFWs to employers who, as a group, may not have an interest in providing workers sufficient hours: “Since labour needs for a sector cannot be precisely calculated and are typically over-estimated to ensure employer flexibility, many workers are often unable to access sufficient hours of work to cover living expenses and costs of migrating.”²³⁰

To mitigate dependence on employers, several witnesses argued that the Government of Canada should “establish larger sectors, which would enable workers to offer their services to other businesses should problems arise in the business where they work.”²³¹ In the vision of the Migrant Workers Centre, “a broad list of industries with labour market shortages could be identified, and migrant workers could freely move between these jobs, subject to their qualifications.”²³²

In order to address labour protections for both TFWs and Canadians, while also increasing labour mobility, the Committee recommends:

Recommendation 11

That Immigration, Refugees and Citizenship Canada, after consultation with Quebec, the provinces, and territories, issue sectoral and regional work permits to workers accepted under the Temporary Foreign Worker Program; that the department define sectors broadly, providing workers with access to a wide range of employers that are experiencing labour shortages; and that the department discontinue the use of closed work permits for the Temporary Foreign Worker Program.

OTHER SOLUTIONS

Several witnesses argued that altering the work permits used in the TFWP is insufficient, and must be accompanied or ultimately replaced by new or expanded pathways to permanent residency, by potentially allowing TFWs to unionize, and by putting in place a Canadian-wide forum, with members from government, industry and civil society, which could foster good practices in the TFWP.

229 Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023, pp. 5–6.

230 Association for the Rights of Household and Farm Workers, [Brief](#), 6 December 2023 p. 6.

231 CIMM, [Evidence](#), 23 November 2023, 1615 (Michel Pilon); Migrant Workers Centre, [Brief](#), December 2023, p. 5.

232 Migrant Workers Centre, [Brief](#), December 2023, p. 5.



Permanent Residency

Throughout the study, several organizations recommended that the Government of Canada provide better opportunities for TFWs to obtain permanent residency status in Canada. Multiple witnesses, such as Denis Roy of the UPA and the Alliance for Gender Justice in Migration, positioned themselves as being in favour of offering better access to permanent residency pathways for TFWs who desired it.²³³ However, former IRCC Deputy Minister Christiane Fox reminded the Committee that not all TFWs who work in Canada necessarily want to obtain permanent residency.²³⁴

According to Gabriela Ramo, the majority of TFWs in the Low-wage and Primary Agriculture streams are “generally unable to qualify for permanent residency” under most economic programs (such as Express Entry and Provincial Nominee Programs), as they do not meet program requirements for skills, education, language abilities, and work experience.²³⁵ Instead, Ramo argues that IRCC should take those TFWs out from the “general pool” of economic migrants, where they “compete with more highly skilled workers,” and put them in “dedicated programs” with reduced requirements.²³⁶ Denise Gagnon of RATTMAQ told the Committee that she would support immigration policies that grant permanent residency to a full range of skill sets representing Canada’s needs on the labour market, and improve pathways for those who wish to remain in rural regions.²³⁷ Mark Chambers also told the Committee that TFWs who work “year-round” are able to apply for permanent residency, and many of them end up staying in rural locations with their families, thus addressing rural depopulation and the need for workforce.²³⁸

Chambers also highlighted that, so far, in addition to provincial programs in Alberta, the Agri-Food Immigration Pilot²³⁹ had been helpful in transitioning TFWs into permanent

233 CIMM, [Evidence](#), 9 November 2023, 1720, (Denis Roy); Alliance for Gender Justice in Migration, [Brief](#), 31 December 2023, p. 2.

234 CIMM, [Evidence](#), 7 November 2023, 1750, (Christiane Fox).

235 CIMM, [Evidence](#), 9 November 2023, 1600 (Gabriela Ramo). See IRCC, [Comprehensive Ranking System \(CRS\) tool: skilled immigrants \(Express Entry\)](#). This was confirmed by Elías Anavisca, who told the Committee that he struggled to find a way to acquire permanent residency. See CIMM, [Evidence](#), 9 November 2023, 1630 (Santiago Escobar).

236 CIMM, [Evidence](#), 9 November 2023, 1600 (Gabriela Ramo).

237 CIMM, [Evidence](#), 23 November 2023, 1635 (Denise Gagnon).

238 CIMM, [Evidence](#), 23 November 2023, 1555 (Mark Chambers).

239 IRCC, [Agri-Food Pilot](#).

residency.²⁴⁰ This model was also supported by the Canadian Mushroom Growers' Association.²⁴¹ The pilot only accepts TFWs in Canada, outside of Quebec. For Quebec, the provincial government would be responsible for providing its own pathways.²⁴²

Minister Miller indicated that his department was looking at a certain “number of options” to provide TFWs with clear pathways to permanent residency,²⁴³ and that Canada needed more workers to establish themselves in Canada on a permanent basis, especially in sectors for which the country cannot generate a sufficient domestic workforce.²⁴⁴ The Minister did signal that “unannounced policies” on permanent residency pathways for workers in the construction industry were on the way.²⁴⁵ In a joint submission, the Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, and the FCJ Refugee Centre recommended that the Government of Canada fulfill the commitment it took when it unanimously approved private member motion M-44,²⁴⁶ which called for “the development of a comprehensive plan to expand permanent residency pathways to all TFWs.”²⁴⁷ According to these organizations, guaranteeing that TFWs are able to access pathways for permanent residency, after having accumulated a set amount of work experience in Canada, would reduce their precariousness and ensure that TFWs do not fall into irregularity.²⁴⁸ Organizations such as the United Church of Canada, Justicia for Migrant Workers & Migrant Farmworker Clinic (Windsor Law) and Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto recommended that the government remove barriers to permanent residency for TFWs, “with the ultimate goal to grant permanent residency to migrants upon arrival.”²⁴⁹ The Migrant Workers Centre and Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation

240 CIMM, [Evidence](#), 23 November 2023, 1625 (Mark Chambers).

241 Canadian Mushroom Growers' Association, [Brief](#), December 2023, p. 1.

242 CIMM, [Evidence](#), 9 November 2023, 1720 (Denis Roy).

243 CIMM, [Evidence](#), 7 November 2023, 1635 (Marc Miller).

244 Ibid.

245 Ibid., 1715.

246 House of Commons, “Private Members' Business M-44,” [Journals](#), 11 May 2022.

247 See Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, FCJ Refugee Centre, [Brief](#), 6 October 2023, p. 9.

248 Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, FCJ Refugee Centre, [Brief](#), 6 October 2023, p. 9.

249 The United Church of Canada, [Brief](#), 6 December 2023, p. 2. See also Justicia for Migrant Workers & Migrant Farmworker Clinic, Windsor Law, [Brief](#), 15 December 2023; Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, [Brief](#), 30 November 2023, p. 6.



Care with the Sisters of St. Joseph of Toronto advocated for the government to establish regularization programs for those currently without status in Canada.²⁵⁰ Elizabeth Kwan also recommended that IRCC “provide permanent residency streams for low-wage workers” including for those who are undocumented.²⁵¹

The Committee recommends,

Recommendation 12

That the Immigration, Refugees and Citizenship Canada develop a comprehensive plan to provide more pathways to permanent residency for Temporary Foreign Workers in the Low-wage and Primary Agriculture streams and agri-food sector, separate from other pools of candidates in economic classes.

Unionization

In their joint submission, the Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante and the FCJ Refugee Centre indicated that guaranteeing the ability of TFWs to unionize would “remove [the] harmful power imbalance between employers and migrant workers that facilitates labour trafficking.”²⁵² As such, they recommend that the federal government “encourage all provinces to allow for the unionization of agricultural workers and TFWs, granting them the same labour and employment rights and protections as other workers in Canada.”²⁵³

Santiago Escobar explained to the Committee how the International Labour Organization found in 2010 that “Canada and Ontario violated the rights of ... agricultural workers by banning farm unions.”²⁵⁴ The Supreme Court of Canada ruled in 2011 that farm workers do not have the ability to unionize under provincial labour laws, unless the provincial governments authorize them to do so.²⁵⁵ Escobar went on to recommend to give TFWs

250 Migrant Workers Centre, [Brief](#), December 2023, pp. 5–6; and Legal Assistance of Windsor & Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto, [Brief](#), 30 November 2023, p. 7.

251 CIMM, [Evidence](#), 9 November 2023, 1540, (Elizabeth Kwan).

252 Canadian Centre to End Human Trafficking, Covenant House Vancouver, Dignidad Migrante, FCJ Refugee Centre, [Brief](#), 6 October 2023, p. 1.

253 In doing so, the federal government should “identify suitable policies, tools and resources to help employers avoid significant disruptions as a shift towards unionization occurs.” *Ibid.*, p. 10.

254 CIMM, [Evidence](#), 9 November 2023, 1545 (Santiago Escobar). See also International Labour Organization, [Individual Case \(CAS\)—Discussion: 2010, Publication: 99th ILC session](#), 2010.

255 [Ontario \(Attorney General\) v. Fraser](#), 2011 SCC 20.

“the opportunity to join ... unions,” as this would give them “the capacity to defend themselves.”²⁵⁶ Currently, the Government of Canada only recognizes that TFWs working in a unionized environment must be paid the wage rate as established under the collective bargaining agreement.²⁵⁷

Table de concertation du Québec

In addition to suggesting ways the government could help TFWs better leverage their labour rights, witnesses from Quebec also described how one provincial institution, created five years ago, was successful in bringing together a wide range of stakeholders to foster good practices in respect of TFWs. Denis Roy highlighted how the Table de concertation pour les travailleurs étrangers temporaires agricoles du Québec (the Table), a round table on TFWs in Quebec’s agriculture sector, was playing an incremental role in proactively informing TFWs of their rights.²⁵⁸ Roy explained that the Table brings “together representatives of employers and workers ... along with representatives of all the government departments and agencies involved, at both the federal and the provincial level.”²⁵⁹ According to Paul Doyon of the UPA, the mission of the Table is “very simple: to ensure the success of the programs for employers, workers and their families.”²⁶⁰ Denise Gagnon of RATTMAQ told the Committee that, thanks to the work done at the Table, stakeholders were able to “identify a number of problems and make progress” on them.²⁶¹

Denise Gagnon went on to inform the Committee that it would be a good idea for the federal government to reproduce Quebec’s model at the national level.²⁶² This view was

256 CIMM, [Evidence](#), 9 November 2023, 1615 (Santiago Escobar).

257 ESDC, [Hire a temporary worker through the Seasonal Agricultural Program—Wages, working conditions and occupations](#).

258 CIMM, [Evidence](#), 9 November 2023, 1650 (Denis Roy).

259 CIMM, [Evidence](#), 9 November 2023, 1715 (Denis Roy). He noted that “[t]here are representatives of the workers, including people from RATTMAQ, people from the IRCC Commercial Workers Union, or UFCW, representatives from the Commission des normes, de l’équité, de la santé et de la sécurité du travail, or CNESST, people from the Commission des droits de la personne et des droits de la jeunesse, and representatives of federal departments such as [ESDC and IRCC].” Ibid, 1710. See also CIMM, [Evidence](#), 23 November 2023, 1610 (Denise Gagnon). CIMM, [Evidence](#), 9 November 2023, 1650 (Paul Doyon).

260 CIMM, [Evidence](#), 9 November 2023, 1650 (Paul Doyon).

261 CIMM, [Evidence](#), 23 November 2023, 1610 (Denise Gagnon).

262 CIMM, [Evidence](#), 26 February 2024, 1130 (Tomoya Obokata).



also shared by Tomoya Obokata, the Special Rapporteur, who commended the “multi-stakeholder approach that exists in Quebec,” saying that,

a multi-stakeholder approach is extremely important in order to listen to the voices of workers and stakeholders ... I certainly encourage other provinces to consider the participation of other stakeholders, including workers. It is of vital importance in developing appropriate programs and strategies so that everyone—workers, businesses and local authorities—can benefit from the program.²⁶³

Given the success of the Table in Quebec as an initiative that has favoured good practices for TFWs in the agricultural sector,²⁶⁴ the Committee recommends:

Recommendation 13

That, modeled on the Table de Concertation du Québec, the Government of Canada create a forum bringing together relevant government, employers, worker, and union stakeholders, to address issues and foster best practices in the Temporary Foreign Worker Program.

CONCLUSION

The TFWP has grown significantly in the decade since its modern inception. Where IRCC issued 73,000 new work permits in 2015, the department issued 184,000 in 2023. The program is increasingly important to many Canadian employers, especially those in the agriculture and agri-food sector. At the same time, the TFWP and its growth cannot come at the cost of making workers vulnerable to abuse and exploitation. The Committee entreats IRCC and ESDC to improve the effectiveness of worker protections, and to reevaluate the closed worker permit system on which the TFWP is based.

263 CIMM, [Evidence](#), 26 February 2024, 1130 (Tomoya Obokata).

264 CIMM, [Evidence](#), 9 November 2023, 1715 (Denis Roy).

APPENDIX A: LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee's [webpage for this study](#).

Organizations and Individuals	Date	Meeting
Department of Citizenship and Immigration Christiane Fox, Deputy Minister Jean-Marc Gionet, Director General, Immigration Program Guidance Hon. Marc Miller, P.C., M.P., Minister of Immigration, Refugees and Citizenship	2023/11/07	82
Department of Employment and Social Development Michael MacPhee, Assistant Deputy Minister, Temporary Foreign Workers Program	2023/11/07	82
Canadian Agricultural Human Resource Council Peggy Brekveld, Chair	2023/11/09	83
Canadian Labour Congress Elias Anavisca, Migrant Worker Santiago Escobar, National Representative, United Food and Commercial Workers Union Canada Elizabeth Kwan, Senior Researcher	2023/11/09	83
The Canadian Bar Association Gabriela Ramo, Chair, National Immigration Law Section	2023/11/09	83
Union des producteurs agricoles Paul Doyon, Senior Vice-President General Denis Roy, Responsible for the Temporary Foreign Worker File	2023/11/09	83
Fondation des entreprises en recrutement de main-d'œuvre agricole étrangère Fernando Borja Torres, Director General	2023/11/23	84

Organizations and Individuals	Date	Meeting
Réseau d'aide aux travailleuses et travailleurs migrants agricoles du Québec Denise Gagnon, Vice-President, Board of Directors Michel Pilon, Legal Coordinator	2023/11/23	84
Sunterra Farms Mark Chambers, Vice-President, Canadian Pork Production	2023/11/23	84
Canadian Agricultural Human Resource Council Peggy Brekveld, Chair	2023/11/28	85
Western Canadian Wheat Growers Association Kenton Possberg, Director	2023/11/28	85
As an individual Tomoya Obokata, Special Rapporteur on Contemporary Forms of Slavery, United Nations	2023/12/07	88
As an individual Tomoya Obokata, Special Rapporteur on Contemporary Forms of Slavery, United Nations	2024/02/26	92

APPENDIX B: LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

Alliance for Gender Justice in Migration

Amnesty International

Association for the Rights of Household and Farm Workers

Canadian Centre to End Human Trafficking

Canadian Mushroom Growers' Association

Centrale des syndicats démocratiques

Centrale des syndicats du Québec

Confédération des syndicats nationaux

Covenant House Vancouver

Dignidad Migrante

FCJ Refugee Centre

Fédération des travailleurs et travailleuses du Québec

Food and Beverage Canada

Immigrant Workers Centre

Justicia for Migrant Workers

Legal Assistance of Windsor

Migrant Farmworker Clinic - Windsor Law

Migrant Workers Centre

National Farmers Union

Ontario Fruit and Vegetable Growers' Association

Sisters of St. Joseph of Toronto

The United Church of Canada

United Food and Commercial Workers Union Canada

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 82, 83, 84, 85, 88, 92, 94, 102, 105, 107, 108, 109, 110 and 111](#)) is tabled.

Respectfully submitted,

Sukh Dhaliwal
Chair

Dissenting Opinion of the Conservative Party of Canada

The Conservative Party of Canada was pleased to contribute to the Standing Committee on Citizenship and Immigration's study on Closed Work Permits and Temporary Foreign Workers. While efforts were made to constructively work with members of the other parties to deliver a unanimous report, Conservative members of the committee ultimately found that the final report failed to capture key points and make important recommendations to improve the systems and programs businesses, farmers, and workers rely on to succeed. With this dissenting report, we hope to highlight these elements and lay out a path forward that would benefit all those who operate within the temporary foreign worker program (TFWP).

The Temporary Foreign Worker Program and Canadian Agriculture

Canada's agriculture sector plays a considerable role in our economy. As highlighted by Peggy Brekveld of the Canadian Agricultural Human Resource Council, in 2022 "the Canadian agriculture sector generated \$38.8 billion in GDP, or 1.9% of the national total."¹ She further noted that:

Canada has established itself as a major producer of diverse and high-quality agricultural products. It ranks among the world's largest exporters, with \$92.8 billion in agricultural and processed food exports in 2022.²

These economic successes are a testament to the hard work of Canadian farmers and producers, and the Government of Canada must ensure that they are empowered to continue building on these achievements. Access to labour is paramount to that end.

To meet the needs of a burgeoning Canadian agriculture sector, the TFWP must be focused on meeting labour market vacancies that, without TFWs, would not be met. As Brekveld stated:

In 2022, the agricultural sector, including crops and animal production, support services and agricultural wholesale, employed over 351,000 Canadian workers and 71,000 temporary foreign workers, including the seasonal ag worker program workers. Even with these additional workers from other parts of the world, the industry still experienced 28,200 job vacancies in the same year.³

In particular, rural regions rely on TFWs to meet otherwise unmet labour needs. Mark Chambers of Sunterra Farms told the committee:

This program has been a cornerstone in maintaining the balance of labour markets and safeguarding the interests of Canadians as well. It's especially true for agricultural and agri-food businesses. They are located in rural parts of Canada. We know that we have

¹ Peggy Brekveld - Chair, Canadian Agricultural Human Resource Council, CIMM, Evidence, 9 November 2023

² Peggy Brekveld - Chair, Canadian Agricultural Human Resource Council, CIMM, Evidence, 9 November 2023

³ Peggy Brekveld - Chair, Canadian Agricultural Human Resource Council, CIMM, Evidence, 9 November 2023

rural depopulation occurring in Canada, so recruiting Canadians to fill vacant positions can be very difficult.⁴

As these witnesses highlight, the TFWP serves an important function: to fill labour gaps in the Canadian economy. The program must, therefore, stay true to its purpose by ensuring that businesses have access to a reliable pool of labour where the Canadian labour market is unable to meet the need.

Kenton Possberg of the Western Canadian Wheat Growers Association warned that, given the challenges to the sector to find Canadian residents to fill the vacancies, moving towards an open work permit model for the TFWP could “lead to some significant unintended consequences.” He noted that:

If TFWs are given an open work permit upon arrival, it circumvents the whole process of employers recruiting Canadian workers for a specific job in their operation. Moreover, it could put employers, particularly those in the agriculture sector, at risk of losing employees when they are needed the most.⁵

Furthermore, Possberg made the distinction between a “push” versus a “pull” system for open work permits, saying:

A push would be the Canadian government saying, “Here are 40,000 foreign workers. Go find your jobs.” What we have in place right now is a pull. It's employers that have demonstrated that they cannot find Canadian citizens—in our case, for seasonal purposes—to work on their farms. They have to go through the process, demonstrate that, and get the approvals in place. It's a pull; they're demonstrating that they need that.”⁶

If the TFWP is meant to address labour shortages in specific sectors, an open work permit system “does not meet the goal.”⁷ As the Canadian Bar Association’s Gabriela Ramo noted:

The purpose of having the temporary foreign worker program in itself is to address labour shortages where Canadians aren't available for an occupation. An open work permit allows anyone to work in any occupation. You might bring somebody in and think they're going to work on farms, but they could work in any other sector.

Given the importance of food security, and the reality of chronic labour shortages in the food sector, closed work permits provide predictability and reliability to a sector in which these qualities are in short supply. This stability helps employers using the TFWP to strategically

⁴ Mark Chambers - Vice-President, Canadian Pork Production, Sunterra Farms, CIMM, Evidence, 23 November 2023

⁵ Kenton Possberg - Director, Western Canadian Wheat Growers Association, CIMM, Evidence, 28 November 2023

⁶ Kenton Possberg - Director, Western Canadian Wheat Growers Association, CIMM, Evidence, 28 November 2023

⁷ Gabriela Ramo - Chair, National Immigration Law Section, The Canadian Bar Association, CIMM, Evidence, 9 November 2023

invest in their employees, especially considering the significant financial costs associated with installing workers in their positions.

Chambers told the committee that while under the agricultural stream there is no cost to apply for a Labour Market Impact Assessment, if you're outside of the agricultural stream “the cost of each application is \$1,000.”⁸ He further pointed out that there are additional costs to consider on top of that as employers must go overseas, or use a third party in another country, to find workers.

Additional challenges exist due to the amount of time it takes to get all of the approvals required to hire TFWs. As Possberg suggested:

Under the current temporary foreign worker program, the [Labour Market Impact Assessment] needs to be submitted six months or more in advance to get all of the approvals in place. Not only do we need to get the LMIA approved, but we also need to get the application for the work permit approved. The processing time for LMIAs has improved substantially in recent years, but the work permit processing time continues to be unpredictable. Depending on the country of the resident, it takes up to six months to be approved. It also takes time and money to attract and recruit these individuals.

The length of time it takes for businesses to receive approvals has a large bearing on their operations. Brekveld noted that when TFWs do not arrive on time, producers face the prospect of losing “entire crops”.⁹

In order to better support the farmers and businesses who rely on TFWs, the Government of Canada must refocus its efforts on ensuring the system is agile and responsive to sectoral labour shortages.

Recommendation 1: That the Government of Canada establish a stand-alone agriculture and agri-food temporary foreign worker program separate from the Temporary Foreign Worker Program.

Responding to Comments of the United Nations Special Rapporteur on Contemporary Forms of Slavery

The Conservative Party of Canada expresses its deep concern with the decision of the United Nations Special Rapporteur on Contemporary Forms of Slavery, Tomoya Obokata, to call the agriculture stream of the TFWP a “breeding ground for contemporary forms of slavery.”¹⁰ His baseless accusation comes despite the fact that he didn’t make an effort to personally visit a farm during his 14-day visit to Canada.¹¹

⁸ Mark Chambers - Vice-President, Canadian Pork Production, Sunterra Farms, CIMM, Evidence, 23 November 2023

⁹ Peggy Brekveld - Chair, Canadian Agricultural Human Resource Council, CIMM, Evidence, 28 November 2023

¹⁰ Tomoya Obokata - Special Rapporteur on contemporary forms of slavery, United Nations, End of Mission Statement, 6 September 2023

¹¹ Tomoyo Obokata - Special Rapporteur on contemporary forms of slavery, United Nations, CIMM, Evidence, 26 February 2024

The Canadian Bar Association's Gabriela Ramo affirmed that, following a legal definition, she was unaware of any instances of slavery in Canada.¹²

Responding to Obokata's accusation, Kenton Possberg of the Western Canadian Wheat Growers Association expressed his view that "As a Canadian farmer, that offends me. There was a lot of sensationalism coming into play with some of it, and it disturbs me that it received the level of press it did."¹³

We note the failure of the Minister of Immigration, Refugees and Citizenship, Marc Miller, to condemn the Special Rapporteur's comments and defend the hardworking Canadian farmers who rely on the TFWP to fill legitimate labour needs and make every effort to ensure TFWs in their care have quality, safe working conditions. When the Minister was asked if Canada's Ambassador to United Nations, Bob Rae, had spoken to the Special Rapporteur or made a statement on behalf of the Government of Canada in response to the report, he simply said that he didn't know whether Ambassador Rae "beats to anyone's drums."¹⁴ This implies that the government didn't particularly care if this report would be addressed through the proper channels or not. It is this lack of seriousness that concerns Conservative Members of Parliament: the NDP-Liberal Government doesn't seem to care if tens of thousands of Canadian farm families are slandered by a petty United Nations bureaucrat.

The Conservative Party of Canada strongly condemns the exploitation and abuse of vulnerable workers and expresses its full support for the existing abuse prevention measures in place. We also support stiff punishments for employers who fail to treat their workers with the dignity and respect they deserve. At the same time, we reject the view of the Special Rapporteur that the TFWP represents a "contemporary form of slavery" and acknowledge the deliberate efforts of the vast majority of Canadian farmers to provide safe, quality work environments for the TFWs they rely on.

Recommendation 2: That the Government of Canada condemn in the strongest and most unequivocal terms the report of the United Nations Special Rapporteur.

Recommendation 3: That the Government of Canada, in consultation with industry, develop qualifications and standards for the Temporary Foreign Worker Program that strike the right balance between addressing chronic labour shortages in various sectors and ensuring workers are treated with fairness and respect.

Responding to Proposed Recommendations

The purpose of the TFWP must be to address chronic labour shortages in struggling sectors. Recommendations 3, 4, 5, 6, 8, 9, 10, and 13 would create additional red tape, reduce reliability

¹² Gabriela Ramo - Chair, National Immigration Law Section, The Canadian Bar Association, CIMM, Evidence, 9 November 2023

¹³ Kenton Possberg - Director, Western Canadian Wheat Growers Association, CIMM, Evidence, 28 November 2023

¹⁴ Marc Miller - Minister of Immigration, Refugees and Citizenship, CIMM, Evidence, 7 November 2023

and predictability employers need to succeed, and diminish the TFWPs necessary focus on meeting unmet labour needs.

Conservatives agree in principle with recommendation 6 which recommended more onsite inspections. We heard from farmers and other stakeholders that they welcome more onsite inspections to ensure compliance against the few bad apples that has perpetuated the false narrative put forward by the opponents of the TFW program. Indeed, as we learned compliance rates are very high, in the mid-ninety percent. However, our concern with this recommendation lies with the open-ended nature that this wasteful NDP-Liberal Government may interpret it as a signal to spend more money on bureaucracy, rather than focus inspections as required; therefore we are opposed to it as written.

Conclusion

The Conservative Party of Canada recognizes the important contributions of TFWs in the Canadian economy, and especially in our agriculture sector. The Government of Canada must maintain the core function of the TFWP and ensure it empowers Canadian farmers and businesses to succeed while actively defending against abuse of workers using the existing tools at its disposal.

Respectfully Submitted,

Brad Redekopp, MP – Saskatoon West
Vice-Chair, Standing Committee Citizenship, and Immigration Committee

Tom Kmiec, MP – Calgary Shepard
Official Opposition Shadow Minister for Immigration, Refugees and Citizenship

Larry Maguire, MP – Brandon-Souris

Greg McLean, MP – Calgary Centre

Dissenting Report of the New Democratic Party

The serving United Nations Special Rapporteur on contemporary forms of slavery, Prof. Tomoya Obokata, undertook an official visit to Canada from 23 August to 6 September 2023.

Rapporteur Obokata's End of Mission Statement, published 6 September 2023, found that "the agricultural and low-wage streams of the Temporary Foreign Workers Programme (TFWP) constitute a breeding ground for contemporary forms of slavery." In this regard, the statement highlighted the continued use of closed work permits, which mean a migrant worker can only work for a specific employer while in Canada. They are not allowed to find a new employer and face deportation upon termination of employment.¹

While the Special Rapporteur's comments came as a shock to many Canadians, his description was no surprise to migrant workers or the organizations that represent them. For decades migrant workers have raised serious concerns about how Canada's temporary immigration system breeds abuse and exploitation, alongside a robust concurring body of publications, reports, and testimonials. For years different House of Commons standing committees have studied the need for broad reform of the TFWP, including discontinuing the use of closed work permits to better protect migrant workers.²

On 26 September 2023, the House of Commons Standing Committee on Citizenship and Immigration (the Committee) decided to study the impact of closed work permits issued to migrant workers by Immigration, Refugees and Citizenship Canada (IRCC), and the findings of Special Rapporteur Obokata related to Canada's TFWP.

Given that the Committee heard repeated descriptions of abuse and exploitation facing temporary foreign workers in Canada, New Democrats are of the opinion that the recommendations from the Committee's final report are woefully inadequate. They prioritize employer and industry perspectives despite the apparent power imbalance facing migrant workers with closed work permits and fail to ensure the basic rights of migrant workers such as that labour, mobility, and collective bargaining rights are respected and social services are accessible. The NDP therefore submits the following dissenting report.

The Agri-Food and Low-Wage Streams of the Temporary Foreign Worker Program

Canada has a dark history of migrant contract labour schemes that seek to restrict and control the mobility of underpaid racialized workers who are treated as disposable once the job is done. These workers faced harsh working conditions, discrimination, extreme abuse and exploitation. They have been historically deemed unworthy of citizenship under explicitly racist laws. With respect to the present day Low-Wage and Agri-Food Streams of the TFWP, the Special Rapporteur noted his concern "that this workforce is disproportionately racialized,

¹ United Nations, [End of Mission Statement](#), Tomoya Obokata, 6 September 2023.

² Canada, Report of the Standing Committee on Citizenship and Immigration, *Temporary Foreign Workers and Non-Status Workers*, May 2009; Canada, Report of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, *Temporary Foreign Worker Program*, September 2016.

attesting to the deep-rooted racism and xenophobia entrenched in Canada’s immigration system.”³ Indeed, when the Seasonal Agricultural Worker Program (SAWP) was first implemented in 1966, then-Minister of Manpower and Immigration, Jean Marchand, justified the exclusion of European workers from the Program on the basis that its conditions were congruent to “slave labour.”⁴ SAWP was then implemented exclusively for Jamaican nationals.

Since that time, successive Conservative and Liberal governments went on to expand access to the TFWP for Canadian employers. Under the administrations of Jean Chretien’s Liberals and Stephen Harper’s Conservatives, Canada’s immigration reoriented toward temporary residency status to fulfill perceived labour market shortages. In 2014, the Conservatives created the Low-Wage and High-Wage streams to reflect the occupational skill level and local market conditions.

Since 2015 the number of foreign workers entering Canada continues to consistently surpass the number of those who enter as permanent residents. In April 2022, the Liberal government implemented several key changes that facilitated and expanded the employer’s use of the low-wage stream by increasing the portion of low-wage temporary workers that a corporation could employ from 10 percent of their workforce to 20 percent, and in select industries up to 30 percent. Additionally, they eliminated the restriction against processing Labour Market Impact Assessments (LMIA) in regions with six percent unemployment or higher and increased the cap on employers’ ability to hire their workforce from the low-wage stream. Notably, the Committee recommended the same changes along with other measures to fast-track the TFWP to the federal government in its June 2021 report, *Immigration Programs to Meet Labour Market Needs*. Only the New Democratic Party of Canada offered a dissenting opinion to deregulating the TFWP Low-Wage Stream at the behest of industry CEOs.⁵ Moreover, a recent shocking investigation reveals that the Liberal government has been “fast-tracking applications by directing processing officers to skip crucial steps designed to prevent fraud.”⁶ With respect to the growth of the agricultural streams, the joint submission from Justicia for Migrant Workers & Windsor Law notes:

“The number of agricultural migrant workers has been steadily increasing. Canada continues to expand the National Commodity List – the list of agricultural commodities that can use temporary foreign workers – subjecting more and more workers to the same restrictions and exploitation each year. This appeasement of the agri-business at the expense of vulnerable workers, is realized in a context where, over the past fifty years, the number of farms in Canada has decreased by half, the average farm size has

³ United Nations, [End of Mission Statement](#), Tomoya Obokata, 6 September 2023.

⁴ *Racism, Discrimination and Migrant Workers in Canada: Evidence from the Literature*, by Nalinie Mooten & Immigration, Refugees and Citizenship Canada (IRCC, 2022).

⁵ Canada, Report of the Standing Committee on Citizenship and Immigration, *Immigration Programs to Meet Labour Market Needs*, June 2021, p. 3.

⁶ Ghada Alsharif and Kenyon Wallace, “Government officers told to skip fraud prevention steps when vetting temporary foreign worker applications, Star investigation finds,” *Toronto Star*, published 27 August 2024, accessed 21 October 2024.

doubled, and farm value per acre has almost quadrupled with a small number of large farms earning the majority of revenues, largely from exports.”⁷

A Breeding Ground for Contemporary Forms of Slavery: The Impacts of Closed Work Permits

The Special Rapporteur on contemporary forms of slavery has an important mandate to visit countries on official fact-finding missions and publish a report related to contemporary forms of slavery. The Special Rapporteur’s mandate noted that:

The majority of those who suffer are the poorest, most vulnerable and marginalised social groups in society. Fear, ignorance of one’s rights and the need to survive do not encourage them to speak out.”⁸

The Special Rapporteur’s findings of abuse and exploitation suffered by migrant workers who entered Canada through the low-wage and agri-food streams of the TFWP include excessive working hours, obliged extra-contractual tasks, physically dangerous tasks, wage theft, denial of healthcare, denial of transportation to medical facilities, limited access to social services, sexual harassment, intimidation, and violence at the hands of employers and their families. Furthermore, those in employer-provided housing reported overcrowded and unsanitary living conditions, lack of privacy, lack of gender-sensitive housing arrangements, and arbitrary restrictions on energy use. Such abuse is endured by migrant workers because closed work permits have a structural consequence of making workers dependent on their employer. Tying the immigration status of a worker to their employer allows abusive employers to take advantage of some of the most vulnerable people in Canada. As Elizabeth Kwan, senior researcher of the Canadian Labour Congress explained:

“The government says TFWP workers have the same rights and protections as Canadians and permanent residents. However, the employer-specific work permit takes away the ability of the migrant workers to exercise those rights. The fear of getting fired and deported traps migrant workers in involuntary servitude, which generates a compliant labour force...

The employer-specific work permit has a systemic impact of awarding all the power and control of the employment relationship to the employer, including employment of the migrant worker, compensation, working conditions and immigration status. It simply renders migrant workers vulnerable, and open to abuse and exploitation by employers, labour recruiters and labour traffickers.”⁹

Inherent in closed permits is a “privatized deportation system” that affords employers the power to discontinue employment and ‘repatriate’ workers “sometimes within 24 hours...,” as

⁷ Justicia for Migrant Workers & Migrant Farmworker Clinic – Windsor Law, Brief, 15 December 2023.

⁸ United Nations Office of the High Commissioner, [Special Rapporteur on contemporary forms of slavery](#), accessed October 29, 2024.

⁹ CIMM, Evidence, 1st session, 44th Parliament, 9 November 2023.

migrant worker advocates have noted to the Committee.¹⁰ As such, these migrant workers have no practical ability to resign or work elsewhere. Due to fear of reprisal and retaliation, workers on closed permits are unlikely to file reports or complaints. As Quebec’s Central Labour Bodies note:

“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.”¹¹

This power imbalance inherent in the closed permit system is often further exacerbated due to predatory fees migrant workers face from unscrupulous actors in Canada and abroad:

“Workers interviewed by Amnesty International have reported enduring abusive conditions for months or even years, out of fear of threats and reprisals, including deportation or loss of income. Many workers have sizeable debt due to recruitment fees (which are in some cases exorbitant) charged in their country of origin or have been subjected in Canada to extortionary recruitment practices to obtain employment, or predatory and fraudulent ‘consulting’ practices to obtain permanent residence. The resulting financial precarity can make them unwilling to take risks with their employment situation, despite abuse and human rights violations. Many have family members in their home country who rely on them to earn income in Canada to pay for food, living and education expenses.”¹²

Another challenge that migrant farm workers face is the denial of their right to organize and collective bargaining in Ontario. The National Farmers Union acknowledges that “[a]griculture is one of the only sectors where legal exceptions have been permitted to deny workers full protection of their rights to freedom of association. Without union representation to stand up for their interests or status securing their presence in Canada, migrant workers withstand exploitation, fearing deportation if they speak out.”¹³ Mr. Santiago Escobar further clarified that:

“In 2010, the UN’s International Labour Organization found that Canada and Ontario violated the rights of over 100,000 agricultural workers by banning farm unions. Sadly, the response was no response. Canada has an obligation to protect human rights, which include the labour rights of all workers.”¹⁴

With regard to the unique threats that the closed permit system poses to women and gender-diverse individuals, the Alliance for Gender Justice in Migration recognizes that:

¹⁰ Justicia for Migrant Workers & Migrant Farmworker Clinic – Windsor Law, Brief, 15 December 2023.

¹¹ Quebec’s Central Labour Bodies, Brief, 14 December 2023.

¹² Amnesty International, Brief, 11 December 2023.

¹³ National Farmers Union, Brief, 12 December 2023.

¹⁴ CIMM, Evidence, 1st session, 44th Parliament, 9 November 2023.

“Restrictions are also placed on women and gender-diverse workers in the agricultural industry where their bodies are seen as property, with instances where they have been deported for leaving the farm without permission from their employers, for attending social events, for receiving male visitors, or for being pregnant... Accessing reproductive or sexual health services, such as birth control and/or abortion, is particularly challenging.”¹⁵

Further exacerbating the second-class treatment of these TFWs is limited access to health care and social services, inconsistent or limited access to employment insurance, despite paying into premiums for years, and substandard health and safety standards and workplace protections:

“In many provinces, workers with precarious status are disproportionately working in occupations excluded from protections under provincial Employment Standards, most notably care work and farm work. Furthermore, these exclusions from guaranteed labour rights disproportionately affect racialized migrant workers who predominantly serve in sectors excluded.”¹⁶

The recent expansion and streamlining of the TFWP cannot be explained by a ‘temporary labour shortage’ as migrant agricultural workers, for instance, have arrived in Canada with restrictive work permits since the 1960s. Substandard working conditions that TFWs in these streams endure reinforce the perception of a domestic labour shortage simply because permanent residents and citizens of Canada refuse to work voluntarily under such conditions:

“Even the basic rights within the employment standards are made inaccessible for agricultural workers, ensuring that foreign workers *will* form the bulk of the labour in the industry, which in turn allows for even further diminution of basic labour and human rights, creating a vicious cycle of exploitation.”¹⁷

Half-Hearted Attempts To Protect Vulnerable Migrant Workers

In 2019, then-Minister of IRCC Ahmed Hussen introduced the open work permit for vulnerable workers program (OWP-VW) in reaction to concerns of abuse bred by the closed work permit system. Migrant workers experiencing abuse in their work environment were told they could apply for a one-year temporary work permit that is generally not renewable. However, this measure was rendered ineffective by an excessively onerous application process and has no preventative value in any event, as the open work permits are granted only *after* temporary foreign workers suffer abuse. As the Special Rapporteur’s report notes, the application process “requires that applicants remain in a precarious situation until they receive a positive decision.”¹⁸

¹⁵ Alliance for Gender Justice in Migration, Brief, 31 December 2023, p. 4.

¹⁶ Alliance for Gender Justice in Migration, Brief, 31 December 2023, p. 2.

¹⁷ Justicia for Migrant Workers & Migrant Farmworker Clinic – Windsor Law, Brief, 15 December 2023.

¹⁸ United Nations, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Tomoya Obokata, 22 July 2024.

Witnesses pointed to a high evidentiary threshold and a scarcity of available assistance from service providers to explain why workers suffering abuse are hesitant to pursue the OWP-VW program. Migrant Workers Centre describes the application process as “extremely labour-intensive,” “extremely time-consuming,” and “largely inaccessible, especially for migrant workers coping with trauma and ongoing abuse”:

“Applicants must fill out confusing forms, complete a personal statement, create an online profile, and upload documents. Applicants are expected to do all this, despite many of them not fluently speaking French or English or having access to functioning, private internet access. When applications are lacking, IRCC officers have the authority to conduct interviews to gather more information. However, this step is often bypassed completely, and applications are regularly rejected without any inquiry or opportunity to submit further details.”¹⁹

Data provided by IRCC to CIMM indicates that, as of October 2023, the overall rejection rate for OWP-VW applications is 43%. Advocates and service providers acknowledge a “myriad of issues with obtaining evidence,” including the inability of workers “to bring their phones to work to record workplace issues.”²⁰

Moreover, even if an application is successful, workers often report being blacklisted after reporting abuse and face challenges obtaining another job through the TFWP. The practice of blacklisting by employers in certain industries is made possible by the dependency on employers inherent in closed work permits:

“Other farm employers are not willing to hire workers with OWP-VWs because it is well-known that these types of permits are obtained by complaining about the former employer.”²¹

Not only do Low-Wage and Agri-Food stream migrant workers face lesser health and safety protections at work, but the enforcement of regulations that are on the books is distressingly deficient. Data provided to the NDP by Employment and Social Development Canada (ESDC) indicates that nearly eighty per cent of federal inspections of workplaces using the TFWP are not conducted in person and merely seven per cent of inspections involve unannounced site visits. For obvious reasons this is extremely inadequate. Virtual inspections and pre-planned site visits, which comprise more than ninety-three percent of ESDC’s TFWP inspections regime, *will not* uncover substandard living or working conditions and cannot facilitate frank discussions with workers. As Ms. Denise Gagnon, Vice-President of Réseau d'aide aux travailleuses et travailleurs migrants agricoles du Québec :

¹⁹ Migrant Workers Centre, Brief, 20 December 2023.

²⁰ Justicia for Migrant Workers & Migrant Farmworker Clinic – Windsor Law, Brief, 15 December 2023.

²¹ Justicia for Migrant Workers & Migrant Farmworker Clinic – Windsor Law, Brief, 15 December 2023.

“we need to reinforce workplace inspection mechanisms and conduct surprise visits. When visits are planned, everything’s always in order, everything’s beautiful, everything’s perfect, and nobody talks when the inspector arrives on site.”²²

Replacing Closed Work Permits

Witnesses representing employer and industry interests generally supported the use of sectoral work permits as an option to replace employer-specific work permits. Many witnesses argued that sectoral work permits would neither effectively promote labour mobility nor end the relationships of dependency on employers that make migrant workers structurally vulnerable to exploitation and abuse. As noted by the Migrant Workers Centre, the SAWP demonstrates how the sectoral permit system has been unable to create labour mobility or improve the rights of seasonal agricultural workers:

“Sectoral specific work permits are already partially in use under the [SAWP], under which farmworkers come to Canada not tied to a specific employer, but instead are able to work for any employer that is registered under the SAWP. Workers may seek permission to transfer to another farm without the need for a new work permit, but require the approval of their current employer, their proposed new employer, and the country liaison officer responsible. However, the reality for many abused workers is that transferring employers is impossible. The bureaucratic processes involved are complicated to navigate and consulate liaison officers often prioritize economic relationships with employers over the well-being of workers.”²³

The Association for the Rights of Household and Farm Workers elaborate on this concern about the efficacy of sectoral work permits:

“Restrictive work authorizations, such as sectoral, regional, occupational or agency-specific work permits, make workers’ right to earn a living in the country conditional on maintaining a relationship with specific employers, enabling employers to maintain substandard condition... These types of permits are often implemented by tying workers to specific private recruitment-placement agencies, who are granted authority over the placement of (im)migrant workers with individual employers. Although this arrangement may appear, on its face, to grant workers a minimal right to change employers, in practice, workers find themselves simply bound to a new specific employer, the agency itself.”²⁴

The Alliance for Gender Justice in Migration adds:

“Sector-specific permits still empower groups of employers to maintain substandard conditions, to identify whistleblowers as ‘troublemakers’ and to essentially boycott them.”²⁵

²² CIMM, Evidence, 1st Session, 44th Parliament, 23 November 2023.

²³ CIMM, Evidence, 1st Session, 44th Parliament, 23 November 2023.

²⁴ Association for the Rights of Household and Farm Workers, Brief, 6 December 2023.

²⁵ Alliance for Gender Justice in Migration, Brief, 31 December 2023.

Reports of blacklisting demonstrate that some employers are likely to remain inclined to abuse their power and act as gatekeepers with sector-based work permits. With sectoral permits migrant workers are likely to remain vulnerable to intimidation because they need to have connections to find new employers. It is by no means impossible to create work permits that protect Canada's labour markets while respecting human rights:

“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.”

Mr. Michel Pilon, legal coordinator of the Réseau d'aide aux travailleuses et travailleurs migrants agricoles du Québec, further explained:

“It's actually not rocket science. Even if the workers have open work permits, if good employers are offering good working conditions and good accommodations, the workers will want to work for them and won't look elsewhere.”²⁶

Employer-specific work permits create severe power dynamics whereby migrant workers are afraid to raise concerns for fear of reprisals and retaliation, even among the many responsible employers. Therefore, the NDP is making the following recommendation:

Recommendation 1

That the Government of Canada abolish employer-specific work permits, replacing them with open work permits.

Reconciling the Temporary Foreign Worker Program with Human Rights

While not every employer who employs workers through the TFWP is abusive, the immigration status of certain categories of migrant workers imposes structural vulnerability in comparison to counterparts with permanent status or citizenship. The pivot toward temporary residency at the expense of permanent residency, including through the Low-Wage Stream of the TFWP will undoubtedly continue to contribute to a burgeoning population of non-status workers. As Quebec's Central Labour Bodies notes, “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.”²⁷

While closed work permits pose additional risks to TFWs who may easily become undocumented to escape an abusive employer, vulnerabilities to human trafficking and contemporary slavery are indeed inherent in temporary status more broadly. Migrant workers that have fallen out of their temporary status, often at no fault of their own, are acutely vulnerable to labour trafficking schemes, which, as the United Food and Commercial Workers (UFCW) notes, is “an alarmingly underreported crime”:

²⁶ CIMM, Evidence, 1st session, 44th Parliament, 23 November 2023.

²⁷ Quebec Central Labour Bodies, Brief, 14 December 2023.

“In almost all instances of forced labour trafficking, victims are brought to Canada under legitimate schemes, namely the Temporary Foreign Worker Program, and due to a lack of effective enforcement, oversight and statutory protections are left entirely vulnerable to unscrupulous wrongdoers.”²⁸

The growth of the TFWP has created “an environment where human trafficking is a shameful reality in our country.” People with temporary status will always be more vulnerable to these schemes than those with permanent status. When temporary foreign workers on closed permits are subject to an abusive employer, their options are often as narrow as enduring abuse or resorting to an undocumented existence. Without a pathway to permanent resident status or sufficient procedures in place to facilitate transitions from one status to another, vulnerabilities to abuse, exploitation, and modern slavery will continue, and workers will remain at a high-risk of falling into irregular status. The NDP is therefore making the following recommendations:

Recommendation 2

That the Government of Canada take necessary measures to work with provincial and territorial governments to ensure temporary foreign workers including those working under SAWP are covered by all applicable employment legislation of the respective province or territory in which they are employed, including the right to join a union and collective bargaining, and that appropriate machinery and procedures are in place to enforce compliance with employment legislation.

Recommendation 3

That Employment and Social Development Canada make the Migrant Worker Support Program a permanent and stable source of funding indexed to the number of migrant workers arriving in Canada.

Recommendation 4

That Immigration Refugees and Citizenship Canada implement policies to ensure that any temporary foreign workers including those working under the Seasonal Agricultural Worker Program have the ability to apply for permanent resident status along with their immediate family.

Recommendation 5

That IRCC work with front-line service agencies, organizations working with temporary foreign workers and across government departments to develop a broad regularization strategy that regularizes the status of Canada’s undocumented population without discrimination against former low-wage or agricultural temporary workers, and to allow for a moratorium on deportations of non-status workers and their families until their individual cases are adjudicated through a transparent and impartial appeal process.

²⁸ United Food and Commercial Workers Union Canada, Brief, 20 December 2023.

Recommendation 6

That Canada adopts and implements the U.N. Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families.

Conclusion

The modern Temporary Foreign Worker Program is not a last resort to address acute labour market shortages as advertised. Rather, it allows companies to cut costs by accessing a pool of workers with highly precarious immigration status. Its use as an ongoing business model demonstrates the failure of successive Liberal and Conservative governments at managing Canada's economy. Instead, they have relied on a permanent underclass of workers with lesser rights and legal protections. To ensure that Canada's immigration system is fair and respects all workers, it must meaningfully address the precarity of migrant workers, especially those on employer-specific work permits. Failure to do so would only perpetuate the systemic nature of abuse and exploitation faced by workers with temporary status. Replacing employer-specific permits with sectoral work permits will not adequately address the systemic abuse that the Special Rapporteur's report illuminates. Indeed, the Rapporteur's findings come in the context of the SAWP, which uses sector-specific permits already.

While the number of closed permit workers in Canada has grown exponentially in recent years, accompanying reforms attempting to protect these workers have been cosmetic and largely ineffective. Perpetual temporary status and restrictive work authorization policies, including the Committee's proposed sectoral permit alternative, will continue to leave migrant workers vulnerable to exploitation and abuse. These are workers that have been feeding Canadian families, taking care of our loved ones, and doing essential work during the COVID-19 pandemic. To genuinely address labour shortages, what is needed is landed immigrant status as a standard for workers across the labour spectrum and to end, once and for all, exploitative labour migration schemes that successive Conservative and Liberal governments have entrenched in Canada's immigration system for decades.