

# Migrant workers: precarious and unsupported

## National Report: Canada

### Executive Summary

The federal government funds newcomer settlement services across the country, but migrant workers in the two federal temporary labour migration programs for low-skilled/low wage workers (Temporary Foreign Worker Program and Seasonal Agricultural Worker Program) are ineligible to access these services. Some provinces and territories fund some services for migrant workers, while others do not. Front-line workers in non-governmental organizations across the country told us they wanted to be able to provide services to migrant workers.

Migrant workers have no access to permanent residence via federal and Quebec immigration programs. Some provinces and territories have opened their nominee programs to Temporary Foreign Workers. Seasonal workers are not eligible for Provincial Nominee Programs, so SAWP participants are excluded.

Due to their precarious status and the rules of the TFWP and SAWP, migrant workers are vulnerable to abuse, and cases of mistreatment are well-documented. The federal government made changes to the TFWP in 2014; however, none were focused on protecting workers from abuse. Some provinces have enacted legislation to improve protections for migrant workers, which have been enforced to varying degrees.

Principal recommendations for Canada:

1. Expand eligibility criteria for services under Canada's National Settlement Program to include all migrant workers participating in the Temporary Foreign Worker Program and the Seasonal Agricultural Worker Program.
2. Open migrant workers' work permits so that they are not tied to a single employer.
3. Give migrant workers participating in the TFWP and the SAWP access to permanent residence to address the problems resulting from the precariousness of their immigration status.
4. Remove barriers to migrant worker access to provincial and territorial nominee programs: reduce federal language requirements for PNPs, increase caps per province, and allow seasonal workers to access these programs.

Principal recommendations for the provinces and territories:

1. Ensure all migrant workers have access to federally or provincially funded settlement services that are flexible to their schedules and needs.
2. Ensure that provincial and territorial nominee programs are open to migrant workers of all skill levels and programs.
3. Fill any legislative gaps to ensure that the rights of migrant workers are protected, and that migrant workers whose rights are violated may seek recourse.



Conseil canadien pour les réfugiés  
Canadian Council for Refugees

OCASI  
Ontario Council of Agencies Serving Immigrants

AMSSA  
Strengthening Diversity In BC

aaisa

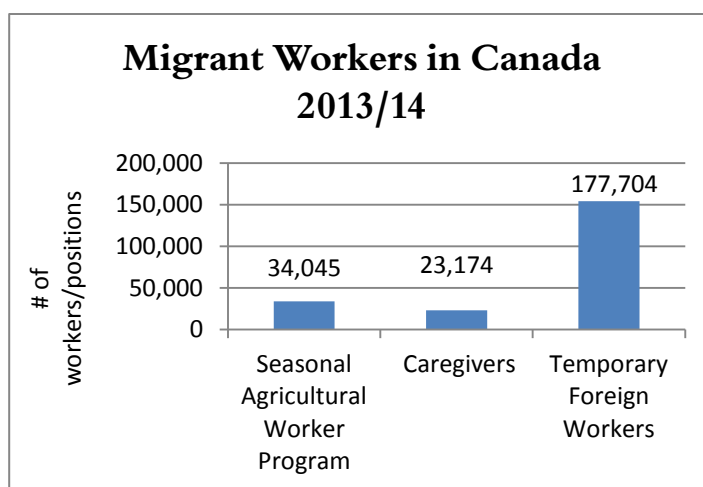
### A note on terminology

For the purposes of this study, “migrant workers” refers to workers participating in the Temporary Foreign Worker Program (TFWP), which includes the Caregiver Program, or in the Seasonal Agricultural Worker Program (SAWP). TFWs (Temporary Foreign Workers) is used to talk about workers in the TFWP (including caregivers, where they are not referred to specifically). The survey used “TFWs” to encapsulate all workers in the low- and semi-skilled streams, so respondents used this term in their responses. In writing the reports it was felt that “migrant workers” is more accurate and inclusive.

Workers with higher skill/wage levels participating in the International Mobility Program (formerly part of the Temporary Foreign Worker Program) are not included in this study.

## Background

Canada has come to rely more on temporary labour migration than ever before. Since 2008, more migrant workers are in Canada on a temporary basis to fill jobs for a limited time before being sent home, than are admitted each year as permanent residents through traditional immigration channels. The upward trend has continued: according to Immigration, Refugees and Citizenship Canada (IRCC) statistics, at the end of 2014 Canada hosted 567,077 workers from abroad under the low-skilled Temporary Foreign Worker Program (TFWP) and the high-skilled International Mobility Program. In the same year, 260,404 people became permanent residents of Canada.



Of these temporary workers, 390,273 were high-skilled/high-wage workers in the International Mobility Program created in 2014. The remaining 177,704 were low-skilled/low-wage participants in the TFWP, including the Caregiver Program. Additionally, in 2013, 34,045 Seasonal Agricultural Worker Program (SAWP) positions were filled in Canada (numbers for 2014 are not publicly available). These workers, filling low-skilled/low wage positions, are the focus of this study. The vast majority of these workers are racialized and come from countries in the global South.

## Survey Responses

We received 167 unique responses to a survey on the NGO role in providing services to migrant workers. The response rate correlates roughly with the numbers of migrant workers and of service providing organizations in the region, with the exception of Quebec, where the response rate was lower than expected.<sup>1</sup>

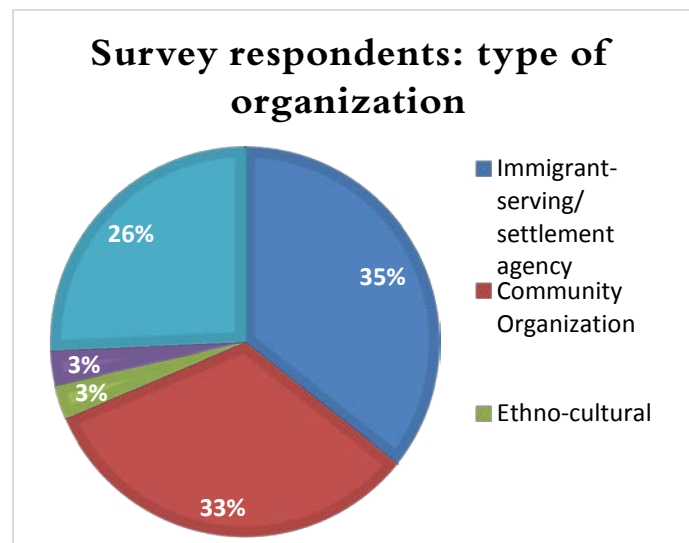
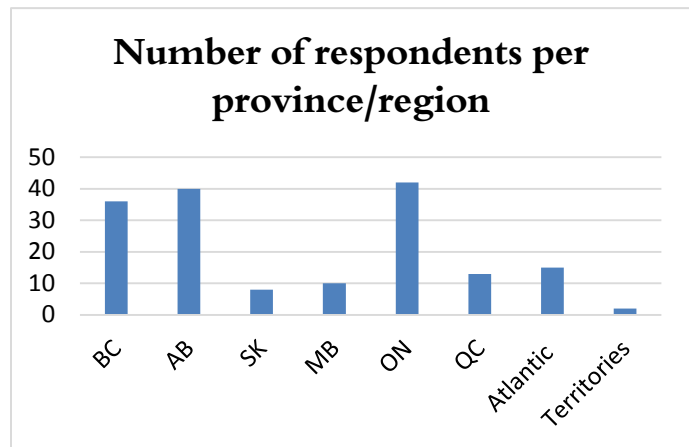
<sup>1</sup> This may be attributed to various factors, including that the majority of migrant workers in Quebec are in remote rural locations (often isolated from service-providing organizations who the survey was sent to), and that migrant workers are not eligible for any provincially funded services and are therefore not always on the radar of these organizations.

Fifty-two respondents (31%) said that they serve a rural area, while 115 (69%) serve in or from an urban area.

The largest group of respondents identified as immigrant-serving/settlement agencies (35%), with 33% of respondents describing themselves as community organizations.

Union or labour organizations and ethno-cultural organizations each comprised 3% of respondents. The other 26% chose the “other” category, and included a diverse range of types of organizations including:

- Educational institutions
- Legal clinics
- School districts
- Literacy services
- Social service agencies
- A worker’s rights organization
- A disabilities support organization
- Public library
- Employment services agency
- Faith-based group
- Health co-operative
- Rural development agency



### Federal Legislation

After a series of high-profile media stories and subsequent outcry about the program and its role in the Canadian labour market, the federal government announced in June 2014 an “overhaul” of the TFWP. The overhaul included significant changes intended to “put Canadians first”, ensuring they are prioritized for jobs over the migrant workers participating in the program. The changes did little to address the situation of Temporary Foreign Workers (TFWs) themselves, and left migrant rights advocates disappointed that more was not done to ensure the integrity of the program with regards to rights protection and prevention of abuse. Although the changes included an announced increase in inspections of employers, the focus was on penalizing “abuse of the program,” without addressing the fate of TFWs whose employers were found to be at fault.

At the time, the SAWP and Caregiver (formerly Live-in Caregiver) Programs were left unchanged, although later in 2014 changes were made to the latter that eliminated the requirement to live with the employer, and put caps on annual caregiver applications for permanent residence, effectively revoking the previously guaranteed access to permanent residence for caregivers who completed a certain number of hours of work within three years.

On April 1st 2015, thousands of TFWs were forced to return home: this was the first wave of individuals affected by a rule implemented in 2011 requiring low-skilled TFWs to leave after four years in Canada. There is widespread concern over the hardship this is causing affected workers. Many have families who depend on their remittances, and some are still repaying debts from recruitment fees illegally imposed on them. As some workers may choose to remain in Canada and seek precarious work to keep providing for their families back home, this is an issue that will affect the organizations that are approached by migrant workers in their communities, but who are not funded to assist these vulnerable workers.

## Access to services for Migrant Workers

### Government-funded services

Although the Temporary Foreign Worker Program, Caregiver Program, and Seasonal Agricultural Worker Program are all federal programs, only Caregivers have access to the settlement services funded through the National Settlement Program. However, Caregivers are not entitled to receive federally-funded language instruction until their application for permanent residence has been approved in principle. Some provincial governments fund services for which migrant workers may be eligible. However many do not, leaving migrant workers completely without support, except for non-governmental and often volunteer-based, grassroots efforts. Even in some provinces where migrant workers can access some settlement services, many are unable to access them for a variety of reasons.

Here is a summary of the access to services landscape for migrant workers across the country:

**Saskatchewan** employs a settlement model known as the Gateway model, under which TFWs are eligible for all settlement services offered by “Gateway Organizations”, including language instruction offered by educational institutions that are Gateway affiliates. The noteworthy limitation is that currently these organizations do not support newcomers with their immigration processes.<sup>2</sup>

In **Alberta**, migrant workers have access to provincially funded services via settlement agencies in the eight communities that receive the highest numbers of migrant workers. These services include legal support and assistance with Employment Insurance, Workers Compensation, and employment rights in addition to standard settlement services. However, migrant workers do not have access to provincially-funded language training. Alberta is unique in offering a TFW helpline and a TFW Advisory office to support migrant workers dealing with violations of employment standards or of their human rights.

The provincial governments of **Nova Scotia** and **PEI** each provide funding for one settlement worker to provide services to migrant workers via the main settlement agency in the province. In Nova Scotia these services are limited to information and support on TFW rights and responsibilities. Neither province funds language instruction, and access in rural areas and for isolated workers is an issue.

In **New Brunswick**, migrant workers are eligible for provincially funded settlement services, but this plays out unequally between rural and urban areas. At rural service provider organizations, provincial funding supports a

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<sup>2</sup> This is due to a narrow interpretation of Section 91 of the Immigration and Refugee Protection Act (IRPA) that prohibits settlement workers from assisting their clients with basic immigration matters such as filling out forms for immigration processes if they are not licensed immigration consultants or members of a Bar Association.

significant portion of service delivery and migrant workers are able to access all services provided by the organization. However, in larger urban areas most services at the main settlement agencies are funded by IRCC, limiting access for migrant workers.

In the **Yukon**, the territorial government provides additional funding so that TFWs can access the services provided by the single settlement organization in the capital, including language instruction. In the **Northwest Territories** there are no settlement organizations, but TFWs can access the territorially-funded employment services. TFWs cannot access territorially funded language instruction unless they have an application for permanent residence in process.

Prior to 2014, **British Columbia** managed the funding of settlement services in that province, and the only migrant workers eligible for services were those who had submitted an application to the Provincial Nominee Program. Since the repatriation of settlement service funding and management to the federal level in 2014, the province has provided “top-up” funding for settlement services for which migrant workers are eligible. This funding is only assured until March 2016.

TFWs in **Ontario** can access provincially funded settlement services; however, provincial settlement funding is limited and these services are not present in all communities, nor sufficient to meet needs.

In **Manitoba** the province does not fund settlement and support services that migrant workers can access. The few organizations that offer services are able to do so only because of efforts to find funding elsewhere, such as from the municipality. **Newfoundland** does not offer provincial settlement support for migrant workers, with the exception of providing language instruction to those who have submitted an application for permanent residence. In **Quebec** migrant workers (with the exception of caregivers) cannot access provincially-funded settlement services.

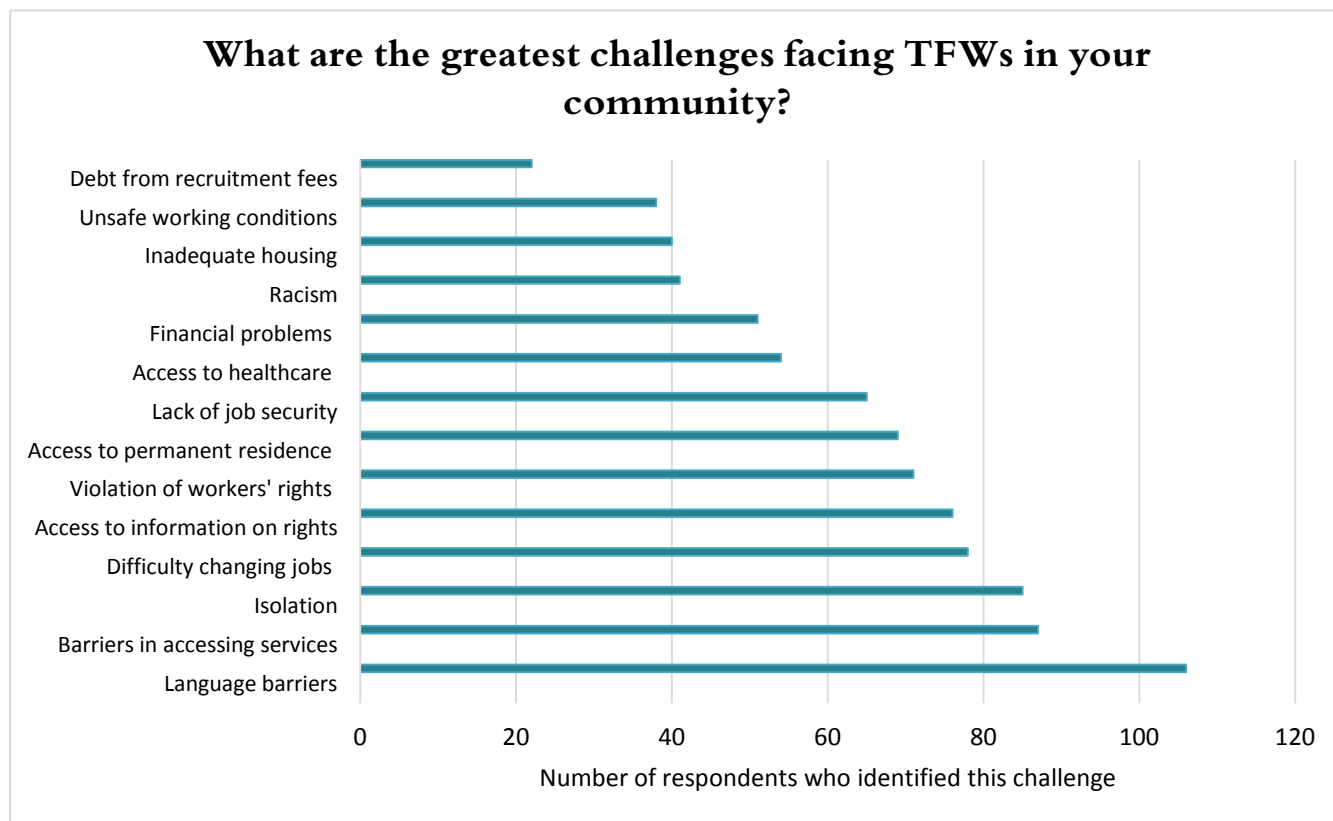
### **Other services**

Because of the large gaps in services for migrant workers, labour union-affiliated and ethno-cultural, faith-based and other grassroots groups often step in and offer support and some basic services to try to fill the gaps, usually on a volunteer basis or with a shoestring budget. Labour affiliated service providers, such as the five UFCW-funded Agricultural Worker Centres across the country, tend to have stable organizational funding, but other groups must be innovative in seeking funding, and any funding they receive is usually not stable. Many of these volunteer-based organizations and groups reported being stretched to capacity, or dealing with volunteer burn-out. They described not having the resources to support as many workers as are in need of their services, and not having access to the workplaces with some of the most vulnerable workers.

Several settlement and community organizations also reported that despite not receiving funding to serve migrant workers, they provide basic information and referral when approached.

## NGO Perspectives

Survey respondents were asked: What are the greatest challenges facing TFWs in your community? The categories identified in the survey as challenges faced by migrant workers (see graph) resonated with respondents, and almost all had input for this question.



Significantly, the two challenges faced by migrant workers that were most-cited by front-line workers were language barriers (64%), and access to services (52%) – both directly related to service provision gaps. Also related to barriers in accessing services were lack of access to information on rights (46%), and barriers in access to healthcare (cited by 32%). Isolation was a challenge cited by 51% of respondents, and may be seen as related to language barriers and lack of access to services, as well as being determined by the nature of some of the work being done by migrant workers (live-in caregiving, agricultural work).

Some of the other frequently cited challenges have their roots in the rules of the TFWP and SAWP, such as lack of access to permanent residence (41%) and difficulty changing jobs (47%).

Respondents were concerned about violation of workers' rights (43%) and lack of job security (39%), issues related to lack of oversight of employer conduct. Other challenges cited were financial problems (31%), racism (25%), inadequate housing (24%), unsafe working conditions (23%), and debt from recruitment fees (13%).

In general, front-line workers in provinces where services for migrant workers are provided (e.g. Alberta, Saskatchewan) seem to be more consistently aware of the challenges faced by these workers, as indicated by their capacity to offer nuanced insight to shortcomings of their province's service and protection initiatives.

## Unmet Needs and Policy Gaps

When asked about the unmet needs of migrant workers in their region, as indicated in the graph above, most service providers focused on the lack of services, or the inadequacy of services offered to this population. However, abuse and violation of rights was also a common theme for service providers across the country.

Many respondents in provinces where settlement services are available to migrant workers felt that because of their precarious situation these services are not adequate, and more services and support should be offered, tailored to their particular circumstances. One Alberta respondent from a settlement organization that provides services to migrant workers stated “The stress that has been placed on the TFW population is overwhelming and needs to be addressed”. Another said:

*NGOs are extremely important to make information and services accessible to TFWs. As we all know, TFWs are particularly at risk of abuse simply due to a lack of knowledge so they can easily be taken advantage of by their employers, lawyers and immigration consultants. Having access to services with no monetary... exchange is necessary for TFWs to receive unbiased information and assistance.*

In provinces where migrant workers do not systematically have access to services (Newfoundland and Labrador, Quebec, Manitoba), where services are limited (Ontario, New Brunswick, Nova Scotia, PEI) or where they have only recently gained access to funded services (as in BC), the vast majority of respondents felt strongly that this was a population they would like to have the resources to serve. Among these provinces, only 19 respondents did not indicate clearly that they were interested in serving this population. Some were in the process of trying to access funding from various sources in order to address the gap, and others did not turn migrant workers away when approached, providing basic information and referral, even if these workers are not technically eligible for their services.

A respondent from a rural Manitoba settlement agency illustrated the concern for and desire to serve migrant workers expressed by many:

*F[oreign] W[orkers] and MPNP [Manitoba Provincial Nominees] need access to all the same settlement services offered to PR's and their need is generally greater because of the fact that they are so reliant on their employers and therefore vulnerable to abuse. They need a neutral party to advocate on their behalf and ensure that they understand their rights as TFW's and the responsibility that their employer has toward them. We are leaving the settlement of TFW's in the hands of employers or communities who have neither the necessary knowledge nor wherewithal. These people are living, working and contributing to our economy...they are on the map but off of our radar!!*

When asked what type of services their organizations would ideally offer to migrant workers, those not already providing services to this group either stated that migrant workers should have access to the full range of existing (federally funded) services, or listed a range of settlement and support services they would like to provide. These included:

- Orientation, information and referrals
- Language training
- Employment referrals
- Community connections
- Information and support on immigration procedures
- Assistance with paperwork and navigating the system

- Individual case counselling and advocacy
- Legal information and support
- Information on labour rights and recourse
- Information and support to enhance access to justice
- Counselling and support groups
- Outreach
- Assistance accessing healthcare
- Childcare
- Temporary housing while changing employers
- Transportation services
- Notary services
- Language testing

A few respondents who had extensive experience working with migrant workers underlined the importance of service provision that is adapted to the specific realities of migrant workers. Many migrant workers are only able to access services on evenings or weekends, so to be effective, service providers must be responsive to this.

It was also suggested that federal and provincial governments should work to ensure that migrant workers receive information prior to arrival in Canada. Various respondents in different provinces had encountered migrant workers with inaccurate information that had been decisive in their choice to participate in a labour migration program. False information tended to centre on workers believing they would have access to permanent residence when this was not the case, or not understanding the language requirements to access to permanent residence in cases where they were eligible for a Provincial Nominee Program. In some cases, such false information is provided by recruiters in the source country.

### **Systemic issues with TFWP and SAWP**

Survey responses from service providers focused on gaps in access to services, but as indicated above, many respondents highlighted issues that, while they may be alleviated by increased access to services, go beyond service gaps and constitute more systemic policy gaps. Some survey respondents made these connections and pointed to policy issues, especially concerning the lack of access to permanent residence for migrant workers. In this section the authors draw on this input and include findings from our own research.

The vulnerability of migrant workers, and therefore their propensity to experience abuse is built into Canada's temporary migration model. SAWP workers are dependent on their employers for housing, food and employment, and they are isolated on farms in rural areas, with minimal government oversight. Because of their isolation, precarious status and lack of support, workers are afraid to complain of abuse or to miss work if they become sick or injured. These circumstances create a huge power imbalance between the employer and the worker, creating opportunity for abuse. Caregivers and other TFWs face many of the same challenges, and even less government oversight. They have work permits that are tied to one employer, and their temporary status is at the root of the precariousness and vulnerability they experience in Canada.

The federal government approach to the Temporary Foreign Worker and Seasonal Agricultural Worker Programs has been hands-off, and reports of abuse are plentiful and well-documented, with some amounting to cases of human trafficking. The 2014 changes announced to the TFWP promised an increase in inspections of employers, with more severe punishments for infractions. However, evidence of these increased inspections has yet to be seen, and reports of abuse continue. Meanwhile, many of the jobs that low-skilled migrant workers are brought to Canada to fill are not temporary. As long as these labour migration programs exist at the federal level, the federal government must take responsibility for their integrity.



## Recommendations at the national level

The following recommendations are based on the challenges and issues identified by survey respondents, and are further developed by authors who draw on their knowledge regarding dynamics of the TFWP and SAWP at the provincial and federal levels.

To increase the integrity of the TFWP and SAWP, the **federal government** should:

1. Expand eligibility criteria for services under Canada's National Settlement Program to include all migrant workers participating in the Temporary Foreign Worker Program and the Seasonal Agricultural Worker Program.
2. Open migrant workers' work permits so that they are not tied to a single employer.
3. Give migrant workers participating in the TFWP and the SAWP access to permanent residence to address the problems resulting from the precariousness of their immigration status.
4. Remove barriers to migrant worker access to provincial nominee programs: reduce federal language requirements for PNPs, increase caps per province, and allow seasonal workers to access these programs.

In the longer-term, the federal government should revise the immigration system to acknowledge the contribution of workers of all skill levels by allowing workers of all skill levels entry to Canada as permanent immigrants under our economic immigration program.

To improve protections for migrant workers participating in the TFWP and the SAWP, **provincial and territorial governments** should:

1. Ensure all migrant workers have access to federally or provincially funded settlement services that are flexible to their schedules and needs.
2. Ensure that provincial and territorial nominee programs are open to migrant workers of all skill levels and programs.
3. Fill any legislative gaps to ensure that the rights of migrant workers are protected, and that migrant workers whose rights are violated may seek recourse.