



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# IMMIGRATION PROGRAMS TO MEET LABOUR MARKET NEEDS

Report of the Standing Committee on Citizenship and  
Immigration

Salma Zahid, Chair

JUNE 2021  
43<sup>rd</sup> PARLIAMENT, 2<sup>nd</sup> SESSION

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MARKET NEEDS**

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Citizenship and Immigration**

**Salma Zahid  
Chair**

**JUNE 2021**

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### **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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# **THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION**

has the honour to present its

## **EIGHTH REPORT**

Pursuant to its mandate under Standing Order 108(2), the committee has studied the Labour Market Impact Assessment under the Temporary Foreign Worker Program and has agreed to report the following:



## TABLE OF CONTENTS

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SUMMARY.....	1
LIST OF RECOMMENDATIONS .....	3
IMMIGRATION PROGRAMS TO MEET LABOUR MARKET NEEDS.....	7
Introduction.....	7
Chapter 1: Overview of Labour Market Challenges.....	8
Snapshot: Labour Shortage in the Agri-Food Sector .....	11
Meeting Labour Needs Through Immigration .....	13
Permanent Immigration Streams .....	14
Temporary Immigration Streams .....	15
Chapter 2: Temporary Foreign Worker Program .....	17
Labour Market Impact Assessments.....	19
Supporting Documentation and Fees .....	20
Issues from the Employer Perspective .....	21
Caps and Insufficient Eligibility.....	22
Administration Costs and Processing Delays.....	25
Communication and Transparency.....	29
Issues from the Employee Perspective .....	30
Chapter 3: Other Immigration Programs .....	35
Provincial Nominee Program .....	35
Pilot Programs.....	37
Atlantic Immigration Pilot Program .....	37
Home Child Care Provider Pilot and Home Support Worker Pilot Programs .....	38
Rural and Northern Immigration Pilot .....	40
Agri-Food Pilot .....	41
New Pathways to Permanent Residence for 2021 .....	43

Chapter 4: Economic Programs in Quebec .....	45
Labour Shortages and Unemployment .....	45
Temporary Foreign Worker Program as a Gateway to Permanent Residence.....	46
Alignment of Federal and Provincial Programs .....	47
Conclusion .....	48
APPENDIX A LIST OF WITNESSES .....	49
APPENDIX B LIST OF BRIEFS.....	55
REQUEST FOR GOVERNMENT RESPONSE .....	57
SUPPLEMENTARY OPINION OF THE BLOC QUÉBÉCOIS .....	59
DISSENTING OPINION OF THE NEW DEMOCRATIC PARTY OF CANADA.....	61

## SUMMARY

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Canada is experiencing labour shortages in several sectors and regions across the country. While Canada's immigration policy is designed to sustain the country's economic development, the overall program is not meeting the labour market needs of numerous sectors, including, most notably, those of the agri-food industry.

In this report, the House of Commons Standing Committee on Citizenship and Immigration (the Committee) examines the immigration programs designed to respond to Canada's labour needs. The report highlights witness testimony about the Temporary Foreign Worker Program and its related Labour Market Impact Assessment process. It recommends policy improvements that help both employers and workers. It discusses additional immigration programs, like the Provincial Nominee Program, and different pilot programs, such as the Atlantic Immigration Pilot program, the Home Child Care Provider Pilot and the Home Support Worker Pilot programs, the Rural and Northern Immigration Pilot program and the Agri-Food Pilot program. It also considers the Government of Canada's recently announced pathways to permanent residence for over 90,000 essential temporary workers and international graduates.

The Committee makes recommendations to Employment and Social Development Canada (ESDC) and Immigration, Refugees and Citizenship Canada (IRCC). The Committee urges ESDC to increase the maximum percentage of temporary foreign workers and create a "trusted employer" designation under the Temporary Foreign Worker Program. It recommends exempting selected tourist regions from the 6% unemployment limit and ensuring that Service Canada officers are knowledgeable of the regions and industries in which they examine Labour Market Impact Assessments and conduct audits.

The Committee also urges IRCC to offer more accessible pathways to permanent residence in order to prevent the abuse of foreign workers with precarious status or of out-of-status individuals. It recommends providing continued support to rural and northern communities through the Rural and Northern Immigration Pilot program. The Committee also recommends recognizing industry-specific training and accepting on-the-job training as equivalent to formal education. The Committee asks IRCC to give more advance notice and details of requirements when announcing new public policies or programs. The Committee has additional recommendations that touch on the flexibility, mobility and protection of foreign labour. Finally, the Committee recommends that IRCC, as part of the recently announced pathways, reimburses part of the fee if a low-wage permanent resident application is unsuccessful.



# LIST OF RECOMMENDATIONS

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*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.*

## **Exempting Select Tourist Regions from the Six Percent Unemployment Limit**

### **Recommendation 1**

**That the Minister of Employment, Workforce Development and Disability Inclusion explore altering the Ministerial Instruction *Refusal to process a Labour Market Impact Assessment* to exempt, from the 6% unemployment cut-off to Labour Market Impact Assessments, Accommodation and Food Services applications in local regions experiencing difficulties hiring entry-level positions. .... 25**

## **Increasing the Maximum Percentage of Temporary Foreign Workers**

### **Recommendation 2**

**That Employment and Social Development Canada consider increasing the maximum number of temporary foreign workers allowed in low-wage positions to at least 20% of the company's workforce in a single location. .... 25**

## **Creating a Trusted Employer Designation**

### **Recommendation 3**

**That Employment and Social Development Canada create a Trusted Employer designation that would allow employers with good records with similar applications to submit simplified Labour Market Impact Assessments for expedited processing..... 27**

## **Increasing the Duration of Work Permits**

### **Recommendation 4**

**That Immigration, Refugees and Citizenship Canada consider increasing the duration of work permits and visas..... 29**

**Providing Knowledgeable Service Canada Officers for Labour Market Impact Assessments and Audits**

**Recommendation 5**

**That Service Canada train and deploy Service Canada officers with increased knowledge of the sectors and regions that they serve..... 30**

**Co-ordinating to Ensure Adequate Inspections of Working Conditions for Temporary Foreign Workers**

**Recommendation 6**

**That Immigration, Refugees and Citizenship Canada and Employment and Social Development Canada coordinate with different levels of government to ensure an adequate inspection process of workplaces and working conditions for temporary foreign workers. .... 30**

**Preventing Abuse by Offering More Accessible Pathways to Permanent Residence**

**Recommendation 7**

**That Immigration, Refugees and Citizenship Canada issue ministerial instructions to create a broadly accessible pathway to permanent residency for temporary foreign workers, asylum seekers and out-of-status workers..... 35**

**Creating Sectoral and Regional Work Permits**

**Recommendation 8**

**That Immigration, Refugees and Citizenship Canada consider the creation of sectoral and/or regional work permits..... 35**

**Reviewing Out-of-Status Construction Workers Policy to Expand Best Practices**

**Recommendation 9**

**That the Government of Canada undertake a review of the temporary public policy for out-of-status construction workers in the Greater Toronto Area (GTA) that provided permanent residence to out-of-status construction workers in order to learn best practices to expand the program to include other sectors of work such as caregivers..... 35**

**Providing Continued Support to Rural and Northern Communities**

**Recommendation 10**

**That Immigration, Refugees and Citizenship Canada ensure continued funding and support to communities that are participating in the Rural and Northern Immigration Pilot. .... 41**

**Accepting On-The-Job Training as Equivalent Education for the Agri-Food Pilot**

**Recommendation 11**

**That Immigration, Refugees and Citizenship Canada recognize on-the-job training provided by meat processors and mushroom growers over a sufficient time period as equivalent to the education requirement needed to qualify for the Agri-Food Pilot. .... 43**

**Giving More Advance Notice and Details of Requirements when Launching New Programs**

**Recommendation 12**

**That Immigration, Refugees and Citizenship Canada, in planning future execution of innovative programs, consider providing advance notice and more fulsome details of the requirements. .... 45**

**Reimbursing Part of the Fee if the Low-Wage Permanent Resident Application Is Unsuccessful**

**Recommendation 13**

**That Immigration, Refugees and Citizenship Canada, in recognition of the often-difficult financial situation of low-wage foreign workers, reimburse a portion of the application fee if the permanent resident application is unsuccessful. .... 45**





# IMMIGRATION PROGRAMS TO MEET LABOUR MARKET NEEDS

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## INTRODUCTION

The House of Commons Standing Committee on Citizenship and Immigration (the Committee) decided on 1 February 2021<sup>1</sup> to study the Temporary Foreign Worker Program (TFWP) and the use of Labour Market Impact Assessments (LMIAs). The study included the administrative costs and processing timelines associated with LMIAs, and the ability of the immigration pilot projects to address labour shortages. It examined the eligibility criteria for permanent residence and impacts on caregivers under the two pilot projects Home Child Care Provider Pilot and Home Support Worker Pilot. It also considered the impacts of the ongoing COVID-19 pandemic and the prevalence of labour shortages throughout the country, paying particular attention to municipalities and rural communities, and the 1991 *Canada–Quebec Accord Relating to Immigration and Temporary Admission of Aliens*<sup>2</sup> (Canada–Quebec Accord).

Between 10 March 2021 and 5 May 2021, the Committee heard from 58 witnesses, including the Minister of Immigration, Refugees and Citizenship, and departmental officials from Immigration, Refugees and Citizenship Canada (IRCC), Employment and Social Development Canada (ESDC) and Statistics Canada. The Committee also received several written submissions.<sup>3</sup>

On 20 October 2020, moreover, the Committee agreed that witness testimony from its study of the impact of COVID-19 on the immigration system would be included in future studies, such as this one.<sup>4</sup>

Chapter 1 of this report provides an overview of the current labour shortages in Canada, especially since the pandemic, and a snapshot of Canada’s agri-food industry. It also explains how Canada’s immigration system is designed to bring people to Canada to sustain the country’s economic growth. Chapter 2 describes the TFWP and LMIAs, and addresses witness testimony about how to improve them. Chapter 3 reviews the

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1 House of Commons, Standing Committee on Citizenship and Immigration (CIMM), [Minutes of Proceedings](#), 1 February 2021.

2 [Canada–Québec Accord Relating to Immigration and Temporary Admission of Aliens](#), 5 February 1991.

3 CIMM, [Labour Market Impact Assessment Under the Temporary Foreign Worker Program](#).

4 CIMM, [Minutes of Proceedings](#), 20 October 2020.



Provincial Nominee Program and current immigration pilot projects that aim to address specific labour shortages throughout the country. Taking into consideration the Canada–Quebec Accord, the final chapter looks at key issues in Quebec.

## CHAPTER 1: OVERVIEW OF LABOUR MARKET CHALLENGES

During its study, the Committee heard about several labour market challenges across a range of Canadian economic sectors. Overall, Canada’s labour market challenges stem from demographic pressures,<sup>5</sup> job quality,<sup>6</sup> labour mobility barriers,<sup>7</sup> skills gaps and mismatches,<sup>8</sup> low re-employment rates and low automation rates.<sup>9</sup> In addition, the COVID-19 pandemic has further disrupted the labour market.<sup>10</sup> All these challenges have led to unmet labour demand or labour shortages, which vary across provinces, occupations and levels of education.<sup>11</sup>

When seeking to understand labour supply and labour demand for workers, the unemployment rate is one indicator. It is also important to consider job vacancies. As explained by Statistics Canada, the excess labour supply (unemployed persons) in conjunction with unmet labour demand (job vacancies) provide a better indication of how easily and efficiently workers find jobs, and whether the skills employers are

- 
- 5 CIMM, [Evidence](#), 21 April 2021, 1600 (Alexandre Gagnon, Vice-President, Employment and Human Capital, Fédération des chambres de commerce du Québec); CIMM, [Evidence](#), 5 May 2021, 1625 (Sheri Somerville, Chief Executive Officer, Atlantic Chamber of Commerce).
  - 6 Job quality refers to the quality of earnings (level of earnings and degree of inequality), of labour market security (risk of job loss and income support available) and of the working environment (work demands and conditions). CIMM, [Evidence](#), 12 April 2021, 1535 (Elizabeth Connery, Chair, Labour Committee, Canadian Horticultural Council); CIMM, [Evidence](#), 12 April 2021, 1600 (Kathleen Sullivan, Chief Executive Officer, Food and Beverage Canada).
  - 7 CIMM, [Evidence](#), 21 April 2021, 1710 (Leah Nord, Senior Director, Workforce Strategies and Inclusive Growth, Canadian Chamber of Commerce); CIMM, [Evidence](#), 5 May 2021, 1610 (Brandon Ellis, Senior Manager, Policy, Atlantic Chamber of Commerce).
  - 8 CIMM, [Evidence](#), 12 April 2021, 1615 (Kathleen Sullivan); CIMM, [Evidence](#), 21 April 2021, 1710 (Leah Nord).
  - 9 CIMM, [Evidence](#), 12 April 2021, 1615 (Kathleen Sullivan); CIMM, [Evidence](#), 12 April 2021, 1555 (Daniel Vielfaure, Deputy Chief Executive Officer, Groupe Bonduelle, Chief Executive Officer, Bonduelle Americas, and Co-Chair, Food and Beverage Canada); Olymel, [Brief](#), 19 April 2021, p. 6.
  - 10 CIMM, [Evidence](#), 12 April 2021, 1535 (Elizabeth Connery); CIMM, [Evidence](#), 21 April 2021, 1650 (Olivier Bourbeau, Vice-President, Federal and Quebec, Restaurants Canada), 1640 (Leah Nord); CIMM, [Evidence](#), 26 April 2021, 1645 (Cyr Couturier, Chair, Canadian Agricultural Human Resource Council); Living Water Resorts, [Brief](#), 7 April 2021, p. 5; Canadian Meat Council and Mushrooms Canada, [Brief on Agriculture and Agri-Food Immigration Demand And TFWP Challenges for our Sector](#), 3 May 2021, p. 5.
  - 11 CIMM, [Evidence](#), 10 March 2021, 1825 (Josée Bégin, Director General, Labour Market, Education and Socio-Economic Well-Being, Statistics Canada).

looking for differ from the ones available in the labour market.<sup>12</sup> We understand the labour market by looking at both the availability of unfilled jobs—the number of job vacancies or the job vacancy rate—and unemployment. While vacancies and unemployment are associated with normal turnover in the labour force, there are situations where workers lack the skills to meet the job requirements or live too far from regions where jobs are available. This leads to labour shortages. Marcel Groleau, General President, Union des producteurs agricoles, explained this phenomenon to the Committee:

The unemployment rate in Quebec is currently 6.4%, the lowest in the country. Agricultural production is growing annually by 8.7%. In regions like Chaudière-Appalaches, a farming area in central Quebec, the unemployment rate is close to 4%. The labour shortage is expected to last for at least the next decade. It is no surprise that the number of temporary foreign workers in Quebec is increasing 10% annually [to meet the labour demand].<sup>13</sup>

Providing overall context to the Committee about labour shortages, Josée Bégin, Director General, Labour Market, Education and Socio-Economic Well-Being, Statistics Canada, explained that the job vacancy rate in the fall of 2020 was about the same as before the pandemic. Since October 2020, she noted that there were above-average job vacancy rates

both in sectors where employment has been less affected by COVID-19, such as health care and social assistance and professional, scientific and technical services, and in sectors that have been more affected, such as administrative and support services, and accommodation and food services. The agriculture, forestry, fishing and hunting sector, which employs a high number of temporary foreign workers, posted the highest job vacancy rate in October with 5.7%, but it fell by half the following month to 2.8%. In December, the job vacancy rate in this sector was 4.2%.<sup>14</sup>

In comparison, the overall national job vacancy rate was 3% in December 2020. Figure 1, below, provides an overview of the job vacancy rates for each province during each quarter of 2019 and 2020. Overall, the fourth quarter (Q4) of 2020 shows half a percentage point increase in the job vacancy rate from the rate in the fourth quarter of

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12 Statistics Canada, "[Job vacancies, fourth quarter 2020](#)," *The Daily*, 23 March 2021.

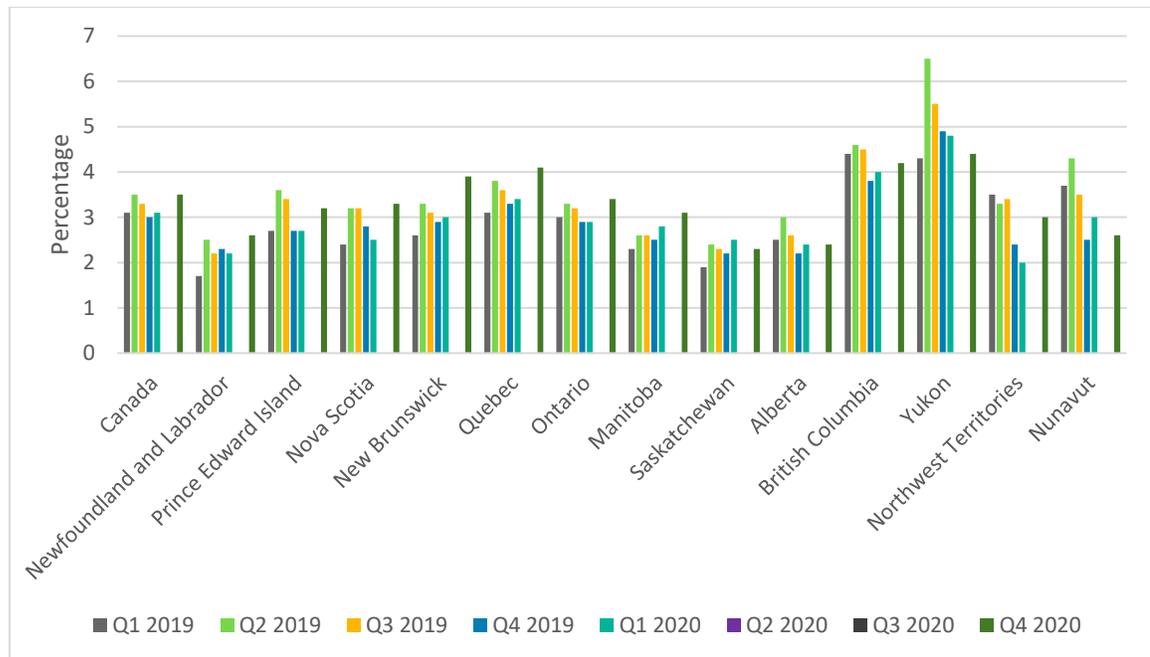
13 CIMM, *Evidence*, 26 April 2021, 1545 (Marcel Groleau, General President, Union des producteurs agricoles).

14 CIMM, *Evidence*, 10 March 2021, 1800 (Josée Bégin). Ms. Bégin also added that the number of job vacancies in the agriculture, forestry, fishing and hunting sector can vary greatly depending on seasonal trends. Provincially, British Columbia and Quebec have consistently had the highest job vacancy rates since October 2020, but also prior to the COVID-19 pandemic. From October to December 2020, job vacancy rates were among the lowest in Alberta, Saskatchewan and Newfoundland and Labrador, similar to before the pandemic.



2019. Statistics Canada noted this increase in job vacancies in several provinces, “with more than three-quarters (79.3%) of the total increase coming from Quebec and Ontario.”<sup>15</sup>

**Figure 1: Job Vacancy Rate in Canada, 2019 and 2020**



Note: The job vacancy rate is the number of job vacancies expressed as a percentage of labour demand—that is, all occupied and vacant jobs. Data for the second and third quarters of 2020 are unavailable because some Statistics Canada operations were temporarily suspended during the COVID-19 pandemic.

Source: Figure created by the authors using data from Statistics Canada, [Job vacancies, payroll employees, job vacancy rate, and average offered hourly wage by province and territory, quarterly, unadjusted for seasonality](#), Table 14-10-0325-01.

Statistics Canada also noted that, “[i]n the fourth quarter of 2020, there were 2.9 unemployed people per job vacancy, up from 2.1 in one year earlier. This was the highest ratio for a fourth quarter since 2016, when it was 3.2.”<sup>16</sup> As mentioned above, “a high unemployment-to-job vacancy ratio can indicate a potential skill mismatch.”<sup>17</sup>

15 Statistics Canada, [“Job vacancies, fourth quarter 2020,” The Daily](#), 23 March 2021.

16 Ibid.

17 Ibid.

During this study, many witnesses highlighted this misalignment between the competences of unemployed individuals and those required by employers.<sup>18</sup> The Committee particularly noted difficulties for the agri-food sector. This sector, like others, heavily relies on immigration, which we will examine below, to meet its labour needs.

### **Snapshot: Labour Shortage in the Agri-Food Sector**

The agri-food industry is vast: it covers every aspect of food production, delivery and sale. It includes growers, farmers, producers, suppliers, transporters and retailers. One of the industry's major characteristics is that it is directly connected to primary agriculture, which is highly labour intensive.

According to Canadian Meat Council and Mushrooms Canada, the agri-food industry creates one in eight jobs in Canada, and contributes “\$111 billion per year to the economy, [which is] over 6% of Canada’s GDP [gross domestic product].”<sup>19</sup> To hire individuals for the 2.3 million jobs in the industry,

employers participate in ongoing advertising, recruitment fairs, increased recruitment, training, and retention practices including language training, more robust advertising in core business geographics, and integrated work with community/social service providers, augmented referral incentives, augmented student incentives and more. In spite of this increased recruitment, the challenges related to labour, skills, and talent on the farm and in meat processing remain critical.<sup>20</sup>

Casey Vander Ploeg, Vice-President, National Cattle Feeders' Association, shared similar efforts with the Committee:

Despite Herculean efforts, agriculture simply cannot attract enough domestic labour to fill these rural jobs, and because there is no stream within the immigration system to secure agriculture workers, we rely on the temporary foreign worker program. It’s the only gateway for our sector to secure foreign labour.<sup>21</sup>

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18 CIMM, *Evidence*, 12 April 2021, 1615 (Kathleen Sullivan); CIMM, *Evidence*, 21 April 2021, 1710 (Leah Nord), 1605 (Alexandre Gagnon), 1555 (Derek Johnstone, Special Assistant to the National President, United Food and Commercial Workers Union Canada).

19 Canadian Meat Council and Mushrooms Canada, *Brief*, 23 December 2020, p. 1.

20 Ibid.

21 CIMM, *Evidence*, 5 May 2021, 1605 (Casey Vander Ploeg, Vice-President, National Cattle Feeders' Association).



He also commented that Canada’s immigration program is not addressing the “chronic shortage of labour [that] is the single largest challenge facing Canadian agriculture.”<sup>22</sup> Elizabeth Connery, Chair, Labour Committee, Canadian Horticultural Council, provided a concrete example of the difficulty of attracting local labour in agriculture: her farm has hired seasonal agricultural workers since the 1980s. For that reason, she believes that the TFWP is a key element to sustain the agri-food workforce. In her experience, immigrants who come to Canada as permanent residents do not settle in rural areas, because of the lack of services and support systems.<sup>23</sup>

Overall, in 2018, there were 16,500 on-farm vacancies despite 60,000 foreign workers entering Canada. By 2029, it is estimated that Canada’s agricultural sector will have 123,000 vacancies.<sup>24</sup> Chris van den Heuvel, Second Vice-President, Canadian Federation of Agriculture, told the Committee that “these labour constraints require a holistic agri-food labour and automation strategy.”<sup>25</sup>

Olymel, a food processing company in Quebec, informed the Committee that its facilities’ mechanization and automation levels are optimal, but still cannot meet its labour needs. The company currently has over “600 immigrant newcomers (mainly asylum seekers) among [its] employees” as well as “nearly 610 temporary employees from the TFWP and expect[s] another 600 in the coming year.”<sup>26</sup> And even these foreign workers do not meet all of its labour needs: it currently has a 27% rate of vacant positions in its facilities, representing more than 3,700 positions.<sup>27</sup> Aliments Asta Inc., a family business in Quebec, shared a similar story: the TFWP is not enough to address its labour shortages due to regular turnover of employees and retirements.<sup>28</sup>

As one witness put it, it is important to support entrepreneurs and industries “who have worked very hard over the last few years to increase their capacity to go after global markets and to make sure they are equipped to find a specific person with a skill set they’re looking for.”<sup>29</sup> While IRCC recognizes immigration as an important pillar for

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22 Ibid.

23 CIMM, [Evidence](#), 12 April 2021, 1555 (Elizabeth Connery).

24 CIMM, [Evidence](#), 26 April 2021, 1645 (Cyr Couturier); CIMM, [Evidence](#), 28 April 2021, 1540 (Chris van den Heuvel, Second Vice-President, Canadian Federation of Agriculture).

25 CIMM, [Evidence](#), 28 April 2021, 1540 (Chris van den Heuvel).

26 Olymel, [Brief](#), 19 April 2021, p. 7.

27 CIMM, [Evidence](#), 21 April 2021, 1635 (Louis Banville, Vice-President, Human Resources, Olymel L.P.).

28 CIMM, [Evidence](#), 3 May 2021, 1545 (Édith Laplante, Director, Human Resources, Aliments Asta Inc.).

29 CIMM, [Evidence](#), 23 November 2020, 1640 (Meredith Armstrong, Acting Director, Economic Development, City of Greater Sudbury).

Canada's economic growth,<sup>30</sup> another witness asked the Committee to balance this support by also properly investing in domestic labour sources.<sup>31</sup> Overall, for several witnesses, Canada should not become too reliant on a "temporary, precarious and vulnerable workforce"<sup>32</sup> because it would mean less stability and security for some of Canada's most crucial sectors, like agri-food.<sup>33</sup> This lack of stability and workers is also insufficient to fully promote the welfare of farm animals, which require regular and sometimes intensive care.<sup>34</sup>

## Meeting Labour Needs Through Immigration

Canada's immigration policy has largely been driven by the need for population growth and economic development. Paul Davidson, President of Universities Canada, underscored that Canada has done well historically with its immigration policy, but warned the Committee that we should not take it for granted, and be mindful that the international competition for welcoming immigration is increasing.<sup>35</sup> Looking forward, the Hon. Marco Mendicino, Minister of Immigration, Refugees and Citizenship, told the Committee that "[p]rograms must be created to support all workers who want to come to Canada and contribute to our economy and to our social fabric."<sup>36</sup> For the Canadian Chamber of Commerce, IRCC must ensure that immigrants can integrate into the labour market and the department must set newcomers up for success from the outset.<sup>37</sup>

With its aging population and low birth rate, Canada's overall population growth is projected to come exclusively from immigration by 2030.<sup>38</sup> Already, in 2018 and 2019,

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- 30 CIMM, [Evidence](#), 10 March 2021, 1855 (Caroline Xavier, Associate Deputy Minister, Department of Citizenship and Immigration).
- 31 CIMM, [Evidence](#), 21 April 2021, 1625 (Derek Johnstone).
- 32 Ibid., 1535 (Derek Johnstone); CIMM, [Evidence](#), 12 April 2021, 1640 (Syed Hussan, Executive Director, Migrant Workers Alliance for Change).
- 33 CIMM, [Evidence](#), 26 April 2021, 1545 (Marcel Groleau); CIMM, [Evidence](#), 3 May 2021, 1605 (Stéphanie Poitras, Executive Director, Aliments Asta Inc.).
- 34 CIMM, [Evidence](#), 3 May 2021, 1605 (Stéphanie Poitras); CIMM, [Evidence](#), 5 May 2021, 1635 (Jolayne Farn, Human Resources Manager, Van Raay Paskal Farm Ltd., National Cattle Feeders' Association).
- 35 CIMM, [Evidence](#), 12 April 2021, 1715 (Paul Davidson, President, Universities Canada).
- 36 CIMM, [Evidence](#), 10 March 2021, 1720 (Hon. Marco Mendicino, Minister of Immigration, Refugees and Citizenship).
- 37 CIMM, [Evidence](#), 21 April 2021, 1700 (Leah Nord).
- 38 CIMM, [Evidence](#), 10 March 2021, 1805 (Josée Bégin).



most of “the employment growth was attributable to immigrants.”<sup>39</sup> Due to the pandemic and travel restrictions, however, immigration levels fell sharply in 2020.

To achieve its immigration targets, in consultation with provinces and territories, IRCC implements various programs and policies that target both permanent and temporary immigration. This section describes Canada’s immigration program, with a focus on several specific programs that enable Canada to meet labour needs across the country.

### Permanent Immigration Streams

Permanent immigration can be broken down into the following classes: Economic Class, Family Class, Protected Persons, Refugees, and Humanitarian and Compassionate. Permanent residents are also admitted through pilot programs,<sup>40</sup> which will be further detailed in Chapter 3, and are designed to meet specific requirements, such as regional labour needs.

The Economic Class represents more than half of the permanent immigration streams. Its main purpose is “to permit Canada to pursue the maximum social, cultural and economic benefits of immigration,” as articulated in the *Immigration and Refugee Protection Act* (IRPA).<sup>41</sup> Under this class, most immigrants arrive through Express Entry, which “is an application management system for the Federal Skilled Workers Program, the Federal Skilled Trades Program, the Canadian Experience Class and a portion of the Provincial Nominee Program.”<sup>42</sup> There are also the federal business programs as well as the Quebec skilled workers and business programs.

Of note, the Canadian Experience Class (CEC) is for skilled foreign workers or foreign graduates who have at least one year of skilled work experience in Canada. One witness specifically commented on the importance of this program to Canada’s economy. Manprit Aujla-Grewal, Immigration Consultant, Canadian Immigration Connections, explained that individuals with Canadian study and work experience, combined with good language skills, can integrate into the Canadian labour market more successfully than those that do not possess this experience and these skills.<sup>43</sup> However, she said that

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39 Ibid.

40 The province of Quebec does not participate in these immigration pilot programs. Please see Chapter 4 for information on Quebec.

41 *Immigration and Refugee Protection Act* (IRPA), S.C. 2001, c. 27, s. 3(1)(a).

42 Immigration, Refugees and Citizenship Canada (IRCC), *Express Entry Reports and Publications*.

43 CIMM, *Evidence*, 23 November 2020, 1625 (Manprit Aujla-Grewal, Immigration Consultant, Canadian Immigration Connections).

the requirements under the CEC and Express Entry are too difficult to attain “even for a graduate of a three-year program in Canada ... with one year of skilled work experience in Canada and with good English.”<sup>44</sup> She criticized this program, but also the overall immigration system, as too restricted—designed only for individuals with national occupation classifications (NOC) that are considered “high-skilled.” She recommended that IRCC welcome and integrate all individuals with Canadian work experience and good language skills, regardless of their NOC codes. For the CEC, she specifically recommended that the applicant evaluation be changed back to its pre-2012 iteration of either passing or failing, based on the program’s requirements, instead of the current point system.<sup>45</sup> Kamaljit Lehal, Barrister and Solicitor, Lehal Law, noted that IRCC lowered the points required for the CEC at the beginning of 2021, but informed the Committee that ad hoc, last-minute, announcements and initiatives, such as the lower points draw for the CEC, are not always beneficial to clients who are in the process of applying and may suddenly have to change midstream in order to meet new program requirements.<sup>46</sup>

### Temporary Immigration Streams

Canada’s immigration program also provides for the temporary entry of foreign nationals under the authority of a valid permit (e.g., a work permit, study permit, Minister’s permit, etc.). Foreign nationals must demonstrate that they meet all applicable requirements under IRPA, including that they will leave Canada voluntarily at the end of their authorized stay.<sup>47</sup> Such temporary residents include foreign workers and international students.

Refugee claimants who wish to work while their claim is being processed may also apply for a work permit. One witness highlighted to Committee members that Canada’s labour needs can be met by further welcoming refugee claimants or asylum seekers in the labour market. They can access work permits and, if their refugee claim is accepted, can become permanent residents and, potentially, long-term employees.<sup>48</sup>

The majority of foreign workers arrive under the TFWP, which aims to help fill genuine labour needs as a last and limited resort when qualified Canadians or permanent

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44 Ibid., 1520.

45 Ibid., 1625.

46 CIMM, *Evidence*, 26 April 2021, 1700 (Kamaljit Lehal, Barrister and Solicitor, Lehal Law).

47 IRPA, s. 29(2).

48 CIMM, *Evidence*, 12 April 2021, 1620 (Shaitan Singh Rajpurohit, Chemical Machine Operator, United Refugee Council Canada).



residents are not available. Other temporary work permit programs include those affiliated with trade agreements and reciprocal exchanges that are part of the International Mobility Program. There is also the International Experience Canada program, which allows young foreign nationals to travel and work in Canada. The goal of these last two programs is to provide competitive advantages to Canada and reciprocal benefits to Canadians, rather than to specifically meet given labour demands.

The other major group of temporary residents in Canada are international students who are either on a study permit and enrolled in a designated learning institutions, or on an open work permit to gain valuable Canadian work experience through the Post-Graduation Work Permit Program (PGWPP). The PGWPP helps foreign graduates to qualify for permanent residence in Canada through the CEC. One witness specifically addressed the importance of the PGWPP to tackle their industry's labour shortage. The Canadian Casino Gaming College, a registered private career college, requested that IRCC grant it access to the PGWPP. To respond to the shortage of 5,000 skilled casino employees post-COVID-19, the College would like to recruit international students, train them as future employees and place them in casinos across Canada.<sup>49</sup>

Ultimately, the minister underlined that the temporary immigration streams make Canada's overall immigration program more flexible in addressing labour shortages and in achieving Canada's economic priorities.<sup>50</sup> However, two witnesses sharply criticized the increased use of temporary foreign workers to meet the needs of specific sectors or industries of Canada's economy.<sup>51</sup> Both provided some historical perspective. When the Seasonal Agricultural Worker Program—the first stream under the TWFP—was established in 1966, there were 256 temporary foreign workers in Canada.<sup>52</sup> As of 2000, there were 60,000 temporary work permits in Canada, and today there are over 400,000. As such, according to data from the Migrant Workers Alliance for Change, one in 23 people in Canada are currently non-permanent residents.<sup>53</sup> These individuals have limited labour rights, protections and access to services. They are in vulnerable positions

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49 Canadian Casino Gaming College, [Brief](#), 10 February 2021, p. 2.

50 CIMM, [Evidence](#), 10 March 2021, 1725 (hon. Marco Mendicino).

51 CIMM, [Evidence](#), 21 April 2021, 1615 (Derek Johnstone); CIMM, [Evidence](#), 12 April 2021, 1700 (Syed Hussan).

52 CIMM, [Evidence](#), 21 April 2021, 1615 (Derek Johnstone).

53 CIMM, [Evidence](#), 12 April 2021, 1700 (Syed Hussan).

and the COVID-19 pandemic only exacerbates those realities,<sup>54</sup> especially for essential and front-line workers. Chapter 2 further unpacks these vulnerabilities.

## CHAPTER 2: TEMPORARY FOREIGN WORKER PROGRAM

The Temporary Foreign Worker Program is jointly managed by ESDC and IRCC.<sup>55</sup> Before June 2014, it included all temporary work permit streams. Today, the name refers only to those temporary work permit programs that aim to fill particular vacancies and skill shortages, rather than to streams that promote Canada’s “broad economic, cultural and social interests.”<sup>56</sup> These latter streams now fall under the International Mobility Program. According to the 2014 reforms, migration streams in the TFWP must fill genuine labour needs, and only when qualified Canadians or permanent residents are not available.<sup>57</sup> With the exception of positions under the Global Talent Stream, TFWP positions require ESDC to conduct a labour market test or “Labour Market Impact Assessment,”<sup>58</sup> and to issue a positive result. Service Canada issues the LMIAs on behalf of ESDC.

Today, the TFWP offers five temporary work permit categories, known as the high-wage stream,<sup>59</sup> the low-wage stream,<sup>60</sup> the Agricultural Stream,<sup>61</sup> the Caregiver stream,<sup>62</sup> and

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54 Statistics Canada found that recent immigrants, those who arrived in Canada within 10 years, “were more likely than Canadian-born workers to move out of employment in March and April [2020] mainly because of their shorter job tenure and over-representation in lower-wage jobs.” In addition, “[i]n the initial months of recovery, recent immigrants, particularly women, had lower rates of transition from non-employment into employment than their Canadian-born counterparts.” Feng Hou, Garnett Picot and Jue Zhang, “[Transitions into and out of employment by immigrants during the COVID-19 lockdown and recovery](#),” *StatCan COVID-19: Data to Insights for a Better Canada*, Catalogue no. 45280001, 20 August 2020.

55 For more information, see Eleni Kachulis and Mayra Perez-Leclerc, [Temporary Foreign Workers in Canada](#), Publication no. 2019-36-E, Library of Parliament, 16 April 2020.

56 CIMM, [Evidence](#), 10 March 2021, 1700 (hon. Marco Mendicino).

57 Employment and Social Development Canada (ESDC), [Archived—Overhauling the Temporary Foreign Worker Program](#).

58 After the employer obtains the [Labour Market Impact Assessment](#) (LMIA), the worker needs to apply to IRCC for a work permit and the employer must provide a copy of the positive LMIA from ESDC for inclusion with the worker’s application.

59 ESDC, [Program requirements for high-wage positions](#).

60 ESDC, [Program requirements for low-wage positions](#).

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

62 ESDC, [Caregivers](#).



the Global Talent Stream.<sup>63</sup> As explained below, each stream addresses different needs and operates according to distinct rules.

The high-wage stream addresses positions with wages at or above the provincial or territorial median hourly wage,<sup>64</sup> whereas the low-wage stream is for positions with wages below that median hourly wage.<sup>65</sup> Only 10% of a workforce can be made up of temporary foreign workers working in a low-wage position at a given location, or 20%, if the employees were hired before 20 June 2014.<sup>66</sup> This 10% cap has been temporarily increased to 20% during the COVID-19 pandemic.<sup>67</sup>

Employers hiring agriculture workers can use either the general Agricultural Stream or apply through the specialized Seasonal Agricultural Worker Program, which is only for seasonal positions that usually last at most eight months and is restricted to workers from Mexico and the Caribbean countries.<sup>68</sup>

Since June 2019, with the start of the Home Child Care Provider Pilot and the Home Support Worker Pilot programs, addressed in Chapter 3, employers hiring caregivers cannot hire temporary foreign workers under the Caregiver stream.<sup>69</sup>

Employers hiring under the Global Talent Stream—which was designed for expedited processing to help employers obtain highly skilled or specialized talent more quickly—must submit a Labour Market Benefits Plan (LMBP). Unlike the more detailed LMIA, the LMBP only requires that employers demonstrate their “commitment to activities that will have lasting, positive impacts on the Canadian labour market.”<sup>70</sup> Stephen Cryne, President and CEO, Canadian Employee Relocation Council, argues in his letter to the Committee that although it takes two weeks for ESDC to assess the LMBP, the entire process from creating an LMBP to seeing a work permit issued takes 12–14 weeks.<sup>71</sup>

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63 ESDC, [Program requirements for the Global Talent Stream](#).

64 ESDC, [Hire a temporary foreign worker in a high-wage or low-wage position](#).

65 Ibid.

66 The federal government allows exceptions to the cap in select circumstances. See ESDC, [Program requirements for low-wage positions](#).

67 ESDC, [Temporary Foreign Worker Program—COVID-19](#).

68 ESDC, [Hire a temporary worker through the Seasonal Agricultural Worker Program: Overview](#).

69 [New ministerial instructions regarding the processing of certain work permit applications](#), in *Canada Gazette*, Part I, 29 June 2019, pp. 3179–3180.

70 ESDC, [Program requirements for the Global Talent Stream](#).

71 Canadian Employee Relocation Council, [Brief](#), 3 May 2021, p. 2.

## Labour Market Impact Assessments

ESDC will issue a positive LMIA if an assessment indicates that hiring a temporary foreign worker will have a positive or neutral impact on the Canadian labour market. ESDC evaluates the following to issue a successful LMIA:

- a) whether the employment of the foreign national will or is likely to result in direct job creation or job retention for Canadian citizens or permanent residents;
- b) whether the employment of the foreign national will or is likely to result in the development or transfer of skills and knowledge for the benefit of Canadian citizens or permanent residents;
- c) whether the employment of the foreign national is likely to fill a labour shortage;
- d) whether the wages offered to the foreign national are consistent with the prevailing wage rate for the occupation and whether the working conditions meet generally accepted Canadian standards;
- e) whether the employer will hire or train Canadian citizens or permanent residents or has made, or has agreed to make, reasonable efforts to do so;
- f) whether the employment of the foreign national is likely to adversely affect the settlement of any labour dispute in progress or the employment of any person involved in the dispute; and
- g) whether the employer has fulfilled or has made reasonable efforts to fulfill any commitments made in previous assessments.<sup>72</sup>

While ESDC will conduct an LMIA for TFWP streams, three exceptions exist. The first is the Global Talent Stream, which, as explained above, instead requires an LMBP. The second exception is for applications to positions in certain sectors and regions of low-wage employment. More specifically, ESDC will not process an LMIA application for a position when all of the following conditions are true. The position is:

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72 *Immigration and Refugee Protection Regulations, SOR/2002-227, s. 203(3).*



- a) in a region defined by Statistics Canada as having an annual unemployment rate over 6%;
- b) identified under the North American Industry Classification System as Accommodations and Food Service or Retail Trade; and
- c) categorized under certain NOC codes, including 6541 (security guards and related security service occupations), 6611 (cashiers) and 6622 (store shelf stockers, clerks and order fillers).<sup>73</sup>

### Supporting Documentation and Fees

Along with their LMIA application form, employers must submit supporting documentation to prove they have met or attempted to meet these LMIA conditions and must pay fees to cover the cost of the LMIA.

Most simply, employers who use the TFWP must submit to Service Canada proof of recruitment efforts to hire Canadians and permanent residents. ESDC may issue a negative LMIA if—among other reasons—the employer was not able to demonstrate sufficient efforts to recruit, hire or train Canadians or permanent residents for the position.<sup>74</sup> For employers looking to fill low- and high-wage positions, recruitment requirements include advertising for a given period of time on the Government of Canada’s Job Bank and using recruitment methods that are targeted to an audience with the appropriate education, professional experience and skill level required for the occupation. In the case of positions in the low-wage and Agricultural streams, employers must also, as an ESDC official explained to the Committee, engage in “targeted efforts to reach out to underrepresented groups who may be underemployed in the labour market,” such as Indigenous persons, vulnerable youth, newcomers to Canada and persons with disabilities.<sup>75</sup>

If hiring a temporary foreign worker through the high-wage stream, an employer must also develop a transition plan describing the activities it will undertake to recruit, retain and train Canadians and permanent residents in order to reduce its reliance on the

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73 For the full list of applicable National Occupational Classification codes, see ESDC, [Refusal to process a Labour Market Impact Assessment application](#).

74 For a full list of reasons for issuing a negative LMIA, refer to Government of Canada, “[Temporary Foreign Worker Program \(TFWP\): Negative Labour Market Impact Assessment \(LMIA\) Employers List](#),” *Open Government*.

75 CIMM, [Evidence](#), 10 March 2021, 1805 (Philippe Massé, Director General, Temporary Foreign Worker Program, Skills and Employment Branch, Department of Employment and Social Development).

TFWP. If the employer applies for an LMIA for the same work location and position in the future, the employer will have to report on the results of the commitments made in the previous plan. There are certain exceptions to the transition plan requirement, including for applications for high-wage workers hired in caregiving or primary agricultural occupations.<sup>76</sup>

Finally, all employers must pay \$1,000 for each temporary foreign worker position requested to cover the cost of processing their LMIA application. Once again, this condition is subject to certain exceptions. For example, families and individuals seeking to hire a foreign caregiver to provide home care for someone requiring assistance with medical needs are exempt from paying the application processing fee. Exemptions also exist for certain occupations related to primary agriculture. The processing fee will not be refunded in case of a withdrawn or cancelled application or if the LMIA is negative. Furthermore, employers or third-party representatives are prohibited from recovering the processing fee from temporary foreign workers.<sup>77</sup> In Quebec, the cost for a review of an LMIA by the Ministère de l'Immigration, Francisation et Intégration Québec (MIFI) is \$199.<sup>78</sup>

While most witnesses supported the TFWP and LMIA processes, witnesses argued that it could frustrate employers and employment, and place employees in vulnerable positions. While the interests of employers and employees are often related, this report will first address evaluations about processes that most directly affect employers, and then treats concerns about the TFWP and LMIA processes from the perspective of workers.

## Issues from the Employer Perspective

Most fundamentally, employers who depend on low-wage labour argued that the TFWP is at once vital to the survival and growth of their business, and ill-suited to their constant need to fill temporary or permanent positions. Many employers indicated their great preference for Canadian and permanent resident labour, and their extensive

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76 ESDC, [Program requirements for high-wage positions](#).

77 ESDC, "[Recruitment](#)," [Program requirements for low-wage positions](#); ESDC, [Program requirements for high-wage positions](#); ESDC, "[Business legitimacy](#)," [Program requirements for the Global Talent Stream](#); ESDC, [Hire a temporary foreign worker through the Agricultural Stream: Program requirements](#); and ESDC, [Hire a temporary worker as an in-home caregiver: Program requirements](#).

78 Immigration, Francisation et Intégration Québec, "Droits exigibles" and "Modes de paiement," [Frais et modes de paiement](#) [AVAILABLE IN FRENCH ONLY].



efforts to find Canadians and permanent residents to fill their positions.<sup>79</sup> Nonetheless, they explained that they must continually turn to the TFWP, because no other labour is available. As Stéphanie Poitras, Executive Director of Aliments Asta Inc., a pork slaughter and processing company, put it, “it’s very expensive to get immigrants to work here. So it’s not the first option ... but they are the ones who have saved us so far.”<sup>80</sup> While the numbers, duration, processing times and transition plans associated with the TFWP are designed for businesses that will move on from using temporary foreign labour—and hire Canadians or permanent residents that may become available—employers must use the TFWP to meet continual or seasonal labour needs. The structure of the program no longer fits the current reality. As Mr. Groleau put it, “what was justified then isn’t justified now.”<sup>81</sup>

### Caps and Insufficient Eligibility

The mismatch between program design and labour reality is most clear in the case of the ongoing need for given numbers of low-wage temporary foreign workers to fill permanent full-time jobs—numbers that the TFWP was not designed to fill. As Marie-France Mackinnon, Vice-President, Public Affairs and Communications at the Canadian Meat Council, explained the labour needs of meat processors and packers, “[o]ur jobs are full time, permanent and mostly all unionized, yet we have a program that is called ‘temporary.’”<sup>82</sup> At the same time, as numerous witnesses pointed out, businesses cannot fill permanent vacancies for low-wage work with the federal Express Entry or provincial nomination programs, because these intakes award so few points to low-wage labour experience and skills, and have high education requirements.<sup>83</sup> Companies are left trying to meet with short-term solutions the often significant labour needs for permanent positions that we saw in Chapter 1 of this report. Witnesses testified that the 10% cap on low-wage temporary foreign workers often leaves

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79 Living Water Resorts, *Brief*, 27 March 2021, pp. 3–4; Olymel, *Brief*, 19 April 2021, p. 4; Canadian Meat Council and Mushrooms Canada, *Brief on Agriculture and Agri-Food Immigration Demand And TFWP Challenges for our Sector*, 3 May 2021, p. 1.

80 CIMM, *Evidence*, 3 May 2021, 1540 (Stéphanie Poitras).

81 CIMM, *Evidence*, 26 April 2021, 1605 (Marcel Groleau).

82 CIMM, *Evidence*, 3 May 2021, 1535 (Marie-France MacKinnon, Vice-President, Public Affairs and Communications, Canadian Meat Council).

83 *Ibid.*, 1545 (Ryan Keoslag, Executive Vice-President, Canadian Mushroom Grower’s Association); CIMM, *Evidence*, 6 November 2020, 1520 (Raj Sharma); CIMM, *Evidence*, 18 November 2020, 1715 (Mark Holthe, Lawyer, Holthe Immigration Law, as an Individual); CIMM, *Evidence*, 12 April 2021, 1535 (Elizabeth Connery).

employers with not enough temporary spaces to fill these positions.<sup>84</sup> As Ms. Mackinnon put it, “[f]or the plants that are at 20% job vacancy, with the cap at 10%, you can see how the math just doesn’t add up.”<sup>85</sup> During the 2014 reforms, the Government of Canada brought in the 10% cap to “end the growing practice of employers building their business model on access to the TFWP.”<sup>86</sup> Today, shortages of labour for permanent, low-wage positions remain. Witnesses argued that the TFWP is a necessary but insufficient means to fill these shortages.

Employers who perpetually need seasonal labour are similarly hampered by TFWP rules that assume greater access to domestic labour than is usually available. Witnesses representing seasonal industries argued that employers continually need temporary foreign workers, because—as for other employers—they regularly cannot find enough domestic workers, even in regions of relatively high unemployment.<sup>87</sup> As Living Water Resorts described its seasonal dependence on the TFWP, “without Temporary Foreign Workers, we cannot maintain our guest rooms and keep the hotels clean.”<sup>88</sup> With some exceptions—notably, general farm workers, nursery and greenhouse workers, and harvesting labourers—seasonal employers are limited by the 10% (or 20%) cap. Employers in the Accommodation and Food Services and Retail Trade sectors, in a region defined by Statistics Canada as having an annual unemployment rate over 6%, are also disqualified from submitting LMIA applications for the TFWP. As Living Water Resorts highlighted in its brief, the Government of Canada currently considers that this 6% level of unemployment exists in all regions of Canada, because of the effect of COVID-19.<sup>89</sup> The Committee heard that this policy effectively cuts off a regular and irreplaceable source of hotel, retail and restaurant labour. Indeed, Living Water Resorts argued that it decreases employment opportunities for domestic workers—contrary to one of the

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84 CIMM, *Evidence*, 3 May 2021, 1535 (Marie-France MacKinnon); Olymel, *Brief*, 19 April 2021, p. 7; CIMM, *Evidence*, 21 April 2021, 1540 (Charles Milliard, President and Chief Executive Officer, Fédération des chambres de commerce du Québec), 1545 (Krishna Gagné, Lawyer and Vice-President for Economic Affairs, Association québécoise des avocats et avocates en droit de l’immigration), 1720 (Isabelle Leblond, Corporate Director, Human Resources, Olymel L.P.); Aliments Asta Inc., *Brief*, 3 May 2021, p. 7; CIMM, *Evidence*, 26 April 2021, 1705 (Mark Chambers, Co-Chair, Agriculture and Agri-Food Labour Task Force, Canadian Agricultural Human Resource Council).

85 CIMM, *Evidence*, 3 May 2021, 1535 (Marie-France MacKinnon).

86 ESDC, *Archived—Overhauling the Temporary Foreign Worker Program*.

87 Canadian Horticulture Council, *Brief*, 7 April 2021, p. 2; Living Water Resorts, *Brief*, 7 April 2021, pp. 3–4.

88 Living Water Resorts, *Brief*, 7 April 2021.

89 *Ibid.*, p. 5; ESDC, *Refusal to process a Labour Market Impact Assessment application*.



goals the LMIA—because it dampens business growth and increases overall unemployment.<sup>90</sup>

In order to open up an ongoing source of reliable permanent full-time labour, and not rely on the TFWP, several witnesses recommended a direct immigration pathway to permanent residence for essential low-wage workers.<sup>91</sup> Some witnesses pointed out that a direct pathway to permanent residence would make the TFWP more attractive to workers.<sup>92</sup> Others expressed concerns that the freedom of permanent residents to move from jobs and change provinces would disincentivize workers from staying in permanent positions in rural Canada,<sup>93</sup> while some argued that incentives would be necessary to entice permanent workers to stay in rural areas.<sup>94</sup> Several witnesses specified that the pathway to permanent residence should be gradual, after several years in the TFWP.<sup>95</sup> One witness argued that the pathway to permanent residency should come through “the expansion of the federal and provincial nominee programs” to recognize low-wage labour and experience.<sup>96</sup>

In order to create a reliable source of seasonal labour, two witnesses suggested creating a permanent resident stream for seasonal workers whereby, as one witness put it, workers “could go home and come back while still on the same permit.”<sup>97</sup> Living Water Resorts argued that—given the time pressure of the approaching summer restaurant, retail and accommodation season—the Minister of Employment, Workforce Development and Disability Inclusion should alter Ministerial Instructions to exempt Accommodation and Food Services applications from the 6% unemployment cut-off in the “specific local regions experiencing difficulties hiring entry-level positions,” such as

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90 Living Water Resorts, *Brief*, 7 April 2021, p. 6.

91 CIMM, *Evidence*, 5 May 2021, 1635 (Casey Vander Ploeg); CIMM, *Evidence*, 3 May 2021, 1625 (Janet Krayden, Workforce Expert, Canadian Mushroom Growers' Association), 1715 (Donald Buckle, General Manager and Vice-President, Resort Operations, Living Water Resorts); CIMM, *Evidence*, 26 April 2021, 1655 (Mark Chambers); CIMM, *Evidence*, 21 April 2021, 1640 (Leah Nord); CIMM, *Evidence*, 12 April 2021, 1605 (Daniel Vielfaure), 1615 (Elizabeth Connery); Aliments Asta Inc., *Brief*, 3 May 2021, p. 9; Olymel, *Brief*, 19 April 2021, p. 9; Canadian Horticulture Council, *Brief*, 7 April 2021, p. 3.

92 Olymel, *Brief*, 19 April 2021, p. 8.

93 CIMM, *Evidence*, 5 May 2021, 1650 (Brandon Ellis).

94 CIMM, *Evidence*, 3 May 2021, 1625 (Janet Krayden).

95 *Ibid.*; CIMM, *Evidence*, 12 April 2021, 1605 (Daniel Vielfaure).

96 CIMM, *Evidence*, 21 April 2021, 1530 (Derek Johnstone).

97 CIMM, *Evidence*, 5 May 2021, 1635 (Casey Vander Ploeg); CIMM, *Evidence*, 12 April 2021, 1615 (Elizabeth Connery). A visa that allows a temporary resident to leave and re-enter Canada more than once in a defined period of time is called a “multiple-entry visa.” Government of Canada, *Glossary*, “multiple-entry visa.”

“Collingwood, the Blue Mountains, Niagara ... etc.”<sup>98</sup> Finally, several witness argued for increasing the opportunity to hire foreign workers by exempting professions related to primary agriculture, such as food processing labourers and industrial butchers,<sup>99</sup> increasing the cap of temporary foreign workers in low-wage positions to 20%,<sup>100</sup> increasing the cap to 30% and calculating it over the whole business,<sup>101</sup> or increasing it to 50%.<sup>102</sup>

To increase the reliable supply of low-wage foreign workers positions, the Committee recommends:

### **Exempting Select Tourist Regions from the Six Percent Unemployment Limit**

#### **Recommendation 1**

**That the Minister of Employment, Workforce Development and Disability Inclusion explore altering the Ministerial Instruction *Refusal to process a Labour Market Impact Assessment* to exempt, from the 6% unemployment cut-off to Labour Market Impact Assessments, Accommodation and Food Services applications in local regions experiencing difficulties hiring entry-level positions.**

### **Increasing the Maximum Percentage of Temporary Foreign Workers**

#### **Recommendation 2**

**That Employment and Social Development Canada consider increasing the maximum number of temporary foreign workers allowed in low-wage positions to at least 20% of the company’s workforce in a single location.**

## **Administration Costs and Processing Delays**

The need for ongoing applications through the TFWP also creates high amounts of administration, complex applications and long processing timelines. To continually fill seasonal and full-time positions every eight months or every year—or even every two

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98 Living Water Resorts, *Brief*, 7 April 2021, p. 5; ESDC, *Refusal to process a Labour Market Impact Assessment application*.

99 CIMM, *Evidence*, 21 April 2021, 1635 (Isabelle Leblond).

100 Ibid., 1540 (Charles Milliard); CIMM, *Evidence*, 3 May 2021, 1645 (Bérangère Furbacco, Immigration Development Officer, Centre local de développement de la région de Rivière-du-Loup).

101 CIMM, *Evidence*, 21 April 2021, 1635 (Isabelle Leblond).

102 CIMM, *Evidence*, 26 April 2021, 1705 (Mark Chambers), 1705 (Cyr Couturier).



years, under temporary COVID-19 pandemic rules—requires continually filing TFWP applications, LMIAs, work permit applications, advertising, housing inspections, quarantine hotels and, in the case of Quebec, Québec Acceptance Certificates. As Olymel writes about the company’s application burden, “as part of this process, we have had to file 110 Labour Market Impact Assessment (LMIA) applications and 1,558 Québec Acceptance Certificates (QAC). The overall exercise represented a tremendous workload for Olymel.”<sup>103</sup> Other witnesses testified to similarly large administrative burdens.<sup>104</sup> As Daniel Vielfaure, Deputy Chief Executive Officer of Groupe Bonduelle, Chief Executive Officer of Bonduelle Americas, and Co-Chair of Food and Beverage Canada, put it, “the temporary foreign worker program seems designed to make their employment in Canada as difficult as possible. Even in normal years the TFW program is overly complex.”<sup>105</sup> While several witnesses noted that processing times for LMIAs are decreasing,<sup>106</sup> overall processing times remain high and administration is complex—delay and complexity that witnesses testified is largely increasing during the COVID-19 pandemic period.<sup>107</sup>

Many witnesses complained that administrative burdens for the TFWP are especially onerous because the applications are continual and repetitive—applications often for the same positions and same workers.<sup>108</sup> As Mr. Vander Ploeg put it, “the processing times, delays, rejected applications and having to resubmit are all part of this frustrating administrivia that employers have to deal with.”<sup>109</sup> Once again, the onerous conditions and administration of the TFWP do not reflect the constant need for temporary foreign workers as a largely continual or reoccurring labour force.

Several witnesses argued, in different ways, that ESDC should implement a “trusted employer” program. This would give certain employers—ones with track records of hiring temporary foreign workers according to the rules—the right to a streamlined

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103 Olymel, [Brief](#), 19 April 2021, p. 4.

104 CIMM, [Evidence](#), 26 April 2021, 1605 (Marcel Groleau); CIMM, [Evidence](#), 21 April 2021, 1700 (Lauren van den Berg, Executive Vice-President, Government Relations, Restaurants Canada), 1640 (Leah Nord); CIMM, [Evidence](#), 5 May 2021, 1620 (Jolayne Farn), 1615 (Casey Vander Ploeg).

105 CIMM, [Evidence](#), 12 April 2021, 1540 (Daniel Vielfaure).

106 CIMM, [Evidence](#), 21 April 2021, 1640 (Leah Nord); Canadian Federation of Agriculture, [Brief](#), 28 April 2021, p. 3; CIMM, [Evidence](#), 10 March 2021, 1805 (Philippe Massé).

107 CIMM, [Evidence](#), 21 April 2021, 1700 (Lauren van den Berg); CIMM, [Evidence](#), 3 May 2021, 1620, 1625 (Janet Krayden); CIMM, [Evidence](#), 5 May 2021, 1610 (Jolayne Farn), 1610 (Brandon Ellis), 1625 (Sheri Somerville).

108 CIMM, [Evidence](#), 12 April 2021, 1540 (Daniel Vielfaure); CIMM, [Evidence](#), 5 May 2021, 1615 (Casey Vander Ploeg).

109 CIMM, [Evidence](#), 5 May 2021, 1615 (Casey Vander Ploeg).

process when they apply for the same positions and workers. Some witnesses suggested that ESDC should use as a model the “designated employers” certification within the Atlantic Immigration Pilot program—a certification that exempts employers in good standing from the LMIA process.<sup>110</sup> Other witnesses suggested allowing employers with good records to have their LMIA expedited<sup>111</sup> or simplified.<sup>112</sup> A final group of witnesses argued that ESDC should develop a program similar to the NEXUS program that allows pre-screened travelers expedited processing when entering the United States and Canada. In this version of the trusted employer program, “the procedure could therefore be streamlined for employers in order to facilitate the transfer of an employee to another company and the return of the same workers, year after year.”<sup>113</sup>

To reduce the administrative burden on employers who continually rely on the TFWP to bring in the same workers or class of workers many years in a row, the Committee recommends:

### **Creating a Trusted Employer Designation**

#### **Recommendation 3**

**That Employment and Social Development Canada create a Trusted Employer designation that would allow employers with good records with similar applications to submit simplified Labour Market Impact Assessments for expedited processing.**

The Committee also heard that TFWP processing could be simplified and accelerated for applications outside of the multi-year scope of a Trusted Employer Program. Jolayne Farn, the Human Resources Manager at Van Raay Paskal Farm Ltd. and representative for the National Cattle Feeders’ Association, argued that ESDC should streamline the four similar LMIA that are required for the four agricultural TFWP streams.<sup>114</sup> Two witnesses suggested that ESDC alter the requirement to advertise two weeks prior to submitting an LMIA because many companies who use the program to fill permanent positions are

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110 Ibid., 1620 (Brandon Ellis), 1625 (Sheri Somerville); IRCC, [Hire through the Atlantic Immigration Pilot: get designated](#).

111 CIMM, [Evidence](#), 5 May 2021, 1615 (Casey Vander Ploeg); CIMM, [Evidence](#), 26 April 2021, 1530 (Terry Shaw, Executive Director, Manitoba Trucking Association).

112 CIMM, [Evidence](#), 26 April 2021, 1615 (Andrew Carvajal, Lawyer and Partner, Desloges Law Group Professional Corporation).

113 Ibid., 1605 (Marcel Groleau).

114 CIMM, [Evidence](#), 5 May 2021, 1645 (Jolayne Farn).



advertising all the time.<sup>115</sup> Other witnesses suggested simplifying the LMIA and making it more affordable by allowing employers to submit batches or banks of LMIA applications if they are all for the same type of position,<sup>116</sup> and to be charged for multiple applicants by the number of LMIA applications, rather than by the number of workers covered by the LMIA applications.<sup>117</sup> Two witnesses also argued that the LMIA application can be shortened, because it does not add any information strictly necessary for making a decision, and simply asks the employer to confirm that existing rules will be followed, or asks for information already given in attached documentation.<sup>118</sup> The Union des producteurs agricoles outlined, in its written brief, approximately 24 questions that the organization argues can be removed.<sup>119</sup>

Other witnesses recommended that the employers be able to easily extend LMIA applications and supporting documents. Two witnesses argued for the systematic renewal of LMIA applications and work permits.<sup>120</sup> As Stéphanie Jeanne Bouchard, Immigration Development Officer at the Centre local de développement de la région de Rivière-du-Loup, put it, “a facilitated extension system for LMIA applications and work permits should be proposed, especially when it comes to steps to submit a second, third, even a fourth LMIA application, so that the company can renew a foreign worker's authorization to remain in their current position.”<sup>121</sup> Similarly, the Olymel written brief recommended that the “federal government implement a new LMIA exemption or modify an existing exemption to allow temporary foreign workers in [the food processing and distributing] sector to obtain an employer-specific work permit with a job offer ... after 18 months of work experience.”<sup>122</sup> Several witnesses argued that work permits should last two or three years, or longer, rather than only one.<sup>123</sup>

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115 Ibid.; CIMM, [Evidence](#), 26 April 2021, 1605 (Scott Kinley, Chief Executive Officer, Gladstone Transfer Ltd, Manitoba Trucking Association).

116 CIMM, [Evidence](#), 26 April 2021, 1605 (Scott Kinley).

117 Olymel, [Brief](#), 19 April 2021, p. 11.

118 Union des producteurs agricoles, [Brief](#), p. 1; CIMM, [Evidence](#), 26 April 2021, 1530 (Terry Shaw).

119 Union des producteurs agricoles, [Brief](#), pp. 5–11.

120 CIMM, [Evidence](#), 3 May 2021, 1645 (Stéphanie Jeanne Bouchard, Immigration Development Officer, Centre local de développement de la région de Rivière-du-Loup); CIMM, [Evidence](#), 21 April 2021, 1540 (Charles Milliard).

121 CIMM, [Evidence](#), 3 May 2021, 1645 (Stéphanie Jeanne Bouchard).

122 Olymel, [Brief](#), 19 April 2021, p. 9.

123 CIMM, [Evidence](#), 21 April 2021, 1705 (Olivier Bourbeau), 1705 (Isabelle Leblond); CIMM, [Evidence](#), 26 April 2021, 1620 (Marcel Groleau); CIMM, [Evidence](#), 3 May 2021, 1610 (Édith Laplante).

In light of this testimony, the Committee recommends:

### **Increasing the Duration of Work Permits**

#### **Recommendation 4**

**That Immigration, Refugees and Citizenship Canada consider increasing the duration of work permits and visas.**

Finally, the Committee heard that work permits should be more flexible and be able to apply more broadly. Olivier Bourbeau, Vice-President, Federal and Quebec, of Restaurants Canada, recommended that “if an employer and an employee agree to change the employee’s duties, it would have to be accepted” by the government.<sup>124</sup> Other witnesses suggested either that ESDC should create a sector-specific work permit, or that it should create a multi-employer work permit<sup>125</sup> to attract workers and increase employer flexibility to share labour between different employers.

### **Communication and Transparency**

Given the complexity of the LMIA process, the Committee also heard of the need for improvements in communication between agencies, clients, workers and relevant third parties, and for greater transparency in the application system. In his submission to the Committee, Jacobus Kriek’s first recommendation is for ESDC to publish all LMIA directives to allow employers to understand the rules.<sup>126</sup> The Canadian Federation of Agriculture highlighted, in its written brief, “confusing and overlapping inspections [of TFW housing] related to the program, particularly during the pandemic.”<sup>127</sup> This overlap can confuse employers and delay applications. The organization recommended “increased information sharing between Service Canada, IRCC, [and] between orders of government to simplify inspections & processing efforts.”<sup>128</sup> Other witnesses recommended that Service Canada officials familiar with a given industry and region

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124 CIMM, *Evidence*, 21 April 2021, 1725 (Olivier Bourbeau).

125 CIMM, *Evidence*, 3 May 2021, 1710 (Alain Brebion, Reception and Integration Officer, Corporation de développement économique de la MRC de Montmagny, as an Individual), 1700 (Stéphanie Jeanne Bouchard).

126 Jacobus Kriek, *Brief*, 7 May 2021, p. 10.

127 Canadian Federation of Agriculture, *Brief*, 28 April 2021, p. 3.

128 Ibid.



review applications<sup>129</sup> or conduct audits.<sup>130</sup> Ms. Farn described issues in relation to Service Canada’s misunderstanding of their application: “Our job descriptions are not understood, and neither are rural locations and addresses. The resulting delays and denied applications are, again, at the employers expense.”<sup>131</sup> Finally, Canadian Meat Council and Mushrooms Canada recommended, in their written brief, that ESDC apply a 30-day benchmark to agriculture and agri-food TFWP extensions if the workers are already in Canada.<sup>132</sup>

Having heard that greater Service Canada officer expertise in given sectors and regions is beneficial to accurate and efficient application processing and audits, the Committee recommends:

**Providing Knowledgeable Service Canada Officers for Labour Market Impact Assessments and Audits**

**Recommendation 5**

**That Service Canada train and deploy Service Canada officers with increased knowledge of the sectors and regions that they serve.**

**Co-ordinating to Ensure Adequate Inspections of Working Conditions for Temporary Foreign Workers**

**Recommendation 6**

**That Immigration, Refugees and Citizenship Canada and Employment and Social Development Canada coordinate with different levels of government to ensure an adequate inspection process of workplaces and working conditions for temporary foreign workers.**

## **Issues from the Employee Perspective**

While the TFWP creates advantages for both employer and employee in securing temporary positions in Canada, the conditions of temporary work in Canada also place

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129 CIMM, *Evidence*, 5 May 2021, 1610 (Jolayne Farn).

130 CIMM, *Evidence*, 26 April 2021, 1555 (Scott Kinley).

131 CIMM, *Evidence*, 5 May 2021, 1610 (Jolayne Farn).

132 Canadian Meat Council and Mushrooms Canada, *Brief*, 23 December 2020, p. 4.

migrant workers in vulnerable positions—positions sometimes exploited by employers, consultants and recruitment agents.

The vulnerability of temporary foreign workers is most clear in relation to their dependence on the employer to which their work permit and LMIA are connected. Witnesses highlighted that the work permit that gives the temporary foreign worker access to a job also makes avoiding poor treatment or overwork difficult, because the permit is employer-specific or “closed.” Workers cannot simply move to another employer instead. Similarly, they cannot exercise control over their workloads by finding additional work at other businesses later in the season.<sup>133</sup> At the same time, they often find returning home early to be prohibitively expensive. They are more prone to stay—and more easily taken advantage of—because they have few other options.<sup>134</sup> Syed Hussan, Executive Director of Migrant Workers Alliance for Change, explained the power imbalance by asking questions from employee and employer perspectives:

If you were in a low-wage job and you could be fired, made homeless because you live in employer-provided housing, couldn't immediately move to another job because your permit bars you from doing so, and if you could not return in the future to the country where you worked because employers have control over who gets invited back, would you speak up about your exploitation?

Now think about it inversely. If you were an employer and you knew all this, would you take shortcuts, push your workers harder, and in the worst cases carry out wholesale exploitation and discrimination?<sup>135</sup>

While many responsible employers exist, temporary foreign workers are vulnerable to exploitation by employers because the workers are so dependent on them.

At the same time, temporary foreign workers lack strong mechanisms to complain and exercise their rights under the LMIA process. As Mr. Hussan put it:

There is no legislation that governs enforcement and no court or legal process to turn to for workers to denounce violations of their rights. Neither is there any meaningful mechanism for ESDC to ensure that workers receive reparations for violations of their rights. All that exists is a tip line, but by law, ESDC is barred from sharing the fact of

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133 CIMM, *Evidence*, 3 May 2021, 1710 (Alain Brebion).

134 CIMM, *Evidence*, 28 April 2021, 1545 (Myriam Mekni, Executive Director, Atlantic Region Association of Immigrant Serving Agencies); CIMM, *Evidence*, 21 April 2021, 1610 (Derek Johnstone); CIMM, *Evidence*, 12 April 2021, 1640 (Syed Hussan).

135 CIMM, *Evidence*, 12 April 2021, 1640 (Syed Hussan).



inspections, and even results of inspections, with the workers who make the complaint.<sup>136</sup>

Employers complained of confused, overlapping and expensive housing and workplace inspections. At the same time, Mr. Hussan, speaking from an employee perspective, argued that these inspections are ineffective: “Most inspections are preannounced, and rarely do they result in increased employer compliance, never mind better worker protections.”<sup>137</sup> While several employer witnesses reported that their workers were unionized,<sup>138</sup> such unions do not exist in all sectors in which temporary foreign workers work.

Temporary foreign workers may also be vulnerable to exploitative consultants and recruitment agents. As Derek Johnstone of the United Food and Commercial Workers Union Canada described the power of corrupt recruitment firms:

[W]e have people coming from places like Honduras, Guatemala and Mexico ... paying upwards of \$10,000 for the opportunity to pick tomatoes in Canada. They get that money from loan-sharks. They get the money from organized crime. They get it where they can, because the fact is it is a life-changing opportunity for folks ... which creates a very vulnerable and precarious population.<sup>139</sup>

Similarly, as Ms. Lehal explained, temporary foreign workers are sometimes scammed by consultants and employers in Canada into paying unneeded fees:

On a regular basis my office receives phone calls from foreign workers who have been charged illegal and extravagant fees to obtain an LMIA. We hear recurrent stories of foreign nationals who have paid tens of thousands of dollars, averaging around \$40-50,000.00 upwards to an employer and/or consultant.<sup>140</sup>

Once again, temporary foreign workers have little recourse, because, Ms. Lehal argued, the Immigration Consultants of Canada Regulatory Council, which regulates consultants, has weak enforcement capabilities. Indeed, many foreign workers are “reluctant ... to report the matter for fear of being deporting from Canada or fear for their own lives and safety.”<sup>141</sup> This is often the vulnerability of temporary foreign workers: they fear

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136 Ibid.

137 Ibid.

138 CIMM, [Evidence](#), 21 April 2021, 1635 (Louis Banville), 1615 (Alexandre Gagnon); CIMM, [Evidence](#), 3 May 2021, 1535 (Marie-France MacKinnon); CIMM, [Evidence](#), 26 April 2021, 1705 (Mark Chambers).

139 CIMM, [Evidence](#), 21 April 2021, 1610 (Derek Johnstone).

140 Lehal Law, [Brief](#), 27 April 2021, p. 1.

141 Ibid., p. 2.

complaining because they could fall outside the legitimate system and become undocumented. If they do leave an employer for reasons of abuse or exploitation, they can become undocumented workers, who are vulnerable to deportation on the one hand, and who lack work and medical protections on the other—a problem that is especially acute under COVID-19 conditions.<sup>142</sup>

The result of this multi-level vulnerability is that temporary foreign workers are sometimes exploited by employers. As Mr. Johnstone put it, “[t]here are many responsible employers in the system, but we know from 30 years of doing this that all you have to do is pick up ... your mainstream publication to read about all the irresponsible employers.”<sup>143</sup> Similarly, The Neighbourhood Organization, in its written brief, detailed abuse of caregivers—abuse that has gotten worse under COVID-19 lockdowns:

There continue to be many abusive and inconsiderate employers who force these workers to work long hours without compensation. Some employers do not allow migrant caregivers to leave the residence, not even for a walking exercise that will reduce their stress level, and many caregivers simply have no time for themselves. Because of their precarious status, caregivers cannot advocate for better working conditions.<sup>144</sup>

The Committee thus heard that temporary foreign workers may be exploited in Canada under the LMIA, because they lack the status and protections to challenge abuse by employers, consultants and recruitment agents.

In different ways, witnesses argued that ESDC and IRCC should address this vulnerability by extending benefits and status to foreign workers in the TFWP. Many witnesses that addressed exploitation called for granting temporary foreign workers immediate landed status on arrival, and “regularizing” the status of those already in Canada to that of permanent resident.<sup>145</sup> Witnesses argued that permanent residents have stronger protections, because they have mobility rights and may leave abusive employers. As such, foreign workers would no longer fear deportation if using official channels to come forward about abuse. Regularization as permanent residents would also give foreign workers access to health care and vaccines, especially if the workers are presently

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142 IRCC, *Vulnerable foreign workers who are victims of abuse*. A temporary foreign worker can apply for an open work permit if leaving an abusive situation.

143 CIMM, *Evidence*, 21 April 2021, 1610 (Derek Johnstone).

144 The Neighbourhood Organization, *Brief*, 12 April 2021, p. 2.

145 CIMM, *Evidence*, 21 April 2021, 1610 (Derek Johnstone); CIMM, *Evidence*, 12 April 2021, 1640 (Syed Hussan), 1705 (Maria Esel Panlaqui, Manager, Community Development and Special Projects, The Neighbourhood Organization).



undocumented. Overall, numerous witnesses called for the regularization of individuals in Canada with precarious immigration status or who are out-of-status.<sup>146</sup>

Other witnesses argued for more selective and gradual changes: offering more accessible pathways to permanent residence over time,<sup>147</sup> creating a database of legitimate employers and employees to cut out consultants and recruitment agents,<sup>148</sup> and setting up ongoing consultations between government, employers and unions to improve employee retention and working conditions.<sup>149</sup> On the health care side, witnesses recommended creating an expedited open work permit for temporary foreign workers injured on the job (and unable to convince a new employer to pay for a new LMIA),<sup>150</sup> and providing “free access to health care regardless of valid health card,” including access to COVID-19 testing.<sup>151</sup> Finally, witnesses recommended giving temporary foreign workers access to open, sectoral or regional work permits,<sup>152</sup> which would give them greater ability to change employers and control their workloads.<sup>153</sup>

Considering both the employer’s need for reliable labour and attracting temporary foreign workers, and the vulnerability of temporary foreign workers to exploitation, the Committee recommends:

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146 CIMM, [Evidence](#), 30 November 2020, 1615 (Avvy Yao-Yao Go, Clinic Director, Chinese and Southeast Asian Legal Clinic); CIMM, [Evidence](#), 6 November 2020, 1600 (Lorne Waldman, Lawyer, Waldman & Associates, As an Individual), 1600 (Raj Sharma, Managing Partner, Stewart Sharma Harsanyi, As an Individual), 1600 (Guillaume Cliche-Rivard, President, Association québécoise des avocats et avocates en droit de l’immigration); CIMM, [Evidence](#), 16 November 2020, 1655 (Debbie Douglas, Executive Director, Ontario Council of Agencies Serving Immigrants); CIMM, [Evidence](#), 12 April 2021, 1510 (Shaitan Singh Rajpurohit), 1625 (Jagdeep Singh Batth, Coordinator, Process Improvement, United Refugee Council Canada), 1705 (Syed Hussan); CIMM, [Evidence](#), 21 April 2021, 1625 (Derek Johnstone); The Neighbourhood Organization, [Brief](#), 12 April 2021, p. 2.

147 CIMM, [Evidence](#), 6 November 2020, 1600 (Lorne Waldman).

148 Lehal Law, [Brief](#), 27 April 2021, p. 2.

149 CIMM, [Evidence](#), 21 April 2021, 1530 (Derek Johnstone).

150 Lehal Law, [Brief](#), 27 April 2021, p. 3.

151 The Neighbourhood Organization, [Brief](#), 12 April 2021, p. 4.

152 CIMM, [Evidence](#), 26 April 2021, 1625 (Marcel Groleau); CIMM, [Evidence](#), 3 May 2021, 1710 (Alain Brebion).

153 CIMM, [Evidence](#), 3 May 2021, 1710 (Alain Brebion).

### **Preventing Abuse by Offering More Accessible Pathways to Permanent Residence**

#### **Recommendation 7**

**That Immigration, Refugees and Citizenship Canada issue ministerial instructions to create a broadly accessible pathway to permanent residency for temporary foreign workers, asylum seekers and out-of-status workers.**

### **Creating Sectoral and Regional Work Permits**

#### **Recommendation 8**

**That Immigration, Refugees and Citizenship Canada consider the creation of sectoral and/or regional work permits.**

### **Reviewing Out-of-Status Construction Workers Policy to Expand Best Practices**

#### **Recommendation 9**

**That the Government of Canada undertake a review of the temporary public policy for out-of-status construction workers in the Greater Toronto Area (GTA) that provided permanent residence to out-of-status construction workers in order to learn best practices to expand the program to include other sectors of work such as caregivers.**

## **CHAPTER 3: OTHER IMMIGRATION PROGRAMS**

This chapter describes programs and initiatives for workers with skill sets and education that are not targeted by the main categories of the economic immigration programs: the Provincial Nomination Program (PNP) and different pilot programs.

### **Provincial Nominee Program**

The Committee heard that, traditionally, employers with year-round work opportunities, such as greenhouses, supported a worker in their application to transition from temporary foreign worker status to permanent residence under the PNP.<sup>154</sup> As IRCC describes this program, each province or territory may select and nominate individuals

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154 CIMM, *Evidence*, 12 April 2021, 1535 (Elizabeth Connery); Canadian Horticultural Council, *Brief*, 7 April 2021, p. 3.



for permanent residence based on their labour market needs, with programs categorized in different streams with varying requirements. The PNP is for workers who:

- have the skills, education and work experience to contribute to the economy of a specific province or territory;
- want to live in that province; and
- want to become permanent residents of Canada.<sup>155</sup>

While applications are usually paper-based, applicants may use the Express Entry online intake system that awards points for a provincial nomination letter. The federal government is responsible for assessing the admissibility of each nominated individual. This involves medical, criminal and security screening. The federal government also ensures that PNPs comply with IRPA and immigration policy.<sup>156</sup>

The Canadian Chamber of Commerce told the Committee that it supported the continued devolution of the immigration selection process to local levels, using the PNP and other pilots.<sup>157</sup> Mr. Johnstone said that the “key to a better way forward is the expansion of the federal and [PNP] programs.”<sup>158</sup>

Some barriers to using the PNP were identified by witnesses, such as education and language requirements. Ms. MacKinnon told the Committee that the PNP was focused on university education, and does not recognize important skills such as meat cutting skills.<sup>159</sup> Janet Krayden, Workforce Expert for the Canadian Mushroom Grower’s Association, added that both language and education criteria are increasing in all provincial nominee programs, and that “[the provinces] keep saying they’re following what the federal government is telling them. ... They are language benchmarking to level 4.”<sup>160</sup> Mr. Johnstone told the Committee that in Manitoba the UFCW Local 832 had

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155 IRCC, [Provincial Nominee Program](#). Quebec does not have a provincial nominee program.

156 IRCC, [“1.2. Brief Program Profile,” Evaluation of the Provincial Nominee Program](#), November 2017. The PNP was introduced in 1996.

157 CIMM, [Evidence](#), 21 April 2021, 1640 (Leah Nord).

158 Ibid., 1530 (Derek Johnstone).

159 CIMM, [Evidence](#), 3 May 2021, 1535 (Marie-France MacKinnon), 1545 (Ryan Koeslag).

160 CIMM, [Evidence](#), 3 May 2021, 1620, 1625 (Janet Krayden). The Canadian Language Benchmark 4 requires being “fluent” in “Basic Language Ability” which “encompasses abilities that are required to communicate in common and predictable contexts about basic needs, common everyday activities and familiar topics of immediate personal relevance.” Citizenship and Immigration Canada, [Canadian Language Benchmarks](#), 2012, pp. X–XI.

offered language training in the meat sector while working with the provincial government on PNPs: “We worked hand in hand with employers to make sure that migrants had the skills they needed over time to fully integrate into their communities.”<sup>161</sup> He questioned how realistic requiring a migrant worker to pass a level 4 English exam was.<sup>162</sup>

## Pilot Programs

Specific demands for labour programs led IRCC to launch pilot programs, using the authority of issuing ministerial instructions to attain “economic goals.”<sup>163</sup> A regional program was developed for the Atlantic provinces. When the Live-in Caregiver Program ended in 2014, two pilot programs were created to address the needs in that sector. IRCC more recently created the Rural and Northern Immigration Pilot and the Agri-Food Pilot programs.

## Atlantic Immigration Pilot Program

The Atlantic Immigration Pilot program is employer-driven and aims to facilitate hiring foreign workers and international graduates who want to work and live in one of Canada’s Atlantic Provinces.<sup>164</sup> The provinces are responsible for approving employers. The employer’s application includes not only showing their labour needs but how the worker will be welcomed and provided with settlement services with an aim to attract and retain this worker; there is no LMIA. Applicants must have a job offer from a designated employer under the pilot program, and their spouses can have open work permits.

In October 2020, IRCC published its evaluation of the Atlantic Immigration Pilot program. Overall, the program helps “employers in Atlantic Canada fill labour market needs, particularly in technical occupations and skilled trades (NOC B) and intermediate level occupations (NOC C).”<sup>165</sup>

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161 CIMM, *Evidence*, 21 April 2021, 1620 (Derek Johnstone).

162 Ibid., 1555.

163 IRPA, s. 14.1. These new categories are limited to 2,750 applications.

164 IRCC, *Immigrate through the Atlantic Immigration Pilot : about the pilot*. It was studied during the 42<sup>nd</sup> Parliament by CIMM, and a report entitled *Immigration to Atlantic Canada: Moving to the Future* was tabled in November 2017.

165 IRCC, *Evaluation of the Atlantic Immigration Pilot*, October 2020.



The Committee heard that this program was appreciated by employers.<sup>166</sup> The Atlantic Region Association of Immigrant Serving Agencies called it a success that “can be measured by the fact it will become a permanent stream in 2022.”<sup>167</sup> The Canadian Agricultural Human Resource Council commented that this pilot could be expanded to other provinces.<sup>168</sup> Lauren van den Berg, Executive Vice-President, Government Relations of Restaurants Canada told the Committee that it should be a model for other programs:

The Atlantic immigration pilot program was a phenomenal success by almost any metric. Our operators in the region were positively thrilled about it—about the outcome, about the relative ease with which they were able to access that enthusiastic skilled labour, and about the enthusiasm with which they often stayed on, as long as they could, to work those permanent pathways. We’ve been asking for a good long time for similar programs.<sup>169</sup>

### Home Child Care Provider Pilot and Home Support Worker Pilot Programs

The Home Child Care Provider Pilot and the Home Support Worker Pilot programs were launched in June 2019 for a five-year period. They are the fifth iteration of this specific immigration stream, which offers temporary foreign workers a path to permanent residence. They replace the Live-in Caregiver Program, which ended in November 2014; the Caring for People with High Medical Needs Program and the Caring for Children Program, which both ended in June 2019; and the transition program, named Interim Pathway for Caregivers, which ran from June to October 2019. Employers who wish to hire a caregiver are exempt of paying the LMIA fee in two situations: (1) when providing home care for family members requiring assistance with medical needs; and (2) when the family has a gross annual income of \$150,000 or less, and is seeking to hire a foreign caregiver to provide childcare in their home to a child under 13 years of age.<sup>170</sup>

The Home Child Care Provider Pilot and the Home Support Worker Pilot programs are for qualified caregivers (NOC C) and their family members to come to Canada with the goal of becoming permanent residents. IRCC evaluates the eligibility for permanent

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166 CIMM, [Evidence](#), 5 May 2021, 1650 (Brandon Ellis).

167 CIMM, [Evidence](#), 28 April 2021, 1545 (Craig Mackie, Co-Chair, Board of Directors, Atlantic Region Association of Immigrant Serving Agencies).

168 CIMM, [Evidence](#), 26 April 2021, 1720 (Cyr Couturier).

169 CIMM, [Evidence](#), 21 April 2021, 1725 (Lauren van den Berg).

170 ESDC, [Hire a temporary worker as a live-in caregiver—Program requirements](#).

residence before the applicants arrive. Those who meet the requirements, including one year of post-secondary education and English at a level 5, are given a sectoral work permit that is not tied to a specific employer. They must acquire 24 months of work experience to be eligible for permanent residence. Dependent children and spouses can also apply for an open work permit or study permit to accompany these workers.<sup>171</sup>

Witnesses that spoke about the concerns related to caregivers highlighted that the problems encountered by caregivers before the 2019 changes continue today: caregivers do not have permanent residence and it is the precariousness of their position that makes them vulnerable.<sup>172</sup> Furthermore, the new language levels and the increased education requirements are barriers to permanent residence.<sup>173</sup> In its written brief, The Neighbourhood Organization quoted an article from the *Toronto Star* that indicated that very few applications under the new 2019 programs have been accepted.<sup>174</sup> This article was also mentioned by Faye Arellano, Law Clerk and Community Advocate-Volunteer, when she was providing observations about not knowing any successful applicants under the new programs.<sup>175</sup>

The caregivers who were not able to transition and obtain permanent residence with the new programs are working with work permits that need to be renewed and with employers that often need LMIA's. They also continue to be separated from their families. One witness suggested that an amnesty program should be created for caregivers who have lost their status.<sup>176</sup>

During the Committee's study, IRCC launched a processing plan to:

- finalize permanent residence applications for up to 6,000 caregivers who have completed their in-Canada work experience and their immediate family members, by 31 December 2021;

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171 IRCC, [Home Child Care Provider Pilot and the Home Support Worker Pilot](#). For more information on past programs, see IRCC, [Caregivers](#).

172 CIMM, [Evidence](#), 12 April 2021, 1645 (Jennifer Rajasekar, Manager, Newcomer Support Services, The Neighbourhood Organization); CIMM, [Evidence](#), 12 April 2021, 1705 (Maria Esel Panlaqui); Sarah Nasrullah, [Brief](#), 7 June 2021.

173 CIMM, [Evidence](#), 12 April 2021, 1650 (Jennifer Rajasekar); CIMM, [Evidence](#), 12 April 2021, 1705 (Maria Esel Panlaqui).

174 The Neighbourhood Organization, [Brief](#), 12 April 2021, p. 3.

175 CIMM, [Evidence](#), 28 April 2021, 1535 (Faye N. Arellano, Law Clerk and Community Advocate-Volunteer, As an Individual).

176 *Ibid.*, 1615.



- make at least 1,500 first-stage decisions on applications for the Home Child Care Provider and Home Support Worker pilots by 30 June 2021 (prioritization of these decisions will allow more caregiver work permits to be issued for those who have valid job offers to work for families in Canada);
- increase the digitization of caregiver applications; and
- ensure applicants receive acknowledgement of receipt letters by 31 May 2021.<sup>177</sup>

A new public policy was issued 3 May 2021 so that IRCC can process applications in 2021 that were received in 2020.<sup>178</sup>

### Rural and Northern Immigration Pilot

The Rural and Northern Immigration Pilot is a community-driven program for skilled foreign workers and international students who want to work and live in one of 11 participating communities.<sup>179</sup> The program was announced in the middle of June 2019, and started in December 2020.<sup>180</sup>

During its study on the effect of COVID-19 on the immigration system, the Committee heard that a large part of the rural labour pool in some sectors is comprised of international students.<sup>181</sup> Meredith Armstrong, Acting Director, Economic Development, City of Greater Sudbury, explained that this pilot was one tool to address the city's labour market needs. She said it was not the fastest way, but certainly a new way, to engage with employers and candidates who do not necessarily fit in the Express Entry program.<sup>182</sup> Ms. Armstrong also told the Committee that the City of Greater Sudbury had

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177 IRCC, [\*Minister Mendicino launches plan to accelerate caregiver application processing\*](#), News release, 15 April 2021.

178 IRCC, [\*Temporary public policy to facilitate the granting of permanent residence for caregivers who applied under the Home Child Care Provider Class or Home Support Worker Class in 2020\*](#), 3 May 2021.

179 IRCC, [\*Rural and Northern Immigration Pilot: about the pilot\*](#).

180 IRCC, [\*Rural and Northern Immigration Pilot Takes Off\*](#), News release, 14 June 2019; IRCC, [\*Minister Mendicino announces increased flexibility in Rural and Northern Immigration Pilot and welcomes practical nurses\*](#), News release, 14 December 2020.

181 CIMM, [\*Evidence\*](#), 27 October 2020, 1610 (Chantale Munger, Pedagogical Advisor, Cégep de Jonquière); CIMM, [\*Evidence\*](#), 18 November 2020, 1625 (Helen Francis, President and Chief Executive Officer, YMCA of Northeastern Ontario).

182 CIMM, [\*Evidence\*](#), 23 November 2020, 1615 (Meredith Armstrong).

managed expectations from the start, indicating they would draw candidates from foreign nationals already in the community. She hoped there would be continued funding and support for the program.<sup>183</sup>

Leah Nord, from the Canadian Chamber of Commerce, said that labour market integration was “among the most important considerations as this sets up immigrants for success.” She described the Rural and Northern Immigration Pilot as “really innovative and interesting” because “a business community, either a chamber or a EcDev, had to lead that application.”<sup>184</sup>

To ensure the Rural and Northern Immigration Program’s success, the Committee recommends:

### **Providing Continued Support to Rural and Northern Communities**

#### **Recommendation 10**

**That Immigration, Refugees and Citizenship Canada ensure continued funding and support to communities that are participating in the Rural and Northern Immigration Pilot.**

### **Agri-Food Pilot**

The Agri-Food Pilot (AFP) is an industry-specific program for foreign workers, particularly in meat processing and mushroom production. To participate in the pilot, applicants must have “12 months of full-time, non-seasonal Canadian work experience in the Temporary Foreign Worker Program, in an eligible occupation in processing meat products, raising livestock, or growing mushrooms or greenhouse crops.”<sup>185</sup> Employers help workers transition to permanent residence. The AFP started 15 May 2020 and will run until 14 May 2023: “A total of 2,750 applications will be accepted annually throughout the pilot, which applies primarily to people who are already in Canada.”<sup>186</sup> In addition, there is a maximum number of complete applications processed for each eligible occupation.

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183     Ibid., 1630.

184     CIMM, *Evidence*, 21 April 2021, 1655 (Leah Nord).

185     IRCC, *Agri-Food Immigration Pilot*. This pilot can not be used in Quebec.

186     IRCC, *Agri-Food Pilot begins accepting applications May 15*, News release, 15 May 2020.



The Committee heard that the introduction of the pilot was well received, although there are various challenges with the program.<sup>187</sup> One of these challenges is the education criteria, which requires a high school diploma or more. Ms. Krayden informed the Committee that an entry-level mushroom harvester required six months on-the-job training, training that was not recognized by IRCC.<sup>188</sup> She suggested that valuable on-the-job training replace the education criteria in the AFP.<sup>189</sup>

Other suggestions addressed issues with agriculture and butcher work permit renewals that have been exacerbated due to COVID-19: witnesses argued that IRCC should be completing these within 30 days. Further, for IRCC to have a way to search for these 17,000 farm and food workers, a new field for a NOC code should be added to the immigration form that is used to extend work permits.<sup>190</sup>

Another suggestion is for the AFP to follow the model of the PNP. Just as provinces issue a provincial nominee letter, IRCC should provide a letter to a candidate that is accepted into the AFP so that the employer can stop counting this individual within the cap imposed by the TFWP.<sup>191</sup>

Cyr Couturier, Chair of the Canadian Agricultural Human Resource Council, said that the AFP should become permanent.<sup>192</sup>

The Committee heard how the sector specific pilot was of interest, although the education and language requirements were difficult to meet. To ensure the success of the AFP, the Committee recommends:

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187 CIMM, [Evidence](#), 3 May 2021, 1535 (Marie-France MacKinnon); Canadian Federation of Agriculture, [Brief](#), pp. 5–6.

188 CIMM, [Evidence](#), 3 May 2021, 1550 (Janet Krayden).

189 *Ibid.*, 1600 (Marie-France MacKinnon).

190 Canadian Meat Council and Mushrooms Canada, [Brief on Agriculture and Agri-Food Immigration Demand And TFWP Challenges for our Sector](#), 3 May 2021, p. 5.

191 *Ibid.*

192 CIMM, [Evidence](#), 26 April 2021, 1720 (Cyr Couturier).

## Accepting On-The-Job Training as Equivalent Education for the Agri-Food Pilot

### Recommendation 11

**That Immigration, Refugees and Citizenship Canada recognize on-the-job training provided by meat processors and mushroom growers over a sufficient time period as equivalent to the education requirement needed to qualify for the Agri-Food Pilot.**

## New Pathways to Permanent Residence for 2021

On 14 April 2021, Minister Mendicino announced three new streams for the year 2021 that would allow temporary residents to apply for permanent residence.<sup>193</sup> IRCC started accepting applications on 6 May 2021, and these streams will remain open until 5 November 2021, or until they have reached their limit. The three streams and their respective quotas are:

- 20,000 applications for temporary workers in health care;
- 30,000 applications for temporary workers in other selected essential occupations; and
- 40,000 applications for international students who graduated from a Canadian institution.<sup>194</sup>

The 40 health-related occupations are listed in Annex A and the 95 occupations of essential workers are in Annex B of the Temporary public policy to facilitate the granting of permanent residence for foreign nationals in Canada, outside of Quebec, with recent Canadian work experience in essential occupations.<sup>195</sup>

IRCC published a notice regarding official language requirements for the pathways: international graduates must have a level 5, and other workers must have a level 4. Tests that are less than two years old are also considered valid.<sup>196</sup>

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193 IRCC, [\*New pathway to permanent residency for over 90,000 essential temporary workers and international graduates\*](#), News release, 14 April 2021. Temporary foreign workers in Quebec are excluded from these pathways.

194 Ibid.

195 IRCC, [\*Temporary public policy to facilitate the granting of permanent residence for foreign nationals in Canada, outside of Quebec, with recent Canadian work experience in essential occupations\*](#), 12 April 2021.

196 IRCC, [\*Language testing for the temporary pathway to permanent residence\*](#), Notice, 22 April 2021.



The Committee heard a range of observations regarding these new pathways. Andrew Carvajal, Lawyer and Partner at Desloges Law group, said that “[o]n April 14, the government made one of the most exciting announcements I remember as an immigration lawyer.”<sup>197</sup> However, he told the Committee that there was very little information or time to prepare applications, which led to “a frenzy of people booking English tests and medical exams and ordering police certificates, not knowing if they will be required or not.”<sup>198</sup> Ms. Lehal described the reaction of her clients: “There is a real panic.”<sup>199</sup> Mr. Vander Ploeg said that “[o]ne of the issues with the 90,000 that was announced was that it came out of the blue. It surprised everybody, and now there’s a mad scramble to take advantage of it.”<sup>200</sup> For Mr. Johnstone, allowing 30,000 low-skilled migrants to apply for permanent residence was “a good first step. We need those significant numbers annually.”<sup>201</sup>

Several witnesses highlighted that the little notice, high language levels and need for testing would actually leave out the low-skilled and semi-skilled foreign workers that these pathways target.<sup>202</sup> Vilma Pagaduan, Advocate for Caregivers and Settlement Workers, suggested that an exclusive pathway should be made for caregivers in Canada, while Ms. Lehal highlighted that undocumented workers were left out.<sup>203</sup> In his submission to the Committee, Basil Omeje argued that many health care sector and essential workers are excluded from these pathways because their refugee claims are ineligible to be referred to the Immigration and Refugee Board.<sup>204</sup>

Furthermore, the Committee learned that applicants could not use third parties to submit applications.<sup>205</sup> Ms. Farn told the Committee that workers were concerned about the up-front \$1,000 fee that would not be reimbursed if the application failed, the fact that they had no support, and the fact that they had to submit everything at once.<sup>206</sup>

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197 CIMM, [Evidence](#), 26 April 2021, 1535 (Andrew Carvajal).

198 Ibid., 1535.

199 Ibid., 1700 (Kamaljit Lehal).

200 CIMM, [Evidence](#), 5 May 2021, 1650 (Casey Vander Ploeg).

201 CIMM, [Evidence](#), 21 April 2021, 1555 (Derek Johnstone).

202 CIMM, [Evidence](#), 26 April 2021, 1535, 1610 (Andrew Carvajal), 1710 (Vilma Pagaduan, Advocate for Caregivers and Settlement Workers, As an Individual).

203 CIMM, [Evidence](#), 26 April 2021, 1700 (Kamaljit Lehal), 1715 (Vilma Pagaduan).

204 Basil Omeje, [Brief](#), 19 May 2021.

205 CIMM, [Evidence](#), 5 May 2021, 1610 (Jolayne Farn).

206 Ibid., 1640.

The Committee heard that, although welcomed, the sudden announcement of the new pathways caught many unprepared. For workers who must submit the application on their own, the fee is a substantial one. The Committee recommends:

### **Giving More Advance Notice and Details of Requirements when Launching New Programs**

#### **Recommendation 12**

**That Immigration, Refugees and Citizenship Canada, in planning future execution of innovative programs, consider providing advance notice and more fulsome details of the requirements.**

### **Reimbursing Part of the Fee if the Low-Wage Permanent Resident Application Is Unsuccessful**

#### **Recommendation 13**

**That Immigration, Refugees and Citizenship Canada, in recognition of the often-difficult financial situation of low-wage foreign workers, reimburse a portion of the application fee if the permanent resident application is unsuccessful.**

## **CHAPTER 4: ECONOMIC PROGRAMS IN QUEBEC**

Immigration is a shared jurisdiction in the Canadian constitution. Canada has established an agreement with Quebec, allowing the province to select its economic immigrants (i.e. permanent residents) based on its own programs and goals.<sup>207</sup> Throughout its study, the Committee heard testimony specific to Quebec employers who turn to the TFWP. This chapter presents key issues discussed.

### **Labour Shortages and Unemployment**

The Committee heard that labour shortages were at an all-time record high, with 148,000 vacant positions in Quebec.<sup>208</sup> Charles Milliard, President and Chief Executive Officer, Fédération des chambres de commerce du Québec, stated that “the

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207 Julie Béchar, *Immigration: The Canada-Quebec Accord*, Publication no. 2011-89-E, Library of Parliament, 5 April 2018.

208 CIMM, *Evidence*, 21 April 2021, 1600 (Alexandre Gagnon).



lack of manpower will slow down the development of many regions in Quebec.”<sup>209</sup> Ms. Poitras, of Aliments Asta Inc., told the Committee that “[f]ood policy and food sovereignty are often talked about in Quebec. However, ... we will not be able to achieve this as long as we have no workers on site.”<sup>210</sup>

Some witnesses testified that unemployment was incredibly low in some regions, lower than the provincial average of 6.4%.<sup>211</sup> Several witnesses testified that a high unemployment rate does not mean that the region has the workers to meet the demand.<sup>212</sup> They argued that using the unemployment rate of a region to refuse to process an LMIA, as ESDC does, is problematic.

## Temporary Foreign Worker Program as a Gateway to Permanent Residence

The delays in obtaining permanent residence in Quebec, estimated to be four times longer than for the rest of Canada,<sup>213</sup> have led many workers to seek temporary employment as a first step to immigrating to the province.<sup>214</sup> They then apply for permanent residence through the Programme de l’expérience québécoise that requires two years’ work experience. Mr. Bourbeau of Restaurants Canada suggested that there be a fast-track renewal process for LMIA and work permits so that an applicant can qualify for permanent selection by Quebec.<sup>215</sup> Isabelle Leblond, Corporate Director, Human Resources, of Olymel L.P., suggested that work permits issued under the TFWP be for a period of three years to allow for the processing of the permanent resident application.<sup>216</sup>

The eligibility criteria for selection as a permanent resident in Quebec were described to the Committee as being very difficult to achieve.<sup>217</sup> The language level of French

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209 Ibid., 1555 (Charles Milliard).

210 CIMM, [Evidence](#), 3 May 2021, 1605 (Stéphanie Poitras).

211 CIMM, [Evidence](#), 26 April 2021, 1545 (Marcel Groleau); CIMM, [Evidence](#), 3 May 2021, 1650 (Alain Brebion).

212 CIMM, [Evidence](#), 21 April 2021, 1605 (Krishna Gagné), 1705 (Isabelle Leblond); CIMM, [Evidence](#), 3 May 2021, 1540 (Stéphanie Poitras).

213 CIMM, [Evidence](#), 3 May 2021, 1645 (Bérangère Furbacco).

214 CIMM, [Evidence](#), 21 April 2021, 1540 (Charles Milliard).

215 Ibid., 1650 (Olivier Bourbeau).

216 Ibid., 1705 (Isabelle Leblond).

217 CIMM, [Evidence](#), 3 May 2021, 1620 (Édith Laplante).

required, a score of seven out of eight, is a barrier to permanent residence.<sup>218</sup> Alain Brebion, Reception and Integration Officer, Corporation de développement économique de la MRC de Montmagny, added that even native French speakers have failed the language test.<sup>219</sup> Nevertheless, he stated that language in Quebec is more than a communication tool:

[I]t must be understood that, unlike other Canadian provinces, the concern is not only that candidates be able to communicate at work and elsewhere, but also that they be able to integrate into Quebec society, identify with and be accepted by the population. The language problem is very complex.<sup>220</sup>

## Alignment of Federal and Provincial Programs

Mr. Milliard highlighted the duplication of administrative requirements, with both the provincial and the federal government involved in the TFWP at the application stage.<sup>221</sup> Mr. Groleau of the UPA suggested that there be an agreement regarding audits so that only one government is responsible for them.<sup>222</sup>

IRCC launched the new pathways for temporary foreign workers outside of Quebec at the beginning of the Committee's study. However, Ms. Leblond highlighted to the Committee that the pilots and the new pathways are not available to the workers in Quebec.<sup>223</sup> One witness stated that there are quality long-term jobs for low-skilled workers in Quebec,<sup>224</sup> and another worded it this way: "the practice of bringing in only people with very high levels of academic achievement is hard to square with the labour requirements in Quebec."<sup>225</sup>

Édith Laplante, Director, Human Resources at Aliments Asta Inc, made two suggestions regarding pilot programs and immigration programs generally. The first was that the federal government engage in discussions with the Quebec government to better

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218 Ibid., 1715 (Bérandère Furbacco).

219 Ibid., 1715 (Alain Brebion).

220 Ibid.

221 CIMM, *Evidence*, 21 April 2021, 1540 (Charles Milliard).

222 CIMM, *Evidence*, 26 April 2021, 1625 (Marcel Groleau).

223 CIMM, *Evidence*, 21 April 2021, 1635 (Isabelle Leblond).

224 Ibid., 1615 (Alexandre Gagnon).

225 CIMM, *Evidence*, 3 May 2021, 1705 (Stéphanie Jeanne Bouchard).



coordinate pilot programs.<sup>226</sup> For the second, she said: “in Quebec, we feel that better alignment between federal and provincial programs is absolutely necessary.”<sup>227</sup>

## CONCLUSION

The Committee recognizes the value of Canada’s current economic programs but recommends improvements to several programs so that foreign nationals can continue to come to Canada and build better lives for themselves and a stronger, more prosperous Canadian society. The Committee would like to end its report by thanking all witnesses who took part in this study and in its previous study in the fall. Your time and valuable input are greatly appreciated.

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226 Ibid., 1600 (Édith Laplante).

227 Ibid., 1615.

## 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
<p><b>Department of Citizenship and Immigration</b></p> <p>Marian Campbell Jarvis, Assistant Deputy Minister Strategic and Program Policy</p> <p>Nicole Giles, Associate Assistant Deputy Minister Operations</p> <p>Pemi Gill, Director General International Network</p> <p>Hon. Marco Mendicino, Minister of Immigration, Refugees and Citizenship</p> <p>Caroline Xavier, Associate Deputy Minister</p>	2021/03/10	19
<p><b>Department of Employment and Social Development</b></p> <p>Katie Alexander, Executive Director Temporary Foreign Worker Program and Work-Sharing Program</p> <p>Caroline Harès, Acting Director General Temporary Foreign Workers Program, Integrity Services Branch</p> <p>Philippe Massé, Director General Temporary Foreign Worker Program, Skills and Employment Branch</p>	2021/03/10	19
<p><b>Statistics Canada</b></p> <p>Josée Bégin, Director General Labour Market, Education and Socio-Economic Well-Being</p>	2021/03/10	19
<p><b>Canadian Horticultural Council</b></p> <p>Elizabeth Connery, Chair Labour Committee</p>	2021/04/12	22

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Food and Beverage Canada</b> Kathleen Sullivan, Chief Executive Officer Daniel Vielfaure, Co-Chair, Deputy Chief Executive Officer of Groupe Bonduelle and Chief Executive Officer of Bonduelle Americas	2021/04/12	22
<b>Migrant Workers Alliance for Change</b> Syed Hussan, Executive Director	2021/04/12	22
<b>The Neighbourhood Organization</b> Maria Esel Panlaqui, Manager Community Development and Special Projects Jennifer Rajasekar, Manager Newcomer Support Services	2021/04/12	22
<b>United Refugee Council Canada</b> Jagdeep Singh Batth, Coordinator Process Improvement Shaitan Singh Rajpurohit, Chemical Machine Operator	2021/04/12	22
<b>Universities Canada</b> Paul Davidson, President Wendy Therrien, Director External Relations and Research	2021/04/12	22
<b>Canadian Chamber of Commerce</b> Leah Nord, Senior Director Workforce Strategies and Inclusive Growth	2021/04/21	24
<b>Fédération des chambres de commerce du Québec</b> Alexandre Gagnon, Vice-President Employment and Human Capital Charles Milliard, President and Chief Executive Officer	2021/04/21	24
<b>Olymel L.P.</b> Louis Banville, Vice-President Human Resources Isabelle Leblond, Corporate Director Human Resources	2021/04/21	24
<b>Quebec Immigration Lawyers Association</b> Krishna Gagné, Lawyer and Vice-President for Economic Affairs	2021/04/21	24

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Restaurants Canada</b> Olivier Bourbeau, Vice-President Federal and Quebec Lauren van den Berg, Executive Vice-President Government Relations	2021/04/21	24
<b>United Food and Commercial Workers Union Canada</b> Derek Johnstone, Special Assistant to the National President	2021/04/21	24
<b>As an individual</b> Vilma Pagaduan, Advocate for Caregivers and Settlement Workers	2021/04/26	25
<b>Canadian Agricultural Human Resource Council</b> Mark Chambers, Co-Chair Agriculture and Agri-Food Labour Task Force Cyr Couturier, Chair	2021/04/26	25
<b>Desloges Law Group Professional Corporation</b> Andrew Carvajal, Lawyer and Partner	2021/04/26	25
<b>Lehal Law</b> Kamaljit Lehal, Barrister and Solicitor	2021/04/26	25
<b>Manitoba Trucking Association</b> Greg Arndt, Vice-President Jade Transport Ltd. Scott Kinley, Chief Executive Officer Gladstone Transfer Ltd. Terry Shaw, Executive Director	2021/04/26	25
<b>Union des producteurs agricoles</b> Marcel Groleau, General President Denis Roy, Treasurer and Director of Finances and Workforce	2021/04/26	25
<b>As an individual</b> Faye N. Arellano, Law Clerk and Community Advocate- Volunteer	2021/04/28	26

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Atlantic Region Association of Immigrant Serving Agencies</b> Craig Mackie, Co-Chair Board of Directors Myriam Mekni, Executive Director	2021/04/28	26
<b>Canadian Federation of Agriculture</b> Scott Ross, Assistant Executive Director Chris van den Heuvel, Second Vice-President	2021/04/28	26
<b>As an individual</b> Alain Brebion, Reception and Integration Officer Corporation de développement économique de la MRC de Montmagny	2021/05/03	27
<b>Aliments Asta Inc.</b> Édith Laplante, Director Human Resources Stéphanie Poitras, Executive Director	2021/05/03	27
<b>Canadian Meat Council</b> Marie-France MacKinnon, Vice-President Public Affairs and Communications	2021/05/03	27
<b>Canadian Mushroom Growers' Association</b> Ryan Koeslag, Executive Vice-President Janet Krayden, Workforce Expert	2021/05/03	27
<b>Centre local de développement de la région de Rivière-du-Loup</b> Stéphanie Jeanne Bouchard, Immigration Development Officer Bérangère Furbacco, Immigration Development Officer	2021/05/03	27
<b>Living Water Resorts</b> Donald Buckle, General Manager and Vice-President Resort Operations Larry Law, Founder and Chief Executive Officer	2021/05/03	27

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Atlantic Chamber of Commerce</b> Brandon Ellis, Senior Manager Policy Sheri Somerville, Chief Executive Officer	2021/05/05	28
<b>National Cattle Feeders' Association</b> Jolayne Farn, Human Resources Manager Van Raay Paskal Farm Ltd. Casey Vander Ploeg, Vice-President	2021/05/05	28
<b>Toundra Greenhouses</b> Eric Dubé, Chief Executive Officer	2021/05/05	28



## **APPENDIX B LIST OF BRIEFS**

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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](#).

**Aliments Asta Inc.**

**Arellano, Faye N.**

**Canadian Casino Gaming College**

**Canadian Employee Relocation Council**

**Canadian Federation of Agriculture**

**Canadian Horticultural Council**

**Canadian Meat Council**

**Canadian Mushroom Growers' Association**

**Kriek, Jacobus**

**Lehal Law**

**Living Water Resorts**

**Nasrullah, Sarah**

**Olymel L.P.**

**Omeje, Basil**

**Restaurants Canada**

**The Neighbourhood Organization**

**Union des producteurs agricoles**

**Universities 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. 19, 22, 24 to 29, 35, and 36](#)) is tabled.

Respectfully submitted,

Salma Zahid  
Chair



## **BLOC QUÉBÉCOIS SUPPLEMENTARY OPINION TO THE REPORT *IMMIGRATION PROGRAMS TO MEET LABOUR MARKET NEEDS***

The Bloc Québécois would like to thank the members of the Standing Committee on Citizenship and Immigration (CIMM), House of Commons staff, all the witnesses and the individuals and groups who submitted briefs for their vital participation in the study of the Labour Market Impact Assessment under the Temporary Foreign Worker Program.

In Quebec, temporary foreign workers solve a problem that has become permanent: the labour shortage. In 2020, nearly 34,000 workers, approximately double the 2017 figure, came to work in our businesses.<sup>1</sup>

The COVID-19 pandemic showed us how much we depend on these workers. As borders closed around the world, food insecurity became an immediate issue. Farmers across Quebec cried out for help: because of the labour shortage, crops died in the fields and livestock had to be disposed of.

Businesses in other sectors also sounded the alarm. Short on staff, they lost contracts and had to pay late penalties because they couldn't deliver on time. In every industry and in every region of Quebec, 94% of businesses reported struggling to find new workers.<sup>2</sup> With half of all businesses having to turn down contracts because of the labour shortage,<sup>3</sup> it is simply unbelievable that Ottawa let thousands of applications sit on the shelf while Quebec was only asking that its levels be met.

Employers were the first to pay the price for the Department of Immigration's slowness—indeed standstill—in processing work permits. Many had to pay Labour Market Impact Assessment (LMIA) fees, but the requested work permits simply weren't processed on time. The workers didn't arrive, and the money spent on the LMIA's went up in smoke. This situation has unfortunately become commonplace, even though employers anticipate their labour needs years in advance.

The federal government's mismanagement of the Temporary Foreign Worker Program puts at risk businesses' survival and a successful economic recovery that is crucial after a very challenging year. Businesses should be able to take full advantage of this particular economic climate without

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<sup>1</sup> Romain Schué, [Québec accueillera plus d'immigrants, promet Jean Boulet](#), *Radio-Canada*, 2021.

<sup>2</sup> Conseil du patronat du Québec, [La pénurie de main-d'œuvre, une catastrophe annoncée](#), 2021.

<sup>3</sup> Ibid.

being dragged down by the bureaucratic delays of a country they are working to put back on its feet. Many industries in Quebec were facing a labour shortage long before the pandemic, and the federal government did such a poor job at damage control that the problem has grown.

The report *Immigration Programs to Meet Labour Market Needs* puts forward useful solutions to make the Temporary Foreign Worker Program more flexible, more transparent and more efficient. We're pleased that all parties in the House of Commons want to improve the immigration component of this program. The Bloc Québécois welcomes the recommendations in the CIMM report and strongly hopes that the government will implement them soon.

However, for Quebec, the real solution is a complete transfer of the foreign worker program to Quebec. Foreign workers are too important to the Quebec economy, and Ottawa has clearly failed to manage this program. Quebec knows firsthand how to identify the specific labour needs of businesses operating within its borders, and the needs of its various regions in particular. Moreover, the fact that the program is doubly managed by both levels of government leads to higher processing costs and longer delays.

Quebec Labour Minister Jean Boulet is calling for the program to be handed over to Quebec, and it is a priority for his government. The Bloc Québécois supports this legitimate request. Since the federal government cannot process applications within a reasonable timeframe, it must hand the Temporary Foreign Worker Program over to Quebec.

While the Bloc Québécois reiterates its support for the CIMM report, it calls on the Department of Immigration to begin discussions with the Quebec government immediately so that the program can be managed by Quebec. Until that happens, the Bloc Québécois joins other CIMM members in calling for a rapid implementation of the recommendations in the report *Immigration Programs to Meet Labour Market Needs*.

## **Dissenting Report of the New Democratic Party Standing Committee on Citizenship and Immigration (CIMM)**

### **Preamble**

The NDP believes that the immigration system is about nation building. It is based on the principal that if you are good enough to work/study here, you are good enough to stay. To build our nation, our immigration policies need to be fair and equitable and value the contributions of all workers from different social and economic classes. Landed status on arrival should be the standard of practice and immigration streams should be made available to the full range of workers that are required in Canada's robust economy. Yet successive governments have moved away from a balanced immigration system and have opted to prioritize high skill professionals. As such, many of the other skill sets needed to fuel Canada's economy are left unmet. To meet the labour skill shortage in those areas, both Conservative and Liberal governments have relied on extensive expansion of the Temporary Foreign Workers Program (TFWP).

### **Introduction**

The House of Commons Standing Committee on Citizenship and Immigration (the Committee) decided on 1 February 2021 to study the use of the Labour Market Impact Assessment under the Temporary Foreign Worker Program, including its administrative costs and processing timelines, impacts of the COVID-19 pandemic, the prevalence of labour shortages throughout the country with attention to municipalities and rural communities all in accordance with the Canada-Quebec Accord, the state of pilot projects in addressing labour shortages, the eligibility criteria for permanent residence and impacts on caregivers under the two pilot projects Home Child Care Provider Pilot and Home Support Worker Pilot, and possible solutions to addressing labour shortages. The Committee heard from 58 witnesses. Given the vulnerabilities and repeated reports of poor living conditions and abuse, New Democrats are concerned about the low ratio of representation from organizations representing employees and migrant workers' rights. Among the 58 witnesses invited to testify at the Committee, 7 witnesses were directly representing organizations which focused on migrant workers' rights, as along with 1 settlement worker, 4 lawyers and 1 union representative; in comparison, there was a heavy focus from the perspective of employers with 31 witnesses largely representing employers. There were also 9 government witnesses. This make up was reflected throughout the structure of the report. As such, recommendations made by the Committee were skewed towards the views of employers. While it is important that employers are consulted, the general lack of consideration for the rights of workers that are reflected in the recommendations made the Committee's report deeply concerning. It is the NDP's view that the report is deeply flawed from the outset due to the imbalance of witnesses that were consulted.

Despite this structural concern, the message from witnesses was clear. Whether you are the employer or a representative for migrant workers, the current Temporary Foreign Worker

Program is fraught with problems. Many employers raised concerns around the impact of the labour shortage for their business and the challenges they faced with the LMIA process. From the migrant workers perspective, witnesses raised concerns around the power imbalance which effectively serve to facilitate abuse and exploitation.

With respect to the recommendations offered, representation from employers tended to call for measures that further expand or relax the use of TFWP and advocates for migrant workers call for action focused on securing the rights of the workers.

### **Expansion of the TFWP**

To illustrate the magnitude of the expansion of the program, Mr. Syed Hussan, Executive Director, Migrant Workers Alliance for Change (MWAC) shared this observation with Committee members:

Just 20 years ago, there were 60,000 temporary work permits in Canada. Since then, there's been a 600% increase to over 400,000 today. There are 1.6 million people in the country, or one in 23 people, who are non-permanent residents. That's one in 23 people. In the communities that many of you are in, that percentage is much higher. That means that this many people don't have access to labour rights, health care, education and other protections and can't protect themselves. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

Mr. Derek Johnstone, Special Assistant to the National President, United Food and Commercial Workers Union Canada, further reinforced this with this comment:

I would just start by stating a fact that when the seasonal agricultural worker program was established in Canada in 1966....the grand total of temporary foreign workers in Canada was 256. Now it's upward of 400,000. (CIMM, Evidence, 2nd session, 43rd Parliament, 21 April 2021)

He further added that:

There's this acceptance that the only way to solve labour market challenges in Canada is to open the floodgates to temporary foreign workers who never have the opportunity to become full citizens of this country. We need to abandon that immediately, and we need to start looking at permanent immigration while at the same time properly investing in domestic labour sources as part of a larger strategy.... (CIMM, Evidence, 2nd session, 43rd Parliament, 21 April 2021)

Mr. Hussan bluntly said:

The real objective of the LMIA is to provide a veneer of legitimacy to Canada's employer-restricted work permit programs, and employer-restricted programs are a system of indentured work. Strip away the talk of protecting Canadian and foreign workers and you find a system that ensures that racialized, low-wage workers are made

highly exploitable for sectors that seek to generate massive profit. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

### **Power Imbalances, Abuses and Exploitation**

In expanding the use of temporary foreign workers and denying migrant workers the rights that come with landed status and ultimately citizenship, Canada is perpetuating a system that has an inherent imbalance of power between the employer and employee.

This sentiment was echoed by multiple witnesses. As Mr. Hussan stated:

By denying migrants the rights that come with citizenship, laws and lawmakers are tipping the scale in favour of abuse, exploitation, exclusion and death. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

Mr. Johnstone also noted that:

A lot of folks are in a situation where they're facing some abusive treatment by employers....going home is not really an option for them. Not only is the money they earn in Canada needed to support their families back home, but they may also owe it to somebody, so they have to stay here. (CIMM, Evidence, 2nd session, 43rd Parliament, 21 April 2021)

Mr. Shaitan Singh Rajpurohit, Chemical Machine Operator, United Refugee Council Canada, noted that:

Precarious migrants and refugee claimants often work in health and social services; in food production, processing and distribution; and in security services and in building maintenance. Many are also key to maintaining computer systems, factory equipment and industrial machinery. Because of their expired, precarious or temporary immigration status, many of them are abused by unscrupulous employment agencies and employers, and they are living in constant fear of losing their jobs or being deported from the country. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

Mr. Hussan asked Committee members to:

Take a moment right now to put yourself in the shoes of a migrant worker hired through the LMIA system. If you were in a low-wage job and you could be fired, made homeless because you live in employer-provided housing, couldn't immediately move to another job because your permit bars you from doing so, and if you could not return in the future to the country where you worked because employers have control over who gets invited back, would you speak up about your exploitation? Now think about it inversely. If you were an employer and you knew all this, would you take shortcuts, push your workers harder, and in the worst cases carry out wholesale exploitation and discrimination? (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

In June, a report entitled “*Unheeded Warnings: COVID-19 & Migrant Workers in Canada*” was released by MWAC. This reported outline horrific abuses experienced by migrant workers. The report identified a whole host of concerns including but not limited to verbal abuse, threats, racism, pay violations, inhumane and substandard housing conditions, insufficient food, a lack of cleanliness and adequate supplies, violation of labour rights, lack of access to health care, increased surveillance and lack of mobility. Sadly, this was not the first report about the plight of migrant workers. As the MWAC’s report noted:

Over the decades, there have been countless reports, publications, testimonials, and media stories in which migrant workers have raised concerns about how Canada’s temporary immigration system breeds abuse and exploitation. These warnings have been ignored. As COVID-19 ravaged communities across Canada, migrant workers again raised the alarm with many federal and provincial agencies or liaison officers. The Migrant Rights Network - Canada’s largest migrant justice coalition - wrote several letters to federal and provincial agencies outlining concerns from migrant workers. All were ignored. (*Unheeded Warnings: COVID-19 & Migrant Workers in Canada*, 8 Jun 2020, p.6)

The pandemic has put a spotlight on issues that have long persisted but were routinely swept under the rug. Mr. Hussan advised the Committee that since the release of the report:

I can tell you that a year later we are in not the same crisis but a much deeper crisis. The housing conditions are bad, if not worse. The labour conditions are the same....We are now in a third wave. People keep losing work, and people keep facing further exploitation. Either there are no vaccines or if there are vaccines, it's coercive. Last year when I was at committee, I called it ‘a human rights catastrophe’. We had migrant and undocumented people in conditions of great suffering. Now I'm at a loss for an adjective. The federal government has made minor reforms. Twenty-seven thousand people were given permanent resident status, but only if they had high-wage work experience, which doesn't exist during COVID for most people. The low-wage workers are the essential workers. They are the construction workers, the cleaners, the health care workers, the delivery workers, the retail workers and the workers in grocery stores. Those are the people we rely on. Those are the people we call ‘essential’, but those are the people we deny permanent residency in this country. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

Ms. Maria Esel Panlaqui, Manager, Community Development and Special Projects, The Neighbourhood Organization (TNO) also indicated that abuse and exploitation continues:

There continue to be many abusive and inconsiderate employers who force these workers to work long hours without compensation. Some employers do not allow migrant caregivers to leave the residence, not even for a walking exercise that will reduce their stress level, and many caregivers simply have no time for themselves. Because of their precarious status, caregivers cannot advocate for better working conditions. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

She further elaborated by noting:

It's the precariousness of the workers' situation that makes it hard for them to assert their rights. Even with sectoral work, we would assume that there still are workers who are intimidated and scared to assert their rights and leave their employers, because they need to have connections, for example, to find new employers. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

Without permanent status, these vulnerabilities will persist, resulting in large parts of sectors where health and safety standards become harder to enforce. As noted by Mr. Johnstone:

The only way that changes is if these folks have status—these folks become permanent residents on track to be Canadians. That's the only way to ameliorate vulnerability and precarity in the sector, or else we'll still hear these stories on a regular basis. (CIMM, Evidence, 2nd session, 43rd Parliament, 21 April 2021)

Mr. Hussan indicated that:

Migrant workers do not have direct, enforceable rights under LMIA. There is no legislation that governs enforcement and no court or legal process to turn to for workers to denounce violations of their rights. Neither is there any meaningful mechanism for ESDC to ensure that workers receive reparations for violations of their rights. All that exists is a tip line, but by law, ESDC is barred from sharing the fact of inspections, and even results of inspections, with the workers who make the complaint. Most inspections are pre-announced, and rarely do they result in increased employer compliance, never mind better worker protections. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

Even in the face of such damning testimony, while the report looks at ways to expand the use of temporary foreign workers, it does little to address the precariousness of the situations that many migrant workers are faced with. No recommendation was provided to address the fundamental need to ensure migrant workers have equal access to the same fundamental rights as other Canadian residents by addressing the power dynamic created by the temporary status.

During the Committee study on the Impact of COVID-19 on the Immigration System, Mr. Raj Sharma, managing partner at Stewart Sharma Harsanyi, asserted that:

COVID-19 has demonstrated the importance of front-line workers. During this pandemic we continue to exploit and put migrant agricultural workers and new immigrants in harm's way. Persons of colour and new immigrants are disproportionately affected by COVID-19 because they are also disproportionately on the front lines as health care workers and essential workers in transit and in meat and agricultural processing. These workers are not disposable. (CIMM, Evidence, 2nd session, 43rd Parliament, 6 November 2020)

New Democrats acknowledge that not all employers are abusive. However, there remains a jarring gap in protections for migrant workers that place them in a much more vulnerable situation compared to counterparts with permanent status or citizenship in Canada. Furthermore, as demonstrated plainly by the pandemic, the simple fact of the extreme power dynamic creates a situation where migrant workers are afraid to raise concerns for fear of reprisals even among the many responsible employers. Additionally, migrant workers have reported inconsistencies in having employment insurance claims approved when compared to their colleagues, even though they've all paid EI premiums. This further exacerbates the second-class treatment of migrant workers. Without permanent status, these vulnerabilities will persist, resulting in large parts of sectors where health and safety standards become harder to enforce.

Mr. Hussan called on the Committee to:

...be part of remaking a fairer food system and a just care economy. This fair society must include full and permanent immigration status for all migrants, including farm workers, care workers, students, refugees and undocumented people in Canada today and must grant landed status on arrival for all migrants in the future. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

Virtually all other witnesses who represented the rights of migrant workers are in support of the call for status for all. As pointed out by Mr. Johnstone:

The only way that changes is if these folks have status—these folks become permanent residents on track to be Canadians. That's the only way to ameliorate vulnerability and precarity in the sector, or else we'll still hear these stories on a regular basis. (CIMM, Evidence, 2nd session, 43rd Parliament, 21 April 2021)

The NDP is therefore putting forward the following recommendations.

**Recommendation 1:**

That Immigration, Refugee and Citizenship Canada support the rights of migrant workers by regularizing undocumented workers and those who are out of status.

**Recommendation 2:**

That Immigration, Refugee and Citizenship Canada adopt the policy of status for all and grant migrant workers landed status on arrival.

**Caregivers**

With respect to caregivers in particular, the motion of this study explicitly called for a focus on pilot programs, including the “impacts on caregivers under the two pilot projects Home Child Care Provider Pilot and Home Support Worker Pilot.” Despite this, the report failed to address any recommendations that would have an impact on the precarious status of caregivers.

The main recommendation made by the Committee in the main report directed at “preventing abuse” is to make a broader PR “pathway,” which does not change the power dynamic that creates vulnerabilities and allows for situations of abuse. Most Caregivers are already accessing PR pathways, which were recently revamped multiple times, yet the power imbalance and precarious situations persist because they do not get at the core issues that create the vulnerabilities in the first place. It is important to note that the vast majority of the caregivers are women of colour who come to Canada at great personal sacrifice. Ms. Jennifer Rajasekar, Manager, Newcomer Support Services, TNO, said:

For decades, Canadian families have relied on foreign caregivers to look after their children and elderly and support Canadian families. Migrant caregivers, by extension, support the Canadian economy. Considering the vital support these caregivers provide and the personal sacrifice they make, they deserve respect, dignity and compassion. Please don't make it more difficult for them to come here and take care of Canadian families....the program continues to be problematic insofar as it retains the temporary nature of the system and therefore doesn't address the precariousness of these workers. Further, the current pathway to permanent residency is characterized by restrictive requirements that continue to present significant barriers to caregivers. Although we have previously stated our position on the residency status for caregivers, it bears repeating that we believe that addressing the issues inherent in the program requires that migrant workers be provided landed status upon arrival. The permanent solution is permanent residency. By doing this, caregivers and their families would be able to more fully participate and contribute to Canadian society. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

In comparing the previous caregiver program to the current pilots, Ms. Nicole Guthrie of Don Valley Community Legal Services highlighted this issue during the Committee study on the Impact of COVID-19 on the immigration system:

The language program is an issue.... The bridging open work permit is not a bridging open work permit when applicants have to wait a year for their work permits to be processed....We have a lot of interim caregivers and pilot project caregivers who have applied for permanent residence but have not been able to receive work permits. Under the previous live-in caregiver program, once an applicant had submitted an application, they were issued a work permit. Our clients are stuck in limbo. A lot of them do not have work permits and cannot move to new employers because they've been impacted by COVID. (CIMM, Evidence, 2nd session, 43rd Parliament, 30 November 2021)

While TNO indicated that landed status on arrival is needed to address the conditions that allow for the dynamics that promote abuse due to the temporary nature of the system, as an immediate interim measure while working towards status for all, specific and immediate steps can be taken to address some of the current barriers to PR. To this effect, TNO endorsed the MWAC report entitled *Behind Closed Doors: Exposing Migrant Care Worker Exploitation During COVID-19*. New Democrats are therefore proposing that IRCC fully implement the suggestions on the reinstatement of the previous caregiver interim pathway with reduced

requirements as detailed in MWAC's report with a modified reinstatement of the Interim Caregiver Program, including bringing down the work experience requirement to match the Canadian Experience Class at 12 months, and allowing for care work in either child care or high medical needs streams to count towards the requirement.

**Recommendation 3:**

That Immigration, Refugee and Citizenship immediately adopt and implement the recommended framework for the caregiver program proposed in the Migrant Workers Alliance of Canada report entitled *Behind Closed Doors: Exposing Migrant Care Worker Exploitation During COVID-19* as an interim measure while actively working towards a system of landed status on arrival.

**Processing Delays**

In terms of processing of applications, TNO pointed out in their written brief that:

Data shows applications were moving slowly even before the COVID-19 lockdowns reduced the immigration department's processing capacity last year. Due to the COVID-19 pandemic, the IRCC processing time has slowed to a concerning level. Most migrant caregivers are concerned with their status, especially for those with Implied Status. According to a recent article in the Toronto Star, 'there's a backlog of at least 9,100 applications for permanent residence. That matches the kind of numbers that government saw back in 2017, when the processing time was known to be as long as five years.' (Source: <https://www.thestar.com/news/canada/2021/03/27/nanny-state-canada-has-left-its-foreign-caregivers-in-a-stalled-system-thats>)

Many workers who applied in 2020 are still waiting for notifications that their application are complete. Applications could still be returned for minor non-compliance, and clear instructions to officer to exercise flexible accommodation and process applications should be issued, otherwise applications would be returned after many months and caregivers who otherwise would benefit from implied status would become out of status. Indeed, many advocates are worried about the future of Canada's Caregiver Program. Many feel that the restrictive work, education and language requirements may end up slowly phasing out the program. Referring to the same Toronto Star article, "for over an 18-month period, not a single work permit was issued under two new pilot programs. According to the government data, the immigration department received 1,055 new work permit applications under the recent pilot programs in 2019 and 2020 (up to November). Only five were processed: four were withdrawn and one was refused. (The Neighbourhood Organization, Brief, 5 May 2021, p. 3)

Given these backlogs, and the pervasiveness of the backlogs across nearly every immigration stream highlighted during the Committee report on the Impact of COVID-19 on the Immigration System, the NDP recommends that more resources be allocated to address these backlogs.

#### **Recommendation 4:**

That Immigration, Refugee and Citizenship Canada greatly increase resources to address backlogs created by COVID-19, address the lack of work permits issued under the caregiver pilots, prioritize processing for applications of migrant workers currently under implied status, prevent the return of applications due to minor non-compliance and issue clear instructions to officers to exercise flexible accommodation in the processing of applications.

#### **Language Test Requirements**

Another issue that was brought up repeatedly by witnesses are the increasingly strict language requirements. While the CIMM report acknowledged this several times in the main report, they failed to provide any recommendations to address it. As indicated by Ms. Rajasekar:

... starting in 2014, the new pathways program mandated that caregivers meet a higher official language proficiency benchmark to qualify for permanent immigration to Canada. This created significant barriers for many caregivers in accessing permanent resident status. They are calling on the government to remove the requirement for one year of Canadian post-secondary education; and remove the English language test prior to permanent residency. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

The fact is that migrant workers have demonstrated they are able to communicate effectively to accomplish their work. Settlement worker Ms. Vilma Padaguan noted the differential treatment and discriminatory effect that the current differences in test requirements have:

I find the education and English criteria very discriminatory. If you notice, the agri-food immigration pilot program and the Atlantic program are in the low-skilled level and NOC C category, the same as for caregivers, but these two pilot programs require only secondary education, whereas the caregiver program requires at least one year of post-secondary education. The two pilots require an English level of only CLB 4, whereas caregivers are required to have CLB 5. Most of these caregivers are women, women of colour and women from Southeast Asian countries. (CIMM, Evidence, 2nd session, 43rd Parliament, 26 April 2021)

Ms. Palanqui also added:

I think all we have to apply here is the principle of “good enough to work” and “good enough to stay”. These workers are able to provide care and work. These requirements are additional layers of barriers that are not necessary and are definitely not connected to their ability to provide work. I think they should be eliminated. (CIMM, Evidence, 2nd session, 43rd Parliament, 12 April 2021)

These concerns were also shared in MWAC’s report *Behind Closed Doors: Exposing Migrant Care Worker Exploitation During COVID-19*. Therefore, New Democrats support MWAC and TNO’s call and propose the following recommendation:

**Recommendation 5:**

That Immigration, Refugee and Citizenship Canada eliminate the English language test prior to permanent residency for migrant workers.

**Accountability Measures**

In the Committee's previous study on the impact of COVID on the immigration system, several witnesses also called for the creation of an ombudsperson to support those who are going through the immigration process. Beyond being a point where IRCC applicants could get information and resolve disputes with IRCC, Dr. David Edward-Ooi Poon, founder of Faces of Advocacy, suggested that an ombudsperson would also be able to provide a general review function for IRCC activities. This is not unlike the structure of the Civilian Review and Complaints Commission, who are tasked with processing both complaints and can initiate systemic reviews in order to actively propose recommendations on how to create a fairer process and protect the fundamental human rights of those who come to Canada. Therefore, to increase transparency and accountability in the immigration system, the NDP would like to reiterate the following recommendation from the report on the impact of COVID-19 on the immigration system.

**Recommendation 6:**

That the Government of Canada introduce legislation to create an Immigration Ombudsperson to oversee Immigration, Refugees and Citizenship Canada and to receive complaints

**Conclusion**

New Democrats are deeply concerned with the lack of consideration of measures to address the vulnerabilities for migrant workers that have been put in the spotlight by the pandemic. The Government of Canada has repeatedly made the acknowledgement that they are essential, yet they are treated as second class. The focus of the committee's report has been primarily on perpetuating the reliance on temporary workers while failing to recommend measures that would meaningfully prevent the power imbalances that create the vulnerabilities that migrant workers face in the first place, including those who are currently already on a pathway to PR. The temporary nature of Canada's approach to foreign workers is an issue and speaks to the importance of landed permanent status on arrival. This is not a new concept and was Canada's approach to immigration over 40 years ago. Until this is addressed, workers will remain vulnerable to abuse with limited recourse.