

TO: Standing Committee on Citizenship and Immigration  
RE: Impact of COVID-19 on the Immigration System

November 26, 2020

Members of the Committee,

Caregivers' Action Centre, Vancouver Committee for Domestic Workers' and Caregivers Rights, Caregiver Connections Education and Support Organization and Migrant Workers Alliance for Change conducted a survey of the impact of COVID-19 on migrant care workers. Our recommendations are endorsed by the Alberta Careworkers Association, PINAY Quebec, Migrante Canada, Migrante Alberta, and Association for the Rights of Household and Domestic Workers (ADDPD/ARHW).

We heard shocking stories of abuse including working every day without a break, thousands of dollars in stolen wages, workers being trapped in employers' homes for months, and being laid off and evicted. Care workers repeatedly expressed living in a cascade of crises, including lack of family unity as a result of being without permanent resident status.

201 migrant care workers, mostly racialized women, filled out a survey sharing their experiences of abuse, exploitation, fear and stress during COVID-19 and shared recommendations for policy changes. We found that:

1. 48% of care workers reported working longer hours of work, ranging from 10 to 12 hours a day, sometimes six or even seven days per week during COVID-19. Parents are home, as are the children and the work never ends.
2. 40% of the care workers who kept working, reported not being paid for extra hours of work, averaging out to approximately \$6552 in unpaid wages per worker over the last six months. Note that the average worker makes under \$17,000/year.
3. One in 3 survey respondents reported being forbidden by their employers to leave the house, take public transit, buy groceries, send remittances to families abroad or visit doctors during COVID-19. Workers were barred from meeting with friends or partners. In other words, they were trapped by their employers unable to send remittances, buy groceries or connect with social supports.
4. More than 1 in 3 respondents lost their jobs and were forced to move in the middle of a pandemic. For migrant care workers, job loss means no housing, no health care, and no income to support themselves and their families back home.
5. Most care workers reported limited or no access to health care, even during a public health crisis. Access to health care is dependent on having a full-time job, an active work permit and a valid Social Insurance Number (SIN) - and many are facing barriers to all three of these.
6. Workers that reported losing their jobs have extreme difficulties finding new work because of federal immigration rules, specifically the Labour Market Impact Assessment process or LMIA.
7. Nearly 60% of all respondents identified being worried about not being able to fulfill the 24-month work requirements to apply for permanent residency. This was the most common concern, and as we enter into a second wave of the pandemic, the fear of not fulfilling this requirement, and thus obtaining permanent residency, is only intensifying.

8. Many care workers are currently living in a limbo state because of COVID-19 related delays in processing immigration applications. These workers are considered to be under “implied status”; but while they are waiting, their work permit, health card and SIN are expired. This is true even for those that have applied for permanent residency.
9. Many, if not all, reported the many years of family separation as their primary concern, worrying about what would happen if family members were to fall ill and if they would ever see them again.

Based on our findings, we recommend the following:

### **(1) Full and Permanent Immigration Status for All & Landed Status Now**

All migrant care workers in Canada, including those that have become undocumented, should be granted permanent residency status immediately. All migrant care workers arriving in Canada in the future should do so with permanent residency status, without exclusionary language or educational requirements, through a proposed Federal Workers Program (FWP) – Care Worker Stream, as outlined below.

Permanent resident status is the single most important change that would ensure migrant care workers can protect themselves against labour exploitation. Permanent residency immediately gives workers the ability to leave a bad job and make a complaint without fear of reprisals. Permanent residency means that workers can work in any sector, including in healthcare where workers are sorely needed. Permanent residency ensures that workers have a valid SIN, so they are able to access income support if they are laid off. Lastly, permanent residency ensures access to essential healthcare services and immediately ensures family reunification.

### **(2) Interim Measures to Ensure Rights for Migrant Care Workers**

#### (2a) Real access to Permanent Residency: Reinstate the Interim Pathway with modifications

- *Reduce the work experience requirement to 12 months:* Care workers should be able to apply for permanent residency after completing 1 year - or 1,950 hours - of work. This was the norm until 1973 and is currently the standard that applies under the Canadian Experience Class. Applying different standards to the work of racialized women is discriminatory. Many care workers have lost work during COVID-19 and are unable to accumulate the 24 months required under current circumstances. The reduction to 12 months was already made in the Interim Pathway which was arbitrarily closed in October 2019.
- *Allow for care work in either Child Care or High Medical Needs Stream to count towards the one year work requirement:* Before 2014, the work that care workers performed in all three areas of care work (children, elderly, people with disabilities) counted towards their two-year work requirement. Separating the streams and requiring care workers to accumulate all their work experience within only one stream has forced many care workers not to leave abusive labour situations, or become undocumented. With fewer jobs available during COVID-19, not being able to count time in both streams makes it more difficult to qualify for permanent residency. This was implemented in the Interim Pathway.
- *Remove the requirement of 1 year Canadian post-secondary education:* Care workers must now have accreditation for one year of post-secondary education. To do this, care workers must either have fully completed post-secondary education degrees prior to arrival in Canada which is then recognized, or they must obtain a study permit and

acquire one year of post-secondary education while in Canada. These options require that care workers pay high fees for accreditation or pay high international student tuition fees to complete one year of post-secondary study, while working extremely long hours at minimum wage. Moreover, any work that is done while completing post-secondary education in Canada is not counted towards the two-year work requirement for permanent residency. This puts workers in an impossible situation and as a result, many care workers will be unable to apply for permanent residency.

- *Remove the English language test prior to permanent residency:* Starting in 2014, the new pathways mandated that care workers meet a higher official language proficiency benchmark to qualify for permanent immigration to Canada. However, workers have not needed to meet this higher language benchmark in order to enter and work in Canada - until June 2019, new workers in Canada needed to meet CLB Level 3. As care workers have to qualify for an English language test prior to arriving in Canada, requiring a second English exam to stay is discriminatory and unnecessary.
- *Eliminate the second medical when applying for permanent residency:* Repeal Section 38(1)(c) of IRPA: Since November 2014, care workers have been forced to complete a second medical exam at the time of their application for permanent residency. This requirement contradicts the “Juana Tejada” law, which eliminated the second medical testing requirement. Tejada, whose permanent residency application was rejected because she was diagnosed with cancer while working in Canada, actively sought to remove the second medical testing requirement. In COVID-19, migrant care workers have gotten sick as a result of employer behaviour, or are worried about being discriminated against for being sick. Getting medical exams in a timely manner is impossible in the current public health crisis. Furthermore, under Section 38(1)(c) of the Immigration and Refugee Protection Act (IRPA) an entire family can be denied permanent residency status if any member of that family is a person with a disability or has a chronic illness.

## (2b) Open Work Permits for Migrant Care Workers

“Tied” work permits are a modern form of indentured labour that deny care workers the right to circulate freely in the labour market like other workers. Tied work permits, coupled with lax monitoring and enforcement of labour standards, create the conditions that allow exploitative employers and predatory recruiters to abuse care workers with impunity. This has been severely exacerbated during COVID-19. If care workers try to leave abusive employment, the tied work permit system punishes them with lengthy processing times (between 6-12 months for new LMIA and work permits), during which care workers are unable to access Employment Insurance (EI) or do documented work in order to survive. It is almost impossible for migrant care workers to find LMIA-approved employers during COVID-19.

- *Open work permits for all workers immediately:* As a first step towards full and permanent immigration status for all, all migrant care workers - including those that are undocumented - should be granted open work permits so that they have the ability to protect themselves from bad employers during this crisis. This open work permit should be granted without any LMIA process.
- *Open work permits for workers with pending permanent residency applications:* Many migrant care workers have already applied for permanent residency but are waiting for a decision. During this time, their work permits have expired, meaning they can't leave a bad job or start a new job. Healthcare coverage and SINs are also tied to the expiry date

of work permits. Granting open work permits to these workers will allow them to work, access emergency supports when needed and be able to protect their health.

### (2c) Labour Rights and Income Support

Migrant care workers are working long hours with low wages. Those without work are unable to get income support.

- *Increase the minimum wage:* The federal government must establish a minimum wage rate of at least \$15 an hour, or greater where the provincial or territorial minimum wage rate is higher, for all in-home care workers hired through the caregiver program. Furthermore, the federal government should require that all employers of in-home care workers under the two caregiver programs pay at least minimum wage plus a \$4 an hour pandemic pay top-up.
- *Remove the requirement for a valid SIN for emergency income support:* There have been tremendous delays in work permit and permanent residency processing, as well as SIN processing. This has left workers who have lost income or jobs in financial crises. These workers need emergency income support immediately. The requirement of a valid SIN for the purposes of CRB or EI should be removed.
- *Paid sick days:* Workers need paid sick leave. Provincial governments should require the provision of 7 employer-paid sick days, with an additional 14 days of employer-paid sick leave during public health outbreaks.

### (2c) Health Care for All

- *Health care access regardless of valid health card:* With provincial health offices closed, and during a public health pandemic, it is essential that health care be made available to all regardless of having a valid health card. This must include COVID-19 testing and treatment. In Ontario, for example, while health care is supposed to be available regardless of status, many workers report being asked to pay fees by front-line administrators who have not been adequately trained. In provinces, such as British Columbia, the interim health coverage for workers in implied status was introduced because of COVID-19, but is set to expire in April 2021.
- *Access to mental health supports:* Establish mental health services for current and former migrant care workers to address the unique mental health challenges of migration, stringent requirements for permanent residency, family separation, and a hyper-surveilled in-home care work model under employer-tied work permits.

### (2d) Ensure Family Unity

- Spouses, children and other close family members should be allowed to come to Canada to accompany care workers, with open work and study permits of their own. The hardships caused by family separation for care workers and their children are well-documented and further exacerbated in COVID-19. Family unity promotes economic and social cohesion.

### (2e) Housing

- Ensure adequate accommodation for live-in care workers. Standards should be set out in the LMIA with effective enforcement by Employment Social Development Canada. Establish a minimum wage floor for care workers as recommended in (2c) above as a

step to assist care workers in accessing decent housing when working on a live-out basis.

**We urge you to hear migrant care worker voices directly. This is what they are saying:**

Lack of permanent resident status makes it impossible for workers to assert their rights

- “I work non-stop as a live-in caregiver under elderly care program. Since pandemic I am working 24/7 for months without the chance of having my off day during the weekend. I have no choice since my work permit is tied to my employer until I am able to complete my 24 months experience and my contract that I signed with them.”
- “Treatment for care workers here in Canada isn’t fair. The employer’s taking advantage of workers without permanent paper.”

Workers are being forced to work long hours without pay

- “I’m working more, longer hours! Since I am staying in the house even though I am on my day off I still have to work and no overtime pay.”
- “I’m working more, longer hours!, my employer is very rich and big house they love to party and i works long hours then they didn’t pay me for my over time”

Employers have trapped migrant care workers in homes

- “I really want to go back to my apartment and it’s only a walking distance from my employer’s home but they won’t let me”
- “I can’t even go out because my employer is scared that I might bring them the virus.”
- I’m just concerned about the 12-13 hours work with just 8hrs and late pay. Need to work on Saturdays and Sundays in order not to be starved. They’re not forcing me to stay just inside the house, however, they’re not allowing me to be in public transportation. Whenever i want to go outside and have some walk, I am obliged to inform them, and be back immediately. Therefore, it is simply a strategy not to leave the house during the weekend. I’m so sad for no freedom at all.”
- “Due to the virus, I have no freedom, I hope that I can apply for PR in advance.”

Many workers who were laid off cannot access income support because of expired SINs caused by permit processing delays

- “They stopped my EI because my SIN expired. I can’t find a job because my SIN and Working Permit are expired. What will I do?”

Many workers are concerned about being unable to complete program requirements due to COVID-19

24 months of work necessary to apply for permanent residency:

- “I’ve been in Canada for almost 2 years now but i have only completed 7 months of on-permit experience in the 2 years i was here. 24 months is a really long requirement for getting PR. They should at least launch a program too for us soon so we are able to apply PR. Working while there is COVID is risky too with us nannies, not only for healthcare workers. We keep the children safe and we can’t go anywhere since we are very cautious of riding public transit. They should open another path since there’s lots of application backlogs and pandemic is still going on. Or better create another program for us to easily get our PR now. The new pathway takes lots of requirements and long processing time.”

### High English language requirements

- "I'm 4 years with my employer but can't apply to Permanent Residency because I failed the English test. My employer released me even though she did need a live in caregiver."
- "I'm stressed with my bosses divorce fight and they put me in the middle all the time. I can't focus on doing my paperwork and can't pass the English test. I am a single mum with 4 kids. I am working hard to provide for my kids, and now I'm worried that I can't reunite with them because of the English test and the education evaluation."

### Lack of sick leave and health care are exacerbating increased mental and physical health concerns

- "I am still working during the coronavirus crisis, I am really concerned that I can not get PR if I get sick."
- "I'm worried because I don't have status since I already applied for my PR and open work permit. My SIN and my OHIP both need to be renewed but I can't."
- "I am feeling so depressed about my family if I will get PR or not. Working without family here alone it's too difficult".

### Family separation is a primary concern for migrant care workers

- "I'm always thinking about my family back home. This pandemic caused me so much stress thinking how to bring my family here in Canada. It's not easy to be alone."
- "I applied for my PR in September 2019 and still no response. Just a few weeks ago I received an email to confirm that I couldn't sponsor my only son because he is 23 years old now. I am really so sad about it because I have only one son. COVID delayed everything."
- "I want to reunite with my family as soon as possible. My kid was only 4 years old when I left home. I do hope Canada will make it easy for us to reunite with family easily."

Thank you for your attention to the matter. We urge you to read the full report and watch a video of care workers speaking at <https://migrantrights.ca/behindcloseddoors/>.

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