

Exclusion Disappointment Chaos & Exploitation

Canada's New Short-Term Immigration Pathway

Migrant Rights Network
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WHO WE ARE

Migrant Rights Network is Canada's largest migrant-led coalition

Migrant Rights Network – Alberta

- Association of Mexicans in Calgary
- Migrante Alberta

Migrant Rights Network – Atlantic Region

- Cooper Institute (PEI)
- No One Is Illegal – Fredericton (New Brunswick)
- No One Is Illegal – Halifax (Nova Scotia)

BC Migrants

- Migrante BC
- Radical Action with the Migrants in Agriculture (RAMA)
- Sanctuary Health Vancouver
- Vancouver Committee for Domestic Workers and Caregivers Rights

Manitoba

- Migrante Manitoba

Quebec Coordination

- Collectif Ensemble avec les personnes Migrantes Contre le Racisme
- Immigrant Workers Centre – Montreal
- Solidarity Across Borders

Migrant Rights Network – Ontario

- Butterfly – Asian and Migrant Sex Workers Project
- Careworker Connections and Educational Support Organization
- Chinese Canadian National Council – Toronto
- Collaborative Network to End Exploitation
- FCJ Refugee Centre
- GABRIELA-Ontario
- IAVGO Community Legal Clinic
- Income Security Advocacy Centre
- Migrant Resource Centre Canada
- Migrant Workers Alliance for Change
- Migrante Ontario
- No One Is Illegal – Toronto
- Northumberland Community Legal Centre
- OCASI – Ontario Council of Agencies Serving Immigrants
- Parkdale Community Legal Services
- Sanctuary Students Solidarity & Support Collective (S4)
- Unifor
- Vivimos Juntxs, Comemos Juntxs
- Workers' Action Centre

ACKNOWLEDGEMENTS

We respectfully acknowledge that the migrants who participated in this report live and work on Indigenous lands including the territories of the Huron-Wendat, Haudenosaunee, Anishinabe, Mississaugas of the New Credit territory; unceded Musqueam, Squamish, Sto:lo and Tsleil-Waututh Indigenous lands; Kaniien'kehá:ka Nation territory; Blackfoot Confederacy (Siksika, Kainai, Piikani), the Tsuut'ina, the Îyâxe Nakoda Nations, the Métis Nation, Wolastoqey, Mi'kmaq and Beothuk and the Inuit as well as Treaty 1, Treaty 6, Treaty 7 and Treaty 8 territories. As migrants, we are committed to building migrant support for Indigenous self-determination.

My name is Samira. I am an Algerian woman who has been living without status in Montreal, with my mother, for the past 8 years.

I have done all different sorts of jobs but always under minimum wage. I have suffered under this exploitation like the thousands of others who are in my situation. I stopped working at the beginning of the pandemic because I was worried about exposing my mother to the virus, as her health is very fragile.

I am excluded from this limited program. I don't understand how they can impose all these conditions on accepting human beings. We have been here for years, and have all the necessary experience and language skills they talk about. On top of that, in our search for a dignified life we have been forced to accept exploitation, discrimination, and injustice.

During this pandemic, millions of people without status have risked their lives to serve you and keep the Canadian economy rolling. Why does the government not put in place a regularization program for everyone?

It's revolting how all these new laws ignore us, like we didn't exist. We are here and we will continue to struggle.

INTRODUCTION

On April 14, 2021, Immigration Minister Marco Mendicino announced a path to permanent residency for over 90,000 migrants in the country. The announcement comes on the heels of over a year of almost monthly actions in every corner of the country led by migrants and supported by allies, calling for full and permanent immigration status for all.

On the face of it, the program opened a window to permanent residency for workers in jobs deemed “low-skilled” (called the NOC - C & D, National Occupational Classification - C & D jobs), something that has not happened for decades. This is an important step forward from the recent Express Entry announcement in February, where 27,000 people were invited to apply for permanent residency through the Canadian Experience Class stream which expressly bars NOC C & D job holders from applying.

But any belief that the program would finally ensure rights, protection and dignity, even for workers in low-waged work, has been short-lived. Refugees, undocumented people, and hundreds of thousands of other migrants have realized that the program exclusions and requirements shut them out. The caps in each stream mean that very few will be able to get their applications in before spots fill up. The program does not open until later this week and already chaos has set in, as migrants scramble to book language tests and gather the documents required in the hopes of getting a spot in this first-come first-served program.

On April 15, 2021, the day after the new PR program was announced, the Migrant Workers Alliance for Change launched survey tools for migrants to determine if they qualify. Between April 15 and May 1, 3,959 people utilized this tool. This report summarizes and analyses 3,000 of these responses.



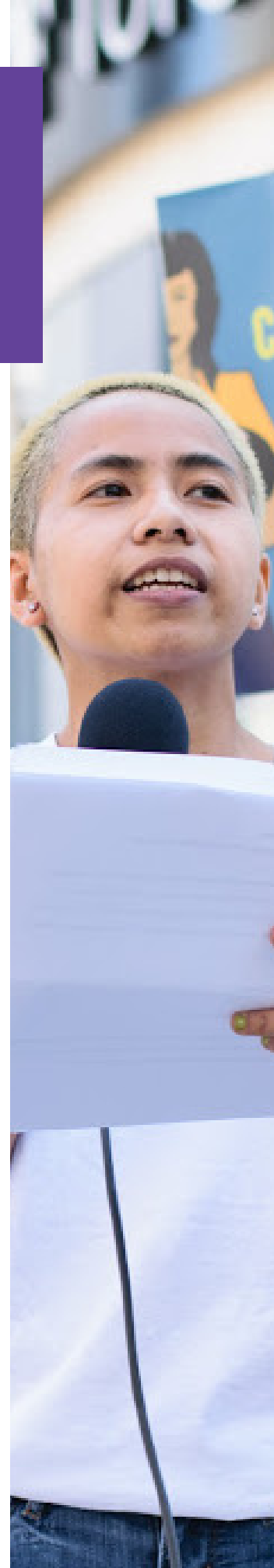
THE TIME FOR TRANSFORMATIVE ACTION IS NOW

Canada faces a generational opportunity to recover from COVID-19 and to build back better. A fairer, more equitable society for all of us is within reach. One of the most fundamental steps in a transition away from a system of inequality and exploitation is full and permanent immigration status for all.

While temporary migration programs have existed since the Caribbean Domestic Workers Stream launched in 1955, these programs have ballooned in the last 20 years. The number of temporary work permits issued each year has gone up more than 600% between 2000 and 2018. Accompanied by a similar meteoric rise in study permits, and consistently high denial rates for refugee claims and other humanitarian applications, the result is that today more than 1 in 23 people in the country are without permanent resident status. Each year, the number of people on temporary permits grows, as does the number of people with expired permits who remain undocumented in the country.

Lack of permanent resident status means that migrants do not have equal rights to decent work, healthcare, and education, and have limited power to assert the rights they do have. The creation of temporary, and therefore undocumented, migration has been a policy choice that has shifted the balance of power away from migrants and into the hands of bad employers and institutions.

What Canada can and must do now is to ensure permanent resident status for all migrant and undocumented people in the country, and ensure that all working class migrants that arrive in the future do so with permanent resident status. The current program must be expanded to include everyone without permanent resident status; all caps and the 6-month window must be removed; residents of Quebec must be allowed to apply; and requirements for an English language test, educational credentials, current employment, and valid immigration status must be removed. Any other inadmissibility requirements must also be removed, and the application fees waived for low-wage workers.

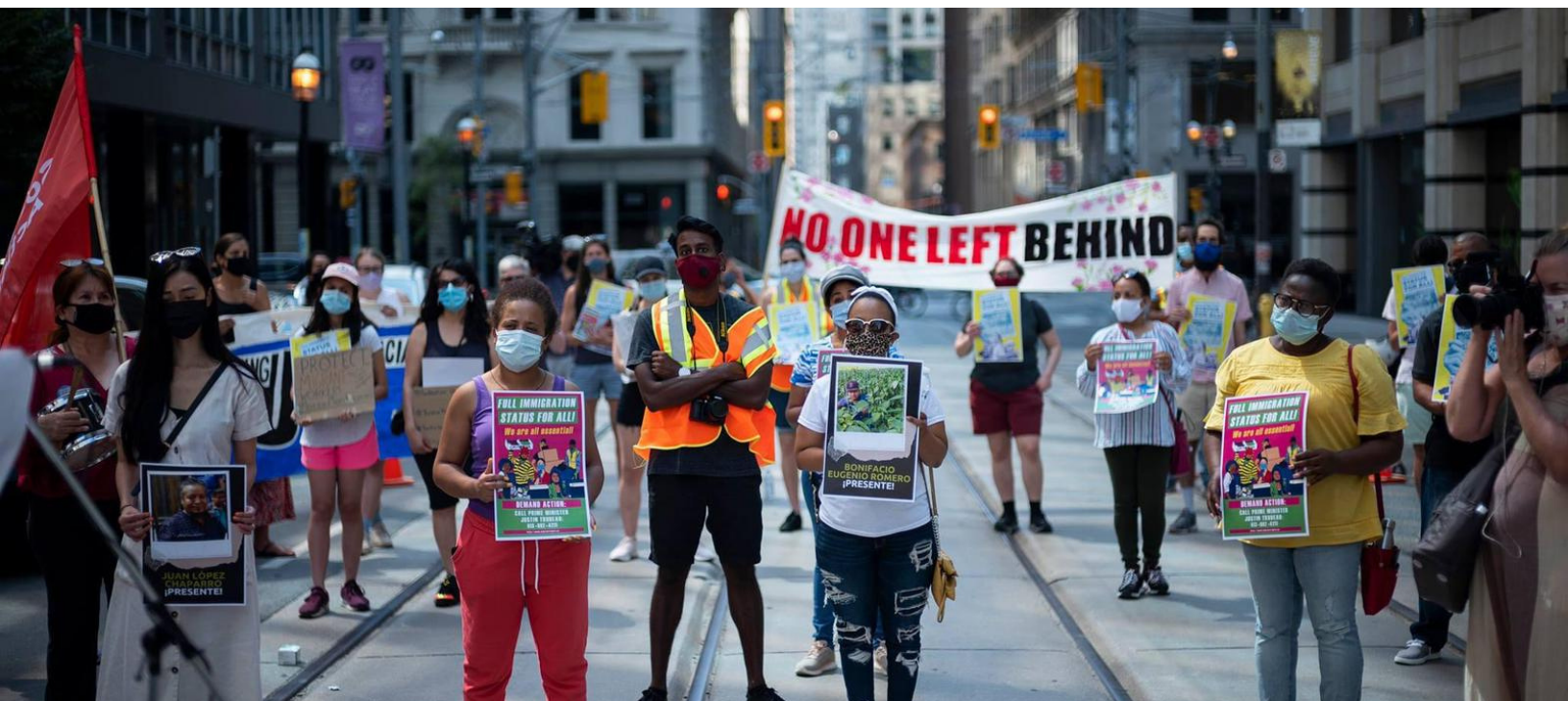


The current requirements for this PR program, the short time-frame, and the arbitrary caps ensure that only those in the best situations will be able to apply - those with the most money, flexibility and access. This means that many of the same people the government has celebrated as essential, working in healthcare, farms, grocery stores, delivery, warehouses, cleaning and construction, will continue to be excluded. Forcing nearly half a million to compete for 90,000 spots - to compete for a chance at equality and stability - is cruel and unnecessary. Excluding over a million is unjust.

Prime Minister Trudeau has the opportunity of a lifetime to change the course of Canada's economy. It is not possible to have effective labour laws when 1 in 23 people can be exploited more than other workers. It is not possible to ensure public health when 1 in 23 people have to pay high fees for or simply have no access to basic healthcare.

It does not have to be this way. Full and permanent immigration status for all is possible, pragmatic and necessary.

Opening the door fully to permanent residency status for all is not about 'opening the floodgates' to immigrants, as many right-wing politicians and pundits will claim. It is about putting an end to sanctioning the inequality, through policy and law, of people who are already living, working, and building communities and lives in Canada and those that will arrive in the future. Permanent resident status is the only mechanism to ensure equal rights can be accessed and exercised by all. This is not about giving thanks to the 'essential workers' who have taken care of every person living in Canada during a pandemic - it is about removing the barriers the Canadian immigration system has put in place to prevent migrant and undocumented communities from being able to take care of ourselves.



EXCLUSION

✘ REFUGEES

✘ UNDOCUMENTED

✘ STUDENTS

✘ OUT OF WORK

✘ IN QUEBEC

✘ OUTSIDE CANADA

This new temporary public policy gives access to permanent residence for foreign nationals in Canada, outside of Quebec, with recent Canadian work experience in essential occupations or with a recent credential from a Canadian post-secondary institution, including those who speak French, and requires that applicants have both a work permit and temporary immigration status in Canada.

The following groups are excluded from applying:

1. All undocumented residents: at minimum 500,000 people
2. Refugee claimants: 79,753 people
3. International students who have not yet graduated: 530,540 people
4. Temporary residents of Quebec: 74,245 people (See [here](#) & [here](#))

Together, these 1.18 million people make up the largest portion of migrants in Canada, and all of them are excluded from applying for PR through this program.

Most of them are employed in “essential sectors”, including those in the list of occupations that qualify for the current program.

Many, including current international students, are unable to access basic rights or assert the rights they do have because of their temporary or lack of immigration status. They must be given permanent resident status.

A further requirement of the new program is that applicants must not be ineligible under the Immigration and Refugee Protection Act. This means migrants with health issues or with families with health issues may be excluded on the basis of medical inadmissibility. Migrants with certain criminal convictions are also inadmissible. The well-documented over policing of racialized and particularly Black communities means that inadmissibility on this basis is an additional layer of racist exclusion.

Nadira Tanveer came to Canada in 2014 to work as a migrant care worker through the Live-In Caregiver program. Facing labour exploitation, she was unable to complete the 24 month work requirement necessary to apply for permanent residency. A Christian from Pakistan, she applied for refugee status, but was denied by a Refugee Board Arbitrator who has since been fired for bias. Ms. Tanveer has an active work permit, and is providing essential in-home care to Mr. Paul Borcsok, a senior with a number of medical needs. She also has a pending Pre-Removal Risk Assessment application after her husband faced threats against his life recently. Despite this, immigration enforcement has issued a deportation notice, and is demanding that she purchase her plane ticket to Pakistan, under threat of detention. Canada has banned flights to Pakistan and India due to incredibly high COVID-19 rates, so immigration enforcement has instructed her to purchase a connecting flight to get around these rules. Ms. Tanveer is otherwise eligible for the program, except for the condition requiring temporary immigration status in Canada.





DISAPPOINTMENT

34.5% of International Graduate Respondents are excluded.

45.4% of Migrant Worker Respondents are excluded.

As broken down below, 34.5% of International Graduates and 45.4% of Migrant Workers that responded to our survey are excluded because of the program's requirements. **An additional 48.27% of International Graduates and 45.4% of Migrant Workers that filled out the survey do not have valid eligible language test results.**

To apply for the program, migrants must be inside Canada. However, we heard from numerous migrants stuck abroad because of flight cancellations and border closures, who have homes in Canada for which they are paying rent, even jobs in Canada that they are doing remotely, who are unable to apply. They are not represented in these survey results but must be included in any policy providing access to PR.

In addition to those excluded outright (undocumented residents, students and refugees), the very limited number of spots available in each stream, the short for applications, and the first-come first-served system means that over the last two weeks hundreds of thousands of people have had their hopes lifted and then quickly dashed. The scramble for English testing and the barriers to gathering the necessary documentation during a global pandemic has left many despondent and grieving.

International Graduate Stream

There are 40,000 spots available in this stream, but as of December 31, 2020, there are at least 247,155 valid post graduate work permit holders who may be eligible. The number of migrant student workers who are potentially eligible for this new program is even higher when considering the study permit holders who have graduated or will be graduating shortly as the spring academic term comes to an end.

47.8% of the 3000 responses that we analyze here are graduates from a post-secondary education in Canada. However, a significant number of them are excluded because:

(1) Graduated before January 2017: 9.49% of survey respondents graduated before January 2017, and are arbitrarily excluded from applying.

(2) Level of education required or skilled job: To apply for the program, applicants must have completed either a university degree of 8 months or more, or a college certification of 16 months or more. Many migrant students come to Canada for a single year program in colleges, as those are significantly cheaper and therefore more accessible. They are excluded from applying through this program, unless upon graduation they secured employment in one of the listed occupations. **9% of survey respondents are excluded for this reason.**

(3) Work permit required: To apply for the program, applicants must have a

valid permit or authorization to work. **2.45% of survey respondents of who are International Graduates are not able to apply for this reason.**

(4) Current employment in Canada: Applicants must be employed at the time of application, despite the fact that racialized unemployment is at historically high levels. As a result of this rule, another **13.6% of survey respondents will not be able to apply.**

(5) English or French language accreditation: 46.27% of survey respondents do not have English or French language accreditation. If they are unable to book a test and get the right result before 40,000 other people apply, they will be excluded.

34.5% of survey respondents are ineligible to apply because of the program exclusions and requirements, while an additional 46.27% may not be able to apply as a result of English and French language requirements.

Some international graduates (those who graduated before January 2017, or do not meet the level of education or skilled job requirement) and may not be eligible for the International Graduate stream may be eligible to apply for the Essential Workers Stream, if they meet the rest of the qualifications.



Essential Workers Stream

There are 50,000 spots in this stream (20,000 for healthcare and 30,000 for other essential workers). There were at minimum 461,470 migrants in Canada on December 31, 2020 who may be eligible to apply through this stream.

61% of the 3000 survey respondents were eligible to apply under the Essential Workers stream, including some International Graduates who could not meet the program requirements. However, a significant portion face exclusions because:

(1) Restrictions by NOC Code: Applicants must have 12 months of work experience in one of 135 NOC occupations in the previous 36 months, but those that are self-employed are excluded. **25.4% of the survey respondents did not meet either the 12 months of work restriction in the previous 36 months or did not fit in an approved NOC Code.** This included migrant farmworkers and care workers who had gaps in employment either because they were not invited back by employers in subsequent years, or because they were working while waiting for work permits to be renewed. Other

essential workers such as those in delivery and cleaning are more often than not misclassified as “self-employed”, and other gig workers are also excluded.

(2) Work permit required: To apply for the program, applicants must have a valid permit or authorization to work. **13.7% of survey respondents did not have valid work authorization.** This includes anyone on a tied work permit who lost employment during COVID-19, anyone whose work permit renewal was delayed because of bureaucratic backlogs.

(3) Current employment in Canada: Applicants must be employed at the time of application, despite the fact that racialized unemployment is at historically high levels. **6.3% of survey respondents will not be able to apply for PR because of this requirement.**

(4) English or French language accreditation: **67% of the survey respondents do not have English or French language accreditation.** If they are unable to book a test and get the right result before 50,000 other people apply, they will be excluded. This is especially of concern to non-English speaking migrant workers, including Spanish speaking farmworkers, who otherwise qualify but are being shut out.

45.4% of survey respondents are ineligible to apply because of the program exclusions and requirements, while an additional 67% may not be able to apply as a result of English and French language requirements.



"Its not my fault that Im undocumented. I was a TFW. I work hard, I volunteer in my community but it seems that every pathway that IRCC creates, we are always excluded. We are not invisible. We are people"

Dan, undocumented migrant, Edmonton, Alberta



"I left 20 years of my life in Canada, and my father left 27 years separated from our family. When they hired us they did not ask us if we speak English and now that this opportunity is here to have permanent residency to defend our rights they say we need to speak, read and write in English? We never have time to study, after working all day like donkeys we just want to go home to eat and sleep, there is no time to study... we want permanent status for all."

Ana, migrant farmworker, Migrant Workers Alliance for Change member, Ontario.



This program is destabilizing and full of obstacles. It's like asking us to cross a crocodile-infested river. Even for those who have stayed involved and active, it's difficult. How can they ask people to show work experience? So many of us have lost our jobs during the pandemic, even those with a work permit. This program will only work for a limited number of people who already have options, but a lot of people will lose their time and money because of it. We have no choice but to stay mobilized and continue the struggle!

Undocumented migrant, Solidarity Across Borders member, Montreal, Quebec



CHAOS AND EXPLOITATION

Once the program was announced, a wave of chaos and confusion swept over migrant and undocumented communities across the country that is being exploited by bad actors.

(1) Language testing centres and agents profiting: There are only two accepted English testing programs migrants can use in Canada, IELTS and CELPIP. Within hours of the announcement on April 14, both their websites crashed as a result of the large numbers of people trying to register for tests. It took almost a week for the websites to come back online, and in many cases, there are no open spots for months. In Calgary, for example, the next open IELTS test is August 7th. Those migrants who are constrained by their employers and unable to leave employer-provided housing, particularly farmworkers and care workers, cannot go to testing centres. Others are not allowed time off to study or to take the test. Testing centres are only available in major cities, and travel from rural communities during COVID-19 is either dangerous or simply impossible because of lockdown measures. Doing tests online is difficult for many because of lack of reliable internet access or computers. Cumulatively, this has meant that migrants are struggling to register for tests. Others are paying the high fees anyway even though they don't meet other requirements. This is a boon for IELTS and CELPIP language centres. Many bad actors are offering fake exams and test-prep tools or promising to secure a test date at exorbitant prices. Many migrants, particularly Spanish-speaking farmworkers, are struggling to learn the language and pass the test in the short window the program will be open.



(2) Bad employers taking advantage: One of the requirements of the program is to be currently employed. This means that migrants on any kind of leave from their current job, paid or unpaid, must return to work to qualify. This can include anyone on parental or caregiver leave, or taking unpaid sick time to quarantine for COVID-19. But racialized unemployment in Canada is high, particularly for migrants. For example, according to our Migrant Rights Network survey in November 2020, 1 in 3 migrant care workers were laid off during COVID-19. Because of the state

of unemployment, many people are willing to accept any job and under any conditions, even work for far below minimum wage to be able to apply for this program. In some cases, bad actors are promising job letters in return for high fees. Migrant workers on tied work permits are only allowed to work for the employers listed on their permits. Workers who were forced to leave bad jobs are now being faced with the impossible choice to return to those same bad employers. Migrants who are self-employed or are gig workers are quitting those jobs for others that pay less or not at all, just to fulfill program requirements. Many workers have already reported employers taking advantage of this PR program to further exploit workers.

(3) Travelling no matter the cost: Canada has closed its borders to many migrants. Flights are also suspended from Mexico, Caribbean countries, India and Pakistan. Migrants must be in Canada to apply. As a result, many are buying expensive last minute tickets, transiting through multiple countries, with greater risk of COVID to get around flight restrictions simply to make it back in time to apply. Many recruiters, agents and unscrupulous immigration consultants are promising “special letters”, at very high prices, that migrants can show at the airport to be allowed in, most of which are fake.

(4) Lack of information: Since the initial announcement on April 14th, the federal government has not provided any further information about the details of the application or the documents required. Hundreds of thousands have had questions that have not been answered, and it has fallen to migrant-led organizations like ours to fill the gap. Meanwhile, unscrupulous recruiters, agents, immigration consultants and lawyers are spreading misinformation and promising miracles for high fees. Those particularly being targeted are undocumented people, refugees and low-wage workers, including those without access to internet, or high levels of English and French literacy.

(5) High fees: While details of fees have not been announced, a permanent resident application costs \$1,135 per application, and \$1,945.00 for a 2 parent, 2 children family. Immigration consultants on average are advertising \$4,000 to do applications, with some asking for much more. Getting documents from overseas or renewing them also costs money. Migrants will also have to pay for medical tests for all members of the family, if they are invited to do so. These are substantial fees for migrants working in low-waged jobs or for minimum wage - in some cases more than what many earn in a month. Many low-wage workers simply don't have thousands of dollars saved, and the first come, first-served means those with money will be able to apply before low-wage workers. Some workers, specifically care workers, who have already submitted applications through the Care Worker Pilot program but have been waiting over a year or two for an answer are now being encouraged to apply through this stream, paying fees twice in the hopes of getting PR faster.

(6) COVID-19 barriers to getting documentation: Immigration applications require extensive documentation, including police clearances, educational transcripts, valid passports, etc. With COVID-19 continuing to ravage countries in the Global South in particular, getting such documents is incredibly difficult. This particular program requires that migrants must have all documents assembled to apply with at the same time. Applicants from richer countries (Europe, USA, etc.) where government bureaucracies continue to function and embassies remain open have a significant advantage.



DESIGN & ANALYSIS

The survey was created by Migrant Workers Alliance for Change. The questions are organized using the eligibility requirements outlined in the public policy documents issued by the federal government after its April 14 announcement.

The survey was in English and in Spanish and distributed directly to migrant members of the Migrant Rights Network via email or WhatsApp. Francophones are able to apply to the new program through a stream with no cap, as long as they are not residents of Quebec, and therefore we did not produce a tool in French.

In all, 3,959 people initiated the survey but not everyone completed it, likely abandoning it at the point where it became clear they did not meet the eligibility requirements. Few refugees and current international students completed the survey likely because they were aware that they were excluded. Respondents that identified as refugees or currently studying were not included in the analysis. While the survey was not distributed in Quebec, some residents of that province did fill

it out and those responses have been removed from the analysis also. In total, we are reporting on 3,000 out of 3,959 responses that were completed, leaving out responses from refugees, current students, and those in Quebec. Finally, while many respondents, particularly in the Essential Workers stream, are currently without immigration status, we know that long-term undocumented people in general did not engage with the survey tool, also likely because they were aware that they were not included.

This survey is a snapshot of migrants impacted by the new PR program, to give a sense of the experience of some of those people hoping to apply. We cannot account for the experiences of the vast numbers of migrants who are excluded outright from this program or did not participate in the survey.

65.8% of respondents are from Ontario, 17.1% from British Columbia, 4.8% from Alberta, 2.8% from Manitoba, 2.7% from Nova Scotia, 2.3% from PEI, 2% from Newfoundland and Labrador, 1.6% from Saskatchewan, and 0.9% from New Brunswick.

A fair society requires equal rights. And equal rights are only possible when all residents have the same immigration status.



