



Worker Solidarity Network
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April 5, 2024

Rt. Hon. Justin Trudeau
Prime Minister of Canada
80 Wellington Street
Ottawa, Ontario, K1A 0A2
justin.trudeau@parl.gc.ca

Hon. Marc Miller
Minister of Immigration, Refugees and Citizenship
House of Commons, Ottawa, Ontario, K1A 0A6
Marc.Miller@parl.gc.ca, Minister@cic.gc.ca

Cc: Migrant Rights Network - letters@migrantrights.ca

RE: Regularize All Undocumented People and Ensure Permanent Resident Status for All Migrants

Dear Prime Minister Trudeau and Minister Minister,

The Worker Solidarity Network (WSN) is a provincial non-profit dedicated to advocating for labor rights and empowering vulnerable workers in low-wage sectors, including retail, restaurant, hospitality, and the gig economy. Led by workers with diverse lived experiences, WSN utilizes these insights to guide our sectoral campaigns and address barriers for marginalized workers, with a focus on critical issues like access employment rights and access to justice, through widely distributed "Know Your Rights" education, we ensure that workers are aware of existing protections.

In December 2021 PM Trudeau made a [mandate letter](#) commitment asking the Immigration Minister to create a "regularization program" for undocumented migrants. That promise has been repeated many times, and most recently the Minister promised to bring a proposal to Cabinet in the [Spring](#) of 2024. What's more, the migrant care worker program is expiring on June 17, and unless it is replaced thousands of migrant women will become undocumented. Already, [many of them cannot apply for permanent residency because of impossible-to-achieve language testing and educational accreditation requirements](#).

At the WSN, we support migrant workers that face workplace violations imposed by employers, from being paid less than minimum wage to misrepresentation of employment contracts promised to them before traveling to Canada. Undocumented people and migrants are mostly racialized, low-waged people, often women. While landlords are raising rents beyond reach and grocery stores making it difficult to put food on the table, migrants can't afford to put their employment at risk by standing up for their rights at work. The government can stop migrant exploitation by ending tied work permits and hours of work limits for international students. It's time to lead with justice and equity by creating a comprehensive and inclusive [regularization program](#) as part of implementing anti-racist and gender equality to ensure rights and access to them is available to everyone.

There is also a clear need for an [interim program for migrant caregivers](#) in Canada to apply for permanent resident status without educational accreditation and language test score requirements. Many caregivers have been taking care of children, sick and elderly while in Canada, and as of June 17, many will become undocumented, putting their health and safety at risk.

The WSN endorses the Migrant Rights Network recommendations on [regularization](#) and for [migrant careworkers](#). Supporting the access of migrants rights benefits us all. In fact, a recent US National Bureau of Economic Research [paper](#) by renowned economists George Borjas and Anthony Edo shows that the economic benefits of effective regulation programs can contribute to substantial improvements to the economy. Most undocumented people pay taxes but their employers, many of whom are very profitable businesses, do not pay statutory remittances. Regularizing 500,000 undocumented people will increase employer CPP and EI contributions by at least \$1.1 billion, just in the first year.

Now is the time to regularize all undocumented people and ensure permanent resident status for all migrants.

Kind Regards,



Pamela Charron
Executive Director
Worker Solidarity Network

Overhauling the HCCP & HSWP

Introduction

The Home Child Care Providers and Home Support Worker Pilot Programs (HCCP and HSWP) were created in 2019 by Immigration Refugees and Citizenship Canada (IRCC) and are set to expire in June 2024. As a result of the program design, there are four groups of care workers affected:

1. Care workers excluded from PR based on unfair IRCC criteria: Potentially thousands of care workers in Canada cannot apply for permanent residency because of unnecessary education accreditation and language testing scores.
2. Care workers in backlog: Those in Canada who have applied for permanent residency but have not received permanent residence (some applicants do not even have open work permits).
3. Care workers that meet IRCC criteria: Those who came to Canada with one-year post-secondary education accreditation and, having received the required level 5 in the Canadian Language Benchmark, are waiting to complete their 12 months of service.
4. Care workers outside Canada / Future of HCCP and HSWP: Those who have applied to come to Canada, but are awaiting final processing; and those that may arrive in the future.

These groups of workers have different experiences and levels of vulnerability and exclusions. Different policy solutions need to be advanced for each of them as outlined below.

Guiding Principles

We recommend that the following principles must determine the evaluation and replacement of the HCCP and HSWP Pilot:

1. Immigration policy must be created by and for migrants, with a focus on ensuring rights, dignity and self-determination for migrants and immigrants.
2. All migrants - regardless of income or work - should have the right to be with our families as we choose to define them and have them visit or stay permanently alongside us.
3. Employers must not have the ability to exploit migrants or determine our future. That means there must be no tied or sectoral work permits; no hours of limit on work permits; no restrictions on work based on industry of work; no requirement for job offer letter or employer documents or minimum work experience requirements for any permanent residency application.
4. Working class migrants must be able to come to Canada with equal rights, which is only possible through permanent residency.
5. Canadian education accreditation, and official language test scoring should not determine access to permanent residency.

Recommendations

1) Solutions for care workers excluded based on unfair IRCC criteria

Recommendation : Create an Interim Program without time limits for care workers in Canada without education accreditation and language requirements. Increase the dependent age limit to allow families to reunite.

Many migrant care workers arrived in Canada prior to 2019 before the launch of the HCCP and HSWP, and others have been allowed to come in since without the one-year post-secondary education accreditation or language benchmark requirements. We have members in Canada who have been here since 2017, caring for children, sick and the elderly, that are separated from their families. They have continued to renew their employer-dependent work permits as they have struggled to meet the requirements without success. Many came to Canada via third countries, such as Hong Kong, where they worked for years as care workers. They have crucial skills and many years of experience as healthcare providers and childcare workers - both essential jobs in Canada today. Having lived here for years, they are well-integrated, and have proven their ability to succeed despite immense hardships. Many are unable to leave, and some have already become undocumented. Many of these care workers have dependent children who have aged out past 22 as they have struggled to meet the requirements - there must be special consideration for these families that have been kept apart for so long.

For those who are in Canada without these required IRCC criteria, it is incredibly difficult to meet them:

- Post-Secondary Education Accreditation: Despite the announcement in June 2023 allowing migrant temporary foreign workers to study, the high costs of education as an international student, the requirements for admissions (many schools require CLB Level 6 and above), and the need to earn money and support their families means that many care workers are not able to return to school to get accredited. Many care workers came to Canada believing that they would meet the required credentials, having studied for two or even three years (of a three or four year program) in a post-secondary institution, now their credentials are not acknowledged because they did not graduate.
- Language requirements: Many migrant care workers are able to communicate, work and live in Canada but are unable to pass the language tests. Many of our members have taken the test multiple times, and are stressed and anxious to the point of a mental health crisis because of them. The intense pressure of the test means that many are failing despite being able to communicate well in English. Some are unable to succeed because of their lack of experiences with online testing systems. Others have scored the required CLB Level in each of the four required areas: Reading, Writing, Speaking and Listening but just not in the same test. They are not allowed to combine the outcomes from the tests.

2) Solutions for care workers in backlog *and* those that meet IRCC criteria

Recommendation: Issue open work permits within 30 days of application to all care workers who apply for permanent residency from inside Canada (including for the Interim program).

Recommendation: Remove the processing cap of 2,750, and process PR applications of all care workers in Canada immediately.

Recommendation: Immediately grant open work and study permits to family members of care worker applicants for permanent residency (including for the Interim program).

In a recent survey of 71 care workers that had applied for permanent residency over 24 months ago, only 4 had received open work permits, the rest were still waiting. Despite fulfilling all the requirements, and having applied for permanent residency, they remain in limbo, still needing to find employers willing to apply for Labour Market Impact Assessments to maintain their immigration status. Many are stuck in abusive employment situations they cannot leave for fear of losing their immigration status. Some have even become undocumented. The majority of workers had been in Canada for over five years, and had not visited their families in this time period. This is a travesty that pre-dates inventory issues caused by COVID-19. These racialized migrant women have done everything Canada has asked them to do and the delays are causing an immense crisis.

3) Care workers outside Canada / Future of HCCP and HSWP

Recommendation: The HCCP and HSWP should be replaced with a migrant care worker program that allows racialized working class women to come to Canada with permanent resident status.

HCCP and HSWP programs have a number of crucial facets that must be maintained, and be further implemented across the Temporary Foreign Worker Program streams including:

- Recognizing that working class people (otherwise termed 'low-wage' or 'low-skilled') should be given access to PR
- Migrants should be assessed for permanent residency prior to their arrival
- Migrants should be allowed to come to Canada with their families
- Migrants should be able to secure jobs prior to their arrival
- Migrants should be allowed to come to come to Canada without an employer-dependent work permit

Elements that need to be corrected are:

- The work experience requirement continues to give extraordinary power to employers. Migrant women in low-wage, in-home work are forced to accept unfair or abusive conditions to meet the 12 month work experience requirement.

- The long processing times prior to arrival means that workers and employers are waiting for years to come to Canada
 - The long processing times after completion of 12 months of service means that workers struggle to maintain status, are living in limbo and are separated from their families.
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Migrant Rights Network is Canada's largest migrant-led coalition of 40 organizations in 8 provinces which are made up of tens of thousands of migrant members including farmworkers, domestic workers, current and former international students, refugees and undocumented people. The **Landed Status Now Working Group** is composed of all the migrant care worker-led organizations in Canada including Caregiver Connections Education and Support Organization, Vancouver Committee for Domestic Workers and Caregiver Rights and Migrante Canada and Migrant Workers Alliance for Change.

www.MigrantRights.ca | @MigrantRightsCA | info@migrantrights.ca

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Migrant Rights Network October 2022 Update

Regularization in Canada

Undocumented people in Canada

People become undocumented because of the failures of immigration policy. There is no access to permanent residency for most low-wage migrants in Canada, and only 60% of refugee claimants are accepted. Almost all undocumented immigrants in Canada were previously on a temporary authorization (work, study, refugee claimant permit). They reached a point where they could not get permanent residency and the federal government refused to renew their permits. They were faced with an impossible choice: either return to a country where they may face war, discrimination, climate catastrophe or no economic opportunities and leave communities, families and relationships in Canada OR stay without access to any rights and services and in daily fear of deportation. Those who stay become undocumented immigrants.

Without permanent resident status, undocumented people are unable to assert rights at work or access basic healthcare. They face discrimination and exploitation because of the well-founded fear of deportation. Non-status people are part of communities. They are neighbours, classmates, parents, spouses, children, coworkers and caretakers. Because of lack of permanent resident status, undocumented people experience insecure housing, abuse at work, poverty and fear. The uncertainty about the future, constant stress of making ends meet and risks of detention and deportation negatively impacts our health. Living without status requires a tremendous amount of resilience.

In 2007, the RCMP estimated that there were between 200,000 to 500,000 undocumented people in Canada¹. No new analysis has been done in the 15 years since, but the number of temporary work and study permits issued in Canada have increased at least 4-fold, with a likely corresponding increase in the number of undocumented people. We believe that there are at least 500,000 non-status immigrants.

Our Comprehensive and Inclusive Regularization Program Proposal

Regularization should be considered a minimum floor of rights whereby when any group is excluded, the overall economy suffers. If the pandemic taught us anything, it is that everyone is connected and the exclusion of any person or group of people from equal rights and services is harmful to the whole.

In order to ensure the most effective program is created, a permanent coordinating table must be established with Migrant Rights Network so that undocumented people and refugees are involved from design to implementation to evaluation. The key tenets of the program should be as follows:

A simple broad program

- All undocumented people residing in Canada must be able to apply for and receive permanent resident status.

¹ https://publications.gc.ca/site/archives-archived.html?url=https://publications.gc.ca/collections/collection_2012/grc-rcmp/PS61-22-2007-eng.pdf (page 80)

- If residency in Canada is defined, it should include all periods in Canada, including prior to being undocumented, and should be no more than two years in Canada
- Dependents must be defined broadly to include all de facto family members and a wide range of documents must be allowed to prove family relations.
- There should be first-stage processing of work permits. Permits should be automatically renewed until the application is fully processed.
- The program should be permanent and available on an ongoing basis because the factors leading to people becoming undocumented will continue for the foreseeable future. Changes must also be made to immigration and refugee policy to ensure that all migrants including workers, refugees, international students and others are guaranteed permanent resident status so that they do not become undocumented².

Clear and simple application process

- Applications must be simple, such that undocumented people are able to apply themselves, both online via mobile devices and on paper.
- There should be a large selection of acceptable documents for the purposes of establishing identity and residence in Canada, none should be mandatory.
- The application should not depend on anyone else (e.g., job letters or proof of work in occupations or spousal ties to Canadian citizens) or require English language test results.
- The applications must be free or as low-cost as possible.
- Third-party applications including from employers and support organizations should be allowed, but they should not be mandatory.
- If applications from third-party groups, lawyers or consultants are not successful, applicants must be given a second opportunity to update their application to mitigate inadequate representation by exploitative third-parties.
- Resources should be made available to legal clinics and community groups to support undocumented people in accessing the program.
- Decisions must be based on clear, objective criteria. Reasons for refusal should be documented and argued.

No Exclusions or Inadmissibility & Right to Appeal

- People should not be excluded based on past failures to comply with immigration law. Being undocumented creates the conditions for such non-compliance.
- Inadmissibility criteria must be suspended. If there are inadmissibility grounds, there must be a simple procedure for applicants to challenge their exclusion on these grounds.
- Failed applicants must have access to an appeals process.

No Detention or Deportations

- There must be a prohibition on detentions and deportations as soon as the program is announced.

² See Migrant Rights Network letter to Cabinet, October 2021 with initial proposals for changes: <https://migrantrights.ca/wp-content/uploads/2021/10/Letter-to-Cabinet-Migrant-Rights-Network-October-2021.pdf>. More specific proposals can be provided.

- No one should be deported if their application is rejected.

Comprehensive Communications strategy

- The regularization program must be announced at least 3 months in advance to allow for dissemination of information to more isolated undocumented people. The full list of documents required and a sample application must be provided at this stage.
- Information must be provided in the top languages spoken by undocumented people.
- Social media friendly content in a range of languages and mediums must be created to help communicate the program.
- Clear and timely communication must be made to civil society organisations including the Migrant Rights Network that have strong links to undocumented people.

Defining who should be included

- Anyone in Canada without valid authorization to work, study, or stay; and
- Anyone in Canada with valid work authorization on humanitarian grounds (from a country with a moratorium on deportations to; no travel papers; pending pre-removal risk assessment, stay of deportation, with a pending humanitarian and compassionate application, asylum claimant, etc).

History of regularization in Canada

From 1960 to 2004, Canada had a number of regularization programs, the largest of which was the Adjustment of Status Program by Prime Minister Pierre Trudeau in 1973. Two regularization programs, both quite small and exclusionary, were piloted during COVID-19. Migrant groups have called for regularization for decades. Prime Minister Trudeau promised a regularization program in his mandate letter to the Minister of Immigration on December 16, 2021.

Broad support for comprehensive and inclusive regularization.

Almost every major civil society, labour, health and environmental organization has joined our call for full and permanent immigration status for all - nearly 500 organizations³. Major organizations from across Canada have also written letters to PM Trudeau supporting our regularization proposal⁴.

Benefits of a comprehensive & inclusive regularization program

1. **Addressing a historic wrong:** A comprehensive program would ensure that Prime Minister Trudeau is remembered for creating life-altering public policy, which corrects an historic wrong. A fair society with equal rights is only possible if everyone has the same immigration status.
2. **Part of ending systemic racism and ensuring gender equality:** Undocumented people are mostly racialized, low-waged people, often women. Ensuring rights and access for them is part of implementing anti-racist policy and gender equality.

³ <https://migrantrights.ca/status-for-all/>

⁴ <https://migrantrights.ca/organizational-letters-of-support-for-regularization-statusforall/>

3. **Ensure improved labour conditions:** Employers of undocumented workers threaten them with deportations to stop them from asserting their rights. This abuse results in overall worsening of working conditions in the labour market⁵. While bad employers prosper, good employers who may be unable or unwilling to hire workers informally or for cash payments are excluded.
4. **Ensure public health:** Undocumented migrants often do not access healthcare until it is absolutely necessary due to the costs⁶. By the time they do, their health conditions are much more complicated, and the burden on the healthcare system is much higher. Regularization will protect overall public health.
5. **Create more effective social policy:** Currently, there are no reliable statistics on undocumented people in Canada. An inclusive regularization program will ensure that non-status people enter into everyday life, allowing for more informed and effective social policy to be created.
6. **Grow the economy at greater rates than cost of processing or settlement services:** Most non-status people pay taxes but their employers, many of whom are very profitable businesses, do not pay statutory remittances. Regularizing 500,000 undocumented people will increase employer CPP and EI contributions by at least \$1.1 billion, just in the first year. As undocumented people achieve stability through permanent residence, they will lay down roots, purchase assets of greater value, and spend more on Main Street.
7. **Create labour mobility to address shortages where they exist:** Undocumented people live and work here. Many are in cash-based jobs, or are under or unemployed. Regularizing all undocumented migrants will increase their labour mobility, unlocking their skills and experience enabling them to move and take on whichever jobs have openings.
8. **Build on best practices around the world:** Between 1996 and 2008, 24 of the 27 EU Member States implemented regularization programs, and some several times. An estimated 5.5 to 6 million people were regularized in that time⁷. The largest programs were the Italian 2002 program that regularized 634,000 people and the Spanish 2005 program that regularized 578,375 people⁸. Ireland regularized almost all undocumented people in the country this year who met a basic residency requirement.

⁵ Goldring, L. and P. Landolt. 2022. "From Illegalised Migrant Toward Permanent Resident: Assembling Precarious Legal Status Trajectories and Differential Inclusion in Canada." *Journal of Ethnic and Migration Studies*. 48(1): 33-52.

⁶ Brabant, Z. and M-F. Raynault. 2012. "Health Situation of Migrants with Precarious Status: Review of the Literature and Implications for the Canadian Context – Part A." *Social Work in Public Health* 27(4): 330-344; Magalhaes, L.C. Carrasco, and D. Gastaldo. 2010. "Undocumented Migrants in Canada: a Scope Literature Review on Health, Access to Services, and Working Conditions." *Journal of Immigrant and Minority Health* 12, 132 and Gagnon, M., Kansal, N., Goel, R. et al. Immigration Status as the Foundational Determinant of Health for People Without Status in Canada: A Scoping Review. *J Immigrant Minority Health* (2021).

⁷ Baldwin-Edwards, M. and A. Kraler. Eds. 2009. *REGINE: Regularisations in Europe*. Brussels: Pallas Publications

⁸ Kraler, A. 2019. "Regularization of Irregular Migrants and Social Policies: Comparative Perspectives." *Journal of Immigrant and Refugee Studies* 17(1): 94-113, and Moffette, D. 2018. *Governing Irregular Migration: Bordering Culture, Labour and Security in Spain*. Vancouver: UBC Press.

Migrant Rights Network

The Migrant Rights Network is Canada's largest cross-country, migrant-led coalition. Our membership is composed of people without permanent resident status - workers, students, undocumented people, refugees and families. We are Canada's only coalition that ensures the leadership of migrants. Member organizations of Migrant Rights Network have a long-standing commitment to ensuring regularization, and have been at the forefront of organizing for it for over 20 years.

www.MigrantRights.ca | @MigrantRightsCA | info@migrantrights.ca

Migrant Rights Network Secretariat

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Current members of the Migrant Rights Network are:

Migrant Justice Coalition – Alberta

Association of Mexicans in Calgary

We're Together Ending Poverty (WTEP)

Kabisig Society of Fort Saskatchewan

Migrante Alberta

BC Migrants

Migrante BC

Radical Action with Migrants in Agriculture (RAMA)

Sanctuary Health Vancouver

Vancouver Committee for Domestic Workers and

Caregivers Rights

Migrant Rights Network – Atlantic Region

Cooper Institute (PEI)

No One Is Illegal – Fredericton (New Brunswick)

No One Is Illegal – Halifax / Kjiipuktuk (Nova Scotia)

Manitoba

Migrante Manitoba

Quebec Coordination

Collectif Ensemble avec les personnes Migrantes

Contre le Racisme

Immigrant Workers Centre – Montreal

PINAY Quebec

Solidarity Across Borders

Migrant Rights Network – Ontario

Butterfly – Asian and Migrant Sex Workers
Project

Careworker Connections Education 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

Migrante Ottawa

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

South Asian Legal Clinic of Ontario

Unifor

Vivimos Juntxs, Comemos Juntxs

Workers' Action Centre