



SAMUEL CENTRE
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Temporary Foreign Workers and COVID-19 Investigating Canada's Treatment of Migrant Workers during the COVID-19 Pandemic

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EXECUTIVE SUMMARY

The Temporary Foreign Workers Program has created a power dichotomy that gives employers a disproportionate amount of power and influence over their employees. Employers functionally act as immigration officials, using threats of dismissal and consequently, the loss of a right to remain in Canada, to commit financial, physical and emotional abuse against workers. This power dichotomy has worsened during the COVID-19 pandemic, where additional complexities like quarantine requirements and a substantial increase in demand lead to abysmal living conditions and unsafe workplaces. Thousands of migrant workers have been infected at their place of work and thus far, three workers have died.

Community organizations have largely been forced to shift their programming and advocacy to an online context, making it much more difficult to provide support for migrant workers. However, many organizations have contributed by translating resources, holding online events and consultations. Activists have been vocal through traditional forms of media, as well as social media campaigns and some in person protests. Most employers have been largely compliant with quarantine regulations, however there have been a significant number of employers who have not.

The most important recommendation is for a reimagining of the Temporary Foreign Workers Program. This report argues that the workers are not temporary, as many workers have been returning to Canada for years, if not decades. Designing the program as temporary actually makes them “disposable”. The program should be reimagined to give permanent status on arrival, giving workers the legal right and agency to access resources like employment rights, healthcare and financial assistance. In the interim, the government should conduct more random inspections and award open work permits. Community organizations also have a role in fostering connection between workers and the broader community. This partnership enriches the cultural diversity of the region and gives workers powerful allies. The Samuel Centre for Social Connectedness (SCSC), as a leading research and advocacy hub around the theme of connectedness is uniquely qualified to play a lead role in providing resources and training to this end.

INTRODUCTION

Temporary Foreign Workers (TFWs) have been the backbone of the Canadian agricultural system for decades. When the COVID-19 pandemic hit Canada in March of 2020, the pressure on workers and their employers was immense to ensure that there were no shortages or interruptions to the food supply chain. As the pandemic went on, stories of mass outbreaks of COVID-19 on farms, wineries and factories trickled into the media. The story was similar at many of these locations: botched quarantines, no physical distancing, and unsanitary working conditions. Tragically, three agricultural workers have died and thousands of workers have contracted COVID-19 at their places of work. An investigation into these situations have revealed that the infrastructure and working conditions that enabled these failures existed long before the pandemic. This report investigates infrastructural failures, responses from each stakeholder and makes recommendations for changes to the Temporary Foreign Workers Program.

Data, Methods & Limitations

Data was collected through literature reviews of existing scholarly articles on the experiences of TFWs and the Canadian points-based immigration system. Since the COVID-19 pandemic is new and the situation is rapidly changing, news articles from reputable sources and government websites were included to fill in gaps about updates. Community organizations and activists were interviewed to investigate responses on the ground and to obtain information about migrant workers' situations through the closest possible proxy. The initial intention of this report was to obtain views of migrant workers, but due to confinement measures and physical distancing requirements, the researcher

was unable to speak directly with migrant workers. In future cohorts of the Fellowship, migrant workers should be consulted before and during the research process.

ISSUE

The Temporary Foreign Workers Program (TFWP) in Canada was established to fill demand gaps for jobs that were not being filled by Canadians or Canadian residents without an obligation to provide citizenship or other state benefits.¹ Though there are multiple streams, the most familiar occupations are agricultural workers and caregivers.² These jobs require employers to go through a Labour Market Impact Assessment (LMIA) or a Quebec Acceptance Certificate (CAQ) if they are hired in Quebec to ensure these jobs could not have been filled by a Canadian.³ Although the Canadian government sees the TFWP as temporary and not as an avenue to permanent residency or more long-term immigration, this view may not be shared by workers in these programs. Prokopenko and Hou reported that there was a dissonance between the policy design and the mindset of some workers, who viewed the program as part of a “two step migration” process.⁴

Moreover, the design of the TFWP has left Temporary Foreign Workers (TFWs) vulnerable to abuse, wage theft and discrimination. Work permits are often tied to a

¹ Elena Prokopenko, Feng Hou, “How Temporary Were Canada’s Temporay Foreign Workers,” *Population and Development Review* 44, no.2 (2018): 257 - 280.

² “Find out if you need a Labour Market Impact Assessment,” Government of Canada, accessed August 12, 2020, <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/hire-temporary-foreign/find-need-labour-market-impact-assessment.html>.

³ “Find out if you need a Labour Market Impact Assessment,” Government of Canada, accessed August 12, 2020.

⁴ Elena Prokopenko, Feng Hou, “How Temporary Were Canada’s Temporay Foreign Workers,” *Population and Development Review* 44, no.2 (2018): 257 - 280.

specific employer, meaning, if the worker is relieved of their position, they lose their right to remain in the country.⁵ This gives their employer the power to act as a “gatekeeper” into the immigration system, allowing them to exercise undue power against the worker.⁶ The power dichotomy and infrastructure that enabled abuse against TFWs existed long before the pandemic. The pandemic just exacerbated some of the conditions and added additional complexities to a system that was already rife with issues.

At the beginning of the pandemic, employers had to grapple with a number of new considerations. At the very start of the travel ban, on March 18, TFWs were not exempt, meaning employers did not have the labour resources they expected.⁷ Many employers in the agricultural industry lobbied the government, arguing that lack of TFWs threatened the supply chain and “[foreign workers] have become a very, very important resource that we cannot replace suddenly with a local workforce”.⁸ On March 20, the government reversed the travel ban against TFWs.⁹ However, TFWs still had to grapple with new COVID-19 related complications, which employers rarely executed well.

Workers have reported lack of access to healthcare as one of their top concerns. The problems start with communication about the situation. The lion’s share of the most

⁵ “Hire a temporary foreign worker through the agricultural stream: Next Steps,” Government of Canada, accessed August 4, 2020, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/agricultural/after.html>.

⁶ Ethel Tunoghan, “Living with Compromised Legal Status,” *International Migration* 56 no.6 (2018): 208-220.

⁷ “Canada provides update on exemptions to travel restrictions to protect Canadians and support the economy,” Government of Canada, accessed July 27, 2020, <https://www.canada.ca/en/immigration-refugees-citizenship/news/2020/03/canada-provides-update-on-exemptions-to-travel-restrictions-to-protect-canadians-and-support-the-economy.html>.

⁸ Anne Leclair, “‘Disastrous consequences’ to closing border to foreign workers, Quebec’s food production industry warns,” *Global News*, accessed August 4, 2020, <https://globalnews.ca/news/6696637/coronavirus-closing-border-quebec-industry/>.

⁹ Ibid.

up to date information on COVID-19 is in English or French, which many TFWs do not speak. Additionally, although some resources are translated online or offered by phone, many TFWs do not have stable access to internet or phone.¹⁰ Other resources, like Canada's contact tracing app are inaccessible because of technological incompatibility issues that prevent users with older phones from benefiting from the app.¹¹

Access issues also extend to healthcare providers not understanding specific migrant needs. For example, in the report by the Migrant Workers Alliance "Unheeded Warnings", workers reported that health units were not equipped to address migrant workers basic needs.¹² The report stressed this was not an issue of individual healthcare providers, but a systemic issue due to a resource crisis and lack of infrastructure in place to handle a pandemic situation.¹³

Connie Sorio, the Migrant Justice Coordinator at KAIROS, reports that although the government publicly states that it will not ask about immigration status during the healthcare process, TFWs are often asked about status during the screening process.¹⁴ Thus, many undocumented workers opt not to access healthcare due to fear of being targeted or risk of deportation. This situation is familiar to TFWs who have tried to access other resources in the past. Although sometimes the public stance or policy is to ignore immigration status, individuals like school officials and immigration officials act as

¹⁰ "Unheeded Warnings," Migrant Workers Alliance, accessed August 4, 2020, <https://migrantworkersalliance.org/wp-content/uploads/2020/06/Unheeded-Warnings-COVID19-and-Migrant-Workers.pdf>.

¹¹ Nick Wells, "Rollout of COVID Alert app faces criticism over accessibility," *CBC*, accessed August 4, 2020, <https://www.cbc.ca/news/politics/COVID-alert-app-accessibility-1.5672881>.

¹² "Unheeded Warnings," Migrant Workers Alliance, accessed August 4, 2020.

¹³ *Ibid.*

¹⁴ Connie Sorio (Migrant Justice Program Coordinator, KAIROS), interviewed by Ji Yoon Han via Zoom, July 23, 2020.

self-appointed “gatekeepers” and prevent migrants from accessing the care and resources that they are entitled to.¹⁵

Finally, employers themselves are often huge barriers to access for healthcare. Due to fear of reputational damage, reduced output, amongst other reasons, employers have been reported to dissuade or outright prevent TFWs from reporting COVID cases using the threat of deportation.¹⁶ In other situations, TFWs who test positive for COVID-19 are sent back to work with the rest of the workers, with no measures to prevent spread. In some situations where workers are quarantined, they are not paid, although they are legally entitled to be paid.¹⁷

EVIDENCE & KEY FINDINGS

Temporary Foreign Workers’ Response

There are a number of actors and stakeholders involved in resolving COVID-19 related issues for TFWs. The first and most important actors are the migrant workers themselves. Throughout the pandemic, migrant workers have been power storytellers and advocates against the conditions they have been forced to live and work in (often using activists as their proxies when they are unable to communicate directly). Many TFWs have bravely spoken out in various mediums, risking their livelihoods and immigration status to bring attention to these issues. Additionally, at great personal risk, they have collected evidence of abuse to pass on to activists and organizations to further support their cause. Migrant workers have also provided solutions to these

¹⁵ Ethel Tunoghan, “Living with Compromised Legal Status,” *International Migration* 56 no.6 (2018): 208-220.

¹⁶ “Unheeded Warnings,” Migrant Workers Alliance, accessed August 4, 2020.

¹⁷ Ibid.

issues, many of which are included in the recommendations portion of this report. It is important that migrants are recognized not solely as “victims”, but as individuals with agencies and solutions.

NGO & Community Organizations’ Response

Non-governmental organizations (NGOs) and grassroots activists have had to adapt quickly to the COVID-19 context, as confinement measures and physical distancing requirements prevented them from carrying out in-person events or visiting migrant workers in the same capacities. Many of them have moved much of their programming online, by holding events through various video conferencing software or providing consultations online. Delivering the same quality programming to clients has been difficult. A challenge not anticipated by some NGOs as they first transitioned to digital services was that their clients would often not be familiar with the same platforms as them. Maryam Karimi from the Saskatchewan Association of Immigrant Settlement and Integration Agencies (SAISIA) talks about how one consideration she had not taken into account is that sometimes, the platforms used in Canada are different than the ones their clients are used to.¹⁸ Therefore, reaching individuals where they are at has been difficult. In some provinces, such as B.C, where the COVID-19 situation had been slightly better than in Ontario, NGOs have been able to carry out limited in-person support. Dennis Juarez and his team were able to deliver kits of food and goods to migrant workers in the region. He and his team have been working with TFWs to help them file claims against employers during the pandemic.¹⁹

¹⁸ Maryam Karimi (Saskatchewan SWIS Coordinator, SAISIA), interviewed by Ji Yoon Han, via Zoom, July 17, 2020.

¹⁹ Dennis Juarez (Manager of Migrant Workers Program, MOSAIC BC), interviewed by Ji Yoon Han, via Zoom, July 30, 2020.

Similarly, organizations' activism and advocacy had to move online too. Although activists have held protests and rallies in person, they have also been supplemented by online events and digital letter writing campaigns to MPs. Many organizations have raised awareness through social media via articles, interviews, etc. These methods have been successful in creating pressure on government officials to implement more stringent protections for TFWs, especially since much of the public consumes more online media than ever.

Employers' Response

Employers themselves are significant stakeholders in this process. They are often the largest beneficiaries of the labour of temporary foreign workers and benefit the most from the skewed power differential. Employers were crucial in lobbying the government to allow TFWs to be exempt from the travel ban into Canada.²⁰ They also hold the bulk of the responsibility in ensuring TFWs are able to quarantine and to provide safe living conditions for workers.²¹ While many employers have been compliant, there have also been many employers who have been negligent, resulting in mass outbreaks on farms and factories across the country.

Government's Response

Finally, the government is the last major stakeholder in the lives of TFWs. As part of their larger COVID-19 response, they have a responsibility to ensure that TFWs are safe, and able to work and able to obtain fair wages. The federal government's first

²⁰ Anne Leclair, "Disastrous consequences' to closing border to foreign workers, Quebec's food production industry warns," *Global News*, accessed August 4, 2020, <https://globalnews.ca/news/6696637/coronavirus-closing-border-quebec-industry/>.

²¹ "Temporary Foreign Workers Program Compliance," Government of Canada, accessed August 12, 2020, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/employer-compliance.html#h2.01-h3.03>.

action was to ban temporary foreign workers from entering the country on March 18, 2020.²² This left many workers stranded and confused. Many workers had been relying on income to pay for food, basic necessities, education, and healthcare for their families. The decision to reverse the ban on TFWs did not come until March 27. This only came because of heavy lobbying by farmers and other employers, stressing the need for TFWs in the food supply chain.²³

However, despite the reversal, many workers who expected to have jobs lined up were told they were not needed or left in the dark. This left workers in debt, with very little or no access to any financial support from the Canadian government. Although many workers pay taxes and EI, they were not able to benefit from any of the financial support afforded to Canadians.

Furthermore, even in situations where workers were able to get to their place of employment, they were sometimes subject to abysmal conditions. The government has not addressed the rampant abuse and outbreaks at these farms, often putting too much faith in the employers to adhere to regulations. Dennis Juarez from MOSAIC BC reports that while there are avenues for TFWs to report employment abuse, these avenues often take a lot of time and recovery of stolen/withheld salary is limited to one year's salary.²⁴ In response to pressure from activists and media, the government

²² "Canada provides update on exemptions to travel restrictions to protect Canadians and support the economy," Government of Canada, accessed July 27, 2020, <https://www.canada.ca/en/immigration-refugees-citizenship/news/2020/03/canada-provides-update-on-exemptions-to-travel-restrictions-to-protect-canadians-and-support-the-economy.html>.

²³ Anne Leclair, "Disastrous consequences' to closing border to foreign workers, Quebec's food production industry warns," *Global News*, accessed August 4, 2020.

²⁴ Dennis Juarez (Manager of Migrant Workers Program, MOSAIC BC), interviewed by Ji Yoon Han, via Zoom, July 30, 2020.

implemented an open work permit system for abused workers.²⁵ This was a step in the right direction but is problematic because the burden still remains on the worker to report the abuse. This likely results in a lower rate of reports due to fears of retaliation by the employer.²⁶

RECOMMENDATIONS

Government

It is clear that the entire Temporary Foreign Workers program needs an overhaul. A key theme amongst workers, activists, organizations is to challenge the idea that workers are temporary. Some workers consistently return to Canada for years, if not decades to complete seasonal work.²⁷ Despite the labour and years they have put into Canada, they are often denied access to basic labour rights, employment benefits, healthcare, and other benefits usually afforded to Canadian workers. **Therefore, Immigration and Citizenship Canada should move towards a system that gives workers permanent status on arrival.** Activists stress that often permanent residence is not necessarily about migration to Canada (as we should acknowledge some migrants do not wish to stay here), but giving migrants the power and agency to exercise their rights and receive benefits for their labour.²⁸ There is precedence for similar measures. For example, at the beginning of the pandemic, Portugal gave all

²⁵ “Open Work Permits for vulnerable workers,” Government of Canada, accessed August 10, 2020, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/vulnerable-workers.html>.

²⁶ Connie Sorio (Migrant Justice Program Coordinator, KAIROS), interviewed by Ji Yoon Han via Zoom, July 23, 2020.

²⁷ Elena Prokopenko, Feng Hou, “How Temporary Were Canada’s Temporay Foreign Workers,” *Population and Development Review* 44, no.2 (2018): 257 - 280.

²⁸ “Unheeded Warnings,” Migrant Workers Alliance, accessed August 4, 2020.

workers permanent status, which allowed them to access healthcare without worrying about immigration status and cost. Implementing a similar system would make Canada a true leader on the immigration issue, as it often boasts of being.

Additionally, the government should rethink the way it exercises oversight and regulates employers. While the current avenue for reporting abusive employers has successfully removed some workers from abusive situations, the burden still remains on the employees to report and prove the abuse. It is likely that the true number of abused workers is much higher.

However, this may be an issue of implementation, rather than policy design. Random inspections of employers approved for the LMIA are already included in the government mandate.²⁹ In a 2017 report, the Auditor General stated that on-site inspections were sparse. Of those inspections, many were conducted without interviewing any workers. Any recommendations for adjustment or punitive action towards employers took months to approve, leaving workers in a vulnerable position.

Employment and Social Development Canada should move towards more frequent random drop-ins to ensure quarantine standards and working conditions are up to par and to expedite measures against non-compliant employers.

Additionally, all workers with non-compliant employers should be given open work permits and financial support in the interim to ensure their status and livelihood in Canada is not jeopardized.

Finally, although the government has given benefits to employers to mitigate quarantine costs, these funds rarely make it down to the worker. There have been

²⁹ "Temporary Foreign Workers Program Compliance," Government of Canada, accessed August 12, 2020.

reports of employers charging employees for soap and shampoo although they have already been compensated by the government to cover these costs.³⁰ **Financial abuses such as these can be mitigated by the Canadian Revenue Agency by making workers eligible for CERB and EI (retroactive to March, or whenever they would have first become eligible).** Direct payments to the workers will ensure that they are able to access the funds and use it for their needs, while lowering risks that the employers will misuse funds.

Communities and Local NGOs

One success story from Connie of KAIROS is how TFWs were able to integrate with the community in New Brunswick. The integration of migrant workers into the community enriched the cultural diversity of the region, while also providing workers with allies that could help them leave abusive situations.³¹ These partnerships, from which both workers and the community benefit are crucial and organizations must enable these as much as possible. **This should come in the form of developing toolkits on how to engage meaningfully and creating spaces for workers and community members to come together.** Additionally, communities and NGOs should **continue to spread awareness about issues surrounding migrant workers** to galvanize the public to hold their leaders accountable.

Employers

Employers should ensure they comply with quarantine guidelines and inform workers of their rights. Workshops on worker rights could be accomplished

³⁰“Unheeded Warnings,” Migrant Workers Alliance, accessed August 4, 2020.

³¹ Connie Sorio (Migrant Justice Program Coordinator, KAIROS), interviewed by Ji Yoon Han via Zoom, July 23, 2020.

through partnerships with community organizations to ensure integration into the local community as much as possible. They should work with community organizations as much as possible to advocate for more support for workers. This will raise retention and raise standard of living for workers. Additionally, **employers must abide to paying living wages to workers and providing them with a safe environment to work.** The government has provided funding for employers to this end; therefore, they must ensure that they comply with regulations.

IMPACT

The Samuel Centre for Social Connectedness is uniquely qualified to act as a partnership hub for migrant workers and local communities. For one, connectedness is one of the main missing variables between migrant workers and the rest of the community. SCSC should invest more resources into building partnerships between migrant workers and members of the local community. One of the factors limiting the research was the short research period that was available to explore this issue area. Fostering a relationship with migrant workers throughout the year allows the work to continue beyond the scope of the Fellowship. This relationship can ensure that migrant workers have input into the direction of the Centre's research directives, a question that came up during the interview process with activists a number of times. Additionally, the Centre should ensure that one Fellow is dedicated to migrant workers' rights, as the pandemic has demonstrated that this community is particularly susceptible to isolation from the community.

Additionally, the Samuel Centre already has a framework and toolkit to implement a community partnership. The Common Threads program introduces newcomers (forced migrants) to members of the community who volunteer their time. Although the target communities are different, their needs have significant areas of overlap. Therefore, the existing infrastructure can be adapted for their needs. In the meantime, the Samuel Centre should engage in online advocacy and events while confinement measures prevent in person delivery of the program (of which a [toolkit](#) is provided to supplement this report).

CONCLUSION

In conclusion, while Canada has been successful in mitigating the impacts of COVID-19 for much of its populations, it seriously lacks the policy and infrastructure to protect its migrant workers. The core issue lies with the framing of workers as temporary or rather, “disposable”. Exploiting workers for their labour while denying them the same rights that a Canadian citizen would be afforded is not representative of Canadian values. Therefore, workers should be recognized for the essential contributions; the misconception that they are temporary should be removed from the program. The key solutions are to grant permanent status on arrival and reform the oversight infrastructure. However, there is much work for community organizations to do as well. Establishing relationships between migrant workers and the community results in positive outcomes for both. The Samuel Centre should take a leadership role in this field and work towards their mission of fostering connectedness.

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