



ASSOCIATION POUR LES DROITS DES TRAVAILLEUSES,RS DE MAISON ET DE FERME
ASSOCIATION FOR THE RIGHTS OF HOUSEHOLD AND FARM WORKERS

OPTIONS FOR QUEBEC RE: TIED WORK PERMITS (2023)

- ❖ Considering that House of Commons Standing Committees have recommended in 2009, 2016 and 2021 the abolition of employer-tied work permits¹, that the federal government itself has acknowledged that individuals with a tied work permit face a barrier in regard to abuse prevention and reparation in case of right violations by the employer², and that the CDPDJ concluded in 2012 that in order to respect the Quebec charter Québec should refrain from issuing C.A.Q. in association with tied work permit³.

- ❖ Considering that, more precisely, the imposition of employer-tied legal status constitutes a state infringement on individuals' fundamental rights to liberty, security of the person and access to justice recognized under the Quebec and Canadian charters, since it has been associated by Canadian social scientists to
 - a restricted freedom of movement and capacity to make fundamental decisions such as one's place of residence or pregnancy,
 - a restricted capacity to resign, refuse unsafe work, exercise rights and access justice in the country,
 - an obstacle to access health services/community support in case of physical or psychological harm,
 - increased risks of illnesses, accidents and work-related death,
 - as well as increased risks of debt bondage and human trafficking⁴;

¹ See recommandation 8 <https://www.ourcommons.ca/Content/Committee/432/CIMM/Reports/RP11425133/cimmrp08/cimmrp08-e.pdf>

² "A series of stakeholder consultations... in 2017... revealed that... remain[s] serious impediment to worker protections... the fear of employer reprisal and deportation in response to speaking out or reporting mistreatment or poor worker conditions."
<https://www.gazette.gc.ca/rp-pr/p2/2022/2022-07-06/html/sor-dors142-eng.html>

³ https://www.cdpdj.qc.ca/storage/app/media/publications/Avis_travailleurs_immigrants.pdf

⁴ For more information on this contact End of Migrant Worker Unfreedom project coordinator: <https://dtmf-rhfw.org/en/strategic-litigation/> .



- ❖ Considering that foreign workers in Canada are currently denied or issued upon arrival an open work permit⁵ on the basis of their country of origin⁶, thus ensuring that the current work permit system efficiently segregates workers within the labour market and discriminates in a way that is not compatible with workers' right to equality under the Quebec and Canadian charters⁷;
- ❖ Considering that the supply of employer-tied workers to employers and industries negatively impact the job offers, work conditions and capacity to negotiate collectively also for citizens and other free workers in Québec⁸;
- ❖ Considering that migrant worker rights organizations across Canada have rallied in 2022, under the coordination of the CCR, in order to launch the national OPEN WORK PERMIT NOW campaign⁹ and petition to the House of Commons¹⁰, signaling that the exercise of rights in Canada for a temporary foreign worker requires an open work permit upon arrival;
- ❖ Considering that the respect of the freedom to change occupations (and accept a promotion) is necessary both to ensure one's security of the person and autonomy to make fundamental decisions, and considering that multi-employers or agency-based work permits, or region-occupation-specific work permits, in sector characterized by employer coordination practices, such as the restrictive work permits currently issued to individuals admitted under the SAWP (though not under the larger TFWP-agriculture scheme), while allowing the employers the privilege to transfer workers between each other, maintain workers under a *de*

⁵ <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/iec/about.html>

⁶ <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/iec/eligibility.html>

⁷ See Quebec charter art. 10, as well as the art. 15 of the Canadian charter.

⁸ See above, note 4.

⁹ <https://www.openworknow.ca/copy-of-about>

¹⁰ <https://petitions.ourcommons.ca/en/Petition/Details?Petition=e-4138>



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facto employer-tied legal status, in particular since in case of a right complain or work illness/accident it allows and facilitates employee blacklisting/labour market exclusion by employers associated with the specific location/sector/occupation¹¹;

- ❖ Considering that Quebec (is the only province that) has a recognized jurisdiction regarding every foreign worker admission that requires a labour market impact assessment¹²;
- ❖ Considering that the Quebec gov conducts assessments for skills-based quotas of foreign workers¹³;
- ❖ Considering that the federal government enforces tailored foreign worker admission schemes negotiated with provinces and territories¹⁴ as well as pilots for foreign worker previously with tied work permits¹⁵;
- ❖ Considering that the federal government annually revises both the Seasonal Agricultural Worker Program (SAWP) guidelines¹⁶ and its guidelines specific to SAWP workers recruited for employment in BC¹⁷;

¹¹ See above, note 4.

¹² Accord Québec-Canada sur l'immigration, 1991, art. 22b)

https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/immigration/publications-adm/accord/AC_canada_quebec_immigration_MIDI.pdf

¹³ <https://www.quebec.ca/immigration/programmes-immigration/programme-regulier-travailleurs-qualifies/invitation>

¹⁴ See list of current agreements

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/federal-provincial-territorial.html>

¹⁵ See for example the current Home Child Care Provider and Home Support Worker Pilot programs

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/economic-classes/pathways-for-caregivers/child-care-provider-support-pilots.html>

¹⁶ <https://walicanada.ca/wp-content/uploads/2018/10/Annual-SAWP-Review-Process.pdf>

¹⁷ See for instance the 2023 standard contract requirement only applicable to Mexican workers employed in BC

<https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural/apply/mexico.html>



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In order to respect among other fundamental rights the dignity, liberty, security of the person, access to justice in the country and right to not to be discriminated on the basis of the country of origin recognized to every foreign worker in Quebec under the Quebec and the Canadian charters, the Quebec government must:

- ★ in virtue of a new Quebec-IRCC MoU/provincial agreement and associated 5-years pilot programs, request the issuance of an **open work permit** or - if initially faster to implement - a province-specific work permit to every foreign worker selected for labour market integration in Quebec,
 - on the basis of an annual **province-specific labour market impact assessment (LMIA) specifying yearly quotas of foreign workers with specific levels and types of skills**, foreign work experience and/or education (based on recommendations provided by the Quebec immigration department and associated with equivalent C.A.Q. skills-based quotas) - in replacement of the current Quebec employer(s)-specific LMIAs/foreign worker employment authorizations issued under the TFWP;
 - or on the basis of **any LMIA-exempt admission scheme** covered under the federal International Mobility Program, **including the Mexican and Caribbean SAWPs** - in replacement of the current issuance of employer(s)-specific work permits.
- ★ in virtue of a new Quebec-ESDC MoU/federal guideline regarding Quebec, request the imposition of a standard **SAWP work contract compatible with fundamental rights** for in Quebec, in which has been removed all clauses restricting the worker's **fundamental right to change employers and occupations** in the province¹⁸ - in replacement of the current requirement of an employer-tying and occupation-tying work contract¹⁹

¹⁸ https://dtmf-rhfw.org/wp-content/uploads/2023/01/DTMF-RHFVADDPD-ARHW_Most-problematic-SAWP-contract-clauses-2022.pdf

¹⁹ <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural/apply/mexico.html#h2.9>