



**Canada's Unfree Foreign Worker Schemes' Smokescreens: Change of Employers Procedures, Restrictive Work Permits, and Conditional Access to Permanent Status (executive summary)**

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**1. Employer-specific work permits negate the right to change employers even if most migrant workers do have the option of applying for a new work permit**

- Each change of employers requires the worker to, first, find an employer who already holds an authorization to hire a TFW or is willing to apply for such authorization.
- The worker must then apply for a new work permit. Applying for a new work permit is complicated, never guaranteed, expensive, and can take many months.
- While a worker is waiting for the new work permit, the general rule has been that the worker is legally prohibited from earning any money except by working for the employer named on the original work permit.
- The uncertainty and serious financial costs associated with this process act as an effective deterrent stopping workers from exercising their right to resign.

**2. Migrant workers experiencing abuse in the context of their employment can apply for an open work permit, but this not an adequate response to the concern that employer-specific work permits trap workers in abusive jobs**

- On principle, the policy is problematic because it presupposes that it is acceptable for the state to decide whether a worker has a valid reason for wanting to leave their current employer.
- In practice, the policy is largely inaccessible for many reasons, such as workers not having the necessary evidence to convince an immigration officer that they are experiencing abuse, because workers do not have the legal knowledge needed to argue their situation, because workers might be isolated and not have access to the technology needed to file an application or because they might not have sufficient English or French literacy skills.

- Also, many situations of abuse are complex and might not be recognized as abuse by immigration officers, even for instance, when there is a clear violation of provincial employment rights.

**3. Open work permits are necessary as an human rights compatible alternative to employer-specific work permits: occupation-specific or sectoral work permits are not an option**

- Occupation-specific and sectoral work permits allow employers to blacklist workers who are attempting or have attempted to seek legal redress for rights violations.
- Workers who become injured or ill in a manner that renders them unable to perform the specific requirements of the occupation would be penalized through an immediate inability to earn income and the eventual loss of status when their permit expires.
- Finally, preventing migrant workers from freely circulating throughout the entire labour market would produce a segmented labour market, with certain occupations/sectors benefitting from a captive labour force.

**4. “Independent” access to permanent legal status is necessary: employers’ inputs in immigration candidates evaluations put workers at risks**

- Independent access means that workers do not need any level of participation by employers in order to access permanent resident status, which commonly takes the form of allowing employers to nominate workers, requiring that workers submit employer-provided letters of employment and/or have a permanent full-time job offer.
- These types of requirements have been shown to discourage workers from asserting their rights and seeking legal redress in cases of rights violations and can be leveraged by employers and recruiters to further exploit and extort workers, including employers charging workers thousands of dollars for jobs.
- Employers' input can be relevant for determining overall labour needs but should never be relevant for determining whether a particular individual is entitled to permanent status.

**5. Access to permanent status is necessary immediately upon arrival, no delay for “Canadian work experience” is compatible with fundamental rights**

- Meaningful access to justice requires permanent legal status, the more delays that workers face before they obtain permanent legal status, the more likely they are to face rights violations, as well as loss of status.
- Since the processing time for permanent residency can already take years, requiring work experience adds unnecessary delays.
- It also unfairly penalizes workers who have to take time off from work for pregnancy, illnesses, or have engaged in part-time work.