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Submission to the United Nations Working Group on Business and Human Rights for its report on “Labour Migration, Business and Human Rights” to the 80th session of the UN General Assembly

**Subject:** Systemic Human Rights Violations Associated with Privatized Sponsorship, Employer-tied Work Permits, and Obstacles to Permanent Status in Labour Migration Programs and Policy Alternatives to Uphold the Fundamental Rights of Im-migrant Workers

**Submitted by:** Association for the Rights of Household and Farm Workers (DTMF)  
The Canadian Centre to End Human Trafficking  
Immigrant Workers Centre (IWC-CTTI)  
Legal Assistance of Windsor (LAW)  
The Madhu Verma Migrant Justice Centre

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In response to the call for input to inform the drafting of the UN Working Group’s upcoming thematic report on “Labour Migration, Business and Human Rights,” the submitting organizations wish to draw attention to the documented systemic human rights violations<sup>1</sup> arising from approaches to labour migration that rely on employer-driven models, which position employers as gatekeepers—an approach currently favoured by the Canadian government. In particular, we highlight the harm caused by:

- **The admission of individuals into the country on restrictive work authorizations**
- **The privatization of the recruitment and sponsorship processes**
- **No or conditional access to permanent status**
- **No accessible and inclusive legal status regularization procedures**

This submission will also outline policy alternatives which would make labour migration schemes compatible with the fundamental human rights of im-migrant<sup>2</sup> workers, in particular with the right to access justice, and which would protect against the risks of forced labour, debt bondage, human trafficking or other forms of modern slavery.

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<sup>1</sup> While this submission aims to provide a concise yet substantive overview of these key issues, it does not purport to offer an exhaustive analysis of all issues associated with Canada’s current temporary labour migration schemes, in particular, the punitive approach to immigration enforcement and the systemic denial of the right to family unity.

<sup>2</sup> **Note on terminology:** The term *im-migrant* is used to reflect that many individuals who come to Canada through so-called “temporary” labour migration programs do so with the intention of settling permanently. This terminology challenges the notion that these workers are inherently transient or peripheral. It also acknowledges that Canada itself has, at times, encouraged long-term settlement through “two-step” pathways available to individuals admitted on temporary and restrictive work authorizations.

## ABOUT THE SUBMITTING ORGANIZATIONS



**The Association for the Rights of Household and Farm Workers (DTMF)**, through research, education, advocacy, and legal action initiatives, promotes and defends the fundamental rights of workers employed in private households and the agricultural sector, particularly those employed with precarious immigration status.



**The Canadian Centre to End Human Trafficking** (“the Centre”) is a national charity dedicated to ending all types of human trafficking in Canada. The Centre works to mobilize system change by collaborating with various stakeholders, including survivor leaders, all levels of government, private sector businesses, and frontline service providers, to advance best practices and eliminate duplicate efforts across Canada. The Centre operates the Canadian Human Trafficking Hotline, a confidential, multilingual service, accessible 24/7 to connect victims and survivors with social services and/or law enforcement if they so choose.



**The Immigrant Workers Centre (IWC-CTTI)** is a community-based organization in Quebec, supporting migrant, immigrant and racialized workers and defending their rights since 2000.



**Legal Assistance of Windsor (LAW)** is an interdisciplinary community legal clinic working with vulnerable and marginalized individuals and communities in Windsor/Essex, Ontario. LAW integrates legal and social work practice and engages individuals and communities in strategy development for a more equitable social justice system. LAW has provided legal information, representation, advocacy and support to im-migrant workers and exploited/trafficked people for over 20 years.



**The Madhu Verma Migrant Justice Centre** is dedicated to advancing migrant justice and supporting migrants with precarious status in New Brunswick, including migrant workers, refugee claimants, international students and people with irregular status.

## Introduction

Since the mid-20th century, Canada has relied on employer-tied admission programs to employ im-migrant workers for both the care work and agricultural sectors.<sup>3</sup> In recent decades, the federal government has significantly expanded the use of these programs to admit large numbers of individuals for employment across various industries. While these programs are often framed as temporary fixes to the country's short-term labour needs, they provide a permanent, large-scale pool of captive, employer-tied workers for an increasing number of employers and sectors in Canada.<sup>4</sup>

Although individuals admitted into Canada through employer-tied admission programs are guaranteed, in theory, access to the same labour protections and formal rights as citizens and permanent residents, the structure of these programs severely undermines their capacity to exercise those rights.

## Restrictive work authorizations: State-sanctioned servitude

Restrictive authorizations, like employer-specific work permits, make a worker's right to earn a living in the country conditional on maintaining a relationship with a specific state-authorized sponsoring employer or group of employers. Since the work permit is only valid for a specific employer or group of employers, the termination of the employment relationship results in the immediate revocation of the right to earn a livelihood in the country. As such, workers on restrictive work permits have a restricted capacity to assert their legal rights or to complain about or seek legal redress against abusive employers-sponsors, as doing so puts at risk their right to earn a living in the country. Workers who do file complaints but fail to be hired by another authorized employer in time to renew their status are forced to leave the country, making it extremely difficult to pursue their claim and obtain a meaningful remedy.<sup>5</sup>

It is thus unsurprising that exploitative and coercive labour practices are prevalent within the legal and government-authorized employment of foreign nationals in Canada.<sup>6</sup> Employment authorizations restricting workers' freedom within the labour market are associated with higher risks of employer abuse, wage theft, psychological, physical, and sexual harassment, assault, rape, as well as work-related illnesses, accidents, and death.<sup>7</sup> They are also associated with substandard and overcrowded housing, as well as employer control over workers' personal lives and movements during off-duty hours.<sup>8</sup> Moreover, these authorizations are associated with higher risks of ending up in undocumented work, with an irregular legal status, and within conditions of debt bondage, human trafficking and other forms of modern slavery.<sup>9</sup>

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<sup>3</sup> Nalinie Mooten, "Racism, Discrimination and Migrant Workers in Canada: Evidence from the Literature Policy Research, Research and Evaluation Branch" (2021) Ottawa: Refugees and Citizenship Canada at 47.

<sup>4</sup> Statistics Canada, *Research to Insights: Immigration as a Source of Labour Supply* (Presentation) (Ottawa: Statistics Canada, 2022) <https://www150.statcan.gc.ca/n1/pub/11-631-x/11-631-x2022003-eng.htm>.

<sup>5</sup> Bethany Hastie, "The Inaccessibility Of Justice For Migrant Workers: A Capabilities-Based Perspective" (2017) 34:2 Windsor YB Access Just 20.

<sup>6</sup> A review of documented cases over a period of fifteen years where labour exploitation intersected with coercion in Canada concluded that "labour trafficking is frequently occurring in legal employment sectors, under the legitimizing guise of the Temporary Foreign Worker Program (TFWP)" see Jesse Beatson et al, "[The Intersection of Exploitation and Coercion in Cases of Canadian Labour Trafficking](#)" (2017) 26:1 Journal of Law and Social Policy at 143.

<sup>7</sup> Verity Stevenson, "Quebec seeing rise in injured temporary foreign workers hired to fill labour gaps", *CBC News* (1 March 2023), online: <<https://www.cbc.ca/news/canada/montreal/temporary-foreign-workers-accidents-doubled-1.6764416>>.

<sup>8</sup> C. Susana Caxaj & Anelyse Weiler, "For migrant farm workers, housing is not just a determinant of health, but a determinant of death." *The Conversation* (12 July 2022), online:

<<https://theconversation.com/for-migrant-farm-workers-housing-is-not-just-a-determinant-of-health-but-a-determinant-of-death-186043>>.

<sup>9</sup> See e.g. U.S. Department of State, 2022 Trafficking in Persons Report (2022); Jesse Beatson et al, "The Intersection of Exploitation and Coercion in Cases of Canadian Labour Trafficking" (2017) 26:1 Journal of Law and Social Policy.

As confirmed by American jurisprudence, by interfering with workers' capacity to resign, these authorizations *de facto* place im-migrants in a legal condition of servitude.<sup>10</sup> Such work authorizations were characterized as creating “a modern form of slavery” in a unanimous Supreme Court decision in 2006.<sup>11</sup> In 2022, Jamaican migrant farm workers in Ontario wrote an open letter denouncing the Seasonal Agricultural Worker Program (SAWP) as a form of systematic slavery.<sup>12</sup> Following his country visits to Canada in 2023 and to Australia in 2024, the U.N. Special Rapporteur on contemporary forms of slavery, Tomoya Obokata, declared that “employer-specific work permit regimes, including certain Temporary Foreign Worker Programmes, make migrant workers vulnerable to contemporary forms of slavery (...)”<sup>13</sup>.

### **Privatized recruitment and sponsorship: State-imposed risk of servitude and debt bondage**

In many of its “temporary” labour migration programs, Canada has delegated to private employers (or agents acting on their behalf) the responsibility of selecting, sponsoring, and facilitating the integration of individuals migrating through these programs. This gives employers, often working through private agents like recruiters, the power to determine which individuals will be able to obtain work permits (employers are often also responsible for assisting workers with navigating the process).

*Privatized sponsorship* has led to the rise of countless private third parties who assist employers with these responsibilities—recruitment agents, immigration consultants, placement agencies, travel agents, and more. Sometimes, a single intermediary manages the entire process. More often than not, employers are assisted by a network of various third parties, particularly for matters of recruitment or immigration consulting.

The delegation of the sponsorship role to employers comes with the responsibility, as mandated by various federal and provincial policies, to cover not only the administrative costs associated with sponsorship but also the fees for private recruitment services. In some cases, employers are also responsible for arranging and covering the costs of transportation and/or housing for workers.

Employers' control over access to work permits allows them, and the private recruiters, agencies, consultants, and other third parties operating on their behalf, to extort money from migration candidates and im-migrant workers both abroad and in Canada.<sup>14</sup> While rules exist against charging recruitment fees and, in some cases, transportation costs to workers, loopholes remain for fees for immigration consulting, microloans, social integration services, and housing support. These “extra services” are often used as a cover to extract exorbitant fees, sometimes upfront, before departure, and other times through

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<sup>10</sup> James Gray Pope, “Contract, Race and Freedom of Labor in the Constitutional Law of ‘Involuntary Servitude’” (2010) 119 Yale LJ 1474.

<sup>11</sup> *Kav LaOved Worker’s Hotline v. Government of Israel* (2006), HCJ 4542/02.

<sup>12</sup> Ali Raza, “Jamaican migrant workers in Ontario pen open letter likening conditions to ‘systematic slavery’”, *CBC News* (20 August 2022), online: <<https://www.cbc.ca/news/canada/toronto/jamaican-migrant-workers-open-letter-1.6557678>>.

<sup>13</sup> Office of the High Commissioner for Human Rights (2023), Canada: Anchor the fight against contemporary forms of slavery in human rights, a UN expert urges, at <https://www.ohchr.org/en/press-releases/2023/09/canada-anchor-fight-against-contemporary-forms-slavery-human-rights-un>; United Nations Human Rights Council (UNHRC) Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences Tomoya Obokata (22 July 2024), at [UN Doc A/HRC/57/46/Add.1](https://www.unhcr.org/refugees/57/46/Add.1); United Nations Human Rights Council (UNHRC), United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences Professor Tomoya Obokata Country visit to Australia 14– 27 November 2024, at <https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/statements/2024-11-27-eom-australia-sr-slavery-en.pdf>.

<sup>14</sup> Dalia Gesualdi-Fecteau et al, A Story of Debt and Broken Promises? The Recruitment of Guatemalan Migrant Workers in Quebec, 2017 30-2 *Revue québécoise de droit international* 95, 2017 CanLIIDocs 438, <<https://canlii.ca/t/2f3v>>, retrieved on 2025-04-23.

payment plans after arrival. As a result, many workers end up trapped in debt bondage, sometimes even before they begin working in Canada.

Employers leverage their role as sponsors to suppress the exercise of rights, including the right to collective bargaining.<sup>15</sup> In Canada's Seasonal Agricultural Worker Program, this dynamic has been institutionalized through the annual "naming" process, which gives employers full discretion over who is invited back each year and allows them to blacklist workers.

Third-party private actors providing recruitment, travel, job placement, and immigration services prioritize employers' interests over workers' rights, preferences, or well-being. Such services by private actors are structured around controlling worker mobility and behaviour, ensuring that migrant labour is delivered "just in time," or to meet any other employer demand, as well as facilitating employers' removal and blacklisting of workers attempting to assert their rights, including injured and sick workers trying to access workers' compensation benefits and medical treatment.<sup>16</sup>

### **No or conditional access to permanent status: State-imposed risk of servitude and debt bondage**

Many individuals admitted on restrictive work authorizations are denied permanent status recognition based on their category of employment, sector, or occupation. Without permanent status, the ability to live and work in Canada is precarious. Workers who fall ill or become injured may not be able to maintain their status, resulting in the loss of access to essential services, including healthcare. The same is true if their rights are violated: they may not be able to maintain their status and access justice and reparation in the country. In fact, in addition to restrictive work authorizations, the U.N. Special Rapporteur on contemporary forms of slavery also identified obstacles in accessing permanent legal status as a key factor facilitating the systemic abuse of im-migrant workers in Canada.<sup>17</sup>

When workers are provided with conditional access to permanent status, the conditions imposed force workers to stay in abusive arrangements and prevent them from meaningfully accessing justice and reparation in the country during the months/years of the permanent status confirmation procedure. In particular, employer/employment-dependent access to permanent status discourages workers from exercising their rights or filing complaints in order not to jeopardize or delay their access to permanent status. Workers who need the support or cooperation of their employer to access permanent status face great pressure to acquiesce to unreasonable, or even illegal, demands by their employers.<sup>18</sup> When access is conditional on accumulating a certain amount of work experience, workers will remain in abusive workplaces, even at great risk to their health and safety.

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<sup>15</sup> In 2014, the BC Labour Relations Board found that Mexican consular officials, in collaboration with Canadian employers, blacklisted Mexican seasonal agricultural workers suspected of supporting unionization efforts. These workers were subsequently barred from returning to Canada under the SAWP. See *Certain Employees of Sidhu & Sons Nursery Ltd v Sidhu & Sons Nursery Ltd*, 2014 CanLII 12415 (BC LRB), <<https://canlii.ca/t/g68b5>>.

<sup>16</sup> Jenna L Hennebry & Gabriel Williams, "Making vulnerability visible: medical repatriation and Canada's migrant agricultural workers" (2015) 187:6 CMAJ 391, DOI: <https://doi.org/10.1503/cmaj.141189>.

<sup>17</sup> United Nations Human Rights Council (UNHRC) Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences Tomoya Obokata (22 July 2024) [UN Doc A/HRC/57/46/Add.1](https://www.unhcr.org/refugees/57/46/Add.1).

<sup>18</sup> A 2019 Globe and Mail investigation found that employers leverage their control over access to permanent status to charge exorbitant fees in exchange for the job offer or work experience confirmation that the worker needs to apply for permanent status see Kathy Tomlinson, "Employers taking cash from foreign workers seeking permanent resident status in Canada", *The Globe and Mail* (31 May 2019), online:

<https://www.theglobeandmail.com/canada/article-employers-taking-cash-from-foreign-workers-seeking-permanent-resident/>.

In many instances, additional eligibility requirements, such as language proficiency, education, medical health, or financial thresholds, exclude individuals from accessing status, despite their long-term residence, work, and established community ties.

## **No accessible and inclusive regularization procedures**

Temporary legal status is inherently precarious. Individuals easily fall out of status for various reasons, often for reasons outside their control, such as recruiter fraud, employer negligence, or administrative errors. In many cases, workers lose legal status after leaving authorized employment to escape violence, harassment, or unsafe working conditions.<sup>19</sup>

Once status is lost, regaining it is extremely difficult, sometimes impossible, as current rules offer limited options for bringing oneself back into compliance.<sup>20</sup> Thus, restrictive work authorizations and obstacles to permanent status have led to an exponential number of people in Canada losing status and being forced to choose between leaving the country and risking not being able to return or remaining without status.

Individuals without status face constant risks of immigration enforcement, including detention, deportation, and long-term inadmissibility. They are often denied access to essential services, such as healthcare, legal protections, and social supports, which compounds the physical and mental toll of living in fear, isolation, and chronic stress. The lack of legal status also emboldens abusive employers, landlords, and traffickers, who know that undocumented individuals are less likely to report rights violations out of fear of being reported or removed.

## **Policy Alternatives to Employer-tied Admission: Achieving Human Rights Compatible Labour Migration Programs**

During the last decade, the federal government of Canada has implemented various surface-level reforms and band-aid measures, including supervision by foreign government agents, legal information initiatives, as well as access to a one-year open work permit in case of abuse confirmed by a federal immigration officer. All those measures have failed to prevent the systemic violations of immigrant workers' rights by employers since the structures that prevent workers from asserting their rights have remained in place.<sup>21</sup>

Labour migration programs should instead incorporate the following policy alternatives to prevent conditions of unfreedom and to safeguard fundamental rights, including the right to access justice.

- 1. Recruitment for labour migration should be associated with annual quotas and operationalized through bilateral recruitment, micro-credit, initial job placement, immigration assistance, and international transportation programs.**

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<sup>19</sup> Comité des femmes de l'Association des travailleuses et travailleurs d'agences de placement (ATTAP), *Femmes sans statut et harcèlement sexuel au travail: Nous exigeons plus de protection* (Avril 2022), online: <http://iwc-cti.ca/wp-content/uploads/2023/06/Memoire-harcèlement-sexuel-Fr.pdf>.

<sup>20</sup> In Canada, individuals who lose their temporary legal status may apply for restoration within 90 days of loss of status. However, this process is discretionary and limited in scope: applicants must meet all the original eligibility criteria of their initial authorization and cannot work or study while awaiting a decision.

<sup>21</sup> Eric Tucker, Sarah Marsden and Leah F. Vosko, "Federal Enforcement of Migrant Workers' Labour Rights in Canada: A Research Report" (2020). Articles & Book Chapters. 2795. [https://digitalcommons.osgoode.yorku.ca/scholarly\\_works/2795](https://digitalcommons.osgoode.yorku.ca/scholarly_works/2795).

Privatized sponsorship of migrant workers enables widespread rights violations—allowing employers and their agents to extort fees, suppress the exercise of rights, restrict mobility, and blacklist workers. The sponsorship of all foreign workers and their families should instead be assumed by interested state agencies rather than by specific employers. Admission through labour migration programs should be guided by annual targets<sup>22</sup> set by a state body, based on skill-level quotas and developed in consultation with unions, current permit holders, and employer groups.

When employers finance international migration costs and services, and such services are delivered through private agents, it facilitates debt bondage and workers' servitude, and reinforces power imbalances in the employment relationship. Instead, these costs and services should be covered/provided through the bilateral co-management of state-run and state-funded programs for international recruitment, micro-credit, job placement, immigration assistance, transportation and integration. To mitigate the risk of debt bondage and modern slavery, destination countries should fund and actively participate in the early stages of the migration process, including through the co-delivery of rights-based pre-migration programs abroad.

- 2. All individuals selected for admission into a country through a labour migration program should be issued multi-year, multi-entry open work permits, with access to open work and study permits for family members, and be provided with unconditional<sup>23</sup> access to permanent status recognition procedures upon arrival<sup>24</sup> (or before arrival), as well as ongoing regularization procedures.**

Access to permanent status should be multifaceted to accommodate international workers and families' various and variable timelines and ability to settle. When a state allows individuals to enter the country before permanent legal status is confirmed, it enables them to begin working and integrating into their new communities more quickly than if they had to wait abroad for their status confirmation procedure to be finalized. Granting access to open work permits and the option to apply for permanent status upon arrival, or alongside their work permit application, combines the benefits of fast-tracked admission with the protection of fundamental rights and respect for personal autonomy. Additionally, this would allow those who view their stay as truly temporary to opt out of completing the procedures for permanent status recognition, if they so choose.

However, any fast-tracked admission program should fully respect the right of im-migrant workers to resign and change employers, granting them the same freedom in the labour market as citizens and individuals with permanent status. States breach fundamental human rights when they rely on restrictive policies that compel im-migrant workers to remain in specific jobs, sectors, or regions to meet labour

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<sup>22</sup> Annual targets would account for projected admissions of family members, international students, asylum seekers, and refugees. These quotas would also take into consideration the fact that secure access to permanent status facilitates both circular migration and permanent settlement since when workers are granted stable immigration status, they are more likely to return to their country of origin, as doing so does not compromise their ability to re-enter and work in the country.

<sup>23</sup> When access to status depends on employer cooperation or even a certain amount of work experience, it creates a serious power imbalance in the employment relationships, fosters conditions of debt bondage, and discourages workers from asserting their rights. Exclusions based on language, education, health, or income thresholds are arbitrary—and hypocritical—when individuals are allowed to enter the country to work, pay taxes, and contribute, yet are denied permanent status based on criteria irrelevant to their practical ability to integrate.

<sup>24</sup> Unnecessary delays to the confirmation of permanent legal status should be avoided as much as possible. Requiring people to wait a certain amount of time or accumulate work experience before being eligible to apply for status prolongs the time individuals are subject to the stress, precariousness, and vulnerabilities of temporary legal status.

needs. Instead, governments should focus on supporting employers in attracting and retaining workers, including im-migrant workers, through incentive-based policies that improve the quality, conditions, and appeal of essential occupations.

There should also be accessible and ongoing mechanisms for individuals to regularize their legal status when their temporary status expires before their permanent status is confirmed. Lapses in compliance with immigration rules should not lead to long-term exclusion or derail people's ability to exercise rights and remain in the country.

**3. Services for initial job placements and any subsequent job transitions should be managed by the state of the country of destination, and exclusively so for candidates/work permit holders in low-wage occupations.**

To protect workers against fraud and abuse, and to reduce the risk of human trafficking, specialized job placement services—both for initial employment and any subsequent job changes—should be provided free of cost to all selected migration candidates, newcomers, and interested citizens or permanent residents by the state of the country of destination.

**4. Community integration programs—including support for initial accommodation and access to emergency shelters—should be fully state-funded and accessible to all im-migrant workers.**

When employers are responsible for facilitating workers' settlement and access to essential services, it reinforces dependency and enables control, undermining workers' autonomy and ability to exercise their rights. Settlement support should be provided through publicly funded, community-based services that offer independent access to housing, transportation, healthcare, and legal support—resources critical for im-migrant workers to escape abuse, assert their rights, and build stable lives.

**5. The offering of employment or placement contracts to work permit candidates or holders that involve debt or any other form of restrictive clause should be prohibited by criminal law.**

These types of clauses facilitate exploitation and coercion, as workers feel forced to remain in abusive employment arrangements to repay the debt, out of fear of financial penalties or possible consequences on their legal status. By prohibiting and penalizing such contract terms, the state can ensure that workers can exercise their rights freely and reduce the structural conditions that facilitate forced labour and human trafficking.

**6. Recruitment and employment processes should include mechanisms for joint accountability between employers and agents, as well as among agents themselves, with robust regulation and monitoring by the state.**

Robust regulatory frameworks that ensure joint accountability between employers and agents for fraudulent practices, misrepresentation, and abuse throughout the recruitment and employment process should be established and enforced. Current enforcement mechanisms often allow employers to deflect responsibility onto agents in countries of origin, even though employers in destination countries directly benefit from these exploitative arrangements.