Equal rights for migrant care workers

The case for immigration policy transformation

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ABOUT THE AUTHOR

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Equal rights for migrant care workers

The case for immigration policy transformation

Executive summary

Since the mid-1950s, the Canadian government has increasingly relied on precarious and/or temporary migrant workers to meet a growing demand for care work.

Restrictive immigration policies and programs that promise a pathway to permanent residency but place limitations on workers' rights and freedoms have led to the creation of a highly vulnerable workforce that is subject to working in low-wage and undervalued sectors with few protections.

Those who perform in-home care work are particularly at risk of abuse and exploitation due to the invisibility of their labour, which is performed in private settings for employers who are poorly regulated. Racialized women—most notably Filipino women—have historically made up the majority of migrant live-in care workers in Canada.

Today, caregiver programs continue to attract a largely female and racialized applicant pool—an increasing proportion of which are highly educated. Despite a number of program and policy changes over the years, many care workers continue to face systemic barriers to permanent residency and are vulnerable to labour exploitation and abuse by employers, with conditions worsening amid the COVID-19 pandemic.

This report argues that, in addition to immediate reforms to current caregiver pilot programs to help protect vulnerable migrant care workers, Canada should work toward granting permanent resident status to all migrants upon arrival. Granting migrants permanent resident status and equal access to available supports and services is key to ensuring basic human rights for all. The report ends with recommendations to achieve this goal.

Introduction

Since the mid-1950s, Canada's federal government has constructed immigration policies and programs to import foreign labour to address an increasing demand for care work. These policies are not unique to Canada, but are part of a broader international shift that has seen migrants—mostly women—from the Global South move to higher-income countries to provide care labour in both formal and informal settings.1

One of the most significant sectors targeted by these policies is domestic work, with specific programs created to attract and confine migrants into performing live-in care work for a certain period of time. The potential to both work in Canada and gain permanent resident status after completing a number of requirements is a defining feature of these programs and has led to applicants' coming in largely from low-income countries like the Philippines, where overseas remittances make up close to 10 per cent of the GDP.²

By analyzing the evolution of Canada's caregiver programs, this report demonstrates how Canada's immigration policies have succeeded in creating a disposable workforce that supplies highly needed care labour under conditions that enable worker abuse and exploitation. It will further examine how a number of program and policy changes to caregiver programs over the years have increased barriers to obtaining permanent residency, which have worsened during the COVID-19 pandemic. Other pandemic-related issues, including increased family separation, limited access to health services, and heightened economic insecurity, will also be discussed.

Finally, the report will argue that Canada's immigration policies must undergo a radical transformation in order to eliminate the issues that have long faced migrant care workers across the country. Supported widely by migrant rights groups and allies, building a single-tier immigration system that grants all migrants full and permanent immigration status without conditions or exceptions is necessary to ensure equal rights for all.

In the interim, a number of measures are urgently needed, including: (1) increased funding to ensure the quality and availability of services that provide migrants with necessary legal and social supports, (2) eliminating discriminatory program criteria, and (3) collecting disaggregated race-based data to determine evolving policy needs that can contribute to creating a more equitable society for migrant care workers.

The evolution of Canada's caregiver immigration policies and programs

West Indian Domestic Scheme

Prior to World War II, the United Kingdom and Western Europe were the main sources of foreign domestic workers in Canada. The majority were European women who entered Canada through nanny recruitment programs and were given landed immigrant status in exchange for providing live-in service to Canadian families for a minimum of six months. This changed during the war when the Canadian government began bringing in 'displaced persons' from Eastern Europe. Capitalizing on the vulnerability of these refugees, many displaced women were indentured as domestic workers to Canadian families for one year.3

An increasing labour shortage of domestic workers post-World War II further prompted the federal government to establish special movement programs in the early-1950s for German, Italian, and Greek migrants. 4 While they were required to complete a full year of service, all European domestics shared an unconditional right to reside in Canada upon arrival. This changed with the introduction of more restrictive immigration programs for racialized women from the Caribbean, who had previously been excluded from Canadian immigration for discriminatory reasons, including a supposed inability to adapt to the Canadian climate.5

Launched in 1955, the West Indian Domestic Scheme was Canada's first immigration program to help address the need for domestic labour that sought migrants from outside of Europe. It marked the start of a rapid transition from a mostly white domestic labour force to one that consisted mainly of racialized migrant women. The agreement was initially made between Canada, Jamaica, and Barbados but was later expanded to include more

Caribbean countries. Over a span of 12 years, the program brought in about 3,000 English-speaking women to Canada to work as domestic workers.⁶

The majority of the domestic workers came from Jamaica, with the rest migrating from Barbados, Trinidad, Guyana, and Windward Islands. To be eligible for the program, women had to be between the ages of 18 to 35, single with no minor-aged or dependent children, have at least an 8th grade education, and pass a medical examination that was conducted by Canadian immigration officials.

Once accepted, the women were given the opportunity to select their preferred destination and then placed in a home to begin work for a one-year term. While there were some efforts made to spread the domestic workers across rural and Western Canada, the majority chose Toronto or Montreal for the social and economic opportunities.⁷

The terms of the agreement stipulated that the women would be granted landed immigrant status and be permitted to seek educational and/or employment opportunities in fields of their choosing after completing a one year term of domestic service. After five years, they became eligible to apply for full citizenship, although immigration regulations and loopholes often facilitated deportation and made full citizenship difficult to attain.8

The program's criteria for gaining entry into the country laid the foundation for the issues faced by migrant domestic workers in the following years. The scheme reflected the country's apprehension toward fully accepting racialized peoples within its borders by forming a reliance on migrant Black women to perform undervalued domestic labour while ensuring their expendability through a precarious immigration status.

The program's requirement that the women had to be free from dependent children and intimate partners imposed restrictions on women's bodily autonomy and social relations. It also ensured that fewer women would sponsor their family members for permanent residency upon gaining citizenship rights. This was compounded by widespread racial discrimination and hostility, which further reinforced the alienation of migrant domestic workers.

The West Indian Domestic Scheme was formally discontinued in 1967 with the introduction of Canada's points-based immigration system. However, its policies formed the basis of subsequent immigration programs for migrant workers that continued the exploitative cycle of using a disposable labour force that consisted of racialized women to meet the rising demand of domestic labour in Canada.

Foreign Domestic Movement Program and Live-in Caregiver Program

Following the end of the West Indian Domestic Scheme, domestic workers largely came into Canada on short-term work permits under the Temporary Employment Authorization Program, which replaced the previous program's provision of landed immigrant status. This led to a surge in the use of disposable migrant labour to fill already low-paid and under-protected occupational sectors, including in-home domestic services.

In 1981, the federal government introduced the Foreign Domestic Movement Program (FDMP), a revised policy that re-established a pathway to permanent residency for foreign domestic workers. The policy stipulated that foreign domestic workers would be eligible to apply for landed immigrant status after completing two years of live-in service with a designated employer.9

The FDMP placed tight restrictions on the domestic workers' rights and freedoms. It formally legislated the exploitative live-in requirement and required workers to get approval from a federal immigration officer to change employers. To become landed immigrants, the domestic workers had to meet stringent admissions criteria by proving their personal suitability, cultural adaptation, financial affluence, language fluency, and evidence of occupational upgrading—requirements that were not placed on other groups of foreign workers at the time.10

In January 1992, the Minister of Immigration announced policy changes to the FDMP and re-named it the Live-in Caregiver Program (LCP), which became a part of the larger Temporary Foreign Worker Program (TFWP). While the occupational upgrading requirements were eliminated, the livein requirement remained and eligibility criteria for entry into the program became even more restrictive.

Applicants to the program were initially asked to complete the equivalent of a Canadian Grade 12 education, along with six months of full-time formal training in an occupation or field related to the duties that they would be performing as a live-in caregiver (i.e. child care). However, this requirement was rescinded after mounting public pressure and replaced with the need to have 12 months of practical experience no more than three years before application and at least six months with one continuous employer. Applicants also needed at least an education equivalent to a Canadian high school diploma and have a CLB Level 3 competency in either English or French prior to arrival.

Once applications were approved, migrant caregivers entered Canada as temporary workers on tied work permits that prevented them from freely navigating the labour market like other workers. 11 This, combined with the live-in requirement, which blurred the lines between work and home life and created an imbalance of power between the employer and employee, left domestic caregivers highly vulnerable to abusive conditions and exploitation.

To qualify for permanent residency under the LCP, live-in caregivers were required to work 24 months within a window of 36 months for the employer whose name was listed on their work permit. If they wanted to change employers, they had to find a new employer themselves and apply for a new work permit, which had processing times between 6 to 12 months. During this time, workers were unable to access Employment Insurance or do any other form of documented work. This led many migrant caregivers to suffer abuse and daily indignities without other options for survival due to fear of deportation.

Transition to pilot programs

In 2014, the federal government announced that the LCP would be retired and replaced with two short-lived pilot programs: Caring for Children and People and Caring for People with High Medical Needs. 12 These pilots removed the controversial live-in requirement to help combat incidents of worker abuse but increased the eligibility criteria for entry and permanent residency.¹³

The new criteria introduced further barriers to permanent residency. The program put a hard cap on the number of care workers able to apply in any given year and introduced exclusionary language and educational requirements that put additional mental and financial stress on applicants. To be eligible, applicants had to have Canadian educational credentials of at least one year of post-secondary or its equivalent and they had to prove that they had a CLB level five competency in either English or French before applying.

Today, migrant caregivers come to Canada exclusively through the Home Child Care Provider and Home Support Worker pilot programs, which were launched by the federal government in 2019. These programs re-introduced the one-year post-secondary educational requirement but got rid of the employer-specific work permit in favour of an occupational work permit that gave workers the ability to more easily change employers within their sector.

Notably, the pilots do not apply to caregivers who will work in Quebec. Employers in Quebec must apply for a Labour Market Impact Assessment and hire temporary in-home care workers through the TFWP.¹⁴

Unlike the Live-in Caregiver program, the Home Child Care Provider and Home Support Worker pilot programs pre-screen all applicants and family members for permanent residency eligibility prior to issuing a work permit, with the intention of minimizing family separation and facilitating integration. However, long processing times, confusion over changing requirements and rules, and barriers imposed by higher education and language benchmarks have made getting permanent residency more difficult than ever before. 15

The racialized dimension of migrant care workers

The growth of permanent and temporary labour migration to Canada in the past decade reflects a larger global trend of increasing rates of international migration, particularly to Europe, North America, and other developed regions. The number of international migrants rose by 91 million between 1990 and 2015, with Asia, Europe, and North America recording the largest gains. 16

The demand for in-home domestic care services, fuelled by changes in female labour force participation, demographic structures, and policies that support non-familial care has been increasingly supplied through migrant workers. According to Immigration, Refugees and Citizenship Canada, a total of 1,250,630 unique work permits were issued under the TFWP between 2004 and March 2016. Of these, approximately 17% were for the live-in caregiver stream.17

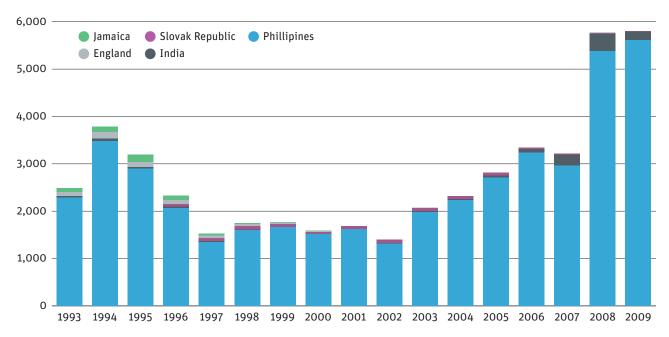
While there is little publicly available disaggregated data about live-in caregivers working in Canada today, a study of immigrants coming through the Live-In Caregiver program between 1993 and 2009 found that live-in caregivers are mostly racialized—with almost 90% being Filipino women—and increasingly have attained a higher educational level.¹⁸

The report showed that the Live-in Caregiver program grew significantly in the 2000s, going from accepting 3,303 applicants in 2003 to accepting 12,454 applicants in 2009. The program was dominated by applicants from the Philippines: 90% of arrivals came from the country in 2009. Other noteworthy source countries include India, Slovakia, Jamaica, and England.

The destination province for most landed principal applicants of the Livein Caregiver program was Ontario. Between 1993 and 2009, approximately 25,879 migrant workers settled in the province, with British and Alberta also hosting a significant number, at 12,921 and 7,676, respectively.

More recent data from Immigration, Refugees, and Citizenship Canada shows that this trend has not changed, as Ontario remains the primary

FIGURE 1 Top 5 birth countries of LCP principal applicants, 1993–2009



Source Toronto Immigrant Employment Data Initiative, York University

destination for incoming live-in caregivers seeking landed status. Notably, Quebec is heavily under-represented, despite its large population size. This likely reflects the province's comparatively affordable child care model, which may have resulted in lower demand for in-home child care workers.¹⁹

Live-in caregivers continue to be underpaid

The educational status of live-in caregivers has significantly changed over time. While the Live-in Caregiver program did not require applicants to have completed a high level of formal education, the proportion of those with a bachelor's degree or higher education increased significantly between 1993 (5%) and 2009 (63%).²⁰

Despite the majority of live-in caregivers being highly educated, domestic care workers continue to be considered "low-skilled" and are severely underpaid in comparison to "highly skilled" care occupations, such as nursing.²¹

Child care is a particularly undervalued sector in Canada. According to the 2016 Census, 280,000 individuals are employed as child care workers. Women have long made the up majority of the child care workforce, particu-

TABLE 1 Live-in Caregivers—Temporary Foreign Worker Program (TFWP) work permit holders by intended province/territory of destination

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
NL	5	10	10	15	15	20	20	25	25	20	25	15
PEI	5		5	5			5					
NS	45	50	65	70	70	45	75	60	45	35	30	15
NB	25	30	30	45	40	50	45	45	30	15	15	15
QC	2,050	2,295	2,155	2,225	1,240	1,105	895	860	550	540	440	360
ON	8,225	9,335	11,820	15,890	12,340	10,100	8,460	8,450	5,800	5,045	5,345	3,415
MB	165	180	205	250	165	110	90	80	50	40	30	15
SK	110	150	190	230	180	150	155	165	125	120	120	95
AB	2,165	2,410	2,970	4,190	3,355	3,145	2,795	2,625	1,975	2,000	2,210	1,565
ВС	3,955	4,560	5,180	6,875	6,155	5,560	4,700	4,465	4,070	3,280	3,590	1,770
NT	20	15	15	30	20	25	25	20	20	15	15	15
NU	5	5		5		5	5	10	10			
YT	15	20	15	15	10	10	15	10	5	5	5	
Total	16,790	19,060	22,660	29,830	23,590	20,325	17,285	16,815	12,705	11,115	11,825	7,280

Source Immigration, Refugees, and Citizenship Canada

larly in-home child care (96%)—only a 1% decrease since 1991. Immigrants and non-permanent residents are a significant presence in the child care sector, making up 33% of child care workers, compared with 25% among all other occupations. Filipino workers are particularly overrepresented among home child care providers, making up 21% of home child care workers in 2016, compared with 3% in all other occupations.²²

According to Job Bank data, median wages for live-in child care and home support workers vary across provinces and territories. In 2021, the national median wage for live-in child care workers is approximately \$15/ hour and the national median wage for home support workers is slightly higher, at \$16.85/hour.23

Low wages and the precariousness of care work contribute to the long-standing social insecurity of migrant live-in caregivers. This is further compounded by other intersecting factors, including precarious immigration status, inadequate monitoring of labour standards, a lack of income and

 TABLE 2
 Median wages for live-in care workers by province/territory (2020)

Wages (\$CAD/hour)	Wages	(\$CAD	/hour)
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	Low	Median	High
Live-in caregivers—child care			
Canada	\$11.45	\$15.00	\$22.00
Newfoundland and Labrador	\$11.40	\$15.00	\$37.00
Prince Edward Island	N/A	N/A	N/A
Nova Scotia	\$11.55	\$15.00	\$18.46
New Brunswick	\$11.50	\$15.00	\$22.00
Quebec	\$12.50	\$13.48	\$16.00
Ontario	\$14.00	\$15.00	\$21.25
Manitoba	\$11.65	\$14.74	\$20.00
Saskatchewan	\$11.32	\$14.00	\$23.14
Alberta	\$15.00	\$15.00	\$19.00
British Columbia	\$13.85	\$14.00	\$18.00
Yukon	N/A	N/A	N/A
Northern Territories	N/A	N/A	N/A
Nunavut	N/A	N/A	N/A
Live-in caregivers—seniors, persons with disabilit	ries		
Canada	\$12.91	\$16.85	\$24.00
Newfoundland and Labrador	\$14.50	\$15.80	\$17.25
Prince Edward Island	N/A	N/A	N/A
Nova Scotia	\$12.00	\$17.84	\$23.59
New Brunswick	\$12.50	\$13.65	\$16.65
Quebec	\$12.50	\$14.50	\$22.00
Ontario	\$14.00	\$18.00	\$26.22
Manitoba	\$11.65	\$15.00	\$21.50
Saskatchewan	\$13.00	\$18.00	\$29.33
Alberta	\$15.00	\$19.00	\$28.85
British Columbia	\$14.25	\$19.23	\$23.74
Yukon	\$14.00	\$20.00	\$29.96
Northern Territories	\$16.00	\$20.02	\$34.00
Nunavut	\$15.00	\$24.50	\$30.86

Source Employment and Social Development Canada

social supports, limited freedom to change employers and sectors, and a lack of access to legal services.24

The COVID-19 pandemic has further amplified the issues that have plagued migrant caregivers for years, leaving them in inescapable, exploitative working conditions and vulnerable to abuse and gender-based violence.

COVID-19 has exacerbated these issues

Restrictive policies and laws that make up past and current caregiver immigration programs play a huge role in producing the conditions for abuse and exploitation that impact migrant care workers.

A report by a coalition of organizations advocating for migrant workers' rights found that live-in caregivers have faced significant challenges over the course of the pandemic, including unexpected job loss, labour intensification, unpaid wages, and poor health outcomes.25

Out of 201 migrant care workers surveyed in the report, one in three reported that their employers barred them from leaving the house, taking public transit, buying groceries, or visiting the doctor during the COVID-19 pandemic. This overtly racist denial to leave the house reflects how racialized workers—especially women—were treated as if they were at a heightened risk of transmitting the virus compared to others.

One of the most prominent issues that migrant caregivers faced in the wake of the pandemic was labour intensification—a result of office, school, and child care closures that led employers to stay home and offload their domestic and care responsibilities onto migrant workers.

Migrant care workers reported that the hours they worked providing child care within their employer's home grew even longer during the pandemic. Stories of unpaid wages became widespread. In an interview with CTV News, Kaven Sivatra, a Filipino migrant worker who came to Canada in 2016 in hope of building a better future for her family, said that she provided child care from 7:30 a.m. to 7 p.m. and was not paid additional wages for the overtime hours. She was later let go when her employer decided to move out of the Greater Toronto Area.26

Access to health care services also became difficult for those who were prevented from leaving their employer's home due to long working hours or a lack of permission from employers. Others hid their medical concerns and health issues for fear of losing work or losing eligibility for permanent residency due to medical inadmissibility rules.

Making formal complaints and/or finding an alternate employer in response to labour exploitation is close to impossible due to immigration rules and requirements for permanent residency. Many workers choose not to enforce their rights for fear of losing work. For those working toward fulfilling their 24-month work requirement for permanent residency, finding a different employer would require applying for a new work permit and being subjected to lengthy processing times, which were made even longer due to backlogs caused by COVID-19.

While many migrant caregivers experienced labour intensification, others faced the opposite and lost their job or had their hours reduced. This prevented them from accumulating the necessary amount of employment hours and pay needed to be eligible to apply for permanent residency. It also led to tremendous financial difficulties, which were compounded by difficulties accessing Employment Insurance and the Canadian Emergency Response Benefit (CERB).

Navigating online applications and making sense of a multitude of rules and eligibility criteria for income supports like CERB proved difficult for many who were dealing with employment and housing instability. The closure of Service Canada offices also made renewing the Social Insurance Number (SIN)—which determines one's ability to access income supports—impossible.

All of these issues are even more challenging for caregivers who remain separated from their family and community. Family separation has long been a primary concern for migrant caregivers who come to Canada with the hope of soon being joined by their family members. Prior to the pandemic, care workers who came to Canada on a pathway to permanent residency through the Live-in Caregiver program or more recent pilot programs endured six- to eight-year-long periods of family separation while they completed their program requirements and waited for their permanent residency applications to be processed.27

COVID-19 has lengthened the time that families are kept apart and it has increased concerns for families who rely on receiving remittances from caregivers who may be facing job loss or deportation. The vulnerability of migrant care workers, caused cumulatively by family separation, labour intensification, and fears over immigration status, has been greatly exacerbated in a short period of time. It highlights the need for a transformational shift in Canada's immigration policies.

Recommendations

Despite COVID-19 exposing the long-standing issues that have faced migrant caregivers for decades, the federal government has taken little action. In late-2020, the federal government announced its ambitious goal to welcome over 1.2 million permanent residents into the country between 2021–23.28 The plan prioritizes bringing in skilled workers through the economic class, despite thousands of migrant workers still awaiting permanent residency status for themselves and their families.29

Since the inception of the West Indian Domestic Scheme in 1955, the Canadian government has used the promise of permanent residency and citizenship rights to trap racialized women into forming a disposable and undervalued labour force to perform domestic work in private households. Instead of fulfilling their dream of securing a better future for themselves and their families, many migrant care workers become trapped within abusive and exploitative working conditions for years due to immigration regulations and criteria that throw up barriers to permanent residency.

Immigration, Refugees, and Citizenship Canada has stated that it aims to finalize the applications of 6,000 caregivers by December 31, 2021.³⁰ This is not nearly enough. In March 2021, it was estimated that the backlog exceeded over 12,000 permanent residency applications from caregivers and accompanying family members. This includes applications from both the Home Child Care Provider and Home Support Worker pilots and cases from previous caregiver programs.31 Those awaiting permanent resident status are forced to remain in their caregiving jobs due to limitations on their work permit.

The COVID-19 pandemic has introduced additional barriers for those stuck in the stalled system and it has further illuminated challenges faced by migrant care workers, reigniting the need to push for a more streamlined pathway to immigration and stronger labour protection.

There are two central recommendations that are necessary to ensure that migrant workers have full and equal rights in Canada:

Abolish all existing caregiver immigration programs: Since their introduction, caregiver programs have been rooted in racism, targeting racialized applicants from low-income countries—mostly women—and restricting their fundamental rights and freedoms within Canada. Instead of immigration policies that favour highly skilled workers and rely on temporary or precarious foreign labour to provide low-value and low-wage work, Canada should open its borders to more immigrants that have a range of skills.

Status for all: Migrant rights organizations and advocates have long called for status for all, which would be premised on a single-tier immigration system in which current and future migrants, refugees, and undocumented people would be given full and permanent immigration status without conditions or exceptions.³² By ensuring that all future migrants are given permanent resident status upon arrival into Canada, workers will be able to protect themselves from labour exploitation and abuse.

In the interim, there are several policy options that can be immediately implemented to help migrant care workers protect themselves from harmful working conditions:

- 1. Grant all migrant workers open work permits to allow them to change employers or sectors without penalty;
- 2. Increase federal and provincial funding for immigrant settlement agencies and migrant-specific legal services;
- 3. Remove the post-secondary education requirement and the need for a second-language test prior to gain permanent resident status;
- 4. Collect and make publicly available disaggregated race-based data to help inform future policy decisions.

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