

Canada's agricultural sector has increasingly relied on the temporary labour of migrants to address labour market gaps and ensure national food security. Yet, their conditions of entry, exclusions and restrictions to essential legal protections, coupled with a lax and gap-ridden inspection and enforcement regime, render temporary migrant farmworkers vulnerable to exploitation and inadequately protected.

Recognizing their essential contributions, the Canadian federal government is committed to streamlining the recruitment of migrant labour. It has introduced various initiatives during and after the COVID-19 pandemic, with the most recent being the addition of the Recognized Employer Pilot Program in 2023. However, none of these initiatives include enhanced regulatory protections; instead, they simply make it easier for employers to access a vulnerable workforce.

Elsewhere in the world, notably in the United States and Italy, non-state initiatives have emerged to fill gaps in worker protection in the agricultural sector, such as market-based approaches to proactive inspections and enforcement. Admittedly, these initiatives cannot sufficiently address structural vulnerabilities produced by the state, and can only complement state regulations. They enhance legal protections,

address inspection and enforcement gaps,
reform the Recognized Employer Pilot program, and
facilitate and coordinate with non-state initiatives.

By adopting these recommendations and employing a more coordinated, systematic approach to the protection of migrant farmworkers, the Canadian government can maintain its access to an essential labour force without compromising workers' access to crucial labour and human rights.

INTRODUCTION

The growing reliance on migrant farmworkers

The Canadian agricultural sector, a frontrunner in sustainable food production and processing with substantial economic growth potential, has necessitated an increasing number of temporary migrant farmworkers to address domestic labour shortages. In 2022, the agricultural sector reported a record high revenue of \$87.7 billion, reflecting an average [annual growth rate of 5.6% since 2012](#).

Over the past half-a-century, agricultural employers have relied on federally governed Temporary Foreign Worker Programs (TFWP) to secure a 'dependable' source of labour to support the growth in this sector. Dependence on these temporary migration pathways has increased, resulting in a notable rise in the number of migrant farmworkers in Canada, who, in 2022, accounted for nearly [25% of the total workforce in primary agriculture](#). In 2017, Canada welcomed 53,842 migrant farmworkers, and by 2022, this number increased to [70,365, reflecting a 30% rise over five years](#). This upward trend is also evidenced in the distribution of workers across the provinces, showcasing a consistent growth since 2015.

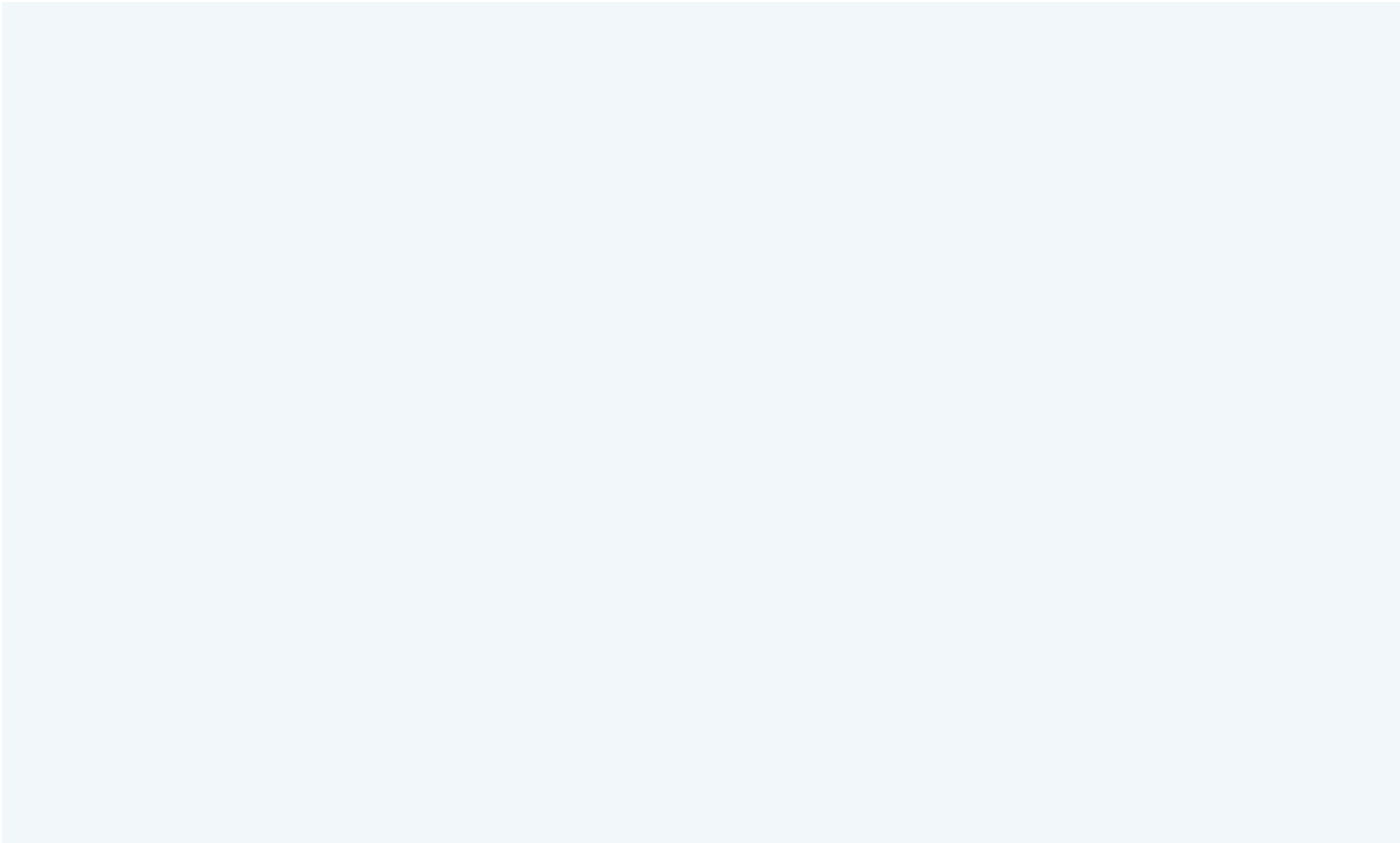
Figure 1: Temporary migrant farmworkers employed in agriculture, by province (2015-2022) 00010,00015,0020



POLICY BRIEF

and low remuneration with limited access to regulatory protections. In this context, the agency, mobility and bargaining power of migrants, who are easily replaceable, are limited. Research has shown that the relatively easy access by employers to a steady stream of migrant farmworkers acts as a disincentive to retain workers, improve wages, working conditions and housing, or invest in technology and training.

TFWPs wield a more substantial influence on the



Despite eligibility for some legal protections, migrant farmworkers experience many barriers and obstacles to accessing their rights and entitlements under provincial and federal legislation. For instance, while farmworkers in British Columbia are covered under labour relations legislation, and despite having achieved union certification, migrant farmworkers remain [susceptible to threats, acts of removal and blacklisting](#). Additionally, migrant farmworkers' temporary status complicates access to benefits such as workers' compensation and employment insurance. For example, the legislative definition of being "[ready, willing, and able](#)" to work, under the Employment Insurance Act, fails to account for those workers who are legally bound to a single employer who no longer provides work.

3. Lack of national standards and ineffective inspection and enforcement

Inspections and enforcement to ensure employer compliance with legislated or contracted standards play a vital role in ensuring that all farmworkers have meaningful access to the legal protections to which they are entitled, and can enjoy safe and healthy workplaces and living conditions. For migrant farmworkers with limited labour mobility and fear of reprisals, the significance of minimum standards, and effective labour inspections and enforcement is even more important. However, the Canadian inspection regime is characterized by significant enforcement and compliance gaps.

a. Lack of national standards and jurisdictional ambiguity

Agriculture stands as one of the most hazardous industries in Canada, yet there are no national labour or housing standards in place to ensure the health and safety of farmworkers. This lack of national standards, therefore, results in limited impetus for the federal government to lead the enforcement process.

This lack of primacy in federal inspections and enforcement leads to significant jurisdictional ambiguity. For example, primary responsibility for the administration of the TFWPs lies with two departments of the federal government: Immigration, Refugees and Citizenship Canada (IRCC) and

c. Lack of deterrence measures to encourage compliance

Compliance measures involve issuing orders

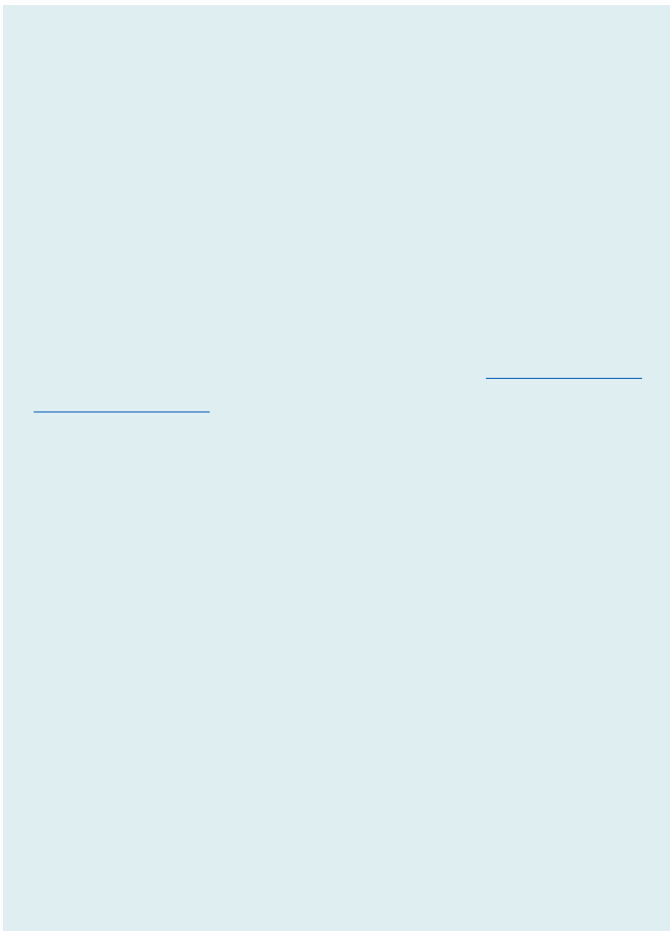


Table 3: Recognized Employer Pilot eligibility and employer commitments

Eligibility Requirements	Employer Commitments
<p>Employers must:</p> <ul style="list-style-type: none">have received at least three favourable LMIA decisions over the last five years, andmeet the highest standards for working and living conditions, and worker protections through TFWPs.	<p>Participating employers must:</p> <ul style="list-style-type: none">continue to make reasonable recruitment efforts to hire Canadians or permanent residents until all positions are filled,participate in random REP check-ins,undertake an annual wage review on January 1st of every year to ensure prevailing wage is paid,meet the housing inspection requirements of the stream for which the application was made, andremain in good standing with the border until 02/01/2024

significant offenders. Moreover, many have questioned whether the market consequences are sufficient to ensure compliance.

Non-state initiatives, like voluntary social certification such as the Equitable Food Initiative (EFI), therefore, can complement, but not replace, state roles in the essential protection of migrant farmworkers. These initiatives can offer an additional layer of protection by prioritizing worker empowerment through training, education, and the integration of workers' voices.

RECOMMENDATIONS

The following recommendations are proposed to strengthen the protections of migrant farmworkers in Canada:

- 1.

The federal and provincial governments should foster a culture of information sharing between non-state initiatives and relevant government agencies, allowing for better coordination and



About the Author

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