

Regularization in Canada

Why Regularization?

From 1960 to 2004, Canada had a number of regularization programs, the largest of which was the Adjustment of Status Program by Prime Minister Pierre Trudeau in 1973. Two regularization programs, both quite small and exclusionary, were piloted during COVID-19. Migrant groups have called for regularization for decades. Prime Minister Trudeau promised a regularization program in his mandate letter to the Minister of Immigration on December 16, 2021.

1. **Build a historic legacy:** There are between 200,000 - 500,000 undocumented people in Canada who, once regularized, will become voting citizens and be able to participate in the democratic process.
2. **Combat poverty and grow the economy:** Undocumented people work in cash-based jobs or are underemployed. Regularized migrants will be able to work where they want and in what they are skilled for and [earn more income](#). A recent report about regularization in France, when applied to Canada, showed that regularization would increase economic activity by at least \$28 billion each year - 1% of the GDP.
3. **Fund public services while application costs will be cost-neutral:** Most undocumented people pay taxes, but their employers, many of whom operate very profitable businesses, do not pay remittances. Regularizing 500,000 undocumented people will increase employer CPP and EI contributions by at least \$5.6 billion, just in the first year. On the other hand, the cost of application processing will be met with existing funding and application fees.
4. **Regularization will have no impact on absorption capacity.** Undocumented people already live here. These are not new arrivals. They have homes, jobs, families, and roots in our communities. Regularizing them will not require a substantial increase in public service funding.
5. **Increase worker rights:** Employers of undocumented workers threaten them with deportations to stop them from asserting their rights. This abuse results in overall worsening of working conditions in the labour market¹. While bad employers prosper, good employers who may be unable or unwilling to hire workers informally or for cash payments are disadvantaged.
6. **Improve public health:** Undocumented immigrants often do not access healthcare until it is absolutely necessary due to the costs². By the time they do, their health conditions are much more complicated, and the impact on the healthcare system is much higher. Regularization will improve overall public health.

¹ Goldring, L. and P. Landolt. 2022. "From Illegalised Migrant Toward Permanent Resident: Assembling Precarious Legal Status Trajectories and Differential Inclusion in Canada." *Journal of Ethnic and Migration Studies*. 48(1): 33-52.

² Brabant, Z. and M-F. Raynault. 2012. "Health Situation of Migrants with Precarious Status: Review of the Literature and Implications for the Canadian Context – Part A." *Social Work in Public Health* 27(4): 330-344; Magalhaes, L.C. Carrasco, and D. Gastaldo. 2010. "Undocumented Migrants in Canada: a Scope Literature Review on Health, Access to Services, and Working Conditions." *Journal of Immigrant and Minority Health* 12, 132 and Gagnon, M., Kansal, N., Goel, R. et al. Immigration Status as the Foundational Determinant of Health for People Without Status in Canada: A Scoping Review. *J Immigrant Minority Health* (2021).

7. **Counter racism and gender inequality:** Undocumented people are mostly racialized, low-waged people, often women. Regularization will give them the power to defend themselves against systemic exploitation. Women will be able to speak out against gender violence and leave conditions of domestic abuse.
8. **Build on best practices around the world:** Regularization is a widely used policy tool - between 1996 and 2008, 24 of the 27 EU Member States implemented regularization programs, and some several times. An estimated 5.5 to 6 million people were regularized in that time.
9. **Respond to a growing voice:** Almost every major civil society, labour, health and environmental organization has joined our call for full and permanent immigration status for all - nearly 500 organizations³. Major organizations from across Canada have also written letters to PM Trudeau supporting our regularization proposal⁴. On September 17, 2023, we organized demonstrations in 15 cities in Canada, which were endorsed by over 200 organizations⁵.

Who we are: Migrant Rights Network

The Migrant Rights Network can be your partner in developing an effective program that migrants will apply for and which will ensure the best outcomes for everyone in Canada. Founded in December 2018, the Migrant Rights Network is the only cross-country coalition that brings together almost all migrant-led groups in the country under a single platform. With a current membership of 40 organizations in 8 provinces, the Migrant Rights Network is an attempt to ensure that migrants can speak for ourselves directly in matters that affect our lives. All proposals, as well as all strategies, and activities of the Migrant Rights Network are determined by large, representative groups of migrants. The regularization proposal outlined below was created in consultation with over 4,000 undocumented immigrants, through multiple in-person and online meetings. Every action since has been led by migrants. While some members of the coalition are service providers or advocates, the Network is structured so that the migrant-led bodies are the primary decision makers. For the majority of the last several decades, there has been no funding to support temporary foreign workers or undocumented people from government or private donors. As a result, volunteer, migrant-led organizations that have deep roots and legitimacy within migrant communities have formed. The Migrant Rights Network brings all of these organizations, and collectives together in a single unified voice.

Undocumented people in Canada

People become undocumented because of failures of immigration policy. There is no access to permanent residency for most low-wage migrants in Canada. Almost all undocumented immigrants in Canada were previously on a temporary authorization (work, study, refugee claimant permit). They all reached a point where they could not get permanent residency and the federal government refused to renew their permits. They were faced with an impossible choice: either return to a country where there may be war, discrimination, climate catastrophe or no economic opportunities and leave communities, families and relationships in Canada or stay without access to any rights and services and in daily fear of deportation. Those who stay become undocumented immigrants.

³ <https://migrantrights.ca/status-for-all/>

⁴ <https://migrantrights.ca/organizational-letters-of-support-for-regularization-statusforall/>

⁵ <https://migrantrights.ca/david-suzuki-labour-health-refugee-and-climate-organizations-unite-to-call-for-status-for-all/>

In response to a request by IRCC officials in June 2022, we conducted a spot survey of member organizations of the Migrant Rights Network. These organizations were in touch with approximately 8,000 non-status migrants at the time of the survey. Our survey found that:

- 44% of non-status people were previously refugee claimants (prior to applying for refugee status, some of them were previously on a work or study permit);
- 25% were formerly temporary foreign workers;
- 19% were formerly on tourist visas;
- 8% were formerly on study permits; and,
- 5% were formerly permanent residents or refugees whose status was revoked.

We also ascertained the following key characteristics of undocumented people based on our experience (which was also shared with IRCC):

1. **Work:** Almost all undocumented immigrants are employed. They work in domestic work and care industries (in-home, residential, temp, elderly care, care for people with disabilities, childcare, etc), cleaning, delivery (particularly in gig work), restaurants, construction, seasonal farmwork, manufacturing and assembly, warehouses, grocery stores, and security. Those who are underemployed or unemployed said they were unable to work or work enough because of fear of detention and deportation, lack of Social Insurance Numbers, difficulty finding work, health concerns and age.
2. **Wages:** The vast majority of people that do work earn minimum wage or below minimum wage.
3. **Family in-Canada:** About half the people we work with do not have family in Canada while the other half have between one and five family members who they are supporting in Canada.
4. **Family outside-Canada:** More than three-quarters of the people we work with support family members abroad.
5. **Housing:** The vast majority live in rental accommodations and three quarters of their wages go toward rent.
6. **Healthcare:** Most use healthcare services as a last resort, and pay for them for many years after. Low income disabled non-status people are unable to access services and as a result are forced to live in very precarious circumstances.
7. **Gender-based violence:** Many of the non-status women we work with have suffered from gender related violence as a direct result of their lack of immigration status and are unable to access protection or services.

In 2007, the RCMP estimated that there were between 200,000 to 500,000 undocumented people in Canada⁶. No new analysis has been done in the 15 years since, but the number of temporary work and study permits issued in Canada have increased at least 4-fold, with a likely corresponding increase in the number of undocumented people. We believe that there are at least 500,000 non-status immigrants.

⁶ https://publications.gc.ca/collections/collection_2012/qrc-rcmp/PS61-22-2007-eng.pdf (page 80)

Our Comprehensive and Inclusive Regularization Program Proposal

A permanent coordinating table must be established with Migrant Rights Network so that undocumented people and refugees are involved from design to implementation to evaluation.

A simple broad program

- All undocumented people residing in Canada must be able to apply for and receive permanent resident status.
- If residency in Canada is defined, it should include all periods in Canada, including prior to being undocumented, and should be no more than two years in Canada. This would allay any concerns that the program would result in increased migration.
- Dependents must be defined broadly to include all de facto family members and a wide range of documents must be allowed to prove family relations. Many families do not have documentation as a result of living precariously in Canada.
- There should be first-stage processing of work permits. Permits should be automatically renewed until the application is fully processed. This is a common practice for example with asylum claimants and it would allow migrants to lay down deeper roots, and jump-start their lives as they await permanent residency. It would also resolve concerns around the current inventory backlog.
- The program should be permanent and available on an ongoing basis because the factors leading to people becoming undocumented will continue for the foreseeable future. Changes must also be made to immigration and refugee policy to ensure that all migrants including workers, refugees, international students and others are guaranteed permanent resident status so that they do not become undocumented⁷.

Clear and simple application process

- There should be a single application for permanent residency and the work permit. We have assessed repeatedly with our membership the question of two applications - initially one for work permits, and then a second for permanent residency and there has been strong opposition because of concerns that it will force people to share their information with the government that would later be used for deportations.
- Applications must be simple, such that undocumented people are able to apply themselves, both online via mobile devices and on paper.
- There should be a large selection of acceptable documents for the purposes of establishing identity and residence in Canada, none should be mandatory.
- The application should not depend on anyone else (e.g., job letters or proof of work in occupations or spousal ties to Canadian citizens) or require English language test results.
- The applications must be free or as low-cost as possible.
- Third-party applications including from employers and support organizations should be allowed, but they should not be mandatory.

⁷ See Migrant Rights Network letter to you:

<https://migrantrights.ca/wp-content/uploads/2023/08/MRN-Submissions-to-New-Minister-2023-1.pdf>

- If applications from third-party groups, lawyers, or consultants are not successful, applicants must be given a second opportunity to update their application to mitigate inadequate representation by exploitative third-parties.
- Resources should be made available to legal clinics and community groups to support undocumented people in accessing the program.
- Decisions must be based on clear, objective criteria. Reasons for refusal should be documented and argued.

No Exclusions or Inadmissibility & Right to Appeal

- Option 1: We propose that inadmissibility in Immigration and Refugee Protection Act be waived for the purposes of a regularization program.
- Option 2: If inadmissibility is not waived, we propose that officers assessing applications be instructed to assess for Humanitarian and Compassionate grounds from applicants who would be inadmissible; and allow for inadmissible applicants to add humanitarian arguments along with their applications.
- Option 3: If inadmissibility is not waived, and the application process does not allow for humanitarian assessments, then rejected applications should be automatically transitioned into a Humanitarian and Compassionate application.
- All denied applicants must have access to an appeals process.

No Detention or Deportations

- There must be a prohibition on detentions and deportations when the program is announced.
- No one should be deported if their application is rejected.

Comprehensive Communications Strategy

- The regularization program must be announced at least 3 months in advance to allow for dissemination of information to more isolated undocumented people. The full list of documents required and a sample application must be provided at this stage.
- Information must be provided in the top languages spoken by undocumented people.
- Social media friendly content in a range of languages and media must be created to help communicate the program.
- Clear and timely communication must be made to the Migrant Rights Network so that we can support the program and ensure that migrants apply. One of the major issues with such programs in the European Union has been a lack of uptake because of limited coordination with migrant-led organizations.

What not to do

No capped or “targeted” programs

Comprehensive regularization will ensure a minimum floor of rights and protections. When any group is excluded, the overall economy and society suffers. If the pandemic taught us anything, it is that everyone in our global society is connected, and the exclusion of any person or group of persons from equal rights and services is harmful to the whole.

Limited or no benefits from a capped program: A regularization program will be part of ending systemic racism and ensuring gender equality and labour mobility. Building on best practices from around the world, it will grow the economy at greater value than the cost of processing applications. It will ensure improved labour conditions and public health. It will facilitate the creation of more effective social policy as currently no one knows how many undocumented people live in Canada. Many of these benefits will not be possible with a capped program. If employers are allowed to, for example, exploit 250,000 instead of 500,000 undocumented workers, there is no impact on improving working conditions and wages in the labour market overall. If 250,000 people can get healthcare but the other 250,000 are excluded, there will be no specific improvement in healthcare - as COVID-19 has taught us, if one person is sick, we are all affected. Similarly, there will be no way to create more effective social policy as the numbers of undocumented residents will remain unknown.

The most vulnerable will be the ones excluded: If a program is capped using a quota, it will exclude the most vulnerable, as those with the most resources will be able to apply first before the quota is reached. This means that those most marginalized will continue to be exploited. Also, instead of highlighting the importance of the program, the narrative will shift to the stories of vulnerable people who could not apply because of an arbitrary cap, and there will be continued calls for expansion of the program instead of accolades for a job well done. Creating mechanisms to ensure vulnerable people are prioritized will require creating new document requirements which will add a greater administrative burden on migrants and the department. Many migrants don't have access documents that are otherwise used to assess vulnerability, for example proof of accessing social assistance or food banks.

Smaller or targeted programs create more administrative burden: Creating smaller programs will require having more additional documentation in the application stage which will add greater administrative and operational burden both on the department and the applicants, thus effectively removing the processing gains that would supposedly come from capping the program. This is a clear lesson from the out-of-status construction workers pilot in the Greater Toronto Area - many workers did not apply simply because they did not have the evidence to prove that they fulfilled the employment requirements; and even with the Canadian Labour Congress supporting applicants, processing was administratively burdensome. For example, capping the program to certain industries would require undocumented people to gather documents of work experience in those industries that they would not be able to get. Not just that, many undocumented people are working in industries where they are able to secure cash employment, not necessarily in ones they have experience in. Limiting to certain industries will not actually ensure that those with the most experience or training in those industries will be regularized.

A cap would be arbitrary and be challenged: In the absence of any reliable data on the numbers of undocumented residents in the country, capping the program is an arbitrary exercise, where a number will simply be plucked out of the air. There can be no rationale behind any number selected, large or small, and it will be challenged as such. Rather we propose an uncapped program, and speak about "expected applicants" during communications.

An uncapped program over a set period of time would allow for operational capacity to develop: Without caps, migrants will not rush to submit partial applications, instead they will apply when they are

ready, which will ultimately streamline the entire process. If the program is open for twelve months (for example), the department will have sufficient time to monitor and receive applications and request increased funding for processing if needed.

One-step permanent resident status application, not TR to PR

Low uptake for a temporary program: Having checked with undocumented members across the country, we know that most undocumented people will not apply for a program where they are applying for temporary resident status. Many fear potential deportation that may come from revealing personal information to immigration enforcement already, and knowing they are applying for a work permit that can expire means the risks outweigh potential benefits. Many migrants were on temporary work permits prior to becoming undocumented and have great suspicion of them. Migrants are well aware that permanent residence is rarely possible following a temporary work authorization and will not be easily convinced otherwise, even if a specific TR to PR program was announced at the same time for a future date. The lack of trust is substantial, and the federal government needs a partner in migrant-led organizations like members of the Migrant Rights Network. We would not be able to support a program that requires two applications or positions itself as temporary.

A two-step program adds administrative burdens: A two-step program where migrants apply for temporary work permits now and permanent resident status in the future will double the application load both on the department and the migrants which will create near-term or long-term backlogs. If there are additional requirements that migrants must complete while on a temporary permit so as to qualify for permanent residency, future permanent residency programs will require more funding for processing.

Temporary programs have failed in Europe: As we detailed in our [September 2022 memo](#) to the federal government, regularization programs in Europe where temporary status was granted instead of permanent resident status have largely been failures.

- Within three years, at least 50% of applicants in the 1991 regularization program in Spain became undocumented;
- The mean survival rate of migrants (number of years they must maintain temporary status) regularized through the 2005 Spanish program was just over 55 months, which was 5 months away from the 5-year benchmark needed to obtain permanent residence.
- The mean survival rate in the regularization program in Spain was just over 13 months in 2009.

Migrant Rights Network

The Migrant Rights Network is Canada's largest cross-country, migrant-led coalition. Our membership is composed of people without permanent resident status - workers, students, undocumented people, refugees and families. We are Canada's only coalition that ensures the leadership of migrants. Member organizations of Migrant Rights Network have a long-standing commitment to ensuring regularization, and have been at the forefront of organizing for it for over 20 years.

www.MigrantRights.ca | [@MigrantRightsCA](https://twitter.com/MigrantRightsCA) | info@migrantrights.ca

Migrant Rights Network Secretariat

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Current members of the Migrant Rights Network are:

Migrant Justice Coalition – Alberta

Association of Mexicans in Calgary
We're Together Ending Poverty (WTEP)
Kabisig Society of Fort Saskatchewan
Migrante Alberta

BC Migrants

Migrante BC
Radical Action with Migrants in Agriculture (RAMA)
Sanctuary Health Vancouver
Vancouver Committee for Domestic Workers and
Caregivers Rights

Migrant Rights Network – Atlantic Region

Cooper Institute (PEI)
No One Is Illegal – Fredericton (New Brunswick)
No One Is Illegal – Halifax / Kjiipuktuk (Nova Scotia)

Manitoba

Migrante Manitoba

Quebec Coordination

Collectif Ensemble avec les personnes Migrantes
Contre le Racisme
Immigrant Workers Centre – Montreal
PINAY Quebec
Solidarity Across Borders

Migrant Rights Network – Ontario

Butterfly – Asian and Migrant Sex Workers
Project
Careworker Connections Education Support
Organization
Chinese Canadian National Council – Toronto
Collaborative Network to End Exploitation
FCJ Refugee Centre
GABRIELA-Ontario
IAVGO Community Legal Clinic
Income Security Advocacy Centre
Migrant Resource Centre Canada
Migrant Workers Alliance for Change
Migrante Ontario
Migrante Ottawa
No One Is Illegal – Toronto
Northumberland Community Legal Centre
OCASI – Ontario Council of Agencies Serving
Immigrants
Parkdale Community Legal Services
Sanctuary Students Solidarity & Support
Collective
South Asian Legal Clinic of Ontario
Unifor
Vivimos Juntxs, Comemos Juntxs
Workers' Action Centre