

# Migrant workers: precarious and unsupported

## Provincial Report: Atlantic Provinces

### Executive Summary

Use of migrant workers, by way of Temporary Foreign Worker Program (TFWP) and the Seasonal Agricultural Worker Program (SAWP) has more than doubled in the Atlantic Provinces in the last decade. Access to services, protections for migrant workers and access to permanent residence varies across the region.

New Brunswick passed legislation to address migrant worker vulnerability in 2013, and TFWs who meet the criteria can access the Provincial Nominee Program. The Province funds settlement services that migrant workers can access; however, access in urban areas is a challenge because of the way these funds are distributed.

Nova Scotia passed legislation to address migrant workers' vulnerability in 2011. TFWs who meet the eligibility criteria for the Provincial Nominee Program can apply to become permanent residents. The province provides funding for the largest settlement organization in Nova Scotia to run a migrant worker program, which offers support and information on TFW rights and responsibilities. Access remains a challenge for workers in isolated areas. Migrant workers do not have access to the range of settlement services.

Prince Edward Island has not passed any legislation to protect migrant workers. TFWs can access the Provincial Nominee Program if they meet the criteria. The province funds one settlement worker to provide services to migrant workers. Language instruction is not funded, and access for isolated workers is a challenge.

Newfoundland and Labrador has not passed any legislation to improve protections for migrant workers. TFWs have access to the Provincial Nominee Program if they meet certain criteria, but migrant workers do not have access to provincially funded settlement services. (Provincial Nominees have access to language instruction.)

In some provinces, respondents reported service providers finding alternate funding sources or using volunteers to provide services not covered by the province, such as language instruction.

Principal recommendations for the Atlantic Provinces are:

1. Fund non-governmental organizations to provide settlement services to all migrant workers, regardless of skill level or program.
2. Improve protections for migrant workers.
3. Improve permanent residence outcomes for migrant workers.

### A note on terminology

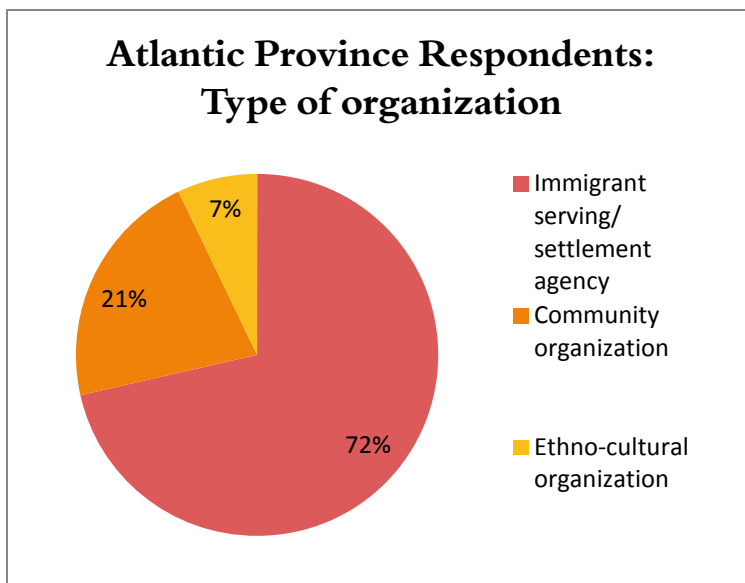
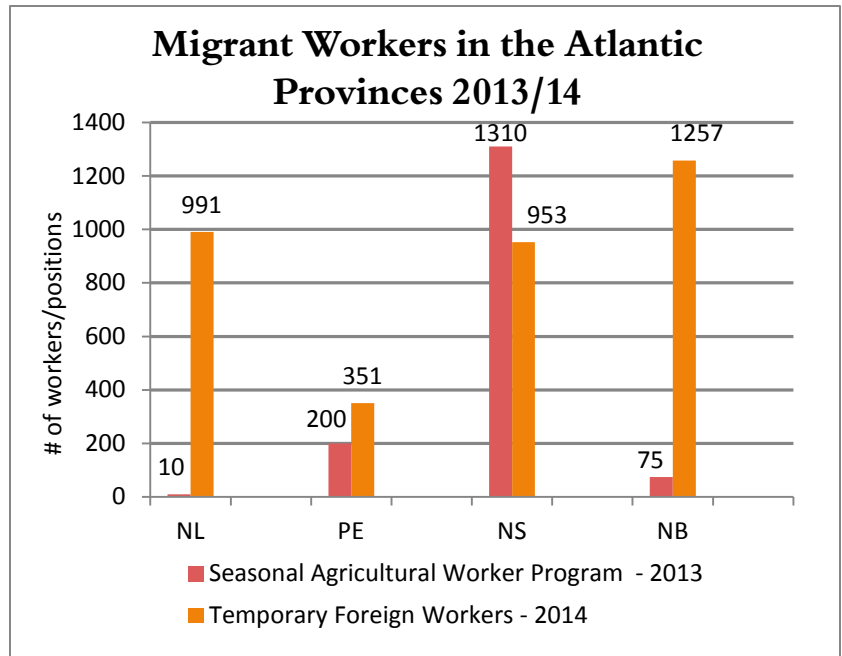
For the purposes of this study, “migrant workers” refers to workers participating in the Temporary Foreign Worker Program (TFWP), which includes the Caregiver Program, or in the Seasonal Agricultural Worker Program (SAWP). TFWs (Temporary Foreign Workers) is used to talk about workers in the TFWP (including caregivers, where they are not referred to specifically). The survey used “TFWs” to encapsulate all workers in the low- and semi-skilled streams, so respondents used this term in their responses. In writing the reports it was felt that “migrant workers” is more accurate and inclusive.

Workers with higher skill/wage levels participating in the International Mobility Program (formerly part of the Temporary Foreign Worker Program) are not included in this study.



## Background

The four Atlantic Provinces hosted a combined total of 3,552 low-skilled workers in the Temporary Foreign Worker Program (TFWP) in 2014, down significantly from 4,105 the previous year. In 2013, 1,595 Seasonal Agricultural Worker Program (SAWP) positions were filled (numbers for 2014 are not publicly available). These numbers represent a large increase over previous years. Use of the TFWP between 2004 and 2014 increased by 254% in the region. The Atlantic Provinces use TFWs especially in fish and seafood processing plants, the service and hospitality industries, and as truck drivers.



For the Atlantic region, 15 NGOs completed the survey on the NGO role in providing services to TFWs. Out of the 14 relevant responses we received, eight were from New Brunswick, two from Nova Scotia, two from Prince Edward Island, and two from Newfoundland and Labrador. Of these, ten identified as immigrant-serving/settlement agencies, three as community organizations, and one as an ethno-cultural organization. Ten reported serving in an urban area, while four said they served in rural areas. All respondents were aware of migrant workers in their community, and all but one said migrant workers had interacted with their organizations seeking services.

## Provincial Legislation

Neither Prince Edward Island nor Newfoundland and Labrador have introduced any legislation with the objective of protecting migrant workers' rights.

In 2011 Nova Scotia amended its provincial Labour Standards Code, passing the Worker Recruitment and Protection Act (WRPA), which made it illegal to charge recruitment fees to workers or to confiscate their personal documents. The Act also requires employers to honour the terms and conditions promised at the time of recruitment. A licensing regime for recruiters and a registration regime for employers were implemented in spring 2013.

In 2013 New Brunswick introduced amendments to the province's Employment Standards Act, creating an employer registry and adding provisions to ensure employers only recover allowable recruitment and transportation costs from foreign workers. It clarifies legal practices with respect to foreign worker housing arrangements and the holding of personal documents such as passports and work permits.

## Access to services for Migrant Workers

The service provision landscape for migrant workers varies from one Atlantic province to the next, but across the region organizations agreed that access to service is a problem, to differing degrees.

In **New Brunswick**, migrant workers are eligible for all provincially funded settlement services. However, this plays out unequally between rural and urban areas. At rural settlement agencies and other service providers, provincial funding supports a significant portion of service delivery, and respondents reported that migrant workers are able to access all services provided by the organization. Three rural organizations reported that they offer provincially funded services to migrant workers, including help with paperwork and navigating the system, help applying for permanent residence, language training, and job counselling. They also include migrant workers in their social programming to help mitigate the isolation they experience.

In contrast, the larger service providers in urban areas tend to be mainly IRCC-funded, and provincial funding is just for "additional" services such as extra language classes, limiting migrant workers' access. Provincially-funded settlement services including employment services, information and referral, and language training were provided to TFWs (along with international students) at two of the large urban settlement agencies from 2011 to 2014, but in 2014 this support was eliminated. In 2015 provincial support for language training was reinstated for one of these organizations, but broader settlement services were not reinstated. At the other organization, the only provincially funded activity migrant workers can still access are language classes if space is available after permanent residents have registered (migrant workers are a lower priority). The result according to survey respondents is that many migrant workers in the province are under-served. An urban, entirely volunteer-staffed ethno-cultural organization reported working hard to fill service and advocacy gaps for migrant workers facing difficulties, helping them with paperwork, and informing them of their rights.

For **Nova Scotia** we received responses from two organizations. One of these is only funded to provide services to TFWs who have access to permanent residence (limiting access to mostly high-skilled workers), while the other – the largest settlement agency in the province – receives provincial funding as of 2012 to provide settlement services to migrant workers, with the exception of language instruction. These services are offered in Halifax and across the province through a mobile settlement worker, although access in rural areas

and for workers at isolated workplaces is an issue. This respondent reported that migrant workers make up between 40 and 60% of their yearly clientele, indicating that where there is access, uptake levels are high.

In **Prince Edward Island** the two responses came from the major settlement agency on the Island and a community organization, both based in Charlottetown. The province has provided funding for the settlement agency to pay for one full-time settlement worker to work specifically with migrant workers and international students since 2013. They report that 40-60% of their yearly clientele is composed of migrant workers, indicating high uptake since the services have been offered. The services offered to migrant workers include assistance navigating the system, help with paperwork, referrals, information on rights, individual counselling, interpretation and advocacy. Language training is not funded by the province, but the agency has worked to offer volunteer language tutoring for migrant workers who are not eligible for funded training. The organization is based in Charlottetown, but also offers services in the west of the island. Still, access is an issue for many migrant workers who cannot get to either of these two locations. The community organization has also received provincial government funding from the women's secretariat to help with outreach, education, accompaniment and advocacy for migrant workers, although they don't offer settlement services or language training.

The two responses received from **Newfoundland and Labrador** were from organizations in St. John's. One is the principal settlement agency in the capital, the other is a community organization focused on newcomers. The provincial government does not provide settlement support for migrant workers. One small exception is that TFWs who have been nominated for the Provincial Nominee Program (PNP) and are awaiting confirmation of Permanent Residence are able to access provincially funded language training. The community respondent reported receiving no funding to serve migrant workers, yet their small, mostly volunteer team offers orientation, does outreach and responds to crisis situations for those who approach them.

## Funding

When asked whether they receive funding to serve migrant workers, either for a specific program for migrant workers or in the context of their overall work, nine of the fourteen organizations said yes. Since caregivers are entitled to IRCC-funded language classes, some organizations reported providing this service to that specific group. Five organizations said they received no funding to provide services (with one of these providing services on a volunteer-basis), but some said they provide basic information and referrals nonetheless, to avoid turning away people in need.

The Nova Scotia respondents reported being concerned about capacity to sustain service provision since provincial funding is granted on a year by year basis, and is therefore perceived as unstable. One respondent said, "(TFWs) are an invisible group and as the funding we receive is specifically for TFWs, it would be very easy to eliminate this funding." The settlement agency reported that the migrant workers they serve benefit from all their services, and that they do their best to meet needs, but that for migrant workers, eligibility issues (for IRCC-funded services) remain a significant challenge.

Both PEI respondents reported being concerned about their capacity to continue to provide services to migrant workers. Since both receive one-year funding (albeit from different sources) they reported feeling unsure that funding would continue. They both felt migrant workers benefited from all the services they are able to offer.

While neither respondent from Newfoundland & Labrador receives funding to provide settlement services to migrant workers (with the small exception of English language training for Provincial Nominees), and the

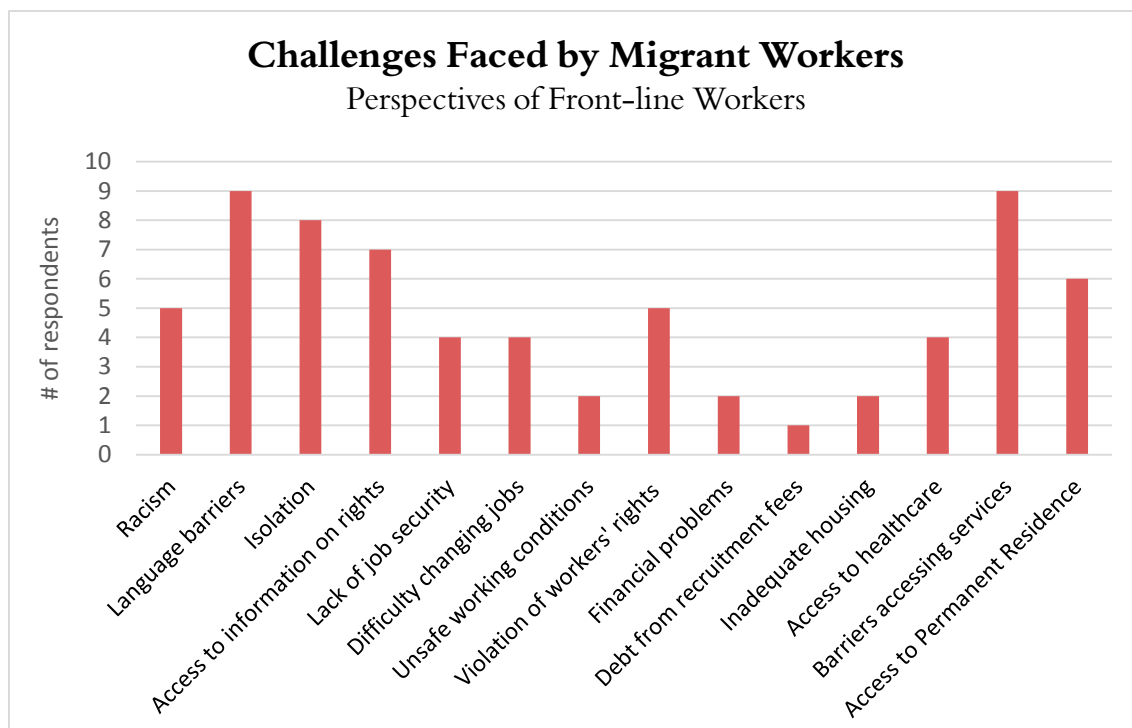
community organization responds to TFW needs only on a volunteer basis, they would both like to expand services for migrant workers. The settlement agency respondent stated they “would like to serve this group and are seeking funding options.”

In those provinces where provincial funding is provided for settlement services for migrant workers, it is seen as an important opportunity on which organizations rely, or that they hope to secure. A New Brunswick ethno-cultural organization that provides considerable support to migrant workers on a volunteer basis is keen to secure provincial funding to help them enhance services. One of the New Brunswick agencies that was unfunded for services to migrant workers in 2014 said the funding was reinstated in response to the organization’s advocacy as they actively raised concerns about the impacts on clients that defunding had caused.

Many respondents show creativity and resourcefulness in filling funding gaps to provide services to migrant workers who need them, but stable funding would allow their work to be sustainable, and for migrant workers to have more of their needs met. At the same time as the province is seen as the most likely option to fund services for migrant workers, several respondents felt it was the federal government’s ultimate responsibility to expand eligibility for settlement services to migrant workers.

## NGO Perspectives

According to service providers surveyed, the main reason migrant workers interact with service providers in the Atlantic region is to obtain information and assistance navigating the system, and to access language training. According to respondents, the four types of support most sought are support related to status and work permits (86%), information about immigrating to Canada (86%), employment services (71%), and language classes (71%).



Service providers were asked for their perspectives on the greatest challenges faced by migrant workers in their community. Significantly, access to services and language barriers were the two most-cited challenges (64%). Isolation was cited by 57% of respondents, and access to information on rights by 50%. Other key concerns were access to permanent residence, racism, and violation of workers' rights. Generally organizations indicated that migrant workers face multiple challenges.

Many Atlantic region respondents expressed concern for the vulnerable situation migrant workers find themselves in as a result of the barriers they face. Four mentioned their lack of access to services as a key factor in making them vulnerable and exacerbating their isolation. Two were concerned about migrant workers' fear to speak out when they are being abused or mistreated.

Abuse and violation of rights was a common theme. One urban New Brunswick settlement agency respondent specifically described concern about "TFWs working under the radar and being taken advantage of and not having access or recourse to settlement and integration support". A PEI organization expressed particular concern over migrant workers working in seasonal fish plants (where many are employed), saying:

*It's known to be an abusive industry, and seasonal... workers are constrained by their situation, and have limited options when their rights are violated. Non-English speaking workers are especially vulnerable, and there are reports of workers subjected to workplace abuse, illegal recruitment practices, and having their passports confiscated.*

When asked what type of services their organizations would ideally offer to migrant workers, the response was unanimous across the region: they should provide the full range of settlement services available.

Organizations in the region felt that migrant workers need support and access to information and services, and that this should be addressed through federal and provincial government support for settlement service provision to migrant workers. Many respondents were vocal about the role that NGOs could play in improving the situation for vulnerable migrant workers; the widely echoed sentiment was that settlement organizations and other NGOs are well-placed to provide services for migrant workers and should be funded to do so.

## **Unmet Needs and Policy Gaps**

Most respondents remained focused on the need for access to settlement services when asked about the unmet needs of migrant workers in their region. Lack of access to IRCC-funded settlement services was seen as a particular policy gap. One New Brunswick settlement agency respondent said:

*I see a need for TFWs to have access to settlement and integration support services, including employment, social services, wider language programming to specifically meet their needs, and community marketing and promotional campaigns to dispel myths around TFWs within the local community.*

Another stated:

*TFWs do not yet have access to CIC-funded programming. Ideally, TFWs would have access to all settlement services delivered by our organization to facilitate their access to information and resources.*

A New Brunswick community organization that provides services to newcomers said:

*As CIC does not fund programming for TFWs, there are many unmet needs that TFWs have once in New Brunswick - this includes information & orientation services, language training, Canadian business culture training, and access to social networks.*

The Nova Scotia settlement agency echoed these sentiments on unmet needs, making the point that there is a disparity between the interests of the migrant workers and the employers, and the restricted access to permanent residence:

*Access to language training for TFWs and spouses, access to full range of employment attachment services. For [those] in 'low skilled positions' the catch 22 [is] they want to stay, employer wants them to stay, the community wants them to stay, the government doesn't allow it.*

### **Access to permanent residence**

In New Brunswick, the Provincial Nominee Program (PNP) selects and nominates qualified workers from abroad who will live in New Brunswick and contribute to the New Brunswick economy through full time ongoing employment. The New Brunswick PNP is open to TFWs between 22 and 55 years of age in certain semi- and low-skilled (NOC C and D) professions, as long as they have an offer of full-time employment, and have been working for the same employer in New Brunswick for at least one year prior to submitting an application. Applicants must attain a minimum score in a PNP points system that values work experience, language skills, and ties to the province.

TFWs aged 21 to 55 in NOC C and D occupations can be eligible for the Nova Scotia PNP if they are high school graduates and have worked for the same employer that is supporting their application for at least 6 months. Those in NOC C and D occupations (low-skilled) are only considered if there is strong employer support such as contribution to immigration fees, accommodation, and language training. Proof of financial resources is also required, which can be a barrier for low-wage workers.

PEI has a Critical Worker Stream within their PNP targeted specifically towards low- and semi-skilled TFWs between 21 and 59 years old. The province nominates individuals to IRCC, with the objective of filling labour market shortages. Applicants must apply for one of the selected occupations, which are revised annually (for example, in 2015 there were five occupations: truck drivers, customer service representatives, labourers, food & beverage servers and housekeeping attendants). Applicants must have a high school education and a full-time long-term (minimum of 2 years) job offer with an employer they have already worked for at least six months. They must also demonstrate “sufficient” (unspecified) settlement supports and financial resources as indicated by transferable funds, which as in the case of the Nova Scotia PNP can be a barrier.

The Newfoundland Provincial Nominee Program is open to low- and semi-skilled workers, and their target numbers show that these applicants are expected to fill almost 20% of the nominations (200 in 2015). Applicants must have a job offer in-province, a high school education, and “sufficient funds”.

Since the federal program does not allow migrant workers in the low-skilled categories access to permanent residence (with the exception of Caregivers), the PNP is their only avenue to stay in Atlantic Provinces. However, the federal government imposes minimum language requirements on PNPs. In most Atlantic Provinces those without an accepted PNP application don't have access to language training, making permanent residence through this route difficult for TFWs to access.

## Recommendations for the region

In each province, challenges and gaps created by the national TFWP and SAWP manifest with regional complexities. The following recommendations are based on the issues identified and recommendations made by survey respondents, and are further developed by the authors who draw on their knowledge regarding dynamics of temporary labour migration programs in Canada at the provincial and federal levels.

To facilitate the protection of migrant workers' rights, the Atlantic Provinces should:

1. Fund non-governmental organizations to provide settlement services to all migrant workers, regardless of skill level or program:
  - a) **New Brunswick** and **Newfoundland and Labrador** should provide stable, multi-year funding for provision of settlement services including language instruction to migrant workers. **Nova Scotia** and **PEI** should add language instruction to the services offered to migrant workers.
  - b) **PEI** should continue to fund NGOs to provide settlement services to migrant workers, including language instruction, and expand service provision in rural areas. Funding should be stable and multi-year to allow for planning and sustainability.
  - c) **Nova Scotia** should expand funding to provide the full range of settlement services to migrant workers, including language instruction, and to expand service provision in isolated areas. Funding should be stable and multi-year to allow for planning and sustainability.
  - d) **All provinces** should advocate with the federal government to expand eligibility for federally funded settlement services to all migrant workers.
2. Improve protections for migrant workers:
  - a) **Prince Edward Island** and **Newfoundland and Labrador** must introduce legislation such as Nova Scotia's WRPA to improve protections for migrant workers.
  - b) **All provinces** should consider implementing a TFW helpline and a TFW Advisory office as has been done in Alberta, to help support and protect the rights of migrant workers.
3. Improve permanent residence outcomes for migrant workers:
  - a) As above, all provinces should fund (or work with IRCC to ensure funding for) language instruction for migrant workers to reduce isolation and facilitate access to PNPs.
  - b) Provinces that require a proof of financial resources should remove this requirement, since proof of employment is already required.
  - c) Advocate with the federal government to create more pathways to permanent residence for migrant workers, and to ultimately expand Canada's economic immigration program to reflect the needs of the Canadian labour market by including workers of *all* skill levels.