

Provincial Report Card

Quebec



EVALUATING
MIGRANT WORKER
RIGHTS IN CANADA
2018

Legislative Protection of Migrant Workers

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Quebec relies on its labour standards and occupational health and safety (OHS) legislation to protect migrant workers. Caregivers who live at their employer's home are excluded from workers' compensation protections under the *Act respecting Industrial Accidents and Occupational Diseases*, and agricultural workers are excluded from some Labour Standards provisions including maximum hours and overtime. Legislation enacted in 2014 restricts the rights of agricultural workers to unionize, affecting the majority of migrant workers in the province. In March 2018 amendments to the *Act respecting Labour Standards* were proposed to regulate recruiters and prohibit fees charged to workers.

Enforcement of Legislative Protections

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The CNEST (Commission for Labour Standards, Pay Equity and Occupation Health and Safety) does complaint-based enforcement. There is some tip-based proactive monitoring of workplaces carried out that does not target, but may impact, migrant workers.

Access to Permanent Residence

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Since 2016, migrant workers in NOC C occupations are eligible for the regular immigration program for skilled workers. Quebec did not adopt the current federal caregiver streams, introduced in 2014, so only highly skilled health-related caregivers (not "low-skilled" child care workers) are eligible for permanent residence under the Quebec Experience Program (QEP). New immigration regulations proposed in March 2018 would make both the QEP and the regular immigration program open to all skill levels. Applicants would still be subject to high French language requirements.

Settlement and Support Services

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In general, "low-skilled" migrant workers do not have access to settlement and support services funded by the government, including language instruction.

Access to Information for Migrant Workers

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The government has produced print resources and a video on labour and human rights, with contact information for the relevant government agencies. These resources are available in French, English and Spanish online, and are distributed to community organizations that work with migrant agricultural workers. The CNEST has a phone line for information, with limited hours of operation; the staff only speak English or French.

Awareness-raising among Employers

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The CNEST offers information sessions to employers on request, but mostly focuses awareness-raising on employers who have been the subject of a complaint. There is no proactive initiative to inform employers about their responsibilities towards migrant workers. A guide for employers hiring immigrant workers is available online.

Access to Healthcare

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Seasonal agricultural workers have access to provincial health coverage on arrival, while other migrant workers must have a work permit of at least six months to be eligible for provincial health coverage, and must wait three months to access care. The CNEST covers the salary replacement, health care costs and rehabilitation of migrant workers who return to their country of origin following a work-related illness or injury.

Noteworthy



If passed, the proposed immigration regulations would make Quebec a trail-blazer in using permanent (rather than temporary) migration to meet labour needs across skill levels.

Promising new developments must be matched by real protections

Although Quebec has taken little action in the past five years to address the vulnerable status of migrant workers, some very recent initiatives indicate that the Province is becoming more sensitive to this pressing issue.

In March 2018, Quebec proposed amendments to its labour standards legislation designed to protect migrant workers from predatory recruitment practices by prohibiting fees being charged to workers and introducing a recruiter licensing regime. If adopted and effectively implemented, this would represent a positive step. Recruiters should be required to post a bond that can be used to repay workers if the licensee violates the rules. Migrant workers must be informed about the law and have a venue to make complaints or anonymous tips.

Quebec also needs an employer registry and proactive enforcement of legislation to address abuse. Reactive enforcement does not work in the case of migrant workers who are reluctant to complain for fear of losing their job and their status in Quebec. Although legislation prohibits reprisals against workers asserting their rights, no effective mechanism is in place to prevent employers from firing and sending home workers who complain, or who are sick or injured.

The CNESST's recently published strategic plan prioritizes awareness-raising of certain targeted workers including migrant workers on their labour rights and recourses. This is a laudable step, but without additional protections, migrant workers remain unlikely to seek recourse.

After a 10-year struggle that saw farm workers win the right to unionize in 2010, Quebec took a step backwards with the introduction in 2014 of new legislation that again restricts the rights of agricultural workers to unionize. The vast majority of low-wage migrant workers in Quebec are agricultural workers. The exclusion of domestic workers and caregivers who live at their employer's home from workers' compensation protections has been a source of considerable frustration within the caregiver community, which has campaigned for inclusion for more than a decade.

The new immigration regulations proposed in March 2018 would make all migrant workers, regardless of skill level, eligible for both the regular economic immigration program and the Quebec Experience Program. This is a very positive and potentially trail-blazing step towards using permanent immigration as a tool to respond to the labour needs across skill levels, and to eliminate the vulnerability experienced by migrant workers due to their precarious immigration status. However, high language requirements would exclude many "low-skilled" workers.

Quebec manages all government funding for newcomer settlement services, yet provides virtually no support for migrant workers. The need for support is urgent in order to reduce migrant worker vulnerability and increase access to justice; Quebec must increase funding for settlement services and make migrant workers eligible for these services including language training, as other provinces have done. Access to language training and settlement services would also facilitate access to provincial immigration programs.

Many agricultural workers face language and transportation challenges accessing healthcare, and employers sometimes retain their health cards so they are unable seek care independently. The CNESST should provide information about navigating the system to all migrant workers, and inform employers of their responsibilities towards migrant workers. In late 2017 the CNESST introduced a policy to ensure that migrant workers who have had a work-related injury or illness can access adequate healthcare and rehabilitation services in their home country, a positive step.

Number of Work Permits Issued	2017
Live-in Caregivers	145
Agricultural Workers	10,210
Other Temporary Foreign Workers with LMIA	2,700
Total	13,055

