

# Migrant Rights Network October 2022 Update

## Regularization in Canada

### Undocumented people in Canada

People become undocumented because of the failures of immigration policy. There is no access to permanent residency for most low-wage migrants in Canada, and only 60% of refugee claimants are accepted. Almost all undocumented immigrants in Canada were previously on a temporary authorization (work, study, refugee claimant permit). They 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 they may face 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.

Without permanent resident status, undocumented people are unable to assert rights at work or access basic healthcare. They face discrimination and exploitation because of the well-founded fear of deportation. Non-status people are part of communities. They are neighbours, classmates, parents, spouses, children, coworkers and caretakers. Because of lack of permanent resident status, undocumented people experience insecure housing, abuse at work, poverty and fear. The uncertainty about the future, constant stress of making ends meet and risks of detention and deportation negatively impacts our health. Living without status requires a tremendous amount of resilience.

In 2007, the RCMP estimated that there were between 200,000 to 500,000 undocumented people in Canada<sup>1</sup>. 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.

### Our Comprehensive and Inclusive Regularization Program Proposal

Regularization should be considered a minimum floor of rights whereby when any group is excluded, the overall economy suffers. If the pandemic taught us anything, it is that everyone is connected and the exclusion of any person or group of people from equal rights and services is harmful to the whole.

In order to ensure the most effective program is created, 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. The key tenets of the program should be as follows:

#### A simple broad program

- All undocumented people residing in Canada must be able to apply for and receive permanent resident status.

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<sup>1</sup> [https://publications.gc.ca/site/archives-archived.html?url=https://publications.gc.ca/collections/collection\\_2012/grc-rcmp/PS61-22-2007-eng.pdf](https://publications.gc.ca/site/archives-archived.html?url=https://publications.gc.ca/collections/collection_2012/grc-rcmp/PS61-22-2007-eng.pdf) (page 80)

- 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
- 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.
- There should be first-stage processing of work permits. Permits should be automatically renewed until the application is fully processed.
- 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 undocumented<sup>2</sup>.

#### Clear and simple application process

- 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.
- 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

- People should not be excluded based on past failures to comply with immigration law. Being undocumented creates the conditions for such non-compliance.
- Inadmissibility criteria must be suspended. If there are inadmissibility grounds, there must be a simple procedure for applicants to challenge their exclusion on these grounds.
- Failed applicants must have access to an appeals process.

#### No Detention or Deportations

- There must be a prohibition on detentions and deportations as soon as the program is announced.

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<sup>2</sup> See Migrant Rights Network letter to Cabinet, October 2021 with initial proposals for changes: <https://migrantrights.ca/wp-content/uploads/2021/10/Letter-to-Cabinet-Migrant-Rights-Network-October-2021.pdf>. More specific proposals can be provided.

- 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 mediums must be created to help communicate the program.
- Clear and timely communication must be made to civil society organisations including the Migrant Rights Network that have strong links to undocumented people.

### **Defining who should be included**

- Anyone in Canada without valid authorization to work, study, or stay; and
- Anyone in Canada with valid work authorization on humanitarian grounds (from a country with a moratorium on deportations to; no travel papers; pending pre-removal risk assessment, stay of deportation, with a pending humanitarian and compassionate application, asylum claimant, etc).

### **History of regularization in Canada**

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.

### **Broad support for comprehensive and inclusive regularization.**

Almost every major civil society, labour, health and environmental organization has joined our call for full and permanent immigration status for all - nearly 500 organizations<sup>3</sup>. Major organizations from across Canada have also written letters to PM Trudeau supporting our regularization proposal<sup>4</sup>.

### **Benefits of a comprehensive & inclusive regularization program**

1. **Addressing a historic wrong:** A comprehensive program would ensure that Prime Minister Trudeau is remembered for creating life-altering public policy, which corrects an historic wrong. A fair society with equal rights is only possible if everyone has the same immigration status.
2. **Part of ending systemic racism and ensuring gender equality:** Undocumented people are mostly racialized, low-waged people, often women. Ensuring rights and access for them is part of implementing anti-racist policy and gender equality.

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

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

3. **Ensure improved labour conditions:** 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 market<sup>5</sup>. While bad employers prosper, good employers who may be unable or unwilling to hire workers informally or for cash payments are excluded.
4. **Ensure public health:** Undocumented migrants often do not access healthcare until it is absolutely necessary due to the costs<sup>6</sup>. By the time they do, their health conditions are much more complicated, and the burden on the healthcare system is much higher. Regularization will protect overall public health.
5. **Create more effective social policy:** Currently, there are no reliable statistics on undocumented people in Canada. An inclusive regularization program will ensure that non-status people enter into everyday life, allowing for more informed and effective social policy to be created.
6. **Grow the economy at greater rates than cost of processing or settlement services:** Most non-status people pay taxes but their employers, many of whom are very profitable businesses, do not pay statutory remittances. Regularizing 500,000 undocumented people will increase employer CPP and EI contributions by at least \$1.1 billion, just in the first year. As undocumented people achieve stability through permanent residence, they will lay down roots, purchase assets of greater value, and spend more on Main Street.
7. **Create labour mobility to address shortages where they exist:** Undocumented people live and work here. Many are in cash-based jobs, or are under or unemployed. Regularizing all undocumented migrants will increase their labour mobility, unlocking their skills and experience enabling them to move and take on whichever jobs have openings.
8. **Build on best practices around the world:** 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<sup>7</sup>. The largest programs were the Italian 2002 program that regularized 634,000 people and the Spanish 2005 program that regularized 578,375 people<sup>8</sup>. Ireland regularized almost all undocumented people in the country this year who met a basic residency requirement.

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<sup>5</sup> 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.

<sup>6</sup> 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 Mirgrants 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).

<sup>7</sup> Baldwin-Edwards, M. and A. Kraler. Eds. 2009. *REGINE: Regularisations in Europe*. Brussels: Pallas Publications

<sup>8</sup> Kraler, A. 2019. "Regularization of Irregular Migrants and Social Policies: Comparative Perspectives." *Journal of Immigrant and Refugee Studies* 17(1): 94-113, and Moffette, D. 2018. *Governing Irregular Migration: Bordering Culture, Labour and Security in Spain*. Vancouver: UBC Press.

## 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](http://www.MigrantRights.ca) | @MigrantRightsCA | [info@migrantrights.ca](mailto: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