

No. 22, Sept. 2024 Jennifer E. Shaw, Anita Minh, Alicia Massie, Ethel Tungohan, Rupa Banerjee, and the Migrant Care Worker Precarity Project Team Ensuring the Success of the New Care Worker Pilots:
Applying Lessons from the Past

#### **EXECUTIVE SUMMARY**

On June 17, 2024, Canada's 2019-2024 Home Support Worker Pilot and Home Child Care Provider Pilot expired. Despite processing over 13,000 pre-assessments for care workers and their families abroad, these pilots approved only 5,700 permanent residency (PR) applications from workers in five years – a fraction of the 5,500 workers per year that Immigration, Refugees and Citizenship Canada (IRCC) proposed to accept when the programs began in 2019. Most migrant care workers who applied now remain in prolonged temporary status and at high risk of labour exploitation.

On June 3, 2024, Immigration, Refugees, and Citizenship Canada (IRCC) <u>announced</u> the creation of new pilot programs, promising permanent residency (PR) upon arrival and the admission of 15,000 care workers during 2024–2026. While aspects of this announcement are welcomed by many, these new programs must address the persistent challenges faced by care workers already in Canada. These challenges include complex PR processing procedures and labour exploitation.

This brief analyzes the long problematic history of Canada's various care worker programs that have drawn upon migrant women from the Global South. Research findings from the "Exploring the Intersections of Immigration Policy, Racism, and Precarity for Migrant Care Workers" study under the Understanding Precarity in BC Partnership and in partnership with the Vancouver Committee for Domestic Workers' and Caregivers' Rights examine key issues with Canada's 2019-2024 care worker pilots.

Through requests made to IRCC under the Access to Information Act, we analyzed over 1,000 pages of IRCC documentation, conducted interviews with 30 care workers, and held four focus group discussions to gain a deeper understanding of the labour and living experiences of care workers and their struggles to obtain PR. These struggles are linked to their experiences as temporary workers, which occurred despite their crucial contributions to a vital sector of the Canadian labour market.

While the June 3rd promise of permanency upon arrival for the next round of pilots is a win for many care workers, many details are as yet unknown. We raise concerns about some aspects of the next pilots and heed caution about their implementation so that ongoing challenges are addressed.



We conclude by offering the following eight recommendations for the impending new pilots due to rollout in late 2024 or early 2025:

- Eliminate the current backlog of migrant care worker applicants for PR by prioritizing and allocating spaces in the muti-year levels plan to those who are already in Canada.
- Implement the promise of PR upon arrival for all new migrant care workers entering the country in a streamlined, one-step application process, as announced in June 2024 by IRCC and as stated by Minister Miller in his June 2024 verbal briefing.
- Simplify the pilot by establishing a single set of criteria and one unified stream for individuals providing home care for children, the elderly, people with disabilities, or those recovering from injury or illness.

- 4. Ensure that the new pilot programs will allow care workers in Canada to attain permanent residency.
- 5. Implement multiple and staggered application windows throughout the year for migrant care workers applying to the pilot program.
- 6. Monitor and assess the compensation and working conditions of caregivers to be employed by "organizations that provide temporary or part-time care for people" to ensure care workers are not exploited.
- 7. Replace the pilots with a permanent home-care worker immigration program as soon as possible with criteria and processes that address the challenges faced by these workers. Use evidence to inform the design of the permanent program.
- 8. Support robust worker protections, employer education and settlement funding for organizations that assist these workers.

# CRITIQUES AND EVOLUTION OF CAREGIVER PROGRAMS IN CANADA

Canada's caregiver programs have evolved significantly in response to sustained activism and critical scrutiny. Initially, programs like the Foreign Domestics Movement (1981) and the Live-in Caregiver Program (1992) provided affordable care solutions for Canadian families but were criticized on several grounds:

- Precarious immigration status: Temporary
  work permits tied to specific employers made
  care workers vulnerable to deportation and limited
  their ability to advocate for better conditions.
- Live-in requirement: Living in the home of employers exposed workers to exploitation and isolation, with limited privacy and autonomy.
- Family separation: Prohibiting dependents from joining care workers exacerbated emotional strain and financial burdens, complicating family reunification even after obtaining PR.

 Lack of oversight: Insufficient regulations and enforcement allowed abuses to go unchecked, leaving workers with few options for redress.

By 2010, changes in the Live-In Caregiver Program (LCP) aimed to curb widespread abuses by employers and recruitment agencies. However, under the Conservative government's "law and order" migration policy, the program came to be seen as a loophole for entry into Canada. Consequently, the LCP was replaced in December 2014 by the Caregiver Pilots (CP), which included two pathways: 'Caring for Children' and 'Caring for People with High Medical Needs'.

The 2014 pilots eliminated the live-in requirement, but imposed caps on the number of care workers accepted into the program and removed the pathway to PR which was available under the LCP.

In 2019, the Canadian government revised these pilots with an aim to provide a more structured pathway to PR. This included granting occupation-specific work permits which allowed care workers to switch employers within their assigned occupation. IRCC also introduced the "Gaining Experience" category with a two step process: applicants were first assessed

for PR abroad and issued a three-year occupation-restricted work permit. After 24 months of home-care work experience, their PR applications were to be finalized. This differed from its counterpart category of "Direct to Permanent Residence", defined as "available to caregivers who have already acquired 24 months of Canadian work experience on a previously issued work permit." (IRCC 2022 Nov 30, 1A-2023-24356)

However, the promised processing standards of 12 months for initial applications and six months for finalization for those in the "Gaining Experience" category were never met. In November 2022, an internal memorandum accessed through an Access to Information request revealed that 90% of PR applicants under the "Gaining Experience" category were abroad awaiting assessment, facing a 33-month wait time for processing (IRCC 2022 Nov 30, 1A-2023-24356).

Workers already in Canada under previous programs had to comply with earlier rules, including obtaining closed work permits via the Labour Market Impact Assessment (LMIA) system. They were also subject to new PR requirements, such as one year of post-secondary education and a Canadian Language Benchmark Level (CLB) 5 in English or French (see Table 3). In response to numerous appeals from the Migrant Rights Network, the government introduced two short-lived Interim Pathways to PR in 2019 to

assist those caught between program changes. These pathways were open for just two 90-day periods, during which care workers had to provide documentation that they either met or had tried to meet the eligibility criteria for PR.

IRCC set an annual cap of 5,500 PR applications for both the Home Child Care Provider and Home Support Worker Pilots combined (Canada Gazette 2021). This cap included both new applicants from abroad and those already in Canada under these or previous programs. Between 2019 and 2024, IRCC further complicated the process with numerous caps and sub-caps as it tried to manage the PR processing.

IRCC stated that the caps were introduced to limit the number of applications that the department could process in a year (2,750 for each pilot) as per the legislative tool for the establishment of economic pilots: "The implementation of this intake cap allows the Department to better manage intake under the caregiver pilots" (IRCC 2022 Dec 2, A-2022-62459). This was because IRCC was receiving more applications than it could handle as thousands sat in the "inventory" awaiting full processing (IRCC 2021 Apr 9, 1A-2022-86882).

To address the backlog, IRCC implemented changes in 2023 (IRCC 2023), reducing work experience requirements from 24 to 12 months and introducing new caps: 1,650 for the Gaining Experience category and 1,100 for the Direct to PR category – intended for those in Canada who had met the work requirement for PR (IRCC 2022 Dec 2, A-2022-62459). IRCC further divided each category with sub-sub-caps by establishing allocations for online and paper applications (IRCC 2022) to accommodate those unable to apply online.



Chart 1: 2019 PR Application Caps



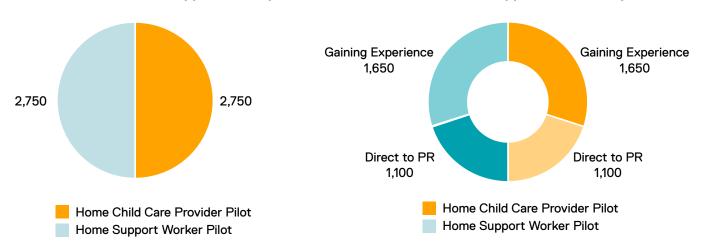
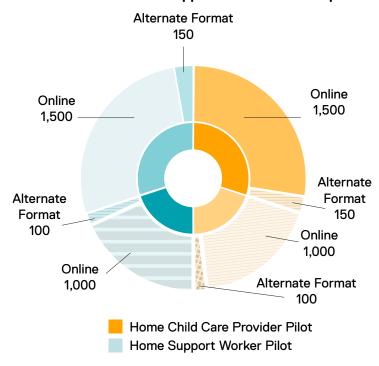


Chart 3: 2023 PR Application Sub-Sub-Caps



Three pie charts show the fragmentation of PR application caps from 2019-2023: Chart 1 – the initial 2019 division of PR applications according to the two streams; Chart 2 – the implementation of sub-caps for the "Gaining Experience" categories and the "Direct to PR" categories; Chart 3 – the implementation of sub-sub caps for each category including online applications and alternate format (paper) applications (IRCC 2022 Dec 2, A-2022-62459).

The fragmentation of PR application caps aimed to manage the influx of applications, to ensure spaces for both care workers applying from abroad and applying from Canada, and to allow multiple modes of PR applications. However, these caps were quickly filled, sometimes within days or even hours of the January 1 application portal opening. For instance, the Home Child Care Provider Pilot's portal opened and closed on the same day. This approach reduced the opportunity for migrant care workers to submit PR applications, as the allocation of PR slots was restricted to smaller categories with limited application periods.

## 2019-2024 CARE WORKER PILOTS AND THE APPLICATION INVENTORY

With the announcement of new pilots in June 2024, our analysis highlights the need for these new programs to clear existing backlogs, improve processing times, and prevent inventory buildup. As this section demonstrates, historical inefficiencies in processing and the limitations of the 2019-2024 pilot programs, underscore the urgency for these improvements.

Many PR applications submitted to IRCC have remained unprocessed for years. As of January 31, 2023, the number of applications processed under the Home Support Worker and Home Child Care Provider Pilot programs combined came to just 6,125 out of the staggering total of 37,568 submitted. This includes unprocessed applications sitting in the inventory before the implementation of the sub-caps in 2023

but does not include those unprocessed applications from legacy programs such as the LCP and CP (IRCC 2023, 1A-2023-17841).

Data from January 2019 to January 2023 show that processing rates have worsened annually since 2019. The additional labyrinth of caps did not lead to greater efficiency. While the <u>June 2024 media release</u> from IRCC celebrates granting PR to a total of 5,700 care workers and their family members between 2019 and 2024, this is a far cry from the 2,750 PR applications that could be accepted **annually** under each of the two pilots (or 5,500 combined) as per the legislative tool used to establish all economic pilot programs.

Despite IRCC's target processing time of 6-12 months, actual processing times were 200-600% longer across all migrant care worker immigration programs on average.

Table 1: Number of PR Applications Received and Processed 2019-2023

Number of permanent resident applications received and processed between Jan. 1, 2019 and Jan. 31, 2023 under the Caregiver pilot programs, broken down by program type, year of application and current status: as of March 21, 2023 (in persons)

Caregiver pilot program and year of	Total received	Processed				In inventory
application		Approved	Refused	Withdrawn	Total	In inventory
Home Child Care Pilot	25,017	2,075	1,335	1,005	4,415	20,602
2019	2,292	753	299	91	1,143	1,149
2020	8,165	607	732	496	1,835	6,330
2021	6,470	584	254	351	1,189	5,281
2022	6,219	131	50	62	243	5,976
2023 (January)	1,871			5	5	1,866
Home Support Worker Pilot	12,551	506	636	568	1,710	10,841
2019	749	209	167	47	423	326
2020	3,049	179	364	364	882	2,212
2021	3,890	118	103	103	366	3,524
2022	4,685		2	2	33	4,652
2023 (January)	133			6	6	127
Grand Total	37,568	2,581	1,971	1,573	6,125	31,443

Number of applications (in persons, including primary applicants and dependents) processed and in the inventory across the years of the current pilots (IRCC 2023, 1A-2023-17841).

This backlog adds to an existing "inventory" of PR applications from migrant care workers who applied through prior programs, including the closed LCP, CP, and Interim Pathway. Although the LCP ended in 2014, the inventory reported by IRCC between January 1, 2021 and March 7, 2022 included 359 Principal Applicants from the LCP and 945 dependents. During that same timeframe, 392 Principal Applicants and 830 dependents from the Interim Pathway were also awaiting a PR decision, as well as 45 Principal Applicants from the CP and 89 dependents (IRCC)

2022, Mar 7 A-2021-63287). In the June 3, 2024 announcement, IRCC noted that approximately 600 applications from the LCP remain but made no mention of the applications from other programs and pilots still in the inventory.

Despite IRCC's target processing time of 6-12 months, actual processing times were 200-600% longer across all migrant care worker immigration programs on average.

Table 2: Processing Times for Care Worker Program PR Applications

Care Worker Program or Pilot and Duration	Target Processing Times (in months)	Average Processing Times (in months)	Percentage Over Target
Live-in Caregiver Program (1992-2014)	12	70.57	588%
Caring for Children Pilot (2014-2019)	6	33.35	556%
Caring for People with High Medical Needs Pilot (2014-2019)	6	34.43	575%
Interim Pathway Measure (2019)	12	27.79	232%
Home Child Care Provider Pilot (2019-2024)	12	24.28	202%
Home Support Worker Pilot (2019-2024)	12	24.48	204%

PR application target processing versus actual processing times in percentage over target in months (IRCC 2022 Mar 2, A-2021-64016).

The recent low levels of PR applications processed are not aligned with the consistent demand from care workers for permanency and the "clear, direct pathway to permanent residence" <a href="promised">promised</a> by the federal government. The low levels also are not addressing the ongoing need for in-home care providers.

It is imperative that the newly announced pilot programs are designed to effectively manage current and new applications, reduce backlogs and improve processing times. Emphasis should be placed on mitigating the accumulation of inventory both domestically and from those abroad. This proactive approach is essential to meet the longstanding demand for clear and direct pathways to permanent residence for migrant care workers.

Table 3 on the next page provides a detailed overview of the LCP and the subsequent caregiver pilot programs.

It is imperative that the newly announced pilot programs are designed to effectively manage current and new applications, reduce backlogs and improve processing times. Emphasis should be placed on mitigating the accumulation of inventory both domestically and from those abroad.

Table 3: Comparison of the Live-in Caregiver Program and subsequent pilot programs

	1992-2014	2-2014 2014-2019 2019-2024		-2024	2024-	
	Live-in Caregiver Program	Caring for Children	Caring for People with High Medical Needs	Home Child Care Provider Pilot	Home Support Worker Pilot	
National Occupation Classification Codes (NOCs)	Home childcare providers (6474); Registered nurse or registered psychiatric nurse (3152); Licensed practical nurse (3233); Nurse aide or patient service associate (3413); Home Support Worker (4671)	Home childcare providers (4411)	Registered nurses and registered psychiatric nurses (3012); Licensed practical nurses (3233); Nurse aides, orderlies and patient services associates (3413); Home support workers and related occupations (4412)	Home childcare providers (44100)	Home support workers, caregivers and related occupations (44101)	Not yet clear – See Recommendation 3.  We argue for a single simpler, streamlined pilot that includes all care workers who provide home childcare, elder care, and other forms of home support with a single set of criteria and one unified stream. rather than different streams for different NOC *codes.
Target populations served	Children Elderly People with disabilities	Children	Elderly People with disabilities	Children	Elderly People with disabilities	Not yet clear – See Recommendation 3.
Location of employment	Private home	Private home	Private home or health care facility	Private home	Private home	Not yet clear – See Recommendation 7.  The newly proposed pilots suggest that home care workers will also be allowed to work for organizations that provide temporary or part-time care in private homes for people who are semi-independent or recovering from an injury or illness. We caution against the use of home support agencies as employers.
Work permit type	Tied (employer- specific)	Tied (employer- specific)	Tied (employer- specific)	Occupation- restricted (NOC- specific)	Occupation- restricted (NOC-specific)	NA (Permanent Residency upon arrival)
Work qualifications required for permanent residence	24 months of work experience in the program	24 months of qualifying work experience as Home childcare providers within last 48 months	24 months of qualifying work experience as registered nurse, practical nurse, nurse aide, orderly and patient service associates or home support worker within last 48 months	24 months of Canadian work experience (changed to 12 months on April 30, 2023; further reduced to 6 months on June 16, 2024, including work experience gained outside of Canada up to 36 months before application submission as well as in period between application submission and date of work experience acquisition)		Not yet clear
Education and language qualifications required for permanent residence	High school diploma and competency in English or French	Canadian educational credentials of at least one year of post-secondary education and CLB** Level 5 in English or French	Canadian educational credentials of at least one year of post-secondary education and CLB* *Level 5 or Level 7 in English or French depending on applicant's intended occupation	Canadian educational credentials of at least one year of post-secondary education (or equivalent abroad, and equivalence certified within 5 years of application) and CLB** Level 5 in English or French		Equivalent of Canadian high school diploma and CLB **Level 4 in English or French
Program application caps	None	2750	2750	2750 (with additional sub-caps for categories of application)	2750 (with additional sub-caps for categories of application)	Not yet clear — See Recommendation 1. We argue for no caps for those who entered and remain in Canada under an earlier program or pilot.

Notes: \* NOC: National Occupation Classification Codes; \*\*CLB: Canadian Language Benchmark

# ADDRESSING ONGOING CHALLENGES FOR MIGRANT CARE WORKERS: EVIDENCE FROM THE RESEARCH

While the prospect of immediate PR for new applicants under the newly announced pilots is promising, it is crucial to acknowledge the existing cohort of migrant care workers within Canada's PR processing backlog. These individuals await resolution of their applications, facing prolonged family separation and uncertain immigration status.

Data collected in early 2023 from interviews and focus groups with migrant care workers in Vancouver, Canada, indicate that these intersecting experiences of precarity in immigration status and employment were tied to previous changes in Canada's care worker programs (results to be published in a forthcoming report on https://understandingprecarity.ca/mcwp/.

As the design and implementation of the new pilot programs unfold, several ongoing and emerging concerns must be addressed:

#### Labour immobility and risk of loss of status

For migrant care workers already in Canada, the implications of not gaining PR are significant. The inability to move freely between jobs and employers (particularly for those who arrived before 2019 on closed work permits) meant that some lost status when they lost their jobs. Formally employed migrant care workers often juggle multiple informal or precarious jobs to cover living costs, submit their PR applications, remit money home, and prepare for eventual family reunification in Canada.

### Systemic barriers in PR application process

Most care workers' experiences of applying for PR were characterized by systemic barriers such as changing requirements, application caps and subcaps, and the short window of time the application portal was open. As one care worker suggests:

"Well, I don't have any options. My only option is to wait, really, because every January is the application for the PR for caregivers...So, when

they open January 1 to January 2, you have to apply fast because there's slots."

The PR application portal often opened and closed on January 1, a statutory holiday in Canada when federal government offices are closed and unable to offer support.

### Language and educational requirements

Since 2014, PR requirements, including passing an English exam with a CLB score of 5, have increased the challenges for care workers seeking PR. Previously, the Live-in Caregiver Program did not mandate an English exam for PR eligibility. Many care workers found the language test stressful and unnecessary, as they were already performing their work in Canada with sufficient language skills but had little time to study. Many care workers lamented having to take the exam several times before achieving the minimum required score and paying private companies several hundred dollars in fees each time. While upcoming pilot programs will reduce the language requirement to a CLB score of 4, and the educational requirements to the equivalent of a high school diploma, it remains unclear whether these changes will apply to prior pilot program participants in Canada to facilitate smoother transitions to PR for them.

#### Continued risk of exploitation

Classification of migrant care workers as temporary continues to put them at risk of workplace exploitation and abuse, despite recent changes. For example, even though the 'live-in' requirement was removed in 2014, most workers still live in employers' homes due to low wages and high living costs. The median wage for home-care providers in the Lower Mainland of BC between 2021 and 2022 was \$18 per hour — slightly above the minimum wage (jobbank.gc.ca). Until the new pilots are introduced and PR upon arrival is implemented, workers have faced and may continue to face substandard wages, contract violations and abuse. One worker recounted her struggle with an employer who initially refused fair compensation and became hostile when she asserted her rights:

"She didn't pay me [for] the hour, and I just talk to her like, 'Hey, why you didn't count the hour for me [to drive us] from here to [your vacation spot]?' And she said, 'Because... you didn't spend time with

the kid. So, it's just you come here, so I don't need to pay you.' ... And when I tried to show her the paper and she tried to make excuses... in the end, she called the government and the government said I'm right and then she paid me. But before that, she got upset with me and she yelled... And our relationship is bad more, bad more."

These challenges persist despite the 2019 replacement of employer-restricted work permits with occupational-restricted permits. While provincial employment standards legislation regulates wages, working hours, and other aspects of employment, monitoring, enforcement and access to protections are weaker in this sector and must become more robust.

### Family separation and mental health impacts

The lack of permanent residency for care workers caught in the PR processing "inventory" also means prolonged family separation. Some care workers have waited as long as ten years for resolution since applying for PR under the LCP. Many hoped to secure permanent residence and reunite with their dependent children in Canada before the children aged out of the dependent category at 22. According to IRCC, a dependent child's age is locked in on the date IRCC receives a complete PR application from the principal applicant. However, without a complete application, time continues ticking for children and parents. These concerns and experiences of precarity not only affect family relationships but also impact the workers' mental health, with many describing stress and depression as they see their chances for family reunification slip away while their children age.

#### **RECOMMENDATIONS**

In its June 2024 media release, IRCC announced its intention to grant care workers permanent residence on arrival and to admit over 15,000 care workers as permanent residents in the 2024-26 Immigration Levels Plan. Permanent residence enables migrant care workers to establish a life in Canada but also sets up an important foundation for workers to assert their labour rights, enjoy freer labour mobility, and reunite with family members.

However, IRCC does not offer a clear strategy for addressing the current backlog of applications,

especially for care workers already in Canada, and does not offer a clear path towards better working conditions for workers as they continue to contribute to the care economy.

Based on these findings, we propose the following policy recommendations:

 Eliminate the current backlog of migrant care worker applicants for PR by prioritizing and allocating spaces in the muti-year levels plan to those who are already in Canada.

Despite the federal government's pledge to admit over 15,000 caregivers as permanent residents between 2024-2026, there is insufficient clarity as to how the existing backlog will be eliminated.

- 2. Implement the promise of PR upon arrival for all new migrant care workers entering the country in a streamlined, one-step application process as announced in June 2024 by IRCC and as stated by Minister Miller in his <u>June 2024 verbal briefing.</u>
- Simplify the pilot by establishing a single set of criteria and one unified stream for individuals providing home care for children, the elderly, people with disabilities, or those recovering from injury or illness.

Under previous pilot programs, there were two different streams for different client groups despite the fact that both streams required the same experience and skill set. Having one unified stream will simplify the pilot for workers and employers, and may expedite processing by IRCC staff. Transferability for care workers to provide home care to different client groups should also be applied to all migrant caregivers already in Canada.

4. Ensure that the new pilot programs will allow care workers in Canada to attain permanent residency.

Since the Live-in Caregiver Program ended in 2014, migrant care workers have faced challenges with temporary pilot programs, including transitioning difficulties and evolving

PR requirements. There was no consistency in how the new criteria for PR were applied to migrant caregivers already in Canada. In some cases, caregivers had to follow the criteria in place when they arrived under their work permit; in others they had to meet the new criteria in place to apply for PR; and in others there were time-limited transition programs to PR for some caregivers already in the country. This caused confusion and inequities for the workers, and significant processing complexities and delays for IRCC staff.

Implement multiple and staggered application windows throughout the year for migrant care workers applying to the pilot program.

This approach aims to provide equitable opportunities for workers abroad to apply and to expedite processing. We also call for a larger target for new care workers to meet the need for care provision in Canada. This will benefit both workers and their employers.

6. Monitor and assess the compensation and working conditions of caregivers to be employed by "organizations that provide temporary or part-time care for people" to ensure care workers are not exploited

While care workers can benefit from more labour mobility within the job market, care-providing agencies, often profit-driven, may compromise wages and impose unreasonable demands on workers, including insufficient compensation for travel time, inadequate care delivery windows, and other challenging conditions.

7. Replace the pilots with a permanent homecare immigration program as soon as possible with criteria and processes that address the challenges faced by these workers. Use evidence to inform the design of the permanent program.

A stable, permanent immigration program is needed to provide reliable pathways for these workers to settle in Canada and ensure continuity and support for Canadian families. The systematic collection, and analysis of data on migrant homecare workers' hours, wages, and working conditions will be crucial to ensure accountability among household and organizational employers, and to foster evidence-informed program design, implementation and ongoing improvements.

 Support robust worker protections, employer education, and settlement funding for organizations that support these workers.

Exploitative conditions such as unpaid overtime, hazardous tasks, and mistreatment endure, affecting both those with and without permanent status. Mandating enhanced protections and education, and federal settlement funding to organizations that support these workers are crucial to empower caregivers to assert their labor rights effectively.

#### CONCLUSION

Care work is essential work. With an aging population, a steady need for childcare, and growing demands for more homecare options for semi-independent individuals or those recovering from injury or illness, the Caregiver Program is an important option for Canadian families seeking homecare workers for their loved ones. It is in Canada's interests to make the program more sustainable by implementing changes that streamline the program, that make it easier for care workers to come and stay in Canada as permanent residents, and that protect their labour rights.

#### Suggested Readings:

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