

Purpose: To inform the report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, to the 79th session of the General Assembly

Objective of the report

The Special Rapporteur on contemporary forms of slavery wishes to focus his next thematic report to the General Assembly on “the role of workers’ organisations in preventing and addressing contemporary forms of slavery” ¹. For the purposes of the report, he will engage with such entities worldwide as well as with those whom they have assisted to avoid or overcome contemporary forms of slavery.

¹ The mandate on contemporary forms of slavery includes but is not limited to traditional slavery, forced labour, debt bondage, serfdom, children working in slavery or slavery-like conditions, domestic servitude, sexual slavery, and servile forms of marriage.

Key questions and types of input sought

1. Are trade union rights, as protected by ILO Conventions Nos. 87 (Freedom of Association and Protection of the Right to Organise) and 98 (Right to Organise and Collective Bargaining), recognized in domestic legislative frameworks in your country? If so, please provide details including provision for remedies in case of breaches.
 - The Canadian federal government applies the *Canada Labour Code* to regulate labour standards for federally regulated private industries (e.g. air transportation, banks, port services, telecommunications, postal services, railways, etc.); the federally regulated public sector (e.g. the federal public service and Parliament); and private-sector firms and municipalities in the Yukon, the Northwest Territories and Nunavut. This accounts for less than about 10% of the Canadian workforce. The remaining 90% of employment is covered by provincial employment laws.
 - Specific to Conventions 87 and 98, under the Temporary Foreign Worker Program (TFWP), migrant workers with closed employer-specific tied work permits employed in agriculture cannot assert their collective bargaining rights in the provinces of Ontario and Alberta. In 2022, Ontario’s share of temporary migrant workers in agriculture was 42% of all migrant workers that came to work in Canada that year.
 - The United Food and Commercial Workers Canada (UFCW), an affiliate of the Canadian Labour Congress (CLC) is a union that represent workers in every aspect of the food chain from primary agriculture, food manufacturing,

food services and agricultural exports. The UFCW has used the courts and the ILO to seek remedies for provincial laws that curtail migrant workers' rights to freedom of association and rights to collective bargaining.

- In 2001, the Supreme Court of Canada ruled in favour of UFCW in *Dunmore v. Ontario* and gave the Ontario government 18 months to comply with the ruling and address the exclusion of agricultural workers from the Ontario Labour Relations Act. In 2002, the Ontario Government's response to the *Dunmore* decision was the Agricultural Employees Protection Act, 2002 (AEPA). The AEPA grants the freedom to associate, however, it does not provide agricultural workers with collective bargaining rights under the Labour Relations Act.
 - In 2009, UFCW Canada filed complaints with the United Nations International Labour Organization (ILO) stating, that both Ontario and Canada violated the ILO's Convention 87: Freedom of Association and Protection of the Right to Organize. This convention declares the right to collective bargaining as a fundamental human right. And, under ILO Convention No. 98—Right to Organize and Collective bargaining, as well as the ILO's 1998 Declaration on Fundamental Principles and Rights at Work. In 2010, the ILO found Canada and Ontario guilty of a discriminatory attack on the human and labour rights of farmworkers in the province. In November 2010, the ILO upheld the complaint filed by UFCW.
 - In 2014, the British Columbia (BC) Labour Relations Board (BCLRB) ruled that the Mexican government and consular officials black-listed Mexican seasonal migrant workers who were suspected of being union sympathizers and prevented them from returning to Canada. The board also found that Mexico had altered documents in an attempt to cover up its union-busting activities.
 - In 2019, UFCW challenged Ontario's exclusion of cannabis workers from the right to unionize.
2. Have workers' organisations in your country played a role in preventing workers from being subjected to contemporary forms of slavery, or helping victims to move out of exploitative situations? If so, please provide details, which may include, but are not limited to:
- a. Promotion of trade union rights for workers who may face a heightened risk of being exploited in contemporary forms of slavery, including women, young people, persons with disabilities, indigenous peoples, minorities, migrants, older persons, informal workers and LGBTQI+ individuals, who may or may not be unionised.

- b. Promotion of ratification and national implementation of relevant ILO standards by Member States, including Conventions No. 29 (Forced Labour) and its Protocol of 2014, 87 (Freedom of Association and Protection of the Right to Organise), 98 (Right to Organise and Collective Bargaining), 105 (Abolition of Forced Labour), 138 (Minimum Age), 182 (Worst Forms of Child Labour) and 189 (Domestic Workers);
 - c. Adoption and implementation of specific strategies/guidance on contemporary forms of slavery within their organisations;
 - d. Inspection of workplace and accommodations where these are provided by employers;
 - e. Facilitation of access to education, vocational skills training, as well as financial and essential public services;
 - f. Facilitation of access to justice and remedies (including legal, financial, immigration, subsistence or other forms of assistance) for workers exploited in contemporary forms of slavery.
- The CLC plays an active role in preventing workers from being subjected to contemporary forms of slavery, or helping victims to move out of exploitative situations by:
 - Persistently advocating for policy and program changes for low-waged workers under closed employer-specific work permits in the TFWP in collaboration with relevant civil society organizations, our affiliates, in social dialogue with government departments, Canadian politicians and internationally through the ILO, IOM, ITUC as well as through trade.
 - Actively advocating and promoting permanent opportunities for low-wage migrant workers to permanently immigrate to Canada, thus ensuring they can assert their full labour rights in Canada, such as:
 - i. the [Agri-food pilot](#) a permanent immigration pathway for migrant worker in primary agriculture and meat processing;
 - ii. the [Out-of-status Construction Workers in the Greater Toronto Area](#) project for undocumented workers;
 - iii. the [Temporary Resident to Permanent Resident Pathway](#) (TR to PR Pathway), closed on November 5, 2021 for migrants with work experience in Canada in an essential occupation or the health or health services field during the COVID-19 lockdowns;
 - iv. the [Category-based Express Entry](#) that is anticipated to include lower-skilled temporary migrants through specific category established by the Minister to meet an identified economic goal e.g. in the trades, agriculture and health; and
 - v. Home Child Care Provider Pilot and Home Support Worker Pilot, permanent immigration streams that were formerly part of the TFWP with close employer-specific work permits.

- Making submissions to the Canadian Government on the exploitation and abuse of migrant workers and recommendations to remedy; namely:
 - i. [National Agricultural Labour Strategy, 2022](#)
 - ii. [Comments on the Canada Gazette, Part I, Volume 155, Number 28: Regulations Amending the Immigration and Refugee Protection Regulations \(Temporary Foreign Workers\)](#)
 - iii. [Comments on the Government of Canada's Proposal to Establish Minimum Requirements for Employer-provided Accommodations for the Temporary Foreign Worker Program \(TFWP\) Across Canada](#)

 - Actively advancing the protection of labour rights in trade agreements such as in the Canada-United States-Mexico Agreement (CUSMA) - Chapter 23 – Labor:
 - i. Article 23.6: Forced or Compulsory Labor
 - ii. Article 23.7: Violence Against Workers
 - iii. Article 23.8: Migrant Workers.

 - Actively facilitating the development of:
 - i. the government requirement for migrant workers' accommodation inspections;
 - ii. access to information of rights for migrant workers with closed employer-specific work permits;
 - iii. access to [Open work permits for vulnerable foreign workers who are victims of abuse](#);
 - iv. the improvements in quantity and quality of health and safety and workplace inspections under the TFWP.
3. Please provide any positive examples of collaboration or coordination with the following entities in preventing contemporary forms of slavery and protecting vulnerable workers and victims:
- a. Public authorities
 - b. Businesses/employers' organisations
 - c. Anti-slavery actors, human rights defenders and/or other civil society organisations
 - d. Other actors such as financial institutions, service providers, academia, media and regional/international organisations (e.g. ILO).
- Public authorities: Collaborating with the Canadian government to implement a program to provide undocumented construction workers an avenue to get permanent residency in Canada.
 - Civil society organizations (CSO) in Canada: Working with a workers action centre and migrant-led CSOs to address the issues affecting migrant workers exploitation and abuse as well as CSOs that are fighting forced labour.

- Academia: CLC is a partner organization to several multi-year research projects that examines the conditions of migrant workers in Canada, including Policy and Practice in Return to Work after Work Injury (PPRTW) Research; Care Economies in Context; and Liberating Migrant Labour.
 - International organizations: ITUC migration policy, ILO as well as consultations by the UN on the Global Compact for Migration Review.
4. Are there workers' organisations dedicated to organizing and defending the rights of workers in certain sectors with higher risks of labour and/or sexual exploitation (e.g. agriculture, fishing, construction, services including hospitality, manufacturing, domestic work, and non-standard forms of employment) or at-risk populations (e.g. indigenous peoples, migrants and refugees, minorities, older workers, workers with disabilities and informal workers) in your country? If so, please provide details, including tailored prevention or protection activities.
- The UFCW is highly active in this work, and often collaborates closely with the CLC on many issues in sectors with higher risks of labour exploitation. (See answer to question 1 above).
5. If any, please describe challenges or limitations experienced by workers' organisations in your country to prevent contemporary forms of slavery and protect victims, which may include:
- a. Non-recognition of trade unions/workers' organizations or trade union rights in law and in practice;
 - b. Limitations on the rights to organize and take collective actions, including bargaining;
 - c. Union-busting and other forms of harassment and anti-union discrimination;
 - d. Lack of cooperation/coordination from various State/non-State actors;
 - e. Limitations/challenges specific to certain employment sectors or groups of workers, including lack of representation for collective bargaining;
 - f. Limited access to workplaces and accommodations provided by employers;
 - g. Other practical difficulties such as lack of resources, expertise and membership, or reluctance/fear among workers to engage.
- Limitations on the rights to organize and take collective actions, including bargaining is described in answer to question 1 above.

- Lack of cooperation from various state actors include:
 - i. the federal government’s reluctance to shift the closed employer-specific work permit under the TFWP to an open work permits system for migrant workers;
 - ii. the federal government’s propensity to increase access to the TFWP for employers, e.g. the extension to allow employers in seven sectors to hire up to 30% of their workforce through the TFWP;
 - iii. the federal government’s introduction of a “trusted” employers’ pilot that fast-tracks processing of migrant workers;
 - iv. some provincial governments’ (Alberta, Ontario, Quebec) labour laws that do not allow representation for collective bargaining.

- Limited access to workplaces and accommodations provided by employers are cited as reasons by the government for the lack of vigorous and meaningful inspections under the TFWP.

- Fear among migrant workers with closed employer-specific work permits is created by the huge imbalance of power employers have over the workers ability to be employed, to remain in Canada to be employed, and often not being recalled the following year to work in Canada. Migrant workers’ fear makes them reluctant to speak-up or lodge a complaint to the government, afraid of reprisals and retributions from their employers in term of their pay, threats, harassment, job loss, and poorer work conditions. We know that some migrant workers will not even get medical care when injured so that they are not black-listed and in turn not chosen to return to work the following year.

- The lack of remedies for exploited and abused migrant workers makes them susceptible to scams and trickery of human traffickers.

- 6. What practical recommendations would you make to concerned stakeholders (including Governments, businesses/employers’ organisations, anti-slavery and civil society actors, international organisations, and others) to enable workers’ organizations (including centres and federations) to more effectively prevent and address contemporary forms of slavery?
 - In Canada, the contemporary forms of slavery can be addressed by:
 - replacing closed employer-specific work permits with open work permits;
 - the Canadian government can provide opportunities for low wage migrant workers to immigrate permanently to Canada if they wish; and
 - the Canadian government can introduce a broad regularization program for undocumented people and workers in Canada.