



## **REGULARIZATION POLICY POSITION STATEMENT**

The evolving landscape of Canadian migration programs creates and maintains precarious immigration statuses that result in many people living in Canada falling out of status. The lack of pathways to permanent residence creates barriers to and challenges for equitable inclusion in Canadian society for women and gender-diverse individuals. Women and gender-diverse people who have been trafficked, who have come to Canada on a temporary work permit and who are employed in low-paid, precarious jobs, those who are refugee claimants, international students, or migrant sex workers, those who have been exploited by unscrupulous recruiters and immigration practitioners, and those who are in the process of family sponsorship but who have left their spouse due to domestic or gender-based violence often experience multiple oppressions and face unique challenges.

There has not been a coordinated response to the problem of status for women and gender-diverse individuals by stakeholders. These groups have specific needs. The Alliance for Gender Justice in Migration was formed to identify trends and promote policy solutions aimed at ending discrimination against women and gender-diverse migrants in Canada. We are a network of people with lived experience, academics, advocates, and service providers across Canada. We conduct research, develop policy solutions, raise public awareness, and advocate for change by centering the voices of those with lived experience.

### **Need for a broad-based regularization program**

The Alliance of Gender Justice in Migration calls on the Government of Canada to implement a broad, gender-responsive, inclusive and rights-based regularization scheme that includes both a short-term regularization program and a longer-term plan and pathways to ensure women and gender-diverse individuals with precarious or no immigration status do not keep finding themselves without access to permanent residence status as a result of shortcomings in the design of Canada's immigration system. Any regularization program should reflect and address the range of situations experienced by migrant women and gender-diverse individuals and the intersection of gender, class, sexual orientation, migration status, gender identity, disability and age that contributes to their precarious immigration status. Given that many undocumented migrants and low-wage workers are racialized women and gender-diverse individuals, this emphasis aligns with the Federal Government's gender equity and anti-racism agendas.

The regularization of immigration status has been an ongoing demand of many migrant groups. The Alliance was pleased to see regularization prioritized by Prime Minister Trudeau in his 2021 mandate letter to the Minister of Immigration, Citizenship and Refugees.

Individuals lose their status for various reasons; for example, if their employment or studies are interrupted, their family sponsorship is withdrawn, a refugee claim is denied, or due to immigration policy and procedural issues like changes to eligibility requirements, delays or backlogs in processing, and high costs of immigration processes (Bhuyan et al., 2016; Tungohan, 2018). Undocumented migrants face unique challenges in Canada. Many have contributed to the Canadian economy for years, filling labor market shortages; yet their lapsed immigration status makes them more vulnerable to abuse and less likely to exercise their rights.

### **Women and gender-diverse migrants face greater precarity**

Migrant women and gender-diverse individuals in Canada often face greater precarity than their male counterparts due to the nature of their work. Women, for example, are over-represented in low-paid occupations such as care work or cleaning that provide limited or no access to permanent residence. The pandemic has also pushed migrant women and gender-diverse individuals towards unemployment or precarious employment, intensifying the social, economic and health risks that they face.

Women and gender-diverse individuals without immigration status are often subject to poor working conditions, employer abuse, exploitation, gender-based violence, and the stress of living in constant fear of deportation. In addition to the numerous challenges navigating everyday life for undocumented women and gender-diverse migrants, a lack of authorization to engage in formal employment pushes people to work informally under precarious, unregulated, unsafe, and poorly compensated conditions (Hanley et al., 2020; Liew, 2020). People without status are not eligible for public health care coverage or social services and benefits, and therefore face barriers maintaining their health, and also face challenges with food and housing security (Kissoon, 2010; Magalhaes et al., 2010). For example, since the pandemic, of those who ended up unable to access abortion at all, the majority were undocumented individuals (Chabot, 2021). Similar barriers exist for those wishing to carry their pregnancies to term, but who are afraid or otherwise unable to access life-saving health services. This precarity can also be seen in the lives of children without formal status, whose families must navigate their precarious access to education and health care (Meloni et al., 2017; Rousseau et al., 2013).

Individuals without status and their families are under constant risk of detention and deportation (Abji, 2016; Basok et al., 2014; Moffette, 2021). This threat discourages them from interacting with official systems, even in cases where assistance is available, or the situation is life-threatening (for example, by calling the police, including to report incidents of gender-based

violence). Despite not being included within the Canadian community of value, people without status play vital roles in their communities, form friendships and families, and engage in social, cultural, political, and economic life in Canada in enormous ways.

### **Structure of immigration programs lead to precarity**

The structures of some immigration programs render migrant women and gender-diverse individuals vulnerable to abuse. This is especially the case for migrant women who also live in their employer's home, such as most live-in care workers. The caps on the number of applications accepted through the Home Child Care Provider Pilot and Home Support Worker Pilot (both programs accept up to 2,750 applications each year) mean that many migrant care workers waiting to apply for permanent residence are unable to do so because of a lack of space in the program, which also means prolonged family separation for care workers.

Women and gender-diverse individuals who are trafficked to Canada for forced labour are at heightened risk of losing their immigration status and becoming undocumented. They may discover that they lack proper work authorization despite assurances by employers and their agents that paperwork has been arranged. Being undocumented exacerbates their vulnerability to being forced to work without proper pay, work in unsafe conditions, or to being subjected to sexual harassment and assault in their workplaces or in their relationships with their employers. Systemic aspects of Canada's immigration system that place women and gender-diverse individuals in positions of vulnerability to gender-based violence and labour exploitation and many are unable to regain their immigration status in Canada.

### **Recommendations**

The Federal Government must prioritize broad-based accessibility to permanent status to ensure as many women and gender-diverse migrants as possible have access to a pathway to permanence in Canada, and in a timely manner. Many of these migrant women and gender-diverse individuals are workers who have worked in and continue to work in essential jobs that are integral to the economy. Essential workers deserve full status. It is the right thing to do.

In implementing any program, the Federal Government must consider the different aspects of immigration policies that affect migrant women and gender-diverse individuals, and in particular, those aspects that exclude or are too restrictive.

The Alliance proposes the following recommendations:

1. Implement a short-term regularization program for undocumented people. The criteria should be clear and simple, and not discretionary to ensure applicants can determine quickly and easily if they qualify and can avoid putting themselves at risk by applying and not meeting the criteria. Procedural safeguards must be put in place to ensure that migrants are not at risk of deportation if they apply for such a program while their

application is being processed. We note that a short term regularization program was implemented in Ireland in 2022. While we applaud how this program provided status to many, its four-year residency requirement excluded many others who needed it. For the many reasons outlined above, we strongly recommend that Canada's short-term regularization program be as broad and inclusive as possible.

2. Ensure long-term access to permanent resident status. In addition to a short-term regularization program, the Federal Government must create longer-term pathways to permanent residence that address the root causes that lead to precarious immigration status in Canada in the first place. For example, a lack of access to permanent residence for most of Canada's farmworkers and others working in low-paid jobs leads to precarity and injustice for workers who may come to work in Canada for decades without any pathway to permanence.
3. New programs should not require language testing or onerous education requirements. Language testing creates an unnecessary barrier to workers who are already living in Canada and demonstrably able to communicate in one of Canada's two official languages, as do education requirements.
4. Regularization programs must include those who have been through the refugee determination system – whether their claims are pending or were refused. Refugee claimants contribute to Canada like any other migrant, and how they entered the country should not serve as a barrier to accessing any short- or long-term regularization program. In many cases, refugee claimants wait years to have their cases determined, all while working and contributing to the Canadian economy.
5. Immediate access to permanent residence for those experiencing gender-based violence or labour exploitation must be prioritized.
6. Repeal immigration regulations (e.g., ss. 183 (1) (b.1) and 196.1(a) of the *Immigration and Refugee Protection Regulations*) and Ministerial Orders pertaining to migrants without permanent status working in the sex industry and ease work permit restrictions for all temporary foreign workers as these restrictions lead to more precarity and a loss of immigration status without any justification.

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