

## TIME FOR A RESET?

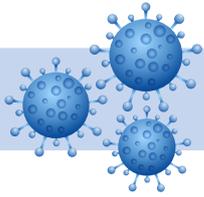
*This paper is part of a series of short “think pieces” by IOM’s Migration Research High Level Advisers on the potential changes, impacts and implications for migration and mobility arising from COVID-19. Designed to spark thinking on policy and programmatic responses to COVID-19 as the impacts continue to emerge globally, the papers draw upon existing and new evidence and offer initial exploratory analysis and recommendations.*

August 2020

COVID-19 and the transformation  
of migration and mobility globally

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# “Disposable” and “essential”: Changes in the global hierarchies of migrant workers after COVID-19



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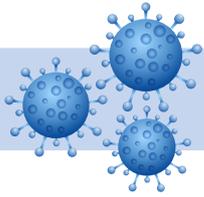
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## COVID-19 and the transformation of migration and mobility globally

# “Disposable” and “essential”: Changes in the global hierarchies of migrant workers after COVID-19

Anna Triandafyllidou and Lucia Nalbandian<sup>1</sup>

In the first few months of 2020, countries began closing their borders to slow the spread of COVID-19. While the pandemic has laid bare many societal issues, like homelessness,<sup>2</sup> insufficient health care,<sup>3</sup> and food scarcity,<sup>4</sup> it has also significantly affected international migration. Destination countries have halted immigration processes for refugees and asylum seekers, those on their way to reunite with their family and those moving to take up a new job or study. **The pandemic has inverted previous hierarchies of more and less desired (and disposable or not) migrant workers and brought to the fore questions about the impacts of border closures on people and the economy during the crisis and into the future.**

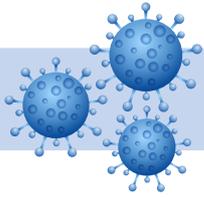
This policy paper discusses challenges that the pandemic has highlighted in both the high-skilled foreign worker stream, previously in-demand and coveted, now left stranded; and those low-skilled temporary foreign workers in specific sectors (e.g. agriculture, food processing or care work) now deemed essential, for whom special exemptions and arrangements were put in place in haste in the second quarter of 2020. The paper specifically seeks to answer two questions: (1) what are innovative ways to neutralize the impact of border closures for highly skilled migrants, and (2) how can we learn from the pandemic and improve the way we govern migrant recruitment and employment in agriculture? While our analysis focuses on Canada as an exemplary case, given its proactive immigration policy, insights are offered from and in relation to European Union countries and the Asia Pacific region with a view to prompting innovative policy thinking more broadly.

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2 Graveland, 2020.

3 Clarke and Abdool, 2020.

4 Ivison, 2020.



### What happened to “the world’s best and brightest” for whom destination countries were competing?

Throughout the last 50 years, particularly during the last decade, the Canadian Government has prioritized attracting high-skilled migrant workers to settle in Canada. In 2014, the Canadian Government proposed the development of an expression of interest model-based system known as the Express Entry System (EES).<sup>5</sup> The EES involves a comprehensive ranking system to sort through applications in the Federal Skilled Worker Program, Federal Skilled Trades Program, Canadian Experience Class and a portion of the Provincial Nominee Program. Today, the EES is a live application management system that prioritizes the “most qualified and in-demand individuals” for the labour market.<sup>6</sup> As part of the process, the EES requires that a positive labour market impact assessment be submitted, which indicates the need for a foreign worker to fill a particular job. In the EES, candidates with the best indicators for success in Canada’s labour market receive a direct invitation to apply for permanent residence, and if all goes smoothly, are on track to becoming Canadian citizens.

In “normal” times, high-skilled workers were deemed essential for a strong Canadian economy. However, instead of their general preferential treatment, high-skilled migrants have been left stranded over the previous four months of the pandemic. Canada temporarily stopped processing work permit or permanent residency applications from March until the end of June 2020. As of 1 July 2020, Immigration, Refugees and Citizenship Canada is processing all online visitor visa and Electronic Travel Authorization applications, so that individuals can be ready to travel when the restrictions are lifted; but there is no clarity as to when immigration applications will start being processed and the borders will reopen.<sup>7</sup> This presents many challenges for employers,<sup>8</sup> as well as for workers and their families excited to begin a new life and new career in this country. Canada’s high-skilled foreign workers include knowledge-based, professional class and trades occupations, who work in sectors that are still operating,<sup>9</sup> despite the lockdown. Looking at the top 10 occupations receiving invitations to apply for permanent residence from 2015 to 2018 through the EES there is however little clarity on what is deemed essential.<sup>10</sup>

While employers have invoked “work from home” policies in many sectors where this is possible, such as management, research, education, and generally service provision that can be done remotely, this privilege was not afforded to foreign workers in the same sectors. Employers, even if they wanted to, cannot have non-essential high-

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5 Mas, 2014.

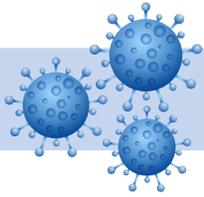
6 Wang, 2018:1060.

7 Government of Canada, n.d.a.

8 McInnes and Foley, 2020.

9 Soden, 2020.

10 Public Safety Canada, 2020.



skilled foreign workers work remotely. Even with an employment approval letter, individuals whose paperwork has already been processed cannot receive their work permit until physically entering the country. Without a work permit, employers cannot process payment for work. There are severe consequences for organizations that seek workarounds and do not respect labour laws.<sup>11</sup>

So, what next? For individuals with job offers and seemingly a bright future in Canada in a high-skilled position, travel has been halted until further notice and there is no way to receive a work permit and work remotely.<sup>12</sup> Individuals in the process of applying for a work permit face challenges, as many visa application centres<sup>13</sup> – private companies that have formal contracts with the Canadian Government located around the world – have either temporarily closed or are operating with limited hours.<sup>14</sup> Furthermore, individuals who must provide biometric information as part of their work permit application face difficulty in doing so, as many of the offices are currently closed.

At the time of writing, it has been nearly five months since Canada closed its borders, and the immigration backlog has mounted. The pandemic has led to questions about the geography of supply and manufacturing chains and Buy Canadian;<sup>15</sup> the effects of the border closure on the economy have been examined time and again. However, with President Donald Trump temporarily suspending new work visas for foreigners seeking employment in the United States of America,<sup>16</sup> Canada must consider what opportunity this presents for its economy and growth. At the start of this year, *NPR* reported that under the Trump Administration, high-skilled workers have been rejected at a higher rate: in 2015, 92 per cent of new H-1B visa applications were approved, however, in the last two years, the approval rate dipped to only 75 per cent.<sup>17</sup> As the travel ban closes doors for high-skilled workers in the United States, Canada needs to reassess how to leverage this opportunity, striking a perfect balance between attracting and retaining talent, while ensuring the safety of its residents.

While extra caution in international travel and self-quarantine appear to be legitimate measures, one wonders whether **the Canadian innovative spirit cannot find an intermediate solution for these non-essential, high-skilled foreign workers with a job offer stuck in limbo**, ready to leave their countries, but unable to enter Canada under these circumstances. If nothing else, the pandemic has taught

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11 Government of Canada, 2020a.

12 Government of Canada, n.d.a.

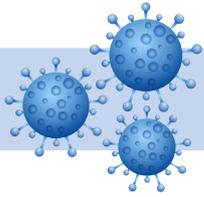
13 Government of Canada, n.d.e.

14 Government of Canada, n.d.a.

15 Connolly, 2020.

16 Shear and Jordan, 2020.

17 Rose, 2020.



us that much of the work that was deemed to be too confidential and/or too difficult to do from home, can be done remotely. **An electronic provisional work permit and provisional Social Identification Number could be the solution** until international travel normalizes. If one can work remotely for a short period (and many of these high-skilled jobs, whether in engineering, IT, communication, management or education, can be done through telework), Immigration, Refugees and Citizenship Canada could envisage a temporary remote work permit to allow employees to start remotely until they can arrive in Canada. Such arrangements could start with a three-month duration, renewable once and automatically ceased if international travel gradually normalizes, with a month's notice in which the remote permit holder would be required to enter Canada and start their job “normally” there. This approach would most certainly require consideration of employment regulations to ensure that employers adhere to ethical employment standards. It would also require some special arrangements for taxation and benefits, as these remote workers would be considered as if they were working from inside Canada – as “factual residents” of Canada. They would thus be regularly taxed, registered with the health-care system and their remote status should not exceed a duration of nine months. Naturally, the details of such a temporary remote work permit would need to be ironed out by relevant Government departments, but the idea can be applied not only in Canada, but also in other countries that find themselves in a similar position, including the United Kingdom, the Netherlands, Singapore or Australia.

Furthermore, Canada must consider the opportunity to capitalize on attracting high-skilled foreign talent being turned away by the United States. The Canadian Chamber of Commerce has criticized the Express Entry System,<sup>18</sup> as it involves two competing policy principles: to allow employers to have access to a pool of international talent, while simultaneously, through the labour market impact assessment, deterring employers from looking at international candidates and hiring Canadians instead.

These competing policy principles become even more questionable when one realizes that the Express Entry System is being used by individuals who already reside in Canada (see table 1 below). Although the use of the EES by individuals living in Canada to gain permanent residence has decreased, the rate at which this is occurring suggests that many applicants are foreign workers currently in Canada, seeking residence and citizenship. Therefore, the Canadian Government may wish to examine the systems in place for foreign workers to obtain Canadian permanent residence and citizenship. As Canada prepares to reopen its borders, it needs a clearly articulated objective and strategy for rebuilding with the help of both Canadian and foreign talent. This is an exceptional opportunity to pivot and the Government must do so with strategic foresight about the political and economic environment of the future.

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18 Canadian Chamber of Commerce, 2016.

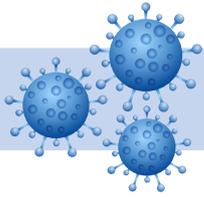


Table 1. Percentage of invitations to apply for permanent residence issued to individuals residing in Canada

| Year               | Percentage |
|--------------------|------------|
| 2015 <sup>19</sup> | 78%        |
| 2016 <sup>20</sup> | 64%        |
| 2017 <sup>21</sup> | 49%        |
| 2018 <sup>22</sup> | 45%        |

One may legitimately raise the question of whether workers who have received job offers to come to Canada or with an approved permanent residence application are still needed in this country and in those industries. Canadian immigration policy involves long-term planning related to the country’s demographic composition, growth (or rather decline, without immigration), key industries and efforts towards regionalization (attracting population to the smaller regional centres across this vast country). These conditions and the role of the Canadian flagship immigration programmes have not changed in the five months between February and July 2020.<sup>23</sup>

A closer look into the unemployment and underemployment data for April 2020 shows that those mostly affected were those with temporary work, with less than one year at their last job, and not covered by a union or collective agreement.<sup>24</sup> While it is most important to provide for these workers, it is not clear that they compete with highly skilled newcomers, like those attracted by the Express Entry<sup>25</sup> or Global Talent streams.<sup>26</sup>

As we pass through and hopefully leave behind the pandemic, Canada needs to build a stronger health sector, including industries producing protective equipment (gowns, masks and gloves) or health-care equipment (like the much-needed ventilators). The medical and pharmaceutical research sector should also remain a top priority. Transnational cooperation also remains key to Canadian entrepreneurship. Such sectors can only gain from highly skilled migrants who bring to the country innovative ideas, much-needed skills and transnational connections to other countries.

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19 Government of Canada, 2015.

20 Government of Canada, 2016.

21 Government of Canada, 2017.

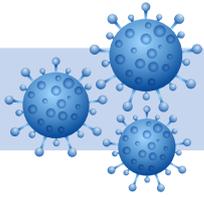
22 Government of Canada, 2018.

23 El-Assal, 2020.

24 Statistics Canada, 2020.

25 Canada Visa, n.d.a.

26 Canada Visa, n.d.b.



### What happens with those previously disposable and now “essential” (migrant) workers?

While Canada has seen the entry of high-skilled foreign workers brought to a halt, low-skilled foreign workers, including those of the Seasonal Agricultural Worker Program,<sup>27</sup> have been exempt from restrictions. The Federal Government has introduced special arrangements for low-skilled migrant workers to come and work on Canadian farms.<sup>28</sup>

The border closure impacts on temporary foreign workers in Canada’s farms and fish plants and California’s strawberry fields have received wide media coverage.<sup>29</sup> Concerns have mounted over the consequences of not admitting the annual roughly 60,000 seasonal agricultural workers, whose invaluable labour contributes to the food supply that feeds Canadians.<sup>30</sup> Similar challenges were registered in California, where many farmworkers are undocumented.<sup>31</sup> While the Canadian Government has encouraged the growing number of unemployed Canadians to apply to work in the agriculture and agrifood sector, these jobs are often avoided by citizens at home.<sup>32</sup>

As temporary foreign workers continue to arrive, advocacy groups have called for greater migrant worker protections.<sup>33</sup> Although the Government has outlined obligations for employing temporary foreign workers,<sup>34</sup> there is speculation on whether employers are enforcing these practices.<sup>35</sup> The Government’s willingness to accept low-skill labourers, and even to go the extra mile in finding appropriate solutions, like chartered flights with few passengers sitting at safe distances,<sup>36</sup> and assistance with their accommodation and self-isolation,<sup>37</sup> does not reveal some new sensitivity about the living or working conditions of these temporary foreign workers.<sup>38</sup> Rather, it has been a kneejerk reaction to the fear of the agriculture and food processing industry chain breaking down, leaving supermarkets in short supply and harvests wasted. The question that arises is **whether the pandemic lesson can help shape more sustainable immigration policy for such essential albeit low-skilled work in the agrifood sector.**

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27 Government of Canada, n.d.f.

28 Government of Canada, n.d.b.

29 Jordan, 2020; Grant, 2020.

30 Smith, 2020.

31 Jordan, 2020.

32 Bragg, 2020.

33 Veneza, 2020.

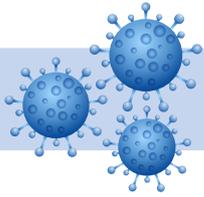
34 Government of Canada, 2020b.

35 Campbell, 2020.

36 Canadian Honey Council, 2020.

37 Government of Canada, 2020e.

38 Mojtehdzadeh, 2020.



These are not Canada-specific challenges: countries in Europe are facing concerns about seasonal migrant workers in the agrifood industry.<sup>39</sup> Agriculture is a sector characterized by difficult working conditions, low prestige and low pay, where work is mainly seasonal and requires a supply-and-demand mechanism that is ultraflexible. Labourers must be available on-call, can be easily dismissed, work under adverse conditions, and have little possibility of upwards mobility. At the same time, as Corrado and co-authors have argued in a policy paper on European agriculture and migration,<sup>40</sup> today's agriculture is characterized by intensive pressures to keep production costs competitively low. Large corporations in the retail and agrifood sectors push for low prices to maximize benefits and, given the large volume of products that they can absorb, they can impose their conditions on producers. Producers are faced with irreducible costs, like the increasing need to mechanize the sector, the cost of water and energy for production, and the cost of fertilizer, seeds and feed. Thus, squeezing labour costs through employing migrants with precarious status appears almost a necessary choice, particularly for smaller producers. The connection with commercial networks, agro-entrepreneurs, intermediaries and the final consumers pushes for lower prices for fruits and vegetables and with difficult traceability of products. Employment dynamics in agriculture are thus shaped by several factors that include, but are not confined to migrant labour.

The pandemic provides an opportunity to subvert these dynamics and significantly improve the living and working conditions for many of these formerly “disposable”, now essential migrant workers.

On 15 May 2020, the Canadian Government introduced the Agri-food Immigration Pilot,<sup>41</sup> in which migrant workers in agriculture could apply for permanent residency. Unfortunately, the programme, criticized for being inaccessible,<sup>42</sup> foresees only 2,750 applicants and family members and expires on 14 May 2023. Additionally, as of 1 June 2020, the median hourly wage has been updated for the Temporary Foreign Worker Program,<sup>43</sup> and the processes for labour market impact assessments were amended to accelerate the process of employing temporary foreign workers for “essential work”.<sup>44</sup>

On 14 May 2020, Italy implemented a regularization programme,<sup>45</sup> addressing farmworkers and domestic and care workers in private homes. In the United States, the debate is yet to re-emerge even though the United States Department of Labor

39 Alderman et al., 2020.

40 Triandafyllidou, 2017.

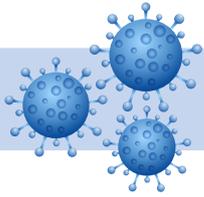
41 Government of Canada, n.d.c.

42 Emmanuel, 2020.

43 Thevenot, 2020.

44 Government of Canada, n.d.b.

45 Reidy, 2020.



National Agricultural Workers' Survey reports that approximately 47 per cent of the roughly 2.4 million farmworkers in the United States are undocumented.<sup>46</sup> A bill providing two-step access to legal status and then citizenship was introduced in Congress in January 2019,<sup>47</sup> but has stalled since March of the same year.

**Thus, for both Europe and North America, this raises the question: how can agricultural policy and migration policy work hand in hand** to promote better working and living conditions for migrant farmworkers – particularly with a clear perspective for legal residence and citizenship status for those who wish to remain at their working destination?

Such a policy would entail some special provisions for the living conditions of these workers and their access to health and other support services in a proactive manner, rather than being based on a complaints process triggered by the worker,<sup>48</sup> as happens in Canada today.

Here are some ideas to turn the pandemic into an opportunity:

- Introduce more intensive inspections regarding verification of contracts, working conditions, accommodation and actual pay. Whistleblowing is insufficient, as migrant workers are often unaware of their rights, and if aware, are unsure to whom they should turn. **Continuous monitoring and ad hoc inspections need to be enforced.**
- The provisions available to caregivers in Canada (as of 2014)<sup>49</sup> for changing employers should apply in the Temporary Foreign Worker Program in agriculture. **The right to change employers should be a feature of all temporary foreign worker programmes.**
- **Intensified controls of large retailers and the agrifood businesses, where a corporate responsibility policy can be mainstreamed:** Incentivize supermarket chains to use ethical supply sources and to check subcontractors and producers.
- In countries like Canada (but also in Australia and New Zealand in relation to the Pacific Seasonal Worker Programme),<sup>50</sup> temporary foreign workers in agriculture could benefit from the opportunity for **permanent residency and family reunification**, as is available for caregivers. Notably,

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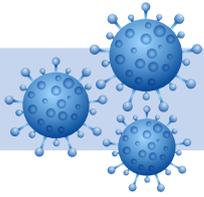
46 Farmworker Justice, 2018.

47 Library of Congress, 2019.

48 Emmanuel, 2020.

49 Government of Canada, n.d.d.

50 Curtain et al., 2018.



**after a certain amount of time, for instance, workers should have preferential access to permanent residency** as happens for caregivers after 24 months of employment in their respective sector. It is clear that such a two-step programme would need to be matched with language training, bridging programmes and employment support for these workers as they seek permanent residency, so as to ensure their smooth integration in the host country economy and society. Given the positive net migration balance of 350,000 people that Canada (and Australia and New Zealand) is seeking every year, there is scope for including a realistic agrifood pilot and channelling people to both that sector and related industries.

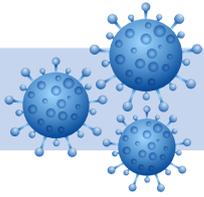
- **Similar provisions could be introduced in the EU** with the Seasonal Workers' Directive (2014/36),<sup>51</sup> which allows for stays of between four to nine months within a calendar year, but does not foresee the possibility of transitioning to long-term status, while recognizing that there could be provisions for facilitated repeated entry of the same workers in subsequent years.

### Turning the pandemic into an opportunity

The many challenges that both high-skilled and low-skilled migrant workers face during the pandemic can be turned into an opportunity. Crisis always bears within the seeds of a new beginning. Rethinking how important migrant workers are in essential sectors of the economy invites us to reconsider how we regulate migrant employment in those sectors and how we integrate them into the workforce through a broader framework of settlement and integration. The crisis also exposes the myth that high-skilled migrants need no support. This paper offers some insights on how information technology can facilitate navigating the crisis, temporarily closing the territorial borders while keeping the “virtual” borders open. We invite policymakers to rethink the balance between the interests of the destination country, the employers, and the migrant workers and their families in favour of equitable and efficient solutions.

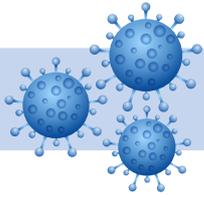
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51 EUR-Lex, 2014.



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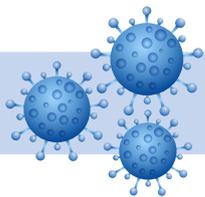
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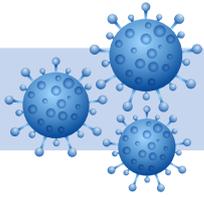
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