

SUBMISSION TO THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION

STUDY ON CLOSED WORK PERMITS AND TEMPORARY
FOREIGN WORKERS

**AMNESTY
INTERNATIONAL**



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1. CONTEXT

Amnesty International is a global movement of more than 10 million people campaigning for a world where human rights are enjoyed by all. Amnesty conducts research and leads efforts to advance international human rights at both the international and national levels, and is recognized as an accurate, unbiased, and credible source of research and analysis of human rights conditions around the world.

For the last 15 years, the organization has been researching various governments' labour migration laws and policies that increase migrant workers' risk of suffering labour exploitation and other human rights abuses at the hands of private actors such as employers and recruiters. Amnesty International has previously submitted similar observations to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), which are included for reference as an Appendix.¹

Amnesty International is currently investigating human rights abuses and violations that occur as a result of Canada's temporary labour migration policies and practices, for which some preliminary findings are included below.² The organization is in the process of interviewing workers and examining evidence of human rights violations and abuses experienced by individuals who came to Canada with closed work permits as participants in the Temporary Foreign Worker Program (TFWP).

On the basis of its own independent research and findings across countries, Amnesty International has concluded that the abuses suffered by migrant workers with closed permits, also known as "tied work visas", cannot be solely attributable to the actions or failures of individual employers or recruitment agencies. On the contrary, across several countries, such abuses are intrinsically linked to systemic problems in temporary labour migration schemes and permanent immigration systems, as well as shortcomings in the enforcement of employment laws and regulations, that do not offer adequate protection to migrant workers in the destination country. In several destination countries, labour exploitation is rooted in serious flaws in the processes by which migrant workers are recruited, granted permission to work in a destination country and employed, which facilitate and enable exploitative practices by recruiters and employers.

Amnesty International notes that Canadian civil society, migrant-led organizations, unions, and academics, have produced a robust body of research and documentation on the difficulties migrant workers face as a result of closed work permits. In September 2023, the UN Special Rapporteur on Contemporary Forms of Slavery found that closed work permits make migrant workers vulnerable to exploitation and abuse and recommended that the TFWP be modified to enable workers to choose employers freely without restriction.³ Indeed, this Standing Committee recommended in its 2009 report on Temporary Foreign Workers and non-status workers that the government discontinue making work permits of temporary foreign workers employer specific.⁴ Over the years, the federal government has introduced some measures in an effort to address abuse of migrant workers, such as the open work permit for vulnerable workers and funding for organizations to provide support for migrant workers. However, the root causes that put migrant workers at risk of labour exploitation and other human rights abuses, including the closed work permit, persist, and so does abuse.

Canada, in acceding to the International Covenant on Economic, Social and Cultural Rights, recognized the right of everyone to the opportunity to gain a living by work which he or she "freely chooses or accepts", and the right of everyone to the enjoyment of just and favourable conditions of work. (Articles 6 and 7, International Covenant on Economic, Social and Cultural Rights). Amnesty

¹ Amnesty International, "Abusive labour migration policies: Submission to the UN Committee on Migrant Workers' day of general discussion on workplace exploitation and workplace protection, 7 April 2014" (Index: IOR 42/002/2014).

² Amnesty International will, as per our standard procedures, inform Canadian authorities with our preliminary findings before full publication to ensure a right of reply is given for any human rights violations found through this research.

³ UN Special Rapporteur on Contemporary Forms of Slavery, End of Mission Statement, 6 September 2023,

<https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/statements/eom-statement-canada-sr-slavery-2023-09-06.pdf>

⁴ Canada, Report of the Standing Committee on Citizenship and Immigration, *Temporary Foreign Workers and Non-Status Workers*, May 2009, www.ourcommons.ca/Content/Committee/402/CIMM/Reports/RP3866154/cimmp07/cimmp07-e.pdf

International urges the Standing Committee to consider Canada's international legal obligations when assessing the impacts of closed work permits on the rights of temporary foreign workers.

2. LABOUR MIGRATION POLICIES THAT “TIE” MIGRANT WORKERS TO A SPECIFIC EMPLOYER

Through years of research on labour migration policies in several countries and the human rights violations that are linked to them, Amnesty International has found that labour migration policies that tie migrant workers to a specific employer increase the risk of labour exploitation and other human rights violations and abuses.

Work permits that expire when a migrant worker leaves a job, or when the job is terminated for any reason, increase the risk of labour exploitation because they greatly reduce the likelihood that the worker will seek help from the authorities in case of abuse for fear of losing their right to continue working in the destination country and being required to return to their home country. Often, individuals are reluctant to return home prematurely due to the costs they have incurred to arrange employment including flight tickets, recruitment fees, and medical exams, which many people go into debt to pay for.

Additionally, “tied” work permits increase the risk of labour exploitation in cases where a worker has left their employer for a variety of reasons, including being prematurely terminated or due to poor conditions. Working for another employer in violation of the terms of their closed work permit means falling into an irregular migration or employment situation. Migrant workers in an irregular migration or employment situation face increased risks of labour exploitation because they are very unlikely to report past or current abuse for fear of being penalized, unable to work, or deported.

2.1 UNITED KINGDOM: VISA PROGRAMME FOR DOMESTIC WORKERS IN A PRIVATE HOUSEHOLD

Under new rules introduced in April 2012 to regulate the Domestic Workers in a Private Household visa, migrant domestic workers who traveled to the United Kingdom with their employer were no longer able to change employer for the duration of their visa.⁵ Before the April 2012 changes, individuals under the Domestic Workers in Private Households visa could change employers while in the United Kingdom, although they were not allowed to change to a type of employment other than domestic work.

Civil society and international human rights organizations denounced the change in the regulations, publishing several reports of abuses and the increased difficulties faced by domestic workers enduring abuse.⁶ Meanwhile, in 2013, draft legislation was presented to the House of Lords and House of Commons for investigation and recommendations. The subsequent report issued in 2014 indicated that remaining protection mechanisms were inadequate for these workers. The report stated, “Tying migrant domestic workers to their employer institutionalizes their abuse...”⁷, and unequivocally recommended reversing the changes enacted in 2012, stating “...policy changes have unintentionally strengthened the hand of the slave master against the victim of slavery. The moral case for revisiting this issue is urgent and overwhelming. Protecting these victims does not require primary legislation and we call on the Government to take immediate action.”⁸

⁵ United Kingdom government, Report: “Statement of Changes in Immigration Rules: HC1888”, 15 March 2012.

⁶ See, for example, Kalayaan/Anti-Slavery International, “Home Office changes to migrant domestic worker rules will facilitate slavery”, 29 February 2012, <https://www.antislavery.org/latest/home-office-changes-migrant-domestic-worker-rules-will-facilitate-slavery/>; Centre for Social Justice, *It Happens Here: Equipping the United Kingdom to fight modern slavery*, March 2013, https://www.centreforsocialjustice.org.uk/wp-content/uploads/2013/03/CSJ_Slavery_Full_Report_WEB5.pdf; and Human Rights Watch, *Hidden Away: Abuses against migrant domestic workers in the UK*, 31 March 2014, <https://www.hrw.org/report/2014/03/31/hidden-away/abuses-against-migrant-domestic-workers-uk>.

⁷ United Kingdom, Joint Committee on the Draft Modern Slavery Bill, Report: *Draft Modern Slavery Bill*, HL Paper 166, HC 1019 of 2013-14, 8 April 2014, <https://publications.parliament.uk/pa/jt201314/jtselect/jtselect/166/166.pdf>, para. 5, paras 227-8, and p.100, Section 7 para 225.

⁸ United Kingdom, Joint Committee on the Draft Modern Slavery Bill, Report: *Draft Modern Slavery Bill*, Para 5 (previously cited).

This call to reverse course was rejected until, in 2015, an independent review of visa terms was conducted at the commission of the Home Secretary.⁹ The review found that the visa terms were, “incompatible with the necessary protection of overseas domestic workers’ fundamental rights while in the UK” and proposed that “...a universal right to change employer would give abused workers a practical way out of abuse without risking a precarious immigration status or threat to their livelihood.”¹⁰ While all recommendations were not adopted, since 6 April 2016 domestic workers may change employer for any reason for the original duration of their work visa. The effectiveness of this measure, however, has been compromised due to the non-renewable and short nature of the six-month visa, according to campaigners.¹¹

2.2 QATAR: THE KAFALA SPONSORSHIP SYSTEM

During the course of its decade-long research documenting the situation of migrant workers in Qatar, Amnesty International has consistently found cases of individuals engaged in work for which they had not offered themselves voluntarily, which constitutes forced labour. The Kafala sponsorship system continues to bind foreign workers to their employer, who acts as their official “sponsor” (or kafeel) from the moment they enter the country and throughout their employment. To enter and be able to work in the country, migrant workers need their employer to sponsor their visa and issue and renew their residence permits. Once in the country, the system grants enormous power to employers and leaves workers acutely vulnerable to abuse and exploitation. Until 2020, Qatar’s inherently abusive kafala sponsorship system imposed tight restrictions on migrant workers’ freedom of movement, prohibiting them from leaving the country or changing jobs without the permission of their employer.¹² Many abuses and violations of migrant workers’ rights have been consistently documented, including workers being threatened with financial penalties for not attending work even on entitled rest days, being made to work despite their employer having withheld wages for months at a time, confiscation of passports, excessive and arbitrary salary deductions and excessive overtime without pay. Such practices were facilitated by the kafala sponsorship system in place at the time which made it extremely difficult for people to move employers or even leave the country without the permission of the sponsor.¹³ Wage theft, inadequate protection of domestic workers, prohibition of unionization, lack of investigation into the deaths of migrant workers, barriers to access and obtain justice, and impunity of employers for abuses have been extensively documented by Amnesty International.¹⁴

In 2014, workers’ groups lodged a complaint against Qatar at the ILO for non-observance of Convention No.29 on Forced Labour and Convention No.81 on Labour inspection. In 2017 the government signed an agreement with the ILO, committing to a three-year, wide ranging reform

⁹ United Kingdom, House of Commons Library, Melanie Gower, Report: “Calls to change overseas domestic worker visa conditions”, <https://researchbriefings.files.parliament.uk/documents/SN04786/SN04786.pdf>, p18.

¹⁰ United Kingdom, Report: “Calls to change overseas domestic worker visa conditions”, p19 (previously cited).

¹¹ United Kingdom, Report: “Calls to change overseas domestic worker visa conditions”, p15 (previously cited). However, the change of course in 2016 did not fully reinstate conditions prior to 2012. Migrant organizations still campaign on a full return due to the barriers faced by those who escape abusive employment, for example, most do not have possession of their passports upon escape and cannot find employment within the timeframe currently allowed. See Kalayaan, “Briefing Committee Stage House of Lords”, 27 Jan 2022, <http://www.kalayaan.org.uk/wp-content/uploads/2022/01/Briefing-Committee-Stage-House-of-Lords-27-Jan-2022.pdf>. Additionally, the Special Rapporteurs on contemporary forms of slavery, including its causes and consequences; on the human rights of migrants; and on trafficking in persons, especially women and children, issued, in 2022, a joint letter to the UK stating: “...the Overseas Domestic Worker visa (ODW visa) has increased vulnerability to abuses by restricting migrant domestic workers to a non-renewable six-month visa, which renders the right to change employer redundant and inaccessible in practice. Migrant domestic workers often face difficulties in securing decent new employment in the absence of them having the right to renew their visa and therefore, as a consequence of the policy framework in place, are forced to remain with abusive employers rather than lose their livelihood, accommodation and permission to stay in the UK. Those that do flee are at risk of destitution and further harm, including the risk of being trafficked or forced into other situations of labour exploitation.” Letter to the UK, UN Ref.: AL GBR 6/2022, 1 June 2022, p2.

¹² Amnesty International, “Qatar: Unfinished Business: What Qatar Must Do to Fulfil Promises on Migrant Workers’ Rights” (Index: MDE 22/6106/2022), 20 October, <https://www.amnesty.org/en/documents/mde22/6106/2022/en/>

¹³ See, for example, Amnesty International, *Qatar: The dark side of migration* (Index: MDE 22/010/2013), 18 Nov 2013 <https://www.amnesty.org/en/documents/mde22/010/2013/en/>;

Amnesty International, “*They think that we’re machines*”: Forced labour and other abuse of migrant workers in Qatar’s private security sector (Index: MDE 22/5388/2022), 7 April 2022, <https://www.amnesty.org/en/documents/mde22/5388/2022/en/>;

Amnesty International, “*Why do you want to rest?*”: Ongoing abuses of domestic workers in Qatar, (Index: MDE 22/3175/2020), 20 October 2020, <https://www.amnesty.org/en/documents/mde22/3175/2020/en/>;

and Amnesty International, “*My sleep is my break*”: Exploitation of migrant domestic workers in Qatar (Index: MDE 22/004/2014), 23 April 2014, <https://www.amnesty.org/en/documents/MDE22/004/2014/en>

¹⁴ Amnesty International, “Qatar: Unfinished Business: What Qatar Must Do to Fulfil Promises on Migrant Workers’ Rights”, (previously cited).

process.¹⁵ Through the partnership Qatar agreed to, among other things, replace the kafala sponsorship system and improve labour recruitment procedures.

Since 2017, Qatar has introduced labour reforms towards reforming the kafala system, with measures that include the end of the exit permit and No-Objection Certificate (NOC) requirements, which should allow migrant workers to leave Qatar and change jobs without their employer's permission.¹⁶ However, as reported by Amnesty International, lack of effective enforcement of the regulations has compromised their effectiveness. Key elements of the kafala system remain in place, trapping migrant workers in exploitative situations, at the mercy of abusive employers who retain vast power over their labour force. Many employers still oppose or ban migrant workers from changing jobs and some migrant workers who applied to change jobs continued to face barriers or retaliatory measures by their employers, including charges filed against them for "absconding" or having their residence permits cancelled.¹⁷

2.3 SAUDI ARABIA: THE KAFALA SPONSORSHIP SYSTEM

Foreign migrant workers, who make up around 77% of Saudi Arabia's private sector workforce, are, as in Qatar, governed by the abusive kafala sponsorship system.¹⁸ Despite some limited reforms introduced in 2021 the kafala system essentially absolves the government from exercising its proper role in regulating employment and ensuring the protection of migrant workers, while creating a deeply imbalanced relationship between workers and employers.¹⁹ By enabling employers to exercise significant control over the life of the worker, the system directly enables forced labour and other serious abuses. Amongst the abuses documented by Amnesty International and other NGOs, journalists and UN bodies in Saudi Arabia are instances of forced labour practices, deception in the recruitment process, passport confiscation, inadequate pay, late or non-payment of salaries, inadequate living conditions, and restrictions on changing jobs or leaving the country.²⁰

Migrant workers continue to face obstacles when seeking justice and remedy for abuses of their rights.²¹ In addition, the vulnerability of low-paid migrant workers is often heightened by the significant debts many have accrued to pay recruitment fees. Lacking direct access to foreign employers and job opportunities in their home countries, aspiring migrant workers largely from South Asia and East Africa rely on private recruitment agents and agencies to provide them with key information about legitimate foreign job openings. Exploiting the desperation of jobseekers and enabled by poor government oversight over labour intermediaries and recruitment chains, recruiters are able to ask for high and often illegal recruitment fees and send abroad only those who can pay. As a result, the vast majority of

¹⁵ See, Complaint alleging non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81), made by delegates to the 103rd Session (2014) of the International Labour Conference under article 26 of the ILO Constitution, 16 March 2015, Appendix I, p. 3- 7, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_348745.pdf

¹⁶ Moreover, in the years that followed, the government introduced important legal reforms that included a law for domestic workers establishing a minimum wage, setting up new labour courts to expedite access to justice, establishing a fund to ensure payment of migrant workers' wages and benefits, and legislation to protect workers from heat stress.

¹⁷ Amnesty International, *A Legacy in Jeopardy: Continuing abuses of migrant workers in Qatar one year after the World Cup* (Index MDE 22/7387/2023), 16 November 2023, <https://www.amnesty.org/en/documents/mde22/7384/2023/en/>

¹⁸ According to KSA General Authority for Statistics, there are 18.8 million (58.4%) Saudi nationals and over 13.4 million (41.6%) non-Saudi nationals working primarily in the private sector. For more details, see the Register-based Labour Market Statistics- Q1, 2023, <https://www.stats.gov.sa/sites/default/files/Register-based%20Labour%20Market%20Statistics-%20Q1%2C%202023En.xlsx>

¹⁹ For more details about the sponsorship system in Saudi Arabia with an overview of its historic roots, see Fairsquare, Policy Brief, "Migrant Workers in Saudi Arabia", October 2020, <https://fairsq.org/wp-content/uploads/2020/11/FS-Policy-Brief-1- Saudi-Arabia-1020.pdf>

²⁰ Amnesty International, *'Don't worry: It's a branch of Amazon.'* *Exploitation of migrant workers contracted to Amazon in Saudi Arabia*, (Index: MDE 23/7229), 10 October 2023, <https://www.amnesty.org/en/documents/mde23/7229/2023/en/>

For discussion of the human rights abuses faced by migrants in Saudi Arabia, see US State Department, "Trafficking in Persons Report 2023"

<https://www.state.gov/reports/2023-trafficking-in-persons-report/saudi-arabia/#:~:text=Of%20the%201%2C454%20potential%20victims,Lanka%2C%20Uganda%2C%20and%20Yemen;>

Amnesty International, "Saudi Arabia: Ethiopian migrants forcibly returned after detention in abhorrent conditions", 16 December 2022, <https://www.amnesty.org/en/latest/news/2022/12/saudi-arabia-ethiopian-migrants-forcibly-returned-after-detention-in-abhorrent-conditions/>;

International Labour Organization (ILO), "Employer-migrant worker relationships in the Middle East: Exploring scope for internal labour market mobility and fair migration", March 2017, https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_552697.pdf;

MigrantLabour.org, "Crackdown on "azad" visa holders in Saudi Arabia", 11 February 2023, <https://www.migrant-rights.org/2023/02/crackdown-on-the-azad-visa-holders-in-saudi-arabia/>;

Centre for Migrant Advocacy – Philippines, "Stakeholder Submission for Universal Periodic Review – Kingdom of Saudi Arabia: Individual Submission by the Centre for Migrant Advocacy Philippine. Oct-Nov 2018 Session", https://www.upr-info.org/sites/default/files/documents/2019-04/cma_phils_upr31_sau_e_main.pdf;

UN General Assembly, Compilation on Saudi Arabia: Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/WG.6/31/SAU/2, 30 August 2018, https://www.upr11info.org/sites/default/files/documents/2018-10/a_hrc_wg.6_31_sau_2_e.pdf, p. 10.

²¹ Migrant-Rights.org, "New reforms and ongoing challenges in Saudi's labour justice system", 13 August 2020, <https://www.migrant-rights.org/2020/08/new-reforms-and-ongoing-challenges-in-saudis-labour-justice-system/>

low-paid workers in Saudi Arabia have asked for and/or borrowed large sums from family or have taken out loans to pay the exorbitant fees.

Saudi Arabia's laws lay out the basic entitlements of workers and place specific responsibilities on employers, such as timely payment of wages, prohibition on payment of recruitment fees and provision of adequate accommodation. However, the impact of the law in protecting workers is severely undermined by its inadequate enforcement. Additionally, the law has serious limitations, including the exclusion of several categories of migrant workers such as domestic workers.

To compound these problems, no worker in Saudi Arabia can form or join a trade union and there are severe restrictions on the rights to freedom of expression, association and assembly.²² Joining and forming a trade union is a fundamental right for workers to allow them to collectively bargain for other rights and improve their living and working conditions. This is particularly important in the Saudi Arabia context to allow workers governed by the abusive sponsorship system to rebalance the relationship with their employers and combat labour abuses.

2.4 CHINA/HONG KONG: THE TWO-WEEK RULE

The same risk of labour exploitation arises in the context of policies that tie migrant workers to a specific employer and implement inadequate measures to protect workers. In Hong Kong, the Two-Week Rule allows migrant workers only an impossibly short time to find a new employer after the end of an employment relationship. Under the *New Condition of Stay* (NCS) 1987, migrant domestic workers in Hong Kong Special Administrative Region (SAR), also known as foreign domestic helpers (FDH), must find new employment and obtain an approved work visa within two weeks of the expiration or premature termination of their employment contract. Failing that, they must leave Hong Kong.

Amnesty International's research has shown that the Two-Week Rule exacerbates migrant workers' vulnerability to exploitation.²³ At the time the research was conducted in 2012-13, Amnesty International found that out of 97 Indonesian women interviewed who had worked in Hong Kong as domestic workers from 2008-2012, 86 had their identity documents confiscated by their employer or placement agency,²⁴ 31 were not free to leave their employer's home,²⁵ 33 stated they received a salary below the minimum wage,²⁶ 63 were physically or verbally abused by their employer,²⁷ 62 stated that they were not allowed to practice their religion,²⁸ and 51 stated they did not receive a weekly day off.²⁹ The research also found that obtaining new employment and a new work visa within two weeks was an impossibility due to the bureaucratic processes for obtaining the new visa. The inability to legally change employment in the two-week window left migrant domestic workers with little choice but to remain in abusive and/or exploitative conditions or accept jobs with unfavourable work conditions in order to maintain their regular migration status.

Furthermore, the Two-Week Rule makes it particularly difficult for migrant domestic workers to access the mechanisms for redress in Hong Kong. If a migrant domestic worker leaves an abusive situation and does not find new employment within two weeks, they must leave Hong Kong, making it difficult

²² For an overview of the current human rights situation in Saudi Arabia, see Amnesty International, "Saudi Arabia 2022", <https://www.amnesty.org/en/location/middle-east-and-north-africa/saudi-arabia/report-saudi-arabia/>.

According to the ILO, "trade unions are not explicitly prohibited in Saudi Arabia but they do not exist in practice. However, the Labour Law permits the establishment of worker councils for Saudi nationals only", see ILO, "Regulatory Framework Governing Migrant workers", November 2019, https://www.ilo.org/wcmsp5/groups/public/---arabstates/---roibeirut/documents/legaldocument/wcms_728262.pdf. Since 2021, there have been worker committees for Saudis employed in some large state entities such as Aramco, see "Law forming Work Committees, 2001 AD", <http://www.ncar.gov.sa/Documents/Details?Id=7ifAYficmWXPpEzGmxytFg%3D%3D>

²³ Amnesty International, *China: Exploited for profit, failed by governments: Indonesian migrant domestic workers trafficked to Hong Kong*, Index: ASA 17/029/2013, November 2013, p75-76.

²⁴ Amnesty International, *China: Exploited for profit, failed by governments: Indonesian migrant domestic workers trafficked to Hong Kong* (previously cited), endnote 14: 86 out of 93 women who answered this question.

²⁵ Amnesty International, *China: Exploited for profit, failed by governments: Indonesian migrant domestic workers trafficked to Hong Kong*, (previously cited), endnote 15: 34 out of 91 women who answered this question.

²⁶ Amnesty International, *China: Exploited for profit, failed by governments: Indonesian migrant domestic workers trafficked to Hong Kong* (previously cited), endnote 18: 33 out of 77 women who answered this question.

²⁷ Amnesty International, *China: Exploited for profit, failed by governments: Indonesian migrant domestic workers trafficked to Hong Kong*, (previously cited), endnote 19: 63 out of 94 women who answered this question.

²⁸ Amnesty International, *China: Exploited for profit, failed by governments: Indonesian migrant domestic workers trafficked to Hong Kong* (previously cited), endnote 20: 62 out of 73 women who answered this question.

²⁹ Amnesty International, *China: Exploited for profit, failed by governments: Indonesian migrant domestic workers trafficked to Hong Kong* (previously cited), endnote 21: 51 out of 93 women who answered this question.

and costly to file a case against an abusive employer. The only alternative is to apply for a visa extension, which does not allow the individual to work, at a cost of HK\$160 (US\$20) for 14 days. It took, at the time, around two months to take a case to the Labour Tribunal. While waiting, the individual would have to renew their visa several times and pay for their own accommodation, food and other expenses without any income. Many migrant domestic workers are unable to afford these costs.

In this way, the Two-Week Rule deters migrant domestic workers from leaving abusive employment situations, and from denouncing abusive practices and pursuing criminal charges and/or compensation through the appropriate channels. This in turn makes the effective investigation and prosecution of those responsible extremely difficult.

In March 2023, the UN Committee on Economic, Social and Cultural Rights (CESCR) recommended that Hong Kong/China amend the two-week rule and the live-in requirement to enable migrant domestic workers' enjoyment of their rights under the Covenant on Economic Social and Cultural Rights.³⁰

3. CANADA: CLOSED PERMITS WITHIN THE TEMPORARY FOREIGN WORKERS PROGRAM (TFWP)

In Canada, migrant workers are similarly at risk of labour exploitation and other abuses and human rights violations because of closed work permits and are disincentivized from making any complaints against their employers for fear of losing their right to remain and work in Canada.

The preliminary findings of Amnesty International's ongoing research in Canada indicate that labour exploitation and abuses, such as unpaid hours and wage theft through unfair deductions, unsafe working conditions and lack of protective equipment to do their jobs, contract substitution, unreasonable and excessive working hours, discrimination, restrictions on the right to unionize, inadequate housing conditions, lack of access to medical treatment, surveillance, and lack of freedom of movement, happen to migrant workers with closed permits, working across sectors under the TFWP.

Workers interviewed by Amnesty International have reported enduring abusive conditions for months or even years, out of fear of threats and reprisals, including deportation or loss of income. Many workers have sizeable debt due to recruitment fees (which are in some cases exorbitant) charged in their country of origin or have been subjected in Canada to extortionary recruitment practices to obtain employment, or predatory and fraudulent "consulting" practices to obtain permanent residence. The resulting financial precarity can make them unwilling to take any risks with their employment situation, despite abuse and human rights violations. Many have family members in their home country who rely on them to earn income in Canada to pay for food, living and education expenses.

Available means of immediate relief from abusive employment appears to be inadequate in Canada for these workers. For those in the low-wage and the agricultural streams who are allowed, per the terms of their permit,³¹ to change employers, finding a new employer willing to apply for an LMIA and work permit is difficult, particularly for workers who experience language barriers and do not know how to navigate the complex bureaucracy related to the TFWP. They also have no ability to quickly or legally find another source of income while waiting for a new work permit to be processed. While the open work permit for vulnerable workers has allowed some migrant workers to escape abusive employers for a limited period of time, they risk similar exploitation and other human rights abuses once the one-year open permit expires: if they want to continue working in Canada, they must return to employment under a closed permit. We also note that the open work permit does nothing to address the problem of abuse by employers, as the granting of this type of permit does not trigger an

³⁰ CESCR, Concluding observations on the third periodic report of China, including Hong Kong, China, and Macao, China, 22 March 2023, UN Doc E/C.12/CHN/CO/3

³¹ Individuals employed through the SAWP are not allowed to change employers in this way.

inquiry into the abuse. Further, possession of this permit identifies workers to employers as someone who has, in fact, taken action against abuse, which some workers and organizations have indicated makes it more difficult to find work.

4. CONCLUSION

Amnesty International's research of the TFWP closed work permit regime in Canada is ongoing, and a report documenting human rights violations, with analysis and recommendations will be published in 2024. At this early stage, Amnesty can assert with confidence that closed work permits greatly exacerbate the unequal power relationship between employer and worker, and leave migrant workers acutely vulnerable to abuse and exploitation, which has been amply documented by civil society and others. Measures taken so far by government to protect workers appear to have been ineffective in preventing abuses.

Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

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