

# MEXICO

## SUBMISSION TO THE UNITED NATIONS COMMITTEE ON MIGRANT WORKERS, 40<sup>TH</sup> SESSION, 7-17 APRIL 2025

Amnesty International submits this briefing in advance of the examination of Mexico by the Committee on Migrant Workers during its 40th session in April 2025. In this document, Amnesty International sets out its concerns about the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by Mexico, focusing on the violations of the human rights of Mexican migrants enabled by bilateral labour migration agreements. It is not an exhaustive account of the organizations concerns regarding the implementation of the Convention in the country.

### 1. RIGHTS AT WORK AND INTERNATIONAL COOPERATION WITH COUNTRIES OF DESTINATION (ARTICLES 25 AND 64)

A bilateral agreement between Mexico and Canada governs the terms of hire and employment of Mexican migrant workers in Canada under a temporary labour scheme, called the Agricultural Worker Program (SAWP)<sup>1</sup>, which is a sub-stream of Canada's larger labour program, the Temporary Foreign Worker Program (TFWP).<sup>2</sup> In 2024, the Government of Mexico estimated that 26,000 Mexican workers participated in the program.<sup>3</sup>

Research conducted by Amnesty International has found that migrant workers under the SAWP, including Mexican nationals, are at higher risk of labour exploitation, discrimination and other abuses, as the TFWP, including the SAWP sub-stream, is intrinsically exploitative and discriminatory.<sup>4</sup> In that sense, international cooperation, in the form of the bilateral agreement between Mexico and Canada, results in labour exploitation and discrimination of Mexican workers in Canada.

Under the agreement, the Mexican government recruits and selects the workers and appoints representatives to assist them in Canada (known as "liaison officers").<sup>5</sup> Mexico also matches employers and workers, whose employment relationship is regulated through a standardized and non-modifiable contract that is signed by the worker, the employer and the relevant "liaison officer".<sup>6</sup>

Employers recruiting through the SAWP must pay for the round-trip transportation costs between the worker's country of residence and the location of work in Canada. However, they can recover up to 50% of the transportation costs through payroll deductions.<sup>7</sup> Employers must provide daily transportation to and from the work site at no cost to the worker.<sup>8</sup> Employers must also provide workers with "adequate, suitable and affordable" housing, either on-farm or off-site, at no cost to the worker.<sup>9</sup>

<sup>1</sup> Caribbean countries also participate in the SAWP, including Anguilla, Antigua and Barbuda, Barbados, Dominica, Grenada, Jamaica, Montserrat, St. Kitts-Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. ESDC, "Hire a temporary worker through the Seasonal Agricultural Worker Program: Overview", <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural.html>

<sup>2</sup> The arrangement between Mexico and Canada is regulated by the *Memorandum de Entendimiento entre el gobierno de los Estados Unidos Mexicanos y Canada relativo al Programa de Trabajadores Agrícolas Mexicanos Temporales*, 27 April 1995.

<sup>3</sup> According to Mexican authorities, "the SAWP program has contributed to remittances to Mexico (in 2023 alone, more than \$388 million Canadian dollars)", Secretaría de Relaciones Exteriores del Gobierno de Mexico, "The Mexico-Canada Seasonal Agricultural Worker Program (SAWP) celebrates its 50th anniversary", June 2024, <https://www.gob.mx/sre/prensa/the-mexico-canada-seasonal-agricultural-worker-program-sawp-celebrates-its-50th-anniversary?idiom=en#:~:text=The%20SAWP%20program%20has%20gone,between%202019%20and%20June%202024>.

<sup>4</sup> Amnesty International, *Canada has destroyed me. Labour exploitation of migrant workers in Canada*, January 2025, AMR 20/8807/2025, <https://www.amnesty.org/en/documents/amr20/8807/2025/en/>

<sup>5</sup> The National Employment Service (SNE) is tasked with the selection and hiring of the workers, assists them with work permits, contracts and travel documentation, and provides information about their rights and responsibilities. Secretaría de Relaciones Exteriores del Gobierno de Mexico, "The Mexico-Canada Seasonal Agricultural Worker Program (SAWP) celebrates its 50th anniversary", June 2024.

<sup>6</sup> ESDC, "Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements", <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural/requirements.html>

<sup>7</sup> ESDC, "Contract for the employment in Canada of seasonal agricultural workers from Mexico – 2025 - Canada.ca" <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural/requirements/mexico.html>

<sup>8</sup> ESDC, "Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements"

<sup>9</sup> ESDC, "Hire a temporary worker through the Seasonal Agricultural Worker Program: Program requirements"

Migrant workers under the SAWP are granted a temporary work permit that allows them to work in agriculture for a single and specific employer (so called closed permit or tied visa) for up to eight months between 1 January and 15 December.<sup>10</sup> Workers with these permits are tied to their employer, who controls their labour conditions and status in the country, and in many cases their housing, transportation and their effective access to health care. Workers cannot leave their job without risking adverse consequences for their income and status in Canada.<sup>11</sup> The tied nature of the visa inherently puts them at risk of labour exploitation and other abuses.

## **1.1 A BILATERAL AGREEMENT THAT DOES NOT ENSURE ADEQUATE INFORMATION FOR WORKERS BEFORE TRAVELLING (ARTICLES 33, 37 AND 64)**

SAWP Workers often lack adequate and accurate information about the terms of their employment in Canada prior to their departure. Many reported to Amnesty International that they received a distorted description of the job they were hired for. In some cases individuals claimed they received very little information about the work they were going to do and its conditions.

## **1.2 A BILATERAL AGREEMENT THAT RESULTS IN LABOUR EXPLOITATION, DISCRIMINATION AND OTHER ABUSES (ARTICLES 25 AND 64)**

The cases below illustrate the wide range of labour abuses Mexican nationals are exposed to in Canada, as a result of their tied visas under the SAWP.

### **WAGE THEFT**

Mexican workers under the SAWP experience several forms of wage theft, including receiving lower salaries per hour than the remuneration stipulated in their contract; hours that were not registered or paid; overtime not adequately remunerated or not paid at all. Some had very short breaks, which were unpaid, often cut short, and they were required to work during them without payment.

A Mexican man who travelled to Canada under the SAWP in three different years to work for the same employer, used to work 10-hour or even longer days during the harvest. However, he reported not being paid overtime. To avoid paying overtime, his employer changed schedules arguing hours were deducted from an “hour bank”, despite not being authorized to stagger hours or having an averaging agreement. Additionally, the employer only compensated him for the collection of vegetables, despite requiring him to also be a driver for other workers.

### **EXCESSIVE WORKING HOURS**

Many workers under the SAWP work long hours, more than 40 hours per week. They are required to work 10-12 hours per day, without sufficient breaks during or between work days.

### **UNSAFE CONDITIONS AT WORK, SERIOUS INJURIES AND FAILURE TO GET MEDICAL CARE**

In many instances, migrant workers under the SAWP are not provided with protective equipment, are exposed to pesticides and other chemicals or are physically endangered by their employers’ decisions.

### **INADEQUATE HOUSING**

While under the SAWP regulations employers must provide workers with adequate, suitable and affordable housing, on-farm or off site, many workers live in overcrowded, unsanitary and poor conditions.

### **RACIST PSYCHOLOGICAL AND PHYSICAL ABUSE**

Migrant workers under the SAWP experience intersecting forms of discrimination, including xenophobia, racism and sex and gender-based discrimination.

### **RESTRICTION OF MOVEMENT, SURVEILLANCE AND LACK OF PRIVACY**

SAWP workers experience different forms of control by their employers, encompassing limitations on their freedom of movement, retention of documents, surveillance and undue interference in their privacy.

A Mexican man told Amnesty International his employer retained his passport “to keep it safe”.

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<sup>10</sup> Workers can return year after year if called back (named) by an employer and if the sending country agrees

<sup>11</sup> Employers can transfer SAWP workers to another farm/employer, subject to the worker’s consent and written approval by both Employment Social Development Canada (ESDC) and the worker’s home government representative. The worker can request the transfer but cannot initiate it.

### **1.3 A BILATERAL AGREEMENT THAT RESULTS IN LACK OF ADEQUATE REMEDIES FOR WORKERS AGAINST LABOUR ABUSES (ARTICLES 64 AND 83)**

Closed work permits entrench a power imbalance in favour of the employer, who controls both the migration status and labour conditions of migrant workers – as well as their access to healthcare, housing, and ability to earn wages. This not only put them at higher risk of labour exploitation than Canadian workers or migrant workers with an open work permits, but also prevent them from accessing remedies.

The ever-present threat of having their employment terminated and being deported (and the exploitation of this fear by employers) makes it extremely difficult for migrant workers to complain about abusive treatment or working conditions. Both employers and workers know that migrant workers are easily replaced. In that sense, tied visas make workers “disposable”. Many workers are subject to threats of repatriation by employers when they complain about their situation and face reprisals.

A Mexican SAWP worker was told by his employer that he was returning to Mexico in a week, after he intervened in an argument between a supervisor and another worker. He told Amnesty International that he was unfairly dismissed because he demanded the payment of fair wages and overtime.

### **1.4 A BILATERAL AGREEMENT THAT DOES NOT PROTECT WORKERS AGAINST THE RISK FACTORS EMBEDDED IN THE SEASONAL AGRICULTURAL WORKER PROGRAM (ARTICLES 40, 64 AND 83)**

SAWP workers face specific obstacles to access remedies related to the characteristics of their program.

First, the short length of SAWP work permits – a maximum of eight months – limits the ability of many workers to pursue remedies for abuses or injuries, as they simply do not have the time to engage in complaint procedures or seek remedies.<sup>12</sup>

Second, the duration of the SAWP visas also hampers access to benefits that can only be collected while the worker is in Canada, including employment insurance and adequate continuous care in case of work accident or occupational illnesses.<sup>13</sup> In theory, a migrant worker could collect regular or sickness benefits while they are in Canada.<sup>14</sup> However, injured workers are, in many cases, unable to access sickness benefits, as when their employer considers they are no longer able or fit for the job, they are often subjected to rapid repatriation.

SAWP workers are disproportionately affected by the requirement to be in Canada to collect benefits because of the seasonal nature of their contracts. A lawsuit filed in December 2023 by SAWP workers estimated that over the past 15 years, Canada had collected nearly CAD\$500 million in employment insurance deductions from workers in that program, but had denied access to those benefits to SAWP workers, due to the short nature of their visa.<sup>15</sup>

Third, in addition to the power imbalance in favour of the employer, SAWP workers must also overcome a power imbalance in favour of the “liaison officer”, government officials representing the SAWP-participant’s home country. SAWP workers must ensure they remain in the good graces of their liaison officers, who play a role in agreeing to their return to Canada year after year – a factor that further disincentivizes workers to protest exploitative or abusive conditions of work.

On top of the risk factors embedded in the SAWP, it must be highlighted that some Canadian provinces have banned or imposed severe limitations to agricultural workers’ right to unionize and collectively bargain, in breach of international law.<sup>16</sup> Some provinces exclude agricultural workers from labour protections, allowing a wide range of exemptions on overtime pay, working hours or periods of rest.<sup>17</sup>

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<sup>12</sup> Workers interviewed by Amnesty International shared that it had taken them months and years for their complaints to be resolved and to receive any form of redress. On the discrimination and lack of access of SAWP workers to employment insurance due to the nature of their visa, see Statement of Claim, *Kevin Palmer and Andrel Peters vs. the Attorney General of Canada*.

<sup>13</sup> Employment insurance is a contributory benefit to support individuals who are unable to work due to no fault of their own, such as an injury or being laid off from work. Workers pay into this program via deductions from their pay.

<sup>14</sup> Current regulations indicate that “Regular and sickness benefits can generally only be collected while workers are in Canada. Temporary foreign workers are eligible to receive regular and sickness Employment Insurance benefits if they are unemployed, have a valid work permit and meet eligibility criteria, including having worked a sufficient number of hours.” Canadian Employment Insurance: Eligibility for Temporary Foreign Workers, [https://publications.gc.ca/collections/collection\\_2022/edsc-esdc/HS24-40-2008-eng.pdf](https://publications.gc.ca/collections/collection_2022/edsc-esdc/HS24-40-2008-eng.pdf)

<sup>15</sup> Statement of Claim, *Kevin Palmer and Andrel Peters vs. the Attorney General of Canada* (previously cited).

<sup>16</sup> Agricultural workers in Ontario are not allowed to organize and bargain collectively, as they are excluded from the general labour protections set in the Labour Relations Act 1995. Alberta’s Labour Relations Code excludes employees of farming and ranching operations from the right to unionize and bargain collectively, Labour Relations Code, RSA 2000, c L-1. In Quebec, this right is limited for agricultural workers. Only agricultural workers in farms with at least three permanent employees can form and join unions. Chapter V.3, Article 111.27-11.32 of the Quebec Labour Code.

<sup>17</sup> Ontario’s Employment Standards Act or ESA exempt some categories of workers, including farm workers, from for general protections such as maximum working hours, minimum rest periods, and pay rates. Employment Standards Act, 2000, S.O. 2000, c. 41 (Ontario ESA), <https://www.ontario.ca/laws/statute/00e41>

## 2. RECOMMENDATIONS

Amnesty International calls on the government of Mexico to:

- Renegotiate the bilateral labour migration agreement with Canada, as its implementation results in labour exploitation and discrimination. Mexico should seek specific guarantees from the Canadian government to ensure that Mexican nationals in Canada are not granted tied visas, and they can change employers and jobs freely.
- Ensure that unions in Mexico and in Canada take part in the implementation and monitoring of the bilateral labour agreement.