



POLICY BRIEF 2022

## Status For All

WeiChun Kua

*The LEVEL Youth Policy Program takes place on the traditional and unceded territories of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish) & sə́ilwətaʔ (Tsleil-Waututh) Coast Salish peoples.*

#### GRAPHIC DESIGN

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#### COVER ILLUSTRATION

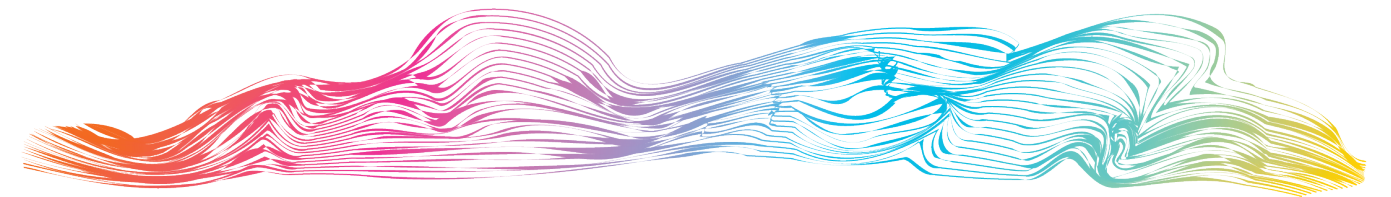
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#### HEADSHOT PHOTOGRAPHY

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# About the LEVEL Initiative

LEVEL is a youth engagement initiative of Vancouver Foundation that aims to address racial inequity. We do this by investing in the leadership capacity of Indigenous, racialized, immigrant, and refugee youth to create more opportunities throughout the non-profit and charitable sector.

Despite being the fastest-growing youth populations in British Columbia, Indigenous, immigrant, and refugee youth don't have the same opportunities as other young people. Race continues to be a factor that hinders their ability to have a say in decisions that impact their lives.

LEVEL empowers these youth by building their capacity to challenge and change those systems that hinder their ability to build a more just world.

### LEVEL consists of three pillars of work to advance racial equity

1. LEVEL Youth Policy Program
2. LEVEL Youth Organizing
3. LEVEL BIPOC Granting

### About the LEVEL Youth Policy Program (LEVEL YPP)

The LEVEL Youth Policy Program (LEVEL YPP) brings together young people between the ages of 19 and 29 from across British Columbia who identify as being Indigenous or racialized immigrants or refugees. Indigenous and racialized Newcomer youth are dispropor-

tionately impacted by certain public policies but are rarely included in the development and implementation of public policy process. The LEVEL YPP aims to provide these youth with equitable training and leadership opportunities to better navigate the public policy landscape, and to develop new tools and skills to influence, shape, and advocate for policy changes that are relevant in their own communities. Having young people directly involved in shaping policies that impact their lives is essential to creating systemic, meaningful change. The LEVEL YPP's training is grounded from and within Indigenous peoples' worldviews, which the program acknowledges, could vary from person-to-person or nation-to-nation. Indigenous worldviews place a large emphasis on connections to the land. This perspective views the land as sacred; where everything and everyone is related and connected; where the quality of the relationships formed are key in life; where what matters is the success and well-being of the community, and where there can be many truths as they are based on individual lived experiences.<sup>1</sup> As such, an important premise of this training is to centre and place a particular focus on the fact that the work that has gone into developing this training, as well as the training itself, has taken and will take place on unceded (never given away/stolen) territories of the hə́nq 'əmin 'ə́m-speaking Musqueam peoples, of the Halkomelem-speaking Tsleil-Waututh peoples, and of the sníchim-speaking Skwx\_wú7mesh (Squamish) peoples.

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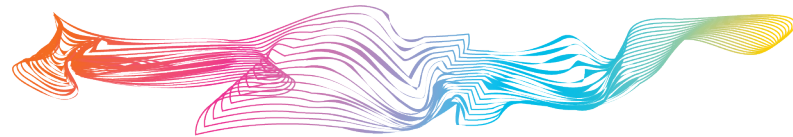


# Biography

## WeiChun Kua



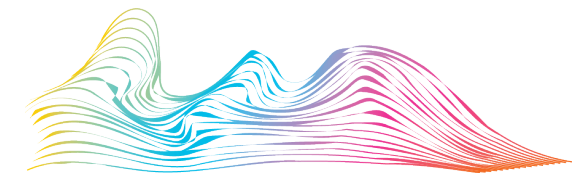
WeiChun Kua (柯伟俊) is a second-generation stateless Chinese migrant, originally from Brunei Darussalam. He's an active climate and migrant justice organizer and has been living, learning and playing on the unceded and traditional territory of the Coast Salish Peoples for six years. He's led campaigns that led to Simon Fraser University (SFU) fully divesting from fossil fuel, and continues to organize around issues that affect migrant students and workers.



# Executive Summary

*As Canada continues to face issues of labour shortages and an aging population, migrants are filling in the gap and working in essential jobs in sectors such as healthcare and food.*

Despite decades of how much migrants consistently contribute to the economy and labour market, they are not being treated with the humanity and dignity they deserve. The immigration system in Canada constantly keeps migrants in a state of temporary and precarious status, by putting migrants on temporary permits. The pathway of obtaining Permanent Resident status is filled with systemic barriers and discriminatory conditions that exclude many migrants and keep it out of their reach. This state of temporary status deprives migrants the rights and protection they deserve from exploitation and abuse. From wage theft and unsafe working conditions, to fear of losing their permits and risking deportations, migrants are often left at the mercy of their employers and the institutions that exploit them. In order to truly address these issues and improve the lives of migrants, the federal government and the Immigration, Refugees and Citizenship Canada (IRCC) must stop treating migrants as temporary, and provide permanent status for all migrants.



***The pathway of obtaining Permanent Resident status is filled with systemic barriers and discriminatory conditions that exclude many migrants and keep it out of their reach.***



# Background

Canada has set out a hefty goal of welcoming 431,645 immigrants in 2022, 447,055 immigrants in 2023 and 451,000 immigrants in 2024.<sup>1</sup>

This is a big goal for Canada to achieve, as the highest record of permanent resident admissions was in 2021, with 401,000 admissions.<sup>2</sup> This record surpassed the previous 1913 record with 400,870<sup>3</sup> admissions. Throughout these past 108 years of Canada’s immigration history, it has been riddled with issues of backlogs,<sup>4</sup> confusing, discriminatory and untransparent immigration policy changes and decision-making, which continues to affect many migrants today who have invested their time and financial resources in building a family and career, and establishing relationships and community in Canada. As long as there is no major meaningful changes to immigration policy, thousands of migrants will continue to be at risk of becoming undocumented and deported.

Immigration is needed for Canada as stated by the IRCC for supporting the aging population, meeting labour market needs, filling temporary labour needs, sustaining Canada’s education system through international students, and boosting trade.<sup>5</sup> There are several pathways under different classes that migrants can take to obtain permanent resident (PR) status,

1. **Economic Class:** “for which applicants are selected on the basis of their ability to become economically established in Canada.”<sup>6</sup> This includes, but is not limited to,

the Canadian Experience Class (CEC) —which majority of international students go through—Provincial Nominee Program (PNP), Agri-Food Pilot Program (does not include seasonal agricultural workers), and Caregiver programs.

Programs under this class all have their own eligibility requirements. For example, CEC is based on a “sophisticated” points system called the Comprehensive Ranking System<sup>7</sup> (CRS) with the following main factors of language proficiency skills, education, Canadian work experience, a valid job offer, and/or a nomination from a province or territory being allotted a certain point for each. Other factors that are also allocated points include age, level of education, foreign work experience, and siblings living in Canada who are citizens or Permanent Residents, just to name a few.

2. **Non-economic Class:** “for which applicants are selected on the basis of family-reunification, social, and humanitarian objectives.”<sup>8</sup> This includes:
- a) Family
  - b) Refugees and Protected Persons
  - c) Humanitarian and Other

Although the above stated programs provide permanent residency pathways for many



**Canada’s immigration history [...] has been riddled with issues of backlogs, confusing, discriminatory and untransparent immigration policy changes and decision-making.**



migrants, there are also other migrants who are not eligible for these programs and have no other existing pathways or programs to permanent residency, such as migrant workers in the Seasonal Agricultural Workers Program (SAWP), climate migrants, and undocumented migrants. Undocumented migrants can apply for PR status through Humanitarian and Compassionate application and but it only has a 5% success rate.<sup>9</sup>

Canada’s immigration system is seen as one of the world’s best, but as with any immigration system, it has its flaws and barriers that greatly affect migrants in Canada. One of the major issues is that it requires migrants to live and exist in Canada on a temporary status under temporary permits such as work and study permits. Although it can be seen as fair and reasonable for migrants to be on temporary status and to have to “prove” themselves first by meeting the eligibility requirements before they can be officially admitted as a Permanent Resident and allowed to stay in Canada

indefinitely, this positions migrants to be in precarious situations that put them at risk of being exploited by employers and institutions.



**Canada’s immigration system is seen as one of the world’s best, but as with any immigration system, it has its flaws and barriers that greatly affect migrants in Canada.**

Seasonal Agricultural Workers, ineligible to apply for PR status. Photo by Tim Mossholder on Unsplash

# The Issues

## MIGRANT STUDENTS

International students, or better referred to as migrant students as a term of solidarity—who are not just students but also workers facing the same immigration issues and exploitations as other migrants in Canada—are increasingly being taken advantage of for their labour and economic contribution, especially in the Canadian post-secondary education system.

Migrant students weren't categorized as immigrants until the 1970's, when political discourse about our place and role in Canada came into question. Conservative MPs at that time were perpetuating the racist and discriminatory notion that migrant students are here to take up space and resources in post-secondary institutions, as well as to steal jobs that were meant for Canadian citizens.<sup>10</sup> This period was also when differential fees—international student fees—were first introduced.

Fifty-two years later, post-secondary institutions (PSI) across Canada are now over-reliant on and exploitative of migrant students in order to help these institutions stay afloat with international tuition fees currently at over four times more than domestic tuition fees.<sup>11,12</sup> This is no fault of migrant students; it is due to the chronic decrease in public funding to PSI over many decades.<sup>13</sup> The stereotype and notion that all migrant students are rich is evidently false, as many migrant students work more than one part-time job to sustain themselves, but conditions on study permit limit students to only being able to work 20 hours per week. This opens up migrant students to exploitation by employers as

working illegally under-the-table becomes the only option in order to adequately support themselves financially.<sup>14</sup> If caught, migrant students can lose their study permit and be deported.

After spending years completing a post-secondary education and obtaining a Canadian degree, migrant students are not automatically eligible for permanent residency status. Migrant students have to gain a minimum of one year full-time Canadian work experience under the National Occupational Classification (NOC) of type A, B, and O, and meet other eligibility requirements for the CEC program which includes taking a language proficiency exam that costs hundreds of dollars and is only valid two years—despite having already completed their entire post-secondary education in English or French. Not included in the work experience needed for permanent residency is the work experience migrant students gained while on their study permit. Throughout this whole unfair process for PR status, migrant students are put on another temporary permit, the Post-graduation Work Permit (PGWP), which is a one-time, non-renewable permit.



**As with other migrant workers, care workers are constantly forced into precarious situations, including little or no worker protection from labour laws, being underpaid, and facing systemic barriers to permanent resident eligibility.**

In 2018, migrant students contributed \$19.7 billion in GDP, \$3.7 billion in tax revenue, and supported 218,577 jobs in Canada.<sup>15</sup> Despite this, migrant students receive very little support for their wellbeing in comparison to their economic and social contribution to Canadian society. This has a large toll on migrant students' wellbeing and mental health, especially during the COVID-19 pandemic,<sup>16</sup> many of whom live far away from their families, and have to independently navigate through their struggles and the unfair immigration process.

## MIGRANT CARE WORKERS

Migrant care workers are essential to Canadian labour needs, they provide care for children of busy working parents, care for the elderly, and care for people with disabilities. Their presence is especially crucial since Canada has a growing and aging population that needs care workers. As with other migrant workers, care workers are constantly forced into precarious situations, including little or no worker protection from labour laws, being underpaid, and facing systemic barriers to permanent resident eligibility. Most care workers are racialized women, with 90% of care workers coming from the Philippines in 2009.<sup>17</sup>

Behind Closed Doors, a grassroots organization made up of current and former migrant care workers, published multiple reports on care workers' reality and lived experience that shows just how much care workers are exploited and abused. Some of the examples state that 37.5% of respondents report they are not allowed to leave their employer's home, that they work uncompensated overtime hours with an average of \$226 of stolen wages per week, and there has been negative impact on their physical and mental health from the accumulated stress of family separation, and uncertainty with obtaining PR status and job

# BEHIND CLOSED DOORS

**EXPOSING MIGRANT CARE WORKER EXPLOITATION DURING COVID-19**



loss.<sup>18</sup> Once a care worker loses their job, it is often difficult to find another due to certain programs, such as the Live-in Caregiver Program, needing a new Labour Market Impact Assessment (LMIA), which can take between 6 to 10 months. So migrant care workers risk their work permit expiring before acquiring a new one and becoming undocumented.<sup>19</sup>

In order for migrant care workers to qualify for PR status, they must complete a 24-month work requirement, prove their English language proficiency, and have educational accreditation equivalent to one-year of Canadian post-secondary education. Because of these requirements for PR status, migrant

**Exposing Migrant Care Worker Exploitation During COVID-19, report by Behind Closed Doors.**



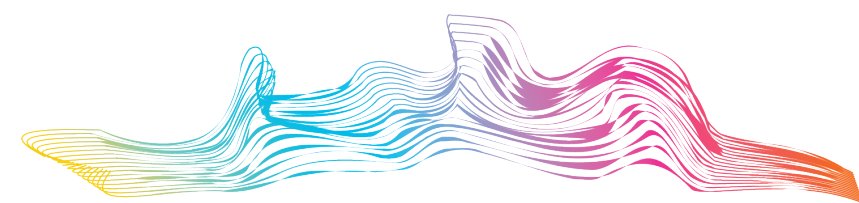
care workers are unwilling to report wage theft and any labour related exploitation by their employers. They need their employers to provide proof of employment and/or a recommendation letter to obtain another job if they lose their previous one, which was common due to the COVID-19 pandemic with one in three workers having lost their jobs.<sup>20</sup> Grassroot migrant organizations in Canada such as Behind Closed Doors have long called for PR status for all migrant care workers because it directly addresses the root issue of migrant worker exploitation created by the temporary and precarious status migrant workers are forced into under the current immigration policies and labour programs.

## MIGRANT FARM WORKERS

The agriculture industry in Canada relies heavily on migrant farm workers from Mexico and Caribbean countries who come to work through the Seasonal Agricultural Worker Program (SAWP) for seasonal farms and the

Temporary Foreign Worker Program (TFWP) for year-round agricultural work. Migrant farm workers under SAWP are permitted to work in Canada for a maximum of eight months in a year and TFWP for a maximum of 48 months. The Canadian Agricultural Human Resource Council (CAHRC) reported in 2015 that SAWP had an economic impact of \$5.4 billion in Ontario.<sup>21</sup> Domestic food production is critical in providing residents of Canada with sufficient fresh and nutritional food, especially during times when international supply chains are disrupted, which is what happened at the start of the COVID-19 pandemic, and with the on-going Russia-Ukraine conflict.<sup>22</sup>

It is clear that migrant farm workers are essential to Canada's food security, and yet they are grossly and unfairly mistreated, and subject to appalling work and living conditions. A 2015 report from the Canadian Centre for Policy Alternatives found that workers often have to work with poorly maintained equipment, unsanitary farms, poor and overcrowded housing conditions provided



**Due to the nature of being undocumented and the constant fear of being discovered and subsequently deported, accessing social services such as healthcare, or even everyday recreation services, becomes dangerous and risky.**

by their employers, and are underpaid for their work.<sup>23</sup> When the COVID-19 pandemic hit, farm workers were given no information, protection, and weren't paid during their 14 days of self-isolation if they caught COVID-19.<sup>24</sup> The fear of losing their jobs, immigration status, and dependency on their employers to bring them back the next year prevents farm workers from filing formal complaints or even speaking up about their working conditions.

For SAWP workers, there are no existing pathways to obtaining PR status and for TFWP farm workers, the language, education and job offer requirements, similar to migrant care workers, makes it difficult to qualify for permanent residency. This only seeks to benefit the employers as they exploit and extract labour from a constantly temporary and precarious workforce that has little or no option to protect themselves.

## UNDOCUMENTED MIGRANTS

Migrants can become undocumented while in Canada, or upon entry, for many reasons such as expiration of temporary permits, rejection of refugee claims, lack of or unrecognized official identity documents, and human trafficking. While there is no accurate data on how many undocumented migrants currently exist in Canada, it's estimated to be between 20,000 to 500,000 persons.<sup>25</sup> Undocumented migrants typically work in construction, agriculture, caregiving, and housekeeping jobs.

Due to the nature of being undocumented and the constant fear of being discovered and subsequently deported, accessing social services such as healthcare, or even everyday recreation services, becomes dangerous and risky. The only ways for undocumented migrants to gain legal status is either through Humanitarian and Compassionate application, or one-time regularization programs such as the Out-of-Status Construction Workers Public Policy,<sup>26</sup> and the most recent Guardian Angels program.<sup>27</sup> Regularization programs have criteria that are meant to exclude applicants on the basis of the length of their residency, criminal record, having a family, employment, and medical condition.<sup>28</sup>

Since one of the reasons migrants become undocumented is due to losing their temporary permits, it would make the most sense to grant migrants permanent status upon arrival to avoid the issue altogether.

Regardless of legal status, undocumented migrants still contribute to the labour market, economy, and are part of our communities; being undocumented does not change that but only serves to leave them vulnerable to exploitation and abuse by employers, landlords, and authorities.



**Since one of the reasons migrants become undocumented is due to losing their temporary permits, it would make the most sense to grant migrants permanent status upon arrival to avoid the issue altogether.**

# Policy Options

*At some level, the federal government seems to recognize the issues with the inefficient immigration process and how much they need migrants.*

The Prime Minister’s 2021 mandate letter to the Minister of Immigration, Refugees, and Citizenship instructed on building upon existing regularization pilot programs, and to expand permanent residency pathways for migrant students and workers. Parliament also passed Motion 44 in May 2022, which tasked the government to develop a comprehensive plan in 120 days to expand pathways to permanent residency for temporary foreign workers, including international students. This is an opportune time for the federal government to come up with an ambitious immigration plan that truly addresses the root issues of the current immigration system.

It is evidently clear that migrants are integral to the labour market, economy, and communities in Canada. Yet, they are not granted the dignity and humanity they so very well deserve. This cycle of exploitation and abuse will only continue as long as all migrants are not granted PR status and kept in a status of temporariness and precarity.

## RECOMMENDATIONS

### 1 Permanent Status for All Migrants.

The immigration system in Canada is long overdue for a radical change. It needs one that grants PR status to all current migrants and future migrants upon arrival without conditions and terms. In developing this new immigration policy, the IRCC needs to work closely with grassroots migrant organizations such as the Migrant Rights Network and Indigenous Host Nations in the shaping and implementation of this new immigration policy.

In the interim, while this much needed immigration policy is being carefully crafted, planned and implemented, the IRCC should:

- a) Count all work experience in Canada, and eliminate the NOC system for Express Entry and other work experience requirements for other permanent residency immigration programs.
- b) Eliminate the language proficiency requirements.
- c) Make work permits permanently renewable and open.
- d) Remove educational requirements that are not attainable for many migrant workers.
- e) Reduce the permanent residency application fee to under \$100.
- f) Allow undocumented migrants to restore their temporary status and remove the 90-day period limit after which migrants cannot restore their work permits.

### 2 Including Indigenous Communities and Host Nations in the creation, and implementation of immigration policies.

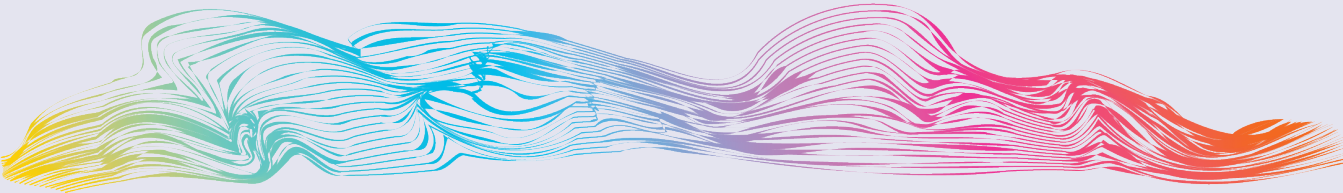
Canada, being on stolen lands, needs to start including Indigenous People(s) in the crafting and implementation of immigration policies that are bringing in uninvited guests to their traditional territories. As stated in Article 27 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP): states shall establish a process in conjunction with Indigenous People(s) to recognize and adjudicate the rights of Indigenous People(s) pertaining to their traditionally owned or otherwise occupied or used land, territories, and resources.

In addition, the federal government should implement relatively easily the Truth and Reconciliation Commission of Canada Calls to Action #93 and #94 alongside the rest of the calls to action. The federal government should also encourage the relationship-building between migrants and their local Host Nations and Indigenous communities by promoting job and volunteer opportunities to migrants that fulfill labour shortages in those communities. This will provide an avenue for migrants to be exposed and learn about the cultures, history, and governance of Indigenous People(s) of Canada and how to be respectful guests on their land.



***Canada, being on stolen lands, needs to start including Indigenous People(s) in the crafting and implementation of immigration policies that are bringing in uninvited guests to their traditional territories.***

# Conclusion



As long as migrants in Canada remain on a temporary and precarious status, and are economically vulnerable, we will continue to struggle and be open to exploitation by employers and institutions, despite our essential labour, economic, and social contribution to Canada.

Instead of band-aid solutions in the form of one-time and temporary programs and pathways, Canada should look toward a radical change to the current immigration system entirely with one that has no conditions and restrictions, and simplify it into a single immigration pathway for all types of migrants. Because the fact and reality is that we, as migrants, are here and existing, and we are essential. We deserve the same permanent status, fair rights, humanity, and dignity as anyone else living in Canada.

***Instead of band-aid solutions in the form of one-time and temporary programs and pathways, Canada should look toward a radical change to the current immigration system entirely with one that has no conditions and restrictions, and simplify it into a single immigration pathway for all types of migrants.***

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*We, as migrants, are here and existing, and we are essential. We deserve the same permanent status, fair rights, humanity, and dignity as anyone else living in Canada.*

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