

## **Ongoing Challenges for Live-in Caregivers**

(Note: The following are excerpts from a presentation given by the author at the *Symposium on Intersections of Violence Against Women and Precarious Immigration Status* held on 5 June 2014 at the University of Toronto.)

The Live-in Caregiver Program (LCP) is a hybrid immigration program within Canada's Immigration and Refugee Protection Act whereby a specific class of temporary foreign workers (live-in caregivers) is given the chance to apply for permanent resident status after fulfilling certain conditions.

On its face, it may seem that live-in caregivers (LICs) are given a special privilege compared to other so-called "low skilled" temporary foreign workers (TFWs) who have no clear path to permanent residence. However, it must be noted that the LCP is not a smooth sailing program as the conditions imposed on its caregiver participants render them extremely vulnerable to abuse and exploitation.

The problematic conditions under the LCP include:

1. The two-year full time, live-in caregiving work requirement - regardless of whatever label is given to this program, this requirement alone strongly encourages situations which are very much akin to indentured servitude or modern-day slavery. In reality, LICs perform work that Canadians would rather avoid. The work is extremely hard and the pay is extremely low, with very little monitoring, if at all, of employers' compliance with employment standards.
2. Employer-specific work permit - like the live-in requirement, the employer-specific work permit ties the caregiver to a single employer which further tilts the balance of power against the caregiver and in favor of the employer. The requirement for a new LMO before being allowed to work for another employer (with its accompanying issues such as additional fees and processing delays), discourages LICs from leaving abusive employers or reporting them to the authorities.
3. Processing delays for LMO applications, work permit changes/renewals, or the permanent residence (PR) application itself not only discourage the caregivers from leaving or reporting abusive employers, but also force them to endure prolonged and painful family separation.
4. The grant of PR status after completing 2 year LIC work within 4 years of arrival is not guaranteed. Even after years of waiting, many live-in caregivers and their families may still end up being denied permanent residency due to criminal and/or medical issues, misrepresentation, unauthorized work, receipt of social assistance and other supposed contraventions of the immigration law and regulations.

Since 2010, a few significant changes have been introduced to the LCP, which include:

1. the removal of the second medical exam requirement for the LIC;

2. extension from 3 to 4 years within which to complete the 24-month full time live-in caregiving work requirement and providing an alternative means to fulfill the required 24 months of full time live-in caregiving work, i.e. 3900 hours of work including up to 390 hours of overtime within a minimum of 22 months in the relevant 4-year period; and
3. requirement for employers to pay recruitment, transportation costs and WSIB benefits and blacklisting of delinquent employers. To date however, no LCP employer has been included in the blacklist. This law has become tricky to enforce because most of the time, prospective caregivers are being asked to pay the recruitment and transportation fees by agents outside Canada hence beyond the reach of Canadian enforcement authorities or the courts.

Despite the fact that these changes have benefited many caregivers, there are still a whole lot of LCP participants who are encountering problems while being part of this program. For instance, a lot of LICs fall out of status either because of the long processing delays or eventual refusals of their work permit renewal or PR applications.

The refusals may be due to the fact that: the LIC performed unauthorized work, committed misrepresentation; failed to complete the 24 months of full time LIC work because of the long processing delays or serious illness; was forced to accompany the employer hence forced to work outside Canada (however only work in Canada can count towards the 24-month requirement); inadmissibility of family member (spouse and dependent children) e.g. dependent's illness will likely cause an excessive demand on Canadian health and/or social services; or even due to financial inadmissibility because the LIC is bringing in family members but with no substantial savings or well-paying job to prove ability to support family which leads to a strong possibility of relying on social welfare.

Many of these reasons for refusal could have been avoided if the LICs are granted permanent residence at the outset after they and their family members are screened as is normally done for most other categories of PR applications.

The LCP is clearly discriminatory in that the two-year, employer-specific, full time live-in caregiving requirement not only encourages abuse and exploitation but also prevents those LICs with inadmissible family members from obtaining permanent residence. In my view, this is tantamount to cruel and unfair treatment of these workers who undoubtedly contribute so much to the well-being of many middle class and wealthy Canadian families with children, elderly or disabled members.

Despite the changes that have been introduced to this program, the LCP is still causing great hardship to many of its participants and their families. Thus, there is a strong need for continuing advocacy efforts that will push for more meaningful reforms that will truly alleviate the sufferings of LCP participants and lead to a more just and humane treatment of these vulnerable workers.

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