

Of Calamities, Compassion and Caregivers

Being the last month of the year and a traditional time of holiday cheer, I wanted this column to be about something positive that could provide an encouraging note as we enter another year. As we know, our beloved Philippines has just gone through some difficult times brought on by natural calamities and human cruelty. These include the tremendous destruction caused by the successive typhoons which hit the Philippines just a few months ago, killing hundreds, and destroying thousands of homes. Most recently, a horrible massacre of journalists and civilians in what is believed to be a politically motivated act sadly reminds us how violent Philippine elections can become.

Negative news notwithstanding, the universal response to these events have been quite uplifting. As we know, donations for those affected by the typhoons poured freely, and cries of condemnation against the perpetrators of the massacre reverberated worldwide. These responses only prove that people are replacing indifference with generosity of spirit, and with a keen sense compassion.

This gives us enough reason for hope.

For those who may have followed and read this monthly column, thank you. You may have also noticed that one of my favorite topics is the Live-in Caregiver Program (LCP). This is mainly due to the fact that, as an immigration lawyer trying to assist many caregiver clients, I am greatly disturbed by the repetitive issues that are faced by the participants in this program and have therefore long been looking forward to the day when genuine LCP reforms can be realized.

I was thus pleasantly surprised to learn that on the day that I was supposed to submit this month's article to the *Filipiniana* publisher, Citizenship and Immigration Minister Jason Kenney made a special public announcement on significant changes to the LCP. Recognizing that the vast majority of participants to this program are from the Philippines, the Minister and his staff chose to make this announcement at the Kababayan Community Centre in Toronto, a CIC-funded settlement agency. Many in the audience became emotional upon hearing Minister Kenney's announcement which includes the following proposed changes to the LCP:

- LCP participants will now be given four years (instead of three) within which to satisfy the live-in caregiving requirement
- In lieu of the 24 months, live-in caregivers will become eligible for permanent residence under the LCP class if they have worked for 3900 hours (equivalent to the hours for a standard work week of approx. 40 hours per week for two years) with proportional credit given for overtime hours worked.
- The second medical examination requirement will be eliminated (Juana Tejada law)

- Employers will be required to pay for the caregiver's travel costs, medical insurance until they qualify for provincial health coverage, workplace safety insurance and any recruiting fees owed to third parties
- LCP employment contracts will have to clearly spell out the terms of employment, job duties, hour of work, overtime, vacation and sick leaves, termination and resignation terms. Violations of the contract will be strictly enforced and punishable under the Immigration and Refugee Protection Act (IRPA) by imprisonment and a fine of upto \$50,000.
- CIC will coordinate with Service Canada in ensuring that LMO and work permit renewal processing will only take three weeks to process.

"These important changes help fulfill Canada's duty to those who care for our young, our disabled and our elderly," Kenney said, adding the changes will "help strengthen protection for live-in caregivers and reduce the potential for their exploitation and abuse." Minister Kenney said that his decision to eliminate the requirement that live-in caregivers undergo a second medical exam when applying to become permanent residents was made in honor of the late Juana Tejada, Celia Mansibang and other live-in caregivers who have similarly died of a terminal illness after fulfilling the requirements of the LCP.

I was initially disappointed to hear that the changes announced did not include the three major proposed changes I would have wanted to see which are:

- The granting of conditional landed status to the caregivers upon arrival in Canada
- The issuance of open work permits instead of employer-specific work permits and
- The elimination of the mandatory live-in requirement

I was disappointed because these reforms would have addressed the precarious immigration status of the caregivers as well as the serious power imbalance between the caregivers and their employers, which in turn prevent the caregivers from effectively seeking redress for the various forms of abuse and exploitation committed against them.

During the open forum, Minister Kenney rationalized his failure to include these changes by stating that having been made aware of the flaws of the program, his objective is to mend the program and not to abolish it. In so doing, he needed to balance the interests of the employers along with the caregivers.

Once implemented, these major changes to the LCP will indeed benefit many caregivers.

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