

A Call to Reform the LCP NOW!

It is with deep sadness that we learned about the recent passing away of Juana Tejada, the Filipina caregiver diagnosed with cancer who was initially refused permanent residence in Canada because her illness will cause an excessive demand on the Canadian system. A few days after Ms. Tejada's death, the Toronto Star published a series of investigative articles on the unscrupulous practices of immigration consultants who prey on the desperation of mostly Filipina caregivers to enter and eventually obtain permanent residence in Canada. What struck me most about the article was the fact that government agents, particularly those from the Canada Border Services Agency, admitted knowing about these illegal activities and the fact that they have a list of known agencies who perpetrate various types of fraud against the caregivers. Despite this knowledge, the government does not appear to be taking any aggressive steps towards stopping these illegal activities. Instead, the CBSA officers simply punish the victimized caregivers by refusing to issue work permits and immediately removing them from Canada. The guilty agents (recruiters and/or purported employers) on the other hand, are not held liable for their illegal acts. As a result, the exploitation continues as more prospective caregivers end up getting prejudiced not only by the exploiters' heartless misdeeds, but also by the government's indifference towards upholding justice and fairness in these situations.

Caregiver advocates therefore conclude that it is time to aggressively push for reforms to the Live-in Caregiver Program (LCP). I totally agree. However, we also have to ensure that these reform initiatives will not end up as being token gestures because they fail to dig deeper into the systemic issues that have long plagued this controversial program.

First of all, the Live-in Caregiver Program should be strictly enforced to be just that – a program to provide caregiving duties to children, the elderly or disabled. It is technically not a domestic worker program or worse, a license to conduct modern-day slavery. As we all know, despite the provisions of the *Immigration and Refugee Protection Act* and *Regulations* limiting the function of the caregivers to taking care of children, the elderly or the disabled, a vast majority of employers require their “caregivers” to perform substantial household chores such as cleaning, cooking, washing clothes and dishes, shoveling snow, washing vehicles, serving their guests during lavish house parties or even staffing their business and cleaning their relatives' and friends' houses, ON TOP of their caregiving duties. The caregivers are often required to work long hours with no overtime pay. They are often deprived of private living quarters, are forced to eat food they do not like, or refused proper breaks or vacation and sick leaves. The tales of excessive hardship and abuse of LCP workers are endless.

Why, one may wonder, would these caregivers choose to endure these clear violations of their most basic human rights instead of reporting them to the authorities? There are various complex reasons. First, the LCP itself is deeply flawed. These flaws are a reflection of the skewed mentality behind the creation of the LCP vis-a-vis the immigration system. Among others, the program was created mainly as an economic strategy, without a full and proper review of its social implications. It preys on the LCP participants' vulnerability and

desperation to obtain permanent residence in Canada. Second, the government lacks the political will to effectively implement all relevant laws that will protect the rights of the caregivers. Third, there is no proper coordination between the relevant federal and provincial government agencies with respect to enforcing all relevant laws and regulations.

A major overhaul of the LCP's policy framework and specific provisions is long overdue. The perennial argument that there is currently a great demand for live-in caregivers (hence the need for the LCP) is based on the fact that the employers, recruitment agencies and others concerned are taking advantage of the loopholes in the program. There is a demand because they are able to freely exploit the caregivers with the legal sanction of the LCP. If the government is more diligent in prosecuting the unscrupulous practices and more vigilant in protecting caregivers' rights, there could arguably be a reduced demand because of the reduced opportunity to exploit other people's desperation to enter in, work and become permanent residents of Canada. Where the demand will likely increase is for the government to provide broader caregiving services such as a universal daycare system, as well as increased funding for elderly and disabled care. Since these are much more costly programs, the government is obviously choosing the easier alternative without a proper consideration of its moral and human rights obligations.

One of the main objectionable features of the LCP is the mandatory requirement for the caregiver to live-in with the employer. This requirement gives rise to numerous problematic situations and makes the LCP extremely conducive to exploitation. By its very nature, the live-in requirement makes it almost impossible to properly enforce the labour code provisions on hours of work, overtime pay, working conditions, vacation and sick leaves, etc.. Since the caregiver is also living in the workplace, there will often be a blurring of lines between what is considered "work" and what is not. The extensive discussions and analyses on the valuation of household work in feminist, labour and human rights literature are clearly applicable in this context. This is mainly why the LCP should be strictly treated as a "caregiving" program, in the same way that the jobs of nurses, personal support workers and other live-out caregivers are treated and valued. If the employer will require additional services such as cleaning, cooking, etc. then they should either hire other workers to do the job or properly compensate the caregivers for these extra duties, in accordance with applicable laws and regulations.

Another major problem with the LCP is the discrimination arising from the fact that nearly 90% or a vast majority of the participants of the program are women from the Philippines who have left their own families behind to take care of other people's families. It is a truly sad commentary of the current state of Philippine affairs that its highly-educated citizens would choose to leave their families behind and endure exploitative working conditions just to earn more money and support their families. However, the Canadian government which introduced the LCP is equally guilty in that it is taking advantage of this sad state of Philippine affairs by allowing a deeply-flawed program to exploit its participants and mask what is actually a form of modern-day slavery. The stereotyping that results from this statistical reality is also greatly contributing to the vulnerability of these workers. If the LCP's objectionable features are removed and the government effectively monitors its proper implementation, then it is possible that prospective caregivers from other countries will also become interested in joining the program instead of simply attracting workers from a poverty-stricken country like the Philippines.

There is a need to fully support the call for specific and concrete changes to the LCP which admittedly, will be more practical and perhaps quicker to implement for being more politically acceptable to those in power. Hopefully, these changes will also encourage the caregivers to more actively report abuses instead of simply enduring the exploitative practices in exchange for the promise of permanent residence for themselves and their families.

These proposed changes to the LCP include the Juana Tejada law which calls for the exclusion of LCP participants from medical inadmissibility based on excessive demand; the removal of the second medical examination requirement; the provincial medical health coverage for LCP open work permit holders; the granting of province-wide or open work permits, instead of employer-specific work permits; the expeditious processing of work permit extensions and permanent resident applications; the removal of the mandatory live-in requirement; the granting of open work permits and study permits to family members from the outset to avoid prolonged family separation; to name a few of the existing proposals. However, without a clear recognition of the value of the work that caregivers provide and a strong political will to protect and promote the basic human rights of these vulnerable workers, then any changes that will be introduced will not be truly effective in eradicating the exploitation that these caregivers have long endured.

If the Canadian government is truly intent on pursuing its proud tradition of upholding human rights for all, then a serious overhaul of the LCP is an absolute imperative.

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