

## **Cabinet Shuffle and the Ongoing Saga of LCP Woes**

In the morning of 15 July 2013, Prime Minister Stephen Harper announced a major cabinet shuffle in which Ajax-Pickering MP Chris Alexander was named the new Minister of Citizenship and Immigration (C&I) while former C&I Minister Jason Kenney is named Minister of the newly created Ministry of Employment and Social Development (formerly Human Resources and Skills Development Canada). It is interesting to note that Minister Kenney was moved to a department that is still closely related to the functions of his former portfolio, particularly in matters relating to offers of employment for temporary foreign workers and prospective immigrants to Canada. This could mean a continuing slew of legislative and policy reforms consistent with those that he started in his previous posting and which could significantly affect the socio-economic landscape in this country.

It may be recalled that some four years ago, a series of investigative reports about the abuse and exploitation of live-in caregivers in the Toronto Star prompted a series of government consultations, legislative and ministerial reforms which were all supposedly meant to address these issues and promote fairness and justice for this extremely vulnerable sector of Canadian society.

These legislative and administrative reforms included measures that were meant to discourage and punish certain exploitative acts of unscrupulous agencies, recruiters and employers. Measures were also introduced to reduce hardships of live-in caregivers who are participants of the Live-in Caregiver Program (LCP) through the amendment of certain requirements and faster processing of work permits, including open work permits, which provide greater freedom and flexibility for the caregivers to leave abusive employers and choose other types of work.

While many LCP participants have benefited from legal and policy reforms implemented in the past few years, still many are suffering the hardships that arise from yet unresolved systemic flaws of the LCP. These include prolonged family separation, inadvertent loss of status, being overworked and underpaid or worse, unjust refusals of permanent residence applications after many years of toiling under the most exploitative working conditions.

First of all, the prolonged family separation starts when LCP participants are deprived of the opportunity to bring family members to Canada at the outset. After completing the required two years of full time live-in caregiving work, the caregiver applicants with no overseas dependents wait a few more years to obtain the much-coveted permanent resident status. For applicants with spouses and/or dependent children, the wait time could stretch to several years depending on visa office backlogs and various issues that arise while assessing the admissibility of dependent family members. Strict scrutiny of even minor criminal records, medical issues, school records (for dependents based on their being in continuous full time studies since age 22), uncooperative family members who stubbornly refuse or negligently fail to comply with sometimes repetitive visa office requirements, often lead to lengthy processing times that could almost seem like eternity for those who have long been awaiting permanent residency and reunification with their beloved family members. While enduring such onerous wait times, life goes on for everyone involved, which may lead to strained marriages, adulterous spouses, rebellious teenaged children who get embroiled with

drugs and other illegal activities, serious illnesses and other unfortunate sidelights to an already complicated and tedious process for the principal caregiver applicant. When one or more of these happen, the long wait times may lead to a heartbreaking refusal of the permanent residence application not just for the inadmissible family member, but for everyone else. This is most unfair to the principal caregiver applicant who toiled many years and consequently established a productive life in Canada but is being refused permanent residency for reasons which are mostly beyond her control.

Second, a widely prevalent yet still largely ignored reality is the slavlike treatment of LCP participants which is an inevitable consequence of the mandatory live-in requirement and the vulnerable immigration status sanctioned by this inherently flawed immigration program. Canada's immigration law provides that participants of the LCP perform caregiving services for children, the elderly or disabled. It is not legally defined as a domestic worker program or worse, a license to conduct modern-day slavery. However, despite this clear legal provision limiting the function of caregivers to taking care of children, the elderly or the disabled, a vast majority of employers require their live-in 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 businesses and cleaning their relatives' and friends' houses, in addition to their caregiving duties. The caregivers are often required to work long hours with no overtime pay. They can also be 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 still abound yet are seemingly being swept under the rug.

A recent ruling of the BC Supreme Court convicting an employer of trafficking a domestic worker into Canada may have helped to highlight that this problem continues to exist despite recent efforts to protect this vulnerable class of workers. Although the domestic helper involved in the BC trafficking case was not a participant of the LCP (her employers brought her into Canada as a visitor), she was promised permanent residency after working for two years in Canada, which was clearly based on the well-known and much abused LCP condition. Although the facts of this particular case did not occur within the specific context of the LCP, the very same exploitative conditions were perpetrated based on the promise of prospective permanent residence in Canada which made the LCP such an attractive option for many.

Despite efforts in recent years to implement reforms to the LCP and protect its caregiver participants, much remains to be done in eradicating the problems spawned by this program. The ongoing hardships of caregivers and similarly-situated temporary foreign workers are totally inconsistent with claims of a just and humane Canada.

From the various consultations when he was the highly visible Minister of Citizenship and Immigration, the new Minister of Employment and Social Development must have already become quite familiar with these ongoing tales of woe. Thus, we can only hope that this recent cabinet leadership change will also lead to a much better informed, effective and efficient coordination between these relevant departments that will truly change many lives for the better.

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