

Live-in Caregiver Program *Deja Vu*

A few recent positive decisions on rather complex live-in caregiver applications somehow raised hopes for caregiver advocates that this government is finally becoming sensitive to the extremely difficult circumstances that many live-in caregivers have to endure. Upon the individual caregivers' request, the immigration officers concerned chose to exercise their positive discretion in granting certain exemptions to immigration requirements on humanitarian and compassionate grounds.

Therefore, the Conservative government's recent negative response to the Standing Committee's proposals to amend the laws relating to live-in caregivers and other temporary foreign workers came as a huge disappointment. The response by Citizenship, Immigration and Multiculturalism Minister Jason Kenney's office, practically turned down all recommendations by the Standing Committee including the issuance of occupation specific instead of employer specific work permits, making the live-in requirement voluntary and exempting live-in caregivers from the second medical requirement. The responses of the government not only echoed the previous government pronouncements, excuses and justifications, but also failed to really listen to and understand the sentiments of those directly affected by the gross deficiencies and unfairness of the LCP as it currently stands.

This recent government response, coupled with the tabling of Bill C-45 by Minister Kenney a few months earlier, and his subsequent controversial positions on various immigration and refugee issues, makes one seriously wonder whether any significant reform that will truly benefit the long disadvantaged migrants can ever be realized under the present government. However, this is not to absolve the previous Liberal governments either, as they were equally guilty of failing to enact proper measures to protect the vulnerable caregivers when they had the chance to do so.

Bill C-45 is a glaring example of how those in power just do not seem to get it. Among others, this bill proposes to allow a visa officer to "refuse to authorize the foreign national to work in Canada if, in the officer's opinion, public policy considerations that are specified in the instructions given by the Minister justify such a refusal". The instructions, according to the bill, "shall prescribe public policy considerations that aim to protect foreign nationals who are at risk of being subjected to humiliating or degrading treatment, including sexual exploitation".

The logic used to justify this and other related proposals is simply baffling. Why penalize the offended party for a wrong committed against them? Is immigration law now the polar opposite of criminal law and basic human rights principles? Why does the government act like a bully when dealing with vulnerable people while continuing to drag its feet when dealing with the rich and powerful but abusive and exploitative employers, recruiters and/or government agents?

It has been suggested that the only way to convince the government to implement substantive legal reforms is to view things from the bureaucrats' perspective: that live-in caregivers are simply economic beings, who are taking part in an economic program such as the LCP which is meant to serve the economic needs of our high and mighty Canadian employers.

Granting this is the case, is this at all humane? Why should we accept a worldview that we know is simply, utterly wrong? Live-in caregivers and other foreign workers are first and foremost, human beings. They are entitled to being treated with respect and dignity. They are entitled to equal treatment under the law. They are living, feeling, breathing persons who also have families to support, just like the very employers who are benefiting from their services.

As I write this, the newspapers are reporting the likelihood of another federal election in the near future. Although we must be weary by now of going through elections almost every year, we should not get tired of actively engaging in the political process. Instead, we should use this as an opportunity to educate and influence our government officials, legislators and policy-makers on this and other issues that we care about.

The author is an immigration lawyer in Toronto and may be reached at mdsantos@osgoode.yorku.ca.