

## THE FACTS

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# Temporary Foreign Workers Program and the Live-in Caregiver Program

Changes to the Temporary Foreign Workers Program (TFWP) and the Live-in Caregiver Program (LCP) have recently been announced that do not address the precarious and vulnerable conditions of migrant workers in Canada.

The TFWP is a federal program that brings workers to Canada from other countries to support employers with short-term and regional labour needs. The LCP is a federal program that brings workers from other countries to take care of children, the elderly and people with disabilities in the private homes of Canadian citizens.

TFW's in Canada are among over 200 million workers who have left their homes and families in search of work in others countries. Governments and employers treat migrant workers as mere commodities as the money they send home to their families, to the tune of USD \$400 billion a year, is used to prop up the economies of countries saddled with IMF and WB debt commitments and staggering inequality. Receiving countries are using migrant workers to drive down wages and undermine the gains and demands of the trade union movement.

The export of this labor is highly systematized. Sending, usually poor, countries have established labour export policies to secure a constant flow of foreign currency into the country. Receiving, usually rich, countries such as Canada have established temporary foreign worker programs for the benefit of employers. Migrant workers around the world, and in Canada, refer to themselves today as “modern day slaves”.

Canada is using the TFWP to exploit vulnerable workers as sources of cheap labour while reducing

the working conditions of all workers; undermining our ability to collectively organize and enforce collective agreements, and negating their responsibility to provide funding for apprenticeships, training and national public programs such as child care.

### TFWP

The 2006 census recorded a 118% increase over ten years in the numbers of temporary foreign workers entering Canada. In 2008, more temporary residents entered Canada than permanent residents for the first time; a trend that continues today. These workers come mostly from the poorer countries of the world, with Filipinos in the lead in Canada under the so-called “low skilled category”.

## Details of the Changes

MP Jason Kenney, Minister of Employment and Social Development Canada (ESDC), and MP Chris Alexander, Minister of Citizenship and Immigration Canada (CIC) announced changes to the TFWP in June 2014

Controversy and calls for program reform from migrant advocates have been longstanding. The tipping point for this recent announcement however came when several McDonald's restaurants in Victoria, British Columbia propelled the issue of the TFWP into national headlines and into the center of public debate.

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The prevailing public mood at this time, and the main criticism of McDonalds, was the claim that there was preferential hiring of foreign workers that was denying Canadians access to entry-level jobs. In a knee-jerk reaction, the Canadian government declared a moratorium on hiring temporary foreign workers in the food service sector which was promptly followed by the more substantial changes in June.

### TFWP

There are now two distinct Temporary Foreign Workers programs:

- 1 The Labour Market Impact Assessment Program (or the LMIA) replaces the Labour Market Opinion stream. This program is run by Employment and Social Development Canada and focuses primarily on labour market considerations.
- 2 International Mobility Program (or the IMP) which is run by Citizenship and Immigration Canada (CIC) and is largely based on international agreements such as NAFTA, GATS and international youth mobility agreements.

The changes have essentially divided the program based on two categories of workers, those needing documentation in order to get a work permit to enter Canada and others who can enter Canada with no barriers to employment.

Other significant changes include:

**TFW classified as low waged and high waged:** decision making affecting the issuing of work permits is now based upon the provincial or territorial median hourly wage rate rather than a National Occupational Classifications (NOC). Migrants are no longer categorized as “low” or “high” skilled and instead as low or high wage workers.

**Cap on “low-wage workers”:** There is now a 30% cap on migrants who fall under this the new low-wage worker category. The program limits the use of lower-waged workers based upon regional rates of unemployment. If the unemployment rate is more than six per cent then no LMIAs will be issued for lower-waged workers. Migrant advocacy organizations expect this to result in an increase of forced removals or undocumented workers in Canada.

**Higher LMIA fees:** The changes prescribe an increase in the application fees for employers who now pay from \$275 per employee to \$1,000.

**Time in Canada reduced:** Work permits for lower-waged workers will only be issued for one year at a time and workers can only remain in Canada for two years. For higher-waged positions, employers have to provide transition plans demonstrating their efforts to transition from foreign workers to Canadian citizens or permanent residents, or how they are supporting the foreign workers to gain permanent resident status.

**Labour Law Enforcement:** More inspections of workplace labour standard and program violations are promised. Employers are required to maintain all records for six years, and those who are in violation of the program can face up to \$100,000 in fines and up to five years in jail. Migrant worker advocates remind us that protection for migrants has been promised in the past without enforcement.

**New powers to Canada Border Services Agency (CBSA):** CBSA has been given the expanded mandate to enforce compliance with the new changes to the TFWP. Migrant advocacy organization are concerned this will lead to more workplace raids, random inspections and arbitrary arrests. There will be 20 more inspectors all over the country and the Canada Border Services Agency is tasked to police the program.

### Changes to the Live-in Caregiver Program (LCP)

Following a series of closed door consultations which excluded migrant advocates, MP Chris Alexander, Minister of Citizenship and Immigration (CIC), announced significant reforms to the LCP at the end of October 2014.

- Live-in caregivers will now be given the option to live outside their employer's home, something advocates have been demanding for decades.
- There will now be a quota on the number of migrant child care providers accepted as permanent residents. This is coupled with the promise that application processing times will be reduced to six months to ensure families are reunited faster.

### Effect of these changes on migrant workers

The announcements of the changes in the TFWP and the LCP have only fuelled more debate about these programs. Migrant rights advocates argue the actions and pronouncements of the representatives of the Canadian government are geared towards neutralizing criticisms from the Canadian public rather than addressing the plight of these indentured workers.

Recent changes do not fundamentally alter the exploitive elements of the program. They do not address the need for immigration instead of labour migration. They do not address the need for permanent residency for foreign workers instead of having a nation of guest workers.

Temporary foreign workers will remain tied to their employers, a locked-in situation which renders mi-

grant workers vulnerability to abuse and exploitation. The well documented reality that employers and recruiters are violating employment standards, violating workers' labour and human right to collectively organize has been largely ignored by the government.

#### Regarding the changes to the TFWP:

- That Canadian Border Services Agency (CBSA) is officially tasked to police the program is not reassuring and will ensure deportations of workers without status will be swift and pervasive. Workers often lose their status because employers are unwilling or unable to keep them employed. By no fault of their own, workers are often rendered without status because it takes a long-time to find new employer with paperwork to hire TFW's.
- Effective immediately, ESDC will not process LMIA's in the accommodation, food services and retail trade sectors, except maybe in Calgary and some other Alberta locations with less than six per cent unemployment rate. These will include food counter attendants, cashiers, grocery clerks, janitors, cleaners, security guards, construction trade helpers and labourers.
- An explosion in the number of non-status workers is expected after April 2015 when the four-year limit for the stay of many temporary workers previously announced in 2011 goes into effect.

#### Regarding changes to the LCP:

- Migrant advocates believe the cap on the number of caregivers granted permanent residency, and the lottery system they will employ, is an inhuman way to address the issue of bureaucratic backlogs. They further argue the cap will also sow divisions and competition among the migrant workers themselves.
- Caregivers are still required to work as temporary foreign workers for two years so the promise to process applications for permanent

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residence within six months does not prevent family separation. Women from poor countries who are now working under the LCP are separated from their own children for at least three to five years in the heartbreaking situation of caring for someone else's children here in Canada. Given the reality of medical, security screening and other requirements, in order to apply for permanent residency status, migrant advocates do not expect these changes to be realized or families to be reunited quickly.

- Migrant advocates are clear that as long as the status of a caregiver is tied to one employer, employers can make demands on caregivers to live in their homes which render the “option” of living outside the home a risk. Providing the option to live out without addressing the root of this vulnerability – being tied to one employer - is pointless. Furthermore, caregivers in the LCP are only paid minimum wage, without a living wage most are unable to afford to live out' It is not a real choice.

Again the changes do not address the vulnerability faced by migrant workers which at its root is their precarious immigration status. Granting permanent residency upon arrival is essential in addition to a living wage for all child care workers in Canada, and investment in a regulated, national child care program.

### Analysis

Recent media reporting and demands from some trade unions have reinforced the myth that foreign workers are a threat to Canadian jobs. Migrant workers are not stealing jobs from Canadian workers it is the temporary foreign worker programs and the employer interests being served by the Canadian government that is the problem.

Research showing that the communities with the highest level of unemployment like Nunavut have

relatively few temporary foreign workers, while regions with the lowest unemployment such as Alberta have the highest number of migrant workers coming in only illustrate how this is being used as a “race to the bottom” strategy of our government.

It is the precarious and temporary nature of the work/immigration status of the temporary foreign workers that make them vulnerable to abuse and exploitation, to less than equal access to Canadian labour rights and standards, and exposes them to actual or threat of job loss and deportation.

The main guarantee of protection for foreign workers is allowing for the immediate and permanent residency status upon arrival in Canada. Interim measures should include making the work permits sector or province specific rather than single employer specific.

Calling for an end of the TFWPs are not solidarity based solutions without also recognizing that granting permanent status, full access to services, and respect of human and labour rights is necessary to promote and protect the rights and welfare of migrant workers. Canada should consider taking in more immigrants as future citizens rather than more temporary migrant workers and must refocus its immigration policy on permanent not temporary status.

If all migrant workers were excluded from the workforce and replaced by Canadian citizens, there would still be at least 1 million unemployed workers in Canada. In the interest of all workers in this country we need to be placing demands on the Canadian government, whenever we talk about TFWP's, for investment in skills training and apprenticeships, a living wage and income security, investment in social programs and public services, a robust immigration program and permanent residency upon arrival for all foreign workers.