

# The missing link: Gender, immigration policy and the Live-in Caregiver Program in Canada

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## Abstract

Temporary labour migration is on the rise in the developed world. In May 2009, Canada's Parliamentary Standing Committee on Citizenship and Immigration issued a report on the state of temporary and undocumented foreign workers in Canada, making a series of recommendations to ensure that labour needs can be met through temporary foreign workers and that those workers are able to successfully integrate into Canadian society. The report highlights one Canadian immigration program, the Live-in Caregivers Program, which offers migrant workers the opportunity to apply for permanent residency after working 24 months as a live-in child or elder care provider. The authors argue that the report errs in holding up the Live-in Caregivers Program as a model for other temporary foreign worker programs. Although the path to permanent residency is an important provision of the Live-in Caregivers Program, a gendered analysis of the program shows that the women who come to Canada as caregivers continue to face vulnerability and exploitation because of key structures of the program, most importantly the live-in requirement. Until policy reform accounts for the results of such a gendered analysis, the Live-in Caregivers Program does not ensure that caregivers will be able to integrate successfully into Canadian society.

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Temporary work is on the rise in many countries, including such traditional immigration countries as Canada and New Zealand. Canada is particularly interesting in this respect: a country that celebrates the importance of immigration to its multicultural identity, Canada is often described as a country into which immigrants can integrate relatively easily, particularly if they have the kind of qualifications viewed as beneficial to the Canadian economy. Yet Canada cannot meet all of its employment needs through its citizens and permanent residents. Citizenship and Immigration Canada (CIC), the ministry overseeing immigration matters, has therefore developed a series of temporary foreign worker programs (TFWPs) that allow employers in industries experiencing labour shortages (e.g., agriculture, domestic aid, skilled trades...even fast food!) to hire workers from other countries on a short-term basis.

In 2009, the Canadian House of Commons' Standing Committee on Citizenship and Immigration investigated the role of TFWPs in the Canadian economy. The report issued by the Standing Committee critically assessed the TFWPs and issued a series of recommendations to make the TFWPs more effective in meeting the needs of employers and ensuring that "there are no barriers to social and economic participation" of foreign workers ([Parliament of Canada, 2009](#), p. 9). While finding many problems with the different programs in place at the time, the committee also found

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praise for one program, namely the Live-in Caregiver program (LCP). This program grants visas primarily to women who live with and are employed by Canadian families to provide child care and elder care. After working legally for 24 months during a 48-month period, or for a set amount of authorized hours, Live-in-Caregivers (LCGs) can apply for permanent resident status. Permanent residency entitles a person to protection by Canadian laws including labour laws and mobility guarantees but does not confer voting rights. These are only accessible through citizenship, for which a resident can apply after having been a permanent resident for a 3-year period. The LCP is currently the only national program that allows for such a change in residency status for low-skilled temporary workers.<sup>2</sup> Because of this feature, contributors to the Standing Committee report heralded the program as a model for reforming other TFWPs.

At the same time, the LCP has been under intense scrutiny and has received strong criticism from academic observers and activist. In what follows, we investigate why there is such a seeming disconnect on the subject of the LCP between policy makers on the one hand, and academics and caregiver activists on the other. We will argue that, as evidenced by the Standing Committee report, the Government's official response to it, and the changes to the LCP that were implemented in April 2010, policy makers consider the LCP only in terms of work legislation and as a path to membership for migrant workers, thus thinking of it only in terms of immigration policy. Yet in so far as policy makers focus simply on the work and membership aspect of the LCP, they neglect the gendered conditions of labour that structure caregiving work in the context of the LCP in Canada. This is surprising given that CIC has embraced the need for a gender-based analysis (GBA) of the LCP. As stated in the ministry's 2007 annual report to parliament,

As a public policy tool, GBA focuses on important social and economic differences between men and women, and different groups of men and women, over their life cycles. [...]The integration of gender-based analysis into policy and program development is a means of strengthening the quality of public policy and programs, and ensuring they meet equity and effectiveness criteria (CIC, 2007, p. 1).

We would expect, then, that the LCP would not only be thought of as a tool of immigration policy, but also be analysed in terms of the specific conditions of the majority of those employed through it, namely women from developing countries. Such a critical view would explain the vulnerability and exploitation that women experience working under the LCP, which we attribute to a specifically gendered notion of domestic work.

The paper proceeds as follows: in part 1, we explain briefly the details of the LCP. We show that Canadian society has witnessed an increase in demand for caregivers under this program and, subsequently, a drastic increase in caregiver visas. In part 2 we discuss the arguments and discussions documented in the House of Commons' Standing Committee's report. In part 3 we discuss the literature of academic critics of the LCP and the activists tackling the issues raised by the program. Here we show how the report and its recommendations fare when scrutinized from this perspective. Before concluding, we provide an assessment of the two visions in part 4, arguing for the importance of including a gendered analysis of the LCP if the aim of policy makers is to enable the effective integration of LCGs into Canadian society.

## 1. The Live-in Caregivers Program

The Canadian practice of importing domestic workers dates back to the early days of Canadian Confederation in 1867. While earlier programs encouraged mainly British single unmarried women to come and serve in Canadian upper-middle class households, thus serving both needs for domestic servants and expanding the British population of the colony, the post-world war II era brought about a change in populations targeted to serve as domestic servants (Macklin, 1992, p. 687ff). In 1955, the Canadian government entered into agreement with Jamaica and Barbados to establish the Caribbean Domestic Scheme.

Under the Scheme, single women between the ages of 18 and 40 with no dependents and at least an eighth grade education were admitted to Canada as landed immigrants<sup>3</sup> on condition that they remain in live-in domestic service for at least one year (Macklin, 1992, p. 689).

<sup>2</sup> Some of Canada's provinces have put in place "Provincial Nominee Programs" through which low-skilled workers can also access permanent residency. And the federal government has programs in place, such as the Experience Class program, that enable high-skilled workers to come to Canada on a temporary work visa and to transfer their status to that of permanent immigrants.

<sup>3</sup> The term 'permanent residency' replaced the earlier one of 'landed immigrant' while denoting the same status.

The ties between working as a domestic employee, fulfilling the terms of contract, and access to permanent residency were thus launched early on in the history of domestic service programs.

Despite expectations by the government that the women admitted had no family dependents, many women who entered Canada under this program started to apply for family reunification, sponsoring family members to come to Canada. This led the Canadian government to introduce a new system in the early 1970s, known as the *Temporary Employment Authorization Program*, through which employees could only enter and remain in Canada on a visa which was issued on an annual basis and did not allow their holders to convert their status into that of landed immigrants (Macklin, 1992, p. 691). Following this change in policy, accounts of the harrowing working conditions of women employed under it were publicized and brought about public criticism and campaigns on behalf of domestic workers led by emerging grassroots domestic worker advocacy organisations, the work of which we will discuss more later on. The federal government changed track once more in 1981 by establishing the *Foreign Domestic Movement* (FDM), which once again allowed foreign domestic workers to apply for landed immigrant status after having been admitted on a work visa and from within Canada (Macklin, 1992, p. 692).

The FDM was replaced in 1991 with the Live-in Caregiver Program. Under the LCP, families can employ qualified foreign-born women (today mainly from the Philippines) to provide child care or elder care. Like its predecessors, the central characteristic of the LCP is that caregivers live in the employer's home. Canadian families interested in hiring a live-in caregiver must first get approval to hire a foreign worker from Human Resources and Development Canada (HRSDC). As part of this process, the family must prove that they have made every effort to hire a Canadian citizen or permanent resident, that they are offering wages consistent with prevailing wage rates, and that working conditions meet provincial labour standards. After receiving HRSDC approval, a family can make a job offer to a potential caregiver. When a job offer is made, the caregiver herself is responsible for applying to CIC for a temporary work permit. Once a caregiver is hired, employers are required to limit the caregivers' employment responsibilities to the care of children or the elderly, and carry out 'light household duties' only as directly required in the provision of care. In other words, caregivers should not be used as house cleaners or cooks. Moreover, Canadian families participating in the LCP are required to follow specific procedures, like signing a contract with the person hired, providing a pay check that lists salary deductions (such as contributions to the national unemployment program), and providing appropriate, private living space.<sup>4</sup>

The most attractive feature of the program for the employees is the opportunity to apply for permanent residency after working legally – i.e., after having received a work permit as a domestic care giver with a specified employer – for 24 months or 3900 h. The number of work permits issued by CIC under the LCP illustrates the popularity of the program and the demand from Canadian families to hire a caregiver: the CIC issued 21,489 caregiver work permits in 2006, compared to 10,148 in 2002, and 5942 in 2000 (Depatie-Pelletier, 2008).

This increase reflects both the national and international trends for the migration of temporary workers in evidence up until 2008. Canada's overall intake of temporary foreign workers has increased from 116,600 in 2000 to 192,500 in 2008.<sup>5</sup> In comparison, New Zealand granted 35,200 temporary work visas in 2000, and 136,600 in 2008, the US 355,100 and 449,900 respectively, and Australia 39,200 and 110,600 for the same time period (OECD, 2010, p. 346). In all OECD countries, the number of temporary foreign workers increased on average by 7% for each year between 2003 and 2007 (OECD, 2010, 30).<sup>6</sup>

Temporary labour migration has been important in filling labour shortages in the developed world and, according to some, in promoting development in sending societies. Remittances from migrant workers to sending societies amounted to US\$316 billion in 2009, and can make up a substantial portion of a country's GDP.<sup>7</sup> In theory, then, the

<sup>4</sup> Information on the process of hiring a caregiver can be found at <http://www.cic.gc.ca/english/work/apply-who-caregiver.asp>.

<sup>5</sup> The numbers are based on individuals entering "Canada mainly to work and [who] have been issued a work permit. ... Data refer to the number of individuals entering Canada on a temporary basis for each year of observation (reference year) as initial entries or re-entries" (OECD, 2010, p. 347).

<sup>6</sup> The economic crisis of 2008 brought about a change in this pattern, with the numbers of TFWs entering OECD countries dropping by 4% on average in 2008. In Canada, "confirmed labour market opinions for temporary workers fell 41% in 2009 compared to 2008" (OECD, 2010, p. 30). It remains to be seen how economic recovery will affect the demand for TFWs in Canada, but given employers' reliance on TFWs prior to the crisis, we would expect it to return to higher levels.

<sup>7</sup> See data from the International Office for Migration, available from <http://www.iom.int/Jahia/Jahia/about-migration/facts-and-figures/lang/en>, accessed August 13, 2010.

LCP might be the kind of immigration policy that addresses the migration facts of our times, offering thousands of seemingly low- or unskilled women the opportunity to make a better life in Canada and send home needed remittances, while simultaneously filling labour shortages in developed countries (Pritchett, 2006).

Although men have often been assumed to be the principal migrants, women have historically made up a significant portion of the temporary migrant labour force. Since 1990, women have steadily comprised 49% of migrants world wide. Furthermore, women comprise the majority of migrants to the developed world (Dobrowolsky & Tastsoglou, 2006; United Nations, 2008). Evidence suggests that women's reasons for migrating differ from men's, including an increasing family reliance on female earnings, the erosion of social and family networks, the liberalization of female dominant industries, and trafficking (Kapur in Dobrowolsky & Tastsoglou, 2006, p. 20). Women also have different experiences as migrants. While some women migrate as professionals, skilled workers (e.g., nursing) and to perform jobs typically associated with men (e.g., agriculture), many more women perform work that is considered low skilled and associated with women (domestic service, hotel housekeeping, and illegal sex work) (Ehrenreich & Hochschild, 2002a,b; Neysmith & Chen, 2002; Preibisch & Santamaria, 2006; Sassen, 2000).

To be sure, women entering Canada through the LCP are in an advantageous position when compared to other TFWs in Canada or elsewhere because, as we explained earlier, the LCP is the only federal and one of the few international programs for “low -skilled” TFWs that offers an explicit path to permanent residency and citizenship.<sup>8</sup> As noted, caregivers can apply for permanent residency upon completion of the 24-month employment requirement, and permanent residency is supposed to be almost guaranteed (PINAY, 2008; Stasiulis & Bakan, 2005). Data from CIC show that between 2002 and 2009 the number of caregivers who received permanent residency rose from 3063 to 6272.<sup>9</sup> The Canadian government estimates that 10,000 women will receive permanent residency through the LCP in each of the next 10 years. It also states that 90% of LCGs apply for permanent residency and that 98% of those applicants are successful (Canada Gazette, 2009, p. 3781). Despite this claim, much of the literature on the LCP argues that certain conditions of the program make it difficult to meet the permanent residency requirement, exacerbate caregivers' vulnerability to poverty and abuse, and complicate their integration into Canadian society after achieving permanent residency (Spitzer & Torres, 2008). We turn to these critiques further on. But whatever its flaws, it is important to emphasize that the LCP provides an important source of temporary foreign workers to fill the growing demand for caring labour in Canada, many of whom go on to become permanent residents.

## 2. The Live-in Caregivers Program and the Standing Committee report

The growth in the number of LCGs and other TFWs is part of a changing economic and immigration reality in Canada, where “Labour needs are being met by growing numbers of temporary foreign workers and by people working in Canada without legal status” (Parliament of Canada, 2009, p. 1).<sup>10</sup> In recent years, the strength of the Canadian economy, especially in the commodities sectors of western provinces, led to labour shortages, but the ability to meet labour needs with foreign workers was complicated by a backlog in the processing of visa applications by CIC. This situation led employers and provincial and territorial governments to call for changes to immigration policy. Acknowledging the importance of immigration to the country's short- and long-term economic needs, the federal government has responded with several policy changes since 2007, including priority handling of some applications for permanent residency, the creation of a new immigration program, and budget support to improve the processing time of TFW visas (Government of Canada, 2009).

It was in the context of these policy changes that the House of Commons' Standing Committee carried out its study on temporary foreign workers and non-status workers in Canada.<sup>11</sup> To prepare its report, the committee traveled across the country to hear about the economic needs of Canadian employers and the needs and concerns of TFWs. The final report represents the many different submissions made by advocacy groups from a range of perspectives – the list of

<sup>8</sup> See Lenard and Straehle, this volume.

<sup>9</sup> See <http://www.cic.gc.ca/english/resources/statistics/facts2009/permanent/01.asp>, accessed June 8, 2010.

<sup>10</sup> This new reality is obviously shared by many other countries, as the contributions to this volume illustrate.

<sup>11</sup> For the purposes of this article, we will focus on the committee's assessment of TFWs in general and the LCP in particular. We will not address its findings regarding non-status workers, i.e., those who are in Canada without legal entitlement.

submitted briefs includes trade unions, Christian and grassroots organizations, employers' organizations, and individual employers and activists (Parliament of Canada, 2009, p. 63f).

The Report, tabled in May 2009, reflects two major concerns. One is the need for Canadian employers to have access to flexible and mobile temporary labour in times of economic need. TFWPs have met this need by allowing employers to apply for limited term visas for specific economic sectors. Secondly, the report reflects a concern among Canadian policy makers regarding the integration of the newcomers into the social fabric of Canada. Put differently, reading the report illustrates that policy makers acknowledge TFWPs as a tool both of economic and immigration policy.

The report makes 36 recommendations organized around four general themes. One set of recommendations focuses on the importance of maintaining dialogue about TFWPs among stakeholders from government, employers, and TFWs and their advocates. A second set of recommendations focuses on making the hiring process more efficient, fair, and transparent. These recommendations include measures to better determine labour shortages and prevailing wage rates, to make it easier for employers to hire in sectors where there are labour shortages, and to make it easier for TFWs to change jobs, by granting them visas for a particular economic sector rather than for a specific employer. A third set of recommendations focuses on improving employers' and TFWs' access to information by, for example, mandating orientation sessions for visa applicants, making more effective use of government websites, and simplifying guides for employers and recruiters. A fourth set of recommendations focuses on improving and protecting the rights and working conditions of TFWs. Among these recommendations are methods for dealing with abusive employers, ensuring that TFWs have appropriate living conditions and access to government benefits for which they are eligible, and providing free medical exams prior to a worker's repatriation.

Holding up the LCP as a model, the members of the Standing Committee conclude their report stating that "[they] envision a pathway to permanent residency for all temporary foreign workers, a vision consistent with Canadian history and values" (Parliament of Canada, 2009, p. 53). It is in this respect that the LCP shines as an example of access to membership in Canadian society in the eyes of the Standing Committee.<sup>12</sup>

The commitment to TFWs as potential citizens, not just temporary workers, is important, for two reasons. First, it acknowledges the important role temporary workers play in Canada's economy: according to the 2006 Census, 94,000 fulltime employees in Canada's economy were non-permanent residents (Thomas, 2010, p. 34) in a total working population (full- and part-time) of just over 16 million people (Statistics Canada, 2006). Second, it underscores one part of what earlier we have called the disconnect between policy makers and critics of the LCP; it shows the discrepancy between principles of political justice<sup>13</sup> that the members of the Standing committee underscore when stating the goal that "there are no barriers to social and economic integration of immigrants" (Parliament of Canada, 2009, p. 9), on the one hand, and the problematic position into which the LCP puts future members of Canadian society, on the other. In this instance, it is important to note that this disconnect cannot be attributed to a lack of awareness of the problems with the program: the committee report acknowledges many of the flaws of the LCP that were reported to the committee and makes recommendations to improve the situation of LCGs. For example, the report recommended extending to 48 months the time frame within which caregivers must complete 24 months of work, noting that "N[o]body should [...] be prevented from obtaining permanent residency when they fail to meet requirements through no fault of their own" (Parliament of Canada, 2009, p. 12). As noted this recommendation was included in official changes to the LCP in April 2010, and may facilitate caregivers' pursuit of permanent residency.

However, only four pages of the 70 page report deal explicitly with the LCP program; only four of the more than 80 groups listed as providing briefs or testimony were organizations working explicitly with caregivers; and few individuals quoted in the report spoke directly on behalf of caregivers.<sup>14</sup> This may explain why a close reading of the report reveals the absence of a comprehensive focus on the LCP, even though it is held up as a model for other TFWPs. For example, literature on the LCP notes that certain conditions of the LCP, such as the live-in requirement

<sup>12</sup> Labour unions who submitted briefs to the Standing Committee also identified the LCP's path to permanent residency as a model for other TFWPs (see IBEW, 2008). However, representatives to the Standing Committee from the Conservative Party objected to this recommendation (Parliament of Canada, 2009, p. 75).

<sup>13</sup> The principle of political justice implies that a democratic political community 'must be open, and equally open, to all those men and women who live within its territory, work in the local economy, and are subject to local law.' (Walzer, 1983, p. 59).

<sup>14</sup> Caregiver groups who provided testimony were Grassroots Women, the Philippine Women Centre of BC, Pinay, and the Filipina Women's Association of Quebec. Other groups and individuals providing testimony included Parkdale Community Legal Services, the Association de aides familiales du Québec, Eugénie Depatie-Pelletier and Scott Macdonald.



accompanying the work visa and the fact that caregivers are tied to the employers who have applied for their work visa, can cause stress for LCGs for several reasons, not the least of which is the vulnerability to exploitation that derives from always being present at the place of employment (Johnston & Pratt, 2010; Macklin, 1992). It is surprising, then, that the live-in requirement for caregivers is not addressed specifically in the report, and that the recommendation to eliminate the live-in requirement for *certain* TFWs (recommendation 34) is addressed only in the context of general vulnerabilities TFWs suffer when employers provide housing and when work visas are tied to individual employers, but not to LCGs (Parliament of Canada, 2009, pp. 24–26, 44–46).

To grasp the implications of this live-in requirement and other conditions of the LCP for the lives of LCGs, and the failure to address them in public policy, a much fuller discussion of the experiences of caregivers is needed. Such a discussion is provided by the advocacy groups and academics who have worked with caregivers directly. The picture provided by these groups suggests that while recommendations of the Standing Committee are steps in the right direction, they do not go far enough to create a context in which “there are no barriers to social and economic participation” (Parliament of Canada, 2009, p. 9) for LCGs.

### 3. The Live-in Caregivers Program from the perspective of advocates and academics

The picture painted by advocacy groups and academics is that caregivers face violations of their employment contracts with little recourse, structural vulnerability to abuse and exploitation because of the requirements of the LCP, and low wages and racial stereotyping that belie caregivers’ level of skill and create a barrier to their eventual incorporation as citizens. By law, caregivers’ contracts specify hours, wages, vacation time, and benefits, but evidence suggests that these contracts are routinely violated. A study of 148 live-in caregivers by Montreal-based PINAY, an organization of Filipino women, in conjunction with the McGill University School of Social Work, found that only 22.1% of employers always respected the contract, while 25% did not sign a contract at all (PINAY, 2008, p. 15).<sup>15</sup> Many violations of the employment contracts involved pay, which typically starts at minimum wage. As the report notes, “34% stated watching the children without getting paid and 43% mentioned not being paid for overtime. In addition, nearly 30% admitted buying items needed at work with their own pocket money” (PINAY, 2008, pp. 16–17). Respondents also reported performing duties unrelated to caregiving, such as taking care of pets (12.3%); not receiving pay increases when the minimum wage increased (37.7%); and only 75% reported being paid on time.

There are several structural problems with the LCP that contribute to caregivers’ vulnerability vis-à-vis their employers (Oxman-Martinez, Hanley, & Cheung, 2004, p. 26). One of the most important of these is the live-in requirement. Living in the home of the employer can mean being “on-call” all day or working extremely long hours without proper breaks (Hodge, 2006; PINAY, 2008). This is exacerbated when living-in blurs the caregivers’ status, leading some employers to think of them as family who *want* to work, rather than employees with set hours (Pratt, 2004, pp. 99–100).

This issue became very public in late April 2009 when two women participating in the LCP came forward with charges of mistreatment while employed in the home of the mother of a Liberal Member of Parliament, Ruby Dhalla. In the media storm that followed the charges, the public witnessed a remarkable discrepancy between the account of the caregivers and that of their employer (Toronto Star, 2009a).<sup>16</sup> On the one hand, the caregivers made claims about the mistreatment they had suffered: they alleged to have been forced to work for long hours and in functions that were not part of their job description; to have been treated poorly, verbally abused; to have had their passports withheld. On the other hand, Dhalla, other employers who came forward in her defense, and their lawyers claimed that the employees were treated like family, that they were given gifts, and that their accommodation was beyond par. Canada’s current Immigration Minister Jason Kennedy added a public policy angle, stating that the LCP was the only way for these women, who were mostly ‘unskilled’, to obtain permanent residency in Canada (Toronto Star, 2009b).

Beyond the workload, living-in often means caregivers lack privacy, such as not having a lock on their bedroom door or having to share a room with a child or the elderly member of the household for which they care (PINAY, 2008,

<sup>15</sup> 22.7% of respondents indicated that employers followed the contract most of the time; 20.1% said sometimes, and 3.9% said employers never followed the contract.

<sup>16</sup> See also “Dhalla resigns as critic, vows to clear her name” CBC May 12, 2009, available at <http://www.cbc.ca/canada/toronto/story/2009/05/06/dhalla-nanny.html>.

p. 13; see also Johnston & Pratt, 2010). Without their own living space, caregivers can have difficulty developing personal relationships and can become isolated from the broader community (Alcuitas, Alcuitas-Imperial, Diocson, & Ordinario, 1997). Caregivers are also isolated from their families because most employers are not willing or able to house caregivers' dependents, even though being accompanied by family members is permitted under the LCP (Parreñas, 2005; Pratt, 2004; Stasiulis & Bakan, 2005). The live-in requirement also makes caregivers vulnerable to mistrust and abuse from their employers. Pratt notes that mistrust of caregivers ranges from accusations of theft to concerns over husband stealing (Pratt, 2004, pp. 38–70). In PINAY's study, 16% of respondents reported that they had been subject to abuse (PINAY, 2008, p. 21)<sup>17</sup> But working and living at the employer's home may mean that LCGs are hesitant to call for help from the employer's phone, especially when, as has been documented, employers have restricted the use of household items on penalty of dismissal or threatened the caregiver with deportation or harm to their families abroad (PINAY, 2008; Zarembka, 2002).

Caregivers' difficulty in reporting abuse or violations of employment contracts is exacerbated by the lack of regulatory or enforcement mechanism provided. This has been interpreted "as giving [employers] 'implicit permission to violate contract provisions'" (Stasiulis and Bakan in Pratt, 2004, p. 101). Local law enforcement authorities may view caregiver-employer problems as private matters and are not always helpful (PINAY, 2008, pp. 21–22; see also Zarembka, 2002). Moreover, caregivers' lack of language skills and understanding of their rights is a barrier in accessing various local services (Stasiulis & Bakan, 2005; Stewart et al., 2006). Most significantly, many caregivers refrain from reporting abuses in order not to lose their job, which could jeopardize reaching their goals of obtaining permanent residency.

Caregivers' vulnerability increases with disruptions to their employment. As noted, prior to commencing the program potential caregivers must obtain a work permit, which is tied to a specific employer. Although the caregiver now has 48 months to meet her employment requirements, if a caregiver loses her job, it remains her responsibility to find a new employer and obtain a new work permit, even though interruptions can occur for different reasons and do not need to reflect any tensions between employer and employee, or any shortcomings of either side.

Although the government has taken steps to reduce the processing time on new visas (Government of Canada, 2009),<sup>18</sup> during periods of unemployment and even though they are entitled to unemployment insurance by law, caregivers working without a work permit can be forced into a position of extreme vulnerability. Not only does working without a valid work permit threaten their immigration status in general, it makes them more vulnerable to any abuse or contract violations on the part of the employer who may exploit their status outside of the immigration rules. As Stasiulis and Bakan's study shows, as caregivers' immigration vulnerability increases, so does their chance of unfair compensation and unjust treatment (2005: 99).

Caregivers' vulnerability is also rooted in the way that the LCP has contributed to the deskilling of caregivers. Unique among Canada's temporary foreign worker programs, the LCP requires applicants to have the equivalent of a grade 12 education in addition to domestic service training (Hodge, 2006, p. 62). In fact, many women who are part of the LCP have university-level education and training as registered nurses (Pratt, 2004; PINAY, 2008). The tasks caregivers perform, however, don't necessarily rely on these skills, nor do they help to further them. As one caregiver commented in a focus group interview with Pratt, "After you have not worked for 2 years in the trade or profession that you have trained for, you begin to doubt if you will have the ability to do your previous work." Another caregiver in the same focus group subsequently noted, "What you know now is only how to clean and polish the bathroom" (Pratt, 2004, p. 46).

A second pernicious consequence of deskilling is its effect on socio-economic status: despite their high level of education and training, caregiving labour is poorly remunerated, and many caregivers are under threat of falling below the national poverty line (Alcuitas et al., 1997). A recent study on temporary foreign workers in Canada shows that nannies are the poorest paid of all employment categories (Thomas, 2010, p. 45). On the one hand, this is because LCGs are employed in an economic sector that is considered unskilled (recall the comments reported earlier made by Jason Kenney). But the justification for low pay is also rooted in caregivers' status as economic migrants. As one employment agent told Pratt, "You know, things are not that good back in the Philippines. . . They would be doomed to

<sup>17</sup> Forms of abuse reported included receiving insults, being treated like a child, being hit, slapped or pushed, or being ignored.

<sup>18</sup> The current processing time for new work permits is approximately 20 business days. However, a caregiver can only apply for a visa once she has a job offer from an employer who has obtained approval from the HRSDC. The Government estimates that total processing time for all stages is about 10 weeks (Government of Canada, 2009).

a life there.” Another agent told Pratt that, as a caregiver, “you’re not getting 19 bucks an hour, but...you’re getting Canadian citizenship.” The idea is that because opportunities are bleak at home, caregivers are eager to come to Canada; the low pay is a tradeoff for the privilege of working where “the majority of Canadians treat you nicely” (Pratt, 2004, pp. 43–44) and you may become a resident. Considering that many caregivers send remittances back to their families, there is little money left to spend on upgrading their education (Hodge, 2006; Pratt, 2004). Moreover, CIC requires caregivers to obtain a study permit for any courses longer than six months,<sup>19</sup> putting an extra financial and time burden on the caregiver.<sup>20</sup> A vicious cycle can ensue where caregiving labour leads to deskilling, which contributes to low pay, which makes integration to Canada as a skilled worker more difficult once permanent residency is achieved.

Caregivers have not been passive in the face of these vulnerabilities. Activist organizations across the country like Intercede (Ontario), PINAY (Quebec), or Grassroots Women (British Columbia) have been important in lobbying for legislative change, providing information to caregivers, and creating communities of support. In Canada, the provinces have jurisdiction over labour law, and the advocacy of these and other groups has resulted in caregivers winning important workers’ rights in different provinces. In Ontario, for example, caregivers are eligible for pregnancy/parental leave, paid public holidays, vacation time and free periods, and notice of employment termination (Stasiulis & Bakan, 2005, p. 101). In Quebec, caregivers became covered by provincial labour standards after a successful campaign of community organizations in 2001, although they are still excluded from compensation for workplace accidents or illness (PINAY, 2008, p. 6).

Grassroots Women based in BC was among the caregivers’ advocacy groups that testified to the Standing Committee about the challenges caregivers face from the live-in requirement, difficulty changing jobs, abusive employers and contract violations. The recommendations of the Standing Committee report suggest that advocacy work has not fallen on deaf ears. Extending the time frame for completing the employment requirement (recommendation 4) and waiving the live-in requirement for LCGs (recommendation 34) would address the root of many vulnerabilities and contract violations caregivers face (Parliament of Canada, 2009).

The changes made to the LCP as of April 2010 show that some of the report’s important recommendations will not be implemented, however. For example, despite the recommendation that the live-in requirement be waived for certain TFWs, the April 2010 changes maintain this requirement. In fact, in its response to the report, the Government stated that the live-in requirement is a vital component of the LCP and, further, that “should the live-in requirement be eliminated, there would likely be no need to hire TFWs” (Government of Canada, 2009). As such, all of the vulnerabilities associated with living in the place of employment remain.

Another recommendation of the report would have facilitated changing jobs. Recommendation 20 of the report was to make work permits sector- and province-specific rather than employer-specific. Were this applied to caregivers it would mean that if a caregiver lost one job she would not have to wait for a new work permit before beginning work with another employer, thus eliminating the vulnerability associated with being tied to one employer and with working out of status. However, the discussion of this recommendation in the Standing Committee report revolves entirely around non-caregiving TFWs (e.g., agriculture and construction workers) (Parliament of Canada, 2009, pp. 24–26). Sector-wide permits were not included in the April changes to the LCP (Canada Gazette, 2010).

Other recommendations of the report would simply be impractical with respect to LCGs. Recommendation 28 would establish monitoring teams to conduct unannounced spot checks of work sites and would also provide a hotline through which workers could request a visit. However, such a hotline has not been established at the time of writing (August 2010). Moreover, and assuming that most employers would have only one or two caregivers, it would be difficult for the caregiver to call such a hotline anonymously. Monitoring teams could say that the visit was random, but it is plausible that any check could create tensions between caregiver and employer and even put the caregiver’s job in

<sup>19</sup> See <http://www.cic.gc.ca/english/work/caregiver/index.asp>.

<sup>20</sup> There is also an important racial component to the LCP that enables employers to think of caregivers as unskilled workers who are just happy to have a job and the opportunity to immigrate to Canada (Hodge, 2006; Pratt, 2004; Stasiulis & Bakan, 2005). Pratt’s interviews with employment agents illustrate that particular characteristics are attributed to caregivers based on their race. One agent told Pratt that, “if you have a baby and you want someone to lick your home clean: Filipino girl. Go for that.” Whereas “you’re better off with a European” for older kids who need international and intellectual stimulation. In other words, agents and employers distinguish between the “European nanny and Asian housekeeper” (Pratt, 2004, pp. 52–53). This translates into pay, with Asian caregivers, who are the majority of LCGs, making less on average than their European counterparts (Pratt, 2004).



jeopardy. A proposal that employers be “blacklisted” for up to 2 years if they are shown to violate work contracts (recommendation 29) would not necessarily prevent abuse to the caregiver. Recommendations 17–19 aim to guarantee that TFWs are not paid less than industry standards, but these recommendations are not likely to remedy the problem of poor remuneration in the caregiving industry as a whole, nor ensure that caregivers are paid for overtime labour. Finally, nothing in the report addresses the concerns raised about the deskilling of LCGs.

In short, the Standing Committee’s report provides a basis to curb the abuse and vulnerability of caregivers, but we argue that the recommendations do not go far enough. Moreover, the actually implemented changes brought to bear on the LCP in April 2010 ignore some of the most important recommendations as they pertain to LCGs.

#### 4. The Standing Committee report’s missing link: a gendered analysis of temporary foreign worker programs

We argue that many of the weaknesses of the Standing Committee report vis-à-vis caregivers, and the subsequent changes to the LCP, reflect the absence of an analysis of the gendered nature of work and of caregiving labour. As noted earlier, this is surprising given the CIC’s explicit commitment to engage in a gender based analysis of its policies. Without an effective gender analysis, any policy solution is unlikely to address the roots of caregivers vulnerability and exploitation, nor is it likely to address what Benería calls the “crisis of care”—namely, the idea that to facilitate their participation in the paid workforce, women in the developed world rely on the labour of migrant women from the developing world to help with the work of social reproduction, i.e., the labour involved in maintaining life, and reproducing the next generation, and including the provision of food, clothing, shelter, care, emotional support (Benería, 2003, p. 119; Luxton, 2006).

In Canada and elsewhere in the developed world, as public support for the work of social reproduction (e.g., subsidized daycare and eldercare) has dwindled, the responsibility for caregiving labour increasingly falls onto families, and specifically women. When families can afford to pay for assistance in the work of social reproduction, they hire caregivers who are often low-paid, migrant women. In other words, “social reproduction, when valued by the market, is gendered, often racialized, and poorly remunerated” (Bezanon and Luxton, 2006, pp. 5–6). We argue, therefore, that any policy that aims to ensure that “there are no barriers to social and economic participation” for immigrants (Parliament of Canada, 2009, p. 9) must recognize the ways that caregiving labour is gendered and, *consequently*, penalized in the labour market.

Caregiving labour is gendered, first and foremost, because it remains rooted in the notion that women are naturally suited for it. The need to perform the labour of social reproduction has not diminished as more women have entered the paid workforce. Men’s participation in the activities historically understood as “women’s work” has increased, but in Canada, and around the world, most caregiving labour is still performed by women (Benería, 2003, pp. 145–150). Increasingly, the resulting “care deficit” created by women’s entry into the paid workforce is being met by hiring migrant women (Ehrenreich & Hochschild, 2002a,b, pp. 8–9). The implication, notes Sedef Arat-Koç, is that “many women who are part of recent international migration are migrating precisely to fulfill reproductive roles for the ‘host’ society. Whether they work as maids, nannies, caregivers for the elderly or disabled, or sex workers, they are doing ‘women’s work’” (2006, p. 77).

Second, caregiving labour, because it is associated with women, is characterized by lower pay. It is widely known that occupations dominated by women are more likely to be classified as “low-skilled” and less well-remunerated than male-dominated professions (Padavic & Reskin, 2002; Vosko, 2009). Occupational segregation—the concentration of women and men into different types of occupations—is one key factor explaining the low pay of women versus men. Occupational segregation first resulted from women’s limited employment opportunities and has been reinforced over time by public policy that constructed women’s paid work as “secondary to caregiving work” and therefore deserving of lower wages than men’s work (Kessler-Harris, 2007, pp. 204, 261). The entry of more women into the workforce has enabled privileged couples to pay for caregiving work, but has done nothing to raise the social status of traditionally female occupations, especially caregiving. Despite its social value, caregiving labour, carried out in the home by (migrant) women, does not have a high market value, even though it is a significant expense for parents and families (Bezanon and Luxton, 2006, p. 6).

The gendered nature of caregiving labour is also rooted in caregivers’ vulnerability to employer abuse—not only as workers, but also specifically as women. Qualitative studies of caregivers have shown that women may be vulnerable to sexual abuse (ILO, 2008, p. 8; Pratt, 2004, pp. 48–49; Zarembka, 2002). Feminist advocacy in various fields of professional life has yielded a dramatic increase in the general public’s awareness of and legal responses to abuses that

were not long ago considered unproblematic, like workplace sexual harassment. The same kind of concern has not been bestowed on immigrant women working as caregivers.<sup>21</sup> As noted, this vulnerability to sexual and other forms of employer abuse is exacerbated by living and working in the private home of the employer where the caregiver is quite invisible to public authorities. While the CIC provides clear guidelines as to the obligations of employers, it does not actually enforce these same guidelines, thus giving the employer significant control over the working conditions and well-being of the caregiver and allowing employers to commit a range of abuses, from infantilizing women by withholding passports and travel documents to withholding pay to committing acts of physical and sexual violence (Pratt, 2004; Stasiulis & Bakan, 2005; Zarembka, 2002).

As some have noted, even the idea of a *live-in* caregiving program has gendered notions. It is only because we are likely to associate women with the home and caregiving labour as *women's* work that we would not consider caregivers to be workers in need of their own private living space that was distinct from their place of employment (Pratt, 2004). But even if caregivers do not live in the employer's home, they are still working in a private site and vulnerable to a range abuses, and there have been cases where authorities have been reluctant to intervene in a "domestic" dispute.

## 5. Conclusion: a feminist vision for reforming the LCP

Like other developed countries, Canada relies on migrants to meet employment needs in certain economic sectors. Political discourse in Canada paints the picture of migrants as potential members of an increasingly multicultural society. The report of the House of Commons Standing Committee on Citizenship and Immigration is evidence of this discourse, and its recommendations indicate a sincerity in improving the working conditions of temporary foreign workers and providing them a path towards permanent residency.

As we have argued, however, there is a fundamental flaw in holding up the Live-in caregiver program as a model of transitioning from a temporary worker to permanent member of Canadian society. Even though official statistics suggest a high rate of achieving permanent resident status for LCGs, the vulnerability and forms of exploitation women have to face as caregivers are not in line with the aim of the standing committee report to remove 'obstacles to economic and political integration' of women workers. Caregiver advocates and academics have located many of the obstacles in three structural features of the LCP—the time frame within which caregivers must complete their employment requirement, employer-sponsored work visas, and the live-in requirement. Changes to the LCP in April 2010 that are based on the report's recommendations address the first of these features, but as we argue, the changes do not guarantee the elimination of vulnerabilities faced by caregivers, as women. Most importantly, the live-in requirement remains the central feature of the LCP even though advocates and academics highlight the live-in requirement as contributing significantly to the poor working conditions and vulnerabilities to abuse faced by caregivers.

We argued that the disconnect between the government of Canada's praise for the LCP and the criticism coming from caregivers' advocates and academics is rooted in the absence of a gendered analysis of the LCP on the part of policy makers. As long as policy makers continue to view the LCP as an immigration and labour issue rather than a gendered immigration issue arising from the crisis of caring labour, in which women joining the paid workforce simply replace their unpaid domestic labour with the paid labour of socially and politically invisible migrant women, Canadian policy makers will continue to overlook the vulnerabilities caregivers face because they are doing "women's work."

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<sup>21</sup> Other migrant workers are subject to harassment and sexual violence in the workplace. On agricultural migrant workers, see Preibisch and Santamaria (2006); on migrant sex workers, see Sassen (2000) and Brennen (2002).

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