

Québec must revise its immigration law and programs to put an end to the systemic discrimination of migrant workers, says the Commission des droits de la personne et des droits de la jeunesse

Montreal, February 20, 2012 – The Commission des droits de la personne et des droits de la jeunesse is urging the Québec government to change its immigration law and programs to put an end to the systemic discrimination of migrant workers.

In an opinion released today, the Commission concludes that live-in caregivers, seasonal agricultural workers and other foreign temporary low-skilled workers are victims of systemic discrimination on the basis of their ethnic or national origin, race, social condition, language and in the case of live-in caregivers, their sex.

“Our opinion clearly demonstrates the severe vulnerability in which migrant workers find themselves,” said Gaétan Cousineau, president of the Commission des droits de la personne et des droits de la jeunesse. “They are entitled to the protection of the Québec Charter of Human Rights and Freedoms just as permanent residents and citizens. Migrant workers are part of our social fabric and contribute to the economic life of Québec,” he added.

In 2010, almost 7,000 low-skilled migrant workers, most of them from Guatemala, Mexico and the Caribbean were employed primarily in Québec’s agricultural sector. Among these, about 400 live-in caregivers, mostly from the Philippines, worked in Quebec families as nannies or domestic workers.

The Commission believes the vulnerable situation of temporary foreign workers exerts a downward pressure on the working conditions of all employees in these sectors. Without ready access to migrant workers, many Québec employers would be forced to improve unsatisfactory working conditions for these kinds of jobs.

The Québec government should set up a permanent immigration program and thus limit the use of migrant workers, according to the Commission. Moreover, it recommends to the Ministère de l’Immigration et des Communautés culturelles that only workers who have a sectorial permit be accepted and to outlaw the obligation to live with the employer. This obligation can compromise several rights protected under the Charter, namely the right to privacy and the inviolability of the home. The constant physical presence of live-in caregivers makes it also difficult for them to separate their private and professional lives and can complicate, among other things, the calculation of overtime hours.

Because of their immigration status, migrant workers are forced to hold a work permit restricted to a single job and a single employer and compels them to live with their employer. Not only does this restrict their freedom of establishment and their access to the family class program, but it infringes on their right to freedom and their right to fair and reasonable conditions of employment which have proper regard for their health, safety and physical well-being.

As migrant worker have difficulty in establishing residence, they are also excluded from the protection of social programs and do not have a right, in particular, to legal aid, social assistance, public education (at the discretion of local school boards) and to immigration support programs, including French-language classes, although most of them are Spanish or English- speaking.

The opinion explains that: “A better knowledge of French would nevertheless help them get higher marks in the selection grid applied to self-employed workers.”

Moreover, in some circumstances, migrant workers are excluded from certain provisions of the Labour Code, the Act respecting labour standards and the Act respecting industrial accidents and occupational diseases. As a result, they do not have the right to the same working conditions enjoyed by Québec workers who are hired for the same jobs, in particular as they relate to paid hours of overtime and paid time off.

In order to prevent abuses, the Commission also recommends that the government establish a better system to supervise agencies who recruit migrant workers all the while offering these workers protection when they are threatened to be returned to their country of origin, as a result of a conflict with an employer or if they file a complaint. The Commission believes that there should be an independent mechanism where migrant workers could be heard in cases of repatriation following a decision by the employer, the consulate of the country of origin or the Canadian Border Services Agency.

Since 2005, the Commission has intervened on many occasions in favour of migrant workers through human rights educational activities, cooperation and by representations to various forums and since 2008, has been working with the *Comité interministériel permanent sur la protection des travailleurs étrangers temporaires peu spécialisés*.

The opinion *La discrimination systémique à l'égard des travailleuses et de travailleurs migrants* is available at www.cdpdj.qc.ca. An English-language summary is also available.

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Contact:

Julie Lajoie
514 873-5146 or 1 800 361-6477 ext. 230
julie.lajoie@cdpdj.qc.ca