

DOMESTICS' CROSS-CULTURAL NEWS

INTERCEDE for the Rights of Domestic Workers, Caregivers, and Newcomers

Toll Free 1-877-483-4554

April 2003



UNITED NATIONS CEDAW COMMITTEE CRITICAL OF LIVE-IN CAREGIVER PROGRAM CONDITIONS

As a signatory to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Canada is obliged to make regular reports about how it is complying with this agreement. Following the Canadian government's report in January, the CEDAW Committee issued a critical response and proposed recommendations to end discrimination against women, particularly women in poverty, aboriginal, immigrant and refugee women, including live-in caregivers.

Among the Committee's principal areas of concerns and recommendations are the following paragraphs 40. to 42. which touch on the Live-in Caregiver Program and are specially relevant to INTERCEDE and its members.

In Paragraph 40., the CEDAW Committee requests the Canadian government to "implement fully the gender-based impact analysis and reporting requirements" under the new Immigration and Refugee Protection Act (IRPA) to eliminate "provisions and practices" that discriminate against immigrant women.

Paragraph 41, while noting the "improvement" resulting from "formal employment contracts", however expresses concern that live-in caregivers are admitted "only as temporary residents", that they do not receive "adequate social security" and that the requirement to live-in their employer's household "may subject them to exploitation and abuse."

The Committee then urges the Canadian government in Paragraph 42, "**to improve the current live-in caregiver programme by reconsidering the live-in requirement, ensuring adequate social security protection and accelerating the process by which such domestic workers may receive permanent residency.**"

These comments and recommendations were received with enthusiasm by INTERCEDE members who felt that their long-standing complaints and appeals had finally been validated.

"We have been crying and fighting for the changes that the CEDAW Committee mentions. Now we expect to see them happen!" said Cecille Ban-Ang, a live-in caregiver and now director on INTERCEDE's Board.

Caregivers are not too keen, however, on the "improvement through formal employment contracts" cited by the Committee. Given the power imbalance in their relationship with employers, these contracts are often unilateral, unenforceable, and commonly violated. Beth Salvilla, president of INTERCEDE, discounts the value of contracts saying they did not guarantee against exploitation and abuse.

Vancouver's Committee for Domestic Workers and Caregivers Rights (CDWCR) stressed that the Live-In Caregiver Program infringes on the anti-discrimination provisions of CEDAW and called for immediate reform or abolition of the LCP and admission of caregivers as landed immigrants.

Feminist coalition calls for Canada's compliance

In a press statement, the Feminist Alliance for International Action (FAFIA) is calling on the Canadian government to uphold its obligation under the United Nations *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) and move quickly to reverse rising discrimination against women across the country. Excerpts of this statement follow:

"The UN CEDAW Committee has issued a highly critical report on Canada, finding that a decade of cuts to social programs has harmed women and girls. The Committee noted that the most vulnerable women, particularly the poorest women, including

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Aboriginal women, elderly women, disabled women, single mothers, and women of colour are hit hardest by government policy shifts and program cuts implemented since 1994.

"The Committee's concluding comments are an indictment of recent social policy decisions in this country," says Shelagh Day, one of three women who represented FAFIA and the B.C. CEDAW Group at the UN Committee's recent review of Canada's 5th report. "In particular, the Committee criticizes the federal government's 1995 decision to remove conditions from the transfer of monies to provinces and territories. The Committee notes that this has meant the loss of consistent standards for social welfare programs nationwide, and has had a negative impact on women's situations across Canada." She adds, "The Committee holds the federal government principally responsible for ensuring that the terms of the *Convention* are implemented, and sees backing away from attaching conditions to the transfer of monies as a neglect of its obligations."

"In their questioning of Canada, Committee members expressed shock about the poverty rates of women in Canada, and were particularly appalled by the numbers of single mothers, Aboriginal women and women of colour who are living in poverty," says Margot Young, who also represented FAFIA and the B.C. CEDAW Group at the review. "In a country as wealthy as ours, they found poverty rates of 54 per cent for single mothers, 43 per cent for Aboriginal women, 37 per cent for women of colour, and 48 per cent for women who are recent immigrants, astonishing."

"Committee members were also concerned that cuts to social programs have deepened women's social and economic vulnerability, eliminating their good jobs, increasing their burden of unpaid work, and making them less able to leave abusive relationships," says Young. (para.33)

Aboriginal lawyer and women's rights leader Sharon McIvor who also traveled to New York says: "the CEDAW Committee were also shocked by the situation of Aboriginal women and expressed intense concern about 'the persistent and systematic discrimination faced by Aboriginal women in all aspects of their lives', including in employment, education, and in the criminal justice system."

"The Committee found that Aboriginal women are discriminated against overtly in law in Canada, specifically because Aboriginal women living on reserves do not enjoy matrimonial property rights, and because the residual discrimination caused by the "marrying out" provision of the *Indian Act* has not yet been corrected," said McIvor. "Aboriginal women have been lobbying for years to get these problems fixed. Now the CEDAW Committee has said that Canada's failures are incompatible with international human rights law," (para. 37) she notes.

"The Committee found that the trend to cut funds for family and poverty law legal aid – as was recently done in B. C. – discriminates against women," says Andrée Côté, director of Legislation and Law Reform of the National Association of Women and the Law. "Women are the principal users of civil legal aid in contrast to men who are the principal users of criminal legal aid. Making family law legal aid unavailable prevents women from accessing their rights." (paras. 31 and 32)

"The Committee also recognized that women must have full access to legal assistance in order to exercise their constitutional right to equality. This access is currently blocked

by the restrictive mandate of the Court Challenges Programme, which provides test case funding for equality challenges to federal law, but not to provincial law," Cote says.

Florence Ievers, the head of the Canadian government delegation to the CEDAW Committee's review of Canada, promised that Canada would make its best efforts to implement the Committee's recommendations. "We are looking forward to working with Canadian governments to reverse the patterns of discrimination against women," she told Day.

INTERCEDE credits the work of FAFIA, an alliance of 40 Canadian women's groups, in providing the CEDAW Committee with an alternative report on the situation of Canada's women, including that of caregivers admitted under the Live-in Caregiver Program.

FAFIA's alternative report can be found at <http://www.fafia.org>. The Concluding Comments of the CEDAW Committee can be found at: www.un.org/womenwatch/daw/cedaw/28sess.htm#sstmts



PROTECTION NOT IMPROVED FOR CAREGIVERS UNDER NEW ONTARIO ESA

On Saturday February 22, INTERCEDE hosted an action forum on the new Ontario Employment Standards Act at the Ramada Hotel. The forum focused on key findings from INTERCEDE's documentation project to gauge the impact of the ESA on caregivers' working conditions. Most of the feedback showed that the new ESA has not improved labour protection for caregivers and domestic workers, but has allowed continued abuse and exploitation.

There were thirty eight who participated at the forum including representatives from community agencies in the GTA and two university professors from York and Trent University.

Two of the key findings discussed at the forum were about caregiver contracts and caregiver tasks and responsibilities.

Caregiver Contracts

Under the new rules of Canadian immigration, an employment contract is a legal requirement of the LCP. This means that Canada Immigration will not grant a work permit or renew one if a caregiver does not provide proof or copy of such contract. This contract stipulates the "conditions of the working relationship" between employer and caregiver including detailed job description, maximum hours of work per week, the wage rate for those and such other provisions as days off, vacation with pay, paid public holidays, overtime pay, maximum charges for room and board.

However, despite its role of imposing legal requirement of an employment contract on LCP workers, Canada Immigration takes no responsibility to enforce the contract provisions, nor to monitor the "working relationship" which it wishes to be stipulated therein. It is left to contractual parties – the employer and the caregiver – to enforce the contract and to seek a remedy for any breach or violation through the provincial ministry responsible for labour or employment standards.

Most of the caregivers (52 out of 64) we interviewed said they did not sign any contract with their employer. Of those working with a signed contract, majority felt pressured to sign the

contract for fear of not getting hired, even if they may have wanted certain changes made to it. A small minority of them believes they cannot leave an employer until after their contract expired. While the main benefits they attribute to a signed contract is security of employment and clear specified tasks and responsibilities, at the same time the three principal changes they want to make in their current contract relate to low pay, long hours and heavy workload coupled with extra unspecified tasks.

On the other hand, the majority of those working without a contract put a premium on their freedom to exercise their choice in leaving an employer whenever they wished to. Not signing a contract also meant they had an option to choose the type of household work they would perform and not be forced to take on tasks they did not agree to previously.

Caregivers believe that with or without contract, employers have an advantage. A contract ensures them of hired help for definite period of time from which they can expect optimum performance. Without a contract, employers do not have any obligation to the worker and they can be more abusive and manipulative with regard to hours and types of work they impose on caregivers, with "nothing to hold them back because they have all the power".

Caregiver's Tasks and Responsibilities

Despite verbal or written agreements about specific tasks and responsibilities when they were hired caregivers are often surprised with unforeseen tasks – and even behaviours – which were not specified nor agreed upon. Such tasks they consider out of the "normal" sphere of their responsibilities. They range from raking leaves and shoveling snow to sewing clothes and cutting hair. They also find themselves with more responsibilities and working for more people or in more places than they had been made to understand. So they take along not only their employer's children but also playmates or friends to the park, they are asked to clean not just the employer's house but also that of relatives, and they find themselves outside the employer's household performing clerical duties.

Extra tasks are not considered work by the employer, and therefore not paid, such as after-hours babysitting, walking the dog, caring for aged members of the household, doing guests' laundry, gardening etc.

Those interviewed rankled particularly at what they considered degrading tasks. One complained of having to pick up used tampons and sanitary napkins, or blood stained panties and clothing. Other degrading tasks were cleaning employer's shoes, washing the dog's feces, and mowing the grass.

When asked what tasks they considered offensive, interviewees instead started listing employer behaviours that offended them: being referred to as "my" nanny, being treated like an "idiot", being yelled at and called "stupid" and other verbal abuses. They are offended by insults to their country of origin and being reminded that if not for their employer, they would not be in Canada earning dollars.

Participants complained of work that is too exhausting or heavy: vacuuming the entire house, lifting aged relatives, moving heavy furniture, cleaning the swimming pool, caring for more than four children, mowing the lawn, shoveling snow.

Despite the fact that work was not agreed upon, are unusual, degrading, offensive, or too heavy, only 14 out of 64 attempted to refuse to do it. Mostly they were afraid to lose

their job and even those who tried to refuse were still forced to do what they were told.



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OPPOSE U.S. WAR AGAINST IRAQ DEFEND MIGRANT WORKERS' RIGHTS

INTERCEDE joins the strong opposition voiced by majority of the world's peoples against an invasion of Iraq spearheaded by US president George Bush and his cohort of warmongers.

We cannot afford to be silent while Bush harangues the world to join him in a disastrous war that will not only kill and maim thousands of Iraqi civilians including children, but will adversely affect ordinary people everywhere and drastically change our lives. Already, the US campaign to force a change of regime by overthrowing Saddam Hussein is causing havoc in the world economy. The sudden rise in oil prices will inevitably result in higher prices for basic commodities, which can aggravate the poverty and suffering of the world's masses.

We are particularly concerned about the fate of hundreds of thousands of migrant workers and their families who are at risk, not only in Iraq but also in the rest of the Middle East. No systematic plan exists to keep them out of harm's way or to evacuate them from the region. U.S. invasion of Iraq will spell disaster for migrant workers, their families and their home countries which depend on their earnings for survival. It will disrupt their livelihood and endanger their safety, it will expose them to rampant abuse and human rights violations.

We cannot stand by while the U.S. embarks on a deadly mission to unseat Saddam in wanton disregard for United Nations processes and with arrogant indifference to the opinion of the world's leaders. Not even all the oil in the world is worth the threat of obliteration that the US poses on the world's peoples today. We must raise our voice in protest and take all actions necessary to strengthen the resistance and stop Bush's war drive.

We call on the Canadian government to listen to the voices of peace and join in solidarity with the majority of nations and peoples, and in no uncertain terms oppose the war against Iraq.

PEACE WITH JUSTICE – NO TO WAR!

*Statement of INTERCEDE for the Rights of
Domestic Workers, Caregivers and Newcomers
on International Women's Day, March 8, 2003.*

NEW PROCEDURE FOR IMMIGRATION SPONSORSHIP

Effective February 17, 2003, Citizenship and Immigration Canada has changed the procedure for sponsoring spouses/partners and dependent children. **However, this change does not apply to live-in caregivers who are applying for permanent residence concurrent with their family members. This applies only to immigrants and Canadian citizens who wish to sponsor persons living outside Canada who are members of the family class.**

Under this new procedure, immigrants and Canadian citizens who want to sponsor their spouse and children must request for new application kit for this purpose at a CIC call center nearest their residence. This application package has two parts:

1. a guide for the sponsor, and the forms related to the sponsorship application, and
2. a guide for the person you wish to sponsor and the forms that the person and his/her family members must complete to apply for immigration to Canada.

The sponsor must send the second part of the application kit to the person she/he wishes to sponsor. The person sponsored must complete the forms and return them to you together with the documents needed to support the application. These documents include:

- a. Identity and civil status documents
- b. Children's information
- c. Travel documents and Passports
- d. Proof of Relationship to sponsor
- e. Police certificates and clearances
- f. Proof of Medical examination
- g. Photos

Once the sponsor receives the above mentioned documents with the completed application forms from the sponsored person, she/he can send it together with her/his own completed application forms and required documents as a sponsor, to Case Processing Centre in Mississauga.

For further assistance and information, you can call INTERCEDE for an appointment with a counsellor.

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We wish to thank: Citizenship and Immigration Canada - ISAP Program and Job Search Program with COSTI-OCASI; Ontario Status of Women; the Municipality of Toronto CSGP, for their financial support.



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