

# **DOMESTICS' CROSS-CULTURAL NEWS**

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

August 2002

Toll Free 1-877-483-4554



## **KEY PROTECTIONS UNDER EMPLOYMENT STANDARDS ACT**

On September 4, 2001, a new Employment Standards Act (ESA) took effect in Ontario. It is important for workers to know what ESA provisions apply to them so that they will know what rights they have in the workplace, how to assert these rights and protect themselves against employer violations.

Following are ESA provisions covering domestic workers and caregivers who are employed in a household, whether they live-in or not, whether they are on temporary permit in the Live-in Caregiver Program (LCP) or have other immigration status.

### **Hours of work**

The maximum hours of work are 8 hours a day. Only if you voluntarily agree in writing can an employer make you work more than 8 hours in a day, but only up to a maximum of 13 hours, and not more. If you agree in writing to a 13-hour workday, you have right to a 30-minute unpaid lunch break after 5 hours of work.

Remember you have to willingly agree in writing before you can be made to work more than 8 hours in a day. And remember also that you cannot be made to work more than the 13 hour-maximum, whether there is any agreement in writing or not.

If you agreed in writing to work 13 hours a day but want to stop and end such agreement, you can give your employer 2 weeks notice in writing saying that you no longer agree to work those 13 hours and that you now will work the regular 8 hour-day. If an employer fires you or penalizes you because you are asking for your rights under the ESA, this employer is violating the law and can be the subject of complaint with the Ministry of Labour.

For your own safety and protection, it is advisable to write down or document how many hours you work each day. Keep a calendar or dated diary of this documentation. (con't. p. 2)

### **Minimum wage**

## **PASS THE ABSENTEE VOTING BILL NOW – PANAHON NA!**

*(Following is the statement of the International Coalition for Overseas Filipinos' Voting Rights on the occasion of Pres. Gloria Macapagal's State of the Nation Address on July 22)*

To all members of the Philippine Congress:

More than seven million Filipinos overseas have, for the last 15 years, been denied their fundamental political right to vote *in absentia* in any of our political exercises.

This denial we place squarely upon the shoulders of our national political leaders who, despite the explicit mandate of the 1987 Constitution for Congress to provide for a system of absentee voting, have since proceeded with an attitude made remarkable only by their inexcusable inaction, callous neglect or outright indifference.

The right to vote *in absentia*, practiced by more than 40 countries, is not unique to the Philippines. But ours is a necessity made unique by the economic circumstances that compel a sizeable number of our citizenry to seek better opportunities abroad, yet remain politically marginalized, mute and powerless, even as they are hailed at every politically expedient turn as economic saviors for remitting billions of dollars a year.

We are a citizenry no less informed of the political and economic realities obtaining in our homeland than those who remain. The realities that affect our country and our families no less, demand that we neither be ignorant nor indifferent.

We are a citizenry determined to elect only the best possible leaders and create an electorate free from the corrupting influence of guns, goons, gold and glamour. The distance that removes us physically from the political arena is the shield we shall wield to create a compelling focus on platforms and issues. (con't. p.2)

Sunday, August 04, 2002, 11:00 a.m.  
at Earl Bales Park

Bathurst Bus #7 going North

**POT LUCK PICNIC**

**ESA KEY PROTECTIONS (con't.)**

At present, minimum wage is \$6.85 per hour. You can be paid more, but not less than this wage. Even if you signed a contract to be paid less, your employer will be violating the law if you are paid less than the official minimum wage. You have the right to be paid for each and every hour of work that you do.

**Maximum hours of work in a week**

The regular hours of work in a week are 44 hours while the maximum hours of work in a week are 48 hours. This means you cannot be made to work more than 48 hours in one week. Only if you voluntarily agree in writing can an employer make you work more than 48 hours and up to a maximum of 60 hours a week.

Remember that you cannot be forced and that you have to agree in writing first before your weekly maximum hours can go legally up to 60. Remember also that an employer is violating the ESA if you are made to work beyond the legal maximum hours in a week – not more than 48 hours without a written agreement and not more than 60 hours even with a written agreement.

Again, you have right to cancel an agreement to work the maximum 60-hour week or more than the regular 48-hour maximum, by writing your employer and giving a 2-week notice that you no longer agree to work 60-hour weeks and that you will now work only up to a maximum of 48 hours in a week. (Continued next issue)

**PASS THE ABSENTEE VOTING BILL (con't.)**

We are a citizenry tired of being fed the same lame excuses; excuses made even lamer by the actions that exhibit neither sincerity, nor commitment. The fear of fraud is a fear made fraudulent by the fact that the Filipinos overseas are beyond reach by the usual corrupt campaign practices and influences. It is a fear not resolved by denying the seven million overseas Filipinos their right to vote. It is a fear addressed only by a manifestly sincere effort to craft and pass a good law. After five Congresses, four Presidents and 15 tedious years, some 64 absentee voting bills have been filed, some rigorously debated in Congress. Through our local representatives, we have helped craft the bills now pending before both Houses, assiduously attended countless working group meetings and legislative consultations, in country and abroad. There we extensively discussed the pros and cons of specific provisions in light of the principles and procedures in other jurisdictions viewed against our peculiar political circumstances. We have sought the advice of numerous local and international experts on how to prevent systemic fraud, in principle and in practice, through the committed involvement of the overseas Filipino communities.

Our efforts have yielded an Absentee Voting Bill that now rots on the legislative shelf simply because some legislators choose to default on their duty to study the proposals, or make any, even as a sincere gesture towards crafting a truly good law!

We are tired of being fed the same empty promises made even emptier by the predictability of their being broken as a matter of political habit. Every election time, politicians assure us that we will surely be able to vote. At no election since 1987 have we been able to. In August, 2001, Speaker Joe De Venecia, together with key House leaders, told a delegation of some 50 representatives of the overseas vote lobby that the House would surely pass its version before the December adjournment. Our solons promptly went their merry ways soon after the General Appropriations Act was passed. More recently, we have been assured, again, that the bill would be passed on, or before, June 6. "Don't worry; it will be passed."

We shall not now simply watch, listen and wait much longer. We have been keenly watching, patiently listening for the last fifteen years. We shall not now allow our welfare and interests to be held perennial hostage to the parochial agenda of leaders and legislator more attuned to their political fortunes than to the future that we, even as powerless but convenient tools, help create by or labors.

We shall now answer another promise, broken by further legislative inaction, with a promise of our own: We shall marshal all our resources in support only of the lawmakers willing to fight for us in Congress. We promise to actively boot out of office those obstructing the long overdue passage of the Absentee Voting Bill! And please do not forget that we will remember.

Justice Delayed is justice denied! The seven million overseas Filipinos deserve their inalienable right to vote in time for the 2004 elections!

**\$2 RAFFLE FUNDRAISING**

1st Prize: one week in Cancun, Mexico  
 2nd Prize: one week in Orlando, Disneyland, Florida  
 3rd Prize: \$500 Cash  
 Lottery License No.: M 149842  
 Raffle Draw on Sunday, October 6, 2002  
 Order your Raffle tickets now at 416-483-4554 ext. 21

**ANNUAL GENERAL MEETING**

Sunday, October 06, 2002  
 3 p.m. Business Meeting  
 4 p.m. **Raffle Draw**  
 4:30 p.m. Program - Guest Speaker on  
**NEW IMMIGRATION LAW**

## ESCAPE FROM SLAVERY

Nora, a domestic worker in Hongkong, arrived in Toronto together with her Chinese employers, who are Canadian citizens. They came to spend two months of vacation here!

On July 1, 2002, Nora was allowed to go to a money remittance office so she could send money to her parents in the Philippines. On the bus she met Vilma, a Filipino-Canadian, and they struck a conversation. This was when Nora was able to relate her ordeal with her employers.

According to Nora, she works from 6:00 am to 11:00 p.m. everyday. She takes care of three children, cleans the house and three cars, cooks for her employers and does many other household chores. She is not allowed to eat unless her employers have finished their meal and her meal consists mainly of her employers' left over. Often, she eats late at night, after she has finished all her work.

She is not allowed to talk with anybody outside her employer's house. She has been verbally and emotionally abused, not only by her employers but also by the children she takes care of. Whenever she complains about how the children treat her, she is told that being an adult, she should understand better the behavior of children.

There was an incident when a party was hosted by her employers when she could not find the garbage bags. This made her employer mad. She was called names and told she had a mentality lower than that of a child. She was then locked in the garage for two hours, from 9:00 p.m. to 11:00 p.m. When she was allowed to get out, she was crying. This made her employers more upset because according to them crying brings bad luck to their house. Nora cried herself to sleep that night but there was nothing she could do since she did not have anyone to turn to. The only thing that kept her going was the thought of her family who depends on her for financial support.

One day, when the temperature in Toronto rose to 34°C, she was made to go with her employers to a shopping mall. At the parking lot she was left inside a locked car with all windows closed and no aircon on. She was told to look after the car and wait until they came back. She stayed for hours in the unbearable heat. After that, she phoned Vilma and told her what happened. Next day, Vilma called Nora at her employers' place to find out how she was. The employer intercepted the call and told Vilma that Nora can't come to the phone because she is working and if she wants to talk to her, Nora will be available only after 10:00 p.m. This started an argument between Vilma and Nora's employer. Vilma asserted Nora's rights as a human being and she told them that they could be liable for abuses they are inflicting on Nora, and if they did not stop violating her human rights, she will go there together with the police authorities.

After that call, the employer panicked and started calling relatives here in Toronto. That very same night, Nora was hustled to Pearson International Airport, bound for Hongkong. Her employers threatened her saying that they had already reported her to Hongkong's immigration authorities and that she would be sent back to the Philippines and banned from coming back to Hongkong because of her bad record. The employers even talked with flight attendants to watch Nora until they arrived in Hongkong. Fortunately, Nora's flight that night was cancelled and rescheduled the following day.

This gave Nora the chance to call Vilma who instructed her to get a taxi and go to her house. Next day, the two went to INTERCEDE where they were advised what to do next. Nora has applied for extension of her visa and is now staying with Vilma while she looks for a new employer.

Nora was fortunate to meet a friend like Vilma who is aware of human rights and was not afraid to confront her employers. Vilma saved Nora from her slave-like situation.

If you happen to be in Nora's situation, don't be afraid to assert your rights as a human being. There are many ways to get help. Call or visit INTERCEDE office for assistance.

(For this and stories below, real names were withheld upon request)

## COCO'S CORNER:

### Newcomers be AWARE!

Giving a wink, offering a treat of candy or lightly tapping the arm of an unruly child could bring serious trouble to a newcomer.

Juan Cruz, a newcomer in Canada, recently approached INTERCEDE for assistance and legal referral. He was accused of harassment and assault after he gently "tapped" two kids on the arm and requested them to behave and stop their rowdiness in a grocery line-up.

As a new immigrant, he was completely unaware of the effect or implication such an action could have. It turned out that the two kids reported to their mother that they were "touched" by a complete stranger - Juan.

On his way out of the grocery, Juan was suddenly approached by a security guard and a Police officer who interrogated him and asked him to confirm the boys' accusation. Juan was honest and unsuspecting in his recounting of the incident. He was completely unaware that his action would be considered "unacceptable" in Canada.

As a newcomer in Canada and having no experience with police authority even in his own country, Juan was totally unprepared for the situation he found himself in. Fortunately he found his way to INTERCEDE where he is being assisted to obtain legal assistance.

Now that Juan has calmed down, he is looking forward to sharing his experience with other newcomers.

### Friends' advice can be harmful...

Alicia listened to a friend's advice and now she's paying for it.

Since she had already applied for permanent residence and had already requested for open employment authorization, Alicia's friend assured her she did not need to renew her current work permit or employment authorization which was about to expire. All she should do, according to her friend, is just wait to receive her open permit.

Alicia thought she had saved the \$150 renewal of work permit fee. But when her work permit did expire, and her open permit was not yet received, that meant she had lost her legal status in Canada!

Now she is losing more money because she has no permit to work so she has no earnings, she has to pay a fee to reinstate her status and her permanent resident application is unduly being delayed!

INTERCEDE warns: Make sure your work permit continues its validity – give yourself one month before the expiry of your current work permit to apply for the renewal or extension of your work permit

**New Law, New Forms, New Fees**

*Q I am filing my application for Permanent Resident under the LCP. Can I include my 20-year-old unmarried son who is not attending school and my 22-year-old daughter who is on her last year in University as my dependants?*

**A YES**, under the new Immigration Regulation that took effect on June 28, 2002, your 20-year-old son is still considered as your dependent child (type A), as well as your 22-year-old daughter who is continuously enrolled and a full-time student in an educational institution and financially dependent on you (type B).

Call INTERCEDE for an appointment to see one of our settlement counsellors.

*Q Can I still apply for an Open Employment Authorization when I file my application for Permanent Resident under the LCP?*

**A YES**, you can still be issued an Open Employment Authorization, as soon as your application is approved in principle. Send a processing fee of \$150 with the completed form "Application to Change the Terms and Condition of your Stay in Canada (you can request this form by calling (416) 973-4444 or visit [www.cic.cg.ca](http://www.cic.cg.ca))

*Q My common-law partner who is also the father of my two-year-old son is in Canada as a visitor. I would like to include him as my spouse/dependent and request for a concurrent processing. Is it possible?*

**A Under** the new Immigration Regulation that took effect on June 28, 2002 a common-law partner can be considered as dependent and must pass all the requirements needed like

medical and security clearances in order to be processed together with you.

**These are the New Immigration Fees:**

Principal applicant (caregiver)	\$ 475
Applicant's spouse/common-law partner	550
Children 22 years or older (full-time student)	550
Children below 22 years old	150
Right of Landing Fee	975
(for principal applicant and family member who is not a dependent child )	

**FREE JOB SEARCH WORKSHOP**

**FOR NEWCOMERS**

**When: Tuesdays and Thursdays**

**Aug== 13, 15, 20 & 22, 2002**

**Sep == 10, 12, 17 & 19, 2002**

**Time : 2:00 p.m. to 6:00 p.m.**

**Where: INTERCEDE**

**234 Eglinton Ave. East, Suite 205**

**(Eglinton & Mt. Pleasant)**

**Toronto, On. M4P 1K5**

**FOR CAREGIVERS**

**When: Sunday**

**August 11, 18, 25 & Sep. 8**

**September 15, 22, 29 & Oct. 6**

**Time : 11:00 a.m. to 5:00 p.m.**

**Where: George Brown College**

**St. James Campus**

**200 King St. East,**

**3rd Floor, Rm. 325-A**

**Please call (416)483-4554 ext. 21 to sign up.**

**Seating is limited.**

**Funded by Citizenship and Immigration Canada & sponsored by COSTI & OCASI**

**Job Search Drop-in now open**

**Tuesday & Thursday, 10 a.m. - 6 p.m.,**

**By Appointment, First come first served**

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