

DOMESTICS' CROSS-CULTURAL NEWS

INTERCEDE for the Rights of Domestic Workers, Caregivers and Newcomers

November 2006

Toll Free 1-877-483-4554



NO ONE IS ILLEGAL

By McDonald Scott

The Live-In Caregiver Program as per section 113 (1) d of the *Immigration and Refugee Protection Regulations* holds that in order to become a permanent resident, a Live-In Caregiver must work a cumulative period of at least two years within the three years after they enter Canada. Recently, the Federal Court has allowed little leniency on this issue, even where the caregiver has good reasons for not making the two years. Immigration is telling people they have two options: either start all over again, or apply for permanent residency through a Humanitarian and Compassionate Application.

However, this summer, Immigration passed an "Instrument of Delegation". This is a program which sets out that officers can consider Humanitarian and Compassionate circumstances as per section 25 (1) of the *Immigration and Refugee Protection Act* on applications other than the usual "H & C" application. This includes officers at the Vegreville Case Processing Centre, where LCP Permanent Residency applications are processed.

What this means: it may be worth trying to plead an explanation for why you did not fulfill the two years out of three, even though the Federal Court rulings have not been on side. Ask the officer to consider them under section 25 (1) as H & C factors. Include reasons why it is important for you to be allowed permanent residency in Canada: community connections, your skills, the employer's need for you, and especially, the best interests of any of your children that will be served by you staying in Canada (they don't have to be Canadian born). If you lose, you lose, and have to choose one of the other options, but it is worth a try!

One of the other options: the Humanitarian and Compassionate Application. The H & C has few upsides and a lot of downsides. The success rate is about 10%, though people in the immigrant advocacy sector swear that if it is well prepared, it can go up to about 40%. The H & C does not stop removal. This means that if you get a removal date before the H & C is approved in principle (the first stage decision which is that you can stay in Canada to apply for permanent residency), you will have to go.

You need to show that applying from your home country will cause you unusual and undeserved hardship, or hardship of a disproportionate nature. Usually, showing that you came here under the belief that you were settling here under the LCP will not be enough. You need to show you are established here, or that some kind of hardship (a risk, separation from family, severe discrimination or something like that) faces you back at home.

If you are interested in this application and cannot afford counsel, FCJ Refugee centre is offering free do-it-yourself workshops on H & Cs. They can be reached at 416 469 9754.

MOVING FORWARD

We need to fight, if groups like INTERCEDE had not been fighting years ago, the LCP program would not exist having permanent residency as a possible outcome. Caregivers would only be allowed to come here temporarily, easily exploited by employers (as you are now) but with no light at the end of the tunnel.

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INTERCEDE POT LUCK CHRISTMAS PARTY COME ONE, COME ALL

Sunday, December 3, 2006, 3—7 pm
Cecil Community Centre, 58 Cecil St., Toronto
(S of College, E of Spadina)

Program: 60/40 Raffle Draw

Winning ticket will be drawn at the Christmas party
On December 3, 2006
Get your tickets now, the more you buy the more you win!
Ticket Price: \$2/ticket; 3 for \$5

Sunday, November 5, 2006, 3-5 p.m.
At Cecil Community Centre, 58 Cecil St.
(one block south of College cor. Spadina)

Topic: Early Childhood Development
Speaker: Valarie Rhomberg
Manager, MotherKraft

All Domestic/Caregiver workers, Newcomers and those
on Temporary Work Permit are welcome to attend

Apply for/renew your membership - \$10.

No one is Illegal Cont'd...

We know even with the victories you all have won, the LCP is a terrible program. It basically makes the exploitation of caregivers, physically, emotionally, economically, and sexually, a given. And yet, it is one of the few programs available to working and poor people, mainly women, from south (third world) countries. Other programs bringing working and poor people in from these areas are just as nasty and exploitive, such as the farm worker program.

We need to stand up and say we're not going to stand for this crap. INTERCEDE has already been standing up, and my organization, No One Is Illegal, has great admiration for their work. One thing we're looking at is that Ontario now has an Immigration Minister, Mike Colle. He is now working on producing a Provincial Nominee Program (almost all the other provinces have one) which will allow immigrants to come to Ontario based on criteria set by the provincial government, as long as they are admissible to Canada.

You can bet that big business has already met with him. You can bet rich people employing (and often exploiting) caregivers have met with him. We need to raise our voices and demand that the PNP include programs that meet our needs! We should demand an Ontario LCP where caregivers are permanent residents on arriving in Ontario, and that permanent residency not be stripped if you switch employers, or even work in another industry. If this were to pass, caregivers would no longer be in the precarious position of having to scramble to find a new employer to make the two years out of three if they have to leave an employer for safety reasons, or reasons of exploitation. Caregivers would really have the same rights as other workers, not just in theory.

No One Is Illegal is fighting to push for a PNP that includes such programs, please join us! We need INTERCEDE's strength, vision, experience and guts!

We can be reached at nooneisillegal@riseup.net, or 416 597-5820 x 5438

You can also reach our legal committee, which offers free workshops on Immigration law at 416//633-1065 ext 285 or mac@carranza.on.ca

Solidarity, we love working with you all!

INTERCEDE ANNUAL GENERAL MEETING

By Coco Diaz

INTERCEDE's Annual General Meeting was held at the Kapisanan Philippine Centre, on Sunday, October 1, 2006. The centre was packed with INTERCEDE members, friends, board and staff. Outgoing board member, Martha Ocampo, facilitated the afternoon meeting.

The meeting opened with a warm greeting from Keisha Toby, INTERCEDE's Board President, who shared some of the challenges and rewards she has experienced over the course of her term. Her speech was followed by the approval of last year's AGM minutes, along with a financial report from Martha Ocampo, Board Treasurer.

Coco Diaz, INTERCEDE Program Manager, gave a report on INTERCEDE's client services which detailed the number of clients served, services rendered, as well as the changes and trends affecting live-in caregivers and newcomers.

Maria Belgrave introduced the nominees for the Board of Directors, and a vote was taken. Both Mila Mariano and Joan Sinclair-Thomas were newly elected to the board.

Mila Mariano, has completed INTERCEDE's Advocacy and Leadership Training Workshop, as well as the Job Search Workshop (JSW). She is incredibly inspired by the dedication of INTERCEDE staff and volunteers, and is eager to take on a more involved role with the organization.

Joan Sinclair-Thomas, is a trained teacher and counselor from Jamaica, and currently works as a caregiver. She has completed the JSW and is an active member of INTERCEDE's Caribbean connection. She also spends her free time volunteering for the Children's Aid Society.

Both Mila and Joan expressed their enthusiasm over becoming members of INTERCEDE's board. Board members Marilyn Oladimeji, Minerva Bannawi, Liza Palmento, Keisha Toby and Bernadette Gapuz will continue their terms for another year.

Maria Belgrave and Martha Ocampo, who are both ending their term as board members, gave promises and assurances of their continued support. Both committed to assisting with INTERCEDE's ongoing administrative, program and campaign needs.

The afternoon guest speaker was Macdonald Scott, a paralegal who spoke on issues concerning non-status and the restoration status under the Live-In Caregiver Program. The information he shared shed light on many of the issues affecting caregivers who are temporarily without status, or waiting for the approval of their Extension of Employment Authorization or Permanent Residence application.

Scott also initiated a lively discussion around the Provincial Nominee Program (PNP). This program, as seen in many of the other provinces such as Manitoba and Alberta, is run in conjunction with the federal government. The PNP allows the province to bring in skilled foreign workers to fill critical labour shortages and expedites permanent residency. Once nominated by the province, an applicant is assessed based on their skills and an offer of employment within a strategic sector.

The need for a Provincial Nominee Program in Ontario, recognizing the specialized skills of caregivers and high demand for their work, was voiced.

A majority of the members expressed their support for a campaign to include domestic workers and caregivers in an Ontario Provincial Nominee Program.

The afternoon finally concluded with a delicious lunch of Caribbean and Filipino food. Members and friends left contented with having gained valuable information and having met wonderful new friends.

IMPORTANT NOTICE

Please be informed that we serve all clients whether they are INTERCEDE members or not. However, by being a member, you will have the privilege of receiving our monthly newsletter by mail.

In INTERCEDE's monthly newsletter you will find:

- First hand information on changes to Immigration and Ministry of Labor regulations and legislation affecting live-in caregivers and newcomers.
- Stories from other caregivers and foreign domestic workers working under the Live-in Caregiver Program (LCP) that may be similar to your situation.
- Information on future INTERCEDE activities, such as monthly meetings, trips outside Greater Toronto Area, fundraising parties and picnics, and training workshops.

Q & A

Q - I am a live-in caregiver and am eligible to apply for permanent residence and an open work permit by December 2006. My employer recently advised me that she will not extend my employment after my work permit expires on January 15, 2007. How can I apply for an extension of my work permit if I don't have an employer? Should I choose not to work while waiting for the issuance of my open work permit, and will it affect the processing and approval of my application for permanent residence?

A - If your employer has terminated your employment after you have met the twenty four months requirement, you should look for another employer who would then be required to request an HRSDC validation of job offer to hire you as live-in caregiver. Upon receipt of a validation of your job offer, you can apply for a work permit under your new employer's name.

Having submitted your application for permanent residence and an open work permit does not mean that you can work for any employer, in any occupation. You must continue to work as a live-in caregiver under a work permit for a specific employer, until you receive your open work permit.

Being unemployed until you receive your open work permit will not affect your application for permanent residence, provided you still have valid immigration status. This means you either have a valid work permit, or "implied status". "Implied status" means your work permit has expired but you have already submitted an application to the CIC-Case Processing Centre in Alberta to replace it. This could be an extension of your work permit with the same employer, a new work permit for new employer, or an open work permit.

However, before they give a final approval, Immigration usually asks for any changes in your employment history and/or address since the submission of your application for permanent residence. If you have not worked since the submission of your application, you must be prepared to explain what you have been doing during this time, should Immigration ask.

Q - I was the one who terminated my employment with a former employer who now refuses to give me a Record of Employment (ROE). What should I do?

A - It doesn't matter who terminated the employment. Employers must issue your Record of Employment several weeks after the termination of your employment.

Write a letter of request to your employer for your ROE. Send it your employer by registered mail. This way they will not be able to claim that they have not received it. Keep a copy of this letter for your files and attach your receipt for registered mailing.

Make follow-up calls to your employer regarding your written request for ROE. Should your employer continue to ignore your requests, go to the nearest Human Resources and Skills Development Canada (HRSDC) office and ask for assistance in obtaining your ROE from your previous employer. You will be asked to fill up a complaint form against your employer for non-issuance of ROE. Be sure to make yourself a copy of the completed form before you return it to HRSDC officers.

Should nothing happen after all of the above, call INTERCEDE and ask for an appointment to see a counselor for further assistance in obtaining your ROE.

MCGUINTY GOVERNMENT INTRODUCES LEGISLATION TO BREAK DOWN BARRIERS FOR NEWCOMERS

*Proposed Legislation To Help More Newcomers
Work in Regulated Professions*

TORONTO —The McGuinty government is introducing legislation, the Fair Access to Regulated Professions Act, 2006, which if passed, would break down barriers so that more internationally trained professionals can work in their field, Ontario Citizenship and Immigration Minister Mike Colle announced today.

"We're on the side of hard working newcomers who want to work in their fields of expertise," said Premier McGuinty. "This legislation would break down barriers, increase fairness and make sure our newcomers have every opportunity to reach their full potential and contribute to our economy."

The proposed legislation, the first of its kind in Canada, would require Ontario's 34 regulated professions to ensure their licensing process is fair, clear and open. They would also be required to assess credentials more quickly.

The proposed legislation also includes:

- A Fair Registration Practices Commissioner who would assess the registration practices of regulated professions and monitor the regulatory bodies' compliance with the legislation.
- A new Access Centre for Internationally Trained Individuals, to help those trained outside Ontario get the information and referrals they need to work in their profession. It would also serve as a center for excellence on internships and mentorships for educational institutions, employers, and community agencies.

"We're making sure the skills and talents of thousands internationally trained professionals are a brain gain for Ontario, not a brain waste," said Colle. "We're demonstrating our commitment to breaking down the barriers for so many talented newcomers who chose Ontario."

"The Ontario government is to be commended for introducing legislation to help internationally trained professionals integrate into the workforce," said Brian Hunt, President and CEO of the Institute of Chartered Accountants of Ontario. "The Institute's experience has shown that providing a transparent career path for the internationally trained not only benefits those individuals personally but also the Province as a whole."

The Fair Access to Regulated Professions Act, 2006 is the McGuinty government's latest step in helping newcomers succeed. Other initiatives include:

- Launching a six-month internship program in the Ontario Public Service and Crown Agencies for internationally trained professionals.
- Doubling the number of training and assessment positions for internationally trained medical graduates.
- Negotiating the first ever Canada-Ontario immigration agreement, which quadruples federal funding for language training and settlement programs to \$920 million over five years for Ontario newcomers.

Creating *Ontarioimmigration.ca*, which provides up-to-date information for newcomers on everything from Ontario communities to working in professions and trades.

As many as 140,000 newcomers arrive in Ontario each year. In the past two years, more than half were university educated. Within five years, newcomers will account for all of the province's net labour force growth.

*(Reprint from the Ministry of Citizenship and
Immigration Canada News Release)*

COCO'S CORNER

In my encounters with other migrant workers in Canada, the U.S., and Europe, I have noticed a commonality in the experiences they share, and the issues they face. Many of them are thankful for the opportunity to leave their respective countries in order to work and help support family back home with their hard-earned money.

However, many of them also endure hardship and abuse at the hands of their employer, and are unable to complain or defend themselves as a result of their temporary status or contractual situations.

Remarkably, many of the foreign domestic workers I have met remain hopeful. They are full of dreams that they will eventually be allowed to stay permanently, allowed to obtain more secure status, be able to save money, and have the ability to visiting their home countries without jeopardizing their employment. They believe that the sacrifice of leaving their loved ones and their current suffering is only temporary, and a necessary stepping stone toward a better life.

I am continually impressed with their ability to cope with hardship and combat loneliness. Whether it be through sheer determination and optimism, or through prayers and faith, their resilience is an inspiration for us all.

A caregiver called who wanted to share her sentiments regarding the following issues:

1. We foreign caregivers working as nannies or taking care of elderly people must be given proper protection especially because we take care of, and protect, the most helpless and vulnerable members of society: babies, small children and the elderly.
2. Employers who entrust us with the care of their loved ones should treat us with the trust, respect and confidence befitting this valuable work.
3. The government of Canada (Immigration) should be flexible with caregivers who are not able to complete the required 24 months live-in work with in the three years period due to unavoidable circumstances such as:
 - Unemployment, such as in cases where the caregiver is terminated as a result of the employer's inability to continue employment due to financial problems.
 - Illness. Caregivers are human. Even machines brake down and need rest and repair. Caregivers often work under stressful and exhaustive conditions which can lead to illness and exhaustion.
 - Maternity. Women should not be punished for getting pregnant and having children. Caregivers deserve the same maternity rights as other workers.
 - The need to visit family. Caregivers are often separated from

loved ones and need to visit family in their country of origin. Sufficient vacation time should be given to allow caregivers to return home and see their family.

FREE JOB SEARCH WORKSHOP FOR CAREGIVERS & NEWCOMERS

WHEN: SUNDAY
November 5, 12, 19 & 26, 2006
December 2, 3, 9 & 10, 2006
January 7, 14, 21 & 28, 2007

TIME : 10:30 a.m. to 5:00 p.m.
WHERE: PROLEGAL
164 Eglinton Ave. E., 3rd Floor
(West of Redpath, Walking distance from Eglinton Subway station)

Please call (416)483-4554 ext. 30 or 21 to sign up.
Seating is limited.
Funded by Citizenship and Immigration Canada

INTERCEDE

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Fax: (416) 483-9781
Toll-Free: 1-877-483-4554
Web Site: www.intercedetoronto.org
E-mail: info@intercedetoronto.org

INTERCEDE STAFF:

- Fely Villasin - Part - Time Executive Director
- Jo Alcampo - Administrative Consultant
- Columbia Diaz - Settlement Counsellor & Program Manager
- Anita Fortuno - Settlement Counsellor
- Bernice Small - Settlement Counsellor
- Vicky Policarpio - JSW Facilitator
- Genie Policarpio - Intake & Administrative Assistant

We wish to thank: Citizenship and Immigration Canada - ISAP and Job Search Program; the Municipality of Toronto CSP, and The Ontario Solicitor General's Office for their financial support.



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