

November 25, 2009

Citizenship and Immigration Canada (CIC)
c/o Maia Welbourne
Director, Temporary Resident Policy and Programs
Immigration Branch
Citizen and Immigration Canada
365 Laurier Avenue
Jean Edmonds Tower South, 8th Floor
Ottawa, Ontario
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Re: Proposed Changes to Immigration and Refugee Protection
Regulations on Temporary Foreign Worker Program

We are writing in response to the proposed changes to the Immigration and Refugee Protection Regulations on the Temporary Foreign Worker Program published in the Canada Gazette, Part I on October 10, 2009.

We would like to express our support of both the spirit and many of the recommendations included in the Report of the Standing Committee on Citizenship and Immigration on "Temporary Foreign Workers and Non-Status Workers", May 2009. This report clearly reflects and references the cross Canada consultations with key stakeholders involved in the issues that concern the Temporary Foreign Worker Program. **We are strongly concerned that the Government of Canada's proposed regulations published in the Canada Gazette embrace neither this spirit nor the key recommendations proposed by the Standing Committee.**

Our main concerns with the proposed regulations are outlined below.

Increased Reliance on Temporary Migration

In recent years the flow of low-skilled Temporary Foreign Workers into Canada has exceeded the number of professional Temporary Foreign Workers. The increased reliance of the Canadian economy on "low-skilled" temporary workers without rights and protection creates a permanent underclass of foreign workers who are marginalised from society.

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In Manitoba many low-skilled temporary foreign workers are not meeting “temporary” needs but long term needs for labour in industries such as meat processing and agriculture. The Manitoba provincial government has recognized the important role these workers can play in assisting them meet aggressive immigration targets. In Manitoba, many of these temporary foreign workers can become permanent immigrants through the Provincial Nominee Program following six months of working in the province.

Recommendation

Instead of limiting the length of a temporary workers stay in Canada, the federal government must provide a pathway to permanent residency for low-skilled temporary foreign workers. This pathway can be modelled on what has already been achieved in Manitoba with the Provincial Nominee Program, or under the Live-in caregiver program. This pathway must also be extended to workers in the Seasonal Agricultural Worker Program.

Lack of Protection for the Rights of Temporary Foreign Workers

The sub-standard working conditions of many temporary foreign workers combined with a lack of protection regarding their rights, increases their risk of exploitation, injury and illness. While the federal government facilitates the hiring of temporary foreign workers by employers, it has failed to put in place a national framework to protect these workers.

Recommendations

- ! The federal government must ensure that all provinces fully cover foreign workers under employment standards and occupational health and safety legislation.**
- ! The federal government should protect foreign workers from unscrupulous recruiters by enacting federal legislation similar to Manitoba’s new *Worker Recruitment and Protection Act* or by ensuring provinces who want to bring foreign workers to Canada enact such legislation.**
- ! The federal government should ensure that all provinces who want to bring migrant workers to Canada, under the Temporary Foreign Worker Program and the Seasonal Agricultural Worker Program, provide legislation that allows the workers the right to join unions and bargain collectively, consistent with the Canadian Charter of Rights and Freedoms and Supreme Court of Canada rulings.**

Lack of Monitoring and Enforcement

While the federal government proposes a two year prohibition for employers found to have violated the terms of the Temporary Foreign Worker Program, an appalling lack of monitoring and enforcement of existing rules and regulations governing the program makes it highly unlikely that the government will be aware of such violations. This is compounded by the reality that foreign workers cannot speak out about violations of the program because of the risk of deportation.

Recommendations

- ! The Federal Government must take an active role in monitoring employers' compliance with the terms of the Temporary Foreign Workers Program.**
- ! A mechanism must be put in place to allow temporary foreign workers to make anonymous complaints about employers and violations of the program.**

Access to Workers Compensation insurance

While employers participating in the Temporary Foreign Worker Program are required to provide workers compensation coverage, if Temporary Foreign Workers become ill or injured at work, they do not have clear and consistent access to workers compensation benefits.

Recommendations

- ! The Federal Government must review the workers compensation systems across Canada to identify barriers for foreign workers and ensure foreign workers injured in Canada have access to workers compensation benefits, even if they have returned to their home country.**
- ! The Federal Government should ensure all temporary foreign workers are given a free medical exam prior to returning home. If ill or injured, workers compensation forms must be filed at this time.**
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Who we are

The Occupational Health Centre is a community health centre in Manitoba focused on workers' health. Our Cross Cultural Community Program builds capacity in newcomer communities on workplace health and safety. Over the years we have

worked with and learned from many foreign workers participating in both the Temporary Foreign Worker Program and the Seasonal Agricultural Worker Program in Manitoba.

We strongly urge the Government of Canada to reconsider the proposed changes to the Immigration and Refugee Protection regulations and work with employers, the provinces, and community groups representing immigrant workers to ensure real protection for foreign workers.

Sincerely,

Abdikheir Ahmed

Jose Chinchilla
Cross Cultural Community Advisory Committee Members
Occupational Health Centre

c.c. Pat Martin, MP, Winnipeg Centre