



report

Canada: The Land of Denied Opportunity?

**A review of Canada's Temporary
Foreign Workers Program**

April, 2007

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Introduction

The migration of temporary workers is a global phenomenon that is both multifaceted and complex. What must remain paramount in deliberation and dialogue about it is the fundamental concern for migrant workers and their families.

The National Union of Public and General Employees (NUPGE) is committed to promoting and defending the rights of **all** workers without discrimination. We recognize the right of individuals to migrate and we acknowledge there are positive economic and social aspects to this migration. Our union and the entire labour movement have taken a strong and well-documented leadership role in the fight against racism and the promotion of tolerance, diversity and equality in Canada and around the world.

We support immigration as a key to building a strong and diverse Canada. Our journey to nationhood represents a triumph of compassion, collaboration and accommodation. However, it's clear that in recent years Canada has undergone a seismic shift from immigration, which assures full legal protections and rights, to the recruitment of temporary migrant workers with limited and precarious protections and rights.

This shift has been made possible, in large part, by Canada's Temporary Foreign Worker Program (TFWP). Employers and business lobby groups have exerted relentless pressure to have the program expanded as a temporary fix for labour market challenges in Canada.

Temporary foreign workers come to Canada to fill a wide range of jobs – domestic work, agriculture, skilled trades in industry and construction, the service sector, and increasingly to fill public service jobs in sectors such as health care.

We are concerned about the negative impacts of this migration on both the temporary workers and on Canadians. One would think that migrant workers would be the biggest beneficiaries from migration. They are coming to Canada to work in sectors with labour shortages. That means employers should be making decent offers to recruit them. Unfortunately, that is often not the case. There are many documented examples that highlight the exploitation that temporary foreign workers face at a time when the Canadian government and employers are pushing to expand the TFWP.

Due to their status as non-nationals in Canada, many temporary foreign workers are vulnerable to exploitation, fraudulent contracts, racism, gender bias, discrimination and social exclusion. This is particularly true for women, who are slotted into the low-paid jobs in domestic service, cleaning, hospitality and care-giving.

This paper identifies some of the key issues confronting temporary foreign workers and Canada's Temporary Foreign Worker Program (TFWP). We make recommendations that would provide for a comprehensive, long-term approach to labour and skills shortages. These recommendations would promote and protect the rights of temporary foreign workers, reduce employer abuse of Canada's TFWP, and ensure that jobs exist for hard working Canadians who deserve decent wages, benefits and working conditions.

The National Union is calling for a moratorium on the expansion of recruitment until the TFWP is significantly improved. We're doing so for five basic reasons:

- The TFWP is a form of legalized indentureship. The continued presence of temporary foreign workers in Canada is totally dependent on the endorsement of their employer. These workers can't seek other employment if they are unhappy in their jobs. Landed and permanent immigrants, on the other hand, have rights and protections, including the right to mobility. Where demonstrated labour and skills shortages exist, the government should meet them with Canadian workers and, if necessary, use the immigration system to recruit workers as prospective citizens rather than issuing temporary work permits.
- The TFWP is flawed from a policy perspective and its legitimacy is in serious doubt. The program provides weak rules and even weaker enforcement. There are few, if any, substantive monitoring, compliance and enforcement mechanisms to ensure employers are not exploiting temporary foreign workers. The program is rife with employer abuse and if it is to be maintained it must be improved and strengthened.
- Employers in Canada are exaggerating labour shortages because they are eager to exploit vulnerable temporary foreign workers. There are also many examples of employers abusing the TFWP as part of a deliberate effort to displace Canadian workers and drive down their wages, benefits and working conditions.
- Most current labour and skills shortages exist, in large part, due to an inadequate approach to labour force planning and training by employers and governments. Relying on temporary foreign workers is not a long-term solution to labour and skills shortages. Canada must develop a comprehensive national labour market plan and ensure that the necessary programs and resources are in place to make it happen.
- While we support immigration, we are concerned that the movement of temporary workers to rich and developed countries contributes to the brain drain in poor and developing countries. The exodus of health workers – mainly women – from developing countries is alarming. Given Canada's commitments to international development, including our support for the United Nations Millennium Development Goals, it is imperative that we adopt and respect ethical recruitment guidelines. We must consider the consequences for developing countries that lose large numbers of workers to migration.

Our country was built on the values of compassion, equity, fairness and human dignity. These values must be extended to the way in which Canada deals with international temporary migration. Governments, employers, unions and individual citizens all have a responsibility to support the struggles of temporary foreign workers for justice and dignity in our country.

NUPGE is committed to working tirelessly toward that goal.

Background

The United Nations (UN) estimates that 190 million people are living temporarily or permanently outside their countries of birth. According to the International Labour Organization (ILO), 86 million of these people are economically active. In what is known as the increasing “feminization of migration”, about half of those migrating for work are women. The World Bank estimates current global remittance flows (earnings that migrants send back to their home countries) at US \$232 billion annually and they are increasing.

The positive aspects of migration are well known. Migrants contribute to the economies of both their host and home countries. They contribute to the diversity and multiculturalism of the new societies in which they live. Returning migrants and diaspora communities return with knowledge, skills, investment and networks that are useful to their home countries.

However, temporary migration also has negative impacts. Even in the most advanced societies, large numbers of migrant workers are exploited and suffer deplorable working conditions. The international community has had to develop a number of international treaties to deal with the protection of migrant workers.

Canada, too, has been experiencing a growing dependence on the migration of international temporary workers. More than 90,000 of them enter Canada most years, and in 2005 the federal government issued almost 100,000 temporary worker permits.

Most of these are concentrated in agriculture, domestic work (as live-in caregivers, for example), in the service and hospitality sector, and increasingly in skilled trades in industry and construction. Many have come to work on oil sands projects in Alberta. In recent years, a growing number of temporary workers have also arrived to fill a range of jobs in public services, including health care.

These workers gain entry to Canada through the federal government’s Temporary Foreign Worker Program (TFWP). It allows workers into the country for an authorized period of time. Most workers must have a valid permit to work here, although some trade agreements provide exemptions to certain occupations.

Three federal departments work together to manage and deliver Canada's TFWP:

- Human Resources and Social Development Canada (HRSDC): The department determines whether hiring temporary foreign workers will be of overall benefit to Canada and Canadians. In most cases an employer must obtain a positive Labour Market Opinion (LMO) from HRSDC in order to hire a foreign worker.

An LMO is an opinion provided by HRSDC to employers and to the Department of Citizenship and Immigration Canada (CIC). It assesses the likely impact that hiring the requested temporary worker(s) may have on the Canadian labour market. LMOs are completely driven by employer demand. There are no numerical limits or quotas and employers can recruit foreign workers from any country in the world.

Employers applying for an LMO are judged against the following criteria:

- a) Efforts were made to recruit and/or train willing and available Canadians to do the work.
- b) Existence of labour and/or skill shortages.
- c) Wages being offered by the employer that are consistent with the prevailing wage rate paid to Canadians in the same occupation in the region. And working conditions for the occupation must meet the current provincial labour market standards.
- d) Associated labour market benefits that may occur from hiring the foreign worker (for example, potential job creation or transfer of new skills/knowledge).
- e) Determination that entry of a foreign worker will not affect the settlement of an ongoing labour dispute (defined as a strike), and consultations with unions if the position the foreign worker will fill is part of a bargaining unit.

HRSDC has processed the following number of LMOs in the last three years: 74,921 in 2002-03; 79,734 in 2003-04; and 88,759 in 2004-05. Once an LMO has been issued, an employer can provide a copy of the confirmation letter to each foreign worker it has recruited, and advise each worker to apply for a work permit.

- Citizenship and Immigration Canada (CIC): The department is the first point of contact for temporary foreign workers wanting to apply for a work permit in Canada. The department processes individual worker applications for permits and makes the final decision as to whether the applicant is eligible. CIC takes HRSDC's opinion into consideration but retains final authority to grant temporary work permits or immigration status to foreign workers.

- Canada Border Services Agency (CBSA): CBSA officers screen foreign workers at Canadian border crossings and airports to ensure they meet admissibility requirements before allowing their entry to Canada. A border service agency has the final say on who may enter Canada.

Harper government caves to business pressure

The Harper government has made several announcements about the TFWP in recent months:

- In October 2006, Ottawa released a fiscal update and economic policy called Advantage Canada. The document contained a commitment to make “improvements to the Temporary Foreign Workers Program to respond to employers experiencing difficulty filling job vacancies”.
- In November 2006, the government announced new measures aimed at “streamlining” the program by introducing a fast-track approval process for employers who want to recruit temporary foreign workers. That process targets hundreds of designated “occupations under pressure” in BC and Alberta, and a shorter list in Ontario. Rather than having to advertise job openings in occupations under pressure within Canada for six weeks, employers will now be required to advertise for only seven days before seeking permission to recruit workers internationally.
- In December 2006, Ottawa embarked on a “policy re-design” and at about the same time the government released a step-by-step guide in “employer friendly language” – explaining how employers can hire temporary foreign workers. The federal government is also conducting information sessions for employers in Canada.
- In February 2007, the government announced a policy change that will allow temporary foreign workers to remain in Canada for longer periods. Previously, they had been able to stay for a year on a temporary work permit. After that time, workers were required to leave Canada for four months and to re-apply in order to come back. Under the new policy, temporary workers can stay for up to two years without having to request an extension.

The National Union, along with the Canadian Labour Congress (CLC) and some of its affiliates, has met several times with senior government officials to provide input on the recent announcements and the policy redesign. We are concerned that the program is allowing employers to exploit temporary foreign workers, creating an underclass of people who do not have the same rights and protections in the workplace as do other Canadian workers.

Recent changes to the program simply give employers more leeway, which will inevitably result in greater abuse of the program and of temporary workers. We know from various documented experiences that employers are abusing the few rules that do exist. They are exploiting temporary workers and in this way threatening the wages and working conditions for all workers in Canada. We believe that the government is not taking these concerns seriously enough.

Exploiting temporary foreign workers

The National Union, along other unions and civil society allies, is concerned about many different forms of employer exploitation. Ottawa allows employers to import foreign workers on a temporary basis rather than welcoming them as full-fledged immigrants and prospective citizens. Immigrants and citizens have labour rights but temporary workers have very few rights. They are hostages to the employers who sponsor them.

Many temporary workers face abusive working conditions, low wages, non-payment of wages, employment discrimination, gender violence, restrictions on their freedom of movement, social exclusion and limited access to social services, to name just some of the complaints. The case is particularly true for women migrant workers, who are streamed into lowly-paid domestic work, cleaning services, hospitality, care-giving and health care. We are witnessing the establishment of ethnically-based “job ghettos” in Canada.

Indeed, the legitimacy of Canada’s TFWP is in serious doubt. Jorge Bustamante, the United Nations Special Rapporteur, has formally requested permission to 11 countries in response to a flood of migrant worker complaints. Canada is one of them, but to date Ottawa has refused Mr. Bustamante’s request.

Various studies and reports have highlighted the problems with seasonal employment programs in Canada. They have a high turnover rate and no accountability for ensuring minimum wages, basic employment standards, or the right to unionize. Typically, the migrant worker experience in Canada includes earning less than minimum wage, enduring dangerous working conditions, and working 10-12 hours per day, often seven days a week, and without overtime pay.

The United Food and Commercial Workers (UFCW), INTERCEDE and other advocacy groups have documented and presented to governments examples of abuse in cases where temporary foreign workers have entered Canada under the Seasonal Agricultural Workers Program (SAWP) and the Live-In Caregiver Program. These are two special sectoral programs under the TFWP. The Live-in Caregiver Program provides workers to assist Canadians in need of someone to live and work in their homes, to care for the elderly or persons with disabilities, and to take care of children.

The SAWP is intended to allow the entry of foreign workers as agricultural labourers. More than 11,000 Mexicans come to Canada under the program each year to work on Canadian farms. SAWP is a multilateral agreement developed by HRSDC, CIC, the government of Mexico, and several governments in the Caribbean Commonwealth.

Farm workers in Ontario are prohibited from engaging in collective bargaining and are not protected under employment standards or health and safety legislation. Farm workers in B.C. also work under appalling conditions and have inadequate legislative protection. Non-citizens or landed immigrants working in Canada must also pay for Employment Insurance coverage even though they're not entitled to regular benefits. UFCW Canada has been fighting for the rights of temporary agricultural workers. In addition, the union has provided support services, training, information and advocacy to thousands of these workers. The National Union has signed a formal protocol with UFCW, offering our assistance in their campaign to win labour rights for these temporary workers.

Our concern for justice goes well beyond farm workers. The media raised concerns in the summer of 2006 when the B.C. Labour Relations Board heard complaints that at least 40 skilled foreign trades people, working on Vancouver's new rapid transit line, were brought to Canada with offers of employment that were never honoured. The workers also had their visas confiscated by their employers upon entering Canada, and were being paid much less than the standard wage. The workers, mainly from South and Latin America, had been granted temporary worker visas and gained entry to Canada under the TFWP.

NDP Members of Parliament Libby Davies and Bill Siksay raised the matter in the House of Commons in September 2006. "Simply, this is exploitation of foreign workers, and the TFWP, for cheap labour," Davies said. Siksay added: "With no regulatory safeguards for the TFWP, we're seeing more and more violations of workers' most basic rights, including a case near Montreal, where Haitian farm workers were segregated from other employees, and denied basic accommodation needs, including running water."

While employers are a key source of migrant worker abuse, labour contractors and third party recruitment agencies have also been singled out for their exploitive practices. News investigations have exposed situations in which immigration consultants charge migrant workers exorbitant fees in return for assistance in securing employment in Canada.

Maple Leaf Foods, for example, suspended its program to import workers from China after discovering that 61 employees at its Brandon pork plant paid \$10,000 each to a consulting company that had actually been hired by Maple Leaf to help recruit foreign workers. These payments are not illegal, but they do raise serious ethical issues. Migrant workers are left struggling to pay off debts related to these scandalous fees once they start working in Canada. Third party recruitment agencies often make false

promises and foreign workers arriving here find themselves with fewer weeks of work and lower wages than they had expected.

To summarize, there are several overarching reasons why the exploitation of temporary foreign workers is rampant in Canada:

- Canada has shifted its emphasis from recruiting workers through the immigration system (which assures full legal rights and protections) to the recruitment of temporary foreign workers who face a highly precarious situation.
- Temporary foreign workers have very limited rights and protections. The TFWP is really a form of legalizing the indentureship of temporary foreign workers. The continued presence of these workers in Canada is entirely contingent on their employment. They are at the mercy of the employer. This creates a dangerous power imbalance in which employers can ultimately have migrant workers deported if they challenge poor employer practices.
- The rights that temporary workers do have are difficult to enforce. There are no substantive mechanisms under the TFWP to ensure employers are not exploiting migrant workers. Theoretically, an investigation could be launched if an employee lodges a formal complaint with CIC, but Ottawa offers no official mechanism through which temporary foreign workers can report abuses. Given that temporary workers are hostages to the employers that sponsor them, who would ever actually lodge a formal complaint with the government?

The federal government has a responsibility to protect and promote the rights of temporary foreign workers and ensure there are adequate monitoring, investigating and enforcement mechanisms in place.

These workers deserve the same rights and protections as all other Canadian workers. They should have the full protection of our laws and not be subject to deportation if they anger their employer. Specifically, they should have the right to fair wages and a safe workplace, the right to join a union and to collective bargaining, and the right to remain in Canada and apply to become Canadian citizens. Our governments must also take full responsibility for ensuring that temporary foreign workers in Canada are protected by those international labour rights and standards set out by the United Nations and the International Labour Organization (ILO).

Where demonstrated and ongoing labour and skills shortages do exist, the Canadian government should use the immigration system to recruit workers rather than issuing temporary work permits. The entire immigration system is in need of improvement. We should allow a broader range of workers into the country. Ottawa must also do more to improve the recognition of foreign credentials and the labour market integration of skilled immigrants. We also need stronger settlement programs for new immigrants.

The federal government has no legislative authority to directly regulate working conditions in most sectors of the economy because that is a provincial and territorial responsibility. But Ottawa does have a responsibility to ensure these workers are decently treated, rather than being exploited or abused. This responsibility stems in part from the federal government's constitutional jurisdiction over immigration. Citizenship and Immigration Canada (CIC) has at its disposal the decision-making power to grant or withhold work permits for temporary workers, to impose conditions on employers who hire them, and to withdraw existing permits or refuse future permits if employers fail to treat temporary workers properly.

The federal Labour Department also has a mandate to promote "fair, safe, healthy, stable, cooperative and productive" work environments. Ottawa must take a more active role in protecting temporary foreign workers and use its authority to improve the way employers treat them.

Displacing Canadian workers

Labour shortages

Labour and skills shortages are usually the main justification provided by employers and governments in Canada for the growing dependence on temporary foreign workers. But the TFWP's contribution to addressing and improving Canada's skill and labour needs is in doubt. It is a temporary solution at best. And there is evidence that employers are exaggerating labour shortages and abusing the program to drive down wages and working conditions for existing workers.

HRSDC has a legal mandate to issue a Labour Market Opinion (LMO) on the likely impact that the proposed entry of an international temporary worker will have on the Canadian labour market. The criteria include ascertaining whether there are Canadians available to do the work; ensuring that there is no impact on a labour dispute; and determining whether temporary foreign workers be paid prevailing wage rates.

There is evidence that it is employers preferring to provide sub-standard wages, benefits and working conditions who tend to claim there are labour shortages in a given sector. There are many examples of employers abusing and manipulating the TFWP to exploit temporary foreign workers and to undermine Canadian workers and their unions.

A recent experience in British Columbia provides an example. In September 2006, Park Place Seniors Living Ltd., the company that owns the Windsor Manor long-term care home in Kelowna, fired approximately 70 long-serving care aides who were members of the British Columbia Government and Service Employees' Union (BCGEU/NUPGE). Park Place then hired AdvoCare Health Services Ltd. as a labour contractor to provide care services for the facility's 149 residents. AdvoCare posted the 70 care aide positions with pay and benefits dramatically below what local workers had been paid and below the regional average. Understandably, none of the previous BCGEU

members applied for their old jobs and AdvoCare had a difficult time recruiting any other workers in the area.

The company then claimed there was a shortage of care aides and submitted an application to HRSDC to obtain a Labour Market Opinion (LMO) to hire temporary foreign workers as care aides at Park Place. Specifically, the company applied to recruit workers from India, the Philippines, Colombia and South Korea. This is a clear case of a company pleading a shortage of workers when it had just fired an experienced pool of skilled and qualified employees. The company's application was an abuse of the TFWP. It was an attempt to exploit vulnerable temporary foreign workers and to avoid paying fair wages and benefits to Canadian workers in order to maximize company profits. The BCGEU and NUPGE have protested vigorously to the Minister of HRSDC and Immigration, and provided solid reasons why the government should refuse this employer's application. The purpose of an LMO is to establish whether or not an application meets the federal government's policy objectives in relation to protecting the rights of Canadian workers and the impact on the Canadian labour market. The application by AdvoCare and Park Place does not meet those policy objectives for the following reasons:

- **Wages and working conditions:** HRSDC's policy is that a job offer will not be confirmed if the employer is offering wages below the prevailing wage rate for Canadians in the occupation. Wages and working conditions offered to foreign workers must be sufficient to attract Canadian citizens or permanent residents to, and retain them in, that work. The policy objective is aimed at preventing employers from using temporary foreign workers as a source of cheap labour, while depressing wage rates for Canadian workers. The federal government shows the hourly average wage rate for care aides in the Kelowna region as being \$20. BCGEU members at Park Place were earning just above \$20 per hour. After firing the 70 BCGEU care aides, the employer offered to re-hire them at \$14-\$15 per hour. AdvoCare also offered a significantly reduced benefits package, including eliminating the sick leave and long-term disability plans, and reducing the amount of paid vacation, pension benefits and MSP coverage. The negative implications for the new temporary foreign workers are obvious.
- **Recruitment efforts to find qualified Canadian workers:** HRSDC's policy requires that an employer attempt to find qualified Canadians for a job before applying to hire temporary foreign workers. AdvoCare claims to have met the criteria by offering the fired workers their jobs back at a fraction of their previous salaries and benefits. This does not qualify as a reasonable attempt to hire Canadian workers. AdvoCare cannot find Canadian workers because the company is unwilling to pay its workers at industry standards. This does not constitute a labour shortage. Clearly, AdvoCare calculated that it could fire long-serving Canadian employees and hire foreign workers to work for less.
- **Labour market benefits to Canada:** HRSDC policy requires that the employer demonstrate how temporary foreign workers will benefit Canada and Canadians in

one of the following ways: the transfer of skills and knowledge to Canadians; filling a labour shortage; retaining employees who might otherwise be laid off; or directly creating or retaining job opportunities for other Canadians. None of these policy objectives are met in this case. An employer that did not want to pay fair wages manufactured this so-called labour shortage. The policy implications for the Canadian labour market are clear: other employers of care aides will begin to feel competitive pressures to engage in the same exploitive practices in order to win bids for service. The result will be to depress wages and benefits for the whole sector.

- Union consultation: The government's policy is that the employer and HRSDC must consult with the appropriate union where applicable to obtain the union's position on the hiring of temporary foreign workers. The BCGEU was a relevant party and should have been consulted. The fired workers were BCGEU members. The union also represents thousands of workers in this sector across the province, and continues to represent Licensed Practical Nurses at Park Place Seniors Ltd. But neither the employer nor the government consulted the BCGEU about the application.
- Labour dispute: HRSDC's policy is that it will not issue a positive LMO if the hiring may affect a "labour dispute". Though the work in this case had been taken out of the collective bargaining regime, the BCGEU remained in certification efforts with this workforce. In this case, HRSDC defined "labour dispute" in absurdly narrow terms to include only a strike in the workplace. The assessment of what constitutes a labour dispute obviously requires far more broadly-based criteria and in-depth investigation.

There has been a considerable public outcry about the impact that these firings have had on the standard of patient care provided at the facility. News reports have alleged that seniors' health care there is in jeopardy due to the employer's inability to maintain essential service staff levels. The Regional Health Authority has launched an investigation into allegations made by families of residents alleging that care standards have fallen dangerously since the firings. This case involves essential public services and HRSDC must consider the impact of hiring temporary foreign workers on service levels and standards.

Concerns similar to this one in British Columbia have been expressed regarding oil sands development projects in Alberta. The Alberta Federation of Labour has received many calls from Alberta trades people who say their work has mysteriously dried up, even as their former employers are recruiting increasing numbers of temporary foreign workers. The federal government's criteria for a positive LMO includes "demonstrating that no Canadians are available to do the job". This does not describe the situations described in Alberta and B.C. Clearly, some employers are abusing the program.

Alberta unions are also opposed to a plan by Canadian Natural Resources Ltd. to employ hundreds of temporary foreign workers on its huge Horizon project near Fort McMurray. The Alberta Federation of Labour believes that since the company was

granted approval to develop the Horizon site it has been searching for ways to build its project without having to work with the province's traditional building trades unions. The AFL says that objective is clearly set out in company documents filed with the provincial government.

There is a recent example in Manitoba of employers abusing the TFWP by citing labour shortages. Trucking firms in that province have turned to the recruitment of temporary foreign workers rather than improving conditions for the existing workforce. The Manitoba Trucking Association has admitted that its members see the hiring of new workers from abroad as a good alternative to addressing work-life balance issues for current workers.

These examples suggest that the real problem is not a labour shortage but rather a shortage of employers willing to pay decent wages and benefits to recruit and retain Canadian workers. Many employers are using the FWP not to solve a labour shortage but to cut corners on wages and benefits.

The irony is that tight labour markets should lead to higher wages rather than lower ones. Free market principles should dictate that employers raise wages in times of labour shortages to attract and retain the workers they need. The Conservative Party government, a so-called defender of free market principles, is intervening in the market to make it easier for business owners to recruit temporary foreign workers. This Conservative government's intervention is designed to benefit employers, wealthy business owners and shareholders, rather than average working people and their families.

Skills shortages

Skills shortages do exist in some sectors and regions, but they do so largely because of an embarrassingly inadequate approach to labour force planning and training by employers and governments in Canada. They have been aware of the growing demographic challenge for years but little has been done to confront it.

The Organization for Economic Development and Cooperation (OECD) has concluded that, despite Canada being among the 20 wealthiest industrialized nations, we are one of the lowest spenders on job training and other labour supports. When it comes to apprenticeships, for example, Canadian employers are not holding up their end of the bargain.

The Construction Owners Association of Alberta claims there are 20,000 trades employers in the province, but only 11,000 have actually taken on apprentices. That is likely why less than half of young apprentices in Alberta complete their training. This is an absurd situation. Businesses claim they can't find skilled trades people and they demand that the federal government relax its rules on recruiting foreign temporary workers. But those same businesses refuse to take on apprentices. Canada must improve its performance in apprenticeship training. This country will never meet the demand for skilled trades people unless employers provide an adequate number of jobs

for apprentices. Canada must also do more to tap into the labour force potential of the rapidly growing Aboriginal population.

Despite repeated warnings of a shrinking workforce among health professionals, governments and employers in Canada have done little to recruit, train and retain scarce professionals. There are, as a result, about 23 health care occupations on the list of “occupations under pressure”. This allows health sector employers to fast-track recruitment of temporary foreign workers. The failure of rich countries such as Canada to develop a labour market plan has resulted in large-scale international recruitment to address human resources needs. This has created unique problems internationally which Canada cannot ignore.

Poaching workers from developing countries

International recruitment campaigns for health care workers place an added stress on the already fragile health systems of developing countries. This poaching of workers from other countries is fraught with problems. In the absence of an ethical framework to guide recruitment, countries like Canada do great harm to the social infrastructure of developing nations. Poaching workers contributes to the brain drain and loss of human capital. Public sector services in developing nations, including health, social services and education, are losing large numbers of skilled workers to migration. A degraded public sector deprives citizens of essential services and exacerbates poverty, which is a known root cause of migration in the first place.

Perhaps most alarming is the exodus of health workers from countries already beleaguered by staff shortages and public health problems. The migration of health workers out of Africa, for example, is seriously compromising the implementation of malaria, tuberculosis and HIV/AIDS programs in the region. Around 620,000 more nurses are needed to tackle the HIV/AIDS epidemic in sub-Saharan Africa. Although African health care workers represent only three per cent of the world’s health care labour force, 23,000 of them, mainly women, migrate to North America and Europe each year. Canada participates in poaching as much as any other developed nation. We have known for years about our growing shortage of health staff, but Canada has failed to develop an adequate, national human resource strategy. Employers are relying on international recruitment rather than developing a Canadian inspired solution. The recruitment of temporary foreign health workers to Canada is completely driven by employer demand

The National Union, working with Public Services International and 16 other PSI affiliates around the world, has been involved in an international campaign focused specifically on migrant health care workers who are women. Some of the campaign’s main objectives are to: (a) raise awareness about issues confronting migrant health care workers; (b) persuade the World Health Organization to adopt Ethical Recruitment Guidelines for health care workers; and (c) convince sending countries to strengthen their own public health care systems by keeping health care workers at home.

The campaign had a research phase, which revealed that there are clear “push factors” leading people to migrate. They include: heavy workloads, low and inequitable wages, violence in the workplace and inadequate resources. For these reasons, many health workers have migrated or are considering such a move.

The migration of skilled health sector workers reflects a global inequity in the investment and distribution of scarce human resources. The failure of many rich countries to develop their own human resources for health has led them to resort to large-scale international recruitment to address their staffing needs.

Canada’s TFWP places no numerical limits on the number of temporary workers, and employers are free to recruit from any country in the world. Canada is exacerbating and intensifying the inequality and illness that is on the rise in developing countries.

Canada must act in critical areas of human resource development for health. These include domestic recruitment and retention, improved terms and conditions of work, education and training, utilization and deployment, value and recognition, and policy development.

Canada should also adopt ethical recruitment guidelines toward the international recruitment of health care workers. Ethical recruitment means shared responsibility on the part of both the sending and receiving country, protecting the rights of migrant workers, and regulating activities of private agencies to make them accountable for their actions. The challenge is to balance the principles of social justice, global equity, human rights and dignity of the individual, and the sovereignty of states. An ethical approach is characterized by fairness, transparency, and a just concern for the fragile health systems of poorer countries.

Recommendations

Canada sorely needs a comprehensive, long-term approach to labour and skills shortages. The National Union and its Components will work with the rest of the labour movement and other civil society allies to pressure governments and employers to implement the following recommendations:

1. Ratify the following treaties of the United Nations and the International Labour Organization:
 - ILO Convention No. 97 concerning Migration for Employment (1949).
 - ILO Convention No. 143 concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and the Treatment of Migrant Workers (1975).
 - The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (1990).

- The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000).
2. Increase immigration levels as the principal means of averting labour and skills shortages and improve the immigration system by:
- Reforming the points system to recognize prior learning and work experience in a range of occupations, in order to allow for workers with various skills to immigrate to Canada.
 - Creating a federal agency to improve the process of foreign credential recognition for skilled immigrants.
 - Increasing investment in immigration settlement, mentorship, training and apprenticeship programs.
3. Impose a moratorium on the expansion of recruitment until the TFWP is significantly improved, and include the following measures:
- Allow all temporary foreign workers the right to apply for permanent residency upon arrival in Canada.
 - Assure full labour rights and protections to temporary foreign workers and full access to social benefits including health care, Employment Insurance, legal aid, maternity leave and Workers' Compensation.
 - Create a new federal foreign worker Advocate to promote and help protect the rights of temporary foreign workers.
 - Require all third party labour recruitment agencies to register with a national body and to report quarterly on all their recruitment agreements and arrangements.
 - Require that employers advertise job openings at five per cent or more above market level wages before being able to claim a labour shortage and seek a positive Labour Market Opinion to hire temporary foreign workers.
 - Involve the labour movement at the regional and sectoral level to help determine which occupations are indeed "under pressure", and the most appropriate method of solving labour or skills shortages.
 - Involve the labour movement in the determination of the "prevailing wage rate" offered to temporary foreign workers in those cases where a real need to hire temporary foreign workers has been demonstrated. HRSDC should consider the entire compensation package being offered to these workers, not just the wage rate, when issuing a labour market opinion.
 - Expand the definition of "labour dispute" in HRSDC's Labour Market Opinion criteria.
 - Implement rigorous monitoring, compliance and enforcement mechanisms. Ensure an adequate number of labour inspectors to inspect workplaces and report to HRSDC any employer violations of employment agreements and

standards. Apply a set of strict, graduated penalties on employers who violate employment agreements and standards.

- Make available to all temporary foreign workers a transparent, confidential and independent appeal process and dispute resolution mechanism. Allow third parties to make complaints on behalf of workers.
- Remove all restrictions on the mobility of temporary foreign workers so they can live in accommodation of their choosing.
- Provide public funding for advocacy groups working to ensure the rights and protections of temporary foreign workers are respected and promoted in Canada.
- Apply the federal government's Racism Free Workplace Strategy to employers using the TFWP.

4. Improve labour market planning and policies including:

- Keeping a commitment made in November 2005 of \$3.5 billion for Labour Market Partnership Agreements (LMPAs) between the federal, provincial and territorial governments.
- The development and use of national labour market information for planning purposes and governments should actively solicit the input of unions on skill/supply and demand issues.
- Appropriate training for under-employed groups.
- A major new commitment to apprenticeship training.
- Greatly expanded opportunities for employed workers to take educational and training leaves to upgrade skills, with support from the Employment Insurance program.
- The development of a national health human resources strategy.

5. Adopt the World Health Organization (WHO) Code of Practice in the ethical recruitment of health care workers. And continue supporting the global campaign undertaken by the Public Services International to draw attention to the issue of international migration of women health care workers.