IMMIGRATION POLICY SHIFTS: FROM NATION BUILDING TO TEMPORARY MIGRATION

ABSTRACT

This article discusses the implications of the recent increase in temporary migration for a country that relies on immigration for its development. The shift from nation building towards temporary migration in Canada has serious implications. It affects the workers, as their status makes them more vulnerable to exploitation and Canadian society as a whole, as the workers cannot integrate and contribute to their full potential.

In recent years, Canada has been increasingly relying on migrant workers admitted to Canada on temporary work permits. The focus on temporary migration is presented as a necessity to fill labour shortages. The recent shift to temporary migration marks a dramatic change in policy, yet there has been little public debate. Citizenship and Immigration Canada (CIC) launched the Canadian Experience Class in 2008 expressly to "attract more temporary foreign workers" (Canada Gazette 2008) and thus compete with countries like Australia for this workforce.

This article discusses the implications of increased temporary migration for a country relying on immigration for its development. The shift from nation building to temporary migration has serious implications for the workers themselves and for Canadian society as a whole. Resorting to temporary permits is creating a class of vulnerable and disposable workers: their rights are not fully protected, making them vulnerable to exploitation. Without a permanent status, they cannot integrate into Canadian society and contribute to their full potential.

According to CIC's publication *Facts and Figures 2008*, in the five years from 2004 to 2008, the number of people in Canada as temporary foreign workers has more than doubled. Over the same period, the number of permanent residents arriving in the skilled workers category went down. In 2008, the number of temporary foreign workers in Canada (251,235) exceeded the total number of permanent residents admitted in the same year (247,243) (CIC 2009).

In the fall of 2009, CIC has presented amendments to the Immigration and Refugee Protection Regulations regarding the Temporary Foreign Workers Program as a response to "the unprecedented growth in TFWs, coupled with rising concerns for the fair treatment of TFWs." One of the main changes proposed by CIC is to introduce a maximum stay of four years for Temporary Foreign Workers, followed by a period of six years where they will not be able to work in Canada. This change is presented as a way to confirm the temporary nature of the Temporary Foreign Workers Program.

This solution is based on an assumption that the problem lies with the individual workers, who need to be prevented from continuing to work in Canada on temporary visas. The CCR considers that the problem lies rather in the labour market, which is relying on workers on temporary visas to fill long-term needs, and in the immigration program, which denies access to permanent residence to workers in the "lower" skill category.

Integration of people living in Canada

The successful integration of all newcomers to Canada is important to ensure that both communities and newcomers are able to benefit from one another. Integration is a two-way street: while newcomers have to adapt in order to settle into their new home, the host society also has a responsibility of adapting to its new members. For newcomers, successful integration includes access to meaningful employment, language proficiency, family reunification and the opportunity to participate in society to their full potential. The settlement and integration programs thus play an integral part in the immigration process.

The immigration status of individuals in Canada is an important aspect of the settlement process. Temporary workers are in most cases ineligible for settlement services and cannot bring family members with them. Having a temporary status means a delayed or very limited settlement process. On the other hand, a permanent status benefits both society and individuals, as it gives newcomers a place to call home and the opportunity to make long-term plans for themselves and

CANADIAN COUNCIL FOR REFUGEES (CCR)

Created in 1978, the Canadian Council for Refugees is a non-profit umbrella organization committed to the rights and protection of refugees in Canada and around the world and to the settlement of refugees and immigrants in Canada. The membership is made up of organizations involved in the settlement, sponsorship and protection of refugees and immigrants.

their family. A permanent status has positive implications on all aspects – economic, psychological, emotional, political and cultural – of individual lives and in turn make for a healthier society.

Canada's development is based on immigration. By 2011, it is expected that Canada's labour market growth will be totally dependent on immigration. One of the aims of Canada's immigration program is to attract skilled workers to become permanent residents. However, the potential for success in attaining this objective is undermined by the fact that, as statistics show, newcomers are experiencing higher levels of poverty than are Canadian-born workers with the same credentials.

In this context, the Canadian government should be focusing on the successful integration of newcomers who are granted permanent status, including by promoting fairness in the hiring processes and meaningful employment for refugees and immigrants (commensurate with qualifications and experience). Instead of offering employers access to a disposable workforce through the TFWP, the government should encourage employers to recognize the skills of the newcomers who are already living in Canada.

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The new Canadian Experience Class

Citizenship and Immigration Canada introduced in 2008 the Canadian Experience Class (CEC), which offers the possibility of permanent residence to some workers with temporary status and who are already in Canada, based on "skilled" work experience. By introducing this new class, the Canadian government recognizes the need to offer workers with temporary permits the opportunity of obtaining permanent residence – this is therefore a positive initiative. However, the Canadian Experience Class is not the solution to Canada's labour shortages and immgration needs.

While the proposed CEC offers some migrant workers the possibility of becoming permanent residents, it excludes those who came to Canada as refugee claimants and temporary workers in occupations at NOC levels C and D, with level C referring to occupations that usually require secondary school or occupation-specific training, and level D referring to short work demonstration or on-the-job training.

The numerous exclusions from the CEC are problematic because they discriminate against those workers deemed to have "lower levels of skill", a value judgment that is questionable. These workers are in fact in high demand in Canada. We would like to present in this article some of the implications that these exclusions have on people who already contribute to Canadian society, but who cannot fully integrate because of their lack of permanent status.

Temporary lower-skilled workers

According to the CIC's 2008 statistics, 35.7% of temporary workers were of occupational levels 0, A or B, 38.5% were of occupational skill levels C and D, while the skill level was not stated for 25.9% of these temporary workers (CIC 2009). These numbers show that "lower-skilled" workers make up a significant proportion of the migrant workforce coming to Canada. In some cases, such as with the Seasonal Agricultural Workers Program (SAWP), which has existed for more than forty years, temporary workers are filling permanent labour shortages. If Canada needs these workers, why are they not given access to permanent residence?

Nationals from moratorium countries

Canada has imposed a moratorium on removals to five countries: Afghanistan, the Democratic Republic of Congo, Haiti, Iraq and Zimbabwe, in recognition of the situation of generalized insecurity in these countries. Three other countries, Burundi, Rwanda and Liberia, were also subject to moratoria until July 2009. While these nationals are not removed, they are not necessarily able to secure permanent residence status, even after many years in the country. Several thousand people in Canada are currently living in this limbo – some have been in this situation for more than 10 years.

The CEC will exclude people from moratorium countries because they did not enter Canada as temporary skilled workers. Many of them arrived as refugee claimants but their claim was rejected, in some cases unfairly. People from moratoria countries face serious hardships: they cannot reunite with family members, not even with their spouse and children, who were left behind in their country of origin. Workers from these countries face limited employment and educational opportunities because of their temporary status. Nevertheless, many of them have been working for years in Canada and contributing as best they can, within the constraints of their status, to the Canadian economy and society.

People without status

The Canadian government has not yet responded to the situation of the many people living in Canada without status. The Canadian Council for Refugees (CCR) has developed a *Proposal for the Regularization of Individuals and Families Without Status*. Canada needs to consider the lives and contributions of people living in Canada, who are part of society and who are contributing in many ways.

Gender, race and class considerations

The CEC will have a differential impact on men and women. Men generally have better access to higher education than do women, especially in Global South countries. CIC statistics for 2008 show that 47.6% of men coming to work on temporary work permits are of the skill levels that qualify for CEC, while only 19.2% of women with temporary work permits would qualify (CIC 2009). In this way, the CEC thus discriminates against women.

The same can be said about people from underprivileged economic classes who do not have equal access to formal education and therefore are less likely to fit in CEC categories. Their competencies are needed in Canada, as the numbers provided above show very clearly. People considered "lower-skilled" are recruited by Canada but expected to work in conditions that are significantly inferior to those offered to workers with permanent status.

As an example, more than 20,000 agricultural workers come every year to work on temporary permits on Canadian farms. These "temporary" workers leave their families behind and in some cases come back year after year to work for the same employer, spending between four and eight months a year in Canada. Even though they spend years working in Canada, and in some cases the greatest part of their working lives, under the proposed CEC they cannot acquire permanent status because of the low-skilled nature of their work.

Another issue of concern is the Canadian government's failure to address the urgent issue of long delays in family reunification; this is painfully affecting refugee and immigrant families in Canada and has an impact on society in general. Given the additional resources dedicated to processing temporary work permits, it is striking that additional resources have not been allocated to family reunification processing in order to reduce delays for children who are sometimes separated for years from one or both parents. The Canadian government needs to give higher priority to reuniting families, in recognition of the right of children to be with their parents, of the negative impact of family separation on the settlement process and of the important role played by family members in building a strong and just society.

In some cases, such as the Seasonal Agricultural Workers Program (SAWP) in existence for more than forty years, temporary workers are filling permanent labour shortages. If Canada needs these workers, why are they not given access to permanent residence?

Selection criteria and vulnerability to abuse

The selection criteria of the proposed Canadian Experience Class are based on the successful labour market integration of temporary workers. The two years of work required before being able to apply under the CEC makes workers more vulnerable to employer abuse, as they may be reluctant to report abuse so as not to jeopardize their chances of obtaining permanent status. Experiences with the Live-in Caregiver Program speak to these concerns. There are many documented cases of abuse of workers who came to Canada under this program, 95% of whom are women. Because they need to be employed for two years before applying for permanent residence, they are often reluctant to denounce abuses for fear of losing their job and therefore compromising their chances of gaining permanent status.

Facing abuse and family separation: Some examples

- In June 2007, a worker inQuebec suffered a work place injury requiring surgery. His employer refused to give him his health card and medical attention was delayed until he approached the UFCW Migrant Worker Support Centre. The centre's staff was forced to call the police in order to have the employer hand over the worker's health card (UFCW n.d.).
- Workers coming to Canada under the Live-in Caregiver Program cannot bring their children with them. Upon completion of two years of work within a three-year period, they can apply for permanent residence. Processing time and fees for permanent residence can further delay family reunification. In some cases, women are separated for five years and more from their children.

Protecting the rights of migrant workers in Canada

To ensure that the rights of migrant workers admitted on a temporary permit are fully respected, and until permanent status is granted to them, the Canadian government should take the following steps:

- Canada should ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- Eligibility to settlement services should be expanded to people with temporary work permits.
- CIC and Human Resources and Skills Development Canada (HRSDC) should ensure that temporary workers are fully informed of their rights under the program before and upon entering Canada. CIC and HRSDC should also actively ensure that temporary workers are given control of their own papers, including their passport and their health card.

- Migrant workers admitted on a temporary work permit do not have effective recourse to justice because they are often deported before they can seek legal recourse when they have suffered an injustice. Their status should be maintained during the period required to refer the matter to a tribunal and to await resolution. A transparent, impartial appeals process for migrant workers with workplace issues should be implemented.

Permanent status: The long-term solution

The Canadian Council for Refugees takes the position that Canada should increase opportunities for "lowerskilled" workers to become permanent residents.

The CCR recommends that the Canadian Experience Class include all workers admitted on temporary permits and individuals who came to Canada as refugee claimants.

In order to fully respect the human rights of all people in Canada, and to ensure the successful integration of newcomers, Canada needs to have a long-term immigration plan and move away from reliance on migrant workers, and towards a focus on immigrants and refugees granted permanent status. Granting permanent status, full access to services and respect of human rights is the only avenue to a strong and just society.

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