

Domestic migrant workers in Canada and the intersection of three sources of inequality.

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Domestic Migrant Workers' Inequality in Canada

1. Introduction

Canadian society accepts that restrictions to labour rights that are relevant to no other category of workers, regardless of their immigration status, be applied to live-in caregivers. While Canada's liberal state needs immigrants and migrant workers for the well being of its economy, it tolerates the violation of live-in caregivers' rights by the construction of these workers as non-citizens. The unequal power that characterizes the relationship between many migrant domestic workers who come as live-in caregivers and their employers within private homes are inseparable from domestic workers' desire to obtain Canadian citizenship status.¹ Live-in caregivers must work for a period of two years within three years of their arrival in Canada. After the first two years, they become eligible to apply for permanent residency status and eventually, citizenship. Living and working in their employers' homes leaves live-in caregivers vulnerable to surveillance and financial, physical, sexual, and psychological abuse. The root causes of this exploitation can be explained by the racialization, genderization and globalized dimension of migrant workers' experiences. Writings from both academic and grey literature have provided the tenets for this presentation's understanding of live-in caregivers' experiences. Intersectional Feminist Frameworks (IFFs)² have provided the lenses to understanding the circumstances that combine with discriminatory social practices to produce and sustain the inequality and exclusion experienced by live-in caregivers in their road to obtain their Canadian Citizenship.³

2. Canada needs immigrants and migrant workers for the well being of its economy

Immigrants and migrant workers and, in particular, live-in caregivers' contributions to Canadian economy are fundamental. Canada accepts immigrants and migrant workers because they are an integral component in strengthening provincial and municipal governments' economic and community development strategies.⁴ In 2001 there were 4 million racialized immigrants or refugees in

Canada. This is out of a total population of about 30 million. In the future, the number of racialized people will continue to increase.

According to Labour Minister Blackburn, the government recognizes and values the contribution that migrant workers make to the Canadian economy, “They contribute to Canada’s growth by filling vacancies when sufficient numbers of Canadians are not available.⁵” Similarly, thousands of migrant workers⁶ come to Canada every year seeking better economic opportunities in a country that many see as the “the land of milk and honey.”⁷

Immigration Statistics for 2005 indicate that between 2500 to 3000 workers entered Canada in that year to work as Live-in Caregivers.⁸ Government 2005 data also indicates that 91% of live-in caregivers are from the Philippines and 95% are women; moreover, 86% have a minimum of a bachelor’s degree or technical diploma.⁹ The Philippines have become a major exporter of labour, especially in the area of domestic workers labour.”¹⁰

Migrant workers trends in Canada and its high percentage of women compares to that of many other countries. According to UN estimates, out of 170 million workers world wide, 50% are women and in some countries that percentage is higher.¹¹ The migration of women and men from southern to northern countries in search of better economic opportunities or because of forced displacement, such as the case of refugees, is the result of a world economic system that pushes the poor to the margins while keeping the rich at the centre.¹²

The situation of live-in caregivers in Canada and their exploitation and their reasons to immigrate are due to their desire to improve their own situations and to help their families back home. Many immigrants and migrant workers report sending money back home to their families on a regular basis. As a whole, remittances from these workers have come to represent central pillars in their home countries’ economies and for their families.¹³ For instance, the Philippine

government named their migrant workers as their “new national heroes.”¹⁴ This definition of migrant workers as ‘new national heroes’ which glorifies Philippine migrant workers’ so called labour flexibility is but a clear income generation strategy for the Philippine government.¹⁵ This definition does not protect Philippine migrant workers from exploitation in other countries, such as the case of live-in caregivers in Canada.

3. Live-in caregivers’ work experiences: violation of their labour rights as a result of these workers’ construction as non-citizenship.

Few writings are available documenting the work experiences of live-in caregivers in Canada¹⁶. The pieces consulted, however indicate that there exists a gap between migrant workers’ expectations as live-in caregivers and the reality of their work experience¹⁷.

Some overseas nanny agencies and government representatives ‘sell’ live-in caregivers’ labour, as respectful and honorable of both Canadian women and live-in caregivers’. One agency quotes in her publicity material.

“We are very much alert to the importance of providing young children with the best care when their parents are unavailable to do so. Therefore, we do everything we can to ensure that every family that seeks our services is provided with the right caregiver/nanny to suit their needs.”¹⁸

Similarly, the way Citizenship and Immigration Canada (CIC) regulates the LCP program also appears to protect these workers’ rights. The Canadian government requires a signed contract between the employer and the employee that ensures fair working conditions and that

“Foreign workers must be offered wages that are within or exceed the prevailing Canadian wage for a particular occupation in the province where they are employed. The Foreign Worker Program also requires that

working conditions are the same as those for Canadian workers doing the same job”¹⁹

Academic and grey literature document live-in care givers’ experiences differently. Langevin and Belleau’s argue that while the live-in residence is a federal government imposition, working conditions are a provincial responsibility, “but provincial legislation does not distinguish between hours worked and hours of availability (at night, for example), which leads to abuse.”²⁰ These authors indicate that the Federal government, “cannot intervene in the event of non-compliance since the enforcement of contracts falls within provincial legislative competence.”²¹ The key question is, without citizenship status to protect these workers under Canada’s Charter or rights and Freedoms, who can live-in caregivers go to for help? Shragge et al argue that, “...Women in these jobs are not considered ‘workers’ under the law. Because of their status as non-citizens, and their dependence on their employers, they are vulnerable.”²² The LCP federal requirements classify live-in caregivers as temporary workers for a period of two years before they are eligible to apply for permanent residency, and eventually citizenship. Their lack of citizenship status is a real barrier for them in their ability to negotiate provincial governments’ labour rights. Also, the fact that these workers have not been in the country enough time, and only have temporary residence status, this makes them unable to claim the protection of their moral rights²³. This is a concrete case where the federal provincial division of powers combined with the workers’ non- citizenship status, have an adverse effects on women.²⁴-

Citizenship and Immigration Canada regulations within the LCP stipulate that live-in caregivers must live in the house of the employer and they are under the responsibility of their employers as long as they have a live contract. Langevin and Belleau explain, “In theory, this woman has entered into a contract of employment with her employers. By law she is obligated to live in their home. Generally speaking, there is an unequal relationship between the two parties. The worker enables her employers to be free of household chores and pursue more

lucrative and prestigious careers.²⁵ Their migrant workers' status makes them fall through the cracks.

Authors confirm that it is the compulsory nature of the live-in requirements that applies restrictions on the rights of foreign domestic workers.²⁶ This restriction plus the fact that frequently, these workers are also unaware of their rights makes them vulnerable to employers' threats of deportation and other measures to ensure their silence about abusive working conditions²⁷. Thousands of live-in caregivers are over exploited²⁸ they have reported non payment of wages; having to work overtime hours without pay; having their freedom to do out of the home activities restricted and limiting their ability to establish social networks; not being entitled to paid sick leave; lacking privacy to fulfill basics needs such as sleeping and doing laundry; staying in the employers homes but their movement restricted when the employers are at home; being discharged from employment without just cause; and²⁹ being unable to upgrade their skills. Indeed, "The LCP prohibits the worker to attend any educational institution, or taking academic courses or attending vocational training courses"³⁰ that would prevent them from deskilling while completing the LCP.

Under liberal principles, there is the belief that live-in caregivers choose "of their own will" to endure those situations and that therefore, there is no need for other segments of the society to interfere with what is considered a private arrangement between employers and free will citizens.

Therefore, other dimensions of analysis, beyond rights, must be brought in to understanding. Why a liberal state can tolerate the exploitative working conditions experienced by live-in-caregivers? These dimensions are linked to the social construction of the racialization and genderization of live-in caregivers' experiences in a globalized context. They reveal that although liberal states are committed to the principles of justice, freedom and equality, they are still able to tolerate the violation of social rights of non-citizens considered second class, or less worthy of protection.

4. The genderization and racialization of live-in caregivers' experiences: the root causes behind the violation of their labour rights.

An underlying cause behind the market's need to bring in live-in-caregivers to work in Canada, is the lack of government investment in high quality, affordable childcare spaces. The genderization of women's experiences is clearly demonstrated in regards to access to childcare. Its lack is a barrier to Canadian mothers (and a small minority of fathers) to participate in the labour force. This genderization causes further exclusion for lower-income women in Canada, including many women with disabilities, Aboriginal women, racialized women, and women living in rural areas, to have few or no childcare alternatives while affluent Canadian women and their families meet their childcare needs through the LCP (and exploit live-in caregivers).³¹

The lack of childcare spaces forces wealthier Canadian women and their families to seek nannies overseas. It is well recognized that it is 'cheaper' for wealthier Canadian women and their families to bring in an overseas nanny (who stays in the employers' home and does household chores) than to find publicly funded daycare spaces, or to pay for private childcare spaces run by Canadian citizens.

Live-in caregivers' experiences are genderized by patriarchal values that undervalue women's unpaid work in third world societies and also those of all women within Canadian society. This undervaluing is reflected in the invisibility and lack of recognition of domestic labour, with or without pay, and the care that women provide for children, the elderly and other dependent persons. This undervaluing is further genderized in the exploitation that Canadian women and their families, and the society as a whole, impose on the labour of live-in caregivers³². Yet in the global context of women's contribution to the chain of demand and supply for labour between the so-called developed and third world countries, "women's increased and unpaid work operates as a shock absorber to promote the apparent 'efficiency' of market-oriented mechanism."³³

Many of the authors Langevin and Belleau , 2000; Abu-Laban & Gabriel 2002; Spitzer et al, 2002, Stasiulis & Bakan, 2005; and CRIAW, 2006; argue that broader analyses are necessary and that the exploitation of live-in caregivers must be understood beyond the discourse of rights to encompass the intersections of gender, race, ethnicities and the global context amongst others.³⁴ In particular, CRIAW's Intersectional Feminist Frameworks (IFFs) aim to understand the experiences of live-in caregivers within the context of colonialism and Canada's racist and sexist immigration policies in shaping the LCP. For CRIAW, live-in caregivers' issues must not be left to the migrant workers themselves, but taken up as a societal problem, and to challenge the reluctance of governments to address unfair working conditions that are structured into the LCP.³⁵

Systemic racism within Canadian immigration policies and institutions reveals that live-in caregivers' experiences and construction as non-citizenship status are racialized. Millions of racialized peoples are born or naturalized as Canadian citizens, but having citizenship status does not make them free from experiencing racism and discrimination.³⁶

Therefore, understanding the exploitation of live-in caregivers within Canadian families requires that this exploitation be seen within the context of immigrant and racialized women's experiences in the whole Canadian society. Spitzer et al, document that, "the employment of domestic workers replicates within the household domain the unequal relations that persist between public and private realms."³⁷ Moreover, the value of domestic labour is predicated upon existing inequities of gender, class, race/ethnicity and immigration status.³⁸

Other factors such as the societal misconceptions that 'all' live-in caregivers have less education and therefore their work is 'less worthy' of receiving just wages, contributes to the live-in caregiver's exploitation. As mentioned before, data indicates that of the women who came from Philippines, 86% had a minimum of a bachelor's degree or technical diploma.³⁹ These workers' inability to continue

upgrading their careers in order to open doors for high quality jobs after the LCP is completed, as well as the non-recognition of their foreign degrees, are examples of institutional racial exclusion of these workers⁴⁰.

In summary, the genderization and racialization of immigrants and women and men from various ethnicities and the discrimination and exclusion that they entail are even more evident in the experiences of over exploitation of live-in caregivers. Their construction as non-citizens provides the tools for Canadian liberal state to tolerate and be oblivious to the violations of their labour rights. They are seen as workers who are second class citizens and not worthy of protection.

5. Where to go from here?

Academics from all backgrounds and feminists alike, are well positioned to document and further theorize within intersectionality and Intersectional Feminist Frameworks the genderization, racialization and globalized exploitation of live-in caregivers as an aberration to the principles of liberalism (freedom, respect for individual rights). Only then, live-in caregivers' experiences and the work of those organizations protecting their rights⁴¹ might be able to change societal attitudes and deconstruct these workers and racialized women and men as second class citizens. The dearth of literature on the live-in caregivers' conditions is currently an indication of the challenges ahead, but also of the path for academia and grassroots organizing working together in bringing those realities into the open.

At the pragmatic level, Langevin and Belleau propose a range of recommendations, such as the discontinuation of the LCP or to include "live-in caregiver" in the *Immigration Act* among the occupations in demand in Canada as well as to give more consideration to the experience of these workers. They also propose that live-in caregivers be given permanent residence upon their arrival in Canada, and to reduce the work period to 12 months instead of 24 months as it

currently stands. In addition, they suggest removing the obligation to live in the employers' home. In the area of labour law, they propose that live-in caregivers be given the same benefits as other Canadian workers, that placement agencies be regulated and that a registry of employers be created.⁴²

Spitzer et al also propose policy changes that aim to redress the exploitation experienced by these workers and protect their future work. Their recommendations include the establishment of a live-in caregiver ombudsman in each province, permit live-out care-giving and unionize live-in caregivers and/or form live-in caregivers associations. Other fundamental sources of action also include reducing landing and processing fees and working with source countries to eliminate unscrupulous training institutions and employment agencies⁴³.

6. Conclusion

The unequal power that characterizes the relationship between live-in caregivers and their employers within private homes are inseparable from domestic workers' desire to obtain Canadian citizenship status. As discussed in this essay, various factors contribute to over exploitation of live-in caregivers, 1) these women are constructed as non-citizens therefore the protection of their labour rights are left to the discretion of their employers; 2) they lack knowledge of their rights and because of the back and forth between the federal-provincial division of powers their exploitation falls through the cracks between those levels of government; and 3) because thousands of these women migrate from third world countries their experiences, like that of other immigrants to Canada, are genderized and racialized within a globalized context. All of these social constructions provide the tools for the government and to Canadian society to accept restrictions for live-in caregivers violations of their labour rights which no other category of workers, regardless of their immigration status, should be subjected to. Complex analyses such as IFFs which aim to understand the many circumstances that are combined with discriminatory social practices to produce and sustain inequality and exclusion, so they may open the doors to challenging the violations of live-in

caregivers' labour rights and set the path for substantive equality for all women and men in Canada and in the world..

¹ Stasiulis & Bakan, 2005 and Abu-Laban & Gabriel 2002

² CRIAW, 2006, Intersectional Feminist Frameworks: A primer.

³ This essay does not assume that obtain Canadian Citizenship is the answer to inequality of exclusion but as it will be discussed later in this essay, in the case of Live-in caregivers it appears as if having Citizenship might have given them some protection from exploitation in the private homes.

⁴ Garcea, 2006, p.14.

⁵ Blackburn, 2006

⁶ Langevin and Belleau, 2000 chose to use the word "caregiver" [French aide familiale] because it is less demeaning than "domestic." I will also use caregiver to refer to what many authors refer to migrant domestic workers.

⁷ Somberger, Spring 2006

⁸ BC Stats Infoline, 2005.

⁹ Spitzer et al, 2006, p.3.

¹⁰ Spitzer et al, 2002, p.11.

¹¹ The Migrant Rights Centre Ireland, 2004.

¹² Abu-Laban and Gabriel 2002; The Migrant Rights Centre Ireland, 2004; Stasiulis & Bakan, 2005

¹³ Rodriguez, 2002; Stasiulis & Bakan, 2005 , p.26.

¹⁴ Rodriguez, 2002. p.342.

¹⁵ Ibid, p.342

¹⁶ Bals, 1999, Langevin and Belleau, 2000, and Stasiulis & Bakan, 2005 are the three most completed pieces that I found in the process of writing this essay. Stasiulis & Bakan also indicate that there is lack of documentation of live-in caregivers experiences in Canada.

¹⁷ CRIAW, 2006, Langevin and Belleau, 2000, Somberger, Spring 2006, Spitzer et al, 2006.

¹⁸ Canusa Immigration Consultants' webpage, accessed, December 13, 06

¹⁹ Federal Minister of Labour Jean Pierre Blackburn, Nov. 2006.

²⁰ Langevin & Belleau, 2000.

²¹ Langevin and Belleau, 2000 indicate "The *Canada-Quebec Accord Relating to Immigration and Temporary Admission of Aliens*, Quebec has the power to select its own immigrants and certain categories of temporary workers, but the federal government is still responsible for admitting them. Consequently, Quebec is the only province that has adopted its own admission criteria for immigrant live-in caregivers, thereby modifying the criteria in the LCP, a situation that can be a source of confusion for the people involved. British Columbia, Manitoba, Saskatchewan, New Brunswick and Newfoundland have signed agreements with regard to the selection of people designated by the provinces, in order to meet the specific needs of their labour markets. People thus designated do not have to satisfy the usual immigration selection criteria, but they must satisfy the health and security requirements." p.27.

²² Shragge et al, no date, Accessed Dec.13.06

²³ Carens, 2002.

²⁴ Langevin & Belleau, 2000.

²⁵ 2000, p.11.

²⁶ Bals, 1999; Langevin & Belleau, 2000, Stasiulis & Bakan, 2005 are the most comprehensive pieces in this area.

²⁷ CRIAW, 2002

²⁸ This exploitation happens across Canada. For instance, the Nova Scotia Advisory Council, "Immigrant Women and a Framework for Immigration in Nova Scotia indicate that live-in caregivers are the women who live in the most exploitative conditions. 2004.

²⁹ CRIAW, 2006, Spitzer et al, 2002, Langevin & Belleau, 2000, The City of Vancouver 2000.

³⁰ The City of Vancouver, 2000, p.17.

³¹ CRIAW, 2006 IFFs: A Primer. It is outside the scope of the essay to address the childcare needs of the working poor and marginalized Canadian women.

³² Stasiulis & Bakan, 2005

³³ Langevin and Belleau, 2000, Stasiulis & Bakan, 2005 and Abu-Laban & Gabriel 2002

³⁴ Stasiulis & Bakan, 2005 and Abu-Laban & Gabriel 2002

³⁵ CRIAW, 2006 IFFs: A Primer.

³⁶ 2002, p.14.

³⁷ 2002

³⁸ Stasiulis & Bakan, 2005

³⁹ Spitzer et al, 2006.

⁴⁰ City of Vancouver, 2004 and Spitzer et al, 2002.

⁴¹ The scope of this presentation does not allow for addressing the role of ‘agents of change’ that many live-in caregivers and their lobby organizations have undertaken during the LCP, or after the program have been completed. Organizations such as INTERCEDE in Toronto & The West Coast Domestic Worker’s Association have taken up roles to protect the rights of these women. Many have attempted to denounce the exploitation and as Bals suggested, in being very conscious of the risks inherent in letting these conditions be known and not presenting live-in caregivers as victims, but confirming their role as agents of change

⁴² Langevin and Belleau, 2000 pp.

⁴³ Spitzer et al, pp.52-53.

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