



**HOUSE OF COMMONS
CANADA**

MIGRANT WORKERS AND GHOST CONSULTANTS

Report of the Standing Committee on Citizenship and Immigration

**David Tilson, MP
Chair**

JUNE 2009

40th PARLIAMENT, 2nd SESSION



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THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION

has the honour to present its

EIGHTH REPORT

**Pursuant to its mandate under Standing Order 108(2), your Committee
has conducted a study on *Ghost Consultants and Migrant Workers*.**

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PREFACE

The House of Commons Standing Committee on Citizenship and Immigration tabled the report *Temporary Foreign Workers and Non-Status Workers* in May 2009. Subsequently, the Committee decided to hold hearings to receive feedback on the report and to hear additional testimony on the Live-in Caregiver Program (LCP) in particular. The LCP is a specialized program for people to come to Canada as temporary residents and provide care to seniors, children, and persons with disabilities. This report makes additional recommendations specific to the LCP and addresses the situation of live-in caregivers in a particular family residence.

The Committee also wishes to highlight concerns with a related matter, that of immigration consultants; non-lawyers who, for a fee, provide advice and assistance in immigration matters, or representation before immigration tribunals. The Committee held hearings on this topic during the Thirty-Ninth Parliament, Second Session and adopted the report *Regulating Immigration Consultants* in June 2008. We believe the recommendations from this report are still relevant and critical today, and have appended them as Appendix 2 to this report in completion of our study on migrant workers and ghost consultants.

THE LIVE-IN CAREGIVER PROGRAM

Section 112 of the *Immigration and Refugee Protection Regulations* explains the requirements for obtaining a work permit as a live-in caregiver:

112. A work permit shall not be issued to a foreign national who seeks to enter Canada as a live-in caregiver unless they:
- (a) applied for a work permit as a live-in caregiver before entering Canada;
 - (b) have successfully completed a course of study that is equivalent to the successful completion of secondary school in Canada;
 - (c) have the following training or experience, in a field or occupation related to the employment for which the work permit is sought, namely:
 - (i) successful completion of six months of full-time training in a classroom setting;
 - (ii) completion of one year of full-time paid employment, including at least six months of continuous employment with one employer, in such a field or occupation within the three years immediately before the day on which they submit an application for a work permit;
 - (d) have the ability to speak, read and listen to English or French at a level sufficient to communicate effectively in an unsupervised setting; and
 - (e) have an employment contract with their future employer.

People who enter Canada under the Live-in Caregiver Program are eligible to apply for permanent resident status if they have completed two years (24 months) of authorized full-time employment as a live-in caregiver within three years from the date of entry into Canada under the program. Additional eligibility criteria such as a valid work permit and valid passport and admissibility criteria for permanent residency must also be met.¹ The Immigration Levels Plan tabled in the House of Commons includes a target for 8,000 to 10,000 live-in caregivers to be granted permanent resident status in 2009.

ROLES OF THE FEDERAL GOVERNMENT IN THE LIVE-IN CAREGIVER PROGRAM

As is the case with other temporary foreign worker programs, the LCP is jointly administered by Citizenship and Immigration Canada (CIC) and Human Resources and Skills Development Canada (HRSDC).

The role of HRSDC is to ensure that there are no Canadians or other temporary workers already in Canada who are willing, qualified, and available to take a job being offered to a

¹ *Immigration and Refugee Protection Regulations*, s. 113

foreign worker. An employer who wants to hire a foreign live-in caregiver must first submit an application for a foreign live-in caregiver to HRSDC. In addition, to hire a live-in caregiver, an employer must: “have sufficient income to pay a live-in caregiver; provide acceptable accommodation in [his or her] home; and make a job offer that has primary care-giving duties for a child or an elderly or disabled person. (A job offer for a housecleaner, for example, is not acceptable under the Program.)”² If the employer’s application is approved, HRSDC will notify CIC of the approval and the caregiver may then apply for a work permit. The work permit is a document that allows a person to legally work in Canada.

CIC is responsible for determining whether a foreign caregiver is eligible to come to Canada under the LCP. Citizenship and Immigration Canada will approve an application and issue a work permit to the caregiver if the applicant meets the program criteria and satisfies all other immigration requirements.

THE ROLE OF PROVINCES IN THE LIVE-IN CAREGIVER PROGRAM

Under section 92(13) of the *Constitution Act, 1867*, provincial governments have jurisdiction to regulate employment standards, including wages and working conditions, as well as housing. Regulating includes setting standards and enforcing those standards. Temporary foreign workers, including live-in caregivers, have the same rights as other Canadian workers. Temporary foreign workers are also subject to provincial eligibility criteria for health insurance and workers compensation coverage.

RECOMMENDATIONS FROM THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION - REPORT no. 7

In its report *Temporary Foreign Workers and Non-Status Workers*³, the Standing Committee on Citizenship and Immigration made a number of recommendations to improve the temporary foreign worker program. The recommendations most relevant to this report are included as Appendix 1. Two recommendations related specifically to live-in caregivers; one would allow for the possible extension of the three year period in which employment conditions have to be met in order to be eligible for permanent resident status (no. 4), and the other would exempt live-in caregivers from the second medical exam required in order to obtain permanent resident status (the “Juana Tejada” law, recommendation no. 5). The Committee’s recommendations also addressed administrative improvements to the program, including work permits that are province and sector specific, rather than employer specific (no. 20). Other administrative measures intended to ease periods of unemployment by making the names of

2 CIC, *Information for Canadian employers: Hiring a live-in caregiver – Who can apply*, November 4, 2008 (consulted May 7, 2009, <http://www.cic.gc.ca/EnGLsh/work/apply-who-caregiver.asp>).

3 Standing Committee on Citizenship and Immigration, *Temporary Foreign Workers and Non-Status Workers*, May 2009, 2nd Session, 40th Parliament, p. 81. Available online at: http://www2.parl.gc.ca/Content/HOC/Committee/402/CIMM/Reports/RP3866154/402_CIMM_Rpt07_PDF/402_CIMM_Rpt07-e.pdf.

employers with positive labour market opinions available (no. 16) and creating a fund for emergency situations of unemployment (no. 21).

The report includes a series of recommendations related to worker protection, including mandatory orientation abroad (no. 22) and a meeting with a settlement organization in Canada three months after arriving (no. 23). Protection would also be enhanced by the proposed recommendations of providing information on laws applicable to recruiters (no. 24), greater enforcement of existing laws (no. 26), and the establishment of monitoring teams at the federal level (no. 28). Finally, of relevance to this study, the Committee recommended in its previous work that temporary foreign workers not be required to live with or on the premises of their employer (no. 34) and that accompanying family members be eligible for an open work permit (no. 8).

REACTIONS OF INTERESTED PARTIES TO THE 7TH REPORT OF THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION

At its hearings, the Committee heard reactions to its report, *Temporary Foreign Workers and Non-Status Workers*. Committee members are pleased to note that many of its recommendations to improve the temporary foreign worker program are supported by those who appeared before it. While not all witnesses commented directly on the recommendations, they did make suggestions that are consistent with many of them.

In particular, some witnesses stressed the need to eliminate the requirement that temporary foreign workers live with or on the premises of the employer, thus validating the Committee's recommendation on that subject.⁴ The residence requirement is considered one of the major causes of the vulnerability of caregivers with respect to their employers.

Similarly, the recommendation that work permits issued to temporary foreign workers henceforth be sector-and province-specific rather than employer-specific was well received. Some witnesses urged that caregivers be issued an open work permit⁵ to avoid problems with wait times for the issuance of a new work permit and to make it easier for caregivers to leave a job in which their rights are not respected.⁶

With respect to the transition from temporary resident to permanent resident status, some witnesses expressed satisfaction with the recommendation to eliminate the second medical

4 Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 2 and Intercede, written brief, May 14, 2009, p. 2. See also Pura Velasco, Caregivers Support Services, *Committee Evidence*, meeting no. 16, May 12, 2009, 0905.

5 Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 2 and Intercede, written brief, May 14, 2009, p. 2.

6 Intercede, *Committee Evidence*, meeting no. 17, May 14, 2009, 0920; Tristan Downe-Dewdney, Canadian Caregivers Association, *Committee Evidence*, meeting no. 18, May 26, 2009, 0915.

examination required of applicants for permanent residency.⁷ In addition, a few witnesses pointed to the importance of ensuring that the three-year period during which a caregiver must accumulate 24 months of work can be adjusted to reflect events beyond their control.⁸ In this connection, they supported the Committee's recommendation that the period be extended by one year when there are good reasons the caregiver cannot meet the job requirements. Some witnesses, however, while they supported the recommendation, suggested going further and granting permanent resident status to caregivers upon arrival in Canada.⁹ This concern will be addressed in the next section.

Most witnesses stressed the importance of providing information to caregivers.¹⁰ Thus, the Committee's recommendations that all caregivers be required to attend an orientation session before leaving for Canada, and three months after their arrival, were well received. On the other hand, some pointed out that despite all efforts to inform caregivers of their rights, they are not always in a position to assert their rights and make use of the information.¹¹ Lastly, some witnesses suggested that the government promote family reunification by making it easier for members of the immediate family to come to Canada. In this connection, the Committee was moving in the right direction in recommending that family members of foreign workers be able to obtain an open work permit in Canada and in recommending that an advisory committee address the issue of family separation related to the temporary foreign worker program.

Despite their satisfaction with many of the Committee's recommendations, those consulted did identify a few factors that remain to be addressed, and pointed to new avenues that remain unexplored. The Committee wishes to respond to these concerns with a further series of recommendations specifically with regard to the live-in caregiver program.

RECOMMENDATIONS

During the consultations, most witnesses mentioned problems with the temporary resident status of live-in caregivers.¹² They felt that this status places caregivers in a vulnerable

7 Aimée Bebeso, Ontario Migrante, *Committee Evidence*, meeting No. 17, May 14, 2009, 0925 and Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p.1.

8 Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 2 and Intercede, written brief, May 14, 2009, p. 2.

9 Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 4; Intercede, written brief, May 14, 2009, p. 2 and Pura Velasco, Caregivers Support Services, *Committee Evidence*, meeting no. 16, May 12, 2009, 0905.

10 Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 3; Agatha Mason, Intercede, *Committee Evidence*, meeting no. 17, May 14, 2009, 0940; Pura Velasco, Caregivers Support Services, *Committee Evidence*, meeting no. 16, May 12, 2009, 0945; and Tristan Downe-Dewdney, Canadian Caregivers Association, *Committee Evidence*, meeting no. 18, 0910

11 Pura Velasco, Caregivers Support Services, *Committee Evidence*, meeting no. 16, May 12, 2009, 0945.

12 Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 4, Intercede, written brief, May 14, 2009, p. 2 and Pura Velasco, Caregivers Support Services, *Committee Evidence*, meeting no. 16, May 12, 2009, 0905.

position with respect to their employers. Since caregivers have to accumulate 24 months of work during their first three years in Canada, some of them are said to be prepared to put up with abuse and exploitation by some employers in order not to spoil their chances of obtaining permanent resident status. Witnesses appearing before the Committee suggested a few solutions to this problem.

Some witnesses recommended that caregivers be granted permanent resident status upon arrival in Canada.¹³ They felt that this option would make it easier for caregivers to leave situations in which they were abused by their employer. Taking into consideration concerns about a caregiver who, after arriving in Canada and becoming a permanent resident, might refuse to work as a caregiver, one witness suggested that caregivers be granted permanent resident status on certain conditions.¹⁴ Upon fulfillment of the conditions, and with the necessary documentation, a caregiver could become a full permanent resident. However, no suggestions were made as to what conditions caregivers should have to meet.

Previously, the Committee recommended that live-in caregivers arrive as temporary foreign workers but be given an additional year to meet the requirements for permanent resident status. Now, we wish to go further and recommend that live-in caregivers be granted permanent resident status with conditions upon arrival. Having permanent resident status upon arrival in Canada would enable caregivers to enjoy the same rights as other permanent residents: mobility, the right to go to school, to live where they wish, to bring their family members or to change employers. Further, it would be easier than under the present system for caregivers to escape from abusive situations.

Recommendation 1

The Committee recommends that the Government of Canada grant live-in caregivers permanent resident status on certain conditions. In order to retain permanent resident status, a caregiver must accumulate 24 months of work as a live-in caregiver during the first three years in Canada. Once the conditions have been met, caregivers have to provide evidence to Citizenship and Immigration Canada in order to have the conditions lifted.

The Committee recognizes that implementing the change to permanent resident status will require some time. In the interim, changes could be made that would allow the transition from temporary to permanent resident status to function more smoothly. The following two recommendations address this interim period.

13 Intercede, written brief, May 14, 2009, p. 2; Pura Velasco, Caregivers Support Services, *Committee Evidence*, meeting no. 16, May 12, 2009, 0905; Magdalene Gordo, as an individual, *Committee Evidence*, meeting no. 16, May 12, 2009, 0945; and Richelyn Tongson, as an individual, *Committee Evidence*, meeting, no. 16, May 12, 2009, 0945.

14 Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 4.

At its hearings, the Committee learned of a concern about provincial health insurance and coverage for caregivers while in implied status. After applying for permanent resident status, while waiting for it to be granted, some caregivers lose their entitlement to provincial health insurance for up to six or eight months.¹⁵ While this is a matter under provincial jurisdiction, witnesses suggested that the federal government could have a role to play through the Interim Federal Health Program.¹⁶

Recommendation 2

The Committee recommends that the Government of Canada extend coverage under the Interim Federal Health Program to caregivers denied coverage under a provincial health plan.

Currently, live-in caregivers, like most foreign students, must obtain a study permit in order to take a course or program lasting more than six months.¹⁷ Although the opportunity to study while in Canada is available to them, CIC's website states: "it is important to remember that you are in Canada to work as a live-in caregiver."¹⁸ During its consultations, the Committee heard suggestions that caregivers be allowed to take academic courses or programs if their schedules allowed.¹⁹ The Committee believes that it is in the interests of the Government of Canada to allow caregivers to go to school to develop their knowledge and skills and facilitate their integration, especially given that they have an opportunity to apply for permanent resident status and may eventually become Canadian citizens.

Recommendation 3

The Committee recommends that the Government of Canada waive the requirement to obtain a study permit for live-in caregivers.

Witnesses reported that pay practices vary from employer to employer. Some use cheques, while others pay their employees in cash. This situation can arise from the desire of

15 Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 3.

16 Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 3. Through the Interim Federal Health Program, the federal government provides limited health services to certain immigrants—primarily refugee claimants and Convention refugees and persons detained for immigration purposes. The IFH Program is intended to provide urgent and essential health services to immigrants in the above categories who are unable to pay for such services on their own. Eligibility for benefits through the IFH Program expires after a certain period.

17 Citizenship and Immigration Canada, *Frequently asked questions: Working temporarily in Canada*, March 31, 2007 (<http://www.cic.gc.ca/english/information/faq/work/caregiver-faq01.asp>, consulted May 20, 2009).

18 Ibid.

19 Intercede, written brief, May 14, 2009, p. 2.

either party to use a particular method of payment, or the fact that some caregivers do not have bank accounts.

Moreover, some employers do not provide their caregivers with a statement of earnings and deductions. In order to become a permanent resident, however, a caregiver must be able, among other things, to present a statement of earnings and deductions sent by the employer to the Canada Revenue Agency.²⁰ Moreover, the CIC website states that the employer is required to provide a statement of earnings with each paycheque.²¹

In its report *Temporary Foreign Workers and Non-Status Workers*, the Committee recommended that temporary foreign workers be required to attend an orientation session before departure, and another three months after their arrival in Canada. The Committee sees this as a good opportunity to inform caregivers about statements of earnings and pay cheques and unacceptable behaviours under the program.

Recommendation 4

The Committee recommends that the Government of Canada ensure that orientation sessions for caregivers address the following subjects:

- **The requirement that the employer provide a statement of earnings with each pay cheque;**
- **The need for the caregiver to have access to complete statements of earnings and deductions in order to meet the conditions for becoming a permanent resident; and**
- **The procedure for opening a bank account.**

Furthermore, in these orientation sessions, it should be made clear that the following behaviors are unacceptable, and in many cases subject to sanction. It should also be explained to which bodies each of these inappropriate behaviours should be reported:

- **Confiscating passports;**
- **Failing to comply with the Canada Revenue Agency rules regarding pay and record of employment;**
- **Failing to make required deductions;**
- **Employing a caregiver without a work permit to work in their homes;**
- **Paying less than the minimum required by provincial legislation;**
- **Requiring caregivers to work longer than reasonable work hours; and**

20 Rafael Fabregas, Independent Workers Association, *Committee Evidence*, meeting no. 17, May 14, 2009, 1036.

21 Citizenship and Immigration Canada, *Information for Canadian employers: Hiring a live-in caregiver – After hiring*, November 4, 2008, (<http://www.cic.gc.ca/english/work/after-caregiver.asp>, consulted May 20, 2009).

- **Assigning caregivers tasks entirely unrelated to their prescribed role.**

Copies of the materials used for this orientation session should be provided to all provincial governments to make them aware of the types of behaviors that might be reported to them, and so that they can note that they should act on these reports.

Most witnesses referred to the importance of providing information to live-in caregivers about their rights.²² However, some suggested that briefings also be provided to employers.²³ The Committee believes that such orientation sessions could be very useful, since abuse is not always intentional and sometimes results from a lack of information. While abusive situations do exist, some could probably be avoided if employers knew more about their responsibilities, the rights of their employees and the terms of the program. Requiring employers to attend information sessions could help eliminate abusive situations. Moreover, familiarity with the legal consequences of failure to comply with the terms of the program and provincial labour standards could have a deterrent effect on employers who are tempted to exploit or abuse their employees.

Recommendation 5

The Committee recommends that the Government of Canada require employers to attend a briefing on the live-in caregiver program and the rights and responsibilities of all concerned, before a caregiver can start work.

Furthermore, in this briefing, it should be made clear that the following behaviors are unacceptable and in many cases subject to sanction:

- **Confiscating passports;**
- **Failing to comply with the Canada Revenue Agency rules regarding pay and record of employment;**
- **Failing to make required deductions;**
- **Employing a caregiver without a work permit to work in their homes;**
- **Paying less than the minimum required by provincial legislation;**
- **Requiring caregivers to work longer than reasonable work hours; and**

22 Agatha Mason, Intercede, *Committee Evidence*, meeting no. 17, May 14, 2009, 0940; Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 2; and Pura Velasco, Caregivers Support Services, *Committee Evidence*, meeting no. 16, May 12, 2009, 0945.

23 Independent Workers Association, *Creating a Level Playing Field to Ensure Fairness for Caregivers*, written brief, May 14, 2009, p. 3.

- **Assigning caregivers tasks entirely unrelated to their prescribed role.**

LIVE-IN CAREGIVERS IN THE DHALLA RESIDENCE

In addition to hearing witnesses on the live-in caregiver program in general, the Committee also heard testimony about one situation in particular: live-in caregivers in the residence of Neil, Ruby, and Tavinder Dhalla. Two caregivers, Ms. Magdalene Gordo and Ms. Richelyn Tongson, told the Committee about their experience as employees for the Dhalla family²⁴. They explained their concerns, including long hours and what they perceived to be inappropriate chores such as cleaning other peoples' homes and snow shovelling. Ms. Gordo indicated that she quit her job with the Dhalla family because she was unhappy and because the Dhallas had not yet obtained the required labour market opinion (LMO) to authorize her employment. Both women expressed concern about requests for passports or holding passports purportedly for the purpose of the LMO and work permit application processes. A later witness indicated she had intervened to help Ms. Tongson secure the return of her personal documents.²⁵

In her appearance before the Committee, Member of Parliament Ruby Dhalla, gave a different perspective. She denied any involvement with the employment or immigration status of the caregivers and claimed that the allegations made against her were false.²⁶ She addressed some of the specific claims made by the caregivers concerning pay, tasks, and passports and asserted that people entering the family home were treated well and with respect.

The Committee regrets that such situations may occur under the live-in caregiver program.

Recommendation 6

The Committee recommends that the Government of Canada implement as soon as possible the changes set out in the Committee's 7th Report as well as those of this report in order to ensure that all participants have the necessary knowledge and opportunity to participate in the live-in caregiver program to their advantage and to ensure that the rights of temporary foreign workers are upheld.

24 Magdalene Gordo and Richelyn Tongson, *Committee Evidence*, meeting no. 16, May 12, 2009, 0910.

25 Agatha Mason, Intercede, *Committee Evidence*, meeting no. 17, May 14, 2009, 0945.

26 Ms. Ruby Dhalla, Member of Parliament for Brampton—Springdale, *Committee Evidence*, meeting no. 16, May 12, 2009, 1005.

Recommendation 7

The Committee recommends that the authorized bodies in the provincial and federal governments investigate the allegations of the former live-in caregivers in the Dhalla residence and take measures as appropriate. Further, the Committee requests that these government bodies, upon completion of their investigations, send the result to the Committee.

LIST OF RECOMMENDATIONS

Recommendation 1

The Committee recommends that the Government of Canada grant live-in caregivers permanent resident status on certain conditions. In order to retain permanent resident status, a caregiver must accumulate 24 months of work during the first three years in Canada. Once the conditions have been met, caregivers have to provide evidence to Citizenship and Immigration Canada in order to have the conditions lifted.

Recommendation 2

The Committee recommends that the Government of Canada extend coverage under the Interim Federal Health Program to caregivers denied coverage under a provincial health plan.

Recommendation 3

The Committee recommends that the Government of Canada waive the requirement to obtain a study permit for live-in caregivers.

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The Committee recommends that the Government of Canada ensure that orientation sessions for caregivers address the following subjects:

- **The requirement that the employer provide a statement of earnings with each pay cheque;**
- **The need for the caregiver to have access to complete statements of earnings and deductions in order to meet the conditions for becoming a permanent resident; and**
- **The procedure for opening a bank account.**

Furthermore, in these orientation sessions, it should be made clear that the following behaviors are unacceptable, and in many cases subject to sanction. It should also be explained to which bodies each of these inappropriate behaviours should be reported:

- **Confiscating passports;**
- **Failing to comply with the Canada Revenue Agency rules regarding pay and record of employment;**
- **Failing to make required deductions;**
- **Employing a caregiver without a work permit to work in their homes;**
- **Paying less than the minimum required by provincial legislation;**
- **Requiring caregivers to work longer than reasonable work hours; and**
- **Assigning caregivers tasks entirely unrelated to their prescribed role.**

Copies of the materials used for this orientation session should be provided to all provincial governments to make them aware of the types of behaviors that might be reported to them, and so that they can note that they should act on these reports.

Recommendation 5

The Committee recommends that the Government of Canada require employers to attend a briefing on the live-in caregiver program and the rights and responsibilities of all concerned, before a caregiver can start work.

Furthermore, in this briefing, it should be made clear that the following behaviors are unacceptable and in many cases subject to sanction:

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- **Failing to make required deductions;**
- **Employing a caregiver without a work permit to work in their homes;**
- **Paying less than the minimum required by provincial legislation;**
- **Requiring caregivers to work longer than reasonable work hours; and**
- **Assigning caregivers tasks entirely unrelated to their prescribed role.**

Recommendation 6

The Committee recommends that the Government of Canada implement as soon as possible the changes set out in the Committee's 7th Report as well as those of this report in order to ensure that all participants have the necessary knowledge and opportunity to participate in the live-in caregiver program to their advantage and to ensure that the rights of temporary foreign workers are upheld.

Recommendation 7

The Committee recommends that the authorized bodies in the provincial and federal governments investigate the allegations of the former live-in caregivers in the Dhalla residence and take measures as appropriate. Further, the Committee requests that these government bodies, upon completion of their investigations, send the result to the Committee.

SELECTED RECOMMENDATIONS FROM THE HOUSE OF COMMONS STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION REPORT 7, *TEMPORARY FOREIGN WORKERS AND NON-STATUS WORKERS*, 40TH PARLIAMENT, 2ND SESSION

Recommendation 4

The Committee recommends that the Government of Canada provide for a possible one-year extension of the three-year period during which a live-in caregiver must complete 24 months of employment in order to be eligible to apply for permanent resident status, when there is a good reason the live-in caregiver did not complete the employment requirements within the initial three-year period.

Recommendation 5

The Committee recommends the implementation of the "Juana Tejada Law" which would exempt live-in caregivers from the second medical exam when they apply for permanent residence.

Recommendation 8

The Committee recommends that the *Immigration and Refugee Protection Regulations* be amended so that accompanying immediate family members of persons with a temporary work permit are automatically eligible for an open work permit.

Recommendation 16

The Committee recommends that the Government of Canada maintain, on a voluntary basis, a list of all employers who have received "hiring permits," and that information from the list be available for use by unemployed temporary foreign workers in Canada, and those helping them, in identifying employers seeking to hire temporary foreign workers.

Recommendation 20

The Committee recommends that the Government of Canada discontinue making work permits of temporary foreign workers employer-specific, and that it make such work permits sector- and province-specific instead. Where there is a change of employers, employers should be able to claw-back the recruitment and associated costs from subsequent employers to earlier employers on a pro-rated basis.

Recommendation 21

The Committee recommends that the Government of Canada levy a fee on employers in connection with issuing “hiring permits” in order to fund a pool of money for emergency support of unemployed temporary foreign workers in Canada. It should also establish guidelines for disbursements from the pool.

Recommendation 22

The Committee recommends that the Government of Canada require each temporary foreign worker candidate to attend an in-person orientation session in his or her country of origin prior to the work permit being issued, and that NGO/non-profit settlement, counselling and advocacy agencies regularly provide input to the orientation session.

Recommendation 23

The Committee recommends that temporary foreign workers be required, within three months of their arrival, to meet with an accredited NGO to follow up on labour legislation compliance

Recommendation 24

The Committee recommends that the government take all necessary steps to inform workers abroad of the legal provisions regarding recruiters in the province in question.

Recommendation 26

The Committee recommends that the Government of Canada produce simplified management guides enabling employers and recruiters to better understand the applicable standards, regulations and the administrative terms and conditions of the program, such as the prohibition to withhold personal documents, particularly passports and health cards of migrant workers.

Recommendation 28

The Committee recommends that the Government of Canada establish monitoring teams to perform unannounced spot checks of working and housing conditions on temporary foreign worker job sites. Visits of the monitoring team could be requested by workers through a 1-800 number or via the internet. Possible infractions or unacceptable conditions should be reported to appropriate provincial authorities for further investigation and response. The Government of Canada would place a stay on removals

for individuals involved in an ongoing investigation and/or with matters before the courts or other appropriate bodies.

Recommendation 34

The Committee recommends that the Government of Canada remove the requirement that individuals with certain work permits live with or on the premises of their employer.

APPENDIX B

RECOMMENDATIONS FROM THE HOUSE OF COMMONS STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION REPORT 10, *REGULATING IMMIGRATION CONSULTANTS*, 39TH PARLIAMENT, 2ND SESSION

Recommendation 1

The Committee recommends that the Government of Canada stipulate in its laws and regulations that, in order to represent or advise a person on any matter before the Minister of Citizenship and Immigration, an immigration officer or the Immigration and Refugee Board, an immigration consultant from Quebec shall be officially recognized under Quebec laws rather than being required to be a member of the Canadian Society of Immigration Consultants. This recommendation does not in any way affect members of the Barreau du Québec or members of the Chambre des notaires du Québec, who may continue to represent their clients as they have done thus far.

Recommendation 2

The Committee recommends that the Government of Canada introduce stand-alone legislation to re-establish the Canadian Society of Immigration Consultants as a non-share capital corporation. Such an “Immigration Consultants Society Act” should provide for the same types of matters covered by founding statutes of provincial law societies, including, but not limited to: functions of the corporation, member licensing and conduct, professional competence, prohibitions and offences, complaints resolution, compensation fund and by-laws. Once the regulator is re-established as a corporation under a federal statute, the existing body that was incorporated under the Canada Corporations Act may be wound up.

Recommendation 3

The Committee recommends that the Government of Canada assist in re-establishing the new regulator and remain involved in its affairs until it is fully functioning.

Recommendation 4

The Committee recommends that the Government of Canada ensure that:

- the new immigration consultants’ regulator institutes a third-party, no-cost complaints procedure in respect of unauthorized or

improper representation to support immigrants with precarious status in Canada in lodging complaints;

- immigrants be informed that their complaints to the regulator will have no negative impact on their immigration applications; and
- the regulator has a prosecutor/investigator who will represent the public interest in prosecuting misconduct.

Recommendation 5

The Committee recommends that the Government of Canada amend section 13.1 of the *Immigration and Refugee Protection Regulations*, as well as the relevant Citizenship and Immigration Canada inland processing manual (IP 9), and any other relevant documentation, so as to:

- require everyone to be an authorized representative if, whether for a fee or unpaid, they advise or consult with a person who is the subject of a proceeding or application before the Minister of Citizenship and Immigration, an immigration officer or the Immigration and Refugee Board;
- provide that only authorized representatives may perform pre-submission work in respect of a person who is subject of a proceeding or application before the Minister of Citizenship and Immigration, an immigration officer or the Immigration and Refugee Board;
- require everyone to disclose the use of any representative, whether performing pre-submission work or not, in relation to a proceeding or application before the Minister of Citizenship and Immigration, an immigration officer or the Immigration and Refugee Board; and
- bolster its procedures for determining whether an immigration client is using a concealed representative to greatly increase the likelihood that the involvement of a concealed representative is discovered.

Recommendation 6

The Committee recommends that the relevant federal regulatory and enforcement authorities (Citizenship and Immigration Canada, the Immigration and Refugee Board, Canada Border Services Agency, Royal Canadian Mounted Police, Canadian Society of Immigration Consultants, Canada Revenue Agency) work with provincial partners (provincial governments, law societies) to coordinate investigation, communication and enforcement efforts so as to ensure that unregistered immigration consultants are either referred to provincial law societies for sanction, or are prosecuted under existing federal provisions, depending on the nature of the person's practice. Such federal provisions include, but are not limited to, the general contravention provisions in the Immigration and

Refugee Protection Act, provisions under the Criminal Code, and federal tax law. No later than four months after this report is presented in the House of Commons, a lead agency should be named to coordinate investigation, communication and enforcement efforts.

Recommendation 7

The Committee recommends that Citizenship and Immigration Canada review existing processes related to the most common types of immigration applications with a view to simplifying them whenever possible.

Recommendation 8

The Committee recommends that the Government of Canada revise all websites of Canadian embassies and missions abroad so as to ensure that they include consistent, clear and prominent information about immigration consultants. These messages should:

- be available in the local language(s);
- inform prospective immigrants that they are not required to use an immigration consultant to help them in their immigration matter, and provide them with phone numbers that function from within the country, as well as other contact information enabling prospective immigrants to direct questions to appropriate government authorities;
- state that if a person chooses to use an immigration consultant, only an “authorized representative” may be used;
- provide a list of authorized representatives practising in the country; and
- state that no representative can guarantee their client success in an immigration matter.

Recommendation 9

The Committee recommends that the Government of Canada make the “Use of a Representative” disclosure form (IMM 5476) available in the local language at embassies and missions abroad. Depending on current demand, the Committee recommends that the Government of Canada make other types of immigration forms and instructions, such as those related to sponsoring a family member, accessible in languages other than French and English.

APPENDIX C LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p>As individuals</p> <p>Howard Levitt, Attorney</p> <p>Charles Sinclair, Attorney</p> <p>Caregivers Support Services</p> <p>Magdalene Gordo, Member</p> <p>Richelyn Tongson, Member</p> <p>Pura Velasco, Member</p> <p>House of Commons</p> <p>Ruby Dhalla, Brampton—Springdale</p>	2009/05/12	16
<p>Canadian Labour Congress</p> <p>Karl Flecker, National Director Anti-Racism and Human Rights Department</p> <p>Hassan Yussuff, Secretary-Treasurer</p> <p>Intercede</p> <p>Agatha Mason, Executive Director</p> <p>Eunice Quash</p> <p>Mamann Sandaluk, Immigration Lawyers</p> <p>Rafael Fabregas, Barrister and Solicitor</p> <p>Migrante Ontario</p> <p>Aimée Beboso, Member</p> <p>United Steelworkers</p> <p>Peter Leibovitch, Liaison Officer with Independent Workers Association District 6</p>	2009/05/14	17
<p>Canadian Live-In Caregivers Association</p> <p>Tristan Downe-Dewdney, Spokesperson</p>	2009/05/26	18

APPENDIX D LIST OF BRIEFS

Organizations and individuals

Canadian Live-In Caregivers Association

Caregivers Support Services

Independent Workers Association

Nannies Direct

MINUTES OF PROCEEDINGS

A copy of the relevant Minutes of Proceedings (Meetings *N^{os}.16, 17, 18, 19 and 20* is tabled.

Respectfully submitted,

David Tilson, MP
Chair

Migrant Workers and Ghost Consultants Minority Report

Liberal Party

We would like to thank all the members of the Standing Committee on Citizenship and Immigration as well as the witnesses who provided valuable feedback during committee hearings on the report of Migrant Workers and Ghost Consultants. As the party who suggested that the committee embark on a study of this very important issue, we are satisfied with the progress and support a vast majority of its recommendations.

The Liberal Party has long understood the importance of sound immigration policy. We have always believed that much of Canada's growth in population, national wealth and personal incomes has been fuelled by the hard work, imagination and ingenuity of New Canadians and their families. We know that successful immigration policy is built on the sound principles of fairness, accountability and opportunity – all of which are principles that the Liberal Party has historically championed.

The Live-in Caregiver Program currently generates a number of challenges for both caregivers and their employers, some of whom experience vulnerability, abuse and exploitation through the present system. The challenges faced by caregivers and their employers are in large part the result of this government's inability to adequately address these issues through appropriate policy changes. It is for this reason that the Liberal members of this committee called for a study of this important issue.

When caregivers choose to come to Canada through the Live-in Caregiver Program these individuals should be able to enjoy many of the same rights as other permanent residents. They should be able to obtain study permits and seek out educational opportunities. They should be able to live where they choose or change employers if they feel it necessary. The Liberal party also strongly believes in family reunification because family members serve as a support system for individuals in our communities. Under the current program caregivers face long periods of separation from their families and in many cases this leads to feelings of anxiety, loneliness, pressure and stress. By granting conditional permanent resident status to caregivers we can eliminate a lot of the grief and strain that these individuals experience on a daily basis.

These are the reasons why our members fully support the committee's recommendation that the Government of Canada grant live-in caregivers permanent resident status on certain conditions and that the Government of Canada also waive the requirement to obtain a study permit for live-in caregivers.

We also support the recommendation that the Government of Canada should play an active role in ensuring that caregivers receive temporary health coverage under the Interim Federal Health Program when they are denied coverage under a

provincial health plan.

Other challenges faced by caregivers and their employers under the Live-in Caregiver Program is the lack of information provided to them by the present system, this can sometimes result in unintentional harm and abuse to either party involved. Caregivers and employers of caregivers alike need to be fully informed of their rights and responsibilities with respect to the terms of the program and the legal consequences of the failure to comply with these terms.

In addition we strongly believe that the residence requirement is among the major causes of vulnerability of caregivers with respect to their employers. That is why our members fully support the recommendation specifically related to live-in caregivers from the committee's 7th report on *Temporary Foreign Workers and Non-Status Workers*; the extension of the three year period in which employment conditions have to be met in order to be eligible for permanent resident status. We also believe that the government must implement all of the changes in the Committee's 7th Report as soon as possible to ensure that the rights of temporary foreign workers and caregivers are upheld in a timely manner.

The Liberal members of the Standing Committee on Citizenship and Immigration found that during the process of reviewing the Dhalla case the committee lacked the resources and authority required to examine the case and render a decision.

Despite this knowledge certain members of the Committee chose to play partisan politics by focusing on one particular case involving a Liberal Member of Parliament. It is also puzzling that if in fact the committee felt that it had the authority to investigate the Dhalla case and make recommendation number seven then why would it not request that all cases related to allegations made by employees and employers be investigated. It would be unfair to all other caregivers and employers who may have similar allegations to be denied the same process. The recommendation made by the committee is not well thought out and the fact that there are no terms of reference clearly illustrates this point. The role of the Parliamentary Standing Committee on Citizenship and Immigration to order investigations into a specific case is highly unusual and leads one to question the real motivation behind this particular exercise.

To take this recommendation to its logical conclusion one would have to believe that the Standing Committee on Citizenship and Immigration is ready to become the body that would examine every dispute between employers and employees related to this program. For obvious reasons that does not make any sense. It is simply unfortunate that this type of thinking and reasoning resonates with some Members of Parliament.

In closing, Dr. Ruby Dhalla provided a vigorous defence with evidence, proof, and documentation which has been forwarded to the committee. In reference to the seventh recommendation of this report we would like to include below the testimony that Dr. Ruby Dhalla, Member of Parliament for Brampton-Springdale presented to the committee on May 12, 2009:

“Thank you for accepting my request to speak this morning. The work that this committee is undertaking is vital to the building and growth of a nation in which there is equality, fairness and justice. In fact, fairness is what brings me here today. Fairness for those bringing forward these allegations, fairness for all foreign workers who have a right to be welcomed and treated well in our country, and fairness for anyone falsely accused of wrongdoing who like, myself, has found themselves condemned without so much as a honest airing of the facts.

I am here today to speak to you about an issue that has taken on a life of its own. An issue that has been based on innuendo and allegations, which are false and unsubstantiated because politics has been in large supply but fairness has been hard to find. Reporters have been reporting, journalists have been writing and political parties have been exploiting this in sensational ways for their own partisan purposes. You can only imagine what it’s like to have been the subject of these stories. To have your character and conduct maligned without so much as an opportunity to fairly defend your name. Can you imagine how it feels to have the very values and beliefs that have defined you as a person, and that you have championed as a family put into question?

But I am here today to set the record straight to ensure that the truth is brought to light.

- 1) I Ruby Dhalla did not employ Magdelene Gordo or Richlyn Tongson. I did not sponsor Ms. Gordo or Ms. Tongson. I did not pay the salaries of Ms. Gordo and Ms. Tongson. I was not the person Ms. Gordo and Ms. Tongson provided care to. I had no involvement from an immigration or employment perspective.

My involvement: As a daughter of a mother who needed care I did what any child would do for their mother I only made the initial call to the agency after receiving the referral through a good friend. After that call both my mother and brother were in contact with the agency. I don’t know why these caregivers have come forward 15 months after leaving on what my family thought was on good terms and with almost identical allegations. I don’t know what their motive is or who is behind this.

So why I am here today to tell you I’ve done nothing wrong? Look at the allegations:

- 2) Ms. Gordo alleges she was not paid for her work however -she hand wrote a receipt in her own handwriting that she received money from Tavinder Dhalla-my mother and not me and nothing more was owed.
- 3) Ms. Gordo says she worked for 3 weeks and I held her passport for two weeks but when you look at the evidence, she herself has confirmed that she has only worked for 11 days and today. Today she changed her testimony and stated she never gave the passports to me.
- 4) It is alleged that I have had regular contact with Ms. Gordo but my boarding cards prove I was in the GTA for only 3 days in the entire time she worked for me and my calendar

shows that I was busy with community and constituency events; therefore I could not have interviewed her.

- 5) They both claim they shovelled my snow but my mother has hired someone who has been shovelling her snow for the past 5 years and has never arrived in the past 5 years to have it already done.
- 6) They both claim they clean my brother's chiropractor clinic but the statement from the contractors cleaners show that my brother has a regular cleaner
- 7) Ms Tongson states I took her passport but she signed a receipt stating that she gave her passport to Neil not to me to assist her sponsorship application
- 8) In an effort to advance her immigration claim, Ms. Gordo went so far as to impersonate me, a Member of Parliament, with Human Resource Skills Development (HRSDC). HRSDC has confirmed this.
- 9) There is one final outstanding item. It has been suggested that Ms. Gordo and Ms. Tongson were in Canada illegally however I want to report that the agency providing the caregivers has confirmed that both Ms. Gordo and Ms. Tongson were in Canada legally.
- 10) After presenting this evidence it is clear that I, Ruby Dhalla am not the employer. I am not the sponsor. To that end, and to ensure my name is cleared I have personally asked the Ethics Commissioner to investigate this issue. And I will cooperate with that investigation fully.

I am the daughter of a loving, and caring single mother who was an immigrant to this country. Like these caregivers that we are talking about today my mom also came to Canada with a dream and desire to make a difference. She like many other new Canadians left behind a good life and came with hope for a better life for her children. She came to Canada without a dollar and worked to save dollar by dollar to build a good life for her family. She overcame the challenges faced by many new Canadians of learning English, looking for a job and getting used to a new way of life. She tried she struggled and persevered and raised two kids of her own. I remember growing up and watching my mother make sacrifices for our wellbeing. She taught us the virtues of honesty, integrity, respect and hard work. My mother worked in factories, she worked as a caregiver, she worked as a child care worker, and she gave us the opportunities that have blessed our lives ever since.

Growing up in an inner city neighbourhood I learned that whether one is a CEO or janitor or teacher, everyone deserves to be treated with respect and fairness. I hear about some of the words that have been used to describe our family this week and I wish they could know the life story of my family.

I have learned about valuing people for who they are on the inside not from where they come from or what they do. That is why these allegations have gone against the grain of every value my mother has raised my brother and I with. If anyone knows of the vulnerabilities faced by immigrant women it's me. I've seen it. I've lived it. I know it.

People have used the words power to describe those that are in politics and the caregivers as the vulnerable. However for me politics has never been about power but about helping those very women that spoke today that are struggling to be heard, the voiceless, and those that are powerless. It's been about the hopes and dreams of people. It is these values that have helped to shape my focuses in parliament my thoughts and ideas.

As many of you know my journey has not been easy. While all of us know that being in public life exposes us to people at many levels it is only through events such as this that you experience the extent of it. To have your home which is supposed to be your private sanctuary described in detail in public is a violation of privacy that has no words. To have your mother's health records displayed and your family's home address flashed all over the world has felt like an intrusion. I never thought the day would come in Canadian politics when my quest to break down barriers for women, for young people and immigrants would result in my own family becoming a victim.

I think all of us as Canadians must never forget that politicians are people. People are human beings with feelings and emotions. It is no small challenge to live in the public eye and to climb the steep hill that still stands before women and especially young women in politics. But it is a modest challenge compared to those that confronted my mother. And it is her example – and only her example – that I seek to live by.

While the allegations made against myself are false and unsubstantiated I do believe there are specific reforms that must be made to ensure that the live in care giver program protects both caregivers and employers. I am committed to working with this committee as well as organizations like the Canada Care Givers Association and other advocacy groups to ensure these reforms are implemented. There must be fairness for the workers. There must be fairness for employers. There must be fairness for us all. After all, that is the Canadian way.

Anyone ever entering my family home always been treated with love, care, compassion and respect. This is why the past week was difficult but I am blessed to have so many constituents, friends, and Canadians who have called me, emailed me and written to me. Please know your words of support have encouraged and given my family and me strength as we bring forward the truth and facts. As a Member of Parliament and as a daughter, as a sister and as a Canadian, I thank this committee for the opportunity to appear. I hope we have an opportunity to work together to ensure there is fairness for care givers, and employers. Thank You."

What motivated the Liberal members of the committee to champion this study was our desire to improve the policy framework related to migrant workers and ghost consultants.

Due to our efforts, tenacity and conviction we were able to write a report whose recommendations, if implemented will improve the Live-in Caregiver Program. We hope that the Conservative government will respond favourably to the recommendations we support.

