

**SUBMISSION
TO
CITIZENSHIP AND IMMIGRATION CANADA**

CANADA EXPERIENCE CLASS (CEC) ECONOMIC IMMIGRANT

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INTRODUCTION

The Building Trades Council supports the good intentions of the proposed Canada Experience Class (CEC), a new classification under the Economic Immigration Program. Temporary Foreign Workers (TFWs) deserve direct access to landed status after completing two years of successful employment in the country. The sacrifice and commitment made by these workers is reason enough to reward these workers. The CEC will also help to alleviate the looming labour shortages as the peak of baby boomer retirements hits, beginning 2011.

This being said serious structural deficiencies remain for temporary workers in Canada. Without resolving these on-going abuses the new CEC could inadvertently become yet another tool available to unscrupulous employers to further coerce, intimidate and exploit this vulnerable category of workers.

A more fundamental criticism of the entire TFW program is the lack of control and evaluations of Labour Market Opinions (LMO). Regional unemployment of skilled and unskilled workers continues throughout the country. Expediting and expanding the TFW program and the introduction of the new CEC may further isolate and ignore domestic labour markets in rural and remote communities in Canada.

This submission begins with a review of the structural problems with the temporary workers program. Specifically, the problems that are caused by work permits that bind workers to a single employer, an absence of monitoring and unwillingness to enforce, issue warnings or penalize employers who knowingly mislead the government. In spite of federal (both CIC and HRSDC) collaboration with provincial authorities and new efforts to provide advocacy for temporary workers (particularly in Alberta) TFW employers require pro-active monitoring and compliance mechanisms by government authorities in order to ensure fairness, justice and respect for human and employment rights.

Structural Problems with the Temporary Foreign Worker Program

The fundamental restriction on all TFWs is the restriction on employment opportunity. Work Permits limit these workers to one employer. Workers whose livelihood depends on a single employer are in a precarious position. Should they complain or attempt to mediate a dispute their employer may retaliate by firing the worker. The worker lives under the hammer of losing their only legal means to income. These workers can not cross the street and take up a job with another employer. Changing the work permit to a new employer is difficult and time consuming. It requires the TFW to find an employer who is willing to begin the process anew. This is no easy task for someone who doesn't speak English or French and has no understanding of their employment and immigration rights.

The process of changing a work permit requires a new Labour Market Opinion. It is only an extremely rare case when a fired worker happens upon an employer with

pre-approved LMO's. Normally the LMO can take up to five months to process. With an LMO in hand an application to change the work permit can be made. It can take weeks to issue the work permit. Finally, after all this time, an application to extend the work visa will likely be required. This process is too cumbersome and deters the migrant from pursuing formal complaints to government agencies.

Meanwhile TFWs who suppress their complaints are exposed to on-going coercion and intimidation. The case of the Canada Line workers is an example. Until the workers voted to join the CSWU Local 1611 they willingly endured 60 hour work weeks that paid them \$1200 net per month, which is about \$3.75 net per hour. The company held the workers passports. Even after workers joined a union the company continued to exert pressure on the workers. A ruling by the BC Human Rights Tribunal in November, 2007 found the employer was in contravention of the law when it practiced coercion and intimidation. Most of the pressure is exerted in subtle ways.

In the construction industry workers who complain can be easily singled out by their foreman. The "rebel" is sent to do particularly dirty, heavy jobs as a punishment. The "rebel" can be a victim of a psychological war by the employer. Holding back the distribution of renewed work permits until the last possible moment is another tool at the employer's discretion to cause anxiety. Employers can easily humiliate their TFWs. On the other hand employers can reward workers who conform. Workers who "toe the line" may be able to make their own arrangements for meals or accommodation. Workers are completely dependent on their employer for information about work permits and visa renewals. Unable to speak English and unaware of their right to Access Information about their CIC file, TFWs have little option but to believe what they are told by their employer regarding the status of their work permit and visa renewal.

A complete discussion of the reasons why TFWs do not file Employment Standards complaints is provided in our recent submission (attached) to the BC Minister of Labour, Honourable Olga Illich. The few successful examples of advocating on behalf of vulnerable workers have come through unique approaches. The employer needs to know that there will be consequences if they decide to retaliate against workers who complain about their work conditions. The submission details some of the legal options available for workers to protect their jobs and income and thus effectively resolve exploitation, abuse, coercion and intimidation issues. The submission calls for the establishment of orientation sessions for newly arrived migrant workers and advocacy centres to provide on-going support as a primary initiative.

The submission to Honourable Olga Illich also discusses the lack of enforcement issue. Particularly the blind acceptance by HRSDC and CIC of the promises made in job offers that are submitted to federal officials. In the case of the Canada Line workers job offers promised workers \$50,000 in wages. Even today, after close to two years exposure on this case and intervention by the union, workers are earning

an average of \$30,000. There has been no warning or order from the federal government to this employer to live up to its word.

Monitoring and enforcement of contractual promises made in job offers should be the job of joint (federal-provincial) compliance teams. A successful model for these teams is available. In 2000 the BC Employment Standards Branch in conjunction with HRSDC and CRA inspected more than 1,500 residential construction sites in the lower mainland region. Random spot checks were preventative in nature, aimed at educating employers to their legal responsibilities under various provincial and federal statutes. A backgrounder on the Joint Compliance Teams (JCT's) is attached.

A Holistic Approach for the Canada Experience Class

First and foremost CEC must not become just another carrot that employers dangle in front of their migrant workers. Employers already have too much control over the TFW. Monitoring and enforcement of TFW employers should mitigate against the CEC becoming another tool to keep their TFWs in line.

If we can deal with the above our biggest concern about the CEC is that it will be seen as a one-stop solution to the on-going problems with the TFW program. We urge the federal government to reflect on the problems of the current program. Too many employers and labour brokers are using the TFW worker program to make a quick buck off the backs of vulnerable workers and/or to simply solve immediate labour shortage needs with no regard for long-term investments in training domestic workers. The Canadian economy and our civil society need a program that does not preempt and jeopardize training opportunities for Canadians living in rural and remote communities.

Labour Market Opinions are not looking at the total supply and potential supply of skilled workers in the province of BC. The BCYT-BCTC has been tracking availability of our own members over the last 18 months with regular surveys of dispatch availability. We find a number of regions of the province continue to suffer from unemployed journey-level workers. The problem is that employers in the Vancouver area are unwilling to pay mobility and living-out allowances to bring these workers to Vancouver.

While unemployment continues in rural communities across the province many First Nation youth, new immigrants and women are being ignored. As the TFW program steams ahead, youth in New Hazelton, Kamloops, Nelson and Campbell River remain unemployed. Employers who apply for TFWs should be required to show what investments they have made to support apprenticeship training in Canada.

The Building Trades want to restate our support for the TFW program when a genuine labour shortage exists, all other options to fill those needs have been exhausted and pro-active monitoring is in place to ensure that TFWs are not used

as a source of cheap labour. In the case where a genuine need for TFWs is made we urge to federal government to make sure that those workers are treated with respect.

In order for the CEC to succeed we call on the federal government to develop and provide resources for an integrated program that provides full access to immigrant settlement services. Settlement services are required by TFWs from the moment they step foot in Canada. Some of the fundamental services required include; language training (ESL), housing services, accessing health care, access to an ombudsperson and/or representation agencies such as unions, translation and interpretation services, family support services (enrolling children in school, etc....), independent advice in case of a workplace injury or disease, consumer legal services (legal aid), connecting with the community (ethnic and non-ethnic) and sports and recreation opportunities.

In addition to these settlement service supports we recommend that the proposed CEC period of accumulation of two years of TFW experience be extended from three years to four years. The delays and time required to change employers to accumulate two years of experience will require that the worker be given extra time to find new employers. The construction industry's unique nature is project by project work. As soon as one project is finished workers are laid-off and looking for their next job. Construction workers and in this case TFWs need time to find new employers and new construction projects.

Conclusion

The BCYT-BCTC supports the introduction of the new CEC as a first step to help address some of the issues of exploitation of TFWs. However, until an effective mechanism is provided to monitor and enforce employers who abuse TFWs we fear that the CEC will become just another tool to keep workers in line.

Further, we call on the federal government to review the LMO evaluation process to ensure that all TFW applications are genuine.

Finally, authentic TFWs who are hoping to access the CEC immigration stream must be able to access the full complement of settlement services available to other immigrant categories.