CHAPTER 8

Closing the Open Door? Canada's Changing Policy for Migrant Caregivers

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Like many post-industrial nations, Canada's demand for paid care work is increasing as a result of ongoing demographic, social and political transformations. Although Canada has the second lowest proportion of seniors among the G7 countries, with 16 percent of the 2015 population age 65 and older (Statistics Canada 2015), the percentage is expected to double in the near future: 23–25 percent in 2036 and 24–28 percent in 2061 (Statistics Canada 2010). The historically low female labor force participation has changed, from less than 25 percent in the early 1950s to 82 percent of all Canadian women 25–54 percent in 2014 (Statistics Canada 2016). Both trends indicate the need for care services, but in Canada, publicly funded child care and elder care are limited and not universal. Because care workers other than health workers risk bad working conditions and low pay, migrant workers are disproportionately employed in such jobs (Boyd and Lightman 2016; Hondagneu-Sotelo 2007; van Hooren 2012).

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How Canada admits migrant caregivers is a legacy of historical immigration policies whereby foreign-born domestic servants were recruited for housework and child care. Initially the preferred migrant was from Britain and as such the mother of future Canadians (Arat-Koc 1997; Barber 1991). But by the early twentieth century, recruitment spread to other European countries, to Guadeloupe in 1910 and to Caribbean Commonwealth countries in the 1950s (Barber 1991; Macklin 1992). In the last quarter of the twentieth century and at the start of the twenty-first, migrant care workers were predominantly women from less developed economies, often persons of color, attracted to Canada by three consecutive immigration programs: (1) the (non-immigrant) Employment Authorization Program in the 1970s; (2) the Foreign Domestic Worker Movement (FDM), 1981–1992; and (3) the Live-In Caregiver Program (LCP), April 27, 1992 to November 30, 2014. The latter two admitted temporary legal migrants for work in private households, requiring them to live in the homes of their employers. Significantly, these policies deviated from most policies of other countries by permitting the transition to permanent residency after two years of care work

The most recent and longest lasting program, the LCP, epitomized two features noted in other studies of care work and domestic labor: racial distinctions between employer and employee, and the multi-scalar nature of migration regulation, with federal policy setting the conditions of admission and provincial policies governing conditions of employment. At the macro level, immigration policy served as a mechanism for the recruitment of care labor; at the same time, it determined the rights of care workers, including the right of permanent residency. As the policies governing the admission of migrant caregivers created asymmetrical power relations between employer and employee (Anderson 2010; Boyd 1997; Shutes 2014), the micro level contained the potential for employee abuse, "hidden in the household."

Marked shifts in Canada politics and policy formulations recently ended the Live-In Caregiver Program. Following the 2006 and 2008 federal minority governments, both headed by Stephen Harper's Conservatives, and the 2011 Conservative majority government, substantial changes occurred in immigration policy, including ministerial directives that could be implemented by the Minister of Citizenship and Immigration with no Parliamentary oversight or debate (Boyd and Alboim 2012). The existing emphasis on admitting permanent residents for economic purposes was enhanced (Boyd 2014). Another important

development during the first millennium decade was the increasing admission of temporary workers alongside permanent residents.

The LCP was affected by these changes. The initial pattern, evident as early as 2010, took the form of heightened control over the program, with changes aimed at preventing egregious abuses associated with the multi-scalar nature of the program, that is, the vulnerability of migrant care workers to unscrupulous employers and recruiting agencies. However, consistent with the "law and order" approach adopted in migration policy domains targeting refugee claimants, marriage fraud and trafficking, the LCP came to be viewed by the Minister as a fraudulent "backdoor" into Canada. It was replaced in December 2014 by a new Caregiver program, firmly part of the temporary worker program and governed by market-based assessments of labor needs.

Within these multifaceted contexts of immigration policies, this chapter surveys recent and current Canadian immigration policy covering women recruited for care work in private households. It begins with Canada's globally unique Live-In Caregiver Program, in operation between 1992 and 2014, highlighting the size of the program and noting the origins of the workers. It then inventories LCP's problems and policy responses to those problems throughout its history. It concludes by noting the major policy changes, effective December 1, 2014, and assessing how these changes will transform the migration-for-care opportunities of migrant women.

Canada's Live-In Caregiver Policy

Building on the previous Foreign Domestic Worker Movement (FDM) and earlier policies (see Daenzer 1997; Macklin 1992; Schecter 1998), the LCP admitted temporary foreign workers as live-in employees to work without supervision in private households to care for children, seniors or people with disabilities. However, compared to the FDM, it increased the education and training requirements, stipulating the following criteria needed to hire a LCP temporary worker:

(1) A positive Labour Market Opinion (LMO) from an employer in Canada.
(2) A written contract with the future employer signed by the worker and the employer.

(3) Successful completion of the equivalent of a Canadian secondary school education.
(4) At least six months training or one year of full-time work experience as a caregiver or in a related field or occupation (including six months with one employer) in the past three years.
(5) Good knowledge of English or French.
(6) A work permit issued by Citizenship and Immigration Canada before entering Canada.

The Labor Market Opinion, later re-labeled a Labour Market Impact Assessment (LMIA), required would-be employers to apply to Human Resources and Skills Development Canada/Service Canada (HRSDC/SC), currently called Economic and Social Development Canada (ESDC). A review was undertaken of the employer's job offer and the employment contract to ensure that it met the requirements for wages and working conditions as well as provincial labor and employment standards and that no Canadian resident was available for the job.

To date, the Live-In Caregiver Program has been Canada's longest-lasting policy, in effect for over two decades; as with the FDM, it was globally unique because temporary care workers were permitted to transition to permanent resident status. (Although new visas are no longer given out, the LCP remains in effect for those entering as temporary LCP migrants before December 2014, whose permits were issued before December 2014, and/or who are awaiting application processing for permanent admission to Canada.) Because the admission of live-in caregivers was determined by demand in the form of would-be employers seeking live-in caregivers, numbers of migrants remained low until the first decade of the twenty-first century. In the mid-1990s, the annual flow of temporary admissions (i.e., visas issued) under the LCP was less than 3,000 and remained slightly above 2,000 until 2004 (Citizenship and Immigration Canada 2005). Deriving a consistent trend-line for all LCP years is not possible because of variations in the public reporting of temporary worker data, but by the early twenty-first century, increasing numbers of temporary workers permits were issued, peaking at nearly 30,000 in 2007 (Fig. 8.1).

Nearly 90 percent of arrivals over this time were women from the Philippines (Citizenship and Immigration Canada 2005; Kelly et al. 2011). There are many reasons for the predominance of Filipinas in the LCP. For one thing, with the inception of the Foreign Domestic Worker

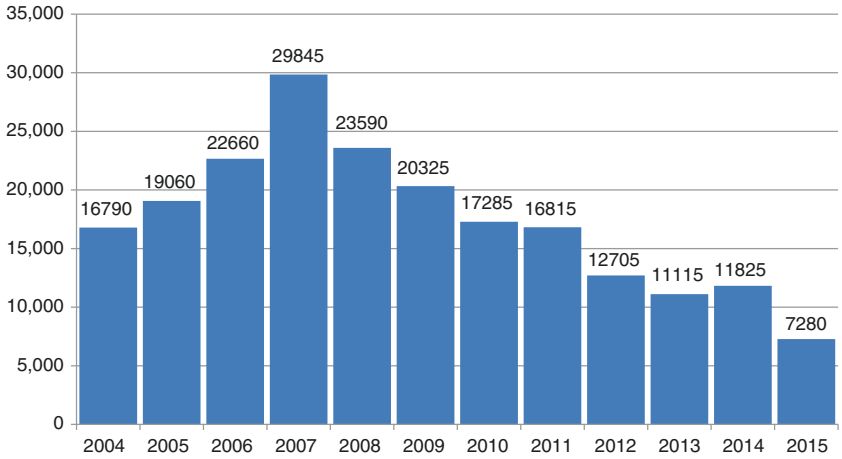

Fig. 8.1 Number of temporary worker permits in the Live-in Care Program, by the year in which the permits became effective, Canada (excluding the Yukon), 2004–2015

Source: Immigration, Refugees and Citizenship Canada, Temporary Residents as of March 31, 2016. http://open.canada.ca/data/en/dataset/67fd1fae-4950-4018-a491-62e60cbd697

Movement in 1982, Canada became a sought-after destination for migrant care workers because it allowed transitioning to permanent resident status. Policies of the Philippine government also played a key role. States can stimulate (or discourage) the migration of their peoples. Scholars frequently point to the culture of migration, which reflects the impacts of structural adjustment policies, in this case the efforts of the Philippine government to foster emigration to generate remittance behaviors (Barber 2000, 2008; Rodriguez 2010). Personal remittances represent a significant share of the Philippine GNP, rising from 3.3 percent in 1990 to 13.3 percent 2005, dropping slightly in 2013 and 2014 to approximately 10 percent (World Bank 2015).

Other reasons for the predominance of women from the Philippines include recruitment agencies and consumer preferences for Filipinas, possibly reflecting a racist desire for lighter-skinned nannies or a perception of these women as compliant, dutiful and nurturing workers (Bakan and Stasiulis 1995; Guevarra 2014). The more demanding entrance criteria

associated with LCP also are factors. Filipina domestic worker and caregiver applicants tend to have higher education levels than their counterparts from other countries as a result of the system of education in the Philippines formed during US military rule and under later influences, giving them a better chance of meeting selection criteria. Further, the system of training nurses in the Philippines means they more easily meet the LCP criterion of six months of training or twelve months' employment in a caregiving capacity (Stasiulis and Bakan 2003).

The LCP in principle allowed all caregivers in the program to apply for permanent residence visas after working as live-in caregivers for 24 months. How many women entered Canada as temporary LCP workers and subsequently became permanent residents cannot be determined from publicly available statistics. However, the rate appears low, keeping in mind that several years must pass from the temporary permit issue to the completion of 24 months as a live-in caregiver, and that processing delays can occur. Certainly, the numbers of LCP workers who become permanent residents in any given year are much lower than the numbers of permits issued a few years earlier (Fig. 8.2. versus Fig. 8.1). The 2014 and 2015 numbers reflect enhanced processing of applications towards the end of the LCP and are discussed later

Problems and Processes of Change: A Brief Moment in Time

Extensive critiques of the Canadian Live-In Caregiver Program exist, both from the general context of women migrating for care and from the specific requirements of the program that shaped both employment experiences and processes of transitioning to permanent resident status. At the macro level, the migration of low-wage care workers reinforces global structures of inequality between more advanced receiving countries and developing sending countries. Further, the migration of workers, particularly those in health-care occupations such as nursing, long-term care and others requiring a high level of education, results in "brain drain" and creates health-care shortages in the sending country (Altman and Pannell 2012; Lindio-McGovern 2012, chap. 2). At the meso level, care migration erodes social relationships and communities in sending countries, fragmenting relationships within families and communities and creating transnational mothering and globalized care chains (Hochschild 2000; Isaksen et al. 2008). In addition, in countries such as the Philippines, where a large proportion of the population are emigrants, temporary migrant worker programs such as the LCP aggravate income

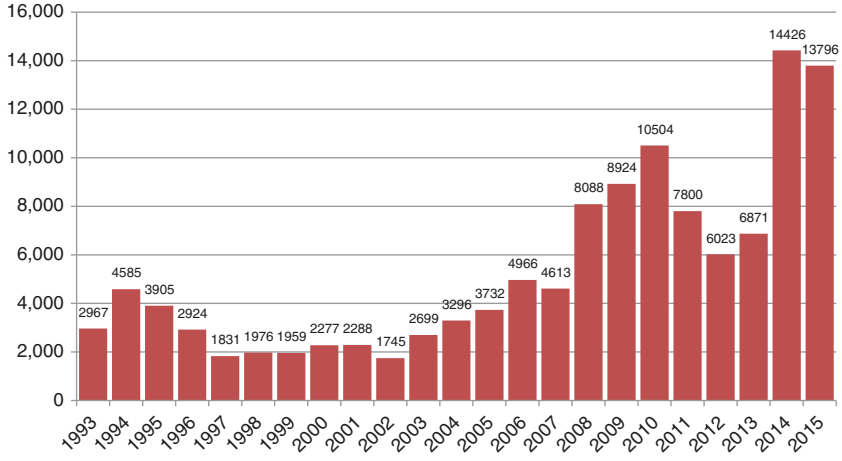

Fig. 8.2 Number of Annual Permanent Resident Admissions from the LCP, Principal Applicants, Canada 1993–2015

Source: Immigration, Refugee and Citizenship Canada. Permanent Residents as of March 31, 2016. http://open.canada.ca/data/en/dataset/ad975a26-df23-456a-8ada-756191a23695-en/dataset/67fd1fae-4950-4018-a491-62e60cbd6974

inequality between households. Studies find that, because of remittances, families with a migrant abroad tend to have higher income than families that do not (Gorodzeisky and Semyonov 2014).

Migration regimes fostering the emigration of women for care work also reinforce gendered and racialized ideologies about care and work (Altman and Pannell 2012; Guevarra 2014; Liang 2011). A gender-specific supply of care workers rests on cultural norms and stereotypes of women as "natural caregivers" [women in destination countries are able to escape these gender restrictions by transferring them to migrant women (Altman and Pannell 2012)]. By the same token, migration policies aimed at the admittance of care workers reflect stereotypes of race, class, and nationality, with a racialized ideology used to legitimate the suitability of particular groups to work as caregivers (Browne and Braun 2008; Guevarra 2014; Liang 2011). Finally, such policies may render care work a private household problem, masking the critical need for universal health and child care in post-industrial societies and minimizing governmental responsibility (Walia 2010).

In addition to these general considerations, as noted in the introduction, the Canadian LCP generated tensions between caregivers and employers and between caregivers and the state. These multi-scalar sites of asymmetrical dependency rested on the live-in requirement, the power of employers alongside reduced mobility opportunities for migrants, and the liminality associated with transitioning from temporary to permanent resident status.

Requirements to Live with the Employer

The LCP continued the FDM requirement that the migrant caregiver live with the employer, as the federal government argued that those positions were unlikely to be filled by local Canadian residents. But as Rollins (1985) and others note, these employment relations are those of middle- and upper-class, often white, women governing low-waged, predominantly women of color employed in the context of entrenched race relations or under migration regimes that give them temporary and precarious legal status. A large literature highlights the negative consequences of employer–employee relations in the private setting of the home. For one thing, invisible working conditions make in-home work difficult to regulate (Mantouvalou 2013). Studies report that caregivers are constantly on-call, forced to work overtime without pay, denied sick leave, assigned to tasks not contractually covered, paid in cash with no report of employer benefits, and lacking recourse to bureaucratic rules and regulations governing disputes. They also note the dearth of record-keeping to prove to immigration authorities that migrants have worked for the required 24 months of work (Atanackovic and Bourgeault 2014; Canada 2009; Labadie-Jackson 2008; Straehle 2012; Tungohan et al. 2015; Walia 2010). Through curfews, banned telephone use and visitor restrictions, caregivers can be isolated; they have also reported physical, mental, and sexual abuse, often used by employers to exert control (Hodge 2006; Lindio-McGovern 2012, Chap. 2; Silvera 1989).

Centrality of Employer

Because employers provide employment opportunities and their homes are designated as work sites, they assume a state-mandated importance in shaping work conditions and in enabling (or not) migrant caregivers to apply for permanent residency status. Employers and employees are ostensibly governed by a contract stipulating the level of payment

(which must be at the minimum wage), hours worked, job tasks, and living arrangements. As the previous section indicates, however, such contracts may be violated by employers, creating two additional problems for the caregiver.

First, the need to accumulate 24 months of work to satisfy permanent resident visa requirements means that many migrant women in bad situations are reluctant to leave the employer. They fear that a record of frequent job changes will be viewed negatively by the authorities who approve permanent residence visas or by potential employers, and new job searches will create delays in meeting the 24-month requirement. Second, immigration jurisdiction falls under federal policy, but labor standards are the responsibility of the provinces. The federal government cannot enforce provincial labor standards, and many domestic workers are unaware of the level of government they should access if they face exploitation (Bakan and Stasiulis 1995; Daenzer 1997).

Following consultations in 2008–2009, a number of administrative changes were announced by the Minister of Citizenship and Immigration Canada (CIC) in December 2009 and in August 2010 (CIC 2009, 2010) to alleviate the problems. One change extended the period for accumulating the mandatory 24 months of care employment from three to four years and provided the option of counting weeks or hours. Three additional changes addressed employment relations. One was the mandatory inclusion of clauses in the employment contract on employer-paid benefits, accommodations, duties, hours of work including overtime hours, level of wages, holiday and sick leave entitlements, and terms of termination or resignation. New employer-paid benefits were also mandated for employers wishing to hire migrant women through the LCP. Employers were required to pay for the following: (1) transportation to the place of work in Canada from the LCP migrant's country of residence; (2) private medical insurance prior to activation of provincial health coverage; (3) workplace safety insurance or the equivalent if former was not available; (4) all recruitment fees associated with hiring an LCP migrant. Employers were forbidden to recoup these expenditures from employees, though de facto such actions could still occur since detection requires reporting the violation.

Two additional initiatives were targeted at the problems faced by Live-In Caregivers: (1) establishing emergency processing of labor market opinions (the employer's authorization to hire) and of new work permits for caregivers already in Canada who faced abuse, intimidation or threats

in their current jobs; and (2) offering a new caregiver telephone service through the CIC Call Centre, designed to better inform caregivers and employers of their rights and responsibilities under the program. A final change announced on December 15, 2011 (CIC 2011) provided open work permits to LCP workers who had met the working conditions for becoming permanent residents but were waiting for review of their completed applications. These permits allowed women to move out of their employers' homes and seek other employment, mitigating the lengthy waiting time for the issuing of permanent residency visas.

At the time, these changes appeared to signal a greater involvement by the federal government in management practices that could alleviate the migrant caregivers' dependency on and vulnerability to their employers. However, they also included actions against "fraudulent" employers and immigration consultants, indicating a changed tone and foreshadowing a new direction for Canada's migration regime governing migrant care workers. Eventually the requirement for live-in employment would disappear, but so too would the near-automatic right of permanent residency heretofore extended to all LCP caregivers who had met specified conditions, most notably 24 months of service.

Temporary Legal Status, Precarity and Challenges of Liminality

The breaching of employment contracts and abuse often went unreported because of the LCP caregivers' temporary legal status. Caregivers were reluctant to report abuse out of fear of deportation or delays in obtaining permanent residency (Atanackovic and Bourgeault 2014; Tungohan et al. 2015). Some employers even illegally withheld legal documents to restrict the mobility of the caregivers (Canada House of Commons 2009). For critics of the program, temporary status limited the workers' ability to assert their labor rights and negotiate their conditions of work, placing them in exploitative situations (Khan 2009; Streahle 2012; Walia 2010). Caregiver vulnerability and long-term separation from their families underpinned the argument that the program and others like it violated fundamental human rights, such as the right to family life and exclusion of social benefits; nor did it correspond to the norms of the ILO and UN treaties (Khan 2009; Kontos 2013).

As noted previously, Live-In Caregivers were required to put in 24 months of full-time domestic work within a three-year period. This requirement meant that migrant women were reluctant to take vacations, visit family elsewhere or change jobs near the end of their employment, as

such behaviors could affect the three-year minimum. Further, if employers did not document overtime or long days, the additional hours could not be used to fulfill the 24–month requirement. Following the 2008–2009 consultations, on April 14, 2010, the federal government changed the counting protocol. Caregivers could now meet requirements either by using months as the unit or by using hours. They had the option of becoming eligible after 3,900 hours over a minimum of 22 months, in which a maximum of 390 overtime hours could be counted. Additionally, instead of the three-year period in which months or hours in domestic work must be accrued, a four-year limit was allowed.

State-mandated health care checks also affected the potential to transition to permanent residence status. As part of the LCP application process, medical examinations were required to ensure applicants were in good health. However, upon applying for permanent residency status, a second medical examination was required to meet the general requirements for all would-be permanent residents. The consequences are evident in the case of Juana Tejada, a Filipina worker in the LCP program. As a result of a cancer diagnosis (and its predicted costs to the Canadian health care system), Ms. Tejada was found ineligible for permanent residence status. Ms. Tejada's case highlights the vulnerable period between being a temporary worker at the end of a working contract and applying for and achieving permanent status (Keung 2008, 2009). Media attention and pressure from advocacy groups forced the federal government to remove the requirement for a second medical examination for LCP workers in December 2009, but the revisions retained problematic elements. For one, in the operational guidelines, frontline immigration officers were advised that they retained "the discretion to request a medical examination." For another, the new regulations only applied to those entering Canada after the regulations came into effect on April 1, 2010. In all, some 40,000 workers who arrived before the regulatory change were still required to have the second medical exam (Keung 2010).

A final challenge associated with becoming a permanent resident stems from the state-mandated higher entrance requirements of the LCP and the shift to recruitment from the Philippines. At first glance, this does not seem to be a problem. An exceptionally well-educated LCP workforce evolved for three reasons: the education system in the Philippines, the level of training of nurses, and the Philippines' state-sponsored export of people as sources of remittances. As shown

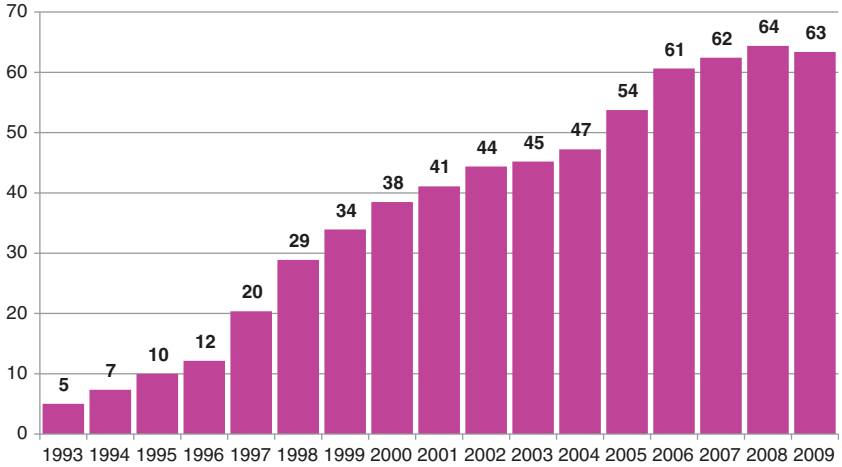

Fig. 8.3 Percentages with University Degrees or Higher, Principal Applicants Admitted as Permanent Residents from the Live-In Caregiver Program, by Year of Admission, Canada 1993-2009

Source: Kelly, Park, de Leon and Priest 2011

in Fig. 8.3, educational levels steadily rose for those admitted into Canada as permanent residents under the LCP, primarily as a result of the preponderance of Filipina applicants. Between 2005 and 2009, over half were university graduates (more recent data are not publicly available).

However, research finds that relative to their degrees and training, Canada's LCP workers become deskilled during their employment as caregivers, and most are not working in occupations for which they were trained (Torres et al. 2012). In addition, although LCP workers came to Canada with the intention of returning to their careers after completing the program, pressures to remit money and financially support family reunification caused many to put such initiatives on hold. Equally problematic is the fact that their previous skills and credentials are not always recognized in the labor market; nor does their LCP experience match the "Canadian experience" required by many employers. Many have remained in related occupations, not enjoying upward mobility after becoming permanent residents (Atanackovic and Bourgeault 2014; Pratt 2008, Appendix 1; Spitzer, Torres and Hanley 2008; Tungohan et al. 2015).

Back to the Past?

Despite criticism of the vulnerability and exploitation of foreign female caregivers, the Live-in Care Program continued the policy of the earlier Foreign Domestic Worker program, which permitted transitioning from temporary to permanent resident status for those workers. As such, the migration regime adopted by Canada with respect to the explicit recruitment of temporary domestic female workers was unique among the migration regulations and practices of other advanced welfare states.

Between 2009 and 2011, the federal government began to make changes to the program, ostensibly targeting some of the abuses in the employer-employee relationships, in part by regulating employers in conditions of work, pay, and benefits. More quietly, regulations enacted from 2012 on applied greater sanctions to fraudulent employers or employers violating the terms of reference. The LMO/LMIA assessments became more stringent to ensure that live-in care workers really were in short supply and Canadian-born workers were unavailable. These changes occurred alongside efforts to tighten immigration regulations in other areas, including reducing fraudulent marriage migration and barring trafficking, which entailed denying visas to dancers. Changes also included June 2012 amendments to the *Immigration and Refugee Protection Act* requiring the automatic detention of incoming refugee claimants arriving in large groups. For critics, the latter three (fraudulent marriage, trafficking and refugee detention) revealed the Harper government's fondness for distinguishing between the "good" and the "undeserving"; they also signaled the adoption of criminal justice measures in recent immigration legislation, a process commonly called "crimmigration" (Stumpf 2013).

The LCP was not immune to the shifting orientation in immigration policy. Applying for a LMO/LMIA became more expensive for would-be employers, rising from $275 to $1000 in June 2014. Now fees are not returned if the petition fails, and twitter threads suggest that the high cost deters applications. The same month, the Minister for Employment and Multiculturalism, Jason Kenney, criticized the LCP for being "out of control" and having "mutated into a program of family reunification whereby migrants were coming to work for their own relatives in jobs that might not otherwise exist" (Hough 2014; Keung 2014). Kenney is quoted as follows:

> "I was in Manila a few years ago to give a seminar on nannies' rights.... I was there with 70 caregivers who were coming to Canada. None had

> questions about rights. All 70 of them were going to work for relatives in Canada and all they wanted to know was: what was the penalty for working outside the home illegally, and how long it would take them to sponsor family members," said Mr. Kenney during an editorial board meeting with the National Post on Tuesday. (Hough 2014)

The federal government had previously voiced concerns that as many as 40 percent of LCP workers were employed by family members, with consular staff in Manila estimating the number as closer to 70 percent (Hough 2014; Robertson 2014).

One reporter noted that the June 2014 allegations about abuse sounded similar to claims made by government spokespersons about other immigration and refugee programs just before the introduction of major overhauls tightening these programs (Keung 2014). The remarks did indeed signal impending alterations in the rules and regulations governing the migration of women into Canada for care. Ongoing consultations, by invitation only, over the Live-In Caregiver Program were initiated in 2014 by the Conservative government's Minister of Citizenship and Immigration (CIC), Chris Alexander. On October 31, 2014, CIC announced sweeping changes to the LCP, effective December 1, 2014. These included:

- Increasing the number of permanent resident visas issued in 2015 from the existing backlog of permanent resident applications, generated by former LCP workers before the announced program changes.
- Removing the requirement that caregivers live in the home of their employer.
- Creating two "pathways" for permanent resident status for migrant care workers to replace the existing LCP

Close scrutiny suggests the changes may not necessarily resolve issues deriving from the living-in requirement. Equally if not more significant, the practices associated with the two pathways (described below) are likely to ensure that most migrants admitted to Canada to provide care will be temporary workers, unable to transition to permanent resident status.

Reducing the Backlog: An important dimension of the liminality facing LCP workers is the time it takes to obtain permanent resident visas once

the care work requirements have been met. Although the granting of open permits removed the need to continue to work for a specific employer, family reunification is a lengthy process, and delays in processing completed applications extend absences between Live-In Care workers and their families. Problematically, processing times for the permanent residency of LCP workers increased from eighteen months in 2011 to 47 months in 2015.[1]

As a result, the LCP had a significant backlog of applications for permanent residence, about 60,000 on October 31, 2014 (Mas 2014). In his announcement of pending changes, Minister Alexander noted the doubling of permanent resident admissions levels for caregivers in 2014, with 17,500 admissions planned, including spouse and dependents. Figure 8.2 shows that approximately 14,400 principal applicants from the LCP were admitted in 2014, followed by nearly 13,800 in 2015. Processing the backlog also skyrocketed with the 2015 admission of 13,258 spouses and dependents of LCP caregivers, up from 3,263 in 2014 (Fig. 8.2 source). The Liberal government elected in October 2015 continued to expedite the backlog, targeting 22,000 total admissions in the care stream for 2016; these numbers include those in the new program discussed below, but LCP-derived admissions will dominate (only 75 permanent residents entered through the new care categories in 2015).

Two Pathways

To replace the Live-In Caregiver Program, two "pathways for permanent residency" became effective on December 1, 2014: (1) Caring for Children; (2) Caring for People with High Medical Needs. For both, foreign caregivers must obtain regular temporary worker permits, reaffirming that the pathways are subsets of the larger temporary worker program. The potential for transitioning to permanent resident status remains, with applications for permanent residency processed within six months of the receipt of a completed application. Similar to the earlier LCP, both pathways require applicants to have at least two years of full-time work (a minimum of thirty hours a week or more) in a designated occupation over a four-year period. However, in contrast to the earlier FDWM and LCP programs, the new pathways permit only a limited number of permanent resident applications to be processed annually. The number of applications through each pathway is capped each year at 2,750 principal applicants (PAs), for a total of 5,500 annually, down substantially from earlier years (see Fig. 8.2 for LCP-related admissions in previous years).

The first "pathway" bears some resemblance to the LCP program which ceased processing applications for temporary admission as of November 30, 2014. But it has significant differences as well. As in the final days of the LCP, the Child Minder pathway does not require workers to live in the homes of their employers; a live-in arrangement is permitted if the employer and foreign caregiver in the Child Minder pathway have agreed. However, living in the employer's home may continue to be de facto reality for migrant caregivers in the Child Minder stream, particularly if the required Labour Market Impact Assessments find that local Canadian workers are available to give care only while "living out." In the latter circumstance, the only jobs approved for non-Canadian residents may be those that require living with the employer

To hire a caregiver on a regular temporary permit, employers are told to ensure that the temporary foreign worker has the training, qualifications and experience to do the work. However, for those applying for permanent resident visa, educational requirements in the Child Minder pathway are similar to those in the LCP, with one new stipulation: a Canadian post-secondary education credential of at least one year, or an equivalent foreign credential, supported by an Educational Credential Assessment. This latter requirement is new but can be found in other admissions categories in the economic class; in this requirement, the education of the applicant must be independently assessed, at the applicant's expense, by an arms-length assessment organization that bids with the Canadian government for the contract. If the education received outside Canada is deemed not to be equivalent, the application is returned and no further action is taken or is possible.

Canada's immigration regulations now stipulate that English and French are the only languages that can be identified as a job requirement in LMIA applications and in job advertisements for temporary foreign workers unless employers can demonstrate that another language is essential for the job. And the level of linguistic competency must enable caregivers to communicate effectively and independently in an unsupervised setting. As with education, the requirements become more precise when the temporary caregiver seeks to become a permanent resident. In order to transition from being a temporary foreign worker in the Child Minder pathway to becoming a permanent resident, the caregiver application must meet the requirement of a language test, again at the applicant's expense; the applicant must demonstrate an "initial intermediate" level of language by meeting Canadian Language Benchmark

5 in a designated third-party language test. This reformulation of the earlier language requirements also appears in the requirements of those seeking permanent admission in the skilled worker class, the express entry class and the provincial nominee class.

To be eligible to apply for permanent residency, caregivers in the Caring for People with High Medical Needs pathway must have two years of full-time work experience in Canada (authorized by a work permit) providing in-home care or care in a health facility to the elderly or persons with disabilities or chronic disease. Although these categories are subject to change at any time by the Minister of Citizenship and Immigration, current hires must be for the following occupations: (1) registered nurses or registered psychiatric nurses (NOCS group 3012); (2) licensed practical nurses (NOCS 3233); (3) nurses' aides or patient service associates (NOCS 3413); (4) home support workers (NOCS 4412) (but not housekeepers). Again, applicants must undergo a third-party language test and achieve a Benchmark Level 7 competency score for the first occupation and a Level 5 competency for the other occupations.[2]

To apply for permanent resident status, educational requirements in the High Medical Needs pathway are the same as those for Caring for Children, with one important limiting proviso: workers in this category must meet the employment requirements for the occupation as listed in the National Occupational Classification System. For those seeking work in regulated occupations (such as nursing), requirements include being licensed to practice in Canada and registering with the appropriate regulatory body in the province of residence and work. This licensing and registration also is required of temporary workers recruited in the High Medical Needs pathway.

In practice, these licensing/certification stipulations will depress both temporary and permanent resident visas for migrant caregivers seeking employment as licensed nurses or practical nurses, especially those who trained in countries lacking international equivalency agreements with Canada. Persons trained in regions outside the United States, the United Kingdom, Northern and Western Europe and Australia are likely to be the most negatively affected. Further, the requirement that workers be licensed to practice in Canada suggests that nurses' aides, patient service associates or home support workers will predominate in temporary worker permits, particularly for migrants from countries, including the Philippines, whose nursing degrees are not accepted by Canadian professional or regulatory bodies as equivalent to Canadian degrees. In short,

deskilling – working in an occupation with requirements that are lower than one's training – may be likely for highly educated migrant women whose care work training and experience was obtained in the Global South.

Conclusion

The recent replacement of the LCP by the two pathways is applicable to successful Labour Market Impact Assessment employer applications submitted on or after December 1, 2014. Caregivers who entered Canadian under the Live-In Caregiver Program now have the option of complying with LCP regulations necessary for permanent resident status or moving to the new care streams. As of 2016, major federal government activities are twofold: processing a large backlog of LCP applications for permanent resident visas and posting detailed web instructions for employers seeking to hire temporary migrant caregivers. The latter stipulate both employment conditions and job advertisement protocols required for the LMIA. Posts also contain instructions for migrant care employees seeking to become permanent residents from the two new care pathways.

It is too early to determine the consequences of the care pathways, but the numbers of temporary migrants for care will surely decline in response to the $1,000 LMIA fees for employers. In addition, the 2,250 annual caps issued for permanent visas in each of the two pathways will reduce transitions from temporary to permanent resident status. Articulated while the Conservative Party was still in power, caps will be filled by applications at the start of each calendar year and closed when the allowable number is reached (Canadian Bar Association-Quebec 2015).

Most assuredly, given the looming gray tsunami and the child care dearth associated with Canada's liberal care regime (van Hooren 2012), migrant caregivers will continue to be admitted as temporary workers as they have in the past. The new pathways do offer the possibility of obtaining permanent resident status. But compared with the past Live-In Caregiver Program, transitioning to permanent residency will be reduced by employer LMIA costs, licensing requirements and numerical caps. Instead, many temporary care workers in the new pathways will be allowed to work in Canada but they may never be able to transition to permanent resident status. In sum, Canada's policy towards migrant care worker recruitment has moved closer to the "forever temporary" care worker policies found elsewhere in the world.

Notes

1. This can be found at: http://www.cic.gc.ca/english/information/times/perm/skilled-fed.asp.
2. This can be found at: http://www.language.ca/documents/levels_5-10_b.pdf.

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