

Caregiver Permanent Residency Still in Limbo

More than half a year had passed after the Immigration Minister Ahmed Hussen assured that there will continue to be a "pathway for permanent residence" for temporary foreign caregivers in Canada. Meanwhile, the clock continues to tick for many caregivers who are left in limbo and wondering whether they would still have a chance to obtain permanent residence for themselves and their families after the expiry of the Ministerial Instructions (which created the present caregiver pathways) in November 2019.

With the many unfulfilled promises in the past, caregivers and advocates cannot be blamed for worrying about the fate of caregivers in Canada who continue to be victimized in one way or another due to their vulnerable status in this country.

When will the caregivers' woes end?

Under the previous live-in caregiver program (LCP), their vulnerability arose mainly from the mandatory live-in requirement and employment-specific work permits. When the LCP was replaced by the two caregiver pathways (Caring for Children and Caring for People with High Medical Needs), the government simply removed the live-in requirement but failed to address the aspects that led to the precarious immigration status of caregivers. Among others, the caregiver work permits remain employer-specific and the special rules which tried to alleviate their difficulties (such as the LMIA exemption when renewing work permits for the same employer) have been eliminated.

In various IRCC press releases, the immigration department claimed that they expect to finalize processing of the LCP PR application inventory/backlog within the next two years. While it appears that there are indeed applications which are being processed much faster than in the past, these do not always lead to the desired result, i.e. permanent residency.

A significant number of caregiver permanent residence applications are also being refused based on technicalities, e.g. non-compliance with request for further information or inadmissibility issues concerning family members. In the past, many similar cases were dealt with in a facilitative manner by being granted exemptions on humanitarian and compassionate grounds, instead of being refused in haste, as a result of efforts to eliminate backlogs as expeditiously as possible.

Meanwhile, there exists a continuing demand for foreign caregivers, to care for children, the elderly and persons with disabilities, whether on a live-in or live-out basis. Hence, work permits are still being applied for and issued to prospective full time caregivers for Canadian families but which appear to be based on stricter and often inconsistent interpretation of LMIA and work permit requirements.

Once the LCP backlog is fully eliminated and the Ministerial Instructions expire, it remains to be seen what option will be made available for the caregiver work permit holders who will not qualify for permanent residence in any other immigration category. With the way things are

going, people cannot help but wonder whether the permanent residence pathways for caregivers (other than the nurses who may qualify under Express Entry) would really continue to exist or will in fact be a thing of the past.

If the permanent residence options for caregivers, whether under the LCP, the Caring for Children and Caring for People with High Medical Needs pathways, or some other modified program, will not anymore exist, is it fair or even humane, to continue issuing temporary work permits to prospective caregivers?

Has there really been a paradigm shift as far as temporary foreign caregivers are concerned? Is there truly an intention to continue providing a path for permanent residence for this class of temporary foreign workers? Or are they destined to suffer the same fate as all other so-called "low skill" foreign workers (NOC C and D) who are disqualified from the immigration programs covered under the government's immigration flagship, the Express Entry system?

There is a prevailing view that removing PR pathways will not lead to the disappearance of foreign caregivers since there continues to be a high demand for their services, due to the increasingly aging population and lack of a universal childcare system in Canada. Often cited as examples are the experience of countries like Hong Kong, Singapore and the Middle East where there are no guaranteed paths to permanent residence for caregivers but which continue to receive a significant influx of foreign caregivers or domestic workers.

But isn't this line of reasoning also a perpetuation of modern-day slavery?

If the government is following the examples of these other countries which treat foreign caregivers as temporary, "disposable" workers who do not deserve full membership in their host countries, then Canada is not being true to its reputation as a world leader in promoting equality, fairness and human rights.

It is worth noting that after the four-year cumulative duration limit for temporary foreign workers had been repealed, many of these workers, especially those not deemed to be "high-skilled" hence not qualified under the Express Entry system, are still left in immigration limbo. They end up working precariously because their status is tied to a specific employer (i.e. cannot work for another employer nor granted a work permit extension without a sponsoring employer) or are unable to qualify for permanent residency.

Similarly, if the permanent residence option is totally eliminated for caregivers, then we are effectively recreating an underclass of workers who will become even more vulnerable to various forms of abuse and exploitation.

I refuse to believe that this is the Canadian way and continue to trust that the present government will eventually do the right thing, which is to grant foreign caregivers permanent residency at the outset. Considering their extremely valuable contributions to Canadian families in particular and to society in general, caregivers deserve nothing less.

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