Cross-Border

Domestic

By Rebecca Murdock

Les travailleuses domestiques du Canada n'ont ni salaire minimum vital, ni coin privé, ni communauté. Ces immigrantes enrichissent et diversifient notre société. Nous devrions déployer des efforts précis pour augmenter leurs salaires, protéger leur securité et nous assurer qu'elles aient le droit de vivre où elles le désirent.

Why did the federal government encourage more than 7,000 foreign domestic workers to enter Canada in 1991,[1] a year of record unemployment? Why were most of these workers given employment contracts in Ontario, a province especially hard hit by the recession? Apparently, there were no Canadians to fill these positions—not even when our unemployment hovered around 10 per cent.

Domestic workers earn minimum wage, or roughly $12,480 a year. They are also required to live with their employers if they come into the country under the Live-In Caregiver Program. Weekly deductions are made for room and board by the employer. Although a domestic worker's employment contract is established by Canada Employment and Immigration, enforcement is left up to provincial employment standards offices. Prior to 1981 domestic workers were not even covered by the minimum requirements of Ontario's *Employment Standards Act*. Minimum wage is a relatively new triumph for those who work full-time as nannies in Ontario.[2]

According to Dyann Suite, a domestic worker from Trinidad and a member of Parkdale Domestic Workers,[3] "many employers take advantage of the fact they have a domestic worker living in their home by making them work overtime without pay." Ms Suite feels fortunate in having employers who respect her desire to keep to a 44 hour work week since that is all she is compensated for. Other domestic workers, however, are not so fortunate.

Depending on their country of origin, many domestic workers have no way of knowing that their work arrangements are covered by government legislation—i.e., that they are protected by provincial employment laws, healthcare insurance, Workers' Compensation, and human rights statutes. Sadly, some employers prefer new immigrant workers for this very reason.

Incidents of sexual abuse occur but most go unreported. Pura Velasco of Intercede says "the mandatory live-in requirement makes them [domestic workers] vulnerable to abuse." Compound the reluctance of any woman to come forward with accusations of sexual harassment or abuse in the workplace by language and cultural barriers, and you have a foreign domestic worker who is made more vulnerable by her lack of citizenship. Unlike other places of employment, domestic workers labour in a secluded work environment where the support of co-workers simply does not exist.

Even if a domestic worker risks her job, immigration status, and what little home security she may have, there will seldom be anyone to corroborate her story of harassment or abuse. Although corroboration is not required for successful prosecution under provincial Human Rights codes or the Canadian Criminal Code, without secondary evidence of any kind an investigation or hearing will be based solely on credibility: the domestic worker's *versus* her male employer's. The matter is thus reduced to the question of who is more believable.

Systemic racism, classism, and sexism—much of it institutionalized in our

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systems of justice—collapse this picture into an almost no-win situation for a domestic worker brave enough to come forward with a claim. All too often the offending employer fits perfectly into the privileged categories of white (male or female) and upper class,[4] since these are the groups which most often employ the services of domestic workers. On the other hand, more often than not the domestic worker belongs to socially marginalized categories: female, non-white, and poor. Little more could divide these worlds and the right to speak—or not to speak—associated with each.

As part of its current labour law reforms, the provincial government proposes the inclusion of domestic workers under the Ontario Labour Relations Act (OLRA). Ontario is one of the last provinces in the country to allow domestic workers to organize. It is difficult to think of a reason why domestic workers should be denied the freedom to associate with each other as guaranteed by Canada's *Charter of Rights and Freedoms*.

Perhaps domestic workers will have more luck as an organized workforce in seeing minimal employment standards met than in their previous unorganized and often exploited state. That no Canadians want these jobs, even during a recession, should make us question what it is about live-in domestic labour we find so unattractive. Such queries should also include a reassessment of the value of the women who accept these tasks at below poverty line wages.

How the right to bargain collectively will impact the lives of domestic workers remains to be seen. What actual power will a unionized worker have if she is the only employee on a work site? What effect will a lock-out have on a woman whose workplace is also her home? At the very least, inclusion under the OLRA means domestic workers will have a better chance of receiving minimum wage, time and half pay for hours worked in excess of eight per day or 44 per week, four per cent vacation pay, and other basic provisions which, unfortunately, are often breached by parents who do not view themselves as employers, and do not view their homes as work sites regulated by provincial employment laws.[5]

With a union or agency to represent the employment rights of all domestic workers in an area, at the very least this group of workers will have some sense of themselves as a collective workforce. When a woman recognizes that she is not the only worker being asked to work overtime without pay, she gains a powerful bargaining chip on a personal and group solidarity level. Isolated in individual homes for most of the week, domestic workers lack the community ties that might otherwise propel their impoverished working conditions into the public arena.

While the provincial government works progressively for change, in April 1992 federal Employment and Immigration Minister Bernard Valcourt implemented rigid guidelines to restrict the entry of domestic workers from developing countries. Under the guidelines of the now repealed Foreign Domestic Movement Program (1981-1991), an applicant's hands-on experience with child care was taken into consideration. With the new Live-In Caregiver Program (LCP), however, this is no longer the case.

Past experience—paid or unpaid—in the field of child care is irrelevant. Instead, applicants are required to have the equivalent of a Canadian grade 12 education, six months full-time training in the field of child care, and fluency in French or English. The fallout from this legislation means women from non-European countries will increasingly be prevented from entering to Canada under the LCP.

Under the old guidelines, the Philippines was Canada's largest supplier of nannies, contributing an overall 40 per cent of the total 82,730 workers who entered the country between 1981 and 1991. Statistics indicating the educational levels of domestic workers upon entry to Canada are not easily available. However, some data suggest large per centages of Philippino and Caribbean domestic workers did not possess a grade 12 education upon initial acceptance into the FDM programme. For example, 44 per cent of all Philippino nannies, and 49 per cent of all Caribbean nannies, gaining permanent resident status in 1989 possessed less than grade 12 equivalence upon leaving their countries of origin in 1986 or earlier. Conversely, only 22 per cent of European nannies being admitted to permanent resident status in 1989 departed from their source countries with less than grade 12.

Despite Valcourt's contention in an April 1992 news release that "there will not be a fundamental shift in the source countries from which [LCP] participants come," statistics clearly indicate a built-in

bias against future Philippino and Caribbean applicants. Women of colour from other developing countries will also be selected out of the LCP process because of insufficient years of schooling. Indeed, how could it be otherwise when 'developing' countries, by their very definition, lack the educational resources enjoyed by fully industrialized nations?

Canada Immigration's LCP guidelines are problematic for a number of reasons. First of all, they refuse to recognize the value of a woman's hands-on experience acquired through years of looking after her own or another's children. Some women leave their own offspring in the care of grandparents in order to work in Canada and send support money home. From many points of view, training in the "school of hard knocks" should be valued more than academic training in preparation for employment which involves household chores and cooking as well as child care.

Secondly, the effect of this new legislation means that women of colour will be discriminated against in the LCP selection process. Many will not have had access to the kind of academic and skills training required by the federal government's policy. Ironically, the women now being excluded from domestic work come from the very groups who have overwhelmingly proven their desire and commitment to care for Canadian children in the past. Over 70 per cent of all foreign domestic workers under the old ten-year programme came from developing countries.

Quite frankly, Employment and Immigration has backed itself into a corner. This arm of the federal government is forced to recruit foreign domestic labour in order to fill Canada's demand for live-in child care. A recent government publication states that "the Live-In Caregiver Program exists only because there is a shortage of Canadians to fill the need for live-in care work." Neither the wage nor the living conditions make domestic work a lucrative field of work for Canadians, the majority of which clearly expect more for their time and energy.

Having attracted a number of immigrant women to work in this field, the question then becomes how to keep them here without making improvements to their working conditions or wage. Retaining such an underclass of "contented workers" has been an ongoing problem for the federal government, which periodically contemplates the idea of restricting domestic workers to temporary work visas as a solution to the fact this group keeps "escaping" into other low wage labour positions.

As part of their ongoing studies, Canada Immigration tracks domestic workers during their third, fourth, and fifth years in Canada—the years when these women gain open work permits and move out of the field of child care. Statistics show that after receiving open work permits those domestic workers who moved into "other occupations"—i.e., predominantly clerical, service, sales, and some occupations in medicine and health—earned an average of $22 more per week than their counterparts still in the child care profession. In the late 1980s this wage amounted to $258 per week, rather than the $236 per week received by domestic workers. There must be something more than money compelling these women to leave the live-in child care profession behind.

From 1973 to 1981 domestic workers were considered "guest workers" who were only allowed to work in Canada for a specified period of time and deported upon expiry of their one or two-year employment contracts. If not for a Federal Court ruling in December 1991, many domestic workers currently employed in Canada would have faced similar deportation had they been unable to upgrade their skills in accordance with the incumbent Live-In Caregiver guidelines. Unwilling to revert back to the old practise of treating domestic workers as migrant labourers, the Federal Court upheld this group's right to apply for landed immigrant status following completion of at least two years live-in domestic service.

In answer to those who condemn its LCP policies as discriminatory, the Department of Employment and Immigration states that its goal is to improve the quality of in-home child care by raising the standards by which domestic workers enter the country. Having grown accustomed to the idea that domestic workers will not be shipped back to their countries of origin, the government further emphasizes that it wishes to make re-employment easier for immigrant women who remain in Canada to take up jobs in fields other than child care.

Certainly there is much to be said for the merits of a good education and the overall value of a literate, employable, workforce. However, certain facts remain: implicit in the LCP is Canada's belief that there is nothing ethically problematic with draining skills from those countries least able to afford such losses. Canada asks for the best and the brightest from each group of LCP applicants, but fails to provide anything in the way of a living wage for those domestic workers that meet the upgraded standards of the new guidelines. Instead, society encourages the immigrant women to feel grateful for the privilege of living in Canada, a country whose residents enjoy one of the highest standards of living in the world.

Those who expect gratitude from immigrant workers are really saying "even though you live in Canada your worth will be judged according to the poverty you came out of." Such sentiments legitimize and re-entrench the existence of an underclass comprised, in this instance, of immigrant female labourers.

While considering the federal government's creation and maintenance of an underclass comprised of immigrant women labourers, we must also address the way in which the colossal failure of our country's day care system contributes to this problem. Under-pinning the plight of foreign domestic workers—and day care workers in general—is the fact that our governments simply do not take issues of child care seriously. Canada lags far behind other countries on matters of child care, maternity and parental benefits.

But this is a very old story. Earlier this year the Toronto Star reported on a recent government study which showed that nearly two-thirds of Canadians think the best place for preschool children is at home with their parents. Only 16 percent of those studied favoured licensed day care centres. At the same time, according to Statistics Canada, more than 65 per cent of women with pre-school children have joined their male counterparts in the paid workforce. What exactly does this mean? It means Canadians are painfully ambivalent about values regarding work, the home, and child care.

This ambivalence is costing everyone. The underpaid labour of day care workers has recently gained some attention in the

Members of Parkdale Domestic Workers and Women of Courage at a sexual assault prevention workshop held on Ward Island, Lake Ontario, in June 1992. The workshop was attended by 60 women and children from 22 different countries.

media. Much more needs to be said on this issue. Very little has been said about the impact of our hit-and-miss child care system on domestic workers. To a great extent the poverty of this group of immigrant women is ultimately rooted in erroneous ideas about the value of women's labour, and particularly the value of women's domestic labour.

This is not only a women's issue. To characterize it thus is to divide child care lobby efforts along class and race lines, since employers who hire domestic workers are white professional women as well as men. Those women who have gained some clout in our society, particularly those who have benefitted from pay equity legislation, should pause to consider that such victories do not affect the lives of women who are the most economically vulnerable.

In relation to our power and privilege, women and men must take up the struggle to raise the profile of those who look after our children. If we agree that women are in the paid labour force permanently, then we must lose our sentimental notions about the cloistering of children in their mother's kitchen. Reality demands we move on to consider more viable models of child care. As a beginning point we must speak loudly and clearly about the impoverishment of domestic workers who have neither a living wage, a place of privacy, nor a community. In so far as these immigrant women add richness and variety to Canadian society, we should devote calculated efforts to increasing their wages, protecting their safety, and gaining them the right to live where they choose. A room of one's own can never be a cliché.

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[1] All statistics are taken from Canada Immigration files as compiled by Intercede, Toronto's largest group representing the rights of foreign domestic workers.

[2] Only with the introduction of new regulations in 1987 were Ontario domestic workers protected by minimum wage and overtime provisions on par with other workers in the province. Domestic workers are still excluded from significant portions of Ontario's *Employment Standards Act.*

[3] Founded in 1988, Parkdale Domestic Workers is a non-profit grassroots organization which supports domestic workers through information workshops and community functions.

[4] Because a high proportion of middle class families receive government subsidies for day care costs, most families employing nannies come from the upper middle and upper classes, those families whose incomes push them out of the range of subsidies. See Sedef Arat-Koc (1989).

[5] Ontario's Employment Standards Branch has a poor track record in enforcing the Employment Standards Act due to constraints on institutional resources and the fact that the Branch views itself as a neutral body rather than an agent proactively enforcing the rights of workers.

References

"A Death Blow for Child Care." *Toronto Star*. March 15, 1992.

Arat-Koc, Sedef. "In the Privacy of Our Own Home: Foreign Domestic Workers as Solution to the Crisis in the Domestic Sphere in Canada." *Studies in Political Economy* (Spring 1989).

Statistics Canada. *The Labour Force, July 1988.* Ottawa: Minister of Supply and Services, 1987.