

# **Submission on Bill 49 – Ontario Immigration Act, 2015**

## **OCASI – Ontario Council of Agencies Serving Immigrants**

**Submitted to: Standing Committee on Justice Policy  
April 2015**

### **Introduction**

OCASI – Ontario Council of Agencies Serving Immigrants was formed in 1978 to act as a collective voice for immigrant serving agencies in Ontario and to coordinate responses to shared needs and concerns. OCASI has grown to 220 member agencies across the province. The Council is a registered charity, and is governed by a volunteer board of directors. OCASI appreciates this opportunity to provide comments on the draft legislation.

The Ontario Immigration Act is the first of its kind in in this province. OCASI welcomes the strong commitment to immigration and immigrant settlement and integration, including Francophone immigration and settlement expressed in this proposed legislation; and recognition of Ontario’s family and humanitarian commitments. The Bill affirms the importance of immigrants to Ontario and the role they play in shaping the economy as well as Ontario communities and society. We welcome the recognition of the not-for-profit sector as a collaborative partner – recognition of the important role played by the sector in immigrant settlement and integration. We are encouraged by the intention to improve the protection of migrant worker rights, especially given the significant number of migrant workers in Ontario as temporary workers, notwithstanding the federal government’s four years in - four years out rule.

### **Recommendations**

We offer the following suggestions with the intention of strengthening the Bill:

#### **1. Prioritize Permanent Immigration over Temporary Migration**

The Bill identifies collaboration with municipalities and employers to address Ontario’s short and long-term labour market needs as a goal. Permanent rather than temporary migration should be Ontario’s preferred method of building a strong economy as well as strong communities. Allowing employers to rely on temporary workers, particularly migrant workers, to meet long-term labour market needs is short-sighted. It creates a marginalized and vulnerable population of workers, drives down wages, widens regional labour market disparities, and worsens bad working conditions and unsafe workplaces<sup>1</sup>. A recent report by the Office of Parliamentary

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<sup>1</sup> Foster, J. (2012). “Making temporary permanent: The silent transformation of the temporary foreign Worker Program,” *Just Labour*. 19, 22-46.

Budget Officer<sup>2</sup> warns that reliance on temporary migrant workers can also discourage employers/businesses from making important productivity-enhancing investments that help to boost overall workforce innovation and economic growth.

Among all the regions in Canada, Ontario has and continues to receive the highest number of migrant workers, and the total number regardless of category is higher than the total number in Alberta. The number remains high, despite a reduction in our share of permanent immigrants. Ontario receives the largest share of migrant workers at 35.5%, compared to 20.2% for Alberta<sup>3</sup>. In 2012, there were 119, 903 migrant workers in Ontario<sup>4</sup>.

Between 2004 and 2013, the number of Temporary Foreign Workers (TFW) in Ontario grew from 16,652 to 22,896, and migrant workers in the International Mobility Program (IMP)<sup>5</sup> grew from 22,431 to 58,424. During the same period, the number of permanent residents (PR) dropped from 125,093 in 2004 to 103,494 in 2013.

	<b>2004</b>	<b>2013</b>	<b>Variation + (-)</b>
Temporary Foreign Workers	16,652	22,896	6,244
International Mobility Program	22,431	58,424	35,993
Permanent Residents	125,093	103,494	(14,744)

*Source: CIC Facts and Figure 2013, Immigration Overview- Temporary Residents*

## **2. Expand Selection for Provincial Nominee Program**

Recently, thousands of migrant workers, especially those in low-skilled jobs, saw their work permits expire as of April 1, 2015, the deadline imposed by the federal government in 2011. Many employers including several in Ontario called on the federal government to allow the affected workers to stay permanently – thus acknowledging that they were in fact filling long-term, rather than short-term labour market needs. However, only a small fraction of migrant workers qualify to become permanent residents (nationally 6,457 in 2013)<sup>6</sup>.

The federal government’s Express Entry selection mechanism and Ontario’s Provincial Nominee Program both prioritize immigration by high-skilled international graduates and licensed tradespeople. There is no permanent immigration avenue for those in low-skilled occupations, despite the fact that there is an ongoing need for these workers, and the TFW program remains the only option for recruitment. This is particularly pertinent to Ontario since this province

<sup>2</sup> Lemieux, Tracy and Jean-François Nadeau (2015). “Temporary Foreign Workers in Canada: A look at regions and occupational skill, ”, Office of the Parliamentary Budget Officer (PBO).

<sup>3</sup> Ibid.

<sup>4</sup> Curry, Bill (May 02, 2014). “Everything you need to know about temporary foreign workers”, Globe and Mail. <http://www.theglobeandmail.com/news/politics/temporary-foreign-workers-everything-you-need-to-know/article18363279/>

<sup>5</sup> Includes positions exempt from Labour Market Impact Assessment (LMIA), positions subject to international agreements (eg. NAFTA, GATS).

<sup>6</sup> CIC Facts and figures 2013: Immigration overview: Temporary residents

continues to receive disproportionately higher share of migrant workers from low-skill categories (42.3% in 2013).

Provincial Nominee Program selection should be opened up to applicants at all skills levels. It should also allow international students below the Masters level to qualify without first having a job offer<sup>7</sup>.

### **3. Employer and Immigration Consultant Registries must be compulsory**

The Bill introduces registries for employers of migrant workers, including temporary foreign workers, international mobility program workers, seasonal agricultural workers and domestic workers (live-in and live-out caregivers), but does not stipulate that these are compulsory.

Without a compulsory registry for employers the provincial government must rely on the federal government to identify employers of migrant workers. A compulsory registry will make this information more easily available to the province for pro-active inspection and enforcement. This measure is particularly important to protect the rights of migrant domestic workers who are typically invisible and isolated.

Immigration consultants often act as recruiters. Ontario will have to rely on the Immigration Consultants of Canada Regulatory Council (ICCRC) to identify those involved with migrant worker recruitment to Ontario. However all recruiters may not be registered. A compulsory recruiter registry will give the province an additional mechanism to enforce provisions meant to protect migrant workers from recruiter exploitation.

### **4. Registration must be part of a licensing system with financial bond**

Recruiters charge migrant workers thousands of dollars, and seize documents from them to connect them with employers in Ontario. Unscrupulous employers have taken advantage of migrant workers' vulnerability and exploited them in a variety of different ways. The present system of inspection and enforcement is primarily complaints-driven, and relies heavily on workers reporting abuse – something that workers may not be able or willing to do given many factors including fear of reprisals. A robust licensing system, with a financial bond is necessary to end the practice of worker abuse and exploitation.

The Bill indicates there may be a fee for the registries. We recommend the creation of a mandatory licensing system with a financial bond for employers and recruiters. The financial bond will be surety for the good behaviour of employers and recruiters.

### **5. Hold recruiters and employers jointly financially liable for violating labour protections**

The Bill does not hold recruiters and employers jointly financially liable for violating labour protections. This practice is already the law in Manitoba and ensures that responsibility for violations is not passed to recruiters abroad. Employers should be held accountable for working

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<sup>7</sup> International students who have graduated with a Masters or PhD from an Ontario University are exempt from having a confirmed job offer.

with appropriate recruiters (who should be licensed in Ontario) to ensure that migrant workers do not face abuse.

## **6. Inspection and investigation should be located in Ministry of Labour and implemented without delay**

The Bill proposes to give Ministry of Citizenship and Immigration an inspection and investigation function. These should be more appropriately located in the Ministry of Labour, which is the body tasked with the protection of workers' rights and enforcement of employment, labour and occupational health and safety standards in the province.

The Bill proposes that inspection and investigation powers come into effect two years from the date the Act comes into force. This legislation has the potential to significantly improve the enforcement of migrant workers' rights. There is no reason to delay coming into force, particularly since these powers would be an extension of existing Ministry of Labour functions.

## **7. Other recommendations**

Ontario would do well to adopt the model of migrant worker protection already in force in Manitoba. Under that model:

- All employment agencies, foreign worker recruiters and temporary help agencies must be licensed; License is valid for 1 year.
- To be licensed, foreign worker recruiter must provide (a) an irrevocable letter of credit from a financial institution that carries on business in Manitoba; or (b) a deposit of cash or securities
- There is a complete ban on any fees charged to any worker, domestic or foreign.
- The legislation is part of employment standards.

The Bill gives Ontario the opportunity to address certain other gaps in migrant workers protection, specifically:

- Strengthen anti-reprisals protection for workers so that migrant workers with precarious immigration status are not threatened with job loss leading to deportation.
- End the exclusion of migrant workers from many of Ontario's employment, health and safety and labour standards – including ending the exemption of private homes from inspections. Many domestic workers in Ontario are racialized women, and many are migrant workers. Excluding domestic workers from these protections is a significant racialized and gendered gap in Ontario's responsibility to protect worker rights.