

Brief to the Employment Standards Code Review Commission

submitted by the
Cross Cultural Community Advisory Committee
Occupational Health Centre

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Introduction

The Cross Cultural Community Advisory Committee of the Occupational Health Centre oversees a program on workplace health and safety with a number of different cultural communities including the Punjabi, Salvadorean, Filipino, Vietnamese, Somalian, Ethiopian and Eritrean communities. This program has trained trainers from all of these communities to serve as resource people in their own communities and to provide first language assistance on workplace health and safety issues. In this work over the past four years, we have encountered many immigrant workers in our communities who have difficulties related to their working conditions that fall under the purview of the Employment Standards Code.

This brief and our presentation will highlight issues facing immigrant workers in Manitoba workplaces that we believe a new Employment Standards Code needs to address.

Canada's labour force is becoming increasingly reliant on immigration to provide workers for our economy. By 2011, it is expected that all labour force growth will come from immigration. Yet working conditions for many immigrant workers are precarious in regards to income, job security and protection. Temporary worker visas have become a new approach to labour shortages in our province and nationally. Migrant workers are being used to fill low-skilled, substandard occupations such as those found in meat processing plants where workers are paid poorly and are at great risk for illness and injury. These workers are being used to decrease costs and increase productivity, thus giving industry an economic advantage. Yet they are denied the opportunity to change employers and must leave the country if they lose their job, despite the economic and social investments they have made in the community.

We call on the Government of Manitoba to use this opportunity to improve working conditions for all who work in Manitoba, both residents and non-residents alike, and

alike, and particularly for the most vulnerable workers in our province. We must raise the standards of the jobs that have come to rely on migrant workers who do not have the benefits and protections of citizenship. Below are a number of recommendations to the Employment Standards Code that we believe will help to achieve these improvements.

Minimum Wage

We commend the Government of Manitoba for its recent announcement on increases to the minimum wage. Yet there is still more to do. Over the last twenty years, the earning potential of recent immigrants has significantly deteriorated. According to Statistics Canada, the number of recent immigrants employed full time who receive low pay (less than \$10 per hour in 2001 dollars) has doubled since 1980.

Immigrants who wish to sponsor an extended family member to come to Canada must make at least \$24,000 per year. This is the level of income that the federal government regards as a secure livelihood for the purposes of supporting a family. A full-time worker would need to make approximately \$11.54 per hour to be able to sponsor extended family members to Canada.

Periodic incremental increases are not enough to achieve a secure livelihood for those workers making minimum wage. We recommend that the government set the minimum wage at 60% of the average weekly wage for Manitoba. The government should then provide annual increases to keep it in step with the average wage.

Just Cause for Termination

Many immigrant workers are afraid to speak up to protect their rights in the workplace because they fear losing their job. This fear is often exacerbated by financial responsibilities for families in their countries of origin who depend upon the immigrant worker's remittances. Immigrant workers also experience more difficulty in finding a new job than their white, Canadian-born counterparts making the consequences of job loss particularly devastating.

Currently in Manitoba employers are not required to have just cause to terminate an employee. However, the Canada Labour Code and the employment standards legislation in Nova Scotia and Quebec all have provisions for "unjust dismissal"

which entitles the employee to reinstatement if the employer did not have a just cause for termination. These clauses give workers a right to the job, similar to the right enjoyed by employees who are protected by collective agreements.

We recommend that Manitoba's Employment Standards Code be amended to include a unjust dismissal clause similar to the Canada Labour Code.

Agricultural Workers

The Employment Standards code must be applied to all workers in the province, including agricultural workers. Employment Standards are the only legislated form of protection for the province's most vulnerable workers who are not unionized. Farm workers are among the lowest paid workers and have one of the most dangerous jobs in terms of fatalities, accidents, injuries and illnesses. Among the most vulnerable farm workers in Manitoba are migrant workers from other countries who spend part of the year working on farms and return to their country after their seasonal contract expires. They are not permitted to change employers or to settle in Canada despite working here for many years.

By applying the Employment Standards Code to agricultural workers, Manitoba would provide this vulnerable group with the minimum level of protection given to most workers, including minimum wage, holidays, hours of work, and weekly rest periods.

Anonymous and Third-Party Complaints

Many immigrant workers fear the financial consequences of losing their job. Migrant workers fear being deported if they lose their job. Workers who fear losing their job must be able to make complaints anonymously and have their complaint investigated. Third party complaints should also be allowed. The Workplace Safety and Health Division investigates anonymous and third party complaints on a regular basis. We believe that the Employment Standards Division must do the same.

Labour Board

When complaints are investigated by the Employment Standards Division either the employer or the worker may wish to appeal a decision. The appeal is then adjudicated by the Manitoba Labour Board. The Manitoba Labour Board is

composed of an equal number of employer and employee representatives. However, under existing mechanisms it is difficult to ensure that these representatives reflect the demographic make-up of Manitoba's workforce and that the concerns of vulnerable workers are sufficiently understood and represented on this body. We believe that the composition of the Labour Board should be expanded to include community participation from those organizations representing the interests of immigrants, Aboriginal people and women.

Plain Language

Many immigrant workers do not know their employment-related rights. Positive change in legislation is of little use if it is not widely understood among both employers and workers. The Employment Standards Code should be written in plain language and translated into a variety of languages spoken by immigrant communities in this province. This information should be distributed through immigrant and newcomer settlement services and community organizations.

Occupational Health Centre Train the Trainer Program

The Occupational Health Centre's Train the Trainer Program has demonstrated success in working with a variety of cultural communities to increase their capacity to assist their own community members with work-related issues. These communities greatly appreciate the first language information and assistance provided to them to understand and exercise their rights. We strongly recommend that the Department of Labour and Immigration provide financial support to strengthen and expand this program to reach other communities and to incorporate more information on Employment Standards related issues in addition to workplace health and safety information.

Conclusion

The Employment Standards Code is an extremely important piece of legislation that determines the working conditions of many immigrant workers. We thank the Government of Manitoba for the opportunity to present our recommendations. We hope that you will use our contributions to improve the lives of immigrant workers and their families in our communities. Positive changes will benefit the many immigrant families who choose Canada as their home. Immigrants working in healthy conditions will be more productive individuals who will carry on the Canadian legacy of a country that provides its citizens with a healthy quality of life.

