

The importance of human rights for policy on temporary foreign labour

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Presented at: Globalfest, Calgary

Tuesday, August 18, 2009

Introduction

I am going to speak about the importance of human rights, and what I think we should draw from the importance of human rights 1) for what has gone on regarding Temporary Foreign Workers over the last few years and 2) for public policy making in general.

Here is where I start: There is nothing more important than human rights, that is, at the most general of levels – how we should treat each other. We should treat each other with dignity and respect. This means, at a minimum, that we don't discriminate against each other, for example, that we don't treat a person unfairly because of their skin colour, ethnicity, gender or sexual orientation. I think that to treat one another with dignity and respect means a lot more than that, but it certainly includes a prohibition on discrimination.

One thing that follows from this is that human rights commissions across the country do essential work. They provide the first level of enforcement of the laws that make such discrimination illegal. And those laws are critical.

People need, however, a lot more than to be free from discrimination. They need, for example, the material support for a chance at a decent life – adequate income and housing – but for sure they also need to be free from discrimination to have a fair shot at a decent life.

Human rights are not the icing on the cake

We live in a society in which it often appears that human rights are the icing on the cake. My point: they are not the icing, they are not even the cake (which is after all eaten for dessert – I like the saying that life's uncertain so eat dessert first, but it is still the fluff, the add-on), but instead the meat and potatoes, or if you're vegetarian, the lentils and rice. We are talking about the heart of the matter.

What happens when human rights are not respected? Things go wrong, often very badly wrong. Harm is caused, harm to the individual whose human rights have not been respected, harm to the organizations where they work or study and harm to the broader society.

So when government decides to design and implement new policy – such as the enormous expansion of the TFW program/programs as happened a few years ago, protection of human rights has to be in the forefront of policy-makers minds, not at the back or absent altogether. In fact, it was pretty much absent altogether and we have all been paying the price ever since.

Connections to the issues concerning temporary foreign workers

- For the first time, we made a distinction relevant to a very large number of people between who had the right to work here and who had the right to live here; that had never before been the case.¹ Canada had not been a country such as Germany or the Netherlands, with huge numbers of guest workers – people valued for their labour and willingness to work at jobs the domestic work force didn't want, but not valued highly enough to be granted a right to live here. These are disposable people: good enough to work here – for a while – but not good enough to live here.
- TFWs were set up from the start as second class – this violated their inherent dignity and humanity and invited discrimination, which has ensued
- The well-being of TFWs was poorly provided for

These non-skilled workers often don't speak English or French well, and are preyed upon by unscrupulous recruiters and employers. Rules governing the availability of whatever meager help they may receive are unclear, and seemingly arbitrary. For example, when the housing promised by employers doesn't materialize, the workers can't turn to the federal government, because it has not committed itself to enforcing such obligations.

And when these workers are laid off, things go badly another way. Even though they pay taxes, they are not entitled to social

¹ In 2004, there were 126,026 temporary foreign workers in the country; as of December 2008, there were 252,196. In Alberta alone, there were nearly 60,000 TFWs, up from barely 13,000 in 2004.

assistance. Although they are entitled to employment insurance, they are invariably denied when they apply. They can seek other work, but only with an employer with government permission to hire temporary foreign workers.

- TFWs were resented by many before the downturn for being willing to work for less than domestic workers
- Since the downturn it is a no-win situation: if the TFW loses his/her job, then lots of bad things ensue for them, because as I have already noted these eventualities were not fully thought through. If they don't lose their jobs but others do, then they are even more strongly resented by many, especially those who have lost their jobs.
- It's sad to see working people turned against one another and hostile towards one another because policy-makers didn't see the obvious coming.
- Our governments, supported by the majority of us – it would seem, have put short-term gain and short-term thinking ahead of the longer-term well-being of all of us. Never a good idea. We are left with a legacy of racism, anger and hostility and a flock of people trapped here – they've got no work but can't go home, and many have their families with them. When their parent loses their work permit, the children no longer have the right to go to school. Where does that leave them and us?
- It is said that we are developing a permanent underclass of people – they can't work, but they can't leave. What's left for them to do but go underground into the illegal economy?

- The problems are even more widespread, for now Canada has a tarnished reputation abroad – we used to be viewed as a country of immigration, but now there has been this ugly period of exploitation of human beings as guest workers.
- Not good. As far as I know, there have been no guarantees given that the same thing won't happen again when the economy reverses itself and the boom is on again. We have to insist that this never happen again. We should never have allowed the short-term desires of industry for disposable labour to prevail over the need to fashion appropriate immigration policy and organize ourselves so that we treat decently all people who come to Canada to work and live.

Some concluding remarks about public policy making in general

- The one area where TFW policy has worked tolerably well is in bringing foreign professionals to work in Canada (as university professors, for example), but that's because such professionals don't need much government protection. For vulnerable workers, the TFW program has proven a complete disaster.
- Good policy doesn't fall like manna from heaven. Humane and intelligent leadership is needed to drive good policy making. Our political leaders have failed miserably on the temporary foreign worker file. The result has been a "guest worker" mess of significant proportions, increased tensions, often along ethnic lines, and increased public cynicism about government's capacity to create and enforce sensible rules.

- These problems were foreseen by many. The mess could have been avoided, if policy makers had carefully crafted a plan that met Canada's long-term immigration needs, rather than pandered to industry's demands for temporary and cheaper labour.

See the op-ed "Public policy on temporary foreign workers an avoidable mess" on the Chumir Foundation web site at

http://www.chumirethicsfoundation.ca/main/page.php?page_id=183

This op-ed appeared in the Edmonton Journal on March 9, 2009, as "Bowling to industry demands created 'guest worker' mess."