

Accessing Social Security for Temporary Foreign Workers in a Globalized Labour Market: Mission Impossible?

Dialogue Report

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The Canadian Foundation for the Americas (FOCAL) recently collaborated with The North-South Institute (NSI) to host a Dialogue entitled “Accessing Social Security for Temporary Foreign Workers in a Globalized Labour Market: Mission Impossible?” on Oct. 19, 2009. This Dialogue brought together Canadian government officials, foreign diplomats, migration experts and civil society representatives to address international, regional and Canadian approaches to migrant worker social protection.

The theme was particularly timely, in light of ongoing debates on employment insurance reform in Canada and the recent government response to the May 2009 report of the House of Commons Standing Committee on Citizenship and Immigration that focused on temporary foreign workers (TFWs) and identified a range of policy concerns about programs recruiting TFWs to Canada.

The discussion focused on Latin American and international best practices in social security for migrant workers, on the situation in Canada vis-a-vis the health concerns of workers in the Seasonal Agricultural Workers Program (SAWP) and the barriers that laid-off migrant workers face in accessing employment insurance benefits.

Panels were moderated by Olga Abizaid, FOCAL’s Program Director, Democracies that Deliver, and by Heather Gibb, Senior Researcher (Gender Equality and Workers’ Rights) at NSI.

Presentations were made by:

- Manolo Abella, Senior Research Associate, Centre on Migration, Policy and Society, University of Oxford and Former Director of the International Migration Program at the International Labour Organization (ILO) ;
- Gabriel Martínez, Secretary General, Inter-American Conference on Social Security;
- Janet McLaughlin, Instructor in International Development Studies, University of Guelph;
- Barb MacLaren, Project Manager, Labour Mobility and Development, FOCAL;
- Luc Lapointe, President of Connexion Internationale.

International and regional approaches to migrant worker social protection

The first panel focused on international and regional approaches to migrant worker social protection and presenters discussed legal and practical problems associated with social security access for migrant workers. Mr. Abella identified some concerns from the perspective of the ILO, such as the distinction made by governments between temporary versus permanent migrants’ rights and the vulnerability of particular groups of labour migrants such as women, especially since they form the bulk of domestic workers. ILO conventions emphasize the principle of equal treatment of men and women workers, but not all labour-receiving countries adhere to this principle. Mr. Abella also highlighted the necessity of ensuring that migrant workers, at minimum, recoup their investment costs (transportation, recruitment costs, etc.); this is all the more important in the case of migrants to North America considering the large investments they make against significant wage differentials.

Presenters on the first panel, including Gabriel Martínez, also raised some practical barriers that migrants face when seeking to access social security, including: a weak social security system in many countries and especially in migrant-sending countries; the lack of measures to ensure reciprocity (allowing for portable worker benefits) between migrant-sending and receiving countries, for instance in the implementation of bilateral social security agreements. In the Caribbean Community (CARICOM), poor coverage of all migrant groups under social security and labour mobility agreements create important limitations to the success of social security models in the region.

At the same time, participants highlighted some innovative practical measures and good practices that enhance social security access, such as the targeted use of information technology to encourage wider dissemination of information in many Latin American and Caribbean countries, and South Korea's decision to allow foreign workers to claim employment insurance benefits for up to two months.

Perspectives on migrant worker social protection in Canada

The second panel focused on the situation of TFWs in Canada. Janet McLaughlin presented findings from her recent PhD research on the key health issues facing migrant workers in the Seasonal Agricultural Workers Program (SAWP) in Ontario, and how health problems could affect migrants and their families in the longer term. The issues raised related to: general health outcomes resulting from poor nutrition and lack of sleep, sexual and reproductive health, mental and emotional health, occupational health concerns that might not be recognized by local medical practitioners, and problems linked to unsafe transportation for workers in farm communities.

Among innovative strategies adopted by migrant-receiving communities in Ontario, Ms. McLaughlin described the role of the Occupational Health Clinics for Ontario Workers (OHCOW) funded by the Workplace Safety and Insurance Board (WSIB) that are held adjacent to major shopping centres frequented by migrant workers in Niagara and Simcoe, Ontario. She called for a holistic response to migrant farm workers' health needs, including long-term portable social security benefits, improved access to information, health and safety training, as well as attention to workers' fears about repatriation if they are ill, which can lead them to work despite injuries or sickness.

Luc Lapointe and Barb MacLaren presented their new study that examines the many problems TFWs face in accessing regular employment insurance (EI) benefits in Canada, even though they contribute financially to the plan. Mr. Lapointe and Ms. MacLaren estimate that up to CND\$160 million was paid in EI deductions by temporary foreign workers and their employers during six months of 2008. Furthermore, they argued that, as is the case for domestic unemployed workers, EI should serve as a bridging mechanism for unemployed foreign workers while they look for another job, and that measures can be put in place to reassign unemployed TFWs to other jobs. In Canada, common problems TFWs face with regards to accessing EI benefits include: the lack of information on these benefits or lack thereof in the maternal language of the worker, insufficient funding for community organizations and legal services that can help workers file claims, and non-transparent administrative processes. The presenters proposed a number of measures to address

these unequal outcomes, such as providing proper orientation for TFWs, enforcing existing legal frameworks through a fair administrative process, and offering financial assistance to support sending-country social protection programs for migrant workers.

Conclusion

Overall, important questions that were raised by participants throughout the Dialogue include:

- How can the various actors involved share the responsibility of protecting and enforcing TFW social security rights (particularly in terms of associated costs)? Can Canada learn from international practices?
- What is the role of third actors (NGOs, inter-governmental working groups, unions, etc.) in enforcing social security rights of TFWs? What can governments do to facilitate these activities?
- Can new mechanisms be put in place to avoid the policy and administrative incompatibility that often exists between countries of origin and destination (e.g. unilateral mechanisms such as lump sum payments made upon migrant workers' departure)?

The Canadian Foundation for the Americas is planning a series of dialogues on migration and development for the coming year. The two FOCAL policy papers released at the Dialogue and other materials linked to this event are available at: http://www.focal.ca/projects/povertyandinequality/migration/publications_e.asp

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