

# EMPLOYMENT INSURANCE: HOW CANADA CAN REMAIN COMPETITIVE AND BE FAIR TO MIGRANT WORKERS

Barbara MacLaren and Luc Lapointe

An aging workforce and perceived labour shortages in Canada have resulted in a boom in the number of temporary foreign workers to over 250,000 in 2008, up from 112,000 only two years prior. Despite the fact that these workers provide valuable contributions to the Canadian economy and to host communities, say Barbara MacLaren and Luc Lapointe, they have likely borne the brunt of the economic slump over the past 18 months — through lay-offs and lack of social security access in Canada. They propose a re-thinking of social benefits for migrant workers from both an ethical and economic perspective.

Le vieillissement de la population active du Canada et l'éventualité d'une pénurie de main-d'œuvre ont fait exploser le nombre de travailleurs étrangers temporaires, passés de 112 000 à 250 000 entre 2006 et 2008. Mais en dépit de leur précieuse contribution à notre économie et à leurs collectivités d'accueil, affirment Barbara MacLaren et Luc Lapointe, ils ont vraisemblablement fait les frais du marasme économique des 18 derniers mois sous forme de licenciements et de faible accès à la sécurité sociale. Les auteurs proposent de repenser les avantages sociaux des travailleurs migrants sur le double plan éthique et économique.

There are approximately 200 million migrants worldwide, a number that has nearly tripled since 1960. Partly as the result of the increasingly global competition for skilled talent and private sector calls for a more flexible workforce, one in every two new workers in the United States and nearly seven in every ten new workers in the United Kingdom are now immigrants, according to a September 2009 BBC report. While “low-skilled” migrants still represent the bulk of global flows, “high-skilled” immigrants are now on more equal ground with their “low-skilled” counterparts, according to the Organisation for Economic Co-operation and Development.

Temporary foreign worker programs — an evolved form of guest worker programs — have become an important tool for policy-makers to address temporary labour shortages around the world. In fact, leading economists in migration analysis, such as Lant Pritchett, hail these programs as harbingers of new levels of growth, for developing and developed countries alike, in the 21<sup>st</sup> century. Canada is no exception to this trend: 2008 Citizenship and Immigration Canada data reveal that a total of

251,235 temporary foreign workers (TFWs) were working in Canada on December 1, 2008. CIC reports that in 2008, 192,159 TFWs entered Canada to work temporarily, whereas only four years earlier (2004) the number had been 112, 553. These flows are in addition to new workers brought in through permanent immigration channels.

These temporary workers are recruited by Canadian employers in a wide number of sectors, including agriculture, services, the professions, trades and construction. Pilot programs exist to facilitate recruitment to preselected sectors that are under pressure, as determined by provinces and territories. Indeed, since the first bilateral labour agreement between Canada and Jamaica was signed to recruit agricultural workers to work in Canada in 1966, foreign labour has bolstered the Canadian economy and made a valuable contribution to both the workplace and the community.

In the context of the current economic slowdown and increasing “Canada first” sentiments, however, there is reason to believe that noncitizens such as foreign workers will bear the brunt of layoffs across the country. While official figures for laid-off TFWs are unavailable, reports from non-

profit organizations, unions and the media signal an increase in the number of these workers receiving pink slips, mainly in Alberta and southwestern Ontario, since fall 2008.

Generally speaking, foreign workers are vulnerable to the negative impact of economic downturns

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because they are more likely to lose their jobs first, more likely not to have access to social security benefits and at risk of being repatriated home, where they may not find jobs and where their families may not be able to support them financially. A September 2009 whole-of-government response to a report earlier this year by the House of Commons Standing Committee on Citizenship and Immigration examining Canadian TFW programs unequivocally stated that workers on temporary permits are expected to go home if they lose their jobs in Canada.

Yet, assuming that TFWs are indeed recruited to Canada to address acute labour shortages in preselected skilled and “low-skilled” occupations, temporary access to employment insurance (or other forms of support) to help them wait out the economic storm may be the best solution. Is there a business argument, as well as an ethical argument, behind increasing noncitizens’ access to EI? We argue that there is.

**T**he current situation is bleak: While foreign workers pay EI deductions every two weeks and are eligible to apply for EI benefits while they are in Canada, in practice they do not enjoy the same access to social security benefits as do Canadians. Unions representing foreign workers assert that fewer than 1 percent of temporary foreign workers are able to claim regular EI benefits in Canada

(excluding parental and sick leave benefits). Why should Canadians care?

According to estimates by the authors, based on the official skill distribution of TFWs and their approximate income levels, TFWs and their employers contributed as much as \$303 million over 12 months in

employment insurance premiums in 2008 alone. This is an astounding amount of money. According to values of fairness, if workers pay into an insurance scheme of any kind, they should also be entitled to take from that system under a range of acceptable circumstances. However, if TFWs were exempted from paying EI altogether, an unfair competitive advantage over permanent residents and citizens would likely be the result, since employers hiring temporary workers would benefit from a reduced tax burden.

There are other persuasive reasons why it may be beneficial to extend access to EI to TFWs who get laid off. From a development perspective, for instance, many of the benefits the Canadian government provides to migrant-sending countries through our temporary labour programs would be erased. Financial remittances can quickly become nullified in an economic slump (or at least reduced, as workers overstay their visas to work informally). Repatriated foreign workers from poorer countries will likely have very limited or no access to formal social security assistance upon their return home, and the reduction or cessation of remittance transfers may negatively impact the livelihood of an entire extended family. Returning foreign workers will have diminished ability to contribute to local economies; they may even be in debt from paying the costs associated with migration.

From a Canadian business perspective, access for TFWs to social security is also important. In many sectors in Canada, such as the trades, the oil sands, general labour, the agricultural sector and the meat-packing industry, there is a shortage of Canadians willing to do the jobs, illustrated by the fact that TFW new hires are not down significantly. Under certain TFW categories, employers also pay a significant sum of money to transport their foreign workers to Canada and house them; a net loss of foreign workers translates into a net loss on their investment.

Unless the government introduces concrete incentives to Canadians to relocate and retrain for employment in these sectors, as Janice MacKinnon outlined in the September 2009 issue of *Policy Options*, employers are likely to rehire the same foreign workers once economic conditions improve, rather than look elsewhere. Considering Canada’s rapidly aging workforce, more and more businesses are opening their arms to all migrant groups, including temporary foreign workers, in order to maintain production and growth in the long-term. In this context, short-term government investment in TFWs through enhanced access to social security assistance could produce a long-term return on Canadian business investments.

**T**here are a number of steps that the Canadian government could endorse to rectify this situation and maintain its place in a competitive labour market, steps that other governments are currently exploring. For instance, all workers legally employed in Spain are entitled to the gamut of social security benefits, provided they have paid into the system for a minimum number of years. Foreign workers who become self-employed after having been laid off from their original contracts in

Spain are also entitled to these public benefits.

The Philippines supports a more private sector model of social assistance for its nationals working overseas. Its Office of Overseas Workers Welfare recently started a program that offers financial assistance and training to returning overseas workers who lost their jobs due to the global financial crisis, in addition to a myriad of services and loans offered to Filipinos before and during their overseas contracts.

Other policy proposals Canada could consider to address the noncitizen EI exclusion problem include the following:

- 1) Offer migrant workers who are dismissed and their employers exit refunds, equivalent to what they paid into the social security system during the duration of the work permit.

- 2) Strengthen and enforce existing domestic labour legislation, introducing nondiscrimination clauses with respect to workers' social security rights.

- 3) Introduce new (or reform the existing) bilateral or multilateral labour agreements with TFW-sending countries, in order to cover social security entitlements and procedures, including overseas portability.

- 4) Offer financial contributions to government migrant assistance programs in the major TFW-sending countries.

Of course, our proposals will not be without their critics. Before any reforms can be made to the system, there are other important questions, such as these: Will an extension of social security in practice to foreign workers be politically palatable in Canada, or will it become too costly? Is this type of assistance a pri-

ority for Canadians? Are there other broad and proactive means that could provide social protection to vulnerable groups, including foreign workers? There are also process questions. For instance, is it the responsibility of the private sector rather than taxpayers' responsibility to provide social protection to TFWs?

These are all valid questions. Regardless of the eventual outcomes on these matters, now is the time for a nuanced reflection on the inequalities in social security access in all groups in Canada, including noncitizens.

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