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Migrant Nurses and Care Workers Rights in Canada

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Addressing Multiple Forms of Migrant Precarity:
Beyond “Management” of Migration to an Integrated
Rights-Based Approach

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Addressing Multiple Forms of Migrant Precarity: Beyond “Management” of Migration to an Integrated Rights-Based Approach

This paper is part of a Working Paper series that synthesizes research that was presented at a workshop convened by UNRISD and members of the World Universities Network (WUN) in Geneva in September 2015.

At the workshop, researchers from an international consortium presented new empirical research findings from Asia, Africa and America from a recently concluded study of migrant precarity. The research project focused on intraregional migration, looking in particular at the linkages between migration and social protection from a rights perspective. It considered policies and practice related to three key groups of migrants: unaccompanied children, refugees and labour migrants.

For further information on the workshop visit <http://www.unrisd.org/migrant-precarity-workshop>.

The main workshop discussions were summarized in an UNRISD Event Brief, which is available at www.unrisd.org/eb3.

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Acronyms

CCP	Canada Caregiver Program
CCRN	Canadian Council of Registered Nurse Regulations
CIC	Citizenship and Immigration Canada
CRNE	Canadian Registered Nurse Examination
ESDC	Employment and Social Development Canada
IEN	Internationally Educated Nurses
IENCAP	Internationally Educated Nurses Competency Assessment Program
LCP	Live-in Caregiver Program
NAFTA	North America Free Trade Agreement
NCLEX-RN	National Council Licensure Examination – Registered Nurse
NNAS	National Nursing Assessment Service
OSCE	Objective Structured Clinical Examination
TFW	Temporary foreign worker

Summary

Between 2000 and 2014, there was increasing mobility of migrant workers to Canada, especially through temporary migration streams. However, the large expansion of the Canadian Temporary Foreign Worker Program from 2000 to 2014 has been curtailed over the last one to two years with more restrictive policies. In this paper, we will discuss care worker rights within the changing policy landscape in Canada, with a focus on individuals who migrate as domestic caregivers and as nurses. The paper illustrates the systemic barriers to the enforcement of rights and access to the profession for nurses who migrate to Canada as migrant caregivers. It finds that the Canadian government has restricted access to citizenship rights for some groups of care workers, increased the role of employers in the selection of immigrants to Canada, and created a pathway for skilled healthcare professionals to migrate to Canada through the Canada Caregiver Program. This has made their legal status in Canada more precarious as healthcare professionals who migrate through the Canada Caregiver Program must now first reside in Canada for two years and meet specific eligibility requirements before becoming a permanent resident in the country.

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Introduction

Over the past two decades, there has been increasing movement of migrant workers to North America, especially through temporary migration streams. As of 1 December 2012, there were 338,221 temporary foreign workers (TFWs) in Canada (CIC 2013). Care workers¹ (including nurses and domestic caregivers) constitute an important group of migrant workers in Canada.² Major programmes which facilitate migration streams for care workers to Canada include the Canada Caregiver Program (CCP) and its predecessor, the Live-in Caregiver Program (LCP), Canada's Temporary Foreign Worker Program, the Provincial Nominee Program, and the newly-created Canadian Express Entry System (see table 1).

In this paper, we will discuss care worker rights within the changing immigration and labour market policy landscape in Canada. We are particularly interested in individuals who migrate as domestic caregivers and as nurses. Furthermore, we explore migrant precarity as it relates to nurse migration in Canada. By migrant precarity, we mean the increasing temporariness, uncertainty, pernicious risk, and lack of access to full citizenship for some groups of migrants in Canada (Schierup et al. 2015).

The large expansion of temporary migration streams over the last two decades was curtailed in 2014 with successive changes to Canadian immigration policy, especially for individuals who migrate to Canada as domestic caregivers. The Canadian government has restricted access to permanent resident status (and subsequent citizenship) for some groups of care workers, increased the role of employers in the selection of immigrants to Canada, and created a pathway for skilled healthcare professionals to migrate to Canada through the CCP that makes their legal status in Canada more precarious. Their increased precarious status stems from the fact that healthcare professionals who migrate through the CCP must now first reside in Canada for two years and meet specific eligibility requirements before becoming a permanent resident in the country. Previously, there was no requirement for any healthcare professional to first reside in Canada for two years prior to becoming eligible for becoming permanent residents of Canada. In the Canadian social science literature, much attention has focused on the rights of individuals who migrate through the LCP. However, despite the fact that nursing constitutes a significant group of care workers, little literature within nursing takes a rights-based perspective to analyse care worker migration through a variety of care work programmes. Also, limited literature has linked contemporary domestic worker migration to nurse migration.

In this paper, first, we will present the changing immigration policy for care workers in Canada. Second, we will discuss the experiences of “lower-skilled” caregivers in Canada, including their experiences of exploitation and social exclusion. We further address the challenges to the enforcement of rights for this group of migrant workers. Third, we will focus on nurse migration by shedding light on the systemic barriers to nursing registration in Canada and the implications for the economic and social rights of migrant nurses in Canada. To further situate our work within the nursing policy landscape in North America, we link our discussion here with the move towards harmonization of nursing credentials across North America, including the introduction of the NCLEX-RN (National Council Licensure Examination – Registered Nurse) as an

¹ For this paper, we adopt the Oxford Dictionary's definition of care workers. A care worker is “a person employed to support, (care for) and supervise vulnerable, infirm, or disadvantaged people”. We include individuals who are paid to provide paid care to children, the elderly, persons with disability, and the sick in our definition. Our paper is focused on two groups of care workers: 1) nurses; and 2) domestic workers.

² There is no data on the total number of care workers who migrate to Canada every year.

entry into practice requirement. Lastly, drawing from research conducted on nurses who migrate to Canada through the LCP, we discuss the rights and obligations of diverse actors towards the integration of this group of nurses. Some of the actors involved in the integration of nurses include Canadian immigration policy makers, Canadian labour policy makers, immigration policy makers in sending countries, recruiters in source countries and Canada, nursing educators, nursing employers, and nursing policy makers. We will shed light on the perspectives of some of these stakeholders. Using Canada as a case example, our paper will highlight the challenges in enforcing care worker rights and present implications for health, immigration, and labour policy.

Changing Immigration Policy in Canada

TFWs are increasingly being constructed as a highly disposable workforce in Canada, which is reflected in changing policy frameworks determining the conditions and rights of this group of workers. Key migration programmes that will be analysed in this paper are presented in table 1 below.

Temporary residents in Canada include those who migrate through the CCP, the International Mobility Program (for example, North America Free Trade Agreement [NAFTA] and reciprocal agreements), the Seasonal Agricultural Workers Program, and those with a positive Labour Market Impact Assessment (where there is shortage of workers in Canada) (CIC 2013).

Table 1: Description of Key Migration Programmes Analysed

Name	Description	Policy Changes 2014–2016
Canada Caregiver Program (CCP)	The Canada Caregiver Program allows caregivers (including health professionals, nannies, and low-skilled caregivers) to migrate to Canada to provide care to either children or individuals with high medical needs. Caregivers who migrate under this stream can choose to live-in or live-out of the employer's home. They are eligible to become permanent residents in Canada after a minimum of two years of work in Canada. They must meet specific language requirement prior to being eligible to become permanent residents in Canada.	This is a new programme that was introduced in 2014.
Live-in Caregiver Program (LCP)	Through the Live-in Caregiver Program, families could hire foreign caregivers to provide eldercare, childcare and care for persons with disabilities in a private residence. Live-in caregivers must also live in the client's home. Live-in caregivers are eligible to become permanent residents in Canada after a minimum of 22 months of work in Canada.	The LCP was a precursor to the Canada Caregiver Programme. It was implemented from 1992 to 2014.
International Mobility Program	The International Mobility programmes comprises all streams of work permit applications that are exempt from obtaining a labour market impact assessment prior to migrating to Canada. This includes those who migrate through North American Free Trade Agreement (NAFTA) and reciprocal agreements.	This is a new programme that was introduced in 2015. Most individuals who migrate through this programme are high-skilled workers. They are temporary residents of Canada.
Federal Skilled	The Federal Skilled Worker Program is the main permanent migration stream for immigrants to	An express entry immigration processing system was introduced

Name	Description	Policy Changes 2014–2016
Worker Program	Canada, including nurses. Individuals migrating through this route must meet minimum requirements based on six selection factors: language, education, work experience, age, evidence of valid job offers, and adaptability. They must also demonstrate proof of sufficient funds.	in 2015. Under this system, individuals who are nominated and supported by employers have an increased chance of being able to migrate to Canada.
Temporary Foreign Worker Program	The Temporary Foreign Worker Program allows foreign nationals to migrate temporarily to Canada. Between the year 2002 and 2014 there was an increase in the number of low skilled workers who migrate through this route.	Some of the changes to the programme in the year 2015 include a higher processing fee for labour market impact assessment, a cap on the percentage of low wage workers that an employer can hire, a limitation on the length of time TFWs can remain in Canada, and a distinction of TFWs by wage level (rather than skill level). Low wage workers have limited pathways to permanent resident status. Previously, individuals who migrate through the International Mobility Program were housed under the Temporary Foreign Worker Program.

Source: Authors' elaboration.

Over the last 15 years, there has been a drastic increase in the number of people who have entered Canada through the Temporary Foreign Worker Program. The programme is seen as desirable from a policy perspective because it allows the Canadian government to respond to short-term demands to meet economic and employer needs (Lowe 2010). Recently, however, the growth of Canada's Temporary Foreign Worker Program has been curtailed by policy changes that discourage the recruitment of TFWs. On 20 June 2014, the federal government announced an overhaul of the programme, including limiting the length of time TFWs are allowed to remain in Canada. Other changes to the Temporary Foreign Worker Program include a shift to high-wage TFWs, capping the number of low-wage workers, and limiting access to Canadian permanent residency for low-wage TFWs (Employment and Social Development Canada [ESDC] 2014).

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