

Through Canada's Live-In Caregiver (LIC) program, a migrant worker comes to Canada to live with and perform domestic work for a Canadian family. After two years' live-in domestic work, migrants can apply for permanent resident status, and the "overwhelming majority" of these applicants are accepted.<sup>1</sup> As such, caregivers straddle a number of spheres typically thought of as separate. Their domestic work is part of the formal sector, yet they work in the private sphere of the home. They work in someone's home, yet at the end of the day that is also where they live. The majority of workers apply and receive permanent residence in Canada, yet until their two years of domestic work is complete, they are treated as temporary residents rather than economic class immigrants. As such, the LIC program lies at the fascinating intersection of gender, labour, and migration. In Part I of this paper, I will outline some of these broad legal issues related to gender, labour, and migration that affect potential caregivers and their employers and how these issues give rise to demand for the LIC Program. In Part II, I will turn to the LIC Program, which is after all a legal policy itself, and analyze the program's impact on caregivers, employers, and others. In Part III, I will make some suggestions for what changes could be made to the LIC Program to address some of the issues in Part I. While this paper is not an attempt to characterize the problems that revolve around global and gender inequality as legal issues only, it *is* an attempt to shed light on the under-emphasized and active role of legal institutions in perpetuating these problems. I argue that in the long term, the LIC Program either does not address or actually exacerbates the problems that gave rise to the need for the LIC Program in the first place – disempowered, unemployed workers in poor countries and entrenched undervaluation of caregiving in

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<sup>1</sup> Macklin, Audrey. "Public Entrance, Private Member: Privatisation, Immigration Law and Women." In *Privatisation, Law, and the Challenge to Feminism*, edited by J. Fudge and B. Cossman. Toronto: University of Toronto Press, 2002. 227

rich countries. The program is a short-term patch on a problem that could and should be addressed by more creative reworking of underlying legal institutions.

## **Part I**

The demand and supply of caregivers that makes the LIC Program possible and appealing to some arises in part from a complex net of legal rules and norms. As Professor David Kennedy notes, for example, the wage rate in poor countries, which is one factor that determines the appeal of participating in the LIC Program, is

being set by the decisions of thousands of entrepreneurs, workers, and investors, each made in the shadow of rules — formal and informal, public and private, national and international — about the uses of property, the conditions for labour organization, the transport and trade of industrial inputs and outputs, patterns of credit and payment, immigration and so forth.<sup>2</sup>

One such legal underpinning is the proliferation of the free market capitalist system promoted by international financial institutions (IFIs). Directly through conditional financial support and indirectly through such activities as publishing reports on governance policies, these legal reforms very generally speaking support opening borders, privatizing industries, and restructuring institutions to support market operations. Macklin identifies their effect on the Philippines, which dominates the global supply of domestic workers.

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<sup>2</sup> Kennedy, David. “Challenging Expert Rule: the Politics of Global Governance” (2005) 27 Sydney Law Review 5

In many less developed countries (LDCs), including the Philippines, IMF and World Bank global debt and restructuring policies mandate export-oriented development, deregulation of capital and industry, privatization of the public sector, and cuts to government spending. These policies often result in decline in health education and social services, increase in un- and underemployment, shrinkage in public sector employment, price jumps when subsidies are reduced, a deterioration in the status of women, and an expanding gap between rich and poor...<sup>3</sup>

The overall effect of IFI doctrines is debatable, but at the very least, radical economic and legal restructuring does in the short term lead to destabilization and the displacement of people from their traditional forms of work and life. Such displacement is often called “freeing up” labour resources, which is a little misleading given that this “freedom” comes from being denied the choice to remain in the traditional forms of work. A trend related to this growth in insecurity and flexible labour is greater female participation in the workforce.<sup>4</sup>

While destabilization and the resulting increase in unemployment generate pressure to lower wages in poor countries, another factor which contributes to the supply in caregivers is the tremendous economic benefit, by comparison, of earning rich country wages. But why are wages so much higher in rich countries? Arguments that labour remuneration in the global economy is based on productivity come out sounding hollow when caregivers in Canada and the US are paid so much more than caregivers in the

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<sup>3</sup> Macklin, *supra* note 213 at 227

<sup>4</sup> Standing, Guy “Global Feminization Through Flexible Labour: A Theme Revisited”, (1989) 17(7) World Development 583. It might seem that the growth in insecurity and female labour market participation, mentioned above in the context of the Philippines, in relation to Canada might actually decrease the demand for a LIC Program, given that it would increase the supply of Canadian caregivers. Countervailing that is the lack of sufficient return on caregiver wages.

Philippines for performing essentially the same work (Rather ironically, one result of this extreme wage differential is that some migrant caregivers hire their *own* caregivers to take care of their children left behind). How do legal decisions influence and help create this wage disparity? For one thing, the idea that money is freely universally interchangeable at all and on what terms that money is exchangeable are themselves legal decisions (grounded in economic theories, to be sure). It is a legal decision that how much a currency is worth is left for the market to determine, not, for example, considering the things that markets exclude and how much that money is actually worth on the ground – its purchasing power parity. Even the decision to promote trade is a decision to promote exchangeability, which is a decision to promote money, the global language of trade, which is a decision to promote working for money. The reasons for why Western wages are so attractive are numerous and beyond the scope of this paper – tying in to the issue of why there is so much inequality in the first place - but trends in liberalized trade have contributed to the phenomenon. Comparatively advantageous trade does not, after all, hold that both parties will benefit equally.

Another angle to examine the appeal of participating in the LIC Program is to examine how different options for potential caregivers have been curtailed. Here, again, the policy of liberalized trade could be said to play a part, inasmuch as it promotes specializing in one's comparative advantage. Low-skill women have a comparative advantage in raising children, not just because they bear the children, but because of gendered dispositions towards, for example, being nurturing. However, the simple fact that they are capitalizing on their skills as caregivers means that they are not capitalizing on other skills, other comparative advantages, left latent. In such a sense, markets only

serve to perpetuate already prevalent norms. Competitive pressures can only push workers into more productive roles (productivity being the chosen goal) if the productivity of those roles is properly recognized and choosing those roles is a possibility not limited by gendered and cultural barriers.

A more tangible way in which other options are curtailed is restrictive immigration laws. The LIC Program offers participants permanent residence status; how easy are alternative means of acquiring permanent residence status in rich countries? Certainly, it is not becoming any easier for relatively low-skill workers to get into Canada or the US, legally or illegally. Border control in the US against illegal migrants is increasingly deploying stricter, military means, making illegal migration to the US<sup>5</sup> either more dangerous, more expensive,<sup>6</sup> or both. In Canada, immigration barriers also remain high, even when open borders so well aligns with liberalized trade, with equality ideals, and with Canada's demographic needs.<sup>7</sup> But low-skill workers with no family connections in Canada and no strong claim to refugee status would likely not qualify as skilled workers or protected persons, or under the business or family classes.<sup>8</sup> Even if the government decided to increase its immigration quotas across the board, low-skill workers would still not benefit much; they are only a small proportion of those let in.<sup>9</sup> As

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<sup>5</sup> Santos, Alvaros "Working Borders: Linking Debates About Insourcing and Outsourcing of Capital and Labor", University of Texas Law School, February 10-11, 2005, 40 Texas International Law Journal 4, 691

<sup>6</sup> 1500 USD for a coyote to get you into the US. Basok, Tanya, *Tortillas and Tomatoes: Transmigrant Mexican Harvesters in Canada*. Montreal: McGill-Queen's University Press, 2002, pg. 299

<sup>7</sup> Macklin, *supra* note 1 at 225. The Charter illustrates how important we hold mobility rights, at least to Canadians. Mobility rights (s. 6) are enshrined in our Charter and are not even subject to the notwithstanding clause the way that our fundamental freedoms (s. 2) and liberty rights are (s. 7 to 14).

<sup>8</sup> Non-citizens in Canada can be categorized into temporary residents, economic class immigrants (including skilled workers, business class, and live-in caregivers), family class, and protected persons. See "Immigration to Canada" Citizenship and Immigration Canada (13 November 2003), online: <<http://www.cic.gc.ca/english/immigrate/index.html>>

<sup>9</sup> See "Citizenship Acquisition Rates in the 1990s" Citizenship and Immigration Canada (17 September 2004) online: <<http://www.cic.gc.ca/english/monitor/issue06/06-feature.html>> [Citizenship Acquisition Rates]

a result, temporary worker programs like the LIC Program may be the most feasible way for low-skill workers to get permanent resident status in Canada, legally at any rate.

Legal rules and restructuring have not only increased the supply of migrant caregivers, but also, on the other side of the equation, the demand for their work.<sup>10</sup> The valuation of domestic work is the result of ingrained institutions that determine where we place value. Labour markets do not acknowledge the value of the reproductive economy, treating reproductive work as costs rather than benefits, valuing things like mobility and “commitment,” and penalizing domestic responsibilities.<sup>11</sup> The problem is that caregiving still needs to be done in each household that chooses to have children, regardless of how economically valuable that household’s paid work is. So while women themselves have been recognized, at least officially, as equals, the productive, skill-demanding work that they have historically done of raising children remains undervalued. And regulatory efforts to recognize this work in the formal economy through government-funded childcare and mandatory maternity leave are threatened by the trend towards privatization and the growth of insecure work respectively.<sup>12</sup> At the same time, the incomes of upper/middle-class families who would most likely employ a migrant caregiver are rising

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<sup>10</sup> It would be an overstatement to attribute the growth in female labour market participation as inadvertent fallouts of legal rules over, for example, the feminist movement in the West, just as I believe that laws can only go so far in changing culture and mentalities about gender. That said, legal institutions exhibit these norms and these norms can be challenged by challenging the footprint they leave in legal policy.

<sup>11</sup> Elson, Diane “Labor Markets as Gendered Institutions: Equality, Efficiency and Empowerment Issues”, (1999) 27:3 World Development 611

<sup>12</sup> Government support for childcare, which has been part of the response to this problem, is threatened by the trend against government funded social services and the interrelated erosion of the tax base that Braithwaite discusses. Employee benefits like maternity leave, which has also been part of the response to this problem, is denied to the growing numbers of insecure workers (part-time, contractors...etc.). Neither of these concerns are, however, relevant for the upper/middle-class families who would be employing a caregiver, since the issue is not not being able to afford it, but having too high of an opportunity cost to do it.

in both an absolute and relative sense,<sup>13</sup> making the perceived opportunity cost of staying at home not only a critical factor, but one of growing importance.

What's more, the employers of these upper/middle-class families would be subject to the same competitive pressures of the free-market economy as everyone else. While this may not translate into cutting wages for these high-skill workers, it could very well (although the evidence is not conclusive<sup>14</sup>) translate into demanding longer hours of work and stronger commitments from them, at the expense of their ability to handle their domestic concerns and indirectly, then, at the expense of caregivers.

## **Part II**

The legal institutions mentioned above, related to trade, immigration, and gendered labour, have at least contributed to, if not created, a system where female low-skill workers in poor countries need jobs and are not finding them at home, and where upper/middle-class families in rich countries are engaging in a demanding labour market that undervalues domestic obligations. The solution the government has come up with is the LIC Program. But the LIC Program is more than a neutral response; it is a conscious legislative decision that, in attempting to allay certain tensions, also promotes certain values and norms. I argue the LIC Program promotes the separation of families, exploits migrants, and legitimizes gendered norms, while doing little to affect international

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<sup>13</sup> See Milanovic, Branko *Worlds Apart: Measuring International and Global Inequality* (Princeton: Princeton University Press, 2005)

<sup>14</sup> Sociologist Juliet Schor has conducted studies and argued that upper/middle-class Americans are increasingly being overworked, but her conclusions have been challenged. See Schor, Juliet. *The Overworked American: The Unexpected Decline of Leisure*, (Newton: Basic Books, 1992)

poverty and instability issues. My argument will focus on a presumably common case of caregivers who leave behind dependents in order to come work for upper/middle-class two-income families in Canada. Caregivers are not officially barred from bringing family but are effectively so<sup>15</sup>; and presumably only upper/middle-class families could afford a full-time caregiver, whether a migrant one or not.

One of the first arguments that proponents of the LIC Program will advance is that participants choose to do it; hence, it must be the best option of those available to them. The attraction of higher wages and permanent residence status, it is argued, outweighs the nature and environment of the work and the separation from home and family. Moreover, the fact that the program is highly competitive means that many more people want to be caregivers than the program even allows.<sup>16</sup> But it is not enough to jump to this facile conclusion; frameworks cannot be wholly evaluated from the perspective of the ones bound within those frames. The issue is not what are the various injustices and hard choices faced by individuals around the world who engage in the program, but whether it is a legitimate, effective, and normatively desirable government action. Government actions should draw some guidance from the *Charter*,<sup>17</sup> and in particular the section 7 right to life, liberty, and security of the person which is guaranteed to all people in Canada.<sup>18</sup> Otherwise, by perpetuating the belief that exploiting cheap foreign labour is acceptable, it erodes societal morals.

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<sup>15</sup> Caregiver selection is a market-driven process which, *especially* because they are *live-in* caregivers, effectively excludes the hiring of caregivers who want to bring along dependents.

<sup>16</sup> Macklin, *supra* note 1

<sup>17</sup> Seneca College of Applied Arts and Technology v. Bhadauria [1981] 2 S.C.R. 181

<sup>18</sup> Though section 7 of the Charter does not protect socio-economic rights (by and large), that does not mean that the protection of socio-economic rights to life, liberty, and security of the person do not inform policy and legislative decisions.



Another argument that could be advanced in support of the LIC Program is that it works as an indirect subsidy to high-skill work in Canada.<sup>19</sup> Or it is an indirect means of promoting economic productivity in Canada, since it encourages or at least enables the parents in these families to work (although having a caregiver does not necessarily induce a parent to enter the labour force; and the fact that the parents are upper income does not necessarily mean they are highly paid at work). The LIC Program could also even be seen as an indirect means of encouraging high-skill workers to reproduce.<sup>20</sup> However, from an economic perspective, subsidies are typically a bad thing. They artificially sustain industries that either should not need the subsidy or should not exist in the first place and stifle the normal market pressures that would induce people into their naturally most productive role. But putting that argument aside, the program also perpetuates the stratification of Canadians society by only aiding richer families. Poorer families who cannot afford a caregiver full-time must pay higher prices per hour for more intermittent care and must take care of their own children more themselves.

Turning from refuting arguments for the LIC Program to my arguments against it, first off, it imposes hardship on the caregiver herself. In order to participate in the LIC Program, perhaps the largest cost she feels directly is leaving behind her family and social connections in order to work in Canada. Professor Walzer notes:

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<sup>19</sup> Similar to how Basok argues Mexican Seasonal Agricultural Workers' Program is in essence an agricultural subsidy, although the term "subsidy" in these contexts is a little misleading in the sense that the government is not channeling money directly into this program.

<sup>20</sup> In fact, importing migrant labour in general can be seen as a way to avoid reproduction costs Macklin, *supra* note 1 at 227 by importing labour ready-made.

Most human beings do not love to move. They normally feel attached to their native land and to the particular language, culture, and community in which they grew up and in which they feel at home. They seek to move only when life is very difficult where they are.<sup>21</sup>

It may be easy to underestimate the extent of this cost in our liberalized society with its arguably eroded sense of community and culture. In addition, the hardship goes both ways, as the caregivers' dependents, for example, may benefit from remittances but lose out on her support and care. While immediate family also eventually have the opportunity of migrating themselves, they must first get by for two years without the caregiver.

The LIC Program also promotes a dubious evolution in family structure, not only by depriving developing country families of their mothers, but also introducing an employee into Canadian families. While historically speaking there is certainly nothing new about having a live-in caregiver in a family,<sup>22</sup> nowadays two things are different. Firstly, a live-in caregiver is likely to be living in a family where both parents are working. Thus, by facilitating the delegation of child raising responsibilities to a caregiver, the LIC Program indirectly enables parents not to spend as much time with their children. Secondly, I believe our society now recognizes the value of *both* parents spending time with and having time to spend with their children. Supreme Court Justice Dickson, in a case about a mandatory weekly day of rest, said

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<sup>21</sup> See Carens, Joseph "Aliens and Citizens: The Case for Open Borders", 49 Rev. Pol. 251 (1987)

<sup>22</sup> Not to imply that something is justified because it is a historic practice, although I think it is fair to say that if something is a historic practice that still continues today then there is a presumption the practice is justifiable.

The aim of protecting workers, families and communities from a diminution of opportunity to experience the fulfilment offered by family activities, and from the alienation of the individual from his or her closest social bonds, is not one which I regard as unimportant or trivial.<sup>23</sup>

And yet, the LIC Program fragments families both abroad and, arguably, in Canada.

The concern that arises more directly out of the LIC Program itself, however, is that the caregiver must submit to a vastly unequal employment relationship. Typically, the most an employer can do is fire an employee. Here, caregivers risk the loss of an opportunity to earn a decent income outside their country.<sup>24</sup> Typically, employees go home at the end of the day to engage in the rest of their life. Here, employees stay at work. Even if they did not, their familial and social dislocations do not leave them much of a “rest of their life” to “come home” to. Typically, labour standards bodies have some oversight. Here, the environment is essentially off limits to labour standards bodies. Typically, employees outnumber the employers and their rights to unionize and to collective bargaining are protected. Here, caregivers are isolated, outnumbered, and in a foreign country. Unionization is effectively impossible.<sup>25</sup> And depending on the jurisdiction, medical insurance and workers’ compensation might be at the employers’ discretion.<sup>26</sup>

Thus, the LIC Program interacts with private and employment law norms to disempower caregivers. Property law and constitutionally protected rights of privacy

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<sup>23</sup> R. v. Edwards Books and Art Ltd. [1986] 2 S.C.R. 713

<sup>24</sup> Basok, *supra* note 6 at 16. Similar hardships are faced the Mexican Seasonal Agricultural Workers.

<sup>25</sup> Macklin, *supra* note 1 at 231

<sup>26</sup> See Citizenship Acquisition Rates, *supra* note 9 at  
<<http://www.cic.gc.ca/english/pub/caregiver/caregiver-2.html#8>>

protect the household from the scrutiny, but also the protection, of the state. Contract and employment law govern the employment relationship, outlining the rights a caregiver is supposed to have. Yet because the burden of proof on breach of contract lies with the caregiver, the effective result is virtually no protection at all. As the government emphasizes, it has “no authority to intervene in the employer-employee relationship or to enforce the conditions of employment.”<sup>27</sup> Perhaps this environment does not guarantee abuse, but it certainly facilitates it. The ILO

has documented the often abusive and unprotected working conditions of domestic workers in a range of destination countries...Domestic workers are especially vulnerable to forced labour because of the unprotected nature of their work and the highly personalized relationship between the worker and employer...Although labour inspection is required in all employment situations, in practice the home is out of bounds for labour inspectors.<sup>28</sup>

The competition-induced pressure that might pressure employers to spend more time at work, as mentioned above, could easily translate into pressure on the caregiver as well, to work longer hours despite the rights “guaranteed” in the employment contract. In a way, this non-transparent chain of command fits into and feeds the larger trend of vertically disintegrated chains of production where costs are passed down from one party to the next. (A third example of how costs are pushed down is how caregivers are now

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<sup>27</sup> *Ibid.*

<sup>28</sup> ILO, *A Global Alliance Against Forced Labour* (Geneva: ILO, 2005) para. 237

being used to care for the sick and elderly, providing services that used to be covered by the healthcare system, but which now are contracted out.<sup>29)</sup>

The opportunities for abuse do not end there. In contrast with the Mexican Seasonal Agricultural Workers Program, the selection of caregivers is also a decentralized, market-driven process. Lacking governmental oversight, private matching agencies that arise from migrant worker programs have been identified with coercive practices, both in developing and developed countries.<sup>30</sup>

Protection from employer exploitation is not the only responsibility the Canadian government avoids. For example, both caregivers' employers and Canada are shielded from having to recognize the dependency of the range of relatives who may be depending on caregivers' incomes by the fact that caregivers must come alone. Canadian law that recognizes family responsibilities and protects children is thus circumvented when it comes to caregivers' children. In fact, this setup even benefits Canadian employers. In an environment that is devoid of social commitments, it is easier for caregivers to devote their full attention to their employers' children, rather than the caregiver's children left overseas (Similar arrangements facilitate devotion to work in a range of temporary migrant worker programs.<sup>31</sup>). By *de facto* preventing a caregiver from bringing dependents to Canada during her term as a caregiver, the government and employers ignore the fact that she might have dependents relying on her remittances. But as long as

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<sup>29</sup> Macklin, *supra* note 1 at 111

<sup>30</sup> ILO, *supra* note 28 at para. 293

<sup>31</sup> See for example the Mexican Seasonal Agricultural Workers Program pg. 314.

the care of dependents is a burden disproportionately born by women, any equitable work scheme should recognize the extra burden on those supporting dependents.

My last few objections pertain to how the LIC Program perpetuates gendered norms. A critical legal theorist has argued that

The most common cultural effect of legal discourse is to legitimate the status quo, that is, to induce people to believe that existing social arrangements are fair or, at any rate, the best we can do. Elite legal discourses ‘naturalize’ the background rules that sustain the social status quo.<sup>32</sup>

That seems to be exactly what the LIC Program is doing. As mentioned, the program perpetuates the stratification of Canadian society by providing cheap caregivers to rich families. Moreover, if the LIC Program did not exist, two things would happen. Women and men would stay at home more to do the work themselves and other, wealthier women and men would pay more to hire Canadian caregivers; thus, the LIC Program keeps reproductive costs low by intervening on the supply side of “normal” supply and demand. Moreover, by assuaging the concerns of the upper class, the LIC Program defuses the political momentum that might arise from the systemic failure to value affordable child care appropriately.<sup>33</sup> The LIC Program subdues dissent while keeping the recognized value of caregiving down.

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<sup>32</sup> Basok, *supra* note 6 at 65

<sup>33</sup> Macklin, *supra* note 1 at 277

Another gendered norm that programs like the LIC Program perpetuate internationally is the classification of women in roles as domestic servants. The Philippines must make a niche for itself in the globalized economy; and in part because there is demand created by such migrant caregiver programs as ours, it has chosen its niche to be migrant caregiving. In marketing its caregivers, the Filipino state reaffirms the conception of the low-cost, low-skill, submissive female caregiver,<sup>34</sup> which lies in contrast to the general trend in declining sex-based occupational segregation in most parts of the world<sup>35</sup>. And by specializing in exporting caregivers, the Philippines, like the women themselves, misses out on opportunities for better, more gender-inclusive forms of work in industries that require and fuel positive externalities like higher education. Relying on caregiver remittances will only go so far in addressing problems of poverty and instability, for these funds are by and large spent on consumption rather than investments.<sup>36</sup>

The LIC Program fails to recognize that people in both the North and the South want to have the freedom to choose to care for their own families and yet are economically compelled to neglect them instead. It is not a structural solution to the inequalities which compel migrant workers in the first place. While in the short term, the LIC Program at least does increase migration flows, allow poor country residents to migrate to Canada, and provide affordable child care to some, the program does not address structural sources of poverty in the Philippines and other caregiver-exporting countries. By satisfying the childcare demands of a privileged few, it might actually be

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<sup>34</sup> *Ibid* at 231

<sup>35</sup> Standing, *supra* note 4 at 585

<sup>36</sup> See e.g. Basok, *supra* note 6 at 693

doing more harm than good for affordable childcare. And the program creates short-term solutions through the normatively unappealing disempowerment of a group of workers.

### **Part III**

Just because this program has problems, however, does not mean that there is no use for a migrant caregiver program altogether. If a balance can be found between a caregiver program that appeals to employers and one that is fair to caregivers, then it could (1) help open up borders by providing an incentive for Canadians to want borders to be opened up (2) help residents of poor countries and poor countries themselves escape poverty and (3) if properly implemented even contribute to gender equality both by increasing the wages of caregivers and by challenging stereotypes about women and men.

What I mean by the last point is that a migrant caregiver program could actually encourage and invite men to work as caregivers. It is at least within the realm of possibility that the economic incentive of cheaper migrant labour would then induce employers to actually hire some of these men. By so doing, the law could make inroads in attacking the more ingrained and elusive sexism that prevents genders from sharing domestic duties equally in Canada. Anti-discrimination legislation has done much in the way of legislating equality in the workplace; but how it can promote equality in the home is a more sensitive and trickier task which such a program could help. In any case, there is no reason men should be denied the opportunity to participate in these programs



because of sexist preconceptions. A program that encourages more male participation in domestic work could flip a negative thing into a positive one.

In the long run, though, a program that exploits women does not gain legitimacy by instead exploiting men. More changes need to happen, specifically the realization of labour rights for migrant workers. Transnational labour unions, for example, seem a natural way to resist the globalized “race to the bottom.”<sup>37</sup> The fact that garment workers have had some measure of success with this is encouraging and instructive<sup>38</sup>, especially if any of these workers were cottage industry seamstresses and hence shared some of the same challenges of transparency and physical isolation as caregivers. Along the same lines, perhaps a caregiver program should encourage all migrant caregivers in a given city in Canada to form a collective through which experiences could be shared and rights defended. Such a collective would serve at least two purposes. It would better enable unionized negotiation than a huge, geographically spread out transnational labour union, and it would build a support network for caregivers in Canada.

Lastly, like many steps in production chains, there needs to be more visibility and transparency about the working conditions of caregivers, not to mention a more proactive administration for investigating complaints and reviewing dismissals that is sensitive to the vulnerable position of migrant caregivers.

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<sup>37</sup> Political sociologist Sharmila Rudrappa has propounded the idea of transnational labour unions to collaboratively solve issues of outsourcing and immigration. Rudrappa, Sharmila "Working Borders: Linking Debates About Insourcing and Outsourcing of Capital and Labor", University of Texas Law School, February 10-11, 2005, 40 Texas International Law Journal 4, 766

<sup>38</sup> Rudrappa, pg. 183

Although I have only outlined a few suggestions, it may be that even these changes would make the program economically unfeasible. It may be that a gender-progressive migrant worker program that protects caregivers' rights and collective bargaining to some extent would be unworkable in practice. If so, *then* perhaps the program should be abandoned altogether; however, there is no need to assume at this early stage that it is unworkable. By looking at the legal issues that generated a supply and demand for the LIC Program in the first place (liberalized trade, immigration, and labour laws) we can see how a LIC Program and this LIC Program in particular have certainly not been the only choice available to address the problems faced. In a way, this program has not been an automatic response to titanic global forces but a "global force" of its own, in that it has normative repercussions in the global and local marketplace, fragmenting families, exploiting caregivers, and perpetuating gendered norms. As I mentioned at the start, caregivers straddle a number of different realms: between unrecognized domestic work and formal work, between the workplace and the home, and between being temporary residents and economic class immigrants. Perhaps the fact that they do not easily fit into any one of these categories is a clue that these distinctions are faulty to begin with.