

# WORKPLACE RIGHTS FOR IMMIGRANTS IN BC

## THE CASE OF FILIPINO WORKERS

### SUMMARY

DECEMBER 2007

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Barely a day goes by when we don't hear mention of the bullish BC economy. We're in boom times, we're told, with a provincial government surplus of over \$4 billion last year, housing starts up, consumer spending robust, and unemployment at historic lows. Given those indicators, we should all be feeling economically buoyant.

The truth, however, is somewhat different. When it comes to making economic advances, many British Columbians are on a treadmill, expending a lot of energy yet going nowhere. Between 2001 and 2006, there was no increase in real (after-inflation) hourly wages. And with the province's minimum wage frozen at \$8 per hour since 2001, and more than 20,000 workers earning even less than that, many British Columbians are steadily slipping backwards.<sup>1</sup> For the past four years, BC's child poverty rate has been the worst of any province. Overall, BC had the second worst poverty record of any province in 2005, with an estimated 17.2 per cent of all family units living below Statistics Canada's low income cut-offs after income taxes.<sup>2</sup> Evidently, the province's red hot economy is leaving some workers out in the cold.

Some sectors of the labour market have a harder time earning a decent living than others. These vulnerable workers include single mothers, racial minorities, youth and recent immigrants. Statistics Canada reports that, in 2006, very recent immigrants (those who have been in Canada five years or less) had the most difficulty integrating into the labour market, even though they were more likely than the Canadian-born population to have a university education.<sup>3</sup>



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Why recent immigrants struggle long and hard to reach the economic standards enjoyed by most Canadians is a hugely complex question, and one that cannot be fully answered here. However, this report, which focuses on recent Filipino immigrants to BC, is a micro portrait of this group and can illuminate parts of this puzzle. Specifically, it examines how major changes in 2002 to BC's Employment Standards Act (ESA) – the laws specifically intended to protect vulnerable workers – negatively affected the labour market experience and economic security of recent Filipino immigrants. Its findings speak to the question of why recent immigrants to one of Canada's richest provinces are finding economic security increasingly elusive at a time when immigration is becoming more important to the nation's wellbeing. (Roughly two-thirds of Canada's population growth comes from net international migration, and projections show that net immigration could account for virtually all net labour force growth by 2011.<sup>4</sup>)

In July, Human Resources and Social Development Canada released *A Study of Poverty and Working Poverty among Recent Immigrants to Canada*. Author Dominique Fleury concludes: "Recent immigrants to Canada face more employment barriers than other working-age Canadians do and they are a lot more likely to experience poverty. It even seems that the difficulties that new immigrants encounter have worsened in recent years." This report explains why that observation rings true for recent Filipino immigrants in BC, looks at how changes to BC's ESA have served to exacerbate this reality, and recommends ways this situation can be improved.

## What are Employment Standards?

Employment standards are part of the broader system of labour standards that govern the conditions in which people do paid work. They cover issues such as the minimum wage, minimum and maximum hours of work, overtime pay, parental leave and statutory holidays. They are supposed to offer a basic level of protection for all workers – providing assurance that they can earn a decent living under reasonable conditions, protect their personal safety, and balance work and family life. While employment standards matter to all workers, they are especially important for "vulnerable" workers – those who are least able to negotiate fair and decent working conditions with their employer and those not represented by unions. Vulnerable workers are disproportionately women, recent immigrants, racial minorities and young people.

Between 2001 and 2004, the BC government made a series of substantive changes to the legislation, regulation, administration and enforcement of employment standards in BC. As a result, workers' rights and economic security in BC have changed dramatically.<sup>5</sup>

# Key Findings

This study took place between 2005 and 2006. It consisted of a structured survey of 100 Filipino immigrants to BC, detailed in-depth qualitative interviews and focus groups with 30 Filipino immigrants, plus a workshop on policy alternatives with Filipinos as well as with representatives of other immigrant and community groups.

## Findings from the Survey of 100 Filipinos: Demographic Profile and Challenges

The survey provided an overview of the challenges Filipinos encounter in the labour market and how changes to the ESA have made existing challenges greater.

- Sixty-seven per cent of the survey respondents originally came to Canada as caregivers (under the Live-in Caregiver Program). The rest immigrated under various independent and family categories. The majority of survey respondents were women.
- While a majority first worked in Canada as caregivers, many respondents quit their caregiving jobs after the requisite period (two years). At the time of the survey, 42 per cent were still employed as caregivers.
- The unemployment rate (16 per cent) among respondents was high, and significantly higher than the overall unemployment rate, supporting the contention that immigrants suffer a long transition penalty.
- Sixteen per cent of respondents reported receiving less than \$8 per hour at some time since 2002; meaning, their employers were availing themselves of the “first-job” wage, i.e., the \$6 per hour wage (\$2 less than the regular minimum wage) introduced by the provincial government in 2001. More than one third of those who reported receiving the first-job wage did not receive any training, even though this was the explicit impetus for introducing the reduced wage. Furthermore, 50 per cent of first-job wage workers reported not receiving a wage increase after 500 hours, the maximum length of time an employer can legally pay a worker this lower wage.

This study’s findings speak to the question of why recent immigrants to one of Canada’s richest provinces are finding economic security increasingly elusive at a time when immigration is becoming more important to the nation’s wellbeing.

- About one-third of respondents reported being unaware of their rights in the workplace. Mandatory workplace posting of the ESA – a requirement prior to the 2002 changes – would likely have raised workers’ awareness of their rights.
- Twenty-three per cent of the respondents had seen workers’ rights posted in their workplace, although this is no longer a requirement. However, only 10 per cent had heard of the 2002 changes to the ESA.
- Thirty-four per cent of respondents felt that their workers’ rights had been violated, but only 19 per cent reported complaining about the violation. *These complaints all took place prior to the 2002 ESA changes*, when posting of the ESA was still mandatory, and use of the “self-help” kit was not required. Since 2002, use of a self-help resolution kit is now the required first step that employees must take if they have a grievance with their employers, a key change to the ESA that captures the non-interventionist approach of the government towards upholding employment standards. Only if that attempt is unsuccessful can they then bring the complaint to the Employment Standards Branch. Use of the English-only self-help kit, which is quite complicated, means that literacy, lack of information and language barriers are likely to prevent recent immigrant workers from receiving protection or wage recovery. Moreover, if an employee feels uncomfortable or fears discussing issues with her/his employer and thus does not use the kit, the Branch can dismiss the complaint. The self-help kit has become a clumsy bureaucratic barrier that seems designed to discourage workers from claiming their rights.
- Respondents relied heavily on public transportation. Fifty-two per cent reported using the bus to get to work. No respondent had a car. Often, they had lengthy traveling times to get to work – taking up to two hours and involving several transfers plus a long walk.
- The majority of respondents reported sending money to family in the Philippines, with 56 per cent remitting funds every month.

## Findings from the In-depth Interviews

The in-depth and focus group interviews with 30 participants provided detailed narrations about the labour market experience, its challenges, and the impacts of changes to the ESA and other policies since 2002.

- Even though a number of survey respondents received the first-job wage, only one participant in the interviews was paid this lower wage (i.e., less than \$8 per hour) and this was paid illegally, since she had worked more than 500 hours in previous employment. This participant did not file a complaint.

- The precarious nature of part-time or casual work is reflected in the interviews. For example, home-visiting care aides worked in one client’s home for two hours, then traveled to another client’s home. The aides were not paid for the in-between time or travel time. The fact that some paid shifts were only two hours long has been legal only since the 2002 ESA changes (prior to that, the minimum call-in period was four hours).
- Most participants received orientation and training pertaining narrowly to their job-related duties – the tasks and standards they were expected to perform. Participants reported that employers sometimes provided minimal verbal instructions about safety measures rather than showing videos or providing any formal safety training and, in some instances, important safety training was entirely absent. Moreover, many workplaces did not have written job descriptions, which are crucial to avoiding worker abuse.
- When their rights were violated, if any action at all was taken, this took the form of participants quitting their jobs, rather than demanding their rights or making a formal complaint. The good news is that, when participants quit, they tended to quickly find new jobs of a similar kind. The bad news, however, is that this tendency towards “job-hopping” has become a substitute means of coping with an unacceptable work environment – it has replaced the exercising of one’s rights, and it rarely improves working conditions or income. For these participants, BC’s low unemployment rate has not led to either improved workers’ rights or better work environments.
- The absence of ESA or WorkSafeBC monitoring has eroded the work environment for these participants. Many worked in hazardous workplaces, with harms ranging from unwanted sexual advances, to dangerous machinery, to hazardous chemicals, to being required to stand all day.
- Several participants who experienced violations were reluctant to report them. An ESA regime that relies almost exclusively on a complaints-based system – made worse by the 2002 introduction of the “self-help” kit – has failed to protect these workers.
- Despite experiencing several workplace violations, no participant reported using the self-help resolution kit, which requires a certain level of English-language proficiency. This suggests that some employers in the sectors where recent immigrants work suffer no consequences when they violate workers’ rights.

These recommendations would significantly improve the economic security of recent immigrant workers, and result in greater knowledge of, respect for, adherence to and enforcement of workplace rights.

- Participants who worked in hospitals or public care facilities were more likely to receive job orientation, training and better information, perhaps due to the existence of unions.
- Many participants were eager to see an active and strong union that would provide information about workers' rights. Participants clearly felt that unionization leads to higher wages and indicated their appreciation of the advantages a union affords.
- Participants usually quit their jobs only when they were denied wages or monetary benefits. Otherwise, they continued to work in hazardous, exploitative workplaces where labour rights were not implemented, monitored or enforced. Thus, rights that are supposed to be enshrined in the ESA have become "paper-rights" only.

## Recommendations

The paper concludes with a series of policy recommendations that would significantly improve the economic security of recent immigrant workers, and result in greater knowledge of, respect for, adherence to and enforcement of workplace rights. The recommendations are based on a workshop held in April 2006, at which more than 60 people participated, including members of the Filipino community, union representatives, academics, and representatives from non-profit and immigrant-serving organizations. Among the key recommendations:

- Eliminate the \$6 first-job wage, and increase the minimum wage to \$10 per hour.
- Restore mandatory posting of the Employment Standards Act in the workplace, ideally in multiple languages.
- Institute proactive monitoring teams (modelled on the former Agricultural Compliance Team), who would randomly investigate workplaces for workplace violations. Such teams would move enforcement of the ESA from being overly dependent on complaints.
- Eliminate the self-help kit. It is a clumsy and complicated document. Not a single participant used it despite repeated violations of the ESA. Workers need easy and speedy access to a third party to mediate a complaint. Replace the kit with a community-based, non-profit system, which would provide assistance, including advocacy, to workers who feel their rights have been violated. And allow workers to bring their complaints directly to the Employment Standards Branch.

- Institute higher penalties for ESA contraventions. Institute a point-penalty system, as is the case with driver's insurance. Make penalties higher for repeat offenders and when the contravention affects several employees.
- Extend the minimum call-in period from two to four hours. Two hours of pay is inadequate, particularly when workers must commute long distances to get to the workplace.
- Open more Employment Standards Branch offices, and set up a hotline for the Employment Standards Branch. Staff the hotline with people who can answer enquiries in more than one language.
- Support community organizations and their advocacy work. Community organizations can effectively and inexpensively inform immigrants about their workplace rights, and disseminate information in immigrants' native language.
- Provide mandatory information sessions on the ESA for employees and employers. Since 2001, seven of the top 10 immigrant-originating countries (China, Pakistan, the Philippines and others) have been from Asia. Employment standards are effectively non-existent in most of these countries. These immigrants need to know about their labour rights.

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1 BC Federation of Labour, 2007.

2 BC Progress Board, 2007.

3 Statistics Canada, 2007.

4 See Zietsma, 2007.

5 Fairey, 2005.

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## About the Authors

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## ACKNOWLEDGEMENTS

The authors wish to express gratitude to all the Filipino women and men who participated in this project.

The authors would like to thank: Alicia Priest, for her assistance editing this paper; Shannon Daub of CCPA, Gillian Creese of UBC, Arlene McLaren of SFU and Sherman Chan of MOSAIC for reviewing this paper and for providing thoughtful comments; Marjorie Griffin Cohen and Seth Klein for their advice on project design and feedback on this paper; Thi Vu, Economic Security Project manager with the CCPA, who helped to organize the workshop; Randi Devland of SFU political science, who assisted with the questionnaire, and Emmanuel Sayo who provided intellectual support to the study.

Research for this study was carried out with the collaboration and active participation of the Philippine Women Centre in Vancouver under the supervision of Cecilia Diocson.

This paper received financial assistance from the joint Canadian Centre for Policy Alternatives–Simon Fraser University Economic Security Project, a five-year research initiative to study how public policy changes in BC are affecting the economic security of vulnerable populations. The ESP is funded primarily by a grant from the Social Sciences and Humanities Research Council of Canada (SSHRC) through its Community-University Research Alliance Program.



Social Sciences and Humanities  
Research Council of Canada

Conseil de recherches en  
sciences humaines du Canada



This study also received a grant from the Vancouver Foundation, which significantly facilitated the research process. SFU Women's Studies and the Philippine Women Centre provided various kinds of assistance with this project, including academic training of a research assistant, Rebecca Scott.

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Any errors and the opinions contained in this paper are those of the authors, and do not necessarily reflect the views of the CCPA, PWC-BC, Simon Fraser University, the ESP or its partners, or the Vancouver Foundation.

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Since 1989, the Philippine Women Centre of British Columbia (PWC-BC) has been educating, organizing and mobilizing Filipino women and the broader Filipino community in British Columbia.

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