



Temporary Foreign Workers in Trades in Alberta

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Executive Summary

Canada's federally regulated Temporary Foreign Worker Program (TFWP) has grown in significance in the past decade, particularly in the province of Alberta. The "stock" of temporary foreign workers (TFWs) in Alberta increased seven-fold from 8,387 to 58,228 between 1998 and 2011. From 2000 to 2011, the number of foreign workers in Canada climbed from 89,000 to 300,111. The largest growth was seen among lower-skilled occupations (Dauvergne and Marsden 2011). Despite this growth, there has been relatively little research into the effects of the TFWP.

This research study explores the effects of the TFWP with respect to skilled trades workers. The case study addresses issues of credential acquisition, education and training and language difficulties.

The researchers interviewed 27 people involved with foreign worker recruitment in the industry, including a total of 11 foreign workers. The remaining interviews included five employers/recruiters, three union officials, six government representatives and two non-profit agencies. The semi-structured interviews were conducted in the fall/winter of 2010-11 and were 45 to 90 minutes in length. Workers also completed a pre-interview survey for the collection of demographic and employment-related information.

The study finds that tensions exist in the Temporary Foreign Worker Program as it has been used in skilled trades as follows:

- Despite regulation TFWs are often required to pay excessive recruitment fees that increase their financial insecurity and add a great deal of stress to the process of working in Canada.
- The requirement to achieve Red Seal certification within a short period of time is challenging. Language barriers and less than ideal conditions for preparation lower success rates among TFWs.
- The atypical employment relationship found in construction, combined with TFWs legal status of partial citizenship, place TFWs in a vulnerable and precarious position with both employment and residency.
- Rigidity in the TFWP design creates tensions with needs for flexibility in the construction industry. This affects both employers, looking for quick access to pools of labour, and TFWs, whose limited mobility rights constrict employment prospects.

This study identifies a series of implications for government, recruiters, and employers, related to occupations requiring formalized certification in Canada. The TFWP, with its lack of accountability and restriction of worker rights, may be ill-suited to address structural labour shortages of the nature experienced in construction. If it does continue to be used to address labour needs, greater transparency and attention to ensuring a fair and transparent process for recruitment, credential and residency processes are required. In addition, further research is recommended into the effects of the TFWP on different occupational groups, including lower-skilled workers, and its implications over time.

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List of Abbreviations

AIT	Apprenticeship and Industry Training (Alberta)
AEI	Alberta Employment and Immigration
AINP	Alberta Immigrant Nominee Program
CBSA	Canadian Border Service Agency
CIC	Citizenship and Immigration Canada
CLAC	Christian Labour Association of Canada
HRSDC	Human Resources and Skills Development Canada
LCP	Live-in Caregiver Program
LMO	Labour Market Opinion
NIEAP	Non-Immigrant Employment Authorization Program
PNP	Provincial Nominee Program
RWMP	Regional Municipality of Wood Buffalo
SAWP	Seasonal Agricultural Workers Program
TFW	Temporary Foreign Worker
TFWP	Temporary Foreign Worker Program

Temporary Foreign Workers in Skilled Trades in Alberta

Introduction

According to Citizenship and Immigration Canada (CIC), the initial entry of temporary foreign workers (TFWs) to Alberta more than tripled between 1998 and 2007. But despite the program's rapid growth and the complexity of coordination, there has been surprisingly little policy debate about the program in Canada (Abu-Laban 2007). Further, little research has been done on the Temporary Foreign Worker Program (TFWP) in Alberta (exceptions include Alberta Federation of Labour 2007 and Higgenbottom 2010). In addition, much of the work in the rest of Canada has focused on two sub-categories of guest worker programs—the Live-in Caregiver Program (LCP) (e.g., Sharma 2006, Baltodano et al. 2007) and the Seasonal Agricultural Workers' Program (SAWP) (Preibish 2010, Sawchuk and Kempf 2008, 2009). Therefore more research is needed to fully reveal the implications and effects of the Canadian TFWP.

As recently as July 16, 2012, Citizenship, Immigration and Multiculturalism Minister Jason Kenney and Alberta Minister of Enterprise and Advanced Education Stephen Khan announced that, "Alberta is facing some of the most acute labour shortages in the country" (CIC news release, 2012a). This study focuses on one of these areas of acute labour demand—trades work related to oil sands development in northern Alberta. Labour pressures in the Fort McMurray region coincided with the expansion of Canada's migrant worker program, and the result was a rapid influx of temporary foreign workers into the region. Between 2006 and 2010, over 6,100 foreign workers arrived in Alberta to work in oil sands construction, most ending up in the Regional Municipality of Woods Buffalo (RMWB) (Cummins 2011). The foreign workers became part of the region's "shadow population", which includes individuals not officially recognized through enumeration as residents, yet who spend time in a region (Haan 2010). In RMWB, the shadow population was sizable; in 2007, the number of mobile workers was estimated at 26% of the population (20% of this living in work camps) (Nichols Applied Management 2007).

Our research examines the implications and effects of the program, focusing on issues of credential assessment, education and training, and opportunities for mobility and permanent residence. Our case study of TFWs in skilled trades in Fort McMurray involved interviews with representatives from program participants including government, employers, unions, foreign recruiters, government, and TFWs. It highlights policy-relevant issues related to certification and immigration processes, as well as workplace and community integration experiences. Findings provide evidence to inform policies in the areas of credential assessment and recognition, training, immigration, and workforce planning. This report is part of a multi-level dissemination plan aimed at the policy community.

Background

Reasons given for guest worker programs include:

- Temporary migration offers greater flexibility for employers who cannot find

suitably skilled workers (Trumper and Wong 2007).

- The idea of being temporary makes them politically easier to sell to electorates who may feel threatened by more immigration (Abella 2006, p. 23/1).
- Concerns over the costs of immigration and integration leads to perceptions that “borrowing workers from lower-wage countries” and “restricting the rights of migrants” minimizes costs (Ruhs and Martin 2008, p. 260).
- TFW programs often serve as a filter for assessing the integration potential of migrants (Abella 2006, p. 22). It is argued that employers are often better able to assess the transferability of the worker’s foreign human capital than government staff (Warman 2007).
- The temporary migration process is faster than the process for permanent migrants.
- The program (in theory)¹ makes use of a transnational labour pool that does not seek permanent residency (Pastor and Alva 2004).
- Migrant workers are brought in to do the job Canadians do not want to do at the prevailing wage or conditions (Abella 2006).

The first general temporary migrant worker program in Canada, called the *Non-Immigrant Employment Authorization Program* (NIEAP), was introduced in 1973 (Fudge and MacPhail 2009). Under this program, work permits assigned temporary foreign workers (TFWs) to a particular employer and specified their occupation, residence, and length and terms of employment. Workers’ mobility was also restricted; they had to obtain written permission from immigration officials to alter their conditions of work or to change employers. The contemporary TFWP arose out of the NIEAP, maintaining similar restrictive conditions. Since its inception, there has been a proliferation of different streams of temporary workers (including the SAWP and LCP), which impose different requirements and provide different entitlements to workers.

Changes to the TFWP in 2002 expanded eligible occupations to include both low-skilled and higher-skilled workers. The effect was that the overall number of temporary foreign workers more than tripled between 2000 and 2011, from 89,746 to 300,111. In addition, between 2000 and 2009 the proportion of foreign workers in lower-skilled occupations more than doubled (Dauvergne and Marsden 2011). The program is also racialized with more than two-thirds of TFWs in managerial, professional, and skilled categories originating from Europe and the US in 2005 compared to 59% of workers from Asia and the Pacific and 85% from the Americas (not US) in low-skill positions (Fudge and MacPhail 2009). In general, more highly skilled temporary workers have more entitlements and opportunities to become permanent residents.

The federal departments of *Citizenship and Immigration Canada (CIC)* and *Human Resources and Skills Development Canada (HRSDC)* administer the temporary foreign worker program (TFWP). HRSDC administers the employment authorization and deals exclusively with employers, while CIC deals with workers and immigration matters. The

¹ Our case studies of TFWs in nursing and trades suggest that the majority of workers in both groups desired and sought permanent residence.

provinces and territories are responsible for employment and labour law and policy. In addition, the *Canada Border Service Agency (CBSA)* has the final authority to admit migrant workers at ports of entry and is responsible for enforcing immigration laws.

The TFWP includes high, middle, and low skill workers employed in a wide range of occupations and industries. The worker's length of work permit and eligibility for permanent residence vary depending on skill level (Elgersma 2007). Originally designed to target highly skilled workers, more TFWs are now "low skill" workers (approximately 60% in 2008) (Personal communication, Alberta government staff). In 2007, the Philippines displaced the United States as the top source country, providing approximately 25% of TFWs in Alberta (compared to 12% from the US). In addition, 60% of TFWs in the province were male. It is widely acknowledged that guest worker programs are on the rise globally (Ruhs and Martin 2008, Sawchuk and Kempf 2008).

The TFWP is employer-driven and not governed by quotas. Employers are required to apply for a Labour Market Opinion (LMO) and demonstrate that they cannot find qualified Canadian workers. They are also required to adhere to Canadian terms and conditions of employment. Foreign workers must apply for a limited term work permit, which specifies their terms of employment. They are covered by basic employment legislation but usually have no access to settlement services² and cannot pursue education or training in Canada. Workers also have restricted access to permanent residency streams. The route for low-skilled workers is through the Provincial Nominee Program (PNP), which allows provinces to nominate a certain number of prospective immigrants usually based on employer support as well as a good record of employment and minimum income level. More highly skilled workers can also apply for permanent residence through the Canadian Experience Class.

In Canada, TFWs possess limited residency rights, restricted labour mobility rights, and problematic access to basic employment rights (Fudge and McPhail 2009). Additionally, workers may be unable to exercise their rights in the same way as citizens because of language barriers, lack of information, and geographical and social isolation (Goldring, Hennebry and Preibisch 2009). Some writers argue that guest worker programs were once a quick fix for domestic labour market needs, but now are becoming part of human resource strategy, resulting in a "permanent peripheral pool of workers with which to fill low wage, low rights and low possibility jobs in Canada" (Sawchuk and Kempf 2009). TFWs become the ideal generic worker (Foster 2009).

Research questions

A statistical profile of TFWs is available from CIC including information about gender, source country, destination, and skill level. However, the diversity of TFWs suggests the need for in-depth contextualized research as well.

² Agencies that receive federal or provincial funding to operate generally cannot service people without citizenship status (Goldring, Berenstein and Bernhard 2009). However, the Alberta government introduced a pilot program to permit the delivery of limited settlement services to TFWs in 2008, and the Wood Buffalo YMCA was one of the pilot providers of these services.

Research questions include:

- How does the TFWP in Alberta operate for trades in the construction industry?
- How are workers' qualifications assessed and by whom?
- Is training provided for gaining Canadian certification? If so, how and what are the outcomes?
- What are the experiences of TFWs in the workplace?
- Are workers encouraged to seek permanent residence?
- How are the experiences of TFWs affected by recession?

Method

Our intention was to gain a variety of perspectives on the TFWP in trades from different stakeholders. Data collection involved interviews with 27 participants including a total of 11 foreign workers, 2 employers, 3 recruiters, 3 union officials, 6 provincial and federal government representatives, and 2 non-profit community agencies. Interviews explored how different groups viewed their roles and responsibilities in the TFWP in relation to worker needs regarding training, integration, and paths to residence. Interviews with TFWs were largely open-ended, with a focus on their education and work experiences in their home countries, reasons for applying to the TFWP, and experiences in Canada. The semi-structured interviews were conducted from 2010 to 2011 and were 45 to 90 minutes in length. Workers also completed a pre-interview survey for the collection of demographic and employment-related information. See Table 1 below for summary data.

We followed the University of Alberta's ethical guidelines for handling data (e.g., pseudonyms used for all participants, informed written consent required). The interviews were fully transcribed and coded thematically.

Discussion of findings

The use of temporary foreign workers in northern Alberta's oil sands varies by employer; contractors that had collective agreements with building trades unions appeared less likely to use TFWs, and if they did, these workers were more likely to be from the US. On the other hand, contractors that had agreements with the Christian Labour Association of Canada (CLAC) were more reliant on TFWs, mostly from the Philippines and India. As one employer comments, "In 2008 when we were at the peak, we would've seen about 30% of our workforce at the fabrication shop here being temporary foreign workers". This company brought in over one thousand TFWs between 2005 and 2010. Recognizing the importance of the industrial relations context, our interviews included two employer representatives from contractors that were active recruiters of TFWs as well as a representative from a company with a building trades agreement.

In this section, we discuss the following thematic clusters:

- Pressures on temporary foreign workers because of: a) recruiter fees, b) “atypical” employment relations and lack of rights in Canada, and c) the difficulty for those in mandatory trades of obtaining Red Seal certification.
- The problem of inflexibility in a system designed to provide flexible labour in the boom and bust construction industry.

Table 1: Temporary Foreign Workers Interviewed, Selected data from pre-interview survey

Birth Country	Occupation	Pass Red Seal?	Highest level of education	Number of employers in Canada	Discriminated against?
Philippines	Pipefitter	1 st time	Some college	4	Yes
India	Pipefitter	2 nd time	High school diploma	3	Don't know
India	Pipefitter	1 st time	College diploma	2	No response
Philippines	Ironworker	More than 2 times	University degree	1	Yes
Philippines	Electrician	2 nd time	Some university	3	Yes
Philippines	Pipefitter	1 st time	University degree	5	Yes
Philippines	Welder	2 nd time	Some university	2	Yes
Philippines	Steam fitter/ Pipefitter	1 st time	High school diploma	4	Yes
Philippines	Pipefitter	1 st time	Some university	1	No
Philippines	Pipefitter	1 st time	High school diploma	1	No
Philippines	Electrician	2 nd time	University degree	3	Yes

TFWs under pressure

Recruiter fees

All of our interview participants acknowledged that recruiter fees in home countries were commonplace although they are not legal in Canada. However, it is difficult to enforce regulations across national boundaries, as this Canadian recruiter notes:

Under the Alberta Fair Trade Act you can't charge the employee for placement fees.

Q: But the agencies in the countries can?

That's just it. It's a bit of a conflict there, because Fair Trade Act says this but in reality is nobody is working for free. You can't tell somebody in another country what he or she is allowed to charge for his or her services.

A building trades union representative felt that employers were turning a blind eye to this practice because of their interest in deploying foreign workers, and there was some evidence of this. For example, when asked about recruiter fees, a contractor representative asserted that the company pays recruiting fees but workers do not. However, almost all of our TFW participants acknowledged paying such fees. For example, the following exchange with a worker was typical:

Q: Did you go through a recruiter?

We applied for a company and they get a broker here. We pay that broker almost \$6,000 Canadian. They have an agency in the Philippines so they recruit Filipino workers in Philippines and bring them here.

Q: Did you pay a Canadian broker or was it a Filipino company?

I think the Filipino and the Canadian broker, they share the money. (TFW)

Some workers also admitted borrowing money at exorbitant interest rates to pay recruiter fees:

It's actually \$6,000 [in Filipino agency fees] but [agency] will bring you to the lending company, bring you to somebody that can lend you money. There is interest for that. ...

Q: How long did it take you to pay back your loan [of \$9000 including interest]?

Six months, \$1,500 per month.

The lack of regulation of recruiters in Alberta³ means that fees vary widely and workers have little recourse. Further, agencies sometime move beyond recruitment. For example, in one case, a worker came to Canada and worked for an employer but was paid by the agency, without realizing the illegality of the situation:

When I gave [record of employment] to AINP [Alberta Immigrant Nominee Program], AINP say that no, this is not your company. So I go to the other company and ask them [for a record of employment], so I gave it to them. But the PNP [Provincial Nominee Program] asking me, why you have two companies? Which is true? So they searched something and found out that those Chinese [brokers] are illegal here in Alberta. ... So I talked to the government and said, what should I do? I'm supposed to be legal here working in some company. So I

³ Unlike Alberta, Manitoba regulates employment agencies through the Worker Recruitment and Protection Act (2009) (Levy 2010).

decided to go home to clear my name and everything because I don't want any trouble.

A representative from CIC noted that the new TFWP regulations announced in 2011 included greater focus on the “genuineness” of the job offer, meaning:

Is this a real business or not, or is this a shadow business that's just been designed to bring foreign nationals in on temporary work permits where there is no business?

Thus, as new problems appear, governments try to respond. Yet excessive recruiter fees remain an elusive problem. In addition, the financial costs of recruitment noted above were clearly detrimental for workers (whose families were usually dependent on remittances), particularly those who arrived at the time of recession and faced almost immediate lay off.

Atypical employment relations and partial citizenship

A second reason for the pressure on TFWs relates to the terms under which they are employed in Canada, which creates vulnerability even for skilled workers. Employers are quite candid about the attractiveness of this workforce:

We're also dealing with a workforce for supervisors that end up being malleable. They can take these workers and if they want them to learn more about a given subject in order for them to better perform their work, these guys are willing to do it. Because of the wage differences from India and the Philippines to Canada, they're very appreciative and prepared to work very hard to sustain their employment.

TFWs are also perceived to positively impact the productivity of the existing Canadian workforce:

I think we've seen almost like a balancing of the workforce, whereas before it was such an employee-driven workforce that they felt that, well we don't have to work hard ...I think it's [TFW] really brought some competition back into the workforce, which is driving some good things. (Contractor)

However, it is important to ask why this group of workers is so “malleable” and demonstrates such strong work ethic. As Castles (2000, p. 64) notes, “the right-less illegal migrant is the dream worker for many employers and the nightmare of the labour movement.” Our case study research suggests that workers do not have to be illegal to be “dream” workers. The terms of TFWs’ work permits (which include being tied to a particular employer in a particular location) as well as the precarious nature of trades work in the oil sands (which is highly dependent on the global economy) makes them very insecure, and vulnerable to exploitation, as evidenced by a recruiter’s comment that part of his business involves helping TFWs who want to change employment because of problems with their employer.

In some situations, the employer does not comply with the terms of the work permit. For example, this TFW notes:

[My employer] want to transfer me to another shift, but the contract I signed is 20 and 8, going to work 20 days and 8 days off. They offered me so I won't be laid off, they offered me 14 and 7, 14 days work and 7 days off. I told them I don't agree with that because that's not the one I signing contract. The manager say, 'oh I take care of you, you won't be laid off.' I came back on job and they get all my IDs, 'you've been laid off.'

Q: They did lay you off.

They say 'take it or leave it.' I have no choice from that day.

Q: Was your concern that you wouldn't be making enough money with the 14-7 shift?

Yes, because I had to pay a lot of money, loan in the Philippines.

In other situations, the employer did not treat TFWs like other workers:

[A]ll those [Canadian] workers working are receiving [living out allowance]. I found out they don't want to show me their pay stub. But one of the Canadians is a friend of mine, he showed me and told me everybody's receiving that, not Filipino... So I called the union. They sent a representative at that company. ...The manager told them that there's no Filipino workers in there. So I called back, because the union people told me they don't see any Filipino workers there. I told them, we're working nightshift so you don't find us on day...

Q: Did the union ever sort out your living allowance?

No. When they say that no Filipino working in that company, then I just keep my mouth shut because I have no choice during that time. I still foreign worker, they can kick me out. So I decided to stop.

In our pre-interview survey, 7 of 10 workers who responded reported experiencing some degree of discrimination at work due to their race/ethnicity (by supervisors and/or co-workers). The feeling that they are not treated equitably was voiced in several interviews with TFWs; for example, one worker commented that desirable overtime went to "white guys". Shift segregation was also described as a problem; "we were assigned on nightshift because no one likes to work at night". Another worker noted that his employer often "forgot" to pay him for several hours of overtime. In addition, this employer was described as threatening:

He [employer] said, 'can you stay late tonight'? I said, 'yeah ok, up to 7 o'clock, but not too late'. He said 'no, you have to go there and finish the job.' I said, 'how long it takes'? 'Maybe until tomorrow.' I said, 'no I can't.' He's so very angry he's yelling at me again. 'You know what, tomorrow I will call immigration and ask them to bring [you] home.'

The worker described several abusive incidents and the impact they had on him:

I see a doctor and the doctor said, 'the best thing you can do is look for another job or else you're the loser here.' I said, 'do I have a heart attack?' He said, 'no you don't have any heart problem but it's here.' He told me, 'it's in your mind, it's so much stress.'

While this is an extreme case, workers are vulnerable to such exploitation because of their tenuous situation in Canada. Economic dependency combined with the difficulty of navigating complex immigration processes left many feeling anxious and fearful:

You don't have peace of mind. That's a problem when you [are a] foreign worker, you're always thinking before you go to sleep what will happen tomorrow, I might be sent back home. You don't know.

Further, despite the existence of a TFW Advocacy Office in Alberta, workers are unlikely to complain. For example, the worker with the abusive employer cited above, who was also being paid less than the wage stated on his LMO, comments:

Some people are telling me, 'well you can go to the government to file a case to them.' But why I have to do that for? I'm not working with [name of employer] anymore, now I'm free. So just forget everything.

In 2012, a news release from the media relations office of Human Resources and Skills Development Canada (CIC, 2012b) announced new restrictions on LMOs. But these changes, aimed at “protecting all workers from abuse, exploitation and demeaning work,” were aimed primarily at sex trade related businesses such as strip clubs, escort services and massage parlors. Thus, while flagrant exploitation elicits a government response, less overt forms remain the worker’s problem.

Red Seal trade certification

The workers we interviewed (all of whom were in mandatory trades) were required to pass an Interprovincial Standards Program exam (commonly called ‘Red Seal’) to continue working. To place this in context, only about half of Canadian workers in Red Seal trades actually achieve the Red Seal interprovincial certification (Gunderson 2009; Prasil 2005). Some obtain provincial certification instead or work (in non mandatory trades) without certification. No official figures on pass rates for TFWs are available from the provincial government,⁴ but evidence suggests that this requirement was onerous. For example, based on a sample of over 500 TFWs, a contractor confirmed that only 65% passed the exam. A recruiter suggested that the failure rate on exams was over 50% and the percentage of TFWs who were sent home after six months because they could not pass the exam was “easily 30%. Our TFW interview participants reported success rates of 50% or less in their exam sittings. In addition, Table 1 shows that only about half of our interview participants passed the Red Seal the first time; it is also important to note also that the timing of our interviews (a few years after the peak of recruitment) means that we were generally speaking to ‘successful’ TFWs who had managed to stay in Canada.

The reasons for workers’ lack of success on the exam are related to differences in trades training in different countries, language barriers (especially in trades terminology), and inadequate training preparation.

⁴ Our requests to Alberta Apprenticeship and Industry Training for data about TFW pass rates were declined.

Language barriers and differences in trades training

Red Seal exams are written, and it is noteworthy that many Canadians who are seen by their employers and co-workers as competent tradespersons struggle to pass. For TFWs, whose first language is not English, and whose training in their home country may differ, the test is even more of a hurdle. For example, a recruiter observed that Philippino workers' spoken English tended to be very good while their pass rate on the Red Seal exam was poor.⁵ In comparison, Indian workers' spoken English was, in his view, more difficult to understand (partly because of their accent), but their pass rate on the Red Seal exam was better.

At the same time, Philippino workers who did not pass were perceived to be competent on the job:

Technically, the skills that they [Philippino workers] come here with are phenomenal. I think most employers that you talk to, if they're hiring mechanics or electricians or pipe fitters, there's no question about what these guys can do. There might be some issues with Alberta building code and that type of thing; it's just getting them familiar. But technically their trade skills are excellent and it's just taking that test and passing it that seems to be a real challenge. (Recruiter)

Part of the problem, in his view is that Philipinos in trades are not “test smart” because most of their training in the Philippines is on-the-job. In addition, trades in Canada do not neatly map on to those in the Philippines as this worker suggests:

Q: Did you work in the ironworking trade in the Philippines?

Actually there's no such work in the Philippines, but if they're going to assess the trade I was in, it falls into ironworkers. They just call it erectors or builders.

Q: Did you find the job here quite similar?

It's pretty similar. But the thing where I'm working right now, it's pretty close, similar. It's just a matter of terminology, words, something like that. ...It's just a matter of the language, a matter of words. ...We call in the Philippines ‘chain block’ and they call it ‘chain falls.’ It's the same thing. Those are the barriers that we encountered here, but all the work is just the same.

Two of the contractors interviewed were aware of these issues and expressed a strong interest in moving more of the Red Seal certification process to sending countries so that workers can “hit the ground running”. Employers “want to make sure that we're not wasting money on anybody who's not going to be successful here” (Contractor). However, this presents other challenges, including who would pay for and deliver this training, the challenge of training workers who have no knowledge of Canadian jobsites, how to ensure workers' loyalty (and avoid poaching) once certification is obtained, and how to time training given the volatility of the industry.

Preparation for Red Seal

⁵ The low success rate of Philipinos was confirmed in our interviews with these workers.

At the time of our interviews, contractors started training TFWs in their home countries and then provided additional preparation once workers were in Canada. This contractor describes his company's process:

[T]he model is we train the guys [TFWs] overseas, we give them a two-week 80-hour course that really focuses on the areas of the exam we know they're going to get tested on [Red Seal]. When they get here we typically allow them to write once. Prior to that exam we give them, the plan is to give them a two-day refresher course just to go over everything and get it back in their minds, depending on how long it's been since they got the training. Usually it's been about six months, so it's a long period of time. They get refresher training... just an evening thing, let's cover the main topics, these are the things you guys should study, provide them with some material. If the guys fail the first exam, our program has been to give them another 40 hours of training for the second exam. This is not typically very easy when we're trying to work the guys. If they fail a second time but they've done reasonably well on the exam, AIT allows us to petition them for a third exam for the guys.

While this contractor had paid most of the costs in the past (aside from the cost of writing for the third time), it planned to shift costs to workers, as follows:

We want to change this entire program in the future that we will allow workers to go through our training program without a single payment to us as a company, but what we want to implement is either a payroll deduction or something that's going to allow them to come here, work, earn money, and then pay for what they've received for the Red Seal.

This would significantly reduce the costs of recruitment for employers while increasing pressure on workers. For example, the following worker, who wrote the Red Seal twice, suggested that finding time and energy to complete the training was a challenge:

Q: The week of training, was that offered by the company to prepare you for the test?

Yeah, they did their best but sometimes it's so hard because it's just a week, 40 hours actually. The thing there is we're still adjusting ourselves, environment and language. We're still adjusting for that certain period of time and it's hard for us, different terminologies.

Q: And you were working at the same time so you would be tired.
Exactly.

Q: What kind of shifts were you working at that point?

It was 10 days work, four days off. We're working 10 hours a day.

Q: Was the 40 hours of training on your 'off time'?

Yeah, on our day off. (Philippino TFW)

Most workers referred to the stress of writing this extremely high stakes test:

I was really stressed by the time of the last attempt I had [at Red Seal]. I kept praying for it. It's just like no hope now for me, that last attempt.... I'm so persistent, keep phoning the apprenticeship board almost every day [to find out the result]... they told me, you made it. When I heard that 9 o'clock in the morning, I'm crying inside my room.

In addition, while the two contractors interviewed did provide some Red Seal training to TFWs, other employers were less committed. For example, a representative from the government's apprenticeship department observed that the degree to which employers took on the responsibility of training TFWs for the Red Seal exam varied. Similarly, when a recruiter who provided service to multiple contractors was asked whether oil sands employers were willing to invest in TFWs, he responded:

Yeah, to some extent. ...Others no, they want people to fend for themselves.

Q: Which would be the majority?

Probably more of the fend-for-yourself type. (Recruiter)

A worker describes his experience of trying to fend for himself as follows:

[A]fter a month I'm asking [broker], because I know that I have to take the test, I'm asking them, is there any book to read? They said, 'oh just relax.' So I asked them to buy a book. They gave me a small booklet. ... So after four months we challenged the practical test and failed. ...

Q: So they were brokers between you and a company?

Yeah.

Q: So the company you worked for didn't provide training?

No.

Q: And the brokers didn't provide training?

No, they just told me that if I failed I had to go home.

Workers who did not pass the Red Seal after two (or sometimes three) attempts were supposed to return to their home countries and our interview participants reported that many did. However, in some cases they were deployed in as unskilled workers, as this recruiter notes:

Q: Could you come as a pipe fitter and end up as a laborer?

Yeah, and it happens quite frequently. That's what happens to 90% of the guys that don't pass their exam, they end up working in a less skilled position. Again, it depends on how resourceful the employer or the individual is in finding alternate work.

Other workers no doubt stayed in Canada working illegally, as this contractor noted with concern:

[The] government has put very strong rules in the front of this program, but there are no rules at the back end of this program. Even though it would be an expense to the company, I fully expected when I started this program that we had some responsibility for these workers after the contract was finished. There is nothing in place, to the point where the government has recommended to a lot of our workers, you can stay here as a visitor. I know of a lot of instances where guys have overstayed. The underground economy is generated from these types of things. It's a big deal. I don't understand why the government would have allowed that.

The examples provided above suggest that the pressures on TFWs were significant: most faced financial costs of recruiter fees, several indicated that their status as TFWs made

them vulnerable to inequitable treatment, most reported discrimination, and most experienced the Red Seal certification requirement as a major barrier. In the next section, we argue that some of these pressures on TFWs were related to the inflexibility in systems designed to provide flexible labour in the boom and bust construction industry.

In/flexibility and tensions in the program

Our interviews with a wide range of players indicate that the TFWP presents extremely challenging problems of coordination and communication. In this section, we discuss the following challenges in relation to trades workers:

- Fitting the program to the volatile construction industry;
- The problem of a lack of coordinated workforce strategy in RMWB;
- The challenges of coordination and communication involving multiple players; and
- The tensions in an employer-driven program.

Both employers and workers noted the challenges of adapting the TFWP to project-based trades work. For employers, this included the risk involved in predicting labour needs and recruiting and retaining workers, while for workers, the challenge of maintaining stable work was primary.

For employers, the time required to recruit workers from submission of LMO to Canadian entry (often five or six months) was seen as too lengthy given the volatility of the oil and gas construction industry. For example, after spending months recruiting TFWs, a contractor acknowledges that his company and another contractor collectively laid off 500 TFWs in January 2009 because of an owner's decision to delay a project during the economic downturn. This example suggests two problems: 1) the inflexibility of the bureaucratic processes of governments, and 2) the lack of a coordinated workforce strategy in northern Alberta.

A number of changes to the TFWP over time have tried to address the first problem. For example, an article in the Financial Post reported on the accelerated LMO process announced by Minister Finley to "fast-track" the "approval process for hiring temporary foreign workers" (O'Donnell 2012) while another release noted that the Temporary Foreign Worker Annex to the *Agreement for Canada-Alberta Cooperation on Immigration* no longer requires LMOs for several additional trades occupations (CIC, 2012a). These changes make the process of acquiring TFWs easier and faster for employers, but do not address concerns about the vulnerability of TFWs.

Also, the large problem of a coordinated workforce strategy continues to present problems. As a contractor noted, "this program ... needs to be an industrial style solution, not a contractor solution." The problem of a coordinated workforce strategy is not directly related to the TFWP. However, it clearly impacts implementation of the TFWP in northern Alberta. The TFWP's design as an employer-driven program characterized by competition to reduce labour costs and labour relations tensions make coordination between the different players difficult.

For trades workers, the challenge of the TFWP was experienced more acutely. These challenges included trying to find a new employer when they were laid off, the bureaucratic processes of changing and extending work permits, and seeking permanent residence through the AINP. Most of the TFWs we interviewed reported working for multiple employers since arriving in Canada, some as many as four or five. But switching employers is difficult and has consequences, as a recruiter describes:

The problem with it is, you [TFW] apply for AINP and if you change jobs somewhere in the midst of that process, it's done and you've got to start over. That's a real impediment to getting residency, especially if you're a construction worker. Because the job might end in six months and then what do you do? You've done the job, the employer wants to keep you and move you on to the next project, but they've gotta get an LMO for that. Because your work permit is location specific, it's employer specific, and really there's no mobility for you unless the new employer or the new site has that new LMO for you.

In addition, workers often received conflicting information from different sources, as a participant from CIC acknowledges:

[O]n one hand you've got border officers telling you one thing, on the other hand you've got your employer telling you something, you've got a recruiter telling you something, you've got somebody in the community telling you something – don't worry, stay. So you've got conflicting information.

This is compounded by the lack of communication and tensions within and between government departments that, at the time of our interviews, included CIC, HRSDC, CBSA, Alberta Employment and Immigration (AEI), and for trades workers, AIT. Different stakeholders are often unaware of the measures being taken by others and of the salient regulations (which are constantly changing), and in the end, the worker is left to negotiate often conflicting bureaucratic systems.

In summary, the employer-driven nature of the program spawns the following tensions: First, governments face the difficult task of responding to employers' demands for labour in a timely way while protecting the rights of workers through regulation. Second, employers' demands are difficult to predict because of the lack of coordination of workforce planning. Third, employers' demands are often contradictory both because they are using the program to try to meet long term labour needs, and because they are seeking as much as possible to reduce their risks. Much of the pressure on workers noted above are rooted in these tensions.

Implications

The use of temporary foreign workers has become a permanent feature of the Canadian labour market. It is expected that over the coming years, construction employers in Alberta, and likely in other provinces, will recruit temporary foreign workers in larger numbers as the TFWP becomes a regularized part of their labour supply strategy. To date, there has been little debate or research into the implications of this shift for foreign workers, domestic workers, and local communities. Our research is a first effort to explore

the practical ramifications of the program's expansion and entrenchment with a focus on trades workers and nurses (Taylor et al. 2012, Taylor, Foster and Cambre 2012).

Our findings suggest a number of policy implications of the TFWP for workers, employers and government:

1. The restrictive work permit rules placed on TFWs do not mesh well with the conditions that characterize the employment relationship in construction. Lack of TFW mobility rights (i.e., to switch employers or geographic locations) create a situation where TFWs are vulnerable to employer mistreatment and disadvantaged in securing new employment upon project completion or slowdown.
2. There are inadequate mechanisms to protect TFWs from excessive recruitment fees. Government agencies have limited ability to enforce rules outside of Canada. Employers have not ensured that recruiters with whom they contract are not charging TFWs excessive fees.
3. The lack of access to settlement services and the nature of work in the oil sands (i.e. work camps) marginalize TFWs from community life and make adjustment to living in Canada more difficult. Lack of integration can also increase the occurrence of discrimination.
4. Employers and policy-makers have a delicate balance in ensuring that the workers who come through the TFWP have the appropriate skills to perform the job while not making the certification requirements unnecessarily onerous. The effectiveness of the Red Seal exam in measuring TFW knowledge is challenged by technical language barriers (rather than technical skill), divergent levels of employer support, and less than ideal conditions for exam preparation.
5. The limited access to permanent residency does not align with TFWs' hopes and expectations upon arrival in Canada. What governments see as a program creating a pool of short-term workers, TFWs (and often employers) see as a possible avenue for permanent settlement in Canada.
6. Recent changes to the program, eliminating the need for LMOs for many trades and permitting TFWs to be paid up to 15% below the average wage rate (O'Donnell, 2012), increase flexibility for employers, but do little to address other problematic aspects of the program's design, including the pressure on workers.

As a final note, we observe oil sands construction involves higher-skilled occupations, involving relatively economically advantaged workers with a high degree of unionization. These economic realities may mitigate some problematic aspects of the TFWP. Although our findings suggest that workers are still vulnerable. Further research is needed to explore the implications of the program for lower skilled occupations and workers. Future research could also track the full cycle of the program, from initial recruitment in the source country through to expiration of the work permit. Such an approach would reveal a more complete

understanding of the workings of this under-studied program, including the impact on TFW-sending countries and families.

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