Migrants and Migration in Modern North America

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CHAPTER EIGHTEEN

Interrogating Managed Migration’s Model
A Counternarrative of Canada’s Seasonal Agricultural Workers Program

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Temporary migrant worker programs (TMWPs) for less-skilled workers are on the rise throughout high-income countries, with new programs emerging and older versions experiencing renewed growth. Amid the growing securitization of borders and restrictive immigration policies by high-income states, TMWPs hold their attractiveness. These guest-worker programs seek to solve labor shortages by issuing temporary entry and work permits to migrants from lower-income countries who are offered jobs but not permanent residence. Within policy circles the resurgence of guest-worker policies has been accompanied by a search for models and codes of practices for implementing managed migration programs effectively. Internationally, Canada’s Seasonal Agricultural Workers Program (SAWP) has often been regarded as a model. This chapter describes and interrogates the narrative of the model Canadian guest-worker program. Among the questions that it seeks to answer: Why is the Canadian SAWP considered a model TMWP? What evidence contradicts this image? How does this narrative, while contributing to pragmatic solutions within the contemporary immigration policy environment, in practice legitimize discrimination against migrants and the denial of their rights?

The Canadian Program as Model

In 2007 the SAWP was called “a model despite flaws” by a well-known Canadian scholar, an “example of best practices” by a Mexican academic, and a source of “useful lessons” for Australia by the World Bank. These endorsements of the SAWP contribute to an increasingly established international discourse regarding Canada’s employment of foreign workers in less-skilled sectors of the labor market as a model of best practices.¹ This narrative is sig-
significant given the current historic moment of increasingly restrictive immigration policies and heightened border controls within high-income nations. In this context labor-receiving states find it highly desirable to have managed migration schemes that allow them to move migrant workers into jobs and yet retain control over the conditions of their entry, work, and residence. For labor-sending countries and households dependent on remittances, these schemes represent a much safer alternative to undocumented passage and the promise of secure remittances. TMWPs have expanded significantly in many high-income countries, particularly in occupations requiring lower-skilled workers. Although the U.S. economy depends heavily on irregular migrants, the increased securitization of the border has contributed to the reopening of the guest-worker debate. Europe is currently experiencing a return to guest-worker policies, including in former labor-sending countries such as Spain. Nonwestern high-income countries, such as those in the Persian Gulf, also employ many migrants, while Australia and New Zealand recently instituted TMWPs for agriculture. In Canada the trend toward temporary migration is unmistakable. In 2006 the province of Alberta received more temporary migrant workers than permanent immigrants—triple the number since 1997.

As countries increasingly turn to mechanisms for incorporating migrant workers into their economies, existing programs are scrutinized, compared, and imitated. The “best practices” or “model” elements of the Canadian SAWP have assumed greater relevance in policy circles. In 2003 the program became the subject of extensive consultation by the Australian government as a result of pressure by the National Farmers Federation and the World Bank to allow Pacific Islanders to fill seasonal farm jobs. The Australian examination of the SAWP illustrates the weight that this migration narrative carries in policy circles and ultimately its material impact on the lives of thousands of migrant workers and their households across the globe. Each year the SAWP grants temporary employment authorizations to some 28,000 migrants. The program, which began in 1966, operates under bilateral frameworks of agreement signed between the government of Canada and several migrant-sending countries: Barbados, Jamaica, Mexico, members of the Organization of Eastern Caribbean States, and Trinidad and Tobago. This highly managed program involves a significant amount of administration. The Canadian federal government is involved primarily in approving eligible employers to receive hires from abroad and processing visas for eligible migrants. Regional growers’ organizations undertake day-to-day management of the program, including processing employer requests and communicating policies and procedures to growers. Further, migrant-sending states shoulder a considerable share of
the administrative burden, managing the selection, recruitment, and documentation of workers. They also operate offices in Canada, whose agents serve as liaisons between migrants and employers. With the exception of workers, all parties—the Canadian government, sending countries, and employers—participate in annual negotiations of the bilateral agreement, including wage rates. This high level of government involvement distinguishes the SAWP from its U.S. equivalent, the H2A visa program.4

Canada issues visas to migrants for an eight-month period, and work permits are valid with a single, designated employer. On average, migrants have six-month contracts, after which almost all leave the country. They are unable to work legally for another employer without negotiating an official contract transfer, and their continued placement in the SAWP is contingent on their return. Further, sending countries and employers exert considerable pressure for migrants to leave Canada at the end of their contracts (or when they are injured or sick), to avoid visa overstays. The remarkable success of the SAWP in moving workers back home after their jobs are finished—referred to in policy circles as “circularity”—is considered one of the program’s strengths; an estimated 98.5 percent finish their contracts each year.5 Since employers can request their workers by name, most migrants return to the same farm each year. This saves employers training costs and provides workers with some stability in terms of estimated earnings and length of stay. Another feature of the SAWP that is considered a model element is the use of standard, rather than individual, contracts.

The SAWP’s four decades of operation and high return rates of migrants are considered indications of its success, as is the range of recognized benefits for the program’s stakeholders. For migrants the SAWP provides an opportunity to earn higher pay rates than those available within their home country through legal channels. Unlike the bulk of U.S.-bound migrants, SAWP participants avoid smugglers’ fees and the dangers of crossing increasingly militarized borders. Interviews with migrants in Canada and the United States suggest a strong preference for migrating legally.6 Since SAWP workers return year after year, they endure shorter separations from their families than those suffered by most undocumented workers. Importantly, the SAWP links workers to employers through government agents, reducing the fees and abuses linked to private intermediaries that plague the H2A program in the United States. Finally, the SAWP’s relatively low entry costs make it more accessible to poor applicants.

The earnings differential is substantial. A survey of Mexican farmworkers in Canada in 2006 found that almost half earned between CAD $6,501 and $9,500 per season after deductions, significantly more than their projected earnings
in Mexico. Through their employment abroad SAWP migrants are able to invest in their families’ nutrition, housing, healthcare, and education. Some migrants are able to use their Canadian earnings to invest in land or build small businesses. Another study found evidence that the longer migrants participate in the program, the greater the likelihood that their children will attain a higher level of education and find nonagricultural employment. Some 93 percent of respondents felt that the SAWP had improved their well-being and that of their family.

Migrants’ remittances accrue benefits for the sending countries. The Mexican government estimated that the SAWP generated some CAD $67.5 million in remittances in 2004. While this figure is slight relative to U.S. remittances, money remitted to Mexico by SAWP workers supports some ten thousand households. The importance of remittance income for the participating Caribbean countries, which have far less diversified economies, is probably greater. Furthermore, migration to Canada holds more weight for the Caribbean than it does for Mexico: less than 1 percent of Mexican remittances originate in Canada, while for Jamaica, SAWP migrants generate remittances comparable to those of H2A migrants. Migrants’ investments in housing, education, and healthcare contribute to broader development outcomes in sending countries. They also reduce political pressure on states facing challenges in public service delivery, job creation, and rural development. Indeed, the mechanisms that migrant-sending governments have put in place to capture and channel migrant remittances testify to their economic importance.

The SAWP also has significant benefits for Canadian producers and the economy. Producers gain access to a reliable workforce, allowing them to plan production with greater confidence and freeing them from the threat of immigration raids and fines. Employing the same workers each year also provides benefits in terms of training, workplace health and safety, and productivity. The availability of migrant workers has had economic benefits for agribusiness in general, allowing for the dynamic growth of some industries while enabling more marginal ones to survive. Further, migrant expenditures also sustain and fuel rural businesses and services. Although some residents express xenophobic attitudes toward migrants, the impermanence of their settlement mitigates some of the political pressure.

Flawed, despite the Model

Despite these benefits the SAWP has less-than-exemplary features. One of the key areas of contention among SAWP critics has been the well-documented abuse of workers’ rights and dignity. These problems occur largely because
employers have disproportionately more power than migrants and because Canadian authorities have generally failed to monitor and ensure employers’ compliance. In the following discussion I systematically review how the operation of the SAWP creates these power differentials, not only through established mechanisms but through a failure to create appropriate safeguards.

Migrant workers’ immigration status is among the principal power dimensions. Employer-specific worker permits prevent migrants from circulating freely in the labor market, setting them apart from citizens, landed immigrants, and even undocumented workers who can “vote with their feet” and move to better worksites. One worker told me that if he could make one change in the SAWP, it would be to abolish employer-specific work permits: “that way, bosses who offered good working conditions and housing would have people lining up at their farm looking for work, while those offering poor working and housing conditions would have to improve them in order to attract workers.” This feature of the SAWP has led scholars to refer to participants as a “captive” or “unfree” labor force. Moreover, as noncitizens, migrant workers are ineligible for the range of services and protections associated with landed immigrant status that facilitate social integration, such as government-funded English classes. Furthermore, SAWP migrants do not have the opportunity to apply for landed immigrant status, regardless of how many years (or in some cases decades) they have worked in Canada.

The social, economic, and political conditions within the sending countries add to migrants’ vulnerability. The SAWP’s bilateral partners are low- and middle-income countries experiencing high rates of poverty, growing income inequality, and a deficit of higher-paying jobs. Since migrants’ Canadian wages are often considerably more than their projected earnings at home, they greatly value the opportunity to work in Canada. This dual frame of reference induces migrants to overperform relative to Canadian workers and to suppress any criticisms they might have of working conditions.

Employers’ power is enhanced by their ability to indicate the nationality and gender of the migrants they seek to hire. If an employer is dissatisfied with the performance of a group of migrants or the government agents of a particular sending country, it has the option of choosing a different group the following year. The threat and actual practice of labor substitution dampen the power of workers and migrant-sending governments to negotiate for better wages and working conditions. The representation of migrants’ interests is further compromised by serious obstacles to unionizing. Two-thirds of SAWP migrants are employed in Ontario, a province which denies agricultural workers the right to bargain collectively. Even in provinces where agricultural workers can unionize, migrants fear reprisals. Research on the H2A program
in the United States found that workers who ally themselves with unions have put their jobs at risk and have sometimes been blacklisted from future participation in the program. The policy that allows employers to request their migrants by name also fosters self-discipline among workers, who perceive that failure to be renamed jeopardizes their continued participation in the SAWP.

Nationality and race form additional layers of power differential. SAWP workers are negatively racialized next to predominantly white employers and rural communities. Racial discrimination is a fundamental factor in the class formation of Canadian society, to the extent that scholars have identified a “color-coded vertical mosaic,” or social hierarchy of race. Thus despite commitments to diversity and multiculturalism, racialized groups are subject to social marginalization and persistent expressions of xenophobia. Within rural areas perceptions of migrants often conform to racial stereotypes, and some migrants have been subject to racially motivated aggression. Colby found that 75 percent of Mexican SAWP workers who had previously worked in the United States felt more racism in Canada, a finding that she attributes to the absence of a Hispanic population.

The SAWP has a number of characteristics that reduce workers’ agency, notably recruitment norms. Historically recruitment has shown preferences on the basis of family status (favoring applicants with dependents over singles), gender (favoring men over women), class (favoring small-scale farmers or farmworkers), and rural-urban location (favoring rural dwellers over urbanites). The recruitment bias toward applicants with dependents is an attempt to reduce visa overstay, premised on the assumption that migrants who are married with children are more likely to return home and less likely to seek permanent immigration status through marriage to a Canadian citizen. That workers are compelled to migrate without their families also means that they are more willing than Canadians to accede to employers’ requests to work longer hours and over weekends. Indeed, migrants’ limited social commitments within Canada make them particularly reliable employees.

The male bias in recruitment reflects cultural norms that consider men more suitable candidates for farm work. The vast majority of SAWP workers are male; in 2008 the ratio was one female worker per thirty men. The program’s masculinized nature has translated into greater restrictions on women migrants and their sexual stigmatization within the migrant community. Sexual harassment of migrant women is commonplace. Finally, recruitment preferences for land-poor farmers or landless farmworkers and for rural location (where poverty in migrant-sending countries is concentrated) further ensure that migrants will highly value their Canadian earnings. Because wage rates are relatively low and subject to a range of deductions, however, migrants
have to return to Canada for several years before they are able to accumulate savings to finance investments back home.

An additional mechanism in the SAWP that skews power in employers’ favor is the presence of repatriation provisions that permit employers to dismiss workers for “non-compliance, refusal to work, or any other sufficient reason.”¹⁶ Sending-country governments facilitate migrants’ deportation in these cases largely to prevent visa overstays, one of the most politically sensitive features of guest-worker programs. Migrants usually comply with their deportation, often because they seek to return to Canada under the SAWP in the following year. Moreover, few migrants are aware that they can legally remain in the country until their visa expires. Regardless, financial and logistical obstacles ensure their compliance; since migrants are housed on their employer’s property, loss of work is accompanied by loss of residence. While rates of forced return are low, because migrants have been repatriated unfairly, the threat of repatriation itself is an effective mechanism of control.¹⁷

Housing arrangements which require employers to provide accommodation at no cost (often on their property) also shape power relations. While such arrangements hold benefits for migrants given the scarcity and quality of low-cost rural housing, they also extend employers’ control over farmworkers’ behavior beyond the workplace, restricting workers’ mobility off the farm. The arrangement also fosters paternalistic, personal labor relations.¹⁸ The extra level of control accorded by housing workers on employers’ properties is reinforced through “farm rules” that employers have the right to establish. Intended as guidelines regarding care of the property, some employers have instituted curfews, prohibited visitors of the opposite sex, or obliged workers to inform them of their whereabouts when outside the farm.

Other dimensions that disempower migrants relative to their employers include the occupational status that farm labor occupies in Canada, the rural settings in which most of it takes place, and the hours that migrant workers invest in their jobs. First, farm labor is near the bottom of the occupational hierarchy in Canada; it is among the lowest-paid, least protected, and most dangerous work in the country. In many provinces farmworkers enjoy fewer legal rights than other workers. Second, migrant farmworkers remain largely invisible to the greater part of Canadian society that resides in cities. Even in regions of labor-intensive agriculture, farms can be at great distances from towns. Migrants face additional constraints to exercising civic engagement. Physically demanding jobs and hours, six to seven days a week, leave migrants with little time or energy for socializing. Finally, workers often agree to employers’ requests to work long hours, in part because doing so is the only way they are able to increase their earnings.
As this chapter has shown, even though migrants are in theory subject to many of the same employment standards protecting all workers in Canada, in practice they cannot exercise their labor rights in the same way as citizens. The Canadian government has failed to put in place adequate safeguards to protect migrant workers’ rights and has failed to sanction those who seek to violate these rights. At the federal level there is no system in place to monitor the employment of migrant workers. Although the government claims to be working on this area, the pace of policy development pales in comparison to the alacrity with which measures have been instituted five years into the program to facilitate and expedite the hiring of migrant workers, including extending the length of the work permits, widening the pool of worksites eligible to hire migrant workers, and providing additional assistance to employers. Part of the problem lies in the SAWP’s governance structure. Accountability is a key issue. Although the program is implemented at the federal level as part of the country’s immigration policy, federal officials often defer the onus of responsibility to provincial governments (responsible for employment standards, labor, and health) or migrant-sending country officials, who in turn deflect accountability upward. The absence of effective, transparent governance of the SAWP has compelled pro-migrant groups to invest considerable effort in navigating the various levels of government bureaucracy. Employers also enjoy a prominent role in the SAWP’s governance structure. As mentioned, employer organizations coordinate the day-to-day administration of the SAWP, and their representatives participate in the program’s annual negotiations, a forum closed to workers and unions. The high level of employers’ involvement reflects the employer-driven nature of the SAWP, a program whose creation and expansion are a direct result of sustained and influential private sector lobbying.

**Legitimizing Discrimination, Endorsing Disentitlement**

A common response to critiques of the SAWP is to compare it to undocumented migration or guest-worker programs dominated by private recruiters. A second common response of the SAWP’s proponents is to compare labor conditions in Canada to the broader North American region, with particular reference to abusive practices in labor camps in California and agribusiness operations in northern Mexico. Such comparisons of differential levels of exploitation are often evoked in discussions featuring the SAWP, particularly among Canadian rural residents and employers. One grower claimed that “what [the workers] get here is 100 per cent better than in Mexico.” Similarly, a resident whom I interviewed in 2003 stated that “the people in the community think the workers here are treated like slaves . . . but we have to remem-
ber that the countries that these people come from, the conditions they come from, are ten times worse than what they are living in here.” Emphasis on the disparities between migrants’ home countries and Canada is also a common discourse framing other TMWPs, such as the Live-in Caregiver Program. Canadian benevolence figures prominently in these arguments, a discourse used by the federal government itself, which casts TMWPs as part of the country’s efforts to aid “third world” countries and ameliorate unemployment abroad.20 Recently the Canadian High Commissioner to Jamaica called the SAWP the island’s “golden egg.”21

Like the narrative of the “model” program, discourses that rely on comparisons of relative exploitation legitimize discrimination against international migrant workers in the labor markets and societies of high-income countries and do nothing to raise the bar in terms of positive and fair treatment of farmworkers and migrants. As Sharma has convincingly argued, TMWPs are one mechanism in a system of border controls that seeks not to physically exclude people classified as foreigners from national space but legally differentiate them in order to position them in inferior categories of entry, work, and residence in Canada: “what restrictive immigration policies restrict, then, is not necessarily the mobility of people but the rights and entitlements migrants are able to lay claim to.”22 This feature of TMWPs has implications not only for migrant workers but for all workers who share a national space, as the import of a vulnerable group of workers functions to infuse competition throughout the domestic labor market.

Moreover, while queries into the relative level of exploitation of farmworkers across countries and programs might be useful, they distract from a set of other questions: Which characteristics common to all TMWPs are exploitative? Why are some workers less deserving of permanent residency than others? How can we characterize the jobs that temporary migrants are filling, and how sustainable are these jobs within high-income countries? In terms of TMWPs for agriculture, how do poor labor standards in agricultural systems globally threaten model elements of protection for farmworkers enacted locally? And ultimately, how does international labor migration contribute to capital accumulation in high-income countries and underdevelopment in labor-sending countries?

These questions merit careful consideration, but they are not in vogue in policy circles. For example, the broader labor market advantages that TMWPs afford to high-income countries are rarely mentioned, nor are the ways in which immigration policy in high-income countries is overly restrictive, ethically questionable, and even economically shortsighted. The emphasis in development policy debates is squarely on how migration can fuel development
in migrant-sending countries, in this case the Caribbean states and Mexico, rather than on how international labor migration may engender underdevelopment and global inequalities between countries. There has been little attention paid to how international labor migration acts as a hidden subsidy to agriculture in high-income nations, allowing them to compete in international markets, including ones in which the migrant-sending countries are fighting to find a foothold. In Canada the SAWP has maintained flagging industries and stimulated more dynamic ones. Without migrant workers some sectors would struggle; indeed, labor shortages in industries such as agriculture that rely on lower-skilled workers are to a large extent socially constructed by poor wages, working conditions, and social statuses in those industries. All of these make them undesirable to workers with other employment opportunities. This is why agricultural producers cannot retain new immigrants, who stay in these jobs only long enough to find better wages and working conditions elsewhere. In essence, the availability of migrant workers provides a highly disciplined labor force across the sector, including to marginal performers, and dampens incentives to improve productivity through labor-saving technology. Further, there is evidence that the availability of migrants has a negative effect on agricultural production in farmworkers’ countries of origin. Clearly TMWPs need to be seen not merely as sources of employment opportunity provided by benevolent states and employers but as powerful instruments of labor market policy at the disposal of high-income states that strengthen their ability to compete for dominance in globalized supply chains.

**Model Deviations**

In a time of restrictive immigration policies and tighter border controls, Canada’s SAWP is considered a model among temporary migrant worker programs. Given the weight of this narrative internationally, it is paradoxical that in 2002, when the Canadian federal government broadened the eligibility of employers to hire migrant workers in a range of low-skilled positions beyond agriculture, the “model” was not replicated. Rather than create a twin program structured on bilateral agreements, Canada introduced a new TMWP, now known as the Pilot Project for Occupations Requiring Lower Levels of Formal Training (National Occupations Code C&D) or the NOC C&D Pilot. Although a thorough comparison between the SAWP and the new pilot is beyond the scope of this chapter, the main point of divergence is the level of government involvement and cooperation. Three key differences in this respect are noteworthy. First, the new program does not bind the Canadian government to bilateral agreements signed by participating labor-sending countries. Sec-
ond, it requires less government involvement in linking workers to employers, which has created a new role (and market) for private intermediaries. Third, the program does not require the same level of consultation between Canada, the migrant-sending governments, and the private sector. It is unsurprising, therefore, that problems are already emerging, involving private recruiters exploiting migrants by charging extortionate fees, discrepancies between the contracts that workers sign in their home countries and the ones they receive in Canada, and labor rights violations. It has also resulted in a number of visa overstays, as migrants leave their designated employers to join the undocumented working class or apply for refugee status until they can earn enough money to justify the inordinate costs of their migration and return home to their families. Thus rather than strengthen cooperation between sending and receiving countries—considered a key dimension of any alternative model to current migration policies that continue to exploit, discriminate against, and marginalize migrant workers—Canada appears to be going in the opposite direction. Rather than assume greater responsibility for ensuring the protection of migrants’ human rights, the Canadian government would prefer to assume less. The recent deviation from the (already flawed) model strengthens the argument that TMWPs are first and foremost a tool for using citizenship status to differentiate the labor market as part of Canada’s restructuring in response to global pressures, while allowing it to maintain a restrictive immigration policy that denies citizenship opportunities and equality to certain groups of workers.

Conclusions

Canada’s SAWP is internationally regarded as a model of managed migration, a “best practice” among temporary migrant worker programs. For receiving states the program’s principal feature is its exceptional rate of circularity, as almost all participants return home. Given the history of TMWPs across the globe, it is remarkable that in a single year the Canadian state is able to move 28,000 people across the border to meet variable labor demands and back again. For sending countries, circularity (within the legal framework which makes it possible) is also a virtue, ensuring that most participants will not establish themselves permanently abroad and will instead continue the circular flow of remittances southward. For migrants the program permits them to legally cross borders and earn higher wages, at relatively low cost. It is no surprise that participating countries have no shortage of applicants. The principal North American migratory alternatives to the Canadian program involve crossing the increasingly militarized U.S. border and joining the ranks of the
undocumented, or paying substantial intermediary costs to obtain an H2A visa.

Discussions of the relative merits of TMWPs and undocumented migration, or the benefits of one program over another (e.g. the SAWP over the H2A) are important and useful when examining legal and protected international labor migration in general and in North America in particular. In these debates, however, it is critical not to scuttle other questions that demand thorough exploration, such as why we accept the further militarization of borders or why the path to permanent immigration for less-skilled workers is so elusive. Furthermore, we should be mindful of how comparing levels of exploitation contributes to making more palatable the denial of rights to migrant workers and discrimination against them, in effect sanctioning the disentitlement of a growing segment of workers in high-income countries. Indeed, while the Canadian program may be better than its alternatives, this should not justify the subordination of migrants within the domestic labor market or the failure of migrant-receiving governments to monitor and enforce the rights of all workers.

Notes


7 During the period of her study the Canadian dollar was worth between USD $0.85 and $1.10. Lidia Carvajal, *The Farm-Level Impacts in Mexico of the Participation in Canada’s Seasonal Agricultural Workers Program (CSAWP)* (Ph.D. diss., University of Guelph, 2008).

8 Verduzco, *The Impact of Canadian Labour Experience on the Households of Mexicans*.

9 Approximately USD $56 million. Carvajal, *The Farm-Level Impacts in Mexico of the Participation in Canada’s Seasonal Agricultural Workers Program*.


15 Federal government deductions that apply to all workers in Canada include those for the pension plan, employment insurance, and the income tax. CSAWP workers pay program-specific fees, including for their visa, medical exams, a portion of their airfare (except in British Columbia), and housing (only in British Columbia).


17 Workers have been deported for becoming injured or sick, refusing unsafe work, complaining about housing or working conditions, challenging abusive employers, and refusing to have sex with an employer.


20 Sedef Arat-Koc, “Immigration Policies, Migrant Domestic Workers and the Defini-


23 Castles, *Guestworkers in Europe*.

24 When the United States granted an amnesty to thousands of undocumented farm-workers under the Special Agricultural Worker legislation, many of these workers exited agriculture for higher wages and improved benefits outside the sector. P. Martin, M. Abella, and C. Kuptsch, *Managing Labor Migration in the 21st Century* (New Haven: Yale University Press, 2006).
