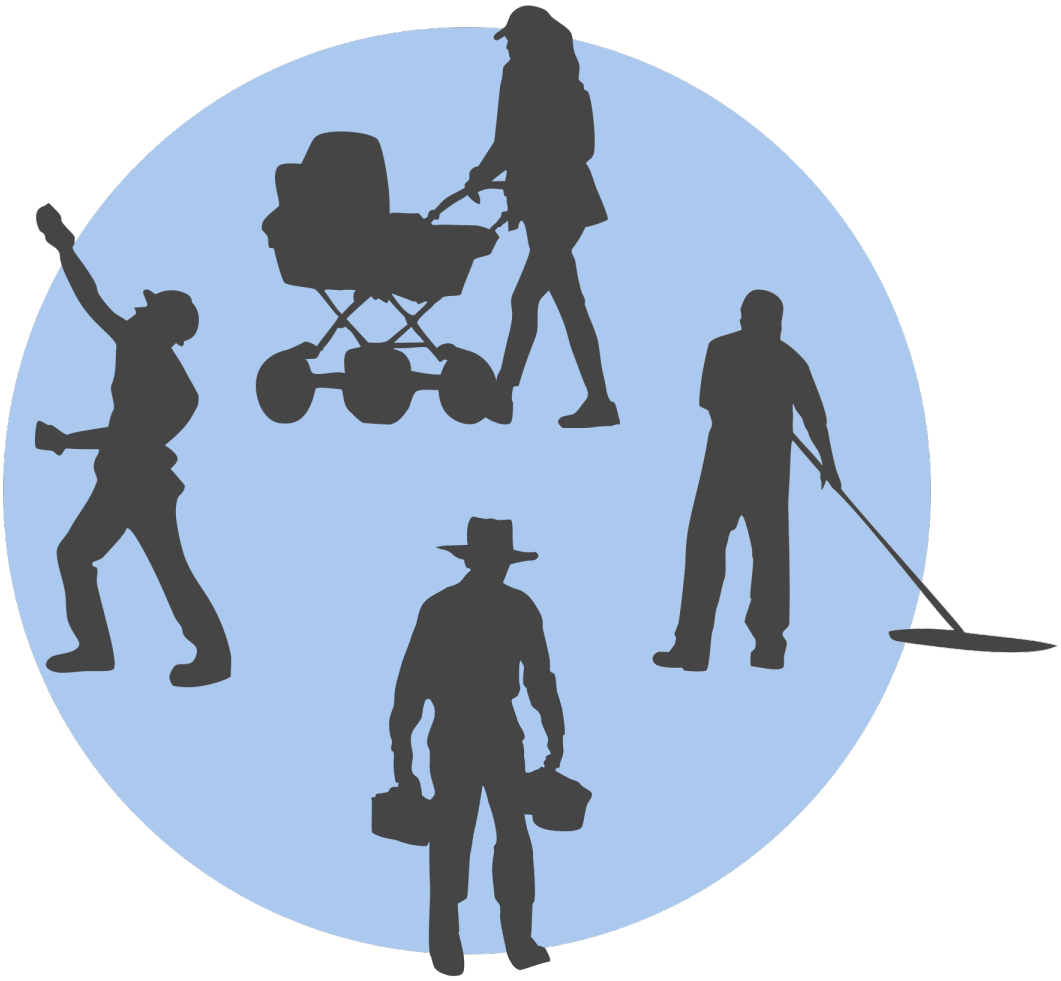
Labour Trafficking & Migrant Workers

in British Columbia



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Acronyms

BC	British Columbia
BCOCTIP	British Columbia Office to Combat Trafficking in Persons
BCPNP	British Columbia Provincial Nominee Program
CDWCR	Vancouver Committee for Domestic Workers and Caregiver Rights
ESB	Employment Standards Branch
HRDSC	Human Resources and Skills Development Canada
ILO	International Labour Organization
IRPA	Immigration and Refugee Protection Act
LCP	Live-in Caregiver Program
LMO	Labour Market Opinion
MOU	Memorandum of Understanding
NOC	National Occupation Classification
PNP	Provincial Nominee Program
PR	Permanent Residency
RCMP	Royal Canadian Mounted Police
SAWP	Seasonal Agricultural Workers Program
TFWP	Temporary Foreign Worker Program
WCDWA	West Coast Domestic Workers' Association

Introduction

> "I never thought I'll be exploited in this country [Canada] and will have such a hard time […] To me exploitation is like when somebody is squeezing and pressing your heart so much, but so much that you feel that you cannot almost breathe any more … it hurts, it hurts in your chest and you cry but you do not have option. You then think, 'tomorrow is going to be another day"
>
> - Carola, live-in caregiver, interview, November, 2013

Carola is a temporary worker who came from the Philippines through the Live-in Care Giver Program (LCP) to work as a domestic worker in Vancouver. Her vivid and compelling description gives us a window into the impact of exploitation that some migrant workers who come to Canada via the Temporary Foreign Worker Program (TFWP) face.

In 2013, West Coast Domestic Workers' Association (WCDWA) released a report that described similar examples of abuses and exploitation faced by migrant workers such as Carola. The report traced how the current immigration and employment structures in Canada are designed in favour of employers and leave workers with limited power to avoid exploitation. The report described a two-tier system in which workers classified as "skilled" have much greater rights than those in the "low-skilled" categories[1]. The report also discussed how workers in "low-skilled" categories have limited opportunities to transition to permanent status, suffered from years of family separation, and lacked access to social services. The report concluded that Canada's immigration programs foster workplace conditions that allowed exploitation and hardship to occur. This report builds on the previous report by focusing on labour trafficking and how the conditions and systems described in the 2013 report create environments of vulnerability that enable trafficking and trafficking-like situations to occur.

[1] CIC characterizes some professions as semi-skilled and low skilled and for ease of reference, CIC's categories will be used in this report. However, it is WCDWA's position that all the jobs listed in CIC's National Occupations List are skilled jobs.

This report is the product of a research project funded by a Crime Prevention and Remediation Grant from the BC Ministry of Justice ,a grant from the Notary Foundation of BC, and the BC Government and Service Employees' Union. The funding allowed WCDWA to recruit an experienced researcher who with the support of other members of WCDWA's team, conducted a series of focus groups and interviews in late 2013 with migrant workers from the Live-In Caregiver Program (LCP), the Seasonal Agricultural Workers Program (SAWP) and the Stream for Lower Skilled Occupations. The data collected in this period, along with previous experiences of WCDWA and other empirical research, are used in this report to highlight common themes and trends of exploitation and trafficking. While it is important to acknowledge that exploitation and trafficking of migrant workers is occurring, to address the problem fully, it is crucial to understand the structural problems within the current employment and immigration systems that allow exploitation and trafficking to take place. As such, we ground our findings within the context of Canada and British Columbia's (BC) employment and immigration systems, highlighting how power imbalances between employers and employees can breed a climate of fear. These power imbalances are strengthened by immigration and employment laws that discriminate against migrants in "low-skilled" occupations and place the interests of the employer ahead of that of the worker. Following on from our 2013 report which highlighted various cases of exploitation, this report will demonstrate how climates of fear and intimidation create environments where trafficking can occur.

This report aims to be a resource for WCDWA, other migrant workers' advocacy groups and organizations, and policy makers in their efforts to protect migrant workers' rights in BC. It also will contribute to the larger debate that recognizes the urgent need for systemic solutions that involve reforming legislative frameworks, committing more resources to supporting survivors of trafficking, investing in training front line responders on how to handle labour trafficking cases, and reforming labour and immigration policies that create employer-employee power imbalances and can lead to environments where labour trafficking can occur.

Report Outline

The report consists of four parts: Part One gives a brief introduction to the context of the report, presents the research questions and details the methodology used. Part Two gives an overview of human trafficking, highlighting international protocols and Canada's legal framework, and describes the arguments regarding interpretation of the definition of trafficking in the labour trafficking context. Part Two also recaps Canada's immigration and employment laws. In particular, we highlight how structural inequalities create power imbalances between employers and employees which create environments where trafficking can occur. We review the various rules of the migrant schemes for live-in caregivers, agricultural workers and we discuss provincial nominee programs, and how aspects of the programs can create insecurity and fear among migrant workers.

Part Three presents the results of our research. We identify common themes and demonstrate how employers and recruiters can abuse different mechanisms of control to coerce and instill fear in workers, leading to situations of forced labour. Case studies from the research are presented to show the real effects of exploitation and trafficking.

In the final section of the report, we present the research conclusions and argue that changes in immigration and employment laws are needed to reduce the potential for trafficking to occur. Our recommendations focus on ways to reduce the structural power imbalances between employers and employees. We also argue that government authorities have to adopt a broader and more nuanced understanding of fear and coercion in the context of labour exploitation.

PART ONE

Research Questions

This report looks at the narratives and experiences of systemic exploitation and labour trafficking-like situations that migrant workers encounter in the three streams of the TFWP: LCP, the SAWP, and the Stream for Lower Skilled Workers in the following regions of BC: the Greater Vancouver Area, Fraser Valley, Prince George, Kelowna, Vernon and Dawson Creek. The research questions that guided this report were:

- What are the causes and driving factors of labour trafficking?
- What legal and extra-legal mechanisms in each program create vulnerabilities that foster labour trafficking situations?
- What types of exploitative and coercive experiences do migrant workers experience?

Methodology

WCDWA is a non-profit organization that has been advocating for the rights of live-in caregivers as well as offering legal assistance and representation for over 27 years in BC. Each year the organization handles over 3,000 legal cases. WCDWA works predominately with live-in caregivers but in recent years WCDWA has also handled an increasing number of cases in the Stream for Lower Skilled Occupations, including fast food, hotel, and farm workers. WCDWA's experiences from daily interaction with workers contributed to the insights that guide the report. The Lead Researcher for the report has been organizing migrant farm workers in the SAWP in

BC and Mexico for over eight years. Research was also conducted by WCDWA's Executive Director who has worked with WCDWA for three years and has in-depth, day to day experiences of the challenges that migrant workers face in BC. The Lead Researcher and Executive Director were supported on certain occasions by other team members in organizing the focus groups and interviews and taking notes. One of the focus groups was conducted by the Committee for Domestic Workers and Caregiver Rights (CDWCR). Editing and co-writing of the report was done by the Lead Researcher, the Executive Director, and a Board Member of WCDWA with three years experience of working with WCDWA.

The project draws from primary data from focus groups, participant observation and in-depth interviews and secondary sources such as research reports from government, industry, academic, and labour advocates' reports and newspaper archives. In total, 61 workers participated in the research study of which 26 were women and 35 men; 12 workers participated in in-depth one-on-one interviews and 49 workers in focus groups discussions. Workers' ages ranged from 22 to 55 years. Workers interviewed came from Mexico, Philippines, Nepal, Korea, Jamaica and Vietnam and they were recruited under the SAWP (20), the LCP (19) and the Stream for Lower Skilled Workers (21). Interviews and focus groups were conducted in Vernon, Kelowna, Prince George, Vancouver and Dawson Creek. Pseudonyms are used throughout the report to protect the identity of the research participants.

The focus group format allowed workers to share and exchange their experiences and insights in a collective setting. Focus groups allow for the recognition of similar experiences which helps spark further discussion and sharing. The use of focus groups helped to increase participation. It would have been difficult to schedule a large number of interviews as most migrant workers work very long hours, often six-seven days a week. Working with local migrant rights groups, settlement services and community non-profits helped ensure the focus groups were arranged at a time where the research could include as many workers as possible. Workers were engaged through migrant rights groups, service providers and front line workers including *Red de Apoyo a Migrantes Agricolas* and *Kelowna Community Resources* in Kelowna, *Justicia for Migrant Workers* in Vancouver and Fraser Valley,

Immigrant Multicultural Services Society in Prince George, *Vernon and District Immigrant Services* in Vernon, and *Dawson Creek Literacy Society* in Dawson Creek. After some of the focus groups, participants or other workers who had not necessarily participated in the group discussion had the opportunity to have one-to-one free legal consultation with WCDWA's staff lawyer or legal advocates at a mobile legal clinic.

The interviews allowed for a more in-depth follow up of themes identified in the focus groups. The interview included asking the participant about their experiences with recruitment, coming to Canada, employers and housing. The interviews probed particular areas of interest highlighted in the stories of the focus group participants. Participants for the interviews were selected on advice of the Executive Director of WCDWA and suggestions from other migrant rights organizations based in the locations WCDWA visited for the research. The participants in the interviews did not participate in the focus groups, which allowed the interviewers to probe particular themes without the participants being influenced by what had been said in the focus groups.

Participants in the research received a $30 honorarium as recognition of the time they took to attend the focus group or interview. The focus groups and interviews were conducted in English and Spanish and with the permission of the participants, were digitally recorded. The discussions included topics such as recruitment, contracts, workplace and employment issues and workers' rights. The recordings of the interviews and focus groups were used to identify key themes and common experiences that form the basis of this report.

At the start of the project, WCDWA's Executive Director and the Researcher met with members of CDWCR and four migrant workers to gain feedback on the research ideas. Their first hand perspective of the experiences of migrant workers helped ensure that the methodology, research questions and focus of the study were relevant to the current situation in BC. The meetings also helped WCDWA gather input on the identification of research participants.

PART TWO

Trafficking

Despite what is sometimes perceived as a phenomenon relevant to parts of the world other than Canada, human trafficking is a problem that affects modern Canadian society. Trafficking for both forced labour and sexual exploitation happens in Canada and Canada has been identified as a source, transit and destination country for human trafficking (U.S. Department of State, 2012).

Canada has both national and international statutory obligations and has enacted laws that addresshuman trafficking. Canada is a signatory to the *Protocol to Prevent, Supress, and Punish Trafficking in Persons, especially Women and Children to the Convention against Transnational Organized Crime I* which defines trafficking as being: ""Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs... The consent of a victim of trafficking in persons to the intended exploitation set forth [above] shall be irrelevant where any of the means set forth [above] have been used." (Article 3, 2000)

The Protocol was adopted by the General Assembly in 2001 and came into force in 2003. Canada ratified the protocol in May 2002. Prevention, protection, and prosecution were identified by the Protocol as being the most important aims in the fight against human trafficking. In 2008, the United Nations Secretary General added partnership as a fourth 'p' (Barrett, 2011).

The Protocol does not include, nor is there an internationally agreed upon definition of labour trafficking. Forced labour is recognized as a form of exploitation in the Protocol but not defined (Barrett, 2011). To address this issue, the International Labour Organization (ILO) has identified three main types of forced labour and six main indicators of trafficking. The three main types of forced labour are: forced labour imposed by the State, forced labour imposed by private agents for commercial sexual exploitation and forced labour imposed by private agents for economic exploitation. Forced labour imposed by private agents for economic exploitation is the focus of this report. As we will demonstrate in the presentation of the research findings, many of the ILO's indicators of exploitation are relevant to the situation of migrant workers in Canada. The most relevant of these are:

- "Excessive working days or hours, including the concept of forced overtime, being denied breaks and free time, being on call 24 hours a day, seven days a week, and being subjected to a heavy and excessive workload vis-à-vis the working hours.
- Bad living conditions as indicated by a lack of freedom of choice as to the location or living conditions, the (sic) force to live in crowded, unhealthy, unsanitary conditions, or such where there is limited or no privacy.
- No respect of labour laws or contract which includes cases where the victim was forced to work without a contract or under an unlawful contract, where the contract was not respected or where there was deception about the nature of the job, the employer, or the possibility to work.
- Low or no salary and wage manipulation" (Barrett & Shaw, 2011, pp7&8)

Canada has a dual approach to prosecutions of trafficking. Trafficking is criminalized in section 118 of the *Immigration and Refugee Protection Act* (IRPA) (2001) and the amended section 279.01 (01) of the *Criminal Code* (2005). The IPRA provision focuses on deception and fraud as the main elements of the offence and does not require proof of exploitation (Barrett, 2011). The Criminal Code provision explicitly states that the act of trafficking has to be carried out for the purpose of exploitation. Exploitation is defined for the purposes of trafficking as being:

"279.04(1) For the purposes of sections 279.01 to 279.03, a person exploits another person if they:

> **(a) cause them to provide, or offer to provide labour or a service by engaging in conduct that, in all circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide or offer to provide, the labour or service.**
> **(2) In determining whether an accused exploits another person under subsection**
> **(1), the Court may consider, among other factors, whether the accused:**
> **(a) used or threatened to use force or another form of coercion;**
> **(b) used deception; or**
> **(c) abused a position of trust, power or authority."**

Within this definition, the understanding of what a person considers to be a threat to their safety is important. Although the law permits the Court to consider threats, deception and the abuse of power, in WCDWA's experience many government officials only consider threats of violence or actual violence to be threats to a migrant's safety. However, as we will show in this report, fear can manifest itself in many ways, and a migrant worker's genuine beliefs about what threatens his or her safety may be considerably more complex and may not merely arise from threats of physical violence.

Tracking the number of trafficking cases that have been tried in the courts can be difficult since perpetrators are often charged for lesser offences. Trafficking can be hard to prove and so prosecutors will often opt to prosecute for other crimes such as assault instead (Barrett, 2011). There have been several successful prosecutions under both the *Criminal Code* and IRPA.

The difficulty of obtaining accurate data on trafficking is compounded by the public's limited understanding of trafficking and the reluctance of most victims to come forward with complaints. The Royal Canadian Mounted Police (RCMP) withdrew its estimates for the number of trafficking victims in 2007 citing the fact that estimates were diverging too much (RCMP, 2010).

Canada experiences both domestic and international trafficking and is also both a destination and transit country for trafficking (Barrett & Shaw, 2011; U.S. Department of State, 2012). Specifically with migrant workers, the RCMP estimates that the majority of forced labour cases are foreign workers who are in the country legally (RCMP, 2010) and are then forced to work by threats including the threat of deportation or violence. The RCMP identified in their 2010 report that many reported situations of labour trafficking involved "questionable third-party involvement in the hiring of legally obtained foreign workers" (p. 31). This often involved recruitment agencies based in Canada who entice temporary foreign workers to come to Canada and then exploit them once they have arrived.

Labour trafficking is not well understood. Most research and investigation by the Canadian authorities has focused on trafficking for sexual exploitation (Sikka, 2013). Labour trafficking is much less studied , although there have been high profile cases recently that have increased public awareness of the problem of labour trafficking, such as the successful prosecution of a man in BC for trafficking pursuant to the IRPA. Labour trafficking is often associated with illegal immigration but research has shown that in most cases, the migrant legally entered the country (RCMP, 2010; Barrett, 2011; Sikka, 2013). The public's sense of confusion about trafficking is magnified by reports that focus on the misuse of the TFWP by employers.

Particularly difficult to understand is the issue of consent and freedom to leave exploitative work conditions. A common question is how can someone be a victim of trafficking if he or she can just leave the workplace and complain to the police? Judicial institutions and law enforcement authorities often have to grapple with difficult notions of consent, when consent is vitiated and how coercion takes place (RCMP, 2010).

Recent Prosecution of BC Resident for Trafficking

In 2013, the BC Supreme Court convicted an individual for trafficking pursuant to the IRPA for the first time in BC. Court documents state that the survivor worked with the Orr family in Hong Kong. When the family moved back to Canada, the survivor was asked to come with the family to continue looking after the children. Her employers told her that she would be able to apply for PR after working with them for 2 years in Canada.

The survivor came to Canada on a visitor visa even though it was her understanding that she had all the necessary documents to work legally in Canada. Her passport was kept by her employer and she was not allowed to leave the house on her own. When on family outings the employer forbade her from talking to other people. She was forced to work long hours, seven days a week and paid well below the minimum wage rate. The survivor testified that she lived in fear of deportation and therefore obeyed her employer's harsh rules.

After one incident when the survivor was pushed around by a family member, the survivor finally called 911 and a police unit was dispatched to the house. During the 911 call, a family member threw water over her. Although the 911 call was excluded from evidence at trial, the recording was released to the media. The recording clearly indicates that the survivor was crying, fearful and scared. The employer

was convicted of charges of human trafficking and sentenced to 18 months in prison but has been released on bail pending appeal.

The survivor's testimony in this case is similar to the stories we heard from migrant workers in our research. The isolated nature of employment meant it was difficult for the survivor to seek help. She was misled about opportunities for permanent residence and employment conditions. Her pay was considerably less than BC's minimum wage. She was subjected to physical violence. The survivor experienced feelings of fear of deportation and testified in court that she obeyed her employer's harsh rules because she feared deportation.

Canada's Immigration System and the Use of Migrant Workers

To understand how labour trafficking occurs, it is important to be aware of how Canada's immigration system works. In WCDWA's Access to Justice Report we detailed the features of the different immigration schemes and how their structures created a precarious and temporary workforce with limited protections. We will briefly recap this summary highlighting how power imbalances contribute to situations where fear and deception can be used to exploit and abuse workers thus creating an environment where trafficking can occur.

Overview of Canada's Immigration System

Canada's immigration policy is governed by the IRPA and the *Immigration and Refugee Protection Regulations*. Canada's immigration system provides foreign nationals with three broad pathways to gain permanent residence: a) economic immigration, b) family reunification, and c) claims by convention refugees and persons in need of protection. Canada has established a system to assess the potential economic contribution a foreign national can make. One of the tools to determine potential economic contribution is the National Occupation Classification (NOC) matrix. The NOC system classifies occupations according to levels of skills labelled 0, A, B, C and D. Categories from 0, A and B are deemed as "high skilled" and are associated with managerial and professional occupations. Many 0, A and B category occupations have access to multiple pathways to permanent residence. In contrast, occupations in the C and D categories are deemed as "lower skilled" occupations.

Migrants in the C and D occupation categories are mostly only eligible for temporary labour migration programs and although some do have access to pathways for residency, the procedural route is long and complicated and contributes to the type of power imbalances between employer and employee that allow trafficking to thrive (Faraday, 2012). Other groups of "lower skilled" workers are denied pathways to permanent residence. For example, agricultural workers who enter Canada through the SAWP do not have access to permanent status despite the fact that many of the same workers return to Canada every year for years and make valuable contributions to Canada's economy.

The Live-In-Caregiver Program

One of Canada's oldest migrant worker programs, the current format of the program was established in 1992 (WCDWA, 2013). The goal of the program is to

provide affordable caregiving for children, persons with disabilities or the elderly. Under the program, individuals who can speak English or French, have the equivalent of high-school education, and have completed either one year's work experience in caregiving or six months of full-time training are eligible to apply (IRPA, 2001). The live-in caregiver must have an offer of employment before they can apply for a work permit. Prior to submitting this application, the prospective employer must have applied for a Labour Market Opinion with Employment and Social Development Canada (ESDC).

ESDC provides a template contract for employment. The contract is a requirement of the LCP. The contract must specify salary and list other benefits. The contract must also stipulate a detailed description of the home, the identity, age and description of the persons for whom the care will be provided, general job duties and the types of deductions that will be made for room and board. (Faraday, 2012; CIC, N.D.). The rules of the LCP state that the employer must provide the transportation costs to Canada and pay for medical insurance for the first three months until the caregiver is eligible for provincial health care coverage. The LCP also requires that caregivers live with their employers. ESDC contracts specify that accommodation must meet municipal building requirements and health standards set by the province. The room must have a lock, be private and be adequately heated and ventilated (ESDC, 2013).

The LCP is a highly gendered program with 95% of participants being female. It is also heavily reliant on Filipino migrants, who make up about 90% of the work-force (Kelly, Park, de Leon, & Priest, 2011). Participants who come to Canada are recruited both directly in the Philippines and in other counties where they have been working as caregivers. In particular, many Filipino caregivers arrive from Hong Kong and the Middle East. One of the common themes that emerge in the literature and in our research is the role that recruitment agencies play in bringing caregivers to Canada, and how they often facilitate exploitation and trafficking (WCDWA, 2013; RCMP, 2010; Barrett, 2011). Although it is illegal to charge recruitment fees to an employee in Canada, many agencies take large sums of money for handling recruitment and immigration. In many cases the fee is taken outside of Canada making it very difficult to monitor and police.

The LCP offers a pathway to permanent residency which distinguishes this program from other migrant schemes for C and D professions. A caregiver must complete a total of 24 months or 3,900 hours full-time work in the period of four years in order to be able to apply for permanent residence.

The Seasonal Agricultural Workers Program (SAWP)

The agricultural sector is critical to Canada's economy. For over a century, Canada has needed to import migrant workers to support the agricultural sector because it has been unable to meet the demand for labour from its own labour supply (Faraday, 2012). The SAWP dates back to 1966 and is one of Canada's longest running temporary foreign worker programs (UFCW, 2011). Agricultural workers also come to Canada via the Agricultural Stream of the Stream for Lower Skilled Workers. These two schemes are governed by different rules and workers can often find themselves working alongside other migrants who have different contracts and oversight conditions for undertaking the same job (WCDWA, 2013). For this research project we interviewed workers in the SAWP only.

The SAWP is governed by a series of Memoranda of Understanding (MOU) with source countries. In total, Canada has MOUs with Mexico and 12 Caribbean nations. Workers can be hired for a maximum of 8 months in a year and must be offered a minimum of 240 hours of work in a period of six weeks or less. The rules of the program govern the specific agricultural sectors in which workers can be hired (WCDWA, 2013).

Under the SAWP, employers are required to provide accommodation to workers. The quality of accommodation varies greatly with some workers being accommodated in up to date hotel style buildings and others in dilapidated, run-down buildings (WCDWA, 2013). Workers must reapply every year to return to Canada for work. Employers are able to 'name' employees that they wish to rehire, and only those that receive favourable feedback from their employers are able to

continue from year to year (Fudge, 2012). Permanent residence is not available to SAWP workers despite the fact that many workers return year after year for work.

Stream for Lower Skilled Occupations

The Stream for Lower Skilled Occupations allows employers to hire migrant workers in so called "lower skilled" occupations on the basis of labour market needs that are assessed and validated by LMOs issued by ESDC. Like SAWP, migrants who enter Canada under this system are not eligible to apply for permanent residence unless they work in an occupation designated as a strategic occupation in a provincial nomination program.

The British Columbia Provincial Nominee Program

The federal government has negotiated separate agreements with nine provinces and two territories to allow them to nominate economic immigrants for permanent residence based on the economic and labour market needs of each province and territory. The federal government shares jurisdiction for the selection of applicants with the provinces in these programs. BC's Provincial Nominee Program (BCPNP) has designated some NOC C and D occupations as a labour market need (Faraday, 2012).

Despite some variations in the PNP regulations by province, all selected candidates must demonstrate the ability to become economically established in Canada, which includes the ability of the applicant to economically sustain his or her family members once they are in Canada. The processing times to obtain permanent residence through the PNP are significantly shorter than through federal immigration programs. BCPNP for NOC C and D strategic occupations involves a two-stage process. The applicant has to first work for the nominating employer for nine months before qualifying to apply for the province's nomination. After completing the nine

month qualifying period, the applicant and the employer jointly apply to BCPNP for a nomination for permanent residence on the condition that the employer offers the employee a full time position of indeterminate duration. When the nomination is issued, the application for permanent residence is handled by the federal government on an expedited basis. Throughout nomination process and the processing of the permanent residence the employer's job offer has to remain valid, meaning that the applicant has to continue working for the employer (WCDWA, 2013).

PART THREE

The previous section gave a brief outline of the immigration and employment structures of Canada's migrant worker programs. In this section we will present examples from our research that show how these structures contribute to a climate of fear and intimidation that allow trafficking situations to occur. We found evidence of exploitation, mistreatment and fear in testimony from migrants in all three migrant streams. In some cases, their stories contain strong indicators of trafficking.

Our research indicates that force and coercion in labour trafficking cases often arise from multiple factors that instill fear in the worker, preventing the worker from leaving an exploitative work environment. The stories indicate that while workers were not physically constrained, perpetrators would use tactics of psychological manipulation to intimidate workers to continue working. Research participants reported that one of the most common tactics used was the threat of deportation or reports to law enforcement authorities. The research findings conclusively show that a broader understanding of force, coercion and fear is necessary in dealing with labour trafficking cases. In most cases, fear of direct physical harm might not exist but traffickers could use deception and other coercive tactics to exploit workers.

Many of the problems described in this report occur because current immigration policies are largely employer driven and too few worker protections exist, or when they do exist, require the worker to self-identify to make a report. The design of some immigration programs is contingent on employer support, exacerbating unequal bargaining power and eroding worker agency. As an example, some workers complained that they felt helpless or unable to stand up to the exploitative demands of an employer or the extortive demands of a recruiter for illegal fees because they needed the support of the employer or recruiter to apply for permanent residence in Canada.

Power imbalances contribute to an environment in which recruiters and employers are able to use fraud, deception and force to control and exploit workers. Although the individual requirements of each immigration program create particular dynamics, a few major themes emerged from the testimony of the workers from all programs studied. The key structures of control that employers and recruiters manipulated included employer or recruiter control over living arrangements, community dynamics, and control exerted by employers through the promise of permanent residence and future employment. The structures of control, in many ways built into Canada's immigration and employment laws, entrench severe power imbalances and worker vulnerability, fostering environments in which trafficking can occur.

Living Arrangements

> "I felt trapped; I had no contact with the outside world. For weeks I was inside that apartment watching the street through the window but could not leave the house. I never, never thought this will happen to me when I signed the [work] contract to work in Canada. My friends told me that Canada was the future for our families"
>
> -Anne, Filipino domestic worker, Vancouver

As identified in Part Two of this report, the requirements for living arrangements vary between programs. The live-in caregiver program is the only program which requires employees to live in the same accommodation as their employer as a condition of work. Certain standards for living arrangements are established in forms and contracts employers have to submit to ESDC prior to hiring a live-in caregiver but as demonstrated in our Access to Justice Report, enforcement mechanisms are virtually non-existent and employers regularly offer sub-standard living conditions to caregivers without fear of penalties. The SAWP program requires employers to provide free suitable accommodation for their employees (except in BC where employers can recover a portion of accommodation cost through payroll deductions). Although employees are not legally required to live in employer facilitated accommodation, in reality they have little choice due to the low wage

levels, the remoteness of many work environments, and the need maintain good relations with their employers to ensure they are hired back for the next growing season. The Stream for Lower Skilled Occupations does not require employers to provide accommodation nor employees to live with their employer. However, as some workers report, in some cases, employers will use their positions of power to compel employees to live in accommodations they facilitate to deduct rent from wages.

Our research found that in many cases, employees in the three different streams studied either live 'on-the-job,' in accommodation arranged by the employer or in accommodation that the employer or supervisor lived in as well. Participants in the focus groups described how this made it difficult for them to relax and have 'down-time.' Many workers described how supervisors and managers would be inquisitive and invasive about their social life, questioning them about friends and romantic partners in a manner that clearly indicated disapproval. Research participants identified how the inquisitiveness of employers and supervisors often seemed to imply threats of potential consequences if they perceived workers to be 'trouble-makers'. Participants also highlighted how they felt that they were being watched at all times and had to be careful about what they said. These arrangements made it difficult to consider organizing as a group to push back against ill-treatment and exploitation. In many cases, particularly with live-in caregivers, the accommodation requirements increased feelings of isolation as workers were cut off from outside support. The restrictive nature of the living arrangements meant that feelings of fear were heightened for those in abusive and trafficking situations.

Many research participants reported that the live-in requirement of the LCP is oppressive. Participants stated they often felt considerable pressure to work longer hours and perform duties outside of their contract because they lived and worked in the same place. Many participants stated it was difficult to carve out private time in the employer's home. Some participants felt unable to escape the work environment, felt cut-off from friends and were unable to build support networks. Some participants reported that they felt trapped even when their employers were not abusive or violent.

Although the LCP template contracts stipulate that caregivers must be paid the minimum wage and that caregivers are protected by minimum employment standards protections, our research found that these conditions are often ignored by employers. The private nature of live-in caregiver work, exacerbated by the live-in requirement, makes oversight and monitoring difficult.

Case Study One: Lilian's Story

Lilian is originally from Indonesia and worked as a caregiver in Taiwan for nine years. She applied for the LCP through a recruitment agency that she paid to find her employment, arrange for the LMO and work permit. Her contract stipulated that there would be 4 people in the family she was working for, she would work 40 hours a week and receive the minimum wage.

When she arrived she found herself working 13-14 hours per day for a family of 6. She was not paid overtime and suffered frequent verbal abuse and even physical abuse from the family's grandmother:

"Grandma was very demanding, she didn't let me stay one minute without doing anything. I had to clean, cook several meals a days, taking care of the kids, working on the garden … everything, and no days off. Grandma was like the police, all the time checking that everything was clean. She did not have patience; she shouted me all the time or would throw meals to the floor if she didn't like it. Once she threw hot noodles on my face […] I could not even sleep because I will hear the voice of grandma in my dreams!"

Lilian eventually quit after about 7 months of these conditions as her health was beginning to suffer. She experienced pain in her leg and her arm, and her body in general. When she asked to be taken to a doctor, the family told her she would have to pay for the visit.

Not knowing where to go upon leaving, she returned to the recruitment agency. She stayed in the agent's home for 2 weeks. The agency asked her to pay more fees to find her another employer but she could not afford this. As a result the agency took her passport, work permit as well as her cell phone and contact book for several months. Lilian was told by the agency owner that if she contacted the Canadian government, they would contact her elderly mother in Indonesia and tell her that Lilian was sick. Not wishing to worry her mother, Lilian escaped from the recruiter's house one day and borrowed a phone from her neighbor to call her mother and tell her not to worry. When the recruiter found out, Lilian was verbally abused and threatened with deportation.

The agency found Lilian another job but here she faced similar problems. She was forced to work long hours and endured being bitten twice by the family dog. Eventually she called the police and they helped her to get her documents from the recruitment agency.

Lilian's story in Case Study 1 vividly highlights the problems the live-in requirement can cause. The live-in requirement, manipulated by crooked recruiters and some bad employers, becomes a mechanism of control that enables exploitation. In Lilian's case, she was deceived about working conditions, pay and treated as a commodity by the families. Her vulnerability was heightened because the LCP requires her to live with the families. Her recruiter took advantage of Lilian's isolation, borne of having to live and work around the clock in her employer's home and being cut off from opportunities to build support and coping systems. The isolation increased her fear of deportation, allowing the recruiter to stoke more fears through lies and manipulation.

The live-in requirement of the LCP increases live-in caregivers' exposure to violence as a form of control because all the work is undertaken in the private sphere. Unlike regular workplaces where colleagues and other stakeholders bear witness to work life events, live-in caregivers work and live away from the protections of the

public work place. Numerous studies by scholars and migrant worker advocates suggest that live-in caregivers often encounter psychological, physical, sexual and verbal violence in their work/home lives (Pratt, 1997; Arat-Koc, 2001; Valiani, 2009; Gilliland, 2012; WCDWA, 2013). As Lilian's story indicates, the abuse can take many forms and since the live-in caregiver lives and works in the home with only family members of the employer to bear witness to the violence, proving the violence occurred can also be challenging.

Case Study Two: Carola's Story

Carola, a live-in caregiver, paid $5,000 to a recruitment agency based in Taiwan with links to a Vancouver based agency to find her a job in Canada. When she arrived in Canada, Carola was informed by the recruitment agency that the employer had "backed out." Carola does not know whether the job ever existed. Her application in Taiwan took one year to process and she constantly asked the agency whether she still had a job because of the length of processing. Prior to departure, the agency had reassured her she did have a job. She had incurred debt to a bank and to her sister to pay the agency fees in Taiwan. When the agency informed her that she did not have a job, she was devastated. Her recruiter then promised her to find her a new job.

She stayed with the recruiter for one and a half months. Her recruiter warned her not to leave the house, saying that she did not have proper documents and was at risk of deportation. The recruiter made her perform house work, subjected her to constant verbal abuse and made her perform inappropriate tasks such as body massage. She was never paid for the work.

After a month and a half, her recruiter sent her to work with her "new employer" even though she did not have a work permit authorizing her to do so. Her situation did not improve once the job

commenced. The employer refused to let her leave the house because 'of problems with your papers'. She had a sister in Toronto but the employer and recruiter refused to allow her to talk to the sister. In the end she managed to secretly borrow the employer's phone to call her sister in Toronto and her sister set in motion a 'rescuing operation'.

Carola's story in Case Study 2 also highlights how the live-in requirement isolates live-in caregivers and allows employers to use fraud and lies to maintain a climate of fear. Carola had a sister she was able to contact for help eventually, but many newly arrived migrant workers in abusive situations do not have anyone to turn to for support. The isolation caused by the live-in requirement allows employers and recruiters to use other types of deception and fear tactics such as preying on deportation concerns to further isolate the caregiver. Although Carola's recruiter was physically abusive, the dominant means of instilling fear was through threats of deportation. This ensured Carola did not go outside to seek help. Carola's case demonstrates that fear is multi layered and nuanced and potential traffickers can often manipulate different triggers to control a worker through fear. For most workers trafficked for labour, the fear of immigration repercussions is a mechanism of control. As such, fear must be understood more broadly to extend beyond just fear for physical safety.

Although employees are not legally required to live in accommodation provided by their employers in the Low Skilled Occupation Stream, our research suggests that it is quite common for migrant workers to live in accommodation arranged by their employer. This often involves living in the same location as the employer or supervisor or living in crowded houses with other migrant workers. Participants report that some employers charge employees for accommodation and are in the position to benefit from the arrangement, overcharging their employees for substandard, crowded accommodation. One story reported by Maria, a migrant worker in the Low Skilled Occupation Stream, highlighted the particular issue. She lived with 10 other workers in a five room house outside the Lower Mainland and paid $300 per month for a shared room. Maria stated that employees were told they were "free to move out" but those that did soon found their hours cut by the employer.

Maria stated that employees quickly understood the link and became reluctant to move out even though conditions in the house were bad. Maria's story highlights how living arrangements coupled with other forms of control can create oppressive environments of fear in which workers are exploited. In Case Study 3, William also speaks of the difficulties of living in the same home as his supervisor. Although it is reasonable to assume that the supervisor would have also threatened William had he not lived in the same home, the living situation increased William's sense of fear and danger.

Case Study Three: William's Story

William came to Canada through a recruitment agency who falsely told him that he should to work in concession kiosk in a mall. William was told by the recruitment agency that he would earn $5,000 per month.

When he arrived in BC he began work at the mall but soon found out the $5,000 was a gross overstatement. In reality, William earned next to nothing because "salary" was actually commission based, contingent on how much he sold. The LMO the employer obtained for him said he would be paid an hourly rate but instead his supervisor told him he would be paid on commission and if he didn't like it he could be sent home. His supervisor would also deduct fines from "salary" for supposed transgressions at work. These included basic norms of work life such as speaking to co-workers. There were times when the supervisor imposed so many fines that he and his fellow workers ended up owing money rather than receiving it.

William shared housing with 4 other migrant workers and his supervisor. This close housing arrangement meant that the supervisor could keep a close eye on the comings and goings of the workers. It was

difficult to have an active social life and hard to escape the feeling of being constantly watched.

After three months during which William was paid virtually nothing, he finally had enough and informed the supervisor that he intended to complain to BC Employment Standards. At this point the supervisor flew into a rage and became abusive and threatening. The supervisor smashed up the home and threatened to kill William if he made a complaint to Employment Standards. William was forced to flee the house and seek the support of the RCMP. He has since made criminal and employment standards complaints against the supervisor and owners of the company.

The stories we heard from workers in the SAWP reinforce the testimonies provided by LCP and Low Skilled Occupation Stream workers that employer control over accommodation can often lead to abuse that, when severe enough and compounded by other mechanisms of control and carried out for the purpose of exploitation, can be called trafficking. As one SAWP worker noted, when living in accommodation provided by the employer near the employer:

> "If you live close to your employer you are less free. The employer watches you, every time you go on the road he keeps an eye on you, what time you arrive home. He can come to the door anytime, sometimes he ask 'do you have a girlfriend?' The employer puts rules for everything, time to go to sleep, time to come back home, days to go out. They [employers] always put signs on the wall with the rules of the farm. You have to obey the rules of the employer, it is on the [work] contract"
> -Louis-SAWP Worker

The above examples demonstrate how some employers and recruiters use control over living arrangements to further intimidate and isolate workers and to control worker mobility. The rules of the LCP most explicitly entrench control through the live-in requirement. Our research mirrors findings from previous research projects

(Barrett, 2011; RCMP, 2010) that highlight that the live-in component of the LCP creates an environment of unbalanced bargaining power that can be a major contributing factor in trafficking and exploitation cases. Our research also found that some employers in SAWP and the Lower Skilled Occupation Stream have used living arrangements as a mechanism of monitoring, controlling or further profiting from workers.

Employer Control over the Promise of Permanent Residency or Re-Recruitment

Testimonies from all three groups studied showed that employer driven controls to future work opportunities in Canada and pathways to permanent residence significantly erode worker agency to negotiate better work conditions and can lead to environments of fear and intimidation in which exploitation and trafficking can occur. The LCP is the only federal immigration program that allows so called "semi-skilled" workers to apply for permanent residence after completing program requirements. To apply for permanent residence, live-in caregivers must work full-time for a total of 24 months or 3,900 hours in a period of 4 years. Although the program allows live-in caregivers to switch employers, live-in caregivers must obtain a new work permit in order to do so. Our research and WCWDA's experience working with live-in caregivers indicate that many are often reluctant to complain about poor working conditions, unpaid wages and other forms of exploitation because of the concern that they will not be able to find another job to complete the requirements of the program within the 4 year timeframe. Many also fear reprisal action from employers that might lead to deportation. According to research participants, some employers are aware that they can jeopardize a live-in caregiver's pathway to permanent residence by explicitly threatening to complain to immigration authorities as a way to silence workers and compel them to work harder.

Workers in some occupations within the Low Skilled Occupation Stream have pathways to permanent residence through BC's Provincial Nominee Program. The BCPNP scheme allows the province to nominate a worker that it deems useful for its labour market for a fast tracked permanent residence application. The application for nomination is a joint application from the employer and employee where in which the employer informs the province that they intend to keep the employee on indefinitely. The employee has to complete a nine month work period with the employer to qualify for nomination and has to remain in the job throughout the application process.

Our research identified cases where employees felt unable to complain about poor working conditions, contract discrepancies, poor accommodation and low pay because they needed their employers' to support their applications for nomination in the BCPNP. Research participants spoke of how employers would withhold or threaten to withhold or delay nominations in order to keep them in exploitative work conditions for longer periods. In order to qualify for nomination, workers also have to show they are economically viable by meeting certain wage benchmarks. Workers in lower wage industries are therefore more dependent on employers in order to obtain extra shifts to boost income. A number of participants in the research stated that they had to be careful about raising workplace concerns with employers in fear of losing shifts.

Case Study Four: Carlos' Story

Carlos came to work as a farm worker in Ontario where he worked alongside Mexican and Jamaican workers. Carlos paid $4,500 CAN to a recruitment company in the Philippines to obtain the job. His work contract with the company was for 24 months but he was terminated by his employer after 17 months due to a technical incident in the farm for which he was blamed. His employer gave him a ticket to leave but after researching immigration laws, Carlos learnt he could remain in Canada to find a new employer until the expiration date of his work permit.

Carlos moved to Alberta to find work. Through friends, he was connected to a Canadian based recruiter who charged him $1,500 to find a new employer in BC. The recruiter connected him to an employer in the hotel industry in BC. Although he signed an employment contract stating he would be making $13.75 an hour, he was only paid $11.

When Carlos finally obtained permanent residence, he felt secure enough to complain about the under payment. However, the employer forced him to withdraw his formal complaint, stating that he would not support any future immigration applications for any of Carlos' work colleagues if Carlos continued to seek remedy.

Carlos's story in Case Study 4 demonstrates the chilling and intimidating effect of an employer's threat to withhold support for PR applications. Carlos was unable to complain about being deceived about his wages and working hours because he feared losing the opportunity to apply for PR. This fear continued for a number of years because the process was lengthy. Once he had obtained PR, his employer used his position of power to threaten repercussions for Carlos's friends if Carlos continued to pursue his complaint. This demonstrates how the employer driven nature of the PR process fosters environments of fear and silence.

> "We definitely don't know whether we are coming back for next year or not. Sometimes it is good luck-bad luck, sometimes they [employers] don't need you or don't like you. If you get too 'wise' about the system they don't like that… because if they [employers] for example want to do something and you know it is not right you'll tell other workers and that is not good for them because it will look like a union. So, if they think you know too much about your rights then you are not called back next year. Even if you have been working for 13 years in Canada if they want you send you home they [employers] send you home".
>
> -SAWP Focus Group Participant

Although the SAWP does not offer a pathway to permanent residence, the renaming hire back scheme is also employer driven. Like the provincial nomination scheme in which employers name the employees they wish to support for nomination, employers name the workers they wish to hire back in the next growing season. As such, workers are completely reliant on their employers for future job prospects. The above quote from a SAWP worker illustrates the fear workers feel about their job security, how the fear permeates the work environment and prevents workers from asserting their rights. SAWP workers are at risk of being sent home during the year if they question working conditions and if not 'named' by an employer will find it very difficult to find new employment the following year, thus cutting them off completely from work in Canada's agricultural sector. Feedback from research participants indicated that were in constant fear of being considered a 'trouble-maker' and harming their chances of returning next year. As a result, many continue to work in exploitative working conditions in silence.

Family and Community Connections

Another recurring theme we identified during the research was the complexity of addressing grave exploitation within small communities where perpetrators are related to victims and are firmly embedded in the community network. While community can be a source of protection for the survivor, a perpetrator's place in the community can also insulate or protect the perpetrator from repercussions of their actions. Some examples of exploitation we encountered included a caregiver who was being mistreated by her sister (and employer), a caregiver who felt trapped in an abusive employment situation because her cousin had recommended her for the position, and migrant workers in Northern BC who felt trapped because the recruiters and employers were from the same small ethnic community.

In one example, a live-in caregiver at a focus group spoke up about how she was working for her sister for no pay even though she had expected to be paid in accordance to the contract that she signed before coming to Canada. She had given up her job in a foreign country in order to come to Canada. Her sister had obtained

an LMO for her to come to work in the LCP. However since her arrival, the sister had not paid her at all, and had only paid the taxes that would have been due to the Canada Revenue Agency if she was paying the live-in caregiver the full amount as per contract. The live-in caregiver had to work very long hours to provide around the clock care to two children and when she tried to leave the employment, her sister used emotional appeals to family ties to persuade her to stay. Although carried out by her sister, this is a clear case of exploitation in which emotional ties are used as a form of control.

Another example was Anna who had been recommended for a live-in caregiver position by her cousin. Once Anna arrived in Canada, the employer only paid her $3 per hour and expected her to work long hours with no days off and engage in duties outside of the employment contract. When the caregiver spoke to her cousin about it, she was told not to "embarrass the family." The cousin told her that the caregiver "owed her" as she'd helped her come to Canada. The caregiver and cousin lived in a small town and the cousin was worried that the news would spread quickly. The cousin threatened her to compel her to stay in her employment situation. Anna was lied to by her employer about wages, exploited for cheap labour, and feared leaving the situation because of family pressure and threats. Out of desperation to escape her situation, Anna started dating a friend of her employer who was physically abusive. This case demonstrates how an individual caught in an exploitative situation can find themselves transitioning to new situations of abuse as they try to escape. The theme of moving from one abusive situation to another is sadly all too common. Both our research for this report and the research we conducted for the Access to Justice Report found numerous incidents of migrant workers moving from one abusive situation to another as they tried to navigate Canada's complex immigration system. Both Anna's story and Carlos's experience detailed in Case Study 4 show how migrant workers in all programs are vulnerable to repeated abuse and that many migrant workers encounter the same patterns of exploitation over and over again.

The manipulation of community dynamics by recruiters and employers to entrench their power over employees heightens worker vulnerability to exploitation

and trafficking. In some small towns in BC, the research team found that many of the migrant workers hail from the same ethnic community as their employers and recruiters. Workers found it difficult to speak out against exploitation and abuse, fearing social ostracism and worse. Carlos's experience again demonstrates how his former employer relied on Carlos's community affiliations to use intimidating tactics, allowing the exploitation and wage theft to persist.

Recruitment Agencies

Our Access to Justice Report documented the many forms of abuse inflicted by third party recruiters on migrant workers in BC. Similarly, some research participants for this report testified that they were lured to Canada with offers of false jobs and were tied to exploitative work because of illegal recruitment fees charged by third party recruiters. Recruiters could easily control newly arrived workers through a mix of tactics including threats of deportation and promises of regularization of immigration status. Our findings mirror results from an RCMP report about labour trafficking that links incidents of trafficking to the illegal practices of crooked third party recruiters (RCMP, 2010).

The luring of individuals to Canada with offers of false jobs is a common deception and manipulation tactic. The RCMP study (2010) reports that many trafficking victims come to Canada on genuine work permits only to find their jobs do not exist when they arrive. Through its work, WCDWA has seen the increasing prevalence of workers entering Canada only to discover, upon arrival, that the job never existed and the testimony from research participants also validates this phenomenon. Carola's story in Case Study 2 illustrates how recruiters use deception to manipulate workers to pay high recruitment fees for jobs that do not exist. Despite asking on several occasions, Carola arrived to find that she did not have the job she paid to get. Once here, her recruiter took advantage of Carola's vulnerability and dependence on her to find a new job, manipulating Carola to perform work in her home for free. She also preyed upon Carola's fear of deportation to keep her silent.

Carola's case demonstrates the many layers of control that recruiters can use to exploit workers. A particularly common form of deception involves informing the newly arrived individual about the dangers they face because they lack the "proper" immigration documents. Research participants reported that recruiters and employers would also take hold of passports and other documents for "safe keeping," consolidating direct control. More insidiously, research participants also stated that they felt completely helpless and reliant on the recruiter to find them new jobs to regularize their status. Newly arrived in Canada with little alternative options and having paid thousands to obtain job, many are pushed to work without proper authorization while waiting for their status to be regularized.

The RCMP report (2010) found that employers were as likely to be victims of deception by recruitment agencies as migrant workers. In our research, we heard stories of recruiters and employers working together to exploit workers. Research participants informed us that employers and recruitment agencies often use the PR nomination process to charge workers illegal fees. Vicente, Juana and Evelyn, three workers then based in Dubai, paid their recruiter approximately $6,000 to obtain a job in Canada. Juana arrived in Canada only to find that she was not going to work for the employer listed in her employment contract and work permit. She was brought to another employer and told to start working for the new employer while waiting for a new work permit. She had to bear the risk of weeks of illegal work before her new work permit arrived. After completing the required months to be nominated for BCPNP, they were told that they had to pay the recruiter another $4500-$9,000 for assistance with the nomination application. Having incurred debt to obtain the work permit, they asked the employer whether they could just work on their applications themselves but the employer refused. They were told specifically that he would not support any application that did not go through the recruiter. Vicente stated: "we felt defeated and with no options. This person 'recruiter' has complete control over our future here." The workers stated that they most of their pay in Canada went to paying recruitment fees. One worker opined that in the small town he lived in, it would be difficult to find a new job if he reported recruiter or employer abuse. Employers in the town only hired through third party recruiters who charged workers illegal placement

fees. The worker said it was difficult to leave his job because he would have to incur new recruitment fees, money he did not have.

Case Study Five: Herminia's Story

Herminia is a Filipino caregiver who came to Canada under the LCP. When she arrived her employer was having financial difficulties but was keen to keep employing Herminia. Her employer did not reimburse her for her airfare as she is required to do so under the terms of the LCP. Shortly after arriving BC increased the minimum wage to $10.25 per hour. Her employer did not increase her salary despite many requests from Herminia. Her employer finally agreed to increase her wage when Herminia showed her a leaflet from the Employment Standards Bureau, but Herminia was told she could only get the wage increase if she cleaned houses of the employer's friends and neighbours.

Herminia was very reluctant to do this and tried to refuse but her employer did not listen to her concerns. Herminia cleaned other houses 2-3 times a week. She discovered that her employer was charging $15 per hour and so making a $4.75 per hour profit from her work. Herminia was knocked over by the family dog while working and had to have surgery on her knee. The employer made her work at several other houses during the time she was injured. When Herminia told her she did not want to work at the other houses because of her sore knee her employer became angry and asked her to leave immediately. Her employer did not pay her for the last month of work and refused to give her a record of employment.

Employers can also act as recruiters to benefit from the labour of their workers. In case study 5, Herminia's employer acted as a recruiter/employment agent, and contracted Herminia out to her friends and neighbours. Herminia related to us how

she had felt uncomfortable with this and tried to refuse to do this work but her employer did not listen to her. After being misled about the wage level she could expect, Herminia was then forced to do unauthorized work in order to earn the minimum wage. On top of this her employer profited from her unauthorized labour by charging her friends and neighbours more than she was paying Herminia. This case demonstrates that employers can also act as de facto employment/recruitment agents. Her employer was able to take advantage of the tied nature of her work permit to exploit her in this way. Herminia was also afraid to leave the employment because she would face homelessness as her home was with her employer. The confluence of different levers of employer control prevented Herminia from leaving a bad employment situation.

PART FOUR

Conclusions

This report has shown that immigration policies heavily weighted to employer controls without effective worker protections can lead to abuse of the TFWP and in severe cases where coercion, deception and force are used to control workers for exploitative gain, the abuse can be categorized as trafficking. Contrary to official discourses that portray TFWP as a benevolent model of managed migration that represent a win-win situation for employers (who are in need of labour) and workers (who are lacking employment opportunities in their countries of origin), many workers that the Research Team interviewed told stories of exploitation, lies, and extortionate practices of third party recruiter.

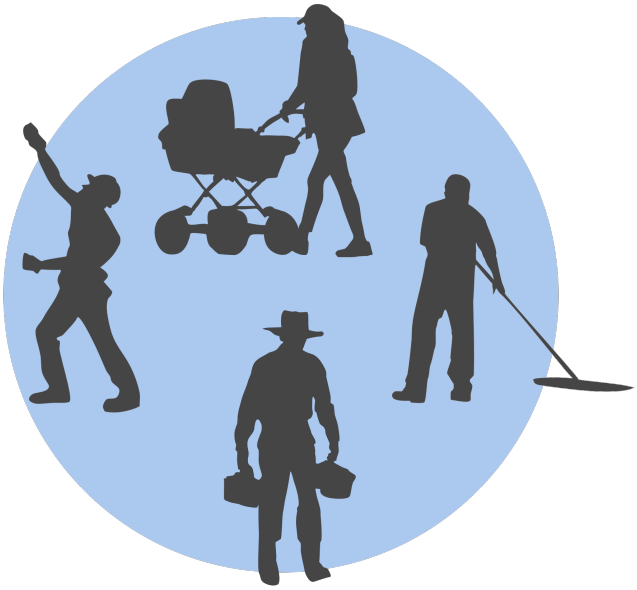
In our report we have presented the stories of men and women who have come to Canada in the belief that they would have the opportunity to provide for their families while contributing to the Canadian economy. Instead many found themselves exploited by their employers and unable to seek redress. The stories we have presented show experiences of physical, verbal and psychological abuse, manipulation, deception and fraud, and wage theft.

Our report has also shown that coercion and exploitation in the labour trafficking context exists in a spectrum and is multi layered and nuanced. Fear is often used as a means of coercion and instilled by threats of immigration hardship rather than threats of physical harm, making it difficult for workers to leave bad employment situations. A worker may feel trapped in a workplace situation and unable to leave but the working arrangement may still appear superficially consensual. Our research has highlighted that the use of fear tactics is widespread in situations of exploitation. We

argue for a broader and more nuanced understanding of the concept of fear as a tool of manipulation.

Our report identified a few common themes: employer control over living arrangements, future immigration applications and recruiter control over job prospects as areas of vulnerability that can be manipulated by bad employers and recruiters to coerce or force workers to work in exploitative conditions. The stories from workers in the LCP, SAWP and Low Skilled Occupation Stream demonstrated that these problems permeate all three programs.

The findings in our report suggest that Canada needs to address structural weaknesses in its immigration programs that create significant power imbalances between employers and employees. The findings also identify that there needs to be a broader understanding of the concept of fear among immigration officials, the legal system and the general public to recognize that there are multiple means of instilling fear and using fear to control workers for the purposes of exploitation.



Recommendations

Based on the research findings the report proposes the following recommendations that if implemented could help to address some of the causes and implications of labour trafficking of migrant workers in the context of migrant work programs in BC:

- A broader understanding of coercion and force that is not limited to physical force but manipulation or control through deception, threats of deportation, criminalization and severe economic hardship.
- Further training of law enforcement agencies including Canada Border Services Agency to study the complexities of force and coercion in the context of labour trafficking.
- More funding for coordinated victim services for survivors of trafficking.
- Greater transparency and information exchange between non-governmental organizations providing services to survivors and law enforcement agencies, guided by strong survivor centered information sharing protocols.
- Inter-agency and inter-sectoral proactive approach to investigations. Health and safety officers and employment standards officers should be trained to identify signs of forced labour and trafficking and this information should be shared with law enforcement agencies, guided by survivor centered information sharing protocols.
- More focused research on the types of barriers survivors encounter in reporting cases of labour trafficking.
- Abolish the live-in requirement of the LCP.
- Improve housing inspections to ensure employer provided accommodation meets existing standards and workers are not overcharged for rent.

- Increased regulation of recruitment agencies and consultants that charge workers fees to find jobs in Canada.
- Replace the current for profit recruitment system with a non-profit hiring hall model for hiring and recruiting migrant workers that would be run by a multi-sectoral, inter-agency compromised by unions, workers' organizations and migrant workers' advocacy groups. This model would provide a reliable labour force to employers seeking to hire migrant workers while it would be accountable to comply with provincial labour standards.
- Increase spot checks in homes where live-in caregivers are employed. This will allow for accommodation standards to be checked, a review of pay-stubs against a contract, an audit of payment, and a private interview with the caregiver to ensure fair treatment.
- Abolish the requirement of employer support for BCPNP application.
- Abolish current rehiring practices in the SAWP in which the employer gets to name the workers they want to return for the next season.
- Create job banks or public employment services that would match employers seeking LMOs with migrant workers looking for new employer. This would prevent recruitment abuse and will facilitate worker job search.
- Allow temporary foreign workers access to settlement services currently only available to permanent residents and refugees. This would help decrease isolation that prevents workers from establishing coping networks.
- Landed status upon arrival for live-in caregivers.

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