



Paying to get Paid: Report on Unjust Recruitment Practices of Temporary Foreign Workers in British Columbia

December 2015

Introduction

This report presents the initial findings of the West Coast Domestic Workers' Association's outreach work to the community and explores ways in which migrant workers groups, organizers and advocates can collaborate to take these findings and turn them into tangible plans of action.

The findings will form a blueprint for campaigning and mobilizing around new, community-driven strategies to combat illegal recruitment practices of migrant workers in British Columbia.

Context

The industry around the recruitment of migrant workers has grown profusely over the past decade as Canada's temporary foreign worker programs continue to expand in response to demands for a "flexible" workforce.

Today, migrant workers with precarious temporary immigration status far exceed the number of economic immigrants admitted to Canada permanently. Canada's temporary migrant worker population has more than tripled since 2000.¹

The most notable increase has been among workers who are brought to work in low-wage jobs deemed "low-skilled" by the government such as caregiving, agriculture, restaurants, hospitality, fast-food service, cleaning, retail, tourism and food processing. Originating primarily from the global south, these workers comprise approximately a quarter of Canada's migrant workforce.²

"As temporary labour migration has exploded, an industry of third party, for-profit labour recruiters has emerged to match migrant workers with employers in Canada and to help workers navigate the complex process of moving across national borders for authorized work" (Faraday, *Profiting from the Precarious* 2014, pg. 5).

¹ Faraday, Fay. *Profiting from the Precarious: how recruitment practices exploit migrant workers*. (Summary Report) Metcalf Foundation. 2014, pg. 5.

² Faraday, Fay. *Profiting from the Precarious: how recruitment practices exploit migrant workers*. (Summary Report) Metcalf Foundation. 2014, pg. 5.

The temporary foreign worker program (TFWP) consists of two streams for low-wage jobs: the Low-Wage Stream, which include caregiving jobs and a number of other “low-skilled” positions, and the Primary Agriculture Stream, which includes the Seasonal Agricultural Worker Program (SAWP).

Most migrant workers, particularly in the “low-wage” categories, enter Canada through third-party recruiters. It is true that decent recruiters, who charge legitimate fees to the employers, can provide a valuable service by linking foreign workers to Canadian jobs. However, academic and community-based researchers alike have long documented widespread abuse of migrant workers by indecent recruiters who charge oppressive and illegal recruitment fees, often for jobs that are different than promised or that do not exist at all.

Acting as gatekeepers to prospective employment in Canada, recruiters are in a position of absolute control that often leads to abuse and exploitation. Weak regulatory mechanisms, ineffective enforcement and unfairly structured foreign worker programs create a permissive environment for recruiter agencies to engage in illegal practices.

Why focus on recruitment?

The “exploitation that arises through the recruitment process does not start and end with the payment of illegal fees”.³ Disreputable recruitment practices highlight the structural inequalities

“The failure to guard against exploitative recruitment practices sets the stage for recruiters and employers to subject workers to even deeper erosion of their contractual and legal rights in Canada and raises insurmountable barriers for workers to enforce their rights to decent work” (Faraday, *Profiting from the Precarious* 2014, pg. 6).

inherent in transnational labour migration programs like the TFWP. Indecent recruiters profit by identifying and exploiting points of weakness built into Canada’s federal temporary labour migration programs and entrenched by ineffective provincial employment standards mechanisms. By understanding how these systems interact we can expose how recruitment exploitation contributes to undermining workers’ ability to stand up for their rights to decent work long

after they arrive in BC and move to explore solutions.⁴

³ Faraday, Fay. *Profiting from the Precarious: how recruitment practices exploit migrant workers*. .(Summary Report) Metcalf Foundation. 2014, pg. 7.

⁴ Faraday, Fay. *Profiting from the Precarious: how recruitment practices exploit migrant workers*. .(Summary Report) Metcalf Foundation. 2014, pg. 7.

Recruitment legislation in British Columbia

While the Federal government authorizes who may enter, work and remain in Canada, provincial laws and policies are responsible for protecting migrant workers' employment and social rights while in BC. Likewise the regulation of worker recruitment falls under provincial jurisdiction.

British Columbia's *Employment Standards Act* (ESA) is the provinces' only piece of legislation aimed to ensure that employees in BC receive basic standards of compensation and conditions of employment. While the ESA prohibits recruitment agencies from receiving payments from workers for arranging employment under section 10(1), recruiters are able to charge workers for a variety of other "services", such as advertising, under section 10(2). In order to circumvent the law recruiters operating in BC have learnt to characterize a variety of fees and charges as "services" outside the scope of section 10(1) or within of the section 10(2) exception.

Recruiters and agencies with offices operating abroad are even more challenging to regulate as they operate outside the enforcement ambit of both federal and provincial authorities. Savvy recruiters and transnational agencies often insist on transacting by verbal agreement only and demand payment to offshore accounts or to unnamed individuals in Canada, thereby preventing establishment of a nexus to Canada or one of the provinces.⁵ However, the challenge of recruiters operating abroad ought not to be used as an excuse for inaction, as one end of the recruitment pipeline must always in Canada.⁶

This environment of impunity is further entrenched by BC's complaint-driven employment standards laws and regulations, which rely on the most vulnerable actors to police enforcement, places the burden of proof on the workers and impose strict time limitations. The six-month window provided by the ESA in which a complaint can be filed with the Employment Standards Branch (ESB) has invariably closed by the time migrant workers come to our office for information and assistance.⁷ Even when a migrant worker succeeds in file a complaint on time, they are subject to a six-month limitation on the recovery of wages/recruitment fees.⁸

⁵ *Access to Justice for Migrant workers in British Columbia*, WCDWA, 2013, pp. 25-26.

⁶ Faraday, Fay. *Profiting from the Precarious: how recruitment practices exploit migrant workers*. (Summary Report) Metcalf Foundation. 2014, pg. 20.

⁷ The *ESA* states that employees must file their complaint with the ESB within six months of the last day of employment (at Section 74(3)) or the date of the contravention under section 10 (at Section 74(4)).

⁸ Section 80 of the *ESA*.

Lastly, while the ESA requires recruiters to obtain a licence and keep records, the process consists of a one-time application fee of \$100 (\$150 for farm worker contractors) and records on employers and employees must only be kept for 2 years.⁹ Administrative penalties for a first contravention of the ESA is only \$500.¹⁰ Again, these laws are too lax to be effective deterrents for indecent recruiters, particularly under BC's complaint-driven employment standards system.

About the Research

We approached the research with the goal of addressing the issue of illegal recruitment in new ways through mobilization of workers' strategies to combat recruitment and to give voice to community guided solutions. Our aim is for voices

of migrant workers to guide us on where to focus our efforts to prevent abuses in recruitment and advocate to improve workers' living and labour conditions in British Columbia.

"In transnational migration, one end of the pipeline is inevitably in the origin country. But, one end of the pipeline is always in Canada. Thinking critically about the nature, shape, and location of the pipeline identifies the opportunities to build accountability and security for workers into that system. It also reveals whether a regulatory model facilitates a "chain of deniability" in which a Canadian-based recruiter or employer can disavow responsibility for the actions of its "helpers"" (Faraday, *Profiting from the Precarious* 2014, pg. 20).

Focus Groups

With this goal in mind, WCDWA organized a series of community meetings with migrant workers across the province in which the problem of illegal recruitment practices were presented and strategies for addressing the problem were discussed.

WCDWA hosted three discussion groups. These community meetings were held during July and August 2015 in Vancouver, Victoria and Kelowna. These three cities, and their surrounding areas, are home to some of the highest concentration of temporary migrant workers in BC and we feel that our participants' stories and perspectives reflect the issues and opinions commonly faced and felt by migrant workers across the province.

⁹ Sections 12(1) and 13(1) of the ESA; sections 2 and 3 of the BC Employment Standards Regulations (ESR).

¹⁰ Section 98 of the ESA and section 29 of the ESR.

Participants

We would like to sincerely thank the migrant workers who kindly volunteered their time to participate in our focus groups. This project would not be possible without their willingness to share their personal experiences and opinions. Focus Group participants included migrant workers from the Philippines (11), Mexico (5), Sri Lanka (1), and Nepal (2) who were employed in caregiving, fast food service, construction and farm work occupations. Additionally, private conversations were held with migrant workers from Guatemala (4), and Jamaica (11).

Community Partners and Funding

As WCDWA works primarily with individuals employed as caregivers under the TFWP, we reached out to organizations in the selected geographical regions that actively engage with workers in the other streams of the program. We would like to extend a big thank you to the grassroots organizations that continue to support our efforts to document the voices of those personally experiencing the TFWP, including the Bayanihan Community Centre in Victoria, Radical Action with Migrants in Agriculture (“RAMA”) in Kelowna, and Migrant Workers Dignity Association (“MWDA”) and Migrante BC in the Lower Mainland. Finally, WCDWA would like to acknowledge and thank the Freedonia foundation for their financial support and for believing in the project.

Popular Education Methodology

A Facilitator was hired to facilitate the focus groups. Understanding the challenge of collecting information from a diverse group of individuals, the facilitator drew from his knowledge of popular education techniques to promote active participation and effective collection of information from the multicultural and multilingual participant environment.

This approach allowed the WCDWA team to create an inclusive and safe environment in which participants could open up to share their experiences and perspectives, a challenging task amongst individuals who fear repercussions for speaking out, such as losing their job or being deported.

“When we finally came to Canada, we faced abuse at our jobs. We lost our jobs, so we became jobless. When we lost our jobs, we did not have money and we also lost the place to live, so we became homeless. We decided that if we lose our hope, we would lose everything because we were jobless and homeless. It is hard but we cannot lose our hope because we have family that we have not seen for two years.” (Migrant worker at the Vancouver focus group).

Fees and Debts

Migrant workers in BC are routinely and systemically charged thousands of dollars in recruitment fees, and the fees continue to increase. Compelled to seek work abroad, migrant workers often borrow money from family members or informal money lenders, sign over the deeds to their homes or land in order to get these loans, and pay staggering interest rates on these loans. Bound by debt to their recruiters and lenders, workers are trapped in abusive relationships long before they even land in BC.

“As we were hired in Dubai, we paid to the agency there. Some people paid \$8,000 CAD, some \$9,000 CAD, some \$10,000 CAD. The three of us paid around \$8,000 CAD” (Sri Lankan migrant workers at the Vancouver focus group).

SAWP

Many consider the Seasonal Agricultural Workers Program (SAWP) a best-practice model because its bilateral agreements

“Officially in Mexico we only pay for the visa application, but in reality we need to pay under the table thousands of dollars to the director of the program in the federal office. If you want a farm where the living and working conditions are good, you have to pay \$2,000. If you want a place where you will do a lot of hours you must pay more” (Mexican farm worker at Vancouver focus group).

(between Canada and the participating sending countries) provide for organized migration without exploitation by private recruiters. Our migrant worker participants challenge this position, explaining that exploitation and unfair recruitment practices are common practice.

Contrary to international labour and human rights norms prohibiting recruitment fees, Caribbean workers pay a portion of their income to cover their recruitment costs. Participant from Jamaica told us that their government subjects its workers to a 25% holdback on each paycheque under Article IV (1) of their contract.¹¹ One part is used to cover “administrative cost” while the remainder is leveraged as a “deposit” which the worker can only recover once the contract has been completed.¹²

Nearly half of the Mexican migrant worker participants employed under the SAWP told us that both the regional and federal government officials who help with the application process routinely ask for “donations” in return. Additionally, we were informed that applicants are often coerced into

¹¹ Private conversation with Jamaican workers in Kelowna.

¹² Employment and Social Development Canada (ESDC), “Agreement for the employment in Canada of Commonwealth Caribbean Seasonal Agricultural Workers – 2015” http://www.esdc.gc.ca/eng/jobs/foreign_workers/agriculture/seasonal/sawpcc2015.pdf (last accessed 21.11.2015).

paying officials for job “perks” such as being assigned to a farm with good housing conditions or guaranteed hours of work.

Workers under the SAWP face a cycle of perpetual recruitment. The lack of job security through the right to recall based on seniority and the dependence on employers having to “name” workers in order for them to return the next season effectively deters workers from criticizing their employers or the program.¹³ The competition between Mexico and the Caribbean countries perpetuate this precariousness, as national representatives often put the countries’ economic interests ahead of the individual migrants’ needs.

“The last two years we have been forced to keep our employer and don’t change it because we will lose our job. If we change employer we won’t be called to work again” (Farm worker at the Kelowna focus group).

Barriers to Decent Work

Our conversations with focus group participants underscored how recruitment abuses cannot be examined or addressed in isolation. Migrant workers’ experience of recruitment is deeply entangled in their experience of the five stages of the labour migration cycle that follow recruitment, namely: obtaining a work permit, arriving in BC, living and working in BC, the expiry/renewal of their work permit and finally repatriation or permanent residence.¹⁴

Accordingly, much of the migrant workers’ conversation, testimony and recommendations spoke to their living and work conditions here in BC and the restrictions imposed on them by the TFWP that create and perpetuate their temporary and insecure status. These include employer-specific work permits that tie workers to their employers, long processing times for

“None of the governments support us. Sometimes we call our government to make complaints about the abuses and we expect its help. Then the consulate office come to talk with the employer and the only solution they have to our complaints is sending us back to our country” (Farm worker at the Vancouver focus group).

¹³ Faraday, Fay. *Profiting from the Precarious: how recruitment practices exploit migrant workers.* (Summary Report) Metcalf Foundation. 2014, pg. 29.

¹⁴ Fay Faraday provides an excellent explanation of the labour migration cycle in her 2012 report “Made in Canada: How the Law Constructs Migrant Workers Insecurity” available at <http://metcalfoundation.com/stories/publications/made-in-canada-how-the-law-constructs-migrant-workers-insecurity/>

new work permits, difficulty obtaining new LMIA's, and the SAWP's practices of perpetual recruitment (no "right of recall"), 'naming' and blacklisting.

The Silencing Effect

Cumulatively, the abovementioned laws have a toxic effect. Migrant workers fear repercussions for speaking out and asserting their rights. The added burden of recruitment debts, combined

"It is only after workers have been in Canada for a few years that they are free of their debt burden, have extracted themselves from initial placements that were abusive, have learned what their rights are, and have developed the community connections to support their efforts to enforce their rights. It is typically only then that they begin to speak out about ill treatment. Just as they are reaching this point, the four-year rule forces them to leave the country" (Faraday, *Profiting from the Precarious* 2014, pg. 28).

with the four-year-in/four year out rule, further undermines leadership within the migrant worker community.

During the Victoria focus group discussion, Filipino caregivers shared with us that their agencies advised them to be prepared to go anywhere in Canada, that they would be told what work to do once they

arrived, and to be ready to face discrimination. What's more, they were warned not to talk to anyone about the fees they had paid.

Recruiters expect their clients to engage in unauthorized work (work permits specify employer, occupation and location) and have little or no incentive to respect Canadian immigration or employment standards laws; it is the migrant worker, not the recruiter, who ends up paying the price. There is good reason to believe that recruiters deliberately coerce their clients to contravene the law. An out of status worker, conditioned to expect discrimination and in constant fear of being reported and deported, is not likely to speak out about recruitment abuses or his/her rights as a worker in BC.

Exercise: Building a Temporary Foreign Worker Rights House

One of the focus group activities had participants grouped into teams of four and assigned a disability to each member – blindness, muteness, deafness, and missing one arm. The teams were provided with newspaper and tape and asked to build a "house".

Given the construction materials provided and the builders' individual handicaps, the teams' "houses" resulted in weak, incomplete and flawed structures. Explaining that the "houses" were meant to symbolize the structures, laws and policies of the TFWP, participants were asked to

reflect on their "houses" and their personal experience navigating through the TFWP. Here is what some of them had to say:



"It shows the failure of the federal government because they set up some rules that take your rights away", stated a participant in Vancouver who felt that *"temporary foreign worker programs are a failure and they don't want to recognize it".*

"[You] are blind because you don't know where your direction is", responded a Filipino caregiver in Kelowna, speaking to the experience of many migrant workers who arrive in BC lacking knowledge of the program, the realities of working and living in

BC, and how and where to access help when needed. *"At the beginning we pretend that TFW problems don't exist. It takes a while to [see] that we are second class people."*

"We are mute because the temporary foreign worker programs are taking our voices away", explained a Sri Lankan participant in Vancouver. *"We accept insult, discrimination and everything without saying a word. If we do, the next year we won't be back to work in Canada",* clarified a migrant farm worker in Vancouver. A migrant worker in Kelowna stated that, *"we are unable to speak about our problems or make complaints against employer abuses. We need to stay quiet 'til our PR application[s] succeed".*

"We are deaf" described a migrant worker at the Kelowna focus group, *"because we were told that we will have the same right than Canadians and believe those lies".*

The conclusion of all three focus groups was summed up as follows: *"We feel one-armed because we are forced to do things that we don't have in our contract and we are unable to use the right to say no. When we experience abuse we don't know what to do in Canada and we feel alone, unknowing the community surround[ing] us and our supporters".*

The activity also created space for participants to explore areas in which they lack knowledge and discover that *"if [they] want to bring reform to the TFWP, we need to unite and join forces with allies"* (Vancouver focus group).

Recruitment Practices

Workers were invited to share their experiences of being recruited to come to Canada under the TFWP. They shared the following:

Workers typically pay fees, which range from \$2,000 to \$10,000, to recruitment agencies in their home country for a job in Canada. A migrant worker at the focus group in Vancouver said: *"As we were hired in Dubai, we paid to the agency there. Some people paid \$8,000 CAD, some \$9,000 CAD, some \$10,000 CAD. The three of us paid around \$8,000 CAD"*. Another TFW was forced to pay recruitment fees in Canada as a condition for a new job: *"In the Philippines, I did not pay anything. I faced the money extortion here, in Canada, when I got transferred to another job. I paid \$2,000 CAD to a woman to do the application, however she only wrote a letter"*. Caregivers also reported that they paid exorbitant fees to agencies in the Philippines, "\$100,000 pesos" (approximately \$2,800 CAD), and in Hong Kong, "26,000 Hong Kong dollars (approximately \$4,500 CAD)." A worker in the SAWP said: *"Officially in Mexico we only pay for the visa application but in reality we need to pay under the table thousands of dollars to the director of the program in the federal office. If you want a farm where the living and working conditions are good, you have to pay \$2,000 dollars. If you want a place where you will do a lot of hours you must pay more"*.

It is illegal to charge workers a fee in exchange for a job or information about employment in British Columbia. Recruitment practices reported by workers suggest that recruitment agencies are aware of this prohibition. Workers shared that recruitment fees are typically paid to recruiters in cash and that workers are not provided with receipts. Caregivers in Victoria shared that:

"Recruitment agencies tell Live-in Caregivers not to tell employers or CIC that they paid placement fees or airfare, only that they paid immigration fees". This creates a climate of fear whereby caregivers feel that they have done something wrong by paying fees. An advocate stated that, *"One of the most complicated issues to talk about with Filipino nannies is about the money they pay to the recruiter. Because TFWs are afraid to talk about paying fees, we don't really know how many of them pay it and how many do not"*. A caregiver at the focus group in Kelowna who paid fees to a recruiter said that the agency told her the fees were *"because of the resume, trainings, copies, courier, phone calls and other administrative expenses, but it wasn't true"*. A TFW at the focus group in Vancouver shared that he paid for a "seminar" in Dubai where he received information about employment in Canada and filled out the applications.

In order to pay recruitment fees, workers spoke about how they had little choice but to borrow money and/or sell their land or animals. Workers said that they would not have been able to come to Canada to work without the financial support of friends and relatives, who provided them with loans to pay the recruitment fees. Others borrowed from lenders who charge high interest.

Having to borrow money to pay recruitment fees means that workers arrive in Canada already indebted, exacerbating their insecurity.

Despite paying high recruitment fees, some TFWs and caregivers reported that once they arrived in Canada, the job they had contracted for did not exist and they were *“released upon arrival”*. Some TFWs in Vancouver reported that they were not given the job promised: *“They did not give me the job as a supervisor, as the LMO said.”* A farm worker shared that *“In Mexico, we were hired to make 100% harvesting, plant vegetables or to do only farm work. At the end we finish doing other jobs like carpenter, mechanics, iron workers, welders, drivers, pesticide spreaders, building greenhouses, etc.”*

Workers reported that they did not receive any information about their rights or where they could access help once in Canada either pre-departure or upon arrival in Canada. Workers were also misinformed by recruiters about their ability to apply for permanent residence once in Canada, and the length of time they would be permitted to work in Canada.

Recommendations from Migrant Workers

Despite the above mentioned deterrents, migrant worker communities continue to organize and make their voices heard. For example, a group of TFWs in Vancouver said: *“We found many other people like us so we decided to work side by side. We joined together and demanded to have our salaries paid. We went to CBSA, other community organizations, and did some activities together, as we were going through the same situation”*.

Migrant worker participants repeatedly stated that they themselves must be involved with the organizations that work with them in order to effectively bring their perspectives to the table on what types of services should to be provided and how they ought to be made available.

Education on Recruitment Practices and Workers Rights in BC

- Develop and implement an educational campaign in sending countries on legal and illegal recruitment practices, including the charging of fees, to address the information gap that currently lures workers into exploitative recruitment agreements.
- Build partnerships with independent organizations in the sending countries where prospective transnational migrant workers can access accurate information on the migration process, work conditions, and workers' rights in Canada/BC, and services in Canada that support migrant workers.
- Migrant workers need to unite and organize to stop recruiters from misrepresenting and charging illegal recruitment fees.

- Migrant workers request the assistance of community advocates when speaking to government agencies about what can be done to end illegal recruitment practices.
- Raise awareness amongst the Canadian public about illegal recruitment practices.
- Recruitment agencies need to be better screened and monitored by the government.

Immigration Reform

- Provide pathways to permanent residence for all migrant workers, regardless of their skill level or occupation.
- Process permanent residence applications for Live-in Caregivers upon arrival/more quickly.
- Give migrant workers under the TFWP the opportunity to have their family members visit them while working in Canada.

Employment Standards Reform

- Conduct unannounced site-checks of workplaces and housing by employment standards officers.
- Mandate employers to attend educational seminars training them on their rights and responsibilities as employers and the legal consequences of abuse.

Services for temporary migrant workers in BC

- A 24-hour Emergency phone line that can connect migrant workers with organizations and agencies that can help with their issues.
- Establish regional offices for independent organizations that work together with migrant workers to provide immigration and legal assistance. These organizations must be accessible by all migrant workers (for instance, work outside regular office hours including evenings and weekends and be located close to where migrant workers live and work) and the organization's staff should regularly visit migrant workers in their homes and workplaces.
- Require BC immigrant services organizations to extend their services to include migrant workers.
- Provide SAWP workers with independent third-party advocates who can effectively lobby on their behalf. This would eliminate the conflict-of-interest currently faced by the sending countries' representatives who represent both the workers and their countries' national/economic interests.

“Migrant workers are not inherently or inevitably vulnerable or precarious. Their disempowerment and marginalization are the products of active choices governments have made in building the laws and policies that govern transnational labour migration” (Faraday, *Profiting from the Precarious* 2014, pg. 7).

Moving forward

As we explore tangible plans of action to implement community-driven strategies to combat illegal recruitment and address the power imbalance and inequalities built into Canada’s migrant worker programs it is critical that we also reflect on why our current laws and policies are falling short.

We must urge our new government to adopt a human rights-based approach in their creation and restructuring of programs and policies. Entrenched inequalities, discriminatory practices and unjust power relations require attention and analysis for pro-active, effective measure to be implemented that prevent discrimination and avoid marginalization and social exclusion. Moving forward, we can learn from and build on Canadian and international best-practice models.

International Best Practice

Canada has not ratified the specific United Nations (UN) and International Labour Organization (ILO) conventions that speak to the detailed rights of migrant workers.¹⁵ Even so, these international best practice instruments, as well as policy documents such as the ILO’s *Multilateral Framework on Labour Migration*, identify systemic abuses migrant workers are commonly subject to and can provide us with a frame of reference on which to build our platform of decent work and ensure human rights for all migrant workers in BC.

In her recent report “Profiting from the Precarious: How Recruitment Practices Exploit Migrant Workers” Fay Faraday provides an excellent summary of seven key principles to govern transnational labour migration from which we borrow.

- 1. No Recruitment Fees** – Employers must cover the cost of recruitment. Migrant workers must not be charged recruitment fees, directly or indirectly.
- 2. Recruiters must be Licensed and Regulated** – Migrant worker recruitment must be proactively regulated. This includes strict controls on who may act as a recruiter, a standardized licensing program, require recruiters to pay a security deposit (funds to compensate workers for improper recruiter conduct), implement laws to assure accountability and provide migrant workers access to public employment services free of charge.

¹⁵ For example, the Migrant Workers Convention, 1990, and the Domestic Workers Convention, 2011.

- 3. Security of Workers' Property** – A migrant workers' identity, immigration and work documents (i.e: passport, visa, work permit) must not be confiscated or destroyed.
- 4. Security from Exploitation** – Migrant workers must receive protection from fraudulent practices, misinformation, forced labour, debt bondage and human trafficking.
- 5. Employer Registration and Proactive Supervision** – Create a government registry of workers contracts, dedicate the training and resources required to monitor working conditions and supervise contract compliance and extend inspections to all workplaces where migrant workers are employed.
- 6. Bilateral Agreements** – Bilateral agreements should oversee migration anywhere where large numbers of migrant workers move from one country to another.
- 7. Multilateral Cooperation** – In order to protect migrant workers through their labour migration journey multilateral cooperation is crucial. This includes state-to-state cooperation and information sharing and government support for transnational networking among workers' organizations and cooperation with their community and grassroots partners.

The Manitoba Model – Proactive Enforcement

In Canada, the province of Manitoba led the way towards a best-practice model back in 2008 with the introduction of its *Worker Recruitment and Protection Act* (WRAPA). The WRAPA is a pro-

“The most significant shift must come from leveraging the federal and provincial governments’ power to pursue proactive regulation and supervision of recruiters and employers. The goal should be to eradicate exploitative practices pre-emptively so that a worker *begins* an employment relationship in a position of security” (Faraday, *Profiting from the Precarious* 2014, pg. 39).

active piece of legislation that applies to all migrant workers. It adopts many of the best practices identified by the abovementioned international human rights-based framework and compels employers and recruiters to be accountable for their actions.

Reflecting on the temporary foreign worker rights house exercise described earlier, Manitoba provides its architects with the construction materials needed to build a safe home on a strong foundation. WRAPA is based on proactive regulation and supervision, mandating registration of employers and licensing of recruiters. The main goals of WRAPA are to prohibit foreign worker recruiters from charging, directly or indirectly, a fee for finding employment, prohibit employers from directly or indirectly recovering costs associated with recruiting workers, and transferring

liability to employers and recruiters that are under its jurisdiction.¹⁶ Its Special Investigation Unit of Employment Standards proactively identifies and investigates possible violations relying on information and tips provided by the public. The unit also conducts targeted projects where they look at entire industries (i.e: restaurants, farms) to monitor levels of compliance.¹⁷

“The problem is that we got a lot of recommendation to respect the contract, and the government, employer everyone is checking we fulfill our duties, but who supervise the employers respect the contract?” (Conversation with a farm worker in Kelowna).

The provinces of Nova Scotia and Saskatchewan studied WRAPA and in 2013 introduced their own proactive models that build on Manitoba’s platform. For instance, both provinces provide enhanced protection by legislating that

illegal recruitment fees can be recovered either from the licensed recruiter who charged the fees or *from the employer* if an unlicensed recruiter was used and collect information on the recruiters supply chain both inside and outside Canada. Saskatchewan goes a step further yet making recruiters liable for actions of actors in their supply chain.¹⁸ Such legislation, followed up by effective enforcement, incentivizes recruiters and employers to respect migrant workers’ rights and inform themselves of their legal obligations.

Comparison of Provincial Legislation on Recruitment

	British Columbia	Manitoba	Nova Scotia	Saskatchewan
Recruitment Fees				
• no recruitment fees	✓	✓	✓	✓
• employer prohibited from recovering recruitment cost from employee	✓	✓ (some exceptions)	✓	✓

¹⁶ Short, Jay, Manitoba Employment Standards - Manager of Special Investigations power point presentation slides “Manitoba Employment Standards: Protecting Temporary Foreign Workers (TFWs)” <http://www.ciso.gc.ca/wordpress/wp-content/uploads/Presentation-Jay-Short.pdf> (last accessed on 24 November 2015).
¹⁷ Manitoba Employment Standards website https://www.gov.mb.ca/labour/standards/special_investigations_unit.html (last accessed on 24 November 2015).
¹⁸ Faraday, Fay. *Profiting from the Precarious: how recruitment practices exploit migrant workers.* (Summary Report) Metcalf Foundation. 2014, pp 39, 46-47.

• employer liable for fees charged by unlicensed recruiter			✓	✓
Proactive Recruiter Licensing		✓	✓	✓
• restricted pool of persons eligible to act as recruiters		✓	✓	
• mandatory recruiter licensing	✓ (Not pro-active)	✓	✓ (NOC B, C and D jobs only)	✓
• public recruiter registry		✓	✓	✓
• security deposit		✓	✓	✓
• mandatory reporting of information about recruiter supply chain in Canada			✓	✓
• mandatory reporting of information about recruiter supply chain outside Canada			✓	✓
• recruiter liable for actions of actors in the recruiter's supply chain				✓
• mandatory reporting of recruiter's financial information inside and outside Canada		✓	✓	✓
• mandatory record keeping re migrant worker recruiter and employer for whom recruited	✓ (Not pro-active)	✓	✓	✓
Proactive Employer Registration		✓	✓	✓
• mandatory employer registration	✓ (Not pro-active)	✓	✓	✓
• public employer registry				✓
• employer liable if uses unlicensed recruiter		✓	✓	✓

• mandatory filing of information on migrant workers hired and work to be performed		✓	✓	
• mandatory record keeping re migrant worker contracts		✓	✓	✓
• mandatory record keeping re use of recruiters		✓	✓	✓

This chart is an adaptation of a chart found in Fay Faraday's report "*Profiting from the Precarious: how recruitment practices exploit migrant workers*" (Summary Report) Metcalf Foundation. 2014, pg. 46-47.

Conclusion

This report presents the findings of the West Coast Domestic Workers' Association's research on unjust recruitment practices of migrant workers in British Columbia. The organization aims to use the report's recommendations as a blueprint for a new working group that puts migrant workers at the centre and will work together to implement the strategies discussed. The solution to unjust recruitment of migrant workers lies in law and policy reform in tandem with providing meaningful access to services and information on migrant workers' rights.

This work was carried out with the aid of a grant from Freedonia.