

Canadian Hegemony in the Continental Periphery
**An Analysis of the Role of the Canadian State in the Seasonal
Agricultural Workers Program**

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INTRODUCTION

With the current debates over Mexican immigration to the United States, the movement of labour within North America has become a hotly contested issue. However, while strategies for dealing with the movement of Mexican labour into the United States are being widely discussed and debated, comparatively little attention is being paid to Canada's management of Mexican migrant labour. Bringing together work by sociologists, lawyers, and civil society organizations, this paper seeks to engage directly and critically with the question of Mexican migrant labour in Canada. In particular, it will provide an in-depth analysis of the Seasonal Agricultural Workers Program (SAWP), an arrangement created in 1966 which now brings approximately 20,000 migrant farm workers to Canada from the Caribbean and Mexico every year. Because our focus here is in on North American integration and because approximately half of the workers in the program are from Mexico (a proportion that is steadily increasing), this paper will focus on the Mexican workers.

The SAWP is a particularly interesting case in the study of North American integration. As I will argue in this paper, it presents us with a rare case of Canadian hegemony. Because the SAWP is part of a bilateral arrangement between Canada and Mexico and a rare example of a program that exists between the two peripheral states in North America, the Canadian state has been able to retain a substantial degree of policy autonomy. Canada has proven extremely effective at setting the terms of the SAWP agreement to suit its own needs and has retained a substantial amount of power relative to the Mexican state. As is demonstrated during the course of this paper, the Canadian state's management of the SAWP has also been relatively resilient to supranational pressures such as international legal instruments and the labour provisions of NAFTA, as well as to the challenges posed by civil society groups.

An in-depth and critical analysis of the SAWP is also particularly timely, as the United States is now considering a temporary worker program as a means of combating illegal immigration from Mexico.¹ At a more theoretical level, this case reminds us that the conventional narratives of the decline of the Canadian state in the face of pressures from globalization and North American integration do not apply to all policy areas. The control of labour migration remains an area in which the Canadian state is comparatively strong.

This paper will proceed in four parts. First, it will consider the origins and development of the SAWP, with a particular focus on how the problems associated with finding a 'reliable' workforce shaped the creation of a heavily state-controlled program for the recruitment of foreign agricultural labour. Second, it will analyze the institutional structure of the SAWP. The roles of Canada and Mexico, the bypassing of international and regional labour laws and agreements, and the 'entrepreneurial' role of the Canadian state will receive substantive attention. Third, the paper will explore the economic features of the SAWP, with a particular focus on the importation of foreign agricultural labour as a strategy of global competition, the mechanisms in the SAWP that are designed to ensure the 'unfreedom' of the workers, and the role of civil society in

¹ See, for instance: George W. Bush, "President Bush Proposes New Temporary Worker Program," Remarks by the President on Immigration Policy (January 7, 2004), accessed: May 13, 2006, available: <www.whitehouse.gov>; CNN, "Bush pushes guest-worker program" (March 31, 2006), accessed: May 13, 2005, available: <www.cnn.com>.

mitigating the vulnerability of migrant labourers. Finally, it will consider the ideational and social processes of exclusion that are created and reinforced by the SAWP.

THE ORIGINS AND DEVELOPMENT OF THE SEASONAL AGRICULTURAL WORKERS PROGRAM

The origins of the SAWP lie in broad socioeconomic changes that altered the Canadian labour market in the postwar era. Prior to World War II, most farms were owned and operated by families. Family members provided much of the needed labour and outside wage workers were hired as needed. However, the postwar era witnessed increasing farm consolidation and a decrease in the size of farmers' families. In addition, industrial expansion led to an outflow of agricultural labour to other sectors of the Canadian economy.² While in 1941, 28.9 percent of the Canadian labour force worked in the agricultural sector, this proportion had dropped to 7.6 percent by 1966.³ On the surface, it appears that this decline can be attributed to growing wage differentials. For instance, in 1949, the average agricultural worker earned \$85 per month, while the average worker in all other industries earned a monthly wage of \$172.⁴ Farmers and agricultural advocates argued that they were not in a position to substantially increase wages because they were facing a 'cost-price squeeze'—a situation in which the cost of inputs was rising at a greater rate than the price consumers paid for agricultural outputs.⁵ However, this situation was more characteristic of some agricultural sectors than it was of others.⁶ The more enduring problem would prove to be retaining a 'reliable' seasonal agricultural workforce.

The Canadian government initially responded to farmers' needs by drawing on various captive or vulnerable groups as agricultural labour. As Veena Verma explains,

children, Aboriginal peoples, the urban unemployed, and convict labour in Quebec were all recruited or targeted to meet the labour demand. During the Second World War, the federal government also supplied to growers German prisoners of war, Japanese Canadian internees, and conscientious objectors, predominantly Doukhobors and Mennonites.⁷

² Tanya Basok, *Tortillas and Tomatoes: Transmigrant Mexican Harvesters in Canada* (Montreal and Kingston: McGill-Queen's University Press, 2002), pp. 25-29.

³ Veena Verma, *The Mexican and Caribbean Seasonal Agricultural Workers Program: Regulatory and Policy Framework, Farm Industry Level Employment Practices, and the Future of the Program Under Unionization*, Report to the North-South Institute (Ottawa: North-South Institute, 2003), p. 5.

⁴ Verma, 2003, p. 6.

⁵ The cost-price squeeze affected small family farms much more strongly than their large consolidated counterparts. Indeed, the cost-price squeeze is widely cited as one of the factors that drove the trend toward farm consolidation in Canada. See: Anthony Winson, *The Intimate Commodity: Food and the Development of the Agro-Industrial Complex in Canada* (Aurora: Garamond Press, 1992).

⁶ Tanya Basok points out that arguments about the 'cost-price squeeze' and the vulnerability of family farming "ignore the fact that some agricultural sectors are not vulnerable but have enjoyed stability and growth. The greenhouse sector is one of them." See: Basok, 2002, p. 17.

⁷ Verma, 2003, pp. 5-6. See also: Vic Satzewich, *Racism and the Incorporation of Foreign Labour* (London and New York: Routledge, 1991).

After the war, Polish veterans and Eastern European displaced persons were granted temporary entry and the future potential for citizenship and the right to permanent settlement, respectively, in return for agreement to remain in agricultural employment for a fixed period of time. Dutch immigrants were also channeled into agricultural labour, however farm work was not a requirement for their admission to Canada.⁸ Yet, these strategies did not provide a long-term solution to the problem. After they had completed their mandatory terms, Poles and displaced persons generally left the agricultural sector for better paying jobs elsewhere and many Dutch immigrants became farmers in their own right.

The demand for agricultural labour therefore persisted because growers had difficulty retaining 'reliable' workers. This problem was particularly acute in the horticultural sector, in which the production of crops such as vegetables, fruits and tobacco continues to be labour-intensive. Even workers willing to remain in the agricultural sector often have outside obligations that take them away from their work. Yet, as Tanya Basok explains, "during the harvest season, the crops cannot wait for the workers to return to work. When it is very hot, much of the harvest can be lost if workers do not show up; the growers need their workers to be available when the produce is ripe."⁹ Foreign workers, with no social or family ties in Canada and restricted labour market mobility came to be seen as a viable solution to this problem.

In the 1950s and 1960s, growers pressured the government to allow the entry of seasonal agricultural workers from the Caribbean. However, the Government of Canada initially resisted this lobbying effort, in part because of blatantly racist concerns about an influx of 'undesirable' migrants. Prior to the 'deracialization'¹⁰ of Canada's immigration policy in 1962, there were three dominant arguments offered by government officials to justify immigration restrictions that excluded people of colour. First, officials argued that people of colour could not adjust to the Canadian climate and would therefore not be good workers. Second, it was argued that people of colour could not be assimilated into a predominantly white Canadian society and would be incapable of cultural and economic adjustments. Finally, officials were concerned that the admission of people of colour would lead to the kinds of 'race relations' problems that were seen to exist in the United States and Britain at that time.¹¹ A 1958 statement by the Director of the Immigration Branch of the Department of Citizenship and Immigration provides an example of some of these arguments:

It is not by accident that coloured British subjects other than negligible numbers from the United Kingdom are excluded from Canada...They do not assimilate readily and pretty much vegetate to a low standard of living. Despite what has been said to the contrary, many cannot adapt themselves to our climatic conditions.¹²

⁸ Verma, 2003, pp. 6-7.

⁹ Basok, 20003, p. 17.

¹⁰ Following Vic Satzewich, I use this term to refer to the changes that occurred in Canadian immigration policy that ended official discrimination of immigrants based on race.

¹¹ Vic Satzewich, "Racism and Canadian Immigration Policy: The Government's View of Caribbean Migration, 1962-1966," *Canadian Ethnic Studies* 21(1) (1989), p. 79.

¹² Memo from the Director of Immigration to the Deputy Minister of Immigration, Department of Citizenship and Immigration (January 14, 1958), as quoted in Satzewich, 1989, p. 77.

In part as a result of these concerns, the Government of Canada initially proved reluctant to respond to growers' requests to allow entry to seasonal agricultural workers from the Caribbean, insisting instead that the "shortage of labour was a temporary problem and that it could be resolved if growers would offer better living conditions to their workers."¹³

However, as the labour shortage persisted and growers' demands grew stronger, the Government of Canada eventually consented to the organized importation of seasonal workers from the Caribbean in 1966. The Seasonal Agricultural Workers Program (SAWP) was structured both to meet the demands of growers and to respond to the concerns of the federal government. The fact that workers were imported on a seasonal, contract basis meant that growers were provided with the 'reliable' workforce they needed. Contracts bound workers to a single employer and eliminated the risk of workers being lured away by higher wages in other sectors. Seasonal workers could be imported for the periods in which they were required and returned home when they were no longer needed.

These contractual conditions also helped deal with many of the initial concerns of the Canadian government. While restriction of immigration based on race had officially been eliminated with changes to Canada's immigration policy in 1962, concerns about an influx of immigrants from minority groups, and particularly those from the newly independent Caribbean states, persisted. The restrictions on the labour market mobility of workers imported through the SAWP and the provision that these workers would not have access to citizenship rights meant that the agricultural labour shortage could be alleviated and the pressures to admit Caribbean workers responded to without leading to the perceived dangers of widespread black immigration to Canada. The Deputy Minister of Citizenship and Immigration in 1966 summarized the appeal of the program as follows:

Such a measure would not only meet the need of Canadian employers but it might also have a very real side effect of value to this Department. By admitting West Indian workers on a seasonal basis, it might be possible to reduce greatly the pressure on Canada to accept unskilled workers from the West Indies. Moreover, seasonal farmworkers would not have the privilege of sponsoring innumerable close relatives [for immigration to and settlement in Canada].¹⁴

The restrictions that were incorporated into the SAWP therefore proved appealing both to growers and to the Government of Canada.

Shortly after the 1966 introduction of the Caribbean SAWP, the Government of Canada began debating changes to its immigration policy that would eventually result in the 1974 Non-Immigrant Employment Authorization Program (NIEAP). The NIEAP established the legal category of 'foreign worker'—a non-citizen whose mobility can be

¹³ Basok, 2002, p. 32.

¹⁴ Memo from the Deputy Minister of the Department of Citizenship and Immigration (December 10, 1966), as quoted in V. Satzewich, "Rethinking Post-1945 Migration to Canada: Towards a Political Economy of Labour Migration," *International Migration* 28(3) (1990), p. 335.

restricted without violating the constitutional rights guaranteed to Canadian citizens.¹⁵ The NIEAP also expanded “the more limited policy of admitting people as temporary migrant workers within specific sectors of the labour market...[and] more efficiently recruited and monitored increasing numbers of people for a wide array of occupational ‘labour shortages’ in Canada.”¹⁶ The expanded SAWP, along with the Live-in Caregiver Program, has operated under the umbrella of the NIEAP since 1974.

After the creation of the Caribbean SAWP in 1966 and during the period in which the NIEAP was being designed, the SAWP was expanded to include several additional Commonwealth Caribbean countries and Mexico. Prior to the expansion of the program to include Mexico, farmers had been importing Mexican Mennonite workers to Ontario through paid brokers. Many workers came with their families and their children were often put to work on Ontario farms. Concerned with this situation, the Department of Manpower and Immigration called a special task force to examine the conditions under which these labourers worked and lived. The task force’s report concluded that the workers were exploited and kept in deplorable conditions. Accordingly, the task force recommended a formal agreement with Mexico similar to that which existed between Canada and several Caribbean countries.¹⁷

As a result of this expansion and increasing demands for agricultural labour, a program which in its first year admitted 264 Jamaican workers now admits close to 20,000 workers annually from Mexico and the Caribbean. Over 85 percent of these workers are employed in Ontario and are concentrated in areas that specialize in fruit, vegetable and tobacco production.¹⁸ Mexican participation in the program has grown steadily over the years. While Mexicans accounted for only 22 percent of SAWP arrivals in 1987, they now comprise close of half of all arrivals.¹⁹ More than 98 percent of these arrivals are men.²⁰ The continued demand for foreign agricultural labour may initially seem surprising, given the trend toward mechanization of farm operations. However, this demand can be explained mostly by the fact that labour-saving technology yields limited gains in the horticultural sector, which absorbs approximately half of the SAWP workers in Ontario. Manual labour is still required for crops such as tomatoes, peppers, cucumbers, apples, and tobacco.²¹ These are the crops in which Mexican and Caribbean seasonal agricultural workers tend to be concentrated.

In sum, the SAWP was created in an attempt to meet growers’ demands for a ‘reliable’ agricultural workforce and to respond to the Government of Canada’s concerns about the effects of migration from countries in the global South. The program brought the process of foreign labour recruitment, which had previously taken place on an ad hoc

¹⁵ Nandita Sharma, *Home Economics: Nationalism and the Making of ‘Migrant Workers’ in Canada* (Toronto: University of Toronto, 2006), p. 19.

¹⁶ Sharma, 2006, p. 91.

¹⁷ Basok, 2002, p. 33.

¹⁸ These areas include: “north shore of Lake Erie, at the west end of Lake Ontario, and within the major tobacco growing region of Norfolk Sand Plain. Other areas, such as York and Simcoe Counties and the north shore of Lake Ontario, particularly Prince Edward country, are also associated with the concentration of seasonal farm employment.” See: Basok, 2002, p. 27.

¹⁹ Basok, 2002, p. 33; Foreign Agricultural Resource Management Services (FARMS), FARMS website (n.d.), accessed: April 15, 2006, < <http://www.farmsontario.ca>>.

²⁰ FARMS, n.d.

²¹ Basok, 2002, pp. 26-7.

basis, under firm state control and regulation. As the following section will demonstrate, the institutional structure of the SAWP has served to reinforce the Canadian state's role in shaping the labour migration process to suit its own material needs, as well as those of agricultural capital interests.

INSTITUTIONAL MECHANISMS

This section will briefly outline the institutional and administrative roles that Canada and Mexico assume in the operation of the SAWP. It will then consider the ways in which the Canadian state has effectively kept transnational agricultural labour migration a domestic issue. Finally, it will conclude by exploring the extent to which the institutional structure of the SAWP represents an 'entrepreneurial' response to processes of globalization by the Canadian state.

Roles and Responsibilities in the Administration of the SAWP

The wheels of the SAWP's labour recruitment process are set in motion in Canada. The country's growers assess their labour requirements and communicate this information to their local Human Resources and Skills Development Canada (HRSDC) office at least eight weeks prior to the beginning of the employment period. HRSDC then determines "whether the grower has adequately demonstrated that efforts to find a Canadian worker were not successful, and hiring a foreign worker will not adversely affect employment or career opportunities of Canadian citizens and permanent residents."²² HRSDC may also accept requests on the part of growers to 'name' workers—that is, to request workers with whom the grower has had previous experience. Requests for 'named' workers are processed on a priority basis. After the HRSDC approves a grower's request for foreign labour, this information is transferred to Foreign Agriculture Resource Management Services (FARMS), a grower-run, user-fee funded organization to which many of the administrative functions of the SAWP were transferred in 1987. FARMS notifies Mexican officials at that country's Ministry of Labor of growers' labour requirements and makes travel arrangements for the transportation of workers to and from Canada. The Canadian Embassy in Mexico aids Mexican officials in the recruitment process and reviews relevant documentation on all workers before issuing a work permit.²³ Canadian growers are responsible for the transportation of foreign workers to and from their place of origin and the farm. However, these expenses may be partially recuperated through deductions from the workers' pay. Other deductions include contributions to the Canada Pension Plan, Employment Insurance, and workers' compensation.²⁴ Growers are also responsible for providing workers with free housing and paying them the prevailing rates for their labour.²⁵ Finally, Canada's provincial governments are responsible for ensuring that the

²² Verma, 2003, p. 43.

²³ Verma, 2003, p. 44.

²⁴ Kerry Preibisch points to a 2003 study by Stevens Associates that reports that in 2001, the Government of Canada collected \$9.5 million in income taxes, \$3.4 million in EI deductions and \$6.0 million in CPP deductions from seasonal migrant farmworkers. See: Kerry Preibisch, *Social Practices between Seasonal Agricultural Workers, their Employers and the Residents of Rural Ontario*, Report for the North-South Institute—Executive Summary (Ottawa: North-South Institute, 2003), p. 4.

²⁵ Basok, 2002, p. 38.

relevant labour, health, and employment statutes are upheld in the implementation of the SAWP.

Apart from recruiting workers, Mexican officials are responsible for a number of other administrative tasks in the operation of the SAWP. The Ministry of External relations documents the workers before they leave Mexico. In addition, Mexican consulates in Canada are responsible for all of the following: ensuring that the terms of the SAWP agreement are met, meeting workers at the airport, informing workers of their rights and responsibilities, delivering workers to growers or their representatives at the airport, inspecting the living and working conditions on the farms and proposing strategies for their improvement, dealing with workers requests and participating in the dispute resolution process, and informing the “[Mexican] Ministry of External Relations and Canadian authorities with respect to the arrival, transfer, and return of workers, as well as with respect to any break-ups of contracts that may occur.”²⁶

Several features of this institutional role structure serve to reinforce the power of the Canadian state relative to both domestic private interests and the Mexican state. Within Canada, while agricultural capital interests, via FARMS, play an important role in the administration of the program, the Canadian state ultimately retains a strong position relative to domestic agribusiness. Obviously, both the state and agricultural capital interests share certain basic objectives. Indeed, the creation of the SAWP and the NIEAP allowed the Canadian state to enjoy considerable support from agricultural capital interests who, with their needs for reliable labour met, were more likely to invest the state with a degree of legitimacy required for its continued strength.²⁷ At the level of the ultimate institutional control of the SAWP, however, the Canadian state remains paramount. Despite the 1987 decentralization of administrative authority to FARMS, this grower organization remains fully accountable to and is even managed by HRSDC. As Verma accurately observes, “private actors and any role they may have in the [SAWP] are defined and regulated by government.”²⁸

The Canadian state is also in a dominant position relative to Mexico, whose powers to enforce those portions of the SAWP agreement designed to protect workers’ rights are limited.²⁹ While Mexican consular officials are tasked with monitoring living and working conditions on farms, the consulates do not tend to have sufficient staff to carry out this function. For instance, “there were 7,633 Mexican workers under the [SAWP] in Ontario for 2002, and only five Mexican officers and some volunteers to service them.”³⁰ Understaffing, combined with the distance between Mexican consulates and many of the farms on which migrant labourers work, have historically made it difficult for Mexican officials to carry out their role under the SAWP. However, there has been some effort to deal with these problems. In 2005, a Mexican consulate opened in Leamington, Ontario, with the primary purpose of providing help and support to the

²⁶ Basok, 2002, p. 39.

²⁷ Nandita Sharma, “Race, Class, Gender and the Making of Difference: The Social Organization of ‘Migrant Workers’ in Canada,” *Atlantis: A Women’s Studies Journal* 24(2) (2000), pp. 5-15.

²⁸ Verma, 2003, p. iv.

²⁹ David Griffith, *The Canadian and United States Migrant Agricultural Workers Programs: Parallels and Divergence Between two North American Seasonal Migrant Agricultural Labor Markets with Respect to ‘Best Practices’* (Ottawa: North-South Institute, 2003), p. 39.

³⁰ Verma, 2003, p. 48.

many migrant labourers in this area. Whether this trend of opening additional consulates will continue in areas in which migrant workers are concentrated remains to be seen.

Another area in which Mexican consular officials have found it difficult to fulfill their institutional role is that of dispute resolution. Mexican consular officials are assigned the bulk of the responsibility for resolving any disputes that arise between workers and growers. They are not merely responsible for representing workers; they must also act as mediators and arbiters. In addition, Mexican officials also represent the interests of the growers insofar as part of the former's job is to prevent the escalation of disputes and help to repatriate 'troublesome' workers, if such an action is deemed necessary.³¹ These overlapping roles make it difficult for Mexican officials to exercise those powers and responsibilities that would help to decrease the vulnerability of Mexican migrant labourers. Yet, as will be demonstrated later in this paper, it is precisely this vulnerability that makes Mexican workers an effective cheap labour strategy for the Canada.

The 'Domestication' of International Migration

Another way in which the Canadian state has maintained a hegemonic role in managing seasonal labour migration from Mexico has been through the by-passing of international legal and regulatory mechanisms, effectively bringing international migration solely under domestic control. One way in which this is done is through the structure of the SAWP agreements. The bilateral agreements between Canada and migrant-sending countries that underpin the SAWP are Memoranda of Understanding (MOUs). In the agreement with Mexico, Canada's Minister of HRSDC and Mexico's Secretary of External Relations are the country representatives and signatories of the MOU. Because the MOU is an 'intergovernmental administrative arrangement' and not an international treaty, it is not subject to the international law pertaining to treaties—the *Vienna Convention on the Law of Treaties*. As Verma explains,

The state parties participating in the [SAWP] have explicitly acknowledged that there is no intent to characterize the MOU as a binding treaty and, therefore, they are not bound by the requirements of the Vienna Convention. The language of the MOU also attempts to avoid any other alternative legally binding characterization, such as contract or international agreement, by calling the MOU an 'administrative arrangement.' The characterization of the MOU as determined by the state parties allows for more flexible and informal interaction between the parties. However, it also undermines the document as an enforceable instrument, and creates ambiguity as to the legal consequences should a party breach or violate a provision of the MOU itself or any of the provisions in the attachments.³²

The decisions of the Canadian state with reference to migrant agricultural workers may only be reviewed under instruments of domestic law such as the Canadian Charter of

³¹ Verma, 2003, pp. 49-50.

³² Verma, 2003, p. 14.

Rights and Freedoms and “general principles of administrative law.”³³ The structure of the bilateral agreement between Canada and Mexico has therefore effectively rendered an international agreement exempt from international law and has left substantial power in the hands of the Canadian state and its domestic legal system. Yet, as will be demonstrated later in the paper, efforts to strengthen migrant worker rights via domestic instruments have proven difficult.

The power of the Canadian state is reinforced by the weakness of the provisions in NAFTA and its labour side agreement. While NAFTA established an extensive set of rules concerning international trade and the movement of skilled professionals within North America, it did not lay out any procedures for regulating the transnational movement of unskilled labourers. In response to vocal agitation on the part of NAFTA opponents concerned about workers’ rights and the potential for the movement of Canadian and US jobs to Mexico, a labour side agreement was negotiated and the North American Agreement on Labor Cooperation (NAALC) was born. While the NAALC contains provisions which seem to establish standards for the treatment of non-professional migrants within North America, it has proven ineffective at shaping or limiting the power of the Canadian state with regard to Mexican migrant workers.

There are several reasons for the ineffectiveness of the NAALC in this regard. First, while the NAALC is ostensibly aimed at protecting the basic rights of workers within North America, the document ultimately suggests that the labour principles it aims to establish are no more than “guiding principles that the Parties committed to promote, subject to each Party’s domestic law” and they “do not establish common minimum standards for their domestic law.”³⁴ Each North American state is left to determine its own labour standards and there is little potential for change available through the NAALC. Second, due to Canada’s federal structure, only those sectors of the labour market that fall within federal jurisdiction are bound by the NAALC.³⁵ In order for provinces to be bound by the NAALC, they would have to explicitly opt in to the agreement and, in the case of a specific industry, “fifty-five percent of the workers in this industry must be employed in provinces that have opted in.”³⁶ As Rachel Li Wai Suen explains, “like many other industries, agricultural labor falls under provincial jurisdiction. Thus, both citizen and foreign agricultural workers have not even a chance of protection under this regional instrument, and Canada is provided with a convenient escape from the substance of the NAALC.”³⁷ Basic labour rights established in the NAALC, such as the right to collective bargaining, do not exist for agricultural workers in Ontario and several other provinces and the regional agreement provides no tools for remedying this situation. Finally, even if the rights of migrant agricultural workers could be addressed via the NAALC, the instrument’s weak enforcement procedures would hamper such an effort. A complaint made under the NAALC “can only allege that a country is failing to uphold its own labor laws. Therefore, there must exist domestic labor standards first; no complaint can be brought on the basis that the country is violating one of the basic labor

³³ Verma, 2003, p. 5.

³⁴ North American Agreement on Labor Cooperation, Annex 1: Labor Principles.

³⁵ North American Agreement on Labor Cooperation, Annex 46: Extent of Obligations.

³⁶ Rachel Li Wai Suen, “Your Sure Know How to Pick ‘Em: Human Rights and Migrant Farm Workers in Canada,” *Georgetown Immigration Law Journal* 15 (2001), p. 213.

³⁷ Suen, 2001, p. 213.

principles set out, for instance, in Annex 1 of the NAALC.”³⁸ Thus, the NAALC does not effectively regulate or constrain the power of the Canadian state to deal with Mexican migrant workers on its own terms.

Another set of international instruments that would seem initially to provide a potential constraint on the power of the Canadian state is the body of international conventions dealing with the rights of migrant workers. There are four important International Labor Organization (ILO) conventions and one primary UN convention—the Convention on the Protection of the Rights of Migrant Workers and Members of their Families—that deal with migrant worker rights. So far, Canada has not ratified any of these conventions. If Canada were to ratify these conventions, two important aspects of the SAWP that currently work to maintain the vulnerability of Mexican migrant workers—the denial of a right to collective bargaining and the inability to circulate in the labour market—would be in violation of the country’s international legal obligations.³⁹ However, given that seasonal agricultural labourers are valued by growers precisely because they cannot offer their labour elsewhere and are unlikely to refuse the working conditions established by their employers, it seems unlikely that Canada would want to be bound by the ILO and UN conventions pertaining to migrant workers. Ultimately, the structure of the MOU that underpins the SAWP, the ineffectiveness of the NAALC, and the failure of Canada to ratify international conventions on migrant worker rights serve to reinforce the domestic regulatory power of the Canadian state and effectively make an international issue subject to complete domestic control.

The Canadian State as a Globalization Entrepreneur

At a more conceptual level, the structure of the SAWP represents an interesting (and perhaps rare) example of the power of the Canadian state being exerted in such a way as to structure a global process to meet its own material needs. Much of the debate on globalization and North American integration in Canada has focused on the erosion of the state and its policy-making autonomy in the face of global and regional pressures. However, in this case, Canada has been able to maintain a significant degree of control over the relevant transnational processes. This case serves as an important reminder that the effects of globalization and North American integration on Canadian autonomy have not been as uniform as some suggest, but rather have affected various sectors differently. Globalization and regionalization processes therefore been:

heterogeneous, weakening the state’s position in some areas while allowing the state to retain its control in others...In a world in which state sovereignty has been partially undermined by the mobility of national capital [...], the state becomes even more intrusive in those areas where its autonomy has not yet been eroded. While dismantling the barriers that limit the ability of capital to cross international borders, states have erected even higher walls to prevent the mobility of labour.⁴⁰

³⁸ Suen, 2001, p. 214.

³⁹ Verma, 2003, p. 86.

⁴⁰ Tanya Basok, “Refugee Policy: Globalization, Radical Challenge, or State Control?” *Studies in Political Economy* 50 (1996), p. 136.

With regard to the control of migrant labour, the Canadian state remains a powerful actor, engaging with global and regional processes by reasserting its own powers.

This situation is not unusual in the area of labour migration. While most industrialized migrant-receiving states have sacrificed a portion of their sovereignty and increased their rates of immigrant naturalization⁴¹, they have simultaneously retained and developed institutional tools to control labour migration to suit their needs. Most fundamentally, the state retains the power to withhold citizenship status and to set the conditions of entry and residence for foreigners in its territory. In addition, the rise of state-supported and –regulated contract labour programs, such as the USA’s H2A program, Western Europe’s ‘guest-worker’ programs and the Canadian SAWP, represent strong institutional responses on the part of migrant-receiving countries. Ranging in character from programs designed to recruit knowledge sector professionals to those geared toward the importation of temporary, low-skilled agricultural workers, these arrangements have become a common institutional mechanism with which to regulate labour migration. They also represent a regulatory response designed to stem the tide of illegal cross-border migration, particularly to the United States. Migrant-receiving states have therefore demonstrated a remarkable capacity to assert state power in an effort to control global migratory processes.⁴²

The ultimate manifestation of this institutional control in the case of Canada’s SAWP is the contract under which migrant labourers work. On the surface, the agreement appears to be a standard contract, outlining the responsibilities of the employer and employee in terms of lodging, maintenance of health and safety standards, meal provision, wages, and hours to be worked. However, there are two elements of the contract that are particularly indicative of the state-controlled and rigid system in which workers operate. First, labourers must work for a single employer and cannot circulate in the labour market. The unauthorized transfer of a worker from one employer to another is grounds for immediate repatriation. Second, workers must return home promptly at the end of their terms of employment and cannot seek citizenship or residency status. In this way, the SAWP differs from the Live-in Caregiver Program, the other labour migration program operating under the umbrella of the NIEAP. As Verma explains, workers in the Live-in Caregiver Program “are eligible to apply for permanent residency status after working for two years as a live-in caregiver without having to meet the usual immigration criteria.”⁴³ However, as outlined above, the very fact that SAWP workers are denied citizenship rights or the ability to circulate in the labour market is what makes growers able to retain these labourers as part of a ‘reliable’ agricultural workforce.

The contract reinforces the rigidity of other relevant institutions. B. Singh Bolaria captures the interconnectedness of these mechanisms when he explains:

⁴¹ Stephen Castles, *Ethnicity and Globalization: From Migrant Worker to Transnational Citizen* (London: Sage, 2002).

⁴² It should also be noted that migrant-sending countries have also developed institutional mechanisms to promote the movement of their national to other countries for employment. Many migrant-sending states have created institutional structures to advertise their workers to industrial states suffering from sectoral labour shortages and to facilitate the transmission of remittances from nationals abroad to their families at home.

⁴³ Verma, 2003, p. 40.

In addition to their temporary status in this country as migrant workers, these workers have other constraints imposed by restrictive state-administered contractual obligations which ‘tie’ them to a particular job. Therefore, the compliance and vulnerability of migrant workers is achieved through the control of political boundaries, immigration laws, and contractual obligations.⁴⁴

The contract, along with the other institutional features of the SAWP discussed above, thus creates a rigid institutional structure oriented toward controlling the flow of migrant labourers to meet the material demands of the Canadian state.

ECONOMIC STRUCTURES

An equally controlled and regulated economic environment supports this rigid institutional structure. This section will discuss the economic environment in which the SAWP operates. It will begin by briefly establishing the links between the structural necessity of migrant labour and Canada’s strategy of global competition. It will then explore the importance of the ‘unfreedom’ of migrant workers to the operation of the SAWP. Finally, it will discuss the role of civil society in mitigating the vulnerability of migrant labourers and assess the success of these efforts.

Migrant Labour and Global Competition

The economic environment in which the SAWP operates is largely characterized by a strategy of global competition that relies on the reproduction of a labour force whose vulnerability contributes to the ability of Canadian agricultural producers to compete in international markets.⁴⁵ As Ann Weston and Luigi Scarpa de Masellis explain, “employers consider foreign seasonal agricultural workers to be the linchpin for keeping the Canadian horticultural sector internationally competitive.”⁴⁶ The necessity of these workers is evident when one considers the centrality of agriculture to the Canadian economy. The agriculture and agri-food industry accounted for 8.3 percent of Canada’s gross domestic product (GDP) in 2003. Agriculture and agri-food exports have expanded substantially since the inception of the SAWP and in 2003 were valued at \$24.4 billion.⁴⁷ The most notable increases over this time have occurred in the horticultural crops that are heavily dependent on migrant agricultural labour. For instance, within the last decade, Canada has substantially increased its export of tomatoes and cucumbers, destined

⁴⁴ B. Singh Bolaria, “Farm Labour, Work Conditions, and Health Risks, in D.A. Hay and G.S. Basran (eds.) *Rural Sociology in Canada* (Toronto: Oxford University Press, 1992), p. 231.

⁴⁵ Nandita Sharma, “On Being Not Canadian: The Social Organization of ‘Migrant Workers’ in Canada,” *The Canadian Review of Sociology and Anthropology* 38(4) (2001), pp. 415-439; Josephine Smart, “Borrowed Men on Borrowed Time: Globalization, Labour Migration and Local Economies in Alberta,” *Canadian Journal of Regional Science* 20(12) (1998), pp. 141-156.

⁴⁶ Ann Weston and Luigi Scarpa de Masellis, *Hemispheric Integration and Trade Relations—Implications for Canada’s Seasonal Agricultural Workers Program*, Report for the North-South Institute—Executive Summary (Ottawa: North-South Institute, 2003), p. 4.

⁴⁷ Agriculture and Agri-Food Canada, *An Overview of the Canadian Agriculture and Agri-Food System* (Ottawa: Queen’s Printers, 2005), pp. 6, 12.

primarily for the United States and Mexico.⁴⁸ Overall, Canada's agriculture and agri-food exports to the United States and Mexico have experienced three- and nine-fold increases, respectively.⁴⁹ While the total number of Canadian employees in sectors using SAWP labour declined by more than 27 percent between 1983 and 2000, the number of SAWP workers increased by 72 percent in the same period.⁵⁰ Migrant workers are therefore a crucial structural component of Canada's outward-looking agricultural sector.

Canada's strategy for remaining internationally competitive in the export of agricultural products is premised on the importation of a flexible and temporary migrant labour force that can be exploited as needed. This strategy represents an important reorientation of the Canadian state's economic structures in order to "attract and/or retain...investment in its territory"⁵¹ in the face of an increasing number of transborder capital movements. Because migrant workers are classified as temporary and cannot gain access to citizenship rights, the state is not required to expend substantial social welfare resources on them. For instance, while migrant workers receive deductions for Employment Insurance (EI) on their pay cheques, they are not permitted to collect EI because they lack citizenship status. Verma notes that while "the federal government rationalizes the deduction [for EI] because it is the work that is insurable and not the worker," further examination "of the Employment Insurance Act reveals that this rationale is inconsistent with the broader policy purpose of the EI Act which is to provide temporary income for workers who are unemployed not at the fault of the worker."⁵² Nevertheless, it is precisely this kind of exclusion on the basis of citizenship status that allows the Canadian state to gain the labour necessary to keep its agricultural sector competitive without a substantial erosion of its own material power.

Migrant Worker Unfreedom and Compliance

The primary feature of the economic structure of the SAWP is the unfreedom of the migrant workers. The manifestation of this lack of freedom is the workers' inability to circulate in the labour market.⁵³ As previously discussed, this unfreedom makes migrant agricultural workers more reliable than their free Canadian counterparts. A further constraint on migrant workers is their inability to decline the demands of their employers. While they possess the legal right to challenge the conditions of their employment, "economic pressures that force them to accept seasonal contracts in a foreign country, combined with the mechanisms of control inherent in a government-regulated recruitment program, make them more willing to accept their conditions of unfreedom."⁵⁴ The inability of workers to question the conditions of their employment is further exacerbated by the absence of any mechanism for independent dispute resolution. Rather, there is "an informal mechanism...whereby employers and [Mexican] government agents exercise discretion in determining whether there is a breach of the

⁴⁸ In fact, in the last decade, Canada has gone from being a net importer to a net exporter of tomatoes. See: Weston and Masellis, 2003, p. 3.

⁴⁹ Agriculture and Agri-Food Canada, 2005, p. 17.

⁵⁰ Weston and Masellis, 2003, p. 4.

⁵¹ Sharma, 2000, p. 8.

⁵² Verma, 2003, pp. xi-xii.

⁵³ Robert Miles, *Capitalism and Unfree Labour: Anomaly or necessity?* (London: Tavistock Publications, 1987), pp. 32-33.

⁵⁴ Basok, 2002, p. 4.

Employment Agreement, and the remedy for either party is to remove the worker from the farm.”⁵⁵ In addition, as discussed above, Mexican officials perform three potentially conflicting roles in this process, as they are responsible for representing the interests of the worker and the employer, and acting as an ‘impartial’ mediator. Ultimately, workers do not have access to independent representation in the event of a disagreement between the Mexican officials and the worker over the disputed matter.

The imported workers, by virtue of their inability to offer their labour elsewhere in the Canadian economy, are bound to those sectors deemed by the state to require a ‘reliable’ labour force to remain globally competitive. A ‘Canadians first’ principle lies at the heart of the HRSDC’s policy statement on the SAWP. Employers must be able to demonstrate that the requested migrant labourers will not displace Canadian workers interested in pursuing agricultural labour.⁵⁶ The provisions of the SAWP contract also mean that foreign labourers cannot move into other sectors in which Canadian workers desire to compete. Indeed, the protection of domestic workers is a principle that lies at the heart of a perceived need to maintain an unfree labour force.⁵⁷ By managing the global process of migration in a way that meets the country’s material needs while not threatening domestic workers, the state is able to maintain the consent of the governed and legitimize its role as a manager of global economic processes.

In the absence of specific examples, however, the extent of the migrant workers’ unfreedom is difficult to grasp. The notion that a form of economic exploitation that is reminiscent of indentured labour exists within the supposedly enlightened context of postmodernity—and, further, that it would be used to support a strategy of competition geared toward the dictates of this very context—seems initially beyond belief. Understanding the unfreedom of migrant workers is further complicated by the fact that these labourers come to Canada voluntarily and earn wages that are often higher than those they would receive at home. For instance, in 2002 Mexican migrant agricultural workers earned a net average of \$9,100. Had these workers stayed in Mexico, they would have earned \$900 for comparable seasonal work. In addition, the average remittance to Mexico by seasonal workers in Canada was \$4,800 in 2002.⁵⁸ These figures would seem to suggest that seasonal labourers reap substantial benefits from their participation in the program and would have every reason to freely accept the conditions under which they work.

However, the constraints on seasonal workers are still significant. By institutionalizing relations of unfreedom in the workers’ contracts, the Canadian state effectively eliminates the power of workers to resist the conditions under which they work and live. Those who do are subject to early and often arbitrary repatriation without any formal right of appeal or ability to enforce their rights under the terms of their contract or Canadian law. For example,

⁵⁵ Verma, 2003, p. viii.

⁵⁶ Human Resources and Skills Development Canada (HRSDC), *Agricultural Programs and Services—Ontario Region* (2004), accessed: June 10, 2004, available: <<http://www.hrsdc.gc.ca/asp/gateway.asp?hr=en/on/epb/agri/agri.shtml&hs=on0>>.

⁵⁷ Monica Boyd, Chris Taylor, and Paul Delaney, “Temporary Workers in Canada: A Multifaceted Program,” *International Migration Review* 20(4) (1986), pp. 929-950.

⁵⁸ “Mexico-Canada Guest Workers,” *Rural Migration News* (nd), accessed: April 22, 2006, available: <http://migration.ucdavis.edu/rmn>

When four workers in Leamington expressed dissatisfaction with their living conditions, they were repatriated within the next two days. There has been no indication that the accommodations over which they expressed concern were ever inspected...This lack of transparency, appeal and representation creates an atmosphere of fear among the workers [who are] subject to conditions that they cannot improve through input, compromise, or negotiation.⁵⁹

Tanya Basok's research has uncovered numerous similar stories, including this one concerning a worker in Quebec:

Arturo said that on a farm in Quebec, where he was sent one season, Mexican workers were treated like slaves. They lived in a trailer which was poorly equipped. Finally, not being able to tolerate deplorable working conditions, they demanded improvements from the patron. The latter called the Consulate. A Consulate representative arrived but refused to help the Mexicans. Next year Arturo was told at the Ministry that he was penalized. And it was only two years after the incident that he was able to return to Canada.⁶⁰

Fear of repatriation and the possibility of being barred from participation in the program makes workers willing to accept long hours, few breaks, and poor living conditions. These pressures for compliance, combined with workers' inability to offer their labour elsewhere make them beholden to their employers and therefore a very valuable asset to a Canadian agricultural industry in search of a 'reliable' workforce.

Role of Civil Society

Concerned about the conditions under which seasonal migrant labourers work, several civil society groups have begun to play important advocacy roles. This effort on behalf of migrant workers has focused on several issues. First, organizations like the United Food and Commercial Workers of Canada (UFCW) and Justicia for Migrant Workers have been actively fighting for the Canadian state's recognition of a right to collective bargaining for migrant agricultural workers. While in *Dunmore v. Ontario* [2001, SCC 94], the Supreme Court of Canada ruled that farm workers have the right to organize and form associations while they are in Canada, these workers in Ontario continue to be denied the right to bargain collectively and unionize. As Verma explains, "the Ontario government has applied a minimalist approach in its interpretation of *Dunmore* by only allowing workers to participate in 'associations' and make representations which do not require an employer to engage in any additional consultations or negotiations."⁶¹ Since the decision in *Dunmore v. Ontario*, the UFCW

⁵⁹ United Food and Commercial Workers Canada (UFCW Canada), *National Report: Status of Migrant Farm Workers in Canada* (December 2002).

⁶⁰ Tanya Basok, "Free to be Unfree: Mexican Guest Workers in Canada," *Labour, Capital and Society* 32(2) (1999), [electronic edition], n.p.

⁶¹ Verma, 2003, p. xiv.

and Justicia for Migrant Workers have been demanding that Ontario uphold the Supreme Court's decision.

Second, these organizations have also argued that migrant agricultural workers should be permitted to collect from the Canadian Employment Insurance program to which they contribute. While the arguments of the UFCW and others have thus far failed to convince the Government of Canada, a recent development opens the potential for change in this regard. In March 2006, the UFCW won the right to challenge the constitutionality of the Canadian EI program's discrimination against migrant workers.⁶² Third, in large part due to the advocacy of civil society groups in Canada, the Government of Ontario has, as of June 2006, brought migrant agricultural labourers under the protection of the province's Occupational Health and Safety Act, which previously did not apply to migrant workers. Finally, the United Farm Workers of America—Canadian Office, in conjunction with other labour organizations launched the Global Justice Care Van Project, which aimed "to document working and living conditions of the seasonal guest workers in Ontario and to formulate policy recommendations to the Canadian government."⁶³ The project culminated in the opening of a migrant worker support centre in Leamington in 2002. Additional support centres in other regions of Ontario, such as Bradford and Simcoe, have opened since then. It therefore seems as if non-state actors have the potential to mitigate the effects of the Canadian state's hegemonic role in controlling the SAWP.

However, as Basok and others have rightly noted, "it is important not to be overly optimistic."⁶⁴ As outlined earlier, there exist no effective international instruments to which to appeal in order to uphold and strengthen the rights of migrant workers. Advocacy organizations must therefore work within the provisions of the domestic Canadian legal system. This constraint has proven difficult, particularly for those organizations advocating for a right to collective bargaining for migrant farm workers in Ontario. For instance, while the potential for making a claim in favour of migrant workers' right to collective bargaining under Section 15 of the Canadian Charter of Rights and Freedoms has been explored, this route has proven difficult. As Suen explains,

migrant farm workers under the [SAWP] are on the surface being treated on par with their Ontario counterparts—neither group has rights...It would indeed be difficult to argue that foreign farm workers are somehow entitled to such rights as collective bargaining, when even citizen farm workers, who actually have status in Canada, have consistently been denied such rights by the courts and the legislature.⁶⁵

In addition, even changes such as the inclusion of migrant workers under Ontario's Occupational Health and Safety Act may not amount to substantial

⁶² National Union of Public and General Employees, "UFCW Canada wins right to represent migrant farm workers" (March 15, 2006), accessed April 22, 2006, available: www.nupge.ca.

⁶³ Tanya Basok, "Post-national Citizenship, Social Exclusion and Migrants Rights: Mexican Seasonal Workers in Canada," *Citizenship Studies* 8(1) (2004), p. 60.

⁶⁴ Basok. 2004, p. 60.

⁶⁵ Suen, 2001, pp. 206-207. Suen also provides an analysis of the precise reasons why Section 15 arguments have not been successful and offers a potential way in which they may be recast and revived.

improvements. As a representative from Justicia for Migrant Workers argues, “migrant farm workers will still be unprotected because the basic legal conditions of their employment have not changed. It is [the structural conditions of the SAWP] that make migrant farm workers so vulnerable, and the new regulations simply do not address this problem.”⁶⁶ The ultimate constraint on the capacity of civil society groups to advocate on behalf of migrant farm workers is the structure and rationale of the SAWP itself. The SAWP was created to ensure a ‘reliable’ workforce that could not be lured away by employment opportunities in other sectors or outside obligations. Growers value migrant workers because the conditions of the SAWP make them unlikely to refuse the demands of their employers. Providing migrant workers with the right to bargain collectively or circulate in the Canadian labour market would substantially decrease the ‘reliability’ of the migrant agricultural labour force. It is therefore reasonable to expect that the efforts by civil society organizations to remedy the conditions of unfreedom faced by migrant workers will continue to be met by significant resistance from both agricultural capital interests and the Canadian state.

IDEATIONAL AND SOCIAL PROCESSES OF EXCLUSION

The institutional and economic control of the Canadian state would remain relatively ineffective, however, were it not for its ability to generate ideational support for its actions. This section will explore the less visible, though no less important, ideational structures that reinforce the power of the Canadian state relative to that of Mexican workers in the SAWP. These include discourses of Canadian national identity and more subtle processes of exclusion at work in the communities in which migrant labourers live and work. This section will then consider some of the efforts taking place outside the confines of the state to counteract these exclusionary processes.

Canadian National Identity in a Globalizing World

The nation-state as an organizational entity remains relevant only as long as it can demonstrate that those within its borders possess an identity that can be distinguished from that of those in the world beyond. During the historical periods of economic expansion, national identity or ‘imagined community’⁶⁷ provided the social solidarity necessary for the drive toward industrialization. Stephen Castles and Alasdair Davidson explain that “as long as economic affairs were organized on national lines, there was a certain degree of common interest that transcended class divisions: successful industrial economies could pass on some of their wealth to workers through higher wages, access to consumer goods and improved welfare systems.”⁶⁸ The granting or withholding of citizenship rights became the way for the state to distinguish between those who were part of the national community and those who were not. However, transnational labour flows challenge conventional conceptions of national belonging and citizenship. If the

⁶⁶ Mary-Jo Nadeau, “Migrant Farm Workers Organizing in Canada,” *Arthur* (January 23, 2006), accessed April 22, 2006, available: <<http://www.trentarthur.info/archives/000912.html>>.

⁶⁷ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983).

⁶⁸ Stephen Castles and Alasdair Davidson, *Citizenship and Migration: Globalization and the Politics of Belonging* (New York: Routledge, 2000), p. 19.

distinction between nationals and non-nationals erodes, it would appear that borders are rendered meaningless and the relevance of the state in governing the ‘nation’ is brought into question.

Yet, as numerous observers have pointed out, the phenomena associated with ‘globalization’ are not new.⁶⁹ States have been grappling with transnational flows of capital and labour for much of the modern era. What has changed, however, is the effectiveness with which advanced industrialized states have been able to designate certain people living and working within their own borders as ‘foreign’ and therefore not subject to the same treatment as national citizens. In Canada, for instance, the proportion of incoming workers who are classified as migrant/foreign workers—as opposed to immigrant workers with access to citizenship rights and the rights and privileges of belonging in the national community—has been steadily increasing since the inception of the NIEAP. In 1973, 57 percent of all workers entering Canada from abroad were immigrant workers who were granted landed status, while 43 percent were temporary migrant workers, many of whom were labouring under conditions of unfreedom characteristic of the SAWP and other temporary labour programs. By 2004, these numbers had changed significantly—only 35 percent of incoming workers were immigrant workers, while 65 percent were migrant workers.⁷⁰ Commenting on this trend, Nandita Sharma offers the following analysis:

The state category of foreign worker is a clear demonstration of how (im)migration controls are inextricably linked with the regulation of citizenship. Together they define who can be a member of the Canadian nation and who can legally make claims for protection or benefits from the Canadian national state. With the categorization of people as migrant workers, the state quietly borrows from the exclusionary practices organized through concepts of citizenship and its ideas of the fictive national society, in order to reposition migrant workers as part of a foreign workforce in Canada.⁷¹

The ideational response to the dilemmas posed by the need for foreign labour has therefore occurred through the creation of the category ‘migrant worker’ and the marginalization of those assigned this designation. As Ball and Piper explain, “migrant worker marginalisation is derived from the act of crossing state borders and employment in another country as a non-national.”⁷² Migrant workers are defined by their classification as temporary, their economic vulnerability, and their lack of citizenship rights, all of which distinguish them from permanent citizens who occupy the Canadian nation-state. Rather than suffer an assault on the concept of the nation upon which its power is based, the Canadian state has sought to shift its immigration policy toward a

⁶⁹ See, for instance: Paul Hirst and Grahame Thompson, *Globalization in Question: The International Economy of Possibilities of Governance* (Cambridge: Polity Press, 1996); Michael Mann, “Nation-States in Europe and Other Continents: Diversifying, Developing, Not Dying,” *Daedalus* 122(3) (Summer, 1993), pp. 115-140.

⁷⁰ Sharma, 2006, p. 119.

⁷¹ Sharma, 2006, pp. 18-19.

⁷² Rochelle Ball and Nicola Piper, “Globalisation and regulation of citizenship—Filipino migrant workers in Japan,” *Political Geography* 21 (2002), p. 1018.

reliance on temporary and unfree labour. Such a shift not only meets the ideological needs of the state by classifying migrant workers as resident non-citizens who are excluded from the Canadian national community, but also fulfills its material needs.

By classifying these labourers as ‘migrant workers’ who have no access to citizenship rights, the Canadian state is able to exploit them within conditions of unfreedom that would otherwise be legally unacceptable. The ‘reliability’ of seasonal agricultural labourers rests on their inability to circulate in the labour market, a restriction that would be unconstitutional if applied to Canadian citizens. This ‘reliability’ and ‘vulnerability’ proves to be an immense asset in this latest phase of global capitalist restructuring. Indeed,

The NIEAP makes migrant workers available to employers concerned with securing a post-Fordist labour force: efficient, flexible, and globally competitive. Part of the flexibility and competitiveness of migrant workers is that they do not have access to many of the things that capitalist lobby groups complain make Canadian workers ‘too expensive’: collective bargaining rights and access to social programs and protections.⁷³

The legitimacy of the Canadian state as possessing authority over and representing a given ‘nation’ has remained intact while the economic needs created by active participation in the global economy have also been met. Thus, through its control of the ideational processes bound up with immigration and citizenship policy, the Canadian state has remained central in the restructuring of domestic labour markets to accommodate new global economic realities.

Social Exclusion of Migrant Workers

The ideas of inclusion and exclusion that surround the category of ‘migrant worker’ are not centralized exclusively within the Canadian state. They are also diffused to and reinforced within the communities in which migrant labourers work.⁷⁴ These processes of social exclusion serve to deepen the identification of Mexican migrant labourers as ‘foreign.’ One of the most obvious factors that creates a barrier between migrant workers and their host communities is language. Indeed, the inability of most Mexican migrant workers to speak English may be one of their assets in the eyes of Canadian growers. Tanya Basok speculates:

It is possible that Canadian growers regard the inability of Mexican workers to speak English as an advantage, since they are less likely to talk back to their employers and demand improvements in their living and working conditions. Furthermore, there is virtually nothing to distract them from their total commitment to work. Whereas West Indian workers can easily communicate with Canadian residents in English and have made friends with some of them..., Mexican workers, who cannot do so, are less likely to socialize with people off the farm.⁷⁵

⁷³ Sharma, 2006, p. 19.

⁷⁴ Sharma, 2006, p. 59.

⁷⁵ Basok, 2002, p. 33.

Language barriers thus reinforce the structural features of the SAWP and the ideational processes of exclusion fostered by the state's creation of the category of 'migrant worker.'

Additional factors contributing to the social exclusion of Mexican migrant labourers include marital status and physical isolation on the farm. Married male workers are preferred in the SAWP recruitment process because they are deemed to be less likely to attempt to stay in Canada by marrying a citizen. They are also more likely to return to Mexico at the end of their terms, as they are not permitted to bring their families to Canada. Kerry Preibisch's research on the social relations between migrant workers, their employers and the community suggests that "the fact that workers have limited social commitments in Canada is one of the reasons that they are particularly valuable to employers... 'Good workers' were those who limited their social activity."⁷⁶

Physical isolation further exacerbates the social exclusion faced by Mexican migrant workers. As discussed above, employers are responsible for providing migrant workers with accommodation on the farm. However, this responsibility also amounts to a power on the part of employers to restrict the mobility of workers and control the entry of visitors. Preibisch's research suggests "that the extent of worker mobility [depends] ultimately on the subjective goodwill of the individual employer."⁷⁷ This physical separation can also be observed in the location of the workers' accommodations, which "are often concealed behind packing sheds or greenhouses. Attempts by some growers to physically separate migrant workers from the community are accompanied [by] intentional avoidance by residents."⁷⁸ Thus, social processes of exclusion serve to reinforce the ideational discourses of the 'nation' and the 'foreigner' that are generated in the Canadian state's management of migrant labourers.

Working Toward Inclusion at the Community Level

There are several initiatives operating outside the confines of the state that are geared toward fostering the social inclusion of migrant workers in their host communities. However, most of the social interactions between migrant workers and their host communities occur through commercial transactions. Preibisch cites a 2003 study by Stevens Associates that estimates that "migrant workers spend \$82 million in rural communities on goods and services to meet their daily consumption needs but also on purchases to take home."⁷⁹ The importance of the migrant worker market can be seen in the increased sale of ethnic food products, long distance telephone cards, and second-hand bicycles, as well as in the increased demand for financial services, and especially wire transfer services.⁸⁰ Ultimately, however, these financial transactions do not amount to particularly rich or meaningful forms of social interaction.

Somewhat more meaningful forms of interaction and inclusion are being encouraged by various non-state groups. In order to overcome language barriers, several community-level organizations have begun providing English classes to migrant workers.

⁷⁶ Preibisch, 2003, p. 5.

⁷⁷ Preibisch, 2003, p. 6.

⁷⁸ Preibisch, 2003, p. 8.

⁷⁹ Preibisch, 2003, p. 8.

⁸⁰ Preibisch, 2003, p. 8.

The most prominent of these initiatives is that organized by Frontier College. Labourer-Teacher volunteers work alongside migrant workers on the farm during the day and provide English instruction and information about Canadian society in the evening.⁸¹ Several faith-based organizations have run bicycle drives, aimed to provide migrant workers with their own transportation and relieve them of their physical isolation. Church groups also provide “an alternative social space for migrant workers outside the farm” and host a variety of social events.⁸² However, while laudable and important, it is difficult to see how non-state initiatives such as these can substantively deal with processes of exclusion affecting migrant labourers without fundamental changes in the structure of the SAWP and the discourses of ‘nationhood’ and ‘foreignness’ that underpin the NIEAP.

CONCLUSION

This paper has sought to provide a critical analysis of the power of the Canadian state in the regulation of the SAWP. A bilateral arrangement that pre-dates NAFTA and operates independently of the regional trade agreement, the SAWP represents a clear case of Canadian hegemony. In addition, it demonstrates the power of *government*, or processes at work within the structure of the state, relative to *governance*, processes operating at the margins of or outside the state. While the presence of migrant workers in Canada seems initially to suggest a fluidity of borders that poses an inherent challenge to sovereignty, a closer examination reveals a high level of state control.

Yet, at a normative level, one must question whether the adaptability of the Canadian state with regard to labour migration should be welcomed if it comes at the expense of the rights and well-being of the foreign workers themselves. While the above analysis suggests that proclamations of the demise of the state in the face of globalization are perhaps too general, there is a less recognized concern that must be highlighted. The ultimate danger is not that the state will be marginalized as a unit of political organization, but rather that “meaner, more repressive ways of organizing the state’s role will be accepted” as the only means to avoid the eclipse of the national sphere as a result of global and regional pressures.⁸³ The darker and more repressive elements of the SAWP are important to consider, especially as other countries look to Canada’s program as a potential model of how to manage labour migration.

⁸¹ Basok, 2004, p. 59.

⁸² Preibisch, 2003, p. 9.

⁸³ P. Evans, “The Eclipse of the State? Reflections on Stateness in an Era of Globalization,” *World Politics* 50(1) (1997), p. 64.