

Pathways to Precarity: Structural Vulnerabilities and Lived Consequences in the Everyday Lives of Migrant Farmworkers in Canada

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Abstract

This chapter explores the intersections of precarious immigration and legal status, precarious work, and health issues among migrant farmworkers (MFWs) in Canada. We argue that Canada's Temporary Foreign Worker Program (TFWP) creates a system of structural vulnerability which generates precarious circumstances in MFWs' everyday lives. Despite the positive aspects and legal safeguards of managed migration, MFWs' constrained mobility and precarious status, both as migrants and as temporary employees, enables employers to erode and violate labour standards, which has significant consequences for migrants' empowerment and health. The first part of our chapter explains the ways in which MFWs' everyday living and working conditions as part of a managed migration program constitute precarious circumstances. We then explore the cases of workers who deviate from the expected pattern of cyclical or temporary migration—those who overstay their visas, change their migration status, work without authorization, or return to countries of origin with injuries thereby excluding them from future opportunities as MFWs. In so doing, we show how even as lines between migration statuses can blur, various vulnerabilities, and their consequences, endure.

Introduction

The expanding reliance on migrant labour in Canadian agriculture is part of a larger international trend in labour relations in which employers increasingly evade and violate labour standards to maximize profit amid globalized competition, while states' structures and systems in place to monitor and enforce workers' protections are ever more eroded amid pressures towards deregulation (see Bernhardt et al. 2008). Agriculture is among the most dangerous industries in Canada, yet farmworkers in general, and migrant farmworkers (MFWs) in particular, have historically been less protected than workers in other industries (Tucker 2006). This is in part because there is no meaningful incentive for employers or the Canadian state to protect the rights, including health and safety, of MFWs. To the contrary, the current system is structured to provide the ideal workforce in the form of a limitless and constant source of fit, healthy migrant labour, which can be easily removed, returned and replaced the moment any problem or concern arises. Yet MFWs are not machines and their lives, concerns and ambitions continue even after they are deemed no longer wanted by their employers.

Through the use of in-depth case studies, this chapter explores the insecure circumstances which surround MFWs' lives and work in Canada, with a focus on workers who shift from temporary foreign worker to other, more precarious forms of status. The term "precarious" has been used to analyze both

immigration (Goldring et al. 2009) as well as employment (Vokso 2000, 2003, 2006) status. In both cases, the contexts in which MFWs live and work are tenuous, contingent and continually temporary. We thus explore the nexus of people who live and work in states of precariousness in both of these realms, and pay attention to the effects of precarity on workers' everyday lives, and particularly on their health. We argue that MFWs, even with *temporary legal status* in Canada, live and work under precarious and contingent circumstances, which structure their vulnerability throughout multiple spheres of their everyday lives. Through detailed case studies, we further demonstrate how and why these conditions of structural vulnerability contribute to legalized migrant workers shifting into even more precarious forms of status. We suggest that the restricted nature of temporary foreign worker programs, and employer tactics commonly employed within them, may in fact facilitate the push towards the deregularization or illegalization of workers—the very outcomes that these legalized migration programs are intended to avoid.

Research relating to MFWs, mostly focused on Mexican workers in the Seasonal Agricultural Workers Program, demonstrates the high level of vulnerability of the farmworkers who work with legal migration status in Canada. It has documented the structural constraints of MFWs' employment circumstances, the high level of risks associated with their living and working conditions, the gendered and racialized dimensions of their employment, and the conditions and effects of their social and political exclusion from Canadian communities (e.g., Basok 2002, 2003; Becerril Quintana 2007; Binford et al. 2004; Hennebry 2006, 2009; McLaughlin 2009b, 2010; Trumper and Wong 2007; Preibisch 2003, 2004; Preibisch and Binford 2007; Preibisch and Encalada Grez 2010; Wall 1992). The assumption behind most of this literature – and indeed of the migration programs themselves – is that migrants will follow the expected trajectory of their program, returning home and then back to Canada again the following year. What has been missing thus far is a detailed analysis of the context when migrants deviate from this expected pattern: the reasons why and ways in which these workers descend into deeper forms of precarity, and the consequences for their lives.

MFWs' legal status, which is contingent on their employers, can quickly become further eroded by employer practices and strategies, which push workers into deeper circumstances of precarity, including illegality. Employers take part in pushing workers into further precarity by, for example, threatening to fire workers for engaging in labour activities, dismissing workers who complain of sickness or injury, or without proper authorization “loaning out” workers to colleagues in the industry. Many migrant workers come to Canada with the hopes of earning enough money to support their families. When something goes wrong – if they have a conflict with the employer, if they become sick or injured, or if their contract ends prematurely for any reason – many fear returning to their countries of origin as this will mean a loss of expected income or the ability to access needed medical care. Some workers therefore opt to stay in Canada, but there is no direct legal transition for them to change their status; hence they may fall into deeper forms of precarity without legal status in Canada, and with no guarantee of income or continued access to medical care, or in many cases a safe place in which to live.

By documenting the principal pathways between or out of status which have emerged in our research, we demonstrate how fragile is the migrants' temporary legal status. While we focus on the varied experiences, adaptability and agency of individual migrants, following Goldring *et al.* (2009), we also contend that the construction of precarious status – and the vulnerabilities such forms of status engender – are primarily defined, facilitated and manipulated by specific state and employer policies, regulations, etc., rather than by migrants themselves. With very limited options and from highly constrained positions of power, migrants use whatever strategies are available to them to secure their interests, but often with difficult consequences for themselves and their families, particularly with respect to their mental and physical health.

Our analysis draws on more than ten years of combined qualitative ethnographic research with MFWs, involving questionnaires, interviews, participant observation (both from working on Canadian farms as well as living with workers and their families in Jamaica and Mexico), archival research, and focus groups with workers, employers, government agents, physicians, support groups and others (see Hennebry 2006, 2010a, etc.; McLaughlin 2007, 2009a, etc.). The following sections provide background information on temporary agricultural migration in Canada, followed by a theorization of why and how we understand temporary migrants through the lens of precariousness. We then enter into a more focussed discussion of the structural factors that create conditions of precarity, followed by an analysis of pathways to further precarity in the everyday lives of MFWs. Through the use of detailed case studies, we demonstrate the varied ways in which, and reasons why, MFWs may change status, and the consequences for such changes in their lives.

Background on Temporary Agricultural Migration in Canada

The use of MFWs in agriculture has risen dramatically over the past decade largely in response to employers' demands for workers through both the Seasonal Agricultural Workers Program (SAWP) (in place since 1966) and more recently (since 2002) under the Pilot Project for Occupations Requiring Lower Levels of Formal Training (NOC C and D) (hereafter referred to as the Low-Skill Pilot Project or the "LSPP"). Approximately 30,000 foreign workers are employed in agriculture between the two programs, the majority of whom are concentrated in Ontario. The figures are part of an overall rise in Canadian temporary labour migration across multiple sectors, which has reached a historic high. While both the SAWP and LSPP are part of the broader Temporary Foreign Worker Program (TFWP), they differ in significant ways (see Hennebry and Preibisch 2010).

As a formal managed migration program, the SAWP employs workers from Mexico and the Caribbean for up to eight months each year through annually negotiated contracts with these countries. Sending countries are responsible for the recruitment and selection of participants and the monitoring of the program through consular officials in Canada. The LSPP is less regulated, employs workers for up to two years, draws them from any country in the world, and relies on employers, often through private contractors, to recruit and hire their own workforces. Migrants coming through the LSPP are subject to a three-month waiting period for access to provincial health care; SAWP participants are eligible for provincial health care upon arrival (though their access of this care is still highly mediated by employers) (McLaughlin 2009a, 2009b). The mobility rights of workers in both programs are highly restricted. In the SAWP, workers are bound to work for one employer unless they receive permission from the employers and the government agents for a transfer. In the LSPP, switching employers is contingent upon workers finding another employer with a valid Labour Market Opinion. In both programs, workers who want to switch are often unable to do so.

Neither program provides a pathway to permanent residency for participants, though some participants in the LSPP may be able to apply if nominated by provinces (they must be provided with job offers from employers) through the Provincial Nominee Program (typically farmworkers are *not* nominated through this program). The use of this program merely serves to heighten worker precarity, as the workers vie for employer support and may be willing to accept unsafe work or mistreatment to get it (Hennebry 2010b). In general, however, MFWs are treated as temporary guestworkers who are not meant to stay beyond their contracts, nor to immigrate to Canada.

The Cycle of Precarity: Why MFWs are Precarious

Following Goldring *et al.* (2009), we use the term “precarious status” to reflect the fluid and variable forms of irregular status of migrants in Canada. Goldring *et al.* (2009) note that precarious status may be determined by the absence of any of these components typically ascribed to permanent residents (and citizens) of Canada: (1) work authorization; (2) residence permit (the right to remain permanently in Canada); (3) not depending on another person (e.g. employer) to remain in the country; (4) and access to social rights and services such as education and health care. Of these categories, MFWs have only access to the first criterion (work authorization), but even this work contract, and their residency, is tenuous and depends on relationships with employers (component 3). They are typically unable to access a residence permit (category 2) and have only limited and temporary access to social rights and services (category 4).

MFWs’ experiences of precarious immigration status are compounded by and deeply intersect with their precarious employment relationship. Leah Vosko and colleagues have analyzed the situation of precarious work/employment in Canada (e.g. 2000, 2003, 2006). They draw on the work of Rogers (1989), who identifies four elements to determine if a job is precarious. These include: (1) the certainty of sustained employment, including length of job and potential for job loss; (2) the amount of control over labour and employment conditions, including whether or not a trade union is present and corresponding influence over working conditions, wages, etc.; (3) the amount of regulatory protection through laws of union representation; and (4) income – whether wages are sufficient to support the worker as well as any dependents (Vosko et al. 2003).

Using these criteria, it is clear that in all four categories MFWs’ positions are structurally precarious. First, migrants’ jobs are not permanent and there is no provision of job security protecting current or further employment; they can be fired at any time and the firing often results not only in job loss, but also in the loss of the right to remain in Canada, access services, etc. Second, workers have almost no control over labour and employment conditions, and in Ontario, the principal province of MFW employment, agricultural workers have been legally forbidden from bargaining as part of a union. Even in provinces where unionization is legal for agricultural workers, they have faced a great deal of intimidation and threats, not only from employers, but also from their own government agents, who are meant to represent their interests. Employer tactics such as firing and repatriating workers just before a union certification vote, or replacing workers who had shown interest in joining a union with another workforce the following year, serve to threaten workers and render this right largely meaningless (see Sandborn 2009; Steuck 2008). Finally, as recipients of minimum, seasonal and fluctuating wages with multiple deductions, workers also experience income insecurity and poverty. Typically, their employment options in their countries of origin are even less secure or lucrative, which explains why they are driven to work abroad. Furthermore, temporary jobs are difficult to attain when they return to their countries of origin for variable periods between Canadian contracts. This lack of stable, continual income and savings increases their vulnerability as they fear the consequences of losing much-needed Canadian employment, and thus are willing to endure demanding, distasteful, difficult and even dangerous conditions in order to keep their jobs (Basok 2002; Hennebry 2010b; McLaughlin 2009b).

The migrants’ lack of control at work cannot be separated from the lack of control over their broader life circumstances, including the conditions which drive migration from countries of origin and which compel migrants to accept difficult conditions in Canada. As we have described in detail elsewhere (Hennebry 2006; McLaughlin 2009b), the vast majority of MFWs come from poor economic backgrounds, within countries of the global south that have faced enduring economic

crises and rising levels of inequality. Their migration to Canada is thus only one part of what Stephen Castles calls a “perceived migration crisis [that] is really a crisis in North-South relations, caused by uneven development and gross inequality” (2008:39). Within this set of relations, many migrants describe a worsening economic reality and a rising dependence on migration for family survival.

In this context, Canadian foreign worker programs do offer a seemingly safer legal alternative to the increasingly perilous and securitized routes to the United States and elsewhere, especially for Mexican and Central American migrants who have long relied on unauthorized migration to the United States. Ironically, the perceived advantages of the Canadian programs, within an increasingly limited set of domestic and migratory alternatives, render workers more willing to accept poor conditions in order to maintain their coveted positions. MFWs thereby find themselves integrated into a system in which they are deeply and *structurally vulnerable*: the mechanisms behind these programs, and migrants’ position within them, institutionalize their vulnerability and limit their power to change poor circumstances. MFWs are essentially bound to their employers and must reside on their property, and live under their rules which may be arbitrary or unjust. Workers can be dismissed from their employment without recourse to appeal and repatriated at any time; their re-admittance to the program greatly depends on the recommendation of their employers. The existence of these measures within these programs are justified by the exceptional needs of the agricultural industry to stay competitive amid globalized pressures (e.g. to have workers readily available to work flexible hours who are unable to organize and to demand better conditions and pay) (Basok 2002; McLaughlin 2009b). With respect to health risks faced by MFWs in Canada, our research has demonstrated that it is not the case of a few “bad apples” or unscrupulous employers who exploit workers or put them at risk while working or living in Canada; rather it is the structural realities of the temporary migration program and agricultural employment which leads to pervasive and persistent health risks and barriers to care among MFWs (Hennebry 2010b; McLaughlin 2009b).

In contrast to other more fluid forms of (im)migration in which migrants and their families choose to travel to specific areas, even if under conditions of illegality, legalized MFWs have little control over when and to where they migrate, for how long they will work in Canada, or over the conditions of their employment and residence once they arrive. Those participating in such a system of managed migration may have more *rights* than their non-status counterparts, yet they arguably experience considerably fewer *freedoms* (see Basok 2002; McLaughlin 2009b). Their precariousness is heightened by conditions which fundamentally limit their ability to be mobile, to mobilize or to settle and form communities of their own choosing or to actively resist or change negative circumstances.

These structural factors add to the conditions in which MFWs in Canada are caught in a “vicious cycle of precariousness” (Tucker 2006:157). The cyclical nature of this precarity is particularly important to note, since migrant workers start from vulnerable positions in the global political economy, enter Canada with precarious employment and immigration status (since their legal permits are still temporary and largely contingent on employers), which in turn heighten their vulnerability to health risks, exploitation and abuse – all situations that push them into heightened precarity with threatened loss of employment or immigration status.

Working and Living Precariousness in Everyday Life

In general, farm work is recognized as difficult, tedious and precarious (see Tucker 2006) and ranked as the most dangerous after mining and construction (Basok 2002:60). As Wall contends, “Historically, farm

work has been associated with the worst kinds of working conditions” (1992:264). Although migrant workers are accustomed to difficult physical labour from their countries of origin (most engage in farm work on small-scale family farms), many report that the work in Canada is “more difficult”, due to the lack of control they have over their working conditions. As foreigners, they often feel that they are given the most difficult tasks and are expected to work harder to impress employers. The work is also highly variable across industries and seasons—involving intense peaks of continual work and slower periods of relative inactivity. Within this context, MFWs are employed in a number of capacities in every stage of the farming operations. Despite being classified as a “low skilled” labour force, some of the tasks assigned require high levels of experience, skill, and productivity, such as welding, operating specialized farm machinery, irrigation and propagation techniques, etc.

Migrants are integrated at the bottom rung of a multi-faceted, segregated, agricultural labour force. Growers’ quest for the “ideal” labour force has long been structured and differentiated along lines of race and ethnicity, gender and citizenship status. Migrants’ construction as disposable, interchangeable bodies facilitates dynamics of competition and vulnerability. These hierarchies and relationships drastically affect workplace dynamics as workers constantly feel threatened that if they do not perform adequately, that they can be replaced, either by other workers of a similar background, or by groups of workers with differently racialized or gendered traits (Hennebry 2006; McLaughlin 2010; Preibisch and Binford 2007; Preibisch and Encalada Grez 2010). They therefore feel pressured to accept work under difficult conditions, which may pose health risks, and when problems do emerge, workers are invariably reluctant to report them or to have medical conditions treated. As Marlina¹, a Mexican worker surmised, “Even if we’re the best workers in the world, if you’re sick, another person is better to come.”

Migrants’ living conditions further entrench their precarity. Their accommodations, which are typically provided by employers, are considered temporary residences, and thus often lack the infrastructure of permanent dwellings. Workers often cite a lack of adequate resources (e.g. fridges, stoves, private space, washing machines, fans) in order to lead healthy lives (Hennebry et al. 2010; McLaughlin 2009b), yet they have very little recourse to improve shortcomings, as their landlord is also their employer. This problematic integration of the roles of employer and landlord gives employers an exceptional amount of control over the lives of MFWs outside of workplace. Workers’ homes, often in the form of trailers or portable devices, are commonly placed in close proximity to their employers’ homes. In some cases, workers or their guests coming or going may be monitored by the employer’s family; in other situations, security cameras or companies are utilized to monitor behaviour. Many employers not only restrict visitors, but also impose curfews on workers. They may enter the workers’ residences at any time. The most restrictive deny workers the right to even leave the property without explicit permission. Those who break the rules are constantly threatened with the knowledge that their employer is able to fire them.

This situation is exacerbated by workers’ fundamental exclusion from Canadian society, which renders them largely isolated within rural communities and further deepens their vulnerability and dependency on employers. While efforts to include and support migrant workers from community, labour and religious groups have expanded over the past decade (McLaughlin 2009b; Preibisch 2004), in general the various levels of Canadian government have made no concerted effort to include or integrate migrant workers in Canadian society. To the contrary, policies that bind workers to live on the property of their employers under various rule regimes and forbid them from partaking in educational activities while in Canada actively *restrict* workers’ freedom of movement and association in Canada. This social exclusion and lack of community integration is largely because these temporary workers are not seen as future immigrants or as permanent residents, so they exist outside of the efforts which are designed to

integrate and support such groups. In many ways the social and physical construction of their largely hidden spaces in Canada contributes to their positionality as living, quite literally, on the margins of Canadian society. Such conditions entrench circumstances of precarity throughout multiple aspects of MFWs' everyday lives, and if workers decide or are forced to change their temporary legal status, their position of isolation serves as the basis for further challenges.

Pathways to Further Precarity

The intention of the SAWP and the LSPP is that workers will come to Canada for a short period of time to perform in a specific job, and then return to their countries of origin. They may become circular migrants, coming to Canada each year, but always returning home again. This system ensures a continual supply of fit, willing workers. At any time that they become sick or injured, or unable or unwilling to work, they can be removed and expelled from future participation in the programs.

Workers in the SAWP are extensively screened by their countries of origin in part to ensure their likelihood of returning to their countries of origin following each contract (McLaughlin 2010). Partly due to these processes, the vast majority of SAWP participants return home following contracts, although as we demonstrate below, this is far from a universal experience. Furthermore, as increasing numbers of workers enter Canada under the LSPP, which does not involve the sending countries in recruitment, selection, screening, tracking, and representation of migrant workers as does the SAWP, it is anticipated that growing numbers of workers will overstay their work permits and thus experience heightened precarity (see Preibisch and Hennebry 2010). The significant differences between these two program streams have distinct consequences in the various pathways to precarity. In particular, the often celebrated strengths of the SAWP have not been adopted in the LSPP (such as sending country involvement), leaving migrants more vulnerable to exploitation from not only unscrupulous employers, but also from a growing migration industry aiming to capitalize on brokering migrants in Canada (Hennebry and Preibisch 2010; Hennebry 2008).

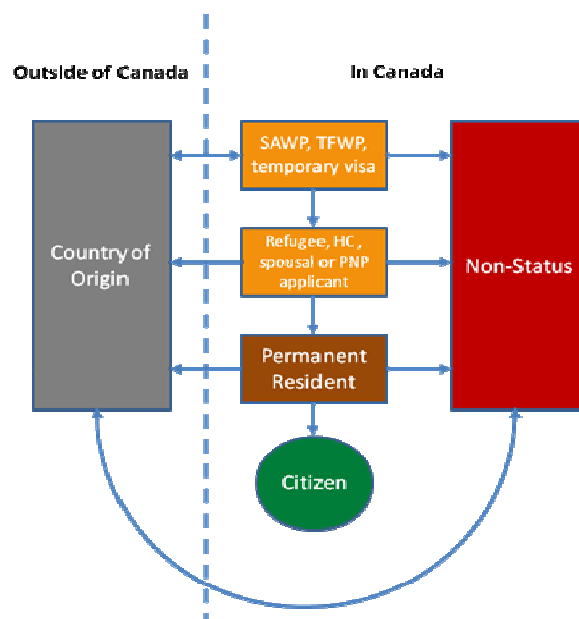
Not all, but some MFWs may come to Canada with the hope of settling here, but find they have no direct legal pathway in which to do so. A recent survey of Mexican and Jamaican MFWs in Ontario found that 60 percent indicated they were interested in gaining permanent residency in Canada (Hennebry et al. 2010). Unlike migrants in the Live-in Caregiver Program and other temporary foreign workers classified by higher skill levels, it is almost impossible for migrant farmworkers, in either the SAWP or the LSPP, to ever be able to immigrate to Canada. No *direct* pathway between years of work and gaining citizenship status exists for this class of workers; nor do they generally qualify under the immigration point system.

Thus, those workers who wish to stay in Canada have few legal pathways, and those that do exist are not easily accessed. In very select cases, workers may be sponsored to immigrate through a Canadian employer or spouse. In other cases, some MFWs may apply for refugee or humanitarian and compassionate (H and C) claims to remain in the country, but these are very rare and the countries from which migrants originate (Mexico, Jamaica, etc.) are not known for political persecution and accordingly the acceptance rate in Canada is very low. In addition, visa requirements for migrant farmworker sending countries (in particular the recent changes in requirements for Mexican visitors), and the proposed changes to the Refugee Act provide further barriers to this pathway – or what current Citizenship and Immigration Minister Jason Kenney calls the “back door” to Canada’s immigration system (see: CBC 2009; The Star 2009). Still, with few other options, some workers take this route, and if

their refugee claims is denied, they have to choose between staying in Canada without status or returning to countries of origin.

At any point along these processes, would-be immigrants may lose sponsorship or be denied refugee claims and again slip out of legal status (see Goldring et al. 2009). Otherwise, temporary foreign workers who wish to stay in Canada have little choice but to become non-status. The following diagram illustrates the varied pathways to precarity for current and former MFWs.

Figure 1. Primary Routes between Forms of Status for MFWs



Unauthorized Workers in Agriculture

While it is difficult to obtain exact statistics, it is widely speculated that a significant number of workers in agriculture may be working without legal authorization, either without status, or with some form of status that does not permit their employment (for example, people on tourist visas, or current or former temporary foreign workers who do not have a valid work permit for the job). Such workers are easily absorbed within agriculture, an industry which, due in part to the changing nature of the seasons and demands of the crops, has long relied on flexible, temporary and informal labour arrangements. It is thus also common for agricultural employers to informally “share” workers as their demands change. Such informal arrangements, however, can have serious consequences on workers, who for violating their visa conditions when working without authorization can face deportation. The well-documented increase in immigration raids on unauthorized workers in agriculture over the past several years is evidence of the reality behind this threat for such workers.

The issues of legally employed temporary foreign workers and unauthorized workers in agriculture are deeply interrelated. The existence of both groups stems from an immigration regime which does not value the contributions of manual labourers in its point system, effectively prohibiting this “class” of people from ever becoming citizens. It also has to do with the problematic features of the SAWP and LSPP, which do not allow workers to easily change employers (or work for more than one employer simultaneously), or to receive health care for long-term problems, let alone have an appeals process before being fired and repatriated. The line between being a “legal” migrant and one labelled as “illegal”

can be quite easily blurred, even for workers who never intended to stay on in Canada past their visas, as the following case studies demonstrate. The three examples provide a glimpse into the broader contexts and everyday lived experiences for those who follow pathways to further precarity from the already tenuous position of migrant workers.

Case Studies of Status Changes

Case 1: Steve - SAWP to Non-Status to Return

Steve worked as a farm labourer on rented land in his native Jamaica. With almost no education, few job projects, and a wife and two children to support, he journeyed to Canada with the hope of saving money to buy a home and his own piece of land in Jamaica. During his first year of working in the SAWP, he suffered from a serious workplace injury. (With various machinery and vehicles used throughout the farm and a lack of worker training, workplace injuries are common among MFWs) (Hennebry 2010; McLaughlin 2009b). One day when riding on the back of a farm vehicle that had no seat and no barriers, when the driver took a sharp right turn, Steve and a co-worker fell off. Steve fell backwards onto his head and was rendered unconscious. He was taken to the hospital where he was diagnosed with a serious concussion and received stitches for his injury. He did receive some workers' compensation for the work days lost, but when his doctor said he could try doing light work, he was forced to go back to work and his compensation stopped. Even the proposed "light duties" assigned by his employer aggravated his pain. "I couldn't even sit without being in agony," he recalls, and soon after starting the work he told his boss that he was in too much pain to continue. Unfortunately, his medical situation was not re-evaluated. Instead, his employer told him he had breached his contract and would be going home that week.

Steve's doctor had recommended physiotherapy and had booked an MRI to determine the extent of his injury. The MRI was scheduled just days after the date of the return ticket which had been thrust upon Steve. For his part, Steve knew that these treatments and tests would not be affordable to him in Jamaica and he feared suffering from a permanent injury without any support at home, so on the day he was to be sent home, he instead ran away to a friend's house. Because he did not go home on his designated flight, he was labelled "Absent without Leave"—AWOL—a classification that essentially deemed him to be without legal status in Canada and forbidden to ever re-enter the SAWP. The next week he showed up to his MRI appointment and was told it had been cancelled, and that he was ineligible to receive more treatments.

Steve spent many months in Canada, trying to seek compensation and medical care, or even enough money to fly back to Jamaica. He spent the rest of the money he had earned supporting himself and became increasingly homesick. Finally, with the help of a friend, he purchased a ticket to Jamaica, where he arrived in a great deal of pain and unable to work on the rented Jamaican farm which had previously sustained him. Steve's wife is now the sole support for the family, working daily on the small farm where she grows yams, bananas and vegetables. Even this has since been decimated by a hurricane which ravaged parts of the island. Steve's daughter had to leave school because the family could no longer afford the expenses.

Steve is still seeking long-term compensation for his ongoing pain and debilitation, but he can't even afford the doctor's appointment to get the reports or exams necessary to do this. Meanwhile, with the help of a community legal advocate in Canada, Steve appealed the decision to terminate his compensation. The adjudicator refused his claim, saying that he should have had an MRI in Canada, and

now too much time had passed. It is now over three years since his accident; he is still injured, unable to work, and ineligible for compensation.

Steve's story provides an example of how the workers' compensation system breaks down for injured workers and how workers' tenuous immigration status can compromise their long-term health care. Many times injured workers are told that they could do "light duties," only to be fired the minute they indicated they were in too much pain to continue. At this point, workers have no legal recourse to remain in the country. Repatriating workers immediately, before their injuries can be further investigated or treated, means that they must rely on the system in their country of origin to support them, but staying in Canada often means they are left with nowhere to live, no income and a lack of access to services.²

Case 2: Enrique - SAWP to Refugee Claimant

Enrique had annually migrated from Mexico to Canada for nearly a decade through the SAWP, saving enough money to build a large home in his rural village and to support a growing family. He had attained a good grasp of English and was often assigned to leadership roles by his employer, with whom he had a good relationship. One day while working he came down with sudden, severe and unusual symptoms. Rushed to the hospital, he was soon diagnosed with kidney failure. Enrique was then told that he would not be able to survive without regular dialysis treatments and/or a kidney transplant and a lifetime of costly follow-up medications and treatment. Learning of his illness, the Mexican authorities began to exert pressure for Enrique to return home. Unfortunately the very costly medical services he would require are not readily available to the poor and uninsured in Mexico, and Enrique feared that if he did return, he would die.

Upon learning of the gravity of the situation, Enrique's employer intervened. Citing Enrique as an excellent worker, he did not want to "send him home to die." He hired a lawyer for Enrique, who then filed for refugee status, enabling him to prolong his stay in Canada, even if it came at the expense of a long and painful separation from his wife and children. As a refugee applicant, Enrique has been able to have all of his life-sustaining dialysis and medical expenses covered under the Interim Federal Health (IFH) Program. However, Canada does not normally accept refugees on medical grounds, and despite innovative legal arguments, he lost his case. Five years since the incident, Enrique has exhausted all of his appeals and is now awaiting a deportation order. His final hope is a humanitarian and compassionate claim, which remains outstanding. If he loses this, his choice will be either to return to Mexico, where he does not have access to health care, or stay on in Canada without status or legal access to health care (McLaughlin 2009b).

Enrique's case, while rare, is not unique. Several other workers in our research have suffered from kidney failure and many others from other serious conditions such as advanced cancer and AIDS. Some have been repatriated to their countries of origin, where, without access to medical care, they have since died. Others have stayed in Canada by changing status, either as refugee or Humanitarian and Compassionate applicants, or with special visitor visas. In some of these cases, the immigration cases are still pending. As a result, their life-sustaining treatment continues at least until their cases are decided. In other cases, workers were deported or pressured to leave before they could receive support or care. Collectively, their stories demonstrate the lack of a support system in place for workers in these extremely vulnerable situations (see McLaughlin 2009b).

Case 3: Eliana - LSPP to Unemployment to Non-Status

Eliana has had her first and last experience with the LSPP. Along with approximately twenty other women who arrived in Canada in late September on a special Guatemala-Canada program administered by the International Organization for Migration (IOM), Eliana began what was to be a two year contract to pick mushrooms at an Ontario farm.

In early October, after only one month of being in Canada, Eliana experienced severe abdominal cramping and bleeding. Fearful to tell her employer, she kept working and did not request medical attention, nor did she request information on her private health care insurance provided by the employer, as is required by the LSPP. (Migrant workers under the LSPP have a three-month waiting period for access to provincial health insurance; during this time employers are required to provide access to health insurance. However none of the migrant workers employed at this farm had received this information.)

Without independent access to her insurance, Eliana would have had to pay to cover services upfront, and then submit a claim to the employer. Fearful of employer reprimand, Eliana waited until the weekend and visited an immigrant service-provider for assistance. Through friends of the community worker and volunteers, a doctor agreed to see her without charge. The doctor determined that she was three months pregnant and recommended that she refrain from heavy lifting or strenuous work and that she have further tests to determine that her and her baby's health were satisfactory. Again, fearful of losing employment, she did not tell her employer, and she did not get the requisite medical tests. She and the other Guatemalan women explained that they had to work for at least three months before they would have enough money just to pay back money they had borrowed in order to cover the upfront deposit (\$400 CDN) to enter the Guatemala-IOM program. Eliana describes her particularly tenuous position:

I did not know I was pregnant when I came to Canada. I can't tell my employer or he will fire me. I can't get the insurance to go to the doctor, because he will know. I also can't go home to Guatemala. I am not married and I have no one to help me. I borrowed money to pay the money for the IOM deposit, and he [the lender] will take my grandmother's house if I cannot pay it back, plus interest. I have not made enough money to pay it back yet. I have to stay and find other work until I can pay. I also planned on coming for two years, I can't return home with less money and pregnant after only two months. I have no choice but to try to stay in Canada. I don't know who can help me.

Combined with this debt, Guatemalan migrants also pay into the Medical Service Plan. This seems to provide a very strong incentive for these workers to accept the terms and conditions of their employment without question or complaint. The Medical Service Plan offered by IOM Guatemala is a mandatory program that provides access to health care for families of migrants *in Guatemala*, paid for by remitting the workers' earnings from Canada (see IOM 2008, 2006). Because insurance is funded by the migrants' remittances, this makes coverage for the migrants' household wholly reliant on obtaining a contract, and working for the full duration of that contract each season. Access to health services thus becomes contingent on maintaining employment and temporary migration status which may pressure workers to remain in exploitative or dangerous working situations in order to continue to be able to afford coverage for a family back home. If a worker is laid-off or is not selected for a contract in a given season the coverage is terminated.

Termination of the health coverage is exactly what happened to Eliana and the other migrant workers only a few months after their arrival when they were let go in two mass firings. Just two days before Christmas, Eliana and her Guatemalan and Mexican co-workers were out of a job and told they would be evicted from the apartment they rent from the employer. They were issued plane tickets the next day and told they had to leave in less than one week. Overnight these workers found themselves without employment, homeless, and being sent back to their countries of origin. Their families in Guatemala also found themselves without access to health insurance, and with no remittance money to pay off debts incurred by coming to Canada. Eliana was in even greater precarity than she had imagined.

Eliana and many of the other temporary migrants employed at this farm chose to stay in Canada and to look for a legal change of employment. However, since there is no mechanism in place to assist migrant workers in locating another employer with a valid Labour Market Opinion who is in need of workers, many spent the following months simply using up whatever savings they had and surviving on the support of community groups, such as Justicia for Migrant Workers, volunteers and friends. Without alternatives, some chose to pay for another plane ticket home, and many opted to find work under the table across the country. With the legal right to remain in Canada until the duration of their work permit expires (unless specifically terminated by Minister of Citizenship and Immigration), but having no legal right to work for an employer without permission to hire foreign workers and no access to permanent residency, these migrant workers had very few options. At least fifty migrant workers from this one employer overstayed the duration of their work permit only to find themselves without legal migration status in Canada. Eliana and the other migrant farmworkers came to Canada in search of an avenue for economic security and prosperity, but Canada's LSPP proved to be nothing more than a pathway to precarity for these migrants and their families.

Conclusion: The Consequences of Precarity

This chapter has shown how precarious forms of immigration and employment intersect and render MFWs structurally vulnerable. We have also unpacked some aspects of the myth of circular, predictable migration, supposedly ensured by temporary migration programs, and we have demonstrated some of the limited ways in which, and reasons why, migrants may seek to change their immigration status or become non-status. Without a stable, normalized pathway towards immigration, and/or institutionalized support to navigate a complex and confusing employment and immigration landscape, temporary workers who wish to stay in Canada beyond their contracts seek a number of strategies, which have additional risks and compounded forms of precarity.

Such circumstances of precarity are particularly pronounced for workers who develop long-term or serious health issues. In the absence of sustained, transnational or portable health insurance plans, workers are in a highly tenuous position. They are afraid to return home without the guarantee of care, but at the same time find themselves in Canada without secure legalized status, a job, assistance with interpretation and communication, their families or any support system, or often even a place to live. These workers are pushed to the margins, attempting to secure medical care and survival in whatever way they can, living with profound uncertainty and stress.

Documenting the cases of three individuals who have changed from temporary foreign worker status to different, and often even less secure forms of status, demonstrates the varied circumstances faced by temporary workers. In each case workers must navigate a complicated and confusing system without an established network of support. MFWs begin these varied pathways from already precarious

employment status, despite legal (though temporary) migration status. The increased use of temporary foreign workers across Canada, without adequate protections and support systems, will likely result in increasing numbers of workers who will stay in Canada in similarly precarious contexts.

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¹ Quotes are adapted from McLaughlin (2009b). All workers' names are pseudonyms.

² This case study was adapted from McLaughlin (2007).