

Episode 2 transcript

Title

The Permanence of Temporariness- Racism of the Canadian Labour Migration Programs

Sarah Guinta: Welcome back to the podcast! Today I am grateful to be speaking with human rights lawyer and associate professor at Osgood Hall, Fay Faraday, who's written extensively on the history of Canadian immigration policy. Hi, Fay. Thanks for being here. Okay.

Fay Faraday: Thank you so much, Sarah, thank you for inviting me to join you.

Sarah Guinta: I guess we'll jump right into it. One of the first questions I wanted to ask you was to have you maybe tell us what the temporary foreign worker program is here in Canada and how it was created.

Fay Faraday: Sure, I'd be happy to answer that. I'm going to give you a really quick answer first, but then I want to give you a bit of the history. So, the quick answer is that the Temporary Foreign Worker Program is a labor migration program that Canada operates to bring workers from around the world to Canada to work for Canadian employers and it's called the Temporary Foreign Worker Program because the workers who come under that program don't have permanent immigration status. They are only able to work in the country for a temporary period, and then they must leave. So, the history of this program is really tied up in the history of Canadian citizenship and the history of Canada's immigration laws which were explicitly based on race.

There are two parts to that story. The first is about Canadian citizenship. There was no such thing as Canadian citizenship until after World War II. Prior to that, the status that settlers had in Canada was as subjects of the British Empire, and under those laws, the theory was that anyone who was a member of the British Empire could travel anywhere else within the British Empire. But with Canada, that broke down very early on, and Canada began to establish laws that were explicitly based on race which prohibited people from the British Empire who were not white from immigrating permanently to Canada and acquiring status here. So, you'll have heard of you know the shameful history of the Komagata Maru and the policies that said that unless you can get here in a single journey without stopping, you can't land on the shores. That was very explicitly a policy about preventing non-white travellers from getting permanent status in Canada, and that carried on into our immigration laws.

Canada's immigration laws, up until the 1960s, and the late 1960s, were explicitly based on race. So, if you were not white, you were prohibited from immigrating permanently to Canada unless, as an individual, you could get an individual dispensation from the government that you were an exceptional person. In the 1950s, there was a demand for labour in Canada, particularly in areas of agriculture and care work. As a member then of the British Empire, Jamaica was really pressing for access to Canadian labour markets for its citizens, and Canada resisted. One way to take off that pressure and what Canada chose to do was to allow workers from Jamaica and from the Caribbean to come to Canada to work explicitly as domestic workers but not have permanent residence. So, there was access to labour which would help support the Jamaican economy and help support the Canadian economy but not permanent status for the individuals moving back and forth. So that began in the 1950s with care work, and in 1966

a similar process began with agriculture. Under the seasonal agricultural worker program, which continues today and again in 1966, it began with 263 workers from Jamaica.

Right now, under the seasonal agricultural worker program and other labour migration programs, there are over 40,000 workers coming to Canada, primarily from the Global South, primarily black and brown workers. So, the history of Canada's labour migration programs has, from the outset, been intimately connected with racist immigration policies. Policies that were explicitly dividing workers and their security in Canada based on race. What's continued today is that the workers who come to Canada with temporary status and particularly those who are in lower-paying jobs, are disproportionately racialized, and those who come with permanent status and in higher-paying jobs are more proportionately or disproportionately white. So, the history and the legacy of systemic and structural racism continue to shape the way the policy plays out today, and I'll add just one more piece to that. You can see that I can talk about this for a long time.

There's just one other element that I think is really important, which again underlines the structural inequality and racism that are necessary for temporary labour programs to exist. Fundamentally you won't have temporary labour migration on the vast scales that we're dealing with unless there is persistent structural inequality between Canada and the countries where workers come from. Without that structural inequality, there's no need for the workers to leave their own homes, and their own countries and work here. And it only works if the wages that they receive in Canada are higher than the wages that they could earn at home, so it actually is worth it to distort their lives, their families' lives, and their communities' lives in order to have that income. So, you know, building a system based on temporariness is one that depends upon and perpetuates inequality which we know in the global economy is also deeply constructed by racism and colonialism. So that's just a short introduction to what is labour migration.

Sarah Guinta: So many layers to unpack there, but thank you for giving some real historical context to these policy and labour programs. The racism, the systems built on temporariness, the distortion of lives to meet economic needs, these all kind of come together. The descriptions we typically hear about these labour migration programs tend to suggest that this is a mutually beneficial exchange where those who are looking for work are able to secure employment, and Canadian employers are able to find workers. But as we've heard from you and other guests, that's not the reality in experience or in design. These programs continue to be problematic. Can you speak to the temporary foreign worker program now and maybe the role legislation plays in this cycle of exploitation?

Fay Faraday: Sure, one clarification off the top is that what is called the Temporary Foreign Worker Program now is not what was called the Temporary Foreign Worker Program before 2016. Prior to 2016, the Temporary Foreign Worker Program was used as a generic term to refer to labor migration programs in Canada. Through the first decade and a half of the 21st century, the number of temporary foreign workers skyrocketed. It more than tripled, and it outstripped the number of permanent immigrants to the country. In 2016 the program was renamed so that the Temporary Foreign Worker Program now has a technical meaning that only refers to one of the many streams of temporary labour migration into Canada. It refers to a stream that includes very vulnerable workers as well as high-wage earners, and people often think that only vulnerable workers are in the Temporary Foreign Worker Program. But there are vulnerable workers throughout all the other labor migration programs. But if you track the numbers of what is called the Temporary Foreign Worker Program, it looks as though there was a dip in

2016 before it rose again, and that is because the program was renamed. So, if we talk about that portion of labour migration programs in Canada, it does involve many of the low-wage migrant workers that we're familiar with. It involves agricultural workers, care workers, people working in restaurants, fast food, truck driving, you name it, like a lot of those different areas.

The terms under which people work do legislate them into relationships that are predictably exploitative, and that are, in practice, overwhelmingly exploitative. The source of that exploitation comes through the fact that work permits issued under the temporary foreign worker program restrict any individual worker restrict them to working for only one specific employer who is named on their work permit, and it restricts them to do the very specific job that's named on the permit and in the very specific place named in the permit. So, if a worker arrives in Canada and either finds that that job doesn't exist or finds that the employer is using them in ways inconsistent with the work permit and actually puts them out of status, they can be deported. Being out of status makes the worker very vulnerable as well if the employer is abusive if they're not paying their wages, if there is any exploitation in the workplace, the migrant worker can't leave that employment and go somewhere else because their permit only restricts them to work for that employer. It's understood as well recognized globally by the UN and by other migration organizations that having work permits that tie individual workers to individual employers is a ticket to exploitation because it creates that imbalance.

The other thing that's important to know is that these programs are exclusively temporary, particularly for working-class workers there's very little opportunity to migrate to Canada on a permanent basis. Under the immigration system, as it exists, our point system that awards points for human capacity to contribute to the economy is really skewed towards both a male lifestyle and a record of work history that more reflects male work and education histories and also professional, and managerial, and high-wage earners. So, it's very, very difficult for working-class workers to immigrate permanently. Their only access to the Canadian labour market is through this temporary labour migration, where they have short-term permits that they either have to renew or leave the country.

The final thing that adds, I guess there are two other things that add real precarity to the experience of workers in the Temporary Foreign Worker Program. One is that even though it's unlawful for workers coming to Canada to pay fees for access to jobs in Canada, that is routine for workers coming under labor migration programs and particularly for working-class workers. You know, in polite conversation these fees are referred to as recruitment fees. They are essentially bribes to people who gatekeep access to the programs. So workers are often paying six months to two years or more of their annual income in their home country in order to access minimum wage jobs in Canada, and those fees just keep going up. So, when workers come, and they arrive with these permits that tie them to an individual employer, another thing that keeps them from leaving exploitative work is that they have to keep earning Canadian currency in order to pay off the recruitment fees and the recruitment and the loans they've had to take out in order to finance their ability to work in Canada.

A further element is that often, for workers in the Temporary Foreign Worker Program, their housing is tied to their employers. For workers who come under the seasonal agricultural worker program, it's required explicitly under the policy that they live on property owned and controlled by their employer. So, if they resist unfair treatment, they become homeless as well as lose their jobs. You know, for some care work it also requires that workers live-in with their employers. But for vast numbers of workers under the program in practice, they do live in either with their employers or in housing provided by their

employers. And so, it does again make it very, very difficult to resist exploitative treatment. Because you know, the routine response when a worker complains about bad treatment is that they are terminated, and they end up losing both their job and their housing, and it can take nine months to a year to get another work permit, but that just puts them back into the same position right off. Being subject to an employment relationship with an incredible imbalance of power that is just an invitation to exploit the worker.

Sarah Guinta: And this is it. You know, there are so many barriers that you just mentioned, from losing status, being tied to one employer, exorbitant recruitment fees, the need for steady income. So many of these are the result of policy choices. Workers have so few pathways for recourse, and challenging this at any stage would come with great risk. So many endure terrible circumstances because they feel they have no choice. And I do not think that this is the general perception of these labor migration programs, which are present across so many different Canadian industries.

Fay Faraday: It's something that the government has been well aware of for decades. Workers have been advocating for improved treatment and for permanent status literally for decades. I have photos from protests in the mid-80s asking for status now, and that's the exact same thing, like, literally the exact same thing that workers are asking for today. There have been countless studies and countless government hearings around what the conditions are for migrant workers. So, the reality of it, the structures that drive the exploitation are not unknown. The programs are designed to operate this way. They're delivering the cheap so-called reliable labour to employers that they're designed to. When I say reliable, that for employers, that means that they're workers who won't leave, but honestly, if the only way that you can ensure that a worker stays working for your business is by making it illegal for them to work elsewhere then there is something wrong with your business.

So, none of this is new. There has been a policy choice to continue building our economy on the basis of a growing temporary labour force. There are right now, when you think about all the different streams of temporary labour migration- the Temporary Foreign Worker Program, the International Mobility Program, international students who are an enormous part of the population, and people awaiting the determination of their refugee claims- there are over 1.6 million people in the country who are working without permanent status, and that's unsustainable. It also drives an incredible depth of economic and social harm in our communities. That's well-known.

Sarah Guinta: Yes, and the other thing that I would like to touch on with you here is what does temporary really mean. Many of these workers are here upwards of 270 days of the year, typically year after year, and even for some decade after decade, they've developed and honed this specialized skill set in their industry. They have expertise in areas that have been deemed essential, but they don't have the same mechanisms as other employees in Canada to negotiate things like raises or promotions, plan for retirement or even access the benefits they have actually been taxed for. So this disparity is legislated but not widely discussed.

Fay Faraday: Yeah, absolutely. So, if you just take the example of agricultural workers who are coming under the seasonal agricultural worker program, that policy has been in place since 1966 so it's now in its 56th year. There are workers who have been coming every year for over 30-40 years. The ones who have been coming, you know, 40-plus years are now too old to work, but there are many workers who've been coming back here their entire adult lives, and their sons and their nephews are now coming. So it becomes an intergenerational way of life because it isn't something that actually creates sustainability at

the level of the individual worker both for the employers and for the workers. It cultivates this permanence of temporariness. And you know, for the workers who've been coming 35 years and more they earned the exact same amount as the people who are coming in for their first year. Their contracts are set without negotiation. And in Ontario, which is the province that brings in the largest number of agricultural workers, they don't have the right to unionize, so the wages in the entire sector have been significantly suppressed because of the program.

It was really interesting during COVID when employers weren't able to bring migrant workers across the borders. For a period, they tried to recruit local workers. And, you know, so the workers coming through the labour migration program were earning minimum wage. In order to hire local workers, they had to offer wages of \$25 or more, and they still couldn't keep the workers because the working conditions were so bad. So, you know, the way that these programs distort the economy is really significant.

And again, when there are 1.6 million people working with temporary status, that also means that there are 1.6 million people who are a core part of our economy but don't have the right to vote. So, it is a dispossession of the political rights of the working class, not just their economic and social rights.

Sarah Guinta: And that really does highlight how this disparity is not just social and economic but political as well. We should also mention that there are advocates such as yourself, frontline agencies, and networks, who are all pushing for change and are offering solutions to a number of these problems. In your estimation, is there progress being made? Is there a movement toward more protections for workers?

Fay Faraday: There have been changes to the program that have only ever come about because of the advocacy of workers. There've been, you know, extensions of the program that have been in response to employer demand. Absolutely. But in terms of building protection for workers, change has only come because of really hard-fought concerted advocacy by workers and their allies. We've had through COVID some small changes that are meaningful but are only Band-Aids.

So, we've had some openings for people who were working in healthcare but had previously been denied refugee status to be able to acquire status. There's been an extension for workers on postgraduate work permits to enable them to stay after their work had been disrupted and their capacity to work had been disrupted during the pandemic. We've just seen this month, I guess it was at the end of November 2022, the government announced the introduction of family work permits which will allow high-wage earners who are migrant workers to bring their spouses and their dependents with them. And those spouses and dependents can work on open work permits. But you know that leaves the majority of the workers in, I mean, it leaves all the workers in the middle and working-class strata of the economy without that root. And the only difference is based on class. It's like, through the pandemic, we've seen that the essential workers are the workers who are doing those critical working-class jobs that keep the economy moving. But they haven't got access to this.

One of the most hopeful things on the horizon is the possibility that the government may introduce a program to provide regularization of status for people who either don't have status or are undocumented, or have been working in these working-class jobs that haven't previously had access to permanent status. Whether that policy is adopted; whether it's available to workers broadly; how many people can access it; under what terms? That is all going to depend on really strong advocacy by all of us. Canada has been very vocal about how there is a labour shortage throughout the economy as we

emerge from COVID. And with Canada's shrinking birth rate, there's also a very active plan to increase permanent immigration significantly in order to sustain the population we have and to grow it. Right now, the increase in the population in Canada is due exclusively to immigration. So, in that context, the urgency of regularizing status for all 1.6 million people who are without it is undeniable. If you took those workers out of the economy, whole industries would collapse. So rather than driving those folks further underground, now is the time for the government to be bold.

And you know enough with the tweaks. The little tweaks don't change anything. All they do is rub off some of the sharp edges for some people for a short period of time. But they don't change the fundamental reality that we're building an economy that's based on profound insecurity. So, I think what's hopeful is the opportunity to really push for a robust, comprehensive regularization program that does grant status to all. And to follow that up with a strong immigration program that also allows permanent immigration for people of all economic strata. You know, that was the immigration program that we had between the late 60s and the early 2000s. And you know, we've become so indoctrinated to think that temporariness is normal, but it's really not. It's, you know, 50 years old at most, and we know that it's a recipe for profound human devastation. So, make a better choice, right? If you have the information and don't make a better choice, then you're choosing the suffering. So, I think that we're way past the time when we can pretend that we don't know what the consequences of those choices are. But I am hopeful. And you know, I've been doing this stuff for over 30 years. You gotta be hopeful to do this work, and it matters because people's lives are literally at stake. So we can do better.

Sarah Guinta: And it feels as though we are continuously discovering these layers of influence that stem from our colonial history, racism and these systems that were built to benefit a very specific part of society. And this has been considered acceptable as many are not fully aware of how these programs work, and workers have been pushed to such extreme states of precarity. Are there steps we can take to continue these conversations and to educate how exploitation is foundational to many of the systems our communities use to function and that we're all consciously or unconsciously benefiting from these disparities?

Fay Faraday: Absolutely! As I said at the outset. The workers who are disproportionately doing the working-class work under the most precarious terms and conditions are overwhelmingly racialized workers from the Global South. There are currently different language tests that workers need to meet in order to get their work permit to work in Canada, which are different from the standards they need to meet in order to become permanent residents. But if people have been working with the language that they have, they can manage. They've proved they can manage. And inflating the language standards is a way of favouring people, you know, from white-dominant parts of the world. I mean, I've heard of workers from, you know, from the Caribbean whose first language is English, who've been told they have to take a language test because they have an accent, And it's like, there's no way that these programs are race-neutral, right?

So those are things that need to change. There's, you know, the entire system like I said, is premised on perpetuating profound global inequality between North and South that if these programs were actually helping build the economies of the Global South, they would put an end to the need for labour migration. Instead, what we've seen is massive growth on a global basis of temporary labour migration. And there's no need for the programs in a world where there isn't that deep structural inequality. The programs couldn't exist, so there's a vested interest in perpetuating that inequality at a global scale. So

there's no way of extricating it from that larger story of systemic racism, of colonialism, of global inequality.

Sarah Guinta: You begin to see how this affects lives on so many levels. There are these societal considerations, the political and economic drivers, but then there's the human side that no one should be OK with a system that requires this kind of degradation, this enormous separation from family and home, the risks to health and well-being, any social capital and supportive network disappears and workers are put in a position where they cannot fully engage really in either place.

Fay Faraday: I think that looking at the way in which these programs on a global scale, distort the economies, the social structure, the quality of democracy in countries around the world. And the way that they perpetuate countries' reliance on exporting their people in order to sustain their economies is corrosive on a grand scale. So, my family's from the Philippines. The labour migration, the labour export policy that has underpinned that economy since the 1970s, has been profoundly corrosive. You've got significant proportions of the working population having to leave in order to make ends meet. It isn't only harmful on an individual level, but it also removes labour force that you need in order to build community at home, in order to build the economy at home, in order to build robust democracy at home. So these programs have a lot to account for.

Sarah Guinta: They do, and it becomes difficult because, as we've said, workers often end up in a precarious state, and advocates want to proceed with caution, right we want workers to have access to the protections and supports that they need but without compromising anyone's livelihood or endangering workers further, and I know that can be a challenging line to walk right wanting to break down those barriers that are perpetuating dependency but at the same time not wanting to have anyone really end up in a more precarious situation.

Fay Faraday: And I think that as a country that receives workers, we're in a position to say we want people to have decent lives, right we want everyone to have decent lives, and we can create the conditions for doing that by ensuring that people are here with status; that they can exercise their rights that they can hold abusive employers to account that they can provide security for their families that they can keep their families intact all of that is good economic policy and good social policy, and it's human. So, you know, I think it's that we're way past the time for tinkering. We need to be accountable to what values we're actually embedding in our economy and build that better build back stronger.

Sarah Guinta: That is beautifully put, being accountable to the values we bake into our economy, and you know you've brought up so many important points today about the historical context, the ways in which we are distorting our economies labour migration the human suffering that is the outcome of these policy choices and the conversation really doesn't end here you know like change can happen, but we have to really be willing to apply pressure as a community.

Fay Faraday: Yeah. And I just want to leave you with a call to action because people do need to take action. Everyone who has the ability to vote in Canada and everyone who has secure status needs to be advocating for those who don't. And I encourage all your listeners to follow the Migrant Rights Network, which is a migrant-led coalition of organizations right across the country that has been bringing visibility to migrant worker rights and bringing migrant voices to the front but also advocating for really strong sound policy development so please follow the Migrant Rights Network and support their campaigns.

Sarah Guinta: Wonderful thank you so much, Fay, thank you for being with us today and thank you for sharing your expertise and your vision for the future. We are so appreciative.