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Pushed to the Edge: Political Activism of Guatemalan Migrant Farmworkers

Abstract: This paper explores political engagement by Guatemalans who seasonally migrate to Canada as contracted agricultural workers. Since 2003, an ever-increasing number of Guatemalans have pursued economic opportunities in Canadian fields and greenhouses as participants in a labour migration scheme brokered by the International Organization for Migration (IOM) called the Temporary Agricultural Workers to Canada (TAWC) Project. While some describe this labour migration as a win-win situation for employers and migrant workers, for too many of these migrants, work in Canada has demanded sacrifices and losses, not the least of which of their human rights and dignity at the hands of employers and administrators of the TAWC Project. While there is a great deal at stake for these migrants should they denounce mistreatment, given the climate of fear created by the employer-driven nature of the TAWC project, a growing number of them have been pushed to do so. With the support of allies that encourage political empowerment of migrant workers, black-listed Guatemalans have formed a political advocacy group - Asociación de Guatemaltecos Unidos por Nuestros Derechos (AGUND) - aimed at fighting for the realization of their rights and redressing cases of wrongdoing. Based on workers' testimonies and other institutional interviews, this paper outlines the difficulties workers have experienced as labour migrants to Canada, the context of vulnerability that largely impedes them from denouncing mistreatment, and the development and activities of AGUND. Informed by literature on political organizing, it also identifies the factors that have both impeded and encouraged political activity on the part of these disenfranchised yet determined Guatemalan workers.

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Introduction

While labour migration is not a novel activity for Guatemalans, changes to Canada's Temporary Foreign Worker Program (TFWP) in 2002 provided a new pathway for Guatemalans seeking employment opportunities abroad. Within the regulatory framework of Canada's Low-Skilled Pilot Project (LSPP) emerged the Guatemalan Temporary Agricultural Workers to Canada (TAWC) Project, through the efforts in large part of the International Organization for Migration (IOM) in Guatemala and organizations in Canada that represent agricultural producers, eager to expediently fill declared human resources shortages with reliable labour. The relatively short history of the TAWC project belies a fairly long list of disgruntled workers and legitimate complaints, which, we argue, have not resulted from "a few bad apples" among employers, but rather from the structural design of the project that plays to the interests of employers and their supporters largely in opposition to the protection of workers' rights. Although building on the work of others who have drawn attention to those structuring aspects of migrant work in Canada (e.g. Nakache and Nikoshita 2010; Flecker 2010), the significant value of our contribution lies in the combination of a structural-institutional

analysis with a people-centred approach focused on Guatemalans and the story of their initiative in response to disempowering circumstances. In an employer-driven climate where Guatemalans are in a constant state of fear of losing their much-needed jobs, workers who had their jobs taken away in Canada have been driven to speak out and fight back. This paper examines the rise of a new political entity created by and for Guatemalan migrant workers, the *Asociación de Guatemaltecos Unidos por Nuestros Derechos* (Association of Guatemalans United for Our Rights), or AGUND. In the paper that follows, we examine the dynamics of both vulnerability of and organized resistance by Guatemalan labour migrants to Canada, and make two main arguments. First, in response to the demands of the Canadian labour market, the administrators of the TAWC project have inhibited the political engagement of migrants, and second, only when pushed to the edge in the absence of any other viable alternative or strategy, and with the support of allies, will migrants engage in collective political activities seeking redress for injustices. We also draw the implication that in this instance, circumstances of economic disempowerment have contributed to limited political empowerment.

This introduction continues by briefly laying out developments in Canadian immigration policy and the development and operation of the TAWC project. The subsequent two sections form the heart of our focus and analysis, based on interview-based fieldwork undertaken in Guatemala and Canada, and literature that critically examines temporary labour migration and illuminates processes of political activism by and for migrants. We first describe the contours of the context of vulnerability for Guatemalan labour migrants, which contribute to experiences of mistreatment and to their reluctance to denounce abuse. Second, we outline a theoretical framework on migrants' political activism, with a particular emphasis on transnational political organization and portable justice. We next trace the development of AGUND as well as the activities of the group, and emphasize the importance of allies who have helped to facilitate AGUND's strategies.

The context of the TAWC project - labour migration to Canada

The creation of the TAWC project owes itself to developments in Guatemala that have created a willing pool of migrants looking to escape economic and political insecurity, and in Canada where agricultural producers have sought to fill labour shortages and the federal government has shifted immigration policy so as to open new avenues for inward temporary labour migration. Prior to the implementation of the TAWC project employers in the agricultural sector were largely reliant on the Seasonal Agricultural Worker Program (SAWP) for foreign labour. Admitting more than 26,000 foreign workers each year for agricultural labour in Canada, the SAWP only accepts workers from Mexico and a handful

of Caribbean countries based on bilateral agreements between governments of Canada and sending countries (UFCW Canada 2011).¹ Guatemalans would get their opportunity to migrate to Canada for agricultural work when the Canadian federal government revised the TFWP in 2002 to include low-skilled² foreign workers.

Officially named the Pilot Project for Occupations Requiring Lower Levels of Formal Training (NOC C and D) and often called the Low-Skill Pilot Project (LSPP), this new branch of Canada's TFWP was initially introduced to fill demands in Canada's meat, construction and tourism industries, but now serves various other sectors, including agriculture, where employers had expressed increasing difficulty finding sufficiently reliable and capable local labour (HRSDC official 2010). The implementation of the LSPP also reflected a shift in the federal government's approach to migration management, in which temporary migration has taken priority, some argue, over permanent immigration and nation-building strategies (Trumper and Wong 2010). It allowed for a substantial increase in temporary foreign labour through granting work permits to low-skilled foreign workers outside the SAWP and Live-in Caregiver Program (LCP). Compared to permanent immigration channels, the pilot project is the faster and more favoured way for employers to meet long-term shortages of low-skilled labour and ensure access to a dependable migrant workforce. What is more, the relatively new LSPP has received much less attention by scholars and migrant rights advocacy groups than other long-standing migration programs. This paper makes important contributions to this emerging discussion by undertaking a critical examination of certain aspects of the LSPP. This is important for several reasons, among which we discuss the disparities in workers' rights and privileges between the SAWP and LSPP, and competition between countries – especially Guatemala and Mexico – as employers weigh the advantages of the TAWC project over the SAWP and vice versa.

The TAWC Project – creation, actors, and administration

Barred from participation in the SAWP, the possibility for Guatemalans to labour in Canada's agricultural sector was created by the inception of LSPP, and

¹ For many years the Canadian government was unable to expand participation in the SAWP beyond Mexico and Caribbean countries on account of the Most Favoured Nation (MFN) exemption, a principle of non-discrimination amongst World Trade Organization (WTO) members which restricts trading partners from establishing new agreements between member countries. Canada secured the long-standing MOUs with Mexico and Caribbean countries by listing participating SAWP countries as an MFN exemption under the General Agreement Trade in Services (GATS). These restrictions impeded the Guatemalan government from bargaining entry of Guatemalan agricultural workers through the SAWP.

² Under the larger TFWP, workers are streamed on the basis of duties they are expected to perform, according to the National Occupational Classification (NOC) system. Using the NOC, skilled workers are grouped into levels O, A, and B and low-skilled and unskilled workers categorized into levels C and D.

the subsequently established TAWC project³. Falling within the regulations of the LSPP, the TAWC project was created in 2003 through a Letter of Understanding (LOU) between two non-state actors: the Guatemalan office of the IOM, an international inter-governmental organization specializing in various aspects of migration, and FERME (Fondation des entreprises pour le recrutement de la main-d'oeuvre étrangère)⁴, an organization representing agricultural producers in Quebec on issues of foreign worker management. FERME had been in conversation with the Guatemalan government and, in the absence of an inter-governmental agreement between Guatemala and Canada, both parties pressed for a fairly formalized system of labour recruitment and management to ensure an expedient and secure flow of Guatemalan labour without reliance on private recruiters. The Guatemalan government, however, did not have the resources or expertise at the time to manage the project with FERME, so administrative responsibilities in Guatemala were conceded to the IOM, with the idea that certain government departments would build their capacity to independently manage the TAWC project at a later date. After the founding LOU with FERME in 2003 came a subsequent LOU in 2004 with FARMS (Foreign Agricultural Resource Management Services), the Ontario counterpart to FERME, which expanded the program to a province where the majority of SAWP workers are recruited. The TAWC project has since expanded to Alberta and British Columbia⁵ as well. Since its inaugural year, which saw the entrance of 215 Guatemalans, participation in the TAWC project has grown exponentially, reaching approximately 4,200 Guatemalan workers in Quebec and 4,500 in all of Canada in 2010.

In terms of responsibilities, the IOM has adopted the leading administrative and logistical role in Guatemala, and the agricultural producer organizations coordinate most affairs in Canada. FERME and FARMS submit requests for workers to the IOM on behalf of employers who have permission to hire foreign workers by virtue of positive labour market opinions from Human Resources and Skills Development Canada (HRSDC).⁶ Western Canadian producers in British Columbia and Alberta contact IOM directly. Meanwhile, the IOM regularly recruits and pre-selects candidates in Guatemala with agricultural labour experience, and maintains a pool of workers to match to specific employer requests. The IOM

3 In Spanish and in Guatemala, the TAWC project is referred to as the PTAT-C, *el Programa de Trabajo Agrícola Temporal en Canadá*.

4 FERME and its Ontario counterpart FARMS (Foreign Agricultural Resource Management Service) are private agricultural producer associations made up of boards of directors that represent Canadian farmers contracting foreign workers. These associations facilitate and coordinate the processing of requests for temporary foreign workers, functions that were handed over to them in 1987 by HRSDC.

5 Initially was based on a partnership between IOM Guatemala and the growers' association Western Agriculture Labour Initiative (WALI) in British Columbia, but WALI no longer processes foreign worker applications.

6 In Quebec, because consent from the provincial government is also required in order to hire temporary foreign workers, the *Ministère de l'Immigration et Communautés Culturelles* is also involved in reviewing employers' requests for workers (Turbide 2010), and grants workers with Certificats d'acceptation du Québec.

also helps potential workers obtain health tests and criminal records checks, files workers' applications for work permits and Temporary Resident Visas with Citizenship and Immigration Canada through the Canadian Embassy in Guatemala, and presides over the signing of labour contracts. The Guatemalan government – the Ministries of Foreign Affairs, and Labour and Social Provision – play a “support role” in recruiting workers and reviewing proposed labour contracts. Finally, the IOM carries out pre-departure orientation sessions and coordinates airport departures, ensuring workers have all required documents. When workers arrive, in the case of Ontario and Quebec, FARMS or FERME then assume all responsibility for coordination of temporary migrant workers, but workers are offered support from Guatemalan consular officials.

Guatemalans who participate in the TAWC project work in four Canadian provinces – British Columbia, Alberta, Ontario, and Quebec – in a variety of operations ranging from field crops to greenhouses to poultry farming, on contracts ranging from 4 to 24 months. Some of the employers for whom Guatemalans work also hire within Canada – some of the workers we interviewed cited working with non-migrant employees – but the extent of mixed workforces was difficult to discern, and it is quite likely that different types of work would be divided among migrant and non-migrant workers according to (perceptions of) their skills. While working in Canada, Guatemalans are subject to and protected by provincial labour laws, such as those concerning minimum wage, occupational health and safety, and employment relations (i.e., unionization) (Gálvez 2010).⁷

Canadian employers hiring migrant labour through either the SAWP or LSPP⁸ must pay at least the minimum prevailing wage rate, which varies among agricultural commodities and among provinces. In the four provinces and in the commodities where Guatemalans work, minimum wages currently range from CAD 9.40/hour in Alberta to CAD 10.65 in Ontario.⁹ These wages are the same as or in some cases higher than the general minimum wage applicable in these provinces (HRSDC 2012; Gouvernement du Québec 2012). Guatemalans incur significant expenses in order to work in Canada. Although employers pay return airfare, participants, before their departure, pay for a work permit and Temporary Resident Visa application (CAD150) as well as medical testing, local medical insurance for family members, and the airport departure tax. Until recently,

7 Workers do not fall under the same sets of labour laws in all provinces. For example, agricultural workers are covered under occupational health and safety legislation in Ontario and Quebec, but not in Alberta (UFCW 2010).

8 Effective January 1st, 2011, the LSPP has a devoted agricultural stream, separate from that for low-skilled workers in other occupations. HRSDC claims that this change allows for more transparency and provides non-SAWP foreign agricultural workers with more defined rights and protection from mistreatment.

9 It should be noted that British Columbia allows employers to pay agricultural workers by the piece instead of an hourly wage. For more information, see the British Columbia Ministry of Labour, Citizens' Services and Open Government: <http://www.labour.gov.bc.ca/esb/facshts/min-wage.htm>

departing workers were also required to pay a USD 480 deposit for each trip, refundable upon return under “normal” circumstances.¹⁰ In Canada, workers pay for their food and, by law, a maximum of CAD 30 per week for housing. They also contribute to employment insurance and pension plans, along with paying income tax. Despite these expenses and deductions, work in Canada is generally economically worthwhile for Guatemalan migrants, who earn more in an hour in Canada than they would make in a day in waged agricultural work in Guatemala. While total earnings can vary widely among workers, IOM sources indicate the *net* income figure to be at least CAD 1,500 per month, which would be CAD 18,000 in a 12-month period (IOM, 2006).

Having provided this outline of the TAWC project and Guatemalans’ work in Canada,¹¹ we now move on our focused analysis of the experiences of Guatemalan migrants, in which we will re-visit some of the administrative and structural features of this labour migration scheme that we have described.

Context of vulnerability and climate of fear

While there is a great deal to be gained economically by working in Canada, Guatemalans’ experiences demonstrate that too many of them have given up a considerable share of their rights and dignity in return. Seasonally migrating to Canada for under a decade, Guatemalan migrants have been forced to confront a series of mounting struggles and barriers engrained in the TAWC project. Over sixty interviews conducted in Guatemala provided insight into a broad spectrum of problems with migrants’ working lives in Canada – ranging from poor housing conditions to lack of overtime pay to harassment and discrimination – as well as with the administration of the TAWC project. The key difficulties encountered with the running of the TAWC project – and the ones that were key reasons behind the creation of AGUND – relate to employment security. We focus here on this issue of employment security, and identify key aspects of the unjust structure of the TAWC project that creates the context of vulnerability and climate of fear that contributes to workers’ tendency to refrain from speaking out or seeking assistance. Faced with the prospect of being dismissed from the project, Guatemalans often succumb to a feeling of immobilization, which makes them less likely to denounce mistreatment and instead quietly submit to unfair

¹⁰ After reassessing the TAWC project the Chief of Mission of IOM Guatemala, Delbert Field, discontinued the deposit requirement, a decision that greatly pleased migrant workers’ allies who were placing mounting pressure on the organization.

¹¹ There are a few developments in 2011 to note with respect to the TAWC project. The first is the discontinuation of the formal partnership between IOM and FERME. FERME has opened its own office in Guatemala City, where a team of staff have assumed the functions previously performed by the IOM for the purposes of sending workers to Quebec. The IOM-administered TAWC continues to send workers to other provinces. Also, a number of changes to immigration regulations in Canada came into effect April 1st, 2011 among which is the stipulation that most temporary foreign workers are limited to four cumulative years of work in Canada, at which time they are ineligible to return for a subsequent four-year period (Government of Canada 2010).

treatment at the hands of government officials, administrators of the program, and employers. Although others have explored labour migrants' employment precariousness in Canada, especially with respect to the SAWP (e.g. Gonzalez and Rodríguez 2006; Preibisch and Binford 2007), this examination of Guatemalans' experiences and the particular configurations of the TAWC project, and the comparisons we draw to the SAWP, amount to a significant contribution to the critical literature on temporary migrant work in Canada.

We briefly explore the possible cultural-political explanations for Guatemalans' reluctance to speak out, and then turn to inter-connected issues related to their employment and institutional contexts, including a naming and call-back system, any-time repatriation, lack of institutional support, and labour mobility differences between the TAWC project and SAWP. These issues not only intensify the vulnerability of Guatemalans but sustain the employer-driven nature of the TAWC project.

There has arisen among some employers a stereotype that Guatemalan workers, based on factors related to culture, nationality or ethnicity, are less likely than Mexican workers to resist or denounce unfavourable working conditions. While others contest this, noting for instance that Guatemalans are just as likely as workers from other countries to claim their labour rights (Galvez 2010), there may be some truth to contentions about this group's relative compliance. The economic and political life of Guatemala has been built upon gross inequalities and marginalization of Indigenous people (Brett and Brett 2008). This fact, combined with and heightened by the relatively recent civil war, has created a culture in which many Guatemalans, especially those within the Indigenous population and migrating from rural areas, are afraid of denouncing authoritative figures. However, a male Guatemalan worker steered the root of this assertion away from cultural-political factors: "Guatemalans are not ignorant, but I personally do not want to speak out. I only do my job the way they tell. I want to take advantage of the opportunity and nothing else. Employers are confused and think Guatemalans are ignorant or humble and for that reason they feel that they can exploit them. But Guatemalans are fearful of having the opportunity to work over there taken away from them" (Guatemalan migrant worker 1 2010)

The worker's quote raises the issue most responsible for migrant workers' submission to mistreatment: the fear of losing their much-needed employment. This arises from two key aspects of the running of the TAWC project: a naming and call-back system, and any-time repatriation. Employers decide at the end of workers' contracts which workers they will call back the following season. Upon their return to Guatemala, migrants hand over to IOM officials sealed letters from their employers in which the future of Guatemalans' employment is contained. If

the worker is not named for future employment, the IOM may decide, according to the circumstances indicated by the employer, to bar them from the project indefinitely, or to put the worker on a waiting list until a spot opens up. IOM-Guatemala's Chief of Mission, Delbert Field, justified this method, explaining that "the priority is first to the workers that are named. If there are possibilities for other employers we send them to other employers. The evaluation in recent years indicates that a lot of employers are very satisfied with their workers. A lot of the time employers ask that they not be sent a new worker because they trust the worker [they had before]" (Field 2010). However, interviews with former migrants indicated that employers may be dissuaded from naming workers, not necessarily because of unfavourable behaviour or performance but because employers want to "spread the opportunities around" or "test workers out" for a season or two, after which time they will try out new workers, both of which indicate an alarming issue of labour disposability. Workers supposedly put on the waiting list claimed having limited to no opportunity to work on another farm and lack the assistance to make that happen.

Workers also have little or no opportunity to contest employers' unfavourable determinations, and many cited in interviews having never been told by IOM officials what their employers' letters indicated or the full or accurate reasons behind the discontinuation of their participation. This is not to suggest that workers are never to blame for early repatriation or dismissal from the project, but there is a need for far more transparency regarding these decisions. And although Delbert Field indicated that the current IOM-Guatemala staff is trying to improve relations with workers, former IOM officials have been accused of mistreating workers that come into the IOM office with grievances, subjecting them to verbal abuse and humiliation, discrimination based on ethnicity and class, and harassment for bribes (Guatemalan migrant workers 1-9 2010).

Employers also have the ability to dismiss workers from their jobs at any time, for reasons varying from shortage of work to some sort of fault laying with the worker, at which time workers are repatriated in short order with no access to an appeal mechanism. The employer, the IOM, and in some cases the consulate will contribute to a decision on the future participation of a repatriated worker. These two factors – the naming system and any-time repatriation – construct a context in which workers are vigilant and fearful of behaving in ways that could jeopardize their current or future employment. For instance, one farm worker said, "I realized that there can be a complaint with the employer or the [IOM] office, but they don't give you the opportunity to go again" (Guatemalan migrant worker 2 2010). From the initiation of their participation in the TAWC project, migrants are engrained with the fear of not being called back the following year,

intimidated by the thought of being black-listed from the program. Guatemalans are constantly warned of the dangers of being labelled troublemakers by government and administrative officials.

The second major issue that deters workers from speaking out is a shortage of effective avenues of support and assistance that would help to ensure healthy working and living conditions. A considerable void exists in terms of workers' supports after they leave Guatemala, often leaving them alone to contend with a series of mounting issues. Institutional bodies, most notably the Guatemalan consulates, Canadian unions, and provincial labour boards, constitute potential sources of support, but turning to these actors does not necessarily translate into improvements in working conditions, and may in some cases threaten Guatemalans' employment security.

As for potential sources of support within the Canadian governmental structure, in its sample employment contract, HRSDC makes it clear that that department is not responsible for enforcing the terms of the contracts of low-skill pilot project workers: "It is the responsibility of the employer and the temporary foreign worker to familiarize themselves with laws that apply to them and to look after their own interests" (HRSDC 2010). Provincial labour boards are the bodies responsible for resolving employer-employee disputes, but wanting to safeguard their jobs, coupled with language barriers, low levels of literacy, and lack of knowledge of the system, largely prevent Guatemalan workers from accessing such services.

The principal hand of support offered to Guatemalan workers is their own government by way of consulate offices in Canada, but workers have cited a lack of assistance from these authority figures. An unsupported Guatemalan complained of how "the consulate is called when we are mistreated but they say they are too busy and do not pay attention to us" (Guatemalan migrant worker 3 2010). A worker in Alberta explained that the consular official came to visit "but nothing came of it... The problem also is that there is no consulate in Alberta; they would fly in from Ontario. They called the consulate again last year, and were told 'asi es' [that's the way it is], basically saying, 'they knew what they were getting into when they signed the contract'" (Guatemalan migrant worker 9 2010). Others also claimed that calls to consular officials all but fell on deaf ears, or that conversations between employers and those officials did not result in improving workers' situations or rescuing workers from situations in which their employment was at risk. Consulates' relative ineffectiveness in achieving gains for their nationals in Canada reveals problems of insufficient human resource capacity and not having a close enough presence to all farms involved – issues cited by the consular officials in our study – but also a situation, documented in other research (e.g. Binford 2009), of consulates being unwilling or unable

to promote the interests of their nationals in Canada because of the perceived need to side with employers in order to assure continued demand for workers from migrant-sending countries. With consulates lacking real power to protect workers, there is little standing in the way of employers repatriating workers who have revealed themselves to be ‘trouble-makers’ by contacting their consular officials. This contributes to workers’ fear and reticence to speak out.

Another possible avenue of support and assistance is United Food and Commercial Workers (UFCW) Canada and its nine worker support centres across the country, run by the Agricultural Workers Alliance (AWA), which offer consultation services and assistance with paperwork, such as parental benefits applications. Migrant workers have sought support from UFCW/AWA in Canada; however, they often risk compromising their jobs for associating with the union, and are told by employers and administrators that contact with a union is grounds for termination. As seasonal farmworkers, Guatemalans confront “restrictions set by the employer against talking to other people. They do not allow us to talk to the consulate and they prohibit us from talking to people from the (AWA) support centres” (Guatemalan migrant worker 5 2010).

Shortage of assistance from government and program administrators, and a perceived inability to contact supporting unions without reprisals leaves Guatemalan migrants with a double disadvantage, left alone to cope with unhealthy or unjust workplace and living environments. Overwhelmed by employer demands Guatemalan migrants are often left to fend for themselves.

It is also critical to draw comparisons between the TAWC project and its counterpart, the SAWP. Vulnerability to job loss among TAWC project workers is more pronounced than among SAWP workers because TAWC project workers are limited by more restrictive rights. The SAWP offers Mexican and Caribbean workers more solidified opportunities and protections with regard to labour market mobility, specifically transfers between employers. Guatemalans’ work contracts tie them to one employer for the duration of their work permit; they cannot be transferred to another employer in the event of voluntary or forced loss of employment, and at the end of the work contract, must return to Guatemala. Being tied to an employer grants a farmer greater control over Guatemalans’ mobility and participation, dissuading workers from contesting their conditions because they cannot change employers and losing their jobs means immediate repatriation. This leaves Guatemalans without employment protection under a migrant project that has no proper recourse for workers to contest such repatriation.

SAWP participants’ work contracts also tie them to a given employer, but the bilateral agreements between Canada and SAWP sending countries include

provisions for transferring workers between farms. The resulting contracts have explicit stipulations concerning these transfers (HRSDC 2011), and while each reads in ways that favour a transfer happening at the behest of an employer, an employee can also request a move. Transfers may not be that easily attained at the worker's request (Binford 2009) but the possibility exists. The contracts of TAWC project workers do not contain any stipulations about the possibility of such labour mobility within Canada, and work permits – which stipulate the employer and the contract dates – cannot be changed (Carrière 2010). Furthermore, a SAWP participant who receives a favourable evaluation at the end of the season from his or her employer, but is not named or called back by that employer the following year, usually receives a transfer to a different employer (Binford 2009), whereas the future employment prospects for positively evaluated but not recalled Guatemalan TAWC workers are far less certain. Many noted in interviews that they have languished on a waiting list, and have never returned to Canada.

Some Guatemalan workers are cognizant of SAWP counterparts having fewer labour market mobility restrictions, and of the implications for job performance and security. In the words of one Guatemalan worker, “for Mexicans it is not the same because if they are not doing a good job and they are not called then they can then pick where they want to go the following year. They still have the opportunity to return” (Guatemalan migrant worker 6 2010). Without such employment protection, Guatemalans are eager to secure their jobs and they spoke of how this sets them apart from other SAWP workers in a sanctioned competitive working environment where migrant workers are pitted against each other. Guatemalans are arguably willing to work more diligently in more menial or degrading jobs: “Mexicans are pushier about their rights and there are things they do not want to do and there are things that they are too dignified to do. A Guatemalan will do jobs that a Mexican is not willing to do, for example cleaning a washroom without gloves” (Guatemalan migrant worker 7 2010). This conditioned submission to employer demands engenders a larger pool of exploitable Guatemalan migrants.

Not every Guatemalan worker shares in the problems and conflicts we have raised; however, the majority of migrant workers repeatedly voiced their concern over the fear of speaking out against mistreatment at the hands of employers and administrators of the program.

Employer-driven migration

What ultimately creates this context for vulnerability, defined by a climate of fear? We point here to employers and their interests as the primary drivers behind the operation of the TAWC project, along with the creation of the broader LSPP. The fact that temporary labour migration schemes are employer-driven has been well-established in other work (e.g. Grugel and Piper 2007, Fudge and McPhail

2009, Nakache and Kinoshita 2010). According to Jaynes (2007), migrants are rendered commodities to the state and employers under a process that sanctions the mistreatment and exploitation of migrant workers. Both labour-sending and labour-receiving states play a significant role in flexibilizing the migrant to be fluid and provisional to the demands of the employer (Fraser 2003, Lerner 2004). Although the overall research agenda here is to draw attention to the institutional possibilities for the protection of migrants' rights and welfare, such as AGUND and transnational activism, that can arise from these circumstances, there is still the need to discuss the employer-driven characteristics of the TAWC project, as it is important to document the developing instantiations and intensification of employer-driven migration schemes and the resulting barriers and biases that migrant workers face.

Since its inception, the TAWC project has been handled as a migration program that accommodates to employers' interests and market principles, and fits within the broader institutionalized strategy of the Canadian government to align migration management approaches to private interests. The Canadian government has a long history of harmonizing immigration policy with market and employer interests, "promoting a 'quicker fix' regime of immigration admission to meet immediate employer needs" (Siemiatycki 2010 61). The LSPP, as indicated above, was created by the federal government in response to pressure from employers for expedient access to foreign workers in order to address labour shortages, and changes made to the project since its inception – such as lengthening the maximum work contract from 12 to 24 months and an expedited labour market opinion process – have catered to the needs and wishes of employers (Fudge and MacPhail 2009).

The employer-driven nature of the TAWC project endows employers, agricultural producer associations, and administrators of the project with unwavering authority over the mobility of seasonal farm workers constrained by the precariousness of their status as temporary foreign workers (Sharma 2006). By implementing regulations that naturalize the flexibilization of labour and decrease state interference in migration management, private interests are able to pursue cost-cutting approaches that leave workers with heightened forms of disadvantage (Theodore 2003 and Abu-Laban and Gabriel, 2006). With a large reserve of willing foreign workers employers have no incentive to increase wages, accommodate to the workforce needs, or improve working conditions.

Offloading of administrative responsibilities to the IOM and producer associations by the Canadian and Guatemalan governments not only validates decreased state interference in management of migrant labour; it also justifies privatized facilitation of migration. Differentiating the SAWP from the TAWC

project, one Guatemalan consular official stated: “That [the SAWP] is at the governmental level, that is the key difference. This one [TAWC project] is not, it is private” (Consular official 1 2010). As a result, migrant workers are defined first and foremost as economic inputs rather than human beings (Consular official 1 2010). There is a decided shortage of government involvement in and oversight of the TAWC project, in comparison to the SAWP. For instance, sending country governments are signatories to SAWP participants’ contracts, and those participants benefit from liaison officers in Canada devoted to assisting SAWP participants, whereas Guatemalans only have over-worked regular consular officials and their contracts are signed by themselves and their employers only.

The IOM is clear about the considerable employer influence over its administration of the project. Chief of Mission, Delbert Field, described the TAWC project as “private-sector driven”, and identified its functioning as: “everything that happens you have to show how this improves the business” (Field 2010). The IOM recruits and selects workers with minimal involvement of the Guatemalan government in an effort to satisfy labour market demands in Canada for “ideal” workers willing to succumb to the employers’ requests. During past pre-departure orientation sessions, migrants enlisted into the project were ingrained with the notion that they were obligated to yield to all employer demands and not cause any problems for employers. Migrant workers indicated that the message they received from the IOM was that employer concerns and interests outweighed their own, thus assuring that Guatemalans rendered docile and submissive personas so as to be called back the following year.¹² As the institutional voices of employers, the agricultural producer organizations play a key role in overseeing that the TAWC project promotes employers’ interests first and foremost. FERME in particular, representing both large-scale agribusiness owners and small scale farmers in Quebec, has wielded considerable influence over the facilitation of migration, deliberately relying on temporary migrants to fill in for local labour in order to employ more cost-cutting strategies. Former officials at the Guatemalan consulate office in Montreal, responsible for tending to the vast majority of Guatemalan workers in Canada, cited FERME’s significant control over workers and what the consulate could do to support them: “Their [FERME’s] interest is the money that each worker represents,” one official said, “they do not see the worker as a human being” (Consular official 1 2010). Once the worker arrives, the other official continued, “FERME forgets that the worker exists” (Consular official 2 2010). The key problem, stated by the Consular officials, is that this

¹² The new Guatemala IOM Chief of Mission, Delbert Field has omitted such language and instructions from the pre-departure package (Field 2010).

labour migration is treated as a business and migrant workers as commodities.¹³ The role of the Guatemalan and Canadian governments is not completely absent of course. For instance, HRSDC claims that it and FERME “are communicating on an ongoing basis throughout the year to facilitate the administration of the program” (HRSDC Official 2010).” However, an interview with Andrea Galvez of UFCW Canada revealed the ways in which FERME, in particular, has come to wield disproportionate control over issues pertaining to foreign agricultural labour and the fate of workers who try to pursue individual advocacy cases. HRSDC also claims to provide a series of measures to monitor employers and ensure safety and fair treatment of foreign workers, but such channels continue to be largely complaint-based in the absence of any comprehensive proactive and on-going process that monitors how workers are treated.

In this context of employer control and employee commodification, the number of cases of workplace violations is on the rise, and these are not limited to the agricultural sector. In British Columbia, for instance, Filipino migrant workers recruited under the LSPP recently filed a class-action suit against the parent company of the Denny’s restaurant chain for having not received the hours of work, overtime pay, air travel, and other conditions promised to them by the company (UFCW 2011b). Thus, employers’ mistreatment of workers and control over temporary labour migration to Canada does not go unchallenged. In this vein of fighting back, we turn now to examples of political advocacy for and by Guatemalan labour migrants.

Migrant political activism

The theoretical framework informing our discussion of the rise of AGUND among Guatemalan workers derives from the literature on migrant labour activism. A large portion of this work emphasizes the need to acknowledge how the non-permanent status of migrant workers and the uncertainty of foreign labour security erect huge barriers that often thwart opportunities for mobilization, as well as the importance of political allies (Ball and Piper 2002, Silvey 2003, Sim 2003, Piper 2005, Jenkins and Perrow 1977, Mitchell 1996, Rivera-Salgado 1999, Basok 2009). Likewise, Gray (2007) reinforces how the insecurity of migrants’ employment and fear of job loss often dissuades them from contesting mistreatment and implementing long-term goals of improving workplace conditions. Much of the research on temporary migrant labour calls for larger structural changes through the organization of migrants who lobby, strategize, and place pressure on governments in an effort to oppose inequitable

¹³ These two consular officials have lost their jobs since our interviews with them, in large part due, they claim, to their outspoken criticism of the treatment of workers and having their hands tied in their ability to support workers (Consular Official 1 and 2 2010).

neoliberal policies and programs (Mitchell 1996, Piper 2010, Grugel and Piper 2011).

According to Ness (2006), status as outsiders, collective isolation, and migrants' concentration in specific labour sectors based on ethnicity often incites the development of strong ties and deepened class solidarity. Migrants are not more militant or less passive; rather it is the real workplace conditions of migrant workers that produce greater resistance on the job. The simple fact that local national workers have an exit strategy while migrant workers do not urges foreign workers to be more open to the prospect of undertaking action that improves their working conditions (Ness 2006). Left with the feeling of being treated unjustly migrants who have been pushed to the edge will, at times, take action with the support of politicized groups.

The repression inflicted upon migrants is the driving force behind political activities, often igniting resistance and mobilization. While politicized behaviour and action has proven to be a problematic and complex undertaking for migrants, given their constricting legal status and lack of knowledge regarding their rights, the support of transnational allies gives them the confidence to unite (Gabriel and Macdonald 2011). The advocacy work of supporting groups not only creates awareness regarding migrants' mistreatment, but also inspires many of them to mobilize as activists for their own cause (Griffith 2009). The success of political mobilization is dependent upon networks of support that equip migrant workers with the political tools and agency to engage in empowering political practices, lobbying for a stronger political status, and enforcing existing safeguards, and upon the involvement of independent third parties to mediate disputes (Choudry, Hanley, et al 2009). Stasiulis and Bakan agree that migrant mobilization is most effective with the assistance of local advocates and supporters, as "creative models are being constructed and lobbied for that address the specific needs and conditions" (1997, 53) of migrants. By assisting the process of political incorporation and disputing contentious policies, non-state actors (such as unions and NGOs) help to restructure neoliberal policies and practices (Theodore and Martin 2007) and empower the collective agency of migrants, thereby enabling politicized action (Piper 2008).

In order for migrant political organization and activism to be effective, it must transpire in a transnational space that permits crossborder networks to tackle institutionalized exploitation and promote human rights (Piper 2008). Tarrow (2005) argues that increased global integration and interconnectedness generate both new threats and new possibilities for activism. The formation of interconnected networks permits political activity to transcend borders, which is particularly beneficial for mobile populations. Even though states may not

recognize the validity of transnational claims, this barrier has not impeded transnational networks from intervening on behalf of migrants (Tarrow 2005). One of the more significant contributions of transnational social movements has been the bridges constructed to permit the flow of political tools and resources between multiple spaces to empower disenfranchised groups (Nicholls 2007).

Cathleen Caron (2007), a human rights activist and lawyer for migrants, has conceptualized a form of portable justice that grants transnational migrants the ability to access justice in both their home and host country. Portable justice encompasses the idea of transferable rights not limited by borders; migrant workers should be able to access justice and rights bestowed by destination countries after return to their home countries. Piper (2008 and 2009) insists that portable justice creates opportunities and solutions that assist migrants in claiming certain rights after their migration periods have ended. Furthermore, portable justice provides a platform to institutionalize the transnational protection of migrant welfare and encourage migrant political participation both at home and abroad. It facilitates cross-organization collaboration amongst trade unions, migrant organization, and migrant workers themselves. Such initiatives put in place the indispensable allies that endow reluctant and apprehensive migrants with a voice to lodge complaints and counter violations of their fundamental rights.

Aside from the monetary remittances acquired through migratory labour, migrants are also afforded the opportunity to collect and transfer knowledge, ideas, and values. These political remittances influence migrants' political activism both in their host and home country and encourage the transnationalization of rights (Piper 2009). For migrant workers, political tools are acquired through a process of learning how to resist and take action, which according to Piper (2009) can be remitted back to their home country to claim rights transnationally. Supportive groups provide migrants with information and resources to assist them in disputing poor working conditions. This form of learning is part of the daily life of migrant workers, adapting to and resisting relationships in the workplace. Migrants learn how to cope with the political realities of being a temporary foreign worker, which often include:

“a life of fear of supervisors and bosses, in which one must be compliant and silent about one's rights, and in which one must accept the fact that possibilities for action and change for the better are limited, if not illusionary. The other life involves learning that although injustice exists, one can resist it by taking action, by demanding respect as a human being and by refusing to be treated as a mere human resource.” (Choudry, Hanley, et al 2009, 112)

Political acts help migrant workers preserve their dignity and self-esteem, while also safeguarding, or re-attaining, their own jobs and status in the host country. For migrants there is a great deal at stake and much to lose in fighting back, which often forces them to find ways to adapt to precarious situations. But when pushed to a certain point where the degree of repression is felt so acutely migrants will engage in political behaviour and action and counter demoralizing working conditions (Nagengast and Kearney 1990, Martiniello and Lafleur 2008). The sentiment of being pushed to the edge with no other alternative but to claim their rights has motivated migrants to challenge their institutionalized disposability and flexibility.

The inner conflict of determining whether to actively resist and challenge mistreatment and exploitative conditions or to survive the political reality of oppression by keeping quiet continues to plague migrant workers. Although the large majority of migrants have opted for the latter strategy, a growing group of Guatemalans have begun to decisively mobilize, contesting the exploitative nature of the TAWC project. In understanding the mobilization of migrants there is first a need to examine how the assistance of supporting groups have encouraged and guided Guatemalans to resist unjust treatment. The assistance afforded by UFCW Canada and U.S.-based Global Workers Justice Alliance (GWJA) have endowed migrant agricultural workers with the tools and knowledge to advance their battle to denounce mistreatment at the hands of authoritative parties.

Both UFCW Canada and GWJA have played critical roles as transnational supporting groups, not only advocating to improve the rights of migrant agricultural workers, but also imparting them with the political tools and knowledge to resist exploitative treatment. Intervention by support groups is vital to advancing the interests of foreign agricultural workers. For nearly a decade UFCW has funded the AWA to operate agriculture worker support centres across Canada. According to the annual UFCW Canada (2011a) report, more than 35,000 workers have contacted the various centres across Canada seeking assistance. Aside from responding to the files and inquiries of migrant workers, AWA representatives frequently visit workers on farms and advise workers on the benefits of unionizing their workplaces (Galvez 2010).¹⁴ By informing migrant workers on how to empower themselves in an exploitative environment UFCW Canada is providing migrants with critical tools and knowledge that teach them

¹⁴ The vast majority of Guatemalan, and indeed all migrant farmworkers in Canada, are not unionized. This is primarily due to legislative prohibition of the unionization of farmworkers – both migrants and Canadian citizens – in the provinces in question, but also due to the documented negative repercussions for workers of pro-union activities. With respect to legislation, in a considerable setback, a ruling by the Supreme Court of Canada in the spring of 2011 effectively shut the door on farmworkers' unionization in Ontario. This also dampened a decision made by the labour relations board in Quebec in early 2010 that struck down an aspect of that province's labour legislation that had prevented farms from unionizing (UFCW Canada 2011a).

that social change is possible. For many Guatemalan migrants AWA is the only institutional support offered to them while in Canada, because of the inability or ineffectiveness of the consular offices, as explained by one worker, who said “the consulate is far away from here, they hardly ever visit. If we call them they say we are too far and tell us to behave and that they can’t visit us because we are too far away. The only people that visit us are the union (AWA officials). They have arrived year after a year with us. They have helped arrange our papers and move ahead” (Guatemalan migrant worker 8 2010). Although many workers fear the consequences of contacting the UFCW/AWA, others see in this institution potential and real sources of support.

Last year, UFCW/AWA organized a political campaign to draw attention to the plight of Guatemalans recruited through the TAWC project. The campaign sought to inform Canadians on the unjust structure of the Guatemalan migrant project, which at the time required workers to pay a refundable deposit of 4000 quetzales (approximately CAD 500) in order to participate in the program and had been blacklisting migrants for several years. UFCW/AWA have also begun to collaborate with GWJA in an effort to push for government action and empower Guatemalans with the proper tools and knowledge to combat the inequalities of the TAWC project and attain much-needed rights.

While GWJA only recently began to advocate for the advancement of Guatemalan migrants’ rights, the organization has a long history in fighting worker exploitation through portable justice for transnational migrants. As described above, portable justice encompasses “the rights and ability of transnational migrant workers to access justice in the countries of employment even after they have departed for their home countries” (Global Workers Justice Alliance 2011). The concept has become a critical component of the advocacy work by GWJA and director Cathleen Caron in particular to contest workers’ unjust removal from the TAWC project. Through collaborative efforts with Guatemalan advocacy groups and NGOs, GWJA has sought to defend the cases of blacklisted workers by petitioning the Guatemalan Ministry of Foreign Relations, CONAMIGUA,¹⁵ IOM Guatemala and the Canadian Embassy for immediate reprisal.

Transnational non-state allies play a much-needed role by facilitating Guatemalan migrants’ access to social rights, but more importantly empowering them with the political tools and knowledge to take matters into their own hands (Gabriel and Macdonald 2011). Without the help of UFCW Canada and

¹⁵ CONAMIGUA is the Consejo Nacional de Atención al Migrante de Guatemala (Guatemalan National Council for Attention to Migrants), a government body charged with coordinating and supervising the actions of the Guatemalan state in support of Guatemalan migrants abroad and their families, as well as migrants from other countries present in Guatemala.

GWJA the formation of AGUND would not have been possible, given the lack of assistance afforded to Guatemalan migrants by state figures and administrators of the TAWC project.

United for their rights: AGUND

As a result of speaking out or seeking redress in instances of perceived wrongdoing, many Guatemalan workers have been repatriated or denied future employment opportunities in Canada (AGUND Director 2010). A return to Guatemala for many of them is a return to a socio-economic and political context not much improved since they embarked to Canada, and in some cases made much worse by debts that they have not been able to re-pay. Faced with this situation, coupled with a sense of indignation and unfair treatment, a group of Guatemalans have decided to take action in their own defense.

In early 2010, a group of approximately twenty-five former and repatriated workers formed AGUND. Members of this initial group – centred in and around Santiago Sacatepéquez – recognized their common concerns and interests, and that they could exert greater power over processes of redress and ultimately changes to this migration program if they banded together and formed an institutionalized group, instead of or in addition to individually fighting their own cases of abuse and mistreatment. AGUND was founded with a three-part mission, to: defend the rights of workers blacklisted from the program (which can include having them re-enlisted), push for changes to the program, and seek out new agreements and contracts to send Guatemalans abroad for seasonal work. AGUND is the first association of its kind in Guatemala.

It was the sense of indignation and determination on the part of repatriated workers to seek redress that ultimately incited the formation of AGUND. The association started organically, as an idea developed by two repatriated workers to join forces with their compatriots with the support of allies, an idea that caught on as word spread about the possibility of fighting back. For the director of AGUND, there was a real need for collective mobilization “to formalize our association and to claim (not just fight for) our rights as both human beings and workers” (AGUND Director 2011). Two initial group meetings were held in April and May of 2010, at which AGUND’s mission and plans started to take shape. Soon after AGUND’s establishment in Santiago Sacatepéquez, another chapter of AGUND was founded in the area of Tecpán Guatemala, a different area of labour migrant concentration, with approximately twenty-five new members. By 2011, AGUND grew to a membership of over sixty “blacklisted” workers and approximately one hundred more who have not migrated to Canada but are interested in participating in a new project aimed at opening spaces for labour migration to the United States (AGUND-CITA), discussed further below. AGUND is headed by a president and

board of directors. The group is driven in part by a perceived need among its leadership to take action as Guatemalans on their own behalf, and in doing so become less dependent on outsiders who might speak for them.

That said, AGUND has welcomed the support and assistance of allies, based in Guatemala, Canada, and the United States. In Guatemala, AGUND has support from the NGO, government, and research sectors. In the NGO sector, CEADEL – the Centre for Studies and Support for Local Development – works to defend and promote labour rights. Governmentally, CONAMIGUA works to protect and assist Guatemalan migrants both in the country and abroad. In the research and academic sphere, scholars at the Guatemalan site of FLACSO – the Latin American Faculty of Social Sciences – have partnered with AGUND to conduct more research that will serve AGUND in its aims, and have also prepared a complaint for Guatemala’s national human rights body, the *Procuraduría de Derechos Humanos*, based on AGUND members’ experiences. In the United States, GWJA, through Cathleen Caron, has provided institutional support for AGUND since its inception, encouraging the association to take matters into their own hands while promising a committed dedication to their cause. While GWJA recognizes the need for transnational support and assistance, manifested primarily through legal expertise in support of AGUND’s claims, the organization has also been bestowing Guatemalans with the confidence to empower themselves by mobilizing into a fortified and organized group of migrants. UFCW Canada and its side-arm AWA also provide AGUND with legal as well as logistic support in Canada, such as with parental benefits procedures. Their relationship may be further institutionalized through a forthcoming memorandum of understanding.

Thus, in its short history, AGUND has built a constellation of support, and has been active in advancing its causes and making migrant workers’ voices heard. The director of AGUND recognized that collaborative support from a range of organizations was critical to validating their political struggle for recognition. The largest action to date came on September 1st, 2010, with a large-scale protest in Guatemala City. With the support of UFCW Canada, AWA, and GWJA, hundreds of Guatemalan migrant workers took to the streets of the capital, marching to the Canadian embassy, protesting the discrimination and mistreatment migrants had faced under the TAWC project. Most of these workers had been fired, repatriated, and blacklisted, some of whom had been defending their own labour and human rights in Canada. The protestors sought to raise the profile of mistreated workers for the project’s administrators, get more support from the Guatemalan government and international observers, and ultimately put an end to the exploitative aspects of the TAWC project. According to the director of AGUND, “the march made AGUND known to the public and explained why we

are doing what we are doing. This has been possible thanks to the help of many people. We (AGUND) have advanced quite well, thanks to our demonstration” (AGUND Director 2011). Since the demonstration, the association has been in talks with the IOM Guatemala Chief of Mission, Delbert Field, about re-enlisting sixty or so workers and he has promised to investigate each one of their cases.

In addition to getting repatriated workers re-instated in the TAWC, AGUND has two other primary goals at this time. One is a training project, aimed at raising awareness among workers, before their departure to Canada, about their rights, privileges, and responsibilities while working in Canada, and at better preparing workers for handling the new influx of earnings. This proposed project is based in desires to arm workers with the knowledge necessary to defend their own rights, and to promote more productive investments on the part of migrants and their families. AGUND’s second goal at present is to open other opportunities for labour migration abroad, in the face of growing demand among Guatemalans to pursue this as a livelihood strategy. Plans are underway to establish a project for labour migration to the state of Arizona through the assistance of CITA, the *Centro Independiente de Trabajadores Agrícolas* (Independent Farmworkers Center), based in New York State. Funded by the Catholic Relief Services, CITA currently recruits foreign workers from Mexico to the U.S. through the H-2A work visa program, as a safe and secure alternative to illegal migration and recruitment by private agencies. Discussions between AGUND and CITA have been underway, supported by the Global Workers Justice Alliance, to hopefully formalize an agreement and form AGUND-CITA, which would allow for the recruitment of Guatemalans to Arizona through the H-2A program. The director of AGUND reinforces the point that the organization is “worried about people who were blacklisted from the program, but is also interested in helping those people who have not yet had the opportunity to travel to Canada or the United States” (AGUND Director, 2011).

For AGUND, migration has become valued as a tool of not only economic betterment, but also political empowerment. Initially perceived as a channel to improve the livelihoods of migrants and their families, migration to Canada for many of the Guatemalans in our study has been fraught with difficulty, given their job losses. Overall, the migratory project has not followed the economic trajectory they anticipated. However, some intangible political benefits have followed. The individual and collective processes of learning and working strategically to redress perceived injustices likely does not make up for the loss of their much-needed jobs in Canada, but the forms of political empowerment that have resulted from migration and exploitation should not be overlooked. This is especially true as the efforts of AGUND and its allies gather steam, and as many more Guatemalan migrants to Canada could soon benefit from its activities.

Contributions

Pushed to the edge by the loss of their dignity and the perceived injustice of having lost their work in Canada, and with little to no alternative strategy, Guatemalan migrant workers' political engagement has proven to be igniting positive social changes that redress injustices in a climate that favours economic interests over the protection of workers' rights. In this paper, we have argued that certain components of their work and institutional structure tend to deter workers from speaking out because of the fear of losing their jobs, and that employers' control and influence over the TAWC project has fostered such an environment. We have also demonstrated, however, that some workers have resisted attempts by authoritative figures to prohibit political engagement, resulting in an influx of support for migrant workers and attempts to politically empower this disenfranchised group. The collective political activities of AGUND pressure state officials and administrators of the TAWC project to address the inconsistencies and contradictions of the Guatemalan migration program, as well as to question the exploitative tendencies of temporary foreign worker programs generally. In doing so, AGUND's members exemplify instances of political empowerment following from decidedly disempowering migration experiences. The formation of AGUND is certainly credited to a group of determined Guatemalan migrant workers, but we have shown as well the importance to nascent political groups like AGUND of having support from national and international allies and networks that can provide expertise and influence.

All the same, wider structured political organization in relation to employment rights is not a viable option available to all migrant workers, as made evident by the recent 2011 Supreme Court of Canada decision which upheld the exclusion of agricultural workers from the right to collective bargaining in the province of Ontario. The Supreme Court of Canada determined that in this case, brought by UFCW Canada, revoking the ban would hinder agricultural businesses, particularly family farms that would be greatly affected by volatile work stoppages during harvesting seasons (Makin 2011). This court decision contributes to reinforcing the commodification of migrant workers, therein normalizing the denial of basic protections and rights in order to advance the economic agenda of private interests.

Unwilling to ratify the instruments that would arguably endow migrants with more accessible and enforceable rights¹⁶ and regulate private interests, the Canadian government instead discourages the integration of lower-skilled

16 Such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which was adopted by the United Nations General Assembly in 1990 and came into force in 2003, but which the Government of Canada has not ratified.

foreign workers and in turn promotes economic concerns over migrant workers' rights (Fudge and MacPhail 2010). As a result, temporary foreign workers are constrained in "their ability to take advantage of full participation, full integration, and full protection because of the practical and legal parameters placed around their employment-related rights" (Nakache and Kinoshita 2010, 39).

This research calls for transnational institutional access not limited by the nation-state in order to safeguard migrants from employer-driven labour schemes and ensure the advancement of rights claims. According to Grugel and Piper (2011), in order to make migrant rights a priority in policy domains there is a need for effective claims-making, mobilization, and advocacy at a transnational scale. The example of AGUND demonstrates that without effective government action migrant workers often have no other alternative but to organize if they wish to resist injustices and see positive changes in their circumstances. Moreover, migration organization illustrates that the way forward depends on transnational coalition-building and transnational political activism.

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