The Classifying Work of Immigration Policies in Canada: A Critical Analysis of the Temporary Foreign Workers Program and Access to Settlement Services

by

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A thesis submitted in conformity with the requirements for the degree of Master of Information

Faculty of Information
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Abstract

In this thesis I analyse the Canadian Temporary Foreign Workers Program (TFWP) through the lens of Bowker and Star’s classification theory. I connect the pervasive abuse and exploitation of temporary foreign workers in Canada to an immigration classification scheme that I argue favours particular economic interests of Canadian employers and workers over the interests of temporary foreign workers. To this end, I outline the nature of the TFWP discussing how employer-centric program intentions shape program structures. In turn, I argue that these structures shape the lives of migrants in Canada by restricting the rights, opportunities, and protections they have in Canada. To illustrate this, I discuss the use of immigration classifications to designate eligibility to receive settlement services in Canada.
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1 Introduction

In the spring of 2014, awareness of and discontent with the Temporary Foreign Workers Program (TFWP) intensified significantly. The controversy began April 6, when a McDonald’s employee in Victoria, British Colombia came forward with allegations that temporary foreign workers were being hired in lieu of a significant number of qualified Canadian applicants (Tomlinson, 2014a). The employee, Kalen Christ, had reportedly witnessed tens of applications from local workers at his franchise by-passed by management, who reportedly “told staff the store wasn’t hiring because up to nine new Filipino workers were coming…” (Tomlinson, 2014a). At the same time, Christ claimed that these temporary foreign workers (TFWs) were being given more hours, and being paid at a higher hourly rate than their Canadian counterparts (Ibid).

In the weeks after this story broke a string of similar reports emerged from across Canada of temporary foreign workers, primarily in the food services sector, being hired preferentially (Carman, 2014). Each report highlighted the harm done to Canadian workers and applicants, who were being overlooked for employment, hours, and promotions in favour of these international migrants. In a particularly provocative story, two waitresses in Wayburn Saskatchewan came forward saying that their long-time employer fired them, while two workers hired under the TFWP had been retained in their stead (Leo, 2014a).

Many of the Canadians interviewed in these news stories have expressed their dismay at the use of temporary foreign workers, feeling that Canadians should be given priority over their counterparts on temporary work visas. One interviewee, who was rejected by several McDonalds franchises, said, “It’s not fun. Why not give us [Canadian applicants] a chance, instead of people who don’t actually live here yet?” (Tomlinson, 2014a). Sandy Nelson, one of the waitresses let go in Wayburn expressed a similar sentiment, reportedly saying, “How can that be right, that they're not Canadians? I'm a Canadian...How can it be that I'm the one out looking for a job and they're the ones that are still employed?” (Leo, 2014a).
The Temporary Foreign Workers Program describes a collection of programs through which
international migrants are granted permission to come to Canada to work for a set period of time.
The 2014 controversy has centred more precisely on the Stream for Lower-skilled Occupations
(SLSO), which allows for employers across Canadian industries to employ international migrant
workers in low-skilled positions when there is a demonstrated need for workers. Despite the
controversy, program regulations do in fact explicitly dictate that Canadians and permanent
residents be given priority in hiring. As such, the TFWP is theoretically only to be used to
facilitate the admissions of workers to fill vacant positions where there are no available, qualified
applicants from the domestic workforce (Canadians and permanent residents).

These reports of program misuse highlight a growing gap between the program’s alleged intent
and program’s use. They have thus triggered heated political discussions around the merit and
contribution of the Temporary Foreign Workers Program. Employers defending the program
have argued that they rely on the program, saying that temporary foreign workers have a better
work ethic, and are more reliable than their Canadian counterparts (Gollom, 2014; Tomlinson,
2014a). Industries in the western provinces say that they rely on the program, and that they will
suffer financial losses should the program be discontinued (Mas, 2014b). By far the most
prominent narrative however is that the TFWP is harming Canadian job prospects. Critics blame
the admissions of temporary workers for high rates of youth unemployment, and for driving
down wages in sectors where the program is used heavily (Hume, 2014; Carman, 2014).

Critiques have taken a political turn, as representatives from the political opposition have taken
the opportunity to attack the conservative government leadership. Justin Trudeau, leader of the
federal Liberal Party has accused the Harper government of mismanaging the program,
positioning his own party as better situated to address abuses (Trudeau, 2014). The New
Democrats, as official opposition party, have consistently echoed the popular critiques of the
program, and called for a ban on the TFWP while abuses are addressed (NDP, 2014).

Employment Minister Jason Kenney, responsible for the administration of the program, has
attempted to shift focus and responsibility away from the government and towards the employers
in question. He placed McDonald’s, and two other accused employers on a ‘blacklist,’ for
employers who had been accused of abusing the TFWP (incidentally, marking the first use of this enforcement structure). He has argued that these cases of abuse were exceptional, placing the blame on unscrupulous employers and promising investigations (Tomlinson, 2014a; Mas, 2014a). He has likewise emphasized ongoing efforts to reform the TFWP (Tomlinson, 2014a; Mas, 2014a). On April 24, 2014, two and a half weeks after the original story broke, Jason Kenney announced a moratorium on the use of the TFWP in the food sector across Canada, (CBC News 2014a; 2014b).

Figure 1: Temporary Migrants Admissions, by Stream (Based on data from: Citizenship and Immigration Canada (CIC), 2014; Goldring et al., 2007)

The past decade has seen a rapid increase in use of the TFWP, which has more than tripled in size since 2002 (see Figure 1). This most recent controversy is just the latest iteration of long discussions around the use of the program among academics, advocates, and policy makers. Almost exactly one year previously in April 2013, a similar controversy emerged surrounding the employment of temporary migrants by companies across Canada, with much of the focus centering on Royal Bank of Canada (RBC). Similar concerns were raised at the time regarding the perceived damage done to the job-prospects of Canadians (Tomlinson, 2013). In the months following this, modest program reforms were introduced, including an increase in application fees, and a retraction of the regulation that had allowed employers to pay foreign workers up to
15% below the median wage of a region. Each change has been positioned as an incentive for employers to turn to the available domestic workforce before pursuing temporary foreign workers (Employment and Skills Development Canada (ESDC), 2014).

While the contemporary conversations have centered on the Canadian workers who feel their job prospects are being negatively influenced by the use of the TFWP, many are raising questions about the treatment of workers who come to Canada through these programs, temporary foreign workers themselves (Gollom, 2014; Tomlinson, 2014a; 2014b; 2014c). A growing number of advocates, academics, workers and journalists are contributing a counter-narrative that disrupts the popular construction of temporary foreign workers as a threat to the (often narrowly defined) interests of Canadians.

One temporary foreign worker, Jaime Montero from Belize, working at an Edmonton McDonald’s has compared the program to slavery, bringing to light the exploitation that defines their experiences with the program (Tomlinson, 2014b). Crowded living conditions, lack of control over employment and living location, low wages, and misrepresentation of work at the time of recruitment are all reported by TFWs in the media (Tomlinson, 2014b; c; Leo, 2014b). Montero said of his experiences,

They brought us here and they are this big huge corporation. We felt that we didn’t have a chance to even voice our opinion to them because they had brought us here so they could ship us back whenever they wanted to… It was like modern day slavery (Tomlinson, 2014b).

A significant body of literature supports this perspective, documenting the scope of abuses and exploitation to many workers experience under the program, and linking it with the various constitutive components of programs within the TFWP (among many others: Bakan & Stasiulis, 2012; Faraday, 2012; 2014; Goldring, et al., 2007; Hennebry, 2012; Hodge, 2006; Lenard & Straehle, 2012; Macklin, 1992; Nakache & Kinoshita, 2010; Preibisch, 2010; Torres et al., 2010). Advocates, academics, and labour groups draw attention to the tied-work permits, which require workers to remain with a single employer, creating a severely imbalanced power relationship.
between employer and worker (Faraday, 2012; Goldring, Berinstein, & Bernhard, 2007; Hennebry, 2012; Nakache et al., 2010; Priebsch, 2010; Torres et al., 2012). In this context, they argue that employers prefer temporary foreign workers because they are easier to control (Gollom, 2014; Tomlinson, 2014a). In response to the argument made by Dan Kelly (President of the Canadian Federation of Independent Business) that TFWs are more reliable, efficient employees, Gil McGowan, with the Alberta Federation of Labour has said,

> What he’s saying is that the government should provide low-wage employers with a compliant, pliable group of workers who are afraid to stand up for themselves… and that when workers stand up for themselves and refuse to be disrespected in the workplace, that that is somehow a bad thing? I think most Canadians would find that offensive (Gollom, 2014).

Simultaneously, migrant workers advocates have been working to insert a broader perspective on TFWP into ongoing discussions around abuse of the program. Chris Ramsaroop with Migrant Workers Alliance for Change (MWAC), and Justicia for Migrant Workers (Justicia), two Canadian advocacy organization focusing on rights of TFWs, and Adrian Smith, a professor at Carlton University, published an op-ed highlighting the perceived racism underpinning a program that facilitates the admissions, and exploitation of primarily racialized workers from the global south (Ramsaroop & Smith, 2014). They highlight the lack of protections in place by federal and provincial governments, as well as advocating for improved access to permanent residency for program participants, arguing that deep structural changes are necessary to support concrete protections of workers. These advocates are part of a larger community of activists, including unions, community organizations, and researchers engaging with and supporting workers under the TFWP. In the past decade, they have been working to draw attention to pervasive exploitation of TFWs, and agitating for policy changes to improve the protection of their rights and interests in Canada. They have likewise been concerned with fostering solidarity among low-wage workers, arguing that TFWs aren’t responsible for unemployment of Canadian workers, and attempting to address the fear and blame being placed on TFWs (see Appendix B for examples).
Program changes introduced on June 20, 2014 suggest that this counter-narrative has failed to gain traction with contemporary federal policy makers. Reforms introduced by Jason Kenney and Christopher Alexander (Minister of Immigration and Citizenship beginning in 2013) include more restrictions on the use of the program. The tone of the changes centers around responsiveness to labour market needs, and the protection of Canadian jobs through incentives for employers to pursue Canadians first (ESDC, 2014). Little has been done to represent the interests of temporary foreign workers, those most directly affected by program regulations. In effect, while some changes are made, the core of the TFWP has remained relatively stable.

In the context of this increased debate, and rapid policy changes, my thesis critically examines the Temporary Foreign Workers Program. This analysis uses the lens of classification, understanding the TFWP as one part of a formalized immigration classification scheme. Through this immigration classification migrants are sorted into separate streams. Each stream is designed with different program intentions in mind, and facilitates the admissions of different immigrants. These streams help to define the perceived contributions made by immigrants within each of them. In turn, these streams are used to allocate protections and rights to immigrants as well as imposing conditions upon their status in Canada.

In the course of my discussion I show how in the case of the TFWP, workers become defined in terms of their economic contributions, acting as a flexible labour source for industries across Canada. Nominally, the temporary foreign worker is designed to be one who is only in Canada for a single purpose, and only for a limited time. In many ways, program regulations reinforce this construction of temporary foreign workers, who become relatively unfree, with fewer opportunities for mobility, less access to the support and protection of Canadian institutions, and highly regulated (and limited) access to permanent residency. While there is a great deal of nuance within particular programs and individual experiences, these classifications formalize the marginalization of temporary foreign workers who are thus more vulnerable to exploitation and abuse.

For the purposes of this thesis, I am examining the various streams under the TFWP as they are described by Employment and Skills Development Canada (ESDC) and Citizenship and
Immigration Canada (CIC). I also draw extensively from existing research on temporary foreign workers, and their treatment while in Canada. I examine the policies and regulations of the Temporary Foreign Workers Program from 2002, with the introduction of Stream for Lower-skilled Occupations, until 2014, leading up to the structural overhaul announced on June 20. While I discuss the TFWP as a whole, my more detailed analysis focused on the Labour-Market Opinion (LMO) streams that are most often discussed in both the media and literature. Drawing from literature on the topic, I explore the ways in which program structures are connected to the abuse and exploitation documented by advocates, journalists, workers and academics. My discussion draws connections between the design of programs, and the specific interests, priorities and intentions that they reflect.

1.1 The Constructed Category of ‘Temporary Foreign Worker’

Lenard and Straehle, in the introduction to their book *Legislated Inequality: Temporary Migration in Canada* (2012) write, “…‘temporary foreign workers,’ exist within a state bureaucratic classification scheme designed to hold people in a particular relationship of exploitation and social/political subordination” (p. 35). While Lenard and Straehle did not expand upon the framing of the TFWP as a “bureaucratic classification scheme,” their description resonates strongly. In addition to using the language of classification in the description of immigration ‘streams,’ ‘classes,’ and even ‘categories, immigration classifications at their core rely on sorting migrants into these various immigration programs. Every prospective immigrant must be processed through one or another of these programs, a separation that is both based upon an assessment of the nature of their immigration, and which carries with it important implications for how their applications are evaluated. Building on this foundation, I extend the theoretical discussions around classification to the context of immigration policies.

I am drawing from the classification theory set out in Bowker and Star’s *Sorting Things Out: Classification and Their Consequences* (1999). Bowker and Star define classification fairly broadly, arguing that they are found in almost every dimension of modern life. They take several non-traditional examples of classification system, such as the international classification of disease (ICD), and race classifications in Apartheid South Africa. For them, the essence of a
classification system is a segmentation of the world used to do some work. Immigration policies divide people into discrete streams to facilitate the selection and admissions of migrants. Thus, immigration can be understood as a kind of classification scheme.

Bowker and Star’s discussion of classification revolves around two main themes: the work that classifications do, and the values embedded within them. Firstly, Bowker and Star describe the work that classifications do. They describe categories as, “potent entities,” that order the world in often concrete ways. This point recurs repeatedly throughout their book, as both a feature of classifications and an invocation to study them. I focus on the work that the category of ‘temporary foreign worker’ does in constituting immigrants’ access to opportunities, protections and rights while in Canada.

Secondly, they argue that classifications are a location of hidden political negotiation. Though they are often taken for granted by users, classifications are neither objective nor value-neutral. As Bowker and Star write,

…classification systems are often sites of political and social struggles, but […] are difficult to approach. Politically and socially charged agendas are often first presented as purely technical and they are difficult even to see. As layers of classification system become enfolded into a working infrastructure, the original political intervention becomes more and more firmly entrenched. (p. 196).

Through often apparently unremarkable decision-making processes, classifications are built around particular perspectives. They are structured to fulfill agreed upon ends, with designated stakeholders in mind, to the exclusion of others.

The category of ‘temporary foreign worker’ is not an objective unit. Rather, the category is created through given policies and regulations of the Temporary Foreign Workers Program. By extension the ‘temporary foreign workers’ can be understood as a product of a rich collection of federal policies, as interpreted and managed by CIC. In interrogating the values embedded in this category, I focus on its program intentions, and how these relate to program design. These
dimensions reflect certain stakeholders’ interests, hinting at the values embedded in those structures.

In discussing immigration classifications it is instructive to think both in terms of the work they do, and in terms of the political negotiations embedded within them. Classification theory helps to draw out these dimensions. The TFWP can be understood as a classification that does work, both in facilitating the functioning of a bureaucracy, and in shaping the lives and opportunities available to temporary foreign workers during their time in Canada. The TFWP is also chosen. It is designed through political and pragmatic decision-making by bureaucrats, politicians and other stakeholders. It thus reflects certain values, perspectives and goals to the exclusion of others. Approaching the TFWP in this way supports a more comprehensive understanding of the program’s roots, and effects.

1.2 Approaching the Work and Politics of the Temporary Foreign Workers Program

In elaborating on the classificatory dimensions of the Temporary Foreign Workers Program, I have two lines of inquiry. The first, in three parts, relates to the nature of the programs themselves. The second relates to the use of these programs in designating temporary foreign workers’ access to settlement services.

First, I am interested in understanding the nature of the TFWP itself. To this end I begin my inquiry by asking: how are migrant workers classified within larger Canadian immigration policies? Relatedly: how does this category of ‘temporary foreign worker’ shape the lives of migrants? And finally: what values and whose perspectives are embedded within the TFWP?

These first three questions are largely addressed in Chapter 3, where I begin by delineating the basic structure of streams and sub-streams within Canadian immigration programs in general, and the Temporary Foreign Workers Program in particular. I then explore some of the implications of being a temporary foreign worker in Canada. I am interested in how the participation in different programs facilitates the imposition of conditions and the allotment of rights, opportunities, and protections for immigrants.
When I talk about the ‘conditions’ imposed through the TFWP, I am referring to the set of restrictions attached to work permits. These visas, for instance, typically are only valid for particular employers in particular geographic locations. Should a temporary foreign worker seek employment in another part of Canada, or with a different employer, their status is effectively nullified. Their status, therefore, is conditioned upon the location of their work and the identity of their individual employer. This is in contrast with permanent residents and Canadian citizens whose status does not impose these types of limitations. These conditions often act to limit the freedom and mobility of migrant workers in Canada.

In discussing the rights, and opportunities granted to workers I am interested in a wide range of factors. These include restrictions placed on housing, family accompaniment, duration of stay in Canada, and mobility within Canada. These sometimes relate directly to the conditions placed upon migrants. Protections include provincial labour standards of minimum wage, workers’ compensation, and work place safety regulations. Many of these rights, opportunities and protections match those granted to Canadians and permanent residents. Many do not. Further, access to permanent residency, a designation that carries with it many privileges in and of itself, is unevenly distributed among the Temporary Foreign Worker Programs.

It is worth noting that there is a tension between the rights and protections granted on paper and those that are enacted in practice. Migrant workers may not always be well informed of their rights when they arrive in Canada, of which employers may take advantage. Employers have been known to withhold overtime pay, provide inadequate housing, fail to provide health care, or give temporary foreign workers dangerous work (Hennebry, 2012; Faraday 2012; 2014; McLaughlin & Hennebry, 2013; Nakache & Kinoshita, 2010; Preisbisch, 2010). The enforcement of labour standards is notoriously lacking in the TFWP, resulting in little real protections for workers (Hennebry, 2012; Faraday, 2012; Nakache & Kinoshita, 2010; Preibisch, 2010). These contextual realities are important to take into consideration in any discussion around the rights and protections the workers are, or are not, granted.

In looking at the nature of these classifications and the work they do I am also interested in the values and perspectives embedded within the TFWP. Here I look at the restrictions placed on
workers and employers in each stream, and criteria used to assess applications in each program as a starting point to talk about the values and perspectives embedded in each stream. I likewise consider program intentions, to find which stakeholders’ interests are best represented through program structures. This analysis takes place throughout Chapter 3, in tandem with the above.

The second question relates to the use of immigration classifications in designating access to settlement services. While I devote some time in Chapter 3 to exploring the many interrelated dimensions of the conditions, protections and rights shaped by the programming, Chapter 4 explores this example in more detail. Here I ask: how do immigration classifications shape temporary foreign workers’ access to settlement services?

Settlement service is an umbrella term encompassing a wide range of services and activities to support newcomers to Canada. These activities may include: advocacy, counselling, education, food services, employment services, language training, interpretation, medical services, housing services, information and referrals, and orientation services (Lim, Lo, Siemiatycki, & Doucet, 2005, p. 2). There is no single, uniform agency responsible for the provision of these services, but rather, a network of governmental and non-governmental organizations contribute to a varied and diverse landscape of immigrant serving agencies (ISAs). In the settlement sector, eligibility to receive services may be limited according to restrictions placed on funding provided by external sources. CIC and provincial governments act as major funders of settlement services in Canada. They restrict the scope of eligible recipients of the settlement services it funds according to immigration status. At the federal level, these exclude Canadian citizens, international students, and non-status immigrants, as well as the majority of temporary foreign workers. By contrast, Ontario and many other provincial governments fund services for a wider range of newcomers. In this chapter, I explore eligibilities restrictions as one application of immigration classifications in the allotment of privileges. I consider the different approaches to applying these restrictions, and the ways in which they are circumvented. This helps to illustrate the various incongruous perspectives at play in the use of immigration classifications.

In my conclusion, Chapter 5, I discuss some of the changes to the TFWP announced in June 2014. I consider how in many ways these changes reinforce the same values and interests
currently represented in the TFWP. As a result, the core of the classifications and the work that they do remains relatively stable. I will make some recommendations for ways in which the TFWP could be more effectively altered. I finish with discussion of future potential work.

1.3 Contribution

There is already an expansive body of research in which the Temporary Foreign Workers Program is critiqued. Many scholars, advocates, and even government representatives have written on changing program regulations, workers experiences of abuse, and larger trends within immigration policy. Faraday, in partnership with the Metcalf Foundation has written two comprehensive reports (in 2012 and 2014) on the rights of low-wage migrant workers, and the constraints of those rights through the TFWP. Preibisch (2010), Hennebry (2012), and McLaughlin (2013) have done similar research, focusing on agricultural workers. Nakache and Kinoshita (2010) have studied the integration and protection of temporary foreign workers in the communities in which they live. Lowe (2010) has critiqued the TFWP, arguing that shifting immigration policies from a nation-building model to an economic focus are behind the rapid expansion of these programs.¹ Lenard and Straehle’s *Legislated Inequality: Temporary Migration in Canada* (2012) offers a comprehensive collection of pieces on different dimensions of the TFWP, including political economic components of the program, gender-based critiques, access to permanent residency and experiences of exploitation. Chapters also focus on different programs under the TFWP, including the Live-in Caregivers Program, the Seasonal Agricultural Workers Program and the Stream for Lower-skilled Occupations. These are just a few of the many scholars contributing insights on the TFWP in Canada.

¹ While I do not expand on this body of literature, there are many scholars discussing the shifting immigration priorities in Canada. For a selection see: Esses et al. (2001), Hennebry & McLaughlin (2013), Landlot & Goldring (2013), Lowe (2010), and Valiani (2013).
Rather than replicating the existing knowledge on the nature of the TFWP, or the experiences of temporary foreign workers have while in Canada, my research suggests a new approach to critically understand the program: as a kind of classification. I am using insights from the existing literature to flesh out a classificatory analysis of the temporary foreign workers program, considering how migrants are sorted, and the consequences of this classification. This lens draws attention to the connections between program intent, program structure, and experiences of temporary foreign workers, describing how each is complicit (intentionally or not) in the marginalization of workers under the program. This lens further provides a language to call each facet into question.

This is especially relevant in light of the 2014 controversy around abuses of the program, and subsequent program changes. Much of the discourse in the media throughout this controversy has been preoccupied with the question of whether and to what extent program regulations are adhered. Where they do consider limitations of the program, they do so in relation to its effectiveness at upholding program intention. What the government response has failed to do is consider the impact that program’s intent and design have had in cases where the program is working as intended.

I begin with a discussion of Bowker and Star’s theory of classification. The bulk of my thesis uses Bowker and Star to reinterpret what we already know about the nature of the Temporary Foreign Workers Program. Chapter 2 is devoted to describing in more detail relevant sections of their work. Here I also go into more detail on immigration classifications, and how classification is implicated in the process of immigration. This will serve as a basis for the subsequent analysis of the Temporary Foreign Workers Program.
2 Approaching Immigration Classifications with Bowker and Star

Rooted in Infrastructural Studies and STS (Social Studies of Science and Technology) Bowker and Star’s work is oriented towards “study [ing] boring things” (Star, 1999; Van House, 2003). According to them, it is boring things, from the lines of code that allow a computer to store digital files, to regulations that govern large scale bureaucracy, that shape the “modern built world” (p. 5). In their book, Sorting Things Out: Classifications and Its Consequences, they examine the invisible role played by classification as one of these formative technologies. In short, the book reads as a prototype of how to study classifications critically. In this thesis I use their observations and insights to inform a critical examination of the immigration apparatuses in Canada. In this chapter I expand upon Bowker and Star’s approach to classification, describing how it can be used to study immigration policies and regulations. I begin with a brief introduction to Bowker and Star’s work, before discussing the two main ideas I draw from them: that classifications do work – shaping the world around them, and that classifications are imbued with value – are shaped by the world around them.

2.1 Approaching Immigration and Classification

Bowker and Star’s Sorting Things Out has been used by scholars across a wide range of disciplines, including: library and information studies, technology studies, sociology, and gender studies. Scholars often cite their emphasis on the constructed nature of classifications, and the biases imbued within classification schemes (Furner, 2007). This classification theory modeled by Bowker and Star is situated within a broader discourse of Infrastructure Studies and STS scholarship (For a comprehensive exploration see Van House, 2003). Alongside Bowker and Star, this field includes contributions from Donna Haraway, Rob Kling, Bruno Latour, John Law, and Lucy Suchman, among many others (Van House, 2003). These scholars have contributed to a growing discussion on the ways in which technologies and infrastructure more broadly are imbued with bias. Though STS is defined by diverse perspectives, scholars typically share an interest in destabilizing the appearance of technological objectivity. Within this context, classifications are one type of technology imbued with bias.
Bowker and Star discuss classification broadly, citing such varied examples as the International Classification of Disease, race classifications in Apartheid South Africa and the Nurses Interventions Classification. Their work is often adopted in the study of more traditionally-defined classifications – library databases, information systems design, and information management. In this context, scholars use Bowker and Star to inform a critical approach in the study of these objects, considering the values reflected within apparently innocuous information systems (e.g. Feinberg 2007, 2010, 2011, Furner, 2007; Khoo & Hall, 2011; Tennis, 2011).

My discussion of the role of classification in immigration builds on this work. Immigration has been the subject of study in a wide range of disciplines, including: migration studies, policy and legal studies, gender studies, and sociology (Abu-Laben, 1998; Bakan & Stasiulis, 2012; Esses et al., 2001; Faraday, 2012; 2014; Goldring et al., 2007; Hennebry, 2012; Hodge, 2006; Lenard and Staehle, 2012; Lowe, 2011, 2012; Macklin, 1992; Nakache & Kinoshita, 2010, Preibisch, 2010; Teelucksingh & Galabuzzi, 2005). It is not, however, typically approached through the lens of a classification theory. Even in the field of library and information studies, migration is considered primarily in terms of the information needs, and practices of migrants (Caidi & Allard, 2005; Caidi, Allard & Quirke, 2010; Cortinois et al., 2012; Fisher, Durrance, & Hinton, 2003; Mehra & Papajohn, 2007; Muttersbach, 2010; Quirke, 2012; Sakamoto, 2008; Sexsmith, 2010; Silvio, 2006).

In the introduction to *Legislated Inequality*, a collection of critical analyses of the Temporary Foreign Workers Program (TFWP), Lenard and Straehle do describe immigration programs as existing “within a state bureaucratic classification scheme…” (2012, p. 35). They however do not elaborate on the nature of this classification scheme, or the implications of thinking of immigration in this way (2012, p. 35).

Yanow and van der Haar (2013) offer a more developed approach to the study of immigration categories. One dimension of their analysis draws on a classification theory (category analysis), citing Bowker and Star and Suchman to discuss the binaries between autochtoon (Dutch born) and allochtoon (foreign born), and between Western and non-Western that define the migration discourse in the Netherlands. Their analysis touches on both policy discourses and popular
understandings of immigration in the Netherlands. In line with Bowker and Star, they interrogate both the values embedded within, and the consequences of such categorizations.

Like Yanow and van der Haar, I am studying immigration through the lens of classification. There are several levels at which the concept of classification resonates with the study of immigration. For one, the language of classification is already being used in discussions around immigration programs, where reference to immigration ‘streams,’ ‘classes,’ and even ‘categories,’ is not uncommon. More profoundly, the bureaucratic process of immigration is itself predicated upon sorting migrants into these various categories, or streams. Where Yanow and van der Haar discuss primarily the naming of ethnic categories, my examination focuses on this classification process as it is defined through immigration regulations and policies.

As I describe the nature of the TFWP in Canada, my analysis follows the critical orientation modelled by Bowker and Star. For them, the study of classification schemes is centred on two related themes: the work that classifications do, and the political values that are embedded within them. The work of classification is diverse. Bowker and Star describe how classifications underpin our bureaucracies, frame our understanding of disease, constitute our political systems, and are implicated in our everyday work practices. Classifications in use are not abstract divisions, but “potent entities” that play an important role in shaping the world (p. 5). For Bowker and Star, the study of classifications is equally about their political nature. Inevitably, each classification is created with particular values, perspectives and intentions in mind. They write, “[e]ach standard and each category valorizes some point of view and silences another…” (p. 5). They highlight the choices made in the structuring of each classification scheme as moments where these value judgments are made. These two themes are intimately connected in a circular relationship. Classifications are shaped by larger social, cultural, and economic relationships. In turn, classifications may reinforce, disrupt or contradict these relationships. In the following chapters, I use these elements of Bowker and Star’s classification theory to make sense of, and draw out the complexities of immigration classification in operation and in context.
2.2 Defining Immigration Classifications

Bowker and Star provide a relatively broad, almost self-evident description of a classification system as “a set of boxes (metaphorical or literal) into which things can be put to then do some kind of work – bureaucratic or knowledge production” (p. 10). Using this definition as my base, when I talk about the classifications within immigration bureaucracies I am talking about the metaphorical boxes into which immigrants are put to do bureaucratic work.

Understood in these broad terms, it is easy to see why they argue the ubiquity of classification. This point recurs throughout the book as a feature of classification, as a point of departure for its analysis, and as a justification for the study of classifications in general. One of the practical implications of this ubiquity is that classification schemes do not stand alone. They write,

Classification schemes and standards literally saturate our environment… This categorical saturation further forms a complex web. Although it is possible to pull out a single classification scheme or standard for reference purpose, in reality none of them stand alone. So a subproperty of ubiquity is interdependence, and frequently, integration… They are layered, tangled, textured; they interact to form an ecology as well as flat set of compatibilities. (p. 37-38)

There are several levels at which classification takes place in the context of immigration. Directly, immigrants are classified through immigration status, and through immigration programs. I discuss each of these in turn. Indirectly, these classifications are used to support other kinds of classification. For instance, immigration classifications are used to determine who is eligible and who is not. Likewise, at borders, migrants are classified as either admissible or inadmissible. These are kinds of classifications in and of themselves. As Bowker and Star note, there is no single classification scheme acting independently.
One ‘set of boxes’ is immigration status. Each person in Canada has an immigration status, falling into one of several categories: Canadian citizen, permanent resident, a non-status immigrant, or the holder of a student, work, or tourist visa. These boxes are routinely used to accomplish bureaucratic work, often in terms of establishing the rights granted to, and restrictions placed upon the classified. Perhaps the most basic of the rights afforded through status is the right to enter, and reside in Canada, where admissibility and inadmissibility are defined on the basis of proof of status. In addition to this foundational right, status is also used at a lower level by both public and private institutions to either grant rights or impose restrictions upon immigrants. The right to work, to study, to apply for scholarships, to vote, or to access social services, and health care, among many others, is established in reference to immigration status. I discuss these in more detail in Chapter 3 in relation to the TFWP.

Bowker and Star write that classifications are comprised of both “physical entities… and conventional arrangements” (p. 39). Often these physical entities serve to point to, and even embody a classification scheme. In this case, immigration status can be located in physical documents: a passport, a permanent residency card, a visa attached to a travel document. These documents represent membership in a designated category, and act as proof of the rights and protections associated with them.

One of the central observations that Bowker and Star make is that classifications and infrastructure have a tendency to disappear from view. The role of classification is to support other work without requiring direct engagement or attention (p. 35). For Canadian citizens, who have never been subjected to the immigration apparatus, status can be taken for granted. When a Canadian citizen accesses health care, employment opportunities, school, or housing, 

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2 Non-status immigrant is one name for the residual category that encompasses all migrants who do not have recognized legal status to live in Canada. They are variously called “undocumented immigrants,” “illegal immigrants,” “illegals,” “illegalized immigrants,” “non-status immigrants,” “non-status workers,” “immigrants without status,” among others. See Harald Bauder (2013) for a discussion on the politics of naming this group.
immigration status is not a limiting factor, and therefore does not usually need to be considered. The reality that immigration status is used to facilitate the designation of eligibility in a wide range of Canadian institutions is never directly experienced and can go unnoticed. While this poses a challenge for the study of classifications, it does not negate the work that they do. Indeed, Bowker and Star argue that the fact that they go unnoticed makes the work classifications do all the more important as it is naturalized, and thereby rarely called into question.

Another ‘set of boxes’ is immigration programs. Though connected to immigration status, these programs are not identical to it. Immigration programs describe the different application and assessment processes through which migrants gain immigration status. Each of these programs is connected with an immigration status and is nested under one of the two main streams of immigration programs: one for permanent residents, and one for temporary residents (See Figure 2).

Figure 2: Immigration Classifications (Adapted from Faraday (2012), with information from CIC (2012b; 2013a) and ESDC (2013a; 2013b; 2013c; 2013d)). *Indicates Temporary Foreign Workers Program.
Permanent residents of Canada are immigrants who have permission to live, work, and study in Canada indefinitely. It is a precursor to Canadian Citizenship, and is only revoked under extreme circumstances, such as cases of serious criminality. Permanent residency status (PR status) is granted by Citizenship and Immigration Canada (CIC) via one of several separate immigration programs that fall under the heading of Economic, Family, or Humanitarian classes. All permanent residents have the same rights, however, each of these programs has unique selection criteria and caters to different sorts of immigrants. In the Economic class, programs typically facilitate the admission of skilled professionals, entrepreneurs with capital to invest in Canada, and the families of those individuals (CIC, 2012c). In the Family class, either a Canadian citizen, or a permanent resident sponsors a prospective migrant to come to Canada (Ibid). In the Humanitarian class, migrants must be sponsored by either the government, a private institution, or be recognized by the Immigration Refugee Board as having a legitimate and well-founded fear of persecution in their country of origin (Ibid). Each stream also has different quotas set by CIC, which vary from year to year (Ibid).

Temporary statuses exist in three forms: through a work visa, study visa, or tourist visa. Each of these types of visa is granted through programs in one of three corresponding streams. In many ways, these categories are liminal, straddling designations of status, and non-status immigrant. Unlike permanent residency status, visas or permits are contingent, and valid only for a limited time. They grant the holder limited permission to work, study, or travel in Canada. In the case of work and study visas, the application process is also contingent upon support, either from an employer or educational institution. While some of these temporary migrants may have the opportunity to move to a more stable, permanent status, many more lose all rights afforded to them when their visas expire. The uneven access to permanent residency is an important, and hotly contested issue within the TFWP, and will be discussed further in Chapter 3.

Drilling down further, separate immigration programs fall under the heading of these different immigration streams. Within each stream fall several related, but separate immigration programs. For instance, within the Economic class, programs include the Federal Skilled Workers Program, the Canadian Experience Class, and the Entrepreneur Program. Applicants under all streams are
assessed for their economic contributions to Canada. The exact assessment criteria, however, vary slightly between programs.

These two related classification schemes, of status and programs, are applied to any newcomer to Canada. Each of these plays a distinct role. On the one hand, status grants rights and protections, and imposes conditions upon immigrants. On the other, immigration programs establish the criteria through which status is granted. In turn, these immigration classifications are applied to determine secondary classifications: inadmissibility and admissibility, or eligible and ineligible. These secondary designations of inclusion and exclusion are kinds of classification themselves, which are built upon the more formalized immigration classifications. As I discuss throughout this thesis, it through these classifications that temporary immigrants in general, and temporary foreign workers in particular, are systematically granted fewer rights than their Canadian and permanent resident counterparts.

2.3 The Work of Classification

Bowker and Star are interested in classification as shaping the world. Their book focuses on the work done by classifications: whether in facilitating tasks, or in creating barriers. To this end the three central questions that guide their inquiry are: 1) “What work do classifications and standards do?” 2) “Who does that work?” and 3) “What happens to the cases that do not fit?” (p. 9).

In many cases, they note that the work that classifications do helps interactions to run smoothly. Bowker and Star write that to uncover classifications, “[i]n general the trick is to question every apparently natural easiness in the world around us and look for the work involved in making it easy” (p. 39). For instance, the Dewey Decimal System allows for quick reference to find materials within vast collections. The telephone menus used for customer-service inquiries pre-sort customers and match them with the appropriate departments. Web protocols allow for seamless connection between webpages, and Internet browsers. These are used unselfconsciously, but serve to guide and ease our interactions with resources and technologies. The facilitation of tasks, they argue, is invisible work that is accomplished by classification.
Bowker and Star describe this sort of work as ‘magic,’ because that which is responsible for that work is never clearly seen.

While the work of classification can take many forms, some of the more interesting, and often troubling examples centre on the classification of human beings. In these cases Bowker and Star talk about the role of classification in constituting individual “biographical trajectories,” considering how “classification systems intimately interpenetrate our lives” (p. 163). Bowker and Star offer two examples that illustrate some of the implications of classifying human beings: the classification of tuberculosis, and the race classifications of Apartheid South Africa. Both discussions offer an interesting and nuanced description of the intersections between political, technical, and social infrastructure that shaped the development and use of classification in these spheres. One common theme for these cases is the use of classifications to designate access to privileges.

In the case of tuberculosis, diagnosis had wide reaching implications for patients, who would have been prescribed various treatments, including “…quarantine, isolation, mountain air, antibiotics…” depending upon the treatment theory of the time (p. 171). In the course of treatment, the perception of a patient’s stage in the disease trajectory also has material implications for the privileges afforded to patients, for instance, the duration of time they were permitted to spend out of bed. A patient’s classification along the disease trajectory was used to allot privileges, and in many ways defined the course of the lives of those subjected to it. Similarly, in the context of apartheid South Africa, racial classifications had significant implications for the lives of the classified. Schools, workplaces, neighbourhoods, and healthcare were all distributed on the basis of membership in racial categories. In both instances, these classifications were used (by doctors, bureaucrats, government officials) to allot privileges quickly and efficiently. Concretely, classifications serve to constitute almost every interaction the classified have with the institutions that classify them.

In much the same way, immigration classifications both support bureaucratic work and shape the lives of the classified. Like any other classification scheme, one dimension of immigration classifications is their role in facilitating these bureaucratic tasks. Immigration classifications are
used by border officers, government agencies, and other bureaucrats in their daily work. Immigration status allows agents to quickly and consistently determine the admissibility of migrants at the border, their eligibility to access different services, and the scope of their rights in Canada. Immigration programs provide seemingly impartial and apparently rigorous mechanisms through which that status is obtained. For bureaucrats, the classification is essential for managing everyday work, and can be used relatively unconsciously in the course of their duties.

At the same time, because these classifications are used to sort people, another dimension of their work is the role they play in shaping the ‘biographical trajectories,’ of the classified. While bureaucrats sort migrants, migrants are sorted. Far from abstract, this sorting relates to the imposition of concrete conditions and the allotment of privileges, rights and even protections. These have a significant and direct impact on the lives that the classified lead, the challenges they face and the degree of institutional support they have access to. For immigrants to Canada, much like citizens of Apartheid South Africa and tuberculosis patients, privileges and opportunities are defined by their categorization. Through the application of immigration classifications work opportunities are curtailed, families are separated, and lives are shaped. Classifications, while they support bureaucracy, create barriers and challenges for the classified.

Bowker and Star write, “[t]here is more at stake – epistemologically, politically, and ethically – in the day-to-day work of building classification systems and producing and maintaining standards than in abstract arguments about representation.” (p. 10). Where classifications become inextricably implicated in the legislation of privileges their study gains a palpable urgency. The concrete and wide reaching work that immigration classifications do is one reason to study them. Another reason is that these classifications are not objective realities, but the product of particular times, places and values. As such, the work that they do is not inevitable. It is to the creation of classifications, and the values embedded within them that I now turn.

2.4 Classifications Imbued with Political Value

Bowker and Star also hold that classifications are deeply political, imbued with value and entrenched within surrounding infrastructure. They argue that categories are not objective
realities, but that they are constructed through negotiation among sometimes opposing decision-makers. These negotiations are informed by larger social, economic, and political contexts, limited understandings, and often conflicting objectives. A deep understanding of any classification scheme must take into consideration these value-laden processes through which they are formed.

In looking at the moral and political underpinnings of a classification scheme Bowker and Star emphasize that each constitutive element is chosen. They focus on the ‘practical politics’ within classifications schemes – referring to the minutia of how classifications are structured and used. For them, even the drawing of boundaries between categories, and the level of gradation between them are aspects of the countless choices made as classification schemes are created and adjusted over time. Much like the work that classifications do, these decisions are rarely interrogated. Bowker and Star write, “once a system is in place, the practical politics of these decisions are often forgotten, literally buried in archives (when records are kept at all) or built into software or the sizes and compositions of things” (p. 45). In time, these choices are naturalized, eventually appearing as inherent features of the world.

The authors suggest that in order to understand the politics behind classifications it is essential to consider these choices and negotiations. They point out that, “someone, somewhere, must decide and argue over the minutiae of classifying and standardizing. …” (p. 44-45). On this view, the details that define each category become legitimate and meaningful objects of study. Administrators, bureaucrats, politicians, technicians and other agents consciously or unconsciously make these choices. It is through these apparently innocuous decisions that classification schemes favour one perspective over another. It is worth considering, therefore, how these choices are made, whose interests are represented, and which perspectives are excluded.

Importantly, the choices implicate both the individuals involved in decision-making and contextual realities. Firstly, the impersonal social, political, and technological context partially shape classification schemes. Bowker and Star write that information infrastructure, “…does not grow de novo; it wrestles with the inertia of the installed base and inherits strengths and
limitations from that base” (p. 35). Classifications, and infrastructure more generally, are inextricably linked with this “base,” which includes trends, conventions, and values of the social world from which they come. Classifications are likewise shaped by technologies, and its limitations. These larger contextual realities help to define the understandings, values, and goals that are reflected through classification schemes.

In the study of immigration classifications, larger social, economic and political contexts inform the designation of different immigration programs. As I discuss in Chapter 3, the details of the TFWP, including the ways in which programs are separated, the criteria used to assess applicants, and the small variations between programs, can be connected to a wider context. Developments elsewhere in immigration and labour policy, the political environment, and histories of race and gender-based discrimination have all contributed to the distinct programs that have arisen. This (incomplete) context helps to reveal some of the values and perspectives that immigration classifications embody. These dimensions are crucial for a complete understanding of any classification.

Secondly, classifications often reflect the perspectives and biases of those involved directly in their construction. Stakeholders may hold contradictory perspectives that must be reconciled within a single classification scheme. When created, these competing perspectives, interests and values are contested, and negotiated. A single classification scheme cannot possibly reconcile what are often incompatible values and perspectives, thus concessions are inevitably made. The result is a classification scheme where one particular perspective supersedes all others, and the competing perspectives are erased.

Bowker and Star’s discussion around the data collection from death certificates highlights some of the biases and negotiations entrenched in apparently neutral structures. Death certificates represent an important tool for data-collection on public health. For all patients who die, physicians are asked to classify and report their cause of death. Tracking the causes of death in a population over time informs policy development, history and the advancement of medical sciences. However, obtaining the best information on cause of death implicates many minute negotiations. Bowker and Star note, for instance, the balancing between a comprehensive
categorization, and a useable categorization. On the one hand, more detailed reporting yields more complete data. On the other hand, too many options, or too complex a system, and a physician may find reporting to be overly time-consuming. Death certificate classifications reflect a balancing between the competing perspectives of those who use the form, and those who are interested in data collection.

Another example of tension within death certificates occurs in cases of a “socially unacceptable form of death” (p. 25). They write that where death certificates are public, shared with family and funeral directors, doctors may wish to avoid exposing the deceased and their family to social stigma. Doctors may, thus, alter the cause of death such that, “syphilis can become heart failure, or suicide can become a stroke” (p. 25). Policies that allow for a dual death certificate (where one is public, and one is anonymized) account for this practice. In this way public health records may track the accurate cause of death, and the physician may exercise tact where necessary. A structural adjustment allows for both discretion and accurate data collection. Again, practices around classification are negotiated, reflecting and responding to new interests, and concrete issues of classifications in use.

Though much of this decision-making takes place during the initial formation, it would be misleading to suggest that this process of negotiation is complete when classifications are first formed. Classifications are relatively fluid, and can be adjusted over time. As classifications gain wider use – either in multiple contexts, or by new stakeholders – the new interests and perspectives of these players may shape the development of the classification. Bowker and Star write that, “… the very multiplicity of people, things and processes involved mean that they [classifications] are never locked in for all time” (p. 49). Classifications are maintained or disrupted according to how they are used.

2.4.1 Pragmatic Approach

Recognizing the political and negotiated nature of classifications implies that classifications are not objective realities. Categories are constructed by people, within given institutions, and with designated goals in mind. They are shifted, and adjusted to account for both values and their
usability. These are deeply constructed artefacts that are derived from people and institutions, rather than nature.

Immigration classifications are an excellent example of this. Immigration status is not an inherent fact about a person, though it is sometimes treated as such. Rather, it describes the relationship between an individual and a single country. It is relative to context, and geography. Canadian citizens, when they travel abroad, take on the status of visitor. Likewise, temporary residents of Canada may have more secure status elsewhere. As I discuss in Chapter 4, immigration classifications may have different meanings across Canada, as the provinces have diverse approaches to immigration settlement and selection.

It does not, however, follow that because classifications are not objective, that they are not real. Bowker and Star take a pragmatic approach to classifications. They write, “[i]f someone is taken to be a witch, and an elaborate technical apparatus with which to diagnose her or him as such is developed, then the reality of witchcraft obtains in the consequences – perhaps death at the stake” (p. 290). Even as they recognize that classifications are constructed, those classifications have reality in their material consequences.

When we study classifications, we are studying the work done by a constructed reality. In a sense, they only carry meaning within the community or institution that has agreed to give them meaning. This pragmatic approach underscores the need to consider both the work that classification do and the moral and political underpinnings of classification schemes. Classifications and the work that they do are not inevitable. Because they are constructed, they are also mutable.

2.5 Using Bowker and Star

The interplay between the material impact of classifications, and their political underpinnings is a central theme of Bowker and Star’s work. The discussion of the Temporary Foreign Workers Program is built around this interplay. In Chapter 4, I look at the provision of settlement services, and the designation of eligibility recipients of services. This setting is one location in which immigration classifications are applied to do work. I also note several moments of negotiation
and circumvention around these eligibility policies. To a certain extent, these dissenting voices and competing narratives reveal a challenge to existing classification.

First, I consider the category of ‘temporary foreign worker,’ itself, using Bowker and Star’s first two points: classifications being both shaped by, and shaping the world. In Chapter 3, I discuss in more detail the material impact of these classifications. I consider the nature of the divisions made through the Temporary Foreign Workers Program, as they sort migrants into various streams. Going deeper, I am interested in how membership in various streams impacts migrants’ access to resources, opportunities, rights and protections, as well as how it directs the imposition of various conditions upon their lives. At the same time, I connect these structures with the context from which they arise, considering the social, political, and economic underpinnings of the divisions made.
3 The Temporary Foreign Workers Program – classifying migrants and allotting privileges

In Chapter 2, I introduced key concepts from Bowker and Star and suggested an approach to the analysis of Canadian immigration classifications using their framework. I have focused on the relationship between the work that classifications do, and the values that underpin them. In this chapter I explore the Temporary Foreign Workers Program (TFWP), elaborating in more detail on each program within the TFWP. Throughout, I highlight the choices inherent in the structuring of each program element, and the intentions and values that these choices reflect. I go on to highlight the work the structural components of each program do to shape the lives of the temporary foreign workers (referred to also as TFWs, or migrant workers) subjected to them. Finally, I explore the political and social environment that shapes the practical functioning of the TFWP.

3.1 The Programs under the TFWP

The Temporary Foreign Workers Program is an umbrella term to describe several separate immigration programs through which employers gain permission to hire foreign workers, and through which foreign nationals gain temporary permits to work in Canada. Jointly administered by Employment and Skills Development Canada (ESDC) and Citizenship and Immigration Canada (CIC), the TFWP is as much an economic program as it is an immigration program. The programming of the TFWP has undergone reforms in June 2014, both in terms of program regulations and their structure more generally. While these changes will be discussed in my conclusion, this chapter focuses on the pre-2014 program.
Figure 3: Streams Within the Temporary Foreign Workers Program. (Adapted from Faraday (2012), with information from ESDC 2013a, 2013b, 2013c, 2013d & 2013e)

Figure 3 shows a breakdown of the streams under the Temporary Foreign Workers Program. Much like the different programs for permanent residents, different streams of the TFWP have different criteria for assessing applications and are designed to serve different interests. Correspondingly, different restrictions are placed on employers and workers in each stream. The criteria, intent, and restrictions associated with each program help to define them as distinct categories under the TFWP. It is these interests and restrictions that I use as a starting point for analysing both the values embedded within and work done by each classification.

3.2 Structuring Program Divisions: Serving Canadian Interests

One way to think about the political value imbued in a classification scheme is to consider the interests served by those classifications. The divisions between streams of the TFWP hint at the economic interests that are served by these programs. Various structures reflect a focus on Canadian employers, and Canadian workers as stakeholders, sometimes at the expense of temporary foreign workers.
3.2.1 LMO vs. Non-LMO

Figure 4: 2012 Temporary Foreign Workers Breakdown (Adapted from Manicom, 2013, with data from CIC, 2013c)

Programs are divided into two main streams: ‘LMO’ and ‘non-LMO.’ LMO stands for Labour Market Opinion, and refers to the assessment conducted by ESDC through which the government determines the need for temporary foreign workers in a given industry. Though rarely discussed in the media, or in academic literature, non-LMO streams actually make up approximately 2/3 of all temporary foreign workers in Canada (See Figure 4). While the relatively little attention paid to these streams is interesting, this thesis largely focuses on the LMO-streams of the TFWP. This is because there is more research to draw from on LMO-streams, who are more often subjected to harsh restrictions and more vulnerable to abuse. First, however, I describe in more detail the contrast between restrictions placed on workers under non-LMO streams and those under LMO streams.

As Citizenship and Immigration Minister Chris Alexander notes, the LMO and non-LMO streams reflect two different kinds of economic contribution within the TFWP (Kenney & Alexander, 2014). On the one hand, the LMO streams are intended to serve economic ends by
facilitating the admissions of foreign workers to fill temporary labour market shortages (CIC, 2012c). These workers (theoretically) are only hired where there are no qualified applicants from the domestic workers, that is to say Canadian workers or permanent residents, are available. This is why the permission to hire foreign workers requires an assessment – to ensure that the program is only used where necessary (CIC, 2013d; ESDC, 2013a, 2013b, 2013c, 2013d). The main requirement to demonstrate a labour shortage is that the position has been publically advertised for a period of four weeks (CIC, 2013d). If ESDC grants a positive LMO it indicates a finding that there is a legitimate shortage of available workers, and that hiring a TFW will not negatively impact the domestic workforce in that region (CIC, 2012b).

On the other hand, the non-LMO streams facilitate the admissions of workers in line with other economic and immigration initiatives. In these streams, workers may be admitted as part of reciprocal employment programs, such as youth exchange programs; in line with international agreements, like NAFTA (North American Free Trade Agreement) or GATS (General Agreement on Trade in Services); or through the new Post-Graduate Work Permits, for newly graduated international students, among many others (CIC, 2013d). For these, the labour market impact is formally inconsequential, and thus no assessment is required.

The LMO is an excellent illustration of the connection between program intentions and administrative approaches. The LMO streams have two sets of stakeholders in mind: Canadian employers and Canadians and permanent residents in the workforce. One of the phrases used repeatedly in government literature on the TFWP is building an immigration program that is “responsive to labour market needs” (CIC, 2012c). As I discuss below, it is an employer driven program, allowing the entry of workers to fill positions that cannot easily be filled domestically. The minimal administrative burden on employers, which requires little more of them than to advertise open positions, reflects the general orientation towards employer needs that is reflected throughout program structure. At the same time, the LMO serves to safeguard the jobs of the Canadians and permanent residents by restricting access to the TFWP where domestic workers could be hired first. ESDC attempts to balance between granting easy access to employers who need the program, while restricting access to those who do not. That said, currently the
effectiveness of this structure is being called into question. Rampant employer abuse reported in the media suggests that the LMO, with the fairly minimal administrative burdens placed on employers, is not successfully restricting use of the TFWP to cases where there is a legitimate labour market shortage.

Highlighting the distinction between LMO and non-LMO streams, program intent is further reinforced through tied work permits (Government of Canada, 2009). A tied work permit means that the worker is only permitted to work in Canada for the employer by whom they were originally hired (Faraday, 2012; Nakache & Kinoshita, 2010). In these cases, visas granted to workers are only valid as long as they remain with that particular employer. All workers under the LMO streams have tied work-permits.

Researchers consistently cite these tied work permits as contributing to exploitative employment practices (Faraday, 2012; Goldring, Berinstein, & Bernhard, 2007; Hennebry, 2012; Nakache et al., 2010; Priebisch, 2010; Torres et al., 2012). This is because tied work permits create significant barriers to workers leaving abusive employers. While it is technically possible for a worker under the TFWP to change jobs, they are required to first gain separate approval from CIC, ESDC, their current employer, and their prospective employer (Faraday, 2012; Nakache & Kinoshita, 2010). To accomplish this, migrants must navigate a convoluted system (that would be challenging even for Canadian workers) with the additional barriers of linguistic differences, and lack of familiarity with Canadian policy infrastructure (Nakache & Kinoshita, 2010). This process can also be time consuming, which for workers who have only a few months or years of eligibility to work in Canada can be prohibitive (Ibid). With little realistic opportunity to leave, it is easy for an employer to exert power over a temporary foreign worker (Faraday, 2012; Nakache & Kinoshita, 2010). It is common to hear of employers withholding pay, requiring over-time, exposing them to unsafe working conditions and threatening repatriation of workers who do not comply (Faraday, 2012; Nakache & Kinoshita, 2010).

By contrast, workers in non-LMO streams are granted open work permits. They therefore have greater mobility to change jobs should they wish (CIC, 2013d). Where vulnerability to abuse is
connected to these tied permits, it follows that experience of abuse are closely related the participation in different streams of the TFWP.

The 2009 Standing Committee Report on the Status of Temporary Foreign Workers and Non-status Workers (hereafter referred to as the Committee Report) brought this abuse to the attention of the government. There has been no subsequent move to provide open work permits for LMO workers. The government response argued that tied work-permits actually helped to protect TFWs, a claim that remains unsubstantiated (Government of Canada, 2009). More importantly it seems, they argued that tied work permits were essential to ensuring the LMO streams were responding to labour market needs. They wrote,

Finally, moving away from employer-specific work permits would prevent the Government of Canada from effectively assessing the impacts of the entry of the foreign national on the labour market, including whether employers have made reasonable effort to hire or train Canadians, or if the entry of the foreign national fills a labour shortage or impacts labour disputes at the place of employment… Removing employer-specific work permits would also prevent the Government from monitoring layoffs of TFWs; it would also prevent Canadians from ensuring that employers are not seeking to replace Canadians with TFWs and that new TFWs are not entering the country when others are available (Government of Canada, 2009).

Citing the need to protect the interests of Canadian workers, the assumption is that if temporary foreign workers move more freely they become a threat to the domestic labour force. On that view, much like the LMO, the tied work permit is based directly on the program intention – to fill labour market needs. At a broader level, both tied work permits and LMOs reflect the stakeholders whose interests are being privileged. There is an oblique preference given to the interests of Canadian workers over those of temporary foreign workers. In defending these structures, the government response also reveals a particular conception of how Canadians are best served – that is to say, by protecting their access to labour market opportunities. Larger considerations of community or nation building, for instance, are not ranked through these
program structures. These types of value-laden choices evidently shape both the categories under the TFWP, and how those categories are used.

### 3.2.2 LMO Programs

Under the LMO there are four streams through which migrants enter Canada: the Live-in Caregivers Program (LCP), the Seasonal Agricultural Workers Program (SAWP), the Stream for Higher-skilled Occupations (SHSO), and the Stream for Lower-skilled Occupations (SLSO). These divisions, like the divide between LMO and non-LMO streams, reflect choices relating to program intent. Again, the divisions between categories hint at the values and perspectives entrenched in the program: in this case labour market responsiveness, defined in terms of employers’ need.

At their very foundation, LMO streams incorporate employer interests. Connected to perceived labour market needs, LMO streams are used as a tool to support business and industry in Canada in a context in which there is a perceived shortage of domestic labour (HRSDC, CIC & CBSA, 2012). Their growth up until 2014 has been proportional to the employers who apply, and has not historically been guided or limited by federally applied quotas (Faraday, 2012, Nakache, 2010). In effect, the employer is used as a proxy to reflect the larger economic needs of the country. While 2014 changes have imposed some limitations on use of the TFWP, it is still designed to respond to employer demand.

The divisions between categories of the TFWP follow this employer-centric perspective. Each program reflects the position intended to fill, not the worker intended to fill them. Programs within the LMO streams are structured around both the industry in which workers are employed, as is the case for the Seasonal Agricultural Workers Program (SAWP), and the Live-in Caregivers Program (LCP), or the skill-level required for the given position, through the Stream for Higher-Skilled Occupations (SHSO), and the Stream for Lower-skilled Occupations (SLSO). The divisions between program is not the result of an overarching design, but rather the iterative growth of the TFWP from the introduction of the SAWP in the 1950s, up until the introduction of the SLSO in 2002. As I discuss in more detail below, each program was introduced in
response to perceived employer and industry needs. This is in contrast with streams for permanent residency, which make divisions according to contextual considerations of the prospective immigrant themselves, for instance whether they will be supported by family in Canada, or are arriving to pursue employment opportunities. In the TFWP, divisions continue to be based on the position sought after by the employer, and radically few mechanisms are in place for the government to proactively select immigrants themselves.

In this context, TFWs become essentially interchangeable, distinguished by their membership in streams and other impersonal identity markers such as gender and country of origin. Lowe (2010) describes the construction of temporary foreign workers as “economic units,” viewed merely in terms of their contribution to the labour market. Hennebry (2012), Macklin (1992), and McLaughin & Hennebry (2013) likewise talk about the creation of flexible labour pools to serve employers needs. As Faraday (2012) puts it, the TFWP creates “an infinitely flexible and infinitely vulnerable pool of workers who can be shifted from one industry to the next as needs arise.” Migrant Workers Alliance for Change (MWAC) critique the TFWP for the creation of what they describe as a ‘revolving door,’ in which temporary foreign workers are quickly replaced in the same positions year after year (MWAC, 2014). In each case, advocates are pointing to the objectification of temporary foreign workers who are viewed in terms of their use, rather than in terms of their own intentions. These relationships of depersonalization and objectification are in part founded by a program structure that privileges employer perspectives and needs over those of temporary foreign workers.

At the same time, many of the criticisms levelled against the TFWP by the media and the public have relied upon the objectification of temporary foreign workers. The fear of TFWs stealing Canadian jobs is based upon an understanding of TFWs as means to an economic end – especially in the LMO streams. The actual and potential contributions of these workers to communities, culture, and society are absent from both formal program intentions, and the popular discussions around the program.

I discuss in Chapter 2 Bowker and Star’s argument that classifications entrench particular values and perspectives over others. The LMO, tied work-permits, and industry/skill level based
programs are way in which values are entrenched in the TFWP. The interests of the employer and the domestic workforce are privileged over those of temporary foreign workers. These program structures reinforces a construction of the temporary foreign worker as ‘economic units,’ whose value is understood in terms of their support of Canada-centric program intentions. Evidently, this classification is neither objective, nor is it neutral. Now I move to discuss the work that these classifications do in shaping the lives of temporary foreign workers in Canada.

3.3 The Work of Immigration Classifications: LMO Streams and Program Regulations

There are many instances in which program structures impact access to privileges and opportunities available to temporary foreign workers (TFWs). I have already talked at length about tied work permits and the LMO as two mechanisms through which program intentions are entrenched and privileges are constructed. I now look at the four streams requiring an LMO in more detail, considering how program regulations impose conditions upon and grant privileges to workers. The previous section has focused on the values behind program regulations. This section focuses more on their impact. To begin, I outline the variations between the four main streams requiring LMOs.

3.3.1 Four programs

The Live-in Caregiver Program (LCP), as the name suggests, facilitates the admissions of workers intended to provide live-in care to children, elderly persons, or persons with disabilities (ESDC 2013a). Introduced in 1992, the LCP is the latest iteration of a series of programs for the entry of caregivers that were first introduced in 1955 (Macklin, 1992). Currently, Live-in caregivers are paid at a rate of $10.77/hour in Ontario, less cost of room and board (ESDC, 2013a). Prospective workers must have English or French language skills, have completed secondary school, and have either six-months education, or at least one year full-time paid employment in a related field (ESDC, 2013a; Faraday, 2012). The LCP is unique among programs catering to lower-skilled positions to offer access to permanent residency. Workers have four years to complete 3900 hours of work (equivalent of two-years fulltime employment)
and then become eligible to transition to permanent residency status (ESDC, 2013a). 90% of workers under the LCP who have completed the two years of work do apply for permanent residency, with a 98% success rate (Faraday, 2012, p. 36).

Figure 5: Rates of Admissions and Permanent Residency Under the Live-in Caregivers Program. Because caregivers are only eligible to pursue permanent residency after two years of full-time work the proportion of transition must take into consideration a two to four year gap. (Data from CIC, 2013a; b).

Based on a comparison between the number of Live-in Caregivers admitted annually and the number of primary applicants under the Live-in Caregiver’s stream who successfully make the transition to permanent residency the transition rate is closer to 60% (see Figure 5, above). This means that either the remaining live-in caregivers either choose not to pursue a life in Canada, or they are unable to complete two-years full time work required before they are eligible to apply for permanent residency (CIC, 2013a, b).

The Season Agricultural Workers Program (SAWP) is designed to help with short-term labour needs that arise with agricultural seasons (HRSDC, 2012). SAWP workers are permitted to enter Canada for up to eight months of a given year (ESDC, 2013b). The program was created in 1966,
following pressure from Canadian farmers for programs to emulate the guest worker programs that had been introduced internationally during the Second World War (Hennebry, 2012). Workers under the SAWP are paid at prevailing wages, meaning their salaries must match those of Canadians employed in similar positions in the area (ESDC, 2013b). Typically, SAWP workers are required to live in employer provided housing on their work premises (ESDC, 2013b). While work permits are limited to eight months, SAWP workers are able to return each year (ESDC, 2013b). As a result SAWP is the program with the longest standing participants with some workers noted to have returned to Canada for upwards of 20 years, spending the majority of their working lives on farms in Canada (Hennebry, 2012).

The Stream for Higher-Skilled Occupations (SHSO) was introduced in 1973. This program opened up to TFWP to all sectors of the Canadian labour market (Faraday, 2012; Nakache & Kinoshita, 2010). Instead of distinguishing separate streams for different industries the SHSO, and the Stream for Lower-skilled Occupations that came after, are separated based on the skill level of the position migrant workers are intended to fill. Notably, rather than seeking labourers to fill positions that were not highly sought after by Canadians, the SHSO allowed for the entry of workers with specialized skills that were not easily obtainable in Canada (Nakache & Kinoshita, 2010). Though the conditions of work permits for higher-skilled workers may vary, the structure of this program imposes far few restrictions upon workers (Preibisch, 2010, p. 409) Workers in the SHSO are not required to live with their employers and have greater flexibility to change employers (ESDC, 2013d; Preibisch, 2010). Additionally, they have support for bringing their families with them (for instance, open work permits for spouses), and have access to pathways to permanent residency (Faraday, 2012; Preibisch, 2010).

Finally, the Stream for Lower Skilled Occupations (SLSO) is the most recent addition to the temporary migration landscape in Canada, introduced in 2002. The SLSO was created following pressure from employers, especially in the oil, gas and construction industries as a pilot project to admit lower-skilled laborers to fill gaps in those booming sectors (Nakache & Kinoshita, 2010). A large proportion of workers under the SLSO work in the oil industry in Alberta (Hennebry, 2012). Across Canada, industries such as tourism, food service, cleaning, and
construction are also making use of temporary foreign workers to fill labour shortages (Ibid). Like SAWP workers, workers under the SLSO must be paid at prevailing wages of the industry. Work permits under this stream are provided for a 24-month period, and are renewable up to four years (Ibid). Following this, workers must return to their countries of permanent residence for a period of four years, before they are able to be readmitted to Canada (ESDC, 2013c; Faraday, 2012). It is this program that has made it into the news lately, with accusations of workers being hired in positions sought after by Canadian workers.

The nature of visas granted to workers within each stream of the TFWP differ on several levels, including: the nature of work they are associated with, the duration of work permits, criteria used to select workers, access to settlement support, access to permanent residency, and program administration. These program elements as they existed prior to the July 2014 program restructuring are listed in Table 1, below.

![Diagram of TFWP streams](image-url)

**Figure 6: Foreign Workers Requiring an LMO Living in Canada as of December 2012 (Adapted from Manicom (2013) with data from CIC, 2013b)**
<table>
<thead>
<tr>
<th>Program</th>
<th>LCP</th>
<th>SAWP</th>
<th>SLSO</th>
<th>SHSO</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMO required?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Industry</td>
<td>Live-in Caregiver</td>
<td>Seasonal Agricultural Worker</td>
<td>Any</td>
<td>Any</td>
</tr>
<tr>
<td>Skill level</td>
<td>C</td>
<td>C &amp; D, with provisions for 0, A, B workers</td>
<td>C &amp; D</td>
<td>0, A, B</td>
</tr>
<tr>
<td>Duration of WP</td>
<td>4 year; 4 year max</td>
<td>8 months/year; unlimited return</td>
<td>2 year; 4 year max</td>
<td>Variable</td>
</tr>
<tr>
<td>Education requirement</td>
<td>High school &amp; 6 month work experience or training</td>
<td>n/a</td>
<td>n/a</td>
<td>University or industry specific training</td>
</tr>
<tr>
<td>Language requirement</td>
<td>English or French fluency</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Housing</td>
<td>Must reside with recipient of care. Cost claimed from wages</td>
<td>Provided by employer, on work site. Cost claimed from wages</td>
<td>Independent</td>
<td>Independent</td>
</tr>
<tr>
<td>Permanent Residence</td>
<td>Yes; after 2 years f/t work OR 3900 hours of work</td>
<td>Select PNP</td>
<td>Select PNP</td>
<td>Yes: CEC, PNP</td>
</tr>
<tr>
<td>Access to Settlement services</td>
<td>Yes federal &amp; most provinces</td>
<td>Not federal &amp; select provinces</td>
<td>Not federal &amp; select provinces</td>
<td>Not federal &amp; select provinces</td>
</tr>
<tr>
<td>Governance</td>
<td>Employer, Employee, CIC, ESDC</td>
<td>Employer, Employee, CIC, ESDC, government of country of origin</td>
<td>Employer, Employee, CIC, ESDC</td>
<td>Employer, Employee, CIC, ESDC</td>
</tr>
</tbody>
</table>

Table 1: Visa descriptions of LMO stream of the TFWP, compiled based on information from ESDC 2013a, b, c, & d.
3.3.2 Housing and Family Unity

Immigration classifications place concrete limitations on workers. I have already introduced the program structures unique to each stream of the TFWP. Two smaller examples of program elements with concrete implications for the lives of temporary foreign workers are the rules regarding family accompaniment, and housing.

Firstly, many temporary foreign workers undergo long periods of separation from their families. There are several mechanisms that contribute to an environment in which workers are isolated from their families during the course of their employment in Canada. For one, there is little support for families to accompany workers during their time in Canada. In the case of the SLSO and SAWP, there are no provisions for family members to gain work permits in Canada, or other authorization for accompaniment. In the case of the SAWP, workers are sometimes selected explicitly because they have families who will remain behind (Hennebry, 2013). This is viewed as an assurance that these workers will return home at the end of their term (Ibid).

Even in cases in which workers have family or friends working elsewhere in Canada, they may be limited by their employer in their ability to visit them or arrange to be placed in positions near them (Hennebry, 2012). For SAWP workers, guests may also be restricted from visiting workers on their work site, and securing time off to travel can be difficult (Faraday, 2012; Hennebry, 2012; McLaughlin & Hennebry, 2013; Preibisch, 2010).

By contrast, other workers are permitted to bring family members to Canada. In some cases, the spouses of higher-skilled workers may be granted open work permits for the duration of their time in Canada. Similarly, under the LCP, it is now technically permitted to bring family members to Canada, creating new opportunities for family unity (Bakan & Stasiulis, 2012). In the case of caregivers, workers must gain the approval of their employer first, and the applicant must demonstrate that they are able to support their family member (s) (Bakan & Stasiulis, 2012). Given the low wages of many caregivers, and the employer discretion in granting permissions, it is not clear how this permission translates to actual ability to bring family members.
The admission of family and the provision of open work permits for these family members is seen as supporting long term integration in Canada (Standing Committee on Citizenship and Immigration, 2009, p. 16). I discuss in detail below the structures that govern access to permanent residency. The permission to bring family members to Canada seems to correspond with the expectation of permanence afforded in relation to streams.

Housing is another important instance in which participation in immigration programs shapes the lives that temporary foreign workers lead while in Canada. Workers under the LCP are required to live in the homes of the recipients of care in order to be eligible to participate in the program (Faraday, 2012; Hodge, 2006; ESDC, 2013a). Similarly, according to SAWP regulations, workers live on the premises of the farm, in housing provided by employers (ESDC, 2013b; Hennebry, 2010). In both the SLSO and the SHSO the housing is not dictated by program regulations, so while some do live with their employers it is less common.

Social isolation and abuse are well-documented risks associated with living with an employer (Faraday, 2012; Hennebry, 2010; Hodge, 2006; Macklin, 1992). Surveillance of workers, limited transportation off site, control of visitors, and the constant state of ‘availability to work,’ all result from the close proximity of employers to their workers (Hughes, 2012; Preibisch, 2010). This living situation further entrenches an employee’s reliance upon their employer, as losing employment translates to losing their home (Faraday, 2012).

There are also issues with the quality of housing. The literature documents these inadequate living conditions, where “…lack of access to clean drinking water, lack of safe food storage (e.g., refrigeration), insufficient food preparation and cleaning amenities, proximity to pesticides and fertilizers, inadequate bathroom facilities, and improper management of food, household and human waste,” have all been reported (Hennebry, 2012). While minimum standards of housing are on paper supported by the programs, the enforcement of these standards is lacking.

These two examples help illustrate the type of concrete, day-to-day implications of falling into different categories. Two different temporary foreign workers might have vastly different experiences in Canada, closely related to their having been categorized differently.
3.3.3 Enforcement

Workers who fall under the TFWP are also less effectively protected from abuses in the workplace than their counterparts with Canadian citizenship and permanent residency status. Although the same labour laws and employment standards protecting Canadians and permanent residents apply to TFWs, this does not translate into de facto equal protection against labour violations. This is due to poor enforcement of the labour standards that do exist, and systemic barriers to workers reporting abuses that do occur (Faraday, 2013; 2014; Hennebry, 2012; Nakache & Kinoshita, 2010; Preibisch, 2010).

The abuse and exploitation can take many forms. Issues surrounding compensation, including withholding wages, denying workers over-time pay or illegal deductions have all been reported. (Faraday, 2013, Faraday, 2014; Hennebry, 2012; HRSDC et al., 2012; Nakache & Kinoshita, 2010; Preibisch, 2010). At the stage of recruitment, it is not uncommon to find migrants charged illegal fees “for non-existent jobs and jobs significant different from promised” (Faraday, 2014; HRSDC et al., 2012). Poor workplace conditions, health and safety violations, dangerous work and inadequate training are also prevalent (Ibid). The nature and severity of abuses may vary between workers, but the structures that support these abuses are common.

Some vulnerability is attributed to lack of knowledge of rights, and the laws of Canada (Standing Committee on Citizenship and Immigration 2009, p. 27). Employers are able to take advantage of this ignorance, and workers are thus less able to access the bodies that do protect them. A government administered evaluation of the TFWP found that “When asked why they did not take action to address issues, the other workers most commonly said they did not know where to go for help or were concerned about the impact that taking action would have on their job and relationship with the employer” (HRSDC et al., 2012, p. 37). The committee’s primary suggestion is to improve the information given to workers, so that workers themselves may better address employers who violate employment standards (2009). While this is a necessary step it is evident that there is a larger environment that is permissive to the exploitation and abuse of workers.
For one, jurisdictional conflicts and confusion create gaps in protection. The TFWP is governed by the federal ESDC and CIC, while labour standards are defined and enforced provincially (Nakache & Kinoshita, 2010). Both provincial and federal governments resist responsibility for the enforcement of regulations, and fail to coordinate between them, creating what Preibisch describes as a “jurisdictional void” (2010, p. 416). Preibisch further writes, “When problems regarding migrant workers are brought to the attention of federal officials, the onus of responsibility is often deferred to provincial and municipal levels of government, sending country officials, or employers, who in turn deflect accountability upwards” (Preibisch, 2010, p. 416). Workers are, thereby, left with little recourse to hold their employers accountable for labour standards.

A recent case illustrates the nature of these jurisdictional voids. Two workers, Kenroy Williams and Denville Clarke, came to Canada from Jamaica under the SAWP (Keung, 2014). They were injured in a farm vehicle accident in 2012, and have remained in Canada for the two intervening years to receive medical treatment. However, because their work contracts were terminated in 2012 neither the federal or provincial governments is taking responsibility for Williams’ and Clarke’s health care costs. In April 2014, the Ontario Court of Appeals overturned a prior ruling that had ordered the province to grant coverage to the injured workers. The new decision was based upon an argument that the province has no liability for workers under the federally administered SAWP. Justice Ian Nordheimer suggested that it be the responsibility of employers to provide private health insurance for workers, rather than the government (for more details on the case see Keung, 2014). As each party resists responsibility, these workers are left without coverage for injuries sustained through their work in Canada.

Another barrier to adequately enforcing labour standards is that all mechanisms to address abuses are complaint based (Faraday, 2012; Hennebry, 2012; Nakache & Kinoshita, 2010). Much like the bureaucratic difficulties faced by workers who attempt to change employers, filing a complaint against an employer can be difficult (Nakache & Kinoshita, 2010). Workers who do come forward risk repatriation, and are often unable to follow through with a complaint even if they do make them (Faraday, 2012; Hennebry, 2012; Preibisch, 2010; Nakache & Kinoshita,
2010). In this context, it is unrealistic to rely upon workers to come forward with allegations of abuse.

Provincial governments lack the tools to proactively enforce labour standards. For one, they do not have a complete list of all the TFWs in the province at a given time (Nakache & Kinoshita, 2010). While CIC keeps information on all employers and workers making use of the TFWP, this information is not shared with the provinces (Nakache & Kinoshita, 2010). Manitoba is an exceptional case, unique among Canadian provinces in having established a registration process for employers. This also allows them to create a complete list that can subsequently be proactively monitored, and sanctioned (Faraday, 2012; Preibisch, 2010). Alberta has also taken steps to support temporary foreign workers proactively, with a TFW advisory board and helpline “that assist workers to learn about their rights and find solutions for situations involving unfair, unsafe, or unhealthy working conditions” (HRSDC et al., 2012, p. 38). While these provinces better protect workers, oversight in general is insufficient to adequately address the scope and prevalence of abuse nationally.

The structure of the program both explicitly limits the rights of workers, as well as de facto creating an environment in which the protection of workers rights is difficult to enforce. Much like the case of patients diagnosed with tuberculosis, and citizens subjected to race classifications in Apartheid South Africa, the lives of temporary foreign workers are warped according to the confines of their categorization. The work that immigration classifications do is significant and workers under the program are not realistically able to circumvent it.

3.4 Access to Permanent Residence: Valorizing Skill Level

Perhaps one of the most significant limitations placed on workers under the TFWP is their access to permanent residency. Access to permanent residency is closely related to the skill level at which workers are employed while in Canada. The skill level of a given position is determined in consultation with the National Occupational Classification (NOC) designations. Broadly speaking, the NOC describes the education level required to perform a given job. There are 5 levels:
The NOC skill levels are used across Canadian industries to help organize the labour market and provide some standardization of training requirements for various position types (ESDC, 2006a; b). In immigration, the NOC classifications help to define the various streams of Temporary Foreign Worker Program streams. While the Seasonal Agricultural Workers Program (SAWP) and the Live-in Caregivers Program (LCP) are industry, not skill level specific streams, they still have NOC skill levels associated with them. Occupations at skill levels 0, A and, B are classified as “skilled occupations,” and are typically hired under the Stream for Higher Skilled Occupation (SHSO), or rarely the SAWP (ESDC, 2013b, d). Occupations described in C and D are “lower skilled occupations,” and may be hired under the Stream for Lower-skilled Occupations (SLSO), the LCP, or the SAWP (ESDC, 2013a, 2013b).

Importantly, the NOC is based upon the education required to hold a given job, not based upon the skill level of individuals. This means that a worker with high-skilled qualification is still
considered as a low-skilled worker if the occupation they hold while in Canada is designated at NOC C or D. This is not uncommon, for instance, though the LCP is designated as Skill level C (requiring secondary school education, and some vocational training) 63% of Live-in Caregivers who made the transition to permanent residency in 2009 had education at Skill level A (Faraday, 2012, p. 34). Because access to permanent residency is so often determined on the basis of skill level, this classificatory principle has material importance.

Determining access to permanent residency is perhaps the most significant contemporary implication of the NOC in immigration. The Canadian Experience Class, and Provincial Nominee Program (PNP) both act as pathways to permanent residency for temporary workers and other migrants. The Canadian Experience Class (CEC) allows applicants who have worked in Canada for two years or more to apply for permanent residency. This program is based upon the assumption that “Canadian Experience” makes immigrants better equipped to succeed in the Canadian labour market (Lowe, 2010). Similarly, the Provincial Nominee Program (PNP) creates opportunities for temporary residents to apply for permanent residency. The PNP is administered by the provinces, who independently determine their criteria for selection, usually related to regional labour needs. In both cases, skill level is a determining factor. In the case of the CEC, only employment in higher-skill occupations counts as ‘Canadian Experience’ (CCR, 2010; Lowe, 2010). This means that workers under the SAWP, and the SLSO are excluded. In the case of the PNP, opportunities for lower-skilled workers vary. While some provinces do select lower-skilled workers, most favour higher-skill workers (see Table 2, below). The new program regulations will be defined in terms of wage level, rather than skill level. It is not yet clear how access to PR will change in the years to come.
<table>
<thead>
<tr>
<th>Province</th>
<th>Eligibility</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Higher-skilled workers</td>
</tr>
<tr>
<td>Alberta</td>
<td>*</td>
</tr>
<tr>
<td>British Colombia</td>
<td>*</td>
</tr>
<tr>
<td>Manitoba</td>
<td>*</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>*</td>
</tr>
<tr>
<td>Newfoundland</td>
<td>*</td>
</tr>
<tr>
<td>Northwest Territories</td>
<td>*</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>*</td>
</tr>
<tr>
<td>Nunavut</td>
<td></td>
</tr>
<tr>
<td>Ontario</td>
<td>*</td>
</tr>
</tbody>
</table>
Table 2: Eligibility for PNP Across Canada (Compiled from various provincial government sources, see Chapter end for full list)

<table>
<thead>
<tr>
<th>Province</th>
<th>Higher-skilled workers</th>
<th>Recent Graduates</th>
<th>Semi-Skilled Workers</th>
<th>Low-skilled workers</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prince Edward Island</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>Business Stream, for entrepreneurs, and Labour Stream, for Higher-skilled occupations and occupations with a recognized labour market need, including semi- and low-skilled occupation.</td>
</tr>
<tr>
<td>Quebec</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td>Because Quebec has control over immigrant selection per Canada-Quebec Accord there are opportunities through both Programme de l’expérience Québécoise (PEQ) and regular streams. Required French language and skill level higher than C in order to be eligible for the PEQ.</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>Lower-skilled occupations in select industries, including Hospitality, and Long-Haul Truck Drivers have access to PNP through Saskatchewan Experience Category. Skill level is not named explicitly.</td>
</tr>
<tr>
<td>Yukon</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>Critical Impact Worker Program for workers at NOC C &amp; D levels</td>
</tr>
</tbody>
</table>

The uneven access to permanent residency within the TFWP has long been criticized. The Committee Report notes, “[s]ome expressed concern about the emergence of what is perceived to be a two-tiered system, providing access to permanent residency to the educated and highly skilled while leaving low skilled workers with only temporary employment options” (Standing Committee on Citizenship and Immigration, 2009, p. 5). Recommendations from the Committee include provisions for greater access to permanent residency for all workers in the TFWP, including lower-skilled workers. The committee argues that low-skilled workers make an important contribution to Canadian industries. They suggest that this contribution, and the long-
standing need for workers are reason enough to offer them more permanent immigration status, should they choose.

Access to permanent residency is one of the main demands that advocates have focused on. As the Committee notes, “One oft-repeated phrase during the Committee’s hearings was that ‘if a person is good enough to work here, he or she is good to enough to stay here’” (Standing Committee on Citizenship and Immigration, 2009, p. 53). This phrase, “Good Enough to Work Good Enough to Stay!” is used frequently by advocacy groups to challenge the institutionalized devaluation of migrant workers (e.g. United Food and Commercial Workers campaign, see Appendix B). This type of campaign has had some past success in the case of the Live-in Caregivers program, when public pressure led to the reinstatement of their access to permanent migration (Macklin, 1992).

Despite past success, changes to the current restrictions do not appear to be forthcoming. The 2009 Government response has rejected this recommendation citing the lack of skills that these workers possess. They hold that the current mechanisms for permanent residency are adequate, and that any exclusions are appropriate. They write,

… lower-skilled workers generally have limited training, transferable skills and linguistic abilities, which mean adapting to changing conditions and finding their way around in the Canadian labour market could be more of a challenge. Moreover, it does not appear that a broad-based long-term need for lower-skilled workers exists across Canada to the same extent that experts and stakeholders have identified for skilled workers (Government of Canada, 2009).

Thus, workers in the SLSO and the SAWP are prevented from moving from their precarious status as temporary foreign workers to permanent residency status (with the exception of select PNP programs that allow pathways for lower-skilled workers).

The claim that there is no “broad-based long-term need for lower-skilled workers” is contested. TFWP advocates note a long-standing need for lower-skilled workers, particularly in agricultural fields, where employers have consistently recruited through the program for fifty years. They
argue that the labour shortages are less temporary than are the workers (Faraday, 2012; Hennebry, 2012; Nakache & Kinoshita 2010).

Much like other privileges granted in accordance with immigration classification, the selective access to permanent residency reveals values embedded in immigration regulations. Nakache & Kinoshita (2010) and Faraday (2012) argue that the temporariness imposed upon lower-skilled occupations reflects the devaluation of the migrant workers filling those positions. The restriction to accessing permanent residency for lower-skilled workers reflects a distinct understanding of who is capable of labour market integration and making a contribution to Canada in the long term (Lenard & Straehle, 2012).

More broadly, the fixation on labour market integration suggests again that temporary foreign workers are viewed as ‘economic units,’ rather than being viewed in terms of their potential contributions as citizens, or community members (Lowe, 2010). Since 1967, permanent immigration in economic streams has invoked a points system that values education, language ability and income levels (Ibid). A similar understanding of the traits that make an immigrant a desirable candidate for permanent residency appears to be at work here. Higher skill levels, education and language ability are read as indications of migrants’ ability to contribute to the Canadian economy. As such, these markers are connected to greater access to permanent residency, a transition that affords stability, greater freedom, and more effective protection of rights.

3.4.1 Two-Step Migration

The process through which temporary migrants may access permanent residency is itself worth noting. Each program available to temporary residents follows a ‘two step migration’ model (Lowe, 2010). This means that prior to being eligible to apply for permanent residency immigrants are required to have resided in Canada for a minimum time period – usually two years. This two-step model has long been adopted in Australia for all immigrants (Australia, Citizenship, 2011). It is an increasingly important dimension of Canadian immigration policy,
where 36% of economic immigrants first lived and worked in Canada as temporary residents (See Figure 8).

![Figure 8: Two-Step v. One Step Immigration in Economic Class, by Year (Data from, CIC, 2013a)](chart.png)

This minimum work requirement exposes workers to some risks. In the LCP, CEC and PNP (the three programs through which temporary residents may transition to permanent residency), work requirements reinforce the relationship of dependence between employer and employee. Workers aspiring to permanent residency are incentivized to remain in abusive employer relationships, and less likely to report this abuse in order to expedite the attainment of the requisite work experiences (CCR, 2010; Torres et al., 2012). As noted by the Standing Committee on Citizenship and Immigration,

For example, many of them [Live-in caregivers] are forced to work overtime without pay or are forced to work without pay at all. Since enforcing their rights could potentially mean getting fired and being unable to complete the two-year employment requirement for permanent residence, caregivers are almost always willing to tolerate abuse from the
employer. Witnesses also suggested that live-in caregivers sometimes failed to complete the period of employment due to circumstances beyond their control, such as illness, relocation with the employer overseas, pregnancy, or the death of an employer (p. 11).

Again, the structure of TFWP imposes restrictions upon workers over and above those placed on immigrants in other streams.

3.5 Contextual Considerations

In addition to being understood in terms of the work that they do, classifications must also be critically examined in terms of their relationship with surrounding infrastructure. Bowker and Star argue that classifications are deeply connected to the context from which they arise, and are always in part constituted by this context. In the case of the Temporary Foreign Workers Program (TFWP), the national political context, global economic context and related migration patterns are significant. Likewise, racism and sexism intersect with the TFWP, influencing how immigration classification is implemented, and the kinds of consequences classifications have. It is to these concerns I now turn.

3.5.1 Canadian Political Context

The growth of the TFWP has occurred within the context of an increased harmonization of economic and immigration policies in Canada. In the past decade the proportion of economic class immigrants admitted, compared with family or humanitarian class, has increased steadily (see Figure 9). Correspondingly, the rhetoric around immigration has centred on economic goals. In their Annual Report to Parliament, CIC describes their focus on, “... creating a fast, flexible and responsive immigration system,” and, “align[ing immigration policies] with Canada’s evolving economic conditions.” (CIC, 2012c, p. 6). At the same time, Lowe has discussed a shift from “…from nation builders (permanent residents) to economic units (temporary workers)” (Lowe, p. 25).
The focus on aligning immigration and labour market conditions in Canadian policy is evident much earlier. By the mid 1960s, the federal government sought to align immigration more closely with labour market needs (Tolley & Young, 2011). At this time, immigration and settlement portfolios operated under the mandate of two departments: the Department of Manpower and Immigration, and the Secretary of State (Ibid).

In 1987, the Reform Party was founded, pushing a populist neoliberal agenda – valuing small government and free markets – into the forefront of Canadian political discourse (Patten, 2013). Part of their platform included a move towards right-lean immigration policies (Marwah et al., 2013). Reflecting increasingly anti-immigration sentiment of the West, Reformists argued that “not only were too many immigrants, both legal and illegal, entering the country, [but] they were also the wrong kind of immigrant” (Ibid). While, in some exceptional cases, the rhetoric was explicitly racial, their anti-immigration platform was largely framed in economic terms (Ibid). In 1991, Stephen Harper, then a member of the Reform Party and now (September 2014) Prime Minister of Canada, had argued that, “immigration policy be framed in economic terms, as a culturally phrased policy would be politically too dangerous – it would be too easy for the
other parties to attack as veiled racism” (Stephen Harper, quoted in Marwah et al., 2013, p. 105).

This practice, of couching immigration policies in economic terms, hints at the perception that economics are more neutral or politically palatable. In this context, an emphasis on the economics has been a politically strategic approach to immigration policy. Following this, in 1994, the Liberal government shifted targets away from family class immigrants, emphasizing instead economic class immigrants (Marwah et al., 2013).

The TFWP, privileging economic input of migrants above other considerations, has increased drastically in size and scope in the past decade. Contemporary critiques, while they call for a restriction on the TFWP do so in explicitly economic terms, concerned with the labour market prospects of Canadians. The long history of economic considerations within immigration is at work here.

3.5.2 Patterns in Global Migration

The Canadian Temporary Foreign Workers Program must partially be understood within the context of trends in global migration. Rates of international labour migration have increased drastically in the past decade, and are increasingly defined by workers from the global south seeking temporary employment in the global north (Hennebry & Priebisch, 2010; Priebisch, 2010). Migrant worker destinations include the Arabian Peninsula, Australia, East Asia, North America and Western Europe (Djajic, 2013; Foster, 2012; Hennebry & Priebisch, 2010; Preibisch, 2010). The trends and policies in global labour migration help shape the policies impacting temporary foreign workers in Canada.

For instance, some of the earliest formal guest-worker programs were introduced in Europe during the Second World War (Foster, 2012; Hennebry, 2012). These programs responded to the labour shortages brought on by the war, and focused primarily on agriculture. In Canada, the Seasonal Agricultural Workers Program (SAWP) emulated these programs in Europe and the United States. Employers had felt they needed migrant labour in order to, “remain competitive
with producers in countries using such schemes” (Hennebry, 2012). In this case, the policies adopted internationally helped to shape Canadian policies.

In the 1990s and early 2000s temporary migration programs in Europe grew once more. These ‘second generation’ or ‘Post Cold-war’ programs increasingly centered on border regulation and security (Hennebry & Priebisch, 2010, Daubergne & Marsden, 2011, Preibisch, 2010). As Hennebry and Priebisch (2010) write, the limited rights granted to temporary migrant workers come from, “…a broader context of trends to securitize borders…” (p. 21). Some countries use temporary migrant worker programs to respond to illegal migration, either to limit it (as in the case of Eastern Europeans in Germany), to regularize it (as in the case of Mexicans in United States), or to better control it through restrictions (as in the case of Romanians and Bulgarians in the UK) (Hennebry & Priebisch, 2010).

Many nations, especially in Europe where temporary migration programs have been under intense scrutiny, look to the Canadian SAWP as a model program for managing temporary migrant labour while maintaining state control (Foster, 2012; Hennebry & Priebisch, 2010; Preibisch, 2012). Unlike most temporary migrant worker programs, the SAWP has been consistently in use since its introduction in 1966 (Dauvergne & Marsden, 2011). The SAWP is admired for its responsiveness to employer-demands, rather than external quotas (Hennebry & Priebisch, 2010, Priebisch, 2012). Perhaps more notably, it is praised for the control it demonstrates on migrant labour: limiting labour market mobility, and successfully ensuring repatriation of workers at the end of their terms (Ibid). Hennebry and Priebisch (2010) argue that the ways in which the SAWP allows employers to select on the basis of gender, country of origin, and martial status, is also a perceived strength. They write that this is attractive for employers because it, “…reduc[es] migrants’ social responsibilities in Canada and therefore increasing their willingness to accept overtime and weekend hours” (Ibid). The troubling trends in Canadian approaches to managing temporary labour migration, thus, risk being adopted more widely.

The push to admit workers on a temporary basis relates to a larger context of economic disparity. Hennebry and Priebisch (2010) write, “new pressures under globalization have led states to
engage in a number of strategies to protect their own position within the globalized political economy…” The use of migrant labour serves to decrease labour costs, increase production, and solidify the economic dominance of migrant receiving nations (Hennebry & Priebisch, 2010). In this way, migrant receiving countries come to rely on the constant stream of inexpensive, exploitable labour for their economic growth (Foster, 2012).

Importantly, the use of migrant labour, “tends to be concentrated at the extremes of the job ladder,” meaning in higher- and lower-skilled occupations (Foster, 2012). In the case of lower-skilled jobs, labour shortages are often the result of a domestic work-force that rejects the ‘dirty, dangerous, and difficult jobs’ that temporary migrant workers eventually occupy (Hennebry & Priebisch, 2010). The SAWP and the Live-in Caregivers Program (LCP) exemplify this trend, serving to address persistent labour shortages in two specific fields: agriculture and caregiving. Dating to 1955 and 1966 respectively, the earliest iterations of the LCP and SAWP have helped to fill shortages in sectors regarded as difficult and undesirable (Macklin, 1992; Hennebry, 2012). Macklin attributes the persistent lack of caregivers to “… abysmal pay, long hours, hard labour, low status, isolation, denial of privacy and lack of independence and respect” (Macklin, 1992). Similarly, Canadian farmers cited a lack of interest in “the difficult, demanding, low-paid conditions of agriculture” as well as the effects of urbanization that have contributed to the labour shortage in the agricultural sector (Preibisch, 2010; Hennebry, 2012).

At the same time that immigrant-receiving countries rely upon lower-skilled workers, they are also competing for the higher-skilled workers (Baglay & Nakache, 2013). These two groups are treated vastly differently by temporary migrant worker program regulations. I have already described how Canada employs a two-step model to immigration, in which skill level is used to determine access to opportunities for permanent residency. This method is used in many countries around the world, perhaps most notably in Australia (Baglay & Nakache, 2013; Hennebry & Priebisch, 2010). Australia’s two-step immigration mode explicitly bars low-skilled workers from permanent settlement (Baglay & Nakache, 2013). While Canada does maintain some opportunities for these workers, policies are moving towards this Australian model. Thus,
while lower-skilled workers are an essential part of the economies of the global north, opportunities for these workers’ immigration are rare.

For migrants coming to Canada, and elsewhere, historical global economic inequalities play an important role in creating the conditions under which workers from the global south are willing, and even eager to come to Canada, and elsewhere, with limited rights (Faraday, 2012; Preibisch, 2010). As I have suggested, both the SAWP and the LCP rely on the attraction of foreign workers to fill positions in industries that for decades have struggled to attract candidates from the domestic workforce. This suggests that external conditions help render these positions desirable for foreign workers, where they are not for domestic workers. As Hennebry & Preibisch (2010) write,

> Worldwide, as structural inequalities make it increasingly difficult for people to sustain their households within their countries of origin and the number of the world’s migrants moving from lower income to higher income countries has continued to climb.

She goes on to describe the emergence of a global labour market, which, “encourag[es] labour specialization, with some countries specializing in particular types of workers.” (Hennebry & Preibisch, 2010).

Torres et al. (2012) argue in the case of the LCP, the movement to work in the north is predicated upon weak economies in the global south. They make a connection between the history of colonialism, and Structural Adjustment Programs that contribute to weak economic conditions in countries like the Philippines, from where most caregivers migrate (Torres et al., 2012). In the case of Filipina women, the motivation for participation in the program include poverty, lack of work, or social exclusion at home (Ibid). Many are highly educated, and see the LCP as a pathway to permanent residency and better opportunities in Canada (Ibid).

The need for remittances also contributes to the attraction of these programs, for both individual workers, and source countries’ governments (Faraday, 2012; Hennebry, 2012; Hodge, 2006). The national economy of the Philippines relies heavily upon remittances from migrant workers, and praises the women who work outside of their country as heroines (Torres et al., 2012).
Similarly, workers under the SAWP have been highly motivated by the need for remittances. Historically, in administering the recruitment of workers, the SAWP explicitly seeks out men with wives, and children. This has helped to ensure that the money they earn will be returned to the sending country (Hennebry, 2012; Lenard & Straehle, 2012). As an added bonus, workers with families are also more likely to comply with the restrictions of their visas, returning home at the end of their contracts (Hennebry, 2012 p. 13).

These global inequities contribute to conditions in which migrant labourers are more willing to accept the low pay and difficult work conditions associated with positions that domestic workers are unwilling to fill (Preibisch, 2010; Macklin, 1992). This logic is central to the programs. As Preibisch writes, “recruitment policies further construct a vulnerable, flexible workforce by focusing on the land-poor or landless in countries with enormous wage differentials relative to Canada” (2010). There is a sense, therefore, in which these programs rely upon a larger context of global economic disparity to function.

3.5.3 Race and Gender

It is also important, when considering the scope and nature of the vulnerability of workers in the TFWP, to consider intersections with race and gender. While official immigration policies invoke neither gender or race in their structures, racial and gender based discriminations within immigration continue indirectly (Bakan & Stasiulis, 2012; Faraday, 2012; Galabuzi, 2005; Goldring et al., 2007; Hodge, 2006; Macklin, 1992; Torres et al., 2012).

One way that racial discrimination has manifested itself in immigration is through the proxy of country of origin. Historically, country of origin has played an explicit role in defining the opportunities that immigrants to Canada have access to. Both SAWP and the LCP are rooted in bilateral government agreements between Canada and select Caribbean nations. The SAWP still facilitates the admission of workers from Mexico and several Caribbean countries: Anguilla, Antigua and Barbuda, Barbados, Dominica, Grenada, Jamaica, Montserrat, St. Kitts-Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago (ESDC, 2013b). The Caribbean Domestic Scheme (CDS), a precursor to the contemporary LCP, created a special arrangement to
allow women from Jamaica and Barbados the right to come and work as caregivers in Canada (Macklin, 1992). The LCP has been open to workers from all nations since 1967, currently 95% of live-in caregivers come from the Philippines (Faraday, 2012).

Importantly, at the time that early temporary foreign worker programs were introduced, Canadian immigration policies designated the acceptable countries of origin for newcomers. Tacitly, these restrictions have privileged white, European migrants above racialized immigrants from the global south. The primarily racialized workers of the SAWP and LCP would have been excluded (Hodge, 2006). The SAWP and LCP acted as exceptions to that policy as demand for workers in these two industries spiked following the Second World War (Hennebry, 2012; Hodge, 2006).

Through these immigration programs, temporary foreign workers are systematically discriminated against. Under the Caribbean Domestic Scheme (CDS), a forerunner of the Live-in Caregivers Program, women of colour, for instance, were paid at a lower rate than their white counterparts (Hodge, 2006; Macklin, 1992). The CDS also imposed a requirement that caregivers complete one year’s work prior to having access to permanent residency (Macklin, 1992). This is in contrast with the caregiver workers from Europe who had previously been granted permanent residency status upon arrival in Canada (Ibid). While any access to permanent residency provides labour market mobility, Macklin argues that policy makers had assumed that workers under CDS would remain in caregiving nonetheless. She writes that there was a, “…prevailing belief […] that Caribbean domestic workers, unlike their white cohorts, would remain in domestic service long after the one year compulsory period expired, presumably due to a natural affinity of Black women for domestic service” (Macklin, 1992). It is also worth noting that, much like today, the first conditional year left caregivers extremely vulnerable to abuse (Ibid). SAWP workers, by contrast, have only ever been permitted to remain in Canada for eight months of the year, imposing what Preibisch describes as circular migration pattern (2012). This imposition has continued today in both the SAWP, and SLSO (Hennebry, 2012; Preibisch, 2012).
Each of these structures serves a similar goal of restricting the rights of immigrants who were deemed less desirable by governments of their day. While generally at this time immigration was an important component of a nation-building project, as Macklin notes, “it was abundantly clear that Caribbean women were not meant to partake in the “nation-building” enterprise” (Macklin, 1992, p. 14). Restrictive immigration programs helped to support this goal.

In the contemporary setting, while officially our immigration policies have no racial bias, de facto references to race persist in the TFWP. Employers, in requesting workers through the SAWP (though not involved in the recruitment of individual workers), are able to discriminate between workers on the basis on their country of origin (Hennebry, 2012; Preibisch, 2010). Within this process a great deal of racial stereotyping takes place, with employers relying on perceptions of different racial groups’ relative work ethic, reliability, and talents to select workers (see Preibisch, 2010 and Hennebry, 2012 for examples). The selection of workers on the basis of country of origin has been noted to encourage competition among SAWP workers, and SLSO agricultural workers on the basis of country of origin (Hughes, 2014). Among other things, this encourages a “race to the bottom,” where workers are further incentivized to accept poor working conditions under threat of losing future work opportunities in Canada for themselves and other members of their communities (Ibid). Racial stereotyping is also used to segregate workers on site (Hennebry, 2012; Presibisch, 2010). Representatives from Radical Action with Migrants in Agriculture (RAMA), a migrant worker advocacy group in British Colombia, note the practice of segregated living facilities, bathrooms, and kitchens on the basis of country of origin (Hahn & Cohen, 2014). At multiple levels, the racial discrimination is enacted in the administration of these programs.

Gender also shapes the treatment and use of workers in the TFWP. Notably, the LCP is composed primarily of women, as domestic labour is typically seen as a feminine employment (Bakan et al., 2012; Hodge, 2006). Both Macklin (1992) and Hodge (2006) in their descriptions of the Live-in Caregivers Program describe the devaluation of this because it is considered ‘women’s work.’ Indeed, it is in part because this work is devalued that there is the chronic shortage of caregivers in Canada, and which renders programs like the LCP necessary.
Adding a further level complexity to the gendered dimensions of caregiving is the question of the migrant’s family. Bakan and Stasiulis (2012) write, “the migrant worker becomes an important member of the household but is not a member of the employer’s family, whereas her own family members are rendered invisible in the arrangement and suffer the dire consequence of long-term separation from the migrant worker.” (p. 215). Hochschild (2000) describes the ‘global care chain,’ a term to capture the peculiar relationship between the families that live-in caregivers attend to and the migrants’ own families.³ She describes how many live-in caregivers, who leave their homes to care for children in the global north, leave behind children of their own. In turn, another woman in the migrants’ home country may step into the role of caregiver, leaving her own children to the care of a relative, or an older daughter (Hochschild, 2000). The sacrifice and damage to migrants own families in the separation may not be visible, but is an important part of the program.

In the case of the Seasonal Agricultural Workers Program (SAWP), gender plays a similarly important role (Hughes, 2012; Preibisch, 2010). The SAWP hires predominantly men, both based on the gendered conceptions of farm work, and on norms, that value “men as breadwinners and women as homemakers” (Preibisch, 2010, p. 417). Partially in order to prevent the social mixing of men and women in the workplace, employers use perceived gender roles to separate the women who are hired from the men (Hughes, 2012; 2014; Preibisch, 2010).

Much like the families of women working as caregivers, there is a significant impact on the families of male, agricultural workers who are left behind. Hughes (2012) discusses the impact on families, and family dynamics of the predominantly male migrant workers in Guatemala. Living for long periods of time with a husband or father, families must adjust to the limitations of managing a home in their absence (Hughes, 2012).

Gender also shapes the vulnerability of workers. Caregivers may find themselves susceptible to sexual harassment, a risk linked both to gender and the obligation to live in the same household as the recipient of care (and by extension their employer) (Hodge, 2006; Standing Committee, 2009). The obligation to live in the home of the recipient of care, “leaves workers especially vulnerable to physical, emotional, and sexual abuse by their employers” (Hodge, 2006).

Resources to assist live-in caregivers, such as the guide for “Domestic Workers & Live-in Caregivers Experiencing Workplace Sexual Violence and Harassment“ produced by Metropolitan Action Committee on Violence Against Women and Children (METRAC) demonstrate the pervasiveness of sexual harassment facing live-in caregivers.

Even if the construction of regulations that negatively impact workers is not intentionally racist or sexist, it is important to note that racial, gender based discrimination is enacted through the program. While the bureaucrats, employers and other participants may not individually hold racist or sexist beliefs, there is a sense in which racist and sexist attitudes are systematic to the TFWP. As Goldring et al., (2007) argue that because workers under the TFWP are disproportionately racialized, “…rais[ing] questions about the legal production of racialized illegality and legal status as a form of social exclusion” (2007, p 2). Following the pragmatic ethos of Bowker and Star, the impact of the classifications, even where not intended, cannot be ignored.

3.6 A Classification that Constitutes Privileges

This chapter began with a discussion of the intent of the different streams within the Temporary Foreign Workers Program. I have argued that temporary foreign workers (TFWs) are defined in terms of their contribution to the Canadian economy. This has helped shape the regulations within the Temporary Foreign Worker Program to ensure that migrant workers are always contributing to a particular set of (economic) interests of a particular set of Canadians. At the same time, research shows that the very nature of the TFWP shapes relationships of abuse, in which workers have less mobility and fewer enforceable rights than their Canadian counterparts. TFWs become beholden to employers who have every opportunity to exploit their relative unfreedom. Finally, I have suggested connections between these abuses and larger contexts of
privilege, where the TFWP is reinforcing exiting economic disparity, as well as race and gender-based discrimination.

The disproportionate experiences of abuse, the limitations of freedoms, and the scope of opportunities for transitioning to permanent residency are all related to structures of the programs in which workers participate. As Faraday writes,

> It is important to stress that the patterns of exploitation that are revealed as being systemic and routine are occurring not within the illegal channels of human smuggling and trafficking, but within the regular, entirely legal channels that the Canadian government has created for temporary labour migration. (Faraday, 2014)

Programs are designed intentionally, creating a flexible workforce at the disposal of Canadian employers. This relationship hints at both the work that immigration classifications do, and the political values that are served by this work.

In thinking about these results through the lens of classification, it is not only the regulations I am concerned with, but the category of ‘temporary foreign worker,’ or ‘migrant worker’ itself. This category is not an objective unit existing on its own. As Lenard and Staehle write, it is the product of “state bureaucratic classification scheme.” All the regulations that impose temporariness, and limit the freedoms of TFWs are structured to reiterate this classification, ensuring that temporary foreign workers are only ever workers, are strictly temporary, and are always foreign. The resulting exploitation and abuse of workers are the result of regulations that are designed to uphold this classification.

Additionally, they reflect particular values and perspectives, protecting some stakeholders above others. The structure reveals an employer-centric program, that protects employer and Canadian interests, at times at the expense of TFWs. Many of the same program elements that harm workers benefit their employers. As I will discuss in more detail in the concluding chapter, the 2014 policy changes evidence a new emphasis on Canadian workers, again creating changes that purport to protect Canadians while exposing temporary foreign workers to greater risks.
This chapter has served to briefly outline the scope of the work that classifications do in shaping TFWs experiences with Canadian institutions. Thus far, I have not shown how these classifications are employed in practice. Classifications are not flat or stagnant, and they are rarely used in precisely the way they were designed to. Immigration classifications are no exception. When they are applied to do bureaucratic work they may be adjusted, or circumvented to meet the needs of users. This creates an added layer of complexity, and changes the practical meaning of these classifications. To explore this relationship in more detail, in the following chapter, I consider in detail one element shaped by immigration classification: settlement services. Here, the classification of ‘temporary foreign worker,” “permanent resident,” “Canadian citizen,” and others are applied to designate another set of categories: “eligible” and “ineligible” to receive settlement services. Chapter 4 describes both the policy that defines this classification, and several examples in which those policies are applied in ways that do not necessarily conform to the classification as intended.

\[1\] Citations Table 2:


4 Status and Settlement Service Eligibility

Chapter 3 focused on the structure of the Temporary Foreign Worker Program (TFWP) itself, suggesting connections between program intent, program structure, and the work that classification does. In this chapter, I examine one setting in which immigration classifications are used to do work: determining eligibility to receive settlement services. This eligibility, typically set by funders, uses immigration classifications to sort between migrants who are entitled to receive services from those who are not. It is these eligibility policy regulations that I interrogate in this chapter. I begin with a brief overview of the players involved in the provision of settlement services across Canada. I focus on the role played by federal and provincial governments in funding those services. Next, I move to an examination of the often-inconsistent eligibility restrictions imposed upon that funding. Finally, I discuss several instances in which these eligibility restrictions are disrupted, or circumvented by service providers. Throughout, I expand upon the layers of negotiation and values that define this landscape.

4.1 A Quick Note on Classifications

As I mention briefly in Chapter 2, Bowker and Star argue that classifications are characterized by their ubiquity, but also their, “interdependence, and frequently, integration” (p. 37). There are several levels of classification at play in the context of immigration. While my focus has been on immigration status and immigration programs, I also describe briefly secondary classifications. Admissibility and inadmissibility or in this case, eligibility and ineligibility are kinds of secondary classification, which use immigration status and programs to further sort migrants. As I have already suggested, these secondary classifications relate back to immigration status and programs on which they are based. This becomes one element through which the formal categories of immigration status and programs are constituted.
4.2 Landscape

Alongside the support that is offered to newcomers through informal networks of friends, family, teachers, community members, etc., formal settlement services contribute to assisting newcomers through the unique challenges of settlement in a new country. These challenges include language and cultural barriers, social isolation, and mistrust or lack of familiarity with Canadian institutions (For more, see literature: Caidi et al., 2010; Caidi & Allard, 2005; Cortinois et al., 2012; Fisher, Durrance, & Hinton, 2003; Muttersbach, 2010; Quirke, 2011; Sexsmith, 2010; Silvio, 2006). In their report on newcomer services in the Greater Toronto Area (GTA), Lim et al. identify some of the most common activities in the settlement sector, which include advocacy, counselling, education, food services, employment services, language training, interpretation, medical services, housing services, information and referrals, and orientation services (Lim, Lo, Siemiatycki, & Doucet, 2005, p. 2).

Administration of the settlement sector is distributed within a complex network of government departments, funding agencies, and service providers. Tolley and Young write, “…this is a policy field that is almost defined by its multilevel, multi-sectoral nature, a reality that has given rise to a framework legislation, a multitude of intergovernmental agreements, grants, and contributions to non-governmental service-providers…” (2011, pg 29-30). This contributes to a landscape in which policies and stakeholders sometimes disagree on how to approach service delivery. It is these disagreements that I am interested in highlighting. To this end, I focus on the role played by government funding agencies, and the ways in which they define eligible services recipients.

Settlement services have a long history in Canada. Vineberg (2012) describes the earliest instances of settlement support as pre-dating confederation, with informal networks of churches, community organizations, and members of the public assisting newcomers through the provision of food, clothing, shelter, and help finding work. The birth of the more formal, federally administered settlement sector can be dated to the end of the Second World War (CIC 2011a; Faraday, 2012). At this time a network of support organizations emerged to assist service men and women with their return to Canada, and to offer support to immigrants and refugees escaping
Europe following the war (Ibid). These early settlement programs had a strong focus on language training and employment services (Vineberg, 2012). The newly formed department of Citizenship and Immigration helped to coordinate with NGOs for the delivery of settlement services, and offered some financial contributions (Ibid).

In the 1960s, settlement services underwent a brief period of funding cuts. Programming was restored in 1974 through the newly created Immigrant Settlement and Adaptation Program (ISAP) (Vineberg, 2012). From the outset, ISAP structured reliance upon the non-profit sector for the delivery of services, and funding was provided by what was then the department of Manpower and Immigration in the form of grants (Tolley & Young, 2011; Vineberg, 2012). While NGOs have a long history of assisting with the provision of settlement services, the ISAP helped to formalize their involvement in the delivery of settlement services (Ibid). This division of responsibilities has been the model in Canada ever since.

Along side ISAP, federal funding has also been allotted through two secondary immigration programs, the Language Instruction for Newcomers to Canada (LINC), established in 1992, and the Host program, in 1984 (CIC, 2004; 2011b; 2011c). These focused respectively on language training, and providing deeper community support to newcomers. Collectively, these three programs have encompassed federal support of immigrant settlement in Canada.

Funding from the federal government is committed through ‘contracts’ to Immigrant Serving Agencies (ISAs). Contract funding, “involves the purchase of defined services with specified outputs and controlled funding…” (Richmond & Shields, 2004, p. 2). On this model, ISAs who wish to be considered for grants respond to a Call for Proposals, in which the funder lays out priorities and restrictions explicitly. This funding structure creates a formal agreement between ISAs and the funder, where non-profits and community organizations are responsible for the implementation of programming designed at a higher level (Burstein, 2010). Through this relationship Citizenship and Immigration Canada (CIC) – the current department in charge of settlement services provision – is able to guide service priorities as well as restricting the scope of eligible recipients of the settlement services it funds.
In 2010, CIC’s settlement services programs were reconfigured under two new headings: The Settlement Program, and The Resettlement Assistance Program. The Resettlement Assistance Program is directed exclusively towards government- and privately-sponsored refugees, and exceptional cases as determined by CIC (CIC, 2012a). This offers extended support, including financial assistance to newcomers identified as especially vulnerable (Ibid). The main funding mechanism is now the Settlement Program, which is the product of the amalgamation of the ISAP, LINC, and Host Program (CIC, 2012c). The Settlement Program continues with the contract funding model, allowing CIC to continue to direct priorities in the settlement services it supports.

Though federally administered, the Settlement Program includes consultation mechanisms to allow for provincial and territorial governments to help shape funding priorities (Tolley & Young, 2011). Immigration and settlement policies have shared federal-provincial jurisdiction, and though historically the federal government has dominated policy making the past two decades have seen an increase in provincial involvement (Tolley & Young, 2011, p. 4, p. 20). This has resulted in a significant degree of variation across the provinces, both in terms of approaches to service delivery and in eligibility to receive settlement services.

Deviation is most noteworthy in the cases of Quebec, Manitoba and British Colombia. This is because in the 1990s, the federal government devolved the administration of immigrant settlement to these provinces, while retaining administrative control in the rest of the provinces and territories (Vineberg, 2012). In the case of Quebec, the Canada-Quebec Accord (1991) has also allowed the province unilateral control over both the selection of immigrants to the province and their integration (Vineberg, 2012). In the cases of Manitoba and British Colombia, provinces were invited in 1998 to take over the administration of settlement services, determining independently program priorities and eligibility of clients (Vineberg, 2012). This has allowed for broader service delivery, including services catered to Canadian citizens, and temporary migrants who are excluded from federally funded services in other provinces (Chung Yan & Vineberg, 2014). While Quebec continues to administer settlement services independently, in 2012 it, was announced that CIC would re-centralize settlement services in Manitoba and British Colombia.
As the administration is brought under federal control, the more liberal services accessibility that had previously been adopted by those provinces are currently under question (Chung Yan & Vineberg, 2014; CIC, 2012c).

While CIC is one of the most significant supporters of settlement services, spending over a billion dollars annually on immigrant settlement and integration initiatives, they do not direct the direction of services unilaterally. ISAs typically rely on multiple sources of funding, including external donations, private funding agencies, as well as provincial governments and federal departments other than CIC (Lim et al, 2005). As of 2005, 67% of settlement service agencies in the GTA were funded by the federal government, and 27.1% were funded by the provincial government (Lim et al, 2005, p. 17). In Ontario, the Ministry of Citizenship and Immigration (MCI) has its provincially administered Newcomers Settlement Program (NSP). Similarly in Alberta, British Colombia, Manitoba, Newfoundland and Labrador, New Brunswick, Nova Scotia, PEI and Saskatchewan, provinces provide funding for ISAs independent of federal programming. These are administered at the provincial level and vary in the service priorities they set out, and the designation of client eligibility, as Table 3 in this Chapter highlights. Generally speaking, eligibility set out by provincial governments offers more liberal entitlements to newcomers across Canada.

4.3 Eligibility Restrictions

The funding provided by provincial and federal governments is in most cases provided through a contract model that began with ISAP. As such, they continue to dictate parameters within which funding is to be used. This includes guidelines on what services will be offered, but also who services are directed towards. Each government sets restrictions independently, so these vary between jurisdictions. All, however, use immigration classifications to designate the boundaries of client eligibility.

At the federal level, eligibility has changed over time. In 1986, ISAP eligible recipients were limited to permanent residents, and those who had gained preliminary approval to become permanent residents (Employment and Immigration Canada, 1986). By 1997, live-in caregivers...
(a category created in 1992) were included, on the basis of their ability to “subsequently apply for permanent resident status from within Canada, under the terms of the Live-In Caregiver Program” (Employment and Immigration Canada, 1997). As of 2011, before ISAP was disbanded, eligible recipients included: permanent residents; PR applicants approved Stage 1; protected persons; and Live-in Caregivers (CIC, 2011a). In the LINC and Host program clients were defined differently. LINC was also available to permanent residents, PR applicants approved Stage 1, protected persons, and convention refugees, but did not serve Live-in Caregivers (CIC, 2004; 2011b). The Host program was originally intended exclusively for refugees, but expanded in 1992 to serve other immigrants (CIC, 2011c; Vineberg, 2012, p. 39). Available government sources do not specify whether any additional restrictions were placed on who constituted eligible recipients (CIC, 2011c). The contemporary Settlement Program is directed towards “Permanent Residents, Protected Persons, Convention Refugees, Live-in Caregivers, and individuals who have been selected to become permanent residents” (CIC, 2012a).

At the provincial level, eligibility varies greatly and is often at odds with federally imposed restrictions. Table 3 illustrates that eligibility to receive settlement services is not uniform across the governmental jurisdictions. There is extreme variation between provinces in accessibility of settlement services for temporary foreign workers. Approximately half the provinces provide support for temporary foreign workers, while the others follow the federal model of limiting services to live-in caregivers. Likewise, Canadian citizens, while excluded from the federal Settlement Program, are eligible to receive services funded by many provinces. These more liberal services eligibility play a significant role in providing services to those who might otherwise be excluded.

Indeed, both British Colombia, and Ontario have explicitly structure their funding in order to fill the gaps left in services by more restriction federal eligibility restrictions (Ontario Ministry of Citizenship and Immigration, 2014; Government of British Colombia, 2014). In the case of Ontario, ESL programs are coordinated with the relatively restrictive federal LINC to address gaps in services (CIC, 2011b). Additionally, Ontario funds interpretation and other services for
victims of domestic violence, regardless of immigration status (Ontario, 2014 – welcome to ON). British Colombia, in adjusting to the transition to re-centralized program administration has invested provincial resources in order to… The Government of B.C. provides funding support to ensure that newcomers who are ineligible for federal immigrant settlement programs have access to key support services, including information and referral services and language classes in rural B.C.” (Government of British Colombia, 2014). As the two largest destinations for immigrants in English-speaking Canada, these programs are significant, ensuring that many newcomers to Canada falling outside the usual designation of eligibility are able to benefit from settlement support.

Arguably, the imposition of eligibility restrictions is a pragmatic necessity. Both provincial and federal governments have limited resources that they can divert to immigration settlement services. Restricting access to these services is one way to facilitate the allocation of these funds, and impose an accountable and verifiable structure to government expenditures. The invocation of immigration classifications creates an apparently unambiguous, impersonal, and consistent classificatory principle to sort between eligible and ineligible clients. It is also easily verifiable, as immigration classifications already have a developed infrastructure in place to identify status (e.g. a PR card). Indeed, the government of Nova Scotia explicitly lists the documentation needed to demonstrate immigration status (Government of Nova Scotia, 2013). This, in turn, underpins a kind of bureaucratic work that ideally positions settlement service agencies to operate smoothly, within a budget and with limited resources and staff at their disposal. This is the prototypical ‘classification,’ discussed by Bowker and Star – a segmentation of the world, to do bureaucratic work.

The decisions made regarding how to draw those lines of eligibility are not, however, straightforward. In the first place, the designation of restrictions is not inevitable, as PEI, Saskatchewan, and Manitoba (prior to recentralization), for instance, offer services to all immigrants without exception. Where restrictions are designated stakeholders and policy makers choose them explicitly and pro-actively. The disagreement we see among them speaks to the contested nature of these decisions. In Alberta, Newfoundland, and Ontario temporary foreign workers (with the
<table>
<thead>
<tr>
<th>Province</th>
<th>Eligibility</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canada – Settlement Program</td>
<td>PRs or applicant with provisional approval, Canadian Citizens, Refugee claimants, Convention Refugees and Protected Persons, Live-in Caregivers, Temporary Foreign Workers, International Students</td>
<td>With the transition from provincial administration to recentralized administration, funding from BC proactively bridges gaps in services provision.</td>
</tr>
<tr>
<td>Alberta Integrated Service Program</td>
<td>*</td>
<td></td>
</tr>
<tr>
<td>British Colombia Settlement Services</td>
<td>*</td>
<td>With the transition from provincial administration to recentralized administration, funding from Manitoba is in flux. A current provincial settlement approach could not be found. Eligibility listed reflects policies before transition</td>
</tr>
<tr>
<td>Manitoba Settlement Strategy</td>
<td>*</td>
<td>Plus provincial nominees. It does specify, but notes that “International students or temporary foreign workers in some cases.”</td>
</tr>
<tr>
<td>New Brunswick Immigrant Settlement Support</td>
<td>*</td>
<td>Plus provincial nominees.</td>
</tr>
<tr>
<td>Newfound and Labrador Settlement &amp; Integration Program</td>
<td>*</td>
<td>Plus provincial nominees.</td>
</tr>
</tbody>
</table>
Table 3: Eligible recipients of funding for settlement service

<table>
<thead>
<tr>
<th>Program</th>
<th>PR</th>
<th>Cdn citizen</th>
<th>Ref Claim</th>
<th>Con Refuge</th>
<th>Caregiver</th>
<th>TFW</th>
<th>Student</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nova Scotia Immigration Settlement Funding Program</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Description: Settlement services are open to TFWs, students and recent graduates “on an exceptional basis”</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ontario Newcomer Settlement Program</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description: Currently under review.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prince Edward Island</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Description: Funding from PEI proactively bridges gaps in services. Services are available without eligibility limitations.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Quebec</td>
<td>*</td>
<td></td>
<td></td>
<td>*</td>
<td>*</td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Saskatchewan Regional Immigration Gateways</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Description: Through Regional Immigration Gateways there are no eligibility limitations.</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

occasional exception of live-in caregivers), are excluded from receiving both federally and provincially funded settlement services. By contrast, Quebec, Manitoba, British Colombia, Nova Scotia and New Brunswick do serve them.

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4 The table lists the most current stated eligibility restrictions around grants provided to ISAs, or provincially funded services. It does not take into consideration resources for newcomers, (e.g. web-based information resources) that may also be funded by governments.
Variation suggests disagreement, regarding the purposes of programs, understandings of integration and settlement, as well as attitudes towards immigration status. It also creates a peculiar contradiction for organizations funded by multiple government branches. Where eligibility restrictions do not agree, it can be difficult to assess which clients can be served (Goldring et al., 2007). The reasons behind these variations are worth consideration. The determination of these funding priorities is a political and value laden choice. Though the reasoning behind the determination of inclusion and exclusion is not made explicit, they do have their own logic.

4.4 Designating Eligibility: Competing Perspectives and Values

In this section I am interested in how funding priorities relate to immigration classifications. It is worth noting, however, that funding priorities are also shaped by approaches to settlement services delivery itself. The definition of ‘integration,’ and ‘settlement,’ the types of services offered, relative weight of economic, social and cultural integration or the emphasis on short versus long-term integration are important dimensions of this (Tolley & Young, 2011). However, it is beyond the scope of this thesis to discuss in any detail the approaches to settlement services adopted across the Canadian provinces. Instead, I consider several factors that appear to shape eligibility restriction: firstly, the duration of settlement, and secondly the perceived value of different categories of newcomer.

One possibility is that eligibility is based upon the intention and ability of immigrants to remain in Canada on a permanent, or long-term basis. Permanent residents, and those on their way to becoming permanent residents are eligible at both federal and provincial levels. Federally, temporary residents (with the exception of Live-in Caregivers) are ineligible. In the case of Live-

5 To my knowledge, a systematic analysis of provincial approaches to settlement has not been undertaken. For an introduction to some of the questions around approaches to settlement services delivery and programming in the Canadian context see Burstein (2010), Caidi, Allard & Quirke (2010), Muttersbach (2010), Omidvar and Richmond (2003), Richmond and Shields (2005), Tolley & Young (2011), and Vineberg (2012).
in Caregivers, their eligibility appears to be connected to their access to permanent residency. A 1997 ISAP Handbook describing eligibility restrictions notes, “a non-immigrant foreign domestic worker in Canada, who may subsequently apply for permanent resident status from within Canada under the terms of the Live-in Caregiver Program” is eligible to receive ISAP funded services (Integration Branch, CIC, 1997, p. 1). It stands to reason that there is a connection between permanent status and access to settlement services. On this view, permanent residency status (or the expectation of permanent status) is used as a proxy to capture immigrants who will remain in Canada long-term.

If settlement services are being provided on the basis on long-term settlement potential, the exclusion of temporary foreign workers appears a relatively straightforward acknowledgement that these migrants have neither the intention, nor the ability to settle in Canada on a long-term basis. At a glance, this is fairly common-sense approach. This construction, however, fails to take into account the varied immigration experiences of migrant workers. As temporary foreign workers, many are able to live in Canada for years at a time, with some spending the majority of their working lives here (Hennebry, 2012). Some immigrants who come under the TFWP do make the transition to permanent residency, and settle in Canada on a long-term basis (McLaughlin & Hennebry, 2013). Though largely restricted to higher-skilled workers, limited opportunities through provincial nomination, and the Live-in Caregivers Program mean some low-skilled workers may eventually become permanent residents as well. Finally, though there are no reliable figures on the scope of this migration, many more temporary foreign workers do continue living in Canada without status after their work permits expire (McLaughlin & Hennebry, 2013). Whether as temporary workers, permanent residents, or immigrants without status, the reality is that many participants of the TFWP are living in Canada on a permanent, or semi-permanent basis.

Even in cases where workers under the TFWP do only remain in Canada for a few months, or years at a time, the exclusion of these workers fails to acknowledge the short-term settlement needs temporary residents do have. Settlement services offer more than just assistance in integration. They serve to ease the transition to life in Canada, recognizing the challenges, often
faced by newcomers to Canada, which are not necessarily shared by Canadian born citizens. Barriers directly related to newcomers’ status as newcomers also exist, such as their “…lack of familiarity with receiving country information sources; lack of knowledge about how to navigate the local information environment; not knowing what services are available or how to ask for services…” (Caidi et al. 2010). These barriers do not exclude temporary residents. Moreover, temporary foreign workers typically come to Canada with few, if any, personal connections to assist them. Even in cases where migrants do have family and friends in Canada, the tied nature of work permits may prevent them from living near them (Faraday, 2012; Hennebry, 2012; Preibisch, 2010; McLaughlin & Hennebry, 2013). Farm workers are also geographically isolated (Hennebry, 2012). As a result, the social networks that many newcomers use to help with their settlement in Canada are less available to TFWs.

Assistance from ISAs could play an important role in supporting and protecting this systematically marginalized group of newcomers. In fact, better informing TFWs of their rights is one strategy suggested by the Government of Canada to address the pervasive abuse of workers by their employers (HRSDC, CIC, & CBSA, 2009). Federally funded settlement services would be a logical mechanism by which to support this goal. The exclusion of temporary foreign workers and other immigrants on the basis of status is not straightforward.

Another possible reason for their exclusion from settlement services is that temporary foreign workers are not highly valued by the government of Canada. On this view, their exclusion may stem from an unwillingness to make further financial investment in supporting non-citizens. As discussed in Chapter 3, many critics have suggested that workers in the TFWP are being systematically devalued, particularly those in lower-skilled streams (Faraday, 2012; Nakache & Kinoshita, 2010; UFCW, 2011). As Lowe has argued, temporary workers are increasingly being treated as mere economic units, with little formal recognition of the social, cultural or civic contributions they can make (2010). Their exclusion from settlement services may be one more way in which they are discouraged from remaining in Canada long term. On this view, the formation of community ties, and investments in education are incompatible with a class of migrants for whom the foregone conclusion is that they will be leaving again in months or years.
Several dimensions of the TFWP, such as the practice of hiring agricultural and ‘low-skill’ workers with families in their country of origin, while placing restrictions on family members accompanying them to Canada, and limiting access to permanent residency, follow a similar ethos, reinforcing the temporariness of the programs. Rather than investing in making temporary foreign workers more comfortable, there is an explicit investment in ensuring that they do not remain in Canada past their work-permits.

Along with temporary foreign workers, other categories of immigrant are similarly excluded. International students, and Canadian citizens may likewise face barriers in accessing settlement support. This suggests that exclusions from these services cannot be reduced to the question of permanence or valuation alone. Canadian citizens, for instance, are both permanent, and theoretically valued by their government. I would suggest that, in this case, their exclusion reflects CIC’s view that settlement is complete once an immigrant has attained citizenship status. At the very least, it implies that government responsibility for settlement only extends until an immigrant is naturalized. The impact of their exclusion is significant, affecting not only immigrants, but also the Canadian-born children of new immigrants (Affiliation of Multicultural Societies and Services Agencies of BC (AMSSA), 2013). As the provision of services to Canadian citizens is often taken up by provincial governments (see Table 3), it may be the case that in order to save the costs of services provision to this group, CIC is downloading the costs to the provincial level.

Lowe (2011) writes on the exclusion of international students from federally funded settlement services. She notes that this group, along with higher-skilled workers are considered valuable potential immigrants by CIC. The Canadian Experience Class (CEC), which creates nation-wide opportunities for transition to permanent residency explicitly favours these groups. International students are often noted to be ideally placed to succeed in Canada, having recognized credentials, language skills, and social capital that are key to long-term success in Canada (CIC, 2012c; Nicolson et al., 2014). Despite this apparent valuation, they are excluded from accessing federally (and many provincially) funded settlement services. In these cases, Lowe has argued that exclusion reflects not a desire to prevent integration, but a shift in the burden of
responsibility from the state to immigrants to integrate themselves (Lowe, 2010). Immigrants become responsible to prove their own settlement before they are ever offered access to permanent residency and support from Canadian institutions (Lowe, 2010).

These are some of the value-laden decisions that are encompassed when immigration classifications are used to designate eligibility to receive settlement services. These suggest that decisions are neither objective, nor purely rational. Rather, decisions are based upon particular understandings of immigration classifications, and judgements regarding who needs and who deserves to access settlement services.

4.5 Negotiating Eligibility: Circumventing the Categories

In addition to the judgements inherent in setting eligibility restrictions, their application invites further negotiation. Many ISAs, even as they receive funding from federal and provincial sources, find ways to circumvent the policies that designate eligibility and ineligibility to receive the services they provide.

Toronto Public Library (TPL), for instance, though funded through CIC’s Library Settlement Partnership to provide services to newcomers in Toronto, is not confined by their usual restrictions (Jacqueline Howard, personal communication, April 23, 2014). CIC dictates that settlement services at TPL are “targeted” to “permanent residents; persons who have been deemed to be a convention refugee or in need of protection; live-in caregivers; and, persons whose in-Canada application for permanent residence has been approved in principle” much like other services funded through the Settlement Programs (Toronto Public Library, 2008). However, the policy also states, “With the in-kind contributions from the library, CIC is not the sole funder of the LSP program. Therefore, service may be extended to client groups with settlement needs other than those listed above. This is in keeping with the service philosophy of the public library” (Ibid). In this case, while funders have institutionalized pressure to restrict access to a select group of immigrants, TPL is able to circumvent this restriction. The ethos of service delivery for this institution is in sharp contrast with the eligibility exclusion imposed by CIC. As a result, TPL has been able to exert sufficient pressure to create an explicit exception to
CIC’s usual restrictions, and open up services to all immigrants, irrespective of status. A similar policy is extended to participant libraries across Ontario, including Brampton, London, Hamilton, Ottawa, Waterloo, and Windsor (Jacqueline Howard, personal communication, April 23, 2014).

Other service providers find similar ways of dealing with the restrictions placed on CIC funding. Carl Nicholson, the executive director of Catholic Immigration Centre, for instance describes seeking supplementary funding to fill funding gaps that CIC’s restrictions create. In this way, Catholic Immigration Centre is able to offer services to those who would otherwise be ineligible to receive settlement services (Carl Nicholson, 2014). Many alternative sources, such as private donors, or foundations such as the United Way or Maytree Foundation who are able to set their own, often more flexible, funding priorities. Like the examples of TPL, this case shows formal and direct negotiation with the eligibility restrictions that are typically tied to CIC funding. At the level of the service provider restrictions are questioned and modified to open up service delivery more broadly.

In other cases, eligibility restrictions may be circumvented informally. Some settlement workers report providing assistance to ineligible clients in spite of the restrictions placed on their funding (Berinstein et al., 2006; Goldring et al., 2007). This is a decision that may be made at an organizational policy level, or by individual employees (Berinstein et al., 2006). In these cases, settlement workers would be unable to count the interaction towards their service quotas (Goldring et al., 2007, p. 27). As a result, “this often means that workers have to work twice as hard because they cannot document their encounters with people who are not officially eligible for services. Effectively this means that they have met their services targets for funders, plus provide services to people they cannot count” (Berinstein et al., 2006, p. 27). Here, service providers take on additional personal and organizational burdens in order to provide services to clients who are structurally excluded from their organizations.

These challenges imply a disagreement with the structure of federal and provincial definitions of eligibility. Service providers are demonstrating an alternative understanding of who counts as legitimate clients, and pushing back against the imposed boundaries accordingly. These instances
show both the diversity of how services provision is approached, but also point to variations in how classifications are applied. The designation of eligibility and ineligibility itself is called into question here, in favour of a more general ethos of service.

4.6 Implications

I suggested above that immigration classification schemes are intended to be used to determine eligibility in an unambiguous, impersonal, and consistent manner. With multiple funders contributing to budgets, diverse perspectives institutionalized, and with numerous instances of circumventing these restrictions, the reality is an environment in which eligibility is defined inconsistently. The same immigrant may find that while they are eligible to receive settlement services in one province, they are not eligible in another. They may be served at one federally funded organization but they may not be at another. For immigrants, this means that it can be difficult to predict the reception they will have on any given day (Berinstein et al., 2006). For immigrant serving agencies, it makes it difficult to reliably refer immigrants to other agencies (Ibid).

This variation highlights the relative and contingent nature of these classifications. As I describe in Chapter 2, immigration classifications are continent upon context, jurisdiction, and geography. When they are used to designate eligibility, immigration classifications may be applied differently depending on the funder, the service provider, the province, and even the individual settlement worker. Discretion, contradictory policies, and sometimes unpredictable external factors shape the ways in which these classifications are applied.
ii Citations for Table 3:


5 Implications and Conclusions

Throughout the thesis, I have examined the regulations and policies of the Temporary Foreign Workers Program (TFWP) through the lens of classification theory. Following Bowker and Star’s *Sorting Things Out: Classifications and Their Consequences*, I have centred my analysis on two main themes: the work that classifications do, and the values embedded within them. To this end, I have described the concrete consequences of being classified as a temporary foreign worker in Canada. I have also critiqued the Temporary Foreign Workers Program, showing how its constitutive elements privilege particular interests of Canadians over those of temporary foreign workers. A discussion on the provision of settlement services has served to illustrate in more detail how immigration classifications are invoked in the allotment of privileges for newcomers to Canada.

Building on Bowker and Star, I have positioned immigration classifications as an intersection, linking what might otherwise appear to be distinct elements. I have highlighted how each element of the TFWP, from the duration of work-permits, to divisions between programs, to the accessibility of settlement services, is chosen. Together, these choices both reflect particular values, and define the categories themselves. It is these elements – the regulations, and policies – that define workers as ‘temporary foreign workers.’ It is these elements that produce relationships in which temporary foreign workers have limited rights and that further create an environment more permissive to their exploitation.

Theses elements of the TFWP, however, are not uncontested. Activists and researchers alike have advocated for changes, focusing on the significant impact that structures like tied work-permits, and restricted access to permanent residence, have on workers under the program. One example of ongoing negotiations takes place in the field of settlement services, where the restrictions set at the federal level are not necessarily mirrored by service providers or provincial funders. There is a sense in which this challenges the use of immigration classifications themselves, as tools to allot privileges. The classification lens provides insight here too: by
understanding these ongoing debates surrounding the TFWP as critiques of a classification, these criticisms can be understood as a way of contesting the categories themselves. To conclude, I turn now to a brief discussion on contemporary policy changes, responses to them, and the implications for the category of ‘temporary foreign worker.’

5.1 June 2014 Overhaul to Temporary Foreign Workers Program

Policy debates around the Temporary Foreign Workers Program are particularly active in the wake of media and public outcry surrounding the TFWP in the Spring of 2014. The program reforms introduced in June 20, 2014 reflect these debates. However, while Employment and Skills Development Canada (ESDC) characterizes changes as expansive (an ‘overhaul’), the values entrenched within the program and the interests served are basically unaltered.

Much like the TFWP prior to changes, the newest changes reflect particular values and interests. As I briefly discussed in the introduction, the nature of the critiques surrounding the program leading up to the overhaul have largely centered on the labour-market interests of workers across Canada. While a substantial minority of journalists, advocates, and policy makers have discussed challenges faced by workers under the program, overwhelmingly public discourse has centred on the loss of jobs suffered by Canadians. The changes made to the program have primarily responded to this perception, further entrenching the limited rights of temporary foreign workers in favour of structures that (at least appear to) protect the job prospects of Canadians. Through it, the category of temporary foreign worker as it existed prior to changes has remained relatively stable.

A year previously, following a similar media frenzy that brought the growing scale of the program across Canada to public attention, modest changes to the Temporary Foreign Worker Program began. Foreshadowing the controversy that arose in Spring 2014, concerns were raised in April 2013 regarding the impact of the program on the job prospects of local workers. Then Minister of Citizenship and Immigration, Jason Kenney, subsequently announced that reforms to the Temporary Foreign Workers Program would be introduced iteratively in 2013 and 2014. These changes promised to ensure that the TFWP did not negatively impact Canadians in the
labour market, either in the form of wage suppression or unemployment. The first change was to revoke the regulation allowing temporary foreign workers (TFWs) to be paid up to 15% below the prevailing wage, and to limit language requirements to English and French (ESDC, 2014). Next, in July 2013, ESDC introduced an increase in advertisement requirements, both in duration (up from 14 days to 4 weeks), and in scope (requiring the use of multiple databases, as well as additional “efforts to hire Canadians from under-represented groups (e.g. Aboriginal people, Canadians with disabilities, new immigrants)” (Ibid, p. 32). Two additional questions were added to the LMO application form, both relating to the use of the TFWP to facilitate outsourcing (Ibid). Each of these changes was geared towards discouraging the use of the program where there is a possibility of first employment workers from the existing domestic workforce, with the promise of further changes the next year.

On June 20, 2014, the long awaited ‘overhaul’ of the TFWP was announced, promising more expansive changes to the program. Employment Minister Jason Kenney has been keen to emphasize that these were the product of a long consultation process that had been initiated the previous year (Kenney & Alexander, 2014). Nonetheless, the overhaul has in many ways responded directly to the criticism and publicity that the program has received in the months leading up to its announcement. The central theme of the changes has been the protection of Canadian jobs, an ethos that has an obvious connection to the perception that employers are misusing the TFWP and harming Canadian jobs prospects. Youth unemployment, and lowering wages were two trends blamed on the admissions of temporary foreign workers, and two sources of public indignation (Hume, 2014; Carman, 2014). Correspondingly, “putting Canadians first” has been used to title the 35-page document outlining the nature of program reforms.

Despite being the titular goal of the overhaul, it is a misnomer to talk about ‘putting Canadians first.’ The structure of the Labour Market Opinion (and the new Labour Market Impact Assessment) centres not on Canadians specifically, but the domestic workforce. While this evidently includes Canadian citizens, it also refers to Permanent Residents of Canada. The framing around Canadians may be merely a matter of expediency – being quicker and easier than referring to the collective of ‘Canadians and Permanent Residents.’ However, this framing also
speaks directly to concerns over Canadian job loss to foreign labour. The government’s solution reflects the public response that has often been characterized by xenophobia – a fear of what ‘they’ are taking from ‘us.’ The attempt to counteract this fear has, perhaps strategically, erased Permanent Residents from the discourse.

More conspicuously, this framing also erases temporary foreign workers from the discourse. Again, there is a sense in which the response from the government is reflecting the popular narrative of TFWP harming Canadians. In the language used by the government, both in the document outlining changes and in the press conferences with Ministers Kenney and Alexander (the Employment and Immigration Ministers respectively), TFWs are consistently structured as threats to Canadians, rather than as stakeholders in their own right (Kenney & Alexander, 2014). Throughout the outline of the overhaul, they repeatedly invoke the interests of Canadians in describing current or future changes, “are always given first chance at available jobs” (ESDC, 2014, p. 13). Here, the interests of Canadians are equated with the assurance that members of the local work-force will have access to employment. By framing changes as “Putting Canadians First,” the priorities and stakeholders have been explicitly designated to privilege a particular set of Canadians (ESDC, 2014). At the very least, this framing relegates temporary foreign workers to a secondary position, to be considered only after these interests of Canadians have been taken into account. In this way, the changes have reproduced similar priorities to the program prior to the overhaul.

Following this framing, the changes themselves are largely structured around responding to the interests, and perceptions of Canadians. Changes range from the relatively aesthetic renaming of the non-LMO streams, to several concrete procedural changes that will shape how both employers and workers access the program. Broadly speaking, these changes limit the use of the program; make gestures to encourage employers to hire from the domestic workforce; and tighten restrictions placed on TFWs who arrive under the program.

The overhaul includes two main structural changes to program divisions. Firstly, what had previously been two main branches of the TFWP – LMO and non-LMO streams – will now be two separate programs. The non-LMO streams will now fall under the separate heading of
International Mobility Program (IMP), while the TFWP will now be composed entirely of LMO streams. Though there have been some minor structural changes, the reciprocal employment arrangements under the IMP will continue in largely the same format as before the re-categorization.

This appears to be a strategic rebranding of the programs to improve public perception. The non-LMO stream has thus far escaped criticism in the media, or among members of the public. Minister Jason Kenney has attempted to downplay the number of workers in the food services (who have been at the centre of the controversy), emphasizing instead the significant proportion of workers who fall under the heading of the non-LMO streams. In an op-ed released ahead of the overhaul announcement he writes,

> Contrary to the myth, a typical temporary foreign worker is in fact an American lawyer working on a transaction here thanks to a NAFTA visa, a French scientist doing advanced research at a Canadian university on a research work permit, or a young Aussie on her gap year working at a ski hill, as part of a reciprocal Youth Mobility Program (Kenney, 2014).

Compared to the low-skilled, low-wage workers from the global south that define much of the LMO streams, it is apparent that Kenney believes that the highly paid workers from rich countries in the global north will be viewed by the public as being relatively innocuous. The change distances the new IMP from the more controversial LMO-stream of the TFWP. As an added bonus, by re-categorizing the relatively large non-LMO workers into a new program the reported size of the TFWP is instantly cut to a third of its previous number. In short, the shift supports a more favourable public perception of the use and scope of the TFWP.

Additionally, the overhaul reorients program divisions within the LMO streams. As I have discussed in Chapter 3, programs had previously been defined in terms of the positions’ skill level, and industry. Under the new program regulations, categories will be defined on the basis of wage level. A new high-wage category and low-wage category replace the Stream for Lower-skilled Occupations and the Stream for Higher-skilled Occupations. High and low wage are
defined differently in each province, according to median wage of each jurisdiction. In justifying the change, the overhaul report reads, “wage is a more objective and accurate reflection of skill level and labour need in a given area.” (ESDC, 2014, p. 7). The Live-in Caregivers Program has remained unchanged, and the Seasonal Agricultural Workers Program has been brought under the heading of a “Primary Agricultural Stream.” The overhaul also sees the creation of a new stream for “highest-demand, highest-paid, or shortest duration” positions, under which applications will receive priority processing within 10 business days. Though the category names have changed, divisions between categories still reflect a focus on the positions, rather than the workers themselves.

In addition to the name changes above, new regulations have also been introduced to limit the use of the TFWP. These have taken two forms: creating more stringent assessment mechanisms, and introducing quotas to restrict the total size of the program. Firstly, the ESDC has introduced a Labour Market Impact Assessment (LMIA) to replace the old Labour Market Opinion (LMO). They have argued that this will provide a more comprehensive assessment of the labour market where employers request use of the program. The LMIA is almost identical to the LMO, a labour market assessment conducted by ESDC to ensure that migrant workers are only hired where employers genuinely cannot hire from among the available and qualified domestic workforce. The LMIA judges employers according to several new criteria, and introduces new questions to encourage greater investments in skills training and apprenticeships. Perhaps the biggest change is that the new LMIA is also only valid for one year, increasing the bureaucratic burden on employers wishing to make use of the program. Fees for LMIA are also increased from $250 to $1000, making it more costly for employers within to hire through the TFWP.

Secondly, the ESDC is introducing caps to limit the use of the low-wage category. This is done through two new policies. For one, the ESDC is promising to restrict use of TFWs in the low-wage category to 10% of total staff at a given company by 2016. While the majority of employers are already below this level, a few thousand employers do use temporary foreign workers for 30% of their workforces, an anomaly this cap promises to eliminate. Figures from
the ESDC suggest that this cap will reduce the number of TFWs in the low-wage stream by half by 2016 (see ESDC, 2014, p. 9 for more details).

Additionally, the overhaul introduces restrictions to prevent the use of the program in regions with high unemployment. Specifically, it precludes employers from using the program to hire lower-skilled positions (NOC D) in the food-services and retail industries in regions where the unemployment rate is higher than 6%. The argument being that where unemployment is above 6% there are necessarily local workers able to fill these positions. This change seems to explicitly speak to the public uproar around Canadian food-services workers being replaced by temporary foreign workers, though in actual numbers the impact of this policy will be likely be relatively minimal (ESDC, 2014).

Finally, new time restrictions are placed on temporary foreign workers themselves. As mentioned above, the new LMIA will only be valid for one-year at a time, requiring employers to reapply each subsequent year they use the TFWP. Workers under the low-wage stream will now be granted work permits for a (as yet unspecified) reduced time period. This change is packaged, “to ensure foreign workers are coming in on a truly temporary basis and that the program is used as a last and limited resort, and to encourage employers to make even greater efforts to hire and train Canadian workers before seeking temporary foreign workers...” (ESDC, 2014, p. 12).

In addition to these structural changes, the overhaul also includes provisions for more information gathering, and improved pro-active job-matching services to connect unemployed Canadians with employers with vacancies. Greater investments in enforcements, and harsher penalties are also being promised, with employers in violation of program guidelines being liable for criminal prosecution (ESDC, 2014).

While this has been marketed as a major program overhaul, there has been little real change in the values underpinning the program, or the interests reflected by program structure. The perspective and the values embedded in the system remain relatively stable. Notably, this narrative excludes the interests of temporary foreign workers, and their families. These interests
are secondary, if they are considered at all. Instead, temporary foreign workers are discussed as a potential threat to Canadians, a construction that is predicated upon an understanding of temporary foreign workers as a temporary solution to a labour market problem, rather than as prospective immigrants or people.

Some have argued that these changes are insufficient to address the threat of temporary foreign workers. The NDP Official Opposition Critic for Public Works and Government Services, Pat Martin, has argued that the changes do not go far enough to protect Canadian jobs. He is reported as saying of Minister Kenney that, “He knows that not a single temporary foreign worker should be working in our country, if there is a single qualified Canadian available for that work” (Ball, 2014a). Kenney himself has hinted that the elimination of both the low-wage category, and the Live-in Caregivers Program will be under consideration in 2016 (Curry, 2014).

The most notable change is a shift towards greater emphasis on Canadian workers, over Canadian employers. In light of this, business groups, such as the Canadian Meat Council and the Canadian Chamber of Commerce have called the overhaul “an appalling overreaction,” suggesting that policy changes are disproportionately punishing all employers for the abuses committed by a few (Curry, 2014). Alberta’s politicians, including both federal MPs and provincial MLAs, have similarly criticized the changes, asking for a provincial exemption to the new restrictions to the TFWP, upon which Alberta relies heavily (Cook, 2014; Globe and Mail, 2014). In all other respects the changes reflect the status quo.

5.2 Embedding the interests of temporary foreign workers

The most recent changes have failed to address the systematic exclusion of temporary foreign workers’ interests. There is no lack of input, however, from advocates, scholars, and competing politicians on how program reforms might better support temporary foreign workers. In keeping with much of the research discussed above, responses have largely called for decreasing the restrictions placed on temporary foreign workers, and increasing their rights and protections.

For instance, many migrant workers advocates across Canada have continued to demand access to permanent residency for temporary foreign workers. Migrant Workers Alliance for Change
(MWAC), Radical Action with Migrants in Agriculture, Noone is Illegal Canada, and United Food and Commercial Workers of Canada, among others have all supported this goal. As I have discussed in Chapter 3, the precarious status of migrant workers is a significant source of vulnerability. One former temporary foreign worker, Edxon González Chien, has likewise suggested access to citizenship, or open work permits be a good interim measure to help protect workers (González Chien, in Ball, 2014). Permanent residency, or open work permits are two straightforward ways to address this. MWAC writes that shortening duration of work permits will “reinforce our current ‘revolving door’ immigration system where employers simply bring in a new group of more exploitable workers every few years” (MWAC, 2014). Advocated by the Standing Committee on Immigration and Citizenship (2009), open work-permits would create opportunities for greater labour market mobility of workers, decreasing their vulnerability to exploitation at the hands of their employers.

Better enforcement infrastructure to protect workers is also recommended. While the overhaul does note new investments in enforcement, they are inadequate. For one, the promised enforcement measures retain the same complaint-based mechanisms that are currently failing migrants. The funding promised, as liberal immigration critic John McCallum (2014) notes, will be inadequate to support the scale of investigations promised. More effective enforcement requires pro-active checks, partnerships with the provinces, and substantial investments (McCallum, 2014, MWAC, 2014, Standing Committee, 2009).

Importantly, these suggestions, like the existing regulation, are not based on purely objective, or value-neutral ends. These criticisms of the program are rooted in particular values and perspectives. In this case, suggestions are based upon a valuation of temporary foreign workers’ interests. Recognition of temporary foreign workers as legitimate stakeholders, as valuable contributors to the Canadian economy and communities would lead to different program regulations.

These competing narratives are not empty critiques. These suggestions, insofar as they shape key features of the Temporary Foreign Workers Program, are radical and fundamentally destabilizing the classifications as they exist. A temporary foreign worker with access to permanent residency,
who is viewed in terms of more than his or her economic output, is no longer merely temporary, merely foreign or merely a worker. Thus, these suggestions reveal a possible change of direction.

5.3 Contributions, Limitations and Future Work

Within a complex policy landscape, my research has centred on immigration as classification, and the institutionalized marginalization that these produce. The classification lens brings a unique perspective to the study of immigration, a field in which many brilliant scholars contribute valuable research. This lens draws attention to particular classificatory components of the programs, highlighting the intersections between policy-making, outcomes, and values and perspectives. In addition to being a strong approach for the study of immigration, this is also a great application of Bowker and Star’s work. Here, a theory of information studies is applied outside of the traditional disciplinary confines, demonstrating the kinds of contributions information studies research can make.

While I have attempted to provide a comprehensive picture of the Temporary Foreign Workers Program, my thesis does have several limitations. Some of these have been intentional – as my own interests have guided me. For instance, I have spent little, if any, time on the relationships between immigration and legal structures, economic outcomes, political environment, or bureaucratic work practices. Beginning this project with a limited knowledge of the Temporary Foreign Workers policy landscape, I was guided by conversations with service providers, scholarly research, and the ongoing work of activists in the field. I have also stayed relatively close to Bowker and Star’s insights on classifications as a guiding framework. Even within this focus there are several dimensions that could be developed through future work.

In order to better understand the values entrenched within immigration classification, it would be instructive, in future work, to study in more detail the decision-making processes involved. My research has relied exclusively on government documents and secondary resources to gain a picture of the policy landscape. With contextual knowledge of the programs, I have read into these artefacts to reflect on the underlying values that they represent. This knowledge could be refined further if one were to interrogate these processes more directly: interviews with
contemporary policy makers, for instance, would be one way to access the negotiations and debates around their creation. This approach could help to reveal how decisions were reached, whose perspectives were taken into account, and what types of repercussions were assessed. The rich decision-making process behind the artefacts is one way to extend research on immigration classifications themselves.

Similarly, a closer examination of the historical development of Temporary Foreign Worker Programs would be useful. I attempted to provide an overview of the most important factors regarding the historical development of these programs. My analysis has, however, been relatively cursory. Considering program development within larger political, economic and social climates could further our understanding of the values embedded within each category. Again, this approach would be oriented towards the decision-making processes through which these classifications came into being. A study of classifications is compatible with a more detailed historical analysis.

Likewise, I believe that this approach could be used to examine other dimensions of immigration policy in Canada, and internationally. In Canada an examination of the three streams for permanent residency, would, for instance be instructive. Alternatively, a consideration of how immigration terms such as ‘newcomer’ are defined across government agencies. Much like the TFWP, these types of classifications are contentious, and interesting points for examination. Internationally, a comparative analysis between the immigration streams of major immigrant receiving nations, or a side-by-side analysis of Australia and Canada’s classifications would be another potential application of this framework. This broader perspective could shed new light on how these different nations approach immigration policy.

In addition to these policy-based approaches, there are also other dimensions of classification that was not addressed here, namely the subjective experience of immigration classification. Bowker and Star talk about ‘torque,’ a concept that describes the “twisting of the biography in the framework of a classification system” (Bowker and Star, 199, pp. 163). They use ‘torque’ to identify some of the work that classifications do in the context of tuberculosis and race classifications in Apartheid South Africa. In discussing the torque of race classifications, they
describe “the problematics of classifying individuals into life-determining boxes, outside of their control, tightly coupled with their every movement in an ecology of increasingly densely classified activities” (Ibid, pp. 223). I have been discussing the implications of immigration classifications in terms of the bureaucratic work that they do. Undoubtedly these also have important implications for the immigration experience, identity work, and personal decision-making. The creation and maintenance of community, perceptions of belonging, media portrayals, and subjective experiences are equally connected with immigration classifications. This type of research could extend the use of Bowker and Star in the study of immigration, and provide extremely interesting insight into the ways in which classification actually shape the lives of newcomers.

In conclusion, immigration classifications are a rich area of study, not nearly exhausted by this preliminary work. Each of these suggestions for future work represents a new possible direction of research. Building on this initial analysis of the Temporary Foreign Workers Program as a classification, it is possible to further the study of other immigration classifications and to deepen an understanding of how these constructed entities shape the world.
Bibliography


United Food and Commercial Workers of Canada. (n.d.). *Good Enough to Work, Good Enough to Stay!* Retrieved August 17, 2014 from,


Appendix A: Glossary of Terms

CIC – Citizenship and Immigration Canada – Created in 1994, CIC is the department in charge of administering immigration, settlement, citizenship and multiculturalism portfolios of the federal government. These portfolios were previously managed by the Department of Multiculturalism and Citizenship, and before that jointly by the Department of Employment and Immigration and Department of the State.

Domestic workers – A collective term to describe both Canadian and permanent residents, as opposed to temporary foreign workers/migrant workers.

ESDC – Employment and Skills Development Canada – Previously Human Resources and Skills Development Canada (HRSDC)

ISA – Immigrant Serving Agencies – Sometimes called a Service Providing Organization (SPO), or Settlement Service Agencies. These are the non-governmental organizations who provide a variety of orientation, settlement, and referral services to newcomers to Canada.

ISAP – Immigrant Settlement and Adaptation Program – Federally administered program to facilitate the provision of settlement services across Canada. Active from 1974 to 2010

LCP - Live-in Caregivers Program – One of the four streams of the Temporary Foreign Workers Program which requires an LMO. This program caters to live-in caregivers.

LINC – Language and Instruction for Newcomers to Canada. - Federally administered program to facilitated language instruction newcomers across Canada. Active from 1992 to 2010

LMIA - Labour Market Impact Assessment – see LMO

LMO – Labour Market Opinion – An assessment conducted by ESDC to determine the labour market impact of hiring foreign workers in a given industry. Replaced in 2014 by the Labour Market Impact Assessment (LMIA)
Migrant worker – see Temporary Foreign Worker. While other literature may deal with domestic migrant workers (e.g. workers who travel across Canada for seasonal work) when I refer to migrant workers I mean temporary foreign workers.

Naturalized Canadian Citizen – as opposed to a Canadian born citizen, a naturalized Canadian citizen has immigrated to Canada and subsequently gained citizenship status.

PR – Permanent Resident – In Canada, an immigration status which grants migrants the permission to live, work, and study in Canada indefinitely. For immigrants, Permanent Residency is a precursor to Canadian Citizenship. Previously called ‘Landed Immigrant’

SAWP – Seasonal Agricultural Workers Program – one of the four streams of the Temporary Foreign Workers Program requiring an LMO. This program is limited to the agricultural sector.

SHSO – Stream for Higher-skilled Occupation – one of the four streams of the Temporary Foreign Workers Program requiring an LMO

SLSO – Stream for Lower-skilled Occupations – one of the four streams of the Temporary Foreign Workers Program requiring an LMO. Previously named the Low-skilled Pilot Project (LSPP).

TFW – Temporary foreign workers – a person without permanent status in Canada, who is living and working on a temporary work visa.

TFWP – Temporary Foreign Workers Program – A collection of immigration programs through which migrants gain temporary permission to work and live in Canada.
Appendix B: Advocacy Campaigns

Migrant Workers Don’t Steal Jobs
Billionaires & Corporations Do!

**UNILEVER**

280 jobs

to be lost in Brampton, ON
Relocating in 2016

**CATERPILLAR**

450 jobs

lost in London, ON
Relocated in 2012

**KELLOGG**

550 jobs

lost in London, ON
Plant closure in 2014

**HEINZ**

740 jobs

lost in Leamington, ON
Plant closure in 2014

MWAC (2014, May 26) Retrieved July 5, 2014 from:
Temporary Workers as a Permanent Workforce

The term “Temporary” in relation to Temporary Foreign Workers in Canada is a misnomer. With permanent residency requirements becoming increasingly restrictive, particularly for working people from developing countries, more and more families are looking to temporary foreign work programs as a means of navigating their way to Canada. Many workers are finding their work permits reviewed for longer and longer periods of time. They pursue in-season, precarious temporary work even after years of living and working in Canada. In the case of seasonal agricultural workers, majority of participants return every year, sometimes for decades, without ever getting any closer to achieving permanent residency to become “Canadian” workers.

The majority of the participants in the Temporary Foreign Workers Program are not coming to Canada with intention of working temporarily and working, but with hopes of building permanent or precarious workers to permanent residents so that they and their families can live and work in Canada. Employers across the country are expanding their reliance on this group of vulnerable workers, demanding greater access to more Temporary Foreign Workers to staff Canadian farms, food plants, hotels, construction sites and private homes. Many Canadian industries, such as agriculture, utilize temporary migrant workers as permanent additions to their human resource strategies, clearly, Temporary Foreign Workers are not a short-term solution for perceived labour shortages but an entrenched element of Canada’s labour market.

While the number of Temporary Foreign Workers increases every year, federal and provincial governments are not taking responsibility for monitoring the treatment of these workers or for ensuring access to a union for all migrant workers.

Temporary Foreign Workers have become the backbone of Canada’s agricultural industry, and many agricultural workers continue to be denied the right to form a union and bargain collectively.

It is through unionization that UFCW Canada and our supportive national network of community allies have been able to establish protections for Temporary Foreign Workers in a variety of industries.

While much has been achieved through legal advocacy and lobbying government, it is through unionization and membership in UFCW Canada that we have been able to empower thousands of Temporary Foreign Workers.

For example, UFCW Canada Local 1118 in Alberta and UFCW Canada Local 832 in Manitoba have been able to effectively use collective bargaining as a means of ensuring a path to permanent residency, and, in many cases, Canadian citizenship, for their members who come to Canada as Temporary Foreign Workers.

In negotiated agreements with employers, many UFCW Canada local unions have secured every Temporary Foreign Worker member of the union access to their respective Provincial Nominee Programs thus ensuring that, as migrant workers, these Temporary Foreign Workers have a direct pathway to permanent residency. Through our long-standing commitment to working people, UFCW Canada has been able to convert the Temporary Foreign Workers Program into a permanent immigration program for our members.