

Agents d'infortune : une mise en contexte de la lutte des travailleurs et travailleuses migrants et immigrants contre les agences de recrutement de main-d'œuvre temporaire

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Résumé

Au Canada, dans un contexte où les employeurs cherchent constamment à réduire leurs coûts de production, de nombreux travailleurs et travailleuses migrants et immigrants se trouvent exploités à de multiples égards. Dans cet article, nous examinons, d'une part, la prolifération des agences de recrutement de main-d'œuvre temporaire qui embauchent des travailleurs et travailleuses migrants et immigrants et, d'autre part, les initiatives et campagnes organisées contre les pratiques d'exploitation de ce type d'agences au Québec. Nous basant sur la recherche universitaire critique en matière de relations de travail et sur notre propre expérience de militance en faveur de la justice pour les travailleurs et travailleuses immigrants, nous soutenons que le travail temporaire par l'entremise d'agences et les autres formes de travail précaire ne peuvent plus être considérés comme des phénomènes marginaux du marché du travail, compte tenu de l'expansion des programmes faisant appel aux travailleurs étrangers temporaires et de l'offensive continue contre les syndicats. La présence et la prolifération du travail octroyé par des agences dans le contexte de la restructuration actuelle de la main-d'œuvre, et l'existence d'un bassin de travailleurs et travailleuses précaires migrants et immigrants, sont des facteurs de déréglementation du marché du travail. Nous estimons aussi que les conditions de travail et les luttes menées par les travailleurs employés par des agences pour obtenir justice doivent être placées dans le contexte des tendances historiques et contemporaines générales de l'emploi aux niveaux national et international, et des politiques économiques et d'immigration. Finalement, nous comparons les connaissances et apprentissages offerts par un centre des travailleurs et travailleuses immigrants à Montréal aux stratégies de défense des droits des travailleurs et travailleuses d'agence dans d'autres contextes.

Agents of Misfortune: Contextualizing Migrant and Immigrant Workers' Struggles Against Temporary Labour Recruitment Agencies

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Abstract

In Canada, many immigrants and migrant workers face multiple levels of exploitation as employers further reduce costs of production. This article considers the proliferation of temporary labour recruitment agencies hiring migrant and immigrant workers as well as current organizing and campaigning against the exploitative practices of the temporary recruitment agency industry in Québec. Drawing from critical labour scholarship and the authors' engagement in immigrant labour justice struggles, we argue that, given the expansion of temporary foreign worker programs and continued attacks on unions, temp agency work and other forms of precarious work can no longer be seen as being at the margins of labour. The presence and proliferation of agency work in the context of the ongoing restructuring of work, and the existence of a pool of precarious migrant and immigrant workers acts as a de-regulatory force in labour markets. We argue that temporary agency workers' conditions and struggles for labour justice must be contextualized in relation to broader historical and contemporary trends in national and global labour as well as immigration and economic policymaking. Finally, we place in dialogue knowledge and learning arising from a Montreal immigrant workers' centre with strategies to defend agency workers' and day labourers' rights in other contexts.

“Labor history is full of vicious little timewarps, where archaic or long foresworn practices and conceptions of work are reinvented in a fresh context... (Ross, 2001:83)

Introduction

In an era of neoliberal immigration, namely “displacement accompanied by disenfranchisement and often internal segregation in host countries” (Akers Chacón, 2006:90) and austerity (McNally, 2011), many new immigrants and temporary foreign (migrant) workers in Canada encounter multiple levels of exploitation as employers strive to further reduce costs of production and maximize profit. This article puts critical scholarship on the phenomenon of temporary labour recruitment agencies (“temp agencies”) and the conditions of the workers employed through them into dialogue with the organizing experiences of the Immigrant Workers Centre (IWC) in Montreal. One author (Choudry) is an academic and IWC board member; the other (Henaway) has been an IWC organizer since 2007. Drawing from our IWC engagements, this article is grounded in a tradition of activist research which builds upon knowledge production and learning in social movements (Foley, 1999; Bevington and Dixon, 2005; Choudry and Kapoor, 2010). It discusses building migrant and immigrant worker agency and leadership and independent organizations of agency workers in education and action campaigns against the practices of the thriving temp agency industry in Québec, often characterized by low wages, poor working conditions and workplace safety, and labour law violations. It argues that these conditions and agency workers' struggles for justice and respect must be contextualized in relation to broader historical and contemporary trends in national and global labour, the transformation of work, immigration and economic policymaking at a time of capitalist crisis and austerity, as well as emerging local/global networks of resistance driven largely by migrant and racialized immigrant workers themselves. Our discussion of organizing strategies outside of traditional post-World War II union models stands in dialogue with recent critical literature on challenges for labour organizing, building new workers' organizations and revitalizing and reforming unions from below (e.g. Camfield, 2011; Moody, 2007).

Within Canada the push to maintain global competitiveness in a time of growing austerity and the bottoming out of neoliberal policies has created a climate of insecurity for public and private sector workers who face take-it-or-leave-it bargaining situations with employers. Over the past three decades, Canada has seen economic restructuring, heightened market competition and

neoliberal reforms as business has sought new ways to reduce costs and maximize profit. On the one hand, facilitated by Canada's international commitments to free trade and investment, and driven by the private sector's ongoing quest to locate and exploit "cheap labour" in countries with weaker workplace standards and lower wages, much production and many jobs have shifted to the South. On the other, employers have sought to reduce their costs within Canada by accessing a local pool of labour that can be used flexibly, hired without employer responsibility and obligation, paid less than other workers, and for whom it is harder to unionize or seek support from government bodies such as labour standards boards. Some of these workers are relatively new immigrants, others are brought in as temporary foreign workers, some are refugee claimants, some have no immigration status, and many work through agencies of various types. Notwithstanding the national and global context of liberalization and deregulation, we might argue that temporary worker programs act to subsidize the profit margins of Canadian companies and producers in certain sectors of the economy in both domestic and global markets where local products struggle to compete with those of transnational enterprises.

For the first time, in 2008 the number of temporary foreign workers entering Canada out-numbered those becoming permanent residents. That year, 370,000 temporary foreign workers were admitted to Canada, while 250,000 people were granted permanent residence (Office of the Auditor General, 2009). Alongside the established Live-in Caregiver Program and Seasonal Agricultural Worker Program, a major recent entry point for migrant and immigrant workers is the Low Skilled Pilot Project, a result of demand for labour in services related to the development of Alberta's Tar Sands. The low skilled project brings in foreign workers for work in landscaping, Tim Horton's fast food restaurants (Polanco, 2010), food production, retail, large laundry services and many other fields. These workers are mainly brought in through recruitment agencies. Capital's demands for labour flexibilization drives these policies and programs: the Canadian government's response to this pressure has been to make the process of recruitment and hiring of temporary foreign workers more employer-friendly. Critics, including trade unions, workers' centres and immigration justice groups (e.g., Alberta Federation of Labour 2009; Choudry et al. 2009; UFCW 2010; Choudry and Thomas, 2012) and Canada's Auditor General's

office (2009) have charged that these programs have few real safeguards, and lead to actual and potential abuse of workers.

There is growing international scholarly interest in the expansion and diversification of temp agencies in the context of labour deregulation and flexibilization and economic restructuring – for example in Canada, (see Cranford, Vosko and Zucewich, 2003) Japan (Suzuki, 2008; Kojima, 2010), New Zealand (Casey and Alach, 2004; Rasmussen, Lind and Visser, 2004), the USA (Peck and Theodore, 2002; Theodore and Peck, 2002; Hatton, 2011), Italy (Degiuli and Kollmeyer, 2007), and the UK (Forde, 2001). Some studies examine gender and temping (e.g. Vosko 2000; Casey and Alach, 2004; Hatton, 2011). Some focus on connections between immigration status, race and agency work (Vosko, 2000; Fuller and Vosko, 2008; Gonos and Martino, 2011). In most contexts, women, recent immigrants and youth are overrepresented in agency jobs. Agencies range from global corporations like Manpower, Randstad, Kelly and Adecco to small local firms or even individuals acting as labour agents, brokering cheap labour on demand to an increasingly diverse range of businesses. Employers want ways to reduce labour costs and avoid labour regulations and obligations associated with being a direct employer. Parker (1994) calls temp workers “warm bodies”, contending that employers do not care who they get as long as they can work to a satisfactory standard.

Temping is characterized by extreme uncertainty about work schedules, tasks and incomes. While in theory, agency workers are protected under Québec’s Labour Code, the nature and conditions of their employment poses major challenges to the ways in which work is regulated by, and enforced through the law especially given the ambiguous nature of contracts and relationships between many temp workers, recruitment agencies and employers. As many (e.g. Bartkiw, 2009; Vosko, 2010; Peck and Theodore, 1998) argue, the broader ways in which agencies and their increased legitimization and use render labour more contingent are often overlooked by scholars, and official/policy approaches (e.g. Bernier et al, 2003). For Theodore and Peck, temp agencies purvey “at least three fundamental forms of labor flexibility—(1) *temporal flexibility*, needed to accommodate daily, seasonal, and cyclical fluctuations in the quantity of labor inputs required; (2) *functional flexibility*, a means of accessing specialist skills and capacities on a selective and discontinuous basis; and (3) *regulatory flexibility*, reflecting

the imperative to liberalize, deinstitutionalize, and deregulate the traditional employment relationship. In this context, they have been uniquely placed to ride the wave toward a more flexible economy” (2002:468).

More than a decade ago, Vosko found that a high proportion of agency workers in Canada reported job tenures of over a year, noting moves “towards providing “staffing services” in the [temporary help industry], where the duration of the assignment becomes less crucial to the customer than the nature of the relationship with the worker, so long as the agency preserves ‘labour flexibility’ for the customer by playing the role of ‘employer’ when it comes to hiring, dismissal, workers’ compensation, and the administration of benefits.” (2000:134). As Vidal and Tigges (2009) concur, the temp agency industry has continued to move away from a “reactive” use of temps as replacements for absent employees, or as purely supplemental staff during peak periods of demand, to the “systematic” use of temps, in which entire job clusters and industries are staffed indefinitely with agency workers. Hatton argues that an aggressive agency industry established a “workers-as-liability” model in the US: “Instead of selling flexibility to those who needed it, the temp industry promoted flexibility for everyone, casting permanent employees as expensive inventory that should not be kept in stock” (2011:144). She notes the rise of ‘permatemps’ as permanent workers are replaced with “permanent temporaries”, to shift workers to temp agency payrolls, with not only attendant employer savings and the avoidance of obligations towards workers, but broader, deeper impacts on labour and the nature of work itself. Using agency staff is often not just a stop-gap measure to cover sick leave, vacations or busy periods. Some employers use them as an integral part of their workforce. Structurally, this constitutes the creation of a just-in-time workforce for just-in-time production. Workers are on permanent probation, can be dismissed at any time, for any reason, without any benefits.

Extending Peck and Theodore’s (1998) argument, we contend that in an environment of fluctuating labour demand, the temp industry in Canada allows businesses to harness flexibility-enhancing strategies and extend their recruitment to reach deep into low-skilled, underemployed and impoverished pockets of inner-city labour markets who are vulnerable to wage-cutting and employment destabilization, but also provide better opportunities for employers to tap into global pools of vulnerable workers. Gonos

and Martino argue that the presence of immigrant workers “who share ethnic and cultural ties and often live together in tightly networked communities” (2011: 500) are exploited in this move towards flexibilization since temp agencies often recruit workers through these community networks. To extend Panitch and Swartz’ (2003) concept beyond unionized (primarily public sector) workers, agency workers and migrant workers experience a generally similar form of “permanent exceptionalism” or permanent temporariness, in the service of capital accumulation. As Bauder (2006) and Valiani (2012) note, the presence and proliferation of precarious and vulnerable migrant and immigrant workers acts as a de-regulatory force in labour markets.

Temp Agencies, Migrant and Immigrant Workers

Indeed, besides the cases of migrant workers which are discussed later, recent racialized immigrants are discriminated against in the labour market and frequently pushed into temporary work upon arrival (Vosko, 2000; Choudry et al, 2009; Calugay, Henaway and Shragge, 2011; Henaway, 2012). Our research related to IWC organizing efforts confirms that some agencies use networks within specific immigrant communities to recruit workers. Agencies often justify practices such as paying low wages and providing no benefits, arguing that recent immigrants receive valuable “Canadian experience” (Vosko 2000, Cranford and Ladd, 2003). Vosko contends that “[j]ust as officials argued that the industry represented an ideal labour force re-entry vehicle for women absent from the labour force while raising children in the late 1960s and early 1970s, they now claim that temporary help work is a suitable means for immigrants to gain experience and exposure in the Canadian market” (2000:190). Yet the claim that temping can help someone gain a foothold in the labour market and access stable permanent work is questionable. As the use of agency workers becomes a permanent solution for employers who no longer want a permanent workforce, and as the economy changes, for many, the prevailing trend is not movement from temporary to permanent jobs, but rather the opposite.

Vosko notes that many recent immigrant workers felt trapped in precarious agency work. The racialized division of labour in the sector “is a product of two overtly racist practices that reveal the ideological nature of the industry’s promise of ‘Canadian experience’: namely, placing workers of the same background

together intentionally, and thereby perpetuating segmentation, and refusing to provide references to recent immigrants.” (2000:193). She draws parallels between today’s temp agencies and 19th century *padrones* – labour agents who profited from matching transient migrant workers with jobs and controlled much of their lives Vosko continues, “the practice of placing workers of similar ethnic backgrounds together and paying highly qualified workers low wages are strikingly reminiscent of the practices of private employment agents operating in the Canadian labour market at the turn of the [twentieth] century, when railway and steamship agents placed Chinese immigrants in railway work and Italian immigrants in construction” (2000:193).

Canada’s Temp Agency Industry

Temp agencies no longer exist on the periphery of the Canadian labour market. However, as Bartkiw (2009; 2012) notes, the increasing difficulty of getting reliable data on the size and expansion of the temp agency industry in Canada makes it hard to analyze the impacts of this growth on labour, and to assess the challenges ahead for the unionization of both agency and regular workers, particularly in the worksites where both groups work side by side. According to the Survey of Service Industries, these companies generated operating revenues of (CDN) \$9.2 billion in 2008, and \$8.7 billion in 2009 (Grant, 2011), up from \$1.0 billion in 1993. According to Statistics Canada (2010), between 1993 and 2008, the number of registered agencies grew from 1191 to 5077, an increase of 325%. This does not include the many unregistered agencies. Agencies do not usually need a license to operate, so start-up costs are modest. There are currently over 1200 placement agencies operating in Québec, operating in virtually all sectors, including office work, cleaning, construction, healthcare, manufacturing, and agriculture. Before January 2007, workers hired through agencies also constituted a separate temporary job category in the Labour Force Survey. However, this category was often confused with contract jobs and was therefore removed from the survey (Galarneau, 2010). Although the number of agency-hired workers in Canada is probably also increasing, there is no reliable information on numbers to date. While Statistics Canada (2011) notes that the economic downturn had impacted growth of the temp agency sector for 2009 across Canada, Québec was one

of the three provinces in which agencies experienced increased revenues (Galarneau, 2010). Official estimates put the number of workers in agencies in 2010-2011 at 158,000 (Grant, 2011), up six per cent from the previous year. However, these figures are unlikely to account for agency workers with precarious immigration status or who are undocumented.

Conditions of Agency Workers

“With the recession and the resulting slackness, employers are in a position where they can offer no security, no benefits, unreliable hours and lousy pay – and still have people apply. And that will persist until either the labour market picks up or we put some restrictions in place on how precarious employment works,” said Jim Stanford, economist for the Canadian Auto Workers Union (CAW) (Grant, 2011). For Freeman and Gonos, “agency work is a modern form of indentured servitude” (2005:305), and agencies “the employment sharks”. According to a 2005 Statistics Canada report on earnings of temporary versus permanent employees, the earnings gap between a permanent and a contract worker was about 13 per cent, while between a permanent and casual worker the gap is about 34 per cent (Galarneau, 2005). The disparity persists even after adjustments for demographic differences like education levels, immigration status and gender. Temporary agency work is typically characterized by a triangular relationship between a worker, agency and a user firm. There is no direct employment relationship with and supervision by a single employer on their premises. The temp hiring industry is driven by employers’ needs. Gonos notes: “The agency’s ‘markup’ is the difference between the billing rate charged to client firms and the workers’ pay rate. The agency thus profits from every hour that a worker is on the job” (2001:14). McCallister argues that “while some workers prefer temporary employment – most workers are temporary involuntarily...temporary workers do not receive occupational and material benefits (both cash and noncash) at the same rates as other workers, whether they work through temporary agencies or not; and...a correlation exists between “flexible” employment arrangements like temporary work and relative economic distress” (2004:222).

Freeman and Gonos suggest that besides producing subservience and abuse of workers, “the negotiating activities of staffing agencies impede workers’ ability to engage in concerted

activity to effectuate meaningful bargaining over the terms and conditions of their employment” (2005:305). They view that the agency’s “substantive bargaining relationship with the user employer is one of collusion with that employer to minimize workers’ wages and benefits and to maximize profits” (307). This has rapidly become reality for a large section of the workforce, and, with the expansion of these labour practices, they challenge the notion that temp work and agency workers are merely a peripheral or marginal subsection of the workforce. Further, as noted earlier, temp work is no longer as ‘temporary’ as the term suggests: workers may work under the same agency for considerable periods of time. Vosko (2000, 2008) draws on feminist political economy to critique attempts to understand agency work/workers, and dubs dominant approaches to theorizing the labour market as “SER-centric” (SER = standard employment relationship). She argues that the SER (based on the pillars of a bilateral employment relationship between employee and employer, standardized working time, continuous employment) is not the norm for many workers and therefore SER-centric approaches to theorizing or regulating labour do not adequately consider the nature of agency work and the situation of temp workers. There has been relatively little official policy focus on the implications of non-standard employment, although for Bartkiw (2009), the 2003 Bernier Report arising from a Québec government commission (Bernier et al, 2003) “includes one of the most comprehensive analyses to date of issues around the rise of temporary help agency employment in Canada”. (Bartkiw, 2009:185). Yet several scholars suggest that as formulated, labour law and labour standards are poorly suited to, and inadequate for the increased presence and significance of temp work (Vosko, 2000, 2008, 2010; Freeman and Gonos, 2005, Gellatly, et al., 2011).

Vosko (2000) and others warn of the potential of the temp employment relationship to become the norm for a wider segment of the population. The broader, long term implications of this trend for the transformation of work are potentially far-reaching. For Lansbury: “The development of temporary agency employment has implications for the future nature of work, the integrity of national income tax and social security systems and the roles of trade unions in providing representation and collective bargaining for such workers” (2004: xvi). The strategy to restructure industries into a neo-liberal model that increases profits through creating a precarious

workforce, that can be easily replaced and paid at much lower rates, is rapidly expanding.

Most workers with varying immigration status are placed in two major types of agencies. The first type comprises larger agencies which had helped cut the human resources costs of large companies and other clients in the healthcare sector and white collar work in recent decades, such as Kelly Staffing, Manpower and Thomson-Tremblay. The second type may be termed the “fly-by-night” agency which mainly operates outside of the official labour market. One day they are open, the next day they may be closed. They are unregulated and often hard to track down. Many of these agencies recruit desperate workers without legal status or unable to find stable work. They operate mainly in the agricultural sector as day labour agencies, where workers in cities like Montreal and Toronto wait in the morning by a subway station to seek work for that day. They are paid cash at the end of the day, often at rates below minimum wage, and with neither health and safety coverage nor basic respect for minimum labour standards. Fly-by-night agencies are used to outsource for sub-contractors. IWC encountered some extreme violation of labour standards in the case of a popular coffee shop chain which purchases sandwiches through a subcontractor, which in turn hires workers through an agency. Six Mexican workers, promised wages below the minimum wage, were found to be owed almost 3 months in unpaid wages. The subcontractor blamed the agency, which in turn blamed the subcontractor. These workers felt unable to formulate a complaint for fear that it would impact their claim for refugee status because as refugee status claimants they were not allowed to work legally. In 2010 Radio Canada’s *Enquête* documented the worst practices of fly-by-night agencies. One journalist wore a hidden camera when applying to temporary agencies that specialize in placing immigrants who speak no English or French. Assigned to investigate Montreal chicken factories, he worked alongside regular staff who were expected to work long shifts, up to nine hours at a time, sometimes with only one 15-minute break, for between \$6.50 and \$8.00 per hour (minimum wage in Québec is \$9.50 per hour). ‘No one ever asked me for a single piece of ID. Not even my ... [health] card. If I’d had a workplace accident, what would have happened then? Who would have been responsible for my care?’ recalled undercover journalist, Martin Movilla (who is originally from Colombia). Agencies clearly understand how to

leverage workers' immigration status to provide cheap labour for companies. The most worrisome practices are adopted by fraudulent agencies specialized in the recruitment of vulnerable individuals, such as new immigrants, often unaware of their rights and in dire need of income.

The IWC sees three categories of workers whose precarity and vulnerability is exploited in particular. Firstly the most exploitable category of worker comprises those without status. A 2007 Royal Canadian Mounted Police report estimated the number of undocumented workers in Canada to be between 200,000 and 500,000 (RCMP, 2007). Unable to work legally they are desperate to find any form of work because they have no access to social assistance. Small, often fly-by-night agencies become a vehicle through which they find work. These agencies are the most precarious themselves, relying on networks within individual immigrant communities for recruitment. They pay cash and operate in food processing, cleaning, contracting and agricultural work. The second category of worker comprises refugee claimants who are on social assistance. At \$534 per month social assistance is insufficient especially for claimants who have families to support. These workers are particularly vulnerable to abuse because employers and agencies know that they are in no position to make formal complaints. IWC organizer, Joey Calugay explained that while agencies that cater to immigrants make it easy for people new to the country to find work, but "unfortunately, once they are in the jobs, they find themselves in all sorts of ... problems" (CBC News, 2010). The third category comprises those who have papers - permanent residents and citizens, but who suffer from institutional racism and discrimination towards racialized immigrants. They find it difficult to find employment because their education and qualifications are not recognized, or they may have been at work for some time in stable manufacturing work or the service industry, but were laid off. Many - especially those with limited language skills or without newer skills required in the current labour market - are forced into agency work. This must be seen in a larger labour market context where systemic racism operates to push racialized workers into lower-paid, lower status jobs with lower rates of unionization and greater precarity than white workers in Canada (Galabuzi, 2006. See also Chicha (2009) on systemic discrimination and employment in Québec).

Challenges and Organizing Strategies

We now discuss challenges and organizing strategies for agency workers. Firstly, we agree with Freeman and Gonos, who remind us of the importance of learning from history. For them, “[t]he ever-present reality of temporary work in the twenty-first century labor markets makes it important to incorporate into our labor history and legal lexicon the forgotten story of how exploitative private agencies were characterized by workers and regulated by proworker legislation. Awareness of these past labor struggles can assist in forming a new vision of how to craft laws and build organization to halt the spread of the contemporary staffing industry’s nonunion empire” (2005:309). Secondly, we discuss IWC’s organizing strategies alongside lessons and insights from other contexts, at a time when the historical focus and priority of unions to organize and maintain their traditional industrial base are under sustained challenges from transformations in work, and as some (including the Québec unions, *Centrale des syndicats démocratiques* (CSD), *Confédération des syndicats nationaux* (CSN), *Centrale des syndicats du Québec* (CSQ), and *Fédération des travailleurs et travailleuses du Québec* (FTQ), see CSD/CSN/CSQ/FTQ, 2011) think through these challenges, and acknowledge the importance of fighting for the rights of temp and non-standard workers as part of a broader strategy to defend the rights of working people. Indeed, in Québec, a fall 2011 joint union report on agency workers was produced in the context of a larger consultation by the Ministry of Labour on regulating temp agencies. This in turn arose from pressure from community organizations and unions working together in the Front Des Non Syndicats (FDNS), as well as the joint campaign by the IWC and *Au bas de l’échelle*, an organization that researches issues related to those working in precarious situations, provides service and promotes change, and which worked with the different labour councils during 2011 to support the campaign for agency workers as part of a broader union strategy.

Founded in 2000, the IWC, like many other worker centres (Fine, 2006), stands at a juncture between traditions of labour unions and community organizing. It sets priorities around issues that workers bring into the centre. The exploitation of agency workers became a pressing concern that IWC needed to address during the organizing of laid-off textile and garment workers in 2008. Many Montréal factories had shipped major production to the global south

but still needed a workforce to package and warehouse incoming products. At L'Amour Hosiery, where 500 workers were laid off as part of a strategy of replacing the older fulltime workforce in Montreal paid above minimum wage (at around \$11-\$14 an hour), both by outsourcing production to Asia, and hiring agency workers in Montreal, the IWC worked to gain a real severance package for the laid off workers. Later, IWC took on other cases where workers were unable to access unemployment insurance because the agency had kept their wages and deductions as extra profit and owed the government several hundred thousand dollars and was eventually shut down. Eventually through the IWC's efforts workers did receive their unemployment benefits.

IWC has attempted to build a campaign based not simply on an immediate fight around one workplace, but rather one that could result in a long term campaign relevant to the working class as a whole. It wanted to challenge conditions common to different workplaces and communities, and change the conditions of all workers, those with immigration status and without, and including unionized workers. A major goal has been to strategically collectivize agency workers. Ultimately, such a broad organizing vision would benefit diverse types of workers, and would decrease the tools that employers and companies can use against workers. The aim was to create a campaign broad enough to bring together workers from different sectors and communities, which could have a real impact on people's lives. Another goal was to build more workplace fight-backs locally, while building real leadership amongst migrant and immigrant workers themselves. Concretely, this campaign meant understanding the workers' situations and helping forge relationships amongst them. This has led to a deeper understanding of how most work has been changing drastically, governed by a form of austerity and outsourcing which has been effectively able to undermine the gains of workers over the past thirty years, in part advanced by public sector cuts and free trade and investment policies.

One IWC ally, the collective *Dignidad Migrante*, (dignity for migrants) works with Latina/Latino migrants on local migration and work issues, including agency labour exploitation, from a radical anti-authoritarian perspective. Another allied group, PINAY, working with Filipina domestic workers, had been dealing with agencies around issues faced by migrant workers under Canada's Live-in Caregiver program (LCP). Under the LCP, workers

frequently pay huge recruitment fees to agencies before they come to Canada to find them employers, sometimes running into thousands of dollars. Once workers arrive in Canada, most of the workers' earnings go towards paying this fee. Temporary foreign workers arriving under the new low-skilled pilot project sometimes come through agencies abroad which charge enormous recruitment fees of up to \$10,000. A 2007 National Union Public and Government Employees (NUPGE) report on the temporary foreign workers program highlighted such examples. Maple Leaf Foods suspended its program to import workers from China after discovering that 61 employees at its Brandon pork plant paid \$10,000 each to a consulting company that had actually been hired by Maple Leaf to help recruit foreign workers. These payments are not illegal, but they do raise serious ethical issues. Third party recruitment agencies often make false promises and foreign workers arriving here find themselves with fewer weeks of work and lower wages than they had expected (NUPGE, 2007: 7-8). In sum, many migrant workers have already been exploited by private labour recruiting agencies in their countries of origin in order to get work overseas as Rodriguez (2010) notes in relation to Filipina/o migrant workers. How many workers may have passed through and/or paid money (directly or through agency profit margins) to several agencies at different stages of their journey to where they currently work?

One example of agency worker exploitation confronted by IWC concerns Dollarama, Canada's fastest growing chain of dollar stores (whose CEO, Larry Rossy is one of Canada's wealthiest people). Dollarama's major Montreal distribution warehouse is staffed by over 500 mainly immigrant workers, many of whom are from North Africa. Most workers are employed by one temp agency, Thomson-Tremblay. Some are citizens, others are refugee claimants. Even workers who have been there for three years were unsuccessful in their attempts to be hired directly by Dollarama. Yet when IWC attempted to have a volunteer "salt" (i.e. attempt to be hired), the agency offered him white-collar work because he looked "too good" to work in the factory - he was a white McGill graduate. Conversely, a Haitian worker, a fluently bilingual accountant, had repeatedly asked the agency for office work commensurate to his training, continued only to be offered warehouse work. Outreach and consistency are pillars of IWC's work in reaching new layers of people. After leafleting for over a month outside the warehouse, the

IWC began to make contact with workers, and gain an understanding of a host of issues related to agency work. One group of African workers compared their work experience to slavery, and became curious about their rights. This has been the IWC's starting point in building a longer in-term campaign and implementing lessons from previous struggles.

Montreal's *Au bas de l'échelle* produced a research document (2011) underlining the ways agencies undermine labour standards and working conditions and contribute to the growth of precarious labour. The findings are typical of research on working conditions for agency workers in other contexts. They include: the general bad conditions of work, unequal treatment of workers in the same workplace, where some are formally employed by the employer and others hired through temp agencies, systematic infraction of the labour code by some agencies, abusive clauses in the contract the agency requires workers to sign, the lack of responsibility of employers, and the higher level of accidents among agency workers. Employers have also established their own agencies, which hire specifically for them. One strategy for agencies is to have more than one registered company and move workers from one to the other to avoid payment of overtime.

All of these practices are highly problematic. But the way in which employers can claim exemption from responsibility for violations of temp agency workers' rights has major implications for recourse available to workers whose rights have been violated. Vosko (2000) suggests that the temp industry is selling "a new type of employment relationship to its customers, one that allows both the agency and the customer to adopt a range of distancing strategies" (154). Bartkiw (2009) writes that the triangular nature of the relationship creates a structural tendency toward under-enforcement of existing standards, given the potential for confusion, conflict, or outright obfuscation concerning the division of employment law responsibilities between the client user and the agency. Policymakers and labour law generally assumes the employer to be a unitary entity, which is not the case for agency workers' employment relations. Regardless of whether or not they work for a temp agency, workers supposedly have recourse to the *Commission des normes du travail* (CNT) (Québec's labour standards board) if their rights are violated. However, according to the CNT, in such cases it is unclear who is responsible and each situation is determined according to many

different variables. This uncertain and legally complex situation acts to deter complaints: employers are protected from complaints against them and have no responsibility for workplace conditions. Besides the personal risk of job loss that workers face when grieving against their boss, the uncertainty of who is responsible further deters action. Without these protections, agency workers are often exposed to high-risk jobs without proper equipment and training. The *Institut de recherche Robert-Sauvé en santé et sécurité du travail* (2011) (Robert-Sauvé research institute on workplace health and safety) found that the accident rate for temp agency workers was 10 to 11 times higher than for other workers. Another concern is that *Emploi Québec*, the government agency which manages social assistance and job referrals, has referred immigrant workers to temp agencies, thus providing a pool of immigrant labour to these kinds of jobs.

During 2010 and 2011, the IWC and *Au bas de l'échelle* campaigned for greater government regulation of agencies. Key demands were that agencies must have an operating permit and that both agency and employer must be held jointly responsible for workplace conditions. Agency registration is one means of forcing them to be accountable, and ending fly-by-night operations. A major challenge for organizing with agency workers is the lack of a mass collective workforce. Even if several hundred workers may work for an agency but only one person might be in each workplace, it is hard to build a common identity or a socialized workforce that can build collective action. Mobilization can also be difficult because one day a worker can work for one agency or on one worksite, and the next day another. The very nature of temp work renders problematic the idea that the workplace is the main locus for labour organizing. Yet trying to build from a community organizing perspective is also extremely challenging.

How can campaigns reflect agency workers generally, but understand that within the temp agency industry there are different scales and forms of exploitation, and differences in working conditions? In Québec, many workers who work through major temp agencies receive deductions while vacation pay is paid regularly and with some degree of transparency, that conform to labour standards and which provide short term labour to major corporations. Yet such agencies arguably serve a similar function in the economy as fly-by-night agencies, where working conditions may be terrible because a worker is shackled to a phone waiting to see if, where

and when they may work, are not properly trained and/or briefed on health and safety issues and are in a position of never being able to find steady work. These agencies all serve to build and maintain a large precarious workforce to be used by corporations and other employers. Although the experiences may be generally similar there are still major differences among agency workers and working conditions and other issues that an organization such as a workers' centre, or in Montréal the newly-formed Temporary Agency Worker Association must face in order to address the larger issues and the direct problems faced by both constituencies. For the first group of workers the priority may be health and safety issues, while the latter group often focuses on basic demands, such as wages or the struggle for immigration rights and regularization. The IWC reflects this by trying to build a campaign that views all issues as critical. For example, in October 2011 on the International Day for Decent Work, the IWC and *Au Bas de l'échelle*, supported by unions such as the Canadian Union of Postal Workers (CUPW), *Confédération des syndicats nationaux - Le Conseil central du Montréal métropolitain* (CSN-CCMM), and the FTQ-Montreal Regional Labour Council, organized a rally demanding that agencies be regulated and forced to obtain permits to operate from Québec's Ministry of Labour. This would allow workers to take agencies to the labour standards commission to file complaints for non-payment or force them to pay the basic minimum wage. The Temporary Agency Workers Association focuses on outreach where day labourers are picked up and dropped off, and works with other community groups in the Latin American community where many workers are recruited to work for fly-by-night agencies. This campaign includes holding actions for theft of wages and, organizing workshops around health and safety rights. The key element to mobilizing and organizing agency workers has been to create an umbrella organization flexible enough to address the particular issues faced by a wide range of agency workers and to build a larger movement that can both work towards policy change and act as an independent union run for and by agency workers.

Learning from Other Contexts

In thinking through challenges for organizing agency workers in Québec, it is instructive to consider organizing strategies from other contexts. Although the conditions of temporary work have been similar in nature, organizing strategies have been quite different in Japan, the US, and Canada². In Japan, temp work and precarious work are flourishing. Between 1990 and 2008, the percentage of temporary workers rose from 20 per cent to 34 per cent (Malinas, 2008). Organized labour and more radical organizers have an organizing approach that works through “community unions”. These can be geographically or identity-based. This strategy is possible because under union recognition procedures of Japanese labour law, whereby an individual worker, or any group of workers, including those who form a minority in their workplaces, can form a union with the right to engage in collective bargaining with management of their respective firms, although, in practice, employers do not always respect the legal right of community unions. (Suzuki, 2012). Although many of these community unions are small, some such as *Shutoken Seinen* Union with approximately 350 members, are capable of organizing and campaigning around issues such as *haken-giri* (the lay-offs of temporary workers, and creation of temporary contracts that could be terminated end at any moment) (Guyonnet, 2011). Such a strategy, incorporating individual precarious temp agency workers into a collective structure, facilitates a collective identity as workers. According to Suzuki (2008), community unions in Japan have a keen awareness of increasing irregular work especially among the younger population who fall outside enterprise union protection. They focus on unionizing these irregular workers and on their structural ability to incorporate these workers on an individual basis, regardless of employment arrangement and workplace.

Yet community unions face the same challenges of building campaigns to challenge the fundamental nature of precarity as well as some of the specific problems faced by precarious workers. The Tokyo young workers union engages in this strategy by building campaigns around particular chains and companies (Guyonnet, 2011), trying to forge a sense of collective identity and basic community amongst these workers. After weekly outreach at different subway stations the union holds discussions, and monthly potlucks to help build a sense of collective struggle. The union is

extremely grassroots but maintains links to larger sectoral unions. The Japanese model is inspiring, but is based on the model of individual membership in community unions that have collective bargaining power. Canadian labour legislation does not allow for individual membership in unions, thus requiring different forms of organizing temp-agency workers.

Another example of attempts to organize non-unionized temp work is in the USA, through the worker centre movement which combines a revival of the labour movement and the rise of the immigrant justice movement (Fine 2006; Black, 2012). While US workers' centres utilize many strategies, the Latino Union of Chicago (founded in 2004) offers an interesting perspective on building capacity for social and economic change. It has similar organizing strategies to other worker centers, including IWC, in fundamental programs such as leadership development, addressing policy changes, and links to the broader labour and immigrant rights movement. The Latino Union focuses mainly on day labour, catering to migrants from South and Central America and created its own hiring hall as a source of collective power (Latino Union of Chicago, n.d). Freeman and Gonos (2005) and Gonos and Martino (2011) discuss the union hiring hall strategy – the latter in reference to the potential for such a strategy for Latino immigrant workers who work for agencies contracting to warehouse and distribution centres in New Jersey. In some US contexts, unions and other labour organizations have used hiring halls to fight the abuses of company-controlled shape-ups and replace them with a more equitable process of allocating work. “In the basic hiring hall model, unions maintain lists of qualified, available workers from which employers fill their hiring needs. Where an exclusive hiring hall is in effect, employers agree to report all openings to the union office, and union business agents assign workers on the basis of seniority and length of time out of work, “spreading the work” among members as fairly as practical” (Gonos and Martino, 2011: 511).

The Latino Union of Chicago, through the establishment of the hiring hall, was able to change the conditions of work and challenge the violations of basic labour standards by collectivizing the only power they had and forcing employers to hire migrant workers/day labourers through their worker centre. This strategy has met with some success. For instance, according to its website, “[t]he Albany Park Workers' Center acts as an alternative to hyper-

competitive street corner hiring. Through the implementation of a written contract and city-wide promotion efforts, the Center reduces incidents of wage theft to below 1% and raises the median wage available to Northwest Chicago construction day laborers by 50%” (Latino Union of Chicago: n.d.).

Pushing for Regulation and Policy Change

Another challenge is to regulate the unregulated: to abolish agencies or make employers responsible. Freeman and Gonos (2005) assert that nobody has yet created an effective legal framework that can advance the unionization and fair treatment of temp workers deployed in the workplace by exploitative temp agencies. In Ontario, the Workers Action Centre led a campaign to defend temp workers and won some gains through provincial policy change in recent years, particularly through amendments relating to the scope and enforcement of the Employment Standards Act (Workers Action Centre, 2007; Vosko, 2010b). Some rights, such as the right of temp agency workers to be treated like other workers under labour standards, theoretically exist in Québec, but until the issue of co-responsibility between agency and employer is addressed, this continues to be an open issue. On the question of state enforcement, Vosko (2010b) critiques the Ontario law changes as inadequate. Gellatly et al. argue that Ontario’s individualization and privatization of employment standards enforcement process shifts responsibility for enforcement from government and employers onto individual workers. This “belie[s] an understanding of the complex weaving of gender, race and immigration status that characterises the uneven social relations that shape the experience of employment for many of Ontario’s workers (2011: 99). Bartkiw notes: “To a large extent, dialogue [on regulating temp agencies] has depended upon a problem frame identifying the existence of select industry “*bad apples*” as the problem. This rather “low road” approach focuses on minimal outcomes, and often on remedying quite extreme or unethical behavior, such as the outright failure to pay workers at all for work performed. While some attention to this is necessary in policy reform, this frame conceals from view the increasing precarity emerging from the expansion of this form of employment unconnected to such extreme violations of basic rights” (2009:196).

As temporary agency employment expands, already generating negative pressure on access to unionized jobs, Bartkiw (2009) holds that other evidence suggests that it generates yet more precarious (non-union) employment “that carries with it the threat of further erosion of union power and growth through labor market undercutting and the increased inability of unions to ‘take wages out of competition.’ Thus, precarious employment outcomes and restricted access to unionization become *self-reinforcing*. It follows that labor policy reforms to regulate temporary help agency employment that do not directly address the issue of frustrated access to unionization under current Canadian regimes will not likely reduce, and indeed are not at all even *aimed* at reducing, this structural tendency generating labor market precarity” (2009:183) Similarly, Vosko argues for “the need for creating new types of bargaining units to enable unionization, benefits beyond job tenure, precarity pay, and parity of treatment for workers regardless of the forms of employment in which they engage” (2010b:646).

Conclusion

The above examples of struggles to change the economic and social conditions of low wage temp and day labourers highlight the importance of engaging workers in collective self-organization. Such strategies break from orthodox post-war trade union organizing traditions and create community responses to labour issues. IWC support for building a worker-led campaign to challenge and change the structural issues of agency work has meant the creation of a workers’ association that can address the different type of agency workers coming from a wide variety of experiences and ethnicities. It grapples with challenges faced by mainly newer immigrants and migrant workers in more exploitative conditions, contending with both labour problems and the regularization of status. Alongside this are workers in factories and manufacturing mainly seeking temporary work hoping to improve their skills and education. This organizing approach allows the IWC to build a more comprehensive organizing strategy, and a sense of solidarity across communities, with different immigration status and other experiences. Leadership development and education are central to the organizing model through labour rights workshops, media training and by allowing workers to take a leadership role in building this association. It is a hybrid model – firstly, building a committee or association that can have a broad

membership, secondly, dealing with policy issues at the provincial level, and thirdly working to resolve individual grievances with agencies and employers around wage theft, health and safety, and other violations. The key to the association is that it can act like a union by formalizing the membership of the temporary agency worker association. The campaign has also seen workers build relationships with different community organizations and unions in order to highlight the impact of the proliferation of agencies and temp work on all workers and that union capacity to defend the rights of their membership is the primary means to end precarious work as a way of outsourcing decent paying work. Alongside this is an understanding that the nature of work has drastically changed and thus that the need to support such initiatives and campaigns is vital for a rebirth of the labour movement.

In Québec, the question of finding ways to create longer-term alliances and a coherent strategy differs from other contexts such as Japan where the organizing of agency or contingent workers falls under the larger umbrella of trade unions. Québec unions have emphasized that the employer should be solely responsible for work conditions as a way to clearly identify the use of agency workers as a way to undermine unions, and also allow employers to deny responsibility. They have remained an important ally for IWCs campaign through their presentations at labour council meetings such as at the FTQ and CSN. In 2011, the CCIMM or Coalition of Labour Councils in Montreal issued a joint press release calling for the Québec Ministry of Labour to address the demands put forth by the IWC and *Au Bas de l'échelle*. These have been critical steps towards creating a real alliance between unions and community groups working towards regulating agency work, and key to understanding the importance of finding ways to fight back. The challenge remains to better organize workplaces with agency workers and workplaces employing both agency workers and unionized workers.

The significance of the work done by activists in workers' centres, within unions and with agency workers lies not simply in organizing a smaller vulnerable workforce, rather it should be seen in the larger context of the fight back against the on-the-ground impacts of, and the economic crises wrought by, global capitalism. Workers' centres are testing grounds for new and alternative approaches to or models of collective organization, and in a sense,

are grounded attempts to work through some of the issues, debates and tensions around the shifting centres and margins of labour market regulation and workers' struggles in Canada today. As the expansion of agency work enhances employers' ability to create a sense of fear and austerity, and to deny decent work with job security in order to generate profits, such organizing work amongst a changing working class a key way to highlight local impacts of globalization and as critical as fighting for public services and against privatization and outsourcing.

Future Research

How can just alternatives to existing regulation and policy concerning temp agency work (and lowskilled labour migration) be developed, and where should scholars and researchers look for solutions? Returning to Ross' (2001) comment which began our article and to Vosko (2000) and Freeman and Gonos (2005), we contend that future research can take important lessons from history in thinking through contemporary conditions and struggles of agency workers. Furthermore, we hope that such scholarship can engage with knowledge and theory produced in the course of social struggles. We agree with those scholars and labour activists who see the question of agency work, the exploitation of immigrant and migrant labour through a combination of government labour and immigration policy and the temp agency industry as being central issues of concern for the future of work and the working class. We invite work which contextualizes the challenges of organizing agency workers in the context of building a larger movement at a time of increasing attacks on organized labour, and which can shift understandings of what the margins and centre are in relation to work/labour issues and struggles. Further research on the structure and political economy of the temp agency industry in Québec and Canada is vital. In the years of struggle ahead, these are some of the many challenges for trade unions and workers centres in supporting analysis and actions which make demands for all the working class.

Endnotes

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com. The authors thank Adrian Smith, Mark Thomas and two anonymous reviewers of this article, and Nakita Sunar for assistance with the literature review.

2. Recently, the Congress of South African Trade Unions (2012) mounted a vigorous campaign to completely ban labour brokers in South Africa. Also, in October 2011, the Agency Worker Regulations took effect in the United Kingdom, entitling agency workers to the same pay and holiday entitlements and working hours as permanent workers after 12 weeks. This followed years of union campaigns (Trades Union Congress, 2011).

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