



Temporary migration, precarious employment and unfree labour relations: Exploring the ‘continuum of exploitation’ in Canada’s Temporary Foreign Worker Program



Kendra Strauss^{a,*}, Siobhán McGrath^b

^a Simon Fraser University, Canada

^b Durham University, United Kingdom

ARTICLE INFO

Article history:

Received 29 July 2015

Received in revised form 29 January 2016

Accepted 29 January 2016

Available online 11 February 2016

Keywords:

Migration

Labour geography

Precarious employment

Precarity

Unfree labour relations

Mobility

ABSTRACT

Exploitation of international migrant workers in the Global North has been increasingly framed in terms of trafficking, in political and legal domains and by the media. Yet posing trafficking as a phenomenon that captures the unfreedom experienced by migrants obscures the variegated means through which unfree labour relations are both institutionalized, and related to more ‘mundane’ forms of exploitation including precarious employment (for migrants and non-migrants alike). In this paper we argue that conceptualizing forms of unfreedom along a continuum of labour relations highlights this interrelationship, which for migrant workers includes attempts to harness and control mobilities through immigration regimes that restrict mobility bargaining power within labour markets. We use the example of the Temporary Foreign Worker Program (TFWP) in Canada to show how precarious employment, precarious legal status and unfree labour relations interact, and how they are negotiated and contested by workers themselves.

Crown Copyright © 2016 Published by Elsevier Ltd. All rights reserved.

1. Introduction

In 2013, the province of British Columbia obtained the first successful prosecution in Canada for human trafficking under the Immigration and Refugee Protection Act (S.C. 2001, c. 27). The charges, which related to labour trafficking and domestic servitude, were brought against Franco Orr on behalf of his Filipino nanny Leticia Sarmiento. Orr himself was not a Canadian citizen but migrated to Canada with his family and Sarmiento (who had started working for them in Hong Kong); he was convicted of misrepresenting facts to immigration officials when he facilitated Sarmiento’s entry to Canada on a temporary visa (Anon., 2013; Moore, 2013). The 18-month custodial sentence handed down to Orr was described as a deterrent – not, however, to labour exploitation by unscrupulous employers, but rather to infringements of Canadian immigration law. “Franco Orr has been a productive member of society with no criminal record but he must spend time behind bars in order to deter others who would violate Canada’s immigration

laws, Justice Richard Goepel told the 50-year-old businessman before he was handcuffed and led out of the courtroom by a sheriff”, the Canadian Press reported (Moore *op. cit.*, emphasis added).

As in a second 2013 ‘nanny trafficking’ case in Vancouver, in which Mumtaz Ladha was found not guilty of smuggling a young woman from Tanzania into Canada to work in her “\$5-million West Vancouver home”, mobility and migration were at the centre of the stories for both the accused and the complainant. Ladha, a wealthy entrepreneur, was a citizen of Canada but owned businesses in, and frequently travelled to, Africa (Culbert, 2015). In the Ladha case, however, the complainant accused by the defence of taking advantage of a generous employer who brought her to Canada and treated her “like family”. The woman had testified that: “If I had refused to come, she would have fired me because she had paid for everything [the passport, visa and ticket to Canada]” (Bramham, 2013). Her assertions that Ladha made her work 16–18 h per day, seven days a week, and that she was had been unable to refuse the trip to Canada were, however, deemed not credible.

As these stories suggest, the relationship between migration, precarious employment and unfree labour relations is a complex one. First, while migrant occupational niches (Tandian and Bergh, 2014) are often associated with precarious, ‘low-skilled’ and low-paid employment in sectors like care and domestic work, not all

* Corresponding author.

E-mail addresses: kstrauss@sfu.ca (K. Strauss), siobhan.mcgrath@durham.ac.uk (S. McGrath).

economic migrants are disadvantaged (see e.g. Ho, 2011; Lerner, 2015). Highly skilled workers and entrepreneurs may well experience significant advantages in the labour markets of host countries. Many national immigration regimes, including Canada's (Lenard and Straehle, 2012a, 2012b), are increasingly oriented towards attracting these migrants, in some case offering preferential access to citizenship to mobile elites who are seen as the human equivalent of footloose capital.

At the same time, however, and often in the same countries, 'low-skilled' visa schemes facilitate the entry of transnational migrant workers into specific occupational and labour market niches. Domestic and care work have attracted considerable attention, both from feminist scholars researching global care chains (Hochschild, 2000; Yeates, 2012), and in relation to forms of extreme labour exploitation such as domestic servitude and labour trafficking (Anderson, 2000). Migrants are also widely recruited into low paid service and hospitality work, agricultural and horticultural labour, the construction sector, manufacturing, and resource-related jobs in forestry, mining and fisheries (see *inter alia* Buckley, 2013; McPhee, 2012; Rogaly, 2008b; Torres et al., 2013; Wills et al., 2009). Migrant labour market niches are associated with the kinds of temporary, insecure conditions described in research on precarious employment (Anderson, 2010; Cranford and Vosko, 2005; Dyer et al., 2011), as well as with embodied and emotional forms of insecurity described in work on precarity (Lewis et al., 2014, 2015; Pye et al., 2012; Reid-Musson, 2014). The International Labour Organization (ILO) (2012) has highlighted how their precarious legal status also makes migrant workers more vulnerable to the extreme forms of labour exploitation that fall under the rubric of forced labour as defined by ILO protocols, a category that includes labour trafficking. Yet trafficking policy and trafficking law, as the above examples suggest, are often imbricated with the very immigration regimes that produce precarious employment and precarious legal status, and which emphasize managed migration, border security and the criminalization of 'illegal' migration (FitzGerald, 2012; Strauss and Fudge, 2014).

In this paper we recognize, following Yea (2015a, 2015b: 5), that labour trafficking policies and frameworks can serve to *stabilize* rather than *challenge* a state's exploitative migration regime, "ensuring the continuation of its labour market policies that allow the hyper-exploitation of many migrant workers". We also posit, however, that trafficking does not exhaust the range of unfree labour relations to which migrant workers are subject, and may in fact elide and invisibilise forms of institutionalized unfreedom 'less than' trafficking. We therefore argue that analyzing precarious and unfree labour relations together, where unfree labour is understood in relation to a continuum of exploitation (Skrivankova, 2010; Fudge and Strauss, 2014; McGrath and Strauss, 2015) highlights their interrelationship in the context of migrants' labour market inclusion or incorporation (Miles, 1982; Phillips, 2013; Ruhs and Anderson, 2010). In other words, precarious employment, unfree labour relations and precarious legal status are actively produced by employers and the state and negotiated by workers not as distinct 'categories', but as interrelated conditions of labour market participation.

Our framework in this paper builds on, and extends, recent geographical research on unfree labour, precarious employment, precarity. Precarity and precarious employment have distinct but entangled intellectual and political lineages, and are of increasing interest to geographers studying insecurity across a range of domains (see, for example, Ettlinger, 2007; Harker, 2012; McDowell et al., 2009; Torres et al., 2013; Waite, 2009; Woon, 2011). Analyses of the interrelationship of precarity, precarious employment and unfree labour are, however, are less common (but see Lewis et al., 2015). We examine how managed

migration policies, which often include restrictions on the geographical and labour market mobility (ability of workers to change jobs and/or locations of work) of migrant workers in receiving countries, directly connect precarious employment and unfree labour relations. We illustrate these connections, using the example of the Canadian Temporary Foreign Worker Program (TFWP). Our goal is to analyze the relationship between precarious employment and unfree labour relations as a way of 'filling in' (adding epistemological and empirical specificity to) to the continuum of exploitation conceptualized and debated in recent work on unfree labour. Our analysis shows that unfreedom is not an intrinsic attribute of migrant workers themselves, or of the jobs they do, but rather describes relationships that are actively produced and institutionalized by employers and the state (Fudge and Strauss, 2014).

We conclude by arguing that regimes of unfreedom do not, or not always, equate to widespread conditions of forced labour or trafficking. As the B.C. 'nanny trafficking' cases suggest, there is significant variation in the degree and type of institutionalization of forms of unfree labour relations, the relationship of migrant labour unfreedom to broader process of labour market restructuring, and the specific ways that gender, nationality, class, legal status and processes of racialization interlock to create patterns of subordination. Criminal law approaches to labour trafficking may be a poor indicator of the range of these broader processes. Examining migrant strategies and migrant projects can help us understand how and why workers endure unfree labour relations, which contributes to theorizations of labour agency, whilst simultaneously recognizing that migrant workers are subject to structural forms of subordination that make them vulnerable to exploitation.

2. Conceptualizing 'extreme' labour exploitation

The themes of unfree labour, migration and precarious employment share common features in relation to labour geography. They are all relatively recent additions to what might be characterized as the core concerns of labour geography, and much of the theoretical and empirical work on these themes originates from outside of the sub-discipline. Thus, despite excellent research on migrant workers by feminist geographers, development geographers and population geographers (e.g. Nagar et al., 2002; Pratt, 1999; Pratt and Philippine Women Centre of B.C., 2012; Rogaly, 2008b; Silvey, 2004, 2006), and examples such as Don Mitchell's (1996, 2012) and Linda McDowell's (2004, 2013) work on historical geographies of labour migration, it is only relatively recently that labour geography has started to pay more attention to the role of immigrant and migrant workers in shaping labour markets (see e.g. Buckley, 2012; Kelly, 2009; Scott, 2013; Tufts et al., 2012). Overlapping with a recent, growing interest in unfree and forced labour and trafficking in geography, this research has responded to exhortations from within labour geography's own ranks (Castree, 2007) to expand the sub-discipline's foci beyond 'standard'¹ forms of employment, collective organization and agency, and to take seriously the role of migration in labour market change. At the same time, the literatures on precarity and precarious employment have been taken up in different ways by geographers drawing on a range of theoretical, political and empirical trajectories and strategies, but offer ways of conceptualizing the multiple forms of insecurity experienced by workers, especially migrants and immigrants.

¹ 'Standard' here refers to the concept of the standard employment relationship (SER), which is used to signal to permanent, direct employment, usually full-time, associated with access to occupational benefits and collective representation.

Download English Version:

<https://daneshyari.com/en/article/5073504>

Download Persian Version:

<https://daneshyari.com/article/5073504>

[Daneshyari.com](https://daneshyari.com)