OUTSOURCING THE BORDER:
RECRUITERS AND SOVEREIGN POWER
IN LABOUR MIGRATION TO CANADA

by

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A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF

DOCTOR OF PHILOSOPHY

in
THE FACULTY OF GRADUATE AND POSTDOCTORAL STUDIES
(Geography)

THE UNIVERSITY OF BRITISH COLUMBIA
(Vancouver)

December 2018

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Outsourcing the Border: Recruiters and Sovereign Power in Labour Migration to Canada

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the degree of Doctor of Philosophy

in Geography

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Abstract

Drawing on multi-sited qualitative fieldwork, this dissertation examines the recruitment and migration process of temporary migrants through the Temporary Foreign Worker Program for work in lower-skilled jobs in Western Canada. Situated in an understanding of Canada as a recruited nation, I trace shifts in immigration policy that prioritize economic development and which have led to more market-driven and temporary migration flows. With a focus on recruitment practices, the dissertation contributes to theorizations of the “migration industry.” I take third-party recruiters, labour market intermediaries who facilitate and regulate migrant flows, as an entry point for considering how practices of gatekeeping and brokering (re)produce migrant subjects and the borders of the state. My analysis focuses on more “legitimate” recruiters because of an interest in disclosing power relationships in the legal, everyday business of recruitment. It reveals that even as some recruiters provide significant assistance and care, their actions and motivations can also produce and intensify precarity for migrant workers vis-à-vis their employers and the state.

At the heart of this dissertation is an argument about configurations of state power—specifically, about forms and spatializations of sovereign power. My analysis examines the position of recruiters within the labour migration cycle and how their interactions with the state enable their legitimation as mobile bordering agents. I posit that recruiters are “petty sovereigns,” who make largely unsupervised and discretionary decisions that impact migrant access to the transnational labour market and the Canadian nation-state. These decisions play out in a transnational sphere, at the front-end of the migration process, and in spaces beyond Canadian jurisdiction. In a market-driven context, the devolution and outsourcing of migrant selection and admission from the state to employers, and employers to contracted third-party recruiters, effectively contributes to the contracting out of accountability. While they are integral to the regulation of labour markets and cross-border flows, recruiters remain largely invisible in many accounts of migration, and one objective of this dissertation is to write these agential actors into larger discourses on neoliberal governance and migration management.
Lay Summary

This dissertation examines the role of labour recruiters in recruitment and migration processes of migrants working in lower-skilled jobs in Western Canada through the Temporary Foreign Worker Program. As part of this research, I conducted interviews and surveys with a variety of stakeholders. Many challenges associated with temporary migrant worker programs, including those related to migrant insecurity and misrepresentation or fraud, originate or are intensified through the recruitment process. It is common for employers hiring migrants to outsource recruitment, contracting third-party recruiters to select and assist migrant workers. The analysis illustrates how recruiters act as mobile “border agents,” who exercise a high degree of discretionary power in making decisions about whom to select and on what basis. This study contributes to our understanding of the role of third-party recruiters in transnational migration and the extent to which their actions facilitate and regulate migrant movements across national borders.
Preface

This dissertation is an original, independent, intellectual product of the author, Sarah Zell. Ethics approval for fieldwork was obtained through the UBC Behavioural Research Ethics Board, Certificate Number H09-01559.

Some work presented in Chapters 4 and 6 appears in the following publication:


A portion of Chapter 7 has been published in:

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List of Acronyms

BC - British Columbia

CBSA - Canada Border Services Agency

CEC - Canadian Experience Class

CIC - Citizenship and Immigration Canada (now known as IRCC)

CLB - Canadian Language Benchmark

CSIC - Canadian Society of Immigration Consultants (now known as ICCRC)

E-LMO - Expedited Labour Market Opinion

ESDC - Employment and Social Development Canada (formerly known as HRSDC)

HRSDC - Human Resources and Skills Development Canada (now known as ESDC)

ICCRC - Immigration Consultants of Canada Regulatory Council (formerly known as CSIC)

ILO - International Labour Organization

IMP - International Mobility Program

IOM - International Organization for Migration

IRCC - Immigration, Refugees and Citizenship Canada (formerly known as CIC)

IRPA - *Immigration and Refugee Protection Act*

LCP - Live-in Caregiver Program

LMI - Labour market intermediary

LMIA - Labour Market Impact Assessment (formerly known as LMO)

LMM - Labour Mobility Mechanism – Canada–Mexico

LMO - Labour Market Opinion (now known as LMIA)

NOC - National Occupational Classification

PNP - Provincial Nominee Program
SAWP - Seasonal Agricultural Worker Program

SLSO - Stream for Lower Skilled Occupations

STPS - Secretaría del Trabajo y Previsión Social (Secretariat of Labour and Social Welfare)

TFWP - Temporary Foreign Worker Program

WRAPA - Worker Recruitment and Protection Act
Acknowledgements

Invisible labour underpins and makes possible any story—and there were so many hours spent, conversations had, and connections forged and maintained that contributed to this project. I recognize my immense privilege in finding myself in such an engaged network of scholars, advocates, service providers, policymakers, and friends who have supported my research journey through the years.

I am grateful to have had such dedicated supervisory committee members, all of whom have incredibly busy lives but have remained committed to supporting me. I thank David Ley for his warmth and discerning insights, and for the gift of his time (even in retirement!). Jennifer Chun stuck with me even as her own path moved across the country and continent. She challenged me to think more deeply and I always came away from our conversations reeling with inspiration. I am indebted to Dan Hiebert for his careful and impassioned engagement with my work, generous support, and practical advice, for facilitating professional development opportunities and for reminding me to think pragmatically. Finally, I thank Gerry Pratt for her guidance, patience, and willingness to wade through unwieldy drafts! She provided unflagging support, timely feedback, and hospitality, and her approach to research and the work of dialogue serve as an aspirational model for me going forward.

I learned much working as a research assistant for Gregory Feldman and thank him for the opportunity and for his good humour. I also thank Jamie Peck and Rima Wilkes for serving as my doctoral examiners and lending their insights and enthusiasm for my work. I would especially like to express my gratitude to Luin Goldring, who served as external examiner, for her perceptive, validating, and generative suggestions.

Of course, this research would not have been possible without the participation of all the respondents, and I am honoured they shared their perspectives with me. They were generous with their time and their candour. Guady provided excellent and enthusiastic research assistance in Mexico City, and I owe much gratitude to her family, both for providing lodging and helpful logistical support and for indulging the occasional eccentric requests of a pregnant woman! Thanks also to May Farrales, who assisted with the survey—I can feel your smile across the distance, and years. I am also grateful to Tom Carter. I was fortunate to sit next to him in a conference room years ago, and it changed the course of my project and career in ways I’m sure neither of us could have anticipated at the time.

The following institutions provided financial and administrative support: the Social Sciences and Humanities Research Council of Canada, the University of British Columbia, Metropolis British Columbia, the Liu Institute for Global Issues, Mitacs and the Government of British Columbia, and the University of Winnipeg. I could not have undertaken all that I did without the generous support they offered. The analysis and opinions expressed in this dissertation, as well as any oversights or inaccuracies, are my own.

The people I am fortunate to work with at the Institute of Urban Studies at the University of Winnipeg have contributed to my ongoing education and have been supportive throughout the
latter stages of this endeavour. Jino Distasio, in particular, has been incredibly encouraging (and has always known when not to ask about how the writing is going!).

I am so grateful for the community that has shared the journey with me and enriched my work and intellectual development. At UBC, I found myself challenged and charmed by my fellow graduate students and friends. There are countless people with whom I’ve shared stories, wine, and ideas, especially Lachlan Barber, Sarah Brown (long live the supportique!), Chris Harker, Eileen Jones, Kat Lupton, Laura Madokoro, Tyler Pearce, Roza Tchoukaleyska, and Justin Tse and the Migration Coffee crew. Thanks also goes to Lauren Martin for her much-appreciated advice. Connecting with Emily Jane Davis and Luna Vives, in particular, have contributed to my formation as a scholar, citizen, and friend. Geraldina Polanco has been an excellent collaborator and valued friend, and she has encouraged me along this path more than she probably realizes.

In Winnipeg, I have connected with a collaborative, intelligent, and hilarious group of colleagues and friends. I thank Jill Bucklaschuk, Bronwyn Dobchuk-Land, Derek Dunlop, and Ray Silvius for their ongoing friendship and motivation. I am grateful to Shauna Labman, Mya Wheeler, and Amelia Curran for reading and providing feedback on chapter drafts and for sharing their wisdom (and coffees and wine!) as we collectively navigate the nexus of academia and motherhood. Amelia, you have been invaluable as a sounding board, commiserator, and cheerleader. I am serious when I say I would not have finished this dissertation without you and your analytical incisiveness, friendship, and dry wit. I also thank the Migrant Worker Solidarity Network for reminding me why I got into this in the first place.

My family has provided love and affirmation along this journey. My father has modeled persistence and compassion, and my mother an open embrace of the world and its cultures and languages. They have encouraged me to cross all sorts of borders, including those of my own making. I am deeply grateful to Roberta and Bob for their support and for use of their cottage for writing retreats! Karl is largely responsible for my decision to pursue this project, and I thank him and our children for grounding me and giving me perspective. Without Karl, Nina, and Solly this might have taken half the time, but would not have been nearly half as interesting.

I want to close with an acknowledgement that this project and dissertation were undertaken on the unceded territory of the Coast Salish Peoples, including the territories of the xʷməθkwəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and Səl̓ílwətaʔ/Selilwitulh (Tsleil-Waututh) Nations; the ancestral lands of the Lekwungen-speaking peoples, the Xwsepsum (Esquimalt) and Lkwungen (Songhees) Nations; the traditional territory of the Nahuatl and Mexihcah (Triple Alliance) peoples; and on Treaty 1 territory, traditional territory of Anishinaabeg, Cree, Oji-Cree, Dakota, and Dene Peoples, and the homeland of the Métis Nation. Such acknowledgements recognize the need for change in settler colonial societies and can be sites of disruption—flowing from the work of Indigenous peoples themselves to counter invisibilization. They force settlers to confront our own place in these lands, and wrestling with this question—and the responsibilities it entails—is unsettling and must be ongoing. It is central to my thinking about nations, citizenship and belonging, and borders. I would like it to provoke reflection on our everyday, invisible borders, and on how we can be in good relationship.
Chapter 1: Introduction

1.1 Introduction

I begin this story *in medias res*—I spoke on the phone with one migrant worker, whom I will refer to as Nancy, during a time in her life she referred to as “the middle of things.” When I met Nancy, she was nearly halfway through a two-year term in Canada, working as a cashier at a fast-food restaurant in northern British Columbia (BC). She was recruited from Jamaica and was considering her next step: Would she ask her employer to sponsor her, so she could apply for permanent residency in Canada? Would she return to Jamaica, where her nine-year-old son was still living (cared for by his grandmother in Nancy’s absence), at the end of her contract? Or would she “go for another option”—look for temporary work elsewhere overseas?

In many respects, Nancy is in the middle of things, and yet her labour migration story started long before this particular iteration. Before coming to Canada, she had worked on temporary visas for six years off and on in the United States: as a cleaner in a hotel in Texas, as an *a la carte* server back home in a Jamaican restaurant, as a hostess at a fine-dining establishment in Arizona, as a hotel bartender on the U.S. west coast. She has cycled in and out of occupations in the hospitality sector, across geopolitical entities, enduring more or less attenuated relationships with family members back home and with the communities where she resided for a time.

The stipulations of the program she is working under in Canada, the Temporary Foreign Worker Program (TFWP), do not allow her family to accompany her in Canada. Even if she had the time off work for a visit, she cannot afford the plane ticket home on her minimum-wage salary—a wage much lower than the Jamaica-based employment agency had advertised in the newspaper when she applied for the job. Nancy says her current employer has promised two
weeks of vacation once she hits her one-year anniversary at the job, and she is saving every penny until then.

I asked whether she has thought about staying in Canada, and she said she tries not to think about the future, that she has to focus on getting through each day: “I have to just see what happen[s]. I never plan about tomorrow. Right now if I think, I feel like I want to pick up runnin’ away—I gonna run away and go home. … Because I don’t really, I don’t really want to stay away from my son—my son is my son.”

During our conversation she was positive, even chipper, but there was an undercurrent of resignation. Nancy emphatically insisted that she made her own decision to work abroad. However, after approaching an employment agency in Jamaica to apply for the job in Canada—and paying the requisite fee they charged (in this case $4,000 U.S.)—she said the timing and location of the work were out of her hands:

It’s like they get a job first, and they tell you where you’re going. They say, “You’re going to go to this place. You’re going to go—you[’re] going to do this job.” … We don’t—we don’t’ ask the agency anything. So, it just depends on what the company wants. Sometimes, a company can’t take us yet.

She added, laughing under her breath, “And it’s very stressing, trust me.” She misses her son, but on top of that her mother (her son’s primary caretaker) is ill.

If she is—if something happens right now, and I have to go home, I wouldn’t want that to jeopardize my chance. If for instance I want to apply for residency or I want to apply for, you know, other programs to stay in Canada. I don’t want that to jeopardize me because [the employer is] saying that I quit my job because I go home because of my family emergency.

The future is something she avoids thinking about, something that presents more uncertainty and anxiety than hope. In many ways, Nancy is “in the middle” of this migration story in Canada, but feels stuck there, haunted by unforeseeable futures.
I also spoke briefly with Nancy’s roommate, Amina, who is haunted by debt. Also a temporary migrant, she works at the same fast-food joint. Her journey took her from Central Asia to Eastern Europe to the United Arab Emirates before eventually coming to Canada:

I wanted to go somewhere really, really like, not much cars, not the building high, a kind of peaceful place to work. … I saw the pictures on [Canada], and [the recruiter] asked me, “Do you—did you want to go to this city?” And I said, “Yes, I will go.”

She borrowed heavily to pay a series of recruiting agents spanning continents. I asked Amina about the continued relationship she has with the recruiter who assisted in her migration to Canada and she responded, “Well, of course I paid—like, agencies, of course, they don’t work for free. They are always charging for us … You know, we [migrants] paid the money and they got their pay for the airplane. (pause) And I don’t want to say how much is it.” She grew more reticent at this point; her breathing and demeanor shifted. I sensed the relationship with the recruiter was longer-term and more involved than just a one-off payment, ostensibly to cover airfare.

Like many others, Nancy and Amina were routed to Canada by recruiters, agents who facilitate the crossing of international borders—border-crossings that offer some economic hope and relief, and perhaps the dream of something more permanent. Amina told me her dream is to stay in Canada and to send for her extended family, currently supported entirely by the remittances she sends home. She told me that back in the United Arab Emirates the recruiter had promised her Canadian permanent residency, though she now feels less certain it is a possibility. She asked me, was it still possible? Wasn’t there a program for restaurant workers? Perhaps if she had arrived in Manitoba instead—she had heard rumours it was easier there? Perhaps if she could somehow get a different kind of job (a more “skilled” one)?
Following our conversation, I reflected on the recruiter’s promise (and on my own application for permanent residency in Canada, which was in the midst of being processed). I knew the possibility for Amina to one day become a Canadian citizen was slim, and I found myself angry at her unnamed recruiter. Did he just not know the rules? Had he taken advantage of her reliance on his expertise, of her eagerness to work in Canada? Was he in fact, as I surmised, continuing to charge her money, to pay for “recruitment-related” fees? If so, did her employer know she was in this situation?

***

Immigration has traditionally been conceived of and researched in a permanent, one-time, linear and static way—a movement across a border to settlement in a new destination. However, as Nancy and Amina’s stories show, migration pathways are often anything but linear and smooth. They can comprise movements characterized as return migration, as circular migration, as transit movements that combine to become part of larger migrations, or which are unexpectedly truncated.¹ The actual geographies and temporalities of migration patterns and processes may at times be quite different from the frameworks and models used to study them. With this in mind, this dissertation aims to shift thinking about the spaces of migration and opposes seeing space as merely as a container.

I focus on recruiters, who are inherently, and particularly, in “the middle of things” in migration stories. They are intermediaries, mediating between various places and actors involved in the migration process and instrumental in initiating, shaping, and sustaining cross-border movements. My interest in recruiters began in earnest during my Master’s work, which analyzed

¹ There are also the instances of “migrating” without actually moving, with groups such as Chicanos in the southern United States defiantly noting, “The border crossed us!”
migration flows from Brazil to the United States and to Japan. I was conducting fieldwork in two smaller communities in Brazil, and while tracing local social networks involved in the initiation and promotion of these flows, I increasingly found myself sitting in the offices of travel and employment agencies. Migrant workers and their families described a veritable “migration industry” emerging in their home communities. Sometimes recruiters were celebrated figures who provided opportunities of a lifetime. Others regarded them as mere business people, another bureaucratic entity greasing the wheel of labour circulation. Still others cast them as nefarious agents; I still get chills down my spine recalling one interview, conducted over the phone to protect his identity, with a man touted as able to get anyone across the border into the United States. While I approached the information he provided with a healthy dose of skepticism, shrouded as it was by dubious claims, it reminds me of the messiness of migration, of the blurry lines between the clean, shiny travel agency office and the underground world of the human smuggler (and the slippery curtain dividing smuggling from trafficking).

While I intentionally open this dissertation with the narratives of migrant workers, the focus is not on their experiences per se; rather, it centers on the actions of the recruiters who contributed to their situations. The questions that animated my work for this project centered on recruiters: Who are these spectral figures that haunt the migration process, who seem to be largely invisible in migration accounts and yet are so integral to these movements? Where are they operating? What is the role of the recruiter as an intermediary—what is their relationship with employers? With states? What does the recruitment process look like for workers like Nancy and Amina? This dissertation provides an account and analysis of the research I engaged in to begin to answer these questions. More than viewing recruiters as an intervening factor in a
push–pull movement, one objective was to understand more deeply their role in facilitating and regulating border-crossing.

Theoretically and methodologically, my initial interest in recruiters as migration intermediaries came at a time when debates were pitting “from above” against “from below” approaches to studying and understanding transnationalism. The “transnational turn” problematized binaries such as source/destination country, but viewing transnational phenomena from above or below tended to foreground either the nation-state or the migrant. Other important actors, including employers and the migration industry, were overlooked entirely (e.g., Krissman 2005). There were calls to focus on “middling” transnationalism, on the ignored “meso-level” (Faist 1997; Tsuda 1999). These moves were promising, but even if they stretched across national borders and unsettled linear frameworks, they still reinforced an assumed verticality. I want to focus instead on the nodes of encounter and interaction, on the “contact zones” in the migration process (Tsing 2005; Haraway 2008; Collard 2014). I take as my starting point recruitment and migration processes, with particular interest in exercises of sovereign power that inhere in those processes. I choose recruiters as an empirical ground intentionally because they represent a point of mediation, a convergence point between various other actors—primarily the nation-state, employer, and migrant worker—in the migration process.

1.2 Migration Management and the Shift Toward Temporary Labour Flows

In a context of globalization, patterns of repeated, circulatory, and temporary migration have become more common and, some argue, are replacing the “paradigm of permanent migrant settlement” (GCIM 2005; see also Castles 2006; Vertovec 2007). Observers note a trend toward temporary labour migration. Facing economic and demographic challenges, but hesitant to throw
open the front door to “foreign” labour, countries in the so-called global North have been shifting their immigration and citizenship policies from a macro to a micro level, adopting several programs rather than having one primary policy for admitting migrant labour (Joppke 2005; Martin 2005). These programs, among them guestworker programs, are cautionary policy openings offering a means of benefitting from and acquiring labour without granting full admission. They allow for the selection (and production) of certain types of migrant subjects.

Within a globalized landscape, workers—particularly those from the global South—are encouraged to be mobile, embodying labour flexibility through transnational employment practices (Peck et al. 2005; Martin et al. 2006). There are well-established criticisms of temporary migration—that it creates a second-class category of workers, often entails the distressing separation of families, and opens the possibility of migrant workers overstaying their visas. Even so, international bodies such as the Global Commission on Migration (GCIM 2005) and the International Organization for Migration (IOM 2005) support the notion of “managed” circular migration. They argue that opening legal channels to temporary labour migration can result in a win-win situation for sending and receiving countries: receiving countries benefit by filling short-term or sector-specific labour shortages and mitigating “illegal” migration, while sending countries potentially gain human capital and remittances for development. The contention is that, if managed properly, the benefits of such programs outweigh the costs and risks.

Although Canada projects an image of itself as a settler-society, migrants increasingly arrive on a temporary basis. Canada has a long history of relying on migrant workers, but as I trace in this dissertation, that reliance has expanded and intensified in recent years. Levels of temporary migration, particularly through Canada’s Temporary Foreign Worker Program
(TFWP), have grown steadily. Labour shortages and unique economic conditions, the marketing of Canada as an attractive destination, and a number of provincial-level programs have contributed to the influx of temporary migrant workers.\(^2\) Within this overall shift, there has also been an expansion in both the scale and scope of streams for workers in lower- and semi-skilled occupations.\(^3\) In these streams, a migrant’s legal status in the country is often tied to their employer. The trend has contributed to a growth in contingency in the labour market, often associated with increased worker precarity (Goldring et al. 2009; Goldring and Landolt 2013; Lenard and Straehle 2011). Researchers and migrant advocates have documented a number of associated challenges, including those related to migrant workers’ social exclusion, transitional and settlement needs, and lack of access to legal rights and protections (e.g., Pratt 1997, 2012; Depatie-Pelletier 2008; Flecker 2008; Kim and Gross 2009; Nakache and Kinoshita 2010; Bucklaschuk 2015).

These temporary migration flows for lower-skilled work are predominantly employer-driven. Some have argued this represents a growing privatization of the immigration process, as employers recruit and hire workers through the TFWP and sponsor migrant workers for permanent residency (e.g., Alboim 2009; Valiani 2013). Employer involvement is accompanied by a corresponding “commercialization” of migration and proliferation of a migration industry to

\(^2\) Media, the government, and some scholars often refer to individuals arriving through the TFWP as temporary foreign workers, or TFWs. I intentionally avoid using the term TFW and instead use “temporary migrant” (where I do use it I do so to specify the program entry stream). This is to de-emphasize the connotation that “foreign” carries, which can reinforce their exclusion as outsiders.

\(^3\) In Canada, occupations are classified through the National Occupational Classification (NOC) system, which organizes occupations according to skill levels and skill types. At the time of my study, this included the following categories: 0 (Managerial), A (Professionals; usually requires university education), B (Skilled and Technical Workers; usually requires college education or apprenticeship training); C (Intermediate and Clerical Workers: usually requires secondary school and/or occupation-specific training), and D (Elemental Workers and Labourers; on-the-job training is usually provided). Categories 0, A, and B are considered “skilled,” and C and D “low-skilled” (HRSDC 2006). Note that the TFWP was overhauled in 2014 and is now administered based on wage rather than NOC (Government of Canada 2017).
assist employers. Many employers recruiting migrant workers through the program, particularly smaller enterprises, lack in-house capacity and frequently contract out components of the recruitment and migration process to third-party recruiters/consultants. Employment agencies and immigration lawyers and consultants who act as recruiters sell a range of services, including locating and pre-screening candidates, preparing applications and paperwork, and coordinating transportation and settlement assistance.

Recruiters are central figures in many contemporary migration flows. However, within migration studies there has been little research examining the role of these intermediaries or the recruitment process more generally, even as many documented complaints related to guestworker programs and “managed migration” schemes can be traced back to the unscrupulous or abusive activities of these labour brokers. They have been accused of charging illegal fees and providing misleading claims about jobs and access to citizenship. Challenges related to worker protection and precarity, and recognition of the immense power differentials in migration, are at the heart of my interest in recruiters and recruitment.

“Economic” migration is not just about a rational calculation that weighs potential costs and benefits associated with life in a source country versus a destination. Viewed this way, through a neoclassical economic framework, one intervening piece that unsettles the calculus is a lack of information. Recruiters, as one form of labour market intermediary (LMI), are said to be involved in labour migration in part to rectify this information gap—informing employers about potential labour pools and would-be migrant workers about employment opportunities abroad

4 There are a few exceptions, which include Salt and Stein (1997), Tyner (2000), Hennebry (2008), and Rodriguez (2008). On the challenges associated with third-party recruitment, see also a number of media stories documenting TFW-related challenges associated with unscrupulous recruiters or immigration consultants (e.g., Lee-Young 2007, 2008; CBC 2009a, 2009b; Millar 2009).
(Benner et al. 2007; Zell 2017). However, relationships are never so neat, and misinformation and misrepresentation are rampant. Workers who depend on migration for their livelihood are by that very fact already in precarious positions vis-à-vis their employers and sometimes government actors. Third-party recruitment introduces an extra layer of dependency (and potentially vulnerability), with workers also reliant on their recruiter, who is often the first and may be the only contact and source of information throughout the migration process. Debt bondage, financial as well as emotional, often haunts the recruiter–migrant relationship.

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*Early in my fieldwork, I pulled into a cul-de-sac in suburban Metro Vancouver. I double-checked the address and took note of the surroundings. I rang the doorbell, and a woman greeted me cheerfully and led me down to her office in the basement. There was a dry erase board with lists of names, dates, and file numbers, and cabinets brimming with file folders. The white carpeting looked like it had just been vacuumed. She took me on a “tour” of the office and offered me tea. Our interview lasted hours and was pleasant and informative. As I parted and said goodbye, I surprised myself at how surprised I was—so, this was a recruiter?*
Fast forward a year to Mexico, and I found myself entering what looked like a regular home in an unassuming, middle-class neighbourhood, and sitting on an uncomfortable plastic chair in a makeshift waiting area. It was hidden away, and there was no signage. There was a reception desk with no one behind the counter. The entire room had an institutional and sterile feeling. Another woman, presumably also awaiting an appointment, was sitting on a chair beside me was nervously twitching her leg as she reviewed paperwork—what looked like an application form. The woman I was meeting was late, and I was calculating how much longer to wait. When she eventually arrived and led me into a small, non-descript boardroom for the interview, I realized this was where migrant applicants also waited to be interviewed by her, their performances determining whether they would gain admission to her agency’s labour pool. This was a space of the border—not the formal, territorial border, but certainly an important front-end border in a labour migration journey.

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My work in this dissertation was interested in understanding: who are these intermediaries, and where are these border spaces, which seem invisible to the process? Early on, I decided to limit my focus to more “legitimate” recruiters. This was intentional, because I wanted to examine power relationships and challenges posed not only by unscrupulous or illegal agents, but to disclose those that are part of the legal recruitment regime. I also narrowed my focus to those recruiting for lower-skilled occupations in Canada, in particular through the Temporary Foreign Worker Program’s Stream for Lower Skilled Occupations (SLSO). I knew that in many sectors, particularly those requiring higher levels of education or specialized skills, recruiting agents are fundamental to the human resources strategy. In the information technology world, for example, headhunters abound. However, few studies analyzed the recruitment practice and role of such
agents within guestworker programs and at the time I began this project none had done so for the expanding SLSO. Moreover, there was growing concern about the TFWP and recruitment through the program from activists and migrant rights groups, on the one hand, and on the other, from industry association groups concerned about the responsibilities of employers contracting recruiters to hire temporary migrants.\(^5\)

Embarking on this project, I intended to examine the role of recruiters in the (temporary) labour migration process to Canada. As I began to speak with recruiters, who were unexpectedly eager to participate, I noticed that many were taking on a mantle of “border agents”—they spoke of the ways they facilitated the crossing of migrants, workers who in their estimation were unlikely to get into Canada otherwise. I became increasingly interested in how their recruitment-related practices contribute to the facilitation and regulation of border-crossing. My question shifted, essentially, to the following: *In a market-driven context, to what extent were recruiters free to act as “petty sovereigns,” and with what implications for the locations of bordering practices, and for migrant workers?*

### 1.3 Structure of the Dissertation

In the next chapter I provide an in-depth theoretical foundation for the dissertation, introducing the framework that guides my analysis. I situate my project within migration studies and literature on the state, and I delineate my approach and contributions to theorizations of “the border” and explain how I conceive of recruiters as “petty sovereigns.” This is followed in Chapter 3 with an account of my epistemological and methodological approach, the methods I

\(^5\) As part of my preliminary work on this project, I produced a list of best practices for Canadian (employers considering hiring migrants through the TFWP (Zell 2009).
engaged in and the rationale for my choices. I then provide an overview of the historical and policy context for this research in Chapters 4 and 5. I contextualize the analysis in an understanding of Canada as a nation of recruited settlers, one in which policy increasingly emphasizes immigration as an economic development project. I chose the Temporary Foreign Worker Program as an empirical focus because it allowed me to consider the role of recruiters in the context of a conditional opening—a generally closed border differentially opened for (certain kinds of) labour. I trace shifts toward more market-driven and temporary migration flows, in which recruiters have a pronounced role. My overarching argument is that these recruiters are mobile bordering agents, and that through their recruitment-related practices and decisions they contribute to the facilitation and regulation of cross-border migrant flows and the (re)production of borders.

The subsequent chapters of the dissertation are structured to present various figurations of recruiters, specifically private, third-party “legitimate” recruiters. I describe and analyze their role and relationships in the selection and placement of migrants in lower-skilled jobs in Western Canada. Chapter 6 analyzes how recruiters are enabled to act as petty sovereigns. I position them within the labour migration cycle and examine their role within the context of the state and its management of labour migration. I discuss the process and conditions whereby recruiters and their practices are legitimated and labeled as authorized—how and the extent to which they come to designated as “authorized” in migration management. In Chapter 7 I turn to describe the migrant selection and hiring process, and the ways in which recruiters act as discretionary deciders, constructing labour pools mediated by—and, in turn, influencing—employer and state preferences and minimum admission criteria. Recruiters act as gatekeepers at a first border, in a pre-screening moment that plays out within a transnational sphere. Through the selection and
hiring process, recruiters differentiate those to be included, and in so doing shape and produce subjects. Finally, I turn in Chapter 8 to explore the stated motivations behind the actions and decisions of some recruiters, who view themselves as “vigilante nation-builders.” I show how recruiters also act with a social justice orientation and provide assistance and care to migrants. The conclusion summarizes my primary findings and contributions.

This research explores the recruitment process in contemporary labour migration and the role that third-party intermediary recruiters play in screening and producing migrant workers and enabling transnational labour mobility. Building on a burgeoning literature on the migration industry and transnational migration networks, the research is in conversation with political geography debates about the border and theories of the state. The project draws on theorizations of neoliberal governmentality and feminist approaches to embodiment to analyze the geographies of governance and new spatializations of the state that are (re)produced through the migrant labour recruitment process. I am interested in how state and non-state actors involved in the process participate in the construction and maintenance of borders and practices of gatekeeping. Recruiters make decisions about who can cross the border and under what conditions, and their border-drawing practices provide a point of entry for interrogating the increasingly transnational ways in which nation-states and labour markets are re-spatialized and regulated.
Chapter 2: Theoretical Framework – Petty Sovereigns and Spatializing the Border

In this chapter, I introduce the foundations of my theoretical approach and review the theoretical strands that shape my interpretations and methodology, outlined in the next chapter. At the heart of this dissertation is an argument about configurations of state power—specifically, about forms and spatializations of sovereign power. Drawing on Foucault’s work and Butler’s reading of it, I use third-party recruiters, labour market intermediaries who facilitate and regulate migrant worker flows, as an entry point for thinking through how borders are performative. I posit that recruiters are “petty sovereigns,” who perform the border. Throughout subsequent chapters I explore how their border-drawing decisions and practices produce particular migrant subjects and border spaces.

I situate this project at the intersection of three primary fields. I begin by providing a review of recent migration research in border studies and political geography. Within migration studies, I discuss transnationalism and what it has to offer on theorizing the state, particularly in terms of state spatiality and the relationship between sovereignty and territory. I then trace recent developments in the field of border studies, arguing that borders are multiple, dispersed, and dynamic spatial productions. Borders are a logical point of entry for examining sovereign power, as they allow for visualizing the spatializations of state territory. I bring transnational migration and border studies together with a (neoliberal) governmentality orientation. Finally, I draw on performativity studies to discuss how the border, and bordering practices, are performative in that they are at the same time produced and productive of certain subjects and spaces. Building out of these three strands of literature, I then describe an analytic approach to examining
recruiters—as “petty sovereigns.” I conclude with a discussion of how the border as an analytic frame is well-suited to examinations of sovereignty. Borders are instantiations of sovereign power, and I adopt a governmentality-oriented analytical framework that mobilizes a bordering concept to identify and locate the where, who, and how of borderwork.

2.1 Transnationalism and Spatializing the State

2.1.1 Transnationalism in Migration Studies

In the context of intensified patterns of globalization in the 1990s, a particularly neoliberal rhetoric welcomed the arrival of a “borderless” world. New theoretical approaches and interdisciplinary views on borders focused on flows and mobility, post-nationalism, and de/reterritorialization and called into question the previously assumed fixity of borders as linear and aligned with the boundaries of nation-states (Balibar 2002; Paasi 1998; Newman 2006). A corresponding emphasis on hybridity, transnationalism, and cosmopolitanism challenged thinking about the boundaries of identities, cultures, and nations. Within migration studies, the “transnational turn” opened new ways of thinking about mobility and border-crossings.

Transnationalism—introduced as an analytic framework for understanding migration and cross-border networks (Glick Schiller et al. 1992)—has been celebrated by many as an approach that strategically contests the hegemonic conditions nation-states impose on their populations. Viewing migration as a social process, early conceptualizations of transnational migration privileged both the mobility associated with “transnational migrant circuits” (e.g., Rouse 1991; Appadurai 1996) and the agency of migrants to actively shape the migration process, even in the face of restrictive policies. A transnational approach liberated nations, people, and cultures from being fixed in location (and thus positioned as objects of knowledge and management) and
essentialized through a “sedentary metaphysics” that normalized the conflation of people with place, and of culture with nation (Malkki 1992; Cresswell 1997; Gupta and Ferguson 2001).

Forging and maintaining transnational connections (though arguably not a new phenomenon\(^6\)) was seen as a way for migrants to transcend national borders. Hybridity, ‘bifocality,’ and middling, third, liminal, or ‘between’ spaces—for example, the powerful and optimistic “mestizaje” of Gloria Anzaldúa (1987)—were celebrated as spaces where migrants could escape repressive or essentialist categories and classifications (Rouse 1991; Glick Schiller et al. 1992; Bhabha 1994). The approach also offered scholars the potential to escape a methodological nationalism that constrains analysis by containing it within static conceptions of geographical entities such as the nation-state (Glick Schiller 2005).

While rightly drawing attention to the emancipatory potentialities in global connections and cross-border movements, early work was criticized for an overemphasis on and celebration of migrant agency, mobility, and “uprootedness.” Some scholars noted that a defining feature of contemporary transnational arrangements is in fact the development of a global migrant “underclass” or “survival circuits,” as people are dislocated and pushed to adopt transnational lifestyles (Levitt and Jaworsky 2007; Sassen 2006). Geopolitical crises and (neoliberal) economic restructuring have produced a more flexible and vulnerable migrant labour force. At the same time, many destination countries have ramped up restrictions on immigration and

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\(^6\) Critics pointed to the historical continuity of migrant transnationalism, calling for an approach that emphasizes the groundedness of transnational practices as embedded in particular historical, geographical, and geopolitical contexts (Foner 2005; Waldinger and Fitzgerald 2004; Mitchell 1997).
imposed barriers to integration. For many, transnationalism becomes one strategic form of flexibility to mitigate economic and political insecurity (Van Hear 1998; Sassen 2006).  

Furthermore, an overemphasis on agency led some scholars and policymakers to assume that migration is largely conditioned by labour ‘supply-side’ dynamics, which entails a problematic attendant shift of moral and legal responsibility from a First World “us” to a Third World “them” (Krissman 2005; Sassen 1998). Early work was criticized for tuning out the myriad ways transnational flows were still governed, regulated, and conditioned by uneven fields of power (including sovereign power asserted by the state). Research overlooked how “the strategic self-fashioning in liminal and partial sites can be used for the purposes of capital accumulation quite as effectively as for the purposes of intervention in hegemonic narratives of race and nation” (Bhabha 1994, 109; Wright 1998).  

In addition, a troubling consequence of overly emphasizing agency “from below” and focusing on global mobility is an erasure of (trans)national politics—and of the nation-state itself (Baubock 2003). In early accounts of globalization and transnationalism, the state was thought to be under threat of disappearing, its sovereignty under attack by the increasing intensity of economic, socio-cultural, and political global connections stretching across international borders. These globalizing narratives led Appadurai (1996), for example, to assert boldly that “the nation-state, as a complex modern political form, is on its last legs” (19). Globalization notwithstanding,  

7 Critics also pointed out that abstract “third spaces” or “border zones” between or transcending nation-states were often treated as if they were the only spaces of resistance left.  
8 This only serves to rationalize and reinforce reactive immigration policies and border controls implemented by states to “manage” migration, without taking a wider view and, indeed, responsibility for the role Western countries (through, e.g., trade, agriculture, or security interventions) play in producing and reproducing those very population flows they seek to manage (Walters 2004).  
9 Indeed, the global economic narrative itself celebrated “the transcendence of the state and its annoying regulatory structures before the dominant command and control functions of corporate head offices” (Ley 2004, 153).
states and state politics continue to shape the options for migrant transnational social action. There were calls to “bring the state back in,” and for viewing transnational practices as embedded in particular historical, geographical, and geopolitical contexts (Hollifield 2007; Waldinger and Fitzgerald 2004; Baubock 2003; Mitchell 1997; Foner 2005; Ley 2004; Glick Schiller 2005). To adopt a transnational frame that escapes methodological nationalism and locates transnational mobility beyond national territorial borders, research should focus on emerging forms of power (Glick Schiller 2005; Anderson 2000; Baubock 2003).\(^\text{10}\) Doing so avoids the host/home binary, without abstracting either the sending or receiving context, and entails a historically and geographically grounded approach.

2.1.2 **Rethinking the State**

Transnationalism opened up thinking about mobility across borders, but even as it focused on flows, much research continued to hold to narratives of states as de facto containers and to static and fixed conceptions of borders. Critics pointed out that borders and states must not be taken as given nor seen as spatially discrete but as constituted through relationship (Agnew 2008).\(^\text{11}\) Rather than conceiving of the state in idealist terms, in which the boundary between the state and society are often difficult to determine, Mitchell (1991) offers an alternative approach. Drawing on Foucault’s view of power, he takes the elusiveness of the state as the clue to its very nature. Because power cannot be grasped and is productive in nature, it is therefore not a capacity the

\(^{10}\) This research project intends in part to address her question, “How do we study and document a Foucauldian governmentality on global terrains so that we can understand how consent to imperialism becomes part of the everyday practices and understanding of those who suffer the consequences?” (Glick Schiller 2005).

\(^{11}\) Much of the literature on transnational migration at the time still tended to view migrants and states both (not to mention employers, labour recruiters, and other actors often overlooked; Krissman 2005) as agents that create and sustain transnational multi-stranded links, often without much consideration of the relations and interactions between them.
state can ‘store’ centrally. Thus, “the apparent boundary of the state does not mark the limit of the processes of regulation… It is itself a product of those processes” (90). In this way Mitchell deconstructs the state, conceiving of it not as a unified and coherent actor, but as an “effect.” It is an effect produced, for example, by the partitioning of space, disposition of bodies, and arrangement of territorial elements. As Foucault (1991) asserted: “the state, not more probably today than at any other time in its history, does not have this unity, this individuality, this rigorous functionality, nor, to speak frankly, this importance” (103). This points to Foucault’s ‘beheading of the king’—the state could no longer be seen as a sovereign entity, but as a composite effect of power relations. The interesting question becomes “how the headless body often behaves as if it indeed had a head” (Dean 1994 cf Lemke 2001, 52). The effect of the king’s head—of a centralized or core structural essence to the state—is the structural effect to which Mitchell (1991) refers; the effect of coherence and structure remains (and can be reinforced or challenged through certain practices).

Bourdieu (1999) suggests that to really think a state is to question the presuppositions in the very thought of the analyst. He examines the genesis of the state (though a France-centric one), which appears to take on a structure through the institutionalization and bureaucratization of its practices that work to unify its territory, through the assertion of physical force and the construction of economic space. Agents of the state produce a performative discourse which, “under the guise of saying what the state is, caused the state to come into being by stating what it should be” (72). Painter (2006) also traces the emergence of a reified “state effect,” produced through performative practices. He employs an approach based in prosaics to disrupt the unity of the state. Maintaining that the state is constructed through the cumulative effect of the repetitions of mundane actions, he explores the “statization” of society in the United Kingdom (UK).
Similarly, as part of an institutional ethnography of the state, Mountz (2004) is able to convey the fluid and everyday dimensions of the state as it worked through practices of embodiment to reinforce its apparent coherency in the face of the border-crossing threat of migrant bodies. Her work suggests a state that is “more personal and less powerful” than it appears (338).

As Mitchell’s term suggests, the state as idea still has effect. In fact, he rejects seeing the state as an ideological construct, because it may lead to the dismissal of the state as a field of study. Reified understandings should be taken seriously, as they are persistent (Bourdieu 1999; Painter 2006). Suggesting that the state is an idea or effect does not mean it should be disregarded, as it continues to have a significant political reality. The spatialization of this effect is one which Ferguson and Gupta (2002) term “vertical encompassment.” The location of the state as somehow “above” society is constructed through a vertical hierarchy of power relations, which are assumed to encompass the totality of a given territory. Through an ethnographic analysis of state power in India, they illustrate how the state’s territory and architecture of dominance are (re)produced through bureaucratic practices and techniques wherein certain populations are fixed in place and made “local” through surveillance and regulation, while others are in positions of greater spatial mobility. Establishing a territorial boundary through the exercise of control over the movement across and within it, state practices come to define a national entity. The accumulation of mundane arrangements constitutes the state as a “structure” that contains and gives order to people’s lives. Rather than viewing the state as a freestanding entity that can be taken as a definable unit of analysis, they argue, it is more helpful to examine the exercise of its power over a given territory.
2.1.3 State Sovereignty as Delinked from Territory

Scholars studying transnationalism in the 1990s began to note that the state was not so much disappearing as being reconfigured through globalization. Its sovereignty was shifting and mutating. In her work Ong (1999, 2006) noticed that new economic “zones” were emerging in parts of Asia, which were characterized by geographies of variegated sovereignty. “Globalization has induced a situation of graduated sovereignty,” she writes, “whereby even as the state maintains control over its territory, it… lets corporate entities set the terms for constituting and regulating some domains” (217). It is not the existence but the spatialization and nature of sovereignty that is transformed through globalization. In practice, sovereignty is manifested in multiple and often contradictory strategies with diverse and contingent outcomes (Ong 2006).

Taking this fact as his point of departure, Agnew (2005) develops the concept of “sovereignty regimes” to counter the continued privileging of the Westphalian model of state sovereignty in most political geography and international relations approaches, which assume state power is exercised uniformly over the totality of its territory, neatly interrupted at the international border. This claim of absolute territorial sovereignty or encompassment is never entirely realized, particularly in an era of globalization (Ferguson and Gupta 2002; Appadurai 1996, 2003; Ong 2006; Painter 2006).

Agnew argues that state sovereignty must be situated in a geopolitical context, which accounts for the hierarchy of states as well as sources of authority other than the state. He also questions the territorial scope of most conceptions of sovereignty; globalization, he argues, presents challenges to state sovereignty as territorial. “Sovereignty—in the sense of the socially constructed practices of political authority—may be exercised . . . in networks across space with distributed nodes in places that are either hierarchically arranged or reticular (without a central or
directing node)” (Agnew 2005, 441). Taking a Foucauldian view of political authority means that sovereign power is not exclusively exercised by states, and “sovereignty and territoriality” can in fact “live increasingly separate lives” (Appadurai 2003, 247). Agnew recognizes the importance of delinking sovereignty and territory, soil and membership (see also Ong 2006).

Foucault questioned the territorial definition of the state, declaring that “it is not a territory… it is only a people and a strong domination” (Foucault 2004 cf Elden 2007, 570). In his governmentality lectures, he suggests a shift from sovereign and disciplinary states to a modern state predominantly based in biopolitics—that the sovereign’s legitimacy over territory has become less important than the management of its population: the governmental state is “essentially defined no longer in term of its territoriality, of its surface area, but in terms of the mass of its population… and indeed also with the territory over which it is distributed” (Foucault 1991, 104). However, Elden (2007) highlights the continued importance of territory in Foucault’s account; he remarks that in spite of himself, Foucault “forces us to confront the question not of territory itself but the qualities of territory, the attributes amenable, like the characteristics of the population, to statistical analysis and calculative strategies” (32). As the “population” emerged as an object of the governmental state, so too did “territory.” Thus it becomes something more than mere land, but something understood in terms of its “qualities” or properties, and as such something that can be owned, measured and mapped, bordered and controlled.12

Indeed, recent work in political geography points to how states use the concept of territory to locate, enact, and enforce borders in strategic ways. For example, Hyndman and

12 “Territory too, that seeming bedrock of each nation,” Painter (2006) declares, turns out to be “another ‘structural effect’ laboriously generated through complex uneven networks of countless mundane actions” (765).
Mountz (2008) illustrate how outlying islands are considered part of the territory of Australia for the purposes of resource extraction, but are strategically excised out of the jurisdiction of immigration policy. As boats of migrants approach the islands, migrants landing on them can be considered never to have arrived on Australian soil. In a similar vein, the United States implemented a series of immigration policies that allow it to view undocumented migrants as never having arrived on US soil, even after they have crossed the border from Mexico and have been living in the United States (Coleman 2007; see also Mountz’s 2010 “long tunnel thesis”). Researchers have emphasized the important qualities of particular kinds of territorial spaces, such as islands, for enrolment in state expressions of sovereign power (Loyd and Mountz 2014; Dodds 2012; Hyndman and Mountz 2008). Through interactions with global markets and regulatory institutions, Ong (2006) notes:

Sovereign rule invokes the exception to create new economic possibilities, spaces, and techniques for governing the population. The neoliberal exception allows for a measure of sovereign flexibility in ways that both fragment and extend the space of the nation-state. (7)

States use their borders or territorial edges strategically, to expand power, mitigate tensions provoked by dual concerns for economic and national security, and in some cases to withdraw responsibility.

My purpose with this dissertation is to think about the spatialities of states—and exercises of state power—and their bordering practices. My objective is to examine expressions and spatializations of sovereign power through an analysis of recruiters and their practices. I am interested in these practices because they reveal where and how the borders of the state are located and enacted. I now turn to review the concept of the border. Sidestepping both the “territorial trap” (Agnew 1994) and methodological nationalism (Wimmer and Glick Schiller

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2003), I take a relational approach to bordering processes, focusing on emergent forms and instantiations of sovereign power, specifically in the migrant labour recruitment process.

2.2 Border Studies and Border Friction

There have been shifts in the consolidation of “border studies” as a field of study in recent decades, in part because borders are taking on new forms in relation to contemporary mobility regimes, including migration management. Debates about borders increasingly conceived of them as socially constructed and historically contingent processes, sets of symbols or discourses, institutions, or networked assemblages—"dispersed sets of power relations that are mobilized for various purposes" (Paasi 2012, 2304; Newman 2006; Walters 2002, 2006; Amoore 2006; Sparke 2006). This has challenged strictly territorial approaches and promoted alternative spatial imaginaries (Walters 2004). A resurgence of border studies work within and beyond political geography from the 1990s onward focused less on borders as sites understood traditionally as lines on a map. Research increasingly viewed the border as a “regime” of differentiated “zones” (Tsianos et al. 2009; Ong 2006), and borders were seen as manifestations of social, cultural, and political processes rather than unitary, fixed lines anchored by nation-states (Paasi 1998, 2005, 2012; for review see, e.g., Parker et al. 2009; Newman 2006). With this in mind, I present a brief review of emerging debates and recent theorizations of borders within border studies. Primarily drawing on literatures in political geography and migration studies, I describe how my work intersects with and builds out of these discussions, putting forward the conceptual framing that underpins my approach.
2.2.1 Evolution of the Concept of the Border

There was a paragraph of text that animated my thinking as I began my doctoral work, and which in many ways bridged my interest in migration studies and transnationalism with currents in political geography and governmentality studies. In the final lines of Alison Mountz’s (2004) article about conceiving the nation-state at the scale of the body, she interrogates the Canadian state’s everyday, bureaucratic response to human smuggling as a way of at once unsettling and locating the state and also disrupting and displacing the border. She writes:

> It is important to think about the location of borders… They lie somewhere on the water beyond territorial limits… They are enacted in the temporary tribunals of prisons in Prince George and in the detached detention centers of Woomera in the remote outback of Australia. The border is indeed a site of identity construction, but those ‘sites’ are neither unitary nor linear. For the undocumented, the displaced, and the stateless, for people of color with tenuous legal status, the border is everywhere. (342)

There are two moves Mountz makes here that are important for the way I am conceiving of borders in my project. The first is viewing borders as dispersed and produced—“never mere lines on a map,” she writes, “borders, like states, are geographically dispersed spatial productions” (2004, 342). Second, she argues that the operations of borders—of bordering—can be revealed in particularly telling ways at the scale of the body. That is, she points out that bordering is an embodied process and results from biopolitical encounters. These two considerations are integral to my understanding of bordering and recruiters as bordering agents.

In contrast to more traditional conceptions of the border as a physical line, theorizing and research on borders has grown increasingly relational, viewing them as spatial productions in their own right. Conceived in this way, borders are multiple and dispersed—there is never

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13 While the notion of the border as everywhere is overstated (even as it can “feel” everywhere, especially for particular subjects, which she underscores in this passage), an opening up of “the border” as a contained geographical feature allows for an examination of the processes that constitute the border as such, and of the operations of power that contribute to this affective response.
merely one “border” a migrant must cross. Much of this work builds out of Balibar’s (2002) consideration of borders as polysemic and heterogenous; they “never exist in the same way for individuals belonging to different social groups” (78–9). Borders are not a mere “jacket of territory” but are composed of “multiple knots” in a complex weaving (Amilhat-Szary and Giraut 2015, 9). Recognizing their multiplicity and dispersal, studies turned to focus on how borders are experienced in myriad sites, and on exercises of state sovereignty in spaces removed from the physical line of state territory (see reviews in Johnson et al. 2011; Jones et al. 2017).

Rather than taking “the border” as the primary subject, research in border studies, particularly those adopting a Foucauldian-inspired approach, turned instead to foreground the processes and practices of bordering (Newman 2003).

Viewing borders this way expands not only the ontological understanding of borders, but also the epistemological possibilities of border studies. Recent reviews document a multiplication of bordering sites, as they have expanded and grown more dispersed. Bordering occurs in a proliferation of sites, many far from the territorial line of the border itself. These include airports and ports of entry (Salter 2008a; Sparke 2006; Mountz 2011b), detention centres (Hiemstra and Conlon 2017; Martin 2015; Mountz 2010), churches (Ehrkamp and Nagel 2017), cyberspace (Popescu 2017), and spaces inscribed on the border-crossing body (Amoore 2006; Mountz 2004; Popescu 2015). Work focused on the expanding securitization of borders explores a series of “new locations” in the form of corridors, camps, and spaces of confinement that are emerging as key sites for understanding contemporary exercises of sovereignty (Jones and Johnson 2017). Mountz (2011a) uses the example of a US legal provision designating any location within 100 miles of the border as a port of entry to highlight that local officials, and not just federal agents, are engaged in bordering. Corresponding to the mobility of those officials,
border patrolling and enforcement occurs in unconventional and unexpected places as local and intimate as Laundromats or bus stations. These spaces and sites are not just at the territorial edge but also beyond and within a nation-state. With respect to the bordering practices of nation-states and spatializations of state power, I briefly describe three geographical paradigms that have emerged as prominent in political geography and migration studies literature.

The first is the *externalization* of bordering—wherein bordering practices are increasingly occurring outside or offshore, and often well beyond, the intended destination state territory. The tendency through policy and practice of externalizing the border occurs particularly among states or statelike entities positioned in the global North. In her work on refugee flows, Hyndman (2000) examines two kinds of border crossings, demonstrating how refugees are “contained” in UN camps in Africa while flows of financial humanitarian assistance (international capital) move more freely\(^\text{14}\)—the containment of bodies occurs in a space marked as external to the Canadian nation-state (at a “safe” distance, literally more than an ocean away). The border is located at a distance, in a space external to the legal, jurisdictional realm of the intended destination state. A similar move occurs between the European Union and Africa, creating what has been referred to as “Fortress Europe” (e.g., Castles and Van Hear 2005; Vives 2012; Walters 2006; Tsianos et al. 2009). This can render extra-territorial bordering as largely invisible; borders may be enacted in one place but projected elsewhere, for example when passport controls in Paris, France dictate what happens to border-crossers on the Eurostar (Walters 2004). In the suprastate European Union much work has analyzed how migration and border policies have produced a “hardening” or “thickening” of external, regional boundaries,

\(^\text{14}\) This is in contrast to the mobile elite discussed in Ong (1999, 2006).
with an associated “softening” of internal borders, through operations such as Frontex (Feldman 2012). In the North American context there has been work characterizing the territorial line of the US–Mexico border as “hard” compared to the “soft,” often everyday borders experienced by those living with unauthorized status within the United States (Coleman 2009; Coutin 2003; Sundberg 2013).

Similarly, Mountz (2010) analyzes how state practices change the relationship between geography and law as the location of borders and their crossings are negotiated. Not only are borders increasingly drawn in spaces external to the state, but drawing on Agamben’s “spaces of exception” she shows that spaces traditionally within the territorial state are in fact being strategically redrawn and even excised. The state is withdrawing, in some senses, to create “stateless spaces in extra-territorial locales” in which the benefits associated with citizenship are no longer applicable (Hyndman and Mountz 2008; see also Pratt 2005; Agamben 1998; Bosniak 2006; Coutin 2003). Focusing on the offshoring of migrant detention and processing led Mountz to examine more comprehensively the use of islands as strategic zones for containment and mobility control (2010; Loyd and Mountz 2014). Borders have in a sense “migrated offshore,” for example as the state of Australia detains and processes asylum seekers trying to reach its shores by boat on nearby foreign territories (Mountz 2010; Brown 2010; Watkins 2017).

Mountz’s work points to offshore detention facilities that are on islands and sites of interdiction abroad, but it also highlights a second spatialization of bordering—that of internalization. She draws attention to remote detention centres located within sovereign territory, and stateless zones in airports, for example. Others have pointed to internalized surveillance. Beyond policing interior checkpoints, there is policing of potential “enemies within” through the monitoring of clandestine immigration and even cultural and religious
influences (Heyman 2001; Bigo 2000; Coleman 2009). Borders occupy a multiplicity of sites within sovereign territory; they “seep into the city and the neighborhood in addition to existing at the edges of a polity” (Amoore et al. 2008).

From the perspective of states seeking to secure their territory by managing cross-border flows, monitoring the movement of individual bodies, as mobile and individual entities, allows for constant and accurate control on a small spatial scale (Popescu 2015). This points to a third spatialization within border studies—that of rescaling. Varsanyi (2008) examines how the devolution of immigration policing to local levels in the United States has resulted in the rescaling of legal personhood, transforming the relationship between the state and those residing within its territory. Similarly, Laurie et al. (2015) describe how women in Nepal leaving trafficking situations and “re-integrating” into their home societies must navigate stigma and marginalization. Negotiating with bureaucrats in their claims for citizenship, these women co-produce the border with state actors at the local/district scale. Examining their border-crossing biographies, the authors note the importance of locating actors within scalar political relations that can be highly gendered. The study by Laurie et al. (2015) also inserts an important temporal dimension to the rescaling of borders. Previous border-crossing experiences haunt the current actions, decisions, and options for the migrant women in their study. This is a key point that animates my conception of bordering, as borders are not only spatially but also temporally stretched (or contracted). As I will discuss in this dissertation, the externalization of recruitment processes—as they are outsourced and offshored—is associated with an attendant externalization of “front-end” processes, many of which are carried out well before the migration movement itself, but which continue to haunt it.
The primary point I want to emphasize here with regard to jumping scale is that it includes rescaling to the level of the body. In her work examining the embodied, everyday experiences of those enacting the state and those moving through the refugee determination process, Mountz (2004) reads the state through embodiment. Her analysis “jumps scale” by shifting analysis of the nation-state from the national and global scales to that of the body. Her work contributes to a feminist intervention in literature on geopolitics (e.g., Hyndman 2012); she argues that “embodying the nation-state” reveals processes, relations, and experiences related to the regulation and surveillance of migrants.

Scholarship has demonstrated how borders are effectively carried with certain subjects. At an intimate scale, bodies become sites on which borders can be inscribed and embedded (Paasi 2012; Amoore 2006). In her conception of the border as embodied, Mountz (2010) envisions the border as body; the body becomes a site where enforcement authorities encounter and reconstitute the border. She reads the state through the panoptic gaze of civil servants, who enact bordering through (often mundane, bureaucratic) enforcement activities. Analyzing Canada’s deployment of a “multiple borders strategy” of offshore policing, she shows how “the border moves, only to be reconstituted around the bodies of refugee claimants.” Authorities in that study were intercepting and holding migrants in spaces designated as external to Canadian soil. The dynamic threshold to Canada was created through strategic enforcement and detention of migrants in peripheral zones, external to or at the margins of state territory. Migrant subjects can also evoke and embody the border well within nation-state territory, as they are subjected to racialized internal surveillance, including self-surveillance (Coleman 2009; Varsanyi et al. 2012).
Bodies become key sites within biometric management regimes. Amoore (2006) proposes the concept of the biometric border, which is a managerial, scientific, technical border that is portable. It produces migrant and traveler bodies as “sites of multiple encoded boundaries”—allowing mobile bodies, in a sense, to carry the border with them, inscribed with boundaries of access. In the case of those struggling to migrate to Australia who land on excised territory, Hyndman and Mountz (2008) find that they carry that excision with them. Even when flown in to mainland Australia for medical attention, the border moves with them “like a bubble around their bodies” (260). Through their accumulated history of mobility, bodies are marked and correspondingly bordered.

Not only is the border carried in and on (and produced through) the bodies of migrants, it is also carried (and carried out) by the agents engaged in bordering processes. A growing range of actors has been enrolled in bordering, among them agents of the state, such as visa officers or border guards, but also municipal or other local-level government agencies or bureaucrats (Varsanyi et al. 2012; Casas-Cortes et al. 2015; Carte 2017). Bordering is no longer (nor has it ever been) exclusively the domain of the state; non-state actors are increasingly engaged in bordering (Rumford 2006, 2008; Johnson and Jones 2011). These include contracted security personnel, travel agents and transportation companies, programmers who write code for biometric and surveillance systems, NGO and aid organizations, and even advertising companies, to name a few (e.g., Walters 2008; Amoore and de Goede 2008; Amoore 2006; Bonditti 2004; Pallister-Wilkins 2017; Watkins 2017; Johnson et al. 2011). The devolution and outsourcing of bordering means that a host of dispersed and unconventional actors are performing and mobilizing borders in the production and ordering of spaces—on behalf of, or in
spite or defiance of, state interests. These agents perform the border—they too are sites of
relational encounter that produce and reconstitute the border.

This review discerns some key trends in border theorization. I identify three key
geographical paradigms for understanding contemporary nation-state borders and bordering
practices: externalization, internalization, and rescaling (especially to the scale of the local and
the body). All three involve spatial stretching—an outwards, inwards, and/or scalar extension or
expansion of bordering practices or functions. Borders are seen as products or sets of processes
that are constituted through relationships or encounters. As bordering operations become
increasingly technological, networked, privatized, and detached from what were formerly
regarded as state territorial borders, scholars have come to understand the border in terms of
movement rather than stasis, seeing them as mobile and provisional (Paasi 2012; Mountz 2011c;
Hiemstra and Conlon 2017). One important implication of viewing borders this way is that the
territorial limits of states frequently do not align with their jurisdictional reach (a process
Vaughan-Williams 2009 refers to as “generalizing”), a key point for framing my analysis of
recruiters as mobile bordering agents.

2.2.2 Border Friction and Bordering through an Ontology of Differential Inclusion

Before moving from this discussion into the conception of bordering that I employ in this study,
I want to point out three critiques, or caveats, related to this body of work. First, the
multiplication of borders has prompted a shift from fixity to multi-location (Balibar 2009;
Vaughan-Williams 2008; Amilhat-Szary and Giraut 2015; Mezzadra and Nielson 2013). Studies
focusing on the technologization of borders that trace connections between the mobility of
bordering actors or actants, for example, emphasize their portativity (e.g., examining how mobile
devices such as cell phones and drones are deployed in border-producing activities (Amoore 2009; Popescu 2015). Seeing borders as mobile and detaching them from their traditional, apparently linear topography and symbolic power has led to assumptions that they may be everywhere. This shift in optics has been criticized for a tendency to overemphasize the ubiquity of borders and for obscuring the continued and important material effects of traditional border sites. It has met with calls for approaches grounded in history (O’Dowd 2010) and that refocus empirically on “the border” that is the line at the nation-state’s territorial edge—on the persistence of the border as “fence” or “wall” (e.g., Brown 2010).

Echoing others, I maintain that interventions noting the multiplicity, dispersal, and mobility of borders over the past decade have sought to denaturalize, but not to dematerialize, the border. Unsettling the state and its border—and exposing the assemblage of practices that constitute it—is important, and it can be done while attentively avoiding the evacuation of their materiality (Lemke 2001, 61). Emergent forms of bordering may occur in less conventional sites, and not exclusively as disciplinary techniques that seek to control the line at the edge of territory, but they still occur at “material locations.” Furthermore, ubiquitous border concepts suggest a coherent state power, when in fact empirical studies reveal that bordering and its forms, agents, sites, practices, and targets are much more fragmented, provisional, and messy, guided often by contingencies rather than grand schemes (Burridge et al. 2017; Mountz 2010; Gill 2009). Border control systems are rife with contradictions and inconsistencies, and even as “border control is now done at many new sites and by many new people… these new borders are not designed to ensnare everyone, everywhere” (Jones and Johnson 2014, 3). Borders are highly selective and powerful tools of differentiation. If they are taken to exist everywhere, it can imply an omniscient and omnipotent state. This is not to deny that the border as a lived experience can feel
everywhere—it can feel suffocating, and so state power can feel overwhelming, like it is exercised uniformly and everywhere (Burridge et al. 2017; Vaughan-Williams 2009; Carte 2017). Depicting the state and its power this way, however, obscures possibilities for contestation and overlooks instances of migrant activism (Gibson-Graham 2008; Belcher et al. 2015).

Viewing the border as a dispersed spatial production presents epistemological challenges (Newman 2003; Amilhat-Szary and Giraut 2015). Borders are performed at and by increasingly unconventional and complex sites and agents, but are grounded in particular places and sedimented in historically contingent practices. As such, many have advocated careful and grounded empirical and ethnographic work examining particular border spatialities and functions. This kind of work attends to the material effects of borders but refutes the notion that they are ubiquitous. For this reason, this project adopts an in-depth, grounded qualitative approach (described in the next chapter).

A second critique concerning recent approaches to research on bordering is that much work is still anchored to the nation-state form. The three geographical paradigms I describe here—externalization, internalization, and rescaling—are spatializations that take as their referent the territorial nation-state. To expand beyond this framing, Rumford (2011) invokes Scott’s “seeing like a state” and proposes instead “seeing like a border.” This allows for a disaggregation of the state and the border to conceptualize the multiple actors and sites of what he calls “borderwork.” It also moves beyond traditional territorial notions of scale; in fact, such an approach would offer an opportunity to show how scale itself is produced (see Marston 2000). Rumford uses the example of the designation of origin status of pork pies and cheese, illustrating how these designations create bounded regions for branded products. The idea of “seeing like a
“border” detaches bordering from the state, but this does not evacuate an interest in the state. Rather, the approach can be used to consider how both state and non-state actors and boundaries are (re)producing and regulating spaces (and not just territorial or jurisdictional spaces). Taking respatializations and rescaling of bordering processes seriously means that bordering needs to be studied as a process in its own right, and not necessarily anchored in container, unitary, or coherent understandings of states or territory. Viewed this way, bordering is seen as a strategic tool available to state as well as non-state actors.

In a sense, I see “like a border” in this project, positioning recruiters as bordering agents and as my empirical point of entry. However, this project is very much an examination of state spatializations, And, of course, nation-state borders (not to mention traditional border sites such as ports of entry and walls) continue to matter in remarkably significant ways. The caveat is one in line with the arguments of those who caution against methodological nationalism (or statism) or a territorial “trap” that apprehends the empirical and theoretical in (a priori) territorial terms (Agnew 2008). In this project my objective is to think about how bordering practices and exercises of sovereign power through and at border sites contribute to reinforcing the understanding of the border and state as visible and coherent, and the attendant possibilities for rewriting those borders and disrupting that apparent seamlessness. With a focus on exercises of power, and an intentional liberation of borders from territorial states, this kind of work may highlight spaces of critical intervention that might otherwise remain hidden (Amilhat-Szary and Giraut 2015; Belcher et al. 2015).

Finally, a third trend to acknowledge in recent border studies literature is an emphasis on border control and enforcement, as part of a larger migration securitization nexus. This is related largely to the state’s role in governing migration—where the state must hold in tension the
objectives both of protection (and self-preservation), securing its territory and population, and also of economic liberalism, promoting the circulation of goods and capital.\textsuperscript{15} Governmentality-inspired research in migration studies, a more recent but fast growing and productive area, has analyzed the transformation of the governmentalized state with respect to migration flows.\textsuperscript{16} Migration studies scholars have traced how the aim has shifted from government to governance, from the absolute control of flows at territorial borders to their management.\textsuperscript{17} In the context of economic globalization, Walters (2004) notes a shift from governance of the state as a household to approaching it as a home—what he terms “domopolitics” (e.g., “homeland security”). Out of fears about “losing control” over territorial boundaries through economic globalization, migration is increasingly rationalized as a security problem—viewed as a threat to domestic order that calls for careful management (Sassen 2008; Gilbert 2007). As Sassen (2008) argues, the state asserts a form of sovereign control over migrant subjects. This is well documented in empirical research and is carried out through practices such as surveillance and biometric screening (Amoore 2006; Bigo 2002; Popescu 2017) and such as interdiction, detention, and deportation which, taken together, point to the rise of a migration securitization complex.

At the same time migration flows are viewed as a threat, however, the (neo)liberal state views migration, and particularly transnational labour mobility, as a requisite part of economic security. The discourse on the state’s role regarding globalization is a now familiar one: where the “preeminent task of government is to attract and channel flows of resources, whether

\textsuperscript{15} In the context of (neo)liberal governmentality, the logics of security and freedom confront one another (Bigo 2002). This leads to a tension wherein the state aims to address simultaneously its liberal economic goal of facilitating cross-border movements in a globalized world, and its security goal of protecting its territory.

\textsuperscript{16} See review in Walters (2015).

\textsuperscript{17} To govern a state involves surveillance and control, as the head (father) of a household; it is about the right “disposition” or arrangement of things, through deployment of techniques of management, to lead to an end, the ultimate end being the welfare of the population.
investment, goods, services, and now flows of (the right kind of) people into one’s territory” (Walters 2004, 244, emphasis added). The governance of the state is reimagined to be like running a business, according to a market logic that drives particular governance moves, including devolution and privatization (Bigo 2002; Hiemstra and Conlon 2017).

As states design systems of security that are compatible with government conducted in a mobile world, they engage in innovative bordering efforts to regulate the transnational movement of people. The dispersion of borders is not just the result of expanding surveillance systems, but is “the practical end of reconciling territorial security with economic liberalism” (Walters 2004). In a security context, the “management” of migration is aimed at preventing undesirable flows (the arrival of unwanted people), through bordering practices that classify and divide. Migration management is just as much about ensuring and promoting the mobility of those who can be “trusted” not to be risks (Walters 2004; Bigo 2000; Sparke 2006; Ong 2006; Popescu 2017). Borderwork is not just about halting, prohibiting, or delimiting but “conducted in and through movement itself,” in a space of security that must “allow circulations to take place, sifting the good and the bad, ensuring that things are always in movement” (Amoore in Johnson et al. 2011, 64–5). The end is not to impede mobility, but to tame it, to regulate it.

Borders emerge at what Coleman (2007) refers to as an incoherent, contradictory “security/economy nexus,” in which statecraft is both a legal-military and market access project (see also Sparke 2006). Borders act as both barrier and bridge, prohibitive and facilitative. They are like doors that are closed and opened at once—they are opened selectively, conditionally, differentially. A governmentality-inspired approach to studying migration flows and borders is one that moves beyond this binary of exclusion/inclusion, recognizing that the two are contained within the same impulse.
However, while many studies adopting a governmentality orientation recognize this dual nature of bordering, most recent research in border studies emphasizes how states are securitizing and militarizing their borders (e.g., Jones and Johnson 2016; Gilbert 2012). The rich collection of reflections on state sovereignty at the border edited by Jones and Johnson (2017, 1), for example, is aimed at considering “how scholars should interpret the global expansion of security infrastructure ranging from new walls to the deployment of drones and military hardware to monitor and secure space.” This is remarkably important work, and many such studies analyze bordering as instantiations of power, showing how borders produce mobility and immobility (security and insecurity, exclusion and inclusion) at once. Collectively, though, critical political geography and migration studies that take borders as the empirical focus overwhelmingly emphasize instances of deterrence, interdiction, confinement and detention, etc.—the exclusionary and “enforcement” side of border control that primarily foregrounds the inhibition of flows. They trace and map the shifting geographies of enforcement, from offshore detention centres to interior checkpoints. Though there are of course exceptions, fewer studies focus on border management explicitly in terms of facilitation.

Practices and policies related to bordering, though, have as much to do with facilitating flows as with stopping or slowing them down. In this project, I view migration policies and border agents as a kind of border friction. I find the metaphor of friction useful because it is not just about deceleration. As Tsing (2005) incisively points out, friction is also required to keep things moving. Motion—including movements across borders—proceeds out of unequal, unstable, and contingent encounters. I argue that recruiters, as border agents, are a kind of friction, like roads: “they create pathways that make motion easier and more efficient, but in doing so they limit where we go” (6). Moreover, following Tsing’s metaphor, how we run
depends on what kind of shoes we have on. How and under what conditions migrants move through bordering processes depends on the metaphorical “shoes” they have on. This project explores migration recruitment policies and actors that promote mobility, though under certain conditions. The analysis is not based so much in border control or an ontology of exclusion, but in one of differential inclusion, to borrow Mezzadra and Nielson’s (2013) term. Rejecting the idea that borders only separate and divide, they show how borders also connect and include (and in so doing may exert violence as well; Coleman 2007).

In the context of global (neo)liberal governmentality, the task of governing becomes disentangling legitimate flows from illegitimate or disorderly ones (such as undocumented migration or trafficking), so as to “tap the energies of one flow while taming and suppressing the other” (Walters 2004, 245). To do this, and capitalize on global movements, the government itself must become more transnational (and migrants are encouraged to do the same; they must adopt entrepreneurial and transnational mobility strategies to capitalize on their employment potential). My project takes as its point of entry one mechanism and actor engaged in this disentangling—labour recruiters. In this dissertation I question not only where, how, and by whom bordering occurs, but also the (often tacit) presumption that bordering takes the form of overt exclusion or is ontologically inhibitive and decelerating.

2.3 Performativity and the Performative Border

In this dissertation I couch my analysis in a performativity framework to understand the way the performances of recruiters and also other actors, particularly migrant workers, contribute to particular subject formations and how they both reproduce the state and its borders and offer opportunities for their disruption. At its most basic, performativity refers to the fact that reality is
not pre-given, stable, or inevitable but is continually brought into being. To say that something is performative is to say that it brings forth and produces a reality. Judith Butler has argued this is especially done “through discursive practice that enacts or produces that which it names” (1993, 13). In *Gender Trouble*, Butler (1990) sets out to upend the notion of gender as a fixed and stable identity. The “stylized repetition of acts” that constitute a gender identity do not merely respond to or represent an objective state of affairs but bring it into being; they produce and shape reality (1988). Indeed, for Butler gender is real only to the extent that it is performed.

My project draws on Butler’s early strands of performativity theory, in concert with a small literature on performativity in political geography and sociology, to theorize about borders and states. Butler’s ideas are helpful for a politically attuned and robust approach to theorizing the embodied nature of bordering. I build from literatures on border studies, performativity, and governmentality to conceive of recruiters as petty sovereigns—as agents and sites of bordering based in a notion of the “performative border.” Seeing the border as performative implies five primary characteristics about borders, including that they are: 1) productive; 2) iterative and dynamic; 3) not inevitable; 4) situated always within a network of relations; and 5) embodied. I build on the idea of borders as embodied through the figure of the “petty sovereign,” which I argue is a helpful conceptual framework for understanding recruiters and their role in transnational migration processes as “border agents” who contribute to the (re)production of certain spatializations of the state and sovereign power.

First, I take a performative approach because it is aimed at upsetting presumptions about the given state of things. It rests on the premise that reality is both performed (not pre-given and natural) and also performative—that is, productive. For Butler gender is not stable and coherent, but the ongoing effect of repeated, embodied, and power-laden performances. The repetition of
acts that compose performances are “internally discontinuous . . . [so that] the appearance of substance is precisely that, a constructed identity, a performative accomplishment which the mundane social audience, including the actors themselves, come to believe and to perform in the mode of belief” (Butler 1990). Through repetition, a series of iterative acts becomes sedimented such that gender as an identity comes to be, that it is enacted and appears coherent. The presumption that gender is a “metaphysical substance that precedes its expression” is overturned by a performatory theory of gender (Butler 2010, 147).

Drawing on Butler, I argue that the border, and for that matter the state as a bounded object produced through bordering processes, is produced through repeated performances, through the material and discursive practices of institutions and actors. To say that the border is produced as an effect is to argue that the border (as the territorial line of a sovereign nation-state) is only real to the extent that it is performed. Following this approach leads us to an analysis of how certain effects come to be constituted—to understanding which practices and processes, and under which conditions, the effects are enacted. To gender is to differentiate relations by which speaking subjects come into being; by application, to border is to differentiate relations by which border-crossing subjects come into being. The border is a node or site of differentiation, a key site to witness and interrogate the reproduction of migrants as particular kinds of subjects and also a key site of encounter that might reveal the possible disruptions to those formations. Extending Rumford’s (2006) metaphor of borders as “engines of connectivity,” they not only facilitate mobility but also are productive of particular subjects and relations. Borders do not merely represent the state of affairs but contribute to bringing it into being (albeit in contingent and unpredictable ways).
Through the reiterative processes that compose it, the border comes to be seen as an entity that is already bounded, identifiable, and knowable. For this effect to be successful, performances must be repeated. Butler shows how gender becomes sedimented through repetitive performances; it must be continually reproduced. The fact that there is iteration takes into account that borders have a history. Performances are both generative and accumulative. To say that gender is not pre-given or inevitable is to assert its contingency; it has a history and is a product that emerges out of a coordinated network of relations, of expressions, activities, things, statements, discourses, institutions, etc. The border that is sedimented through time is also geographically grounded. Viewed this way, borders are not ubiquitous; in fact, an analysis of borders as performative helps reveal the contestation involved in their production (Gupta 2006 cf Burridge et al. 2017, 6; Mountz 2010; Dodds 2012).

Performative effects are compounded through repetition, but the effects must be established with each reiteration. The performative border is constantly prosaically performed, staged, and improvised in everyday contexts (Burridge et al. 2017; Salter 2008a). Borders, like any institution, must be maintained, and the writing of the border, the state, and the world again and again requires the constant deployment of resources (Salter 2008a). Each repetition carries with it the possibility of failure or a counter-performative effect. The reiterative nature of performances means they are not inevitable, and that they can be disrupted. In the regeneration of social and political orders and relations, slight variations provide openings for unexpected or unintended effects. While border controls may feel inescapable, their makeshift, inconsistent, and iterative character points to the ever-present possibility for responses and counter-tactics.

This dissertation explores how sovereign decisions of/at the border contribute to particular territorializations of state (and/or national) borders. State or national borders are
performative in that they are sovereign spatial productions that are both the effect of, and bring into being, the state as a spatialized entity. I am interested in recruiters as borders and as bordering agents both for how (and under what circumstances) their actions contribute to the production of the state as such, but I am equally interested in ways that their actions fail to perform the state, and especially instances where, as non-state actors, they aim to perform otherwise. Salter (2011) suggests that border studies can be enriched by focusing on performative aspects of borders by both state and non-state actors. Recognizing that borders (and their apparent coherence) are produced prompts a rethinking of their basic ontologies. We might thus escape from a delimited understanding of what the border or the state is (or can be).

The border is produced in part through the movement and practices of bodies. Through the relational encounter between, for example, recruiter and migrant, “the border” is enacted. It is produced in relational networks, through encounters. Mark Salter (2008a, 2011) has been the primary scholar to use Butler’s theory of performativity in theorizing on borders. For him, the border encounter represents an existential moment of crisis: the border is where identity claims are adjudicated and where performance is reviewed. There is an exercise of sovereign power intrinsic to the encounter, and for that reason in particular I am interested in how recruiters, who are primarily non-state actors, function as a kind of “border agent” engaged in making those judgments and sovereign decisions. Butler’s work is useful because it reminds us that the effectiveness of performances depends on how the subject performing bordering is positioned within broader networks and conditions. Actors are not positioned symmetrically; in the case of labour migration and a focus on intermediaries, there are triangular relationships of employer–state–migrant and employer–recruiter–migrant actors that are characterized by power
inequalities. These power imbalances impact how bordering produces mobility, the state, migrant subjects, and indeed the world in some ways and not others.

2.4 Recruiters as Petty Sovereigns

My approach to thinking about recruiters, their role in performing the border, and the attendant implications for understanding reconfigurations of state sovereignty is fundamentally based in a governmentality-inflected understanding of the contemporary state. As a primary mode of state power, governmentality is concerned with the maintenance and control of bodies, populations and goods, and their production, regulation, and circulation. The governmentalized state is one marked by a diffuse set of strategies and tactics, and it operates through policies and departments, through state and non-state managerial and bureaucratic institutions. Government thus includes but is not reducible to questions of rule, legitimacy, or state institutions. As Wendy Brown puts it, “it is about the corralling, ordering, directing, managing, and harnessing of human energy, need, capacity, and desire, and it is conducted across a number of institutional and discursive registers.” These calculations and tactics have the effect of converting the state itself into “a set of administrative functions rather than ruling or justice-oriented ones” (2010, 60).

Foucault argues that as a mode of political power, governmentality rather than sovereignty has become the primary vitalizing mode of state power. Sovereign power is traditionally understood as “providing legitimacy for the rule of law” and “offering a guarantor for the representational claims of state power” in the form of the sovereign (Butler 2004, 52). In a historical situation marked by (neoliberal) governmentality there is an implied loss of sovereignty—the end of monarchy and the “dissolution of the homology between family and polity” (Brown 2010, 60). However, while the emergence of governmentality, even if we take it
to be a dominant modality of governance, may depend on a devitalization of sovereignty in its traditional sense (as providing a legitimating function and as a unified locus for state power), many scholars have reflected on how sovereignty is reconfigured and continues to operate in tandem, within, and as part of the field of governmentality (e.g., Brown 2010; Agamben 1998; Edkins et al. 2004; Walters 2015). In this dissertation, I am interested in how and under what conditions that sovereign power emerges and is spatialized within the frame of migration management. I use the case of recruitment as a fundamental point of entry (pun intended!) for understanding where the borders of the (nation-)state are negotiated, encountered, and brought into being—and the implications of that, particularly for the production and experiences of migrant worker subjects.

There are two key spatializations that underpin my framing. First, tactics and practices that comprise the governmentalized state can be embodied and have become dispersed, such that power is diffused and inheres in “petty sovereigns.” These are the policymakers, bureaucrats, their “authorized representatives,” and other actors within the ‘migration industry’ who enact, interpret, and implement migration policies. They effectively perform the border. Second, the devolution, privatization, and effective outsourcing of the decision about who may cross a border (and about who is a migrant worker) has resulted in an externalization of the border. The decision about who may cross the border, made by “petty sovereigns,” is occurring outside the jurisdictional reach of the Canadian state.

2.4.1 Petty Sovereigns as Decision-Makers that Produce Subjects

In a detailed examination of the “legal innovation” of indefinite detention, Butler (2004) describes a contemporary form of sovereignty within the field of governmentality. She shows
how a diffused form of sovereign power manifests as the executive branch assumes the power of
the judiciary, as managerial officials are invested with the power to decide when, where, and
whether a military tribunal takes place. While it is tempting to see the state as a powerful and
unitary entity, governmentality describes a field of political power in which tactics and aims
have become diffuse, in which:

Petty sovereigns abound, reigning in the midst of bureaucratic institutions mobilized by
aims and tactics of power they do not inaugurate or fully control. And yet such figures
are delegated with the power to render unilateral decisions, accountable to no law and
without any legitimate authority. The resurrected sovereignty is not unified under
conditions of legitimacy, the form of power that guarantees the representative status of
political institution. It is, rather, a lawless and prerogatory power, a “rogue” power.
(Butler 2004, 56)

In Butler’s case of indefinite detention petty sovereigns are those governmental bureaucrats
making decisions about whether or not someone will be detained indefinitely. They assume a
lawless yet fully effective form of power, with the consequence of depriving individual subjects
access to a trial and recourse to international law. These “newly invigorated subjects of
managerial power” are of course not true sovereigns:

Their power is delegated, and they do not fully control the aims that animate their
actions. Power precedes them, and constitutes them as ‘sovereigns,’ a fact that already
gives the lie to sovereignty … they do not offer either representative or legitimating
functions to the policy. Nevertheless they are constituted, within the constraints of
governmentality, as those who will and do decide. (62)

None of the actors on the recruitment chain—bureaucrats, employers, or recruiters—is a true
“sovereign”; they are “petty” in that they do not have the final say. Recruiters as “petty

18 The act of deeming someone as “dangerous” takes place within a declared state of emergency, in which the state
exercises prerogatory power that involves the suspension of law and due process for detained individuals. They are
also invested with an extraordinary power over life and death.
sovereigns,” as figures invested with the power to decide (and with limited accountability), engage in an act of deeming those eligible (and desirable) for border-crossing.

2.4.2 **Sovereign Power as Outside the Law, and Productive of Border Spaces**

Butler (2004) shows how the exercise of a diffuse form of sovereign power, which emerges or is revitalized within a field of governmentality, produces certain subjects. The decisions of petty sovereigns also contribute to the production of certain spaces. In Butler’s case, current formations of state power are reconfigured in terms of the “new war prison” (53). Sovereignty is exercised through the suspension of law, in zones outside it. The state arrogates to itself the right to manipulate geography. In the name of the right to protect itself and through the rhetoric of sovereignty, the state extends its power in excess of the law and defiance of international accords, and in so doing provides conditions for the manipulation and restructuring of geography and temporality—in the form of indefinite detention.

Law is suspended to heighten the discretionary power of those asked to rely on their own judgment to decide fundamental matters. It can also be regarded as an instrument the state may use in service of constraining and monitoring a given population, wherein the actions of the state are not subject to the rule of law but deployed tactically and partially to suit the requirements of the state. In this move the operation of power is shifted from a set of laws (juridical) to a set of rules (governmental), ones that are not binding by virtue of established law or modes of legitimation, but are “fully discretionary, even arbitrary, wielded by officials who interpret them and decide the condition and form of their invocation” in extra-legal spheres outside the domain of the rule of the law (62). Butler refers to this as “making room” for sovereignty—that in
delinking sovereignty from its legitimating function, it can re-emerge within the field of
governmentality.

In the case of recruitment and bordering of the Canadian state, I argue that the spaces of
the border are enacted and reconfigured through the decisions of government bureaucrats and
recruiters. Governmentality gains meaning and purpose from no unified sovereign subject but
operates diffusely to dispose and order populations, to produce and reproduce subjects and their
practices. The act of bordering, of making decisions about whom to include or exclude, is
inherently a sovereign act. It marks out the subjects and population to be managed and, more
traditionally, marks out and designates the limits of sovereign territory—the space over which
the sovereign state claims to have authority and legitimacy to control. As I describe in this
dissertation, the Canadian migrant worker recruitment and border-drawing regime is increasingly
devolved, outsourced and offshored, and dispersed. It is externalized such that many bordering
practices and decisions take place in a sphere external to the Canadian state—outside the
jurisdictional reach of laws aimed at regulating and protecting migrant workers.

The instantiations of sovereignty enacted by recruiters occur not so much through the
suspension of law, as in Butler’s case, but represent at once an extension of state action outside
the territorial jurisdiction of Canada, into, for example, office spaces in Mexico City, and also a
contraction or withholding of its legal purview. Jurisdictional space is that within which the
sovereign state has legal hold, wherein juridico-legal proceedings and agreements adhere to the
rule of law. Because bordering is performed by petty sovereigns, including non-state actors, in
spaces outside Canada, this dual spatialization of extension and withholding has the strategic
consequence of effectively withdrawing or suspending the reach of the law. The law is not
suspended but the activity it governs is located elsewhere so as to be unreachable. By this act, the
state “is further disarticulated into a set of administrative powers that are, to some extent, outside the apparatus of the state itself” (Butler 2004, 55). There is a strategic separation of jurisdicctional space, preserved at the territorial border, and the border space that extends into an extraterritorial, extra-legal governmentalized space. This creates in effect an extra-legal sphere in which border-drawing plays out. This strategic positioning of bordering activities, through policy devolution, privatization, and outsourcing so that they are effectively outside the rule of law, “makes room” for the resurgence of sovereignty.

As Butler (2004) notes, this extra-legal sphere of governmentality emerges only once separated from the rights of sovereignty; once a sphere of managing populations ‘outside of law’ emerges, sovereignty no longer operates as a principle that would furnish justification for those forms of population management, and so sovereignty is transformed and becomes self-grounding in an effort to maintain and extend its own power. For Agamben (1998), contemporary forms of sovereignty exist in structurally inverse relation to the rule of law, emerging precisely at that moment when the rule of law is suspended and withdraws. This inverse relation to law produces the “unaccountability” of this operation of sovereign power (also Butler 2004, 66). The result is the production of a sort of “paralegal universe.”

In this case the so-called paralegal sphere is a largely “front-end” realm, akin to Mountz’s (2010) “long tunnel” that is created as the state excises jurisdicctional space within its own territory for strategic purposes. Rather than functioning within the state, here the resulting border space, embodied in and enacted by the figure of the recruiter, is like a portal whose opening is located in an extra-territorial and extra-legal space, but also a route through which potential border-crossers begin to enter into the state—through which they come into relation with it through their differential inclusion. In Butler’s (2004) example the state produces a law that is
not law, and in this case there is the production of a border that is no border. Recruiters perform a border, but it is not so much a “formal” border as it is a “practical” one (Salter 2011)—one which precedes but conditions the crossing of the formal and territorial border later in the recruitment and migration process. Recruiters contribute to the production of a sphere of bordering that is outside law and geographically outside jurisdictional space.

2.5 Conclusion: Why the Border as an Analytical Frame?
Describing how states are mobile entities that manifest through border enforcement at ports of entry, Mountz (2011c) tracks the movements of those who are displaced from home, traveling in search of protection, and of the authorities moving to enforce the boundaries of sovereign territory. The encounters she explores occur at sites where authorities “stop counting, documenting, and including, no longer welcoming, processing, or registering entry” (318). She highlights how the provisional nature of mobile ports of entry conceals a contraction of spaces of asylum, disclosing an “ontology of exclusion.” In my project, I extend this argument, focusing on sites and actors involved in the processing and differential, conditional welcoming of migrant border-crossers.

Borders provide a particularly helpful vantage point for examining transformations of the institutions of states and citizenship. Many scholars have noted that in the context of globalization there has been a redefinition of the relationship between the state, citizenship, and territory. The withdrawal of the state is a key characteristic of neoliberalization, which has led to deregulation and privatization in many areas of traditional social provision (Harvey 2005). Thinking through the processes of the state and border-drawing in a neoliberal context, Ong (2006, 217) writes: “Globalization has induced a situation of graduated sovereignty, whereby
even as the state maintains control over its territory, it . . . lets corporate entities set the terms for constituting and regulating some domains . . . Weaker and less desirable groups are given over to the regulation of supranational entities,” allowing the state to withdraw also from accountability for the process. This description applies well to the recruitment of migrant labour in Canada, to “employer-driven” programs that essentially allow employers (and their contracted private-sector representatives) to select would-be immigrants. I am interested in exploring the practices associated with this selection, at the margins of that state, at the borders where migrants first gain access to the nation.

At the heart of my study is a question about spatializations of state sovereignty in contemporary transnational migration flows. As states are unsettled (empirically and theoretically) and reterritorialized, a governmentality approach, and one focused on governance through bordering, is valuable. Borders are instantiations of sovereign power, and I adopt a governmentality-oriented analytical framework that mobilizes a bordering concept to identify and locate the where, who, and how of border work. My empirical interest is in recruiters, as primarily non-state actors, and their exercises of sovereign power. My project contributes to a growing field of critical migration and borders research informed by governmentality studies (e.g., Mezzadra and Nielson 2013; Walters 2011, 2015; Mountz 2010; Hyndman 2012; Balibar 2004; Coleman 2007). I recognize that rather than viewing borders as either bridges or barriers, the phenomena analyzed should instead be the techniques of government or statecraft (that

19 A governmentality approach is particularly useful for mapping spatializations of sovereignty precisely because its understanding of power is not wedded to a static concept like the state. As an “inessentialist and flexible framework of power analysis,” governmentality is particularly well suited to “making sense of new territories of power that migration is bringing into the world” (Walters 2015, 16).
contribute to the production of borders as both bridges and barriers), and I focus on borders because of the insight they provide into statecraft.

In addition, I focus on borders because they demarcate the margins of the state, and it is through the threshold of the state, through the line that marks the outside, that the inside is revealed. A primary concern related to my interest in examining emerging forms of bordering is to understand how they may incorporate racial and ethnic, class, and gender stereotypes and prejudices that perpetuate existing inequalities. Closely examining bordering processes reveals their differential effects. Borders are sites where sovereign decisions impact inclusion and exclusion. They are key sites where a range of claims-making and status determinations are made, where the deeming of those desirable and deserving occurs. Borders are key components of “the complex, perpetually ongoing, hegemonic nation-building process” (Paasi 2012, 2305). Recruiters are an empirical entry point to examine mobile bordering practices and where and how they occur, and in the next chapter I turn to describe my methodological approach to studying them.
Chapter 3: A Multi-sited, Mobile Methodology

Land lies in water; it is shadowed green.
Shadows, or are they shallows, at its edges showing the line of long sea-weeded ledges where weeds hang to the simple blue from green.
Or does the land lean down to lift the sea from under, drawing it unperturbed around itself?
Along the fine tan sandy shelf is the land tugging at the sea from under?
...
Are they assigned, or can the countries pick their colors?
—What suits the character or the native waters best.
Topography displays no favorites; North’s as near as West.
More delicate than the historians’ are the map-makers’ colors.

— from Elizabeth Bishop’s “The Map” (1983)

3.1 Introduction and Research Questions

Human migration, as with any field or phenomenon, has its metaphors. Implicitly or otherwise, it is often perceived and discussed in ‘watery’ terms. Migration moves in flows and streams, which can be regulated and filtered, with taps turned on or off through policy openings. Programmatic migration routes are ‘streams’ within policy frameworks; in some cases they are even described as ‘pipelines.’ Questions of how much migration, when, and by whom swirl through policy worlds with an acknowledgement that there are bound to be leaks, and occasionally faulty plumbing. The threat of leaks, of people getting through that shouldn’t, justifies the construction of ‘dams’ in the form of walls made physically and through policy. Movements of people are seen as (potential) waves, tides, floods.\(^{20}\) The terms can have dehumanizing effects, and migrants, like water, can come to be conceived of as a resource to be commodified.

\(^{20}\) Conceiving of human beings as “waves,” seeking out work or fleeing war, economic and political instability, and/or climate-induced natural disasters, no doubt does some work to commodify or dehumanize migrants. It may
I have two primary aims in opening this chapter with water metaphors. First, the water metaphors followed me, the researcher, throughout the project, and induced reflection on who I am in all that swirling. I was interested in the pathways that migration flows take, and make, and how the migration industry contributes to the initiation and facilitation of those channels. I realize that I saw myself as an explorer, indeed a ‘geographer,’ charting flows of migrant workers and attempting to map some of those waterways, their connections, where the dams are located and what forms they take. I also hoped to be a bridge, linking seemingly disparate fields of theory, groups of stakeholders, and analytic optics through that mapping. More importantly, the water metaphors are appropriate for introducing my epistemological approach. I want to emphasize the situatedness, contingency, and embodied nature of my research process and knowledge production (Haraway 1988; Rose 1997). I employ the water metaphor here to describe how the research process itself is always dynamic, moving, unexpected, and at times, like water, can be murky, churning, and even downright tumultuous (Cerwonka and Malkki 2007). And the process was, at times, tumultuous for me.

This recognition underpins the development of my research approach, one that aims to understand the role of recruiters, and situate them within the larger context of the state and market, as intermediaries. My approach involved attending to nodes of encounter where border-crossing processes play out. In this project I am interested not only in describing the role that recruiters as labour market intermediaries (LMIs) have in facilitating and regulating labour migration, but also in how their practices produce and reproduce migrant workers and the also shift accountability, as they could be seen (unconsciously or not) as ‘natural disasters.’ In geopolitical terms, people can be seen as ‘anchors’ that stretch family connections across borders, across oceans. For example, the concept of “anchor babies”—a disparaging term for a child born to a noncitizen mother in a country that grants jus soli citizenship—converts children into objects that grip the territorial soil of the United States (Preston 2011).
borders of the nation-state. Empirically, I focus on the recruitment processes for the Temporary Foreign Worker Program (TFWP), and specifically its Stream for Lower Skilled Occupations (SLSO); for the Provincial Nominee Programs (PNPs); and for a bilateral labour mobility program connecting Mexico and Western Canada, as a case of “managed” transnational labour migration. The research was intended to address the following questions:

• What does the recruitment process for temporary migrants for work in lower-skilled jobs in Canada look like? What services are provided by recruiters, and what is their role in facilitating international migration?

• How and to what extent do the adoption of micro-level economic immigration policy initiatives (the TFWP and PNPs) result in a contracting out of (im)migrant selection? Where is bordering occurring, and by whom?

• What mundane practices of gatekeeping are performed by recruiters, employers, and government actors, and how do they contribute to the constitution and regulation of borders of the nation-state? How are certain migrant selection criteria constructed as desirable, and by whom?

The larger question around which this dissertation coheres is how state and non-state actors’ border-drawing activities contribute to (re)spatializations of state sovereignty.

There are arguments for emphasizing the experiences of migrants, giving space to those whose voices are often ignored. Likewise, there are arguments for focusing on the role of the state in migration studies—to highlight and critically evaluate its exercise of power and identify areas for policy intervention. However, I intentionally chose not to study ‘the state,’ or ‘the migrants,’ or even the employers (though they are often disturbingly absent from labour migration studies; Krissman 2005)—but to foreground the role and activities of recruiters. They are my point of departure to explore the mundane practices and sites of bordering.

In this chapter I lay out my methodological framework for studying transnational labour recruitment. I describe how specific techniques were assembled and used to generate data that
enabled me to answer the research questions posed by my conceptual framework outlined in the previous chapter (Crang 2009). I explain which methods were chosen, and why, and I describe the process of conducting my research.

3.2  Research Approach and Epistemological Framework

I embarked on this project, in part, because of an interest in exploring ways of engaging in ethnographic methods to study global mobility (Burawoy et al. 1991; Burawoy 2000; Pratt and Yeoh 2003). My research design draws on other studies about the governance of mobility and transnational migration management. My project was influenced by two primary research approaches: transnational approaches to studying migration and institutional ethnography or ethnographies of the state. It is rooted in poststructural thinking about state spatiality and feminist qualitative research approaches.

3.2.1  Taking a Transnational Frame

As migrants move across the epigraph lines from Elizabeth Bishop’s poem “The Map,” as they move in and out of those “delicate” colors, traditional geographical research attempts to map their movements, trajectories, and experiences. Transnationalism has been one attempt at shifting our optics from two-dimensional representations, from seeing migrant movement as linear and fixed—in fact, it has challenged the very colorings of those countries, as they bleed into each other like the land and sea of the poem. As a field and analytic optic, the transnational turn in theorizing international migration opened new ways of thinking about mobility and border-crossings. Examining international migration through a transnational lens involves focusing on
connections between origins and destinations, on processes that transcend or exist “beyond”—or, indeed, bring into being—the territorial border between the two.

It necessitates a move away from a sending/destination state binary, instead emphasizing the cross-border nature of migration movements. Reframing international migration as transnational also disrupts unilinear assumptions implicit in traditional approaches, which often conceptualize it in terms of a settler-sojourner dichotomy. Moreover, a transnational approach also disrupts the analytic lens of the nation-state as contained territory. It allows the study of international migration, and global mobility, to move beyond methodological nationalism, an “intellectual orientation that assumes national borders to be the natural unit of study, equates society with the nation-state, and conflates national interests with the purposes of social sciences” (Glick Schiller 2005, 440; Wimmer and Glick Schiller 2003). As a framework, it calls for a deeper understanding of socio-cultural, economic, and political transborder processes.

However, while it foregrounds border crossings, transnationalism remains anchored in nation-states. The transnational depends on the national and the two are co-implicated (Baubock 2003). In my study of geographies of global governance, I intentionally chose to study a phenomenon—transnational labour migration—that is presumably anchored by two independent nation-states, even as my analysis problematizes state spatiality and the where, how, when, and by whom of that anchoring. Glick Schiller (2005) proposes that studies of transnationalism focus on emerging forms of imperial power, and Anderson (2000) argues that nation-building processes and their inherent power relations should be the analytic point of departure, which would entail a historically and geographically grounded account. In this vein, rather than locating transnational mobility outside, above, between, or across territorial borders, I am interested in why and how those borders come to matter.
Insights offered by transnationalism are important in thinking about scale and the framing of research and about what might be left obscured by only taking on particular units of analysis or adopting particular scalar frames. Ultimately, a “transnational” approach was integral to the formation of my research design, one that would be well attuned to telling the multiple facets of a transnational migration story, working outward from the recruiter—a point where market, state, and migrant interests and desires intersect, are negotiated, and indeed, come into being.

### 3.2.2 Multi-sited Approaches to Studying Global Mobility

In developing my approach, I wanted to draw on a transnational frame, but one which remained grounded in everyday, material practices—one which takes into account “the emplacement of mobile subjects and the embodiment of their everyday practices” (Smith 2005, 1; Mitchell 1997; Ley 2004). For this reason I was drawn to an ethnographic approach, for its attention to mundane practices and commitment to situatedness. I embarked on this project with an interest in how to take a largely qualitative, highly “immersive” approach to studying global labour mobility and transnational geographies of governance. Because of an interest in embodied spatial practices of border-drawing, I found myself in the terrain of feminist social scientists, particularly those doing critical ethnographies. This project is very much influenced by critical ethnographic approaches including institutional ethnography (Smith 1987, 2005), ethnographies of the state (e.g., Mountz 2003, 2010; Belcher and Martin 2013; Kuus 2014), and global ethnography (Burawoy 2000). Such approaches focus on the social interactions that are institutionalized

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21 My project is interested in sovereign power, and for this reason my approach draws on previous work that has explored ethnographies of the state. I am especially indebted to the work of Mountz (2003, 2010), who examined the quotidian practices of state bureaucracy with the objective of demonstrating how the state—as a dominant institution with powerful material effects for migrants—is a more improvised and less coherent entity than supposed. Mountz’s
through everyday life. They are useful in mapping the topography of translocal relations that coordinate activities and relationships within institutions, and are relevant for my study of gatekeeping processes in state bureaucracy and in the migrant labour recruitment process.

The need to follow social and economic processes connecting “even the most isolated of places” have opened up new ways of thinking about and through the spaces of possible sites for investigation. Tracking large-scale political and economic processes and the circulations of goods, capital, practices, meanings—and people!—calls for a mobile research perspective (Marcus 1995; Burawoy 2000; Scheper-Hughes 2004; Ong 2006). In recent years, there has been much interest in mobile methods or innovations in mixed methods for research on mobile phenomena (e.g., Vannini 2012; Merriman 2014). One approach, taken up by many economic geographers, for example, involves tracing commodity chains—a variant of Marcus’s (1995) “follow-the-thing” approach (Cook et al. 2004; McCann and Ward 2012; Collard 2014). Multi-sited fieldwork approaches are particularly useful for grasping the interconnectedness of processes across multiple sites. Researchers studying global mobility, particularly those adopting feminist approaches, advocate such approaches for their attention to intimate and everyday experiences—of how global processes work out and are made on the ground, in

work was heavily influenced by Dorothy Smith’s (1987, 2005) institutional ethnography, initially proposed as a way of documenting the exclusion and repression of women and others not included in histories of governing institutions. As Marcus and Fischer (1986) write in an early publication that represented multi-sited ethnography’s formalization in anthropology: rather than being situated in one or two communities, “the researcher must be mobile, covering a wide network of sites that encompass a process, which is in fact the object of study” (94). The tracing of global connections—of people, things, metaphors, stories, biographies, and conflicts—is the focus of Marcus’s (1995) “multi-sited ethnography.” He proposes a variety of itinerant strategies to track and trace movement within different settings of a complex cultural phenomenon. While multi-sited research is well suited for studies of global mobility, there are concerns about the logistics involved—a multi-sited global ethnography typically requires, for example, large investments of time and money. A more foundational concern, however, stems from anxiety about carrying out rigorous study across numerous, often distant sites. For one, the approach raises concerns about the amount of time (and level of commitment) researchers have to their sites and participants as well as around the attenuation of data. However, as many contributors to this conversation have pointed out, it is possible to study transnational or global institutions and processes while also engaging in “close observation of particular lives in particular places” (Comaroff and Comaroff 2003; Burawoy 2000; Ong 2006).
specific local sites (Katz 2001; McHugh 2000; Bailey et al. 2002; Silvey 2004; Megoran 2006; Mountz 2010; Tsing 2015). In fact, when the object of study is that of global processes, flows, or connections themselves, it is hard to imagine not engaging in multi-sited ethnography.\textsuperscript{24}

My approach draws heavily on the work of Burawoy (et al. 1991; 2000), who proposes a research strategy of “global ethnography,” an extension and variant of grounded theory which is capable of capturing the complexity of transnational processes by following global forces and connections through research locations. This involves a back and forth between the data and theoretical concepts, such that the empirical case pushes against and works to reconstruct theory.\textsuperscript{25} As an embodied research strategy, ethnography, or an in-depth, qualitative approach, is well-suited for studying global mobility.

What particularly attracted me to Burawoy’s approach is that it foregrounds the researchers own movement through the sociospatial world. It is a reflexive approach that takes into account the ways researchers and field sites are co-constituted through the research process, and it highlights the productivity of the frictions and negotiations inherent in that process.\textsuperscript{26} The approach aligns with feminist approaches to qualitative research that insist rigorous qualitative research entails mobility and reflexivity, and that the person carrying out the research is the primary tool of the research (e.g., Hendry 2003; Haraway 1991; Cerwonka 2007).

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\textsuperscript{24} Indeed, if taking the notion of cultural “unbounding” seriously, a bounded single-site approach was never possible, in that every site is constituted by infinitely crisscrossing entanglements and interrelations (Tsing 2005).

\textsuperscript{25} As Comaroff and Comaroff (2003) maintain, it is a process that combines the already known with the surprising, and the phenomenological with the political, dissolving an a priori breach between theory and method while it seeks to explain how the local and translocal construct each other. In this way such an approach focuses on global connections as its object, starting from a place of dialogue, with the reconstruction of theory as its objective.

\textsuperscript{26} It benefits from an emphasis on reflexive mobility, one that moves away from “masculinist” epistemologies that define objectivity by a strict hierarchy between knower and object and define reality and truth as fixed and only known through detached observation (Haraway 1988; Rose 1997; Sundberg 2003).
Grounding research in the “spatial stickiness” of the local and lived can also contribute to the disruption of narratives of globalization and neoliberalism as coherent and inevitable. Exposing contradictions worked out in the local not only destabilizes the abstract, but taking those anomalies or “failures” as a point of departure also aids in the reconstruction of theory (Burawoy et al. 1991, 11). Literature on transnational migration initially depicted transnational mobility associated with globalization as somehow inherently transgressive, but as Pratt and Yeoh (2003) point out, its effects are complex and often contradictory, and by attending to the specifics of place we can avoid abstracting (neoliberal) globalization as a durable entity.

The “global ethnography” approach argues for research grounded in local histories that explores global forces, connections, and imaginations, and contends that doing critical global ethnographies can disrupt the notion of the global as smooth, monolithic, and overwhelming. In a similar vein, “institutional ethnography” shifts sightlines (and sitelines) to see institutions and institutional practices as less coherent and more improvised than might be assumed. I combine these approaches, using a mixed methods, multi-sited design to examine the transnational labour recruitment process and understand the recruiter’s role and relationships within it. This design enables an approach that is effective at both describing and modeling an approach to these intermediaries of the labour migration process.

In developing my approach, I was influenced by other studies that have used multi-sited approaches to study global connections, transnational migration management, and state spatiality. In her work, Tsing (2005, 2015) focuses on messy and unpredictable negotiations between a multiplicity of actors across what she calls “zones of awkward engagement.” She uses ethnographic fragments to interrupt stories of unified and successful neoliberal global regimes. In the late 1990s, Ong (1999) called for transnational scholarship that shifts attention to multiple
sites and examines the big picture of the relationship between migration policies and capitalist restructuring. Her multi-sited ethnographic study of neoliberalism in the Asia-Pacific (2005) shows shifting and mobile technologies of governing that are recontextualized across her sites, revealing mutations in regimes of citizenship and rearticulations of sovereignty through spatial administration. Scheper-Hughes (2004) “follows the bodies” in her multi-sited project, exploring the illegal and covert activities surrounding traffic in humans and their body parts. Her approach was helpful in thinking through the approach to studying illegal and clandestine activities in situations where reliable data are hard to come by. While much of the migration industry and work of migration recruiters and consultants blurs the line between legal and illegal, I intentionally focus on the more “legitimate” actors in the industry, because of my interest in exercises of sovereign power. Scheper-Hughes calls her investigation of global circulation a politically engaged “muckraking” ethnography, and argues that ethnographic fieldwork is especially well suited to explicate novel intersections in geographical and sociopolitical spaces and the formation of new and unexpected assemblages and institutions, actors, and ethics. In distinct but related ways, these studies all show the benefits of a mobile and multi-sited, in-depth, qualitative approach to studying global mobility. A multi-sited approach allows for a chain or networked approach to following interrelations and processes through various sites.

Part of my interest in adopting my research approach was to explore how to piece together a study the “margins” of the state and its borders through multiple sites. Drawing from Tsing (2005, 2015) I conceive of recruiters, as intermediary actors who embody and perform bordering activities, as points of friction or nodes of encounter in the recruitment chain. The recruiter is one point of entry in the labour recruitment chain from which to work outward to tell the story of cross-border processes associated with temporary labour recruitment and migration.
Using the case of migrant worker recruitment and the role of intermediaries, I aim to understand how changing relations between (transnational) governmental practices and national territories challenge and reconfigure state spatiality. To understand state spatialization, it is important to attend not only to theoretical understandings of the state but also to their less dramatic, multiple, and mundane bureaucratic embodiments.

3.3 Methods

In the end, this multi-method journey took me through three overlapping phases in three “sites.” First, I engaged in a research internship with the BC provincial government in 2009, during which I conducted interviews with a range of stakeholders and observed the inner-workings of two government departments involved in migrant worker recruitment and assessment. This served as the point of departure for a series of additional interviews and qualitative fieldwork, carried out in Western Canada and Mexico City (2010–2012). Finally, in 2013 I administered an online survey of recruiters and immigration consultants, as well as employers who contracted them, who were operating in Western Canada. Together, these pieces form a picture of migrant worker recruitment and the role and profile of recruiters in the process. The three phases of the study and the methods for data collection and analysis are described in detail below.
3.3.1 Institutional Ethnographic Fieldwork

The institutional ethnographic component consisted of a research internship through Mitacs with the BC provincial government.\(^\text{27}\) I submitted a proposal to an open call through Mitacs to work for a several month period on a research project called “Evaluating International Recruiters in the Context of Temporary Foreign Worker Migration to British Columbia.” The project was exploratory in nature, with the primary objective of examining the migrant worker recruitment landscape and profiling international labour brokers in BC.

For a period of several months, I participated in daily office life, splitting my time between two departments. During the course of the internship, I was considered a BC provincial government employee; I was required to swear an oath of allegiance and to sign the Standards of Conduct form and was granted access to confidential information. I was given access to a regular workstation in the offices, which included a phone, government e-mail, and general access to the government computer network and other office supports. The office space served as the base from which I conducted the initial 48 of my total semi-structured interviews, including in-depth interviews with many employees working in the two offices.

During my time working there, I was treated in many ways as any other employee and felt welcomed, though there were moments when I felt hesitation from others working in the office—sometimes out of suspicion but primarily out of curiosity—about my presence and aim. There was a general acknowledgement that this was an exceptional situation and that I was only there temporarily, and I received mixed reactions from others who perceived me as either a

\(^{27}\) The Immigration Partnerships and Initiatives Branch, in partnership with Metropolis BC and through the Mitacs organization, funded the provincial government internship. Mitacs is a non-profit national research organization that managed and funds research for students and “builds partnerships between academia, industry, and the world—to create a more innovative Canada” (www.mitacs.ca/en).
“humble intern,” there to learn about how things are done in government, or an “outside expert” from the academic world, there to provide my consultation and conduct some research for them (the fact is I was at once both and neither). I was able to sit in on several government meetings, both formal, in-person full-day workshops as well as telephone and conference calls, as a Canada-Mexico bilateral labour mobility partnership was negotiated. These proceedings and my access to them led me to include Mexico as a research site (see Rationale for Sites section below).

I admittedly felt strong ambivalence about engaging in research through the internship. While I had near total autonomy over the research (which did undergo a third-party, academic peer-review process), by virtue of its framing and the departments within which I was working, the research I conducted as part of the internship was heavily employer-focused. It had a practical focus and objective, of outlining the recruitment process and identifying where best practices and supports for employers could be implemented.

Moreover, I engaged in the research internship during what some have called a neoliberalizing moment within the university. As the Canadian government endeavors to capitalize on the knowledge economy, universities have undergone intense and rapid transformations, assuming a role as suppliers of knowledge and human capital to industry (and, in this case, to government). The Mitacs internships are one example of the kinds of “strategic partnerships” aimed at channeling funding into “innovative,” applied research. While these links are important, some scholars have registered concern about shifts in funding models that privilege “applied” (rather than curiosity-driven or theory-building) research, which must demonstrate relevance within market and policy paradigms (Fisher and Atkinson-Grosjean 2002; Metcalfe 2010).
This research project was intended to support the development of BC policies and programs related to temporary migrant workers and the TFWP. At times I struggled with the feeling that I had to produce a “deliverable” designed to assist employers to use the TFWP, even as my research findings and my own political commitments led me to question the structure and premise of the program itself. I worried my work during that phase of the research was at best mitigating recruitment-related issues (I return to discuss this, and the relationship with government accountability, in Chapter 6). In the end, I produced a fact sheet on indicators of legitimate or reliable immigration consulting agencies, which was distributed by the BC government and posted on their website. Findings from the research internship were also distributed in several internal presentations to civil servants and through a webinar (Zell 2009). I also worried about so heavily foregrounding an employer perspective, but I consciously strived to include a cross-section of voices in the fieldwork that followed.

The research internship allowed me to gain a deeper understanding of “how government operates” with regard to migrant worker recruitment and the implementation of immigration programs (especially the PNP) from a bureaucratic perspective. I recognized that working with government, even through a formal partnership, does not inherently preclude a critical approach to the state itself. And I felt that, in this case, “the state,” at least at individual and departmental levels, was genuinely receptive to criticisms. One woman who worked in the office and who had always been friendly, but with whom I had limited engagement, approached me after one presentation of my findings to thank me. She specifically wanted to emphasize how much she appreciated the inclusion of participants’ quotations, as it came as a reminder to her that the numbers she worked with everyday do in fact represent people, acknowledging a sort of mundane dehumanization that occurs.
Because of my experiences as part of the research internship, and the personal connections it allowed me to make, I was better able to highlight to what extent the labour recruitment process is in fact employer-driven and to identify which factors influence employers to consider hiring temporary migrant workers and what role consultants play in their decisions. Within my larger dissertation project, the primary goal of the research internship was to gather information on the terrain of recruitment from the perspective of those making immigration and labour policy, promoting the TFW and PN programs to employers, and making assessments of applications. The internship revealed and was a good starting point to investigate the devolution and privatization of migrant selection and the location of “first borders” in the recruitment process.

### 3.3.2 Observation in Other Spaces

I also participated in observation during fieldwork in other spaces, including at each of my interview sites (nearly all were conducted in person in participants’ places of work) but also at government and industry conferences, at one recruitment fair, in grassroots organizing spaces and migrant settlement workshops, and in pre-migration spaces such as Canadian and Mexican government offices in Mexico City. I had anticipated some difficulty in accessing recruiters and immigration consultants, but once I started interviewing them I was surprised at how willing and forthcoming most were. Interviews sometimes lasted several hours in length and I was treated to enthusiastic “tours” of several of their offices, which included in-depth accounts of their filing and coordination systems as well as virtual tours of their websites, email templates, and sample correspondence. I also sat through several phone calls they had with clients and encounters with assistants or other co-workers. Witnessing these interactions, combined with interviews and
followed up with survey questions, provided a comprehensive sense of these actors’ temporal rhythms and practices of coordination. Furthermore, their willingness to participate, and how they differently framed their interactions with me depending on whether they viewed me more as a government employee or an academic researcher, revealed important insight into their own (self-assessed) positionality within the labour recruitment network. This helped me feel out the locations and thresholds of gatekeeping moments—that is, identifying in which moments and under what conditions these actors felt they did or did not have “legitimation” and could exercise certain forms of sovereign power.

I took fieldnotes on all my activities during fieldwork, including on the daily interactions, meetings attended, and presentations of findings I participated in as part of the government research internship. Even so, the only conversations with participants or other actors that I considered “on the record” were those during a “formal” interview (this was directly following the formal consent process, and for co-workers typically in a separate, closed-door room), or when someone indicated I should “include that in your research!” Though not captured as “formal” data, all other interactions do provide an ambient backdrop that has shaped my analysis.

3.3.3 Interviews

A series of in-depth, semi-structured key informant interviews were conducted with a variety of stakeholders, including immigration lawyers/consultants and recruiting agents, employers and industry association representatives, government representatives, and migrant workers and migrant-serving agencies. The purpose of the interviews was to arrive at a more in-depth understanding of the recruitment process as it was playing out on the ground. The interviews often became conversational in nature and covered a host of topics related to the temporary
migrant worker recruitment process, including hiring practices and employer use of recruiters as well as the range of services recruitment agencies/consultants provide. Including a variety of stakeholders as respondents allowed for a triangulation of voices across the various actors and sites.

The first wave of interviews was conducted while I was interning with the government in British Columbia, the second in Manitoba, and finally, a third in Mexico City in 2011–2012. I have focused on participants working in or targeting the “low-skilled” sectors of the construction and hospitality/service sectors (particularly through the SLSO), but I am interested in the way skill assessments bleed across various levels and thus have included employers and recruiters working across a range of occupational skill levels within the TFWP (excluding the Seasonal Agricultural Worker and Live-in Caregiver programs). The scope was limited to those operating in Western Canada, with particular focus on BC and Manitoba, though a number of employers had cross-Canada or international operations, and many recruiters based in Western Canada placed workers in other parts of Canada as well.

Sampling of respondents began with a purposive group; initial contacts were identified through contacts in the government and in industry/employer and migrant-serving organizations. Lists of employers who have a history of hiring migrant workers and immigrants were provided by provincial government contacts in both BC and Manitoba. Additional respondents were identified through snowball sampling. Recruitment agents were also identified through these contacts, but to arrive at a relatively more representative sample of recruiters and consultants advertising their services, additional initial contacts were identified through listings from the
Yellow Pages.\(^{28}\) In Manitoba, agents publicly listed as licensed through *The Worker Recruitment and Protection Act* (WRAPA; CCSM, c W197) were also included in the contacted sample.\(^{29}\) Potential migrant interviewees were located via advertisement by flyer and in person at immigration-serving organizations, including at two “Supporting TFWs” workshops held in community-based agencies. Because of the precariousness of many of these migrant workers, I found in previous work that reliance on immigrant-serving agencies was key in establishing a level of trust. I recognized that sampling through such gatekeepers would be the most effective way to include migrant worker voices (Bilger and Van Liempt 2009; Bucklaschuk 2015), particularly since I was not engaging in longer-term, participatory work with migrant populations as part of this study. To respect their time and effort, each migrant worker participating was offered a $20 honorarium. Snowball sampling was used, with initial informants recommending additional individuals. An effort was made to include a wide-ranging cross-section of each stakeholder group, for example in terms of employer size, level of government, and geographical distribution. Snowballing was especially useful for identifying labour recruitment agencies that may have been difficult to engage other than through personal referrals.

In total, 110 in-depth, formal interviews were conducted with 123 individuals between 2009 and 2012. Table 1 outlines the distribution of the participants across the various stakeholder groups represented in the study. These included a variety of groups involved in the TFWP and the recruitment of migrant workers: Canadian and Mexican policymakers and government bureaucrats \((n = 40)\); industry association representatives and Canadian employers of TFWs \((n = \)____________________)
recruiters and immigration consultants \((n = 22)\); migrant worker advocates, community representatives and Economic Development Officers (EDOs; particularly in rural areas) and frontline settlement workers in Canada \((n = 28)\); and migrant workers in Canada \((n = 11)\).

Table 1: Distribution of Interviews

<table>
<thead>
<tr>
<th>Stakeholder Group</th>
<th>British Columbia</th>
<th>Manitoba</th>
<th>Other Western Canada</th>
<th>Mexico</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government</td>
<td>12</td>
<td>18</td>
<td>-</td>
<td>10</td>
</tr>
<tr>
<td>Employer / Industry Association or Union Representative</td>
<td>11</td>
<td>9</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Recruiters/Consultants</td>
<td>9</td>
<td>5</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Community/Settlement Service Sector</td>
<td>5</td>
<td>19</td>
<td>-</td>
<td>4</td>
</tr>
<tr>
<td>Migrant Workers</td>
<td>8</td>
<td>3</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>TOTAL ((n = 123))</td>
<td>45</td>
<td>4</td>
<td>54</td>
<td>20</td>
</tr>
</tbody>
</table>

The semi-structured interviews lasted between thirty minutes and three and a half hours, with the majority approximately one-hour in length. Interviews were conducted at a time and place that was convenient to the participant, in person where possible. Detailed notes were prepared from these interviews, most of which were audio-recorded and transcribed. Consent forms and all recruitment materials were translated into Spanish for Mexican respondents, and their interviews were conducted primarily in Spanish. A Spanish interpreter accompanied me on interviews conducted in Mexico. She was originally from Mexico City and was an immigrant to Canada herself (and had used a consultant when she first arrived as an international student). She
interjected questions at a few points during interviews, and her comments regarding interviews were often enlightening and contributed to analysis and the identification of emerging themes.

Interviews consisted of semi-structured conversations and focused on issues related to the recruitment and migration of migrant workers that were most familiar to a given participant. For each respondent I adapted the general questionnaire template to focus more on themes related to their area of expertise. Initial interviews conducted in BC were conversational in nature and were used to hone interview topics and questions in later interviews, which became more refined through the project. The pattern was repeated in the Manitoba and Mexico contexts. This approach entailed a “tacking back and forth” between theory and data—an ongoing analysis of the data and fieldnotes, which allowed me to be open to “surprises” or “puzzles” as they emerged in the field (Burawoy et al. 1991; Burawoy 2000; Pratt 2004; Cerwonka 2007). A saturation method was used to determine when a sufficient number of interviews had been conducted—that is, when I felt that additional interviews would no longer lead to a further expansion or refinement of analytic categories. While I conducted a relatively large number of formal interviews, which yielded an immense amount of data, many informal conversations were also had along the way. Together with observation and fieldnotes, these provide the primary data for the project.

### 3.3.4 Survey of Recruiters and Employers

To establish a profile of recruiters and immigration consultants operating in Western Canada, I conducted an online survey. The survey also allowed me to corroborate findings from interviews and to reach a wider sample. Two distinct survey questionnaires were developed, based on findings from the previous two phases of research. The first was aimed at recruiters and
immigration consultants involved in recruitment, and a second targeted employers who have or are considering hiring migrant workers and contracting recruiters. The questionnaires asked a series of questions about topics such as the company background, typical clients and services offered, migrant worker source countries and occupational skill level and language assessments, relationships with employers and government departments, and reflections on the migration recruitment and consulting industry. The questionnaires included 28 questions each and were designed to take about 10–20 minutes to complete. They were piloted with four individuals and feedback informed revisions to a few questions. Survey design and implementation followed guidelines recommended in Fowler (2002) and Dillman et al. (2009). The surveys were administered online through a program hosted by the University of British Columbia and data were stored on a Canadian-based server. The online surveys were live for a three-month period in the spring of 2013.

The sample was identified using the same method outlined in the Interviews section above. The same list of potential interview participants was expanded through updated lists from government and industry association representatives, the updated WRAPA list of registered recruiters in Manitoba, the list of registered immigration consultants available from the ICCRC website (http://iccrc-crcic.info/), updated Yellow Page searches, a series of Google searches, and through snowballing from key informant interviews. This list was supplemented with additional employer names identified through a search of advertisements placed on the Canada Job Bank website (jobbank.gc.ca), as interviews with labour recruiters and Service Canada indicated this was a common way recruiters located employers with active Labour Market Impact Assessments
(LMIAs, previously LMOs; see discussion in Chapter 5). The Job Bank search was limited to postings in BC and Manitoba in the construction and hospitality/service sectors.

Invitations to participate in the survey were sent to 212 recruiter contacts and 329 employer contacts in Western Canada. A total of 44 recruiters/consultants and 27 employers completed the survey, constituting response rates of 20.8% and 8.2%, respectively. The response for recruiters/consultants was higher than anticipated. Due to snowball sampling and the consent process, a degree of self-selection of participants was unavoidable. I also received a few individual email responses from individuals who expressed interest in the topic or who wanted to emphasize a point about the issue of migrant worker recruitment but who did not wish to complete the survey. I included such correspondence as qualitative data. Findings from the survey inform my analysis throughout the dissertation.

In the absence of comprehensive information on the industry, the primary objective of the survey is to provide new primary data and background information on the profile and role of labour recruiters. I am well aware that the sample comprises those most “visible” in the industry—those who are registered as employment agencies or who advertise their services in the phonebook or online, for example. I recognize that there are many “ghost consultants” and friends, family members, or other actors who perform recruitment practices but do not necessarily advertise. However, in this project I am primarily interested in those who claim more “legitimate” status. For this reason, I intentionally focus my analysis on more official “authorized representatives” engaged in recruitment efforts. The survey sample was also limited to those recruiters operating in Canada, though the questionnaires did ask questions about branch

30 Posting an ad to the Job Bank is a required part of the LMIA application process.
offices and relationships with agents in other countries. While the sample of the recruiters is not representative, important information on their operational size and base, client base and relationships, activities and functions, and source country and industry sector focus confirms and expands data collected in other phases of the project.31

3.4 Rationale for Sites and Sectors

My project explores the role of third-party recruiters in facilitating temporary labour migration, through the TFWP and PNPs, in Western Canada. At the time of my fieldwork, temporary migration to Western Canada was at an all-time high, and in historical context this was a relatively new movement to less traditional immigrant destinations. With large resource extraction (including in the oil sands in Alberta) and construction projects (including those related to the upcoming Vancouver Olympics), and generally high economic growth, the Western Canadian labour market of the mid-late 2000s was characterized by multiple respondents as “the wild west”—where recruiters lurked around every corner and employers were madly poaching workers from each other (see Chapter 4).32 Within Western Canada (comprising the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba) my emphasis is on BC and Manitoba, two provinces with varied immigration histories, discourses, and policies. In large part, I chose BC because of the opportunity to conduct fieldwork with the provincial government there. However, it is also a province whose economy is largely composed

31 In the end, these data form a base of understanding of the profile of these actors, but it is really the role and practices of these actors that underpins my analytical discussion in this dissertation. A detailed analysis and interpretation of these survey findings is outside my scope here, but I hope to expand and build on these survey findings in future work.

32 The labour crunch of the mid-2000s was just distant enough to enable some reflection on the part of participants, but still recent enough that to be fresh in the mind. Many respondents commented that if I had approached them even a few months earlier they wouldn’t have had time to talk with me, and nearly everyone, particularly in the construction industry, anticipated things would pick up again within the year.
of small- and medium-based enterprises in large construction and hospitality/tourism sectors, and these employers are arguably more likely to require assistance in the recruitment and hiring of migrant workers (Zell 2009). Manitoba offers a productive comparison to the BC case; both provinces have increased temporary labour migration and both are involved in a labour mobility program with Mexico (discussed later in this chapter). However, they have distinct economic and regulatory contexts. In Manitoba, most temporary migrant workers arrive to work in larger manufacturing type operations (such as, for example, hog processing; Bucklaschuk 2015). Manitoba has in place stricter legislation governing the actions of third-party recruiters with the goal of worker protection (The Worker Recruitment and Protection Act, or WRAPA; see Chapter 6). Furthermore, it was the first province to adopt a Provincial Nominee Program and generally places greater emphasis than BC on two-step immigration (with temporary workers, even those working lower-skilled jobs, transitioning to permanency through its PNP). I have been especially interested in teasing out any differences in the front-end approach to recruitment or border-drawing processes in the context of two-step migration such as the PNP (if we conceive of an applicant as “permanent” and a future citizen from the start, how does that shift the approach?).

I limited my focus to more “low-skilled” work in the construction and hospitality/service sectors. These sectors exhibited high demand for temporary migrant workers and were the focus of recruitment initiatives with Mexico and the Philippines (Clewes 2008; Polanco and Zell 2017). I also chose to focus on the TFWP Stream for Lower Skilled Occupations (SLSO; now the Stream for Low-Wage Positions; see Chapter 4) for political reasons; workers in lower-skilled, low-wage positions are arguably more vulnerable among migrant workers, and perhaps more likely to require or rely on assistance from recruiters/consultants. While I have retained this focus, it expanded when I started interviews, as I realized that intermediaries offered similar
services across the occupational skills spectrum, and the differentiation of skill and its assessment was in fact a crucial border-drawing practice for recruiters.

Fieldwork in Mexico was undertaken with the goal of examining the source-country institutional processes that shape the migrant worker recruitment process and facilitate their “export” to Canada, providing a better sense of “where they are coming from.” Well before I had decided on Mexico as a third “site” for my research, it constantly surfaced in conversations about my topic and during the initial stages of project development. The fact that it continued to be raised by participants throughout the research confirmed the appropriateness of the case selection. Mexico was often referenced as an example of a presumably obvious and large source country for migrant labour for low-skilled jobs in Canada, particularly in the agricultural sector. The number of temporary migrant workers arriving from Mexico to work in Canada has grown rapidly in recent years. Mexico also has a well-established and relatively regulated migration management apparatus in place that facilitates temporary labour migration to Canada (Hennebry and Preibisch 2012).

Bilateral government efforts to stimulate Mexican migration to Canada, specifically for work in hospitality and construction, were in the process of formal consolidation when I began my research for this study. The Canada–Mexico labour partnership had three pilot programs under discussion (Sutherland 2008), and one bilateral labour mobility partnership is now in effect between Mexico and several Canadian provinces, among them BC and Manitoba. It is called “El Mecanismo de Movilidad Laboral – México–Canadá” or the “Labour Mobility Mechanism – Canada–Mexico” (LMM). While interning with the BC government in 2009, I was able to sit in on several meetings and conference calls as the bilateral partnership and the parameters of the LMM were negotiated. It is characterized by a coordinated government–government approach,
wherein Mexican public employment agencies directly recruit workers for Canadian employers, cutting out the middleman (to some degree modeled on the FARMS recruitment for migrant farmworkers for the Seasonal Agricultural Worker Program; Hennebry 2008; Hennebry and Preibisch 2012; Read et al. 2013). The opportunity to witness the evolution of the agreement and to understand the inner workings of its recruitment process allowed me to think through the way the Canadian and Mexican governments were attempting to manage transnational migration flows (as an alternative to the privatized, contract-based process for many Canadian employers). Choosing to study the LMM allowed for an up-close and more in-depth productive comparison of the systems of governance and border-drawing processes emerging in “public” versus private recruitment efforts. The Mexican “site” of this study was limited to Mexico City, where a number of officials involved in the recruitment of workers through this new labour mobility program, namely the Secretariat of Labour and Social Welfare (Secretaría del Trabajo y Previsión Social or STPS) office, are located. A majority of “state-sanctioned” private agents involved in the recruitment process are also located in Mexico City, and the city is home to headquarters of several larger private recruitment firms, whose representatives could talk about branch operations and give some perspective on more informal operations of recruiting agents in areas outside Mexico City.33

Certainly, the choice of research sites—and of locating “the field”—is one fraught with intellectual, personal, and career interests that coalesce in research design. Researchers often

33 Additionally, part of the driving interest behind this project extends from studies of transnationalism. Within the field of migration studies, instances of transnational behavior may have been exaggerated because of limited case selection, predominated by ethnographic studies of Mexican/Latin American migration to the United States (Hiebert and Ley 2006; Goldring 2006). Though there is a preponderance of research in the North American context, my project responds to Goldring’s (2006) point that there is a dearth of studies involving Latin American immigration to Canada—especially those that have taken a transnational frame.
remain silent on this point, though, describing their decisions about field sites as if they were “stumbled on” by chance, and the “repeated narratives of discovering field sites prevents systematic inquiry into how field sites came to be good places from the start” (Gupta and Ferguson 2008, 87; Sundberg 2003). My background in Latin American Studies and history of volunteer work with Mexican farmworkers, as well as the fact that I speak Spanish certainly played a part in selecting the Mexico site. However, I knew I wanted to trace the recruitment process transnationally, following networks across the official borders of Canada into the source country context. The timing of the research internship in BC and the fact that the operational details of the LMM were being ironed out in meetings I was attending provided the opportunity to trace this process into Mexico. Of course, I might not have latched onto the LMM as a case without a preexisting interest in the area, but the opportunity to attend those meetings allowed me to witness the development of a bilateral migration management program and to explore how states themselves act as recruiters (e.g., Rodriguez 2008). Fieldwork in Mexico allowed me to trace the process, from employer in Canada to recruiting agent (state and non-state) in Mexico, to Canadian officials and back again to the Canadian employment experience. Following this recruitment chain pushed the exploration of border-drawing outside the territorial jurisdiction of Canada and extended my “seeing like a state”—or “like a border”—from BC and Manitoba into Mexico and back again.

34 It is outside the scope of my discussion in this dissertation to go into too much detail on the LMM itself, but I intend to use some of the data gathered through that phase of fieldwork to build on discussions and arguments presented here, particularly regarding distinctions between approaches of private, third-party and public, state-managed recruitment operations.
3.5 Analysis

To analyze the data collected and generated through the multi-sited study, I employed established methods of qualitative data analysis. I established systematic codes based on my research questions, grouped thematically, and engaged in a first round of open, thematic coding, slowly and thoroughly going through transcript texts and interview and field notes. From that first pass through the data I pulled out *in vivo* codes (Cope 2003), specifically with the goal of identifying terms or tropes used to conceive of borders and their locations and of recruiters/intermediaries and their role in the migration process. These opened additional avenues of inquiry, and I returned to and refined my original research questions based on my initial analysis. I realized, for example, the predominance of the issue of language ability, though it was not a dimension I specifically set out to explore (Polanco and Zell 2017). It was through comparative data analysis that I recognized how systematically it emerged. I then engaged in a form of axial coding (Cope 2003), working across interviews (e.g., stakeholders groups and geographies) to note areas of overlap and to confirm the recurrence of certain patterns in ideas. Finally, the codes were visualized or mapped in networks and aggregated into larger themes, which helped ensure there was not duplication or overlapping of codes. As mentioned above, the analysis was a deeply iterative process, one that involved continually returning to theory and which allowed me to be both improvisational and adaptable in the field as well as flexible in the analytical development (Burawoy et al. 1991; Burawoy 2000; Pratt 2004, Cerwonka 2007; Comaroff and Comaroff 2003). Quantitative data collected in the survey were collated and analyzed using Microsoft Excel. Analysis of these data was descriptive in nature and primarily involved calculations of frequencies and cross-tabulations.
With an emphasis on dialogue underpinning my epistemological approach (Burawoy 2000), I see knowledge production as a flexible, creative, historically influenced process. As Cerwonka (2007) suggests, fieldwork itself is a way of reading and dwelling in the world through theory. I approached interviews as fully embodied conversational performances in which subtle shifts in affect, tone, and bodily comportment are sometimes as significant as what is said. “We need to learn in our bodies,” says Haraway, and I would argue we can only learn in our bodies (1991, 188). The body offers a site for the production of knowledge—for Hendry (2003), the person carrying out the research is the primary tool of research. The body provides another register for reflexivity, and both affect and embodiment are heuristic tools that contribute to our understanding of cultural processes through an awareness of emotional investment (Pratt 2004) and visceral response. Particular performances and self-stylings of personality and body intimately affect our knowledge production as well as our access to and interactions with places and other people. Throughout my fieldwork and analysis, I attempted to listen and to examine critically my own bodily cues. My fieldnotes provided some of the richest data for my analysis, and it was my own, sometimes visceral reactions, for example of discomfort or surprise at certain statements or encounters, that often revealed moments of contradiction and disjuncture as points for particular analytic attention. This possibility is at the heart of a mixed-method, multi-sited approach, and the harnessing (and acknowledgement) of the researcher’s own body as both a site and primary tool of research is foregrounded by a qualitatie, observational approach. I adopted this approach in an attempt to continually interrogate my “research performances” (Pratt 2000)—

35 For example in Cerwonka’s (2007) sensation of claustrophobia as she witnessed a strip search at the local police station she was studying.
what worlds and relations my research interactions might bring into being, and my own enrolment in uneven power dynamics in those encounters.

### 3.6 Concluding Reflections on Positionality

This chapter documents how I have approached my research methodologically and lays out the rationale behind the approach I chose and how it connects with my underlying research questions. Having described the mechanics of the research project, I want to reflect briefly on my own position in this research. I do this with the aim of constructing at least a clearer picture of my epistemological assumptions and political commitments, which invariably have shaped my research approach and encounters as well as the interpretation and presentation of knowledge.

My interest in migration studies and border policy carried over from my Master’s work, and stems from a long history of volunteer and activist work with migrant workers (especially Mexican) in the U.S. South. My current understandings of temporary migration and interest in border-crossing and immigration and citizenship policy are rooted in these experiences, and many of my conceptual and theoretical conceptions build out of my previous research.

For most of my life, I had studied Spanish language and linguistics, and I place great value on the ability to communicate and to see the world differently through another language. I tutored English-as-an-Additional-Language students in my high school and volunteered with several non-profit newcomer-serving agencies, providing companionship and helping recently arrived Latina women learn to navigate the public transit system. Many expressed anxiety about leaving their apartment buildings and venturing out—for a variety of reasons, among them fear of the unknown, but also, likely, out of fear of racialized discrimination and/or border enforcement related to their migration status. When I moved to Canada, the shift I observed in
the prevailing policy discourse on migration was palpable; immigration was on the whole viewed less as a threat to national identity or as a security concern and more as a resource for development. The focus in Manitoba was on building “welcoming communities.” I found myself reflecting on the intersections between policy and lived experience, and between citizenship, hospitality, and belonging.

I am myself an immigrant to Canada, and I was even technically a Temporary Foreign Worker for a time. In fact, when I first arrived in Canada with a two-year work permit, I struggled to find a job; though I had substantial work experience and post-secondary degrees from prestigious U.S. universities, those universities were not widely known or recognized in Manitoba, and some would-be employers cited my temporary status as an issue. This experience allowed to connect with some research participants and shaped the questions I asked. At the same time, I am well aware that my experience as someone with temporary status in Canada was shaped by my social location as a privileged, white, English-speaking, settler academic. My border-crossing experiences have been vastly different than those of, for example, the Mexican women I worked with in North Carolina. Applying to become an immigrant and citizen in a country is a complex process with many moving parts. I found the process to be relatively smooth, but in retrospect appreciate the incredible amount of time and financial and emotional investment required. I recognize that, raised in a middle-class, North American context, I not only have an expert grasp of the language but also social training in completing these kinds of forms and application processes.

Throughout my fieldwork, I faced the ongoing ethical challenge of negotiating how transparent to be with regard to my own personal and political commitments, as well as theorizations as they emerged. This was something I constantly calibrated and consciously
maintained awareness of—particularly after one interaction early on nearly derailed an interview, when a respondent engaged me in a debate on the meaning of the term “exploitation.” Holding to the unsettling feeling this challenge evoked, I committed to being as upfront and forthcoming as possible in presenting the rationale for my underlying interest in temporary labour migration and recruitment.  

In the above discussion I reflect on my position within government offices, and my insider–outsider status as a government-via-university intern. Outside of government, there was a sense and even expectation from some respondents that I would be able to bring forward their concerns to the government. I expressed my gratitude to participants, and at the same time was careful to stress my limitations as a researcher, reiterating that it was beyond my individual reach to actually change policy. At the same time, though, I did my best to summarize and share those concerns and recommendations with the appropriate government contacts to the extent that I could.

I am still surprised but exceedingly grateful that respondents and specifically employers and labour recruiters have been so interested in my project, and so candid in our conversations. I strive to represent our conversations and interactions as accurately as possible, knowing that they are understood, theorized, and presented through myself as the researcher at the center of this process. This center, or node of encounter, is akin to a kind of whirlpool, to return to the water metaphors—a murky place where various streams of ideas and observations swirl together. Quite literally, the process of analyzing these data is one of filtering, and the story that emerges is told through triangulation. This research is a performance itself, and as such it is iterative and

36 I often was taken to be an “expert” in the field; one firm even asked if I would be interested in taking a job with them.
sedimented in my own history and processes of identity-making. My own identity as a Canadian citizen is implicated in this research, and my own experiences drive my interest in examining the bordering processes and agents that work to produce “the right people” for Canada as such. Having to some extent situated my epistemological approach within my own history, I now turn to situate my project in the Canadian policy context and the broader history of Canada as a nation built through recruitment and settlement.
Chapter 4: Situating Temporary Labour Recruitment in Western Canada

There are times when, as I look at the regulations of the countries of the world affecting immigrants, I see in my mind’s eye the building up of walled-in countries... [with] doors that lead to them closing more and more against the stranger... In a sense, we are reverting to that stage in our history when our concern centered solely around each of ourselves... Certainly that is the course which regulations and statutes and decrees are pursuing the world over with reference to the immigration question. The doors which once were opened wide are now but slightly ajar.

—Harold Fields (1932, 671)

4.1 Canada as a Recruited Nation of Permanent Settlers

4.1.1 Recruiters and Labour Brokers in Early ‘Nation’ Building

Canada has traditionally been a country of permanent immigration and continues to project an image of itself as a settler-society. The foundational narrative of the Canadian nation is one of pioneering adventure, wherein an unknown land was discovered by industrious and persevering European settlers. According to the prevailing discourse, Canada was arrived at through a project of settlement and nation-building. Immigration and settlement of the West was seen as essential to ensure consolidation of the country. Western Canada was represented as ideal for settlement, as “virgin land” available for the taking and “ready-made” for cultivation. Sir John A. MacDonald encouraged the establishment of colonization companies that invested in public improvement designed to attract settlers, especially those from Great Britain, the United States, and northern Europe (in that order). Settlement was also encouraged through policies such as the Dominion Lands Act of 1872, which offered 160-acre plots of land to settlers willing to live on and improve them. Through the late 18th and 19th centuries colonization of the Canadian Prairies

37 That those frontier lands were not sitting empty, awaiting European civilization, is a complexity often obscured by this national narrative (Razack 2002; Thobani 2007).

38 A populous West would support economic viability of the proposed transcontinental railway and protect from encroachment of Canada’s southern neighbor. As Morton (2001, 105) describes, “Canada wanted its West but could not afford Indian wars,” so officials set out to negotiate a system of treaties and surrenders (including the elimination of Indigenous title to land) with the goal of clearing land for settlers at a minimum cost.
proceeded slowly, primarily through the actions of government officials and a host of private recruiting agents.

The explicit goal of many of these actors, including and especially in the government, was to maximize immigration from Britain, eastern Canada, and the United States, and for a period of time the government commissioned shipping companies to recruit and transport settlers from these “preferred” countries (Hall 1977; Knowles 2008). A pervasive argument was that the Canadian climate “is particularly suited to the white race.” Competing with the US, Canada also embarked on an immigration promotion program in the 1850s, sending representatives to act as “immigration salesmen” in Europe. They promoted the emigration of farmers and agricultural labourers and discouraged the ‘wrong’ types of workers (such as mechanics, clerks, and domestic servants or “loose” women; Knowles 2008, 67).39

As settlement of the Prairies proceeded more slowly than desired, Minister Clifford Sifton broadened the target population to include any agriculturally-oriented migrants from other European countries. Following, in 1923 the Railway Agreement allowed railway companies to recruit even from the “non-preferred” countries of northern and central Europe. These immigrant farmers were attracted to the economic opportunities the Prairies presented (whereas “preferred” British immigrants were generally more interested in settling in urban areas; Korneski 2007). Sifton enthusiastically promoted the Canadian West and brokered deals with ethnic groups desiring larger tracts for homogenous settlement (Hall 1977; Gurlock 2009). His strategy aimed

39 The first immigration legislation was passed in 1869, and it was soon amended to prohibit the entry of certain classes of immigrants deemed “undesirable.” Knowles (2008) points out that the early evolution of these acts marked out a pattern for future Canadian immigration policy—that it would be dynamic and implemented largely by amendments to the current act, which has enabled the quick and reactive enactment of any changes.
at attracting “stalwart peasants” broadened the definition of “good quality” settlers. Settlement of such groups provoked public concerns about their assimilability and incited heated debate about “Canadianization,” setting the stage for the installation of more defined, selective (restrictive) immigration policy (Knowles 2008). This recruitment also required exceptional initiatives, because most European governments were hostile to recruitment. Sifton’s department entered into special, often clandestine, arrangements with networks of shipping and transportation agents, who were subsidized and paid bonuses by the Canadian government to act as recruiters. Government representatives as well as transportation companies aggressively advertised Canada as a place for settlement.

Migration to Canada in the late 1800s consisted of both those fleeing their homelands as well as the orderly resettlement of particular ethnic groups. However, while most observers assume immigrants during this period wished to settle permanently, Harney and Troper (1975) argue that migration movements were actually quite flexible and transnational in nature, involving intense cross-ocean labour circulation. Steamship companies and a variety of agents were integral to the massive new waves of international migration. At first these agents acted as brokers, forging connections between North American businesses with a “hunger” for cheap labour and job-seekers abroad. Over time this “commerce of migration” evolved, in conjunction with the development of chain migration through kinship and village ties, to become not merely a conduit for labour movement but the outright recruiter (Harney 1977; Castles and Miller 2009). Competition among steamship lines was fierce, and marketing was widespread and included the

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40 He described the “good quality” settler as a “stalwart peasant in a sheepskin coat, born to the soil, whose forefathers have been farmers for ten generations, with a stout wife and a half-dozen children” (Knowles 2008, 91–2).
mailing of promotional letters to even “the most remote shtetl in eastern Europe”—letters containing hyperbolic, celebratory messaging and prepaid tickets to Canada.\textsuperscript{41}

Depicting turn-of-the-century migration to the “New World” as one of recruitment with economic purposes belies common perceptions of it as a straightforward and largely permanent process. There were certainly plenty of pioneer (generally male) immigrants embarking in search of a new life in a new land, often followed by family chain migration. However, Harney and Troper (1975) paint a complex picture of global labour mobility and transnational circulation. They point out that initial waves of migrants, including Italians, Macedonians, and Chinese, often viewed themselves as sojourners, who sent money to their homelands to foment rebellions or plant fig trees on land they would inherit, for example. Most eventually did settle permanently, though sometimes after several excursions between Canada and their homeland.\textsuperscript{42}

The mobile and complex migratory movement in this period was orchestrated and facilitated through the actions of a vast network of recruiters and other agents who saw these movements as opportunities for profit. By the turn of the century these agents spanned the transnational routes connecting Europe and Canada. The reality of the trip and destination were no doubt disappointing to many; passengers\textit{ en route} to Canada were often packed in holds by the hundreds, with poor food and sanitation and limited access to fresh air on the upper decks. Over time, government regulation did improve the conditions endured during transportation, but

\textsuperscript{41} One steamship company admitted to having more than 3,500 sub-agents in Europe, and the Canadian Pacific Railway was said to have recruited illegally in Italy, paying sub-agents 25 cents a head to “round up” Italians for export. Many of these companies were also involved in the slave trade. Also during this period, Canada became a port of entry for many Europeans seeking entry to the United States. Canadian transportation companies advertised Canadian ports as a hassle-free way to enter the United States, especially as it begin prohibiting entry for certain ethnic groups. In 1894 the Canadian Agreement allowed U.S. immigration officials to inspect ships landing at Canadian ports and if immigrants excluded by the United States were found, the transportation companies were responsible for shipping the individuals back to their country of origin (Hall 1977; Smith 2000).

\textsuperscript{42} Harney and Troper (1975) write that, “With 1,000 men and less than 30 Chinese women, no matter how long they resided in Toronto, such men must have felt like sojourners” (3).
most recruiting agents are described as “exploiters” who guided migrants through a “maze of
taxes, passports, and papers,” whose activities skated the line between legal and illegal, and who
entangled migrant workers in a web of brokers, loan sharks, hustlers, and other “shady
characters.” Immigration was a “great free enterprise commerce and the commodity was human
flesh” (6).

This brief history of early recruiters is included here to make a few key points. First,
migration movements during the early settlement and colonization period of the 19th century
were more complex and transnational than is often presumed. Even the movements of
“indentured” foreign workers could be surprisingly mobile (Harney and Troper 1975). Second,
while the emphasis on immigration to Canada was initially one of nation-building, with an
interest in consolidating Western Canadian occupation and settlement, there was also a
significant economic imperative. As much as recruitment initiatives were about building a nation
(of those deemed to ‘belong’), they were also driven fundamentally by a desire for workers, and
necessitated and promoted transnational labour mobility.\(^{43}\) Over the past few decades, the
economic rationale for migration has been entrenched and strengthened in Canadian immigration
policy. Finally, though they are often absent or their role glossed over in historical accounts,
recruiters or private labour brokers were integral to the founding of the ‘New World’ and
Canadian nation-state. Labour recruiters played an active and substantial role in promoting,
initiating, shaping, and sustaining immigration to Canada, conceived and produced as a (white)

\(^{43}\) In fact, the discourse of “nation-building” as a pretext for recruitment may be harnessed to obscure an underlying
economic impulse and rationale. (I reflect on this in Chapter 8.)
“settler society.” They are integral to facilitating and regulating transnational labour migration, even as their work may be largely invisible from the outside.\textsuperscript{44}

The primary difference between those early waves of labour migration and movements today is that border-crossing is a qualitatively different experience in the current globalized, geopolitical context. The world has been produced as territory to be divided up by the geopolitical powers-that-be—the “walled-in countries” Harold Fields mentions in the epigraph to this chapter. Canadian immigration policy has evolved to be more restrictive, moving from the ad hoc or outright exclusion of “non-preferred” migrants to the general exclusion of everyone, with the establishment of pathways to permanent settlement and citizenship for a select few. Today, border-crossing is a different animal, and even those whom policy permits to cross into Canadian territory may never have the chance to settle permanently. The story of permanent (European, white) settlement, as part of a nation-building project, remains central to Canada’s national myth. Its foundation through \textit{permanent} settlement is taken as a given, but its recruitment history—as a settler-colony composed of “preferred” settlers and necessary labour—is reflected in its immigration and citizenship policies and continues to structure the parameters of the nation’s borders and bordering practices.

\section*{4.2 Evolution of Canadian Immigration Policy}

\subsection*{4.2.1 Shift from ‘Nation-Building’ to Human Capital Approach}

For much of its history Canadian immigration and citizenship policies were concerned with peopling the country with “preferred” settlers. Leading up to 1895, immigration operated more

\textsuperscript{44} As Castles and Miller (2009, 114) assert, the “commerce of migration” or “migration industry” is an inevitable result of the social networks and transnational linkages that form as part of the migratory process.
as an open-door phenomenon that sought to attract people of European descent (Li 2003). Prior to the late 1880s, policy was not composed of a coherent program, but consisted of refusals of entry or deportations imposed in an ad hoc manner in response to particular waves of immigration. Through the first half of the 20\textsuperscript{th} century the majority of exclusions were based on particular national origins. The \textit{Immigration Act} of 1910 gave the government tremendous discretionary power to regulate immigration. The \textit{Act} introduced the concept of “domicile,” linking dwelling with belonging, and legally enshrining the notion that one’s presence and perseverance was linked with a right to the nation. At the same time, it was careful to exclude “non-preferred” individuals; in a “continuous journey” rule the \textit{Act} prohibited the landing of any immigrants “belonging to any race deemed unsuited to the climate or requirements of Canada, or of immigrants of any specified class, occupation or character,” and in 1923 this was expanded to exclude nearly “any immigrant of any Asiatic race.” Even in the context of acute labour shortages (especially in the agriculture sector) leading up to WWI, racialized subjects were explicitly deterred from migrating to Canada (Li 2003).

A racial and ethnic organizing principle structured all Canadian immigration intake until WWII—a preference for immigrants from the UK, France, the US, and various Commonwealth countries was explicitly maintained in policy until the 1960s, because of their supposed ability to better integrate into Canadian society (Li 2003; Satzewich 1991). After 1945, immigration was

\footnotesize{\begin{itemize}
  \item If there was consistency in excluding people deemed to present a risk of being “burdens on the state.”
  \item In 1885, for instance, the federal government adopted the \textit{Chinese Immigration Act}, which introduced a head tax entry fee that was increased for several years and eventually culminated in 1923 legislation that enacted the full exclusion of Chinese immigrants until 1947. In 1908 the \textit{Continuous Passage Act} was introduced to prohibit migrants from India from setting foot on Canadian soil, because if they did so they had the right to settle permanently (Simmons 2010). There were also rules on excluding based on other reasons, for example related to “paupers,” the “feeble minded,” and “criminals.”
  \item Openings for immigrants who did not meet the “model settler and potential citizen” characteristics (i.e., white, northern European) generally occurred only when there was insufficient labour available; the settlement of racialized immigrant minorities was contingent on the economic needs of the nation (Abu-Laban 1998).
\end{itemize}}

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emphasized as a means of filling immediate labour gaps to support economic recovery, and in 1967 explicit forms of racial discrimination were removed. While this reform signaled the end of overt national origins preferences and led to more diverse migration flows, it was certainly not the end of this kind of exclusion in practice. Critics argue that contemporary immigration and citizenship policies, while presumably neutral, still work to produce differential outcomes relating to race/ethnicity, as well as class and gender (e.g., Abu-Laban 1998; Trumper and Wong 2007). In some ways, the gradual opening of the door to immigrants from less-traditional countries of origin in the late 20th century mirrors that which occurred under Sifton a century earlier in the settlement of the Canadian Prairies. The need for labour, or an underlying economic motivation for immigration as opposed to one predominantly focused on “nation”-building (largely along national origin or ethnic lines), provided a rationale for departing from a more circumscribed definition of the “model” (white, European) immigrant settler. This opening set a precedent for the progressive expansion of the category of “economic” immigrants.

At the same time that immigration policy was divorced, at least in name, from racial/ethnic discrimination, it was more directly linked to economic and employment policy. Starting in the 1960s Canadian immigration policy moved toward selecting immigrants based on identified skill needs; it was seen increasingly as a “tool for controlling the occupational composition of immigration” (Green and Green 1995, 1007). The 1966 White Paper on Immigration stated, “a selective immigration policy today must be planned as a steady policy of recruitment based on long-term considerations of economic growth” (Abu-Laban 1998, 12; emphasis added). This set the stage for the major reforms introduced in 1967.

Immigration regulations introduced in 1967 established three major categories of permanent immigrants to Canada: Economic (independent immigrants selected along certain
criteria), Family (closely related family members sponsored by citizens or permanent residents), and Refugees or Humanitarian. The reforms introduced new standards for assessing potential immigrants and determining admissibility. The “point system” that was introduced assessed independent immigrants (Economic class) against a set of selection factors that measure the potential of individuals to successfully establish themselves in Canada. The system awarded points based on applicants’ education, abilities in either English or French, and work experience. The point system was seen as “the key to welding manpower and immigration policies together as parts of a single endeavour” (Canada, Manpower and Immigration 1974 cf Abu-Laban 1998, 75). Since the establishment of the point system, Canadian immigration policy arguably shifted to mesh more closely with labour market requirements, labour cycles, and the interests of business (Abu-Laban 1998; Alboim 2009; Green and Green 2004; O’Shea 2009).

The 1967 reforms mark a fundamental shift in the organizing logic behind Canadian immigration policy as it relates to border-crossing. Until then, policy had been restrictive but essentially constructed over an underlying assumption of open borders. Generally, the borders were open to all, with policy dictating those who should be excluded and on what grounds. With the establishment of the point system for entry, policy (with regard to Economic class immigrants) shifted from identifying those prohibited from entry to focus instead on those who should be included. While the quantity and composition of immigrants crossing the border may not have changed substantially as a direct result, the Act marked a profound shift in the premise of Canadian immigration policy as related to border-crossing. Immigrant selection now identifies
those who merit inclusion and thus is largely a policy of recruitment. In practice, immigration policy framed this way is fundamentally more restrictive, because it is based in an ontology of exclusion and functions on the assumption of closed borders—the point of departure is now one of exclusion, with exceptions or open doors (or “back” or “side” doors) for only a select and desirable few.

4.2.2 Human Capital Model and the Point System

Immigration policy in its current form is largely an economic development project, one that prioritizes building a knowledge-based economy and places a corresponding emphasis on individual “human capital” as a primary selection factor. As recent Minister of Citizenship and Immigration Canada (CIC) Jason Kenney stated, “we should pick the best and brightest and seek to attract them in what is increasingly a global marketplace for human capital” (Chase 2011).

Canada’s economic immigration policy has been characterized by a tension between the objective of meeting longer-term economic and demographic interests versus shorter-term labour and occupational demands (Green and Green 2004; O’Shea 2009). Initially, point system assessment focused on specific labour market factors, but through the 1990s research began to show that economic immigrants were experiencing more difficulty integrating into the Canadian economy than those in the past (Picot and Hou 2003; Grant and Sweetman 2004; Picot and Sweetman 2005). Targeting particular occupational categories using the point system had proved difficult, as labour cycles and demand shifted quickly and there were often geographic

48 It is important to note that this is only for Economic class immigrants. The federal system also has entry streams for family reunification and humanitarian needs, though as I demonstrate in the next chapter, the Economic class has steadily become the largest of the three.
49 Debates at the time also suggested that Canada’s “tap-on, tap-off” immigration policy of the 1970s no longer suited the 1990s economy, composed of vastly different regional labour markets (Devoretz 1995).
mismatches between locations of labour demand and preferred newcomer destinations (Sweetman and Warman 2010).

In 2001 the Immigration and Refugee Protection Act (IRPA; SC 2001, c 27) shifted immigrant selection within the Economic class to a more strictly human capital approach. IRPA recommended a focus on “core competencies” based on the “human capital model” (Li 2003; Reitz 2005; Simmons 2010). According to Hiebert (2006) the prevailing view was that “well-trained flexible individuals . . . who have experience in the labour force should be able to adapt to rapidly changing labour market circumstances,” and the concern for “absorptive capacity” seemed to be overlooked in favour of adopting the view that immigration generates economic growth (Green and Green 2004; Alboim 2009). Points were awarded for experience in a “skilled” occupation or for an approved job offer, though it mattered little which occupation (no assessment of labour market demand was included). The rationale was that skilled workers are more adaptable to changing labour market conditions, which leads to better economic success and integration over the longer term.

In the years following the adoption of IRPA the selection system was criticized for an overemphasis on formal education and lack of labour market responsiveness. Its flagship Economic program, the Federal Skilled Worker Program (FSWP), had a large backlog with long processing times. Moreover, there was evidence of persistent underemployment and deteriorating outcomes for immigrants admitted under the point system (e.g., O’Shea 2009). In particular, there was evidence that skilled immigrants faced barriers in the labour market, especially with regard to foreign credential recognition and language ability as well as employer discrimination.

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50 Research showed that immigrants were earning less and that their educational and professional credentials were not yielding the same returns as native-born Canadians.
and bias against those with limited Canadian education and work experience (Oreopoulos 2009; Lowe 2010). The recurrent image in the media at the time was that of the foreign-trained engineer who had to settle for work as a taxi cab driver. In fact, the myth that overeducated immigrant professionals were overrepresented among taxi drivers—what Reitz (2011) refers to as “taxi driver syndrome”—became so pervasive that CIC produced the report *Who Drives a Taxi in Canada?* specifically focused on the issue (Xu 2012). On the one hand, employers were dissatisfied with the point system’s ability to address labour market needs and recognize skilled trades (e.g., CSC 2009). On the other, it was criticized for disadvantaging labour, by increasing competition and emphasizing a more flexible workforce while shifting the benefits of immigration to business (with a large inflow of skilled labour chosen to be flexible; Green and Green 2004).

### 4.2.3 Spatial Devolution and the Geography of (Im)migration as a Policy Problem

The amendments put in place by IRPA also did little to address the “problem” of immigrant geographies of settlement. In 2001, Census data revealed that in the 1990s immigrants were overwhelmingly concentrated in just a few metropolitan areas, with approximately 75% settling in Montreal, Toronto, and Vancouver (McIsaac 2002; Grant and Sweetman 2004; Carter et al. 2008). This “MTV” phenomenon has continued to be raised in policy circles; through the duration of my study the issue was discussed at policy-based conferences and workshops and arose in conversations among staff and government officials during my internship with the BC government. The geography—distribution and retention—of immigrant settlement was spoken of as something that deserved attention, framed as a potential equality issue that needed resolution (see Hyndman et al. 2006). The concentration of newcomer arrival and settlement in specific
urban locales has persisted historically in Canada; indeed, most newcomers tend to settle in urban “gateway” cities (Price and Benton-Short 2008). However, following the 2001 Census release, then Minister of Citizenship and Immigration Denis Coderre proclaimed the need for a “dispersion strategy” and proposed a plan to settle one million immigrants in smaller cities and rural areas over the next decade. His plan involved placing immigrants in specific locales with temporary work visas for 3–5 years, after which they would receive permanent resident status. The plan was roundly criticized for being coercive in nature and for contravening mobility rights. It was seen as contrary to democratic values, projecting a conditional welcome (McIsaac 2002; Carter et al. 2008). Even so, the Census findings renewed discussions about immigrant distribution and settlement patterns in Canada.

Generally, the discourses supporting the dispersion or “regionalization” of immigration followed two primary and related themes. On the one hand, supporters expressed concern that major urban magnets are “burdened” with the bulk of the country’s immigration, and that cities have limited capacity to support settlement and integration. Related to this is the argument that, when spatially concentrated in “ethnic enclaves,” newcomers potentially experience delayed integration, manifested for example in lower rates of official language acquisition, severely limiting potential earnings (Chiswick and Miller 2003). On the other hand, there is the argument that the demographic and economic benefits associated with immigration should be more evenly shared on a national basis. Low birth rates and population aging have slowed population growth rates in Canada, and immigration has come to be seen as the primary driver of population and labour force growth (O’Shea 2009; Green and Green 2004). As a domain of the federal government, immigration was seen by many as a benefit to which all parts of the country—
including those ‘marginalized’ less-traditional destinations such as the Prairies and Maritimes—should be entitled (Walton-Roberts 2004).

Because federally selected economic immigrants were not seen to be adequately addressing the occupational needs of regional economies, one proposition of IRPA was that the provinces take on greater responsibility for immigrant selection. In an effort to “regionalize” immigration, the federal government entered into a historic agreement with the province of Manitoba in 1996 that allowed it greater control over the selection of immigrants to meet its labour market or social needs (Clement 2002; Clement et al. 2013). Previously, employers had encouraged the provincial government to recruit migrant workers to address sector-specific shortages in the garment industry. Sewing machine operators arrived as temporary workers because they did not qualify for federal immigration steams, but eventually they were approved for permanent residency. Building on this experience, the Manitoba Provincial Nominee Program (PNP) was established in 1998, and the Province engaged in an aggressive immigration promotion and retention strategy (Carter et al. 2008).

Between 1996 and 2002 a number of provinces and territories instituted Provincial/Territorial Nominee Programs (P/TNPs), aimed at meeting labour market demands, renewing population growth, reducing pressure on federal immigration programs, and dispersing immigration (and its related benefits) more equitably across the country (Carter et al. 2008). Under these programs, the federal government retains responsibility for admission but economic assessment is made by the nominating province or territory, which determines its own criteria and targets. In most provinces and territories, the Nominee programs placed an emphasis

\[51\] P/TNP applicants must still meet federal health and security requirements.
on the selection of “skilled” workers for occupations in demand. The P/TNPs have contributed to increasing instances of two-step immigration. All P/TNPs allowed the transition of some temporary migrant workers or international students to permanent residency through a two-step process: migrants enter the country on a temporary basis and then apply to the PNP (generally sponsored by their employer) to be “nominated” for permanent residency.

In many ways, discourses supporting immigrant dispersion echoed those of the Sifton era a century earlier. Minister Sifton instituted his exceptional recruitment efforts to shift settlement away from urban areas in the east. In the time period, the dispersion of immigrants became a policy problem because of the imperative to consolidate colonial settlement of the Canadian West. His policies were met with concerns over ethnocultural distance and debates about the degree to which ‘less-traditional’ immigrants would be integrated. In the late 20th century, the distribution of immigrants became a policy problem because of economic concerns. As in the Sifton era when farmers were needed to settle and work the land, the argument for a more geographically equitable distribution of immigrants was based in a view of immigration as a resource for labour. Discourses supporting regionalization framed immigration as a “silver

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52 Manitoba’s program was unique in its diversity of streams and for enabling temporary migrants working in lower-skilled occupations to apply for permanent residency. At the time of my study, if temporary migrants had been working in the province for at least six months and received support from their employer, regardless of the skill level of the job they could apply to the PNP. Approximately 80% of all temporary migrants who applied to the PNP were successful. Manitoba’s approach focused not exclusively on economic development, but also aimed to leverage family connections and social networks to (re)build communities (Lewis 2010; Bucklaschuk 2015). The reputation of Manitoba’s PNP spread throughout the country, and respondents indicated that it was seen as a comparatively easy way to obtain permanent residency. The program was tied to regionalized strategies for community development and a localized settlement service delivery model that facilitated newcomer access to supports. The strength of its approach and settlement model arguably contributed to levels of immigrant retention in the province estimated to be as high as 80% (Clement et al. 2013; Silvius and Annis 2007; Carter et al. 2012). Fewer than 3,000 newcomers arrived in Manitoba in 1998, but in 2011 that number had grown to 15,963, with 77% of them arriving through its PNP (Province of Manitoba 2013). In terms of absolute numbers, Manitoba’s PNP is by far the most successful Nominee Program in Canada, and though not without its criticisms, it is considered a model by many.
“bullet” for areas experiencing demographic and economic decline (Carter et al. 2008, 243; Lewis 2010).

With the P/TNPs, immigration became a matter of shared jurisdictional responsibility. They represent a spatial solution for recruiting those whose skills might align more with regional needs. Provinces have the ability to set their own strategies and priorities and use the P/TNPs to “nominate” immigrants based on local and regional needs. They are a form of scalar devolution, effectively devolving immigrant selection and recruitment processes from the federal to provincial governments and, in some cases, the provinces work closely with municipal governments to promote immigration to their regions and fulfill localized needs (Abu-Laban and Garber 2005; Lewis 2010). This devolution allowed provinces to act as recruiters, and this shift intensified the tension between their role as mobility promoters (marketing themselves as particular destinations) and as arbiters. The P/TNPs have been effective in changing the regional distribution of immigrants and attracting more new arrivals to non-traditional destinations and smaller urban and rural communities (Carter et al. 2008, 2012; Abu-Laban and Garber 2005). As channels through which employers can sponsor temporary workers for permanent immigration, the expansion of P/TNPs corresponded with and contributed to the expansion of temporary migrant worker recruitment.

53 This afforded substantial opportunity for local governments to promote immigration to their regions. Smaller communities across Manitoba, for example, were strategically incorporating migration recruitment and retention initiatives into their economic development planning.
54 This devolution came with challenges; for one, as Lewis (2010) points out, the Manitoba PNP’s attraction and recruitment strategy was characterized by problematic ethnocultural inequalities. He argues that the strikingly uneven selection and settlement experiences of applicants in Manitoba diminished government accountability for its application, settlement, and integration procedures. Manitoba was acting as a “labour brokerage province,” leading some to question the legitimacy of the application assessment and nomination process.
55 In Manitoba, newcomers were settling in locations outside the province’s largest capital city of Winnipeg—smaller centres such as Brandon, Morden, Winkler, and Neepawa saw jumps in their population almost entirely owing to the PNP.
4.2.4 Immigration as Tool for Economic Development

While the overall number of immigrants targeted by the Canadian government and admitted to the country has not changed dramatically for decades, the Economic streams account for a growing number and proportion of newcomers (at the expense of Family and Humanitarian categories). Currently, applicants for permanent residency through the Economic category are ranked on a point system based on a complex calculation of selection factors including age, level of education, language proficiency, Canadian work experience, spousal credentials, skills transferability, and provincial nomination or arranged employment (IRCC 2016). Recent changes to the immigration system have stressed particular eligibility requirements and impacted the number and type of applications received, but the system continues to privilege the Economic class, especially those who have a pre-arranged job and previous experience in the Canadian labour market.56

Immigration has come to be seen as a resource and tool for addressing demographic or economic decline and as a means of intervening in the geography of immigrant settlement. The increasing emphasis on “economic” immigration can have the effect of seeing (and assessing) potential immigrants as primarily “workers.”57 It has come to be accepted as rational and normal that the state’s bureaucracy assesses the potential “suitability” of immigrants as contributors to

56 In addition to the Nominee Programs, in response to criticisms of IRPA and the point system, two more Economic classes were introduced: the Canadian Experience Class (CEC) and the Federal Skilled Trades Programs (FSTP). It is outside the scope of this dissertation to discuss them in detail, but generally they are aimed at streamlining a path to permanent residency for skilled workers or international students. The two programs were designed to reward those migrants able to arrange employment in Canada on their own prior to applying to immigrate, as well as those whose qualifications matched a purported labour demand for particular occupations in the trades sector.

57 This is in line with a biopolitical mode of governing, which centers on “the capacity and potential of individuals and the population as living resources that may be harnessed and managed by governing regimes” (Ong 2006, 6).
the economy. The assessment of applicants as potential workers individualizes⁵⁸ and commodifies them. Seen this way, migrant applicants become objects, detached from families and social relations, whose potential to contribute and whose “skills” can be calculated and classified based on quantifiable measurements of their level and type of education, language ability, and work experience. This is in keeping with an understanding of the state as one that has been governmentalized, its governance of migration increasingly concerned with ordering its population through acts of certifying, counting, and classifying (Abu-Laban 1998; Foucault 1991, 2004). Compared with the explicitly racist restrictions of the past, the point system was introduced as a purportedly “objective, neutral test linked with seemingly value-free economic considerations” (Abu-Laban 1998, 76). However, these assessments still need to be made about people, by people (in this case, labour recruiters). While seemingly “neat” in numerical form, the assessment process is a messy business—one which brings migrant workers into being as particular kinds of subjects and which at times ends up reproducing the very biases the point system was ostensibly adopted to avoid (as I show in Chapter 7).

Over the past decade or so, the federal government appears to have returned to the idea of using immigrants to fill short-term labour market needs in particular areas. Policy changes have been designed to provide flexibility to respond to local and sectoral needs not well addressed by IRPA’s “human capital model,” and they also became attractive alternatives to the long wait times of the FSWP. Frustrated with delays and eligibility requirements of the permanent immigration system, employers have been turning to temporary labour migration programs, which expedite the processing of certain individuals to get them into Canada and directly into

⁵⁸ Abu-Laban (1998) demonstrates how the point system systematically structured women’s subordination within immigrant families and the labour market.
jobs quickly. Some argue that the Canadian immigration system has evolved into what is primarily an economic development project, aimed at choosing the “best and brightest” to contribute to the development of Canada as a knowledge-based economy. Canada’s system for permanent immigration has evolved to explicitly and disproportionately favour highly-skilled workers. They are welcomed to stay and assumed to integrate better.

While increasingly aligned with employment policy, according to critics immigration policy has not worked to address labour needs in certain segments and geographical regions of the labour market. Moreover, it has set a precedent of making exceptional openings for less preferred immigrants (for example, those deemed to have lower levels of human capital) in the context of labour shortages or for settlement in particular geographical regions. Within the Economic streams, Canada’s Temporary Foreign Worker Program (TFWP) is designed to address exactly these gaps in the system—its objective is to “respond to regional, occupational, and sectoral skills and labour demands by providing a source of labour to Canadian employers who demonstrate shortages” (CIC 2013).

An approach focused on attracting only the “best and brightest” and privileging those with experience in “higher-skilled” occupations disregards socially undervalued, lower-paid segments of the labour market. Less desirable jobs, particularly those that are “3D” (dirty, dangerous, and demeaning, demanding or difficult), are often filled by highly-skilled newcomers who, like engineer taxi-drivers, are not working in fields or occupations that best fit their educational backgrounds or abilities. Alternatively, such jobs may go unfilled by domestic workers, and a solution for filling them is often found in migrant labour (I discuss this more in the next chapter). These jobs are often in sectors such as resource extraction, construction, or low-skilled service; they are jobs that cannot be relocated or offshored but which remain integral
components of the engine that supports the running of a knowledge-based economy (Sassen 1998). There is still a need for cleaners, manual labourers, and taxi-drivers. Rather than outsourcing jobs (often offshored to countries with lower wages and less stringent employment standards), the use of migrant labour represents the insourcing of labour (often from those same countries)—through the recruitment of guestworkers.

There is a long and established history of turning to temporary migrant labour to address demographic challenges, skills shortages, regional needs, and or temporal demand (such as seasonal or just-in-time needs). This is particularly the case for jobs in the least-valued segments of the labour market, which domestic workers are less willing to pursue, because migrant workers are often willing to accept lower wages or working conditions (Castles and Miller 2009; Preibisch 2010; Preibisch and Binford 2007; Ruhs and Martin 2008). Above all, there is the assumption that migrant workers can be recruited on a temporary basis and forced to return to their home countries when labour demands decline. Historical examples abound (Castles and Miller 2009). The Bracero program brought Mexican workers to fill purported labour shortages in the U.S. agriculture sector in the 1940s–1960s. Germany developed an elaborate state recruitment apparatus to select, test, and screen migrant workers arriving as Gastarbeiter. Through the 1950s and 1960s the country needed large numbers of low-skilled workers because of rapid post-war industrial expansion. Its policies “conceived migrant workers as temporary labour units, which could be recruited, utilized and sent away as employers required” (Castles
Many of these workers ended up settling but were never granted citizenship. Guestworkers are expected to work but not to settle.\(^59\)

As a great deal of research and history has shown, however, over time a structural dependency on migrant workers often develops in certain sectors of the economy. Policymakers tend to base program design on economic models of migration that see it as an individual (and “rational”) response to market factors. This points to one prevalent criticism of guestworker programs—that with them governments “expect workers, but get people.” The failure to comprehend migration as a social process leads to the expectation that mobility can be turned on and off like a tap, which can have unintended policy consequences (Martin et al. 2006; Tsuda 1999; Massey et al. 1998; Castles 2004; Piore 1979).\(^60\)

Canada has a long history of utilizing temporary migrant worker programs to meet its labour needs. Migrant labour campaigns were used in large-scale infrastructure projects, a prime example being Chinese immigrants recruited through the 1800s to work dangerous and demanding jobs building railroads and in mining. These workers were relegated to lower-status industry sectors and jobs, were not considered contributing members of society, and were actively excluded from citizenship. Facing post-war shortages in the agriculture sector in Ontario, employers pressured the federal government for the right to hire migrant labour, and they were eventually successful. In 1946 the first group of workers—Polish war veterans—arrived as permanent immigrants to work in the fields, but they eventually moved into other sectors. Continued lobbying by employers resulted in the 1966 establishment of the Seasonal

\(^59\) Typically, countries with national immigration policies that object to permanent immigration flows (i.e., Germany, Japan) tend to prefer guestworker programs to address labour demands, while the opposite is true for countries with policies that encourage permanent immigration (Castles and Miller 2009).

\(^60\) For example, what may start off as a temporary labour flow may transform into family migration, unauthorized or undocumented migration, or even asylum-seeker flows (Castles and Miller 2009).
Agricultural Worker Program (SAWP). It is the longest standing guestworker program in Canada, governed through bilateral agreements with several Caribbean countries and Mexico (Preibisch 2010; Hennebry 2012; Satzewich 1991; Read et al. 2013). The broader Temporary Foreign Worker Program (TFWP) was established shortly after, and its development and recent expansion are discussed in detail in the next chapter. Since its inception, there has been a dramatic increase in both the number and proportion of migrant workers admitted to Canada on a temporary basis.

### 4.3 Conclusion

Over time, the underlying rationale and discourse supporting immigration to Canada has shifted from one primarily based in nation-building to one aligned with economic interests, with a focus on recruiting labour. In a context of demographic decline, migrant labour is framed as a resource for stimulating economic development. The linking of demographic and economic growth with immigration, and the economic emphasis within immigration policy, set the stage for the construction of immigrant settlement geography as a policy “problem” (Abu-Laban and Garber 2005; Hyndman et al. 2006; Ellis 2006; Walton-Roberts 2004), one which could be addressed through targeted recruitment efforts and the concentration and retention of “human capital.”

Framed as an economic development project, as one tied to labour markets and business cycles, through the years immigration policy has grown more market-driven. The economic immigration system in Canada is fundamentally premised on an assumption that applicants can be assessed and measured in a way that calculates their potential—a policy that assumes that if the right balance of points or categorical criteria are attained, the system will be able to maximize immigrant economic contributions. People whose qualities or experience are assessed
and considered “excess” or outside those recognized by the system—those that do not fit and are not deemed desirable for permanent immigration but whose labour is still in demand—must go through a similar assessment, but may cross the “border” only temporarily. Border-crossing into Canada is largely based on such assessments. How and where those assessments are made, and by whom, is the question at the heart of this dissertation.

Canada has been built through recruitment. Recruitment is based on assessment and selection—not just on bringing people, but workers, and not just workers, but the right workers. This echoed through the discourse at the time of my study. A long piece in the Globe and Mail, for example, asserted: “With the right people, Canada can be an innovative world power. Without them, we’ll drain away our potential.” The desire to find the “right” people, the need to “place” them in particular (sometimes less-traditional) areas of reception, and the general linking of immigration to economic development and employer demand, set the stage for the evolution of the migration industry in Western Canada. As I show in the next chapter, Canada’s immigration system has also become increasingly temporary and privatized, and labour recruiters have emerged as principal facilitators and regulators, and as border-drawing agents in the making of the Canadian border.
Chapter 5: Situating Recruiters in a “Wild West” Labour Market

“There was such high demand that it was a pretty, it was a wild, wild west…
—Canadian Construction Sector Employer

“Only a crisis—actual or perceived—produces real change.”
– Milton Friedman (cf Peck 2010, 233)

5.1 Introduction

Leading up to and through the course of my research, the Canadian government instituted a series of policy shifts that privatized and deregulated “labour migration” so as to optimize the alignment of immigration policy with business and labour cycles. The private sector defined and demonstrated a labour shortage and lobbied for employer-friendly, market-driven immigration policies that facilitate employer recruitment of temporary migrant workers. The marked increase and expansion of employer-driven migration programs and associated escalation of employer demand for migrant workers point to the increasingly market-driven logic (and parameters) of the Canadian immigration system, one premised on the flexibilization of labour.61 Government reforms opened up the labour market and put recruitment and immigrant selection processes in the hands of employers.

In this chapter I describe how the idea of a labour crisis in Canada was mobilized to allow the entrenchment of the TFWP and employer-driven migration as an integral part of the Canadian immigration system. I begin by introducing the Temporary Foreign Worker Program (TFWP) and describing its recruitment process and expansion. I then turn to describing the labour shortages that “threatened” Western Canadian economies in the early and mid-2000s, and

61 This is in line with the idea of a neoliberalizing state as one that seeks out “internal reorganizations and new institutional arrangements that improve its competitive position vis-à-vis other states in the global market” (Harvey 2005).
how the discourse of crisis contributed to the expansion of the TFWP—how a program intended for use in “exceptional” cases of labour demand became a routine option for employers. The purported crisis provided an opportunity for the federal government to invoke an exception, to open the door and allow employers in a broader range of sectors access to global labour pools for a wider range of occupations. The rise of employer demand for migrant labour set the stage for a proliferation of labour recruiters and immigration consultants. Taken together, the political-economic changes related to the expansion of temporary labour migration in Western Canada effectively represent the privatization and outsourcing of migrant recruitment and selection processes and to some extent “settlement” service provision. The role of decision-making about who is permitted to enter Canada as a worker (and potential future citizen) is increasingly being devolved and dispersed—both to lower levels of government and outsourced to actors in the private sector, including labour recruiters and immigration consultants.

5.2 Expansion of Temporary Labour Migration

5.2.1 Recruitment Through the Temporary Foreign Worker Program

The use of temporary migrant labour by Canadian employers is certainly not new; however, it has expanded significantly in recent decades. Nandita Sharma (2006) dates this massive expansion to the introduction of the Non-Immigrant Employment Authorization Plan in 1973. It became the Temporary Foreign Worker Program (TFWP), which is designed to respond to regional, occupational, and sectoral skills and labour demands by providing a source of labour to Canadian employers who demonstrate shortages (CIC 2013). Since its inception, there has been a
dramatic increase in both the number and proportion of migrants admitted temporarily.\textsuperscript{62} Workers arriving through the TFWP can be recruited from any country and typically arrive more quickly than permanent immigrants. At the time of my study, there was no set quota on the number of migrant workers who could be hired through the program, and employer use of it skyrocketed. During the mid-2000s the number of TFWs present in Canada increased dramatically, to the point that by 2007–2008 the number of individuals entering Canada on temporary permits surpassed that of permanent residents (see Figure 2; Dauvergne and Marsden 2014; Hennebry 2012).\textsuperscript{63} Even with the economic downturn in 2009, temporary migrant worker entries continued to grow. In 2011, 300,211 overseas workers arrived in Canada with a temporary work permit—more than triple the number a decade earlier in 2000, and a majority of the increase occurred in Western Canada (CIC 2013).

The TFWP is designed to be employer-driven, and the recruitment process through the program is generally employer-initiated. In most cases, the process begins when an employer, unable to locate a Canadian or permanent resident for the job, submits a request to Employment and Social Development Canada (ESDC; previously, during my study this was Human Resources and Skills Development Canada/Service Canada or HRSDC/SC) to hire a TFW. ESDC reviews the employer’s application and issues an opinion on the likely impact on the Canadian labour market, or a Labour Market Impact Assessment (LMIA; during my study, this

\textsuperscript{62} Sharma (2006) estimates that between 1973 and 2004 more than three-quarters of workers recruited to Canada came through temporary rather than permanent migration programs, and Balibar (2004) notes similar increases in guestworkers in Europe over the same period.

\textsuperscript{63} Between 2000 and 2008, the flow of migrants into through the TFWP increased by 41.6\%, with a majority of that growth in Western Canada.
In theory, domestic workers should not be negatively affected by the labour market participation of migrant workers. To provide a positive LMIA, ESDC must ensure that a job offer is genuine, with wages and conditions comparable to those offered to Canadians in the same occupation; that an employer has made a reasonable effort to hire or train domestic workers for the job; and that the entry of a foreign worker will not affect a labour dispute. As part of this process, employers are required to document their attempts to recruit domestic workers; this includes the posting of the job to the national online Job Bank.

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64 Note on terminology: Some government departments and policy-related terminology have undergone name changes. At the time of my study, for example, ESDC was HRSDC, LMIA was LMO, and IRCC was the CIC. These changes are indicated at first mention in the text as well as in the List of Acronyms. In the dissertation I will refer to these by their name at the timeframe under discussion.

65 The Job Bank, at www.workingincanada.gc.ca, allows employers to post jobs and to search for candidates—both domestic workers and potential migrants. It is considered to be the most widely used public job bank for employers to recruit migrants and temporary workers (IOM 2012). My interviews indicate that it is also used by
ESDC also considers other factors, with the goal of ensuring that the entry of a TFW will have a neutral or positive impact on the Canadian labour market.66

The TFWP is administered jointly by ESDC; Immigration, Refugees and Citizenship Canada or IRCC (previously Citizenship and Immigration Canada, CIC); and the Canada Border Services Agency (CBSA). While ESDC has the mandate of resolving labour market pressures, IRCC is responsible for regulating and documenting migration flows. Once a positive LMIA is obtained from ESDC, the employer (on their own or through the use of a recruiter) may recruit and hire the number of workers for the occupation and at the wage rate stipulated by the LMIA. Once a worker is selected (often a joint effort between recruiter and employer), the employer provides the migrant worker a copy of the LMIA to submit with an application to IRCC for a work permit.67 The permit stipulates the maximum length of time an individual can legally work in Canada. The CBSA ensures that foreign workers meet admissibility requirements before issuing them work permits and is also responsible for approving work permits for those TFWs allowed to apply directly at the port of entry. The CBSA has the final authority to deny entry, even if a work permit has been successfully obtained.

Although it is an umbrella program comprising multiple streams with a variety of eligibility requirements, restrictions, and responsibilities, the Temporary Foreign Worker Program (TFWP) fundamentally “allows Canadian employers to hire foreign nationals to fill

recruiters/consultants to identify potential clients: employers who have obtained a positive LMO or who are going through the application process and might be interested in migrant worker recruitment.

66 There are no numerical limits or quotas to the program, and employers from any sector may apply, provided that the job offer meets the program requirements (HRSDC 2008, 2009).

67 Some jobs do not require HRSDC authorization to hire a migrant worker and are exempt from the LMO requirement. In 2008, almost half of all work permits were issued by CIC without HRSDC/SC involvement (e.g., under international agreements such as NAFTA, or intra-company transferees; HRSDC 2008).
temporary labour and skill shortages” (IRCC 2015). The program, and its recruitment process, is employer-driven, aimed at “enabling employers” to “fast track international workers into in-demand jobs” (HRSDC 2009; CIC 2009a). The intention of the program, as stated by IRCC, is that most temporary migrant workers will be hired to address a specific, short-term labour need. In recent decades, the program has been expanded substantially in both size and scope, leading some to question whether the program is really addressing short-term needs or in fact responding to and creating employer demand for flexible, reliable labour.

While a detailed description of the program and its various streams is beyond the scope of this dissertation, I want to highlight two points. The first is that migrants arriving with employer-tied permits are restricted to work with one employer at one location, which has the practical effect of limiting their employment rights and protections by circumscribing their mobility and tying them to one employer on whom they are dependent. Their restricted geographical and labour market mobility legally positions temporary migrant workers as unfree labour. Second, a primary segmentation of TFWP streams occurs along lines of “skill level.” In

68 I describe the program’s expansion and some of its primary causes below. Broadly, at the time of my study, temporary migrant workers arrived through either the Temporary Foreign Worker Program (TFWP) or the International Mobility Program (IMP). The TFWP comprised a number of programs, including the long running Seasonal Agricultural Worker Program (SAWP) and Live-in Caregiver Program (LCP). The IMP typically included workers not requiring work permits or those who arrived through bilateral arrangements such as a NAFTA or youth exchange programs. Though some employers and recruiters I spoke with as part of my research targeted multiple programs and streams, my research focused primarily on the TFWP and specifically the SLSO, excluding the SAWP and LCP.

69 Pathways to enter Canada as a temporary worker are labyrinthine, with a diversity of occupational and skill- or wage-level streams. Some work permits are open, allowing individuals to pursue work with any employer, while others are employer-specific, meaning an individual is authorized to work only for that employer while in the country. My project focuses on streams, namely the SLSO, that require a LMIA and work permit.

70 Some have called the existence of two different regulatory structures for national and foreign subjects a form of apartheid, noting that “violence is materialized not only in how national states are able to prevent certain people’s actual mobility into national space but in constructing certain people as falling outside the ideological—but not territorial—boundaries of space” (Sharma 2006, 144). Neither insiders nor outsiders, they labour on one side of Canada’s border (under different legal conditions than national subjects), but reproduce their lives (and those of their families) on the other (Pratt 2012).
contrast to those working in lower-skilled or manual labour jobs, those in occupations classified as higher-skilled have more options for open (as opposed to employer-tied) permits, are generally able to bring their immediate families with them, and have greater access to permanent residency. Employers hiring workers for lower-skilled positions are subject to additional conditions; for example, they must provide payment of return airfare, medical coverage for the duration of the employment contract, and reasonable assistance in locating suitable accommodations for the worker. Employers recruiting migrant workers for lower-skilled occupations have additional responsibilities with regard to the migration process, and my fieldwork indicates this contributes to the demand for the migration industry and the prevalence of outsourcing aspects of the process to third-party recruiters/consultants.

5.2.2 Expansion of the Program and Evolution of the Low Skill Stream

Initially, the TFWP was intended primarily for skilled workers and targeted specific groups with specialized skills not readily available in Canada, such as engineers or information-technology specialists. It is important to note that the entry of migrants for work in higher-skilled (or high-wage) occupations still constitutes a significant proportion (indeed, the majority) of overall temporary migrants in Canada. However, the focus in this dissertation and in my discussion here is on recruitment for lower-skilled occupations. In 2002 the TFWP was extended to all

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71 In 2014 the TFWP was reorganized into two distinct programs to reduce confusion and better reflect the major differences between the various streams. Following this overhaul, the TFWP refers to only those streams under which migrant workers enter Canada at the request of employers following approval through a new Labour Market Impact Assessment (LMIA). The new International Mobility Programs (IMPs) include those streams in which foreign nationals are not subject to an LMIA, and whose primary objective is to advance Canada’s broad economic and cultural national interest, rather than filling particular jobs. Migrants through the IMP tend to work in higher-skill, high-wage job categories. Of the temporary migrant workers entering Canada in 2013, 62% came in under the IMP, compared with 38% through the TFWP (Government of Canada 2017).
categories of employment with the introduction of the Pilot Project for Occupations Requiring Lower Levels of Formal Training (NOC C and D), often referred to as the Low Skill Pilot Project. While referred to as a pilot project, it quickly surpassed an exploratory phase and became a mainstay of the TFWP.\textsuperscript{72} At the time of my study it was renamed the Stream for Lower Skilled Occupations (SLSO).\textsuperscript{73} Though there were already well-established “low-skilled” migrant worker programs in agriculture (the Seasonal Agricultural Worker Program or SAWP) and domestic caregiving (the Live-in Caregiver Program or LCP), the low-skill stream opened avenues for the recruitment of migrant workers for other occupations, including construction/trades labourers, hotel room attendants, meat cutters and packers, food counter attendants, and agricultural workers (Basok 2002; Gross and Schmitt 2012; Pratt 2012; Sharma 2006; Nakache and Kinoshita 2010; Polanco and Zell 2017; Bucklaschuk 2015). Through the SLSO employers could recruit migrant workers from any country and in any occupation classified under the NOC as “low-skilled.”

The opening represented by the low-skill stream changed the landscape of Canadian immigration and labour markets and affected migration patterns. The number of temporary migrant workers rose dramatically following its introduction (Figure 2), and the sharpest increase was for those employed through the SLSO. Between 2003 and 2012 the number of migrant workers arriving through the SLSO grew from 1,578 to 30,267 workers per year. By December

\textsuperscript{72} The Canadian National Occupational Classification (NOC) has the following categories: 0 (Managerial), A (Professionals; usually requires university education), B (Skilled and Technical Workers; usually requires college education or apprenticeship training); C (Intermediate and Clerical Workers; usually requires secondary school and/or occupation-specific training), and D (Elemental Workers and Labourers; on-the-job training is usually provided). Categories 0, A, and B are considered skilled, and C and D low-skilled (HRSDC 2006). Note that the TFWP was overhauled in 2014 and is now administered based on wage rather than NOC (Government of Canada 2017).

\textsuperscript{73} As part of the 2014 overhaul of the TFWP, this stream became the low-wage category of the program, still facilitating the entry of temporary migrants into “lower-skilled” occupations (Government of Canada 2017).
2012 those arriving through the low-skill stream outnumbered those employed through the SAWP and LCP combined. The expansion of the TFWP to include lower-skilled occupations accounts for the majority of growth in temporary labour migration in the early and mid-2000s, and the SLSO quickly became the program through which most low-waged temporary migrant workers were employed (CIC 2013).

Migrant workers were increasingly being hired for positions deemed low-skilled, and also from developing countries in the global South—a shift associated with a racialization and feminization of the migrant worker labour force (Thomas 2010; Trumper and Wong 2007). Source countries such as the Philippines and Mexico, for example, experienced some of the fastest growing flows of temporary workers into Western Canada (Polanco and Zell 2017). Over the same period, the overall share of migrant workers originating in the more traditional source countries of Australia, the UK, and the USA fell by as much as 15% (CIC 2013).74

The marked shift in Canadian immigration in the past decade—the fact that migrants are increasingly arriving on a temporary basis to work in low-skilled positions—relates to rising demand for contingent labour. This suggests that these workers not only fill labour shortages but also provide employers a source of more flexible and thus precarious labour (Goldring et al. 2009; Peck and Theodore 2001). The expansion of the TFWP into lower-skilled sectors was a policy opening that encouraged increased labour recruitment from abroad. As I discuss below, the policy both provoked and responded to employer demand for temporary migrant workers.

74 It is important to note that even though there was an overall decrease in the proportion of those coming from more traditional source countries, they are still by far the major source. In 2010-2012 the US was by far the leading source of temporary workers in Canada (NAFTA visas), followed by Mexico, France, and the UK (CIC 2013).
5.3 Labour Crisis and the “Wild West” Canadian Labour Market

5.3.1 Labour Shortages and a Discourse of Crisis

Labour demand was widespread among certain sectors of the Canadian economy leading up to the mid-2000s. An aging population and low fertility rate combined with rapid growth in the Canadian economy, particularly in the West, presented demographic challenges. At a national level, it was projected that by the year 2010 the Canadian workforce would decline in overall number for the first time in history.\(^{75}\) Most employers who participated in this study saw labour and skills shortages in their sectors as a more structural and long-term issue. I spoke with Kevin, a private-sector industry association representative, and Ed, an employer, who reflected on the labour shortage in trades/construction:

Kevin: I think it is structural. I think because we are competing for the 20-year-old kid along with every other industry, and there’s just not as many 20-year-old kids. … It’s an issue that will linger. … Even if it gets back normal, like, the last seven years normal hasn’t been normal, but if it got back to a more steady stream of things, we’d be in—we’d have a skill shortage big time.

Ed: And a lot of the skilled guys are retiring now.

Kevin: Yeah. The other issue I wanted to mention is, you know, the industry, it’s too hard a job. So it’s not only the demographics, but we wear people out faster. So they don’t have as much, uh, of a life span in construction. You know, then they become estimators and foremen. … The installers, you don’t see many 65-year-old floor layers. Their knees are gone.

Ed: Floor layers, you don’t see them over 50. Same with drywallers. It’s pretty much 50, they’re done.

Kevin: It wears you out. It’s a tough gig. So the demographics are even more exacerbated because of that.

While few observers doubt that Canada was facing important shortages in some industries and regions in the early 2000s, there is considerable disagreement about whether the country was experiencing a general labour shortage. In Western Canada, total unemployment in

\(^{75}\) For example, national population projections by The Conference Board of Canada estimated that the labour shortfall could reach a million workers by 2020 (The Conference Board of Canada 2000; Antunes 2013; see also BC Chamber of Commerce 2008; Wiest and Trepanier 2008 and caveats described in Drummond 2014).
the booming economies of Alberta and British Columbia was quite low in the 2000–2005 period, suggesting that employers were indeed facing general shortages. Media stories on the oil-fueled economic expansion in Alberta argued that the province was experiencing shortages in almost every sector (e.g., Friesen 2012). However, most employers interviewed as part of this study, aside from those located in remote areas, contended that labour demand was primarily related to skills shortages—that is, to mismatches between domestic labour pools and occupational needs.

One respondent in human resources for an upscale resort explained that:

For cooks, it’s an extreme shortage. And, so I made my first effort, to get approval to hire cooks on an LMO, and it was turned down because they said there were so many. They checked the actual number of people that were registered [who] said they were available. And I said, well we’ve been advertising everywhere, and they’re not applying. The ones we were hiring needed more qualifications. … And at that time we were so desperate that we were calling all the cooking schools, we were posting on the bulletin board, and we were also going to hospitality and recruiting job fairs. I even wrote to, like, the Cordon Bleu in Ottawa.

Projections at the time indicated that shortages were exceptionally high and likely to be sustained. There was a sense among many employers that, regardless of whether shortages were general or related to specific skills, domestic workers were just not applying.

A narrative about domestic workers showing less interest in certain jobs or sectors ran through my interviews. One recruiter said: “The unemployed forestry worker, fisher, industry, mining or whatever, or even auto plant worker, is not going to make rooms in a hotel. Or cook in a kitchen. And so you can have 20% unemployment in this country and still have certain occupations that are going to have a demand that aren’t going to be filled by Canadians.”

Industry associations pointed to fewer Canadians entering fields such as the trades, at the same time.

76 The Province sent a delegation to Europe to recruit Mandarin, French, and Spanish teachers for burgeoning language programs in its schools, and it was continually trying to recruit nurses and truck drivers.
time that the pace of retirement was rising (CSC 2009; CTHRC 2009). The boomers are retiring, one Manitoba-based manufacturer said, and “there is the question of whether we have replacement workers. The problem is in some part generational; there is an increased emphasis on school, expectations are higher, and parents are often supporting their children.” The emphasis on the knowledge economy and on higher education, many said, meant youth were either not interested in the kinds of jobs their parents had or were not pursuing training in fields that corresponded to the needs of the market—perhaps because they were encouraged to strive for higher-skilled (generally, better remunerated) positions or because work in certain sectors was seen as lower-status or less desirable. “Kids are more choosy than [than immigrants] about what work they’ll do,” the employer went on to say. There was also concern among those in rural BC and across Manitoba that youth were leaving for opportunities in larger urban areas. A hospitality/tourism industry association representative explained:

We are so labour intensive in this industry, and we knew at that time, in 2001, we knew there was gonna be a labour shortage, a demographic shift because of the young people not coming into the work force as fast as they did in the past, and we rely a lot on young people. Thirty-two percent of our workforce is between the ages of 15 and 24. It’s a lot of part-time jobs, entry-level jobs, first work experiences for people entering the labour force, or who are studying … We look at all the challenges in recruitment, and number one is numbers (laughs), and number two is also changing the image of tourism and hospitality because people don’t see it as career, they see it as a job and have a negative perception. We need to address all of those things on behalf of the industry, with retention, we have a number of issues around high turnover in our sector; a lot of it’s because it’s seasonal but we found that a lot of it is also because there’s bad management practices.

While it is beyond the scope of my discussion to analyze this in depth, changing employment conditions in some fields, resulting for instance from global restructuring, may also have contributed to the consideration of work in certain sectors as less desirable. In some cases, the rise of temporary and contingent work was already driving or holding down wages and
working conditions (e.g., Vosko 2009; Read et al. 2013). “I mean it’s certainly why there’s shortages,” reflected one BC-based recruiter.

It’s why Mexican workers are being recruited into you know, Indo-Canadian owned farms, because those Indo-Canadian workers are off doing construction. It’s better paid than picking berries or whatever. You know, so, obviously the message then is getting through to somebody that this is, you know, a competitive economic environment and workers can move around.

Aggressive lobbying by the private sector was necessary to convince the government—particularly at the federal level—that there were labour shortages in certain regions and occupations, particularly within the bottom tiers of the service sector. Although the low-skill stream had been in place since 2002, there was noted reluctance on the part of the federal government to grant access to the TFWP at first. Industry representatives directly contributed to the expansion of the TFWP, approaching the government about ways to use immigration policy to address labour issues. One hospitality/tourism industry representative said:

It was natural for us, once the labour shortage hit, and people just couldn’t find workers, they just weren’t there. The economy was hot … We had our first meeting with this federal minister in charge of the Labour Market Opinion and the foreign worker policy. We met him in September 2006 and started to put the pressure on them. … Construction and us got involved in this about the same time. So, the Temporary Foreign Worker Program was designed to be protectionist, to protect Canadian jobs, when there’s a surplus of workers, but it didn’t work very well when there was a shortage of workers, and you don’t need to protect jobs ‘cause there’s no Canadians out there (laughs)—we’d hire Canadians if they were there. So then we got involved very deeply in trying to help employers access other labour markets.

The lower-skilled stream of the TFWP was prompted by pressures in the tar sands in Alberta and construction in Toronto (Fudge and MacPhail 2009), and once the possibility of recruiting temporary migrant labour was made available for some sectors and occupations, industry representatives argued for more widespread access. After some employers were refused positive Labour Market Opinions (LMOs) several times (the first step in the recruitment process),
Western Canadian industry association groups conducted extensive labour market research to demonstrate the need for more workers.

Employers, industry association representatives, and labour recruiters I spoke with voiced frustration about the LMO (now LMIA) application process and Service Canada’s assessments of labour need. They generally felt that the federal government did not understand the on-the-ground realities of the shortages employers were facing. One employer explained:

[They don’t] take into account small rural communities or special situations like ours. Like, we’re a big employer in a small place. Our town is a retirement town, so 50% of the people are retired. Young people who hospitality usually draws their workforce from, like college students, like we don’t have a college, so they don’t stay here. They graduate and they leave. Generation, I don’t know if it’s X or Y, they’ve grown up fairly privileged, so a lot of them don’t need jobs any more. Your typical high school student that would have worked part-time or on the weekends doesn’t need a job. … Our area is situated next to a bunch of potash exploration sites, and um, we’re sort of in a little pocket of exploding industry where you wouldn’t know that that’s happening. You would think, “Okay, well, they’re in a recession like everybody else. Everybody’s looking for jobs there.” But it’s sort of the opposite where we are, you know. We need workers now more than ever since our area is busy and we have our hotel full … Every area has their own little unique development or industry or whatever it is going on, and that needs to be identified and proper labour market information made for those.

She said she had little trouble recruiting migrant workers for two higher-skilled positions, which had been more widely recognized at the time as occupations in demand, but faced multiple refusals when applying for an LMO for lower-skilled food service positions. “When I contacted Service Canada to get an LMO for Subway, the girl I work with there, she’s a very nice girl, but the first thing she said to me is, you know, ‘These positions,’ she said, ‘we’re just automatically declining them province wide because there’s no way that there’s not enough people to work in Subways.’” She credited industry groups lobbying the government to expand access to the TFWP as well as recruiters she hired to assist with applications for eventually receiving LMO approvals for those workers.
At the time of my study Western Canadian economies were generally anticipating significant economic growth over the next decade. Both the construction and tourism sector councils indicated that market conditions following the 2009 economic downturn were expected to turn around, leading to significant labour shortages over the medium and long term (CSC 2009; CTHRC 2009). Interviewees in tourism/hospitality noted a continued demand for lower-skilled labour, and several employers in construction had TFWs pre-selected and “waiting in the wings” in anticipation of new projects. A senior official with HRSDC said:

I’ve actually been told that there’s more construction projects on the books right now waiting to go than there ever has been in the history of British Columbia. … As people get their financing, I mean, there’s always stuff that never gets off the ground, but there is lots of work coming. So there’s the potential for a situation like what it was in 2006–2007. Absolutely, and that’s the benefit of being able to respond quickly with a policy change on things like recruitment. As we become aware of a labour shortage, then we can react to that quite quickly.

Once they heard from a credible industry source that shortages exist, bureaucrats were poised to issue LMOs to qualifying employers.

5.3.2 A Labour Market on Fire Requires Urgent Intervention

Labour shortages were seen as especially acute in the west of the country. Because they are dominated by natural resources, Western Canadian economies arguably face greater volatility related to the high variability of commodity prices. Rising demands for labour in certain sectors had cascading effects more broadly across the labour market, with the booming oil sands “sucking away” workers from other sectors.
Demand in the resource and service sectors in turn contributed to shortages in manufacturing (e.g., Kalafsky and Rice 2009). The boom in the oil, gas, and mining industries as well as the impending Vancouver Olympics meant that workers for a number of large-scale projects, as one construction employer told me, were needed “like, yesterday.” Labour needs were cyclical and changed quickly, and employers noted that there was a lot of “poaching” of domestic workers, with employers “training a person and then they leave for $.50 more an hour elsewhere.”

Regardless of the actual existence, location, or severity of labour shortages, the widespread perception among employers, many policy makers, and the media in the mid-2000s was that they had surged to new heights in Western Canada. The labour crunch was defined as something of a crisis both in terms of its intensity and temporality. Shortages were described as “extreme,” “alarming,” and “critical,” necessitating “urgent” and “immediate” attention for the security of Canada’s economy and ability to maintain the tax base and funding for social programs. One employer representing a company specializing in drywalling reflected:

We’ve experienced, like probably since 2003, an increase in the demand for our services, and there was a big flux, a big change in the dynamic of how we found workers. … There was such high demand that it was a pretty, it was a wild, wild west there for a few years and, of course, our demand was so high we were just refusing work routinely. Trying to keep up with what we had and just putting out fires every day and making excuses for workers who weren’t showing up and, you know, quality levels and all that kind of stuff, it was a real crunch. And we were getting desperate. And of course it seemed it was harder and harder to keep the good workers because they were demanding higher and higher rates and were enticed away by other companies and incentive programs. So we were not quite at wit’s end but getting close and then this opportunity [the TFWP] came up and I said, well what have we got to lose?

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77 Stories were circulating about fast-food servers and janitors being paid seemingly exorbitant wages to meet an immediate demand for workers.
The sense of crisis and urgency referred to here recurred throughout my interviews—the labour market characterized as the “wild west” and so hot it was on fire. Media coverage and government pronouncements at the height of the economic boom were rife with such images; local markets were ablaze and there was a “Prairie fire” in the job market (e.g., Friesen 2012). Employment conditions were depicted as raging and out of control. The purported scarcity of (the right kind of) labour in Western Canada, in the context of demographic decline and potential economic growth, led to both escalating employer demand for labour and to the sense that shortages presented a crisis—one that demanded intervention by policymakers.

In theory, rising wages and job opportunities should attract workers to places where there is demand, such as Alberta or even rural Manitoba, and training and technology over time would shift to meet demand as well. Those economic adjustments take time, though, and the labour and skill shortages plaguing the Western Canadian economy were characterized as “threats” that Ottawa had to “take seriously” and which required immediate action. Provincial governments “rushed to analyze the predicament” and “urgently seek solutions.” As a crisis on par with a “wildfire,” shortages were something that must be battled against, and this led to a militarized tone. The challenge was a “demographic time-bomb”! In response, the government turned to one of the “biggest weapons in its arsenal”—immigration policy (Sorensen 2013). Amid sectoral and regional labour shortages and the widespread impression that domestic workers were unavailable, immigration was increasingly seen as part of a strategic, comprehensive labour market strategy. It was a resource or tool that could be “tapped into” on an as-needed basis.

As discussed in the previous chapter, critics, particularly from industry, argued that the overall Canadian immigration apparatus, based in the point system, fell short of addressing labour market needs and regionalizing settlement. It placed an overwhelming emphasis on
educational attainment and language ability, and immigrant skills and background experience did not necessarily align with the needs of the market. Additionally, workers that might have the appropriate skills for a given occupation—both newcomers and domestic workers alike—were not necessarily settling or relocating where vacancies were located. A BC-based recruiter expressed frustration that national-level policy assumed a certain level of internal labour mobility:

Well, everything [is based on] national needs, but of course, the national needs were the steel industry and the automotive industry. After a few conversations with Service Canada, well, you know, [they expect that] if somebody needs to feed a family, they can walk in, work as a dishwasher and make immediate money, and go “Okay, let me see, if I could work for Ford or General Motors, making 50 to 70 dollars an hour with benefits, now I’m going to come to Kelowna.” Relocate to Kelowna with their family to work as a dishwasher. This makes a lot of sense.

Another respondent, also frustrated that Service Canada appeared to be clamping down on LMOs, exclaimed: “Those auto workers from Ontario aren’t going to be moving to the BC interior to clean toilets, you know!” Most respondents shared the view that existing policies were not using the immigration system adequately to address the immediate, locally-specific needs of employers.

Criticisms related to the permanent immigration system, along with the emergence of immigration regionalization as a national priority, led to a number of particular strategic policy responses. The federal government promised changes to overhaul the immigration system, orienting selection more explicitly to align with particular occupational demands (rather than focusing on a general human capital approach) and promised changes that would emphasize and

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For one, the Foreign Credential Recognition Office (FCRO) was established in 2007. It was aimed at assisting immigrants with the credential assessment and licensing process. While this response was related to streamlining the labour market integration of skilled immigrants, it did not address broader issues related to the shortages, nor was it directly related to recruitment.
speed up the intake of younger workers and those with arranged employment. However, shifting large systems takes time; some observers likened it to the process of turning a ship around, and employers indicated they needed workers immediately, just-in-time for new seasons or projects.

Comments by respondents in industry also expressed a desire to turn to migrant workers to ensure a more reliable and stable workforce. Migrant workers who are made reliable (and in a sense, captive) through employer-tied permits and temporary status are an obvious labour solution. Moreover, as several respondents indicated, shortages were not based merely in the quantity of available local workers or the unemployment rate, but also in the “quality.” “I do think that’s the intent of the program,” one government bureaucrat explained. She continued:

I think a lot of employers just don’t like the quality of workers in Canada “Oh they’re lazy. I just don’t like that person. The folks that I’m getting from other countries are really—they’re loyal, they work hard.” … Employers are getting frustrated with the youth. They’re also frustrated in particular occupations, for example, iron workers. Certain occupational groups who say, “90% of the Canadians who I employ in this field have been in prison,” you know? They’re not reliable people. If they can find a good worker, a good qualified reliable worker that will be around also for a two-year period, employers like that level of commitment. … But we [Canadian workers] just move around. That’s part of our rights.

Employers noted difficulty finding the “right” workers, in terms of both skills and willingness to do jobs unattractive to Canadians. Access to global pools of labour substantially increases the potential pool of “quality” workers from which to recruit.

In the face of immediate labour shortages—seen as a crisis by many in Western Canada—employer and industry representatives lobbied the government to make the program more accessible to employers, to fast-track workers for occupations under pressure. The need for immediate labour, especially in less-traditional immigrant destinations, made migrant worker recruitment a reasonable and obvious alternative to permanent immigration, and both industry associations and the government heavily promoted the TFWP. At the height of the economic
boom in Western Canada, politicians at both federal and provincial levels impressed on
Canadians the magnitude of Canada’s labour shortages and the need to turn to temporary migrant
workers in increasing numbers to address pressing labour needs. The Minister of Human
Resources and Social Development at the time was quoted as saying, “This is a huge issue. The
fact is no matter how hard employers try they can’t find Canadians to do many of these jobs and
we have no option but to look outside our borders” (Solberg 2007). Shortages were painted as a
problem for which there was “no other option” but to turn to migrant workers to ease labour
pressures. The government responded with policy openings designed to facilitate the ease and
speed by which employers could recruit and employ temporary migrant workers.

5.4 TFWP Expansion: An Exception Becomes a Norm

Recruiting workers through the TFWP is intended to be a last resort. “It’s important to
remember,” Minister Kenney said that “temporary foreign workers are in Canada to fill a specific
and temporary need” (2010b). However, the program ostensibly helps employers meet their
labour requirements more cheaply and reliably. In the context of a “crisis” in the domestic labour
market, employers were increasingly drawing on the “last resort” TFWP to address their labour
needs. In the period leading up to and through my study, employer applications for LMOs,
especially for low-skilled occupations, increased rapidly.79 The Canadian government committed
to “making improvements” in the TFWP to respond to employer demand. In reaction to the

79 Regardless of how they were utilizing the TFWP (to address short-term, seasonal, or project-based shortages or, in
fact, longer-term labour needs), employers demonstrated their demand for migrant labour with increasing numbers
of LMO applications. The number of TFW positions on confirmed LMOs rose from 17,261 in 2005 to 35,832 in
2008, with the largest increases in low-skilled NOC C and D occupations. Continued and increasing employer
demand for positions in Trades, Transport, Equipment Operators and especially Sales and Service over the period
were notable. Employer demand for TFWs increased rapidly, with estimates indicating a 57% increase in migrant
worker requests in Alberta and BC from 2006 to 2007 alone (HRSDC 2008).
“exceptional” labour shortages, and pressure from the private sector, policy changes made the TFWP and migrant workers more accessible to employers—through both program expansion and acceleration.

The TFWP was massively expanded in scope; with the establishment of the SLSO, the program was broadened to include all categories of employment. In addition, the contract period for TFWs was extended from one to two years. At the same time, changes “removed obstacles” for employers to obtain LMOs—for example, shortening the period of advertising required. My fieldwork indicates that recruiters tend to view the domestic recruitment process as a mere formality, anyway, and there is evidence that employers and recruiters developed fairly sophisticated strategies to satisfy HRSDC’s LMO application requirements (also see AFL 2009). In addition, the government instituted a pilot program, called the Expedited Labour Market Opinion (E-LMO), intended to fast-track the LMO application process. Introduced in September 2007, the E-LMO was brought in based on industry feedback and complaints about delays in obtaining decisions through the regular LMO process. It was implemented in BC and Alberta to facilitate access for TFWs in occupations identified as experiencing acute shortages. With the E-LMO, positive LMO outcomes were expedited (and practically guaranteed) for identified occupations. The E-LMO continued to operate until April 2010 (just after the closing of the Vancouver 2010 Winter Olympics).

80 The advertising requirement is used to indicate the extent to which employers attempted to recruit Canadian workers.
81 Initially the project included only 12 occupations, primarily in construction, healthcare, and hospitality, at its start, but by 2008 this had increased to include more than 30. The “Occupations Under Pressure” lists were created in consultation with industry and included nearly all construction trades and health professionals as well as numerous lower-skilled occupations in retail and service, including hotel room attendants and residential cleaning and support workers (Gross and Schmitt 2012).
During the E-LMO project, approvals to hire temporary migrant workers increased dramatically. In 2008, employers in Alberta and BC obtained confirmations to hire more than 94,000 TFWs, twice as many as the rest of Canada. The project substantially reduced wait times for application processing—from a number of months to a number of weeks, and in some cases as few as five days. The termination of the program frustrated many employers. Jane, the head of a smaller, rural-based cleaning company, explained that under the E-LMO Service Canada had “pushed through a whole bunch of [LMO approvals]. Like it really was all of a sudden … you waited for ages and it’s like all within the same 48 hours we all got our LMOs.” Once she received approval and hired workers through the program for one season, she had developed her company’s business plan for the following season based on that experience, anticipating the (timely) arrival of migrant workers. Based on my fieldwork, it seemed this was a widespread practice across certain sectors in Western Canada at the time.

Given the economic climate and the substantial expansion of the program, use of the TFWP to address labour needs quickly became a norm. The program was widely advertised by both industry associations and the government. There were job fairs and government-sponsored workshops that featured information about hiring temporary migrant workers, and recruiters were cold-calling and pounding the pavement advertising the program and promising workers. In fact, twice during my fieldwork my interviews were interrupted by labour recruiters knocking on the door or telephoning. Word of mouth spread quickly throughout industry circles. “The first year I got involved with the foreign worker program,” one employer said, “it was a pretty um,

82 Compare this with the 3–5 year average processing time for permanent Economic immigrants.
easy process. [I did it] because other resorts had done it; I was just following a pattern of
everybody else.” One recruiter reflected that during the labour crunch:

[The federal government] really opened the door and they kept opening it. And that’s
really kind of created—like you know there was a time in Western Canada, I don’t know
about Vancouver so much, but most of Western Canada where most people didn’t have a
very recent connection to immigration, you know, they just thought about immigration as
being refugees and so on. But now there’s been massive, you know, awareness, and that’s
been partially because the government’s really created a lot more awareness. But there’s
just been a lot more movement, and all these kinds of reforms that came out. The LMO
process where the, for BC and Alberta they came out with this, these “occupations under
pressure,” which were pretty much they’d rubberstamp it, you know.

Indeed, a senior official with HRSDC (now ESDC) commended the department’s improved
ability to modify programming so as to more adeptly “respond” to labour market needs. She
explained the process:

What happens with an approval in principle is an employer can come to us, today, and
say, “I need 50 construction labourers.” So we’ll look at his application and make sure it
meets all the requirements, … and we’ll say, “Okay we’re pre-approving you for 50, you
now have six months to go out and get the names of those workers and submit them.”

With the expansion and acceleration of (pre-)approvals to recruit migrant workers, there was
unprecedented employer reliance on them for work in lower-skilled jobs such as cooks, clerks,
cleaners, truck drivers, and warehouse labourers (Foster 2012).

Though designed to be a last resort, once made available to employers, the TFWP
became a routine option for addressing labour needs and, in some cases, an integral part of
company business plans going forward. Employers became accustomed to having access to an
additional labour pool and liked having the option of recruiting overseas as demand fluctuated.
One construction employer reflected, “You know, LMOs are like, if you got a pre-approval in
your back pocket, you can essentially cash it, you know, and get a new worker.” Having a pre-
approval—the permission to hire a certain number of workers for certain occupational
categories—was likened to a sort of “credit” that could be cashed in for a worker. Though intended to be a last resort, the TFWP “worked very well” and was seen as a more preferable option than permanent immigration streams, because it facilitated employer access to reliable and (particularly during periods of expedited processing) just-in-time labour, and it quickly became a labour option employers appreciated having “in their back pocket.” Some analysts argue that policy changes which relaxed the labour market test conditions for some occupations and lowered constraints on employers to hire temporary migrant workers reduced incentives for employers to search for domestic workers and in effect contributed to program dependency (Gross and Schmitt 2012; Kalafsky and Rice 2009).

One government representative, reflecting on the program and its routinized use by employers, explained that she considered the TFWP to be “outside” the immigration system altogether. She saw it exclusively as an employer-driven and, for the most part employer-managed, labour supply and substitution program, which just happened to involve the crossing of geopolitical borders (and the insourcing of non-citizens into a second-tier segment of the labour market):

I see it as sort of outside the immigration system. I look at immigration as permanent. So while, yes, there’s immigration strains, I really see it as an adaptive labour market program for short term needs. And I think it’s been great over the past five years because of the shortage of labour. And all of a sudden employers are, “What do I do? Where do I find people?” So they access the Temporary Foreign Worker Program. But I see it as separate, almost like a project I guess, because most of my work, I’ve been working with employers. So employers don’t generally understand the immigration system … for small/medium enterprises, they don’t. They’re focused on running their businesses. Some of the larger businesses, they have more awareness. But even there, they don’t always have that intelligence. The smaller employers just see it as a source of labour. Short-term source of people, just like they would seek out groups of Aboriginal community or older workers. Where do I find people? Sort of the last one, because of the cost involved and I think that’s something that needs to be clarified because I don’t think of the Temporary Foreign Worker Program now as an immigration program. I don’t. To me, immigration is coming and staying in Canada. [The] Temporary Foreign Worker is to fill short-term skill
needs. Yes, there are transitional opportunities when they come here and I think those need to be clarified. Because I don’t think that’s clear to employers at all. She was speaking from the perspective of the employers with whom she worked, who were just using an opening provided by the government but did not necessarily see themselves as part of the “immigration process.”

In many ways, the evolution of the TFWP during the first decade of the 2000s parallels the experience of Europe’s guestworker programs, where sectors at the bottom end of the labour market became increasingly reliant on migrant workers for labour supply (Martin 2003). Guestworker programs are known to cause problems with labour market distortion and dependence; employers who become accustomed to hiring migrant workers, and whose recruitment and training systems evolve to employ them, may make investment decisions that assume migrants will continue to be available (Martin 2010; Preibisch 2010). The growing demand troubled some in industry. A representative in building trades stated, “We’re not against skilled workers coming to start a new life, but if temporary foreign workers become the norm, rather than investing in training here, then that can cause problems. They are no solution in the long run.” The increased use of the TFWP has been criticized for short-term thinking, focusing more on immediate needs of the labour market rather than longer-term economic priorities and nation building (Alboim 2009; O’Shea 2009; Reitz 2011; Nakache and Kinoshita 2010). Despite official claims that the TFWP is temporary and despite recent regulatory amendments intended

83 Most mainstream analyses of the TFWP also adopt the position that it is a temporary labour market adjustment program. For example, one economic analysis concludes “[t]emporary foreign worker programs are designed to alleviate short-term specific labor shortages and are not expected to have long-term adverse effects on internal labor markets” (Gross and Schmitt 2012, 21). Even studies critical of the TFWP’s lack of migrant worker protections assume the program is designed for short-term labour market needs (e.g., Siemiatycki 2010). The evidence presented belies expectations and the explicit assurances of government officials. Rather than contracting, the TFWP is staged to continue its expansion in the coming years. One reason for the contradiction between rhetoric and reality may be that the program is primarily employer-driven, and the TFWP in its design lacked mechanisms to check the rising demand.
to reinforce that temporariness, employer use of temporary migrant workers has become a pervasive feature of the Canadian labour market, across an expanded range of sectors (Sharma 2006; Preibisch 2010; Alboim 2009; Office of the Auditor General 2009).

Once the control of migration management processes have been decentralized and devolved, and migration flows increase in size and scope, they become very difficult to curtail. The TFWP still has an ongoing, integral, permanent place in Canadian immigration policy and its labour markets. To reference an oft-cited mantra about guestworker programs, there is nothing so permanent as a temporary migration program (Castles and Miller 2009). And even as economic conditions change (with a relative contraction, for example, in the oil sands), a characteristic feature of the permanent immigration system, extending from the policy evolution I have described, is the privileging of candidates with prearranged job offers. The conditions in the labour market and policy landscape set the stage for an intensified role for the recruitment industry.

5.4.1 Rise of the Recruitment Industry

With growing employer demand for migrant workers and expanded possibilities for recruitment came growing demand for labour recruiters and immigration consultants to assist in the recruitment, selection, and migration processes. The urgency to recruit workers, combined with

84 Recent changes announced to the TFWP are aimed at addressing some of the shortcomings in protection migrant workers’ rights, but also mark an acknowledgement of its continued importance in the future. In 2011, new regulations were implemented. Enhanced procedures were implemented to confirm the genuineness of a job offer, and a two-year ban was issued on LMOs for any employer violating the conditions of the contracts (i.e., wages and working conditions). The changes also introduced the Four-by-Four rule, which limited temporary migrants to a maximum of four years residency in Canada, after which they must return home, and would be ineligible for another work permit for a period of four years (Zell and Marcelino 2015). None of these changes seemed to have much effect on the role of recruiter/consultants; if anything, they shifted or intensified the need for them.

85 Their role as labour market intermediaries is discussed in more detail in the next chapter.
a changing policy landscape, set the stage for an increase and intensification in employers’
reliance on recruiters and consultants to assist them. More employers were choosing to recruit
migrant workers, and many were new to the process. They were unfamiliar with the paperwork
and program requirements as well as the level of investment international recruitment entails. At
the same time, there was a proliferation of new and pilot migration programs. So many policy
and program changes were implemented during this time period—sometimes reversing a policy
entirely within the same year—that some analysts even began referring to it as “government by
surprise.” As eligibility requirements and options shifted frequently, even employers with a
history of hiring migrant workers found it challenging to keep abreast of the changes.

In addition, many processes, particularly those associated with hiring for lower-skilled
occupations, require additional paperwork and responsibilities, such as arranging airfare and
medical coverage. Employers hiring through the SLSO are also required to provide assistance
finding housing. Once workers started arriving at the airport and jobsites, many employers
realized they were unprepared and had to do much more to help “settle” workers—for example
providing transportation at arrival, assistance navigating banking and transportation systems, and
even winter coats. There was much more front-end paperwork and back-and-forth
communication with government agencies required, and many employers simply lacked the
capacity in terms of knowledge and time to devote to such processes—they were already “at
their wit’s end” trying to keep their businesses afloat or their projects on schedule.

Respondents indicated there was considerable saturation with current workers; employers
in both BC and Manitoba spoke of worker “poaching” as a common practice, and along with
domestic workers this included migrant workers (especially those working in “intermediate” skill
level jobs in the trades) who were currently employed and whom employers sought to retain
through contract renewals. The expansion of the TFWP into new sectors and occupational categories opened up new labour markets, and workers were sought from previously “untapped” labour pools in countries such as the Philippines and Mexico. Some sending countries, especially the Philippines, mandated recruitment through a licensed employment agency, which also contributed to a need for labour recruiters and immigration consultants.

As employers scrambled to locate workers, many intentionally chose to recruit through several different agencies at once. One construction employer explained why:

The reason is we knew we’d bring in anywhere from a hundred to two hundred men, and if you give that kind of business to one individual, it’s almost like they’re monopolizing your ability to be not only flexible, but monopolizing the dollars. So if they say, “We gotta up our price,” and you don’t already have someone else [another recruiter] that you’re dealing with, where you can say, “Well you can up your price, that’s fine, we’re just not using you anymore.” It was a strategic move to keep the costs down for our company.

Agents were lured to the international recruitment business with the realization that there was such high demand and that quick, easy, and enormous profits could be made. In the next chapter I discuss the burgeoning migration industry and its actors, and how certain agents developed proficiency in navigating the policy terrain and came to be seen as more legitimate. Recruiters were beating down the doors offering workers to employers, and many were introduced to the TFWP itself through recruiter cold-calling or persistent marketing. Jane, the head of a small cleaning company said:

And then once you’ve decided, even to figure out, determine what a recruiter really does for you and, or to decide who’s a worthwhile recruiter, um, I will say that I had no idea. I think it’s probably because you, once you post it on the Job Bank and I’m sure people can pick out exactly what, people that are obviously looking to get—to apply for an LMO because of the things you have to specify in the job ad, in that occupational code. I think it’s quite telling which ones are trying to get their—doing that just so that they can fulfill the requirements of the LMO application. As soon as that stuff was out I had so many people [recruiters] contact me.
Western Canadian economies were in crisis mode, and as quickly as the demand was there, recruiters and consultants were there to assist—and make money off—the recruitment process. The government opened up an employer-driven program, and as the state offloaded control over the migrant recruitment and selection process to employers, they in turn contracted out that process to other non-state third parties.

5.5 Outsourcing of Migration Management

During the early and mid-2000s, Canada was facing the prospect of future demographic decline (in terms of aging populations, low fertility rates, and rising retirements), ageing, and purported labour shortages (sectoral or location-specific), combined with economic growth. At the same time, the Economic stream of the permanent immigration system was designed to accept predominantly ‘highly-skilled’ workers who generally settle in larger urban areas. To fill the need for the kind of labour at the rate workers were desired, the TFWP was described as the obvious solution. Employers and industry representatives, particularly in the hospitality/tourism and construction sectors, actively lobbied for the program’s expansion. In the first half of the 2000s, the Canadian government instituted a series of employer-friendly policy changes, which both provoked and responded to industry pressure and employer demand for temporary workers. The TFWP was expanded in both size and scope and the recruitment process fast-tracked.

As this and the previous chapter have shown, immigration to Canada during the time of my study grew increasingly market-driven and increasingly temporary. Recent policy changes have brought immigration policy and employment policy into even closer alignment, with the objective of moving to a “fast, flexible and pro-active system, … and doing a better job of matching the newcomers with the job shortages” (CIC 2010). Because the TFWP is employer-
led, these shifts contribute to a privatization of Canada’s immigration system, and some argue that its decades-long expansion demonstrates that temporary migrant workers are in fact filling longer-term labour needs (Alboim 2009; Foster 2012). Trumper and Wong (2007) contextualize the growing importance of Canada’s TFWP within the global political economy in terms of flexibility, claiming that the program and its reliance on “unfree labour” becomes “a vehicle for a probationary period for migrants and for a new style of immigration that is driven by employers rather than the state, allowing for unsupervised racial, geographical, or gender bias” (88; I will return to this in Chapter 7). Moreover, with the P/TNPs and other two-step programs, in effect employers are increasingly driving the immigration process for those streams as well; “primary decision making around access to permanent residency [has been] transferred by the Canadian state to Canadian employers” (Valiani 2013, 55). The Auditor General (2009) was harsh in its criticism of the TFWP, arguing that it was being used together with two-step programs so much that they were threatening to displace traditional permanent immigration routes (Lowe 2010).

The expansion of the size and scope of the TFWP and the broadening of access to (and creation of) global labour pools epitomizes the ascendance of the “market ethic,” which Harvey (2005, 3) sees as the backbone of neoliberalism, in immigration policy and migration management. Temporary migrant workers are seen as a solution to “tightness” in the labour market. The assumption that a “looser,” more mobile labour force is preferable underpins the economic logic of the TFWP; increased mobility is assumed to be a good thing from the point of capital (Harvey 2005; Ong 2006), and industry representatives and employers were eager for policymakers to remove regulatory and programmatic “obstacles” that restricted transnational labour mobility. In fact, as the quote from CIC Minister Kenney stressed, the focus was not just on less restriction, but also on speeding things up, both in terms of making processes faster
(imbuing them with a sense of urgency), but also in being “pro-active.” We see this in the pre-approvals for LMOs (now LMIs), and in the identification of workers who are candidates to meet immediate and just-in-time needs—they have been pre-screened and pre-selected by recruiters and made available to employers, just awaiting the gatekeepers to pull open the gates. The flexibilization and casualization of labour is associated with processes of neoliberalization, which include processes such as de- and re-regulation, the roll-back of activities typically managed by the public sector, and the rolling-out of such activities through privatization and outsourcing (Peck 2010). Under the reformed Canadian immigration system, worker mobility is still highly constrained, but the conditions and geographies of migrant movements (and border-crossings), and decisions about who may engage in them, has been partially delegated to the private sector.

Policy changes in the TFWP were instituted as part of the government’s “arsenal” to address the labour market “crisis.” The management and manipulation of crises is a feature of the neoliberal state, which cause transfers of power from the state to capital. Discourses of crisis and “states of emergency” emerge and are mobilized at thresholds of contemporary human mobility, and they become “gateways to exceptionalism,” moments that can be leveraged by states to reconfigure their sovereign reach (Agamben 1998; Coleman 2009; Mountz and Hiemstra 2014; Harvey 2005, 162). Sovereign rule invokes the exception to create new economic possibilities, spaces, and techniques for governing the population (Ong 2003, 2006).

In this case, sovereignty has been diffused, through devolution, outsourcing, and privatization. Leveraging the so-called crisis in the labour market, the state (under industry

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86 Peck (2010) describes the roll-out of neoliberal policies, with forays into privatization and deregulation involving the empowerment of non-state, flexible providers, who are managed by audit and devolved governance. These are often followed by further rounds of (mis)intervention in the form of market-friendly governance (7).
pressure) profoundly altered the environment of the labour market, facilitating the ease and speed by which employers could recruit and hire temporary migrant workers. The “crisis” becomes the leverage by which to alter the spatial and temporal coordinates of the labour market and open up employer access to labour:

The geographical mobility of capital permits it to dominate a global labour force whose own geographical mobility is constrained. Captive labour forces abound because immigration is restricted. These barriers can be evaded … through short-term contracts…. Under neoliberalization, the figure of ‘the disposable worker’ emerges as prototypical upon the world stage. (Harvey 2005, 168–9)

In their discussion of the spatiotemporal logics of contemporary migrations, Mountz and Hiemstra (2014) take the recurrence of crisis, as a sudden change causing alarm, as their starting point. Following Agamben (1998, 2005), they argue that discourses of crisis are tied to geographical assertions of sovereign power. They point to moments, such as human smuggling or border enforcement, where narratives of crisis are mobilized by bureaucrats and circulated by media to make visible mass movements or spontaneous arrivals. Framed this way, these events provoke hysteria and provide opportunities for the state to legitimate enforcement activities that result in the expansion of sovereign reach. The case I present here differs from the ones they highlight, which primarily center on containment, detention, exclusion, and the attempted arrest of (inward) flows. In my case, the discourse of crisis is mobilized to open up a pathway for “differential inclusion” (Mezzadra and Neilson 2013).

In the early 2000s, conditions in the labour market, a desire for and projection of economic growth, and industry-led lobbying together contributed to (the perception of) a labour shortage crisis in Western Canada. Narratives of crisis were invoked by corporations and the private sector in Western Canada, and then deployed by the government as a rationale for the expansion of market-driven programs. This expansion did not directly extend the reach of the
state, but allowed it to effectively devolve and outsource aspects of the management of migration flows. In other words, rather than government enforcement activities resulting in the expansion of sovereign reach, this case signals the effective abandonment or offloading of the activities of ‘recruitment’ and immigrant selection, resulting in the diffusion of sovereignty. As techniques of migration governance, the policy shifts described here not only externalize the processes of recruitment and selection, by offloading them to provincial governments and employers and recruiters. By dispersing the sovereign power associated with those processes, they also effectively contract out the accountability and responsibility for those processes (which I turn to discuss in the next chapter; see also Zell 2011).

The abiding presence of neoliberalism, as a “force field in which subjects act,” has influenced the development of immigration policy (Arat-Koc 1999; Ong 2003; Mitchell 2004; Harvey 2005; Ley 2010). As Ley (2010) writes: “In an era of dwindling birth rates, and with the spectre of a declining labour force, immigration bureaucracies are pro-actively recruiting migrants who can be self-sufficient and require little in return from the state. … The nation state bears minimal responsibility for those who toil transiently within its borders” (8).87 Taken together, policy reforms during my study period represent a devolution and diffusion of responsibility within the Canadian immigration regime. We see an increased role of the private sector and a shift in government management of immigration processes, as employers (and their non-state representatives) increasingly perform the bulk of the practices associated with recruitment, selection, and even settlement provisions, much of which would be managed by the state if they were arriving through the FSWP or another permanent stream. The temporary

87 The Business Immigration program he analyzes is a particularly brazen example of the commodification of permanent residency, and citizenship.
migration system has developed in parallel, and in many ways as a de facto complementary system, to the permanent one (Rajkumar et al. 2012). The governance of the recruitment and migration process in this case is effectively fragmented, with sub-national governments (provinces, as well as municipalities), employers, and non-state third-party recruiters and consultants performing integral roles. It devolved the establishment of eligibility criteria and the process of selection to the provinces, and it offloaded much of the recruitment and selection processes to employers (and in practice these were further outsourced to non-state recruiters and consultants). This has contributed to the rise of “petty sovereigns” and the recruitment industry.

As I show in the following chapter, the state sets particular parameters for the LMIA, TFWP, and PNP application processes, and its role is largely one of oversight and risk management (as part of the “regulatory state”), with bureaucrats assessing and approving applications, permits, or passports at various key gatekeeping moments (Clifton et al. 2006; Crouch 2011; Peck 2010). The hollowing out of the state role, or its practical withdrawal, is in line with the notion of the “neoliberalized state”—not an absentee or laissez-faire state, but one that acts as a facilitator and the “guarantor of competitive order.” Privatization in this case does not mean less state involvement; it is not full deregulation of the programs, or the full offloading of management to the private sector and its representatives—far from it. Rather, through contracting out to the private sector, the state retains a key role in providing those openings to employers (in delegating and diffusing sovereign power), acting as the creator of the (global labour) market and a facilitator of flows (Ong 2006; Ley 2010). Both the market(s) and the state

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88 For all TFW programs aside from the SAWP and a few other streams regulated by bilateral agreements, recruiting happens privately, often through recruitment agencies based in Canada or abroad (Faraday 2014). On a global scale, public employment services have become less important over time as the employment services and recruitment services industries have expanded (Zell 2017).
have been reconfigured as they have become even more enmeshed, through entanglements that have been referred to as “marketizations” (Birch and Siemiatycki 2015; see also Peck and Tickell 2002; Hendrikse and Sidaway 2010).

The devolution from federal to provincial level, and contracting out—from state to employer, employer to recruiter, and often from recruiter to recruiter—is a form of privatization, underpinned by a neoliberal argument about minimal state involvement in the economy. There is state involvement inherent in the crossing of borders and the securitization of the border and its territory (and its perfunctory role in securing its population, and looking out for the jobs of domestic workers), but the TFWP and its evolution is a prime example of the facilitation of the mobility of people only insofar as they contribute to production and capital accumulation, with mobility severely constricted in terms of joining the nation.

Though this is not the case of “true” devolution in that the immigration system remains a federal system (and the state remains de jure unitary), it is arguably a devolution of migration management. It is delegation of power from the central government to the subnational level and a form of administrative decentralization—an example of outsourcing as a form of “selective decentralization” (Clarke 2004). The power devolved can be withdrawn (as was seen when caps were placed on the Nominee programs, and when the federal government recentralized control over settlement services from BC and Manitoba). However, once devolved full recentralization is difficult and uncommon—once the “exception” is invoked, a sort of blanket exceptionalism remains, such that the exception is normalized (Mountz and Hiemstra 2014).

In Canada, the low-skill pilot became a permanent program and eventually a central pillar of the increasingly entrenched TFWP—and it represents a move toward relying on guestworkers in low-paid, “low-skilled,” low-status occupations. Promoted as a stop-gap measure, it was
expanded in scope and made more accessible, and in some sectors it became the norm. This shift has introduced new patterns of social exclusion and discrimination in Canada (Goldring et al. 2009; Lenard and Straehle 2011). It also paves the way for the migration and recruitment industries to take on a more central role, as connecting with employers and pre-arranging for a job has recently become an even more important criterion for crossing the border into Canada.

Temporary workers are flexible; they provide “just-in-time” labour on a contingent, short-term basis to meet labour shortages, whether real or perceived. The increasing emphasis on conditional pathways into the country intensifies migrant worker flexibility, increasing their “precarity” and “disposability” (Goldring et al. 2009; Pratt et al. 2017). Indeed, the conditionality of migration pathways has increased the overall power of employers in the recruitment process, and as I turn to discuss in the next chapter, the use of recruiters or consultants inserts even more potential disciplinary moments and means of leverage. An integral and intensified role for labour recruiters and LMIs to connect employers with the right types of workers in a global labour market remains. In the context of employer-sponsored migration, the cascading impacts of recruiters’ front-end encounters with workers and other actors in the labour migration cycle have important implications for migration routes, the labour market, and citizenship.
Chapter 6: Recruiters as Authorized Representatives and Crooked Consultants – The Legitimation of Petty Sovereigns

“’Cause I go to conferences where these officials are talking, they just said it was so, there was so many people violating the rule that it made a joke out of the rules. So, people that were following the rules were getting harmed and we didn’t have the resources or the ability to really regulate the industry properly.”

– Registered Canadian Immigration Consultant

“We do not have to be Pollyannas here. A large number of individuals participate willingly in attempts to defraud the system … and there are hundreds of thousands of people who will do anything, sign anything, pay anything to come here.”

– Past president of the Canadian Association of Professional Immigration Consultants

6.1 Introduction

Sitting in a boardroom in the offices of a large construction company in BC, I was talking with Ed, the company head, and Kevin, a construction/trades industry representative. Ed had been recruiting workers for years—from Vietnam, the Philippines, China. His good family friend worked for a recruitment company with affiliates across Asia, and she had introduced him to the TFWP. I asked him to describe the process for me, and he responded, “Well, [our lawyer] always looked after all that, so.” Trying to clarify the relationship between the BC-based lawyer and the recruitment company, I asked, “And the lawyer, he’s working—I guess, [the recruiter] contracted him to do a lot of the paperwork for them?” At this point, Kevin entered the conversation:

Kevin: Who paid him? Who paid the lawyer?
Ed: [The recruiter]. I didn’t pay anything. So.
Sarah: You didn’t pay anything for the whole process? No?
Ed: Nothing. And they took me—they paid for my trip over to Vietnam, too.
Sarah: [The recruiter] did?
Ed: Yeah.
Kevin: So the immigrant paid.
Sarah: Somebody paid. *(laughs uncomfortably)*
Ed: I don’t know.
Kevin: You didn’t?
Ed: I didn’t pay and, uh,—
Sarah: There was no—you were never given a fee schedule of any sort that says to do the LMO is going to cost this much?
Ed: No.
Sarah: No?
Ed: No.
Kevin: That’s probably illegal. You’re not allowed to charge the worker.
Ed: Yeah, well.

This was early on in one of my first interviews with an employer in the sector. My heart beat faster as I realized I was uncovering a contravention of Employment Standards legislation. In the back of my mind I was analyzing how well I was masking my discomfort. How could I interject and build awareness without shutting down the conversation? As the conversation carried on, I realized Ed was not too concerned—after all, he had not personally charged the workers, and in fact until that moment he had no idea anything illegal might have occurred.

It soon became clear that Ed’s ignorance of the process was not unique among employers. Kevin stressed to me that there is a culture of sub-contracting in the construction industry. Employers first hiring workers through the TFWP often did not understand what they were getting into, and many in fact welcomed my conversations with them because of the opportunity to clarify the process—and their responsibilities.

Choosing a recruiter with integrity is the responsibility of the employer, and as I show in this chapter, in a context of privatization and self-regulation, the state’s role becomes a de-responsibilized one of education and risk management. It describes the process and conditions whereby recruiters and their practices are legitimated and labeled as authorized—how they come to be assigned as “authorities” in the migrant worker recruitment/migration process.
As I embarked on this study, I initially thought I would encounter greater difficulty in accessing recruiters. However, most were more than willing to speak with me; in fact, many took me on tours of their offices and were unexpectedly forthcoming. Perhaps they viewed it as a chance for increased publicity or networking, or as an opportunity to impact government policy. (I was, after all, using provincial government as well as academic credentials). Most were genuinely eager to understand my project and why I was interested in their work; following the interview a few even offered me a job with their firm. Reviewing my transcripts and field notes months later, however, one consistent motivation threaded through every interview I had with recruiters based in Canada: a desire to set the record straight. Within the first few minutes they entered an expositional mode that took on a defensive tone; they described their work and companies in opposition to a spectral foil that seemed to hover in the backdrop. They were not like those unscrupulous recruiters portrayed in the media or regulated against by the government. They were the “legitimate” recruiters, merely entrepreneurial cogs in the system, there to provide a much-needed service to overtaxed and ignorant employers and to help the migration machine run smoothly.

6.2 The Migration Machine – Labour Market Intermediaries

Contemporary labour migration movements can be understood in the context of neoliberal globalization and the flexibilization of labour markets, as a strategy for increasing capital accumulation and labour control. Since the mid-1970s, economic restructuring and intensified global economic integration have created the conditions for the expansion of the “migration industry.” Neoliberal deregulation and public and corporate policies promoting labour flexibility have made labour markets increasingly competitive and volatile in recent decades. As the
demand for more flexible, contractual, individualized, and temporary labour has increased, labour market intermediaries (LMIs) have emerged as a significant industry.\textsuperscript{89}

Neoliberal configurations of governance that rely on privatization are based on an underlying logic of governance at a distance and often entail the devolution of certain functions to private actors. Scholars tracing the evolution of temporary staffing agencies in many “developed” countries have noted a shift as public institutions that traditionally performed job-matching functions have been replaced by private, for-profit agents (e.g., Abella 2004; Zell 2017; Benner et al. 2007). The involvement of private agents or public-private partnerships in labour migration management is common in many countries. Some argue that official labour migration schemes play an active role both in the growth of the private, profit-driven brokerage sector and in the privatization of state capacities regarding migration control and management (Martin 2005; Kemp and Raijman 2014; Trumper and Wong 2007). As I outlined in the previous chapter, economic restructuring and transformations in Canadian immigration and labour policies set the stage for the proliferation of—and an environment of demand for—labour recruiters. While their involvement is certainly not new (Chapter 4), in a policy context of neoliberalism and securitized national borders their role has intensified and evolved, and they are enabled to be primary, front-end decision-makers with regard to identifying and deeming eligible border-crossing applicants.

\textsuperscript{89} In fact, the International Labor Organization now recognizes the temporary staffing industry as a necessary fixture in the 21\textsuperscript{st} century labour market. More countries opening up their economies and deregulating their labour markets creates the conditions for LMIs to expand. At the same time, the very presence of established LMIs acts as an indicator that an economy is stable and worthy of investment. Thus the industry both results from and contributes to the ongoing restructuring and (neo)liberalization of labour markets and the wider globalization process (see Zell 2017).
LMIs sit at the nexus between flexible labour markets and migrant, or migratable, labour. In the context of international migration, labour recruiters help solidify transnational migrant networks, organize migrant mobility, and facilitate job placement and local integration (Abella 2004; Kuptsch 2006). Intermediaries redress and capitalize on information asymmetries. Where there is a cultural, linguistic, or significant geographic distance between employers and workers, LMIs use the competitive advantage of their information about and access to employers or labour pools to reduce obstacles and costs associated with job matching. For employers, they provide a supply of pre-screened, just-in-time workers. For jobseekers, they offer immediate, often short-term employment with no investment in a job search. Beyond job matching, LMIs shape labour market dynamics in fundamental ways by mobilizing workers and impacting labour agency, shaping compensation levels, mitigating and displacing risk (often onto workers), and contributing to social network building (see Zell 2017; Benner et al. 2007).

Research highlights how the temporary staffing industry not only benefits from an increased demand for temporary employment but is also a promoter and orchestrator of it. By delivering just-in-time labour on a contingent and often short-term basis, the industry reinforces the demand for it (Peck and Theodore 2001). Some have argued that the availability of workers through temp agencies in fact encourages employers to pursue high turnover, low skill-investment human resources strategies. Though LMIs often represent themselves as neutral intermediaries, their very presence contributes to the formalization of contingent work as a feature of flexible labour markets, and they play an important role in labour market regulation and segmentation (Ward 2004; Peck et al. 2005).

Profit-seeking intermediaries increasingly facilitate and organize transnational movements of workers. As migratory movements become established, the need for specialized
Information and services arises and a “migration industry” emerges, which includes LMIs such as labour recruiters, brokers, and smugglers (Castles and Miller 2009). Some LMIs specializing in international migration are formal businesses with established reputations, but there are a myriad of other intermediaries who operate informally, and the industry is frequently characterized by fraudulent, exploitative, and illegal practices. Many migrant workers use more ‘informal’ employment agencies and are subject to (often exorbitant) recruitment-related fees and coercion or forced labour. Indeed, for-profit employment agencies are in a position to exploit precisely the information asymmetry they are hired to resolve—to use their informational advantage to exploit rather than assist their clients. As a consequence, governments in both sending and receiving countries institute measures to regulate the migration industry, either by establishing licensing and monitoring regimes for the private recruitment industry or by offering alternative forms of public assistance.

In Canada, many documented complaints and abuses related to the TFWP can be traced back to labour brokers, who have been accused of charging illegal fees and providing misleading claims about jobs and access to citizenship (e.g., Flecker 2008; Zell 2009; Rankin 2017). However, there has been little research examining the recruitment process and how it may engender challenges related to guestworker programs and migration management regimes, especially for worker protection and integration. Within migration studies, research and

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90 Labour market intermediaries facilitate and regulate the matching of workers to employers and often act as brokers, influencing and sometimes controlling the negotiation process between the two parties. LMIs comprise a diverse array of entities including labour recruiters and temporary staffing agencies, executive search firms or headhunters, public employment offices, labour unions, state regulatory bodies, criminal records providers, some training/educational institutions, and online job boards or search engines. They can be public or private, require voluntary or compulsory membership, and fall along a spectrum from formal and established to informal and less “legitimate” operations. Research has shown that private, for-profit intermediaries increasingly drive market development and shape employment norms (e.g., Zell 2017; Benner et al. 2007), and they are the focus of this section.
theorizing on the migration industry has tended to focus on its illegal side, namely human trafficking (e.g., Salt and Stein 1997; van Leimpt and Doomernik 2006), in large part because governments and humanitarian groups are disquieted by moral concerns as well as the ability to control borders. As I mentioned in the introductory chapter, in this project I intentionally focus on the more “legitimate” side of the migration and labour brokerage industry. Focusing on smuggling or trafficking as a criminal issue, or through a human rights lens, can obscure the way that legal and legitimate institutions and actions can facilitate and even reinforce unethical or exploitative phenomena. The privatization of labour migration management creates an institutional and political context that prioritizes the interests of employers and the state over those of precarious non-citizen workers (Sharma 2006; Faraday 2014; Valarezo 2014). As Kemp and Raijman (2014) demonstrate, this gives rise to the normative conditions that allow trafficking-related abuses to occur and to go ‘unnoticed’ or unpunished. Describing the temporary labour migration system in Israel (remarkably similar in its legally constructed unfreedoms to that of Canada), they show how migration management mechanisms widely regarded as “legitimate” contribute to trafficking practices within the realm of legal migration.

The line between “legal,” formal, or “legitimate” actors and activities and informal or “illegal” ones is fluid, dynamic, and often difficult to distinguish (Salt and Stein 1997; Martin 2005; Silvey 2007; Kemp and Raijman 2014). However, my work is concerned neither with defining that line nor with merely documenting recruitment-related abuses. Rather, I analyze how recruiters act as petty sovereigns within recruitment networks and labour migration management processes. Changes in immigration policy have devolved recruitment-related and

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91 Remittance-related organizations also attract considerable attention, because governments in sending states see these increasingly large sums as a means of funding “development” (Orozco 2002; Levitt and de la Dehesa 2003).
bordering processes from the federal to the provincial (and then, even municipal) level, and, through employer-driven programs, to the private sector. Control (and responsibility) for migrant worker recruitment, selection, and movement into Canada has largely been placed in the hands of employers, who often contract out aspects of that work to third parties (who in turn often sub-contract to other third-party recruitment or consulting agencies). In doing so, bordering is devolved and outsourced, and the “first border” is pushed outward—outsourced, and offshored.

In this chapter, I profile these third parties, and I focus specifically on how so-called “legitimate” actors come to be authorized and legitimated—how as non-state actors they come to be invested with the authority to make decisions and effectively act as border agents.

6.3 Regulating the Transnational Recruitment Process

6.3.1 Rubberstamping and the Border as (Pre)clearance

As Canadian employers have turned to migrant labour to address employment needs, the demand for LMIs has increased. Many employers, particularly smaller enterprises, lack the in-house capacity or feel they do not have the necessary expertise to navigate the TFW and PN program application and hiring processes, described by participants as “labyrinthine.” Many contract third-party labour recruiters or consultants at various points in the recruitment process. Figure 3 shows the labour migration cycle, as well as the primary governing body responsible for overseeing various steps/aspects.
The process generally begins when an employer applies to ESDC for the Labour Market Impact Assessment (LMIA), which effectively acts as the “green light” for recruitment—the positive LMIA is approval to hire workers through the TFWP. Often, employers will contract a recruiter/consultant to submit the paperwork for the LMIA. Once the positive LMIA is obtained from ESDC/Service Canada, the employer may recruit the number of workers for the occupation and at the wage rate stipulated by the LMIA. Once a worker is selected (often a joint effort between a recruiter and employer), the employer provides the migrant worker a copy of the LMIA to submit with an application to IRCC for a work permit. The permit stipulates the maximum length of time an individual can legally work in Canada. Recruiters/consultants can complete and submit paperwork to IRCC on behalf of migrants. Migrants then arrive at a port of entry, and the Canada Border Services Agency (CBSA) is responsible for ensuring they meet
admissibility requirements before issuing them the work permits (and for approving work permits for those TFWs allowed to apply directly at the port of entry). The CBSA has the final authority to deny entry, even if a work permit has been successfully obtained.

The federal legislation relevant to the recruitment of TFWs is the *Immigration and Refugee Protection Act* (IRPA; SC 2001, c 27). Under IRPA it is an offence to use false identity documents, counsel misrepresentation, or misrepresent. Regulations under IRPA require that anyone charging a fee to assist someone with immigration must be an “authorized representative”—a member in good standing of either 1) a provincial or territorial Law Society; 2) the Chambre des notaires du Québec; or 3) the Canadian Society of Immigration Consultants (CSIC).\(^{92}\) CSIC was established as an independent, federally incorporated not-for-profit body operating at arm’s length from the federal government, responsible for regulating the activities of immigration consultants who are members and who provide immigration advice for a fee.\(^{93}\) The CBSA is responsible for the investigation of offenses against IRPA. Once living and working in Canada, IRPA regulations govern migrant status and (jointly with provinces, in the case of the Provincial Nominee Programs) options for permanent immigration, and working conditions are regulated provincially by Employment Standards.

There are a variety of actors involved in migrant labour recruitment in Canada, including recruitment or employment agencies, immigration consultants and lawyers, in-house human resources recruiters, and to some extent educational institutions, industry associations, provincial

\(^{92}\) The regulations were amended in April 2004 to stipulate that no person who was not an “authorized representative” could, for a fee, represent, advise or consult with a person who was the subject of any proceeding or application under the IRPA.

\(^{93}\) In order to become a member of CSIC, an immigration consultant must meet certain criteria and, to maintain membership, must abide by CSIC’s rules of professional conduct and meet continuing professional development requirements. Its mandate was “to protect the consumers of immigration consulting services and ensure the competent and professional conduct of its members” (CIC 2011).
and municipal governments (e.g., hosting job fairs, conducting promotional marketing in potential source countries), and Embassies or source-country public employment agencies.

Though a number of organizations play some role, there are three primary types of third parties operating to recruit workers to Canada:

1. Employment Agencies
2. Immigration Lawyers
3. Immigration Consultants

These for-profit agents sell a range of services, from identifying and pre-screening candidates, to preparing applications and paperwork, to arranging transportation and assisting in the settlement of migrant workers. Most charge employers flat fees per worker for their services, with typical placement or file representation fees (as indicated by participants in this study) totaling $2,500 to $5,000, depending on the source country and occupation (see Appendix B for more information on the financial costs of migrant worker recruitment).

Employment agencies and their activities are governed provincially. Provincial Employment Standards codes include provisions concerning wages and stipulate that individuals cannot be directly charged for job-finding. They also govern the licensing of employment agencies. Before issuing a license, the Province must be satisfied that an agency will operate in the best interests of employers and persons seeking employment. Enforcement of Employment Standards regulations is carried out by respective provincial-level Employment Standards Branches, with a mandate of achieving compliance through both education, providing agencies with information about their obligations, as well as enforcement. Enforcement is generally complaint-driven and reactive in nature. While the Branches do conduct pro-active audits, at the

94 For more detailed information, see: www.labour.gov.bc.ca/eb/employment/welcome.htm.
time of my study respondents representing Employment Standards in BC and Manitoba indicated these were not generally carried out in relation to employment agencies.\textsuperscript{95}

Immigration lawyers and certified immigration consultants are required to meet education and competency requirements and are subject to codes of professional conduct. Immigration lawyers are regulated by the relevant Law Society. Immigration consultants (until 2011) could be certified as members of the Canadian Society of Immigration Consultants (CSIC). The CSIC was established in 2002 as a consumer protection measure in an effort to regulate the immigration consulting industry and set standards for its level of education, quality of services, and professional accountability.\textsuperscript{96} To become certified a consultant had to demonstrate English proficiency and complete a four-month course. Members paid dues and contributed to insurance funds. A formal complaints process to deal with unscrupulous or fraudulent consultants was also established. The CSIC certainly elevated the profession’s standards, but questions were raised about its effectiveness as a self-regulating organization. Also, it was only able to regulate consultants who were registered members, and thousands of unregistered or “ghost” consultants—including those whose CSIC membership had been suspended or revoked, often because of failure to pay membership fees—continued to operate (Millar 2009).

While employment agents are regulated provincially, immigration lawyers and consultants are self-regulated. They must be licensed and in good standing with their regulatory body to be considered an “authorized representative.” The only other “regulation” or formal

\textsuperscript{95} In BC there is a list of “licensed” agencies available on the website, but at the time of my study there was no formal quality or audit function conducted on a regular basis. In Manitoba agencies conducting international recruitment are governed also by \textit{The Worker Recruitment and Protection Act} (WRAPA), which I describe below in this chapter.

\textsuperscript{96} The CSIC is responsible for the education, accreditation, and professional conduct of its members and all members must contribute to a fund that compensates consumers in the case of criminal actions by CSIC members. For more information on the history and membership of the organization, see: www.csic-scci.ca.
oversight of third-party representatives may occur at the point of application through a PNP. In BC, for example, it is internal policy that once a PNP application is filed, only an “authorized representative” (based on the federal designation—a lawyer or registered immigration consultant) may act as a third-party representative. Although IRCC and some PNPs require that third-party representatives be “authorized” (and thus subject at least to the standards of their self-regulating bodies), at the time of my study Service Canada had to deal with whomever an employer designated as a representative. Service Canada contacts employers submitting LMIA applications by phone to verify the legitimacy of a job offer, but generally no further investigation (such as site visits) is carried out.97

The fact is, aside from their application for a license, oversight of most third-party recruiters is carried out through self-regulation. Their identity, good-standing status, and “legitimacy” are only checked for verification by government agents at various points of application during the labour migration cycle—specifically, at the application for a work permit (by IRCC and/or Embassy officials) and, if applicable, at the point of work permit renewal or application for permanent residency (by either IRCC or a PNP). There is little government assessment of the genuineness of an employer or job offer after a positive LMIA is delivered, and the issuing of the work permit by CIC or CBSA is generally fairly straightforward.

In an employer-driven context, the application for a LMIA from ESDC is the only point at which the focus is specifically on the employer; IRCC and CBSA are concerned more with the migrant applicant. But, as one government representative (who had previously worked in various posts in all three departments) explained to me:

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97 Note that this statement was made prior to the October 2009 announcement proposing regulations to amend the IRPA with regard to TFWs (see CIC 2009b).
Service Canada doesn’t do a search or a verification of any of the bona fides of the company. They do an assessment of the labour market for that occupation. They don’t assess the applicant to say that he’s got the skills. … Service Canada might do some kind of verification on the company, but they certainly don’t do site visits. They might do a phone call, but, not much beyond that. And then CIC will, sometimes will assume that that has all been taken care of because they gave this Labour Market Opinion. And then they will be just, you know, very straightforward issuing the work permit. … And having previously worked there, I can tell you that there’s hardly any verification done whatsoever for the job. It’s a very straightforward, “Oh, you’ve got an LMO? Here’s your work permit.”

As long as you have that paperwork. … Yeah. Not really understanding that comes with very little verification done in the first place. There’s just a disconnect between CIC and Service Canada. Oh, yeah. And CBSA. I think more, especially at CBSA, rather than the visa offices. There’s a huge disconnect there. ‘Cause I was there and giving a joint presentation about three or four months ago, and Service Canada let the immigration officers and the border officers know that they don’t verify the applicants’ skills. They’re just doing Labour Market Opinions. Everybody was shocked. Like, “You didn’t do this?” You know? “We were just issuing these work permits assuming you had done this.”

Across the board, respondents spoke to a disconnect within government—not only in terms of the schizophrenic and siloed nature of various departments, who need to share more information, but also in that they each work with a distinct mentality. A program manager within a PNP explained that, unlike IRCC (formerly CIC), their role is more facilitative, similar to that of ESDC (formerly HRSDC):

There’s—there’s a definite difference, um, the mindset for CIC at the—at the airport or CBSA now, is enforcement. So you are there to make sure that—that they’re not violating IRPA. The Act. So as long as they’re not violating it, then you can proceed to issue the work permit. With our role here, we’re more facilitative, where we’re trying to match the right person with the right—with the right job, with the right employer, and, you know, as long as we’re satisfied that that is a good match … then we leave everything else up to CIC.

Meanwhile, IRCC officials are operating on the assumption that ESDC has verified the bona fides of an employer or representative. The final authority on whether a migrant can cross into Canada rests with the CBSA official, but as several indicated to me, for them the “border” signifies “clearance”—it is in the granting of (security) clearance to cross.
In the labour recruitment cycle the LMO (now LMIA) is, effectively, a form of pre-clearance. In the context of outsourcing and very little verification along the recruitment chain, employers are contracting third parties to select workers who are, for the most part, rubberstamped across the border. In this sense, recruiters enact the border, performing as border agents in their selection and pre-screening encounters with prospective migrant workers. One recruiter who had previously worked in government affirmed that:

Once it’s already gone through HRSDC, it’s already gone through CIC, yeah. Yeah, but they don’t talk to each other. They, there is absolutely no communication between the two. … You ask HRSDC about, you know, what happens—oh, no, that’s Immigration. You ask Immigration, oh no, no, that’s the other guys. … Once HRSDC approves, it’s in the fast track immigration. … And the border agents are great. You know, those guys are all confused, but really, I mean, they’re good.

In his narrative the CBSA agents figure as “good” because they do not hold up anyone, but permit migrant entry based on the presumed clearance LMIA and work permit approvals represent. This quotation also points to the underlying issue of accountability inherent in rubberstamping. There is a deferral of sovereign power and also responsibility as each department assumes oversight is someone else’s domain (what Hennebry 2010 has called “jurisdictional fútbol”). By privatizing migrant recruitment and pushing it offshore and “prior” to engagement, the state distances itself from its own actions (or inactions). Outsourcing (or offshoring) the border becomes a form of what Snukal and Gilbert (2015) refer to as “jurisdictional othering.” They build on arguments about the excess of law—that overlapping scales of law and territorial jurisdictions are used to avoid culpability and also limit the claims of victims (e.g., Kaplan 2005; Valverde 2009). Examining the jurisdictional domain of private military security contractors, they show that “it is precisely their private status, as hired agents of
the state, which has impeded their accountability” (Snukal and Gilbert 2015, 662). Transnational contractors are (generally) not seen to be accountable to domestic law.

There are three primary points I want to highlight here. First, the primary actors involved in recruitment are largely self-regulated. There are some points at which verification checks occur but those hinge around application assessments; most encounters with third-party recruiters or immigration consultants occur at various application points (for an employment license, for LMIA approval, for a work permit/renewal, or for permanent residency). Second, after LMIA approval, recruiters effectively perform the border through the selection and hiring of workers who may be subsequently rubberstamped through the migration process. After the “first border” (or pre-clearance) encounter with a recruiter, the border then takes the form of admissibility—if the appropriate paperwork is in hand, then “clearance” to cross through the gate will be granted. If the CBSA is interested in the border as a form of “clearance,” ESDC (in the granting of a LMO/LMIA) and CIC (in providing the approval in principle for a work permit) enact the border as a form of pre-clearance. Recruiters are border agents preceding these pre-clearances; they oftentimes enact the border through a first gatekeeping encounter or pre-screening. Third, within the labour migration cycle, the applicant encounter with a recruiter is at the front-end of the recruitment process. This front-end, pre-screening moment is important in mediating an applicant’s relationship with the employer and the state. Through the outsourcing of the border, third-party recruiters effectively become a “first border” of (access to) the Canadian state in their encounter with migrant applicants, and this has cascading implications for accountability. I focus on their role in part because that first border is a moment in which extreme power inequalities—and the potential for major recruitment-related challenges—are introduced.
6.3.2 Fees, Fraud, and Crooked Consultants

While there are many challenges related to the recruitment process, two concerns emerged as primary in my fieldwork and as primary targets of state oversight of the process. The first is related to recruitment-related fees. International and human rights norms recognize that employers—not workers—should bear the cost of recruitment (ILO 2018). In Canada, it is illegal to charge workers directly for job-matching services. In many cases, however, recruiters get around this by categorizing their services as something else, such as “resume preparation.” Many of my respondents cited examples of illegal recruitment-related fees. Migrant workers I spoke with specified how much they had paid or were currently indebted to recruiters, and it was not uncommon among employers to discover that their third-party agents, unbeknownst to them, had charged migrant applicants. Fee amounts ranged from CDN $4,000 to $10,000 for the promise of six-month to two-year contracts to work in Canada. Karen, a worker from Jamaica employed by a Tim Horton’s in BC, related:

Karen: I paid the agency and then paid [to] get my own flight and stuff like that. … Well, the only thing that they did was, like, they get the job. We pay the agency. Then they tell us where we are, description of jobs, if we are qualified, qualified enough, then they say, “Okay, up to the employers.”

Sarah: So, you were just paying for them to find a job for you?
Karen: Find a job, right.
Sarah: Do you think that what you paid—the amount that you paid—was fair?
Karen: Not really because I’m not making it back. Why I’m not making it back, expectation is not here. Because I paid $4,000 U.S. to come here. I paid the agency. … But it’s, ah, it’s good. It’s good because, well, it’s better than nothing.
Sarah: Did the agency actually tell you what, what that $4,000 was going towards? Did it//
Karen: //No, no, no. We don’t—we don’t ask the agency anything. … So it doesn’t really matter to me because I’ve been doing it for like, as I say, six years. You pay the agency. They do their job. I think that’s what—that’s what they make their money from. Yeah, you pay them. They recruit people all over the world. And that’s it. It’s like a business transaction for them going through. Well, it didn’t really come to me like a news, or strange, or anything like that.
In many cases, recruiters engage in “double dipping,” charging employers legally and workers illegally for the same services. She continued:

Karen: My original owner didn’t know that we paid the agency to come here because all of us Jamaicans who are here right now working, we all paid the agency each $4,000, which our owner—which the owner of our, um, [company] did not know.

Interviewer: Your, your employer did not know that you/

Karen: No, that’s what he said. He said, ‘I didn’t know,’ because he already like paid thousands to bring us here.

She explained that there is a culture of paying fees to recruiters in Jamaica. The practice is commonplace in many sending countries and is often not illegal, or if deemed illegal, enforcement is limited (Faraday 2014). When Arnold, a Mexican-born immigration consultant recruiting workers to BC, learned he couldn’t charge workers in Canada, he explained that he “would stop recruiting out of Canada and just do the LMOs—Canadian law does not govern Mexico, so go down to Mexico and recruit. … Mexico’s constitution clearly states that no foreign government can come onto national soil and dictate, the constitution is very clear.” For this reason, in his eyes, Canadian regulations on transnational recruitment are “pretty much not enforceable.”

Many respondents—migrants and employers alike—expressed surprise at the regulation regarding fees, or did not seem bothered by the fact that they had taken out loans or borrowed large sums (often against family homes or land, and at inflated interest rates) to cover the initial recruitment-related costs and pursue overseas work. Debt bondage was just considered a necessary part of the process. In many cases, as one recruiter asserted, “if you have the money to pay, you can come into Canada.” If you cannot pay up front, agents make arrangements to garnish wages. Jim, a labour representative in the construction sector, called this a typical example of fraud and illegal fee-recovery:
In the case of [one migrant worker], we asked him, how did you find out about this job? Let’s start at square one, right? He said, well, I heard that there was a recruiter in my hometown, and that we were to go to this gas station and that we would learn about this job offer. And it was there that it was explained to them that they would have to pay $5,000 each, Canadian, and that they would have to pay their own airfare. They would pay for their own accommodation and food in Canada. Because they didn’t have the money, what they could do is sign an authorization to garnish wages. They would be paid $26 an hour. But after, you know, he arrived in Canada, I heard from him after he had been here, what, six months? And, you know, then he was getting angry, because every cheque he was still seeing these huge amounts deducted. And so this was the case that we actually walked him through the entire process. We got a new LMO, we got a new job offer from a union employer doing the same type of work—he was tying rebar. And it gave us an inside view of, you know, what work he, the immigration consultant, had been doing. Is it worth $2,000 to fill out a 3-page form? … All that money went to this recruiting agency. Now some of these recruiting agencies seem to work outside of BC too. Like, they’re in Alberta or they’re in Saskatchewan. The names of these recruiters come up again and again. … And you know, a couple of us have actually tried to track them down. And they’re not available. … The funny thing is, they, they use a reputable lawyer here to actually do the paperwork. And that lawyer, I would say, knowingly closed his eyes to what’s happening with the recruiting. The lawyer just is covered. He’s just being paid for this, for doing the paperwork. The recruiters come to him and said, I need you to do this. And he also charges a standard fee. So he becomes kind of untouchable. Standard fee, $2,500 per new one, $1,500 per renewal. And what is happening in between is there’s all that other money that’s going to these, these immigration consultants.

International labour recruitment can be big business, and reputable actors may knowingly or unknowingly act as “shields” for those who are illegally charging or otherwise mistreating workers. Another recruiter mentioned there were many “very, very unscrupulous” agents who promised work and charged money simply to enter their pool—“that’s all it was,” he explained to me, “just taking money, right? Even if the person [wouldn’t] qualify, just take the money.”

I asked respondents how they distinguished “legitimate” agents. Fees were identified as a primary (if not the primary) indicator of a recruiter’s likely legitimacy. On the one hand, if a

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98 One employer in the construction trades, reflecting on the rush to recruit migrant workers in the mid-late 2000s, commented: “What we experience[d] and saw too was, was a lot of um, shady kind of activity happening. A lot of empty promises, a lot of money being, being extracted from these people. We’ve heard of, of foreign workers paying as much as ten thousand dollars to come over here and only get, the only promise they got was that they would get some interviews. … Oh it was, it was really just criminal, Sarah.”
recruiter quoted too little—or offered to recruit workers at no cost to the employer—it was a clear sign they were (illegally) charging workers. On the other hand, some recruiters charged extremely high fees, and many employers felt gouged. There was a “sweet spot” range. If it seems too good to be true, respondents intoned, it probably meant illegal or unethical activities were occurring at some point on the recruitment chain, likely at the migrant worker’s expense.

The second primary recruitment-related challenge is misrepresentation and fraud. Recruiters may misrepresent the working conditions or skill level of a job, for example characterizing a fast-food cashier position as a higher-wage hospitality job. They may engage in contract substitution (where an alternate contract is substituted for the initial/“official” one), provide unrealistic guarantees about wages or the possibility of family reunification, or make false promises about permanent residency. Migrant workers are often the victims of recruiter fraud, and this is one of the primary reasons I embarked on this project in the first place. Yet, as I engaged in fieldwork, I realized how eager Canadian employers, particularly smaller enterprises and those in more rural or remote areas, were to share stories of their experiences with recruiters/consultants as well. Like workers, employers must rely on the integrity of the recruiter they hire. Some expressed desperation, feeling that overseas recruitment was their only labour option. After deciding to try the TFWP (often at the recommendation of an industry association or government representative), they noted a lack of guidelines related to TFWP-related recruitment and about choosing and assessing the integrity of a recruiter/consultant. I asked Jane,

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Employers and industry association representatives identified this as generally ranging $3,000–$5,000 per worker. As one employer in construction commented: “At first, the costs were extravagant. Anywhere from $4,000 a man, our expense to bring him into the country, all the way up to $12,000 per man. … I mean, we know we got toyed around with in the beginning, but we learned very quickly that the maximum should be between $3,000 and $5,000, and that was the number that we had budgeted in, to move forward after we found some of these guys [recruiters] to be trying to get eight, nine, ten thousand dollars out of us.” Note this was in 2011. See Appendix B for more detailed info on financial costs of recruitment.
a smaller employer who owned a cleaning company, about her decision to contract a recruiter and how she chose one:

Well, I would say it was through word of mouth, actually. … [Someone I know] had mentioned to me about this specific recruiter. I had looked at other options and I knew, you know, just through my own research … it’s a pretty, um, you know, confusing thing to wade, just to wade through. … And then once you’ve decided, even to figure out, determine what a recruiter really does for you, or to decide who’s a worthwhile recruiter, um, I will say that I had no idea.

Employers often felt dependent on the consultant they hired, and also suffered from recruiter fraud. They spoke of paying recruiting costs for workers who did not meet the educational or skill level stipulated or who would proceed through the interview and hiring process only to discover they were not admissible to Canada. Some complained of paying for services never rendered, and they cautioned others to approach the process with due diligence and care.

Some of the most pervasive and egregious examples of fraud are perpetrated by agents referred to in the industry, government, and the media as “ghosts.” Ghost consultants are those who collect money from migrant worker applicants or employers, only to disappear on (or “ghost”) their client. Migrants may obtain paperwork and arrive in Canada only to find there is no actual job, and sometimes no real employer. An immigration consultant operating in Western Canada mentioned that “huge numbers of chefs are being recruited from China, so-called cooks, and um, there’s companies in Canada that simply buy a Chinese restaurant or a piece of a restaurant just so they can charge huge sums to recruit chefs, right. So, they’ll, if you’re in Toronto, the going rate there is $50,000. You can do that.” With the rapid growth of the LMI industry, instances of “ghosting” or “ghost consultants” were frequently highlighted in the media. Ghost consultants were casting a shadow on the overall reputation of the industry, and
there were repeated calls by migrant advocates and industry/employer groups alike for more comprehensive regulatory oversight and legislative reforms.

In the spring of 2009, CIC initiated an information campaign to warn potential migrants of the risks of unscrupulous third-party or “ghost” agents. CIC began to post the ads pictured in Figure 4 on its website, and also included information on choosing a representative and steps that can be taken in filing a complaint. The information campaign was accompanied by IRPA reforms to “minimize the potential for TFW exploitation by employers and third-party agents,” in part through the implementation of stricter employer monitoring mechanisms with regard to the TFWP (CIC 2009b). Previously, HRSDC had no regulatory authority to monitor or enforce employer compliance with program requirements, and, according to one Service Canada representative, “We often find ourselves dealing with third parties who have repeatedly misrepresented employers because we don’t have a mechanism to refuse to deal with them.”

Among other changes, the amendments:

1) Established a set of factors to guide the assessment of the genuineness of an employer’s job offer, one being a history of compliance with federal or provincial laws;

2) Imposed a denial of service to employers found in non-compliance—deeming them ineligible to access the TFWP for a period of two years and publishing their names on the IRCC website; and

3) “Emphasized the temporary nature” of the TFWP by imposing time limits on migrant worker contracts, limiting them to four years, after which the individual is not authorized to work in Canada for four years.

Website warnings may prevent some misrepresentation/fraud, but the regulations do little to penalize employers or recruiters who are, for example, making false job offers. Imposing a two-

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year denial of service on employers was a low-cost response that critics found arbitrary and inadequate. Critics also noted the imbalance between a two-year ban from the program for employers, and a four-year ban from admission to Canada for all migrant workers in low-wage jobs. Not only did the regulations fail to put in place measures that take responsibility for the growth of the TFWP and corresponding abuse many migrant workers face. They in fact shift the punitive onus onto workers themselves, placing the burden on migrant workers to avoid entering or extending employment agreements with “disingenuous employers,” punishing workers for their employers’ failings (see, e.g., CLC 2010; Zell 2009).

Figure 4: Ads Warning About Recruiters

Source: IRCC (2015)

101 There are exemptions for particular workers and as pursuant to international agreements. It can be argued that, in effect, the four-and-four rule creates a revolving door for flexible labour, whereby employers can hire migrant workers who will be replaced every four years. Researchers and advocates worry this rule will further entrench the vulnerability of TFWs by making them even more “disposable” and dependent on their employers. (Zell and Marcelino 2015).
These changes were followed in 2011 an Act to Amend the Immigration and Refugee Protection Act (SC 2011, c 8)—originally and commonly referred to by the sensational name The Cracking Down on Crooked Consultants Act. Despite the creation of CSIC in 2004, problems involving immigration consultants charging job placement fees or defrauding migrants persisted. A House committee studied the recruitment and immigration consultant industry and noted a number of governance-related issues at CSIC. Its board of directors was not accountable to anyone, decision-making within the organization lacked transparency, and there were questions about education and industry standards. CSIC was never given the power to seek judicial enforcement of the disciplinary measures it imposed on members. The committee was also concerned about the issue of ghost consultants, defined as those who advise or represent individuals in immigration cases without being an “authorized representative,” including those operating abroad.

The 2011 Act amended IRPA, making it an offence “for anyone other than an authorized representative to conduct business, for a fee or other consideration, at any stage of an application or proceeding” (CIC 2011). This criminalized unregistered or ghost consultants and widened the scope of existing legislation by making it illegal for anyone unregulated to charge a fee for immigration-related advice, including pre-submission. This makes it possible to take action, in the event of an offence, against all forms of representation and advice at any stage whatsoever, including prior to the filing of an application. The Act reconstituted CSIC as the Immigration Consultants of Canada Regulatory Council (ICCRC). The Council was restructured to function similar to a provincial Law Society, and given a mandate to “go after rogue members among its own” (Nasrallah 2010). It can report suspected unauthorized representatives to the Royal Canadian Mounted Police (RCMP) or CBSA for further investigation and law enforcement. The
ICCRC maintains on its website a list of active Regulated Canadian Immigration Consultants, as well as those who currently face or previously were the subject of disciplinary action. The Act also increased penalties for offences (fines and imprisonment) and allows for information-sharing relating to professional or ethical conduct between bodies responsible for regulating conduct (e.g., the Law Society, ICCRC) and authorities responsible for investigating it (e.g., CIC, the RCMP, the CBSA).

While the IRPA amendments increased regulation, without comprehensive and proactive enforcement, as one Member of Parliament put it, the law “would not be worth the paper it is written on” (Chow 2010). Currently, the ICCRC is responsible for regulating over 4,200 consultants in Canada and abroad. Ultimately, monitoring and enforcement remains predominantly complaint-driven. Some respondents were skeptical the changes would have much impact, dismissing them as a re-branding exercise. As of March 31, 2016, since its inception the regulatory body had received 2,585 complaints, 319 (12%) of which remained open and unresolved, and 669 (26%) of which involved alleged unauthorized non-members and were referred to the CBSA or RCMP. While internal records show that CBSA has received several hundred complaints about suspected illegal immigration-consulting operations, it has opened only a few dozen investigations. According to a statement released by the agency, “The CBSA sets priorities and focuses criminal investigations on cases that are likely to have the greatest impact, for example large-scale fraudulent operations” (Quan 2016).

The ICCRC can only regulate those consultants who are members. There are still thousands of unregistered consultants who continue to operate outside the law by not signing paperwork or by operating abroad. Authorities do not have the capacity or resources to investigate every complaint. Even as the ICCRC website states that “individuals providing
Canadian immigration/citizenship services abroad are subject to Canadian law even if they reside outside of Canada,” it is widely recognized that Canadian authorities have limited ability to enforce regulations on those operating offshore. “How do we monitor these consultants?” the Minister of Citizenship, Immigration and Multiculturalism, Hon. Jason Kenney, asked rhetorically during debate in the House. “We identify whether they are registered by going to the [ICCRC] website and seeing if they are a member in good standing. What typically happens is that the larger consultancies in Canada, the more legitimate ones, will establish offices in our major immigration source countries and have them register and become members of the regulatory body. The problem is that most of the consulting and representational work done abroad is done by ghost consultants” (Kenney 2010a). The government’s primary response has been to provide more information to prospective migrants. Hon. Jason Kenney at the time, met with officials in primary sending countries, particularly China, India, and the Philippines, to promote cooperation on the issue and urge increased local enforcement. The concern was that “crooked immigration consultants pose a threat not only to their victims, but also to the integrity of our immigration system” (2010b).

At the end of the day, the regulatory framework still places the largest burden of risk on workers rather than employers or, for that matter, the state itself. It is the responsibility of applicants to check the IRCC and ICCRC websites to verify a prospective employer or third-party agent is authorized. This presumes applicants have access and the ability to navigate the internet. The notice about fraud on the IRCC website stresses that prospective candidates “find out how to immigrate the right way,” and migrants are the ones punished if they end up in a fraudulent or abusive relationship vis-à-vis an employer or recruiter/consultant. Some third parties are not competent or qualified to provide the advice they dispense, and some exploit
migrants by providing false information or engaging in fraud. The consequences for prospective immigrants can be severe, ranging from rejected asylum applications to penalties for misrepresentation, such as fines, imprisonment, or being barred from entry to Canada.

Some provincial governments have adopted legislation specifically aimed at regulating the recruitment industry and protecting migrant workers. Manitoba was the first; The Worker Recruitment and Protection Act or WRAPA (CCSM, c W197; SM 2008, c 23) came into effect in April 2009 (Allan 2009). The Act expands employment standards coverage and enforcement capacity. WRAPA requires anyone engaging in foreign recruitment to hold a license, be a registered consultant or member of a Law Society, and provide a $10,000 irrevocable security deposit, which can be used to reimburse migrant workers. Licensed recruiters are listed in a public registry, which is updated regularly and available on the Province’s website (Figure 5). Most importantly, employers are held jointly liable for the actions of third-party agents they contract.

WRAPA also requires that employers register with Employment Standards before they can engage in TFW recruitment, a stipulation aimed at ensuring that employers have a good history of compliance with labour laws.102 Registration must be renewed annually, which ensures ongoing supervision. Employers and recruiters both are required to keep detailed records of recruitment-related activities, which must be made available for inspection by Employment Standards. Prior to WRAPA, provincial bodies did not even know which companies were employing migrant workers. Having this information enables proactive monitoring, which is

102 As one licensed recruiter in Manitoba opined: “Yeah, I mean, if you have a construction company or a restaurant that has a 200% turnover a year, well, you know, um, obviously, I mean, maybe you need to get the company to register more than the recruiter, you know.”
Figure 5: Manitoba Public Registry of Individuals Licensed to Recruit Migrant Workers

<table>
<thead>
<tr>
<th>Name</th>
<th>Company</th>
<th>Contact Information</th>
<th>Licence Expiry Date</th>
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<tbody>
<tr>
<td>D. Gordon Gregg Badger, LLB</td>
<td>Ronald A Graham Ltd</td>
<td><a href="mailto:gbadger@richardson.com">gbadger@richardson.com</a></td>
<td>January 3, 2015</td>
</tr>
<tr>
<td>Galia Castillo, ICCRC</td>
<td>Workforce International Workforce Solutions Inc</td>
<td>416-640-6570; <a href="mailto:galia@richardson.ca">galia@richardson.ca</a></td>
<td>January 7, 2015</td>
</tr>
<tr>
<td>Li Crapa, ICCRC</td>
<td>Labour Solutions</td>
<td><a href="mailto:li@lcpatra.ca">li@lcpatra.ca</a></td>
<td>October 12, 2014</td>
</tr>
<tr>
<td>Teruel A. Canessa, LLB</td>
<td>McIntosh Law Office LLP</td>
<td><a href="mailto:teruel@mcintoshlaw.com">teruel@mcintoshlaw.com</a></td>
<td>June 6, 2015</td>
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<tr>
<td>David H. Davis, B.A., LLB</td>
<td>Corporate Migration Ventures Inc</td>
<td><a href="mailto:davis@cmvgroup.com">davis@cmvgroup.com</a>; cmvgroup.com</td>
<td>September 20, 2015</td>
</tr>
<tr>
<td>Nina Dohmann, ICCRC</td>
<td>Constructive Solutions Inc</td>
<td><a href="mailto:galo@workvantage.ca">galo@workvantage.ca</a>; workvantage.ca</td>
<td>June 17, 2015</td>
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<tr>
<td>G.K. Goldberg, ICCRC</td>
<td>CDWISA Advisors Inc</td>
<td><a href="mailto:frank@cdwisa.com">frank@cdwisa.com</a>; cdwisa.com</td>
<td>July 19, 2015</td>
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<tr>
<td>Carman Gosselin</td>
<td>Maxpower</td>
<td><a href="mailto:carman@gosselin.com">carman@gosselin.com</a>; maxpower.com</td>
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<tr>
<td>Benjamin Guth, ICCRC</td>
<td>Greenlaw Global Recruitment Group Inc</td>
<td><a href="mailto:benjamin@greenlawglobal.com">benjamin@greenlawglobal.com</a></td>
<td>June 28, 2015</td>
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<tr>
<td>Anika Hemstreet</td>
<td>Immigrate Immigration &amp; Consulting Services</td>
<td>306-776-8641; <a href="mailto:admin@immigrate.ca">admin@immigrate.ca</a></td>
<td>May 27, 2015</td>
</tr>
<tr>
<td>Jacobus Kriel, ICCRC</td>
<td>Matrivisa Inc</td>
<td><a href="mailto:jacobus@matrivisa.com">jacobus@matrivisa.com</a></td>
<td>November 27, 2014</td>
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Updated: September 23, 2014

Employment Standards has the authority to revoke a Licence so please consult this page regularly

carried out by the Employment Standards Special Investigation Unit (SIU). In practice, they rely heavily on engagement with front-line settlement workers and advocacy groups for tips on
potential violations. Both the manager of the SIU and labour organizers I spoke with in Manitoba confirm that proactive recruiter licensing has virtually eliminated exploitative recruiters from operating in the province (see also Faraday 2014). One recruiter based in Manitoba told me that, post-WRAPA, he was more careful about his involvement with international recruiting networks. He dismantled his network of recruiters in South America because he discovered they were charging workers and was concerned about his liability under the Act.

Several employers and industry association representatives in other provinces (which did not have similar measures in place at the time) mentioned that they would support similar regulations. One said:

I’m not proud of some of the stories I’ve heard from employers either, you know, and we just shame them to bits … ‘cause you’re wreckin’ it for everybody else’ … Having them regulated would protect this foreign worker from being exploited or the system from being exploited, that would also protect our employers from doing stupid things—things they don’t know that they shouldn’t be doing.

Through the registration process, Employment Standards officials meet with prospective employers to provide education on illegal or exploitative practices that can occur in transnational recruitment, increasing employers’ own awareness and vigilance. Even though WRAPA added a layer of bureaucracy to the process, employers I spoke with in Manitoba indicated they were pleased with the online application process and turnaround times for paperwork (which were generally within a week of submission).

Everyone in my study supported the spirit of the legislation. However, respondents also mentioned a number of concerns related to WRAPA. For one, many noted that the $10,000 bond would not prevent an unscrupulous recruiter from taking money from workers; they would simply transfer this additional cost of doing business to the recruited worker. “If I am doing it because I feel I can make buckets of money, then I’ll pay the $10,000 and, you know, I’ll recoup
it somehow in my fees,” one consultant said. Having the bond in place, however, does ensure there is an available fund for the repayment of fees. Also, uncertain how WRAPA would be implemented and with what effect on their business, many recruiters I spoke with who were based elsewhere in Canada have chosen not to obtain a license in Manitoba. They cited concerns about posting a bond and about the added bureaucracy and paperwork. Some have discontinued their placement of workers in Manitoba. “After they brought in that new law,” one said, “from my perspective it means I’m not gonna be placing any youth addiction workers in Manitoba. Why are they stopping me from helping them fill their labour needs?” One Manitoba-based employer had a well-established relationship with a recruiter based in BC—with both seemingly doing everything “by the book.” The recruiter did not apply for a license in Manitoba, forcing the employer to choose to go with one of the few licensed recruiters in the province or to continue to recruit “underground” with their trusted, but unlicensed, agent. The regulation may push recruiters to operate outside the jurisdiction of the legislation, either outside Manitoba or Canada. This kind of licensing regime would work better, many consultants agreed, if it were expanded uniformly across the country. As one licensed Manitoba recruiter commented: “So if it’s regulated here, then if they can’t do it here they’ll go to Saskatchewan, because Saskatchewan doesn’t have the legislation, or they’ll go to Alberta, BC.”

Recruitment is a transnational activity, though, and several employers expressed concern about the extent to which they will be held accountable for actions—that may be taken on their behalf—outside Canada. In certain sending country contexts it is required that an employer or Canadian-based recruiter work with a local agency—in the Philippines, for example, with an
agency licensed by the government’s Philippine Overseas Employment Administration (POEA; Agunias 2008). One BC-based lawyer-recruiter provided the following scenario:

So, you hire a consultant in Manila, based on the Philippine government’s recommendation, and you say, “You cannot charge the client for that. We’ll pay you $1,500 to refer people to us, but you cannot charge.” And so you get a contract, and they’ll charge you. And you as a company, whether it’s Maple Leaf or whether it’s Joe’s Welding Shop, believe that they’re not [charging the workers]. …The [migrant] shows up here in Manitoba, and they say—and I’d say the chances of this happening are very high—they say, “I had to pay the Philippine recruiter $10,000.” Where does that leave the company?

Since Manitoba implemented WRAPA, several provinces have adopted similar legislation. Without going into too much detail here, I want to highlight that some provinces go a bit farther than WRAPA, requiring that licensed recruiters also disclose information on their entire supply chain—including “all of his or her partners, affiliates, or agents located or operating inside or outside” of the province. This provision recognizes both that recruitment is a transnational phenomenon and that cross-jurisdictional collaboration is necessary within Canada. Meaningful enforcement of WRAPA or similar regulations at the provincial and national level needs to be comprehensive, coordinated, and involve all relevant provincial and federal agencies. Holding employers and recruiters liable for the activities of those they contract enhances accountability and the possibility for remedies at all stages along the recruitment chain. It allows for what Faraday (2014) refers to as “leveraging the government”—that by grounding legislation in at

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103 See: www.poea.gov.ph.
104 These various regulatory regimes are described in some detail in Faraday (2014). Nova Scotia amended its Labour Standards Code (RSNS 2011, c 19, s 21) in 2011 to include mandatory licensing and registration. In 2013, Saskatchewan enacted the Foreign Worker Recruitment and Immigration Services Act (SS 2013, c F-18.1; FWRISA). New Brunswick adopted An Act to Amend the Employment Standards Act (SNB 2014, c E-7.2), which introduced a system of proactive employer registration. The BC Employment Standards Coalition released model legislation for migrant-worker recruitment protection that builds on the Manitoba model, and on November 8, 2018, Bill 48, Temporary Foreign Worker Protection Act (3rd Sess, 41st Parl, BC, 2018) received Royal Assent in BC. The Act aims to provide additional protection for migrant workers by including a complaint process and employer and recruiter registry.
least one end of a cross-jurisdictional or transnational process, liability can to some extent be stretched along that chain.\textsuperscript{105}

The Manitoba model enables the provincial and federal jurisdictions to work together in a more integrated way to provide front-end protection against migrant worker abuse.\textsuperscript{106} The regulations are a definite step forward in expanding monitoring, and proactive enforcement contributes to building a culture of public responsibility for the activities of recruiters and treatment of migrant workers. However, in practice these approaches are still largely complaint-driven, and they do not comprehensively address enforcement in other jurisdictions. They are, however, much more active than the federal government’s passive approach of merely providing more education, information, and warnings to migrants.

Challenges related to illegal fees, fraud, and ghost consultants persist. Fraud is cited as a major threat that undermines the system itself—it makes “crooked” the otherwise straightforward functioning of the migrant work system. The overall regulatory framework responsibilizes workers while allowing the nation-state to bear minimal responsibility. Migrants and employers are warned against the possibility of fraud; however, they are still left to discern for themselves whether a recruiter is “legitimate,” and they are urged to practice due diligence in selecting and contracting an agent to represent them. Even with increased education and regulatory reforms, most recruiters/consultants are left to their own devices, and “crooked” or “ghost” consultants continue to operate. Moreover, the fact that an immigration consultant,

\textsuperscript{105} Even where strong proactive provincial legislation exists, bilateral agreements with origin countries can strengthen integrity of the recruitment and migration process.
\textsuperscript{106} As Faraday (2014) points out, the collaboration between Manitoba and the federal government, which has agreed not to process a Manitoba employer’s application for an LMIA until they register with the province, suggests that it is entirely possible for the federal government to implement similar employer preconditions for engagement in transnational recruitment.
lawyer, or employment agency holds a certification or valid employment license does not
guarantee they will abide by their regulatory body’s professional standards or federal or
provincial regulations. The next section examines ways these actors, in a field riddled with
unscrupulous actors and activities, distinguish themselves as (more) “legitimate.”

6.4 Legitimation as Recognition in the Eyes of the State

How do employers discern which agent to contract? And in an industry plagued by unscrupulous
actors and unethical practices, how do recruiters legitimize themselves not just to employers, but
such that they become authorized in the eyes of the state? The remainder of this chapter focuses
on how these third-party actors come to be recognized as legitimate—how they are “authorized”
such that they have the authority to make front-end bordering decisions, which are then
rubberstamped along the labour migration chain. They come to be legitimated as petty
sovereigns through professionalization and the production of expertise, and through recognition
achieved through time and trust.

6.4.1 Ontological Legitimacy

I previously conducted research on the migration industry, and while my focus was an entirely
legal guestworker program, at one point I was receiving late-night phone calls from “travel
agents” likely engaged in smuggling operations. I am well aware that the activities of recruiters
can skate the line through legal grey areas, where facilitating the movement of migrant workers
blurs into smuggling, and even trafficking. In part because of my previous experiences, and also
because of stories circulating among migrant advocates and in the media, a view of recruiters as
inherently “shady” characters persisted in the back of the mind, haunting my fieldwork for this project.

Recruiters often engaged with me from a defensive posture, as if needing to prove themselves. The first way they did so was through an appeal to their very necessity. They consistently reiterated the fact that they were merely facilitators working within the system, providing a much-needed professional service and helping their clients navigate the migration process. One human resources manager in the hospitality sector had been trying to recruit cooks to work at a resort, starting in the mid-2000s, and explained that after several years she understood the process “generally now… and then we went into the E-LMO, so that, that was all new learning, and we fumbled a bit, it was refused a couple of times, and finally got it right with some phone calls, so I wouldn’t say it’s smooth. It’s not difficult, it’s just cumbersome because it’s done for me off the corner of the desk. I don’t see myself as an immigration person.” As their labour demand became more acute and the process took more of her time, she turned to a consultant—someone who was “an immigration person”—for outside help. It takes time to develop knowledge of the programs and simply to keep up with necessary paperwork. For example, an HR representative with a company recruiting service workers from the Philippines commented:

Linda: I mean, my time is incredibly tied up with this. … We try to be as hands on as possible, but at the same time I don’t have the time to go through all the paperwork. Like we don’t even go through the—like I do the red tape for the LMOs and the WRAPA and everything else, but I don’t even start to go through, like the Philippine government has their own, I think it’s PO—

Sarah: The POEA [Philippine Overseas Employment Administration]?

Linda: Yeah, they’ve got all that, and I mean it’s ridiculous the amount of paperwork for one worker. … I guess if you were—a lot, like some of the larger construction companies that are bringing over, you know, 200 workers, it’s a different situation, because if you’re going to go through the paperwork, you know, you’re going to be devoting that much time to it anyway. … But it’s a lot more
paperwork, and it has to renew all the time, which is sort of—like now when I send a fax for a Labour Market Opinion it’s usually fifty pages. … Yeah, and all the WRAPA stuff that I got for the LMOs that I have open expires right away, and then I have to do it all again, so. … It’s pretty, like they try, I don’t want to—um, Employment Standards has been wonderful for us. I mean, the turnaround time is good. You can submit your form online. … but all the Labour Market Opinion rules changed, and I guess I might be confusing who’s responsible for what.

A lack of familiarity with source-country training systems and regulatory nuances further complicates the process of identifying, pre-screening, and obtaining appropriate paperwork for potential candidates. Some argue that the complexity of the policies and program processes and associated confusion increases worker (and small employer) dependency, advantaging larger employers and industry sectors that are better resourced and have the capacity to develop in-house expertise (and which likely participated in lobbying for policy openings in the TFWP).

Employers indicated that one of the biggest problems with the process was an inability to connect with the appropriate person in government to clarify the application process. Larger companies had developed a “well-oiled machine,” but “there is a ticking clock once the process is started” and smaller employers as well as community economic development or immigrant service representatives indicated that the government, particularly at the federal level, was like “never never land,” slow to respond to requests for clarification or for exceptions (in one case, a worker had lived in multiple countries and needed security clearances from six countries, and the employer was requesting more time to obtain those documents). The head of one smaller construction company complained on behalf of his workers: “The immigration process itself is (laughing) just so complicated, contradictory, and talking to one government agent to the next you can’t get a straight answer and these people were just, it was mind-boggling how, and embarrassing as a Canadian, just how many dead ends these people [migrant workers] had to hit
before they got through.” The system is complex, and there seemed to be a lack of centralized understanding or a single-desk option to communicate with government officials responsible for the program.

Reinforcing this, the TFWP and federal and provincial policies related to temporary labour migration were constantly changing during the period of my study, to the extent that some were calling it “government by surprise.” In her discussion of experts in the international development field, Kothari (2005) notes they confirm the legitimacy of their role by claiming to possess the latest and most advanced, technical knowledge. In a fast and frequently-shifting policy landscape, recruiters/consultants position themselves as the only specialists able to keep up and as “legitimate” because they provide a service that addresses a constructed need for their specialized knowledge, not only among prospective migrants and employers, but also by the wider system to ensure its smooth operation. “Sometimes what [employers] do, they promote someone from within with a type of human resources [background] or whatever, no training, and sometimes no ethical value. … So we,” one immigration consultant recruiter told me, act as “an aid, not only for the employer, but also for Service Canada, so that the process goes smoother and [more] transparent.” The complex, multi-layered, and mercurial nature of the policy and program context set the stage for the rise of LMIs. Their presence is explained as rational and necessary because of their indispensability in a “turbulent” world. The conditions of their emergence contribute both to their legitimacy and to the (self-reinforcing) development of their specific expertise, which I discuss in the next section.

107 One employer, reflecting on the changes, said: “Yeah, they changed the whole program, then they kept changing it every few weeks; oh, it’s not like this now, it’s back to the old way. And just before everything, oh, we’re going to become more efficient; we guarantee within two weeks to have a reply. … Yeah, that’s the bible, is that website. And as I said, between January and March you had to read it every day, because they were changing, they were flip-flopping. Oh, it’s the old way now; oh, it’s this – oh, that’s the old form, this is the new form. Just stunning.”
6.4.2 Professionalization and Production of Expert Knowledge

I asked everyone I interviewed for advice on how to choose a recruiter/consultant and across the board the first recommendation was to check someone’s license (as an employment agency or registered consultant), and “you have to check the website”— there are many unregistered consultants who continue to display their license, though it may have been revoked. Also, many clients “don’t know what’s the Law Society from, you know, Doctor Seuss. They know nothing, so contacting the Law Society, that could be my brother-in-law that they’re calling,” one recruiter told me. Asking for references or verifying a lawyer or consultant’s standing through word of mouth is thus also important. Recognition as a member of a self-regulating professional body is a first-step, primarily because it rules out any agents who have been found in non-compliance.

Beyond professional standing, how should employers identify competent “immigration people”? Sheila, a BC-based consultant, recommended the following:

Well, to answer your question there are, there are always going to be those consultants, and yes they’re going to charge you less money, but, at the same time, we are, uh, when somebody comes to me, they’ve already checked me out on the CSIC [website] because I asked them to do that, make sure if you’re going to work with a consultant, make sure they’re in good standing and their name appears on their website and make sure that they’re ethical, make sure you talk to other people, do some research before you actually appoint a consultant. “Why should I appoint a consultant?” a lot of people say. Well, would you like to go and represent yourself in, in the court of law? … Most of the time, you cannot … and I’m not authorized to do that. … You know, my basic philosophy with a client is just keep their eyes open, make sure they’re aware of all the risks that are involved, and let them choose the risks that they want to take.

Both Law Societies and ICCRC promote the ongoing professional development of their members. However, the level of competency varies. For one, they develop specialized knowledge, for example with certain immigration programs, categories, or industry sectors. In addition, as my respondents and fieldwork highlighted, not all educational programs are created
equal. As Sheila acknowledged, consultants cannot engage in a legal challenge or appeal a decision in court. Many recruitment firms, for this reason, will employ one lawyer as well as someone who specializes in recruitment and/or application paperwork. Nathan, a lawyer-recruiter in BC, “could go on and on” about “consultants versus lawyers”; he was eager to assert that “basically, the lawyers are much higher qualified, have much more invested in their careers, and we have much broader knowledge about how things work, and probably most importantly, we are able to challenge the decisions of these authorities. Consultants aren’t able to do that, so they just sit there and go, ‘Oh is that the rule? Oh is that the way it has to be?’ And they’re very passive. We challenge, … we’re trained, that’s why we became lawyers, we challenge authority.” Lawyers not only respond to but can contribute to reforming law. They are able to (re)insert the rule of law, and this holds potential for the protection of migrants made vulnerable through the TFWP and its employer-tied and outsourced recruitment framework. However, they also assert and reinforce the existing legal framework. Nathanson shared an example of one of his clients—a company that had a complaint lodged against it and for that reason had not received approval to nominate a worker through the PNP:

The government said, “Based on the fact that you had some complaint, you had some Employment Standards complaint lodged against you, in the past—they haven’t been verified, whether there were any valid complaints, but you had complaints against you, so we are not going to approve the Provincial Nominee Program uh, application. We’re not going to approve anything from you.” This was a big employer, I can’t [divulge because of] confide-, but it’s a big, it’s a big employer with lots of workers, over a hundred and fifty workers. “Yes we, of course we’ve got complaints, who, you know, what employer doesn’t have complaints, but none of them have been, none of them have ever been established as being valid complaints against us. So, you’re punishing us for that?” I mean, that doesn’t seem fair. … An employer will come to us when they get refused.

108 This is similar to what Kothari (2005) finds, that there is little danger of them challenging neoliberal hegemony because they in fact sustain and reinforce it.
Another lawyer operating a recruitment agency in BC confirmed that “most recruiting agencies work primarily for the employer,” and one advantage of hiring a lawyer (as opposed to a consultant) is that they lend a certain degree of confidence:

[Employers] think it’s a shady, something shady is going on. They think they’re doing something wrong by offering a job to a foreigner. And I have to explain to them, it helps that I’m a lawyer because they feel some confidence that they’re not just talking to some anybody who has, could be telling them something just to make money, kind of thing, it’s a little different when you’re, when you’re a lawyer. So, I explain to them the process, I assure them it’s nothing shady going on, that it’s a perfectly legal process that you’re going through.

Some respondents suggest that lawyers can be inherently trusted because they have more to lose, but government representatives commented they did not notice an essential distinction. “I really don’t know what to tell an employer,” one told me, sighing resignedly. “Other than, ‘Go to the website and make sure they’re licensed.’ There’s just so many consultants out there. So many. And I’m not sure that, … whether to go with a lawyer or consultant, I’m not sure it makes a difference, essentially. … I know some lawyers—there’s a couple that deal with our office that are just worse than some of the worst consultants out there. They’re just very careful. They know how to protect themselves.”

The government requires that recruiters/third parties representing clients on applications must be legally defined “authorized representatives.” If, as one recruiter put it, there are “so, so many wannabees” out there, beyond the licensing or certification indicating professionalism, how do employers and government bureaucrats discern legitimacy? One government representative responded: “Well, that’s kind of a difficulty for us because we know that they’re involved in shady practices, but they’re still a licensed consultant. It hasn’t been revoked, so we have to review the application. We just review it extremely closely. And look for any reason to, you know, anything that’s out of the ordinary.” From the perspective of a civil servant reviewing
an application, a representative is “authorized” by their professional status. Verification of that authorization to represent is mediated through the assessment and approval of a client’s application.

6.4.3 The Application as Site/Technology of Bordering

The authorization and recognition of recruiters/consultants as experts is based not only on their institutionalization as professionals, but also on their specialized technical knowledge. Well-established consultants who had long worked in the sector noted a shift as the policy landscape changed, and with the imposition of CSIC and ICCRC, in which technical know-how became as important as in-depth geographic or sector-specific knowledge. Applications—especially for the LMIA—became a key site and technology of the bordering process. Applications are a form of performance to the state, and their approval stands as evidence of legitimation in the eyes of the state.

What to include and how to present oneself in an application increasingly became the focus of immigration specialists—whose assistance, according to respondents, increases the likelihood of approval. As one lawyer-recruiter explained, “the majority of people, estimated at least 80%, that apply on their own are rejected because they don’t know how to present the case, how to, what documents in their own specific situation. … This is one time you need a lawyer if you really want to make it.” Over time, recruiters develop specialized knowledge about what to include and how to present it in an application. They are well aware of the content and extent of advertising expected before an employer can apply for the LMIA. One smaller employer faced multiple rejections before she hired a recruiter, who massaged her advertisement and posted it to the Canadian Job Bank. Once posted, she realized that “people can pick out exactly what, people
that are obviously looking to get—to apply for an LMO because of the things you have to specify in the job ad, in that occupational code. I think it’s quite telling which ones doing that just so that they can fulfill the requirements of the LMO application.” A BC-based recruiter said that:

Through the experience and the work that we’ve done, and some of the advocacy with Service Canada and things, we know, better than the employer would, specifically what Service Canada might be looking for. So, to save them from potential rejections or pitfalls on the Labour Market Opinion. And because we also act as the contact with Service Canada, again, it saves the employers time, unless you’re talking about large hotels. The time it actually takes to get a Labour Market Opinion approved—the paperwork and getting through and doing all the follow-up—is significant.

In fact, many respondents from the government, especially at Service Canada, Embassies, and in the PNP, indicated that applications submitted by third parties are generally “cleaner” and more complete than those from ‘independent’ applicants. Those without professional assistance often require additional documentation and much more follow-up. IRCC officials (CIC at the time) at the Mexican Embassy even hosted workshops to provide guidance about submitting applications:

   We invited, I think it was about a half a dozen or so, maybe there was a few more people, recruiters who are here who we see often, who we see submitting applications often, and what we hope to do is probably meet with some of these people about every six months. It gives them an opportunity to be familiar with our processes and know what our expectations are.

A high-level Mexican government official reflected that, in her opinion, the Canadian Embassy’s “information sessions” for recruiters are largely to ease their process. Though Kuus (2014) examines a different empirical case, her assessment of foreign policy institutions fits the case here (of departments reviewing applications). The Embassy, as a typically opaque and inaccessible, closed-door office was opened up to recruiters/consultants to teach them how to perform within operational norms—how to get applications approved. Both recruiters and state
agents assessing applications are interested in building a relationship, to build familiarity and trust and ultimately make the process more efficient.

Many recruiters had established relationships with government representatives, because of the length of time they had worked in the sector. I was surprised, though, just how many had personal connections because of their own previous experience working in government. Many had retired from public service to become consultants.\textsuperscript{109} In other cases, the recruitment agency employed or sub-contracted ex-government officials. A mid-sized agency based in Western Canada employed a Canadian Ambassador who had retired. “He works for our company,” the agent told me, and “when he goes to the Philippines, he talks to a higher level than anybody is able to. So, he would talk with the Canadian Embassy—the Canadian Ambassador—and find out who, who are the reputable players.” Knowing what to present, how, and to whom, is insider knowledge recruiters/consultants can offer their clients. Bob had previously worked in the provincial government, and working as a recruiter and consultant now boasted that he knew the laws better than those enforcing them—because he had written the policy!\textsuperscript{110} He knew which issues would warrant follow-up or enforcement and which you could let slide. He also knew about perfectly legal “loopholes” to expedite application processing. He knows the process, what is expected in an application, and what’s more, he personally knows which are the more amenable border officials.

\textsuperscript{109} It was common to hear of these transitions. These actors have specialized information and networks of influence. Retired and ex-state, now private-sector, for-profit actors are among “embodied actors who knowingly create careers for themselves through and against broader political economic processes and national imaginaries”; they carry their expertise as they move between public, private, and third-sector organizations and across scales through local, national, and international institutions (Larner and Laurie 2010).

\textsuperscript{110} He said: “When I point the finger at the government, remember, I’m pointing four back at myself, because I used to sit in that area, and make those policies.”
Recruiters/consultants are identified as professionals and experts not solely because of the extent and form of their knowledge, but also because of who they are and how they came to possess their knowledge (Kothari 2005); their previous experience in the government legitimizes and authorizes their interventions. Another recruiter explained that he had met with Service Canada on multiple occasions, to “explain … we are here to help, to make the process, uh, better. And we abide by your rules. We are not trying to change the law, on the contrary.” Though there is the potential for recruiter-lawyers to challenge the system, recruiters and consultants acting as authorized representatives are not generally doing so; rather, they are interested in working within the rules to meet the minimum expectations of applications, to facilitate approval for their clients.

One representative from a PNP office, whom I will call Gary, had extensive lived experience of the application review process, having worked previously for CIC in an Embassy and in an airport for the CBSA. He outlined the process, with regard to assessing the legitimacy of a third-party representative:

Gary: First, we go to the websites for each of those organizations. So there’s a Law Society website where you can look up somebody’s membership number, and there’s also, ah, the CSIC website, which [lists] those people who are, have, um, legitimate status, some who are suspended or revoked. So they have that on the website. …
Sarah: And so that’s a standard check in place, in terms of processing applications?
Gary: Yeah. It’s—we, um, when we get a consultant or a lawyer that we’re not familiar with, then we’ll look it up. If we’re familiar with them, then we won’t look it up every time. … There’s some that pop to mind where we’re, you know, very suspicious that that’s what they’re, [that recruitment is] what they’re doing. They try to hide it, um, because they’re—they may be unlicensed as a recruiter. … So we do suspect that from time to time. …
Sarah: I’m curious, when you say that there are some of them who you have a feeling are probably—you suspect are doing recruitment activities, perhaps illegally, or are at least unlicensed—how can you tell? What is the indicator to you that they might be doing that?
Gary: Well, um, you ask a good question (*laughs*). I don’t know. I think it’s just something that comes with the, um, I don’t know if it’s experience or just, you know, you’ve seen so many files and you see, start to see patterns in files with people coming from a certain area, and they all seem to be represented by the same consultant. And they seem to be working in the same field. So from different companies represented by the same consultant, but yet they’re all coming from this one city in China. Right? And so that just tells me that something’s going on there. You know, whether there’s a consultant there that’s being, that has an association with the consultant, is possible, or it’s possible that the consultant is going there directly because he’s from that country. So he’s going there doing some recruiting and then farming off these resumes to the employers here. So it’s, you know, it’s one of those things that’s really difficult to prove?

After processing many applications, patterns emerge that raise flags, where things seem out of the ordinary. This is also how “ghost consultants” are typically identified. When I asked Gary about that, he responded:

Gary: Oh, that’s our secret. (*laughs*) … The way that we identify them is, um, they will often, you know, because they want to keep control of this file, they want to make sure they get paid by the client, they will use their address, their email, their phone number, or something. Their fax number, something on the file will be theirs, not the client’s, not the employer’s. So we do Google searches for those names. We do reverse look-ups on the addresses, on the phone numbers, um, email addresses. And that’s how we tie it to them. And we maintain a list, um, I maintain a list. Call it the due diligence list.

The PNP officers check every application against their internal list. Interviews with those reviewing and making decisions on applications revealed that, in some government offices, there is a considerable degree of internal monitoring of third-party representatives at this stage.\textsuperscript{111} Officials with accumulated experience processing applications begin to note “trends” in the presentation of applications (often in wording and formatting) that may raise a flag. The

\textsuperscript{111} The extent of this monitoring depends a lot on the volume of applications received. One official indicated that previously, advisors would review and make decisions on applications, each of which would then be reviewed by a manager, but that with high volumes they would not necessarily concur with a decision, but “just sign off to make sure that their decisions has, that they’ve taken everything into consideration in making a good judgment on the application.”
“tangible thing” that marks an application “suspicious” to an IRCC or PNP officer reviewing the file is “if it’s too good—not to say the average person couldn’t prepare a proper package, but they all—they have a trademark. … There’s a certain way they, they present it, or word their letters. Even the ads. When they submit copies of the advertising they’ve done, files have, um, cookie cutter ads. So we know, then you start to question the bona fideness of the recruitment.” In such cases, they may investigate the authenticity of a consultant or employer and even conduct unannounced site visits to ensure legitimacy. However, even when they uncover unscrupulous activity, there is generally not much they can do: “I mean, it’s not something that you can in most cases pin down or publish. … And I mean, we can’t tell CSIC to remove somebody’s membership. And if they don’t have a membership or a license, then there’s nothing that they could do anyway.”

The application becomes a key site of verification of third-party agencies and their clients, and is essentially a form of risk assessment. As a pre-screened “body” that represents an applicant (who is represented by a third party), an application must be presented, and inspected, and found to be within a “zone of calculation and manageability” (Amoore 2006). Once the LMIA and work permit approvals are granted, the rest of the process is effectively rubberstamped. One government representative who reviews applications explained:

So, like, the employer will come to us and say, “I’ve got this applicant that I want to bring in.” So we try to make sure that that looks, at least on paper, like a good match. Yeah. So if we—we’re not satisfied that that person’s a good fit or something’s wrong with their experience or their background, then we would try to find a way to, to not approve the application.

The default assumption is that the employer or migrant as well as their representative, as presented on paper, is legitimate, unless explicitly found to be otherwise. The Canadian immigration consulting and recruiting industry is generally self-regulated. The government’s job
is merely to assess that LMIA and immigration applications look as they should, and the CBSA, the actual “border” official, is responsible effectively only for verifying the identity of the individual crossing the border—that the body before them corresponds to the paperwork that has already received approval in the recruitment/labour migration chain.

The extent to which an application is scrutinized is based in large part on its appearance and, in the case of third-party representatives, on whether the agent is one familiar to the reviewer. Those who have been “in the game” and are known to follow the rules are pushed through, as “trusted” individuals. There are a number of ways recruiters/consultants distinguish themselves to both employers and to state agents and bureaucrats processing applications. Those who have a reputation are seen as more invested, as having something to lose. Their reputation comes from time spent working in the sector. Describing the process of identifying a source-country agency more likely to be legitimate, a BC-based recruiter told me her primary criterion is “the longevity of the agency.” She also reviews their personnel and staffing qualifications and bases her final decision about whether to sub-contract on a gut feeling, through personal interviews with the agency owners. As much as longevity matters, agency reputations also come from the development of expertise, specialized knowledge derived from experience, guidance/training received from those reviewing applications, and familiarity—including established, personal relationships—with those agents and their expectations. They are able to get things done and play a facilitative role because of their expertise on the recruitment and application process and various programs, and because they are recognized as legitimate in the eyes of the state. This legitimacy derives from a combination of professionalization and specialized knowledge of the migration process, paperwork, and the expectations of the state.
6.5 Conclusion: Contracting out Accountability

Migrants and employers are warned against the possibility of fraud; however, they are still left to discern for themselves whether a recruiter is “legitimate.” The Mitacs internship through which I conducted research as part of this project was aimed at addressing this; the objectives were to construct a profile of third-party actors and their recruitment-related activities and to examine how employers were using those agencies and their services. In the end, the desired “deliverable” was a set of best practices, or guidelines, which could be posted on the government website to increase employer awareness about risks and responsibilities associated with hiring labour recruiters or other third-party representatives. As the research progressed, I realized that the goal, in part, was to have that information out there to reference. Following a conversation about my preliminary findings, I remember one senior-level bureaucrat responding, with a sigh that sounded almost like relief, “Oh, so it’s just an information problem.” The takeaway (and, I sensed, the outcome desired by the department—or at least that individual) was just that more education was needed. In an employer-driven context, providing more information to employers was viewed as an adequate response to address any problems (and, intentionally or otherwise, served as a means of devolving responsibility for them). My ambivalence with the research stemmed from the fact that, though raised, the project did not explicitly question underlying structural concerns with the programs or regulatory framework.

The case here is an example of a neoliberal configuration of management, of governing at a distance, which relies on the devolution of certain functions to private actors. However, the authority of the state is not lost, but enhanced and revitalized—in their role and actions as petty sovereigns, we see “the resurgence of sovereignty within the field of governmentality” (Butler 2004, 56), as recruiters/consultants become key decision-makers and pre-screening border agents
(a role I will turn to describe in more detail in the next chapter). In a context where bordering is outsourced and pushed to the front-end of the recruitment and migration chain, and, beyond an initial review, applicants are rubberstamped, recruiters operate largely as petty sovereigns. They reproduce the domain of the state, and expertise and authority are assigned to them as agents of the state, doing the work of ordering through, for example, pre-screening determinations that place prospective candidates inside or outside of potential job pools. They mediate the connection between the migrant and the state, and shape possible engagements between the two. Contracting out services does not imply a lack of state-like oversight—the state is not hollowed out; rather, it underpins (though, at a distance) the particular form of regulated ‘market’ (of temporary, migrant labour) in which new regulatory actors (the LMI industry) set rules (Peck and Tickell 2002; Birch and Siemiatycki 2015). How those rules are rolled out is a focus of the next chapter. Recruiters have some latitude to make discretionary decisions (though always, as “petty” sovereigns, in circumscribed ways; Kothari 2005).

Where decision-making happens, and by whom, is central to understanding where responsibility lies. As state power is respatialized, responsibilities are rescaled outwards and downwards to local administrations and non-state actors.\textsuperscript{112} The offloading—and offshoring—of migration management, to employers and their representatives, entails a de-responsibilization of state agencies; it acts as a shield that insulates government and administration (Martin 1998 cf Prince 2012).\textsuperscript{113} The effect is an active depoliticization of the process, which intensifies migrant

\textsuperscript{112} Valarezo (2014) has argued this is an example of a state-led neoliberal scheme of transferring control of migrant programs to non-state agencies in order to outsource social welfare responsibilities and minimize costs.

\textsuperscript{113} Further offloading, through externalization, allows the state to engage in what Snukal and Gilbert (2015) call “jurisdictional othering,” to distance itself from its own actions (or inactions). Through devolution, sovereign power—and thus risk and responsibility—is increasingly diffused and fragmented, such that “a clear and effective bond of accountability between governor and governed is lost.” Responsibility is downloaded onto local and non-
precarity and limits their ability to appeal or lay claim to the state. Third-party recruiters are mediators between applicants and the state. They are “embodied sites of power” (Kothari 2005, 431), exercising forms of control, imparting ‘expert’ knowledge, and performing as (the ‘first’) border agents.

Many respondents pointed to an inherent conflict within the state, as it has instituted these programs aimed at facilitating movement across borders and at the same time is responsible for their regulation and enforcement. One recruiter reflected, “The Province should ask itself the question of what it wants to be,” noting that it acts as both a recruiter (for example, at job fairs), marketing itself as an attractive destination, and also as the gatekeeper. Many respondents, particularly recruiters and some employers, expressed frustration with the government at having devolved much of the recruiting piece to them and then acting as a barrier. One said:

The country was populated by, you know, a long time ago, right, you bring over immigrants, give them a plot of land in Saskatchewan and said, you know, “Go make a living.” And they did. We need more of those people. We’re not going to give them a plot of land, but we need more of those people. We don’t have enough of them, and there’s worldwide competition. … And what we like to say is the Embassies and the Immigration Canada and Service Canada act more as gatekeepers rather than recruiters, and we need recruiters, not gatekeepers. We’re competing worldwide for those 30-year-old, eager, young—regardless of skill level, we’re competing worldwide for those people, and we’ve got [application adjudicators and border agents] saying, “Don’t come.” Their mentality is in the ‘70s, and this is 2000s.

This highlights the tension between a neoliberal “marketization” of the state, which entails a rethinking of the state as a market facilitator, and the assertion of the nation-state’s sovereign control over territory, and its more traditional role as regulator. However, greater regulatory

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state actors and the “national state does not have to bear directly the political costs” (Flinders 2005 and Peters 2012, cf Birch and Siemiatycki 2015, 189).

114 “The mastery of border risks by governments and their business partners, then, is undertaken on the back of risk displacement—the reallocation and intensification of uncertainty for the most vulnerable groups” (Amoore 2006, 340).
oversight is in fact needed as services are outsourced to the private sector, to correct for “market failures”—to root out the “crooked” actors and practices that threaten the integrity of the system and its secure circulation (Clifton et al. 2006; Peck 2010). Enforcement by the state is largely risk management, aimed at disentangling legitimate flows, and actors, from those that would threaten the system. Having a regime of self-regulation and devolution of risk “confers a kind of safety mark upon the elements that circulate within the system: they have been checked; you can trust them” (Walters 2004, 255).

The issue of ghost consultants, who “operate in the shadows” and largely in “an enforcement vacuum,” is cited as the major issue confronting the migration recruiting/consulting profession. “We suffer added indignities,” one ICCRC executive member proclaimed, “because the public cannot easily distinguish between the good guys and the bad guys” (Quan 2016). Registered consultants I spoke with, as well as representatives of ICCRC, expressed frustration at how the actions of a few bad apples tarnish the image of the entire industry. Enforcement targets the “bad guys” and “cracking down” on them—they are used to explain why troubling things are happening, which obscures the underlying structural and power inequities that may be root causes of fraud and abuse. Focusing on those most egregious cases has the effect of masking the challenges that arise from the institutionalization of a temporary, employer-tied migration system. This approach to regulation and enforcement obscures the degree to which questionable recruitment practices are normalized as part of everyday business—these are systemic and routine abuses, within legal channels of migration. The regulatory framework, and their conferred authorization, allow “legitimate” recruiters much latitude. Provided they meet the

115 See also the case for agricultural migrant workers in the SAWP, where consumer-driven regulation of labour standards reinforces systemic inequities that, as Weiler et al. (2016) argue, maintain workers’ precarity and dampen the motivation for structural change through collective organizing.
expectations of the state’s risk assessment concerns, as petty sovereigns many engage in discretionary and often highly discriminatory gatekeeping practices, which I turn to explore in the next chapter.
Chapter 7: Bordering as Discriminating – Recruiters and the Selection and (Re)Production of Migrant Workers

“We are best described as, like, … the first eyes the company—the system—has.”

– Mexico-based recruitment agent

7.1 Introduction

As high-income states seek to tighten borders and further delineate the conditions for entry, temporary migrant worker programs have become an increasingly popular policy instrument. They allow the state to set particular parameters conditioning entry, while still providing employers access to competitive, global pools of (cheaper) labour. As Preibisch (2010) points out, these programs “are not so much about keeping people—predominantly negatively racialized migrant women and men from the global South—out of a national space, but rather circumscribing the conditions of their differential inclusion; about allowing the state to institute and legitimize different regimes of rights and benefits within the same national space” (432). While immigration is conditioned by the state, through guestworker programs it grants employers access to a flexible (or flexibilized) and competitive workforce.

In the case of temporary migrant worker programs, workers are made more contingent through immigration policy. Industry groups in Canada have a long history of lobbying government for access to non-citizen labour (Sharma 2006). Guestworker programs are one mechanism by which industries and employers under pressure through globalization can restructure labour–capital relations. Increased labour flexibility is a primary way to maintain or increase capital accumulation and labour control. Within highly competitive, globalized
markets—and particularly in sectors such as construction, agriculture, and hospitality/service that remain labour intensive and cannot easily offshore production—access to migrant labour helps employers achieve greater flexibility in their labour arrangements (Sassen 1998). Access to non-citizen labour through temporary migrant worker programs leads to intensified competition through implied worker substitution, including at the global scale and especially in low-skilled occupational sectors where workers are seen as more substitutable.

Within a context of globalization and labour market restructuring, demand for contingent workers has grown, and with the deregulation of labour markets, employers are granted a greater role in determining their admission (Martin et al. 2006; Preibisch 2010). Private recruitment agents provide (and profit from) access to global labour pools. They are often able to mobilize un- and under-employed sectors, and as labour market intermediaries (LMIs) or brokers they assist employers seeking flexible labour, and migrants crossing national borders. This chapter explores recruiters’ roles as both gatekeepers and brokers, as figures who 1) make assessments of migrants’ suitability for temporary, lower-skilled employment in Canada, and in so doing 2) perform a bordering role, one which constitutes migrant workers as particular kinds of subjects and contributes to the regulation of entry to both the labour market and the Canadian state.

At the start of this dissertation I introduced Nancy, a woman from Jamaica who has been working short-term stints in service and hospitality jobs across North America. She has jumped from contract to contract, working as a server, bartender, cleaner, and hostess, all the while sending money to her young son and ailing mother back home. At the time I interviewed her she was working as a food counter attendant at a Tim Hortons. To get her job, Nancy applied to a recruitment agency through an ad placed in her local newspaper. That agency in Jamaica was linked to another agency, based out of (she thought) Toronto, which ultimately connected her
with the Tim Horton’s franchise owner in British Columbia, who was looking for cashiers. I asked if she chose that agency based on referrals from others and she replied, “No, no, [they were just] the ones—the ones that were advertising. [You] just walk right in, and they say, ‘Okay, this is what you’re up against.’” From her perspective, the hiring process was merely a business transaction—she paid money to the agency (a common practice in Jamaica, she assured me) and they gave her the job.

However, Nancy acknowledges that a first step for her, as well as for the recruiter as a front-end screener and evaluator, is to assess “what you’re up against.” There are a whole series of screening processes that occur before an applicant like Nancy makes it past the “border” that is the recruiter’s decision to forward a candidate’s application on to an employer, and then on to Canadian officials, for approval. While many of the recruiters I interviewed argued (in some cases, passionately) that their role is exclusively one of job-matching, which plays out as a mere business transaction, their recruitment and hiring activities are in practice facilitating but also socially regulating entry to certain sectors of the (global) labour market, and to Canada. I augment the literature on this (e.g., Peck 1996; Peck and Theodore 2001; Vosko 2009; Goldring and Landolt 2013) with the case of labour market regulation at the point of entry in transnational, predominantly temporary migration, and analyze recruiters’ pre-screening and brokering processes as a form of bordering.

As laid out in my theoretical framing, the governance and regulation of migration flows across borders in the context of globalization and migration management is as much about facilitating as inhibiting mobility (Chapter 2). Borders act as walls with very material consequences, but are simultaneously (conditionally, differentially) porous—for particular kinds of subjects. In this chapter I analyze the recruiter as gatekeeper and labour broker, as a figure
who performs bordering through a discretionary and unreviewable initial screening process that plays out beyond, and before, the reach of the state. Empirically, I focus primarily on the recruitment of migrants from Mexico for lower- or semi-skilled jobs, particularly in construction and the interactive service/hospitality sectors.

As petty sovereign gatekeepers, recruiters differentiate and discriminate, filtering out those who are eligible—and desirable—for admission. In the process of deciding who is eligible they (re)produce migrant worker subjects as such. This chapter analyzes the migrant selection process and how and where decisions are made, under what parameters, and with what implications. I draw on Ong’s (1999, 2006) concept of graduated sovereignty to analyze the extent to which recruiters are operating as petty sovereigns in a zone that overlaps with other niche petty sovereignties—for example, those of Mexican or Canadian government bureaucrats—in the management of migrant selection and assessment. I provide examples of how recruiter pre-screening evaluations are performative in nature, in the sense that they are productive of particular profiles of migrant workers and contribute to regulation of entry to the (global) labour market and Canadian state.

7.2 Constructing a Labour Pool: Recruiters as Pre-screening Border Agents

Canada’s Temporary Foreign Worker Program (TFWP) is an employer-driven program, but employers in my study were outsourcing at the very least the initial labour pool selection, though in many cases the entire recruitment and hiring process, to third-party recruiters. Across my interviews, and based on international recruitment fairs I attended, this appeared to be a widespread practice. Employers hiring workers through the TFWP Stream for Lower Skilled Occupations (SLSO) can recruit from any country, and when asked about the first step in the
process, both employers and recruiters described how they settled on their choice of source
country. For those recruiting internationally for the first time, the decision typically hinged on
some personal connection. One Alberta-based recruiting firm chose to “go down the road” of
recruiting workers in the Philippines “because our production manager is Filipino. You know,
always there’s got to be somebody that opens that door.” Countries were chosen primarily
through word of mouth—an employer or recruiter knew someone else who had hired a worker
from a given country, or had a close friend from the country, or in many cases were from that
country themselves.

Though the initial choice of country was nearly always framed as one made through a
personal connection, and not a professional or occupation-related one, those decisions shaped
and were reinforced by assumptions about characteristics of workers from particular source
countries. Respondents classified countries as preferred based on nationality-specific perceptions
about skill levels and work standards. A recruiter who primarily sources migrant workers for the
construction/trades and hospitality sectors in Alberta and BC described his profile of “the ideal
worker”:

I will tell you right now, the ideal worker, really is [from] two countries. The Philippines,
we have a very large population of Filipinos here. English is their second language. …
They fit into our country very well; they adapt very well. … Customer service, you’ll
never find it any better if you hire a Filipino in your company. … And there’s parts of
India, they’re taught under the British guild system, or used to be. If you need somebody
with 72 months of hands-on work experience, that fellow is not gonna be a 20 year-old
kid. So, he’s probably taught under the old system and those folks can adapt very well.
They know the English system, British style, and they can pass exams fairly easily. Those
two countries are really, really [good for recruitment]. I’ve done some recruiting out of
Africa, Ghana, and I would like to get down into the Johannesburg area—although it’s a
little dicey for a white guy to go down there—because those folks can work. They too
have been taught under the British guild system, and they can pass exams.
As this passage indicates, to adjust quickly and serve as just-in-time labour, two criteria emerge as primary: language ability and skill level (or translatable work experience). These are assumed to facilitate labour market integration, and are generalized to be perceptually associated with particular countries.

A large literature has documented how employers are also found to hold strong preferences for socially meaningful but arbitrary traits in migrants—notably, “work ethic” or “dependability”—and that these characteristics are often attached to entire ethnic groups (Sharma 2006; Rogaly 2008; Preibisch and Binford 2007). Canada’s temporary migrant worker programs enable and reinforce such discrimination through the recruitment process. Employers and their labour recruiter representatives were remarkably candid in describing how their source country preferences shape hiring practices that are based on ideologies about who is suited for particular types of work. In the following sections, I examine in greater detail how recruiters, in particular owing to their positioning as petty sovereigns, contribute to this sorting. They perform pre-screening bordering of migrant worker candidates through assessments of “language ability” and “skill level”—both of which are refracted through discriminatory preferences associated with certain ethnic and national origin groups.

7.2.1 Discriminatory Screening on Skill Level and Work Experience

Migrant workers are differentially streamed through the TFWP—into higher- or lower-skilled programs—based on the level of education and training required for a given occupation. In the trades (and other occupational sectors requiring credentials/certification), workers must be able to pass the necessary qualifying exams, which are characterized by many in the industry as gatekeeping mechanisms designed to limit and carefully control entry to the profession and,
some respondents conjectured, tacitly designed to be (unnecessarily) difficult for workers trained in a non-Canadian context. Certain countries are assumed to be ideal for providing workers for these types of jobs, because of (presumed) similarity in training—because workers are trained, for example, in “the English system, British style.” However, as industry representatives and employers reiterated, “it takes a little while to get someone trained in construction, and even if they have a ticket [it] doesn’t mean they’re skilled.”

An owner of a construction contracting company in BC, for example, said that when hiring migrant workers:

> The main problem we experienced was the, even though the general term drywall applies, all over the world (laughs), the standards and the levels of application, productivity, quality and all that vary quite drastically, and what we’ve found was the high standard of finish that is required with drywall in Canada, particularly in the Okanagan is a very high level. And the foreign workers are not accustomed to that standard … because the finish of the drywall over there generally is covered with wall covering, a very thick wall covering or a plaster finish. So, the sanding and the fine finish that we do here was quite foreign to them, and they required quite a bit of training. And so we had to have an aggressive and expensive training program right away, and it was a bit of a shock to us, because we thought, drywall was drywall (laughs).

Others referenced cultural differences, such as the fact that in the Philippines they don’t use 2x4s for framing. With different training, tools, and job-specific terminology, one construction industry representative noted that even in the case of the “British-style” trained workers arriving from the UK, “something’s lost in translation … and that’s even for English to English.”

My participant sample consisted primarily of recruiters involved in recruitment of temporary migrant workers for lower-skilled jobs. As part of each interview, I asked why they chose to focus their efforts on those jobs/sectors. Many began recruiting, or ramped up the recruitment side of their business, with the opening up of the TFWP and the inception of lower-skilled streams, including the SLSO. Many said they engaged in recruitment for lower-skilled

\[116\] Having “a ticket” means having certification in a trade.
jobs because they wanted to avoid the challenges, and responsibility, involved in evaluating candidates’ skill levels in relation to Canadian standards. My conversation with one Alberta-based recruiter is representative of the discourse on skill level and nationality that threads through my data. This recruiter, whom I will call Brandon, places workers in a wide range of jobs in Western Canada, and he was reflecting on the high proportion of food counter attendants, hotel staff, and bookkeepers his company hires from the Philippines. I asked why they focus their business predominantly in the hospitality/service sector, and he explained:

Well, I think that the main reason is because of the difference in, I guess it would be education, or the difference in the skill sets of a perceptual [recte hypothetical] tradesperson overseas and a tradesperson here and what they need to know. For example, a plumber in the Philippines wouldn’t last two seconds with a plumbing company in Calgary. … We’ve also heard a great number of horror stories about the nurses, especially the ones that went to Saskatchewan from the Philippines, that once they arrived, their skill sets were nowhere near what the nurses were that we have here. So, the education levels, and there’s still a discrepancy between standards of education. I also think there’s a lot of forgery that’s done. I mean you can forge anything overseas and get it to look just like the real deal. So, we—you know, frankly, I just haven’t wanted to get involved with all the potential negative that could be associated with any of those issues. And even if you screen and even if you go down all those roads, I honestly believe, at the end of the day, that a tradesperson—a Canadian tradesperson—ah, compared to a tradesperson from the Third World, I don’t think there’s any comparison. I would say that also, if you were to look at just safety, there’s absolutely no safety standards in the Third World. You’ll see people, you know, dangling by a rope fixing an electrical box. And who knows if that electrical box is off or on. I mean you just don’t have this—and, and the value of life. … If I were to go to a construction guy and I say, “Look, if you need labourers, I’ve got great labourers that can help you,” I know in my heart that I’m going to have high success with that. And that employer is going to be happy with me at the end of the day. If I were to go to a plumbing company and say, “Look, I’ve got plumbers for you,” and I bring over a dozen plumbers for that company, well, I wouldn’t be very comfortable that that would be a success story.

Brandon notes three key factors in choosing a source country: education and employment standards; the prevalence of fraud or corruption; and the likelihood that workers will be “successful” and the employer satisfied.
His concern about the discrepancies in educational standards between Canada and other countries is framed in an unequivocally hierarchical way, contrasting the ability and standards of Canadian workers with those trained elsewhere. Throughout our conversation Brandon spoke with an honest and unapologetically disparaging tone about standards in the so-called Third World, a sentiment that echoes throughout employer and recruiter narratives. This framing contributes to the construction of a hierarchy of potential source countries and reinforces (racialized) assumptions related to labour market segmentation—for example, that workers from the Third World should only be recruited for (and belong in) lower-skilled sectors and jobs. It also has unsettling implications for how migrant workers from those countries are perceived and treated. This mentality can serve to justify and reinforce the two-tier system created by the TFWP, through the impression that ‘at least migrant workers have it better off here in Canada.’

Second, Brandon notes the prevalence of fraud and the potential for forged qualifications in certain sectors. This issue was repeatedly referenced by recruiters and government officials, and was associated with particular source countries. There was also a common expectation among recruiters that workers originating from countries where they may be considered more “desperate” could not be trusted, and thus more documentation was required of them. They emphasize the importance of understanding the local context of educational and training systems and the degree to which that (potentially) impacts the ability of a migrant worker to arrive at a jobsite in Canada and enter directly to work, substituting for a Canadian-trained worker. As a result, recruiters intentionally seek out and select workers that are skilled at least on paper well beyond what is required of a given job. Recruiters boast about “bringing more value” to

117 Assuming that there is not the same “value of life” in the Philippines can have the unintended but critical effect of devaluing Filipino lives. The associated intimation may be that life matters more here—and matters less there.
employers through the TFWP, because as one put it, “the ones [migrant workers] I bring over, they’re higher skilled than the positions. … I’m doing that for our caregivers, I’m recruiting nurses, registered nurses. They can’t practice as nurses, but they can work as caregivers. … Right, and my line cooks that I brought in, they’re chefs.” This practice—of selecting overly qualified workers for lower-skilled or labourer positions—is widespread and the norm for many recruiters in my fieldwork. It is part of a risk management strategy, one that derives fundamentally from a hierarchical perception that devalues certain national groups or ethnic-specific workers and standards in contrast to those of Canada.¹¹⁸

As one Alberta-based recruiter working predominantly for the construction sector summarized, though, ultimately even if a worker looks qualified and suitable on paper, “It doesn’t mean they’re skilled. … It’s a show-me industry. We’re just-in-time employers. … As much as the credential is nice, it’s really more important to the individual than it is to the employer.” Because of the concern for fraud or misrepresentation and a desire to meet the skill level requirements to satisfy employers, many recruiters incorporated a “show-me” aspect in their screening process. Many either integrated performance of a job-related task into the interview process, or organized skill-testing demonstrations for employers, who either attended the assessments in-person or reviewed them on video. Some recruiters even conducted unannounced site visits at places of employment listed on resumes—similar to the kinds of “verification of genuineness” Canadian government officials were engaged in when assessing applications for LMIAAs or through the PNP (described in the previous chapter). In one of our meetings, a Canadian government official in Mexico, who had been posted in a number of prime

¹¹⁸ The practice also contributes to the deskilling of migrant workers over time and can lead to distortions in Canadian labour markets (e.g., Pratt 1999).
source countries for TFW recruitment, explained that certain countries, sectors, and jobs are expected to garner more scrutiny:

Long-haul truck drivers are probably the best example here of where we expect the recruiter to do a significant amount of the screening. And thankfully to date they have been doing it. There was a particular employer in Alberta who hired close to 30 long-haul truck drivers last year and I wanted to know that they had a credible screening process in place, and if I was satisfied that the employer had a credible screening process in place then I didn’t feel that I had to repeat that entire process. So out of this group of 30, I interviewed about half of them and they all told me pretty much the same story. I didn’t then interview the other half of them and subsequent to that, applications that continued to come through this recruiter for that employer I continued to have a certain level of confidence in them. And what I learned was firstly with the long-haul truck drivers, in order for them to pass the driver’s test in Canada, they’re going to have to read and write and speak English. So the typical profile for these drivers were people who were living close to the border between Mexico [and the] US. Most of them had cross-border experience, so they could speak English, and I was told that they became aware of the job offers through advertisements by a recruiter in local papers. [emphasis added]

The agency actually “went out and they hired an 18-wheeler and they made these guys drive the truck. Through the pylons and everything else, backing up, forward. So obviously they had a credible screening process in place.” This kind of performance screening has become common practice for jobs in the sector. “We’ve got more than one employer in Canada now recruiting here in Mexico,” he continued, “and from what I’ve seen, the recruiters are doing all that testing here.”

Recruiters are constructing initial pools of workers through pre-screening practices that produce a particular profile of workers for a given job or sector. While recruiters engage in “credible” (pre-)screening of would-be migrants, the fact is many are in a position to act as petty sovereigns. With little or no oversight, they engage in decision-making about whom to include, and their decisions are trusted. They are “managerial officials invested with the power to decide” (Butler 2004, 56), and their decisions are often highly discriminatory along ethnic or national lines. Recruiting overqualified candidates from lower-income countries relies on geopolitical
inequalities and is possible because the TFWP is structured as a labour substitution scheme at a global scale. Recruiters became (and referred to themselves, as in the quote at the opening of this chapter) the “first eyes” on the ground for the employer. They are effectively mobile, pre-screening border agents. As pre-screeners of access to the program, are quite open about choosing particular sending countries because of the disciplinary leverage offered by large wage differentials and larger pools of hypothetically substitutable, likely to be reliable, competitive workers. In effect, the discriminatory hiring practices of employers and recruiters contribute to labour regulation and the production of a reliable workforce. Recruiters engage in judgments of who should be deemed admissible to the labour pool as part of a bordering process that regulates at once entry to the Canadian labour market and also Canada.

7.2.2 Auditioning for Entry: Assessments of Language Ability

Just as recruiters as petty sovereigns choose source countries specifically because of ethnic or nationalistic assumptions about the kinds of workers available or suitable for certain sectors, they also make decisions about worker suitability based on language ability. Language is a form of embodied cultural capital and of self-presentation. Bourdieu (1984, 1991) emphasizes the importance of the educational system in enhancing and reproducing linguistic competence, which can be converted to economic capital at the point of entry into the labour market. Much research on migration and language ability has treated language “competence” as a form of human capital that has direct economic value, bestowing economic rewards or penalties depending on the (presumed) skill set of an individual. Studies adopting this approach tend to examine language ability as a determinant of newcomers’ labour market positioning,
performance, and outcomes. However, as another front-end bordering practice, in this case I am interested in how assessments of language competence are one component in regulating entry to the (global) labour market in the first place—and in where, when, and by whom those assessments are made.

National policies related to language skills shape the flow of migrants over borders, with destination states selecting migrants who speak certain languages, largely because they are assumed to ease labour market integration (Hawthorne 2005). Typically, official language ability is not as critical a factor in the selection of temporary migrant workers, because as “guest” workers the state is not as concerned with their integration. However, language policy interacts with temporary migration flows because of its importance in certain job sectors (Grin 2001; Baba and Dahl-Jørgensen 2013).

When choosing a potential source country, one of the first steps recruiters take is a survey of current employees, to determine to what degree language should factor into the selection process. Often, recruiters would hire workers who speak the same language as current employees. One recruiter contracted by employers in construction and manufacturing in BC and Alberta explained:

119 As a form of embodied human capital, the ability to speak a majority language of a destination country is shown to impact immigrants’ earnings, occupational status, and poverty and unemployment levels (Chiswick and Miller 2003; Hawthorne 2005; Foroutan 2008). However, a speaker’s social context and other forms of capital (such as the social capital embedded within ethnic ties) also influence the human capital effects of (perceived) linguistic ability (Pendakur and Pendakur 2002).

120 Unlike other (permanent) economic immigration programs, at the time of my study the TFWP did not have set language eligibility requirements. Though there has been debate about whether official language proficiency should be a requirement for any migrant worker entering Canada, when overhauling the program in 2013, the only explicit change the government made with regard to language was to stipulate that English and French are the only languages that can be identified as job requirements (CIC 2014).

121 Primarily in interactive service jobs, language skills are strongly correlated with productivity since the interaction is part of the product being sold (Hochschild 1983; Leidner 1993). Because “the production of service is simultaneously the consumption of service,” a worker’s language ability (real or perceived) impacts consumers’ perceptions of the quality of the product purchased (Hanser 2008, 10).
I mean, if [employers] think they’re going to get a work permit, no matter how skilled, that is job-ready the day they arrive, then I think they don’t understand the process. No matter what the skill level, I mean there’s always a training period ... especially if language is an issue. And then you look at the shop floor and say, “Well what languages do they speak on the shop floor?” If you’re bringing in people from the Ukraine and if you don’t have anyone who speaks Ukrainian or Russian at all, you’re going to have to find someone because they’re going to have to communicate. In many cases employers already have people that have certain language abilities so you may say, “Okay, well if you’ve got someone at a supervisory, managerial level who speaks a certain language, it makes sense to look to a country that can bring in those workers.”

Re-organization at the jobsite is a common strategy used by employers in construction and manufacturing sectors to mitigate challenges related to lower levels of English ability. George, a contractor who hired “guys from Vietnam” required them to take English classes in the evenings. He also hired one Vietnamese worker who was bilingual and employed him as a foreman, so all Vietnamese workers could be grouped together at a jobsite.

The language requirements of a given industry sector or occupation narrow the pool of prospective source countries. When contracted by an employer, one Manitoba-based recruiter’s first step is:

[To] identify countries that can provide workers. And [for] some industries and some companies, English language proficiency is not necessarily vital to the performance of the job, so you can look at countries where the pool of workers traditionally does not have significant level of English ability, but in other companies where English is required that would restrict the pool of countries. … We will pre-screen [based on language] and create the pool.

It is this pre-screening and labour pool creation that I am interested in and explore in this section. It is during this process that recruiters make their own assessments of workers, which can be quite arbitrary and subjective. I focus on worker selection and recruitment in Mexico for interactive service positions in the low-skilled service sector. As the SLSO was expanded in scale and scope, there was increased labour migration from what is referred to as the global South to the global North for work in lower-skilled occupations, including in the service sector.
The importance of English in globalized labour markets varies by destination country and occupation, but it is arguably more pronounced in this context, and assessments of language competence become more salient in the regulation of labour market entry (Polanco and Zell 2017; Sherman 2007). In the Mexico case, English assessments become a pivotal “first border” along which applicants are deemed suitable (or not) for entry to the (global) labour market.

Shortly after the SLSO was opened up, a bilateral labour mobility agreement was negotiated between Canada and Mexico. Canadian employers recruiting migrant workers from Mexico for lower-skilled hospitality work can do so through the SLSO or through this agreement, called the “Mecanismo de Movilidad Laboral – México–Canadá” or “Labour Mobility Mechanism – Canada–Mexico” (LMM). The LMM operates alongside the SLSO in Mexico. The primary difference between the SLSO and the LMM is government involvement. With the SLSO, the Canadian employer is responsible for locating and recruiting potential workers—a task which is frequently outsourced to a third party. With the LMM, the Mexican government’s Secretariat of Labour and Social Welfare (Secretaría del Trabajo y Previsión Social or STPS) acts as a state-run recruiter, responsible for most of the process, including the selection, recruitment, and transit of workers to Canada.¹²² The LMM was initiated in 2007, specifically for the construction and hospitality sectors in a few provinces in Western Canada, to “meet the increasing demand of Canada’s labour force across diverse sectors, work positions, and skill levels required under the Canadian Temporary Foreign Worker Program” (Government

¹²² Its stated role is to “facilitate the linkage between job seekers and employers, provide guidance to job seekers and support their classification, and attend companies in finding candidates to fill job positions” (STPS 2015). At no cost to employers, the STPS recruits applicants at its 168 nationwide offices and then pre-screens them, verifying that they meet “the initial requirements and the occupational profile requested by the employer.” The STPS coordinating office, located in Mexico City, then provides employers a list of potential candidates for selection.
of Canada 2014). Its primary objective is to promote and “provide an avenue to facilitate the orderly, legal, and safe movement of temporary employees between Mexico and Canada by developing a process to match qualified and available Mexican employees with Canadian employers” (LMM 2015). Figure 6 shows the LMM home page directed at Canadian employers.

Figure 6: Labour Mobility Mechanism Website

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123 In 2008 Canada-Mexico Partnership established labour mobility pilot projects for the construction and hospitality sectors in a few provinces in Western Canada, and in April 2011 these were institutionalized in the LMM, which widened the labour mobility scheme to include other provinces and occupations.
The LMM was introduced with much fanfare and promise, and the Western Canadian provinces involved in the program actively promoted it at recruitment fairs and strategy meetings with regional economic development officers. However, many of those involved with actual implementation of the program expressed frustration with a number of operational challenges as it got off the ground. I sat through and observed multiple tedious, diplomatic conference calls and in-person negotiations indicating that, at least at first, management of the program was certainly not smooth or orderly. While Mexico has a long history of exporting workers to its northern neighbours, in Canada this has primarily been through the Seasonal Agricultural Worker Program (SAWP).\(^{124}\) The LMM is in fact modelled on the SAWP, which is also a managed migration scheme largely administered by the Mexican government’s STPS. The LMM system is designed such that Canadian employers could register with the program and stipulate general job qualifications. STPS acts as the intermediary, locating and coordinating a database of a pool of candidates, from which employers could choose. While the LMM targets a wide range of jobs, it is entirely driven by Canadian employer demand, and in the first few years it was overwhelmingly used to place temporary workers in low-wage positions in the hospitality sector.\(^{125}\) The primary employers using the LMM were large corporations in the service sector, especially fast-food companies and hotels. Government officials I spoke with frequently referred to it, jokingly and in some instances somewhat disparagingly, as “the Tim Horton’s program.”

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\(^{124}\) The SAWP is the longest-standing temporary migrant program in Canada, governed through bilateral agreements first signed with Mexico in 1974. It is distinctive among temporary migration programs in North America because of its level of government involvement and unique characteristics that have led to a high degree of migrant circularity (Hennebry and Preibisch 2012; Read et al. 2013). It is characterized by consistently low rates of non-return, which is a primary reason it is seen internationally as a “successful” model of managed migration.

\(^{125}\) Between 2009 and 2014, 590 workers arrived through the program, almost exclusively for “low-skilled” positions in construction, food services, and manufacturing (STPS 2015).
One of the primary challenges for the LMM was identifying a suitable labour pool in Mexico for this kind of work.

Historically, Mexican migrant workers in Canada have worked in positions typically requiring lower levels of English (namely agriculture). However, in the case of fast food and other interactive service positions, a candidate’s English competence is often the first factor in a recruiter’s decision about their admissibility. In constructing a labour pool for this sector, recruiters in Mexico City (including the STPS) indicated they first administer (often unannounced) a pre-screening phone call, and if potential candidates cannot conduct a conversation in English their applications are terminated. Others conducted pre-screening video interviews via Skype. Some recruiters avoid initial assessments altogether, requiring that a certified English language test score accompany an application as a matter of course. One based in Mexico City said, “The government doesn’t believe anything [applicants] say about their English skills until they see the IELTS [International English Language Testing System] results, so we’re the same way—send me the IELTS results and then I’ll talk to you about English, because it’s a waste of everybody’s time. Of course everybody’s gonna say ’my English is perfect.’” Recruiters act as a first border agent, reviewing “applications” to enter their initial labour pool. They impose pre-screening requirements just as the government would, and indeed, they do so on behalf of the government, to make things easier down the road and not “waste everybody’s time.”

Legitimate recruiters (including, in this case, the STPS) do not want to be held responsible for sending poor-quality candidates to employers in Canada. For this reason, many require higher levels of language ability than stipulated by program or employer guidelines. They will send a candidate for testing regardless of the employer’s application requirements, wanting
to ensure for the sake of their reputation (and the promise of future work) that an employer will be satisfied that a candidate’s English is sufficient for the job in question. One Mexico-based recruiter described:

> We had one employer who required a CLB 5 [Canadian Language Benchmark]. There are others who say, “No, I only need like a CLB 2”—in other words, [someone] that knows how to say his name and tell me that he hurt his finger so I can bring him to the doctor, and that’s sufficient. But more or less it is determined by us, because the employer doesn’t ask for an English assessment. But I require it because it’s my back. [my translation]

When the STPS first started receiving applications for the LMM, the coordinator told me, candidates’ English levels were “all over the place.” I glanced at the stacks of banker boxes, full of LMM applications, lining the wall of her small office. “Many of these were rejected because their English is not good enough,” she shook her head (Figure 7).

There are a plethora of language schools in Mexico that recruiters may use to classify a candidate’s ability, and there are multiple English language testing regimes (e.g., IELTS, CELPIP, TOEFL). Assessments can vary widely, with the same individual receiving a different score depending on who conducts the assessment. To standardize and streamline the application process, the coordinator decided to sub-contract language assessments to one instructor she trusted from a local English school often used by third-party recruiters.

Following the network of gatekeepers in this recruitment chain, I went to interview the instructor. A few days after my first meeting with the STPS, I entered a small back lane tucked in behind a major road through a middle-class neighbourhood. I asked my research assistant interpreter, who knew the city well, to double-check the address—is this really the place? We

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126 The CLB standard (with 12 benchmark levels) is the official system for measuring the English language proficiency of immigrants in Canada (www.language.ca). Certain industry sectors recommend guidelines for specific positions. In the case of fast food, most companies request an intermediate level of English, measured as a CLB score of 4 or higher.
entered through a small side gate with no markings other than the house number and were both a little surprised to be meeting the language school instructor in his small living room. We started chatting and he brought us tea and said, “Voilà,” sweeping his hand around the room, gesturing toward the comfortable brown couch on which we perched. “This is where the decisions are made.”

Our interview with José lasted several hours and was illuminating. At one point, to simulate the assessment process, he had us standing up and acting out conversations, pretending we were at a restaurant. He explained that he has created his own test. It is specific to the service sector and involves a written component, an oral component, and a role-play scenario. An excerpt of the exam, as well as an example of his “official” assessment, is shown in Figure 8.
Once the test is completed, José issues a letter with a score with an explanation of the candidate’s ability. For example:

“This is the evaluation of Maria Espinoza. This girl has a very good level, though she gets a little bit nervous whenever she is speaking, but the level of comprehension and her level on oral production is excellent. Talking about grammar, she has a very good education and background”—I mean, I am sure she went to an English school, there is no problem about it, so that’s why—“Yes, I credit her with a CLB 5.”

Of the applicants José has tested, about 80% have passed. The “performance” of a candidate is judged and measured by José, often in his living room. The LMM coordinator says they
terminate applicants that he will not pass. Fieldwork indicated that most recruiters make similar pre-screening assessments, likely with far less rigorous consideration.

Note that in José’s assessment the level of grammar is used as an indication of “good education and background,” suggesting that these at least implicitly factor into an evaluation. Language ability is tied to one’s broader social location, and in the case of recruiting Mexican nationals for low-skill interactive service positions, knowledge of English is especially linked to socio-economic status and migration history. Until very recently, quality English instruction in Mexico has been available mostly to middle- and upper-class urban residents who can afford to attend elite private institutions or to supplement minimal public school exposure with private instruction from a commercial English language school.

Most Mexicans applying to work in Canada as food counter attendants or frontline hotel staff must have a minimum CLB score of 4. In addition to English, they must have relevant work experience. Most workers in Mexico who know sufficient English learned it in school. These are generally professionals who had access to English language education because they attended private school or because of their career trajectory. However, they are not likely to have experience working in fast food or a hotel. In fact, they are often perceived as having ulterior motives and are questioned about their desire to work abroad. One recruiter explained:

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127 And to maintain equivalent standard across assessments, at the time of my study José was the only one conducting these exams. Both he and the STPS were hesitant even to involve other instructors from his school. However, the STPS coordinator recognizes this is not sustainable if the LMM expands and its number of applicants increases.
128 It is estimated that less than five percent of the Mexican population is conversationally proficient in English (Ramírez Romero et al. 2014).
129 For international recruitment in the low-waged service sector, most fast-food corporations require a minimum of two years of work experience in a similar occupation in Mexico. In practice, this means not only work in fast food, but in a specific qualifying restaurant chain. Tim Horton’s, for example, wanted this experience to be in “places like McDonald’s, or Pizza Hut, Starbucks—that is to say, in multinationals. In Mexico we have Pollito Feliz, which is the same as Kentucky [Fried Chicken] but it’s called Pollito Feliz and is local and only exists in Sinaloa. … Tim
We vet them … this guy has a law degree and he wants to come work as a dishwasher… You have to get down to what’s motivating them, you know, have they been unemployed a long time? … Are they committed to the industry? If this guy’s interviewed [by the employer or Canadian Embassy], what are his chances of passing?

Indeed, some employers in Western Canada expressed dissatisfaction with the Mexican migrant workers they had hired. Their English was sufficient, but many of them were young, well-educated, and from a higher social class in Mexico, and once they arrived in Canada employers perceived they were there for the “experience” of living in Canada and were not the “good workers” the employers had expected. One Canadian-based recruiter explained, “I have brought in some Mexicans to do [food] counter attendant work … but quite frankly, the people that I’ve brought in are not really counter attendants. They are university students, really decent English, very upper middle-class, and they are up here for an adventure.” In fact, one of Canada’s leading fast-food corporations has adopted an education level maximum for Mexican workers (not to exceed a high school diploma). This has been adopted as a matter of course by both private recruiters I spoke with and the STPS as part of their pre-screening process. The presumption among employers, recruiters, and the STPS is that those with less human capital have a stronger orientation to low-wage work and demonstrate more loyalty to the industry—they “belong” in the sector.

The second group of Mexican workers who meet the qualifications to work as food counter attendants or front desk hotel staff are generally less educated, but they know sufficient English because of previous migration experience, primarily irregular migration to the United

Horton’s said, “This Pollito Feliz, I’m not familiar with it” [my translation]. The Mexico-based recruiter went on to explain that a lot of people have experience in “fast food” but not in large companies; more often they have worked in small outdoor taco stands, but those would not count. This requirement is based on assumptions about equivalent standards and designed to promote worker orientation to the job and ease worksite integration in Canada. Presumably, this condition contributes to the substitutability of workers, in an attempt to achieve a pool of just-in-time labour.
States.\textsuperscript{130} These applicants might satisfy the language and work experience requirements set by employers, but often they do not adequately satisfy the Canadian government requirements indicating ties to the sending country. These applicants, often excellent candidates from an employer’s perspective, are seen as potential “migration problems,” at risk of denial by the Canadian government once they reach the point of applying for a work permit. The method of English language acquisition itself marks an applicant as either a potential labour risk or a potential flight risk.\textsuperscript{131} Though language requirements may be requested by an employer, each recruiter has particular—and often extremely subjective—guidelines along which language ability and its intersection with employment potential in Canada’s hospitality sector are assessed.

7.2.3 Recruiting Reliable Workers

Recruiters need to meet the demand of employers, who, as one Canadian government official during a meeting put it, “place an order” for a particular profile of worker. Through the migrant selection and hiring process, recruiters have wide latitude to respond to employer preferences in highly discriminatory and discretionary ways. This is evident, for example, in the ways they infuse loyalty into the process.

In both my fieldwork and in survey responses, employers across a range of sectors including construction and hospitality indicated that, at the heart of the recruitment process, they

\textsuperscript{130} There is also a third group, comprised of those who know sufficient English because they work in the tourism sector in Mexico. According to Mexican government respondents, the states with large tourism sectors refused to cooperate or in any way promote the LMM or SLSO options (in the interest of retaining domestic workers, for jobs that Mexico cannot offshore).

\textsuperscript{131} Ultimately, many fast food or hotel employers in my study who might consider looking to Mexico have turned their recruitment efforts to countries where English is (or is presumed to be) more prevalent. One Canadian-based recruiter working in the service sector affirmed: “Our success ratio in the Philippines has been very high. We haven’t had a lot of luck going elsewhere. So far. Even Mexico, we had some calls from Mexico. But the English issue was way too big of a barrier for the companies to overcome.”
were looking for workers who were capable but also who could be retained, so as to limit and
capitalize on their investments in training. They wanted workers, whether domestic or migrant,
who would be reliable and loyal, who would not be poached by competing companies or leave
when another slightly higher-waged option was presented. The lower-skill streams of the TFWP
provide inherently reliable workers—they are effectively tied to their employers—and recruiters
market this to employer clients. Travis, the owner of one employment agency who works for the
service sector in Western Canada, admitted, “We’ve had not a lot of luck with domestic
recruitment. The turnover for these positions, [in] any positions between, I would suggest $12
and $16 per hour, the turnover is high. Extremely high.” When his firm places Canadian temp
workers into those positions:

Maybe they quit in two weeks. Maybe they’re lazy. Maybe they have, you know, a
toothache, or whatever the case is. Then we get the feedback from the employer, “Well,
you know, you—you’re the guys who brought this worker in to me. So, now you are the
ones that are responsible for, you know, taking all the—you know, all my verbal abuse
because, supposedly, this guy was good.” “Well, yeah, he was a good guy. He seemed
like a great guy. We both agreed. And now he’s left you after three weeks.” Well, we
don’t have that challenge with temporary foreign workers.

Travis explicitly stated they prefer recruiting migrants, rather than Canadian workers, because of
the higher levels of employer satisfaction. Respondents indicated that turnover and labour
demand were substantially higher in lower-skilled, lower-waged positions, so that is where many
recruiters were targeting their operations. They focused on “the lower semi-skilled classes,” as
one agent put it, because of the associated “success rates.”

Beyond the “reliability” inherent in the TFWP structure, recruiters and employers were
surprisingly forthcoming when discussing ways they infuse employee loyalty through their
hiring practices. For example, they intentionally seek and construct a labour pool through
referrals, identifying candidates with some personal connection to current employees. This is
done with the assumption the candidate will be more loyal or feel a sense of debt or social obligation, even gratitude, for the position. Some formalized that obligation in a written contract.

One recruiter, for example, described:

We orientate them [migrants] on the do’s and don’ts of—about the culture, society, how to be a good worker. And I do a private contract with them before they come, where they promise to stay, even though, you know, by law they don’t have to remain with their employer. But they don’t know that, and lots of employers don’t, either. So, do you promise to stay with your employer for the term of this contract, because you wouldn’t have this opportunity without—he’s taken a gamble on you, he’s put out his money. Are you going to betray that? No.

This recruiter claimed to be “above board” in his recruitment practices; this was just an extra measure to ensure success, he assured me, and besides, it wasn’t actually a legal document.

Though not legally binding, however, without accurate information about employment standards and the rights and responsibilities of both employers and migrants involved in the TFWP, this could be an effective disciplinary mechanism.

Another recruitment strategy is to target countries with large wage differentials relative to Canada, which works to produce a labour force with appreciation for the opportunity to earn relatively higher wages. As critics argue, this appreciation in turn impacts migrant workers’ job performance, as well as their willingness to accept substandard working and living conditions (Basok 2002; Vosko 2009; Preibisch 2010). One construction employer, reflecting on the workers his company had hired from Korea, Mexico, and China, noted that they were especially pleased with the migrants from Mexico:

Oh, without a doubt, all three work groups work very hard, but … the Mexicans were very timid, they didn’t want to ruffle the boat, they were just freaking happy to be here. So, but they outworked the Canadians. What I mean by that is if a Canadian is carrying five bars on his shoulder, a Mexican is carrying six. If a Canadian would take ten minutes to tie up a mat, uh, a Mexican would do it in four minutes. The Mexicans were so afraid of being sent home, and no matter how many times (laugh/sigh) you reassured them that,
“No, we love you, you’re stayin,’ they did not know how to take their foot off the throttle, they were full speed at all times.

Migrant status—temporariness—and implied worker substitution, along with the threat of repatriation, affect job performance and productivity, and at the same time contribute to producing a more reliable and loyal workforce.\(^{132}\)

Some employers I interviewed also mentioned that they requested recruiters to concentrate efforts in particular source countries because it would “mean more” for those workers to come to Canada. Some explicitly framed the choice to recruit from, for example, “the Third World,” as a disciplinary measure intended to foster additional loyalty, while others framed it as arising out of a charitable impulse (a point I return to discuss in the next chapter). Some recruitment firms strategically focus their efforts on countries where awareness of labour rights or organizing campaigns may be less prevalent. For example, Preibisch (2010) finds that employers place value on the ability to choose the nationality of their workers from a global labour pool as part of a management strategy, in part to guard against any single group of workers or sending country developing bargaining power. In my study, this phenomenon was noted most frequently by respondents in Mexico, many of whom were frustrated that recruitment efforts had recently moved to other nearby (and presumably, less “organized”) country contexts, such as Guatemala. The TFWP allows recruitment from any source country, and employers and recruiters alike are quite open about intentionally discriminating by nationality to select not only

\(^{132}\) And “substitution” here becomes also a euphemism for repatriation, even forced in the form of deportation. The threat of repatriation (they were “so afraid of being sent home”) circulates across certain worksites and within particular migrant circles (in my fieldwork, particularly among Mexican workers in the Canadian Prairies, for example). It is an effective mechanism of labour control, independent of whether or not it is actually exercised (Basok 2002; Preibisch and Encalada 2010; Read et al. 2013).
capable but “higher quality” workers who will be “loyal” and more likely to appreciate (and less likely to complain about) their position once in Canada.

7.3 Recruiters Mediating Admission for the State

In this chapter, I have shown that recruiters can act as mobile bordering agents, engaging in pre-screening and hiring practices that can be quite discriminatory. While the government provides the conditional border opening in the form of the TFWP, employers drive the program, and the recruiters they contract make decisions about how and where to recruit. The TFWP allows Canadian employers broad scope to recruit and hire workers, but (if they want to ensure the workers receive approval from IRCC, or the CBSA) they must do so in ways informed by state-set parameters.

After an employer is granted a LMIA pre-approval to recruit a migrant worker, a selected worker must apply for a work permit from IRCC. There are a few primary conditions applicants must meet for work permit approval; the IRCC official at the processing post (typically a Canadian Consulate, Embassy, or High Commission) must be satisfied that an applicant:

- will leave Canada at the end of the employment period;
- is in good health (a medical examination may be required); and
- does not pose a risk to the security of Canada and does not have a criminal record.

Once an official is satisfied the criteria are met, IRCC issues a letter indicating that the application for a work permit is approved in principle. The migrant presents this letter to the Canadian official at the port of entry (airport or territorial border crossing) to obtain an actual work permit. Knowing they are the next step in the recruitment/migration process, recruiters consider these criteria when pre-screening candidates.
Ultimately, the primary concern of the state is to ensure the security of TFWP migration flows. Government officials reviewing applications ensure “orderly” migration by evaluating the likelihood that a migrant will stay in Canada beyond the term dictated by their contract. Applicants to the lower-skilled streams of the TFWP generally meet this first requirement—demonstrating that their stay in Canada will be temporary—by leaving behind family members. Though not an official or explicit requirement, candidates with immediate family members (a spouse and/or children) are often viewed as more likely to return home at the end of their contract. Among recruiters (particularly those working in Mexico) there is a widespread belief that applicants who will leave behind family members are more likely to meet the “proof of temporariness” requirement. Many Canada-based recruiters explained to me that their pre-screening process includes interviews not only with prospective migrant workers but also with their families. For example, one who works exclusively to recruit migrant workers from Mexico said:

Recruiter: So we interview the families and ask, you know, the kids, how do you feel about your dad being away, and the wife. And one of the things I would look for is, do you have family here [in Mexico]? Is there family that you can go to for moral support, emotional—and yes, those were the people we looked for.

Sarah: So, does the worker have another family member, who is staying in Mexico?

Recruiter: Other family members, yeah, so they’re not alone. And all our workers have to have a support network. So if somebody didn’t, then I’m sorry.

Sarah: And was that a/

Respondent: //Oh yeah, yeah, it’s also for immigration purposes, they [Canadian officials] prefer it.

He frames the preference for applicants with families as a way of ensuring a worker has the “moral support” needed for migration. Later in our conversation he emphasized the importance of having family “back home” as providing a migrant worker with a sense of purpose, which he
associates with higher productivity levels and a more successful work experience. In this passage, however, he does quickly—interrupting me, as if anticipating it—acknowledge that the requirement that a worker have a spouse and children in the source country is also a way of meeting the condition of temporariness set forward by the state. There are other ways the Canadian state—and recruiters—assess this criterion. In the specific case of Mexico, for example, there is a residency requirement. To be eligible for temporary work in Canada, candidates must have resided in Mexico in the two years immediately preceding their application. This relates to concerns about the risk of overstaying and is considered a way of demonstrating ties to the sending country.

The state further ensures secure migration by requiring two additional primary application criteria: a medical examination and a police certification. Medical examinations are intended to prevent the spread of contagions and protect public health. They are not required of all migrant workers, but are of those working in particular occupations or on longer-term contracts and of those who resided in designated countries in the year preceding the submission of their application. The visa office issues the necessary documents and provides a list of medical practitioners designated by IRCC to perform the examinations. Workers are required to pay exam-related fees directly to the medical practitioner. Some recruiters spoke of being lied to by applicants, who would fail to disclose, or in some cases were unaware of, a diagnosis such as HIV or tuberculosis. During the course of my fieldwork, Mexico was removed from the list of countries requiring a medical examination as part of the work permit application. However, all recruiters I spoke with in Mexico, as well as the majority who recruited in other countries,

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133 Critics have argued that because workers are granted to single applicants with no provisions for family reunification and, in fact, are encouraged to leave family behind, they are more willing to accept longer hours than domestic workers with social responsibilities in Canada might be (Basok 2002; Prebisch and Binford 2007).
required medical documentation from applicants as a matter of course. Some requested unofficial medical certifications from prospective migrants before even entering them into their candidate pool.

The other primary work permit application requirement is a police certificate. These statements, which may also be called police clearance certificates, good conduct certificates, or judicial record extracts, indicate that an applicant does not have a criminal record. One Canadian lawyer mentioned that in the previous year his firm, which specializes in international recruitment for construction and food service, had interviewed 1,755 people in the United States who wanted to come to Canada to work temporarily, and out of them, only 55 qualified. The low rate was attributed to the criminal record check: “If you had a DUI in your lifetime, you’re not coming to Canada. There seems to be no understanding that when we’re young and foolish, we do stupid things. When we get older and there’s 10, 15 years gone between any stupidity, that shouldn’t affect an immigration officer, but it does.”

To minimize the likelihood of dissatisfaction of employers but also rejection by the state, recruiters often impose highly discriminatory eligibility requirements. Many expressed frustration at the limits the state-set parameters placed on their ability to assemble a labour pool—what one recruiter referred to as “being herded against the law.” They also mentioned that lag times associated with waiting for records significantly delayed the arrival of workers, at times disrupting employers’ job schedules. At the same time that some impose quite restrictive requirements on applicants, to ensure their approval through the rest of the process, however, the

134 Another Alberta-based recruiter mused: “So, the restrictions of bringing people in across borders, uh, DUIS, felonies, lack of child support, we have all of these social things that we believe in, or our, Canada believes in, but in United States, uh, if you want to become an iron worker, a felony and a DUI is just about a requirement. You know, like, it’s rough and tumble, these guys work hard, they work in precarious situations, and it takes a few years to mature in construction. Should we penalize them all their life for it?”
majority I spoke with found ways around these criteria. The primary concern among recruiters in my sample, who primarily recruited for lower- or semi-skilled jobs, related to criminal records. This posed a problem for some sectors in particular. Where possible, recruiters—either themselves or through sub-contracted or sister agencies in source countries—often assisted migrants in having records expunged.

They exercise a form of “petty” sovereignty, as (they claim)\(^{135}\) their decision about whether or not someone should be able to cross influences a decision issued by the next petty sovereign in the migration chain. According to my fieldwork, challenges related to criminal records holding up border-crossing occurred primarily at the point of work permit application, with IRCC/the Embassy. One recruiter explained: “Now once HRSDC approves, it’s in the fast track immigration. As to if [the applicants] have the immigration qualifications, now, the border agents are great. You know, those guys are all confused, but they are helpful to us. … But in every case [when there wasn’t a smooth, immediate approval] it’s the Embassy holding it up. The Embassy had been the problem.” Another said, “Once we get them past the Embassy, the applications just fly and everything moves like clockwork to get them here.”

If recruiters operate as a “first border,” making the first decision, the IRCC official/Embassy was like a “second border.” As mentioned, many recruiters imposed overly restrictive front-end requirements, narrowing their labour pool to those who should have no issue at all with the rest of the migration process—the entire decision was made up front by the recruiter granting them admission to the initial labour pool. For other recruiters, or when working on an exceptional case (e.g., those who have a minor offense on their record), recruiters would

\(^{135}\) This was somewhat substantiated, though only informally, by interviews with Canadian officials.
work with state agents to smooth things and make the process more efficient. Some accompanied
individuals with more exceptional cases to the border, because “although they don’t have a right
to counsel,” explained one recruiter, “if I’m there and there’s a problem sometimes I can, uh,
*have a facilitative role.* … I find that there’s a value added to having me there.” Another said that
he always called the border first, to see which officials were working: “You know, I’ve got some
buddies in immigration, I’ll call ‘em buddies ‘cause they’ve treated me pretty, pretty dog-gone
good. If I know Johnny’s coming up from the States and he’s got this minor or that minor, I’ll
meet him at the border, and that’s because it’s the only way he’s gonna get through.” They
described not only their relationships with CBSA officers, but also meetings with Embassy
officials. When I asked an official at the Embassy in Mexico City about these meetings, he
shared materials from workshops they conducted. He explained that, especially as recruitment
expanded with the SLSO and the LMM, the Embassy held workshops directed at the recruitment
sector. They invited less-established, less-familiar-to-them local recruiters. The PowerPoint
slides and talking points described internal IRCC processes and provided specific clarification of
what the Embassy needed to see in an application, what their expectations were and what would
raise a red flag and trigger additional scrutiny.

Based on this information provided by the Embassy, the STPS put in place a “migration
questionnaire” as part of their pre-screening and selection process. They require all applicants to
complete the questionnaire, answering questions on topics such as their criminal and migration
history (including unauthorized or irregular movements), before even submitting an
application. Private, third-party recruiters engaged in similar, though less formalized, assessments of candidates, based on their conversations with IRCC and Embassy officials. The workshops and outreach materials were designed to streamline the application review process. Effectively, as recruiters were conducting pre-screening anyway, it was a way of ensuring that their process—whatever it was—would, in the end, align with the minimum criteria of the state. Recruiters were filtering for the state.

7.4 Recruiters as Discretionary Deciders

Though they are not state agents, recruiters make assessments of potential candidates that are informed by criteria set out by the state. They act as pre-screeners to the state, as gatekeepers who filter according to—but also beyond and outside—state-mandated eligibility requirements. One recruiter describes a typical screening process:

Well, first of all, [we look for a] character reference. And, because of the fact that it’s [for] lower semi-skilled [positions], we need hardworking individuals. So, I mean, if you’re a hardworking individual, you’re likely going to get into our pool. And if you have a reference from one of our existing workers or a family member, you’re going to get into our pool right away. … Post that, we require what they call in the Philippines, an NBI [National Bureau of Investigation report], which is basically a police clearance. So, they will in theory let you come to Canada if you have been arrested but not convicted. However, the reality in the Philippines is that if you’ve been arrested, depending on the crime, you can buy your way out of it… it’s not like Canada. … And so, for that reason, if we see on your NBI, your police record, that you’ve been arrested period, it’s the unwritten rule that you’re not getting into our system period. We don’t make any exceptions for that whatsoever. … The other big one of course, is medical. Especially in the Philippines, tuberculosis is rampant. There’s high incidences of tuberculosis. If the Embassy in the Philippines—once they send you to their medical testing—if they detect tuberculosis, they won’t let you come to Canada. And so, for that reason, prior to you ever even going to the Embassy medical screening system, we’ve already screened for tuberculosis and actually a number of other medical issues.

As the LMM website indicates: “All job seeks (sic) recruited are required to demonstrate the work experience and level of English they have through accredited business cards. In addition, all candidates must complete a questionnaire related with migration issues to assure they will have 80% chance to get a work permit and visa.”
Recruiters filter based on “unwritten rules” in a space and time external to and before the state—“prior to you ever even going” to the ‘official’ borders of the Canadian state. In many respects, they are enacting the “first border” or entry point to the state and its managed migration programs. Discretionary, discriminatory, sovereign decision-making of recruiters is enabled (and obscured) because of these agents’ non-state status and, especially, front-end and transnational nature. Recruiters filter based on “unwritten rules” in a space and time external to and before the state—“prior to you ever even going” to the official borders of the Canadian state.

My analysis here is at the nexus of theorizations on migration and border policy and on contingent labour markets. I build on other work (e.g., Peck and Theodore 2001; Peck et al. 2005; Hennebry 2008; Preibisch 2010; Kemp and Raijman 2014), contributing to understanding how the international recruiters’ roles are at once as border agent gatekeepers and labour brokers at a global scale. While the government provides the conditional border opening in the form of the TFWP, through the program employers are granted access to a flexible (or flexibilized) and competitive workforce. The TFWP allows Canadian employers—and the recruiters to whom they outsource—broad scope to recruit and hire workers. Employers drive the program, and can effectively “place an order” for a particular kind of worker. The recruiters they contract make decisions about how and where to recruit, making decisions about who can submit an application (and potentially access and cross the border).

In this chapter, I discussed how recruiters for lower- and semi-skilled occupations choose potential source countries and how they negotiate complex and at times contradictory demands and interests of the Canadian state and employers. They engage in discriminatory recruiting and hiring practices in the construction of their labour pools. Recruiters tend to engage in overly
comprehensive and sometimes unnecessary pre-screening of candidates regarding, for example, their criminal records or physical health. They also target “Third World” source countries and overqualified workers as part of a larger risk management strategy, to locate “quality,” reliable workers and to increase the likelihood of employer satisfaction. The practice of recruiting overqualified candidates from lower-income countries relies on geopolitical inequalities and is possible because the TFWP is structured as a labour substitution scheme at a global scale. Recruiters, as pre-screeners of access to the program, are quite open about choosing particular sending countries because of the disciplinary leverage offered by large wage differentials and larger pools of hypothetically substitutable, likely to be reliable, competitive workers.

There is nothing inherently problematic, of course, about engaging in discriminatory behavior; indeed, bordering is itself an act of discrimination. Bordering is a differentiation process of sorting out those deemed eligible (and desirable) to enter. It contributes to the disentangling of the “legitimate” from the illegitimate or disorderly (Walters 2004). Recruiters as border agents create pathways that make (certain) migration(s) easier and more efficient, but in so doing also route and delimit movement. How and under what conditions migrants move through bordering processes depends on their performances—on how they are perceived to possess and demonstrate various kinds of capital (Salter 2008a, 2011).

While bordering is discriminatory, however, the fact is that recruiters largely do so without much oversight, in an effective regulatory vacuum, and render discretionary decisions. They operate as sovereigns in that their initial, pre-screening decisions are final and unreviewable, both regarding who they deem (in)admissible to their labour pools, as well as along which criteria they make that assessment. This is a “petty” sovereignty that operates within a governmentalized field, their decisions informed by requirements and demands of the employer
and by state agents later in the recruitment chain. Nevertheless, they are figures invested with the power to decide and deem those eligible for entry.

I find Ong’s (1999, 2006) concept of “graduated sovereignty” helpful here. Graduated sovereignty, she argues, emerges as the effect of states “moving from being administrators of a watertight national entity to regulators of diverse spaces and populations that link with global markets” (2006, 78). In her examination of East and Southeast Asian states and economies, she observes that where a market-driven logic induces coordination of political policies with corporate interests, there is a multiplication of differential zones of governing across the national territory. Accordingly, there is differential regulation of populations across those zones—individuals can be differentially connected or disconnected from global circuits of capital. In the case of the TFWP, recruiters are one agential actor performing this regulation. They are operating as petty sovereigns in a zone that overlaps with other niche petty sovereignities—for example, those of Mexican or Canadian government bureaucrats—in the management of migrant selection and assessment.

As “newly invigorated subjects of managerial power” recruiters are only “petty” sovereigns; they operate within parameters set out by the state (and within the constraints of governmentality), but nevertheless as figures invested with the power to decide and deem those eligible for the Canadian state and labour market (Butler 2004). Beyond ensuring “secure” migration flows (through, e.g., medical and criminal record checks) so that clearance or approval in principle can be granted, as Canadian government officials emphasized in both policy documents and interviews, the recruitment and migrant screening and selection process is left predominantly to the private sector. Though the state sets particular parameters that condition
entry through the TFWP, employers are granted access to competitive, global pools of labour and are given wide scope to make decisions about the social composition of their workforces.

In this chapter, I show how the recruitment and hiring process is a primary dimension of labour regulation, and the practice of outsourcing to labour recruiters intensifies these forms of regulation. Recruiters offer some workers the flexibility and enhanced mobility required to compete globally, and they can facilitate opportunities that improve the wellbeing of workers with few “assets” other than their labour. However, while recruiters are often able to mobilize un- and underemployed sectors of the population, more often than not it has been for precarious positions with lower wages and fewer benefits. The absence of regular, secure jobs, one effect of neoliberal restructuring, has rendered many workers dependent on temporary employment and the LMIs that provide it (Peck and Theodore 2001; Zell 2017). The policies of Canada’s TFWP (and SLSO in particular), and recruitment and hiring practices themselves, contribute to the construction of a flexible, more competitive, reliable and potentially vulnerable workforce.

Trumper and Wong (2007) contextualize the growing importance of Canada’s TFWP within the global political economy in terms of flexibility, claiming that the program and its reliance on “unfree labour” becomes “a vehicle for a probationary period for migrants and for a new style of immigration that is driven by employers rather than the state, allowing for unsupervised racial, geographical, or gender bias” (88). Through the brokering of employer, state, and arbitrary recruiter eligibility requirements, a particular migrant worker profile emerges and comes to be recognized as “appropriate” for certain migration pathways and occupations. In this sense brokering as bordering is productive; migrant workers must be “produced” as such. A “real” truck driver is someone who knows a certain level of English, a “real” fast food worker can’t be too educated. Note that these are place-specific, locally and socially regulated processes
Mexico may be a prominent source country for migrant workers, but the language barrier greatly restricts both the pool of potential frontline hospitality workers and the specific sectors of the Canadian labour market they can access. My fieldwork reveals how, in the case of the LMM and SLSO in Mexico, the method of English language acquisition itself marks an applicant as either a potential labour risk or a potential flight risk.

This is not to suggest that especially discriminatory practices are necessarily widespread (though my fieldwork would suggest they are), but that the structure, power dynamics, and spatiotemporal position of recruiters in the labour migration process enable the introduction of discrimination based on questionable criteria. The nature of the recruitment process, and where it plays out—beyond the borders of Canadian jurisdiction—allows for the introduction of unsupervised racial or ethnic bias (not to mention along gender, class, age, and a host of other social dimensions) within temporary migrant streams. Through their decisions, they grant or limit access to workers and route them to particular destinations and positions based on factors such as their race or ethnicity, gender, language ability and nationality. They make discriminatory judgments that would be totally unacceptable (at times perhaps illegal) in the Canadian labour market.

Through devolution and outsourcing, employers and recruiters engage in discriminatory recruitment activities that are at times in contravention of Employment Standards regulations and

Preferences for a particular kind of worker reinforce assumptions about who “belongs” (and does not belong) in specific occupations. This can lead to a further marginalization of workers who are already precarious because of their temporary and employer-dependent status (Goldring and Landolt 2013) while distinctly relegating racialized workers to the bottom tiers of international labour markets. Not only does the practice potentially devalue labour in other parts of the world (and particularly the global South, as they are deemed subjects who should be most appreciative of the opportunity to work in Canada), it also reinforces those associations. In their study of temporary employment agencies in Chicago, Peck and Theodore (2001) note that at best these agencies reproduce prevailing practices of racialized hiring. They find that temp agency hiring strategies suggest an active role in perpetuating and accentuating discriminatory hiring.
certainly that are outside the bounds of what would be permitted in hiring Canadian workers. They openly engage in what Preibisch and Binford (2007) have called “country-surfing,” when displeased with a potential labour pool or with worker job performance. This process is devolved (and in turn outsourced) to the private sector. The Canadian government line is that “there’s no favourite nation component of this. … At the end of the day it’s really an employer’s choice to conduct recruitment wherever they choose across the globe. We are not involved in the recruitment process.” Similarly, the government documentation on the bilateral mobility guestworker program with Mexico stresses that although Mexican officials (as the designated “recruiter”) construct a pool of labour based on employer demand, “final selection of candidates to fill a vacancy shall be the exclusive responsibility of the Canadian employer” (LMM 2015). It is framed as their “choice” where to recruit, and along what dimensions. Employers and recruiters are choosing to hire workers from certain countries based on discriminatory assessments (and assumptions) that are tied to nationality- and sector-specific notions of the “preferred worker.” The insertion of racial/ethnic bias as a marker of suitability is only possible because of the offloading (and outsourcing) of this pre-screening.

As temporary migrant worker schemes proliferate, particularly in the demographically challenged global North, workers are encouraged to practice labour flexibility on a global scale. A network of “petty sovereigns,” including recruiters (but also bureaucrats, language school instructors, etc.) in sending countries engage in border-drawing processes that regulate labour market participation. The locations of the first “border” of entry to the recruitment process was dispersed and mundane, and sometimes surprising. These included living rooms such as José’s, medical offices of “designated” doctors, non-descript shared office spaces where agents met with potential applicants and showed promotional videos and PowerPoint presentations. These are the
spaces in which “managerial officials invested with the power to decide” make discretionary decisions that deem individuals to be (or not) potential migrants.

The state retains a key role in providing those openings to employers and their contracted agents (in delegating and diffusing sovereign power), acting as the creator of the (global labour) market and a facilitator of flows (as the the “guarantor of competitive order,” of “orderly, legal and secure” flows; Walters 2004). At the same time, aside from setting conditions for those openings, the state effectively withdraws, allowing the private sector wide scope to determine the composition of the workforce and to regulate entry to the labour market—and concomitantly to Canada. Through these conditional openings, or mechanisms for “differential inclusion,” the state offers the mobility (and thus flexibility) desired by the market while still “securing” the flows through their management. The “zones” of the petty sovereign bureaucrat and petty sovereign recruiter overlap and inform one another. Recruiters are gatekeepers and brokers; as “subjects of managerial power” they perform the border, both filtering and in practice contributing to (re)producing migrant worker subjects. The filtering and initial adjudication they perform makes state management more streamlined and arguably efficient, with bureaucratic labour to some extent offloaded to either sending country governments or for-profit agents located in the sending country. In the next chapter, I turn to examine how they also assert sovereignty in ways that contradict and (potentially) disrupt state power.
Chapter 8: Recruiters as Vigilante Nation-Builders

“In a black and white world, I do immigration and that’s it—don’t talk to me about the job. But how can you detach yourself from human beings, families, who have put their trust in you?”

—Canadian-based immigration consultant

“Oh yes, I’m like a god down there!”

—Canadian-based labour recruiter, referring to his work in Mexico

8.1 Introduction

Many of the recruiters I spoke with and surveyed indicated they sort of “fell into” the job out of a sense of mission, often propelled into the work because of dissatisfaction with (what they perceived to be) an inefficient or inactive immigration system. Arnold, a BC-based recruiter, declared to me that his “personal agenda” was to set things right, to intervene to help migrant workers and “to protect Canada.” In this chapter I explore the ways in which recruiters in my research emerged as vigilante figures, and specifically as vigilante nation-builders. They engaged in recruitment because they felt government actors and regulations were not doing enough to facilitate and regulate mobility or provide protection to those involved in the Canadian labour market and TFWP. Their self-appointed mandate is to deliver justice and to rescue and protect the Canadian labour market, migrants, and the Canadian nation. Reading carefully across their actions and statements allows me to trace a form of sovereignty enacted in the recruitment process—a form of pastoral power exercised through paternal sovereignty that helps to reinforce the nation, and which invests recruiters with a sense of duty to border the nation.
As I point out in Chapter 2, much has been written on the fortification and militarization of borders, often through a securitization approach, which emphasizes the social construction of threat and the legitimation of exceptional measures to manage risk. Within the border studies literature there has been less focus on bordering outside or beyond an enforcement and exclusion lens, and as a complement to that work, my project builds from an ontology of differential inclusion (Mezzadra and Nielson 2013). I am interested in Canada as a recruited nation, and in who does the recruiting. In this chapter I explore another dimension of recruiters as border agents. Moving beyond seeing them as gatekeepers or brokers, I analyze their role as vigilante figures. In this figuration recruiters are not working on behalf of or in direct cooperation with the state, but they emphasize that their practices are outside the state. They are non-state actors stepping in where (they believe) official state action has withdrawn or abandoned migrant workers. Nor are they merely acting as representatives or extensions of employers, whose actions are underpinned by an economic rationale. Their rationale for engaging in borderwork exceeds a for-profit motivation—their motivation is to help and protect their clients, justified by an appeal to humanitarianism. Understanding how the humanitarian rationale is taken up by actors assisting or directly facilitating those attempting border crossing offers important reflections on how their actions may work to contest or reinforce the borders of the nation. Drawing on the concept of humanitarian bordering, I conclude with a discussion of how recruiters, as petty sovereigns engaged in humanitarian borderwork, enact a form of paternal sovereignty, which in turn produces particular kinds of subjects and border spaces.
8.2 Humanitarian Bordering Through an Ontology of Differential Inclusion

In this chapter I discuss recruiters, as nodes that filter and distribute (im)mobility (Sparke 2006), as part of a humanitarian borderscape. I analyze how they enact “gateways to the territory… [that] become themselves zones of humanitarian government” (Walters 2011, 139). To do so, I build on the concept of the “humanitarian border” proposed by William Walters (2011). Bringing together governmentality and critical border studies, Walters advances the humanitarian border as an emerging development that goes hand in hand with the enrolment of the border and bordering practices within strategies of migration control. Not simply a gesture of care, humanitarianism is operationalized to manage political crises and neutralize controversies.138

Following Walters, I conceive of humanitarianism not just as a set of ideas or the activities of certain nongovernmental actors, but as a complex domain of “rationalized activity that can be carried out by all sorts of agents, in various contexts, and towards multiple ends,” conducted in the name of a moral principle (Fassin 2007, 151). Applying the concept and approach to theorizing borders is especially relevant for my case of recruiters as petty sovereigns because it presents a “domain where governmental practices emanate not from a given center or official authority but in contexts of contestation.” Humanitarianism is a form of governmental rationality that often emerges through contestation at the margins of the state. The recruiter as intermediary is a paradigmatic site of contestation—where the interests of employers and industry representatives, of the state as both facilitator and regulator, and of migrant workers converge. Drawing on Fassin (2007), Walters argues that situating the humanitarian in relation to an analytics of government opens up the ability to perceive “a broader political and moral logic

138 In fact, Walters (2011) notes that one might go so far as to assert that this contributes to the normalization of border practices such as detention.
at work both within and outside state forms” (143). Viewing the actions of recruiters through this lens reveals entanglements between practices of official governance and actions that contest and/or reinforce them. It also allows me to analyze how various forms of power—including in this case pastoral power—inhere in the sovereign exercises of border-drawing.

In its conceptualization, Walters (2011) calls for further exploration of the particular kinds of knowledges—such as medical or legal expertise—that make up the humanitarian border. Responding to this, I argue that navigation of the (temporary) labour migration regime is a specialized border-crossing knowledge produced, embodied, and engaged by recruiters. These knowledges are instrumental in reconfiguring the border and those enrolled in it, constituting the border as one of differential inclusion (Mezzadra and Neilson 2013).

A growing literature, much in political geography, has followed Walters’s challenge to undertake a fuller mapping of the humanitarian border. Williams (2015) and Pallister-Wilkins (2017) show how humanitarian logics that are concerned with populations at risk are entangled with practices of border policing, which target migrants as a risk. Recent studies have analyzed the rise of search and rescue operations at the border, by both state and non-state actors, and how logics of humanitarianism and protection are part of emerging technologies of migration management (e.g., Cuttitta 2017; Tazzioli 2016; Pallister-Wilkins in Jones et al. 2017; Stierl 2018; Vaughan-Williams 2015; Mezzadra and Nielson 2013). Garelli and Tazzioli (2018) note the intertwining of military and humanitarian practices governing refugees. They discuss the evolution of humanitarianism as part of governmental rationales, noting that the “refugee crisis” in Europe has prompted a shift from engagements aimed at alleviating suffering and providing relief, to a humanitarianism reframed as a politics of rescue, and more recently reframed as a war
on smuggling—wherein military-humanitarian operations are undertaken to “destroy” the smuggling industry, in the name of protecting migrant lives.

The predominant focus of much scholarly research on border enforcement foregrounds the punitive aspects of border regulation, including migrant interdiction, detention, and deportation. Research largely focuses on humanitarian rationalities and practices as they relate to unauthorized border-crossing or the movements of refugees or asylum seekers. In most cases, these are instances where humanitarian interventions aim to assist those who are constrained or prohibited from crossing a border, and often who risk their lives to do so. This is in part because of increased humanitarian concerns regarding restrictive and punitive border control regimes (Walters 2011; Williams 2014).

Viewing strategies and rationalities of borders through a humanitarian lens opens up thinking about borders beyond a securitization/fortification approach. My analysis here contributes to this literature, extending the application of the concept to a case where a humanitarian rationale is taken up to promote (and regulate) the mobility of particular migrants across the border, into Canadian territory and the Canadian labour market. I examine instances of bordering in which recruitment and recruiters’ practices are framed as acts of protection and charity, which serves to justify particular forms of screening or discrimination as part of sovereign decisions about who can cross the border (even if that crossing is often only temporary and under strict conditions). In my case bordering practices are not so much about prohibiting crossing, but about including as a form of exclusion—about allowing (differential) entry to the territory but not to the nation. In humanitarian border performances, sovereign power emerges within those spaces not only where the state is acting, but also and perhaps especially where the state is not directly acting and where recruiters feel they must (therefore) intervene.
8.3 Recruiters as Vigilante Border Agents

The conception of recruiters as *vigilantes* emerged for me from a discourse of crisis. At the time my fieldwork began in the mid-2000s, the Western Canadian labour market was seen as facing an “exceptional” labour shortage that required immediate and drastic action. The crisis necessitated an opening up of access to global labour pools—through an expansion of the Temporary Foreign Worker Program—to meet just-in-time industry needs. The Canadian government’s response to the labour crisis and its immigration policy were seen by many of my participants as inadequate and ineffective, as holding back employers. Immigration to Canada has become increasingly employer-driven, and recruiters have stepped in to address the labour demand—to “free” the employers from unjustly being “held hostage by an incompetent government,” as one recruiter respondent put it. There was such high demand for workers at the time that it was described as a “wild, wild west” (Chapter 5). The “wild west” conjures images of the lawless frontier, where self-appointed administrators of justice must take matters into their own hands. I argue that in the context of neoliberal globalization and the privatization of immigration and outsourcing of recruitment, many third-party recruiters, as petty sovereigns, engage in a form of vigilantism.

The vigilante is one useful framing concept through which to understand recruiters, their role, and their performances of sovereignty. Vigilantism is intimately connected with sovereignty and often emerges in frontier zones, operating at the edges of state authority and in spaces where the state is viewed as ineffective (Abrahams 1998; Doty 2007). The term vigilante stems from a Spanish word literally meaning vigilant, or watchful. As a figure, the vigilante is understood to be someone who is a member of a *self-appointed* group of citizens that *undertake law enforcement* in their community *without legal authority*, often *because existing legal agencies*
are seen as inadequate. Applying this to bordering, one could rephrase the definition to identify as vigilantes those who are self-appointed, non-state agents who undertake bordering, without official state authority or sanction, because the state (its policies, and immigration and justice systems) is thought to be inadequate.

Vigilante recruiters intervene because of a presumed inadequacy of the state and existing governing agents. Many of my participants saw the state as ineffective at promoting and achieving labour mobility, particularly at the speed seen as necessary to meet the crisis-like demand at the time. The government is not as lean or as flexible as private actors can be, and third-party recruiters were quick to boast—often with cowboyish bravado—about their ability to recruit quality workers, and quickly. Bob retired from the provincial government to become a private immigration consultant. He said that if he were in it for the money, he would be “a very wealthy man, actually. I would—I would think that we would have no problems placing, even in this economy, one thousand workers next year.” He paused for effect and reiterated, with emphasis: “Even in this economy” (this was during the heart of the post-2008 economic downturn). Like other recruiters in my study, he viewed job fairs hosted by provincial governments as mere spectacles, staged to make it seem they were addressing the labour issue. Another respondent, who had also previously worked in government, dismissed the state-sponsored job fairs as “dog and pony shows.”

Many pointed out that the state as an administrative entity was not only slow-moving or inattentive, but shackled by the bureaucracy and the necessities of its protocols. Recruiters claimed they could bring in even more workers, enough to meet employer demand, if not for the administrative barriers presented by the federal government, especially Human Resources and Skills Development Canada (HRSDC, now ESDC) and the Labour Market Opinion (LMO, now
LMIA) application process. Brady, a recruiter with a large, Alberta-based recruitment firm, expressed his dissatisfaction with HRSDC’s “terrible system”:

You know, dealing with HRSDC, which is—ah, it’s, it’s just a bureaucracy that, that doesn’t have a lot of, ah—how do you say it? I guess they would—they wouldn’t have a lot of, of care. They just—they sort of put you in line with all the other little good boys and, and ask you to wait their, their typical three to four months before they give you the approval of the LMO. … It’s a terrible system, and it’s got a great deal of paperwork involved. … Even when the workers are here in Canada, it’s still as difficult as it was from day one to get them over here. So, we have to just keep jumping through the same loops [sic]—same loops over and over every year.

An employer located in rural BC said she had to resort to using a recruiter because in her estimation HRSDC did not understand the local context sufficiently; her LMO application was repeatedly rejected because her wage rates did not meet those designated as the prevailing rates in the region. She explains:

Those prevailing wage rates … [were] something that I could not get out of, was not being able to get around on my LMO. And given where we are—our prevailing wage rate is set for like the Kootenays plus all the Okanagan and really is not a reflection of what happens in our specific market. And that was just becoming a huge challenge on the LMO. … I think our prevailing wage rate for this occupation [a hotel cleaner] is on average, on the average, is $12.05, and I would say like our market rate here is around $10.00. Yeah, $10.50. We pay $10.50 right now. But so that in itself was a major—was something that I couldn’t get around. And then when the recruiter could solve that for me I was like, “Perfect.”

HRSDC processes and requirements were seen as barriers to otherwise unfettered (employer-driven) labour mobility. Recruiters were called on to intervene, to clarify local labour needs and take advantage of their specialized knowledge of “loopholes,” because government policy was not addressing shortages sufficiently and because of dissatisfaction with government bureaucracy.

Matias echoed this dissatisfaction. He is a Latin American–born recruiter who immigrated to Canada and intentionally pursued a career as an immigration lawyer, he claimed,
in order to have direct say in who would be chosen to join him in building the nation of Canada.

He pointed out that, unlike him, “all the people at Service Canada don’t understand [the importance] of being careful, being diligent. Sometimes they overdo it. And they become a barrier in the process. Because employers need the workers.” An interesting point raised by both Brady and Matias hinges on the notion of the state as unfeeling; it doesn’t “have a lot of care,” and isn’t “careful.” The (neoliberal) Canadian state is represented as an uncaring, bureaucratic entity that is only interested in checking off the procedural boxes to present the appearance of order in an otherwise chaotic, “wild west” labour market. This notion of the “caring” recruiter, pitted against the indifferent state and acting because the government cannot or is not, is one that recurred throughout my research.

Participants saw the state as an inadequate facilitator of mobility (through its immigration system and labour policies), and also, significantly, as an inadequate regulator. The sense that the labour market was a “wild west,” with little regulation or enforcement of “justice” and thus especially in need of monitoring, threaded through my interviews and fieldwork. Equally widespread was the sense that the abuse and exploitation covered in the media was only the tip of an iceberg. For example, one Alberta-based recruiter described one of the “games” that “gets played with this foreign recruiting thing”:

A lot of these employers will bring the worker here. Now, they’ll buy a house, okay? So, let’s say they, they’ve got six people. Well, they just bought a house and they just put six people in the house. And they’re now taking—by law, they’re allowed to take 33% of salary towards rent, okay? … So, you end up with this, this employment contract with the government and it’s drafted up. And it’s been drafted up in a—you know, probably, probably in the best of intentions. … So, let’s say that your, your salary likely is $3,000 because that’s what the government has told you have to pay this employee. Okay. So, now you’re going to get $1,000 of that for rent. But you actually have six employees living in one house and, and you’re taking six times $1,000, okay? And your mortgage on that house will all—everything in, is under $2,000. So, what have you done? Now your workforce solution is solved—way to go—but now you’re also going to now go to this
guy and now take a ridiculous amount of rent money from him? … So, I mean there’s all sorts of these little games that get played that I don’t think the government has time to catch up on. And they’re so widespread. And I mean I’ve, I’ve been—I’ve actually seen a house with 15 temporary foreign workers in it. So, what I say to them [the employers he works with], I say, “Look, don’t get into—don’t get into this trap of, of trying to, you know, be the hero and buy a house,” because inevitably, they can do the math and think, “Well, you know, I got to charge a little bit more because I—you know, I’m the landlord and da-da-da-da-dah.” I say leave it to a third party that specializes in housing. … And the ones that don’t take that advice end up in trouble. They end up with—you know, let’s say, for example, you—you’ve got your—[valued] workforce and now they go and they have a party in their house, okay? Well, that should be really no business of the employer. But because he’s gone and become the landlords, now it’s their business. You know, after having been in this business for a while, there’s just so many, uh, so many little nuances to it.

He talked about his recruiting firm as having to clean up all the “little games” that the government doesn’t “have time to catch up on.” I recall my conversation with Matias at one point also developing into a catalogue of incidents of regulatory non-compliance. He recounted troublesome situation after situation—one involved an employer acting as a landlord, keeping migrant workers “virtually as slaves, because she forces them to live in one house, there are three or four bedrooms there. She had 17 Mexicans living [there]. And then a woman comes once every day and cooks for them. And they have to pay the employer for the bed that they sleep on, for the food … and it’s not cheap.” The employer was allegedly also charging them money, paid in monthly installments, to cover the costs of hiring a recruiter. Though quite visible to many in the community, he was disconcerted at how “underground” these situations seemed to be to the government and mentioned that on multiple occasions he had contacted officials to warn them “that this is what’s happening there in front of their noses.”

Concerns raised in my fieldwork about widespread problems related to the defrauding and mistreatment of migrant workers echo what has been documented by other activists, scholars, and media reports. Respondents reported instances of contract substitution and of
employers and recruiters misrepresenting job tasks, wages, and conditions of employment. For example, Harrison, who migrated from Jamaica to work as a mechanic in BC, echoed what I heard from many: “Ah, alright, what it was, we were told [by the recruiter and employer] that we would be paid, like, probably 50 to 60 dollars an hour… When we came here it was, like, the bosses were even refusing to pay, like, 10 dollars … but you are a foreign worker, they don’t want to pay.” Many also spoke of misleading information that overstated the possibility of bringing family members and inaccurately guaranteed access to permanent residency. At the time we spoke, Harrison was in the process of applying for permanent residency through the BC Provincial Nominee Program. He reflected that for most of the other migrant workers he knew from the sector, “The expectation that we came here with wasn’t what we expected. … I said I would give it a try because of the, the, what we were told [by the recruiter]. … Unfortunately it wasn’t that way, but I’m still here.” He noted in particular how frustrated he was at having to be separated from his family in the interim:

I’m trying, I’m trying to get my wife here. It’s a bit of a challenge though. That’s the biggest challenge that they, they told us at first that we’ll, we could get our wives, wives there. Because Canada is family-oriented, but it doesn’t seem that way. That’s what they, or no, that’s what they told us even, at the Canadian, the Canadian, um, High Commissioner told us that Canada is family-oriented. Yeah, they were saying that Canada doesn’t like to separate families. But when you start to get your wife here, you have to be doing, like, going like hell to get your wife or your kids here. … She’s in Jamaica and it’s not like a First World country that if you’re in, like, in a state I would have, maybe just, hop across or whatever, you have to wait until you have a visa. And they want proof to say that you’re not going to be staying or whatever. … I was with her in June last year, so what’s that, June, July, August, one year and three months. I don’t have, I’m unable to go there now because my visa’s expired, so I’m just here on my work permit.

Through my fieldwork I also encountered more coercive and punitive recruitment-related practices, such as passport holding and threats of deportation and blacklisting. The degree to which these practices are subject to legal regulation varies (and is beyond the scope of my
discussion here), but regardless, there was a noted lack of enforcement of existing laws and regulations. Perhaps most telling were my conversations with Employment Standards representatives, who expressed frustration at how a largely complaint-driven process combined with capacity-related limitations constrained their ability to monitor and ensure compliance.

The lack of regulatory oversight (of the recruitment and employment practices of employers and their contracted representatives) extends to activities external to Canadian territory. Even with proactive enforcement measures such as those provided by Manitoba’s Worker Recruitment and Protection Act, Canadian authorities are limited in their ability to address much recruitment-related abuse, as unscrupulous activities are often carried out or initiated outside Canada’s territorial borders. The practice of sub-contracting (for example, to “sister” recruitment agents located within source countries) further complicates matters. About a dozen employers and Canadian-based recruiters, for example, described their attempts to sub-contract recruitment agencies in the Philippines, noting they had bad feelings or realized the agents were engaged in “shady” practices and they quickly had to cut ties and find another agency. A few reported illegal practices to local authorities but “didn’t expect it mattered.” Some decided to do everything on their own, starting their own agencies in source countries because they felt they couldn’t trust others to recruit in an ethical way. One recruiter explained:

When you go to any Third World [country] there’s a great deal of corruption. … The biggest fear that we had was that the agencies were going to charge our workers fees to come to Canada to work. … Probably the worst part about the recruiting business is that a lot of the workers that come to Canada and other parts of the world pay huge fees and, and sometimes end up working the first year for free, basically to pay back their fees. So, we wanted to control everything from start to finish, because, frankly, at that stage, we didn’t trust anybody to be our, our partner. So, we had our own office.

Eventually they decided to expand, and sub-contracted another agency in the Philippines:
We had sort of tested the waters out with a number of different agencies, Philippine-based and Philippine-owned. Uh, at varying levels of scruples and morals. We ended up only with one that, uh, that we trusted. And I mean we really researched the waters. And we tested the waters out. And we had a lot of, uh, negative responses from some of the partnerships that we were looking at developing. We were fortunate that they never actually charged the workers money, although some tried. And the one agency we ended up sticking with actually never tried to pull any games. They were very much, uh, onboard with the way we were trying to run our business.

As the recruitment process is managed by the private sector and contracted out, regulation of the process is largely offloaded as well; the recruitment “industry” is largely, effectively, left to self-regulation (Chapter 6). It is in this context that so-called “vigilante” recruiters feel they must step in and take matters into their own hands, to “clean up” after less “caring” agents.

BC-based recruiter Arnold made his first recruiting trip to a small community just north of Puerto Vallarta, in Mexico, and he recounted to me that, “everybody was looking at me, like, you know, what’s wrong? How much do you charge?” He said he responded that he didn’t charge anything, and that, “As a matter of fact, it’s illegal for me to charge you anything.” He learned that the community’s suspicious reception followed from “this horrible story” about how “other guys like you” had arrived previously and:

Set up an office, recruited everybody, took, I don’t know, I think like $3,000 from each of them. They actually brought in buses, loaded them on the buses, stopped at a church to get the blessing. Took off with their bags, not only stole their money, but took their things as well. … And I mean these are the people that don’t have anything.

Arnold explained to me that this encounter, early in his career as a recruiter, confirmed for him that he was “doing the right thing.” The community’s reaction, unfortunately, was not uncommon among his (and other respondents’) recruiting experiences, and he told me that he came away from each encounter more driven to intervene in “the mess” that was playing out in migrant sending communities.
Recruiters, as vigilante border agents, feel they must step in to bring justice and order to the chaotic world of the TFWP and migrant worker recruitment. Many respondents said they decided to become recruiters not only to help employers and migrant workers, but also to ensure integrity in the process and to provide protection. They are not just representatives of the state (authorized representatives) or of employers (as gatekeepers or brokers), but they claim to be acting outside and beyond either of these, as administrators of justice. Many of my respondents, especially those who were lawyers or long-time, established consultants spoke of their work in justice-oriented terms. One respondent referred to himself as a “problem-fixer,” and another BC-based lawyer as a “consumer protection” agent, even advertising on his website that one of his primary objectives is to “protect the public from incompetent immigration consultants.” The certification process to become an immigration consultant is “a short course, and anybody, anybody can be an immigration consultant. And people’s lives are [at stake]. It’s a very important position… and especially if you’re, many of these people are from a certain community and they speak the language of the community and people believe them … but a lot of them really don’t know what they’re doing. I know that, because I, they come to me after they’ve gone to the consultant (laughs). … They don’t understand the law, the lawyer has so much more invested and [has to be] so much more careful in how they approach what they say to people, whereas consultants are very loose.” These recruiters claim to be “cleaning up” after less competent, less scrupulous agents have wronged their clients—they are the “sheriffs” stepping in to right wrongs.

Some even cite an impulse of revenge. I asked Bob (a recruiter/consultant introduced in Chapter 6) if and how the presence of less “careful” recruiters impacts his business, and he responded:
Yes it does. I get calls every day from employees where the recruiters and employers are calling them stupid, swearing at them, breaking them emotionally, going at them to the point where they’re home at night bawling. I’ve even had fellas phone me up, they were gonna commit suicide. And the problem is… you can take that employer to task through, like I would go through the Labour Relations. I can do that. But, in the long run, that employee, that foreign worker’s gonna get laid off. So, you’re best to say to the young fella, you know, you’ve been putting up with it for, for this amount of time. Send me your resume, don’t say anything until I call you.

Bob explained that he would then help mistreated migrants change employers. Once word got to him that workers needed to change jobs, he was:

Pushing resumes out to other agencies, and other folks that I know that are, that are good souls, and saying can you help these guys, without calling the current employer. Now, what happens, we’ll get them jobs, um, the best we can, and we make a phone call and say, “Be at my house at midnight, I’m taking you to the next employer.” Now, what we do is, we swing down for a border run. And get the work permit changed and he [the migrant] goes merrily on to another place to go to work, and two weeks later he can send them a letter and say, “You know what, I’ve put up with enough of your calling me stupid, swearing at me, belittling me, that I just decided to leave your employment and I’ve gone somewhere else.” Now, they don’t mail those letters from the place they’re at. They send them all to me and I drop box them out of Edmonton.

These actions—assisting a worker to abscond in the night, making a “border run,” and then weeks later sending letters of retribution—go beyond the typical labour market intermediary (LMI) role, and beyond mere monitoring. As another recruiter echoed: “The problem is, yes, we can teach the employer a lesson, [but] as soon as government is gone, that poor employee is gonna be dumped on and got rid of.”

Recruiters are non-state actors performing state-like functions with little regulatory oversight. As vigilante border agents, they step in because of perceived neglect by the state to intervene in border spaces characterized by a relative regulatory vacuum. They are acting as vigilantes in relatively “lawless” spaces the state has effectively abandoned (where the law, or at least its enforcement, is withdrawn). There are two primary border spaces where this occurs. The first is at the margins of the recruitment process, for example in small-town, rural Mexico, or in
overseas, non-descript office spaces. These are spaces outside the jurisdictional reach of the (Canadian) law. The second is across the liminal spaces of the non-citizen labour market, where the border has effectively followed migrant workers, carried like an embodied marker of their precarious, temporary status (Mountz 2010; Coutin 2003). These spaces are within the jurisdictional space but embodied in non-citizen subjects who have limited claim on the sovereign state. As “frontier” spaces, these are paradigmatic spaces of exception, where sovereign power is asserted through the suspension of law (Doty 2007; Salter 2008b; Jones et al. 2017; Vaughan-Williams 2009; Mezzadra and Neilson 2013).  

Recruiters are to some degree taking borderwork and law enforcement (or “labour market justice”) into their own hands, and “engaging in acts of protection under conditions of [perceived] disorder” (Doty 2007, 117). However, as I turn to discuss in the remainder of the chapter, while they are taking it upon themselves to patrol the border, in discriminating between those who should be allowed to cross it, recruiters are doing so with the dual objective of both promoting and regulating mobility. The exercise of power and rationalization I want to explore here moves beyond disciplinary pressure imposed by shady recruiters (from whom most of my recruiter respondents went to great length to differentiate themselves). It also moves beyond the kinds of vigilance evident in policing migrant workers. Recruiters in the vigilante sense are not mere gatekeepers, but are acting on behalf of those involved in the process—both employers and migrants—to protect them and treat them with “care” where the state is not, both in practice  

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139 Bringing together the concept of the sovereign exception (e.g., Agamben 1998) and literature on securitization, Doty (2007) examines and theorizes the practices of “border vigilantes,” specifically the Minuteman phenomenon in the US. The Minuteman Project was initiated by private citizens who volunteer to help monitor the “neglected border,” engaging in unofficial and sometimes unauthorized, though not necessarily illegal, border patrols. As Doty argues, these civilian groups act not because of the state’s sovereign decision about the existence of an enemy, but because of its inaction—that is, because in the eyes of a significant portion of the population, that is, the state has not been able to recognize “the enemy” (who is, for the Minutemen, the irregular border-crosser).
(where regulatory enforcement is limited) and physically in transnational or extra-territorial spaces (outside the jurisdictional reach of the Canadian state).

8.4 Vigilantism Through Humanitarian Borderwork

Typically, humanitarian actors are independent of the state, and set their own boundaries of intervention depending on the practitioners involved and the particular “crisis” concerned (Pallister-Wilkins 2018; Williams 2015). Like many humanitarian agencies and services, which are increasingly concentrated on the margins of the global North (Williams 2015; Walters 2011), recruiters operate at the frontiers of the state and out of a self-appointed sense of mission. It is through their underlying motivation to recruit—which is not so much business-oriented but a genuine desire to help, protect, and rescue the Canadian labour market, migrant workers, and ultimately the nation of Canada—that we see dimensions of humanitarian bordering emerge. I trace two ways we can see recruiters as vigilantes through their humanitarianism. First, I show how their motivations, attitudes, and interactions are related to the protection and rescue of migrant workers. Second, they are driven to protect the border of the nation itself, enacting a vigilance aimed at patrolling the border of the Canadian nation with view to “saving” it.

8.4.1 Protecting—and “Humanizing”—Migrant Workers

Recruiters are vigilantes through their motivations and practices related to the protection and rescue of migrant workers. Many initially “got into the game” to help people, specifically migrant workers navigating the complex maze of paperwork and settlement processes. Most claimed that, unlike other recruiters, they are not working exclusively, or perhaps even primarily, for money. Though in the majority of cases their business is the source of their livelihood, many
stress that their underlying motivation is not profit-driven. One referred to recruiting as “more of a counselling job.” Another said that in his company they “joke about we’re really a non-profit organisation, because I mean, for what we do, we really don’t make any money. … For those that are reputable, it’s not a huge money-maker.” Chapter 6 notes how the fee structure and business model is presented as a defining feature distinguishing reputable, above-board agencies from otherwise “crooked consultants.” Many of my respondents were adamant about the “non-profit” or charitable nature of their work, citing their lack of wealth as evidence of the sincerity of their non-commercial motivations. As LMIs, recruiters do provide migrant workers essential—and sometimes vital—help and assistance. Beyond job-matching, many provide a range of orientation and settlement services, from offering advice and information on working in Canada, to pick-up and transport from the airport upon arrival, to assistance locating housing (see Appendix A for overview of services recruiters provide). Some even go so far as to gather furniture or purchase winter clothing for migrants they recruit. It is important to remember that, at heart, most are offering a service that is fundamentally helpful. However, the vigilante-like actions they engage in, and the humanitarian rationale for them, often go beyond helpful service—they engage in acts of protection.

Bob had retired from regulatory work in the provincial government and was recruiting/consulting “as a hobby”—to “keep alive, keep active,” but primarily, he explained, out of a desire to help struggling employers navigate the system and to protect migrants from being treated unfairly. In fact, he felt he could do more to protect workers in this capacity than when he was with the provincial government. He commented:

What each province needs, now I’m not, you know, I’m not one for government regulations, and I hate the taxation system and that story could go on and on forever. But, to protect people and to make sure the playing field is level, for the good employers as
well as the bad employers, you need a ground force, inspecting, going out, visiting the foreign workers and make sure that they’re doing what they’ve been brought in for and they’re, I know of lots of companies that bring people in, car detailer is a car wash boy. I know shops in Alberta bringing them in as car detailers ‘cause they can get ‘em at thirteen dollars an hour, but in actuality they’re doing auto body work. Now, that employer should be taken into court and fined a hundred thousand dollars, and have the bejesus scared outta ‘em so he doesn’t do that nonsense anymore.

The structure of the TFWP recruitment process partly makes this phenomenon possible but also, he recognizes, it is made possible because of insufficient proactive enforcement of provincial regulations, especially Employment Standards. Thus the need for a “ground force,” ensuring employers were following the rules and migrant workers were being treated fairly.

Like Bob, many consultants talked about this monitoring and enforcement role as their self-appointed mission—acting like vigilantes in an arena lacking a “sheriff,” or at least an effective one. One smaller BC-based recruiter boasted that, “Right now we’re monitoring thirty-four companies, mostly large companies, and the employers like it because they say, ‘you know what, it’s a big, a lot of legislation that changes on a weekly basis; you’re up on it and we appreciate we’re not in trouble—when we say we need people, we have a very good reputation with Service Canada because you monitor us.’” As shown in Chapters 5 and 6, the state has offloaded management to employers and recruiters and in doing so has withdrawn from regulating much of the process. As a result, even at later steps in the labour migration process, when workers arrive and are on the job, recruiters and immigration consultants are monitoring activities not just of workers but also of employers. Here that monitoring is framed as an act appreciated by employers, who rely on it to ensure they are on the straight and narrow, recognizing and admitting that they are not as informed (what with legislation changing “on a weekly basis”) about the migration process and their associated responsibilities.
Bob explained that often companies approach him after another recruitment agency “has let them get into a grey area,” and he will make sure the employer “gets squeaky clean” before he will take them on as a client:

Bob: [Employers] need monitoring and … there’s so many people that bring people in and dump and they say, ‘well, we had a job for you.’ It, it’s just human trafficking for the almighty dollar. I don’t believe in that. People are people; they got families in other countries to feed. They’re, they’re worse off than our Canadian guy who goes out to a camp job, yes he’s got a house at home, but he doesn’t have a house and family overseas. … I go out and visit them, I go through the company’s payroll, I talk to the people. … I run my business outta my house, the downstairs is my office, and the last person that was in my house, or, in the office for business last night was an employer from Fort McMurray and they left about 10:30. And I’m back at it at six o’clock this morning.

Sarah: Oh my goodness. It sounds like you’re doing Employment Standards work, too?

Bob: Well, you know what, I’m very happy because the group of employers that I deal with, they’re, we’re not a revolving door. I’m not a headhunter.

Indeed, the prevalence of exploitative, uncaring employers and unscrupulous consultants is put forward by many as a primary reason for their intervention; vigilante recruiters must exist, and continue their recruitment work, as a means of guarding against less caring agents. Vigilante recruiter practices become a way of patrolling the transnational margins of “the border”—watching out and correcting for the activities of recruiters and immigration consultants who are engaging in shady practices (regardless of whether employers sanction or are even aware of them).

This manifests not only through initial recruitment and hiring practices, but also in the suite of follow-up or “settlement” services recruiters offer their clients. One Manitoba-based recruiter explained that many recruiters offer these services because “settlement” is left entirely to employers: “I believe the provincial and the federal governments … don’t pay enough attention to the settlement process. My perception is that [they] are hoping that the private sector
assume that responsibility. But I don’t think it’s working too well.” Though there is federal funding for newcomer settlement, temporary migrants are not eligible. It is largely left to employers to orient and “settle” their workers, and they routinely contract this to recruiters/consultants. One BC-based recruiter explained that after the initial hiring process, “Then we of course, well, if you're in the business of selling doughnuts, you’re not in the business of booking flights or finding accommodations, so we do all of that. So we get their social security number, we apply for the BC Medical as soon as they arrive, and they get it all. … We orientate them on the do’s and don’ts of, about the culture, society.” In many cases, leaving this to the private sector is “not working too well,” so more scrupulous and “caring” recruiters feel they must intervene to help.

Monitoring worker experiences and treatment is often part of the “settlement service” they provide. Nearly every recruiter I spoke with indicated they engage in some kind of monitoring once the workers arrive and start their job. In most cases the government bodies responsible for enforcing Employment Standards regulations do not even have the information about where temporary migrant workers are employed. Recruiters keep track of those they recruit; one declared: “I mean, I know where my guys are, I know where they live, even though, you know, they're on their own. But I keep tabs …. So it’s kind of just typical—[government] regulation is either too strong or too weak.” Many respondents noted they “audit” employers and monitor worker experiences once they arrive—workers send them pictures, they phone workers, workers phone them. “That’s part of the fee, that settlement fee,” one explained. “I do a three-month follow-up, contact them, and they ask any questions, [like] ‘can my employer change my schedule, or wants me to do this job now, am I allowed to do that?’ … So we’re there for them, the whole time they’re here.” Not only was the government not doing enough, but recruiters also
claimed they could work more effectively because they were non-state actors. They knew the locations of workers, they had established, personal relationships with the employers and migrants who contracted them, and they were invested in the success of placement outcomes and “settlement” experiences. They cite this monitoring as one feature distinguishing them from other, less scrupulous recruiters—their approach is more comprehensive and caring, driven by morals rather than profit.

As non-state actors, many explained, they can relate to people as people and therefore offer a less bureaucratic, more personal approach. Bob is not “headhunting,” targeting (and abstracting) workers with particular skill sets, but engaging in a more human-centered and morally-driven way. Another BC-based recruiter explained that unlike others, she “was personally involved with this whole process”:

It really was me that found them a place to live, and we, our company set up like their orientation in that first week within the community and within life here in town and then in with the workplace. …We had already gone and got like enough appropriate warm clothes, and then we did the whole thing of, like, go and set up the bank accounts. I took them to go get their SIN numbers. … That was just what I chose to do personally, but I think—I can’t imagine how that would be for someone that didn’t have that orientation.

Recruiters spoke of having longstanding relationships, even forming friendships, with their clients. These are longer-term commitments than those of a mere business transaction, than the interaction of fly-by-night or headhunter operations (which are reduced and dismissed as “just human trafficking for the almighty dollar”).

Many respondents also emphasized their distinctiveness in treating workers with compassion. They described uncompensated affective labour integral to ethical recruitment work. Salima, a BC-based recruiter working out of her home, related to me:
When an employer’s bringing someone, and sponsoring someone, either through the BCPNP or LMO, their first question is, even though they want to do this, wholeheartedly, they’ve done all the paperwork, and they’ve provided financial statements, … “Will there be any obligations, [Salima]? What obligations do I have?” Come on, you are sponsoring this person … why are you asking me this question? … Yes, I know what your obligation is, you’re bringing this person from abroad … he is leaving everything behind, uprooting, getting on the plane, coming and starting work for you. Your obligation is to keep him happy, and uh, work in a happy medium, and don’t fire him for god’s sake, work with him. You know? … So, so that’s one thing that employers have to understand. It depends on a, on a person-to-person [relationship] right?”

The success of the experience, she explained to me, depends on recognizing migrant workers’ humanity, on seeing them as people with feelings (“your obligation is to keep him happy”). The intermediary here is the one who has the “person-to-person,” the face-to-face interaction; their attitude and actions take on a protective tone because they feel responsibility for the workers they hire. I interviewed two members of a family-run immigration consulting business, Sheila and Norman, and they described that feeling as one of not wanting to betray the migrant worker:

Well, as a company that helped the foreign worker to come here and go through the process, we’re in the middle here. Here’s the government, here’s us, and here’s the employer. We have to be very, very diplomatic, … we have to be problem solving all the time. We have to help our client because we have to help them, they’re our client, and we have to listen to the employer, we have to listen, and I’m dragged into that. … But, like I said, in a black and white world, I do immigration and that’s it, don’t talk to me about the job, but how can you detach yourself from human beings, families, who have put their trust in you to come here, and you’ve helped them with various things, not just the job offer but other things, so you need to be compassionate, you need to be understanding.

Later in our conversation, I asked if they stay in touch with many of their clients after arrival, and Sheila responded: “Oh yeah. Absolutely. We become very good friends. They come for a barbeque on the weekends!”

This entanglement with the “humanity” of the people being recruited resounds in the comments of another BC-based recruiter. He expresses a theme that ran through my conversations with recruiters—that they were different, that they knew how to treat workers, that
they were stepping in to assist those who would otherwise find themselves in exploitative situations:

I will go and *I’ll* do the one-on-one interview; I will not just go on [another recruiter’s] word, I want to do it myself. So that’s what distinguishes us. I was at a trade show here with placement agencies and they have all these different recruiters; it’s just, here’s the file. No, I’m dealing with *people*, I’m not dealing with a product, you know. I’ve imported coffee and cigars and, you know, these are people. You can’t just treat them like a product.

This underscores the emancipatory potential in the approach of recruiters as vigilantes—they are vigilantes *through* their humanitarianism. Recruiters as humanitarian actors foreground migrant workers as embedded in social relationships—with their families, and also with the agents themselves. This discourse recurs throughout my research with these recruiters, who see their work as exceeding a business transaction or fee for service. Humanitarian actors, Fassin (2007) argues, differentiate themselves from others, who act based on purely commercial motivations, by acting in the name of a moral principle. The approach rescues migrants from “bare life” (or the essentialized reduction to a body with skill sets)—instead, it views them as social beings, which to some extent revitalizes them as humans and thus subjects who can lay claim to human rights. The humanitarian activities recruiters engage in are aimed at protecting workers and rescuing them from exploitative practices of employers or other recruiters. At the same time, they rescue migrants, to some extent, from their abstraction and alienation as commodified, and disposable, “products” to be “ordered.” “People are people; they got families in other countries to feed,” Bob said.

One Manitoba-based recruiter prided himself on the “above-and-beyond” settlement services he provided to those he recruited. He saw it as a way of recognizing them as part of society, even if their stay in the community was only temporary. He reflected:
I don’t expect that the government will give them the right to vote or to be elected. No, of course not. They’re not even permanent residents. But I think we—we should pay more attention to them and not use them—because, you know, very soon we’re going to get into the human traffic here. … And employers sometimes are not intelligent enough to treat them well. So, who protects them? Who? Nobody. Because they are—nobody. So they—there should be some policing in place in that regard. As I was telling you, people come here and then they find out that they, that the employer is no longer in business. Someone has to be accountable for that. I hired—five years ago or so, perhaps more—a fellow from Oman. … He was a machinist. … I contacted [the] employer, and finally he arrived. And he went to the place, to the garage. And there was an empty warehouse there. So he called me up on the phone, he said, “The garage is gone! What do I do?” So he was a highly specialized machine trained. So I said go out and look for a job and I will try to get a job myself for you. And—uh, I feel bad because I should have made sure that—but I didn’t expect that things like that were going to happen.

The “personal” approach of recruiters stands as a refusal of the commodification process that abstracts and alienates workers, that unmakes migrant workers as social subjects and produces them as “nobody.” On the face of it, I found these discussions to be particularly hopeful, contrasting with the image of recruiters as merely profit-driven gatekeepers or “crooked” consultants. However, through a humanitarian framing the protection of migrant workers is scripted as one of rescue. Their relationship with migrant workers is haunted by a structure of dependency, and the motivation of rescue is one that is premised on and reinforces the view of migrant workers as “nobody”—who are thus in need of protection. As I will return to discuss, this rationale reproduces migrant workers as vulnerable subjects in need of protection. First, though, I “jump scale” and examine a second way we can see recruiters as vigilantes.

### 8.4.2 Recruiting to Save the Nation

As vigilante figures, recruiters’ fundamental motivation for recruitment is not only about rescuing migrants, but extends to rescuing (and crafting) the labour market and Canadian nation. Their self-appointed mission entails vigilance of the Canadian border. Matias, an immigrant
himself, encapsulates the objective expressed by many in saying “we want to be the reason” workers fulfill labour needs in Canada and potentially go on to become Canadian citizens. These recruiters view temporary labour migration as part of a larger labour market and immigration scheme, one which includes two-step pathways to permanence. Through this lens they view migrants—even those with short-term, temporary status—as members of their community and possible future members of Canadian society. “The first thing we look for,” a human resources recruiter for a large construction firm told me, “is people that want to become permanent residents of Canada.” He reflected:

Yeah, we want them to be permanent and, you know, some employers may say, well gee, we just need them here for a year or two and no, we don’t want them permanent .... But we look at it, even if they don’t stay with us and they move on to new dreams or new companies or whatever, they become a permanent resident of Canada and they become contributors to the economy and, you know, of Vancouver or British Columbia or wherever they are. So it’s a positive thing. Yes, we have done temporary foreign workers, but we also have switched them into PNPs for those that want to stay permanent, and very few don’t. … We want them to bring their family with them or very soon after they arrive. We recommend that…. We can’t force them, but we look at it as the family is, you know, an important part of who they are, rather than be by themselves here. … Versus a regular employee [who] is not an immigrant, you don’t know much about their personal side. But because we’re dealing with all their immigration documents, you get to know their dog’s name and all their health issues … the whole person.

There are two key things I would like to highlight in this passage. First, there is a tone of sacrifice. Although this employer is sponsoring the worker, bearing the costs of locating and recruiting the migrant, providing orientation and processing the paperwork, he recognizes that once a permanent resident, the worker will be free to seek employment elsewhere. “Even if they don’t stay with us,” workers will be part of society and will be contributing to the economy. There is the hint that their sponsorship and investment through recruitment is somehow a benevolent act—that while it serves the company, by hiring labour to fill a shortage, it also
serves a nation-building project. For this narrative to hold, however, there is the expectation that recruited workers will be “contributors.”

Second, the passage indicates that employers often “know” the workers who are immigrants better than their domestic counterparts. Because employers are sponsoring these workers—once through the TFWP and again through the PNP—they (or their recruiters) have more of a relationship with them, if only through the paperwork. They even “get to know their dog’s name.” In a sense, employers are more “invested” in these workers. Even if the workers go on to other opportunities, the investment reaches beyond the individual company; it is one related to the future of Canada. Bob approaches recruitment with much the same rationale, one based in a sense of futurity:

He’s a good employee. He shows up everyday. He’s on time. He gives you a thousand percent customer relation. … I bring people in to you and I want to see that person work for you for fifteen, twenty years. I want to see their kids go to our schools and become something. I’ve gotta, um, my first immigration family, the young fella is now a second- or third-year heavy-duty mechanic. And he’s making an income that he would never see in his home country. They got a house, they’ve got two cars, they’re contributing to our Canadian society, so I can keep pulling my CPP, my health care… You know, Canada needs foreign workers. This is not just to help workers, but to save Canada, to save our way of life.

This assessment of what is at stake in recruitment reverberated through my conversations, for example with another Alberta-based recruiter:

I’ve just brought a welder who I found under human trafficking in Alberta, totally illegal. I straightened his papers out, he’s passed his exams, he’s been steady-eddie with one employer now for three years, his family has arrived here, and to see the thrill on their face, to be able, he hadn’t seen his family for four years, he’s got a daughter five years old. You know, let’s smarten up, Canada needs foreign workers … and we better get it

Interestingly, while the first thing they look for is people who want to immigrate permanently, he did follow the discussion with the admission that “well, for the most part, I mean, this current year, we haven’t been able to offer that because of the market.” Although the perception of migrant workers as potential long-term neighbours shapes the employer’s “personal” approach, in reality not all recruited workers will be able to access that pathway.
through our heads real quick otherwise everybody in my position will be in dire straights, the pensions won’t be there, the health care won’t be there. Our life style won’t be there.

Recruitment is framed as an investment, one driven by a sense of urgency because what is at stake is the future of Canadian society future—our very lives (such as they are). The threat is a labour shortage and looming demographic crisis that threatens “our way of life.” These passages underscore a political economy of dependency that underpins this approach. This “salvation” results from demographic growth, bolstering the view of (im)migration as fundamentally an economic development project—even as it is couched in a narrative of nation-building.

As mentioned, Arnold’s “personal agenda is to protect Canada.” A nation-building approach is adopted as part of recruitment as rescue. The motivation of rescuing the labour market drives a project of saving (and building) the nation. A Manitoba-based recruiter reflected:

What makes a country to be a good country is the people. Of course, natural resources, uh, a good government. But a government is based on the quality of people. Uh, you—the natural resources, it depends how you manage those resources. … Everything comes down to the quality of people. So my philosophy is that anyone that I bring into Canada has to be a contributor. And I tell them, “You have to come here with a farmer mentality. That is, you come here not to harvest, you have to give. You have to come here with the mentality that, uh, you have to prepare the soil and glean and then put the field, and go through that whole process. And the time will come when you are ready to harvest. And it takes time.”

For many recruiters, Canada is a beautiful, sought-after destination, and it is up to them—through their discriminating assessments of candidates—to choose “quality” people who will contribute to Canada’s preservation and maintenance as such. Matias reflected:

My philosophy is that anyone that I bring into Canada has to be a contributor. Some people call it the “prize of Canada,” you know. This is a beautiful woman, and in order to conquer her, you have to really behave. And work hard. … One of the questions that I ask when I interview a candidate, the most important question, is, why? Why do you want to come to Canada? And then there are two types of answers. One is the wrong one. (whoosh noise) Out. … In my own criteria, the wrong answer is, “Oh, I want to go there because I want to make more money.” Or, (pause) the bottom line is me, me, me, for me, right? Normally I feel that type of people don’t make it very well in Canada. And the
right answer is, to me, when they say that they want to come here because they are looking for a change in their quality of life. And for their children. A foreign worker that wanted to come to Canada for the right reason will become an asset for this country, will be a contribution, not only of the economy but of the Canadian nation. Their children will grow up in a safe environment with opportunities and they are going to become medical doctors, engineers, … and they’re going to be good people.

These recruiters see themselves as both shepherds, guiding migrants, and also as nation-builders. Viewing recruitment as a nation-building endeavour liberates it (discursively) from a purely market-based activity. This is not just a for-profit contracted service, but a larger-scale mission to craft the nation, in the face of a state and government they see as having abandoned it. It also entails a more inclusive approach to migrant workers, regarding them as community members and even those with temporary status as potential future citizens.

Reflecting on the demographic “crisis,” particularly in Western Canada, Bob even spoke of immigrant recruitment as more “humane” alternative to meeting shortages through internal migration. “I’ll tell you something,” he said:

I worked the construction in BC and Alberta when I was young, and this, this working in a camp away from your wife, for months on end, and some of these guys haven’t seen their wives for six years. They’ve got kids, they’ve got kids in college, you know that’s not much of a life. So, I would much rather see a young family move to Canada and by the way, another reason I do that is, when I go into a meeting, say even with the condo board meeting, I take a look around at the room, and 85% of the people in five years can’t work. So, if we don’t start bringing in families to Canada very soon, our gross national product is gonna be that of a Third World country because our population is old. It just doesn’t have the work force there. … We had best be going out into the world and finding the highest skilled people that we can find and bringing them and their families to Canada, and treating them decently.

He begins by talking about family and the importance of bringing entire “young families” (of building the nation of Canada), but ends up talking about immigration as linked to development, 

141 This goes hand-in-hand with the discourse that Canadian immigration policy has prioritized an “economic” approach (Chapter 4).
as part of a strategic economic plan for Canada’s future. Although these recruiters claim their primary motivation is not economic, however, it is still ultimately discussed in market-based terms. Recruitment (and sponsorship) is seen as an “investment”—and viewing it through this framing, recruited workers must be contributors to that nation. There are expectations that these workers, and their children, will give “one thousand percent” and work “steady-eddie” for decades. Several used the word “dividends”—that helping migrants find jobs and learn English “is an investment that is going to produce huge dividends” or “bring a good return” in the future. Even when the initial impulse for hiring may be couched in humanitarianism, these marketized expectations shape employer–recruiter–worker encounters.

Like the vigilante “border guards” Doty (2007) discusses, vigilante recruiters protect and “save” the nation through recruitment, by identifying those who are deserving of “rescue”—but also those likely to be good contributors. At the same time recruiters monitor employers, and are dedicated to protecting migrants, their assistance is never free from cost:

You can tell these guys, you’re an ambassador for your country, you’re not just going there to work. If you mess up, I’m going to come back to your neighbourhood, to your village, and I’m going to tell all your neighbours that you screwed up and why I’m not hiring anybody from that area anymore. You’ve won the lottery; this employer has not only bought you a lottery ticket, he’s guaranteeing that you’re going to win. And you know, for 99% of the time it’s worked. A couple of guys have gotten through and you know, they’re drinking and … they’re just not doing the moral thing. … But you know, the Canadian government will understand I’m actually doing their job better. I’m screening on the morality of the person.

In defining desirable workers, beyond meeting the criteria set out by the state and employers, recruiters screen based on their own assessments of how deserving migrants are of their assistance, on judgments based on personal, subjective assessments of morality. Morality is judged in large part based on migrants’ demonstrated commitments to family; they must be willing to commit to Canada, and their willingness to sacrifice on behalf of their children proves
their worthiness. After all, “you come here not to harvest, you have to give.” Some recruiters interview workers’ entire families and make decisions based on whether they have “strong family values”; some were even going so far as to select on faith-based affiliation and how religious individuals were deemed to be. As “vigilantes” performing humanitarian bordering, recruiters help migrants achieve their dreams and improve their economic situations, but with that comes the expectation that they will be good, “moral” citizens and contributors.

Through their borderwork, recruiters bring a certain kind of migrant worker into being—one who is not only in need of but also deserving of their rescue. A “humanitarian” approach sees migrant subjects as “people, not products,” but the “care” is exercised through a moral economy of deservingness. The discriminatory practices described in Chapter 7 are thus rationalized through an appeal to humanitarianism. With the objective of protecting their “children” and “the nation,” they confer upon themselves the latitude to engage in discretionary bordering. Even as they claim to be distinct from less scrupulous recruiters charging high fees, these recruiters engender an indebtedness. An expectation of appreciation haunts the recruiter-worker relationship. If workers feel indebted they will be good contributors; they receive help and will pay it forward by contributing to Canada. Producing workers this way asks them to engage in a certain kind of affective labour, which stretches through their social networks and into the future.

8.5 Recruiters as Paternal Sovereigns, and a Masculinist Logic of Care

The act of protection, scripted as one of rescue, produces actors involved in the TFWP and labour recruitment process as particular kinds of subjects. For one, potential migrants must be seen as needing rescue from unscrupulous and exploitative employers and recruiters. Though
undertaken out of compassion and with good, “moral” intentions, in “remaking” migrant subjects as social subjects their interactions do not escape a structure of uneven power relations, conditioned by dependency. In choosing a partner agency in the Philippines, Bob’s primary criteria were “honesty, a compassion for people, and a total disregard for the dollar. ... [Someone] with the commitment, and the dedication to help people. … The lady that, uh, runs the show over there, she’s a thousand percent people-oriented, I think she adopts everybody. I think she has my disease.” Bob sought a partner as motivated to help people as he was—so committed, in fact, that it would be as if she were “adopting” them. Dependency in the relationship manifests in narratives of migrants as subjects who are vulnerable, and who are available for sponsorship or “adoption”—as “children.” This was sometimes explicitly acknowledged by respondents, including BC-based recruiters Sheila and Norman:

> But again, it’s, you know, I think it’s like, it’s like comparison shopping, whether it’s for a car, or for a lawyer, or for a, you know, a breakfast table, you, you’ve gotta go with, like [Sheila] says, with the way you feel. … But we do treat them in many ways like our, our children [in the way we] help them.

Respondents spoke of having to guide migrant workers as if they were children. They spoke of frustrations with clients who did not follow their instructions, for example spending wages on consumer items such as big-screen TVs rather than saving for upcoming application fees, and explained that their role stretches beyond counselling to one that feels very much like a parent.

While they may adopt a more “personal” approach, when refracted through a relationship fundamentally based in dependency, it may work to subordinate and disempower. Another BC-based lawyer reflected on his migrant clients:

> They don’t know where they want to live, they don’t know the climate, they don’t know the geography, they don’t know the pay, they don’t know the cost of living (laughs)—they don’t know anything. They need that information. … The employers are very cautious, but the workers want to be here so they’re, you know, they’re soaking in
information but they, they tend to be not cautious enough, the workers, they tend to just be believing anything anybody says.

Migrants are described by many as child-like in their gullibility and lack of caution, as information sponges, as vulnerable and in a position of dependency, and as needing recruiters to shepherd them through the process and protect them from others who might be tempted to take advantage of their position.¹⁴²

Moreover, migrants are seen (and produced) as vulnerable and in need of rescue because of their national origin. Though only briefly alluded to elsewhere in the dissertation, the idea of the Third World as disorderly and corrupt emerged repeatedly in my fieldwork. Recruiters recognize the potential vulnerability of migrant workers and the widespread practice of charging exorbitant recruitment fees. Brady related:

> We had told [our migrant worker clients] from day one that if anybody ever asks you for fees, if anybody ever asks you for favours, that you should come talk to us right away. … I’m not going to put a number to it or a percentage to it, but I’ve talked to a great deal of workers that are in Alberta that, that we never worked with that are just here through other, ah, other opportunities. … A great number have paid outrageous fees to be here. So it’s pretty widespread. (laughs) Yeah. It’s, it’s almost—like I would say it’s accepted. … I think that that corruption is rampant with any of these Third World countries where the opportunities are, are lower or where the future is, is dismal. Uh, people become desperate to get out and are willing to do anything to get out.

Narratives like this, and examples such as the phony recruiters defrauding Mexicans in Puerto Vallarta, construct migrants from those countries as potential victims. Countries in the “Third World” are seen as particularly corrupt, and by extension, migrants from those countries were seen by many recruiters, and employers, as especially in need of assistance from LMIs—as

¹⁴² As subjects they are seen to have limited agency; some recruiters describe efforts they take to empower their clients to believe in themselves, to work to realize their dreams. “We have a recession that has, uh, put a lot of pressure on a lot of people, in particular the most vulnerable are the temporary foreign workers,” the representative at one recruitment firm told me. “And so, in response to that, we’ve, you know, been looking at how do we empower that group to, uh, continue to realize their dream of staying and establishing themselves in Canada.”
information brokers and also as rescuers. Vigilante recruiters feel they are saving migrants not just from bad employers and recruiters, but also from their situations (and “dismal futures”) in the “Third World.” In fact, this is central to many recruiters’ stated rationales for choosing specific source countries in the first place. When asked why she had chosen to recruit in the Philippines, one explained that:

In terms of straight value, you know, if I looked at somewhere like Mexico, for instance, it’s a— that would have been another option. I really felt what the differences and what we’re going to pay in this type of job, what that’s valued at in one country as compared to another is so much more. … And $10.50 for someone from Mexico is not the same as $10.50 to someone from the Philippines. I mean, right now if you look at something like the Mexican market and how well their peso was doing, it just, it might not even be as appealing to people from Mexico.

This constructs migrants from countries such as the Philippines or Mexico along a hierarchy of need, as more or less desperate (and as such as potentially more loyal and inherently disciplined labourers, as I note in Chapter 7). Migrant workers, and especially those arriving through the TFWP, are in an inherently vulnerable position vis-à-vis their recruitment representative and employer sponsor. Conceiving of them as subjects of rescue through recruitment intensifies that vulnerability—and reproduces them as vulnerable subjects in need of protection.

The notion of rescue through recruitment in turn produces recruiters as saviours or hero figures. Arnold told me he was born in Mexico but his family moved to Canada when he was young. He felt his ethnic background lent him a certain credibility when recruiting in Mexico. I asked, “Do you mean in the eyes of Mexican workers?” and he responded, “Oh yeah. Yes, I’m like a god down there. ‘That’s the guy,’ they say.” As vigilante recruiters, they are heroes—even “gods” to those in Third World spaces marked by desperation. They see themselves as heroes for recruiting workers, and through their justice-oriented interventions for restoring order to the chaotic frontiers and margins of national space.
These recruiters are petty sovereigns who are making decisions about who deserves to cross the border. Within the field of governmentality, “petty sovereigns abound, reigning in the midst of bureaucratic institutions mobilized by aims and tactics of power they do not inaugurate or fully control” (Butler 2004, 56). As vigilante border agents, the sovereignty they exercise is not subject to law or representation in political institutions but is “a lawless and prerogatory power, a ‘rogue’ power” (56). Read as vigilantes performing humanitarian bordering (or borderwork rationalized through humanitarianism), recruiters are petty sovereigns asserting a form of paternal sovereignty. Sovereignty necessarily entails the exclusion of some lives and not others, in the creation of “the people” (or “the nation”). Recruiters as vigilante nation-builders are (petty) sovereigns with power to decide who counts as a human being worthy of consideration (e.g., as a potential citizen) and who can be (or remain) abandoned (Agamben 1998; Pratt 2005; Butler 2004, 2009). The sovereign decides on the state of exception, and the paternal sovereign decides who is and is not worthy of life, in the name of protection.

The figure of the “paternal sovereign” entails a collapse of symbolic father and political leader (Gunn 2008). Dodds and Kirby (2014) note that the figure of the sovereign is an imaginary representation of the symbolic father operating with a masculinist logic of care, who embodies two functions that are often in tension: the function of protection and the function of prohibition. “Vigilante” recruiters, as one subset of my participant sample, embody this tension. They provide protection, and they feel responsible for the migrant worker clients they help. At the same time, however, migrants must be seen as (morally) deserving of that protection, and are
expected to behave properly and be contributors. As father figures, even as they offer genuine help to migrants and see them through a more “personal,” human-centered lens, their relationship cannot in this frame escape a subordinating structure of dependency, one which both positions migrants as needing help and also disciplines them through a moral economy of deservingness. On the one hand, recruiters provide protection to migrant workers, intervening to act as regulators in transnational border spaces. On the other, in choosing only the best quality migrants (according to their own personal set of criteria), they also see themselves as protecting Canada. They are vigilant, screening and pre-screening at what they considered “weak spots” in the frontier and at the margins of the nation-state. At both the externalized frontiers of the state and the non-citizen margins of the labour market, recruiters as vigilante border agents perform paternal sovereignty through a logic of protection and care.

This “care” is also characterized by a “frontier masculinity” (Dodds and Kirby 2014). Recruiters are protectors and also “explorers” or “pioneers” in a sense, discovering labour pools and then selectively recruiting desirable workers, filtering the inward flows. There is an explicit reference to traditional gender roles here—the recruiter-as-vigilante father figure acts through a masculinist logic of care. Returning to Matias’s words above, Canada is “a beautiful woman,” who needs to be protected and defended. The father figure provides (a sense of) security, with the objective of assuaging the nation in the context of uncertainty.144

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143 In Joshua Gunn’s reading of Agamben, the paternal sovereign is always involved in a kind of slight-of-hand that threatens human being in the name of protecting it.
144 Tracing the recent rise of “the vigilante” as a figure in popular culture, Dodds (2012; Dodds and Kirby 2014) notes that it is often in the (perceived) absence of order, and in a context of feelings of insecurity about the future, that the desire for a strong father figure emerges. Exploring state performances of sovereignty in the Canadian Arctic, he considers how a form of paternal sovereignty plays a part in managing normative ideas of territorial integrity. He argues that the Canadian state deploys a paternal sovereignty strategy, one that is caring and protective in the face of insecurity, as a response to the sense of risk posed by graduat(ing) sovereignty.
Dodds (2012) notes that a primary objective of vigilante figures—especially as symbolic father figures—is the resurrection of the family. Through their “humanitarian” borderwork, recruiters foreground the importance of family unity and decry state policies that result in family separation. Canada needs foreign workers, one recruiter told me, and needs to “make sure that they stay here.” He continued:

I told you about this worker, I brought, right, he’s still here because the people from India are—they have a high sense of solidarity among themselves. So a group of Indian people provided [him] a place to stay. And one of them had a restaurant, so he’s working as a cook now. Legally. And then—he cannot bring his wife. He has not seen his children for three years. *It’s not right.* So—and it’s not that expensive. At the end of the day it’s an investment for Canada for him to have his family here. It’s going to bring a good return.

These recruiters explicitly support family unity, both on an individual level and in terms of family as an investment, in the larger “family” of Canada.\(^{145}\)

Recruiters as petty sovereigns are mobilizing and embodying a paternal sovereignty, one which harnesses a claim to care and protection as a means of justifying their interventions. Through this narrative, the “margins” of the Canadian nation are restaged as places in need of a “ground force” to administer justice, to restore order, and to provide a path of rescue—through recruitment and (differential) inclusion in Canadian space. They are acting as “father” figures to those they shepherd across the border—both helping and disciplining migrant workers. Workers are in the same move subordinated and held accountable for their own precarious positions.

At another scale, recruiters take on a symbolic role as “father” of the nation, engaging in the borderwork of screening to protect and preserve Canada—in their view both because the welfare state does not provide adequate security (to migrant workers, who because of their non-

\(^{145}\) At the same time, deserving migrants are those willing to sacrifice for their families, who leave behind their homes (and often family members) “for their children.”
citizen status are not guaranteed the state’s protection) and because its immigration system has abandoned its role of nation-building in favour of a neoliberal economic development project aimed at managing flows (Alboim 2009; Dauvergne 2016). The recruitment process (the employer–recruiter–migrant encounter) is a political performance of sovereign power. In the absence of state action, petty sovereigns enact sovereignty in frontier spaces, which are not marginal but deeply constitutive of the ideas of territory and nation. It is from these actions and spaces that the nation, in some respects, comes to be.

8.6 Concluding Thoughts

Privatization and externalization have become the “new normal” of much borderwork, and “bordering” is increasingly mobilized and enacted through a diffused and dispersed sovereignty, which entails a loss of accountability. Recruiters are acting as vigilante border agents in the context of privatization and a withdrawal of the state. This is more than a cautionary story about privatization, though. In this context, recruiters exercising “rogue” power are intervening to help, care for, and protect migrant workers and in doing so, appear to contest certain aspects of neoliberalism and the abstraction of labour. They are acknowledging ways the (welfare) state is failing to protect migrant workers. And they are performing sovereignty in ways that seem to disrupt and resist neoliberal productions of migrant workers—restoring their “humanity,” and viewing them as family and long-term community members. I don’t want to deny or foreclose the fact that many recruiters are indeed helping migrants, whose lives may be positively affected, and that in the performances of these “rogue actors” other futures are made possible. I want to use this as an opening to think through what possibilities this person-to-person emphasis, even if it doesn’t escape the structural conditions of their precarity, can offer.
These recruiters, acting as vigilantes, are distinct from both the smuggler-trafficker or the elite headhunter, who work for “the almighty dollar.” I was interested and a bit surprised at how eager many recruiters were to participate in my study and talk with me, and the primary reason seemed to be that they were keen to demonstrate how they were not the shady characters depicted in the media, and to assert their expertise and the importance of their role in the migration and border regulation processes. They were stepping in where they believed the state was not, and most expressed that they were genuinely in it to help migrants. Unlike other recruiters, they asserted, they were intervening out of compassion and a humanitarian impulse.

Harold, a recruiter based in Alberta, for example, went on at length describing how his firm, which primarily recruits from the Philippines, had even set up a charitable foundation. Before we even started into the interview he eagerly pointed out that their venture was not exclusively “economic” in nature. In the Philippines their firm both recruits migrant workers and also serves as a base for their growing charity, funded primarily by Canadian employer (and migrant worker!) donations. “We have a Foundation there where we feed 30 children a day,” he told me. “The [Canadian] companies that we’ve worked with have really wanted to help us fuel the Foundation. And out of pocket, they’ve actually paid for the feeding programs themselves.” They are paternal sovereigns who are, in this case, using their recruitment business to literally feed children in the sending community (many whose parents are leaving to work in Canada). They intentionally located their satellite offices in a smaller, more remote area in the Philippines, because of the area’s pervasive Catholic faith and “strong family values,” which were held up as a sign of the superior “morality” of the labour pool there. The firm’s humanitarian work is used in marketing to potential employers: “Once a company travels with us to the Philippines and sees what we’re doing there, it speaks for itself.” The line between recruiter as business entrepreneur
(employer representative) and humanitarian actor is not a neat one, and commercial and humanitarian motivations are often entangled in uneasy ways. Indeed, just as there is a tension in paternal sovereignty, which is at once protective and disciplinary, there is a contradictory tension central to much humanitarian borderwork.¹⁴⁶

While they are non-state actors who joke about themselves as non-profits, however, at the end of the day these recruiters are not humanitarian actors. Though he had been eager to speak about their humanitarian work, Harold did acknowledge that, “when it comes right down to it, we are, uh, a licensed recruiting firm.” They may be acting primarily out of a charitable impulse, or using it to rationalize their practices, but ultimately they are for-profit, private agents offering a service. My fieldwork shows how slippery their seemingly emancipatory and protective “humanitarian” practices are; in this case humanitarianism is operationalized through a paternal sovereignty that reproduces migrant workers as dependent and in need of help and protection. Naming them as vulnerable not only appeals to paternal sovereignty for protection, but also affirms that positioning. It reinforces the employer–recruiter–migrant worker relationship of dependency and the need for recruiters, but does not address the systemic or “root causes” of that precarity. Even as recruiters’ view of migrants as longer-term community members challenges their non-citizen status, it does not problematize the TFW program itself, which creates a two-tier system, producing varying degrees of unfreedom for those with non-citizen status. Nor does it problematize the two-step migration process, which effectively detains and imposes a probationary period on those awaiting sponsorship for permanent residency. Moreover, even within the TFWP, with all its faults, there are laws in place to protect migrant workers, and the

¹⁴⁶ Some have criticized humanitarian work for its mitigating role, and some even go so far as to suggest it can at time make violence more sustainable, normalizing and even reinforcing systems of oppression (e.g., Walters 2011).
humanitarian actions of recruiters as “good guys” distracts from and obscures the labour exploitation that is occurring within a “legal” border-crossing regime.

Throughout my fieldwork it became clear that deploying a humanitarian rationale was not only about justifying recruiters’ practices (including discriminatory screening) but also about justifying their role to themselves. The humanitarian mantle normalizes the often-cited argument that if not for them and their interventions, migrants would either be languishing in a corrupt, disease-ridden Third World or would be the victim of any number of nefarious recruiter or employment schemes and abuses. Though they are in a position of dependency and contingency, and are effectively unfree labour, at least, so the argument goes, they are making a salary here they would never be able to make in their home countries. This was internalized by the workers with whom I spoke, as well. Recall Nancy from the introductory chapter of this dissertation. “There are a lot of people who don’t have jobs today,” she said. “So, I just have to say thank you, God, for this. (pause) I’m just happy because they don’t treat me bad.” At least she has a job at all, she resignedly expressed to me. Nancy is enduring the present because she sees no alternative futures for herself.

The harnessing of a human rights or a humanitarian response to workers as vulnerable subjects does not escape (re)producing them as vulnerable; in fact, viewed this way their vulnerability becomes foundational. Within this rationale, precarity becomes something that can be managed but not escaped. “Our” way of life in Canada depends on the work, contributions, and sacrifices of others. Reflecting on the TFWP and recruitment of migrant workers, Arnold said to me, “The key point is, this makes Canadian lives better. … In the long run, and it makes Canada’s economy stronger, because companies can grow.” While viewing recruitment and (im)migration as a nation-building project may question the primacy of the economic
development rationale, through the discourse of wanting to “save” Canada by preserving the current “way of life,” citizenship is recast as something economic, as something that is arrived at through investment, with dividends in the future. At a deeper level, it neither escapes nor questions the foundational violence of the “nation” itself—formed through the imposition and maintenance of a border that erase(s) the claims and very presence of those preceding it, namely Indigenous peoples (Thobani 2007; Sundberg 2015). Here the paternal sovereign, a figure often portrayed as benevolent, appears to be revitalizing the human (the homo in homo economicus), but in so doing, ultimately reproduces structural conditions that make life—at least a full, “political” life—possible for some, but not others.

Within a context of enforcement, vigilantes are typically understood to undertake the pursuit and punishment of those suspected of lawbreaking. In this case, however, I am reversing the enforcement motivation and instead thinking of them as vigilante nation-builders—in that they are performing the act of nation-building, through their decisions as “petty sovereign” border agents. These recruiters are not state actors at a point of contestation between the state and employers, and they resist either of these as authorities. Feeling they know better, they are representative of neither the state nor the employer here, but claim to represent and work primarily on behalf of the migrant, on the one hand, and the Canadian nation, on the other.

Recruiters are making decisions about who is worthy of crossing the border and potentially accessing citizenship. As vigilante border agents, they are also monitoring the so-called frontiers of the nation-state; in an era and in spaces where the state cannot or is not monitoring, recruiters are being vigilant and watchful. They are paternal sovereigns with a view of “saving” that is more about preserving, where they step in to perform the work of the state through an appeal to humanitarianism, and wherein humanitarianism becomes a rationale for a
transnational labour regime premised on subordination and unfreedom. To echo the phrasing of Butler and Spivak (2007), what kind of state are we in, that vigilantes perform as humanitarian actors—and especially that humanitarian interventions take the form of vigilantism? Recruiters appeal to a narrative of humanitarianism to rationalize their actions, but as petty sovereigns their acts and judgments are not subject to public review or appeal. Criteria for membership (or differential inclusion in Canadian space, and perhaps eventual membership) are being articulated outside democratic processes, with little to no oversight, in largely invisible ways by largely invisible actors.
Chapter 9: Conclusion

9.1 Out of the Shadows: Making Recruiters Visible

In February 2012 a large van collided with a pickup truck on a rural road in southern Ontario. The occupants of the van were temporary migrant workers who were being transported after a day of work vaccinating chickens. Ten of them died in what was described in the media as “a horrific scene.” They were characterized as breadwinners for their families back home in Peru.

The incident made national headlines, as one of a series of TFWP-related controversies that year. The media and critics of the Temporary Foreign Worker Program latched onto the story in part because the crash “sheds light on the plight of migrant workers” and “exposed a growing sector of the labour market that tends to go unnoticed” (Paperny and Bascaramurty 2012). The conditions and injustices of the TFWP often only come to attention, or face national and public scrutiny, in the wake of tragedy. Following the accident it took some time to identify these workers—and their need for identification and awareness of them emerged, in some ways, only at their death. The fact that there are so many temporary migrants are working in their midst remains largely invisible to most Canadians. One news article covering the crash included part of an interview with a mobile medical clinic attendant. His words stuck with me: “You get this sense of this hidden community in our midst—the people who are serving our basic needs and we don’t know who they are. I found it profoundly moving. And unsettling.”

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147 One scholar interviewed about the issue said he hopes the tragedy gives Canadians a chance for a broader understanding of migrant labour, as “something that involves people with families, with responsibilities in their homelands. We eat apples and we eat vegetables and we smell flowers, but we don’t have a sense of the processes that went into growing them and harvesting them. And those are the human beings behind it.” Temporary migrant workers are integral to the economy but their labour is too often invisible. Workers in many sectors are socially and spatially distant from the communities in which they reside (e.g., Read et al. 2013). Even in “eat local” movements the fact that one aspect of the production process, that of labour, is not “local” is generally glossed over or obscured.
The tragedy threw into sharp relief the labour market segmentation and two-tier system of citizenship imposed by the TFWP, and especially the Stream for Lower Skilled Occupations (SLSO). While issues with the TFWP are intermittently raised in the media, they rarely touch on the processes involved in bringing workers to Canada in the first place. The existence and role of recruiters working to bring migrants to Canada and, I would argue, North America, for lower-skilled work is largely invisible, in public and policy discourse as well as in migration studies. One primary objective of this dissertation is to bring recruiters out of the shadows—to offer a more comprehensive, nuanced profile of the figure of the recruiter. Often, recruiters are referred to in dehumanizing terms such as coyotes, snakeheads, or, because of their clandestine, presumably nefarious, and often ephemeral nature, as ghosts.148 “There is a certain public perception, especially in the media, around us, as ghost agents, … and that has bad connotations,” complained one BC-based recruiter. These perceptions of recruiters in less-than-human terms are incredibly problematic, and I want to refute these characterizations and to take seriously the request of many recruiter/consultant respondents who wished to dispel that generalized impression for a more balanced and nuanced representation. As another participant intoned, “We are not all shady!”

While “illegal” movements such as human smuggling, and the figures of coyotes and snakeheads they evoke, are sensationalized, the legal and government-encouraged importation of arguably ‘indentured’ migrant labour at the demand of the private sectors remains, in contrast, largely invisible and depoliticized. This led to my interest and circumscribed focus on the role of more “legitimate” recruitment actors. The specific focus on those who are “authorized” allowed

148 This is certainly not intended to imply a hierarchy along a human–animal binary; in fact, I join those calling for movement away from “institutional humanism” that reproduce nature/culture dualisms (e.g., Collard 2014; Francis 2018).
me to examine the extent to which they exercise sovereign power, and the largely unchecked, transnational space of bordering they inhabit.

As I have shown, recruiters are much more than unscrupulous exploiters of vulnerable migrants. Their border-drawing work, though generally unseen, is also highly productive, and recruiters can play an instrumental role in initiating, promoting, facilitating, producing, and regulating migration flows. Though they are certainly not all “ghosts” who prey on migrants or employers, or who seek to defraud the immigration system, they are in some sense unremarked cogs (or ghosts) in the migration machine.

When I initially set out on this project I intended to examine the role of recruiters in temporary labour migration. As I began to speak with recruiters, who were unexpectedly eager to participate, I noticed that many were taking on a mantle of “border agent.” They spoke of the ways they facilitated the admission of migrants who in their estimation were deserving contributors (and, perhaps, future members of the nation) but were unlikely to get into Canada otherwise. My general question and the story I tell in this dissertation narrowed to explore the relationship recruiters have with the state and its borders, and their role in migration management.

In this conclusion chapter, I restate my primary arguments and highlight key contributions. I then reflect on the project as a whole, considering what my project foregrounded, what questions it has raised, and how the approach shapes future research and policy directions.

9.2 Summary of Main Arguments and Contributions
For this dissertation I conducted a multi-sited examination of recruiters and their role in the recruitment and migration process of temporary migrants working in lower-skilled jobs,
particularly in the construction and service sectors, in Western Canada. With this project I examine the embodied and everyday nature of bordering. This is one of the reasons I chose to undertake a qualitative approach (described in Chapter 3). The objective of the project was to examine how practices of gatekeeping by labour recruiters (re)produce borders of the state, and in so doing how they constitute and regulate subjects in certain ways.

I contextualize my analysis in an understanding of Canada as a nation built through recruitment, but one in which immigration has increasingly been framed in policy as an economic development project (Chapter 4; see also Alboim 2009; Dauvergne 2016). I trace shifts within the overall immigration system that have led to more market-driven and temporary migration flows. With more pronounced private sector involvement, and the opening up of the TFWP in scale and scope, namely through the SLSO, recruiters took on a role as important facilitators and regulators in many migration flows. In Chapter 5 I discuss how the assertion of crisis became a primary point of leverage by which to alter the spatial and temporal coordinates of the labour market, through the opening up of employer access to global labour pools. Within the realm of Economic and especially SLSO and PNP migration streams, and in the context of two-step immigration, the outsourcing of recruitment and selection processes set the stage for an integral and intensified role for migration industry actors and especially third-party, private, for-profit recruiters.

Within a context of globalization and labour market restructuring, demand for contingent workers has grown, and with the deregulation of labour markets, employers are granted a greater role in determining their admission (Peck and Theodore 2001; Peck et al. 2005; Preibisch 2010). There has been a corresponding proliferation of private recruitment agents, operating to provide (and profiting from) access to global labour pools. They mediate the connection between the
migrant and the state, and shape possible engagements between the two. The state underpins the particular form of regulated ‘market’ (of temporary, migrant labour) in which new regulatory actors (the LMI industry) set rules and make discretionary decisions (Peck and Tickell 2002; Birch and Siemiatycki 2015). This dissertation contributes to theorizations of the migration industry and the role of LMIs in transnational labour migration flows. My overarching argument is that these recruiters are mobile bordering agents, and that through their recruitment-related practices and decisions they (re)produce borders, which are performative in that they can be embodied and they produce particular labour pools and subjects.

These intermediary actors, I argue, can be viewed as petty sovereigns. Sovereign power emerges as the power of the managerial “official.” Chapter 6 analyzes how recruiters are enabled to act as petty sovereigns. I position them within the labour migration cycle and examine their role within the context of the state and its management of labour migration, showing how their actions as LMIs overlap with border management. My fieldwork reveals how certain recruiters/consultants, acting as authorized representatives of their employer or migrant clients, come to be legitimated. Over time, and through a demonstration of expertise, they come to be recognized by the state as trusted and reputable agents. This trust may be established through personal relationships and lived experience, for example when former civil servants continue to perform similar functions but as consultants in the private sector. Recognition is also achieved through, for example, the presentation of applications or cumulative verification of the genuineness of job offers or worker admissibility. The application itself becomes a key site of bordering by the state—where the assessment and verification of a candidate is made and a decision issued. The border is produced as a form of pre-clearance, and once a decision on an application is made, an applicant is generally rubberstamped through the remainder of the
migration process. Of course, not all recruiters achieve this status of recognition by the state as trusted or authorized agents—indeed, several of my interviews highlighted the frustration on the part of government bureaucrats and Embassy officials, advising recruiters how to “play the game,” and on the part of recruiters, working to be trusted to do so with less scrutiny and suspicion.149

Once recognized as authorized, recruiters engage in pre-screening determinations that place prospective candidates inside or outside potential job pools. They have great latitude in constructing labour pools and selecting workers—particularly as these activities generally occur in contexts outside Canadian jurisdiction. Chapter 7 describes this process and how it plays out. Recruiters operate as sovereigns in that they exercise discretionary power (though it is a petty sovereignty). They perform as gatekeepers at a first border; the encounter between recruiters and migrants is a front-end, pre-screening moment at which prospective migrants enter into a relationship of (asymmetrical) power, and potential vulnerability is introduced (see also Faraday 2014). The fact that this selection process plays out within a transnational sphere intensifies worker contingency. It is also an encounter that mediates the applicants’ relationship with the state and employer, via the recruiter, and it becomes a primary site of bordering. As brokers working for employers, recruiters act as liaisons with the state, negotiating between state and market-defined criteria. Within that field of minimum criteria, recruiters make their own discriminatory decisions about whom to deem admissible, and desirable, for border-crossing into the Canadian labour market (and, potentially, nation). The power to deem and effectively constitute is a sovereign power, and through the selection and hiring process that differentiates

149 And there are, of course, many recruiters who operate under the radar and choose not to engage with the state at all, including those who act as smugglers or traffickers. These less “legitimate” actors are outside the scope of this study.
those to be included, recruiters shape and produce subjects—it is in this sense that this bordering is performative.

In Chapter 8 I turn to examine the motivation behind the actions and decisions of some recruiters operating as petty sovereigns. Because they are able to assert sovereign power, and because they see themselves as deciders of who can migrate to Canada, a subset of my sample presented themselves as vigilantes and, specifically, vigilante nation-builders. This figuration alters (and may in fact derive from) the relationship they have with their migrant clients. When migrants are viewed as future community members or potential Canadian citizens, the attitude and actions of recruiters takes on a social justice orientation and even humanitarian tone. They assist and care for migrant workers, and in so doing may subvert or mitigate employer violence or abandonment by the state. The border space in which recruiters operate thus offers possibilities for intervention, though in some instances the sovereign power they exercise takes on a form of paternalism, which may reinforce or reintroduce precarity.

Sovereignty emerges particularly in moments of crisis, in the exercise of special, prerogative power reserved for managerial officials with no clear claim to legitimacy but who are invested with the power to decide (Butler 2004). The recruitment industry is not only a consequence of the evolution of immigration policy, characterized to some extent by devolution and privatization, but also a reaction to a perceived crisis in the Canadian labour market. With the invocation of crisis, space is made for exceptional exercises of sovereign power (Mountz and Hiemstra 2014). Petty sovereigns are extra-legal authorities enforcing border-drawing policies and criteria that, within a circumscribed sphere, are of their own making.

Petty sovereign recruiters decide when, where, and by what criteria to make bordering decisions, and most of those decisions, and the act of “deeming” they engage in, take place
outside of law—conceptually and spatially. A central question animating this study is related to
the location of borders, and this dissertation contributes to recent developments in thinking about
borders as sets of processes constituted through relationships and encounters. Viewing the
migration process from the perspective of recruiters as mobile bordering agents, particular
spatializations in transnational migration management become apparent. There is a strategic
separation of jurisdictional space and the border space that extends into an extraterritorial,
governmentalized space. This creates in effect an extra-legal sphere in which border-drawing
plays out. This border space that emerges is a front-end realm, embodied in the encounter with a
mobile recruiter, in which would-be border-crossers come into relation with the state.

As I detail in Chapter 2, my project contributes to recent and burgeoning literature on
border studies in a few key ways. First, I view borders as dispersed spatial productions that are
performed at and by complex sites and agents. Borders act as both barrier and bridge, prohibitive
and facilitative, and a governmentality-inspired approach to studying migration flows and
borders is one that moves beyond the binary of exclusion/inclusion, recognizing that the two are
contained within the same impulse.

Second, generally speaking, critical political geography and migration studies that take
borders as the empirical focus emphasize instances of deterrence, interdiction, confinement and
detention—the exclusionary and “enforcement” side of border control. The analytical framework
of this dissertation is based in an ontology of differential inclusion (Mezzadra and Nielson 2013).
Borders do not only separate and divide; they also connect and include (and in so doing may
exert violence as well; Coleman 2007).

Finally, taking the recruiter as the empirical entry point to think about bordering
practices, I unhinge the border from the nation-state anchor to consider how, in this case, non-
state actors contribute to (re)producing and regulating border spaces. This project responds to calls to examine non-state actors who engage in borderwork (Rumford 2006; Walters 2015). Recruiters perform bordering practices in effectively unsupervised spaces and make discretionary and front-end decisions about who may enter transnational (im)migration routes. In making these decisions, they perform as petty sovereigns, and they introduce biases and discriminate in ways that would not align entirely with Canadian norms or human rights as enshrined in, for example, the *Charter of Rights and Freedoms*. Because of their position they are also free to interact in ways that subvert or, indeed, go beyond the regulatory or protective oversight provided (or not) by the state. I bring a performativity approach to my analysis to emphasize the dynamism and mutability of borders. Each encounter of a recruiter with an employer, migrant, or government representative carries with it the possibility of a counter-performative effect—wherein the border, understood as a sedimented and relational effect, fails to materialize as anticipated. The reiterative nature of performances means they are not inevitable, and that they can be disrupted. I reflect on this more below.

### 9.3 Reflections on the Project

Engaging in multi-sited research, I frequently felt the compulsion to see more, go to more places, collect more data. In the end, I amassed a lot of data and had many stories to tell, and one of the most difficult aspects of writing this dissertation has been deciding which to bring into focus—

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150 The caveat is one in line with the arguments of those who caution against methodological nationalism (or statism) or a territorial “trap” that apprehends the empirical and theoretical in (a priori) territorial terms (Agnew 2008). The liberation of borders from the territorial states can highlight spaces of critical intervention that might otherwise remain hidden (Amilhat-Szary and Giraut 2015; Belcher et al. 2015).
recognizing, of course, that every account is inevitably partial (Haraway 1988). As with any project, there are some limitations in the approach I did take.

As my project makes clear, there is no one figure of recruiter. The profiles I present here are certainly not intended to be exhaustive, nor are they discrete. And while I attempted to contact and engage a wide cross-section of actors in the recruitment industry, based on a variety of sources (described in Chapter 3), the sample is limited to those who agreed to speak with me. The sample is thus composed of those who are more “legitimate”—or at least who have an interest in projecting an image of themselves as such (in contrast to less scrupulous and “ghost” agents).\(^{151}\) One civil servant with the Canadian government reminded me that, with recruiters, “you never know”:

> **Sarah:** I’ve been talking to quite a few recruiter-consultants, and I have a feeling most of the ones who are willing to respond to me are probably not—
> **Respondent:** Well, you might get some that are willing to talk. You never know. Some of them, I think, are quite good at hiding it [that they are unscrupulous].
> **Sarah:** Yeah, and most seem very, very proud of the work that they do. And they are, in some ways, providing a useful service, but—
> **Respondent:** Yeah, (sarcastically) in some ways. (laughs) … It’s when they can convince an employer to get involved in it as, you know, “I’ll give you, you know, three thousand dollars if you hire this guy,” because they’re charging him twenty thousand dollars. So then, like, we—that’s when we suspect that’s going on, and it’s really very hard for us to enforce anything there, or to refute the application because on paper it looks fantastic.

Of course, as indicated in this exchange, there is not a clear line between those who present themselves as above-board and those engaged in unscrupulous activities. However, I chose to investigate more “legitimate” actors, and not the “crooked” ones, because I was interested in the degree to which questionable recruitment practices are normalized as part of everyday business. I

\(^{151}\) I recognize that among my respondents there might be an overrepresentation, for example, of those who might characterize themselves as “vigilantes.”
did not focus on “rogue” actions per se, but was surprised by how “rogue” many of their
statements and actions were. In the context of two-step immigration, I was also particularly
interested in those who assert they are engaging in nation-building. I wanted to illuminate their
actions and motivations. In foregrounding “legitimate” recruiters, I paid less attention to other
actors, including recruiters who are true “ghosts” as well as those (explicitly) engaged in
activities such as smuggling or trafficking. I also did not study recruitment and employment
agencies as exclusively or primarily commercial agencies, because I was interested in their social
relationships and how their interrelations interacted with border-drawing practices.

Furthermore, in emphasizing the role of recruiters in migration stories, I risk (even
implicitly) downplaying the agency of other actors—particularly the state and migrants. There is
a growing literature on the “labour brokerage state,” which I augment with a focus on recruiters
(e.g., Rodriguez 2008; Lorente 2012). However, my focus obscures the degree to which state
agents operate as recruiters as well. The motivations and positioning of agents officially
representing the state are not directly a part of my story, and my intention is not to cast those
who work for the state as irresponsible. As I note in Chapter 2, I conceive of the state as
embodied and performed, rather than as a reified entity. More fully examining official state
agents involved in recruitment would further contribute to efforts to disrupt the notion that
neoliberalism is all-encompassing. It could highlight possibilities for disruption within the state.
While my project has a similar objective—of writing agential actors into the discourse on
neoliberalism—the actors I focused on were recruiters.

My focus also obscures the stories of migrants, and it is their stories and my interactions
with migrant workers in Canada that initially drove my interest in this project. I did speak with a
number of migrant respondents, and I intentionally opened this dissertation by highlighting
Nancy and Amina’s voices. I struggled throughout to write about recruiters and their actions in a way that did not minimize the precarity of temporary migrant workers, but at the same time did not merely reinforce that positioning. While the TFWP and outsourcing processes position migrants as precarious, there are many instances of workers resisting that position and asserting their agency. Many of these workers are victims, but none are only victims. My fieldwork also raises examples of migrants acting intentionally to mislead recruiters or employers, for example with regard to their level of work experience, or to defraud the immigration system through misrepresentation.

Working outward from the recruiter, I gesture toward these other actors, but ultimately, they are not the focus of this story; I specifically focus on recruiters and presenting various figurations of these intermediaries. There is a relatively large and growing literature that focuses on the stories of temporary migrant workers in Canada, but few have specifically focused on migrant perspectives and experiences of the recruitment process and their interactions with recruiters. This offers an important avenue for research building on this project, and is one I may undertake in the future.

9.4 Precarity, and Immediate and Stop-Gap Solutions

In a rare case in 2017, a recruiter was charged with extorting Indonesian temporary migrants working in greenhouses in Leamington. He pleaded guilty to a charge of theft and was ordered to pay back the victims. Bahiwal, a Filipina migrant worker interviewed by the media, reflected on the case. With support from the advocacy group Justicia for Migrant Workers, she had refused to

\[152\] Indeed, this is one of the reasons that I took the theoretical approach I did; in seeing borders as relational and performative, the power exercised in bordering is understood as one of struggle and containing resistance.

\[153\] There are exceptions, including Pratt (1997), Faraday (2014), and Bucklaschuk (2015).
pay her recruiter, and had consequently lost her job (Rankin 2017). She and the lawyer who helped her find a new job decried her position of dependency. Her lawyer described recruiters: “They’re a sort of liaison, so if there’s a problem between the worker and the employer, that person is there to step in but also there to offer employment elsewhere. They’re in a position of power.” Bahiwal noted that many migrants she worked with saw the recruiter as a saviour: “They don’t feel that their life in Canada is being controlled by this recruiter. Actually, they are thankful they are here.” Even as recruiters can act as employment standards monitors, I want to remain cautious about the narrative of rescue and its problematic implications. This case raises a tension that has been at the heart of this project.

Recruiters, in distancing migrants from the state, and workers from employers, and allowing the outsourcing of accountability, can heighten vulnerability for migrant workers. They can also mitigate private sector or state abuse or abandonment, and I do not want to minimize this role and the vital importance it can have in improving migrants’ lives and overall security. This dissertation does not directly answer the question, how should recruiters act? What should border policy look like? I remain somewhat ambivalent on this question. This tension, and the ambivalence it prompts, can be productive. As feminist geographers have noted, ambivalence can be a strategy for a politics that can emerge through the negotiation of contradiction (Rose 1991; Bondi 2004). The respondents who see themselves as vigilantes aid and care for migrants, and offer forms of assistance outside the state. Doing so may call into question the immigration system, and may serve to empower migrants. However, empowerment invokes power while
signifying the lack of it. These recruiters profit from the system, and provide assistance without questioning the structures that make migration appealing—or necessary—in the first place.154

While I feel ambivalence, there are aspects of the TFWP, especially the SLSO, and PNP recruitment processes to which I am firmly opposed, and in the absence of a systemic and cultural overhaul, there are some immediate or stop-gap steps that can be taken to ameliorate the situation, so as to do recruitment more humanely.155 Ultimately, global economic restructuring and the institution of neoliberal policies by state governments have contributed to increased overall precarity for workers. Additional vulnerability and the potential for exploitation and abuse are introduced through the recruitment process and outsourcing to private LMIs. There are a number of actions that can and are being taken to address this. A full review of them would be outside the scope of the dissertation. I briefly outline a few key ones here, and a more comprehensive reflection on alternative recruitment models and regulatory approaches is included in Appendix C, which also lists a number of key policy recommendations stemming from this research.

As regulatory oversight is eroded through devolution and outsourcing, provincial governments have taken initiative to enhance legislation that regulates employment agents and the recruitment process. I join others in supporting the adoption of more rigorous and comprehensive regulation aimed at enhancing migrant worker protections, such as that put forward by legislation such as WRAPA in Manitoba. Following WRAPA, respondents in Manitoba noticed a drastic reduction in the overall number of consultants engaging in

154 Based on my fieldwork, however, I do not necessarily support a politics based in an ethics of precarity, if it precludes possibilities for a project of political economy.
155 I also support an end to employer-tied program streams, which inhibit mobility and introduce problematic structural unfreedoms.
international recruitment and in incidents of fraud and abuse. These kinds of proactive regulatory approaches must be supported with the necessary mechanisms and resources for enforcement, and must be implemented in conjunction with the full enforcement of already existing regulations.

Regulatory and rights-based approaches, such as those initiated by several Canadian provinces and those proposed by the International Labour Organization (2018) and International Organization for Migration (IOM), do go some distance to enhancing protections for migrant workers. However, the fact that recruitment activities occur largely in source-country or transnational contexts poses challenges for regulatory efforts. To counter this, regulations can “leverage geography,” as Faraday (2014) puts it. Recognizing that any transnational labour migration chain has two ends, regulations can ground liability with the party within the jurisdiction, for example holding a Canadian employer or recruiter accountable for actions that occur throughout the chain. To ensure comprehensive integrity, though, domestic law must be supplemented with transnational agreements and collaborative approaches to governing cross-border flows. Bilateral mobility agreements do not remove the middleman, but institute an actor within the state as the intermediary. Shared oversight may infuse more integrity to the system.

The International Labor Organization (ILO) recently launched a fair recruitment initiative (ILO 2018). The Global Compact for Safe, Orderly and Regular Migration also includes the objective to “facilitate fair and ethical recruitment and safeguard conditions that ensure decent work” (IOM 2018). However, the agreement is non-legally binding and dependent on the willing participation of Member States. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families also takes significant strides toward protecting migrants and their families within a postnational framework. However, only 47 states have signed or ratified the Convention, with the vast majority of signatories being labour-sending countries. Labour-receiving countries such as Canada, the United States, and Australia have not ratified the Convention. Therefore, the effectiveness of the Convention is severely inhibited. Despite what proponents of postnational forms of membership argue, international conventions and rights entitlements based on personhood fail to work if states refuse to participate (Hennebry 2014).
but in the context of larger, geopolitical power imbalances that give rise to and sustain transnational labour migration, this will not fully address recruitment-related challenges.

Civil society organizations, trade unions, and grassroots activists engage in campaigns, protests, and other activities to raise awareness of migrant workers’ exclusion, inequality, and challenges related specifically to recruitment, as they also provide migrants with social resources and supports. My fieldwork shows that some recruiters and consultants can be counted among those performing this kind of advocacy and service work. I met with representatives from the United Food and Commercial Workers union and the Centro de los Derechos del Migrante (CDM) in Mexico City. They do much work to educate would-be and returned migrants of their rights. The CDM has launched a social media tool for migrants to share information and “rate” recruiters. These modes of activism and resistance, and their efficacy, offer another important future direction for research in this area.

At the end of the day, nation-states establish immigration policy and set the parameters for bordering. Employer-driven and employer-tied migration, and the outsourcing of aspects of it, intensifies precarity and increases the potential for abuse. Perhaps just as important, if not more so, are questions about who profits from the precariousness that is created and sustained by the larger economic system built on temporary migration. Faraday (2014) summarizes: “A system of laws and policies that continues to construct particular work and particular workers as ‘temporary,’ ‘foreign,’ and ‘unskilled’ fails to acknowledge and respect the work they do in permanent jobs that are core to the economy and critical to the functioning of our communities. It perpetuates a profound precariousness” (88). An economy built on temporary, politically disenfranchised labour is destabilizing and ultimately undermines the security of migrant
workers and introduces precarity for all workers, and for the communities in which these migrants reside as well as those they left behind.

9.5 Future Directions

Seen within broader patterns of (neoliberal) labour market restructuring, the moment of “crisis” in the “wild west”—and the “normal that hasn’t been normal,” as one industry representative put it—may not be so unusual. The moment of “crisis” contributed to shifts in immigration policy that opened up migration pathways and space for the involvement of the private sector and its burgeoning representatives. One retrospective media piece mused: “When history looks back, what seemed like a temporary Western labour shortage could turn out to be the impetus that prompted Canada to embrace its destiny as a nation of immigration” (Friesen 2012).

Borders are sites where sovereign decisions impact inclusion and exclusion. They are key sites where a range of claims-making and status determinations are made, where the deeming of desirable and deserving occurs. Border performances do not resonate just with the state, but also with the nation and its membership; they are key components of the nation-building process. As I have shown in this dissertation, recruiters perform as one form of mobile bordering agent, and taking them as a point of departure for viewing recruitment and migration processes allows us to see them as nodes of encounter, where entanglements of power manifest and the demands and interests of state bureaucrats, private sector actors, and migrant workers converge. To the extent that recruiters operate as gatekeepers independent of the state and as facilitators of migration across national borders, they contribute to ethnic pluralism and the diversification of host populations. The creation of new two-step immigration programs, such as the Provincial
Nominee Programs, only intensifies the need to understand the migrant labour recruitment and selection process, because of the implications it has for newcomer belonging and ‘integration.’

In many ways, recruitment-based policies initiated at the provincial level in Manitoba, and also through the PNPs across Western Canada, have changed the face of newcomer settlement in Western Canada. In future work, I am interested in examining these settlement patterns, the provision of services via voluntary, private sector, and trade union actors, and the nature of employer sponsorship and its influences on migrants and host communities over the longer-term, particularly in terms of the impact on integration and feelings of citizenship and belonging.

My argument with this dissertation is not to question the entire premise of the TFWP per se, but to understand the transnational labour recruitment process for lower-skilled migrant workers and the ways it produces borders and migrant subjects in particular ways. This project is about examining where border-related decision-making happens, and by whom. As we enter an era of what feels like resurgent nationalisms, and calls for border fortifications, mobile methodologies and the critical and careful examination of who is drawing border lines, where, and when are important. Bringing recruiters out of the shadows and making their role more visible, and understanding their involvement in the management of bordering, is important for locating accountability and responsibility.

Recruiters can be “ghosts” who attempt to defraud the system and unsettle confidence in the profession. They haunt (literally) the migrant workers who are indebted to them. And yet, ghosts can also be companions, providing assistance, care, and mitigation of the effects of differential inclusion. Ghosts are manifestations that serve as reminders. As Gordon (2008, 2) states, they are “notifications that what’s been suppressed or concealed is very much alive and
present, messing or interfering with those always incomplete forms of containment and repression ceaselessly directed toward us.” They are “haunting reminders” of the violence and complex social relations in which we live (25). Recruiters are spectral figures that haunt migrants, the migration process, and the borders of the nation. They are presences made apparent out of a demand, and as such conjure reflections on futurity—the ghost “represents a future possibility” imagined in political alternatives (63). I posit that, in this instance, one demand they raise is for a broad, informed, and public debate on what citizenship means, and for whom. Decisions about who belongs, or not, in the bordering of the nation are to some extent being worked out at the margins, away from the public spotlight and unbeknownst to many Canadians. How nation-building operates through immigration policy should be an issue of collective conversation. My hope is that studies such as this contribute to critical, informed, and sustained public discussion about where borders are drawn, based on what criteria, and for what reasons.

Understanding the border performatively allows for a focus on the political value of certain effects (borders)—not just on how they are instituted but also on how particular instances of bordering produce the world in some ways and not others. This kind of analysis offers the opportunity to consider what is at stake in how bordering reconstitutes political orders, for example in establishing and intensifying the precarity of some subjects (Butler 2004; Goldring et al. 2009; Tsing 2015). A focus on the performative aspect of borders considers how they delimit who or what has the “chance for life,” and “what kind of state we are in” (Butler 2004, 2009). Performativity has everything to do with ‘who’ can become produced as a recognizable subject, a subject who is living, whose life is deserving and worth sheltering, and whose life, when lost, would be worthy of mourning. Although geographers have been expanding and contesting traditional notions of political borders as frozen lines on a map by conceiving of them as
“institutions, symbols and discourses that are ‘spread’ everywhere in society” (Paasi 1996, 18), the point must be hammered home that these state borders have real, visible, material, and often violent effects. Attention to the border-drawing narratives and practices of the state is crucial for understanding how these borders are continually produced and reproduced. In attempting to understand the way lines are drawn—and by whom—as part of the human ordering of the world, the continual challenge is to expose the power behind them, to highlight their material effects, and to work toward a more just manifestation of those lines.
References


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## Appendices

### Appendix A  Survey of Services Provided in Migrant Worker Recruitment and Integration

<table>
<thead>
<tr>
<th>Services Offered</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sourcing workers</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assist with job analysis</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Provide information on the TFWP</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Arrange international job fairs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Provide/arrange advertising</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Locate candidates</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Pre-screen – skills, language, drug testing</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Reference checking</td>
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<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Interview and selection of worker</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Source country training/upgrading</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Paperwork</strong></td>
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<td></td>
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<td>LMO application</td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>Source country documentation</td>
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<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Work permit applications</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Draft employment contract</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Re-applications and extensions</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assist with PNP transition</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>Settlement-related</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arrange for medical coverage</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arrange transportation</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pick-up at airport</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Locate accommodations</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On-site workplace orientation</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-Canada training/upgrading</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Legend

1. For-profit recruitment/employment agencies, immigration consultants, and immigration lawyers
2. In-house HR recruiters
3. Educational institutions (such as community colleges or language schools, or for-profit recruiters operating for non-profit colleges)
4. Industry associations
5. Government
6. Embassies or source-country public employment agencies
Appendix B  The Financial Cost of Recruitment

Recruiting migrant workers is not an inexpensive venture, and many employers (including a few respondents in this study) may not be aware of all the costs involved. When hiring migrant workers, employers are responsible for fees related to:

1) Sourcing/Recruitment of the Worker – and associated Agency/Recruitment Professional Services (if applicable)
2) Source Country Documentation or Fees
3) Worker Arrival and Departure
4) Occupation Specific Credentialing and/or Licensing

These expenses range depending on the country of origin of the worker and the skill level and licensing requirements of an occupation.

Most recruiters or lawyers/consultants who engage in recruitment activities that participated in this study indicated that their agency fee is generally around one month’s salary, or 15–20% of the annual salary of the occupation for which they are recruiting; it is around 25-30% for higher-skilled/management positions. At the peak of the skills shortage in the construction sector in Alberta and BC, recruiters were charging placement fees of 8–12%. Most agencies charge a flat rate per worker recruited, with adjustments when hiring multiple numbers of workers. Additional fees may apply for the preparation and submission of the LMIA (previously LMO and E-LMO) applications, and eventually for a PNP application (where applicable). Additional fees related to credential verifications might also apply.

*I think they were rating at 8 to 12% of annual salary. Um, I mean, typically, we would get somewhere around 4,000 bucks per person for a trade. And if it’s compulsory trades, it’s just a plumber or electrician, it could be 5,000, and that would be from the employer. And that sounds great if you’re getting a big, you know, you’re getting 25% of that upfront or whatever, for ten guys or whatever, but it’s a lot of work to get them here. And then usually it comes with a six-month guarantee… and a lot of things went wrong in that six months… [and if a worker left within those six months] then we’d have to find [another worker] at no extra cost.*

– Recruiter based in Alberta, placing workers in BC
Fees are generally paid to recruiters in two to three installments, which are set out in the recruitment agreement signed when the employer engages the services of the agent—usually a payment at initial signing, once workers are selected and provided job offers, and once workers arrive in Canada. Some agents charge for consultations, and some guarantee a successful LMIA or the issuance of a visa to a candidate before requiring payment. Some employers arrange for an amortization of payment to a recruiter, paying a final installment after the worker has remained at the company for a given period of time (e.g., 6 months). One employer explained:

_Let’s say five thousand, pay five thousand dollars for the guy. And then, two months later he doesn’t like it, he goes home. Well, that doesn’t negate the five thousand dollar charge. So, what we did is we countered and said, ‘ok they need to stay in the country a minimum of six months. We’re going to amortize the payments to you over that time. Um, so, you’re going to get a small fee up front. You’re gonna get every pay cheque, so every month, we’re gonna contribute a little more towards the five thousand we owe you, and at the end of the six months, if the employee is still here, we still like this employee, they’re working out, we’ll pay the balance out.’ And that was just one arrangement. Other arrangements [were] that we paid them a dollar an hour for every hour an individual worked for the first, I believe it was eight or ten months, and that was our way of paying our bill for that individual. So, what would happen is, individual’s hours would come into payroll, payroll would then calculate how many hours they worked, we’d issue a cheque to the employee obviously and then we would issue another cheque to [the immigration lawyer recruiting the workers] to, to go towards the fees that it cost to bring that individual over._

Arrangements guaranteeing retention of a worker for a given period of time might provide an incentive for undue pressure from the third-party agent on workers to remain in Canada in a job against their will, and checks should be in place to mitigate this possibility.

Typical placement or file representation fees that employers could reasonably be expected to pay (as indicated by participants in this study) ranged from $2,500 to $5,000, depending on the source country and occupation. In the Philippines, it is suggested that if a recruiter is charging an employer less than $1,500, then it can be assumed the agent is passing
along job-placement costs to the worker (the math is only a hint, though, of whether candidates are being charged placement fees). Though the costs of hiring may be high, expenses are often not significant when compared with those related to domestic recruitment and the potential costs related to turnover or vacancy, such as decreased productivity, loss of business, and potential damage to a company’s reputation. Typical domestic recruitment can involve the cost of placing an ad, hiring a search firm, reviewing applications, interviewing candidates, conducting reference checks and pre-employment tests, and finalizing a contract, as well as orientation and training costs. The additional costs involved if hiring through the TFWP may include:

*International recruitment costs through TFWP (lower-skill) on top of normal domestic recruitment costs:*

<table>
<thead>
<tr>
<th>Cost</th>
<th>Cost Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Return airfare</td>
<td>$1,200–2,500</td>
</tr>
<tr>
<td>Private medical coverage for first 3 months</td>
<td>$180</td>
</tr>
<tr>
<td>Recruitment costs</td>
<td>$1,000–2,500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>~$5,000</td>
</tr>
</tbody>
</table>

157 Note that the employer must provide return airfare and medical coverage only for NOC C and D workers.
Appendix C  Alternative Recruitment Models and Recommendations

Findings of this study indicate that a majority of the fraud and illegal activities that occur during the migrant recruitment process take place in other jurisdictions (usually in the source country).

To build more integrity into the migrant recruitment process, when dealing with cross-jurisdictional issues, there are three primary approaches:

1) Maintain existing regulations, ensuring that legislative protections are in place to protect migrant workers, and allowing for the continued operation of private third-party recruiters, but:
   a. increase proactive monitoring and enforcement of existing legislation (e.g., Employment Standards regulations, IRPA), and
   b. coordinate transnational enforcement mechanisms through bilateral agreements (so the activities of so-called “partner” agencies could be chased)

2) Engage in bilateral agreements (such as the SAWP or LMM), with government-government coordination of the recruitment process (with the aim of cutting out the third-party middleman)

3) Engage the services of a trusted third-party agent (such as the IOM) to coordinate recruitment

In both approaches (2) and (3) there would need to be a monitoring mechanism in place to prevent the outsourcing of certain services (by government bodies or by the third-party agent) that could lead to corruption and fraudulent activities. There would also need to be both provincial/territorial and federal government commitment to providing adequate resources to ensure the program is run and regulated effectively. Each of these approaches could help to prevent much of the corruption and exploitation that occurs during the recruitment process itself.

The evolution of the recruitment industry in the Philippines, and in other countries in Asia, demonstrates that a mixture of private and public recruitment agents is most desirable (Abella 2004; Agunias 2008). Job seekers (and sending country governments) often prefer retaining private agents because, despite the risk of fraud and being charged high fees, private
agents are often better at obtaining information about jobs than their public counterparts (especially if they have a niche specialization in the industry). The recruitment market is unique in that fees are not determined so much by the financial value of the good, but rather by the demand itself (Abella 2004, 203). What is being paid for is information—particularly when workers are located at significant geographic or cultural distance. Thus, public authorities’ efforts to protect workers, by implementing measures such as regulations that set limits on recruitment fees, are in other temporary migrant worker contexts widely disregarded—often with the cooperation of workers themselves (Abella 2004; Kuptsch 2006). Preliminary findings from this study indicate that regulations such as those in place through WRAPA in Manitoba are being circumvented.

Thus, a number of recommendations (related to the prevention of legislative contraventions associated with third-party recruiters) emerging out of the findings of this research center on: (1) information and educational campaigns for stakeholders, (2) monitoring and enforcement of existing regulations, and (3) an expansion of research and pilot programs, both to assess the frequency of third-party recruiter use and to explore alternative recruitment models.

**C.1 Primary Recommendations**

(1) Facilitate more effective communication and information dissemination

*The provision of more information at the outset of the process can decrease reliance on third-party intermediaries and can prevent fraud and other abuses at later stages in the recruitment process.*

1. Ensure that all applications and instructions are clearly worded.
   a. Ensure that there is messaging included with all applications (for the LMIA, work permit, and PNP) stating that applicants are not required to use a representative.
b. Include a link to the listing of employment agencies, the law society, and ICCRC so applicants can verify that their representative is a member in good standing.

c. Applications could be simplified by creating an online registration and tracking system for applications. This could improve and enhance the transparency of employer-recruiter communication, and could also help prevent timing issues related to changes in employer demand.

2. Create a “one-stop shop” website for employers recruiting migrants, including a step-by-step explanation of the process and a checklist that includes tips on selecting a recruiter or third-party representative as well as links to appropriate contacts for each step in the process.

3. Create a “one-stop shop” website for migrant workers, inventorying services available to them and identifying appropriate contacts. Ensure that CIC and CBSA operations officers are aware of these services to enhance assistance at ports of entry.

   a. Identify a government contact for migrant workers (for example those who arrive in Canada to a “ghost” employer or who find themselves laid off and in search of a new LMO), perhaps through the implementation of a hotline or similar service.

   b. Ensure the provision of information on Employment Standards to migrants before arrival, at both the work permit application and/or at the port of entry. (This information has been provided directly to officials of the Philippine Consulate and through presentations delivered to employer groups and associations in BC. However, research indicates that many workers are still not receiving this information, which could also be provided at the port of entry, for example in the form of a pamphlet.)

4. Commit to work with local governments on TFW-related matters. Building local expertise on the TFWP at the municipal level would provide smaller employers with designated local contacts for assistance in navigating the TFWP recruitment process (one model is the Foreign Worker Resource Network piloted by the BC Chamber of Commerce).

5. Include information on the potential benefits and risks of utilizing third-party recruiters in migrant recruitment in presentations and information currently provided to employers.

(2) Increase monitoring and enforcement of existing regulations

*Regulation of the recruitment industry per se may not be necessary with increased enforcement capacity.*

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158 Also, presentations on employment standards facilitated by AMSSA and delivered at ISAs across BC in 2008 were well attended and serve as another model for disseminating this information (AMSSA 2009).
1. Facilitate increased data and information sharing (e.g., MOUs) as part of a coordinated enforcement strategy.

2. Provide adequate resources to support proactive audits of licensed employment agencies in the province and to enhance monitoring of workplace security for migrants.

3. Implement a more rigorous assessment of the genuineness of an employer in the LMIA application process.

3) Expand and evaluate pilot programs and conduct research

1. Employers are concerned that the federal government still acts more as a gatekeeper, not sufficiently recognizing the importance and specificity of geographical variation in recognizing labour demand and in setting the prevailing wage. Pilot programs with LMOs that would be occupation-specific or broader in geographic scope, enabling temporary migrants to move (employers or locations) as employer labour needs change.

2. Support research to enhance understanding of the regulatory context and on-the-ground migrant recruitment processes in sending countries.

3. Evaluate Canadian bilateral labour mobility MOUs and agreements wherein government-supervised public employment agencies coordinate the recruitment process and conduct a cost-benefit analysis comparing public versus private recruitment strategies.

4. Explore the role that immigrant-serving agencies could play in providing settlement services currently being contracted by some employers to third parties. This could be done, for example, through a fee-for-service arrangement or through increased government funding to migrant-serving organizations.

The Canadian federal and some provincial governments (e.g., Manitoba, Ontario) are implementing or considering new regulations to minimize the potential for migrant exploitation by employers and third-party agents by imposing stricter employer monitoring mechanisms. These regulations (CIC 2009b) are an important step forward in worker protection, but they do little to penalize recruiters or employers, for example, making false job offers. As this study reveals, increased monitoring and enforcement of existing regulations is necessary.

159 This could be done, for example, through a fee-for-service arrangement or through public funding to immigrant-serving agencies serving temporary migrant workers.
In a comprehensive and long-term labour market development strategy, the TFWP should be considered secondary to the training of current workforce, including immigrants and more permanent immigration to address demographic needs. As long as employers are recruiting migrants, though, improvements in better pre-screening and information at the outset of the recruitment process, combined with more effective monitoring and enforcement of existing regulations around migrant worker recruitment and employment, could potentially minimize employer reliance on third-party agents and help to preclude or diminish instances of fraud or abuse associated with unscrupulous third-party recruiters.

The recruitment process in the TFWP—and migration in general—is an often-overlooked aspect of transnational migration, but it has important implications for workplace productivity, economic performance, and the labour market and socio-cultural integration of migrants. Third-party recruiters and actors in the “migration industry” can offer employers important services. Understanding what those are, and educating employers and immigrants on how to use them effectively, is one way of promoting a more successful migrant worker recruitment experience for all stakeholders involved.