

A Model for Managed Migration? Re-Examining Best Practices in Canada's Seasonal Agricultural Worker Program

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ABSTRACT

This paper situates Canada's Seasonal Agricultural Worker Program (SAWP) within the policy and scholarly debates on "best practices" for the management of temporary migration, and examines what makes this programme successful from the perspective of states and employers. Drawing on extensive qualitative and quantitative study of temporary migration in Canada, this article critically examines this seminal temporary migration programme as a "best practice model" from internationally recognized rights-based approaches to labour migration, and provides some additional best practices for the management of temporary labour migration programmes. This paper examines how the reality of the Canadian SAWP measures up, when the model is evaluated according to internationally recognized best practices and migrant rights regimes. Despite all of the attention to building "best practices" for the management of temporary or managed migration, it appears that Canada has taken steps further away from these and other international frameworks. The analysis reveals that while the Canadian programme involves a number of successful practices, such as the cooperation between origin and destination countries, transparency in the admissions criteria for selection, and access to health care for temporary migrants; the programme does not adhere to the majority of best practices emerging in international forums, such as the recognition of migrants' qualifications, providing opportunities for skills transfer, avoiding imposing forced savings schemes, and providing paths to permanent residency. This paper argues that as Canada takes significant steps toward the expansion of temporary migration, Canada's model programme still falls considerably short of being an inspirational model, and instead provides us with little more than an idealized myth.

INTRODUCTION

Worldwide, as structural inequalities make it increasingly difficult for people to sustain their households within their countries of origin and the number of the world's migrants moving from lower income to higher income countries has continued to climb, affluent states have looked to secure their borders and find new ways to "manage" those seeking entry. While

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some high income states require immigration to address demographic shifts and real or constructed labour shortages, rather than ease restrictive immigration systems, an increasingly popular solution to manage migration has been to create or expand temporary migration programs. In the post-Cold War period, an arguably “new era of mobility” (Annan, 2006) has emerged, which for most migrants is in actuality characterized less by increased free and open mobility, but rather by heightened regulation of movement through managed temporary migrant worker programmes (TMWPs). Moreover, newer TMWPs, which are considered “second generation” (Castles and Miller 2003: 102) or “post-Cold War” programmes (Plewa and Miller 2005), are arguably more restrictive than their predecessors.

Given that early temporary migration programmes, such as the *Bracero* programme in the United States (1942–64) and the *Gastarbeiter* programme in Germany (1955–73), were widely viewed as failures, these newer “second generation” models of managed temporary migration have been hotly debated regarding their efficacy. Policymakers, regulators, and scholars alike have scrutinized and examined existing models for best practices. One model that has received much attention in this regard is Canada’s Seasonal Agricultural Workers Program (SAWP). In existence for more than four decades, this program annually moves some 27,000 people from Mexico and the Caribbean into jobs on Canadian farms, and within eight months, back to their communities of origin.

This paper situates Canada’s SAWP within the global historical context of temporary migration, as well as policy and scholarly debates on best practices for the management of temporary migration, and examines what makes this programme successful from the perspective of states and employers. In addition, drawing on extensive research on temporary migration in Canada, we then seek to critically examine the model from internationally recognized rights-based approaches to labour migration, drawing on UNESCO’s *Best Practices in International Migration Project*, the ILO *Multilateral Framework on Labour Migration* (2006)¹, the IOM-sponsored *Best Practices Concerning Migrant Workers and their Families Workshop* (IOM, 2000), as well as those compiled by international scholars such as Manolo Abella (2006), Graeme Hugo (2008), and Synnøve Bendixsen and Paul de Guchteneire (2003). Drawing on this analysis, and building on emerging empirical research in Canada, we suggest some additional best practices for the management of temporary labour migration programmes.

TEMPORARY MIGRANT WORKERS IN THE GLOBAL POLITICAL ECONOMY

A striking feature of contemporary patterns in international migration is the rising number of temporary workers leaving their homes in the global South for jobs in high-income countries. According to the OECD, the rise in temporary migration for employment purposes is one of the most significant trends in recent years (2004). Employer demand for temporary workers in high-income countries has been facilitated by states through a number of mechanisms. For example, the liberalization of labour mobility by the United Kingdom led to an estimated one million migrant workers arriving from EU accession countries in three short years (Hawethorne, 2008). Other high income states have turned to immigration policy to meet employer labour needs through TMWPs, creating new programmes or increasing the volume of older versions (Castles 2006, Held, et al., 1999). The United States, for example, now has over 80 types of temporary visas. While some of these managed migration schemes provide a stepping stone for permanent residence, which is particularly the case with skilled workers, those recruiting workers for sectoral shortages in so-called low-skilled or unskilled occupations are generally designed to prevent settlement and restrict mobility.

Some TMWPs have been proposed as a means of curbing illegal migration and trafficking, as is the case of Eastern Europeans in Germany. In the United States, a number of “guest-worker” models have also been advocated as a way of legalizing the existing populations of undocumented workers (Castles and Miller, 2003:101). In the EU, some countries have issued temporary work permits to control inflows of migrants from new member states. Following the massive, unanticipated migration of the 2004 accession countries in the United Kingdom, for example, Downing Street moved to place greater restrictions on Romanians and Bulgarians who became part of the EU in 2007. Within a broader context of trends to securitize borders, migration programmes that address the labour needs of employers by issuing temporary entry and work permits to migrants from lower-income countries while denying them access to permanent residency have become particularly attractive for high-income states. As Hahamovitch has argued: “guestworker programs are alive and well, and are becoming more popular as states try to open their markets without opening their borders” (2003: 92).

The rising importance of these programs among the panoply of immigration policies must be read within the context of global economic restructuring. New pressures under globalization have led states to engage in a number of strategies to protect their own position within the globalized political economy (Rai, 2001), including using immigration policy as part of efforts to restructure labour-capital relations within their borders. Delgado and Márquez (2007) argue that migrant labour benefits capital by increasing the volume and flexibility of the labour supply in certain segments of the job market, rescuing mature industries and allowing productive restructuring in others. Exploring the US manufacturing sector, for example, they demonstrate how Mexican workers are replacing the generally native, better-paid, unionized workforce “with the clear purpose of reducing operating costs in order to increase profits and global competitiveness” (Delgado and Márquez, 2007:671). While undocumented status contributes to the extreme precarization of the immigrant workforce (Anderson and Rogaly, 2005; Delgado and Márquez, 2007; Goldring, et al., 2007), immigration controls on temporary migrants can also create highly flexible and precarious workers predominantly from the global south (Anderson, 2007; Hahamovitch 2003). While theorizing the role of temporary migration and development in the contemporary world-system, Wallerstein argues that with global capitalism underdeveloped countries play a crucial role in the productive processes of the world-system (many through their role as migrant sending countries) but they have little political power, such that, “...whole peoples can be pushed back into a forced autarky and left to survive as best they can, just as a gastarbeiter can be sent home” (2001: 91).

Similarly, Sharma’s extensive research on migrant workers in Canada (2006) theorizes that TMWPs are not so much about keeping people out of a national space but rather circumscribing the conditions of their differential inclusion. This occurs through a range of legal disempowerments that subordinate migrant workers in the labour market and society in general (Griffith, 2007; Sharma, 2006; Stasiulis and Bakan, 2003). From the perspective of capital, the benefit of this separate tier of workers goes beyond the provision of a cheaper and more vulnerable source of labour, which in turn allows employers to reorganize the production process in specific ways; it also enables the state to infuse greater competition into the national labour market and change the conditions under which all workers experience their jobs (Sharma, 2006). In her critical history of TMWPs, Hahamovitch argues: “as efforts to make immigration temporary or to ‘regularize’ illegal immigration, guestworker programmes have failed. Yet as labour supply systems designed to ‘regularize’ wages, to hold down the cost of sugar cane harvesting in Florida, diamond mining in South Africa, construction work in Europe, and child care in Montreal, and to keep foreign workers segregated in low-wage industries, these programs have been unmitigated success stories” (2003: 26).

From this perspective, scholars have also questioned the extent to which labour shortages are socially created; that is, the extent to which TMWPs are real or imagined (Castles, 2006; Hahamovitch, 1999; Rogaly, 2008; Ruhs, 2003; Sharma, 2006). While at times temporary migrants fill absolute labour shortages (such as the *Bracero* program in the United States), they are also engaged to fill those jobs that citizens reject, the “socially least regarded jobs, which are often the worst paid or least secure” (Bohning, 1984: 6). Labour shortages are thus not always about the absence of labour, but the presence of workers prepared to reject the working conditions or wage levels offered (Hahamovitch, 1999; Sharma, 2006). It is no surprise that temporary migrant workers occupy these rejected jobs, given that according to dual labour market theory, most local workers avoid the “three Ds”: dirty, dangerous and difficult jobs (Massey, et al., 1998). Moreover, no matter how dirty or dangerous these jobs may be, migrants are not likely to leave them or risk unemployment by contesting working conditions, with households and remittance-economies back home dependent on monthly transfers. This is particularly the case in Mexico, where remittances make important contributions to the national as well as regional economies, not to mention household subsistence and income diversification strategies (Echánove and Steffen, 2005; Massey, et al., 1994).

In the Canadian context, migrant workers are assuming tremendous importance in the economy. In the last 30 years, as neoliberal restructuring has become entrenched in Canada, the numbers of migrant workers has swelled, particularly in agriculture and low-skill sectors of the economy. The annual flow of temporary migrant workers into the country now exceeds 100,000 per year, with some 193,061 individuals entering Canada as Temporary Foreign Workers in 2008 (Statistics Canada, 2008). This is up from some 80,000 only a decade earlier and more than double the number arriving in 1980. Not only has the volume of temporary migrant workers increased, but it has eclipsed the numbers of workers entering Canada with permanent resident status (Sharma, 2006). Indeed, the balance between immigrant and non-immigrant people recruited to work in the country has shifted significantly; while 57 per cent of all people classified as workers entering Canada arrived as permanent residents in 1973, sharing most of the same rights as Canadian citizens, by 1993 the percentage of workers arriving with this status had fallen to 30 per cent, with 70 per cent entering as foreign workers on temporary employment authorizations (Sharma, 2006). Undoubtedly, these shifts have important implications for labour-capital relations in Canada and the workplace regimes (Rogaly, 2008) encountered by the men and women operating within them.

TEMPORARY MIGRANT WORKERS AND GLOBALIZED AGRI-FOOD MARKETS

In many high income countries, agriculture is perhaps the sector of the economy with the longest history of receiving migrant workers. In the case of the United States, David Griffith (2007) argues that agriculture distinguishes itself as the sector in which employers have been successful in shaping immigration policy to meet their labour needs since the First World War. While the United States may have a long historical record in this regard, the majority of high-income countries in the world now have some arrangement to issue temporary employment authorization for farm workers. Castles and Miller (2003: 102) have observed an expansion of a “second generation” of TMWPs in Europe and North America in the post-Cold War era. Germany makes the most systematic use of TMWPs among European countries (Schierup, et al., 2006, in Castles 2006), with agriculture accounting for an important share of migrants admitted. More surprising, however, is the extent to which former migrant-sending countries in the EU such as Italy and Greece have become migrant-receivers. In 1999, Italy admitted 20,000 seasonal migrant workers, a tenfold increase since 1992, many

for employment in agriculture (Castles and Miller, 2003:101; OECD, 2001:195). Although programmes of managed migration have not experienced significant growth in those countries that receive large numbers of migrants through other sources, such as the EU-Accession countries in the case of the United Kingdom or undocumented labour migrants in the case of the United States, they have not been dismantled entirely. In the United States, a guest-worker programme for agriculture remains a very tangible political reality and heated focus of public debate.

The rising incorporation of temporary migrants beyond agriculture into other so-called low-skill occupations such as food processing, catering, and construction has provoked scholarly interest, as has their growing presence in higher skill jobs such as nursing and the IT sector. In Canada, for example, the subject of temporary migrant workers is gradually assuming greater attention in academic and public forums. At the 2008 Metropolis national conference, an opening plenary and two panels were specifically dedicated to this theme, as were a number of papers in other panels. While in this context, long-standing programs such as Canada's SAWP may seem a less interesting site for research, we consider it a very important arena for investigation. Firstly, an examination of the modest body of research that has been produced on migrant farmworkers in the last decade holds important insights for how the incorporation of temporary visa workers may proceed in other industries and sectors. Secondly, while agriculture has long-received migrant workers, dynamic changes are occurring within global markets for agri-food products that are altering the volume of migrant workers hired, how migrant workers are being incorporated into the production process and the sector in general, and which migrants are being hired in terms of gender, nationality, and race (Hennebry, 2006; Preibisch, 2007; Preibisch and Binford, 2007). Careful scrutiny of the historical and contemporary practices surrounding migrant farm labour in agriculture can thus hold important insights for how these may unfold elsewhere in the Canadian economy within the context of increasingly globalized markets, as well as offer policy recommendations that can safeguard migrant rights more proactively than has occurred in the past. Further, as high income countries the world over search out models upon which to fashion their own TMWP, Canada's long-standing SAWP is often held up as exemplary. In the following section, we look at the importance of the model internationally and explore the "model" elements of this program from the perspective of employers and migrant-receiving states.

CANADA'S "MODEL"

Canada's system of migrant labour has become a model for the development of labour migration programmes in other high-income countries. In particular, the United States has been looking to Canada for a "best practice" model for the legalization of agricultural workers (Owen, 2000). Globally, Canada is seen as a leader in the management of migration (Papademetriou and O'Neil, 2004). The Canadian model has been discussed in a number of international forums related to international migration, including the *Workshop of International Experts on Best Practices Related to Migrant Workers*, held in Santiago, Chile in 2000 (Greenhill, 2000; International Organization for Migration (IOM), 2000); a trilateral conference on *Agricultural Migrant Labour in North America*, held in Los Angeles (2000); and at numerous *Regional Conference on Migration meetings* (referred to as the Puebla Process). In 2008, Canada's Live-in Caregiver Programme was identified with respect to best practices pertaining to temporary migration management at the Global Forum on Migration and Development in Manila while being pronounced the "Rolls Royce" of TMWPs at the International Metropolis conference being held in Bonn at the same time (Hugo, 2008; Pratt, 2008).

Canada's SAWP has been consistently cited as a reference point for "best practice" – defined as successful initiatives or model projects that make an outstanding, sustainable, and innovative contribution to an issue at hand – by scholars and governments alike (Hugo, 2008; Basok, 2007; Verduzco, 2007).² For example, in April 2000, the Organization of American States, Office of Summit Follow-Up on Summit of the Americas (SOA) Migrant Workers Initiative, Canada's method of recruiting and monitoring workers was commended. In 2000, in the IOM workshop report titled, "Best practices concerning migrant workers and their families", the Canadian SAWP was showcased for its sending country involvement (International Organization for Migration (IOM), 2000). Canada was also noted in a special issue on "Best Practices for International Migration" in the International Organization for Migration's *Journal of International Migration* (Vol. 40, Issue 3). Further, the Ottawa-based think-tank, the North South Institute, carried out a study entitled, "Best Practices in Migrant Worker Participation in the Benefits of Economic Globalization: Canadian Seasonal Agricultural Worker Program as a Best Practices Model".³ Spain and Turkey have also looked to Canada for a best practice model for temporary migration to better facilitate (and to limit) the movement of the large numbers of Ecuadorian and Moroccan workers to fill labour shortages (Ortega Pérez, 2003).

The Model Programme from the Perspective of Employers and States

The SAWP is an attractive model for governments and employers for a number of reasons. Firstly, it operates as a demand-driven programme, operating outside of quotas and caps, meeting the labour requests of agricultural producers practically without limit. Once an employer proves to the Canadian government that they were unsuccessful in their attempts to find Canadian workers to fill the jobs they are offering (through requirements which typically involve advertising the position for 14 days), they are supplied with the number of workers they request. Following this first assessment, approval in subsequent years is perfunctory (Mares, 2005, World Bank, 2006). From 2007–2009, agricultural employers designated as an "occupation under pressure" did not even have to demonstrate they made attempts to hire Canadian workers. The process for determining these occupations was not public information, but the assessments were carried out by Human Resources and Social Development Canada (HRSDC).

Secondly, the programme provides a great deal of administrative support to the agricultural industry at a relatively low cost to the Canadian state. As a bilateral programme between Canada and the labour-sending countries (Mexico and various nations in the Commonwealth Caribbean)⁴, there is a high degree of sending country government involvement in the operational aspects. Although the Canadian state has referred to the bilateral framework of the SAWP as resource-intensive, largely owing to annual negotiations in which they participate, the lion's share of the administration is undertaken "in-house" by the labour-sending countries that, eager to capture worker remittances and ease unemployment at home, invest significant resources in recruitment and selection of workers, as well as providing liaison staff in Canada. Other aspects of the programme's administration are undertaken by employer-driven organizations that charge a user fee per worker to employers accessing the programme.⁵ In this way, some of the direct costs of the programme are borne by employers hiring migrant workers, rather than the state or the industry as a whole. In a neoliberal policy environment, greater state involvement is unlikely.

Most importantly, programmes such as the SAWP circumscribe the conditions under which people work to a much greater degree than domestic workers, allowing the industry to implement a very specific set of employment practices that would not be possible with a

Canadian workforce. To begin, they constrain worker's labour mobility by limiting their work permits to a single, designated employer. Migrant workers are not allowed to circulate freely in the labour market, let alone the sector in which they are employed. Transferring employers is very difficult, being fired usually results in immediate deportation. These restrictions offer employers considerable security in planning production; indeed, an estimated 98.5 per cent of workers finish their contracts (FARMS, 2004). Moreover, these restrictions on labour mobility grant employers tremendous power over migrants. Since a migrant's presence in Canada is dependent on a sole employer, most comply with all nature of employer requests and are reticent to raise issues around working and living conditions (Basok, 2003). Since there is no formal appeal process around repatriation, employers can dispose of workers at will – when they no longer need them, if they demonstrate undesirable behaviour, or if they fall ill or are injured (Basok, 2002; Hennebry, 2006; Knowles, 1997; Preibisch, 2004). For example, according to a 2005 handbook issued to employers in Ontario, migrant workers can be repatriated if they refuse work (FARMS, 2005b). Although cases of repatriation are low, the instances that have occurred and threats to do so serve as potent reminders to workers of employer expectations and, consequently, as powerful tools of labour control.

The SAWP also allows employers to select their workers on the basis of nationality and gender rather than work experience, skill-set or training. This is a crucial element of the programme, allowing employers to segment production and divide the workforce on the basis of citizenship, language, gender, and nationality (often a euphemism for race). These racialized and gendered strategies have benefits for production in a number of ways, such as enabling employers to create competition between workers on the shop floor. It also creates competition among labour supply countries who vie to increase their number of job placements in Canada through the timely recruitment and effective discipline of “good” workers who meet employer expectations (Preibisch and Binford, 2007).

TMWPs like the SAWP also allow employers (and states) to circumscribe the profile of workers in other ways. Recruitment policies for low skill workers coming to work on farms give preference to individuals with dependants, while visa restrictions require them to leave their families behind. These policies are principally designed to deter visa overstay or permanent settlement by choosing workers with more reasons to return home than to stay. They benefit employers in other ways, moreover, by reducing migrants' social responsibilities in Canada and therefore increasing their willingness to accept overtime and weekend hours.

In addition, these programmes allow employers to screen their potential employees for a battery of health conditions, including HIV and pregnancy, by requiring prospective migrants to submit to annual medical examinations (Hennebry, 2007). Women from the Commonwealth Caribbean, for example, take pregnancy tests immediately before they board the plane bound for Canada each year (Preibisch, et al., 2007). The obligatory health screening under the SAWP is highly attractive to employers, allowing them to further mitigate the uncertainties that employing domestic workers involves. One employer of temporary migrant workers, when publicly praising what she saw were low costs of bringing workers to Canada relative to the benefits they offer, claimed: “we don't get [Canadian] applicants now that go through the medical testing, the screening, the selection process, and the two days that they spent in preparation even before being able to get accepted into that process, so we knew we were getting something good” (CPAC, 2008).

Finally, the very premise of such programmes is to fill labour shortages with workers who are offered jobs but not permanent residence. The Canadian state and employers benefit from workers without investing in their costs of reproduction (both prior to entering the workforce and when they exit) (Bolaria and Bolaria, 1997). While SAWP workers are constantly referred to as “temporary,” many return year after year to the same employer, with some

migrants spending years – if not decades – working in Canada for a greater part of the year than they spend at home. SAWP participants are allowed to access the Canadian Pension Plan, but research has found that their pensions as seasonal workers are marginal and many face difficulties accessing these benefits in the first place (Preibisch, 2003; Verma, 2003). Most provinces also allow SAWP workers to access the public health care system for their basic needs, but many wait until they return to their home countries because they are concerned that if their employers learn they are sick or injured, they will be repatriated early and/or not be rehired in subsequent years (Hennebry, 2007; McLaughlin, 2007; Preibisch, 2003). Migrants who become seriously ill with life-threatening diseases lose their medical coverage when their visas expire and many are pressured to leave the country immediately (McLaughlin, 2007). In essence, TMWPs “can be seen as a way of gaining workers while keeping down social costs” by keeping people in situations of disadvantage through the denial of citizenship rights (Castles and Davidson, 2000: 119).

While we have provided only a partial list of the features of the SAWP, it is evident that it holds a number of benefits for both states and employers. It is no surprise, then, that it is often referred to by these groups as a “premium” labour programme or a “model” of managed migration. But how does the SAWP appear from a migrant rights perspective? We now turn to examine migrants’ experiences within the SAWP and how Canada’s model compares to emerging best practices and international standards.

Measuring the Model’s Best Practices

Alternative measures for evaluating international migration have begun to emerge out of international workshops and forums, and UNESCO’s *International Migration Best Practices Project*, which involves bringing together networks and organizations to compose a set of best practices in international migration with the goal of promoting the human rights of migrants (UNESCO, 2006). *The UNESCO Best Practices Project* aims at promoting the human rights of migrants by providing examples of good initiatives that can improve migrants’ situations. A “best” or “good” practice can be defined as a creative and sustainable practice that provide effective response based on the idea of direct knowledge utilisation, which can have potential for replication as “inspirational guidelines” and contribute to policy development (UNESCO, 2006).

Adopting a rights-based approach to labour migration, and drawing on *UNESCO’s Best Practices in International Migration* and the *ILO Multilateral Framework on Labour Migration*, Manolo Abella (2006: 53) outlines best practices for temporary labour migration. While he notes that it is not possible to put forward best practices in temporary labour migration that are applicable to all or most countries, he argues that it is possible nevertheless to identify the elements which make for successful programmes. In the following section we provide an evaluation of Canada’s SAWP with respect to these emerging best practices and international standards based on Abella’s (2006) framework, Hugo’s (2008) valuable insights with respect to temporary migration and development in Asia, and those emerging out of best practices workshops and projects organized by the IOM, ILO and UNESCO.

Table 1 outlines the elements of successful temporary migration programs identified by Abella (2006) in a report for the United Nations Secretariat on the International Symposium on International Migration and Development, the elements suggested by Hugo (2008) at the Global Forum on Migration and Development, and additional suggested elements based on extensive primary research by the authors, as well as an extensive review of the literature pertaining to temporary migration in Canada. The best practices identified by Abella (2006) and

TABLE 1
ELEMENTS OF A SUCCESSFUL TEMPORARY LABOUR MIGRATION PROGRAMS

Abella (2006)*	SAWP	Hugo (2008)	SAWP	Additional Best Practices [†]	SAWP
<p>1. Proper management of labour demand</p> <p>2. Combining long-term forecast of supply deficits with practical methods for responding to current demands of industry</p> <p>3. Transparency of the admissions criteria for selection and length of approval process</p> <p>4. Recognition of qualifications to enhance utilization of migrants' skills</p> <p>5. Cooperation between origin and destination countries especially in supervising recruitment and employment</p> <p>6. Protection of the rights of the migrant workers</p> <p>7. Flexibility in determining periods of stay to allow for differences in the type of work to be performed and conditions in the labour market</p> <p>8. Allowing for change of employers within certain limits</p> <p>9. Avoiding creating conditions which will motivate migrants to opt for irregular status</p>	<p>•¹</p> <p>•</p> <p>✓</p> <p>•</p> <p>•</p>	<p>10. The adoption of more 'development friendly' migration policies</p> <p>11. Sending and host countries' commitment to applying and enforcing law strictly to all parties</p> <p>12. Committed, properly remunerated staff and the access to and training in the hardware and software of modern migration management.</p>	<p>•</p>	<p>13. Immediate and full access to health care and health insurance</p> <p>14. Paths to permanent residency regardless of skill level</p> <p>15. Worker-friendly mechanisms to facilitate change of employers or extend periods of stay</p> <p>16. Monitoring and regulation of employers, non-governmental recruiters, brokers, etc.</p> <p>17. Skills transfer and training opportunities for migrants</p> <p>18. Avoid processes by which employers select workers on the basis of country of origin or gender</p> <p>19. Effective cooperation between stakeholders beyond governments (e.g. unions, immigrant services and organizations)</p> <p>20. Avoid creating multiple programs that operate simultaneously within the same skill level – which create competition between programs and conditions where one group of workers may be used to undercut another</p>	<p>•</p> <p>•</p>

✓ = fulfills criteria entirely • = partial fulfillment of criteria

*These best practices are identified in a report for the United Nations Secretariat on the International Symposium on International Migration and Development, in which Abella (2006) refers to the Global Commission on International Migration, The World Commission on the Social Dimensions of Globalization, and other international forums to summarize emerging internationally recognized best practices pertaining to temporary migration (See: International Labour Organization (ILO), 2006; IOM, 2002; 2000; UNESCO, 2006).

[†]These additional "best practices" are based on extensive primary research by the authors (See: Hennebry, 2008; 2007; Preibisch, 2007; 2004) and a thorough review of the existing literature pertaining to temporary migration in Canada. This list is not definitive, but represents some of the most important practices that may improve the effectiveness of temporary migration programmes from a migrant rights perspective.

Hugo (2008) are adopted as the touchstone for this analysis for a number of reasons. First, they both emerged out of international forums, which were not directed specifically at the Canadian context, but instead seen to identify larger international standards of practice. Second, by extending beyond the specificities of a given TMWP and a particular national context, they offer sets of practices that are in the interests of both sending and receiving states, and migrants themselves. Thus, while other models and practices have been proposed, and are referred to in this analysis, such as those identified in the North-South Institute report, the Abella (2006) and Hugo (2008) practices both emerge out of international forums and are more international in scope. The final column in Table 1 indicates a number of specific practices that we propose in addition to those identified by Abella (2006) and Hugo (2008).

In the report for the *United Nations Secretariat* on the International Symposium on International Migration and Development, Abella (2006) refers to the Global Commission on International Migration, The World Commission on the Social Dimensions of Globalization, and other international forums to summarize emerging internationally recognized best practices pertaining to temporary migration. In addition, the report outlines the objectives of temporary migration programs from the perspectives of states, including labour flexibility, addressing industry specific labour shortages, and minimizing the cost of providing social welfare benefits for an equivalent population of local workers. Abella (2006) also outlines best practices for states in the management of temporary labour migration programmes, and highlights nine specific elements that make a “successful” temporary labour migration programme. When utilizing these elements, as well as those proposed by Hugo (2008) and our proposed additional practices, as a set of evaluative criteria by which to measure existing temporary migration programmes, it becomes apparent that Canada does not adhere to the majority.

To begin with the first two elements (See Table 1), it is questionable whether Canada achieves *proper management of labour demand and combines long-term supply deficit forecasts with practical methods for responding to current demands of industry*. In fact, Canada’s TMWPs, including the SAWP, are essentially employer-driven since there are no caps of the numbers of temporary migrant workers entering Canada, and employer requests for Labour Market Opinions (LMOs) – labour market assessments required for approval to hire migrant workers – largely drive the inflows. Evidence of this demand can be seen in the increasing number of requests for LMOs, particularly in “lower-skilled” occupations where there has been a 122 per cent increase in employer requests for temporary migrant workers between 2005–2007 (HRSDC, 2008). The extent to which the government engages in labour market forecasting is doubtful; for most of the SAWP’s history to the present, employers have been granted access to migrants after minimal advertising efforts to hire Canadian workers or permanent residents have failed (typically advertising for a minimum of 14 days). As mentioned, approval in subsequent years is largely automatic. Moreover, between 2007 and 2009, employers were permitted to hire temporary visa workers without any prior government approval, having been deemed “occupations under pressure.” The factors used to determine and designate an occupation as “under pressure” were never publicly explained and the process was seen by many as a way to speed up the process of hiring migrant workers. For example, a typical headline among recruiter news releases read: “Occupations Under Pressure Lists Fast-Track Temporary Foreign Worker Hires” (CanadaVisa.com, 2007). In 2009, following the onset of the economic downturn, new advertising requirements were implemented which replace the “occupations under pressure” designation. Now Canadian employers hiring in all occupations categorized as low-skilled are required to advertise the position on the national job bank for at least 14 days and conduct recruitment activities consistent with occupational standards. Employers must also demonstrate ongoing recruitment efforts in Canadian communities and among groups that often face barriers to employment (for example, older workers or disadvantaged groups) (HRSDC, 2009).

Measuring the SAWP according to the third element, *transparency in admission criteria* for the selection and length of approval process, reveals that although there is some transparency in the admission criteria (as outlined in the guidelines for employers), there is evidence of discriminatory recruitment practices in Canada and labour sending countries. In apparent violation of human rights legislation in Canada, employers are able to choose the nationality of their workers on their application form and communicate the desired gender through their respective employer organization (Service Canada, no date). Furthermore, recruitment and selection are administered by sending states, areas in which Canada has little control and there is no monitoring or evaluation of the admission process. Although there is transparency in the criteria for recruitment, there is little transparency on the actual practices of recruitment and selection. Researchers have documented sending country practices that exclude women (Preibisch and Encalada, forthcoming) and religious minorities (Scantlebury, 2009). Access to information or data pertaining to the SAWP in Canada or sending countries is difficult to obtain. For example, HRSDC provides information on confirmed migrant worker positions if requested, and provides guidelines for employers regarding hiring migrant workers on their website, but detailed estimates of SAWP workers or employers by crop, region of employment or country of origin are not publicly available.

In terms of the *recognition of qualifications and the skills of migrants* (the fourth element), substantial variation can be observed. The SAWP does not recognize migrants' qualifications and there is no skill-set differentiation or skills database; essentially, workers are treated as interchangeable manual labourers. As employers are given no specific information about these workers (such as their work experience, skill set, number of years working in the SAWP), worker's skills are consistently underutilized. Comparatively, in the Live-In-Care-giver programme, migrants' work experience and training is evaluated and considered; however, the migrants filling these positions are often overqualified (often nurses, etc) and similarly categorized as interchangeable, low-skilled "nannies" (Stasiulus and Bakan, 2003).

In the Canadian SAWP, both Canadian and migrant-sending governments play a significant role in the management of the programme, indicating substantial *cooperation between origin and destination countries*. This element distinguishes the SAWP from Canada's more recently implemented TMWPs that are not based on bilateral agreements, involving migrant sending countries to a much greater degree in the management of the programme. In the Memorandum of Understanding signed between Mexico and Canada, for example, both countries agree to administer the SAWP jointly. In practice, however, the Canadian government has a much more significant role in the organization of the programme in Canada, while the Mexican government undertakes the recruitment, selection, and discipline of workers. In Mexico, the Ministry of Labour (*Secretaría del Trabajo y Previsión Social*, STPS) selects workers, assigns them to farmers, and schedules flights to Canada in conjunction with grower-owned travel agencies. The STPS also asks employers to fill out end-of-year evaluations and obliges workers to return them upon return to Mexico if they want to remain in the SAWP, a practice that functions as an effective mechanism of labour discipline (Binford, 2009). Mexican doctors mandated by the country's Ministry of Health also carry out mandatory health screening of migrants (Hennebry, 2007). In addition, the Mexican Consulate is responsible for handling labour disputes, conflicts and complaints from workers while they are in Canada. However, this representation is arguably compromised due to the vast differences between Consular officials and workers with respect to class (exacerbated by language differences with the many indigenous workers from Mexico), combined with the Mexican government's interest in maintaining the status quo for economic reasons (such as the estimated US\$ 80 million in remittances from the SAWP in 2002 alone) and political reasons (Bucio, 2004; Sánchez, 2004). Researchers have also documented significant reticence among migrants with respect to contacting or trusting the Mexican Consulate (Hennebry, 2006;

Preibisch, 2003). In Canada, the day-to-day management of the SAWP is largely carried out by employer-organized private agencies that manage employer requests for workers and jointly handle travel, among other activities. *Like any private recruiting agency, these organizations are not monitored or regulated.* Nonetheless, the role of these federally-recognized organizations and sending governments in the SAWP minimizes the involvement of other third-party recruiters or brokers, unlike the Low Skilled Workers Pilot Project, a new, non-sector-specific TMWP operating in Canada since 2002 that has no monitoring and regulation of recruiters (Hennebry, 2008; Preibisch, forthcoming). In sum, however, the level of bilateral government involvement in the SAWP has concentrated on facilitating and managing the movement of workers to a much greater degree than it has on monitoring and protecting migrant rights, as we explain below.

With respect to the *protection of the rights of migrant workers*, aside from creating a role for sending country consulates to act as worker advocates, the Canadian SAWP leaves migrants open to exploitation, vulnerability, and abuse. To begin, the SAWP contains mechanisms that effectively disempower migrants relative to citizens and permanent residents. As mentioned, the work permits SAWP participants are issued are not open but rather tie migrants to particular employers. Temporary migrants entering Canada under the SAWP are bound to their economic relationship with their employer, however exploitative, abusive, or positive that relationship may be. In fact, the legality of their work permit while in Canada is dependent on the continuance of the contractual economic relationship between the designated employer and the worker. Conversely, this contract can be terminated at any time by the employer. If the worker refuses to work or the employer is not satisfied with the worker, then the worker can be deported immediately (FARMS (Foreign Agricultural Resource Management Services), 2005a, 2005b:17). Further, in the provinces of Ontario and Alberta, farm workers have historically been prevented or discouraged from unionizing, leaving workers with few mechanisms to challenge working conditions, hours of work, or levels of pay (United Food and Commercial Workers Union (UFCW), 2005).⁶ In addition to work permits that disempower them in the labour market, workers have barriers to accessing programmes and services available to citizens, visitors, and landed or permanent status immigrants (Basok, 2002; 2003). For example, agricultural workers do not have access to English language training (as compared to permanent immigrants) and they are not equally eligible for government assistance programmes that are available to citizens (e.g., full Employment Insurance benefits).⁷ Also, as previously noted, although typically eligible for provincial health care, migrant workers face significant barriers to accessing care and compensation (Hennebry, 2007; McLaughlin, 2007).

While migrant workers occupy a relatively more vulnerable position in the labour market, Canada has not put in place the appropriate regulatory mechanisms to protect their rights. There is no direct Canadian government or independent body charged with regulating and evaluating TMWPs such as the SAWP, including the monitoring of worksites employing migrant workers. In the case of the SAWP, one of the only regulatory mechanisms that exists is that exercised by industry. In Ontario, the province employing some 80 per cent of SAWP workers, the grower organization Foreign Agricultural Resource Management Services (FARMS), which acts on the behalf of employers, censures abusive employers through moral pressure or, in rare cases, refuses to fill their requests for workers. However, there is nothing preventing employers banned from the SAWP from requesting temporary visa workers under the new Low Skilled Workers Pilot Project mentioned earlier.

One heavily critiqued regulatory gap involves the provision and monitoring of living and working conditions. Living quarters are often only assessed the first time an employer requests migrant workers by a municipal officer whose subjective perceptions of “acceptable” are the last line of protection for these workers. Researchers and advocates have documented

systematic problems with housing conditions *and access to health care* (Basok, 2002; Hennebry, 2007; Preibisch, 2004; UFCW, various). The working conditions of migrants are also poorly regulated and monitored (Fairey, et al., 2008; Hennebry, 2007; 2006; Preibisch, 2003; UFCW, various; Verma, 2003). Although the SAWP is a federal programme, many aspects of migrants' working conditions and employment contract fall under provincial legislation. The governance structure of the SAWP thus invites a whole host of problems. For example, there are no mechanisms for the enforcement of the fixed wage levels and work conditions specified under the SAWP contract (FARMS, 2005a; 2004). Although HRSDC will work with employers to examine the specifics of the job offer and ensure that the wages and working conditions offered are acceptable within the context of the Canadian labour market (CIC, 2004b), there are no stipulations regarding the frequency or form of these examinations. Employer organizations do provide some indications of the parameters of "acceptable" conditions, for example, guidelines on appropriate housing, but they are not mandated to do so (FARMS, 2005a; 2005b, WALI, 2005). Furthermore, the Canadian government does not collect quantitative data on abuse, complaints, injury and illness, return migration, contract violations, refugee and permanent residency applicants, rates of attrition, number of migrant workers who "go AWOL" or overstay work permits. Some of this information is collected by industry-run organizations in the provinces, but they are not mandated to do so by government.

Thirdly, there is little recourse for migrant workers if their rights are violated. Workers' official representatives are consular personnel or "liaison officers" based in urban offices. Workers' assessments of these government agents have been consistently negative (Preibisch, 2003; Verma, 2003). This is part due to *inadequate resources allocated by sending-states to this responsibility* (e.g., in 2004, there were only four staff in the Mexican Consulate in Toronto to administer to some 10,000 workers). It is also due to the competing responsibilities of sending country personnel to defend their co-nationals before Canadian employers while also trying to increase their country's number of job placements in Canada (Preibisch, 2003; Verma, 2003). Within this context, a number of civil society organizations have formed over the past ten years to address the void in services and advocacy for migrant workers (Preibisch, 2004). In particular, the United Food and Commercial Workers Union (UFCW Canada) has often stepped in to represent the rights of workers in labour disputes (Hennebry, 2006; Preibisch, 2004). Citizenship still remains the mechanism by which rights and protections are conferred, however, and the SAWP *provides no direct path to permanent residency or citizenship for temporary migrant workers*. Without the right to vote or act collectively, migrants are largely unable to challenge these realities or to advocate for their rights while in Canada (Sharma, 2001; UFCW, 2005) and depend heavily on external actors such as NGOs and unions to do this for them (Preibisch, 2007).

Within this context, it is no surprise that Canada – like many other high income states – has not ratified international legislation regarding temporary migrants. For example, Canada has not ratified the two International Labour Organization (ILO) conventions approved by the UN that pertain to the rights of migrant workers, C97 Migration for Employment Convention (Revised) (1949) and C143 Migrant Workers (Supplementary Provisions) Conventions (1975). Similarly, Canada has not ratified the 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) which offers significant protections for migrant workers.⁸ In principle, the above mentioned legislation has laid the foundation of the international human rights law pertaining to migrant workers; yet migrant-receiving states such as Canada refuse to ratify it. Interestingly, with respect to best practices for the management of international migration, a relevant question is whether the "best practice" is within the guidelines set forth by major international instruments, including the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ILO 2006).

In the SAWP there is also minimal *flexibility in determining periods of stay* from the perspective of migrants who have very limited control over their transnational movement. Although employers can select workers for up to eight months contracts, SAWP participants are assigned to work on farms that they have no opportunity to select, doing work that they have little option to choose, for specified durations. There is also little to no variability in the work performed by migrant workers who typically carry out repetitive manual tasks, with no variability corresponding to skill level, work experience, or training. In fact, the SAWP does not allow for differences in the type of work to be performed and conditions in the labour market, since workers are hired without skill differentiation as general farm labourers and on closed work permits for a maximum of eight months, which cannot be extended (FARMS, 2009b). Employers have no knowledge of the workers' work history, training or skill level, but they can *select workers based on country of origin and gender*. As the FARMS guidelines for employers explicitly states: "It is the Employer's choice to select the supply country that he/she wishes to request workers from" (FARMS, 2009a).

With respect to *allowing for the change of employers*, the SAWP only permits transfers between employers if the transfer is organized and approved by the employers directly. This is highly constraining for migrants who, for reasons ranging from hours of work, working conditions and relations, to family illness, or proximity to family members working in the SAWP, have no mechanism to select or request particular employers or types of work, or request transfers. As noted previously, workers' legal status in Canada is tied to the employer, since SAWP migrants are not given open work permits that allow movement across employers within a given industry. Furthermore, there are no *migrant-friendly mechanisms to assist migrants to change employers* or extend periods of stay (Element 15 in Table 1), a practice that would significantly decrease migrants' motivations for opting for irregular status.

Having a mechanism by which workers can change employers or the terms of their status is only one way in which temporary migration programmes can *avoid creating conditions (i.e., imposing forced savings schemes, employment of cheap labour through trainee schemes) which will motivate migrants to opt for irregular status*. While the SAWP has a remarkable rate of return (which is part of the reason it is considered internationally as a model), the programme contains mechanisms that arguably motivate some migrants to opt for irregular status by remaining in Canada or by opting out of the SAWP altogether to try their luck crossing the US border in subsequent seasons. One of the key problems related to this point is the fact that since its inception, the SAWP has been operating without any option for migrants to apply for permanent status. This means that the over 135,000 migrants who have participated in the SAWP since 1966 – often for up to eight months a year over an average of an eight to ten year period – have had no legal path to permanent residency (landed immigrant status) (Element 14 in Table 1).

Secondly, participants from the Caribbean region are also subject to a forced saving scheme, as farmers are instructed to hold a 25 per cent "savings deduction" from each pay period of workers' earnings, 19 per cent of which can only be collected when they return home. The remaining six per cent helps fund the government agents stationed in Canada. Workers have expressed dissatisfaction with this scheme, both in terms of its operation (delays in payment, low in-country exchange rates) and its paternalistic nature (Preibisch, 2003). Research in the Caribbean found that "the majority of farm workers were of the view that they should be allowed to save their money by themselves" (Preibisch, 2003). Further, the wages of all workers – Mexican and Caribbean – are subject to a number of programme-specific and federal deductions. For example, farmers pay a visa processing fee of CA\$ 150 for each worker (regardless of the source country) at the time "the order is approved" which they can recover through deductions from worker's pay cheques (FARMS, 2005:10). Farmers

hiring Mexicans are also able to deduct 5 per cent of the gross earnings per pay period and retain that amount as a recoverable cost towards transportation (up to a maximum of CA\$ 350 per worker, in addition to the visa processing fee). SAWP workers must also pay into federal social benefits such as Employment Insurance, Canadian Pension Plan, and income tax.

In terms of *development promoting practices*, such as reduced remittance-sending costs or skills transfer and training opportunities for migrants (Elements 10 and 17 in Table 1), the SAWP has made very few steps in this direction, although the SAWP is often touted as an alternative to development aid (Bucio, 2004). Although TMWPs differ from one nation state to another, most invoke a similar development rationale: receiving countries may benefit from the increased supply of labour and human capital, sending countries may benefit from remittances and the return of more highly skilled workers, and migrants may benefit from the opportunity to increase productivity and wages (Ruhs, 2003). However, in practice, it is not clear whether or not these programs have been successful in procuring long-term benefits for all stakeholders. The role of these remittances in promoting sustainable development is still not conclusive, and the potential benefits in terms of skills acquisition are even less clear (Binford, 2003; Carvajal, 2008). In the SAWP, migrants are not eligible for *training or skills instruction* and immigrant services organizations are not funded to provide classes for them while in Canada. Moreover, the SAWP has agreements with the Royal Bank of Canada to provide additional health insurance, the cost of which comes out of workers' pay, and many employers require their employees to pay for and open bank accounts in order to receive their wages (Hennebry, 2008). These institutional factors may actually impede skills acquisition and heighten the costs of remittance-sending. Reduced costs of remittance-sending, fewer deductions from workers' earnings, and access to language training are development friendly practices that could easily be implemented but have not been anywhere on the agenda during the SAWP's 35-year existence.

Looking forward in terms of Canada's Temporary Foreign Worker Programme – the umbrella term for all types of temporary visa workers and programmes, much still needs to be done to establish and maintain *effective cooperation between stakeholders* across all levels of government (e.g., between states, federal, provincial and municipal governments), across departments (Citizenship and Immigration Canada, Human Resources and Social Development Canada, Health Canada, Public Health Agency of Canada) who rarely get in the same room and often talk at cross purposes, regardless of their joint management of the programme (Hennebry, 2007). In addition, forums that bring together workers' organizations and support/services sectors and government tend to quickly disintegrate into name-calling, argumentation, and emboldened media sound-bites with little room for knowledge sharing or open communication (e.g., National Metropolis Conference, Halifax 2008). Important to this has been the relative difficulty of gaining access to adequate data on temporary migration in Canada. Meanwhile, heated debates aside, temporary migration is expanding in Canada, with both the SAWP and the new Low Skilled Workers Pilot Project growing significantly and simultaneously, with both programmes bringing foreign workers into Canadian agriculture. These *multiple programmes that operate simultaneously in the same sector within the same skill level* (Element 20 in Table 1) have created competition between programmes and have led to conditions where one group of workers (often those under the Pilot Project) is being used to undercut other groups of workers (both SAWP or domestic labourers) (Preibisch, forthcoming). For example, the Jamaican Liaison website promotes the two programmes simultaneously and encourages employers to contact the Jamaican Liaison Service for either programme (Jamaican Liaison Service, 2009a; 2009b).

In sum, according to the emerging best practices identified internationally, and those identified by the authors, the Canadian SAWP appears far from ideal. The lack of access to

permanent migration, combined with the forced saving scheme for Caribbean workers, the failure to recognize migrants' skills and work experience, and the mechanisms that constrain worker's labour mobility, not only encourage irregular migration among some workers but heighten all migrants' vulnerability to exploitation and abuse. Although there is co-operation between sending and receiving countries in managing the SAWP, this seems to provide benefits largely to governments and employers. Indeed, there is considerable mistrust between workers and their home country representatives in Canada (Verma, 2003). This, coupled with inadequate rights and protections to enable migrant farm workers to unionize in all provinces, provides migrants with little recourse to challenge mistreatment or improve their under-regulated working and living conditions. Clearly, the Canadian model is very different to what the international community would consider a best practice model for managed migration programmes. From this international, rights-based approach, and contrary to much of the rhetoric, the reality of the Canadian SAWP falls considerably short of being an inspirational model, and instead provides us with little more than an overstated and often celebrated ideal.

CONCLUSION

The re-emergence and expansion of TMWPs such as the SAWP as a policy tool to manage labour immigration in high income countries is highly controversial in academic and policy arenas. Critics argue that such programmes are both unworkable and undesirable in a liberal democracy. Many of the past guestworker programmes – most notably the *Bracero* programme in the United States (1942–64) and the *Gastarbeiter* programme in Germany (1955–73) – failed to meet their stated policy objectives, while generating a number of unanticipated consequences. The most notable of these were the non-return and eventual settlement of many guestworkers, a significant proportion of whom stayed initially as irregular migrants with precarious status, positioning them within the labour market as highly vulnerable to exploitation, abuse, and mistreatment. The slogan “there is nothing more permanent than temporary foreign workers” has been a popular summary statement of the perceived failure of past guestworker programmes (Ruhs, 2006). This perceived failure only challenges the premise of TMWPs, as it fails to understand the temporary worker as a migrant with a family and social networks that precede – and are sustained through – temporary migration. Furthermore, temporary migration provides networks for permanent migration systems through chain-led migration, which are further sustained by the formation of a migration industry that supports it. In short, it is not that these programmes were indeed “failures” with respect to outcomes, but were instead “failures” with respect to expectations. Temporary migration does not happen in a vacuum; temporary workers are people with families, responsibilities, dreams and networks and, once living and working in a country for a period of stay longer than a few months, are likely to find cause to stay permanently. Moreover, staying is often desired and encouraged by employers and communities who have come to depend on the labour (which is often cheaper than domestic labour) and consumption patterns of temporary migrants. Instead, evaluating temporary migration programmes not just on their ability to ensure return to countries of origin, but on their ability to adhere to the emerging international best practices identified in this paper, may be a more appropriate set of expectations guided by a rights-based approach to international migration.

Despite all of the attention to building “best practices” for the management of temporary or managed migration, it appears that Canada has taken steps to move further away from these and other international frameworks. That is, while the SAWP has been bringing

workers to Canada for over four decades and at ever increasing numbers, it has only been recently that the country has witnessed a substantial expansion of temporary migration across a range of “lower-skilled” occupations, while at the same time failing to ratify international agreements pertaining to migrant workers or adhere to those best practices that have been gaining international recognition. Unlike other high-income countries, the greater part of temporary migration is not into high-skilled occupations, but rather, into “lower-skilled” occupations such as farm labourers, food processors, manufacturing labourers, etc. The new programmes that have been created to facilitate movement into these “lower-skilled” occupations are not based on bilateral agreements, and therefore contain far less government-to-government cooperation. This policy change has been bemoaned by critics as a sign of the increasing erosion of migrant protections and may be a move even further away from those best practices the Canadian model is celebrated for. As demonstrated in the preceding analysis, however, even Canada’s model programme still falls considerably short of adhering to the emerging international “best practices” for managed migration.

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NOTES

1. Best practices in the ILO Framework on Labour Migration are rights-based or, in other words, in line with international norms for the protection of workers’ rights. They are seen to be innovative, representing creative responses and solutions to problems, have an impact on improving labour migration processes, increasing the benefits and reducing the costs of migration. Best Practices should be sustainable over time and supported by requisite administrative capacity for continuity, and involve cooperation between States (International Labour Organization (ILO), 2006: 35).
2. This concept, originally used by industry and government, has been adopted in international policy circles regarding managing migration (Bendixsen and de Guchteneire, 2003; International Organization for Migration (IOM), 2002).
3. To see the North-South Institute’s publications regarding Best Practices and the Canadian Seasonal Agricultural Worker Program refer to: <http://www.nsi-ins.ca/ensi/research/completed/c05.html>.
4. Jamaica, Trinidad and Tobago, Barbados, and the members of the Organization of Eastern Caribbean States.
5. These include Foreign Agricultural Resource Management Services (FARMS) (Ontario), Fondation des Entreprises en Recrutement de la Main-d’œuvre Agricole Étrangère (FERME) (Quebec and New Brunswick), and Western Agricultural Labor Initiative (WALI) (British Columbia and Alberta).
6. Prior to 2008 migrant farm workers have had no legal recognition of their right to union representation or collective bargaining in Ontario (the province with the greatest numbers of migrant workers). On November 17, 2008, the Ontario Court of Appeal ruled that Ontario’s Agricultural Employees Protection Act (AEPA), which currently denies the province’s farm workers the right to unionize, is a violation of Freedom of Association rights guaranteed under the Canadian Charter of Rights. At that time the court gave the Ontario government a year to provide farm workers with sufficient legislative protections to enable them to bargain collectively as other workers in the province. Rather than draft legislation as ordered, the Ontario government successfully pursued an appeal to the lower court decision in the Supreme Court of Canada. In April 2009, the Supreme Court of Canada agreed to an application for Leave to Appeal by the Ontario government. As a result, the bulk of Canada’s farmworkers, domestic and foreign, remain legally prohibited from unionizing at the time of writing.
7. Due to a discovery by an immigrant rights advocate, migrant workers have been able to collect Paternal Benefits through the EI system since 2002 if they are assisted with this process.

8. Approved by the UN General Assembly in December 1990, the Convention entered into force in July 2003. As of December 2008, only 40 countries have ratified the UN Convention (UNESCO, 2008). The ICMW applies to all those working in a state as non-national labour. It includes the self-employed and families of migrant workers, and protects them from collective expulsion and endeavours to ensure that their legal, economic, and social rights (including health and safety) are not less than those of nationals of the country concerned (Bohning, 1996; ILO, 1999, 2000). The ICMW is one of the longest, most detailed and one of the most progressive Conventions by existing standards, but it has been virtually ignored by the international community since its adoption (Cholewinski, 1997; Castles and Davidson, 2000: 19). Unfortunately, the ICMW has been ratified mostly by those states sending migrant labourers, and not by those nations that receive migrant labourers. Moreover, even if the ICMW is signed, the conventions may not be implemented, since universal protections and entitlements, such as those laid down in the conventions and supra-national bodies like the UN, are still basically delivered by the nation-state (Castles and Davidson, 2000:18).

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