

“Slave-Like Conditions”: Abuse of Foreign Workers in Canada

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Recently there has been growing concern about the return or expansion of slavery globally. Some have suggested that neoliberal globalization has resulted in a decline in workers' rights and labor protections that leave workers vulnerable to conditions that are less than reflective of a “free” labor market. Still much of this concern remains focused on poorer economies or contexts outside of liberal democratic government structures. Certainly many would be skeptical about any notion that slavery, or conditions akin to slavery would be found in a liberal democratic nation such as Canada, which is still viewed internationally as a progressive upholder of human rights.

Yet, on May 23, the British Columbia Human Rights Tribunal released its findings that the owners and operators of a tree planting firm in the interior of British Columbia (B.C.) had indeed run a “slave-like” work camp in the province. The ruling stated that the company Khaira Enterprises had racially discriminated against 55 African workers, most originally from Congo (and most of whom have been made refugees), including many women. The ruling concluded that the owners and operators of the tree-planting business in Golden, B.C., had subjected workers to squalid “slave-like” conditions at an isolated work camp during a period covering several months during 2010. The workers lived in containers with no washrooms. Many were subjected to violence at the camp and the claim reported that death threats had been directed against them. Even more, they were not paid for their work done. At the time these conditions were made public, the company owners, Khalid Bajwa and Hardilpreet Sidhu denied the claims against them.

Notably, this is not the only recent case in Canada to raise directly the specter of slavery and/or indentured servitude. These cases involve foreign workers and raise alarming questions about government programs by which employers bring already precarious workers into Canada to work with few rights and minimal protections as a source of vulnerable, and often coerced, labor. The Temporary Foreign Worker Program has come under close scrutiny as a result of some disturbing situations but the program remains intact.

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Slave-like Camps in the Woods

The case of the Khaira tree planting camp first came to light in the summer of 2010. In response to the initial complaints by workers in 2010, officials from the provincial Forests Ministry attended the site to carry out inspections. The African workers relayed to the ministry representatives that at that time they had not eaten in two days and were not being paid for their completed work. At least one worker testified that the camp was divided according to racial lines. In addition black workers were assigned more difficult and arduous terrain on which to plant. They had substandard housing and were fed inferior food. According to tree planter Christine Barker: “Most of our crew, we felt as if we were held as—hostages, we felt like prisoners” (quoted in CBC News 2010). Barker also reported that when the workers asked for drinking water they were told to drink from a creek (CBC News 2010). She also said many workers were never paid.

The workers who brought the complaint to the Human Rights Tribunal were mostly new immigrants from Africa and spoke little English. The workers were in a remote area of eastern B.C. with no money or transportation and were completely at the mercy of their employers.

Khaira co-owner Khalid Bajwa initially denied the claims, but in rather unsympathetic terms. Said Bajwa: “The work camp is different than the tourism camp. This is a work camp. We just go to work, not for a picnic” (quoted in CBC News 2010).

In response to the initial claims and follow-up investigation, Khaira Enterprises was ordered in February 2011 by B.C.’s Employment Standards Branch to pay its workers \$236,800. By November 2011, \$127,102 had been distributed by the ESB to several of the claimants. The company then declared bankruptcy which left the remainder of the mandated payments unmet. Workers have still not received the remaining money owed from the earlier ESB order. A year later the tree planters had not received all of their money. Even more, the federal government had not corrected their hours or earnings so they could collect Employment Insurance benefits.

Tribunal member Norman Terise reports in his 114-page ruling that Khalid Bajwa and Hardilpreet (Sunny) Sidhu, the owners of Khaira Enterprises not only taunted the 55 workers with racial slurs and epithets but also showed a complete disregard for employment standards at the camp. The report finds: “Both [owners Bajwa and Sunny] have been found, in this decision, to have engaged in conduct which is discriminatory on a basis of race, colour and place of origin and on the basis of sex” (BCHRT 107 2014). And in conclusion: “I find therefore that the complaint is fully justified against Khaira, Bajwa and Sunny” (BCHRT 107 2014)

Tribunal Chair Terise ruled that all of the workers experienced diverse forms of harmful treatment from their employers. These abuses included the withholding of pay, unreasonable hours of work, poor camp condition and lack of proper food and shelter, among other issues. As Terise outlines:

All of these circumstances, and particularly, the lack of payment and the consistent racial harassment satisfy me that the discriminatory actions of the respondents impacted the complainants significantly, causing them embarrassment, a degree of depression, frustration and loss of self esteem. (BCHRT 107 2014)

The camp had been shut down by the provincial Ministry of Forests following complaints by the planters in 2010. They alerted ministry staff that at the time of the complaint they had not had anything to eat for two days.

Terise's ruling reports, with regard to the employers' response: "No attempt has been made to justify any of the facts which I have found to have occurred and which I have found to constitute discrimination" (BCHRT 107 2014). His ruling continues: "The respondents fail to establish a bona fide occupational requirement for their conduct" (BCHRT 107 2014). In fact, Khaira had failed either to obtain a health permit or to inform WorkSafe B.C. (the workplace health and safety association for the province) and the Ministry of Forests about the project (CBC News 2010). The situation of the workers only came to light when they had to be rescued from a worksite after smoke was spotted at the camp.

In a forceful, unequivocal, decision, the ruling said that the case clearly showed the owners and operators of the camp engaged openly in racial taunts of African workers and payment of wages was drawn along lines racial lines in a manner determined by the Tribunal to be slave-like. With the ruling Khaira Enterprises has been ordered to pay each worker \$10,000 for injury to dignity and self-respect. In addition the company is to pay each worker \$1,000 per 30-day period worked or portion thereof between March 17, 2010, and June 17, 2010.

Meanwhile some of the workers have been made homeless while waiting to be paid. And it is unlikely that they will be paid given that the company has entered into bankruptcy proceedings following the result.

This case speaks to much larger problems in the woods in British Columbia when it comes to the mistreatment of workers and the lack of oversight and regulation to ensure employees' rights and protections. A 2011 report by the forest safety ombudsman in British Columbia, initiated in response to the tree planters' case, concluded that the B.C. government was failing to protect workers in the province's silviculture industry. The B.C. Forest Safety Ombudsperson report concluded: "The situation that occurred to these workers is unacceptable to anyone, quite frankly, in Canada" (CBC News 2011).

In the ombudsperson's view: "What makes the Khaira situation particularly disturbing is that throughout the operation of their camps, there was significant evidence — from a number of sources — that there were unacceptable, substandard and unsafe conditions in the workplace, and no significant action was taken to stop the operations" (quoted in CBC News 2011). Ombudsperson Roger Harris noted that there was significant evidence of unacceptable, substandard, and unsafe conditions in the workplace. Yet the government took no significant action to stop the operations or address employer responsibilities.

The ombudsperson found problems in the forest industry to be "routine and systemic" with problems in the awarding of contracts and the lack of any government enforcement of health and safety standard (CBC News 2011). Projects are often awarded to the lowest bidder with few details of how the operation will operate and where the cost savings will come from (in terms of labor, training, health and safety protections, etc.).

The ombudspersons recommended that programs be developed to ensure workers fully understand their legal rights and that those rights be prominently posted in the workplace (CBC News 2011). Yet critics note that the recommendations offer no new mechanisms for enforcement.

In response to the Human Rights Tribunal ruling, Jim Sinclair, president of the B.C. Federation of Labour, has urged the provincial government to pay the tree planters. In his words: "The provincial government failed to enforce the rules and take care of these people and now they need to step up to the plate, apologize to these workers for what happened in B.C. and pay the money that's owed" (quoted in Agoracom 2014). According to Sinclair, the government had contracted Khaira Enterprises to work for the province and, thus, they were working for all British Columbians: "They've hung in and they now deserve to be paid. The

small amount of money that they are owed as a result of this decision, the government needs to pay the money and come clean” (quoted in Agoracom 2014)

Ronald McDonald’s House

The case of the forest workers is not the only one that has raised the specter of slave-like conditions in Canada recently. In April of 2014, several temporary foreign workers recruited from Belize came forward to accuse McDonald’s Canada of treating them like “slaves.” The workers reported that the company effectively forced them to share an expensive apartment and then deducted almost half of their take-home pay to cover rent (Tomlinson 2014; Kimpton 2014).

According to worker Jamie Montero, one of four workers who travelled to Edmonton to work at McDonald’s in September 2013: “When we arrived at the airport, they said, ‘We already have an apartment for you,’ so at that point we already know we don’t have a choice of where to live” (quoted in Tomlinson 2014). The workers were informed that the company had signed a six month lease which they were obligated to honor. Another worker, who still worked for the company relayed: “We had to live there. We were told this is what we are doing” (quoted in Tomlinson 2014). The apartment arranged by McDonald’s was located in downtown Edmonton, far from the actual workplace on the outskirts of the city. Montero reported that the workers had to travel an hour and a half to get to work and incurred heavy transit costs simply to get to and from work due to the inappropriate rental location (Kimpton 2014).

Employment records from three employees reveal that they made \$11 per hour working at various McDonald’s locations in Edmonton. The company withheld \$280 from their pay for rent, bi-weekly. This left their remaining take-home pay for those same pay periods at roughly \$350 (Tomlinson 2014; Kimpton 2014). Reports Montero: “[The apartment lease] contracts are signed by McDonald’s. All of our bills – utility bills – were billed [to us] under the name of McDonald’s” (quoted in Tomlinson 2014). The deductions left the workers with barely enough to live on, never mind leaving them anything to send to family in Belize, as they had hoped and expected. According to Montero the company ignored their concerns about the arrangement, which the workers had not consented to: “You work for us now, so we are your owners. It’s like that, you know. We felt like slaves. They just brought us and threw us on the side” (quoted in Tomlinson 2014).

The rental contracts show that McDonald’s paid \$2,359 per month to rent the suite in which the workers resided but this amount is less than the \$3030 per month taken for rent from the five workers’ pay. This suggests that McDonald’s actually charged the workers \$600 more for rent than what it paid for rent. Journalists with the Canadian Broadcasting Corporation (CBC) brought that discrepancy to McDonald’s attention but received no explanation (Tomlinson 2014).

The Belizean workers reported that following a spate of other complaints about McDonald’s alleged abuses of foreign workers the corporation required all staff to sign an agreement stating that they would not speak to the media (Tomlinson 2014). Indeed, Montero was fired by McDonald’s after managers apparently tracked his online communications and accused him of complaining online about the company. Following his firing he was also evicted from the apartment, despite being a good tenant

Montero is unequivocal in his criticism of the temporary workers program and the vulnerable position in which it puts foreign workers. In his view: “They brought us here and they are this big huge corporation. We felt that we didn’t have a chance to even voice our

opinion to them because they had brought us here so they could ship us back whenever they wanted to. It was like modern day slavery” (quoted in Tomlinson 2014).

Temporary Foreign Workers Programs and Slave-Like Conditions in Canada

Migrant labor makes up the fastest growing sector of immigration globally, having passed permanent immigration. Migrant labor policies leave workers increasingly trapped within short term programs that allow them to migrate only on a limited basis under precarious conditions in which they lack access to rights, safety protections, social security, pension, or health benefits in the arrival country in which they work. This lack of rights frees the state of social costs and responsibilities that would be due with regard to permanent immigrants. The contractual relations between employers and temporary workers specify who they are allowed to work for and where they are allowed to work.

The emergence of slave-like conditions in the contemporary Canadian context directly relates to the expanding tendency to use temporary foreign workers as a cheap and precarious source of labor in the Canadian market. The temporary foreign worker program was initially justified as a means to address temporary labor shortages, particularly by recruiting skilled employees and caregivers when vacant positions could not be filled by domestic workers. Employers quickly realized that the temporary foreign worker program could provide a source of inexpensive and vulnerable labor, unlikely to organize or press for their rights (if even aware of them). In 2002 a shift in policy emphasized the filling of low-skilled positions.

More than 330,000 employees in Canada are working under the federal temporary foreign worker program. The population of temporary workers vastly outnumbered the number of immigrants entering Canada each census year. And the number is growing. According to Citizenship and Immigration Canada's *Facts and Figures 2012*, in 1988 150,515 temporary foreign workers arrived in Canada. By the year 2000, that number had increased to 177,701 and, by 2010, the number jumped further to 491,547 (including those outside the TFWP). During the 2000s alone, there was an increase of 140% in the arrival of temporary foreign workers (Citizenship and Immigration Canada).

According to Yessy Byl, an Alberta Federation of Labour advocate for temporary foreign workers, this system is inherently geared to leave workers in precarious positions. This relates to the fact that the program insists on a stipulation that in order to maintain their employment temporary workers must remain with a specific employer and within a specific location. According to Byl:

We have a system that is inherently engendering exploitation – it's just inevitable. We set up a group of people who are brought to Canada to work [...] so we've got basically slave labour, because [the temporary workers] can't work legally somewhere else.

The system, the entire program itself, just lends itself to exploitation. (quoted in Rajwani 2013)

According to temporary foreign worker Enrique Llanes from Spain: “The employer has full rights over your life, to call you at any moment, at any second, one hour in advance and tell you you have to be here and work in two hours or three hours. What do you do? You can't get another job so you tend to comply” (quoted in Rajwanin 2013).

Not only workers, unionists, or human rights advocates have commented on the unfree character of temporary migrant workers in Canada. In the words of opposition employment critic in parliament, Jinny Sims: “To say you are living in company quarters and we are going to deduct your rent and if you dare say you don't like where we put you we're going

to charge you anyway...that seems like indentured labour to me” (quoted in Tomlinson 2014).

Some commentators suggest that the temporary foreign workers programs are similar to the guest workers programs devised in various countries, including the United States and Switzerland in the 1940s (PSAC 2014). However, while indentured servants were, should they survive their servitude, promised freedom and citizenship, participants in Canada’s current temporary foreign worker program are not. When their employment is done they are sent back to their country of origin (see Beech 2014).

According to the Canadian government’s Department of Foreign Affairs, Trade and Development (DFAIT), when multinational companies cross borders, they enjoy legally binding rights to “fair and equitable treatment according to a basic international minimal standard. It allows for the free repatriation of profits and other payments in and out of the host country without delay” (Foreign Affairs, Trade and Development Canada 2014)

Such is certainly not the case for workers. When migrants cross international borders they do not enjoy legally binding rights to “fair and equitable treatment” (PSAC 2014). In fact, ILO conventions that would oversee and regulate the treatment of migrant workers have not been ratified by government in Canada or in any other major industrialized nation. Neither has the 1990 United National Convention on All Migrant Workers and their Families (PSAC 2014).

Employment Minister Jason Kenney responded to the complaints against McDonald’s and affirmed workers’ freedom to live where they choose. In his words: “It doesn’t matter whether they are a Canadian citizen, permanent resident or temporary resident, they have full mobility rights. And if any employer is somehow using ways to coerce people to stay in a particular place that would be illegal” (quoted in Tomlinson 2014). Yet no criminal investigation has been launched against McDonald’s in this or any other case associated with numerous complaints about abuse of foreign workers by the company in several provinces. It might be noted that Kenney is former Immigration Minister during a period of increasingly restricted access for migrants and refugees to Canada (and limited options for permanent residency).

Conclusion

The conditions facing migrant workers in Canada are pressing. Unfortunately, many mainstream unions and larger union federations have taken the position of “defending Canadian workers’ jobs” and criticizing the temporary foreign workers programs on the basis of “taking jobs from Canadians” rather than on the basis of unjust conditions of employment, lack of workers’ rights, exploitation, and harms to workers (by Canadian employers) more broadly (see Bhandar and Price 2014). Indeed, with a few notable exceptions, unions have done very little to organize temporary foreign workers and have shown few successes in defending them, and their rights, as highly precarious workers.

This is especially disappointing since organizing temporary foreign workers could provide a particularly significant opportunity for labor movements and unions in Canada. Not only would it offer an important example of solidarity and allow for potentially transformative alliances with workers across borders (building connections in Canada and in countries from which foreign workers are commonly recruited into Canada). It would also help to confront and overcome some of the constructed distinctions between workers, citizens/non-citizens, migrants/non-migrants, temporary/permanent, etc., rather than a second that have been played upon by employers and governments alike in contesting unions and in dismantling labor rights, laws, and protections more broadly. Indeed the pitting of workers against each other on the basis of nationality and citizenship has been an ongoing feature in Canadian society,

weakening the positions of all workers regardless of nationality or status (see Bhandar and Price 2014). The linkage between historically racialized immigration (and labor) policies in Canada and the current Temporary Foreign Workers Program have yet to be fully examined but some work has started in this regard recently (see Shantz 2010).

Given the large numbers of foreign workers in Canada, their awareness of their precarious, unequal status as workers (if not as citizens), and their openness to labor organizations, this is a potentially strong, and mutually beneficial area of organizing for labor movements (formal unions and rank-and-file or community alternatives). But if first, the nationalism and Canadian-first biases of some quarters of labor will need to be overcome then this organizing, initiated by those recognizing the need for new approaches, can be even more important as a step in that direction.

Until then, foreign workers are left to rely on human rights tribunals, mass media investigations, and some public outrage among the public in Canada. These are not particularly reliable nor can they apply direct pressure on employers as the limitations of the BC decisions show.

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