

Policy Brief

International Mobility Program (IMP)

RECOMMENDATIONS for CHANGE

Prepared for LiUNA
by Richard Gilbert
2017



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1 - INTRODUCTION

1.1 AIMS AND OBJECTIVES

The main aim of this policy brief is to identify, collect and analyze statistical data from Immigration, Refugees and Citizenship Canada (IRCC) on the number of foreign workers entering Canada under the Temporary Foreign Worker Program (TFWP) and International Mobility Program (IMP) between 1996 and 2015. The main objective is to provide evidence that Canada's foreign worker population has increased rapidly, due to the expansion of the IMP. This increase in the total foreign worker population has occurred, while there was a decline in the number of foreign nationals being imported into Canada under the TFWP. This policy brief presents new data which support recommendations made in 2016 by a LiUNA white paper entitled "The Impact of the Temporary Foreign Worker Program on the Construction Labour Force in Western Canada (2003-2015)."

1.2 POLICY ISSUE: THE INTERNATIONAL MOBILITY PROGRAM

The former Conservative government made reforms to the TFWP, including a new Labour Market Impact Assessment (LMIA) in 2014. The LMIA was designed to ensure qualified Canadians are given first priority for local job opportunities, before temporary foreign workers (TFWs) are imported. A Parliamentary committee led by the Liberal government reported in September 2016 that the Conservative reforms have reduced the number of foreign nationals entering Canada to work on a temporary basis. The report found the number TFW positions approved through the LMIA process decreased by 45% to 90,211 in 2015 from 163,035 in 2013 (Government of Canada, 2016).

However, this conclusion is misleading, because it ignores the role of the IMP, which is closely related to the TFWP. The Conservative government split the TFWP into two programs: (1) the TFWP: and (2) the IMP. This policy was used as a tool to crack down on the TFWP, while rapidly expanding the importation of foreign workers under the IMP. Despite this fact, the Parliamentary report provides inadequate data on the TFWP and doesn't even mention the IMP.

1.3 LACK OF ADEQUATE DATA

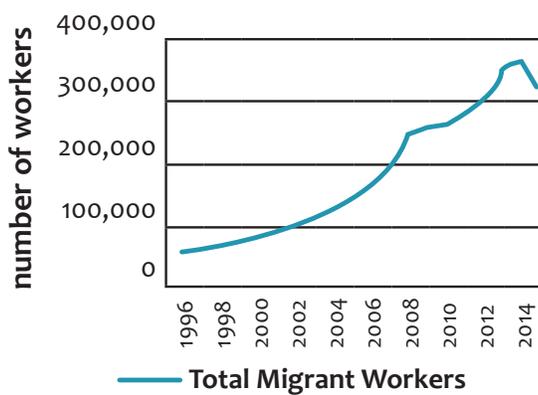
The impact of the TFWP and the IMP on the Canadian labour force has been difficult to determine, due to a lack of data about these programs from the federal government. Citizenship and Immigration Canada (CIC) stopped publishing data on the TFWP and the IMP in a format that allows trends to be easily compared and analyzed. However, more details about the IMP's expansion under the former Conservative government started to emerge in 2015, with the release of data from IRCC (formerly CIC).

2 THE RAPID GROWTH OF CANADA'S MIGRANT WORKFORCE

The Conservative government responded to media attention and public anger over employer abuse of the TFWP by undertaking reforms, including measures to ensure Canadians are first in line for jobs. The reforms were designed to limit the reliance of employers on TFWs, while strengthening enforcement mechanisms on employers. The main TFWP reforms were introduced in June 2014, when the program was split into two streams: (1) the TFWP: and (2) the IMP.

2.1 TOTAL MIGRANT WORKERS IN CANADA 1996-2015

Figure 1 - Migrant Workers in Canada 1996-2015



Under the TFWP reforms, migrant workers enter Canada at the request of employers following approval through a LMIA. The IMP allows foreign nationals to enter Canada with a work permit, but there is no requirement for a LMIA (Employment and Social Development Canada, 2014a). Employment and Social Development Canada (ESDC) oversees the TFWP, while IRCC is responsible for the IMP.

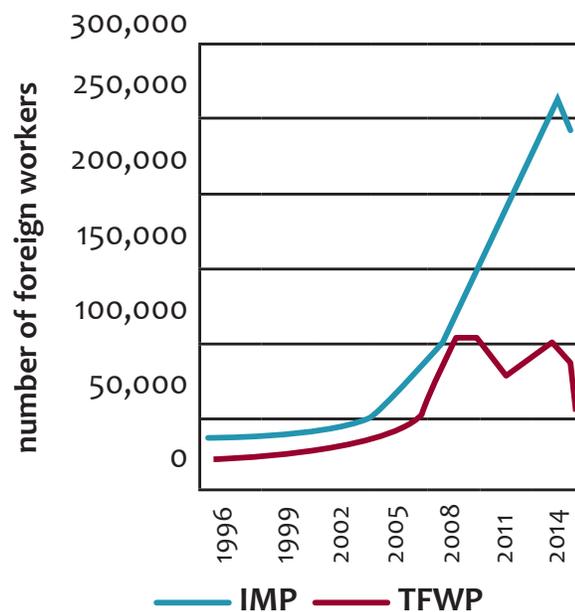
Source: Government of Canada Facts & Figures 2015: Immigration Overview - Temporary Residents, <http://open.canada.ca/data/en/dataset/052642bb-3fd9-4828-b608-c81dff7e539c>

2.2 MIGRANT WORKERS IN CANADA UNDER IMP AND TFWP

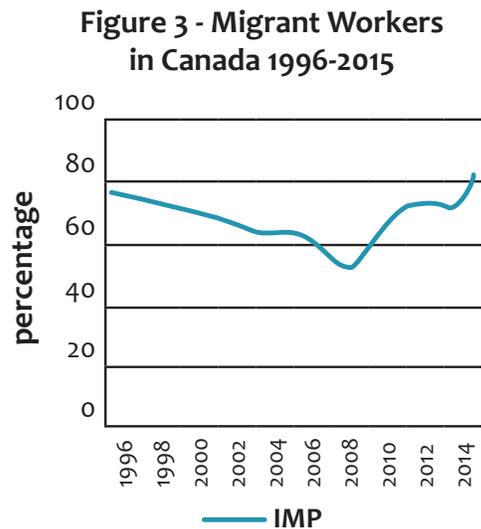
The number of migrant workers in Canada in 1996 under the IMP and the TFWP was 37,352 and 14,663 respectively. The number imported under the TFWP increased steadily until 2006 (54,000) and increased rapidly to a peak of 112,563 in 2009. By 2015, the number of workers under the TFWP fell to 60,000. The number imported to Canada under the IMP increased steadily to 2006 (83,553), and then expanded rapidly to a peak of 259,399 in 2015 (Figure 2).

The TFWP and the IMP grew together between 1996 and 2006. But, after 2008 there was a divergence in the growth of the two programs. The Conservative government ramped up the importation of migrant workers under the IMP. In addition, the TFWP reforms caused a sharp decline in the number of migrant workers in Canada under this stream.

Figure 2 - IMP and TFWP in Canada 1996-2015



2.3 IMP AS A SHARE OF TOTAL MIGRANT WORKERS



As a result, the IMP was the main source of migrant workers in Canada between 1996 and 2015. In 1996, the IMP represented about 70% of all migrant workers, but this share fell to a low of 51% in 2008. This decline coincided with the rapid expansion of the TFWP during an economic boom.

After the recession in 2009, the IMP as a share of total migrant workers began to rise as migrant workers under the TFWP were sent home. The IMP's share of the total migrant workforce continued to rise as the former Conservative government made reforms to the TFWP. By 2012, the IMP as a share of all migrant workers returned to about 70% and grew to a peak of 80% in 2015. Almost all of the growth in the migrant workforce in this period was driven by the IMP.

The IMP refers to foreign nationals who are exempt from the LMIA and comprises two main pathways or streams: 1) Canadian Interest; and 2) International Agreements. Canadian interest involves the selection of foreign workers to advance the economic, cultural and national interest. International companies are allowed to bring foreign nationals to Canada without a LMIA, because intra-company transferees are considered to be in the national interest.

Exemptions for intra-company transferees are also included in the North American Free Trade Agreement (NAFTA), the Comprehensive Economic and Trade Agreement (CETA) with Europe and the Trans-Pacific Partnership (TPP) with Pacific Rim countries. For many of those not requiring an LMIA, the occupational skill level is not registered, because workers can obtain an open work permit. As a result, it is not known what work they perform.

3 POLICY ANALYSIS OF THE MIGRANT WORKER REGIME

3.1 FEDERAL BUDGET MARCH 2017

Finance Minister Bill Morneau tabled the Liberal government's second budget on March 22, 2017, which includes measures to improve the TFWP and the IMP. In particular, the policy package is designed to ensure Canadian workers are considered first for available jobs, while Canadian employers are given the opportunity to hire TFWs to fill jobs where labour shortages have been proven.

Budget 2017 proposes to invest \$279.8 million over five years, starting in 2017–18, and \$49.8 million per year thereafter, to support the continued delivery of the TFWP and the IMP. This investment will help to facilitate the temporary entry of high-skilled global talent. In addition, the federal government aims to ensure employers comply with program rules, while taking steps to ensure foreign workers are aware of their rights while in Canada (Morneau, 2017).

The proposed investment in the TFWP and the IMP will support the implementation of the new Global Skills Strategy. This program will facilitate faster access to top global talent for

companies doing business in Canada that make a commitment to bring new skills to Canada and create more Canadian jobs. The new initiative will set an ambitious two-week standard for processing visas and work permits. The strategy aims to support:

- High-growth Canadian companies that need to access global talent in order to facilitate and accelerate investments that create jobs and growth.
- Global companies that are making large investments, relocating to Canada, establishing new production or expanding production, and creating new Canadian jobs.

Budget 2017 proposes to provide an additional \$7.8 million over two years, starting in 2017–18, to implement a new Global Talent Stream under the TFWP, as part of the Global Skills Strategy. Under the new stream, a Global Talent List of eligible high-demand occupations is being developed in consultation with labour market experts and key stakeholders. The Global Talent Stream of the TFWP was scheduled to be launched on June 12, 2017.

Minister of Labour Patty Hajdu anticipated that the Global Talent Stream initiative will mainly receive demands from the technology industry. However, Hajdu said Canada's agriculture, forestry, mining and environmental engineering sectors also rely on emerging technology and will have to recruit talent. It is not clear what implications this stream will have for the construction industry.

In addition, the Global Skills Strategy will introduce a new short-duration work permit exemption, which will apply for work terms of fewer than 30 days in a year. It will be used for academic stays, inter-company work exchanges, study exchanges or the entrance of temporary expertise.

3.2 CONSTRUCTION AND TRADE AGREEMENTS WITH CHINA

The TFWP and the IMP are the responsibilities of the federal labour and immigration ministers, who were both replaced in a cabinet shuffle by Prime Minister Justin Trudeau on Jan. 10, 2017. In the shuffle, John McCallum was appointed the new ambassador to China in Beijing and moved out of his former role as the Minister of Immigration, Refugees and Citizenship. A China expert from Brock University named Charles Burton said the appointment signals the Liberal government is ready to let China conduct business with Canada on its own terms, including labour issues.

“I think the Chinese government is seeing this as a stepping stone to having Chinese infrastructure projects in Canada being carried out by imported labour from China,” Burton said (Jeremy J. Nuttall, 2017).

LiUNA is concerned with McCallum's appointment to China, because it could mean Chinese companies will have a friendly ear when they want to bring in their own workers for major construction and infrastructure projects.

As the Minister of Immigration, McCallum travelled to Beijing in August 2016 for meetings with senior Chinese officials at the Foreign Affairs and Public Security ministries. McCallum asked for approval to expedite the opening of new visa application centres in five secondary Chinese cities, including Chengdu, Nanjing, Wuhan, Jinan and Shenyang. These visa centres could open in 2017. Chinese can currently apply for Canadian visas in five locations, including Hong Kong (Vanderclippe and Chase, 2016).

The opening of five new visa centres in 2017 is part of an overall strategy to rapidly increase number of Chinese visitors who are enrolments in Canadian universities, as well as recruit foreign talent in high-tech jobs. Canada also wants a further five visa application locations in the future to smooth the path for Chinese to come to Canada, which would bring the total number to 15.

Ahmed Hussen, the Liberal MP for the Toronto-area riding of York South-Weston, replaced McCallum as the new Minister of Immigration, Refugees and Citizenship.

As the former Liberal immigration critic, McCallum developed a package of TFWP reforms, which promised to scale back the program, while providing greater transparency and accountability, in terms of accurate data, enforcement and compulsory workplace audits. The policy package included a range of measures, such as a complaint tracking system, disclosure of abuse investigations, employer compliance reviews, and public disclosure of the number of TFWs in Canada broken down by region, NOC code and employer. McCallum proposed that employers be required to provide more evidence of efforts to find Canadians and a path be created to provide TFWs with an opportunity to become citizens. He also wanted the Auditor General to undertake a full review of the TFWP (Richard Gilbert, 2016).

3.3 NEW LIBERAL REFORMS OF THE TFWP 2016

The Liberal government made some initial reforms to the TFWP in December 2016, which help ensure Canadians have first access to available job opportunities. In particular, the federal government will require low-wage employers, where appropriate, to advertise to more than one, and up to four, under-represented groups in the workforce, including youth, persons with disabilities, Indigenous people and newcomers. Employers will be advised when these changes are to come into effect.

However, several measures are designed to ease the restrictions placed on the TFWP by the former Conservative government. For example, the four-year cumulative duration rule is no longer applied to TFWs in Canada. The cumulative duration rule was introduced in April 2011, limiting work for some TFWs in Canada to four years. These TFWs became ineligible to work in Canada for the next four years.

The Government will maintain the cap on the proportion of low-wage TFWs that can be employed at a given worksite at 20 percent for employers who accessed the TFWP prior to June 20, 2014. But, the cap had been decreased to 10 percent for new employers who use the TFWP after that date. The exemption on the cap for seasonal industries seeking TFWs for up to 180 days during the 2017 calendar year will be extended until Dec. 31, 2017 (Employment and Social Services Canada, 2016).

According to the federal government, these early reforms are in line with recommendations outlined in a Parliamentary report entitled “Temporary Foreign Worker Program,” which was released by the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) on Sept. 19, 2016.

The Parliamentary report recommends changes which reverse Conservative reforms and make it easier for employers to import TFWs under the TFWP and the IMP. In the report, employers are critical of reforms made by the former Conservative government to crackdown on excessive abuses of the TFWP by contractors and employers. In particular, they complain about the cost and length of time it takes to process LMIA applications.

3.4 PARLIAMENTARY REVIEW IGNORES CONSTRUCTION

A LiUNA white paper found the TFWP distorts the domestic labour market by suppressing wages and displacing Canadian workers. In addition, the TFWP has allowed international and domestic construction contractors to use illegal and unethical business practices, as well as violate Canadian laws by denying both local and foreign workers their basic rights. As a result, the TFWP is characterized by low wages, intimidation, racism and discrimination (Gilbert, Richard, 2016)

LiUNA leadership met and had discussions with senior advisors in the Ministry of Immigration, Ministry of Labour and the Ministry of International Trade about the white paper, which had recommendations for stopping employer abuse of the TFWP and filling jobs with Canadians through the permanent immigration system. The 112-page white paper was provided to all of these government ministries. In addition, LiUNA and Canada's Building Trades Unions sent the white paper directly to the HUMA committee reviewing the TFWP.

Despite this fact, the federal government completely ignored LiUNA's input during the consultation process and excluded the construction industry as a whole from the final report. The Parliamentary committee did not acknowledge receipt of the white paper and LiUNA was not recognized as one of the parties who made a submission of evidence during the hearings.

3.5 INQUIRY NEEDED INTO IMPACT OF TFWP AND IMP ON CONSTRUCTION

As part of the Liberal cabinet shuffle, Thunder Bay-Superior North MP Patty Hajdu took over the Minister of Labour position from MaryAnn Mihychuk, who stated in October 2016 that she was open to holding an inquiry into the TFWP and the construction industry in Western Canada. Mihychuk made this commitment after being asked questions in Parliament about the exclusion of the construction industry from the Parliamentary report on the TFWP (Jeremy J. Nuttall, 2016). LiUNA called for a separate inquiry into the impact of the TFWP on the construction labour force in Canada, after construction was excluded from a Parliamentary report on the TFWP in September 2016 (Sunny Dhillon, 2016).

In response to the cabinet shuffle, LiUNA called on Hajdu to investigate the impact of the IMP and the TFWP on the construction industry in Canada.

3.6 PROPOSALS UNDERMINE EFFORTS BY FOREIGN WORKERS TO JOIN A UNION

Even though construction was ignored by the Parliamentary review, the report makes recommendations that will directly affect some of the industry's previous legal cases to expose the abuse of the TFWP by contractors, such as labour code, employment standards and human rights violations.

In particular, one of the recommendations is that employers should be able to increase wages to the employees, as long as the foreign worker agrees. On the surface, this may sound like a reasonable and generous offer that would be welcomed by any TFW. But, this tactic was used in 2006 to undermine the TFWs union, when LiUNA organized SELI and SNC-Lavalin on the \$2.1 billion Canada Line construction project in Vancouver.

The Construction and Specialized Workers Union (CSWU) Local 1611 made a complaint to the B.C. Employment Standards Branch (ESB) in June 2006, on behalf of about 40 tunnel

construction workers. The TFWs were being paid a wage of about \$1,100 month, for a 66 hour work week. Pay stubs showed TFWs worked for \$3.47 an hour, six days a week, at a minimum of 60 hours. The CSWU provided evidence to the ESB that the employer was initially paying the TFWs about \$US 12,000 a year. However, six days after the TFWs joined the union, the employer altered their contract by raising pay to \$US 20,000 a year.

The increase to about \$CDN 14 per hour (gross) deflated the TFWs solidarity. As a result, the TFWs felt they were coerced into accepting a deal that was below local labour standards. Immigration documents revealed the employer listed annual salaries of \$47,500 to \$53,500 in Canadian funds.

3.7 THE IMP AND HIGH-WAGE WORKERS

LiUNA has serious concerns about employers in the construction industry who are seeking high-skill and high-wage workers under the IMP and the TFWP. To begin, employers are using the high-wage category to import foreign nationals to Canada under the TFWP, because the requirements for advertising the position in the local labour market are not as stringent as low-wage workers. Employers are also importing high-wage workers to Canada under the IMP, because they are able to completely circumvent the TFWP and its requirements for a LMIA.

More importantly, employers are making applications to import high-wage workers to Canada under both the IMP and the TFWP, but they are actually paying these foreign workers extremely low wages. Despite the fact this practice is illegal, employers are being allowed by the federal and provincial governments in Canada to include other terms of employment to reach or exceed the required prevailing wage.

For example, assume an employer is paying a prevailing wage of \$22 an hour, which allows them to import a foreign national to Canada under both the IMP and the TFWP. However, this employer is allowed to add the cost of accommodation, overseas flights, food and daily transportation to exceed or reach the prevailing wage of \$22. The construction of the Canada Line and other projects in the LiUNA white paper reveal that these TFWs were not even payed the minimum wage, when these other costs of employment are taken into account.

There has been widespread abuse of the IMP and TFWP by employers who use these programs to reduce labour costs for high-wage workers, by paying illegal wages, displacing Canadian workers and depressing wages.

4 CONCLUSION AND RECOMMENDATIONS

In response to media attention and public outrage about the abuse and exploitation of TFWs by employers, the Conservative government introduced reform, including the new LMIA in 2014. The reforms promised a more stringent LMIA screening process, stronger enforcement and tougher penalties. However, the Conservatives used the reforms to simultaneously crack down on the TFWP and rapidly expand the IMP. This strategy allowed the Conservatives to avoid public criticism about the TFWP, while preserving the exploitive and abusive nature of the foreign worker regime in Canada.

4.1 FOREIGN WORKERS AND THE CONSTRUCTION LABOUR FORCE

The Conservative's double-dealing approach to public policy raises some serious concerns about the current Parliamentary review of the TFWP and the integrity of IMP. The simultaneous reforms of the TFWP and expansion of the IMP provides the most significant reason for a temporary prohibition of activity in both programs. LiUNA recommends the Liberal government undertake a full inquiry into the impact of the TFWP and the IMP on the construction labour force in Canada.

4.2 ENFORCEMENT

The Conservative government made a commitment to impose new stiff penalties on employers who break the rules of the TFWP. LiUNA recommends that the new Liberal government operate a robust and sufficiently financed enforcement strategy to enforce the TFWP and IMP regulations.

4.3 LMIA EXEMPTION

Alberta, British Columbia, Ontario, Nova Scotia and Yukon have annexes to their immigration agreements with the federal government that establish LMIA exemptions. In these cases, the provinces and territories may propose LMIA exemptions for certain occupations and pilot projects involving exemptions to the LMIA process. LiUNA recommends the Liberal government make a commitment that the LMIA exemption under the BC Annex of April 2015, will not be accepted or applied.

4.4 INTRA-COMPANY TRANSFERS

The Trans-Pacific Partnership and other international agreements have the potential of dramatically increasing the building trades being imported for the construction of major resource and pipeline projects. LiUNA recommends the new Liberal government restrict Free Trade Agreement "Intra-company transfers" for construction workers, which includes NAFTA, CETA and TPP.

4.5 PREVAILING WAGE RATES

The TFWP is administered based on wage instead of the National Occupational Classification (NOC). TFWs paid under the provincial/territorial median wage are considered low-wage, while those being paid at or above the provincial/territorial median wage are considered high-wage. LiUNA recommends the Liberal government not use the provincial median wage rate, which is currently \$22 per hour in B.C. The prevailing wage rate needs to respect the "Craft" (Building Trade) package, which would include wage, holiday pay and benefits for industrial work.

4.6 LABOUR MARKET DATA

The federal government does not keep track of the skills that are possessed by foreign workers entering Canada under the IMP. As a result, there is a lack of reliable and complete data on the TFWP and IMP, which makes it difficult to assess the impact of foreign workers on the Canadian economy. LiUNA recommends the federal government publish complete and accurate information on the Canadian labour market to support evidence-based policy decisions on Canada's foreign worker programs.

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